

**FOA**  
**Submission to Independent Review Panel**  
**on**  
**Health and Safety in the Plantation Forest Industry**



Please accept this submission on behalf of the members of the Forest Owners Association.

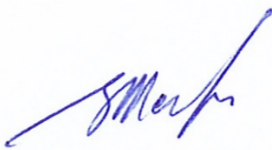
The New Zealand Forest Owners Association Inc (FOA) represents the commercial plantation forest growing sector of New Zealand, with over 200 members comprising ownership over some 1.2 million ha of plantation forests. These estates comprise around 60% of the total forest growing area in New Zealand and involve small owners through to the major corporate and timberland investment interests. The harvesting phase of forest operations present the most hazardous conditions. Harvest from member forests, or forests managed by members, accounts for over 70% of New Zealand's plantation harvest. This harvest has increased from 18.8 million cubic metres in 2009 to 30.4 million cubic metres this year, an increase of 62% in five years.

In the calendar year ending 2013 FOA recorded 11 deaths attributed to the forest industry and one death so far this year. This is an unacceptable situation and FOA have initiated a range of solutions to sustainably meet a target of zero serious harm incidents per year in the plantation forest sector.

The NZ forest industry must not be considered one homologous group. It is divided up by ownership, industry, location, terrain, size, equipment, species, piece size and experience. Solutions need to target the correct industry sub-set if they are to be fair and efficient. Delivery mechanisms will vary according to ease of communicating with the sub-set.

With a problem as serious as health and safety, it is tempting to jump to seemingly obvious solutions. One of the challenges for the industry is the difficulty of carrying out, and therefore lack of, robust root and contributory cause analysis. The regulatory environment, particularly the threat of legal action and the Privacy Act make gathering data to allow robust research into causal factors and patterns of occurrence almost impossible, making the identification of solutions difficult. This issue must be addressed to ensure solutions are sustainable and don't just mask current problems.

**Yours sincerely**



**Glen Mackie  
Senior Policy Analyst  
Forest Owners Association**

## **Table of Contents**

### **IFSP Options 1-43**

<b>Appendix One:</b>	Statistics
<b>Appendix Two:</b>	Root and Contributory Cause Analysis
<b>Appendix Three:</b>	Training
<b>Appendix Four:</b>	Actions undertaken by Forest Owners to address the current health and safety situation
<b>Appendix Five:</b>	FOA Verbal Submission: Health and Safety Reform Bill 2014 presenting the concept of Primary Responsibility.

## Introduction

The survey is a summary of the consultation document, its options and key questions for you to answer. The detailed consultation document is available on the [www.ifsr.co.nz](http://www.ifsr.co.nz) website.

**Please complete this Word document submission no later than 12 noon, Friday 4 July 2014.**

The Review Panel would like to publish a list of submitters. If you do not want your name or your organisation published please tell us. We will not be publishing contact details.

The Review Panel would also like to quote submissions but will do so without identifying the submitter, only the part of the sector they come from.

**Do you want your name or the name of your organisation withheld?**

- Yes  
 **No**

## Submitter details

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**Which of the following do you primarily represent?**

- forest owner organisation  
 forest management organisation  
 contractor harvester organisation  
 training organisation  
 forest worker  
 private individual  
 Other, please state:

## Section One: The Regulatory Environment

The Review is happening at a time of broader legislative and regulatory change to health and safety. Proposed changes to the regulatory environment will be critical to improving the forestry sector's health and safety record. The forestry sector may however face challenges understanding and implementing the new Health and Safety Reform Bill and regulations unless it engages fully in the reform process. The Review Panel believes it is also important for government to be able to access expert forestry knowledge in order to develop a modern and workable legislative and regulatory regime for the sector.

Historical under investment in the regulator is a matter of public record. The regulator is yet to develop a fully modern compliance strategy based on good research and information. This problem is evident in the quality of the forestry sector's codes and guidance material. A number of specific issues have been identified with forestry information provided by the regulator. For example, there is no one-stop-shop or single authoritative voice for forestry stakeholders to go to on health and safety matters. The existing guidance material contains gaps, inconsistencies, or may not be entirely suitable for the intended audience.

**Do you agree that the forestry sector could struggle to understand and implement the new legislation and regulations?**

Agree  
 Disagree

**Do you agree that lack of regulatory oversight and information impacts on health and safety in the forestry sector?**

Agree  
 Disagree

**Do you agree that the guidance about safe work practices in forestry needs improvement if it is to ensure health and safety in the forestry sector?**

Agree  
 Disagree

### Options to address the issues

Options	Key questions	Agree/Disagree?	
<u>Option 1: Engage the forestry sector in the regulatory reform process</u>	1. Do you agree that MBIE should engage directly with the forestry sector in the development of the regulations to support the new legislation? Any further comment?  2. What else do you think MBIE should do to support the forestry sector to engage in the regulatory reform process and understand the changing legislative environment?	<input checked="" type="checkbox"/>	Agree
		<input type="checkbox"/>	Disagree
<p>MBIE require additional inspectors to allow visits to worksites on a regular basis. An inspector should be an expected visitor, not a surprise.</p> <p>MBIE should stratify the contractor workforce to identify high and low risk operations, to allow smart deployment of their scarce resources.</p>			

Options	Key questions	Agree/Disagree?	
<p><i>They need to enhance systems to identify worksites before they begin operation. Inspectors need to be proficient in forest operations and sufficiently knowledgeable of regulations that they can provide credible guidance as well as fulfil a regulatory role.</i></p>			
<p><u><i>Option 2: Forestry sector industry associations to encourage awareness of new legislation</i></u></p>	<p>1. Do you agree that FOA, FICA, FFA and CTU should actively encourage members to engage in the regulatory reform process and hold a sector-wide symposium? Any further comment?</p> <p>2. What else do you think FOA, FICA, FFA and CTU could do to support the forestry sector to engage in the legislative and regulatory reform process and understand the changing legislative environment?</p>	✓	Agree
			Disagree
<p><i>Forest Owners regularly provide learning opportunities by allowing workers to come together at events such as “Safe Start breakfasts”. They also disseminate information via regular contact from supervisors’ communication owner or manager expectations to contractors. Regional meetings are key – loggers unlikely to travel out of their region for these types of events.</i></p> <p><i>FOA maintains resources such as the FOA D&amp;A policy to ensure it reflects current legislation, and provides resources or arranges industry representation to update training materials, ACoPs, guidance materials, Best Practice Guides, etc to reflect current legislation.</i></p>			
<p><u><i>Option 3: Support for PCBUs to collaborate and co-operate successfully</i></u></p>	<p>1. Do you agree that guidance is needed before the new Health and Safety Reform Bill is enacted to support the forestry sector to implement and manage their health and safety responsibilities? Any further comment?</p> <p>2. Do you agree that MBIE and WorkSafe should lead the development of the package of materials supported by key industry stakeholders? Any further comment?</p>	✓	Agree
			Disagree
		✓	Agree
			Disagree
<p><i>1) The problem is that the way the Bill is drafted is that where multiple PCBUs are involved at any worksite they all have responsibility for any aspect of safety over which they could reasonably have some influence. There is no guidance as to where primary responsibility lies for any particular safety matter. The practical outcome is that there will be uncertainty as to who is primarily responsible for what, potentially leading to duplication of effort to ensure legislative compliance or mistaken assumptions that ‘some other party’ in a business or operation has taken responsibility. Ports may be particularly problematic.</i></p> <p><i>A simple fix would be to introduce the concept of Primary Responsibility and apply the well-understood principle of matching responsibility with authority. Thus the PCBU having the most skill, capability and authority to influence any particular safety aspect should also have primary responsibility for that aspect.</i></p> <p><i>In the forestry sector the practical illustration of the principle would be the forest owner (or</i></p>			

Options	Key questions	Agree/Disagree?	
<p><i>their agent) being responsible for the safety of forest access, road and skid design and harvest planning, while the contractor should be responsible for the safety of its equipment, its worker training, behaviour on site and reporting of any accidents.</i></p> <p><i>The forest industry has had productivity and efficiency improvements through separating aspects of work into components best managed by specialists. Such specialisation has encouraged innovation and is the cornerstone of our highly motivated and innovative small business sector in New Zealand.</i></p> <p>2) <i>It is essential clear guidance documents are supplied by WorkSafe as to how they have interpreted the Act and plan to enforce it. The enforcement of rule changes in the ACoP relating to Breaking-out, 8 months ahead of publication of relevant guidance documentation, is an example of poor process.</i></p> <p><i>Interpretation of the Act must not be by development of “Case Law”.</i></p>			
<p><u>Option 4: Carry over the regulatory requirement to notify WorkSafe about logging operations</u></p>	<p>1. Do you agree that the regulatory obligation to notify WorkSafe about any logging operation or tree felling operation undertaken for commercial purposes is continued and given greater emphasis in the new regulations? Any further comment?</p> <p>2. What do you think the best mechanism is for government to identify and engage with owners and harvest contractors in the small block and farm-forestry sector?</p>	✓	Agree
			Disagree
<p><i>There needs to be a penalty for starting operations without notifying WorkSafe that is sufficient to make contractors and forest owners comply with this regulation. Current legislation states the “employer” is responsible to notify. Who the “employer” is can be unclear. Suggest changing the requirement to the “contractor”.</i></p>			
<p><u>Option 5: Require PCBUs to inform others when improvement notices have been issued</u></p>	<p>1. Do you agree that PCBUs should be required to notify those organisations or people with whom they share a duty of any provisional improvement or improvement notices and any prohibition notices received? Any further comment?</p> <p>2. Do you agree that the notification requirement should be in regulations or that the sector should develop a standard contract clause for voluntary use? Any further comment?</p>	✓	Agree
			Disagree
			Agree
			Disagree
<p><i>The notification requirement should be in regulations. When WorkSafe issues a notice to a contractor, it should be copied to the forest manager. Ultimately, WorkSafe could run a publically accessible on-line improvement notice system. Would require a workable system to challenge and remove notices.</i></p>			

Options	Key questions	Agree/Disagree?	
<u>Option 6: Develop a forestry sector intervention strategy</u>	1. Do you agree that WorkSafe should develop a forestry sector intervention strategy to target education, guidance and compliance and enforcement activities? Any further comment?	✓	Agree
			Disagree
<p><i>WorkSafe need additional suitable resources on the ground – trained, experienced and fit for a physical job. A strategy is essential – but they need to be able to implement it. Any intervention strategy needs to be targeted to 1) tasks with high risk of serious harm; 2) high risk businesses - such as small businesses outside of corporate control or forest managers with poor record of compliance.</i></p>			
<u>Option 7: Convene a forestry sector expert advisory group</u>	1. Do you agree that WorkSafe should convene a forestry sector expert advisory group? Any further comment?  2. What organisations do you think should be represented on a forestry sector expert advisory group? Any further comment?		Agree
		✓	Disagree
<p><i>WorkSafe is not the body to convene a forestry sector advisory group. This would be better undertaken by Scion, utilising the proposed new Human Factors specialist role. The Crown Research Institute has historically been associated with this function, via LIRA / LIRO, and most recently the Centre of Human Factors and Ergonomics (COHFE). Organisations represented in addition to Scion convening the group: WorkSafe, Competenz, FICA, FOA, Trainer/Assessor representative as the worker representative.</i></p>			
<u>Option 8: Invest in research and information about the forestry sector</u>	1. Do you agree that WorkSafe should develop a research and evaluation plan for the forestry sector? Any further comment?		Agree
		✓	Disagree
<p><i>This is not WorkSafe's role. This would better be undertaken by Scion, utilising the proposed new Human Factors specialist role. The Crown Research Institute has historically been associated with this function, via LIRA / LIRO, and most recently the Centre of Human Factors and Ergonomics (COHFE).</i></p>			
<u>Option 9: Develop a comprehensive set of indicators for workplace assessments</u>	1. Do you agree that a set of key indicators for inspectors to record and report on during workplace visits should be developed? Any further comment?  2. Do you agree that the proposed expert advisory group should be involved in the development of the workplace inspection indicators? Any further comment?	✓	Agree
			Disagree
		✓	Agree
			Disagree

Options	Key questions	Agree/Disagree?	
	3. What do you think are the key indicators that should be assessed, recorded and reported on during workplace inspections?		
<p><i>Key indicators for inspectors to record and report on during workplace visits would level out inspector competency, provide consistency, and act as an education tool for contractors as to what needs to be addressed.</i></p> <p><i>The proposed expert advisory group should be involved in the development of the workplace inspection indicators: Note group convened by Scion (funding support from ACC) – not WorkSafe.</i></p> <p><i>Key indicators that should be assessed, recorded and reported on during workplace inspections: Should be based around relevant sections of the ACoP for the operation being inspected.</i></p> <p><i>Regarding the list on pg 28 of the Consultation document:</i></p> <p><i>“appropriateness of site design and infrastructure”. This is incorrect. It should read “appropriateness of operation, to site design and infrastructure.</i></p> <p><i>Nearly all sites can be safely operated on, if the equipment is matched to the site constraints.</i></p> <p><i>Rest of indicators are suitable.</i></p>			
<u><i>Option 10: Develop enhanced procedures and protocols for investigations</i></u>	1. Do you agree that an enhanced set of procedures and protocols for serious injury and fatality investigations should be developed? Any further comment?	✓	Agree
	2. What do you think needs to be addressed in the procedures and protocols to ensure that investigations are robust and appropriate?		Disagree
<p><i>This option on page 29 proposes WorkSafe engages with other regulators to develop an enhanced set of procedures and protocols for incident investigations. We agree with this proposal but are concerned that WorkSafe may not have the resources, but probably do have the expertise: Dr Sophie Hyde.</i></p> <p><i>There is a need for an initial report describing what happened, circumstances etc to be prepared immediately for distribution to industry as a “hazard alert”. This may need some form of safe harbour protection so that it is not captured by legal issues.</i></p> <p><i>Incident / fatality reports should be independently reviewed for ability to accurately and appropriately identify causal factors. Noting whether the report has adequately covered all aspects of the incident (management, workload, weather, training, experience, crew procedures, equipment, etc). Feedback to report authors.</i></p>			
	1. Do you agree that WorkSafe should develop and maintain an information portal which includes all	✓	Agree
			Disagree

Options	Key questions	Agree/Disagree?	
<p><u>Option 11: Develop an online forestry sector information portal</u></p>	<p>relevant health and safety legislative, regulatory, guidance and best practice material that will support the forestry sector? Any further comment?</p> <p>2. What information do you think could be included on the portal and would be useful for the forestry sector to have access to?</p>		
<p>The concept of a Portal is supported – but WorkSafe may not be the best organisation to host it.</p> <p>The WorkSafe web site is complex and difficult to navigate. There is already a lot of information available but it can be difficult to find specific items.</p> <p>The ultimate audience must be kept in mind in designing material. The ultimate audience will contain members that will not read substantial amounts of data – posters, pictures, video (suitable for smart phones), etc will have an important place.</p>			
<p><u>Option 12: Address the issues identified with the forestry ACoP</u></p>	<p>1. Do you agree that the forestry ACoP requires review?</p> <p>2. What needs to be included in the forestry ACoP that is not there now?</p> <p>3. What needs to be reviewed in the current forestry ACoP?</p>		Agree
		✓	Disagree
<p>The ACoP is essentially an excellent document, requiring all parties to enforce its provisions. Compliance is the main issue. Initially effective enforcement would improve compliance, however the long term key is the development of an industry “safety culture” that sees compliance as non-negotiable.</p> <p>When the ACoP was released the development team recommended waiting two years before updating unless there were major issues. This was to allow the industry to become used to the new requirements rather than just reacting poorly to change.</p> <p>Constantly changing the document will undermine its credibility and cause confusion. There is already going to be an update covering “Roles and Responsibilities” – Section 18, which should have been a guidance note rather than an ACoP update. The mechanics of efficiently handing updates are not decided (how to update the hardcopy books), and will be expensive to do properly.</p> <p>There is going to need to be an update to incorporate changes required once the new H&amp;S legislation comes in to law. This is when the next ACoP update should occur.</p> <p>Individual, high value sections of the ACoP require high profile targeted promotion. This includes rules such as: Two Tree Length Rule, Tree Driving, Breaking Out – Safe Retreat Position, etc. Promotional material that is clear, informative, robust (suitable for the work environment).</p>			

Options	Key questions	Agree/Disagree?	
<u>Option 13: Ensure forestry sector guidance and information is fit for its audience</u>	1. Do you agree that research should be undertaken to understand the type of health and safety guidance materials that will be most effective for the forestry sector?  2. What type of health and safety materials do you think would be useful for: <ul style="list-style-type: none"> <li>a. contract harvesters?</li> <li>b. crew bosses?</li> <li>c. forestry workers?</li> </ul>		Agree
		✓	Disagree
<p><i>There is a lot of material on teaching adults and addressing literacy and numeracy. This information is well known by Competenz.</i></p> <p><i>FOA via the FOA/ACC Forestry Action Plan is working on material to support the Health and Safety representative, material for tailgate meetings, and posters, video, etc, suitable for displaying on-site.</i></p>			
<u>Option 14: Share information about forestry sector serious injuries and fatalities in a timely manner</u>	1. Do you agree that information about incidents of serious injury and fatalities in the forestry sector needs to be disseminated in a timely way?  2. Do you think that WorkSafe should produce and disseminate information?	✓	Agree
			Disagree
<p><i>WorkSafe currently do not have the skill or resources and in some regions the understanding to produce this material. The industry waited for almost a year for the guidance note on Breaking Out. To produce the Guidance notes for Breaking out and Treefalling, WorkSafe relied heavily on industry input – they do not have the skills in house.</i></p> <p><i>Accident information dissemination could be via the new Human Factors position at Scion. In the past LIRA/LIRO and COHFE reports were popular, relevant, and well-targeted.</i></p> <p><i>WorkSafe BC do an excellent job in disseminating information. This should be what we require in NZ. However as previously stated WorkSafe NZ do not have the skill or resources to produce this material. The Scion Human Factors position should have this as a core competency.</i></p>			

## Section Two: Training, Qualifications and Competence

There is a lack of mandatory training standards for clearly defined safety critical roles and tasks from forestry managers and supervisors through to workers. As a result the amount and quality of on-the-job and off-site training can widely vary. Some workers undergo comprehensive induction and ongoing training and supervision. However for many, on-the-job training is focused on getting someone to be able to do the job quickly, with safety as a secondary priority.

Safety leadership in the forestry sector needs to improve for positive change to occur. Training to improve the competencies of the workforce, while necessary, will not be sufficient to improve the sector's safety record. Rather, systematic management training throughout the forestry sector supply chain is required. Much of this training should be focused on how managers and crew bosses demonstrate personal commitment to health and safety.

There are multiple views amongst forestry managers and crew bosses about the overall worth of formal industry training. The current disconnect between the skills provided by the system of formal training and qualifications and what the forestry sector may in fact need is contributing to a lack of value placed on training by employers and workers alike. Rigid funding policy for forestry training may also contribute to workers not gaining the right skills at the right time. There are also doubts within the sector about the quality and rigour of final assessment processes for people who have undertaken formal industry training.

### Do you agree that the forestry sector's training, qualifications and competency framework is not fit-for-purpose?

- Agree: This issue is not binary – a valid response could be Agree and Disagree.  
 Disagree

### Options to address the issues

Options	Key questions	Agree/Disagree?	
<u>Option 15: Prescribe competency standards for safety critical roles and tasks</u>	1. Do you agree that regulations should prescribe competency standards for safety-critical roles and tasks? Any further comment?	<input checked="" type="checkbox"/>	Agree
		<input type="checkbox"/>	Disagree
	2. How long do you think any transition period into a new regime should last?  Two year transition.	<input type="checkbox"/>	<input type="checkbox"/>
		<input checked="" type="checkbox"/>	Agree
3. Do you believe that a re-certification process, say every three or five years, should be mandatory to ensure that skills are retained and updated?		<input type="checkbox"/>	Disagree
	4. Do you agree the regulation should require a period of practical experience to demonstrate competency?		

Options	Key questions	Agree/Disagree?	
<p>FOA supports the introduction of licencing or certification for all specified safety sensitive jobs. This implies regulation defining the training level required, assessment to attain licence, re-assessment to retain licence, and ability to lose licence.</p> <p>By having a licence scheme, contractors/forest owners would be forced by legislation to train and assess, and re-assess at a defined period, to set levels. Certification, although likely to be adopted by progressive contractors / forest owners, is optional and may not be adopted by those areas of the industry with greatest risk.</p>			
<p><u>Option 16: Ensure that safety-critical training and development is paid work time</u></p>	<p>1. Do you agree that training and development for safety critical roles and tasks should be paid work time? Any further comment?</p>	✓	Agree
			Disagree
	<p>2. Do you agree that forest owners and managers should take account of the cost of training in the rates that they pay contract harvesters and crews? Any further comment?</p>	✓	Agree
			Disagree
<p>Training should be specified in contracts – both between contractors and the forest manager and also between the contractor and their workers. The emphasis would then be on ensuring the contract is complied with.</p> <p>Good contractors include training as part of their standard operation.</p>			
<p><u>Option 17: Establish a new industry-led tripartite advisory board</u></p>	<p>1. Do you agree that new institutional and administrative arrangements are required to oversee forestry qualifications? Any further comment?</p>	✓	Agree
			Disagree
<p>Not another advisory board. Competenz has done well in picking up the role of ITO for the forest industry. Its Regional Training Advisor resource has generally done a very good job in identifying trainees and arranging for training to occur (noting issue with Northland Region which has now been addressed).</p> <p>NZQA regulations require qualifications to be reviewed every five years. Although ensuring qualifications are updated, this policy has resulted in confusion in the industry due to qualifications being perceived as constantly changing.</p> <p>The ITO needs to resist making major changes to qualifications as regularly as occurs while still meeting NZQA requirements.</p> <p>Licencing / Certification – will add value to qualifications.</p>			
<p><u>Option 18: Initiate a regulator-led curriculum and funding policy review</u></p>	<p>1. Do you agree that the curriculum and funding policy for forestry-sector training requires review and update? Any further comment?</p>		Agree
	<p>2. Who do you think should lead this work?</p>	✓	Disagree

Options	Key questions	Agree/Disagree?
<p><i>As discussed in option 17, NZQA rules require qualifications to be reviewed every five years. The ITO runs a very robust industry input process, however, unless involved in it, companies can be completely unaware of the input their colleagues have had. The ITO needs to publicise the review process more widely.</i></p> <p><i>The Regulator should not lead the curriculum review. The current system allows industry input, however if a review is deemed to be required this should be led by the University of Canterbury – School of Forestry.</i></p> <p><i>This issue would be partially addressed by the requirement for licencing or certification for hazardous work.</i></p>		

### Section Three: Supply Chain and Safety Culture

There is a lack of detail about mandatory health and safety standards in contracts between forest owners, managers and contract harvesters. The variety of contract arrangements used in the forestry sector results in a variety of issues for health and safety. For example, the differing lengths of harvest contracts may influence business planning and the level of investment in people, plant and equipment.

Payment mechanisms between forest owner and contract harvesters may create production pressures to get the job done at the expense of safety. This may create a disincentive to stop work due to adverse conditions and/or pressure to get the job done quickly irrespective of safety issues.

The “can do” culture evident in the forestry sector needs to be changed to a “can do safely” culture. Workers undertake unsafe work in order to get the logs out and not let the crew down. Poor role models and a lack of leadership may be factors influencing poor practices. A concerted effort to develop a safety culture in harvesting crews needs tangible support across the supply chain from forest owners and forest managers through to crew bosses.

**Do you agree that contracting arrangements have an impact on health and safety in the forestry sector?**

Agree  
 Disagree

**Do you agree that the lack of safety culture is a factor that contributes to serious injuries and fatalities on the forest block?**

Agree  
 Disagree

#### Options to address the issues

Options	Key questions	Agree/Disagree?	
<u>Option 19: Map the supply chain to understand responsibility, risk and points of influence</u>	1. Do you agree that FOA, FICA and FFA should initiate a project that, taking account of the new Bill, clearly details: <ul style="list-style-type: none"> <li>a. the forestry sector supply chain so that the complexity is documented and understood?</li> <li>b. the health and safety risks, controls or mitigations at each level in the supply chain? Any further comment?</li> </ul>		Agree
		✓	Disagree

Options	Key questions	Agree/Disagree?	
<p>Forest ownership, and product ownership through the supply chain can be complex but is well understood by those participating in it.</p> <p>The major issue is those forests harvested under "corporate control" and those harvested under just "contractor control". This is not a forest size issue as small woodlots can be harvested by contractors operating under a "corporate umbrella" i.e.: some corporates arrange for small woodlots to be harvested.</p> <p>FOA statistics indicate that over the last 8 years 80% of the harvest came via corporates and 20% via non corporate control. The incidence of fatalities varies but is around 50% from each sector. Without condoning or excusing any fatalities, there is a higher risk of fatality with the non-corporate controlled harvest.</p> <p>FOA and other agencies (such as ACC) are taking active measures to reach zero serious harm in the corporate controlled sector. Note the FOA initiatives are available to the full forest sector communication and enforcement is the issue with effective implementation.</p> <p>It is recommended Worksafe increase its presence in the non-corporate sector.</p> <p>Responsibilities at each level e.g. worker, contractor, manager, investor – should be clearly identified. WorkSafe need to provide this clarity so that industry participants know what is expected of them.</p>			
<p><u>Option 20: Develop a template contract with mandatory health and safety standards</u></p>	<p>1. Do you agree that FOA, FICA, FFA and CTU should initiate a project that establishes the mandatory health and safety standards to be addressed, monitored and evaluated in forestry sector contracts, and develops model contract clauses for use across the sector? Any further comment?</p> <p>2. What do you think are critical health and safety factors that should be addressed in forestry-sector contracts to ensure mandatory standards are met?</p>	✓	Agree
			Disagree

Options	Key questions	Agree/Disagree?	
<p>A good idea, but would need to address any anti-competitive behaviour / collusion issues regarding the Commerce Act.</p> <p>Contract template should address:</p> <ul style="list-style-type: none"> <li>- Requirement to employ licenced / certified workers</li> <li>- Maximum hours of work– we suggest that the Land Transport Regulations limits for heavy truck driving as the model, with lesser limits for high risk activities (tree falling and breaking out).</li> <li>- Shut down criteria and worker payment provisions therein</li> <li>- Nutrition, hydration requirements &amp; clear expectations of an impairment-free workplace.</li> </ul>			
<p><u>Option 21: Adopt a pre-qualification approach to contracting across the forestry sector</u></p>	<p>1. Do you think the forestry sector should institute a two-step process to procurement with the first step being to demonstrate how health and safety standards would be met? Any further comment?</p>	✓	Agree
			Disagree
<p>To get a change in culture we need to raise the barriers of entry to becoming a harvesting contractor, tree faller or machine operator, so that all involved in the industry are proud to do what they do.</p>			
<p><u>Option 22: Set up an industry-wide certification scheme</u></p>	<p>1. Do you think the forestry sector needs a certification scheme? Any further comment?</p> <p>2. Do you think the scheme should be regulator-led or industry-led? Any further comment?</p> <p>3. Does the issue of those registering as a new company after injuries or fatalities need examining? Any further comment?</p> <p>4. If a certification scheme were to be adopted, which parts of the sector should be certified? Any further comment?</p> <p>5. What would make for an effective certification scheme?</p>		Agree
			Disagree
			Regulator-led
			Industry-led
			Agree
	Disagree		

Options	Key questions	Agree/Disagree?	
<p>As noted in Option 15, FOA supports the introduction of licencing / certification for all specified safety sensitive jobs. This implies regulation defining the training level required, assessment to attain licence, re-assessment to retain licence, and ability to lose licence.</p> <p>By having a licence / certification scheme, contractors/forest owners would be forced by legislation to train and assess, and re-assess at a defined period, to set levels.</p> <p>The scheme needs to be led by an independent body – not the regulator which does not have the skill or resources.</p>			
<p><u>Option 23: Set up a phone line to report poor health and safety practice</u></p>	<p>1. Do you agree there should be a phone line to enable poor health and safety practices in the forestry sector to be anonymously reported? Any further comment?</p>	✓	Agree
	<p>2. Who do you think would be best placed to manage any forestry sector phone line?</p>		Disagree
<p>There is an existing logging complaint number via WorkSafe : 0800 030 040. Greater education/ promotion of this is required.</p> <p>The industry is investing resources in improving the industry safety culture to a point where workers consider it normal practice to report unsafe practice or hazards to fellow workers and supervisors, and these are then acted upon. FOA has a safety culture project underway as part of the Forestry Action Plan.</p>			
<p><u>Option 24: Provide business support to contract harvesters to support safe work practices</u></p>	<p>1. Do you agree that work needs to be done to understand the business support needs of contract harvesters to support safe work practices in the forestry sector? Any further comment?</p>	✓	Agree
	<p>2. Who do you think should do this work to understand the business support needs of contract harvesters?</p>		Disagree
	<p>3. Do you agree that any templates and tools developed to support contract harvesters to undertake better business planning to support safe work practices should be made available without charge across the sector?</p>	✓	Agree
	<p>4. Do you agree that the proposed business support be made available before the new Bill is enacted as law? Any further comment?</p>		Disagree
		✓	Agree
	Disagree		
<p>The Contractor segment cannot be viewed as a whole. Management skill and competencies vary. Business support needs to be targeted to those contractors that would benefit. Initial targeting of small contractors would be the most efficient use of resources.</p> <p>24.2 MPI or MBIE (not WorkSafe) may have a role here – similar to their High Performance Logger initiative.</p>			

Options	Key questions	Agree/Disagree?	
<u>Option 25: Evaluate safety-culture initiatives</u>	1. Do you agree with the proposal to carry out a stocktake and evaluation of the effectiveness of current safety-culture initiatives? Any further comment?	✓	Agree
			Disagree
<p>Over the last five years FOA members have piloted safety culture initiatives based on core work carried out by FOA/FICA. This work has been trialled in three different formats, all of which have been successful. FOA/ACC are reviewing the three systems as part of the FOA/ACC Forestry Action Plan. The team will recommend either one system, or a hybrid taking successful segments from each system. This will be developed in to a package which can be introduced nationally.</p> <p>Moving the safety culture in all forest operations to get workers to look out for their workmates, and take action if they observe an unsafe act or a hazard, is the key to achieving "Zero Serious Harm" on a sustainable basis.</p>			
<u>Option 26: Roll out successful safety-culture initiatives across New Zealand</u>	1. Do agree that successful safety-culture initiatives should be rolled out across the forestry sector? Any further comment?	✓	Agree
			Disagree
	2. Do you think ACC should fund culture initiatives through their injury prevention programme? If not, who should provide the funding?	✓	Agree
			Disagree
<p>FOA tried for a number of years to get funding from ACC for the Forestry Action Plan initiatives. This was delayed by restructuring in MBIE and ACC. Eventually funding for the programme was approved in January of 2014. More certainty in funding support and delivery is required – restructuring leading to multi-year delays is unacceptable.</p> <p>The current funding of the FOA/ACC Forestry Action Plan is now working well, with excellent input from the ACC Project Manager. At the completion of the current plan additional funding will be required to maintain and enhance the eight projects being funded.</p>			

Options	Key questions	Agree/Disagree?	
<u>Option 27: Identify and address contributing factors to safety culture</u>	1. Do you agree with the need for more research on how best to address factors and drivers that sustain existing safety attitudes and practices in the forestry sector? Any further comment?	✓	<i>Agree</i>
	2. Who do you think should lead the research programme on safety culture? Any further comment?		<i>Disagree</i>
	3. What other approaches could government, industry and workers take to improve safety culture on the forest block?		

Options	Key questions	Agree/Disagree?
<p>Scion is proposing to establish a human factors position and are best positioned to lead forest industry safety culture research. Scion already employs a researcher with established credentials in safety culture research – Dr Richard Parker.</p> <p>There are a number of organisations with no or limited contact within the forest industry that are planning safety culture research within the forest industry i.e.: Waikato University and Graeme Lowe. It is essential that a lead research organisation works with outside groups to ensure the research is properly targeted, expands on existing research and the results are properly introduced into the industry.</p> <p>In discussions with Scion they have made the following points:</p> <p>“One important consideration from a Scion perspective for a role along those lines would be to incorporate a strong research component. It would not just be about analysing individual incidents but also understanding and mitigating contributory factors. Research components would probably include:</p> <ul style="list-style-type: none"> <li>· Analysis of injury and near miss data leading to the identification of the most dangerous tasks and events (we already know a lot of this from historical data) – felling and breaking out kill people.</li> <li>· Observation, questionnaire and analysis of harvesting work (field data collection) to really understand the tasks and contributory events. This will then direct the research to look at specific aspects of the operation such as: <ul style="list-style-type: none"> <li>o organisation of the work – hours of work, contracting arrangements ...</li> <li>o the tasks and environment</li> <li>o human performance</li> <li>o rules/regulation.</li> </ul> </li> </ul> <p>Sometimes the ‘cause’ is upstream of the actual forest operation – e.g. the crew are always tired because they are driving a long way to work and they are working 6 day weeks because wood is needed at the wharf fast.</p> <ul style="list-style-type: none"> <li>· We can also investigate more detailed questions such as the effects of heat, exhaust gases, slippery, terrain, glare etc. on human performance and ultimately safety. Social questions like the dynamics within a logging crew – are the young workers scared of the foreman / contractor, do people actually know how to keep safe (and productive).</li> <li>· We can develop interventions to address the problems we find. We have done this before – high viz clothing, useable seat belts in forestry machines, proven the effectiveness of spiked soled boots, organisation of landings, safety publications etc.”</li> </ul> <p>27.3: Successfully introducing initiatives can be a challenge. Working with existing organisations that have a track record of introducing initiatives is essential i.e.: FOA, FICA and Competenz.</p>		

## Section Four: Worker Participation and Representation

There is a lack of an effective voice for forestry workers in health and safety matters. Forest worker participation and representation practices are generally ineffective and often absent. Until very recently there has been a lack of worker input at the sector level, for example, in developing standards and guidelines. There is a lack of awareness and motivation across the sector to meaningfully engage with workers on health and safety issues. The use of unorganized, fixed-term and short-term labour also poses a challenge to developing effective worker participation and representation.

The Review Panel believes the intimate and/or family culture of many harvesting crews provides both opportunities and challenges to developing informal and formal mechanisms to foster good worker participation and representation.

**Do you agree that a lack of worker participation and representation is an issue that is impacting on health and safety on the forest block?**


Agree

Disagree

Impossible to answer yes or no. There are excellent examples of worker representation throughout the industry, however there are anecdotal examples raised where worker representation is poor.

### Options to address the issues

Options	Key questions	Agree/Disagree?	
<u>Option 28: Develop a greater understanding of worker participation and representation</u>	1. Do you agree that there is a need to better understand worker participation and representation in the forestry workforce and what works? Any further comment?	✓	Agree
			Disagree
Agree there is a need to investigate worker participation and representation.			

Options	Key questions	Agree/Disagree?	
<u>Option 29: Examine ways to encourage worker participation and representation across the sector</u>	1. Do you agree that the forestry sector and CTU should examine ways to effectively implement worker participation and representation models across the sector? Any further comment? 2. Who else do you think should be involved in considering ways to ensure that workers participate in health and safety initiatives and are represented in the forest workplace? Any further comment? 3. What do you think is the best way to ensure that workers participate in government and industry-led initiatives to improve health and safety? Any further comment?		Agree
		✓	Disagree
<p><i>The forestry sector should investigate the level of worker representation and identify the models/systems that are working well, and facilitate their wider introduction. The CTU does not have effective representation in the forest sector.</i></p> <p><i>29.2: FICA and forest owners already arrange and facilitate worker representation options. These should be further promoted, and targeted at areas where worker representation is identified as being weak. The update to the ACoP: Section 18 addresses this issue.</i></p> <p><i>Widespread publicity covering the introduction of Section 18 and enforcement action by WorkSafe</i></p>			

## Section Five: Working Conditions

The Review Panel has found that employment agreements and contracts are unclear and sometimes absent. Clear terms and conditions of employment should exist to provide sufficient security and clarity for both parties. Many agreements and contracts provide no detail on a range of issues with the potential to impact on health and safety. These issues include: payment for travel time, stop-work provision due to adverse environmental conditions, break times and avenues for worker participation. There is also sometimes a lack of understanding of minimum working conditions and entitlements by both employers and workers. The Review Panel believes that the failure to uphold minimum employment standards is contributing to unsafe working conditions. There is also a lack of adequate provision of facilities on the forest block, despite long standing guidance on the topic being available.

### Do you agree that poor working conditions impact on health and safety on the forest block?

- Agree : Where poor working conditions are present, they can impact on H&S. The majority of forest blocks do not have poor working conditions.
- Disagree

### Options to address the issues

Options	Key questions	Agree/Disagree?	
<u>Option 30: Improve employment agreements and contracts and ensure all forestry workers have them</u>	1. Do you agree it is important that all forestry workers have an employment agreement or contract that meets minimum standards and entitlements? Any further comment?	<input checked="" type="checkbox"/>	Agree
		<input type="checkbox"/>	Disagree
	2. Do you agree that WorkSafe, the labour inspectorate and industry are best placed to lead work to improve the understanding and quality of employment agreements and contracts? Any further comment?	<input checked="" type="checkbox"/>	Agree
		<input type="checkbox"/>	Disagree
	3. What other ways can the sector ensure the widespread use of written agreements or contracts?	<input type="checkbox"/>	
	<i>Contracts should not specify how contractors should work, only what outcomes their service should achieve provided they are compliant with all Statutory Regulations.</i>		

<u>Option 31: Enforce minimum employment standards and conditions on the forest block</u>	1. Do you agree the labour inspectorate should prioritise compliance and enforcement of minimum labour laws in the forestry sector? Any further comment?	<input checked="" type="checkbox"/>	Agree
		<input type="checkbox"/>	Disagree
	2. Do you think a greater enforcement of minimum employment standards has a positive knock-on effect for safety? Any further comment?	<input checked="" type="checkbox"/>	Agree
		<input type="checkbox"/>	Disagree

	3. Do you think a focus on employment standards would have unintended consequences for workers? If so, what might they be?		
			Agree
		✓	Disagree
<p>FOA believes that safety takes precedence and would actively support the Regulator's enforcement of minimum employment standards and conditions. The lead should come from the Regulator. FOA supports the signal from the Minister that the government will be strengthening the enforcement of employment conditions, and that shoddy employers should be "named and shamed" for not playing by the rules.</p>			
<p><u>Option 32: Introduce mandatory standards for working conditions on the forest block</u></p>	<p>1. Are mandatory stop-work rules necessary for unsafe working conditions? Any further comment?</p> <p>2. Who do you think should be engaged in developing any stop-work rules? Any further comment?</p> <p>3. Do you think stop-work rules would have unintended and negative consequences for contract harvesters and crew? What might these be?</p>	✓	Agree
			Disagree
			Agree
		✓	Disagree
<p>There should be no <b>mandatory</b> stop work rules. Stakeholders need to be able to make decisions as to what is or isn't safe based upon the circumstances in front of them and the intervention or management options available:</p> <p>i.e. High winds. Unmanaged this hazard may be justification for stopping work. However, moving the crew to a sheltered area, or an area with no overhead hazards may be sufficient. Soil type affects tree stability in winds, and tree physiology affects overhead hazards that may arise from winds. (Older trees more likely to shed material in winds than a pruned stand ready for felling). The point is: A managed hazard can result in a safe work place.</p> <p>32.2: These rules need to be developed by the contractor taking in to account site factors, and crew skill at assessing and managing hazards.</p> <p>If the hazard can't be satisfactorily managed, making the site unsafe, work must stop.</p>			

## Section Six: Infrastructure on the Forest Block

Although the need for quality infrastructure is widely recognised, and is often in place, the Review Panel has heard that the quality and adequacy of such infrastructure is variable and not always up to the job. For example, the likelihood of accidents can increase when roads and bridges are not specifically designed for the heavy loads associated with forestry work. There is a lack of consistent regulatory oversight when major forestry infrastructure is designed and constructed. Resource management rules and requirements vary widely across the country and this variability works against good collaboration between environment and health and safety regulators.

### Do you think poor infrastructure planning, design and construction is impacting on health and safety on the forest block?

<input checked="" type="checkbox"/>	Agree Can impact if not managed correctly. The issue is not the infrastructure, but the management of any hazards associated with it.
<input type="checkbox"/>	Disagree

### Options to address the issues

Options	Key questions	Agree/Disagree?	
<u>Option 33: Set mandatory standards for key infrastructure on the forest block</u>	1. Do you agree on the need for mandatory standards for skid sites, roading and bridges on the forest block? Any further comment?		Agree
		✓	Disagree
	2. Do you agree that the Forest Road Manual provides a good basis for work to set mandatory standards for forest block infrastructure? Any further comment?		Agree
		✓	Disagree

These comments relate to health and safety, not any associated environmental issues. It is the hazard that must be addressed, the method is up to the forest owner as long as it is addressed.

i.e.: A steep logging road of challenging design. To make it safe the forest owner or whoever is responsible for designing and operating the road has options:

- Construct the road to be safe for standard highway logging trucks to operate in both directions:

or: Instigate a one way system via radio or loop road

or: Specify central tyre inflation vehicles only

or: Use only off-highway six wheel drive and cart to an intermediate log yard.

Mandatory infrastructure standards are not required.

An insistence on an operation that manages the hazards is required and should be actively enforced by WorkSafe.

Options	Key questions	Agree/Disagree?	
<u>Option 34: Set mandatory competency requirements for infrastructure designers and operators</u>	1. Do you think there should be mandatory competency standards for the design and construction of skids sites, roads and bridges for forestry operations? Any further comment?		Agree
		✓	Disagree
	2. Do you think the design and construction of roads, bridges and skid sites should be undertaken and/or supervised or signed off by a registered professional engineer? Any further comment?		Agree
		✓	Disagree
	3. Do you think there should be mandatory competency standards for those operating and managing skids sites during harvesting? Any further comment?	✓	Agree
			Disagree
<p><i>It is the hazard that must be addressed, the method is up to the forest owner as long as the hazard is addressed.</i></p> <p><i>Bridges over 1.2m already require a producer statement by a CP Eng (Building Act).</i></p> <p><i>34.3: Management is key to achieving a safe operation, coupled with active enforcement by competent inspectors to stop unsafe operations.</i></p>			
<u>Option 35: Restart work on the National Environment Standard for plantation forestry</u>	1. Do you agree that health and safety benefits can be achieved from a NES for plantation forestry? Any further comment?  2. What other mechanisms can be used to ensure consistent standards for infrastructure on the forest block?	✓	Agree
<td data-bbox="1201 1167 1273 1234"></td> <td data-bbox="1281 1167 1455 1234">Disagree</td>			Disagree
<p><i>Although health and safety benefits could be achieved from NES specified standards, this is the wrong mechanism. As already stated, management of the operation (utilising whatever infrastructure is deemed correct for the site) is key to achieving a safe operation, coupled with active enforcement by competent inspectors to stop unsafe operations.</i></p>			

## Section Seven: Safe Systems of Work

*Work on the forest block does not always focus on the need for positive identification of hazards and the location of workers at all times. Hazard mapping also appears variable and may not be adequate to address the range and dynamic nature of risks on the forest block. The Review Panel is concerned that insufficient hazard identification and planning may also extend to emergency response preparedness. Regular emergency response exercises, including training with emergency services, are required to ensure the time available to apply critical first aid and rescue a seriously injured worker is not squandered.*

**Do you agree that hazard mapping and planning, including planning for adverse working conditions and emergencies, is variable and impacting on health and safety on the forest block?**

- Agree
- Disagree

## Options to address the issues

Options	Key questions	Agree/Disagree?	
<u>Option 36: Improve safety-management systems for work on the forest block</u>	1. Do you agree that work needs to be done to improve safety management systems for work on the forest block? Any further comment?	✓	Agree
	2. What do you think are the key components of pre-harvest hazard mapping? Any further comment?		Disagree
	3. What do you think are the key components of daily hazard mapping? Any further comment? 4. Do you think that daily hazard mapping and the improved management of dangerous trees will help reduce injuries and fatalities on the forest block? Any further comment? 5. How do you think crews can be successfully encouraged to undertake effective daily hazard mapping?		
<p>For many harvest areas the safety management systems are suitable. Work needs to be done to identify those operations where this is not the case, and action taken to improve. This issue has not been adequately researched.</p> <p>The implementation of daily "tailgate" meetings is a very positive step. The FOA/ACC Forestry Action Plan is investigating the development of resources to improve the quality of these meetings (portable whiteboard materials, etc.)</p> <p>36.5: WorkSafe and forest owner representative attendance at these meetings whenever they visit a site with accompanying positive feedback. Additional resources identifying effective daily hazard mapping. Some current systems are too complex – there is a good case to standardise and simplify.</p> <p>LIDAR is being increasingly utilised by larger companies. This can give very accurate terrain mapping. Small woodlots can't afford to arrange to have LIDAR over their block – NZ wide LIDAR by the government would bring many benefits.</p>			

## Section Eight: Equipment including Personal Protective Equipment

The Review Panel is aware of sector concerns regarding the design, modification, maintenance and use of existing, new and modified machines, plant and equipment. There does not appear to be adequate approval and management systems for changing machines and technologies. This problem extends to the consistent development of standing operating procedures to support safe work practices where new and modified machines and equipment are introduced. The need for systematic and well-resourced maintenance programmes is also not consistently recognised across the sector.

It appears that many workers are paid an allowance for what constitutes the protective clothing and equipment necessary to keep them safe on the forest block. This is a breach of current health and safety legislation and is unsatisfactory as it increases the scope for equipment of varying quality to be used. There is also a temptation for workers to use their allowance for other living expenses and to compromise their safety by using inadequate or cheap gear, or to skimp on maintenance. There is also a lack of investment in research and development resulting in continued practical problems with personal protective equipment. There does not seem to be onus on the sector or regulators to keep pace with the latest technology developments and mandate them for use on the forest block.

**Do you agree that the varying approaches to design and maintenance of machinery, PPE and other equipment is impacting on health and safety on the forest block?**

<input checked="" type="checkbox"/>	Agree
<input type="checkbox"/>	Disagree

### Options to address the issues

Options	Key questions	Agree/Disagree?	
<u>Option 37: Establish an industry work programme to support new technologies and maintenance of equipment</u>	1. Do you agree that a systematic approach to approval of new technologies and better management and maintenance of all machinery and equipment is required for the forestry sector? Any further comment? 2. What do you think are the key hazards that need to be addressed before new technologies are rolled out for use on the forest block? Any further comment? 3. Do you agree that FOA, FICA and FFA should show greater leadership in supporting the research and development of the PPE and equipment need for workers to be safe? Any further comment?	<input checked="" type="checkbox"/>	Agree
		<input type="checkbox"/>	Disagree
		<input type="checkbox"/>	Agree
		<input checked="" type="checkbox"/>	Disagree
		<input type="checkbox"/>	
		<input type="checkbox"/>	

Options	Key questions	Agree/Disagree?	
<p>37.1: Need to note that for large segments of the industry this is already managed well. A lack of targeted research means that while we can agree this is an issue, the significance to health and safety outcomes is unknown.</p> <p>37.3: Already provide significant support for research and development of PPE and equipment needed for workers to be safe i.e. Individual forest owners have recently supported self-illuminating systems for Hi-Viz, testing regimes for chainsaw boots, and steep country harvesting systems.</p> <p>The proposed Scion Human Factors position would provide research management opportunities for the pro-active investigation of new H&amp;S equipment.</p>			
<p><u>Option 38: Review the suitability of high visibility colours and design</u></p>	<p>1. Do agree that high-visibility materials and design for safety garments needs review? Any further comment?</p>	✓	Agree
			Disagree
<p>Agree – There are advances in felling helmets in Europe for example, and here in NZ for light emitting clothing.</p>			
<p><u>Option 39: Consider the merits of mandatory standards for emergency equipment</u></p>	<p>1. Do you think there is need for greater clarity about the emergency equipment needed on the forest block? Any further comment?</p> <p>2. Do you think mandatory standards for emergency equipment should be developed? Any further comment?</p>		Agree
		✓	Disagree
<p>A lack of targeted research means that while this sounds a logical aim, the significance or prevalence of inadequate emergency equipment in the NZ forestry situation is unknown. The first step should be to research whether or not this is an issue. The proposed Scion Human Factors position would provide research management opportunities for the pro-active investigation of H&amp;S emergency equipment.</p>			

## Section Nine: Managing Impairment

The job of the forestry worker is a physically and mentally demanding one. New Zealand research confirms that fatigue creates health and safety issues on the forest block. Near miss events are significantly more common amongst those workers reporting a high level of fatigue at work. Nutrition and hydration is also important to safe work practices in the forestry sector and the Review Panel has identified that more needs to be done to ensure adequate nutrition and hydration of forestry workers. Related to these issues is the need to take regular breaks throughout the day in order to ensure sufficient food and fluid intake.

Drugs and alcohol are a serious risk on the forest block. Anyone on the forest block impaired by drugs or alcohol is a risk to themselves and those around them. While this fact is not contentious, the sector's drug testing regime needs review. It does not appear to be sufficiently robust to tackle the problem consistently across all crews. There appears to remain opportunities for workers with drug issues to be employed on the forest block.

**Do you agree that the issue of impairment (through fatigue, inadequate nutrition or hydration, and the presence of drugs and alcohol) is impacting on health and safety on the forest block?**

<input checked="" type="checkbox"/>	Agree
<input type="checkbox"/>	Disagree

### Options to address the issues

Options	Key questions	Agree/Disagree?	
<u>Option 40: Introduce new injury-prevention initiatives for managing risk from impairment</u>	1. Do you agree that ACC and WorkSafe should look at how to introduce new injury prevention initiatives that address and incentivise managing risk from impairment in forestry work? Any further comment?	<input checked="" type="checkbox"/>	Agree
		<input type="checkbox"/>	Disagree

Options	Key questions	Agree/Disagree?	
<p>Government policy makers need to sort out the relative balance of the Privacy Act verses Safety legislation.</p> <p>Privacy and potential legal concerns seriously inhibit access to data for analysis of root and contributory cause. WorkSafe have refused to let FOA know the birthdate of fatalities because of privacy issues. Without the birthdate it has been impossible to access training records for some fatalities.</p> <p>The law needs to allow the publication of incident details under a "safe harbour" provision, to allow industry to be advised of learnings in a timely manner.</p> <p>All relevant data must be able to be forwarded to a body to analyse and research looking for root and contributory cause and patterns of occurrence. The proposed Scion Human Factors position would provide research skills for the pro-active investigation of incidents, dissemination of information and manage the preparation of industry resources.</p>			
<p><u>Option 41: Introduce mandatory standards for managing the risk of impairment</u></p>	<p>1. Do you agree that mandatory standards are required for managing impairment on the forest block?</p>	✓	Agree
	<p>2. What role should the regulator play in monitoring impairment in this workforce?</p>		Disagree
<p>Endorsement of the FOA Drug and Alcohol policy would be a positive step. However the policy is based upon whether drugs are present or not. It does not use a measure of impairment. The measurement of impairment is extremely difficult (police roadside sobriety testing – walking a line, etc.) and takes very well trained staff.</p> <p><i>The Regulator must be empowered so that Worksafe Inspectors can require due-cause Alcohol and Drug testing on witnessing unsafe behaviour.</i></p> <p>Work is required to identify the risk posed by fatigue. There are a number of existing fatigue resources – these need to be reviewed for relevance to the NZ forest situation and strategies for their dissemination implemented.</p>			
<p><u>Option 42: Review the regulator's approach to the use of drugs and alcohol in high-risk sectors</u></p>	<p>1. Do you agree that it would be appropriate for WorkSafe to put in place a mandatory standard for drug testing on any site where there is a serious injury or fatality? Any further comment?</p>	✓	Agree
	<p>2. Do you agree that it would be useful for WorkSafe to provide guidance on how to best</p>	✓	Agree

Options	Key questions	Agree/Disagree?	
	manage the use of drug and alcohol in high-risk sectors? Any further comment?		
<i>Recommend WorkSafe endorse the FOA Drug and Alcohol Policy.</i>			
<u><i>Option 43: Review the Drug and Alcohol Code of Practice</i></u>	1. Do you agree it is time to review the Drug and Alcohol CoP? Any further comment?	✓	<i>Agree</i>
<i>FOA has commissioned Sue Nolan – Drug Free Sites, to update the D &amp;A Policy to take into account the new drug categories THC derivatives, legal highs and Katones. In addition the policy will contain information to inform companies that are interested in data sharing. The updated policy will be released this year. FOA is about to begin consultation on the most effective way to launch the update.</i>			

## Path to Sustainable Improvement

Health and safety initiatives need to be implemented so that they continue to be applied even after it appears the situation has improved. Injuries and fatalities can be expected to decline in the near future due to health and safety being a current high profile issue. However, this can lead to a perception that the issue has been addressed, when in fact the underlying structural drivers for poor performance may not have been addressed. Effective initiatives can also be subsequently dropped as they are deemed unnecessary because the situation is perceived as being under control i.e.: they are not maintained.

Therefore FOA refers to **sustainable improvement** – this is driven by identifying and addressing the primary and underlying factors allowing accidents to take place, and implementation of interventions / strategies with resources to ensure they reach all parts of the sector and are maintained over time.

**Step 1:** Bring all operations up to the basic operating compliance level of industry health & safety leaders.

Mechanism; Stratify the industry to identify poor performing sectors and develop targeted delivery mechanisms. Address training issues, upscale and up skill WorkSafe to deliver compliance audits, minimum employment standards, education and enforcement of the ACoP.

**Step 2:** Identify short term gains through health & safety system development programmes. Industry wide adoption of leading programmes and initiatives already proven.

Mechanism; Safety culture initiatives, Drug & Alcohol policy implementation, human factors – analysis of incidents for primary and underlying causal factors with accompanying timely industry dissemination, industry wide requirement for licensing / certification.

**Step3:** Regulatory improvements.

Mechanism; Address training delivery and assessment issues, Tertiary Education Commission funding issues,

Health & safety legislation with accompanying enforcement and guidelines, privacy issues affecting accessing relevant data to identify underlying and causal factors, improving reporting & investigation, provision of accurate industry statistics.

**Step4:** Longer term initiatives.

Mechanism; Human factor research co-ordination, implementation of research based initiatives (fatigue, PPE, etc.), mechanisation, new technology. Enhance implementation of new ideas, equipment and technology.

## **Appendix One: Statistics:**

Worksafe NZ statistics attributed to the forest industry are inaccurate and are not available in a timely manner. This gives an inaccurate picture of the sector, and can prevent learnings from the incident being made available to the industry or sector that needs the information.

i.e. A young boy is killed in a school yard when stacked logs he is playing on roll. The trees were felled and left on the ground by a competent felling company. A school board member subsequently stacks the logs but does not guard the area. This should be recorded as an education sector statistic. Learnings to ensure this does not occur again need to be communicated to the education sector, not the forestry sector.

i.e. A farmer cuts up in to logs a lone tree that has fallen across a fence. While pushing the logs in to a stack he is thrown from the bulldozer and crushed by the tracks. This should be recorded as a farming sector statistic. Learnings to ensure this does not occur again need to be communicated to the farming sector, not the forestry sector.

Worksafe BC, the British Columbia Health and Safety regulator, communicates accident statistics and basic root cause and contributory analysis on a regular and timely manner. This informs industry of potential failings in their operations and systems, allowing the sector to react and learn. Due to privacy and legal concerns NZ data can be suppressed years after the event, preventing the industry from being informed.

New Zealand forestry statistics are regularly compared to overseas statistics. Great care must be taken by an informed researcher to ensure reliable comparisons are made. Recently uniformed and unhelpful comparisons have been made by WorkSafe NZ, Coroner Bain – Rotorua, politicians and the press. When comparing country statistics, volume harvested, terrain, species and piece size are all relevant to the analysis, but are usually not taken into account. This has led to inaccurate assumptions about the primary and underlying causes of NZ's incidents.

## **Appendix Two: Primary and Underlying Cause Analysis:**

Although each individual accident is investigated by multiple organisations, there has been limited successful analysis of multiple accidents at the primary and underlying cause level, to identify causal factors and patterns. When a fatality occurs multiple reports are generated. WorkSafe, Police, Coroner and company reports are all completed largely independently. Only the Coroner has attempted to investigate multiple incidents, and due to legal issues with a number of the selected cases preventing this proceeding, has so far been unable to complete the investigation.

Privacy and legal issues prevent the release of these reports in a timely fashion for industry information purposes and cluster/pattern analysis.

The NZ forest Industry must not be considered one homologous group. It is divided up by ownership, industry, location, terrain, size, equipment, species, piece size and experience. When carrying out primary and underlying cause analysis the characteristics of the operation in which the incident occurred will have had an influence on why, but just as importantly will determine how the industry should respond to ensure it does not happen again.

## Appendix Three:

### Training

Care must be taken with criticism of forestry training to ensure different issues are not combined and to confirm that the issue raised is the actual problem.

Competenz is the forest industry ITO. By legislation it is unable to deliver training, however, via its Regional Training Advisor resource it locates trainees, identifies the appropriate qualification, and arranges for the trainee to be contacted by a trainer. The RTAs often arrange courses. Competenz also runs the Assessors and the moderation process (checking of assessment quality).

The ACoP states that "Every person undertaking forestry work shall be either under documented training and close supervision, or deemed competent" (2.3.1). In addition, "Every employee must be adequately trained in the safe use of all plant, objects, substances, protective clothing and equipment that they are, or may be, required to use or handle (ACoP pg 128). The training does not have to be NZQA approved. Non NZQA training may not have moderated assessment processes.

Training is typically on the job from other workmates, accompanied by formal training from a professional trainer, followed by assessment from an Assessor approved (moderated) by Competenz. Competenz runs the industry training database recording NZQA qualification results on to the trainee's record of learning.

The Tertiary Education Commission (TEC) require trainees to be signed up to a qualification before they will subsidise the training. The minimum credit size for a qualification is 40 credits. Many qualifications are larger. Trainees can do individual unit standards (referred to as "training for task"), but their employer has to pay the full cost of the training, as trainees not signed to a qualification can't receive TEC funding.

Competenz is penalised financially by the TEC for incomplete qualifications. A trainee has to be successfully assessed in all required units comprising a qualification for the qualification to be deemed completed. The trainee receives recognition of their record of learning for every unit standard completed, and once completing all required units of a qualification, is awarded the qualification.

Every five years the ITO reviews qualifications via an industry review process to ensure they are current and fit for purpose.

The major problem are the rules set by the Tertiary Education Commission to allow industry to access government funding. To access funds trainees must sign up to a qualification. Minimum credit size for a qualification is 40 credits – about 12-18 months to complete. Many qualifications are larger.

If a trainee does not complete the qualification, the ITO is not funded from TEC.

*Commonly a worker will sign up to a qualification such as "Breaking-out", do part of the qualification then get assigned to another operation such as treefalling and be unable to complete the breaking out qual. Meantime, they sign up for treefalling, etc. This can occur as workers progress through seniority in the crew moving from breaking out, to treefalling, to log making to machine operator (or variations of this progression). Promotion through the operations does not necessarily match progress through assessed training.*

*TEC enforces its rules so that a "worker" receives recognised qualifications that can advance the workers employment status. However, this has become the issue that is causing the greatest dissatisfaction with training.*

*An option to address the issue would be to require a worker to achieve a qualification at a set level (i.e. Level 3), then allow them to do individual unit standards as required.*

It is of concern and a surprise that the panel notes poor understanding of hydration and nutrition issues.

Unit standard 22994 "Demonstrate knowledge of factors that affect the performance of forestry workers" covers this issue and is a foundation (entry level) unit:

*"People credited with this unit standard are able to: identify substances which may adversely affect work performance and safety, and describe the effects of substance misuse on work performance; identify the importance of hydration for workers in a forestry operation; describe how to maintain adequate hydration in a forestry operation, and explain the benefits associated with effective hydration; explain the role of diet in maintaining the physical wellbeing of forestry workers; describe causes and effects of fatigue on the work performance of workers in a forestry operation, and explain ways to reduce fatigue; and demonstrate attending to personal health matters".*

Lack of suitable or good quality trainers.

- This can be a regional issue, especially for crews operating in remote areas. Can also be an issue for specialised units which have low volumes of trainees. This can require trainers to travel, incurring travel and accommodation costs which must be met by the employer.

**Solution:**

Low profitability of trainers means training resource is constrained. Research is required into which segments of the industry this is an issue. Larger contractors often employ their own trainers.

It is often claimed that qualifications are confusing, constantly changing and irrelevant. NZQA require qualifications to be reviewed every five years. Industry needs to let Competenz know what is working and ensure it is not changed unless required by the industry.

## Appendix Four:

### Actions undertaken by Forest Owners to address the current Health and Safety situation:

- 1) Review of Health and Safety within the plantation forest industry by the "Independent Review Panel".
- 2) ACC/FOA Forestry Sector Injury Prevention Program.  
\$500,000 joint programme between FOA and ACC. Programme reach - 90% of plantation forestry sector target market has access to delivered projects

Milestone Number	Deliverable/Milestone	Performance Standards / Key Performance Indicators (KPIs)
1.	Project One: Safety Culture	<p>Stocktake of current progress</p> <p>Develop project plan and begin implementation</p> <p>Evaluation report with recommendations for future safety culture programme.</p>
2.	Project Two: Breaking Out educational resources	<p>Series of resources assisting breaking out contractors to achieve MBIE assessment tool and certification standards, including.</p> <ul style="list-style-type: none"> <li>• Guide to use the resources</li> <li>• Self-assessment tool</li> <li>• Overview resource</li> <li>• Video clips for high risk tasks (e.g. safe retreat &amp; upset conditions)</li> <li>• Promotional brochure</li> <li>• Train the trainer workshop</li> </ul>
3.	Project Three: Tree Felling educational resources	<p>Series of resources assisting tree felling contractors to achieve MBIE assessment tool and certification standards, including:</p> <ul style="list-style-type: none"> <li>• Guide to use the resources</li> <li>• Self-assessment tool</li> <li>• Overview resource</li> <li>• Video clips for high risk tasks (e.g. safe retreat &amp; upset conditions)</li> <li>• Promotional brochure</li> <li>• Train the trainer workshop</li> </ul>
4.	Project Four: Case Studies	Bi-monthly delivery of two case studies of successful implementation of health and safety systems and practices in the sector.
5.	Project Five: Resources for Forestry Small Business	A series of resources to support small and medium size business in the forestry sector to implement and improve health and safety management systems.
6.	Project Six: Tailgate Resources	<p>Approximately 10 resources including:</p> <ul style="list-style-type: none"> <li>• NIHL</li> <li>• Breaking Out safe position</li> <li>• Fatigue</li> <li>• Nutrition</li> <li>• Tree falling key issues</li> </ul>

7.	Project Seven: Launching and capability development workshops	A Series of workshops delivering the programme elements and supporting information Five workshops, once every four months (20 workshops in total)
8.	Project Eight: Coronial Reports	Six analysis report with key contributor factors associated with fatalities and 6 to 12 mail outs or communications with findings

3) Update the ACoP:

FOA was a party to the update.

Care must be taken not to damage the ACoP through continual tweaking. This is a significant risk:

- The ACoP has just been updated regarding "Roles and Responsibilities"
- The ACoP will require updating to reflect the new health and safety legislation
- An update to address any omissions / clarifications etc is scheduled for two years after launch
- Changes to reflect recommendations from the Independent Health and Safety Panel are likely

Poorly updated the ACoP will become confusing and lose credibility.

4) Investigating the option to require "licencing" or "certification" of safety sensitive jobs.

A major task already commenced through the certification options being investigated under the FOA/ACC Forestry Action Plan and contractor certification by FICA.

## Appendix: Five

Please find attached section one of the FOA Verbal Submission: Health and Safety Reform Bill 2014 presenting the concept of Primary Responsibility.

We support the direction of the Bill but are concerned around how some of the principles will work in practice. I will not be repeating our written submission, but will instead concentrate on a few major points: Namely, the expectations around a Person Conducting a Business or Undertaking, and worker representation.

The issue of clear accountability is at the heart of our concerns regarding the expectations around a Person Conducting a Business or Undertaking.

The proposed legislation replaces the concept of the Employer having primary responsibility for work safety with the Person Conducting a Business or Undertaking having that responsibility. That looks very sensible as often parties other than the direct employer of a worker have material influence over the worksite and worker safety.

The problem is that the way the Bill is drafted is that where multiple PCBUs are involved at any worksite they all have responsibility for any aspect of safety over which they could reasonably have some influence. There is no guidance as to where primary responsibility lies for any particular safety matter. The practical outcome is that there will be uncertainty as to who is primarily responsible for what, potentially leading to duplication of effort to ensure legislative compliance or mistaken assumptions that 'some other party' in a business or operation has taken responsibility.

A simple fix would be to introduce the concept of Primary Responsibility and apply the well-understood principle of matching responsibility with authority. Thus the PCBU having the most skill, capability and authority to influence any particular safety aspect should also have primary responsibility for that aspect.

In the forestry sector the practical illustration of the principle would be the forest owner (or their agent) being responsible for the safety of forest access, road and skid design and harvest planning, while the contractor should be responsible for the safety of its equipment, its worker training, behaviour on site and reporting of any accidents.

The forest industry has had productivity and efficiency improvements through separating aspects of work into components best managed by specialists. Such specialisation has encouraged innovation and is the cornerstone of our highly motivated and innovative small business sector in New Zealand.

In summary - The proposed legislation replaces the concept of the Employer having primary responsibility for work safety with the Person Conducting a Business or Undertaking (PCBU) having that responsibility. This is sensible as often parties other than the direct employer of a worker have material influence over the worksite and worker safety – but there must be clear accountability of responsibility to avoid duplication of effort, or worse, mistaken assumptions that ‘some other party’ in a business or operation has taken responsibility. To address this concern, we suggest introducing the concept of Primary Responsibility and linking that to capability, skill and authority.

