



Submission on proposal to allow councils to charge for monitored permitted activities under the National Environmental Standard for Plantation Forestry (NES-PF)

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INTRODUCTION

1. **The New Zealand Forest Owners Association Incorporated (NZFOA)** is the representative membership body for the commercial plantation forest growing industry. NZFOA members are responsible for the management of approximately 1.2 million hectares of New Zealand's plantation forests and over 80% of the annual harvest.
2. Our responses to the proposal are contained below under the relevant question heading

QUESTION 8 - Do you agree that this enabling power (for councils to charge to monitor permitted activities) should be included in the NES-PF? If not, why not.

3. **We do not agree with this enabling power.** The recent changes to the RMA, setting out this enabling power (s 36 (1) (cc)), will provide for the ongoing inequitable treatment of forestry versus other permitted activities especially rural production activities.
4. The recent change to the RMA was not in the original amendment bill and consequently we did not have an opportunity to provide an industry perspective as to the potential for inequitable treatment. It may/ have been better had the government provided for charging for any permitted activity.
5. There are a number of forestry activities in the proposed NES-PF that are similar to activities undertaken by other rural production activities such as land preparation, earthworks, quarries for use on a property and river crossings. In most cases the forestry provisions are more stringent than what would be applicable, under existing RMA plans, for the other rural land uses. This is very evident in the conditions for river crossings, the noise standards and the provision for earthworks especially those for slopes over 25 degrees. Yet it will be forestry that may have to bear the cost of the monitoring functions of a council.
6. The majority of councils do not have formalised monitoring programmes for permitted activities and operate a process of reacting to complaints. Complaints need not be sound and can be generated from just a dislike of a person or company and their activities. It is totally inequitable that forestry could be singled out to be charged for any monitoring originating from a complaint especially where there is compliance with the permitted activity standards.
7. Being charged for the monitoring of the noise standard is a very real concern. Noise standards are set out in district plans and apply universally to all permitted activities. The majority of councils have processes in place to react to noise complaints. This proposal will single out forestry activities as being the only permitted activity ranging from urban, commercial, industrial and other rural activities that would have to pay for any council officer checking out a noise complaint.
8. We do not envisage that the proposal will ensure that councils introduce monitoring programmes and consider that the practice of acting on complaints will be the ongoing process.

9. The legislative 'churn' and burden that the forest growing sector have faced in the past with regard to the various RMA plan provisions will now move to the annual plan process. Part of the impetus for the NES-PF and a factor in the cost benefit analysis was the ongoing costs of having to respond to planning provisions from 86 councils. That cost will now be shifted to the annual plan process. Such a shift will be counterproductive to one of the rationales for the introduction of the NES-PF.
10. It must be remembered that deletion of this proposal will not preclude councils from funding the monitoring of permitted activities. The proposal is premised on the wrong assumption that councils have no ability to obtain funding for the monitoring of permitted activities. A number of councils have utilised the Local Government (Rating) Act 2002 to set targeted rates for RMA matters, including the monitoring of permitted activities. Waikato Regional Council has a targeted rate for the monitoring of all activities permitted under the Waikato Regional Plan. It is a rate applied on a uniform basis to every rating unit in the region. The use of the local government act allows for a more equitable basis for dealing with this proposal.
11. This proposal appears to be based on the assumption that the function of "monitoring" a permitted activity also includes the function of "enforcement". This is incorrect. With regard to charges for resource consents section 36(1) (c) of the RMA provides for charges:
 - a. *"for the carrying out by the local authority of its functions in relation to the administration, monitoring, and supervision of resource consents..."*
 - b. The enforcement functions of council would fall within the scope of "supervision" not "monitoring".
 - c. Accordingly a number of the reasons outlined as the need to introduce the proposal are redundant.

QUESTION 9 – Do you agree that administrative conditions should be excluded from the permitted activities that councils could set monitoring charges for? If not, why not?

12. Administrative conditions should be excluded from any "monitoring" charge. Our reasons primarily relate to the provisions of section 36(1) (c) as set out above. Charges for "administration" for resource consents are provided for as a matter separate from "monitoring". Accordingly any condition that is an "administrative" one should, for legislative consistency, be clearly identified as excluded from the proposal.

QUESTION 10 – What are the benefits and risks in the use of this enabling power in the NES-PF?

13. For forestry, we do not see any benefit of the enabling power as there is already more equitable legislative powers available to councils to fund any monitoring programme that they have for permitted activities.
14. The introduction of section 36 (cc) to the RMA appears to have been introduced at the last minute without any proper scrutiny. We do not consider it is necessary as local government powers exist to cover such funding, and will lead to forestry facing inequitable charges when compared to other permitted land uses. The risks are:
 - a. Increased costs for the forest industry to respond to the charges being introduced in the annual plan processes of councils

- b. A perception that the effects of forestry must be adverse, in comparison to other land uses, as the government has seen fit to allow for the proposed charges.
- c. The potential for councils to double dip where they already have targeted rates for such matters.

QUESTION 11 – If this enabling power was used in the NES-PF, what guidance information would you require to assist in the implementation of the power?

15. Guidance should suggest a council consider before introducing such a power the following:

- Avoidance of double dipping from funds collected by other legislation
- The development of monitoring plan to ensure transparency of use such a power.

QUESTION 12 – Do you have any other comments to make about this enabling power?

16. Our further comments are that this proposal should be left until the first review of the NES-PF. The proposal could be properly assessed and costed. The assessment could provide closer scrutiny of how councils monitor permitted activities. Also it would give the opportunity for the Ministry for the Environment to introduce similar changes to all the existing NES to ensure a far more even playing field for monitoring charges for permitted activities.

Thank you for the opportunity to comment on the proposed changes.



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