

Ministry for the Environment
National Direction Programme
New Zealand Government
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New Zealand

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**NEW FORESTS' SUBMISSION ON THE PRIMARY SECTOR DISCUSSION DOCUMENT –
PROPOSED CHANGES TO THE NATIONAL ENVIRONMENTAL STANDARDS FOR
COMMERCIAL FORESTRY**

1. Introduction

- 1.1. New Forests is an international natural capital investment firm with forest and land assets in New Zealand, Australia, Laos, Malaysia, Vietnam, Mozambique, Tanzania, Uganda, South Africa and the United States. The company manages approximately AU\$11.66 billion in funds and assets, and over 4.3 million hectares of land and forests across four continents.
- 1.2. New Forests sees investment in land use and forestry as central to the transition to a sustainable future, and we invest in creating sustainable landscapes that integrate conservation, restoration, and production while supporting rural livelihoods, economic development, and biodiversity enhancement.
- 1.3. New Forests has a strong history of beneficial investment in New Zealand. The company has managed New Zealand forest assets since 2014, and over the past eight years has invested over NZD\$1.2 billion into the New Zealand forest sector.
- 1.4. Our New Zealand managed investments currently include approximately 90,000 net productive hectares of commercial plantation forests and approximately 20,000 hectares of non-commercial forest area including native reserves and covenanted areas.
- 1.5. New Forests engages expert, regionally based New Zealand forest managers to manage both our non-commercial and commercial plantation forest lands.
- 1.6. New Forests is proud of the rich biodiversity present in its assets under management in New Zealand, and of the many biodiversity improvement and enrichment projects undertaken and in part provided for by commercial plantation forests.
- 1.7. New Forests welcomes the opportunity to submit on the proposed amendments to the National Environmental Standards for Commercial Forestry ("NES-CF"). New Forests' forest managers regularly engage in consenting and planning processes across the country and rely on robust planning provisions to enable the safe and efficient management of our plantation and native forest assets.
- 1.8. New Forests supports the overall intent of the proposed amendments to the NES-CF to restore confidence and certainty in forestry, encourage investment in productive forestry,

support increased forestry exports and economic growth, support growing the forestry supply chain, and support land-use resilience.¹

2. Need for certainty and stability in the system

- 2.1. The forestry sector is of critical importance to New Zealand and its economy. In 2024, the sector accounted for 1.3 percent of New Zealand's GDP,² down from 1.6 percent in 2018 (NZD\$6.9 billion).³ The sector makes these economic contributions while occupying only seven percent of New Zealand's land area. By contrast, other primary land sectors, including sheep and beef, generate approximately NZD\$12 billion using 30 percent of New Zealand's land area. Overall, forestry is New Zealand's third-largest export earner behind dairy and meat.⁴ Importantly, Māori are significant forest landowners and managers. Additionally, the forestry sector attracts valuable direct overseas investment with up to 70 percent of all plantation forest trees in New Zealand being within overseas ownership.⁵
- 2.2. It is essential the regulatory framework applying to the forestry sector is clear, certain, and consistent to give overseas investors confidence. New Forests supports amendments to provide greater certainty around the application of the NES-CF by providing for consistent application of the regulations across New Zealand.
- 2.3. Over the last 24 months, New Forests has noted multiple occasions of negative investor sentiment towards New Zealand amongst its incumbent and aspirant client base. Investors in existing funds have expressed an interest in limiting further exposure to New Zealand forestry and reweighting to other geographies. This includes investors who have witnessed asset value destruction on the East Coast of New Zealand from the Hale and Gabrielle cyclones and the uncertain, costly, and the increasingly litigious operating environments for commercial forestry, forest managers, and forest owners from regulatory responses, in regions including and beyond the East coast of the North Island, since the cyclones.

Need for a consistent national baseline

- 2.4. Regulation 6(1) of the NES-CF empowers Councils to apply more stringent rules for commercial forestry activities if that rule gives effect to the National Policy Statement for Freshwater Management and policies 11, 13, 15 and 22 of the New Zealand Coastal Policy Statement 2010.
- 2.5. The Amendments propose to amend regulation 6(1)(a) so that it would only enable Councils to consider making a rule in a plan more stringent if:⁶
 - a. it is required to manage the risk of severe erosion from a commercial forestry activity in a defined area that would have significant adverse effects on receiving environments, including the coastal environment, downstream infrastructure and property; and
- 1.2. the risk cannot be managed through the current rules in the NES-CF; and an underlying risk has been identified within the defined area through mapping at a 1:10,000 scale or using a 1 square metre digital elevation model.

The Government also proposes to repeal regulation 6(4A) which provides Councils a broad discretion to have more stringent rules regarding aspects of afforestation.

¹ Ministry for the Environment *Package 2: Primary sector package – Discussion Document* at 19.

² New Zealand Ministry for Primary Industries Forestry and wood processing data at <https://www.mpi.govt.nz/forestry/forest-industry-and-workforce/forestry-wood-processing-data>.

³ New Zealand Treasury ENV-22-SUB-0001 - *Overseas Investment Act Forestry Review: Removing Forestry Conversions from the Special Forestry Test* at [27].

⁴ Ibid, at [27].

⁵ Ibid, at [27].

⁶ Ministry for the Environment *Package 2: Primary sector package – Discussion Document* at 21.

- 2.6. New Forests supports the proposed amendments to regulations 6(1)(a) and 6(4A) that intend to provide a more consistent national baseline. Local variation in forestry rules reduces certainty and consistency for the sector. Under the current system, each Council can take a different approach to the regulation of forestry (with some councils being more restrictive than others). The complexities and uncertainties involved in navigating these systems directly impact decisions to invest in New Zealand and its forestry sector. For example:
- a. The Gisborne District Council (GDC) has used Enforcement Orders to set operating conditions over and above National Standards. These standards are purported to be in the interests of improving forest and community resilience and protection from major storm events, yet the cause-and-effect justifications are at times unclear, and benefits uncertain, and the costs and uncertainty significant. For example:
 - i. Instructions to remediate historic harvesting landing sites up to 10 years old with growing forests covering them yet perceived to be at risk of contributing to future off site debris movements, when such sites have remained immobile through Cyclones Hale and Gabrielle, the largest rainfall episodes on record since the 1920's.
 - ii. Prohibiting any offsite movement of soil and residue from a forest boundary or into a waterway even in the face of events such as Cyclones Hale and Gabrielle. These expectations are not applied to other land uses. They are not practical, for example even waterways in untouched native forests suffer from increased turbidity (go brown from sedimentation) when it rains.
 - b. The response of the Hawkes Bay Regional Council and Tasman District Councils in engaging with forest owners and land managers, both before significant events and in the clean-up post storm events, has been very different to the GDC. For example:
 - i. The HBRC has enabled the construction of protective debris nets (and consent process in less than 8 weeks) to protect downstream environments from woody debris to the extent these environments have benefited as the structures have been a proven success. The GDC presided over a 4-year process that resulted in debris net resource consent applications being dropped in December 2022, one month before the 2023 cyclones.
 - ii. The GDC has personally joined professional independent directors, foreign resident directors, and New Zealand resident company directors to Environment Court proceedings to determine the terms of enforcement orders against the forest owner company. This has been an unexpected development in the determination of the terms of the orders and underlying operating standards that would usually be expected to be determined via resource consents and NES-CF standards. GDC's approach sets a concerning precedent for corporate governance, one that is having and will continue to have an impact on the ability to attract quality directors to forest company boards.

c. Limited exceptions to national baseline

- 2.7. New Forests considers that as much as possible the provisions regulating forestry should be the same across New Zealand. New Forests acknowledges that in some areas a bespoke localised approach may be required, however these should be exceptional cases. The Discussion Document for the primary sector specifically identifies Tairāwhiti / Gisborne during Cyclone Gabrielle and other high-rainfall weather events as an example of where a bespoke, localised approach may be required.
- 2.8. However, it is important that areas requiring bespoke solutions (warranting targeted stricter regulation) are the exception and not the rule. It is appropriate Tairāwhiti / Gisborne is subject to a bespoke, localised approach due to the very specific conditions and extreme events. New Forests would be concerned if the approach applied there was used as the benchmark for forestry regulation, rather than the exception.

New Forests' position

2.9. New Forests supports:

- a. The removal of the Council's discretion under regulation 6(4A) (and restricting the circumstances in which more stringent requirements on forestry activities can be included within district plans). This will assist with providing a national baseline for the sector, which in turn, would subsequently provide industry participants with more certainty about how their activities are regulated.
- b. the introduction of a Ministerial oversight power in terms of the application and interpretation of regulation 6. The introduction of this new power would provide assurance to the sector of recourse in the event a Council does not apply the regulations as intended.

3. Freshwater national direction

3.1. While the NES-CF is the primary national direction instrument that governs forestry activities, other national direction also impacts on forestry operations. It is important that national direction is considered as an integrated whole to ensure the continued and productive operation of forestry assets.

3.2. In particular, the National Policy Statement for Freshwater Management and National Environmental Standards for Freshwater ("NES-F") have an impact on forestry operations. In its current form, certain of the NES-F regulations are not workable for commercial forestry operations, and New Forests supports proposals that help to rectify these issues. New Forests supports:

- a. The proposal to introduce multiple objectives in place of the current hierarchical framework under Clause 2.1 of the NPS-FM. A multi-objective structure better reflects the complex interplay between environmental, social, cultural, and economic needs. For forestry, this change is essential to ensure that its long-term restorative role and economic contribution are not subordinated to interpretations requiring pristine conditions before other uses are considered.
- b. The proposal to include an objective that requires councils to consider the pace, scale, and cost of freshwater improvement, and who bears that cost. Forestry operations require a planning framework that recognises the temporal nature of environmental change and the staged benefits of afforestation. Timeframes for achieving freshwater outcomes must be linked to land-use lifecycle dynamics, enabling durable improvement without imposing unrealistic compliance burdens.
- c. A tiered approach to attribute management and retaining compulsory attributes for the four major contaminants while allowing optionality for others. However, it is important to recognise that for forestry, suspended sediment attributes are particularly problematic in upper catchments, where natural erosion dynamics and harvesting phases create short-term effects that are difficult to reconcile with fixed thresholds. Councils should be permitted to deviate from default thresholds and monitoring methods, where justified by land-use function, catchment position, natural variability, or improved scientific understanding. Optional attributes such as ecosystem metabolism and macroinvertebrate indices should be used only where ecologically meaningful.
- d. Formalising implementation guidance under the new resource management legislation.
- e. Aligning freshwater objectives with productive land uses.

1.1. New Forests supports amendments to the NES-CF that make it fit for purpose for the forestry sector and are applied consistently across primary sector industries (including forestry, horticulture, and agriculture).

2. Resource Management reform

2.1. New Forests understands the intent is the Government's proposed amendments to national direction will be carried through into the replacement legislation for the Resource Management Act 1991 ("RMA"). New Forests welcomes review of the RMA and supports reforms that provide opportunities to improve and streamline the

resource management processes for primary sector industries while also protecting the environment. New Forests supports the incorporation of the updated NES-CF into the new legislative framework. Other matters that New Forests seeks to see addressed as part of the Government's broader resource management reform are set out below.

- 2.2. New Forests understands the impacts of regulatory clarity, certainty, and consistency on investments New Zealand's forest sector. As discussed, we have invested over NZD\$1.2 billion into the New Zealand forest sector since 2014. In our recent experiences, investors have informed us that they view New Zealand's forestry sector as a higher investment risk than Australia's due to current regulatory conditions. This sentiment, especially in the past five years, has unfortunately forced New Forests to limit the scope of potential investments in New Zealand's forestry sector. If current trends continue, we may see our total investments in 2026 fall significantly. One prominent group of foreign forestry investors recently informed us that they would prefer exposure in North America, South America, Asia, and Africa while excluding New Zealand.

Third party involvement in forestry consenting process

- 2.3. Commercial forestry is generally located in rural areas where primary sector activities are expected and provided for. Compliance with the NES-CF means the direct effects of commercial forestry are internalised within a site. To the extent there is non-compliance with the relevant regulations that produces off-site adverse effects, the compliance and enforcement mechanisms provide an appropriate recourse.
- 2.4. However, despite the above, the forestry sector has experienced delays and disproportionate influence when interested parties (like neighbouring landowners or community groups present in the local area) become involved in (and delay or even prevent) new forestry consents. New Forests has had first-hand experience of the delays that can be caused by such interested parties. Limited information can be provided here as it relates to litigation proceedings currently on foot.
- 2.5. The changes to the NES-CF will assist in limiting circumstances where consent is required for forestry activities, however, to ensure consent applications for forestry activities are not unnecessarily delayed with time and cost implications, New Forests also seeks that the new regime provide a much higher threshold for parties to:
 - a. Be able to submit on a resource consent application for forestry activities; and
 - b. Join Court proceedings relating to forestry activities.

Directors' liability

- 2.6. New Forests supports the need for good governance of forestry operations. However, the current regime under the RMA, with its broad ability to bring enforcement action and prosecutions against directors, is resulting in perverse outcomes, where it is becoming increasingly challenging to find individuals willing to take on the potential risk and liability of becoming a company director. As discussed in 2.7 above, this is particularly the case in forestry, where external events, such as severe weather, can create significant risks outside of an operator's control.
- 2.7. New Forests recognizes that regulations impacting a firm's ability to attract and retain the highest levels of talent will have material impacts on its attractiveness to potential investors and, therefore, direct impacts on overall investment and sentiment within the sector.
- 2.8. New Forests seeks the new regime incorporate a more nuanced approach to directors' liability whereby a threshold of gross negligence or malfeasance is applied. This would ensure that directors who have clearly not fulfilled their duties are able to be prosecuted but give confidence to an individual that if they discharge their obligations as a director they will not be at risk of prosecution or enforcement action or held personally responsible for the costs of remediation.

3. Next Steps

New Forests would be happy to meet with the Ministry for the Environment to discuss this submission.

Yours sincerely,



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