

// SUBMISSION



MINISTERIAL INQUIRY INTO FORESTRY SLASH

// Submission on behalf of LGNZ and the Joint Forestry Project

// APRIL 2023





Ko Tātou LGNZ.

Local Government New Zealand (LGNZ) provides the vision and voice for local democracy in Aotearoa, in pursuit of the most active and inclusive local democracy in the world. We support and advocate for our member councils across New Zealand, ensuring the needs and priorities of their communities are heard at the highest levels of central government. We also promote the good governance of councils and communities, as well as providing business support, advice, and training to our members.

This submission is made on behalf of LGNZ and the member councils below: together we make up the Joint Forestry Project:



Introduction

1. Thank you for the opportunity to submit on the Ministerial Inquiry into land uses associated with the mobilisation of woody debris (including forestry slash) and sediment in Tairāwhiti/Gisborne and Wairoa Districts.
2. In order to inform the Panel's work, this submission focuses on items 12.3.4, 12.3.5, 12.3.6 and 12.3.7 of the terms of reference. It draws on legal input, on-the-ground involvement with forestry activities and the recent weather events, and local knowledge within Tairāwhiti and Wairoa, as well as experience across the country. It has been informed by feedback from members of the Joint Forestry Project, and LGNZ's wider membership.
3. This submission is in five parts:
 - Part A** - key contributors to woody debris and sediment.
 - Part B** - current land management practices for forestry, and extent of regulatory oversight.
 - Part C** - review of relevant regulation prepared under the RMA.
 - Part D** - other local and central government work programmes aimed at addressing relevant land use matters.
 - Part E** - recommendations.

Executive Summary

1. LGNZ and the Joint Forestry Project support this Inquiry. We want to see recommendations and regulatory policy settings that support better land use management. This includes changes to both land use management and regulatory policy settings so that these adverse events don't keep happening. At the very least, the current NES-PF should be recommended for review, and new national policy direction should also be considered.
2. Recent severe weather events extensively damaged at-risk rural and urban environments. The extensive damage caused by woody debris and sediment following the recent Cyclone Gabrielle, particularly in the Tairāwhiti and Wairoa districts, is compelling. The photographs and footage of flooding, slips and the resulting destruction of land, horticulture, property and communities provide a stark reminder of the fragility of our environment, and consequences of land use in areas that are unstable and prone to erosion.
3. It is clear that a key contributing factor for the damage and destruction is the characteristics of the land and environment on which certain activities are undertaken. Tairāwhiti comprises 79% steep hill country, with 26% of that land is susceptible to severe erosion.¹ This can be compared with 8% susceptibility for the rest of New Zealand.
4. While these unique geological and topographical characteristics suggest that similar events may occur again in Tairāwhiti and Wairoa, other areas are not immune. There is a real risk of similar events occurring elsewhere in New Zealand, either at the same intensity or to a lesser degree. As a result, formulating new policy settings that only address the issues affecting Tairāwhiti and Wairoa is not the best way forward. While any policy settings developed for those particularly high risk areas must be driven by an understanding of the underlying land characteristics, we support strengthening national policy settings, as long as there is local policy development.
5. It is important to acknowledge that this issue is not limited to Tairāwhiti and Wairoa, nor to the East Coast. It is a nationwide issue. On the whole, New Zealand's soils are highly erodible, and there have been many instances of forestry slash discharging into waterways and damaging infrastructure and property across the country. These include in Northland and Nelson, the latter most recently during Cyclone Gita in 2018, and the August 2022 weather event). While the focus of the Panel's inquiry is understandably on Tairāwhiti and Wairoa, and discussions with those communities, the Panel should consider whether there is a place for broader recommendations on this topic.

¹ Ministry for Primary Industries "Erosion Control Funding Programme for the Gisborne District." [Erosion Control Funding Programme \(ECFP\) for the Gisborne district | NZ Government \(mpi.govt.nz\)](https://www.mpi.govt.nz/erosion-control-funding-programme-ecfp-for-the-gisborne-district/).

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6. While supporting the scope of the Inquiry, we also recognise that the forestry industry plays an important role in New Zealand. We support forestry activities and an enduring role for forestry, but we collectively need to discuss how these activities should be undertaken, managed and regulated – and where forestry should be located within our environment.
 7. Our recommendations include:
 - Amend the NES-PF to extend its scope, shift its focus and improve underlying data;
 - Better integrate industry best practice, codes of practice and guidelines with regulation;
 - Provide more direction for local authorities, as well as increased flexibility for local authorities to regulate forestry activities beyond the limitations created by the NES-PF;
 - Develop an integrated set of national policy and environmental standards focussed on ensuring the cumulative risk of land instability and natural hazards is properly managed;
 - Require that a forest management plan is developed for all forest operations. This plan must be compliant with an amended NES-PF;
 - Fund increased monitoring and enforcement, and use the levy for mitigation;
 - Incentivise forestry owners to retire erodible land, and plant with natives for land stability;
 - Encourage/incentivise industry to move to a continuous-canopy-cover model, or use penterwald harvesting (select trees only) to maintain canopy cover at all times.
 8. Developing new policy settings will be complex – and must include localised inputs. LGNZ and Joint Forestry Project members would like to work with the Panel to develop a set of recommendations that can achieve meaningful regulatory change.

Part A: Key contributors to woody debris and sediment

9. While natural processes contribute to woody debris and sediment run-off, it is clear that land use has, and continues to, generate such effects. This is demonstrated by the damage caused by the recent run of weather events to have affected the East Coast since 2018, as well as Cyclone Bola in 1988.
10. While forestry slash debris is an issue throughout New Zealand (and may increase as more plantation forests are planted) Gisborne’s unique geology puts it at greater risk of harm from woody debris and sedimentation compared to other areas of New Zealand. In real terms, it is land instability that is the key contributor to woody debris and sediment, and it is that matter that requires a greater degree of policy direction to avoid future effects.
11. In the earlier 20th century, clearing vegetation for farming was commonplace in New Zealand. The by-product of this was a significant increase in land erosion. To remedy this issue, while still maintaining productive land, plantation forestry was encouraged at both a central and local government level.²
12. Radiata Pine is the most common choice for the forestry industry, as it is fast growing and does not demand extensive care or management compared to other species. The increase of forestry was prevalent through the 20th century, as demand for meat and wool exports led to the clearing of land for pasture. This included land that is now classified as Land Use Classification Classes 7 and 8.
13. Following Cyclone Bola in 1988, and due to the earlier deforestation of these hillsides for pasture, widespread hillside slipping occurred in Tairāwhiti/Gisborne and the northern parts of Hawke’s Bay. In response, the New Zealand Forest Service actively promoted widespread planting of eroded properties with radiata pine, due to the ease of establishment / maintenance, its ability to withstand droughts and pests, and value at harvest.
14. In the years following, the trees have maintained canopy cover and prevented further erosion, compared to pastoral farming on erosion prone hill country. However, the harvesting of trees –

² Ministry for Primary Industries “National Direction for plantation and exotic carbon afforestation: discussion paper”, October 2022, at 9; M Bayfield, A Meister “East Coast Forestry Project Review” 2005, report to Ministry of Agriculture and Forestry, at 27.

which occurs at approximately 30 year intervals – if not undertaken properly, can be a significant contributor to forestry slash and erosion, leading to sediment discharge.

15. Allowing forestry slash to remain in situ can be beneficial for soils, as it can replenish nutrients and even protect the top soil itself.³ However, on the east coast's steep hillsides, with highly erodible soil, the practice of leaving forestry slash in situ (without proper management) can contribute to woody debris and sediment. The reason for this is that severe weather events, such as heavy rainfall, saturate the soil, and on steep slopes this mobilises the soil unless it is held together by actively growing tree roots. When soils mobilise, it can cause in-situ slash to move, gathering and shifting soil in its wake as well. These problems can persist for a long time after harvesting, as timber is slow to break down.⁴
16. It is these aspects of plantation forestry that have been brought into sharp focus recently, in the wake of the recent severe weather events affecting Tairāwhiti and Wairoa in particular. Cyclone Hale and Cyclone Gabrielle had such high rainfall intensity that post-harvest slash, whole trees and stumps were mobilised downstream and into rivers. Being the lightest the slash was the easiest to mobilise and effectively dammed structures causing catastrophic bridge, culvert and stop bank failures. Large volumes of silt were also transported. During Cyclone Gabrielle more bridges were destroyed in debris force collapses than in any other flood event in New Zealand's history. While silt and debris are both very damaging to the environment, debris poses a great risk to the lifelines, the built environment, and river protection works.
17. Gisborne District Council has responded to damage associated with the 2018 storms by bringing prosecutions against several forestry companies operating within the Gisborne district. These proceedings have resulted in over \$1.2 million in fines, and sentences for breaches of the RMA.
18. Because the relevant decisions discuss the causes of damage, and the applicable regulatory framework, a brief outline of the proceedings has been provided below.

³ J Nzila, B Jean-Pierre, J-P Laclau "The effects of slash management on nutrient cycling and tree growth in eucalyptus plantations in the Congo" (2002) *Forest Ecology and Management* 171(1).

⁴ M Swift "The ecology of wood decomposition" (1977) *Sci. Prog. Oxf.* 64 at 175.

<i>R v Ernslaw One Ltd [2022] NZDC 24588</i>	
Breach	Section 15(1)(b) of the RMA
Reason	<p>Discharge of earth, sediment, slash, logging debris and other material from four sources at Ūawa Forest, which occurred as a result of the severe weather events in June 2018.</p> <p>These materials were discharged into streams and ephemeral water courses in the forest which drain into the Mangaheia and Ūawa Rivers and ultimately Tolaga Bay.</p>
Key findings	<p>Incident was substantial and the environmental effects of the discharges seriously adverse.</p> <p>Six breaches of resource consent, and departures from four of the forestry industry's Code of Practice.</p> <p>There were 10 skid site failures which directly resulted in land slips.</p>

<i>Gisborne District Council v Aratu Forests Limited [2020] NZDC 2808</i>	
Breach	Section 15(1)(b) of the RMA, guilty pleas entered
Reason	<p>The June 2018 weather events caused forestry debris from Wakaroa Forest to close Uttings Bridge.</p> <p>Forestry debris from Te Marunga Forest was deposited into Tolaga Bay and the Uawa catchment.</p> <p>The debris damaged farms and houses and blocked bridges and roads. One family had to be rescued from the roof of their house.</p>
Key findings	<p>The Defendant was a very substantial forestry operator who was operating in breach of its consent conditions, and had failed to comply with the Forest Owners Association Environmental Code of Practice.</p> <p>The Defendant was found to have adopted poor forestry management practices generally, and there were previous, and widespread, compliance issues.</p>

<i>Gisborne City Council v Juken New Zealand Limited [2019] NZDC 24075</i>	
Breach	Section 15(1)(b) of the RMA, guilty plea
Reason	The June 2018 weather events caused major landslides in the Waituna forests, along with a number of discharges of logging debris/slash, waste logging material and sediment onto neighbouring properties, and into water bodies including the Mungapoike River.
Key findings	<p>Juken was a significant corporate entity, there was a need for deterrence, and the penalty should be in line with Juken's financial capacity to pay.</p> <p>The adverse effects of the discharges of sediment and debris were substantial and widespread.</p> <p>This case involved seriously adverse impacts on a vulnerable environment, which the Forest Owners Association Environmental Guide and Code of Practice recognise as requiring a high degree of management.</p> <p>There were seven breaches of consent conditions and failures to comply with the Forest Owners Association Environmental Code of Practice.</p> <p>There were 11 skid site failures, which greatly exceeded the number of failures in any other comparative case.</p>

<i>Gisborne District Council v DNS Forest Products 2009 Limited [2020] NZDC 11112</i>	
Breach	Section 15(1)(b) of the RMA, guilty plea
Reason	<p>The contractors employed by DNZ to complete their post-harvest work, including removal of forestry slash, exited the site and there were five months during which no post-harvest works were undertaken.</p> <p>The June 2018 weather events resulted in large volumes of trees and forestry waste from Makiri Forest to be discharged onto neighbouring</p>

	properties, water bodies and into coastal areas. Three landings collapsed causing debris slides of waste and sediment.
Key findings	<p>90% of Makiri Forest falls within an area which is well known for its vulnerability to significant weather events.</p> <p>DNS was a commercial forest entity undertaking its core business which must be expected to comply with best practice, but in this case there had been five breaches of consent conditions.</p> <p>The 5 month period during which no post-harvest works were completed left the skid sites and water-diversion systems in an unsatisfactory state.</p>

<i>Gisborne District Council v PF Olsen Limited [2020] NZDC 19089</i>	
Breach	Section 15(1)(b) of the RMA, guilty plea
Reason	The June 2018 weather events caused flooding and a significant amount of forestry debris from Paroa Forest to be deposited on Tologa Bay beach. The flow from the forest damaged a farm downstream – Paroa Station.
Key findings	<p>Substantial breaches of consent conditions, as well as the Forest Owners Association Environmental Guide and Code of Practice.</p> <p>The Council failed to meet its obligation under <u>s 35(2)(d)</u> of the RMA, but this did not absolve PF Olsen’s liability.</p>

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19. Unsurprisingly, the common feature from the above prosecutions is that they arose from breaches of the RMA, due to a failure to comply with resource consent conditions. The central reason for this was that the 2018 weather events pre-dated the NES-PF. It is also notable that a common theme was a failure to comply with Forestry sector guidelines and codes of practice, albeit that these are not (other than where they are incorporated into consent conditions) enforceable under the RMA.
 20. The RMA breaches were all under section 15(1)(b), which concerns the discharge of contaminants – relevantly sediment and forestry debris – onto land which results in the contaminant entering water. The Courts held that the defendants had all committed such a breach, due in part to their failure to comply with best practice or consent conditions.
 21. In *Ernslaw One*, the Court noted that Tairāwhiti / Gisborne has a history of storm-induced discharge (forestry slash) events, and that it is entirely foreseeable that forests being harvested in the region might be subject to highly intensive rain events from time to time and that those events are likely to trigger landslides and other debris.⁵
 22. Outside of the forestry sector, there are other land uses that contribute to woody debris and sediment. This includes flood protection works, works along the margins of water bodies, the repair, maintenance or construction of infrastructure, hillside farming⁶ and other rural activities. It is challenging to identify how much, as a proportion, of the recently experienced debris can be attributed to those other activities, but important to acknowledge that this is not only a single-sector issue.

⁵ *R v Ernslaw One Ltd* [2022] NZDC 24588 at [15].

⁶ W. Brown "Landslide control on North Island, New Zealand" (1991), *Geographical Review* 81(4) at 457.

Part B: Current practice, lack of legislative oversight outside of the RMA

23. The plantation forestry life-cycle is, in practice, regulated under the RMA only. This includes regulations and secondary legislation prepared under the RMA, particularly the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (**NES-PF**), and regional and district plans. This submission discusses the RMA regulatory regime in Part C.

Industry guidance / codes of practice

24. Outside of the RMA, there are various guidelines and codes of practice, which have been developed for the forestry industry. These do not have any statutory weight, however (and as identified above) the courts have referred to them, and commented on failures to comply.
25. The New Zealand Environmental Code of Practice for Plantation Forestry (**Code of Practice**), which is developed by the New Zealand Forest Owners Association, is intended as a key reference tool for parties involved in the management of forests. It provides information and guidance on environmental values, how such values should be assimilated into operational planning, and references and sets out industry best environmental practices.
26. The Code of Practice was first developed in 1992, with the current version being adopted in 2007. In effect, the Code of Practice complements other material available to the industry – such as best practice guides produced by the Forest Industry Training and Education Council, forest certification standards, and environmental legislation.
27. While there are provisions in the Code of Practice which are expressed as being “compulsory”, this document does not have the effect of legislative regulation (and is not therefore enforceable). Instead, the New Zealand Forest Owners Association recommends that all members adhere to its principles and practice. We have not been able to discern any real consequences for failing to comply with the Code of Practice.
28. In relation to harvesting specifically, including post-harvest decommissioning, the Code of Practice expects that this aspect of forestry is planned in a manner that identifies environmental values, involves consultation with directly affected parties, and ensures that all personnel are aware of their environmental obligations. The Code of Practice seeks to avoid damage to

restricted areas, and addresses slash, water and sediment controls to prevent runoff into waterways, including ongoing monitoring of the stability of slash piles and guidance that slash should not be left where it could divert or block a waterway.

29. The New Zealand Farm Forestry Association has also published various Forest Practice Guides (**Guides**) to assist forest owners, managers and contractors to meet the legislative requirements of the RMA and NES-PF. These Guides are not intended to override or replace any statutory requirements, but may take on that status if they are referenced in any management plans or conditions prepared under the NES-PF or RMA.⁷
30. Neither the RMA nor the NES-PF refer to the Code of Practice or guides produced by these industry organisations, and so the guidelines do not have any formal statutory basis. Despite this, and as demonstrated by the Courts' reference to these documents, they do provide industry-specific guidance that should be adhered to. Given that these documents contain a high level of detail on relevant matters, including land instability, harvesting, site preparation works, erosion and sediment control measures, managed slash on high-risk slopes, etc, there may be good reason for the Panel to consider how to better integrate these documents with regulation under the RMA.

⁷ The Guides generally include a disclaimer that: "The guides are not statutory documents however, care must be taken to references to a guide. If a Management Plan states that a certain guide or part of a guide is going to be followed then those provisions of that guide will form part of compliance with the NES-PF regulations. In other words, the provisions will form part of your regulatory obligation under the RMA."

Part C: Regulation under the RMA

31. Land use activities are regulated under the RMA by either national regulation, regional and district plans, or resource consents (where required). In relation to plantation forestry specifically, this takes the form of the NES-PF, regional and district rules and standards, and resource consents.
32. Other than when the NES-PF or plan rules specifically address forestry, the RMA does not expressly refer to plantation forestry. This is largely because the RMA establishes an effects-based and generally permissive regime that seeks to achieve certain outcomes,⁸ and regulates breaches of the RMA, but otherwise empowers local authorities to develop appropriate policy settings that regulate land use.
33. This part considers the various forms of regulation under the RMA, and informs the recommendations that follow in Part E. Given the focus of the Inquiry on the Tairāwhiti and Wairoa areas, this section has considered the regional and district planning documents that apply in those general areas. This is not to say that there are no regulatory gaps or issues elsewhere in New Zealand.

The NES-PF

34. The NES-PF provides a set of national standards that address plantation forestry matters specifically. It is a form of national regulation made under Subpart 1 of Part 5 of the RMA and was made operative in 2018.
35. The approach taken by the NES-PF is generally to permit plantation forestry activities, subject to compliance with certain standards. In effect, the NES-PF comprises a set of rules and standards, but does not set out any policies. This is an issue, as where a controlled or restricted discretionary activity is triggered under the NES-PF, the relevant consent authority is only able to refer to the relevant regional or district planning instruments to determine how to exercise discretion or control. Without any direct relationship between the NES-PF rules and standards and these other policy frameworks, there is a policy disconnect. Recommendations have been made on this issue below.

⁸ RMA, sections 5, 6 and 7 in particular.

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36. In relation to the matter of erosion and land instability, the NES-PF categorises land into four different categories based on the Erosion Susceptibility Classification (**ESC**): green, yellow, orange and red (red being the highest risk). The NES-PF also refers to the “Land Use Capability” categories, including “Class 8e” land, which is subject to severe to extreme erosion limitations or hazards that make it unsuitable for commercial forestry use.
37. In terms of its scope, the NES-PF includes standards that regulate wilding pines, earthworks, setback distances and slash management around waterways (that are prone to flooding), with the framework adopting stricter standards for more erodible or at-risk land. As discussed further below, in our view the NES-PF does not sufficiently recognise and manage the slope mobility risk of sodden soils, which – if forestry is not properly maintained or harvested – can lead to debris and sediment discharges and resulting damage. We highlight certain aspects of the NES-PF below.

Afforestation and replanting

38. Afforestation is a permitted activity under the NES-PF subject to conditions that address:⁹
- Wilding tree control;¹⁰
 - Planting within significant natural areas or outstanding natural features or landscapes;¹¹
 - Setbacks from riparian zones, adjoining property.¹²
39. Afforestation is permitted in any land susceptibility zone, except red zoned land, with a restricted discretionary activity status triggered if the total area planted is over 2 hectares in any calendar year.
40. The prescribed matters of discretion are set out in regulation 17, and vary depending on whether the consent authority is a regional or territorial authority. Of most relevance, the matters include the consideration of information and monitoring requirements, effects on adjacent landowners, effects on values of significant natural areas, and, for regional councils, effects on erosion and sedimentation effects, and measures to address erosion.
41. Replanting is a permitted activity where standards are complied with (including in relation to wilding tree risk and control, and setbacks). The exception to this is where the replanting will comprise more than 2 hectares in a red zone, which triggers a controlled activity consent. The consent authority’s extent of control is reserved to timing, location and species only, with no

⁹ NES-PF, regulation 9.

¹⁰ NES-PF, regulation 11.

¹¹ NES-PF, regulation 12.

¹² NES-PF, regulation 14(1) and (2).

ability to consider erosion and sedimentation effects. As a result, when processing a controlled activity consent (which must be granted), a regional council has no ability to refuse replanting on red zone land, where there is a risk of significant erosion.

Pruning and thinning

42. While a more minor contributor (depending on scale), pruning and thinning can lead to the discharge of forestry slash. These activities are a permitted activity outright under the NES-PF in relation to territorial authorities, and permitted subject to conditions for regional councils.
43. The key condition is aimed at preventing slash from being deposited into water bodies. If this requirement is not satisfied, it will still be a permitted activity to undertake any pruning or thinning if slash is removed from a water body or land that is subject to flood risk, so that the risk of blocking / damming, erosion and damage to infrastructure is avoided.¹³
44. If the permitted conditions cannot be met, the activity will require a controlled activity consent from the regional council. In that case, control is reserved over a number of issues relating to the conditions outlined in regulation 20. The regional council's control does not include the timing of any pruning or thinning,¹⁴ which means that regional councils will not be able to impose conditions that require the sequencing or staging of pruning within particular catchments.
45. Unlike harvesting, there is no requirement to provide notice of any pruning or thinning to the relevant council. This creates a degree of risk, particularly if forestry companies decide to prune or thin at the same time, resulting in increased levels of slash that could inadvertently be discharged into waterways either in breach of the permitted conditions, or in breach of any controlled activity consent.

Harvesting

46. In respect of territorial authorities, harvesting is a permitted activity in all green, yellow and orange zones, subject to the provision of notice advising when harvesting will start and end.

¹³ Regulation 20.

¹⁴ Under Regulation 21 the regional council's control is reserved over:

- (a) the effects on hydrological flow:
- (b) methods used to minimise erosion and deposit of slash:
- (c) the effects on ecosystems, fresh water, and the coastal environment:
- (d) the effects on downstream infrastructure and property:
- (e) the information and monitoring requirements.

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47. For regional councils, harvesting will be permitted (subject to compliance with standards), or if the land to be harvested is in a red zone and not LUC Class 8e, permitted on the basis that it will involve no more than 2ha of harvesting in a 3 month period. Outside of those restrictions, a controlled activity consent will be required for any harvesting in green, yellow or orange zones, and a restricted discretionary consent for any harvesting in red / LUC Class 8e land.
 48. There are a range of standards in play for these rules, which address sediment discharges, requirements to prepare a forest harvest plan, ground disturbance and slash and debris requirements.
 49. If controlled activity consent is required from the regional council, control is possible over the type and method of harvesting, measures to minimise soil erosion during and after harvesting, and measures to contain and remove slash. The matters over which discretion is restricted for harvesting in red / LUC Class 8e land are the same.¹⁵
 50. As outlined above, for the vast majority of plantation forestry land, consent authorities have no ability to refuse consent for afforestation or harvesting. Even if there are known soil erosion risks, councils are placed in a difficult position of having to permit forestry activities, with only their own monitoring powers available to ensure compliance.

There is a limited ability to adopt more stringent rules than the NES-PF

51. Councils can include plan rules that are more stringent than the NES-PF if they give effect to an objective in the National Policy Statement for Freshwater Management (**NPSFM**), or specific policies in the New Zealand Coastal Policy Statement 2011 (**NZCPS**), or protects significant natural areas or features.¹⁶
52. The only other basis for introducing a plan rule that is more stringent than the NES-PF, is if the soil has specific geology that is identified in the regional policy statement, regional plan, or district plan. This provision does not, however, apply to red zoned land.
53. As a result, councils have a limited ability to impose stricter rules than those in the NES-PF. For East Coast councils in particular, the only practical way to achieve the protection of erosion prone land is by linking it to soil characteristics and amending the relevant planning instruments, or finding a way to link the outcome to the NPSFM or NZCPS. For many councils (particularly smaller councils with less financial and other resources), attempting to promulgate more stringent rules that are linked to the relevant national direction (in a way that is not directly connected to forestry), is challenging. The central reason for this is a lack of resource capability, and significant interest and opposition from the forestry sector (including potential appeals).

¹⁵ Regulation 71.

¹⁶ Regulation 6.

Regional and district planning documents

Hawkes Bay Regional Policy Statement and Regional Plan

54. The Hawke’s Bay Regional Policy Statement forms part of the Hawke’s Bay Regional Resource Management Plan (**RRMP**). Of direct relevance to this Inquiry are Objectives 11-14, concerning loss and degradation of soil, as and Objective 31 relating to Natural Hazards.
55. The RRMP expressly acknowledges the potential for forestry practices to lead to soil erosion.¹⁷ In response to that risk, Objective 11 seeks “An ongoing reduction in the extent and severity of hill country erosion”.
56. Sitting under this objective is Policy 3, which discourages the removal of vegetation on highly erodible land, particularly Class 7e and 8 land, except where:
- ...
- (iii) The removal of vegetation is for the purpose of harvesting vegetation that was planted for commercial purposes.
57. The RRMP permits vegetation clearance (Rule 7), subject to compliance with standards that address:
- 57.1. The potential to be transported into water bodies;
- 57.2. Potential to impact on water quality and clarity
- 57.3. The location of vegetation clearance relative to rivers;
- 57.4. Potential to increase soil loss, in which case revegetation requirements are triggered to achieve better land stabilisation
58. Rule 7 does not apply to plantation forestry activities, instead the NES-PF is triggered for those activities.
59. Objective 31 seeks “avoidance or mitigation of the adverse effects of natural hazards on people’s safety, property, and economic livelihood”. Relevantly, the RRMP recognises the risk of flooding, but does not link it to plantation forestry in a policy sense.

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Refer section 3.3.

Wairoa District Plan

60. Although the resource management issues of flooding and land instability are expressly acknowledged as hazards affecting the Wairoa District,¹⁸ the Wairoa District Plan only contains policies that address degradation and soil erosion in a general sense. There are few provisions that address plantation forestry, or related activities, specifically.
61. The definitions section clarifies that clearance or disturbance of vegetation includes plantation forestry activities (harvesting). This activity is permitted¹⁹ where the vegetation is outside of a significant indigenous vegetation area, so long as certain standards are satisfied.
62. Other than this rule (and standards), harvesting / forestry activities are not regulated.

Gisborne District Plan (Tairāwhiti Resource Management Plan)

63. The Tairāwhiti Resource Management Plan (**TRMP**) includes provisions aimed at reducing the adverse effects of forestry. For example, B6.2.6 states that the Council will work with industry organisations to promote land use practices which reduce adverse effects on water quality, including forestry management practices that reduce soil erosion and the deposition of forestry slash in waterbodies.
64. The TRMP recognises that not all land in the Gisborne region is suitable for afforestation. B8.1.2 states that the Council's policy is to encourage responsibly managed afforestation, while recognising that it is not always possible to practically or economically treat erosion on LUC class 8 land, with land retirement the appropriate response.
65. In the TRMP, the region is separated into four categories: Land Overlay 1, Land Overlay 2, Land Overlay 3 and Land Overlay 3A. These categories broadly reflect the land resource's varying susceptibility to erosion. These overlays are based on the Land Use Capability ratings, with – generally - Land Overlay 1 equating to classes 1-6 (with some exceptions), Land Overlay 2 comprising the rest of class 6, and Land Overlay 3 capturing classes 7 and 8.
66. As discussed above, the NES-PF allows rules that are more stringent in certain cases, particularly in order to give effect to the NPSFM, NZCPS or where those rules are based on soil characteristics. The TRMP does include a number of rules that prevail over the NES-PF – however these rules remain proposed only.

¹⁸ 8.7.1 of Wairoa District Plan.

¹⁹ Rule 23.1.1.

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67. Until such time as those rules are made operative, the NES-PF provides the relevant regulatory rules. As an example, several of these proposed more stringent rules are:
- Rule C6.2.3, which requires that point source discharges from forestry roads and earthworks do not exacerbate flooding, do not contain any wastes from industrial or trade process, and do not cause erosion or change in the clarity of the water.
 - Rule 6.4.5(14), which provides that clearance of plantation forestry vegetation is a controlled activity. Control is reserved in respect of the timing and duration of activity, areas and location, any non-plantation forest to be retained, the potential effect on biodiversity/amenity, the effects on wildlife corridors, methods necessary to avoid, remedy or mitigation stream bank erosion, effects on water quality and aquatic habitat.
 - Rules 6.4.5(16) to (18), which provide that vegetation clearance is restricted discretionary where the vegetation clearance is not provided for under another rule.
 - Rule 6.4.5(22), which addresses the planting of second rotation plantation forest species within a Riparian Management Area, and classifies that activity as restricted discretionary.
68. The Chapter 7 rules concerning land management within the land overlays are operative, and include:
- In Land Overlay 1: plantation forest clearance is restricted discretionary if it exceeds 2000m² in any 12 month period, and adjoins a contiguous length of Riparian Management Area overlay that is more than 100m, has an average slope greater than 35° and has less than 75mm topsoil over at least 25% of the area under Rule 7.1.6(8).
 - Similarly, the same activity is restricted discretionary if instead of the slope and topsoil conditions, the soil erosion is deeper than 1m at any point within 20m of a formed public road or network utility structure.
 - The TRMP also creates General Standards for land disturbance or vegetation clearance, which include all land overlays, and require that slash must not be deposited into a permanently flowing waterbody, or be of a size that could cause diversion, damming, erosion or result in movement of debris downstream. If vegetation clearance cannot meet the General Standards, the activity is restricted discretionary.
 - In Land Overlay 2, similar conditions apply for vegetation clearance as in land overlay 1 and the activity is restricted discretionary.
 - In Land Overlay 3, thinning is permitted under rule 7.1.6(26), but clearance of plantation forestry that is greater than 10% of the closed canopy in a five year period (and affects more than 2 hectares of land) is controlled.
 - In Land Overlay 3, if the area to be cleared is greater than 500m² in any 12 month period, and has a slope greater than 35 degrees, or has less than 50mm of topsoil, it is restricted discretionary.
 - In Land Overlay 3A, the activity must comply with the more restrictive rules in Land Overlay 3, and comply with a Sustainable Hill Country Project Works Plan before it is permitted. If it cannot comply with a Sustainable Hill Country Project Works Plan it requires a discretionary consent.
69. As can be seen when comparing the TRMP to the other regional and district planning instruments outlined above, Gisborne District Council is the only local authority that has included provisions
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that provide a more bespoke approach to regulating plantation forestry. In particular, there is a more granular regime in place for vegetation clearance (harvesting), which responds to the land instability risks present in this region.

Part D: Other local / central government work programmes

70. There are several central and local government work programmes currently underway that are attempting to address the issue of forestry slash in particular. These are discussed below:

70.1. Te Uru Rākau – New Zealand Forest Service, an agency of the Ministry for Primary Industries, has developed the Forestry and Wood Processing Industry Transformation Plan (ITP) and the Woody Biomass Research Programme (to create investment certainty for woody biomass supply).²⁰

70.2. The aim of the ITP is to diversify 20% of radiata pine forests to tree species that are more suited to steeper topography, where slash mobilisation is an issue or concern. A second goal is to achieve continuous forestry cover to ensure that specific trees stay on-site to assist with erosion and slash prevention, which still contributing to wood supply.²¹

70.3. Forest Growers Research is undertaking a project on harvest automation and robotics. This programme is co-funded by the forestry industry with the aim of enhancing sustainability of harvesting through automation. One aspect of this project is to provide a market analysis for buyers to take smaller logs, which would otherwise be left as slash.²²

70.4. Precision Silviculture is another programme involving Forest Growers Research. This programme is also co-funded by industry, and is focused on designing tree planting locations to minimise slash at the time of harvest.²³

70.5. Te Uru Rākau is also partnering with Oji Fibre Solutions to support improved processing and use of woody biomass, along with the Energy Efficiency and Conservation Authority, Air New Zealand and New Zealand Trade and Enterprise.²⁴

70.6. Hastings District Council and Hawke’s Bay Regional Council have jointly funded a Forestry Compliance Officer to monitor forestry operations, and educate forestry companies on better managing forestry slash. This is another example of a non-statutory programme, but with the clear intention of improving practice and better understanding current operations.²⁵

²⁰ Cabinet Paper to Minister of Forestry from Te Uru Rākau “Programmes and Initiatives to manage forestry slash” 27 February 2023, at 4.

²¹ “Programmes and Initiatives to manage forestry slash” at 5.

²² “Programmes and Initiatives to manage forestry slash” at 4.

²³ “Programmes and Initiatives to manage forestry slash” at 4.

²⁴ “Programmes and Initiatives to manage forestry slash” at 5.

²⁵ Hastings District Council, “Monitoring aims to better manage forestry slash damage” 29 September 2020.

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- 70.7. The Hill Country Erosion Fund (HCEF) is another recent initiative, involving partnership between Tasman District Council, iwi landowners and HCEF to replant 114 hectares of uneconomic steep slopes post-harvest with indigenous species, such as mānuka for honey production.²⁶
- 70.8. Donald Creek Paired Catchment Study 2020-2027: establishment and operation of a long-term monitoring programme within comparative catchments in the One-Forty-One forest estate to study the performance of sediment control practices used in forest harvesting. One-Forty-One developed an Environmental Management System in 2018 with control practices to reduce sediment into streams from disturbed ground, and applying use of harvest slash to disperse sediment erosion entering water bodies. One-Forty-One has also developed a Granite Management Plan which is used widely by other companies.
71. Outside of these programmes, the proposed RMA reforms potentially provides an opportunity for significant review of the NES-PF, and better integration with other national level policy and regulation. One weakness of the RMA, and its national direction regime, is that it involves the separate development of national environmental standards and national policy, rather than the development of an integrated national policy framework. This is proposed to be addressed through the Natural and Built Environments Act, which will require the development of a National Planning Framework (**NPF**).
72. The NPF presents an opportunity for the Government of the day to develop an integrated set of national policies, standards, targets and limits that, together, regulate land use in a cohesive way. If this proposal is enacted, we may see a NPF that addresses plantation forestry alongside freshwater management, highly productive land, land instability, natural hazards and infrastructure (ie. roading and bridges) together. While this could end up a complex web of national direction, it would at least provide direction on all of the aspects that contribute to, and are affected by, woody debris and sediment, and better guide the development of local policy settings.
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Part E: Recommendations

73. This section of our submission provides recommendations, both statutory and non-statutory, on the following matters:

- Amending the NES-PF, to extend its scope, place more focus on certain matters and improve the underlying data;
- Better integration of industry best practice, codes of practice and guidelines with regulation;
- More direction should be provided to local authorities, and there should be increased flexibility for local authorities to regulate forestry activities, beyond the limitations created by the NES-PF;
- There would be benefit in an integrated set of national policy and environmental standards, that are focussed on ensuring that the cumulative risk of land instability and natural hazards are properly managed;²⁷
- Require that a forest management plan is developed for all forest operations, which is compliant with an amended NES-PF;
- Funding for increased monitoring and enforcement, and use of the levy for mitigation;
- Incentivising forestry owners to retire erodible land, and plant with natives for land stability;
- Encourage/incentivise industry to move to a continuous canopy cover model, or with penterwald harvesting (select trees only) to maintain canopy cover at all times.

Amendments to the NES-PF

74. LGNZ and the Joint Forestry Project agree that there is a place for forestry-specific regulation. As has been demonstrated on several occasions, forestry related activities can destabilise land, and when severe weather strikes, this can cause devastating amounts of slash and sediment to be discharged. The reality is that these discharges are likely to continue when future harvesting occurs, and for decades to come.

75. The challenge is how to respond to that reality, through meaningful regulation and ideally ongoing change in land use management. Any change in land use management will be incremental, but there are opportunities to achieve more timely improvements, through setback planting with natives, willows and poplars for new and existing forests, which can provide significant assistance in managing effects. The NES-PF is a good starting point, but in our view needs further development to provide a meaningful set of provisions that are firstly, well understood by those charged with applying them, and second, capable of enforcement. One way

²⁷ NPS natural hazards and climate change.

to achieve this is to provide a clear and specific set of thresholds and standards, against which compliance can be measured.²⁸

76. With these comments in mind, LGNZ and the Joint Forestry Project consider that the current NES-PF settings require tightening in order to better regulate the land uses that are contributing to and causing woody debris and sediment discharge. The next paragraphs set out several possible amendments.

More accuracy required in relation to the Erosion Susceptibility Classification and LUC mapping

77. As noted above, the ESC is a map-based tool used to inform the NES-PF. In addition, LCU mapping is relied on, again at a 1:50,000 scale. Both are imprecise tools that need a higher degree of accuracy before they can be considered reliable in terms of managing land use activities.²⁹
78. The member councils involved in the Joint Forestry Project have observed many locations which have been planted, or harvested, with forestry that are highly susceptible to erosion, despite the associated mapping not identifying this level of risk. While these tools are available now, and should be relied on in the interim, better, more fine-grained data should be prepared to inform the regulation of relevant land use activities, so that highly erodible lands are properly identified.

The approach to certain types of forestry activity

79. If the NES-PF is to remain the primary form of regulation of forestry activities, and for post-harvest activities involving woody debris, three different types of forests should be captured. The following paragraphs capture our key recommendations on these forests, and potential amendments to the NES-PF:

New Forests

80. Amend the scope of the NES-PF so that it captures both production and carbon only forestry. This is a matter that the Joint Forestry Project has raised in previous submissions on the NES-PF.

²⁸ For example, wording like “reasonable mixing” and “conspicuous” in the NES-PF create difficulties for regulators when attempting to enforce compliance.

²⁹ See for example, the FARM LUC tool developed for Auckland Council rural land: <https://www.knowledgeauckland.org.nz/publications/farm-scale-land-use-capability-classification-for-auckland/>

81. Either amend the NES so that it becomes a national policy statement that provides direction on forestry issues in conjunction with LUC / ESC classification, or direct Regional Councils (via the NES) to develop regional policy direction addressing forestry within a certain timeframe.
82. This process would involve regional conversations focussed on identifying high-risk areas, considering the strategic benefits of forestry as an activity on a region-by-region basis, provide scope to properly integrate other national policies regarding freshwater, highly productive land and biodiversity management, and allow District Councils to provide input on matters of significance to communities (ie. lifeline infrastructure, including roads, bridges and telecommunications). These conversations would support the development of policy that delivers on the “right tree, right place, right management” concept, particularly for new forests.
83. For so long as the RMA remains in force, regional and territorial authorities should remain consenting authorities for any new forests, but with a wider degree of discretion – as set out below – relative to certain LUC categories:

LUC category	Recommendations
<i>LUC 1-3</i>	<ul style="list-style-type: none"> Permitted activity status for forestry that cumulatively occupies less than 5% of the effective area of any title or group of titles operating as one farming business.³⁰ A forestry management plan should be prepared in all cases to achieve permitted activity status. The forestry management plan should define waterway setback distances, roading pathways, debris storage and harvesting sites, permanent non-production plantings next to waterways and up gullies. This will assist in holding vulnerable land and catching debris. Such planting could include poplar, willow, redwoods and native plantings. Restricted discretionary status for areas greater than 5% of the effective area of any title or group of titles operating as one farming business. The consent authority discretion should be focussed on soil quality, soil stability, roading infrastructure and cumulative social impacts, as well as the approach to mitigating off-site effects. A forestry management plan should be prepared, and councils should have discretion to impose more restrictive measures in these plans (relative to the matters for which discretion is reserved).
<i>LUC 4 and 5</i>	<ul style="list-style-type: none"> Permitted activity status for forestry that cumulatively occupies less than 100ha or 10% of the effective area of any title or group of titles operating as one farming business (whichever is the lesser). Restricted discretionary status for areas greater than 100ha or 10% of the effective area on a title or group of titles operated as one farming business. This includes whole farm conversions. In addition to the matters outlined for

³⁰ Note, for properties that contain more than one LUC category, the thresholds should apply to the relevant LUC category land only, rather than the entire site.

	<p>LUC 1-3 land, consent authority discretion should capture potential effects on off-site roading infrastructure and cumulative social impacts.</p> <ul style="list-style-type: none"> • A forestry management plan should be prepared in all cases – and councils should have the ability to impose more restrictive measures in the forestry management plan for the restricted discretionary status activity.
<i>LUC 6 and 7</i>	<ul style="list-style-type: none"> • Adopt an approach that permits activities up to a certain area threshold (for example up to 30% of the effective area of any title or group of titles operating as one farming business), on the basis that a forest management plan is prepared and provided to Council. Permitted activity status should only be engaged where the activity is not likely to result in the mobilisation of silt or forestry slash. • Beyond that threshold, a controlled activity status may be appropriate up to another threshold, which will provide for control over forest management, harvest plans, and mitigation of off-site effects. • Outside of those thresholds, a discretionary activity status will be triggered (for example, for areas greater than 50% of the effective area of any title or group of titles operating as one farming business). The above rule framework should include proposals for whole farm conversions.
<i>LUC 8</i>	<ul style="list-style-type: none"> • Discretionary activity status should apply, rather than the current restricted discretionary status. • A forestry management plan will be required with Council able to impose additional restrictive measures. Regular review of the forestry management plan should be carried out to ensure currency. • Councils should be allowed to consider any clear-felling that has occurred within these areas over a certain time period, and the amount of land that will be left bare post-harvesting, with conditions and requirements developed around those aspects (e.g. staged, sequential approaches to harvesting and replanting).

Existing forests

LUC category	Recommendations
<i>LUC 1-5</i>	<ul style="list-style-type: none"> • Harvesting to remain a Permitted Activity. • Improvements to NES standards to capture potential off-site effects, and mitigation measures in respect of those effects.
<i>LUC 6</i>	<ul style="list-style-type: none"> • Controlled activity status subject to compliance with standards and conditions, including requirement to provide a forestry management plan to the relevant consent authorities, with review timeframes associated with the same. • Restricted discretionary activity status for any harvesting activities over a particular threshold, in which case the matters of discretion will need to be broad enough to capture: preparation and content of a forestry

	<p>management plan, type and method of harvesting, timing (including sequencing / staging of harvesting), location and duration of harvesting, effects on water quality, etc, and measures to minimise soil erosion during and after harvesting, including sediment and debris related effects off-site.</p> <ul style="list-style-type: none"> • Management of roads and infrastructure off-site can be a difficult issue, but scope should be provided for consideration of these potential effects to drive a management response, and the RMA/NES should also provide scope for financial contributions from persons who cause damage to roads, rather than this cost having to be met by communities.
LUC 7 and 8	<ul style="list-style-type: none"> • Discretionary consent to be obtained from the relevant consent authorities with detailed forest harvest plan that includes: road design, waterway management, skid site and slash storage or removal, silt management and a post-harvest replanting plan, including permanent non-production plantings next to waterways and up gullies. The forestry management plan may include a staged harvest or avoiding harvest in the most vulnerable areas. • Councils should be allowed to consider any clear-felling that has occurred within these areas over a certain time period, and the amount of land that will be left bare post-harvesting, with conditions and requirements developed around those aspects (e.g. staged, sequential approaches to harvesting and replanting).

Existing Forests on Highly Erodible Land

84. This class of forest is the most challenging, and will typically contain LUC Class 8 land that should never have been planted with radiata pine due to the risk profile. Some forests would be best retired through a managed transition back to native species. This could include selective harvesting, poisoning and retirement.
85. The NES-PF, even with amendments, is not considered the appropriate vehicle to manage or achieve this. The significant financial value of such forests, particularly given the growth of the carbon-only forest market, will inevitably result in compensation discussions.
86. It is considered that a separate mechanism will be required for the ongoing management of such forests. The harvesting and reestablishment of these forests may pose a significant environmental risk. If the total environmental risk and clean-up costs were to be borne by forest owners, it is likely that many of these blocks would not be economic to harvest. While this may stop the harvest (and resulting effects), it will not negate the risk to the environment as the trees come to the end of their life and start falling.
87. As much of this land was initially planted with support, and incentives, from the Crown and Councils, a managed return to indigenous coverage is likely to be the most desirable long-term solution. If this transition is not supported by the Crown, then there is a risk that some owners will walk away from their land leaving a long-term environmental risk.

Better integration of industry best practice, codes of practice and guidelines with the regulatory regime

88. That the forestry industry has developed sector-specific Codes of Practice and Guides is considered a good initiative. However, there is a disconnect at present between how those documents are developed and applied, and what Councils understand those documents to mean. Put another way, councils have a limited understanding of best practice, yet are expected to regulate forestry as against the NES-PF and their own planning instruments.
89. There would be clear benefit in greater alignment between these two types of regulation, and a good argument that Councils' regulatory role should work in tandem with the forestry sector's own guidance.
90. One clear issue is that many local authorities have a lack of capacity to monitor and enforce compliance, but they also lack the necessary expertise to develop meaningful regulation outside of the NES-PF. It is considered sensible for the sector, central and local government to work together to develop the NES-PF further, so that the knowledge and capacity of the regulators is improved, alongside a more developed (and informed) set of regulation.
91. While incorporating industry best practice into regional or district plans may be unnecessary, there would be sense in bringing that detail into forest management plans or even resource consent conditions (as applicable).
92. Alternatively, if incorporating best practice into formal legislative regulation was the model used, then there would need to be a mechanism to allow the regulation to evolve with changes to industry best practice, so that the regulations remain current.

More direction to consent authorities, while also providing increased flexibility for locally informed regulation

93. As discussed in Part C, the NES-PF comprises a set of rules and standards, but does not contain or prescribe any objectives or policies. Developing and adopting policy on plantation forestry, and related issues and effects, is instead for local authorities to determine.
94. The lack of national policy direction that supports the NES-PF presents a practical issue for local authorities, particularly as the NES-PF classifies certain activities as controlled or restricted discretionary activities. Those activity statuses provide for the consideration of matters of control or discretion, which are intended to be assessed against policies that guide how the reserved control or discretion should be applied by the consent authority. Where there is an

absence of policy direction, there is disconnect between the outcomes sought by rules and standards, and the decision-making required under the NES-PF.

95. There are two options for resolving this issue: develop national level policy that works in tandem with the NES-PF, or provide more scope for local authorities to be able to develop locally driven policy that addresses forestry activities, and related effects.
96. The benefit of national level policy is that it will give greater, uniform meaning to the NES-PF, and the outcomes sought by those regulations. This would also improve consistency of decision-making across the country, when implementing the NES-PF. If this direction were expressed in a high level way, with a requirement that local authorities either adopt or implement such direction (for example, as with the NPS-Highly Productive Land), then it would drive policy development at a lower level. The limitation with national level policy is that it may not be able to respond in a fine-grained way to district or region specific risks or issues. This could result in policy that does not meaningfully assist with the regulation of forestry, or implementation of the controlled or restricted discretionary activity rules in the NES-PF.
97. The alternative is to provide direction, either through the NES-PF or another legislative mechanism, which allows local authorities to develop regional and/or district level policy on forestry. If this were done well, it would provide local authorities with the ability to apply that direction in a regional / district context, and draw on their unique characteristics to adopt policy that gives greater local meaning to the standards and rules of the NES-PF.
98. On this point, we note that the NES-PF limits the potential for local authorities to include more stringent rules in their own planning documents. This could be relaxed, so that local authorities can consider forestry and its effects on its broader merits (without being limited to NZCPS, NES-FW considerations), and make policy decisions on whether to provide or discourage forestry in certain locations or areas, without having to rely on one of the exemptions in the NES-PF.
99. What the NES-PF does well, at least in terms of erosion and land instability, is rely on land classification categories to trigger different levels of regulation. This is an effective management approach, but only when the categories are reliable. In this case, the LUC mapping that underpins the NES-PF categories is based on 1:50,000 scale mapping. This results in data and mapping that is limited, and it is recommended that the government invests further in these tools, so that the mapping is improved to a 1:10,000 scale. This would provide a more reliable basis on which to develop policy, and regulate land use in a more meaningful way that takes a lead from local inputs. It would also provide benefit to land uses outside of forestry, as the NPS-HPL relies on the same mapping and councils use this tool to develop plans.
100. From a practical perspective, if any Council attempts to introduce more stringent rules than in the NES-PF, they are typically appealed to the Environment Court. The NES-PF, or RMA, could provide assistance on this point, by providing policy direction that can assist to limit the potential for appeal. We note on this point that central government guidance and policy typically provides a faster remedy than plan change modifications led by local government, and it is the only way to provide sector-wide guidance, through rules and regulations.

Integrated national policy and environmental standards

101. Building on the above recommendations, and in light of the RMA reform proposals, there may be an opportunity in short order for a new integrated set of national policy and standards, in the form of the National Planning Framework under the NBEA.
102. This new framework could provide clear benefits, as it would constitute one cohesive set of objectives, policies, targets and limits that act to guide land use relative to a number of relevant issues. For example, it would be expected to address highly productive land, freshwater, biodiversity, landscape protection, land instability, natural hazards and potentially sector-specific activities. In this way, the framework would provide integrated direction that could drive the “right place” for various land use activities, including forestry.
103. The benefit of this approach is that it would provide, we expect, higher level direction on certain outcomes that can be drawn on to develop the first generation of Regional Spatial Strategies and Natural and Built Environment Plans. While the RMA reform proposals have come under criticism for their complexity, there has been support for this new national framework, and we consider that integrated policy will delivery real benefits.

Require that a forest management plan is developed for all forest operations, which is compliant with an amended NES-PF and sector best practice

104. As discussed above in relation to the NES-PF, it would be of benefit to all operators and local authorities, for a forest management plan to be developed for all forest operations, but particularly those involving harvesting, thinning and pruning that could create woody debris discharges.
105. Currently, the NES-PF requires that a harvest plan is provided on request for all ESC zones, and an earthworks plan for red and orange zones. On receipt of these plans, a local authority is not able to request any changes to the harvest plan, which could create risk for certain sites / areas. In recommending that the NES-PF requires a forest management plan for all land types and forestry activities, greater oversight of all forestry activities will be achieved.
106. Even if the Panel were reluctant to recommend a wider review of the NES-PF, this would seem a sensible first step, particularly as most existing operators will have management plans as expected by industry-specific guidance.
107. In terms of content, forest management plans should incorporate sector best practice, so that regional and territorial authorities are better able to understand the approach to land use, and

use that to inform their approach to imposing consent conditions and enforcement. Inspections (and the frequency of those) by councils should also be provided for under forest management plans, particularly where skid sites are involved.

108. For smaller councils, where a lack of capability creates risk, a greater role for Te Uru Rākau – New Zealand Forest Service could be available, to develop guidelines for councils that assist them to understand and evaluate forest plans.

Funding for increased monitoring and enforcement, and use of the levy for mitigation

109. The Government previously provided funding to plant much of the affected areas in exotic forestry, and it is now encouraging further similar land use transition through the emissions trading scheme. Due to the increasing price of carbon credits, productive farmland is being sold to purchasers for the purpose of planting trees.

110. In the event that the new plantations are harvested at 30 year intervals, there runs a risk of continuing damage to rivers and communities if these activities are not satisfactorily regulated.

111. Regulation is challenging when left solely to regional and territorial authorities, who are operating in an increasingly tight financial environment. It is simply not plausible to expect councils to continue to fund this activity, if forestry (both plantation and carbon) will continue to grow in scale. We note also that the NES-PF expects substantially the same degree of monitoring for small and large scale forestry blocks, which adds to the inefficiencies and challenges that are experienced by the local government sector.

112. The Panel should recommend to central Government that it supports the monitoring and enforcement of forestry related activities, through funding to regional and territorial authorities so that they can thoroughly review compliance by forestry operators.

113. It is not only taxpayers that should bear responsibility for this additional cost however, as the forestry sector should provide a significant contribution. At present, under the Commodity Levies (Harvested Wood Material) Order 2019, a levy is imposed on all harvested wood from plantation forests. The purpose of this levy is set out in clause 17, and includes:

17 Purposes for which levy money may be spent

- (1) FGLT may spend levy money for all or any of the following purposes relating to harvested wood material or forest growers:
 - (a) research and development:
 - (b) forest biosecurity:
 - (c) the National Forest Health Surveillance Scheme:
 - (d) training and careers:



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- (e) forestry workforce health and safety, including development and support for industry standards and codes:
 - (f) the Forest Strategy and Roadmap:
 - (g) programme development and implementation costs: cl 14 Commodity Levies (Harvested Wood Material) Order 2019 2019/232 6
 - (h) industry and product promotion:
 - (i) representing the interests of forest owners and the industry:
 - (j) administration costs.
- (2) FGLT must not spend levy money on commercial or trading activities.
 - (3) Subclause (2) overrides subclause (1).

114. There is scope for amending this order, to ensure that funding (from the levy) can be allocated and used for mitigation and repair of any off-site damage caused by discharge from forestry activities. The Panel should recommend that the Minister for Primary Industries review this order and the basis for use of the levy, so that the forestry sector becomes financially accountable through the levy for addressing any impacts generated by their own revenue generating activities.