

**BEFORE THE PART 1, SCHEDULE 1 PANEL AND
FRESHWATER HEARINGS PANEL ON PROPOSED PLAN
CHANGE 1 TO THE NATURAL RESOURCES PLAN FOR THE
WELLINGTON REGION**

In the matter of

the Resource Management Act 1991

and

**the hearing of submissions made on
Proposed Plan Change 1 to the Natural
Resources Plan for the Wellington
Region: Hearing Stream Three – Rural
land Use Activities, Forestry and
Vegetation Clearance, and Earthworks**

**Statement of Evidence of Ainsley Jean McLeod on
behalf of New Zealand Carbon Farming Group
(submitter reference S263 and further submitter
reference FS50)
dated 6 May 2025**

SUMMARY OF EVIDENCE

1. The submission made by New Zealand Carbon Farming Group (“NZCF”) on Proposed Plan Change 1 to the operative Natural Resources Plan for the Wellington Region (“NRP”), being partly a freshwater planning instrument (“Proposed Plan Change 1”) is concerned with how the provisions of Proposed Plan Change 1 relates to forestry, and particularly permanent forests that are for carbon sequestration purposes. In particular, the submission addresses the relationship between Proposed Plan Change 1; the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (“NESPf”); and the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (“NESCf”).
2. NZCF’s submission seeks that the provisions of Proposed Plan Change 1 that regulate commercial forestry, including those provisions that are intended to prevail over the NESPf, are withdrawn (or the Proposed Plan Change is not included in the NRP) until such time as:
 - a. the efficiency and effectiveness of the NESCf has been monitored and the results of such monitoring support the need for provisions in the NRP that prevail over the NESCf;
 - b. the scope of Proposed Plan Change 1 is clarified, including in respect of permanent forests, or commercial forests planted for carbon sequestration purposes;
 - c. decisions on submissions on Proposed Change 1 to the WRPS have been made;
 - d. the recommendations in the Te Whaitua te Whanganui-a-Tara Implementation Programme 2021 accurately and appropriately reflected in Proposed Plan Change 1 provisions;
 - e. a fulsome evaluation of the provisions is undertaken in a manner consistent with section 32 of the Resource Management Act 1991 (“RMA”), with the outcome of that evaluation confirming the necessity of forestry provisions in Proposed Plan Change 1, including an evaluation is completed under section 32(4) of the RMA, that explicitly evaluates the relevant provisions of Proposed Plan Change 1 relative to the NESPf, with the outcome of that evaluation confirming the necessity of provisions that prevail over the NESPf.
3. My evidence considers the relief sought by NZCF and addresses, as relevant to this relief, the recommendations made in the ‘Section 42A Hearing Report Hearing Stream 3 Topic: Forestry and Vegetation Clearance’ dated 15 April 2025 (“Section 42A Report”).
4. My evidence goes on to:
 - a. determine that the recommendation to amend the provisions of Proposed Plan Change 1 to reference the NESCf (and provisions therein), rather than the NESPf, is more significant than an update or word swap;

- b. conclude that, in the context of Proposed Plan Change 1, the consequences of referencing the NESCF materially change the scope and regulatory impact of Proposed Plan Change 1 in respect of carbon forestry in a manner that has not been sufficiently or rigorously tested, including in terms of section 32AA of the RMA;
 - c. set out the reasons why it is not necessary for Proposed Plan Change 1 to include rules that are more stringent than the NESCF in respect of afforestation and exotic continuous-cover forestry;
 - d. note that there is no regulatory 'void' if carbon farming is not 'captured' by Proposed Plan Change 1 because the NESCF would continue to regulate exotic continuous-cover forestry, or alternatively carbon forestry could be addressed by a variation to Proposed Plan Change 1;
 - e. suggest alternate relief in the form of excluding afforestation from Rules WH.R20 and P.R19, alongside amendment to make it clear that these rules and freshwater planning instrument provisions that relate to the discharge of sediment to water;
 - f. support revisions to the Notes that accompany Rules WH.R20 and P.R19 so that the Notes are similarly aligned to the regulation of discharges to water under section 15 of the RMA;
 - g. consider Policies WH.P28 and P.P26, but does not support any amendments to the Policies, with the exception of a suggestion that the Policies would benefit from the inclusion of a clause encouraging continuous-cover forestry; and
 - h. address NZCF's submissions on other provisions of Proposed Plan Change 1 and support limited amendments to these provisions.
5. My evidence concludes, with reference to the technical evidence filed by Greater Wellington for Hearing Stream 3, that there is no rationale for Proposed Plan Change 1 to include rules that are more stringent than the NESCF in respect of afforestation and exotic continuous cover. My evidence particularly notes that afforestation is unlikely to have adverse effects in terms of erosion, sediment load and water quality. Further, exotic continuous-cover forestry, when compared to other land uses will result in reduced erosion and sediment load, and improved water quality. As such, it is my opinion that more stringent provisions for such an activity are counterintuitive.

INTRODUCTION

- 6. My full name is Ainsley Jean McLeod. I hold the qualifications of a Bachelor of Arts (Geography and Anthropology) and a Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute.
- 7. I am a self-employed planner, trading as Ainsley McLeod Consulting Limited. I have over 20 years' experience in planning practice, primarily as a consultant planner based in Otago,

Wellington and Christchurch, during which time I have undertaken consenting, designation and policy planning work. I have provided planning advice to a range of clients including central and local government, and the private sector. I have acted as an expert witness on a number of occasions before hearings panels, boards of inquiry and the Environment Court.

8. I have provided expert planning advice to NZCF for a number of years. My advice has included policy planning advice in respect of regional policy statements, regional plans and district plans. I have also assisted NZCF with the preparation of applications for resource consent and requests for certificates of compliance. I have visited a number of planted, and yet to be planted, sites that form part of NZCF's portfolio of carbon sequestration forests.
9. I assisted NZCF with the preparation of its submission and further submissions on Proposed Plan Change 1. I have now been engaged by NZCF to provide expert planning evidence in relation to those submissions.
10. I note that Peter Casey (Chief Executive Officer, NZCF) and Tayla Westman (Corporate Counsel and Environmental Planner, NZCF) appeared in support of NZCF's submission at Hearing Stream 1. They described carbon sequestration forestry and NZCF's interest in Proposed Plan Change 1. For the purpose of my evidence, I rely on the introductory material provided by Mr Casey and Ms Westman. This material is appended as **Attachment A**.

CODE OF CONDUCT

11. Although this matter is not before the Environment Court, I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses as contained in the Court's 2023 Practice Note. I have complied with the Code of Conduct when preparing my written statement of evidence and will do so when I give oral evidence before the Hearings Panel.
12. My qualifications as an expert are referenced above. I confirm that the issues addressed in this statement of evidence are within my area of expertise. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

SCOPE OF EVIDENCE

13. My evidence:
 - a. addresses the statutory requirements for Proposed Plan Change 1 relevant to Hearing Stream 3;
 - b. describes NZCF's submission on Proposed Plan Change 1 that are the subject of Hearing Stream 3 and
 - c. addresses (as relevant to the relief sought by Transpower) the recommendations made in the Section 42A Reports.

14. In addition to the documents referred to above, in preparing this evidence I have also reviewed:
- a. the Section 32 of the RMA insofar as it is relevant to NZCF's submission on the matters considered as part of Hearing Stream 3;
 - i. the following Statements of Evidence filed by Greater Wellington:
 - ii. Statement of Evidence Hearing Stream 3 Dr Michael Greer - Freshwater
 - iii. Statement of Evidence Hearing Stream 3 Mr James Blyth – Sediment from Pasture and Forestry
 - iv. Statement of Evidence Hearing Stream 3 Mr Kevin Reardon - Forestry
 - v. Statement of Evidence Hearing Stream 3 Mr Thomas Nation – Erosion Risk Mapping
 - vi. Statement of Evidence Hearing Stream 3 Mr Joshua Pepperell.
 - b. 'Legal submissions in reply on behalf of Greater Wellington Regional Council – matters arising from Hearing Stream 1' dated 29 November 2024 that respond to the Hearing Panel's Minute 3;
 - c. Section 42A Hearing Report Hearing Stream 1' dated 3 October 2024.

RELEVANT STATUTORY FRAMEWORK AND NZCF'S SUBMISSION

Statutory considerations

15. The statutory and policy considerations and directions for Proposed Plan Change 1, insofar as is relevant to NZCF's submission are reference and/or set out in detail in the Section 42A Report and NZCF's submission.
16. I consider that together these documents provide a comprehensive description of the relevant statutory matters. I therefore rely on the summary in these documents and do not repeat the relevant provisions here except to emphasise that the NESPF, the NESCF, and their relationship with Proposed Plan Change 1 are central to the relief sought in NZCF's submission.
17. The NESCF came into effects on 3 November 2023. The NESCF is an amended version of the NESPF. The new NESCF applies to plantation forests and exotic continuous-cover forests (carbon forests) that are deliberately established for commercial purposes. The intention of the amended regulations is to better manage the effects of large-scale forestry on the environment. The NESPF, in Regulation 6 provides that:

"Plan rules may be more stringent than these regulations

National instruments

- (1) *A rule in a plan may be more stringent than these regulations if the rule gives effect to—*
 - (a) *an objective developed to give effect to the National Policy Statement for Freshwater Management;*
 - (b) *any of policies 11, 13, 15, and 22 of the New Zealand Coastal Policy Statement 2010.*

Matters of national importance

- (2) *A rule in a plan may be more stringent than these regulations if the rule recognises and provides for the protection of—*
 - (a) *outstanding natural features and landscapes from inappropriate use and development; or*
 - (b) *significant natural areas.*

Unique and sensitive environments

- (3) *A rule in a plan may be more stringent than these regulations if the rule manages any—*
 - (a) *activities in any green, yellow, or orange zone containing separation point granite soils areas that are identified in a regional policy statement, regional plan, or district plan;*
 - (b) *activities in any geothermal area or any karst geology that are identified in a regional policy statement, regional plan, or district plan;*
 - (c) *activities conducted within 1 km upstream of the abstraction point of a drinking water supply for more than 25 people where the water take is from a water body;*
 - (d) *forestry quarrying activities conducted over a shallow water table (less than 30 m below ground level) that is above an aquifer used for a human drinking water supply.*
- (4) *The areas and geology referred to in subclause (3)(b)—*
 - (a) *may be identified in a policy statement or plan by any form of description; and*
 - (b) *include only areas and geology where the location is identified in the policy statement or plan by a map, a schedule, or a description of the area or geology.”*

- 18. Proposed Plan Change 1 introduces rules that are more stringent than the NESPF in the NRP and incorporates some provisions (definitions) from the NESPF.
- 19. The ‘Legal submissions in reply on behalf of Greater Wellington Regional Council – matters arising from Hearing Stream 1’ dated 29 November 2024 that respond to the Hearing Panel’s Minute 3 provide useful context in respect to the relationship between the planning instruments as follows:
 - 40 *As a starting point in answering this question, it is important to set out the legislative framework as it applies to the relationship between the NRP (and provisions of PC1) and the NES-CF more generally. In summary, the relevant statutory requirements are:*

- 40.1 *Section 43B of the RMA sets out the relationship between NESs and rules in the NRP.*
- 40.2 *Section 43B(1) and (2) provide that a rule can be more stringent, or more lenient, than a NES, only if the NES expressly says that a rule can be more stringent, or more lenient, than it.*
- 40.3 *Section 43B(2) sets out that a rule is more stringent than a NES if it prohibits or restricts an activity that the standard permits or authorises.*
- 40.4 *Section 43B(4) sets out that a rule is more lenient than a NES if it permits or authorises an activity that the standard prohibits or restricts.*
- 40.5 *Regulation 6 of the NES-CF sets out the situations when a rule in the NRP may be more stringent than the NES-CF (see regulations 6(1), 6(2), 6(3) and 6(4A)).¹*
- 40.6 *Regulation 6(4A) sets out the limited situations where the NRP can be more lenient than the NES-CF. Prior to inclusion of regulation 6(4A) in November 2023, there were no situations where the NES enabled the NRP to be more lenient than it.*
- 40.7 *Section 44A of the RMA provides the requirements for local authority recognition of a NES.*
- 40.8 *Section 44A(3) to 44A(5) of the RMA apply where there is conflict (ie a rule is more stringent or more lenient when the NES does not allow that) or duplication of the NES in the NRP. They specify that the conflict is to be removed without using a Schedule 1 process, and that the timeframe for that to occur, depending on the wording of the NES, is either as specified in the NES or as soon as practicable.*

- 20. My analysis and consideration of the relief sought by NZCF is informed by the statutory framework for decisions on Proposed Plan Change 1 referenced above, the RMA, and the ongoing guidance provided by the modified Long Bay test.²

NZCF's submission

- 21. The primary relief sought in NZCF's submission is that the provisions of Proposed Plan Change 1 that regulate commercial forestry are withdrawn until such time as:
 - a. the efficiency and effectiveness of the NESCF has been monitored and the results of such monitoring support the need for provisions in the NRP that prevail over the NESCF;

¹ Regulation 6(4A) was inserted by the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023.

² *Long Bay – Okura Great Park Society v North Shore City Council* NZEnvC A078/2008, 16 July 2008, at [34], *High Country Rosehip Orchards Ltd v Mackenzie District Council* [2011] NZEnvC 387 and *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC55.

- b. the scope of the Proposed Plan Change clarified, including in respect of permanent forests, or commercial forests planted for carbon sequestration purposes;
 - c. decisions on submissions on Proposed Change 1 to the WRPS have been made;
 - d. the recommendations in the Te Whaitua te Whanganui-a-Tara Implementation Programme 2021 accurately and appropriately reflected in Proposed Plan Change provisions;
 - e. a fulsome evaluation of the provisions is undertaken in a manner consistent with section 32 of the RMA, with the outcome of that evaluation confirming the necessity of the Proposed Plan Change; and
 - f. an evaluation is completed under section 32(4) of the RMA, that explicitly evaluates the relevant provisions of the Proposed Plan Change relative to the NESPF, with the outcome of that evaluation confirming the necessity of provisions that prevail over the NESPF.
22. NZCF's submission sets out alternative relief (amendments to the provisions of Proposed Plan Change 1), should the relevant provisions of Proposed Plan Change 1 not be withdrawn.
23. I set out my consideration of NZCF's relief, alongside the recommendations included in the Section 42A Report below. I do not include a comprehensive consideration of NZCF's further submissions on the basis that NZCF's further submissions generally affirm the matters raised in NZCF's primary submission.
24. Where amendments to the provisions of Proposed Plan Change 1 are suggested in, and supported by, my evidence these are shown as follows:
- a. Proposed Plan Change 1 text (as notified): black underline and ~~black strikethrough~~;
 - b. Section 42A Report recommendation text: red underline and ~~red strikethrough~~;
 - c. NZCF submission text: blue double underline and ~~blue double strikethrough~~; and
 - d. evidence text: green double underline and ~~green double strikethrough~~.

THE MANAGEMENT OF 'CARBON FORESTRY' BY PROPOSED PLAN CHANGE 1

Scope of provisions in the Operative NRP and notified Proposed Plan Change 1

25. The operative NRP defines 'plantation forestry' with reference to the NESPF. The NESPF definition is as follows:

"plantation forest or plantation forestry means a forest deliberately established for commercial purposes, being—

- (a) *at least 1 ha of continuous forest cover of forest species that has been planted and has or will be harvested or replanted; and*

- (b) *includes all associated forestry infrastructure; but*
 - (c) *does not include—*
 - (i) *a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or*
 - (ii) *forest species in urban areas; or*
 - (iii) *nurseries and seed orchards; or*
 - (iv) *trees grown for fruit or nuts; or*
 - (v) *long-term ecological restoration planting of forest species; or*
 - (vi) *willows and poplars space planted for soil conservation purposes”*
26. Because this definition relates to forests that are to be harvested, commercial forests for carbon sequestration purposes (permanent forest that are not harvested) are not managed by the provisions in the operative NRP that rely on the definition. This definition is not amended by Proposed Plan Change 1.
27. Similarly, Proposed Plan Change 1 introduces new definitions from the NESPF (such as ‘afforestation’, ‘harvesting’, ‘mechanical land preparation’ and ‘replanting’) to the NRP and also proposes new provisions in the NRP to manage plantation forestry activities, including the newly defined activities. As such (and as with the operative NRP), the amendments introduced through Proposed Plan Change 1 relate to plantation forestry and are not relevant to, and do not regulate, commercial forests for carbon sequestration purposes.

NESPF versus NESCF

28. As set out above, in November 2023 the NESPF was amended to become the NESCF. NZCF’s submission summarises the amendments to the NESPF as follows:
- “The intention of the amended regulations is to better manage the effects of large-scale forestry on the environment. The 2023 amendments*
- *enable councils to consider more factors when making rules about forestry in their plans, including its location;*
 - *require carbon foresters (as with plantation foresters) to plan out how they will meet environmental requirements for different forestry activities on their sites;*
 - *update and expand the requirements that applied to plantation foresters;*
 - *state clear rules for carbon forest harvest should this be undertaken.*
 - *introduce a range of operational changes including a new permitted activity standard for managing forestry slash at harvest and new requirements around management of wilding trees; and*
 - *provide nationally consistent regulations to manage the environmental effects of forestry.”*

29. Importantly, the NESCF does not only apply to plantation forestry, but is expanded to cover 'commercial forestry' that is defined as:

"commercial forest or commercial forestry means exotic continuous-cover forestry or plantation forestry".

30. 'Exotic continuous-cover forestry' is defined as:

"exotic continuous-cover forest or exotic continuous-cover forestry—

- (a) means a forest that is deliberately established for commercial purposes, being at least 1 ha of continuous forest cover of exotic forest species that has been planted and—*
 - (i) not be harvested or replanted; or*
 - (ii) is intended to be used for low-intensity harvesting or replanted; and*
- (b) includes all associated forestry infrastructure; but*
- (c) does not include—*
 - (i) a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or*
 - (ii) forest species in urban areas; or*
 - (iii) nurseries and seed orchards; or*
 - (iv) trees grown for fruit or nuts; or*
 - (v) long-term ecological restoration planting of indigenous forest species; or*
 - (vi) willows and poplars space planted for soil conservation purposes."*

31. The Section 32 Report (Part D) includes a consideration to the provisions for plantation forestry in Proposed Plan Change 1 with reference to the NESPF and NESCF as follows:

"88. The National Environmental Standards for Commercial Forestry (NES-CF) will, from 03 November 2023, supersede the NES-PF. The NES-CF will regulate commercial forestry activities for both carbon and timber production (plantation) forests. Plan Change 1 will introduce new provisions for forestry for the management of best practice to reduce sediment from sites. It is not expected that the NES-CF will impact on the approach being taken to manage forestry in Plan Change 1, and the new provisions will prevail over NES-CF rules.

...

In these FMUs, plantation forest management is currently only subject to the regulations of the NES-PF, that came into force on 1 May 2018. From 03 November 2023, the NES-PF will be replaced by the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2023 (NES-CF). The NES-CF extends the NES-PF to cover carbon forests as well as plantation forests, so the Plan Change 1 provisions applying to forestry are expected to remain appropriate with respect to the NES-CF, with some amendments to terminology. As the NES-CF will not be in effect at the date of notification of Plan Change 1, any amendments will be managed through the submissions and decision-making process."

32. Similarly, the ‘Section 42A Hearing Report Hearing Stream 1’ dated 3 October 2024 states the following:

“37. While PC1 was prepared and notified under the NES-PF, the Council anticipated that any amendments that may be required to align with the NES-CF could be managed through the submissions and decision-making process.”

33. My understanding of these statements in the Section 32 Report and Section 42A Report for Hearing Stream 1 is that, at the time of drafting Proposed Plan Change 1, it was anticipated that the NESCF would be unlikely alter the way in which the Proposed Plan Change 1 provisions work alongside the NESPF (and subsequently the NESCF) to manage forestry activities and that any refinements can be made through submissions and decision-making. The Section 32 is not clear in respect of the implications in respect of commercial forests for carbon sequestration purposes (or exotic continuous-cover forests).
34. NZCF’s submission³ is that, while the submission and decision-making process can address the alignment of the provisions of the Proposed Plan Change with the NESCF, submissions and decision-making cannot be used to expand the scope of the Proposed Plan Change to also address discharges commercial forests for carbon sequestration purposes. That is, NZCF’s submission is that the management of discharges from ‘carbon forests’, or ‘carbon forests’ more generally, is outside the scope of Proposed Plan Change 1.
35. I note that this matter was traversed at a high level in Hearing Stream 1. The ‘Legal submissions in reply on behalf of Greater Wellington Regional Council – matters arising from Hearing Stream 1’ dated 29 November 2024 respond to the Hearing Panel’s Minute 3 and address the relationship between the NES-PF and NES-CF as follows:

“38 In Minute 3, at paragraph 13, the Panels have made the following request:

We request that the Council’s legal team please provide more information on the relationship between the NES-PF and NES-CF, in light of submissions from NZ Carbon Farming Group (S263) and China Forest Group Company NZ Ltd (S288). In particular, are the transitional provisions in the NES-CF sufficient to read all references in PC1 to the NES-PF as the ‘NES-CF’? Does this raise any issues where activities were not regulated under the NES-PF? For example, R128 excludes from the list of permitted activities, those activities regulated by the NES-PF. Are there any issues with reading this now as a reference to the NES-CF if the scope of the activities regulated by the NES-CF is different from those regulated by the NES-PF?

- 39 *The NES-PF was promulgated in July 2017. On 3 November 2023, its name was amended to NES-CF by regulation 4 of the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023. Other substantive amendments were also made at that time. In addition, in respect of the name change, the*

³ Submission reference S263.003 (opposed by the further submission made by Forest and Bird (FS23.374)).

following provision was inserted as clause 1, Schedule 1, Part 2 of the NES-CF (emphasis added):

Every reference in any enactment and in any document to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 must, unless the context otherwise provides, be read as a reference to the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017.

...

- 44 *In response to the specific question from the Panels, the NRP is a document that currently references the NES-PF. Given this, it is submitted that based on the transitional clause set out at paragraph 40 above, the references within the NRP and PC1 to the NES-PF, need to be read as references to the NES-CF. Accordingly, regardless of whether or not the provisions are changed by the Council through PC1 to expressly say 'NES-CF' in place of 'NES-PF', they need to be read that way based on the transitional clause.*
- 45 *Accordingly, we consider that the references in the NRP and PC1 can, and should, now be read as references to the NES-CF.*
- 46 *However, the Council still needs to undertake the steps above to ensure there are no unintended consequences or conflict or duplication that arise from the changes to the NES in the provisions of PC1, and the section 42A authors will address that in the relevant hearing streams. Mr O'Brien has done so in respect of Rules R128 and R132 in his Beds of Lakes and Rivers section 42A report."*
36. In my view, replacing references to the NESPF with references to the NESCF in Proposed Plan Change 1, including through the introduction of the NESCF definition of 'commercial forestry', and the use of this term in associated provisions, has consequences that require consideration by virtue of expanding the scope of the provisions to the management of exotic continuous-cover forestry, alongside plantation forestry.

Section 42A Report recommendations in relation to including the NESCF

37. The Section 42A Report relies on the legal submissions set out above as follows and reaches the following conclusions in respect of the NESCF:

"40. *PC1 proposes new provisions for forestry to reduce sediment from forestry sites entering freshwater. The PC1 provisions prevail over the NES-CF rules. Although PC1 was prepared and notified while the NES-PF was still in place, the Council anticipated that any amendments that may be required to align with the NES-CF could be managed through the submissions and decision-making process for PC1. As noted in the legal submissions in the Right of Reply for Hearing Stream 1, based on the transitional clause in Regulation 4 of the NES-CF, references within the NRP and PC1 to the NES-PF need to be read as references to the NES-CF, unless the context provides otherwise.*

- ...
351. *In response to the submissions from GWRC and Dougal Morrison seeking references to the NES-PF in PC1 be replaced with the NES-CF. I note that as notified the only place the NES-PF is referred to in this topic is the definitions, where definitions for identified plantation forestry activities from the NES-PF are reflected in PC1. This is because the note under Rule WH.R19 and P.R18 incorrectly refers to the NES-FW. I note concerns about references to the NES-PF needing to be changed to the NES-CF have been addressed by Mr O'Brien in his s42A report on the Region Wide Changes topic in Hearing Stream 1. I agree with Mr O'Brien that any reference to the NES-PF in the NRP or PC1 is already required to be read as a reference to the NES-CF (unless the context provides otherwise) and therefore recommend these submissions be accepted in part.*
352. *I note the submissions that suggest changes to the NES-PF since PC1 was notified, and GWRC submissions seeking amendments to the plantation forestry rules to include replanting, bring the scope of PC1 into question. NZCF considers that whilst submission and decision-making processes can address alignment of PC1 provisions with the NES-CF, submissions and decision-making cannot be used to expand the scope of PC1 to also address 'carbon forests' and considers management of discharges from 'carbon forests', or 'carbon forests' more generally, is outside the scope of PC1. NZCF also considers PC1 provisions cannot prevail over the NES-CF because the note about specific rules prevailing refers to the NES-PF and reference to the NES-CF was not included in PC1 as notified.*
353. *I agree that carbon forests were not included in the NES-PF however PC1 as notified did address vegetation clearance which by definition would capture carbon forests. Therefore I consider that carbon forests were included in the scope of PC1 and that reference to commercial forestry (including carbon forests) in PC1 is appropriate. As NZFFA, Juken NZ and CFG seek no relief I make no recommendation. I recommend the submissions from NZCF be accepted in part."*

38. In terms of Proposed Plan Change 1 addressing vegetation clearance and therefore also addressing carbon forests, such that carbon forests are within the scope of Proposed Plan Change 1, it is not clear to me how this is the case in respect of scope. In my view, vegetation clearance is a very different activity to the establishment and management of a permanent carbon forest.
39. I note that the operative NRP includes a definition of 'vegetation clearance' that applies generally and Proposed Plan Change 1 includes a further definition of 'vegetation clearance' that (as notified) is intended to apply to plantation forestry. These definitions are as follows:

Operative NRP definition of 'vegetation clearance'

"The clearance or destruction of woody vegetation (exotic or native) by mechanical or chemical means, including felling vegetation, spraying of vegetation by hand or aerial means, hand clearance, and the burning of vegetation.

Vegetation clearance does not include:

- (a) any vegetation clearance, tree removal, or trimming of vegetation associated with the Electricity (Hazards from Trees) Regulations 2003, and
- (b) any vegetation clearance or vegetation disturbance covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, and
- (c) any vegetation clearance associated with the repair and maintenance of existing roads and tracks, and
- (d) the removal of an individual shrub or tree or a standalone clump of trees or shrubs no larger than 20m²."

Proposed Plan Change 1 definition of vegetation clearance (as notified):

"Vegetation clearance (for the purposes of Rules WH.R20, WH.R21 and P.R19, P.R20)

Has the same meaning as given in section 3 of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017."

- 40. Vegetation clearance carried out before afforestation is not regulated by the NESCF but vegetation clearance as an ancillary activity is regulated by the NESCF (Regulation 5). This means that vegetation clearance that occurs prior to afforestation is a matter regulated by rules in regional or district plans, whereas indigenous vegetation clearance as an activity ancillary to commercial forestry is managed by territorial authorities under Regulations 93 and 94 of the NESCF and non-indigenous vegetation clearance as an activity ancillary to commercial forestry is managed by territorial authorities and regional councils under Regulation 95 of the NESCF.
- 41. In all, the Section 42A Report supports the replacement references to the NESPF with references to the NESCF. The Report also recommends that 'commercial forestry' be included as a new defined term for the following reasons:

"285. To the extent a definition that relies on a higher order document is required in this topic, to assist with plan interpretation, I consider that definitions relating to higher order documents should reflect the definitions of the most up to date version of that higher order document. I note that the general approach in the NRP (but not in all cases) is that definitions relating to higher order documents generally cross-reference to the relevant section of the higher order document. For example in the case of the definition of commercial forestry:

Commercial forestry: Has the same meaning as given in section 3 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations

...

- 315. *I agree with the submission from GWRC seeking a definition of 'commercial forestry' consistent with the NES-CF and recommend this definition is added to PC1. While noting I am recommending that most PC1 provisions as they relate to forestry be deleted, I am recommending retention of one policy in each Whaitua to provide policy direction in the event the NES-CF permitted activity standards cannot be met and a consent is required. I consider that reference to commercial forestry in these policies is necessary to support*

implementation. I therefore recommend these submissions be accepted. I also recommend the inclusion of a new definition for 'commercial forestry' and 'commercial forestry activity or activities' consistent with the definitions in section 3 of the NES-CF, to support implementation of Rules WH.R20, P.R19 and Policies WH.P28 and P.P26 and my recommended explanatory text about the relationship between PC1 and the NES-CF. I also recommend a new definition for 'forestry management plan' to reflect the new management plans in Schedule 34A, 34B and 34C.

316. *I acknowledge there are no submissions related to these definitions but my recommended amendments are within the scope of the plan change and in my opinion are consequential amendments that are necessary to support implementation."*

42. I do not support the Section 42A Report recommendation to include a definition of 'commercial forestry' in the Proposed Plan Change 1 provisions, along with the introduction of that term in various provisions in Proposed Plan Change 1 (being Rules WH.R20 and P.R19 and Policies WH.P28 and P.P26) on the basis that the consequences have not been adequately considered. This is because the amendments alter the scope of Rules WH.R20, P.R19 and Policies WH.P28 and P.P26 by making exotic continuous-cover forestry subject to these provisions when exotic continuous-cover forestry was not subject to these provisions in Proposed Plan Change 1 as notified. It is further noted that no consideration has been given to how the establishment of indigenous continuous-cover forestry is to be managed.
43. In making this recommendation, the Section 42A Report has failed undertake the consideration anticipated in the 'Legal submissions in reply on behalf of Greater Wellington Regional Council – matters arising from Hearing Stream 1', set out above, and has also failed to properly evaluate the necessity, efficiency and effectiveness of the provisions under section 32AA of the RMA, including the extent to which there is a need to depart from the NESCF regulations in the case of exotic continuous-cover forestry with reference to Section 32(4) of the RMA that requires the following:

"(4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect."

Consequence of referencing the NESCF in Proposed Plan Change 1

44. With reference to the provisions of Proposed Plan Change 1, as recommended for amendment, the key consequence is that exotic continuous-cover forestry is regulated by Rules WH.R20 and P.R19. That is, the Rules require resource consent for a restricted discretionary activity for afforestation, harvesting, earthworks, vegetation clearance (commercial forestry), replanting or mechanical land preparation for commercial plantation forestry, and any associated discharge of sediment to a surface water body, where the most

recent Wellington Regional Council monitoring record measure of visual clarity for the relevant catchment does not meet the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Table 9.2. Proposed Plan Change 1 directs that the Rules prevail over many of the NESCF Regulations as follows (with recommended amendments shown):

"Part 2 Regulation of ~~commercial~~ ~~plantation~~ forestry activities

Subpart 1—Afforestation

Regulations 9(2), 10, ~~10A~~ 14(3), 15(5), 16(2), 17(1), 17(3), and 17(4)

Subpart 3—Earthworks

Regulations 24 to 35

Subpart 6—Harvesting

Regulation ~~63(2)~~, 64, as far as these apply to a Regional Council, 65 to 69, 70(3) and (4), and 71

Subpart 7—Mechanical land preparation

Regulations 73(2), 74, and 75

Subpart 8—Replanting

Regulations 77(2), ~~77A~~, 78(2), and (3), ~~78A~~, 80, and 81(3) and (4)

Subpart 9—Ancillary activities

~~Regulations 89 and 90~~ Regulation 95, as far as this applies to a Regional Council

Subpart 10—General provisions (including discharges of sediment) Regulation 97(1)(~~a~~), (b), (~~c~~), (~~d~~), (~~e~~) and (f) ~~and (g)~~"

45. Amending the rules so that they apply to commercial forestry therefore imposes a more stringent rule on exotic continuous-cover forestry than those in the NESCF.

Justification for more stringent rules

46. While the Section 42A Report does not include a distinct evaluation of the need for rules that are more stringent than the NESCF for exotic continuous-cover forestry under section 32(4) of the RMA⁴, the Report, at paragraph 188, states the following:

"188. Dougal Morrison considers rules need to be appropriate to the type of forest being managed and suggests commercial forests using a continuous cover approach should be a permitted activity. The submitter also suggests that if highly erodible land is unable to be replanted post-harvest it will result in unmanaged forests and associated problems and seeks deletion of Rule P.R19. I disagree that afforestation for continuous cover forestry

⁴ "(4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect."

should be permitted in all situations as the location of this forestry may have impacts on water quality in the event it is harvested in future. The ability for Council to retain some discretion over the location of these forests is therefore important. I note that PC1 will only control harvesting activities, and in this way if the continuous cover approach is consistent with the definition of low-intensity harvesting in the NES-CF this activity will continue to be managed by the NES-CF. If harvesting of permanent forest is proposed this will be a discretionary activity under the NES-CF by virtue of the note above Rule WH.R20 and P.R19 which identifies regulations of the NES-CF over which PC1 prevail. I also note Rules WH.R20 and P.R19 do not direct the prohibition of afforestation or replanting. As the submitter seeks deletion of P.R19 and I am recommending retaining Rule P.R19 subject to my recommended amendments, I recommend this submission be rejected."

47. In response to the matters in paragraph 188, I comment as follows:

- a. It is incorrect to state that continuous cover forestry may be harvested in the future because, by definition, an exotic continuous-cover forest is a forest that will not be harvested.
- b. the Section 42A Report overstates the ability for an exotic continuous-cover forest to be permitted in all situations and locations and, in doing so, fails to give consideration to the constraints on the location of such forests in the NESCF, along with the standards in the NESCF that apply. That is, in respect of location:
 - i. afforestation must not occur within a significant natural area or an outstanding natural feature or landscape as a permitted activity (Regulation 12).
 - ii. afforestation must not occur within a visual amenity landscape as a permitted activity if rules in the relevant plan restrict commercial forestry activities within that landscape (Regulation 13).
 - iii. afforestation must not occur within a suite of setbacks as a permitted activity, including waterbody setbacks (Regulation 14)⁵.
- c. It is incorrect to state that Proposed Plan Change 1 will only control harvesting activities so that if the continuous cover approach is consistent with the definition of low-intensity harvesting in the NES-CF this activity will continue to be managed by the NES-CF. As I understand it, with reference to Rules WH-R20 and P.R19 (as recommended for amendment), Proposed Plan Change 1 introduces the Rule to manage afforestation,

⁵ (a) within 5 m of—

- (i) a perennial river with a bankfull channel width of less than 3 m; or
- (ii) a wetland larger than 0.25 ha; or

(b) within 10 m of—

- (i) a perennial river with a bankfull channel width of 3 m or more; or
- (ii) a lake larger than 0.25 ha; or
- (iii) an outstanding freshwater body; or
- (iv) a water body subject to a water conservation order; or
- (v) a significant natural area; or

(c) within 30 m of the coastal marine area.

harvesting, earthworks, vegetation clearance (commercial forestry), replanting or mechanical land preparation.

48. In my view, there is no justification for Proposed Plan Change 1 taking an approach to exotic continuous-cover forestry that is more stringent than the NESCF because:
- a. there is no clear rationale, or direct causal relationships established, such that regulating forestry activities is necessary;
 - b. the approach is inconsistent with the conclusions of the Waitua committees;
 - c. no distinction has been made between different forest types (production versus exotic continuous-cover), and the related differences in potential adverse effects in respect of erosion, sediment discharge and water quality have not been considered;
 - d. no distinction has been made between different forestry activities, and the related differences in potential adverse effects in respect of erosion, sediment discharge and water quality have not been considered; and
 - e. the benefits of exotic continuous-cover in terms of climate change response, and also in terms of erosion, sediment discharge and water quality (when compared to other land uses) have not been considered.
49. I address these matters in turn below, and note that in some cases my observations are equally applicable to production forestry.

Rationale for regulating forestry, and particularly exotic continuous-cover forestry

50. The Section 42A Report, at paragraphs 193 to 200, considers various statements of technical evidence that have been filed in respect of Hearing Stream 3 and relies on the conclusion in Mr Greer's evidence that from a scientific perspective forestry activities generate sediment and can be said to be contributing to visual clarity TAS not being met in pFMU's where improvement is required.
51. I have reviewed this evidence and note that it does not explicitly distinguish which forestry activities or types of forests may contribute to visual clarity TAS not being met. I further note that Mr Greer's evidence is somewhat more nuanced or qualified. In this regard, he states:

"32. *It is my understanding that the forestry provisions of PC1 are not driven by a scientific argument that they are necessary to achieve the suspended fine sediment TASs in Table 8.4 and 9.2 of PC1. Rather, they are at least partially driven by a policy viewpoint on equity. Specifically, PC1 requires significant reductions in sediment losses from agricultural land-use to meet the suspended fine sediment TAS. Thus, all sediment losing activities should be treated in a similar fashion. Whether this approach is appropriate is a policy matter outside my scope of evidence. However, I am able to comment on submissions expressing concern regarding the general lack of scientific inputs supporting the need for PC1 to regulate forestry activities.*

...

35 *While it is my opinion there is evidence to suggest that forestry contributes to suspended sediment TASs not being met in those catchments where it is conducted, I agree with submissions that raise the concerns outlined in paragraph 33.2 to 33.3. Specifically:*

35.1 *The extent to which the notified PC1 provisions will reduce sediment losses has not been considered through the whitua or PC1 development processes; and*

35.2 *The extent to which the NES-CF will reduce sediment losses has not been considered through the whitua or PC1 science processes.*

Thus, it is uncertain whether either the PC1 provisions or the NES-CF will contribute to the TAS being met, or that one will achieve demonstrably greater sediment losses than the other. Whether this justifies amendments to the provisions is outside the scope of my evidence, given they were not drafted on the basis of scientific need, but equity (see paragraph 32 above)."

52. In my view, Mr Greer's evidence supports the view expressed by NZCF (and others) in submissions that there is not sufficient justification for a more stringent rule to apply to forestry activities and associated discharges.
53. At paragraph 1994, the Section 42A Report considers the efficacy of the NES-CF and, based on the advice from Council officers and Mr Reardon concludes that the NES-CF has its limitations and adverse effects from sediment on water quality are (on occasion) occurring in these Whitua because good management practice is not always being followed.
54. I have reviewed Mr Reardon's evidence, I understand that the limitations he identifies in respect of water quality relate to specific forestry activities (harvesting and related activities), rather than all forestry activities. I consider that this suggests that any more stringent provision in the NRP should be particularly targeted to address these limitations, as opposed to the recommended approach that regulates all forestry activities.

Conclusions of Whitua committees

55. At paragraph 191, the Section 42A Report notes that both the Whitua committees have considered whether rules more stringent than the NESPF are required to achieve sediment objectives and both committees concluded that the NESPF should be given time to be implemented with, instead focus being on improving resourcing and capability for monitoring and enforcement and forestry operations being carried out in compliance with good practice. The Section 42A Report acknowledges that Proposed Plan Change 1 is in contrast to the committee recommendations.

Different types of commercial forestry

56. The Section 42A Report does not clearly make a distinction between the different types of commercial forestry, and the associated difference in potential adverse effects on the environment of different types of forestry. Whereas, in my opinion, the potential adverse effects of exotic continuous-cover forests differ significantly to production forests because there is no harvesting component.

57. In this regard, I note that the technical evidence of James Blyth does distinguish permanent/continuous cover forests on the basis that such forests are unlikely to be harvested and he notes that they are considered to have similar long term sediment generation rates as native forests once mature.⁶
58. On this basis, it is my opinion that Proposed Plan Change 1 should reflect the different forest types, and different potential adverse effects of those forest types by taking a more nuanced approach to the forests, and/or forestry activities, where more stringent rules may be required.

Different types of forestry activities

59. Having reviewed the technical evidence filed in relation to Hearing Stream 3, it is my view this evidence generally identifies activities associated with the harvesting of forests as being the type of activities that give rise to potential adverse effects in respect of erosion, sediment load and water quality. The evidence does not identify adverse effects of afforestation and, conversely (as set out above, and again below in relation to benefits) suggests that continuous-cover forests deliver reduced sediment load when compared to other land uses. For instance, in his evidence, Mr Blyth identifies that sediment loads increase from forestry activities during road construction and harvest operations, and post-harvest/replanting.⁷
60. I consider that Mr Blyth's evidence supports my view that there is no justification for departing from the NESCF regulations in the case of exotic continuous-cover forestry because such forests are not harvested give rise to increase in sediment load. Rather, I consider that it is counterintuitive to include provisions in the NRP that are more stringent than the NESCF for an activity that gives rise to lesser erosion and sediment loads when compared to other land use activities. The outcome sought by Proposed Plan Change 1 would be better supported by provisions that encourage continuous-cover forests.
61. That said, I acknowledge that the Section 42A Report considers the merits of excluding afforestation from the rules and comments as follows:

"216. ... In response to the request for exclusion of afforestation from the rules, I disagree. Setbacks from waterbodies when planting new forest (afforestation) are important for minimising sediment entering surface water during future earthworks and harvest phases and I consider that the appropriateness of afforestation, specifically the location of any afforestation, should be evaluated as part of a consent application where it is proposed in a pFMU that is not meeting TAS."

62. I do not agree with this conclusion because:
- a. the activities of concern relate to earthworks and harvesting activities that are regulated (and therefore can be managed) by the rules in any case;

⁶ At paragraph 21.

⁷ At paragraph 23.

- b. setbacks and other standards in the NESCF could apply to afforestation in any case, depending on how afforestation is provided for as a permitted activity (either through the NESCF or as a more lenient rule; and
- c. the activities of concern do not relate to continuous-cover forests and therefore this supports my view that there is no need for Proposed Plan Change 1 to include provisions that are more stringent for exotic continuous-cover forestry.

Benefits

63. As set out in NZCF's submission, continuous-cover forests make a significant contribution to New Zealand's response to climate change. NZCF's submission makes the point that not establishing new forest and preventing replanting and harvest beyond current harvest would be contrary to New Zealand's climate change policy. While the Section 42A Report, at paragraph 163 concludes that Proposed Plan Change 1 is not contrary to the Emissions Reduction Plan, I do not agree. The Emissions Reduction Plan identifies the following 'key actions' to support the role of forestry in meeting New Zealand's 2050 targets:

"Support afforestation by:

- considering amendments to the New Zealand Emissions Trading Scheme (NZ ETS) and resource management settings to achieve the right type and scale of forests, in the right place*
- supporting landowners and others to undertake afforestation, particularly for erodible land*
- providing advisory services to land users, councils, Māori and other stakeholders to support choices for sustainable afforestation.*

Encourage native forests as long-term carbon sinks through reducing costs and improving incentives.

Maintain existing forests by exploring options to reduce deforestation and encourage forest management practices that increase carbon stocks in pre-1990 forests.

Grow the forestry and wood processing industry to deliver more value from low-carbon products, while delivering jobs for communities."

64. In my opinion, provisions that are more stringent than the NESCF fail to 'support afforestation' and are, at least, inconsistent with the Emissions Reduction Plan.
65. In addition, I note that, at paragraph 165, the Section 42A Report states:

"The outcome Council is seeking through RPS Change 1 is continuous land cover of woody vegetation on highly erodible land prone to mass movement to avoid long-term erosion and sedimentation issues. This can be achieved through continuous cover forestry management or ideally through regeneration or restoration of native vegetation. Based on the evidence of Mr Blyth, permanent forests provide the best results in terms of sediment loss and therefore are the most appropriate land cover for long term protection from erosion and sediment risks."

66. In this regard, the Report makes a very clear statement that permanent forests 'provide the best results'. On this basis, it is my conclusion that there is no rationale for rules that are more stringent than the NESCF to apply to continuous-cover forestry or afforestation.

Conclusion

67. In my view, the recommendation to amend the provisions of Proposed Plan Change 1 to reference the NESCF (and provisions therein) is more significant than an update or word swap. Rather, it is my view that, in this context, the consequences materially change the scope and regulatory impact of Proposed Plan Change 1 in respect of carbon forestry in a manner that has not been sufficiently or rigorously tested, including in terms of section 32AA of the RMA.
68. For this reason, I consider that expanding the scope may not be an available response to the NESCF and I further conclude that clause 1, Schedule 1, Part 2 of the NESCF only applies 'unless context otherwise provides' and, as such, the Proposed Plan Change 1 context and consequences must be considered.
69. Should the Hearing Panel determine that the recommended amendments to Proposed Plan Change 1 that introduce the NESCF into the proposed provisions, and consequently extent the scope of the Proposed Plan Change to the regulation of exotic continuous-cover forestry or 'carbon forestry', has been insufficiently evaluated or beyond the scope of what was notified, it is my view that:
- a. There is not a regulation 'void' because the NESCF would continue to regulate exotic continuous-cover forestry, including the potential impacts on water quality, which is the key impact being managed by Proposed Plan Change 1 as a freshwater planning instrument. Therefore 'doing nothing' is a valid and appropriate approach.
 - b. Alternatively, it is similarly more appropriate to address 'carbon forestry' by way of variation to Proposed Plan Change 1 so that any proposed provisions can be properly evaluated under the necessary statutory tests and subject to submissions.
70. Should the Hearings Panel determine that the Proposed Plan Change 1 should introduce the NESCF into the proposed provisions it is my view that the Rules (in particular) should be amended in light of my conclusions in respect of continuous-cover exotic forestry and afforestation set out above.

Plantation Forestry Rules (Rule WH-R.20, Rule WH-R.21, Rule WH-R.22, Rule P.R19, Rule P.R20 and Rule P.R21)

71. NZCF's submission⁸, and alternate relief in relation to the various plantation forestry rules:

⁸ Submission references S263.022, S263.023, S263.24, S263.027, S263.028 and S263.029 (opposed by the further submissions made by Forest and Bird (various)).

- a. Opposes Rules WH-R.20 and P.R19 on the basis that the Section 32 Report does not establish that controlled activity status is necessary or appropriate where the standards in the proposed Rule are met. The submission notes that the purpose of the Proposed Plan Change 1 is to reduce sediment in rivers and that complying with the 'standards' will achieve this such that the need for a resource consent to confirm compliance is unnecessarily onerous. Further, consistent with the purpose of the Proposed Plan Change, NZCF considers that the proposed Rule goes beyond the management of discharges by managing activities more generally despite there not always being a direct causal relationship and without consideration of methods that do not result in discharges. NZCF seeks that the Rule is amended to directly relate to the purpose of the Proposed Plan Change 1. In addition, NZCF does not support the 'standard' in clause (d) because:
 - i. the frequency of Council monitoring is not sufficiently certain, that is, NCZF considers that the standard could inappropriately result in a circumstance where, if an exceedance is detected, and then Council does not undertake further monitoring for some time, a more stringent activity status is applied (for want of further monitoring by a third party);
 - ii. it is not appropriate for a more stringent activity status to apply in circumstances where the activities of third parties in the catchment cause an exceedance, rather it is more appropriate to establish standards for discharges at the source and confine the standards to the matters the party undertaking the activity can control.
- b. Opposes Rules WH-R.21 and P.R20 on the basis that the proposed Rule goes beyond the management of discharges by managing activities more generally despite there not always being a direct causal relationship and without consideration of methods that do not result in discharges and seeks that the Rule is amended to directly relate to the purpose of the Proposed Plan Change. In addition, NZCF is of the view that potential adverse effects of a discharge of sediment to a river are sufficiently known and confined such that restricted discretionary activity status is the most appropriate activity status to apply in circumstances where the standards are not met and suggests that the 'matters of control' in Rule P.R19 are appropriate to apply as 'matters of discretion'
- c. Opposes Rules WH-R.22 and P.R21 and seeks their deletion because:
 - i. there is neither a strong evidential basis nor objectives and policies (including in the WRPS, the NRP and the Proposed Plan Change) to justify applying the most extreme stringent activity status to plantation forestry in particular locations;
 - ii. the proposed Rule is overly stringent in circumstances where the activities addressed by the Rule can be undertaken in a way that does not result in sediment discharges to rivers, such as afforestation being undertaken in a manner that does not result in discharges;

- iii. It is possible that the Rule could result in an increase in discharges of sediment to rivers because the continued use of the identified area for forestry is likely to reduce discharges over the life of a forest to a greater extent than other uses of the land, including retirement.
- iv. applying prohibited activity status to one use of highest erosion risk land is not even-handed on the basis that other potential land uses are not similarly managed and it is noted that a more even-handed rule would be more directly related to the potential adverse effects of activities;
- v. the rule prevents an activity as a whole in an ill-defined area where there is no direct causal relationship such that prohibited activity status is appropriate or necessary;
- vi. prohibited activity status is inconsistent with, and contrary to, the recommendations of Te Whaitua te Whanganui-a-Tara Implementation Programme and Te Awarua-o-Porirua Whaitua: Whaitua Implementation Programme; and
- vii. prohibited activity status is contrary to the New Zealand's Emissions Reduction Plan and New Zealand's National Adaptation Plan.

72. In addition to the deletion of Rules WH-R.22 and P.R21, the alternate relief sought by NZCF is as follows:

"[Rule WH-R20/Rule P.R19] Plantation forestry – ~~permitted controlled~~ activity

The discharge of sediment to a surface waterbody associated with a ~~A~~ forestation, harvesting, earthworks, vegetation clearance or mechanical land preparation for plantation forestry, and any associated discharge of sediment to a surface water body, is a permitted controlled activity providing the following conditions are met:

- (a) the land is not high erosion risk land (pasture) or highest erosion risk land (pasture) that was in pasture or scrub on 30 October 2023, and*
- (b) an erosion and sediment management plan has been prepared in accordance with Schedule 34 (forestry plan), certified by a registered forestry adviser and submitted with the application for resource consent under this rule, and*
- (c) the concentration of total suspended solids in the discharge from the plantation forestry shall not exceed 100g/m³, except that, if at the time of the discharge the concentration of total suspended solids in the receiving water at or about the point of discharge exceeds 100g/m³, the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:*
 - (i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or*
 - (ii) 30% in any other river, ~~and~~*

~~(d) the most recent Wellington Regional Council monitoring record demonstrates that the measure of visual clarity for the relevant catchment does not exceed the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Table 8.4.~~

Matters of control

- ~~1. The content of the erosion and sediment management plan, including the actions, management practices and mitigation measures necessary to ensure that discharge of sediment will be minimised, and will not increase the average annual sediment load for the part Freshwater Management Unit in which the plantation forestry is located~~
- ~~2. The area, location and methods employed in the plantation forestry~~
- ~~3. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent (including auditing of information) to demonstrate and/or monitor compliance with the resource consent and the erosion and sediment management plan~~
- ~~4. The timing, frequency and requirements for review, audit and amendment of the erosion and sediment management plan.”~~

~~“[Rule WH-R21/Rule P.R20]: Plantation forestry – restricted discretionary activity~~

~~The discharge of sediment to a surface water body associated with a~~afforestation, harvesting, earthworks, vegetation clearance or mechanical land preparation for plantation forestry ~~and any associated discharge of sediment to a surface water body that does not comply with one or more of the conditions of Rule WH.R20 and is not a prohibited activity under Rule WH.R22 is a~~ restricted discretionary activity.

Matters of discretion

- ~~1. The content of the erosion and sediment management plan, including the actions, management practices and mitigation measures necessary to ensure that discharge of sediment will be minimised, and will not increase the average annual sediment load for the part Freshwater Management Unit in which the plantation forestry is located~~
- ~~2. The area, location and methods employed in the plantation forestry~~
- ~~3. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent (including auditing of information) to demonstrate and/or monitor compliance with the resource consent and the erosion and sediment management plan~~
- ~~4. The timing, frequency and requirements for review, audit and amendment of the erosion and sediment management plan.”~~

73. The Section 42A Report recommends that Rules WH.R21, WH.R22, P.R20 and P.R21 are deleted and that Rules WH-R20 and P.R19 be amended as follows:

~~“[Rule WH-R.20/Rule P.R19]: Commercial Plantation forestry – controlled activity/restricted discretionary activity~~

~~Afforestation, harvesting, earthworks, vegetation clearance (commercial forestry), replanting or mechanical land preparation for commercial plantation forestry, and any associated discharge of sediment to a surface water body, where the most recent Wellington Regional Council monitoring record measure of visual clarity for the relevant catchment does not meet the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Table 9.2, is a restricted discretionary activity, providing the following conditions are met:~~

- ~~(a) the land is not high erosion risk land (pasture) or highest erosion risk land (pasture) that was in pasture or scrub on 30 October 2023, and~~
- ~~(b) an erosion and sediment management plan has been prepared in accordance with Schedule 34 (forestry plan), certified and submitted with the application for resource consent under this rule, and~~
- ~~(c) the concentration of total suspended solids in the discharge from the plantation forestry shall not exceed 100g/m³, except that, if at the time of the discharge the concentration of total suspended solids in the receiving water at or about the point of discharge exceeds 100g/m³, the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:~~
 - ~~(i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or~~
 - ~~(ii) 30% in any other river, and~~
- ~~(d) the most recent Council monitoring record demonstrates that the measure of visual clarity for the relevant catchment does not exceed the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Tables 9.1 and 9.2.~~

~~Matters of for control discretion~~

- ~~1. The content and implementation of the forestry erosion and sediment management plan(s), including the actions, management practices and mitigation measures necessary to ensure that soil erosion and the discharge of sediment will be minimised not increase the average annual sediment load for the part Freshwater Management Unit in which the plantation forestry is located, and~~
- ~~2. Adverse effects, including cumulative and localised adverse effects, on:~~
 - ~~(i) surface water bodies and coastal water, and particularly sites identified in Schedule A (outstanding water bodies), Schedule C (mana whenua), Schedule F (ecosystems and habitats with indigenous biodiversity), Schedule H (contact recreation and Māori customary use), Schedule I (important trout fishery rivers and spawning waters) and~~
 - ~~(ii) group drinking water supplies and community drinking water supplies~~
- ~~2. The area, location and methods employed in the plantation forestry~~

3. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent (including auditing of information) to demonstrate and/or monitor compliance with the resource consent and the ~~forestry erosion and sediment management plan(s)~~

4. The timing, frequency and requirements for review, audit and amendment of the forestry ~~erosion and sediment management plan~~"

74. For all of the reasons set out earlier in my evidence, I consider that it is necessary and appropriate to confine Rules WH-R.20 and P.R19 to those activities that have the potential in result in increased sediment load (as described in the relevant technical evidence). That is, I support the deletion of 'afforestation' from the Rules.
75. I note that such an approach is consistent with the way in which discharges are managed by Regulation 97 of the NESCF. That is, Regulation 97(1) provides for discharges of sediment into water, but does not include specific direction in respect of afforestation.
76. Further, consistent with NZCF's submission, I acknowledge that the Rules are provisions of a freshwater planning instrument and as such are to manage discharges to water. I consider that the Rules should be explicit in this regard so that it is clear that the Rules relate to the restrictions under section 15 of the RMA. That is, as drafted, the Rule appears to manage land uses, as well as discharges.
77. For this reason, I support an amendment to the Rules to provide greater clarity by appropriately confining the freshwater planning instrument provision to the activity the Rules are intended to manage. Such an approach is consistent with the Policies WH.P28 and P.P26 that are implemented by these Rules that make explicit reference to discharges.
78. The amendments to the Rules that I support, as alternate relief, are as follows:

"[Rule WH-R.20/Rule P.R19]: ~~Commercial Plantation~~ forestry – ~~controlled activity~~ ~~restricted discretionary activity~~

~~The discharge of sediment to a surface waterbody associated with Afforestation, harvesting, earthworks, vegetation clearance (commercial forestry), replanting or mechanical land preparation for commercial plantation forestry, and any associated discharge of sediment to a surface water body, where the most recent Wellington Regional Council monitoring record measure of visual clarity for the relevant catchment does not meet the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Table 9.2, is a restricted discretionary activity, providing the following conditions are met:~~

~~(a) the land is not high erosion risk land (pasture) or highest erosion risk land (pasture) that was in pasture or scrub on 30 October 2023, and~~

~~(b) an erosion and sediment management plan has been prepared in accordance with Schedule 34 (forestry plan), certified and submitted with the application for resource consent under this rule, and~~

~~(c) the concentration of total suspended solids in the discharge from the plantation forestry shall not exceed 100g/m³, except that, if at the time of the discharge the concentration of total suspended solids in the receiving water at or about the point of discharge exceeds 100g/m³, the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:~~

~~(i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or~~

~~(ii) 30% in any other river, and~~

~~(d) the most recent Council monitoring record demonstrates that the measure of visual clarity for the relevant catchment does not exceed the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Tables 9.1 and 9.2.~~

~~Matters of for control discretion~~

1. ~~The content and implementation of the forestry erosion and sediment management plan(s), including the actions, management practices and mitigation measures necessary to ensure that soil erosion and the discharge of sediment will be minimised not increase the average annual sediment load for the part Freshwater Management Unit in which the plantation forestry is located, and~~

2. ~~Adverse effects, including cumulative and localised adverse effects, on:~~

~~(i) surface water bodies and coastal water, and particularly sites identified in Schedule A (outstanding water bodies), Schedule C (mana whenua), Schedule F (ecosystems and habitats with indigenous biodiversity), Schedule H (contact recreation and Māori customary use), Schedule I (important trout fishery rivers and spawning waters) and~~

~~(ii) group drinking water supplies and community drinking water supplies~~

~~2. The area, location and methods employed in the plantation forestry~~

3. ~~The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent (including auditing of information) to demonstrate and/or monitor compliance with the resource consent and the forestry erosion and sediment management plan(s)~~

4. ~~The timing, frequency and requirements for review, audit and amendment of the forestry erosion and sediment management plan"~~

Note – Direction where the rules prevail

79. As a consequence of the amendments to Rules WH-R.20 and Rule P.R19 that I support (set out above), I consider that it is also necessary to revise the Note that accompanies the Rules and sets out where provisions prevail over the NESCF.

80. In this regard, I note that Proposed Plan Change 1 is intended to manage the discharges of sediment to water. On this basis, I am of the view that the only Regulation in the NESCF that

Proposed Plan Change 1 should prevail over is Regulation 97. For context, clause (1) of Regulation 97 reads as follows, noting the comprehensive requirement for compliance with a suite of other Regulations in the NESCF:

- “(1) Any discharge of sediment into water or to land in circumstances that may result in it entering water, disturbance of the bed or vegetation in the bed of a river or lake, or diversion of water associated with a commercial forestry activity is a permitted activity if subclauses (3) and (4) are complied with and—*
- (a) pruning and thinning to waste complies with regulations 19(2) and 20:*
 - (b) earthworks comply with regulations 24 to 33:*
 - (c) river crossings comply with regulations 37 to 46:*
 - (d) forestry quarrying complies with regulations 51(2), 52, 54(3) and (4), 55, 56, 58, and 59:*
 - (e) harvesting complies with regulations 63(2) and (3), 64, and 65 to 69:*
 - (f) mechanical land preparation complies with regulations 73(2) and 74:*
 - (g) slash traps comply with regulations 83(2) and 84 to 91.”*

81. On this basis, I support the following amendments to the Note that accompanies the Rules:

~~“Part 2 Regulation of **commercial** plantation forestry activities~~

~~Subpart 1 Afforestation~~

~~Regulations 9(2), 10, 10A 14(3), 15(5), 16(2), 17(1), 17(3), and 17(4)~~

~~Subpart 3 Earthworks~~

~~Regulations 24 to 35~~

~~Subpart 6 Harvesting~~

~~Regulation 63(2), 64, as far as these apply to a Regional Council, 65 to 69, 70(3) and (4), and 71~~

~~Subpart 7 Mechanical land preparation~~

~~Regulations 73(2), 74, and 75~~

~~Subpart 8 Replanting~~

~~Regulations 77(2), 77A, 78(2), and (3), 78A, 80, and 81(3) and (4)~~

~~Subpart 9 Ancillary activities~~

~~Regulations 89 and 90 Regulation 95, as far as this applies to a Regional Council~~

~~Subpart 10—General provisions (including discharges of sediment) Regulation 97(1)(a), (b), (c), (d), (e) and (f) and (g)”~~

OTHER PROPOSED PLAN CHANGE 1 PROVISIONS (ALTERNATE RELIEF)

Chapter 2: Interpretation – ‘Definitions’

‘Afforestation’, ‘Harvesting’, ‘Mechanical land preparation’, ‘Replanting’ and ‘Vegetation clearance (for the purposes of Rules WH.R20, WH.R21 and P.R19, P.R20)’

82. NZCF’s submission seeks, as alternate relief, the retention of the definitions of ‘afforestation’, ‘harvesting’, ‘mechanical land preparation’, ‘replanting’ and ‘vegetation clearance (for the purposes of Rules WH.R20, WH.R21 and P.R19, P.R20)’ on the basis that the term should be consistently understood where it is used in the provisions of the NRP, but noting that the proposed definition refers to the NESPF and as such does not address the establishment of permanent forests, including commercial forests for carbon sequestration purposes.⁹
83. The Section 42A Report recommends that the submission in respect of these definitions be accepted in part and comments as follows:

“287. I recommend PC1 retain the definitions for ‘Afforestation’, ‘Harvesting’, ‘Mechanical land preparation’ and ‘Replanting’. I note amendments to these definitions are required to recognise the NES-CF rather than the NES-PF. I therefore recommend the submissions from EDS and CFG be accepted and the submissions from PF Olsen, UHCC, NZCF and Forest & Bird be accepted in part.”

84. While noting my concerns in respect of replacing references to the NESPF with references to the NESCF, in the case of these definitions, with the exception of the ‘vegetation clearance’ definition, I do not consider that there are any unintended consequences in making the recommended amendment and I am of the view that the amendment is consistent with the intent of clause 1, Schedule 1, Part 2 of the NESCF.
85. In terms of the definition of ‘vegetation clearance’, I note that the Section 42A Report recommends that the definition be amended to refer to ‘vegetation clearance (commercial forestry)’. Given my reservations about the introduction of the term ‘commercial forestry’, and the consequences of the use of that term for exotic continuous-cover forestry, I do not support the recommended amendment and consider that the definition should retain the explicit cross-reference to the appropriate provisions in the NRP. That is, I support the following:

“Vegetation clearance (~~commercial forestry for the purposes of Rules WH.R20, WH.R21 and P.R19, P.R20~~for the purposes of Rules [add rules])”

‘Erosion and sediment management plan’

86. NZCF’s submission seeks the retention of the definition of ‘erosion and sediment management plan’ as notified where the definition is necessary to assist the implementation of the NRP, but notes uncertainty in terms of whether the definition is necessary.¹⁰

⁹ Submission references S263.011, S263.014, S263.016, S263.018, S263.019 (these submissions are opposed by further submissions made by Forest and Bird (FS23 various)).

¹⁰ Submission reference S263.013 (opposed by the further submission made by Forest and Bird (FS23.384)).

87. The Section 42A Report recommends the deletion of the definition because the term is no longer used in Proposed Plan Change 1 (as recommended for amendment). I support this recommendation for the same reasons.

'Highest erosion risk land (plantation forestry) and 'Potential erosion risk land'

88. NZCF's submission seeks the deletion of the definition of 'Highest erosion risk land (plantation forestry)' in its entirety on the basis that proposed Maps 92 and 95 are opposed in its submission and because NZCF does not consider that the definition of 'Highest erosion risk land (plantation forestry)' is necessary or appropriate.¹¹
89. The Section 42A Report recommends that the submission be accepted and comments as follows:

"294. I acknowledge the submissions generally opposing the definition of 'highest erosion risk land (plantation forestry)' because of concerns about Maps 92 and 95 being tied to the definition. As notified, the definition states that highest erosion risk land (plantation forestry) is as shown on Maps 92 and 95. Concerns about Maps 92 and 95 and the definition of highest erosion risk land (plantation forestry) are therefore interrelated. A number of submitters have raised concerns about these maps as set out in various sections of this report.

295. Based on the Statement of Evidence of Mr Nation, I understand highest erosion risk land mapping in PC1 has been based on the top 10th percentile of erosion risk land per land use (e.g. pasture, woody vegetation, plantation forestry) in each Whaitua. As described in paragraph 76, this means, as land uses change, land that is not currently identified as being in that top 10th percentile could be if the mapping was redone after the land use change even though the actual risk of erosion of that land will not have changed. I do not consider the lack of certainty in this 'relative' approach is suitable for making policy decisions which control or restrict land use activities. In my opinion, the approach to identifying land at risk of erosion, which requires or directs a specific action or restricts the use of land (or is a trigger for consent), should be directed by a consistent erosion risk identification framework that is informed by the underlying characteristics of the land and its risk of erosion.

296. To this end I acknowledge the Decisions version of RPS Change 1 (issued after PC1 was notified) introduced the defined term "Highly erodible land" and Policy CC.6 of RPS Change 1 directs avoidance of plantation forestry on highly erodible land, particularly where water quality targets for sediment are not reached. As described earlier in this report, the definition of highly erodible land and Policy CC.6 are both subject to appeal. I consider that for simplicity any erosion risk mapping in PC1 should, ideally, be consistent with RPS Change 1. However, as explained by Mr Nation, there are differences between the definition of highly erodible land in RPS Change 1 and the mapping that has been undertaken to identify erosion risk in PC1. The definition in RPS Change 1 focuses on mass movement erosion risk whereas PC1 erosion risk mapping includes consideration of

¹¹ Submission reference S263.015 (opposed by the further submission made by Forest and Bird (FS23.386)).

surficial erosion risk (the loss of soil from the surface of the land) and streambank erosion risks, going beyond the definition of highly erodible land in RPS Change 1.

297. *For these reasons, I agree with the relief sought by PF Olsen, WFF and CFG to delete the definition of “highest erosion risk land (plantation forestry)”. I therefore recommend accepting submissions seeking deletion of the definition and rejecting submissions seeking amendments or retention of the definition and recommend the submission from Winstone Aggregates be accepted in part. While I recommend deletion of the definition I consider the mapping should be retained as I agree with Mr Willis that it is suitable for guiding plan users to areas where erosion risks are expected to be higher and further site-specific assessment should be undertaken, as proposed by Mr Willis, to support erosion risk treatment plans in his Section 42A report in the Rural Land Use topic. This requires a consequential amendment to include a new definition for ‘potential erosion risk land’ as discussed in paragraph 317.”*

90. The new definition of ‘potential erosion risk land’ is as follows:

“Land shown on Map 90 and 93 as Potential erosion risk land (pasture); Potential erosion risk land (woody vegetation); or Potential erosion risk land (plantation forestry)”

91. As set out later in my evidence, I support the recommended removal of any connection between the forestry provisions in PC1 and highest erosion risk (plantation forestry) maps. Consequently, I also support the deletion of the definition of ‘highest erosion risk land (plantation forestry)’ for the reasons given and on the basis that the definition is not necessary.

‘Registered forestry adviser’

92. NZCF’s submission seeks amendments to the definition of ‘registered forestry adviser’ because the proposed definition inappropriately narrows the advice that may be given by a person registered under the Forests (Registration of Log Traders and Forest Advisers) Amendment Act 2020. That is, section 63M of the Forests (Registration of Log Traders and Forest Advisers) Amendment Act 2020 includes a more fulsome list of matters on which advice may be given. The submission notes that no rationale for narrowing these matters in the proposed definition is given in the Section 32 Report. NZCF considers that, to the extent that a definition is necessary, the definition should include all matters in Section 63M and seeks that the definition is amended accordingly.¹²

93. The Section 42A Report recommends that the submission be rejected and The Section 42A Report recommends the deletion of the definition because the term is no longer used in Proposed Plan Change 1 (as recommended for amendment). I support this recommendation for the same reasons.

¹² Submission reference S263.017 (opposed by the further submission made by Forest and Bird (FS23.388)).

**Policy WH.P28 Achieving reductions in sediment discharges from plantation forestry and
Policy P.P26 Achieving reductions in sediment discharges from plantation forestry**

94. NZCF's submission¹³ opposes Policies WH.P28 and P.P26 and seeks amendments to these policies as part of its alternate relief as follows:

"Reduce discharges of sediment from plantation forestry by:

(a) ~~identifying highest erosion risk land (plantation forestry), and~~

~~(b) ~~improving management of plantation forestry~~ by requiring erosion and sediment management plans to be prepared and complied with, and~~

~~(c) ~~requiring that on highest erosion risk land (plantation forestry), plantation forestry is not established or continued beyond the harvest of existing plantation forest.~~~~

95. NZCF seeks that the clause (a) is deleted for the following reasons:
- the rationale for, and appropriateness of, the approach to the identification of highest erosion risk land (plantation forestry) is not clearly set out;
 - the rationale for departing from the erosion susceptibility classification in the NESPF is not set out in the manner required by section 32(4);
 - the practical implications of the mapping and associated provisions have not been considered, including the extent to which the mapped areas result in greater constraints because matters such as scale, ownership and topography may result in larger areas no longer being viable for forestry uses."
96. In terms of clause (b), NZCF notes that planning and implementing erosion and sediment control is a normal part of forest operations and seeks limited amendments to clause (b) to reflect current best practice.
97. NZCF does not support clause (c) because preventing the establishment of plantation forestry, or the continuation of plantation forestry, in identified areas:
- is not supported by evidence and may not result in the outcome sought, being reduced sediment in rivers;
 - is not necessary or appropriate to give effect to any provision of a higher order planning instrument;
 - is inconsistent with the recommendations in the Te Whaitua te Whanganui-a-Tara Implementation Programme and the Te Awarua-o-Porirua Whaitua: Whaitua Implementation Programme; and
 - is contrary to the New Zealand's Emissions Reduction Plan and New Zealand's National Adaptation Plan.

¹³ Submission references S263.020 and S263.025 (opposed by the further submissions made by Forest and Bird (FS23.391 and FS23.396)).

98. The Section 42A Report recommends that the submission be accepted in part and comments as follows:

- “161. In relation to clause (a) which relates to identifying highest erosion risk (plantation forestry) land, NZCF and CFG are concerned about the rationale for the highest erosion risk (plantation forestry) mapping in PC1 and the departure from the ESC used in the NES-CF. Relying on the Statement of Evidence of Mr Nation, I understand that PC1 erosion risk mapping was intended to be used to assist land management officers at Council to work with landowners to identify rural land that requires further assessment at a farm scale (i.e. ground truthing) of erosion risk as part of the development of a farm environment plan and was later broadened in its application to include land in ‘woody vegetation’ and ‘plantation forestry’. Furthermore, PC1 erosion risk mapping was not intended to map the RPS Change 1 definition of highly erodible land (as assessed below) or as a replacement for the ESC upon which the NES-CF relies. In my opinion, as discussed throughout this report, the ‘relative’ erosion risk approach to mapping in PC1 is too uncertain for a policy (or rule) which seeks to restrict or prevent a specified land use. Accordingly, I recommend removing the link between PC1 highest erosion risk (plantation forestry) and WH.P28 and P.P26 and that clause (a) be deleted.*
- 162. In relation to clause (b) which requires an ESMP to be provided for forestry activities, I have evaluated the merits of the ESMP (prepared in accordance with Schedule 34) in my analysis of Schedule 34 in paragraphs 251 and 270. In summary, I recommend deletion of the ESMP required by Schedule 34 and recommend it be replaced in PC1 with the requirements outlined in Schedule 33A (Afforestation and Replanting Management Plan), 33B (Earthworks Management Plan) and 33C (Harvest Management Plan), referred to as forest management plans, which mirror the requirements of Schedules, 3, 4 and 6 of the NES-CF insofar as they relate to water quality, subject to amendments which require the contour mapping to be presented at a 5 metre rather than 20 metre scale. I recommend clause (b) be retained subject to amendments to reference forestry management plans.*
- ...*
- 164. In relation to the submitters’ concerns that the policies are not supported by evidence, I consider this concern is primarily related to the need for an ESMP which goes beyond the requirements of the NES-CF and the directive nature of clause (c) which provides the basis for prohibited activity rules WH.R22 and P.R21. The appropriateness of provisions in PC1 which go beyond the requirements of the NES-CF (the stringency test) is assessed in detail in my analysis of Rules WH.R20 and P.R19 in relation to the PC1 forestry rules and I do not repeat that analysis here.*
- 165. In relation to higher order direction, I note that there is a difference between the main erosion risks in these Whaitua and the mass movement erosion delivery of sediment that is Council’s main concern for the region and which is the focus of Policy CC.6(b) and the definition of highly erodible land in RPS Change 1. The outcome Council is seeking through RPS Change 1 is continuous land cover of woody vegetation on highly erodible land prone to mass movement to avoid long-term erosion and sedimentation issues. This can be achieved through continuous cover forestry management or ideally through*

regeneration or restoration of native vegetation. Based on the evidence of Mr Blyth, permanent forests provide the best results in terms of sediment loss and therefore are the most appropriate land cover for long term protection from erosion and sediment risks. Whereas, relying on the Statement of Evidence of Mr Nation, PC1 erosion risk mapping includes consideration of surficial erosion risk (the loss of soil from the surface of the land) and streambank erosion risks, going beyond the definition of highly erodible land in RPS Change 1.

166. *I consider that a requirement to avoid shorter rotation plantation forests on highly erodible land would be appropriate in areas with a high risk of mass movement erosion discharging into waterways. However, in my opinion the erosion risk mapping undertaken for PC1 to date is not refined enough to support provisions to give effect to Policy CC.6 as the mapped areas of highest erosion risk land notified in PC1 do not correlate with the RPS definition of highly erodible land as described by Mr Nation.*

167. *Therefore, while these policies as notified would have given effect to Policy CC.6 of RPS Change 1 (as will be required by the Act if and when Policy CC.6 becomes operative), the policies I am now recommending would not give effect to Policy CC.6. Policy CC.6 is under appeal, but is still part of a proposed regional policy statement so I must 'have regard' to it. However, because the RPS Change 1 definition of highly erodible land has not been interpreted for these Whaitua, and because there is uncertainty as to the highly erodible land definition and the form Policy CC.6 may take in future, given the current appeal, I consider it too early to include provisions in PC1 which would give effect to Policy CC.6. This will mean that the provisions in PC1 regarding forestry will need to be changed to give effect to Policy CC.6 in the future (unless Policy CC.6 is amended or deleted through the appeals process).*

168. *In contrast to the necessary land cover management on highly erodible land, being permanent woody vegetation, given the main erosion risks in these Whaitua are surficial erosion, I consider that erosion risks associated with forestry in the PC1 Whaitua can be adequately managed through implementation of good management practice and effective monitoring and enforcement of forestry activities and this is the basis of my recommendations in PC1.*

...

170. *As I am not recommending deletion of the policies, as policy direction needs to be retained where a consent is required (as set out in paragraph 159) I recommend submissions from CFG and UHCC be rejected. I recommend substantive amendments, removing reference to 'highest erosion risk (plantation forestry) and the removal of the implied prevention of new forestry and continuation of existing forestry' from policies WH.P28 and P.26. While not specifically linked to these policies, I note I also recommend deletion of Schedule 34 and the implied requirement to retire harvested land with permanent vegetation post-harvest in Management Objective 4 of this schedule. These amendments, in my opinion, at least partially achieve the relief sought by NZCF and therefore I recommend the submissions from NZCF be accepted in part."*

99. The recommended amendments to the Policies are as follows:

~~"Policy WH.P28: Achieving reductions in sediment discharges from commercial plantation forestry~~

~~Discharges of sediment from commercial forestry shall be minimised by: Reduce discharges of sediment from plantation forestry by:~~

~~(a) — identifying highest erosion risk land (plantation forestry), and~~

~~(a) requiring the resource consent application to demonstrate that erosion and any discharge of sediment will be minimised, having regard to the quality of the receiving environment; particularly in part Freshwater Management Unit's where visual clarity TAS are not met or there is a downstream receiving environment that is sensitive to sediment accumulation; and~~

~~(b) improving management of plantation-commercial forestry by requiring erosion and sediment management plans forestry management plans to be prepared and complied with~~

~~(c) — requiring that on highest erosion risk land (plantation forestry), plantation forestry is not established or continued beyond the harvest of existing plantation forest."~~

~~"Policy P.P26: Achieving reductions in sediment discharges from commercial plantation forestry~~

~~Discharges of sediment from commercial forestry shall be minimised by: Reduce discharges of sediment from plantation forestry by:~~

~~(a) — identifying highest erosion risk land (plantation forestry), and~~

~~(a) requiring the resource consent application to demonstrate that erosion and any discharge of sediment will be minimised, having regard to the quality of the receiving environment; particularly in part Freshwater Management Unit's where visual clarity TAS are not met or there is a downstream receiving environment that is sensitive to sediment accumulation; and~~

~~(b) improving management of plantation-commercial forestry by requiring erosion and sediment management plans forestry management plans to be prepared and complied with~~

~~(c) — requiring that on highest erosion risk land (plantation forestry), plantation forestry is not established or continued beyond the harvest of existing plantation forest."~~

100. In respect of clause (a), for the reasons given in the Section 42A Report, along with the reasons given later in my evidence in respect of Maps 92 and 95, I support the recommendation to remove the link between 'highest erosion risk (plantation forestry)' and Policies WH.P28 and P.P26 by deleting clause (a).
101. In relation to clause (b), I generally agree with the conclusions reached in the Section 42A Report and do not oppose the recommended amendments to this clause.
102. In terms of clause (c), I acknowledge and support the recommendation to delete the notified prohibited activity rules for production forestry for the reasons given in NZCF submission and the Section 42A Report. As a consequence, I also support the deletion of clause (c).

103. Further, I support the Section 42A Report conclusions that:
- a. it is too early Policy CC.6 of RPS Change 1; and
 - b. policy direction needs to be retained where a consent is required.
104. I am also of the view that rules must implement policies and therefore policies are necessary upon which Rules WH-R.20 and P.R19 'hang'. That said, I am of the view that the Policies are very much expressed as direction for the subsequent management such that I consider that they add limited value in the consideration of any future application for resource consent (either under the NRP or the NESCF also).
105. In my view, consistent with my earlier evidence, there would be some benefit in the Policies encouraging the establishment of continuous-cover forestry because, with reference to the technical evidence, continuous-cover forestry achieves the outcome sought in Proposed Plan Change 1 through reduced erosion and sediment loading and a subsequent improvement in water quality. That said, I am not aware of a submission that would provide scope for such an amendment.
106. As a final manner, I particularly acknowledge that the Policies are drafted to clearly relate to the discharges of sediment. This approach is consistent with the amendments I support to the Rules and accompanying 'Note' that are set out above.

Schedule 34 Plantation Forestry Erosion and Sediment Management Plan and recommended Schedules 34A, 34B and 34C

107. NZCF's submission¹⁴ supports in part Schedule 34, but seeks the following minor amendments:

"A Purpose of the Erosion and Sediment Management Plan

The purpose of an Erosion and Sediment Management Plan is:

(a) to identify the risks of the loss of sediment from the plantation forestry ~~to waterbodies~~, and

(b) identify management practices and mitigation measures to address these risks.

B Management objectives

The Erosion and Sediment Management Plan must demonstrate that the measures adopted to address the identified risks ~~are designed to~~will:

1. minimise sediment loss ~~to waterbodies~~ from activities in the plantation forest by adopting, as a minimum, good management practice, and

2. avoid an increase in risk of loss of sediment to water relative to the risk of loss that exists from the land in a natural state, and

¹⁴ Submission reference S263.030 (opposed by the further submission made by Forest and Bird (FS23.401)).

3. achieve the discharge standard in Rule WH.R20(c) or Rule P.R19(c) for any discharge of water and sediment from plantation forestry into a surface water body, and
4. provide for plantation forestry on highest erosion risk land (Plantation forestry) to progressively reduce and cease beyond the next harvest. This land is to be restored and revegetated with appropriate permanent woody species. ...”

108. The Section 42A Report makes the following recommendation in respect of Schedule 34:

“251. I acknowledge the concerns of these submitters and agree that Schedule 34 as notified is unnecessary. The level of detail required in Schedule 34 is notably less than that required in Schedules 3, 4 and 6 of the NES-CF. I therefore recommend deletion of Schedule 34 and its replacement in PC1 with the requirements of Schedules, 3, 4 and 6 of the NES-CF (re-written into PC1 as Schedules 34A, 34B and 34C) insofar as they relate to water quality and subject to amendments which require the contour mapping to be presented at a 5 metre rather than a 20 metre scale. Based on the Statement of Evidence of Mr Reardon, as described in paragraph 195, the level of detail required by the NES-CF is not appropriate for understanding risk at a property scale and a higher level of detail in the contour mapping is required. I consider my recommended amendments at least partially respond to the relief sought by these submitters and recommend these submissions be accepted in part.”

109. For the reasons given in the Section 42A Report, I support the deletion of Schedule 34.
110. Turning to the recommended inclusion of Schedules 34A, 34B and 34C, I have reviewed the proposed new schedules, with reference to the requirements of the NESCF. In this regard, I do not support the inclusion of a requirement for mapping to include and show contour lines at intervals less than or equal to 5 metres in Schedule 34A: Afforestation and Replanting Management Plan and in Schedule 34B: Forestry Earthworks Management Plan.
111. The Section 42A Report sets out the rationale for departing from the 20 metre contour requirement as follows:

“195. My understanding from the Statement of Evidence of Mr Reardon and discussions with him throughout the preparation of this report is that the level of planning detail required under the NES-CF is not suitable to obtain an informed understanding of the potential environmental risks during some forestry activities. Mr Reardon has observed many locations in these Whaitua with forestry that are highly susceptible to erosion, despite the ESC and management plans submitted under the NES-CF not identifying the corresponding level of risk. This is largely because the mapping required to support management plans under the NES-CF is not at an appropriate scale. The digital terrain mapping (contour mapping) required by the NES-CF relies on a 20 metre scale whereas Mr Reardon considers mapping at a 5 metre scale is required to appropriately understand site specific erosion risk to evaluate whether proposed activities, such as earthworks and harvest methods, are suitable for the location and the terrain.”

112. However, Mr Reardon’s evidence is that 5 metre or 10 metre contours should be used for harvest planning:

“57 The NES-CF requirement that planning maps include contour lines at intervals less than or equal to 20 meters is too broad. A higher level of spatial information, including LiDar, is readily available and should be used where available for harvest and earthworks planning. Ideally, 5-meter or 10-meter contours at a maximum should be used for more detailed harvest planning.”

113. Because proposed Schedules 34A and 34B relates to afforestation and earthworks, but Mr Reardon's evidence is specific to harvesting, I consider that there is no clear rationale for departing from the requirements of the NESCF in respect of these activities. I therefore support the following amendment to Schedule 34A and Schedule 34B:

Schedule 34A

“2. Map

...

e) the contour lines at intervals less than or equal to ~~5~~ 20 metres: ...”

Schedule 34B

“2. Map

...

d) the contour lines at intervals less than or equal to ~~5~~ 20 metres: ...”

114. I understand that the 5 metre mapping contour requirement in recommended Schedules 34A and 34B is the only material proposed departure from NESCF Schedule 3 'Afforestation and replanting plan specifications' and NESCF Schedule 4 'Forestry earthworks management plan'. Given my view that the 5 metre contour requirement is not necessary or appropriate, I am of the view that it is more efficient and effective to delete the text in the Schedules and instead incorporate the NESCF Schedules by reference (if it is considered necessary to do so).

Map 92 and Map 95 Highest erosion risk land (Plantation forestry)

115. NZCF's submission¹⁵ does not support the mapping of highest erosion risk land (Plantation forestry) because:
- a. the rationale for, and appropriateness of, the approach to the identification of highest erosion risk land (plantation forestry) is not clearly set out;
 - b. the rationale for departing from the erosion susceptibility classification in the NESPF is not set out in the manner required by section 32(4) of the RMA; and
 - c. the practical implications of the mapping and associated provisions have not been considered, including the extent to which the mapped areas result in greater constraints

¹⁵ Submission references S263.031 and S263.032 (opposed by the further submissions made by Forest and Bird (FS23.402 and FS23.403)).

because matters such as scale, ownership and topography may result in larger areas no longer being viable for forestry uses.

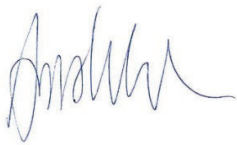
116. NZCF seek that Map 92 and Map 95 are deleted and replaced with the erosion susceptibility classification in the NESPF.

117. The Section 42A Report recommends the following:

“330. ... Because of the limitations in PC1 erosion risk mapping as described by Mr Nation and that the application of highest erosion risk land (plantation forestry) in PC1 restricts or prevents land use, I recommend removal of any connection between the forestry provisions in PC1 and highest erosion risk (plantation forestry) maps.

331. As I am recommending deletion of any link between the forestry rules and policies in PC1 and the highest erosion risk land (plantation forestry) definition and mapping, but Maps 92 and 95 will be retained in a simplified form to support Schedule 36 and reframed to reflect ‘potential erosion risk’, I consider the relief sought by these submitters is at least partially achieved. I therefore recommend submissions seeking deletion or amendments to Map 92 and/or 95 be accepted in part.”

118. For the reasons given in the Section 42A Report, and in NZCF’s submission, I support the recommended removal of any connection between the forestry provisions in PC1 and highest erosion risk (plantation forestry) maps.



Ainsley Jean McLeod

6 May 2025

**ATTACHMENT A: MATERIAL PROVIDED BY MR CASEY AND MS WESTMAN IN
HEARING STREAM 1**



New Zealand Carbon Farming

Preserving our planet for future generations

30 October 2024

Greater Wellington Regional Council
C/- The Hearings Advisor
100 Cuba Street
WELLINGTON 6011

By email: regionalplan@gw.govt.nz; josh.ruddock@gw.govt.nz

New Zealand Carbon Farming Group (“NZCF”) (S263) – Hearing Stream One: Overarching Matters and Regional-Wide Issues – Submission Summary

To: Hearing Panel for Proposed Plan Change 1 and The Freshwater Hearing Panel to the Natural Resources Plan for the Wellington Region

1. The New Zealand Carbon Farming Group (NZCF) is New Zealand’s largest owner of planted managed forests. Its 78,000-hectare estate includes 67,000-hectares of permanent forests, carefully managed to regenerate over time into an indigenous and biodiverse conservation estate. The organization's forest management regime includes nurse crop establishment, pest animal and plant control, thinning, canopy manipulation, enrichment native planting as required, fire mitigation and forest health programmes, which are designed to align commercial imperatives with long-term specific ecological objectives. The focus of the business is to concurrently:
 - sequester carbon to make a real difference in climate change; and
 - to provide a long-term lasting legacy of resilient and biodiverse native forest in its permanent forest estate.
2. NZCF lodged a submission on the Proposed Plan Change 1 (PC1) to the Natural Resources Plan (NRP) on 15 December 2023 and a further submission on 15 March 2024. This letter provides a summary of the submission points that NZCF wishes to be heard on at Hearing Stream One on overarching matters and region-wide changes, and Policy WH.P28 of PC1.

Summary of Submission Points

3. NZCF wishes to be heard on the following key matters. Namely, that:
 - (a) given that the final form of the Wellington Regional Policy Statement (WRPS), which also gives effect to the National Policy Statement Freshwater Management (NPSFM), is yet to be determined, it is premature to notify NRP provisions that must also give effect to the NPSFM. NZCF prefers that the WRPS is determined first to avoid inefficiencies;
 - (b) greater weight is given to the recommendations of the Te Whaitua te Whanganui-a-Tara Implementation Programme and the Te Awarua-o-Porirua Whaitua: Whaitua Implementation Programme (together, the “Recommendations”) so that the Recommendations are accurately and appropriately reflected in PC1; and



New Zealand **Carbon Farming**

Preserving our planet for future generations

- (c) greater focus is given to achieving environmental outcomes through effective management of the effects of activities, rather than blanket removal of land uses in particular areas, with particular focus given to Policy WH.P28.
4. NZCF also wishes to note our intention to file evidence and address matters raised in our submission at a later date.

Conclusion

5. If you require any clarification regarding the above matters ahead of Hearing Stream One, please do not hesitate to contact the undersigned.

Yours sincerely

Peter Casey
Chief Executive Officer
New Zealand Carbon Farming Group

Peter Casey
Chief Executive Officer
Tayla Westman
Corporate Counsel and Environmental Planner

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Submission on Proposed Plan Change 1 to the Operative Natural Resources Plan for the Wellington Region

5 November 2024

Peter Casey

CEO

Tayla Westman

Corporate Counsel and Environmental Planner



New Zealand **Carbon Farming**

New Zealand Carbon Farming - Who are we

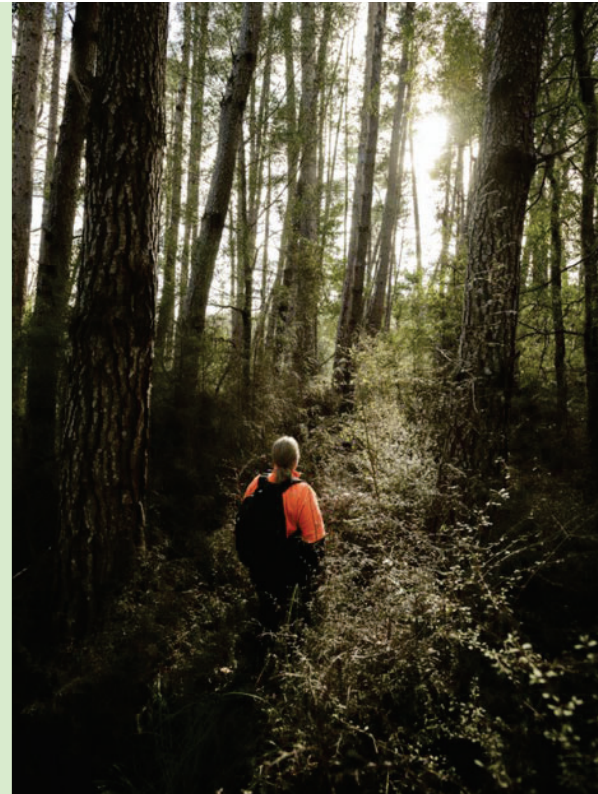
- ✓ We **grow trees** to preserve the planet
- ✓ Founders Bruce Miller and Matt Walsh
- ✓ **78,000** hectares Managed Forest Lands
- ✓ **114,000** hectares under Carbon Management
- ✓ **70** full time staff
- ✓ **Extensive** contractor work force
- ✓ **Established** here in NZ, employing local people and knowledge



New Zealand **Carbon Farming**

What do we do

- The focus of the business is to concurrently:
 - sequester carbon to **make a real difference in climate change**; and
 - to provide a long-term lasting **legacy** of resilient and biodiverse **native forest** in its **permanent** forest estate.



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Strong forest ecology insight underpins our Forest Management Regime



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Three key matters – today:

NZCF wishes to be heard today on the following 3 key matters:

1. Given that the final form of the Wellington Regional Policy Statement (WRPS), which also gives effect to the National Policy Statement Freshwater Management (NPSFM), is yet to be determined, it is premature to notify NRP provisions that must also give effect to the NPSFM. NZCF prefers that the WRPS is determined first to avoid inefficiencies;
2. Greater weight should be given to the recommendations of the Te Whaitua te Whanganui-a-Tara Implementation Programme and the Te Awarua-o-Porirua Whaitua: Whaitua Implementation Programme (together, the “Recommendations”) so that the Recommendations are accurately and appropriately reflected in PC1; and
3. Greater focus should be given to achieving environmental outcomes through effective management of the effects of activities, rather than blanket removal of land uses in particular areas, with particular focus given to Policy WH.P28.



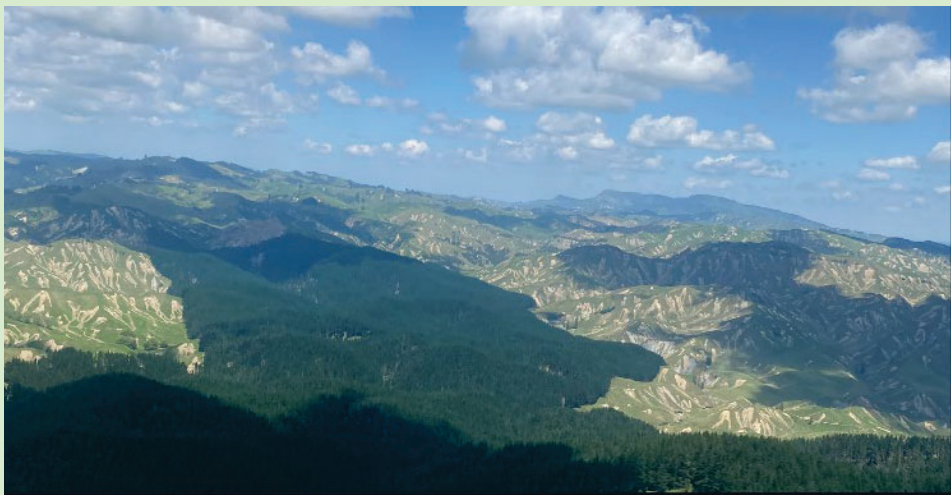
New Zealand **Carbon Farming**

Amend Policy WH.P28:

- Achieving reductions in sediment discharges from plantation forestry
- “Reduce discharges of sediment from plantation forestry by:
~~(a) identifying highest erosion risk land (plantation forestry);~~
(b) ~~improving management of plantation forestry by~~ requiring erosion and sediment management plans to be prepared and complied with, ~~and~~
~~(c) requiring that on highest erosion risk land (plantation forestry), plantation forestry is not established or continued beyond the harvest of existing plantation forest.”~~



One of many reasons why Forest Cover Matters:



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Exotic Nurse Crop Forest and Native Regenerating Forest Cover:



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Exotic Nurse Crop and Native Regenerating Forest Cover



Questions ?

