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Stuart Miller
Spatial, Forestry and Land Management
Ministry for Primary Industries
PO Box 2526
Wellington 6140

Email: NES-PFConsultation@mpi.govt.nz

Dear Stuart

Submission - Proposed National Environmental Standard for Plantation Forestry

Rangitikei District Council would like to thank the Ministry for Primary Industries for the opportunity to contribute to the discussion on the proposed National Environmental Standard for Plantation Forestry (NES-PF). This submission addresses the questions provided in the consultation material.

1. Do you think section 2.1 and 2.2 of the consultation document accurately describe the problem facing plantation forestry?

Rangitikei District Council considers the problems identified are a fair representation of the issues facing plantation forestry, particularly for larger forestry companies. However, many smaller forestry companies do not experience the same issues when they are located wholly within one district. Nevertheless, the proposed NES-PF will remove the uncertainty associated with plan reviews – a plan could be reviewed up to three times during the life of a forest.

2. Do you consider that the conditions for permitted activities will manage the adverse effects of plantation forestry?

Rangitikei District Council generally supports the proposed permitted activity approach. This approach aligns with the Rangitikei District Plan, which seeks to enable activities so long as they meet permitted activity conditions - unless the activity is likely to create adverse environmental effects.

It is important that there is ongoing monitoring of the effectiveness of the permitted activity approach to ensure adverse effects are being adequately mitigated. The proposed permitted activity conditions are slightly more stringent than the existing provisions in the Rangitikei District Plan: the Council's view is, therefore, that the proposed conditions will work well within our district in managing the adverse effects they are intended to manage.

3. Are the conditions for permitted activities clear and enforceable? Can you suggest ways of making the rules clearer and more enforceable?

Neighbour approval

The proposed permitted activity conditions for afforestation, forestry quarrying and noise allow neighbouring properties to give their approval as a permitted activity condition. This concept seeks to retain as many activities as possible as permitted. Rangitikei District Council would like to highlight our experiences with these types of provisions¹.

Issues result when the person who provided their approval subsequently changes their mind or when the ownership of adjoining properties changes. Such situations create complex discussions over the validity and legality of the neighbour approval. These issues can create uncertainty for both the forestry company as well as, the neighbouring land owner. Requiring resource consent gives the forestry operator and adjoining neighbour certainty. In reality, if the neighbour is willing to provide their approval, it should be a very simple, straight-forward, low-cost consenting process.

There are also issues tracking the affected party approvals when they are not part of a consent process. In the Rangitikei District the filing systems for resource consents are much easier to manage than for general property files.

Recommendation (a): That the permitted activity conditions allowing neighbour approval for afforestation, forestry quarrying setbacks and noise are removed from the final NES-PF.

Notice of commencement

The proposed notice of commencement of harvesting, earthworks and forestry quarrying activities is a permitted activity condition supported by Council. It will be a helpful tool to ensure that monitoring can be planned and the relevant contact details of the forestry operators are available if any issues arise. Additionally, it is recommended that the notice of commencement requirement is extended to include afforestation and replanting activities. This will enable local authorities to discuss the permitted activity standards with forestry operators before the trees are planted. It will also ensure that local authorities have accurate information about the location of plantation forestry activities in their area, so that permitted activity conditions can be monitored.

Recommendation (b): That the final NES-PF retains the proposed notice of commencement for harvesting, earthworks and forestry quarrying activities and adds the requirement for a notice of commencement for afforestation and replanting activities.

4. Are the matters where local authorities can retain local decision-making appropriate?

The matters where local authorities are able to increase stringency are supported, particularly for outstanding natural features or landscapes and for heritage areas. It is considered that these areas are often unique to local circumstances, therefore, are best managed at this level.

¹ The first generation Rangitikei District Plan had a number of these provisions.

Increased clarity is sought surrounding the process of implementing these provisions. The Rangitikei District Plan currently has identified outstanding natural features and landscapes, as well as, heritage areas identified. Would a plan change process be required to retain these areas as more stringent than the NES-PF, or would they automatically be accepted?

Recommendation (c): That the final NES-PF retains the matters where local authorities are able to increase stringency.

Recommendation (d): That clarity is provided regarding whether existing district plan provisions for outstanding natural features and landscapes and heritage sites will be required to go through a plan change process.

5. Will the environmental risk assessment tools appropriately manage environmental effects as intended?

It is important that there are consistent methods for assessing risk and that they are regularly updated to reflect improving information or best practice.

Recommendation (e): That the risk management tools are monitored for effectiveness and updated regularly to reflect better information for best practice.

6. Do you have any comments about any particular activity or draft rule?

Definition

The proposed definition of plantation forestry under the proposed NES-PF incorporates forestry areas over 1 hectare. This is smaller than the 2 hectare requirement in the Emissions Trading Scheme, as well as the Rangitikei District Plan. The smaller area is likely to capture owners of small woodlots who may find themselves considerably more regulated than at present. The potential impacts from such small areas of forestry will be low. It is recommended that the definition of plantation forestry is consistent with other existing legislation.

Recommendation (f): The definition of plantation forestry is consistent with existing legislation - and that a minimum area of 2 ha applies.

Setbacks – restricted discretionary standards

Currently, where setbacks are not met for district matters, discretion is limited to the effects on adjacent landowners, dwellings or urban/residential zones and icing or shading effects on the road. It is recommended that this standard is expanded to require the consideration of the following issues:

- The orientation of the proposed forestry in relation to the affected site.
- The potential effects of falling branches.
- Shading effects on the adjoining site.
- Shelter effects on the adjoining site.
- The land use occurring on the adjoining site.

Recommendation (g): The restricted discretionary considerations for planting setback (district matters) are extended.

Road widening and realignment for safety purposes – earthworks provisions

The earthworks rule section has a permitted activity standard which allows the realignment or widening of roads for safety purposes. The wording in the 'scope' section of this rule stream suggests that this rule is intended to cover forestry roads and tracks. Increased clarity is required to ensure that this rule is not misinterpreted to cover the wider roading network which is managed by the local authority or NZTA.

Recommendation (h): The intent of the rule under earthworks for road widening and realignment is clarified to ensure the public roading network is excluded.

Jurisdiction issues

The draft rules provide a guideline of which rules are under the jurisdiction of the district versus the regional council. It is unclear whether these guidelines are intended to remain or are identified in the draft proposal only to provide guidance. It is suggested that, at a minimum, these guidelines remain. The Rangitikei District Council considers it would be preferable for the specific jurisdictions to be determined by each regional council in consultation with the relevant territorial authorities. For example, there are a number of areas that Rangitikei District Council considers are better managed by Horizons Regional Council. These issues are as follows:

- Vegetation clearance and disturbance – Horizons have already taken the lead for managing indigenous biodiversity through the One Plan.
- Nesting times – Horizons have specialist staff.
- Significant natural areas – addressed through the One Plan.
- Wilding tree risk assessment – Horizons have specialist staff.

Recommendation (i): That areas of jurisdiction are retained in the final NES-PF; however, consideration is given to the jurisdiction for vegetation clearance, nesting times, significant natural areas and wilding tree risk and allowing specific jurisdictions to be determined by each region.

Consistency between afforestation and replanting provisions

The afforestation permitted activity conditions have district council setback requirements and wilding tree requirements which are absent from the replanting provisions. At the public meeting held in Palmerston North it was identified that issues with consistency were attributed to existing use rights issues. If this is the situation, it is highly desirable that the areas where existing use rights apply or do not apply are made explicit in the guidance documentation.

In addition, with no boundary setback rules in the replanting provisions, forestry operators could replant their crops closer to boundaries. Therefore, it is recommended that setback provisions are added to the replanting section.

In addition, we suggest that further consideration is given to the definition of replanting. The draft rules state that an activity is considered replanting if the crop is replanted on a site where plantation forestry has occurred in the last five years. We are uncertain whether this definition is consistent with existing use rights.

Recommendation (j): That the district council setbacks from the afforestation section are included in the replanting section.

Recommendation (k): That increased guidance and clarity is given around the issue of existing use rights for replanting activities and whether existing use rights should be deemed as having expired on harvesting.

Harvesting

The rationale section for the notice of commencement refers only to regional councils. We consider that this rationale section should be amended to refer to 'relevant councils' (to remain consistent with the provisions of notice of commencement for forestry quarrying activities).

Recommendation (l): That the rationale section under harvesting activities and the notice of commencement are amended to refer to relevant councils.

The harvesting rules require that slash and debris is managed so that it does not accumulate to levels that could cause it to collapse at skid sites. The focus of this rule is to reduce the risk of slash entering waterways, which is certainly appropriate. Council would like extend the consideration of the effects to the impacts that the debris entering waterways can have on bridges. The June 2015 flood event highlighted the damage to bridges resulting from debris from forestry harvesting operations entering waterways. In addition, Rangitikei District Council has experience with the potential adverse effects of skid sites where slash and debris has fallen onto the roading network. We believe this rule needs to recognise a wider risk.

Recommendation (m): That the rule for slash and debris management under the harvesting activities provisions is amended to provide for specific reference to the adverse effect slash and debris entering waterways can have on bridges, as well as, avoiding slash and debris collapse onto the roading network.

The proposed rules require a harvest plan to be prepared to assess and address the operational risks to the environment. The provisions in this section make no mention of potential effects on the roading network. Slips due to land instability as a result of forestry harvesting activities can have significant adverse effects on the roading network. It is recommended that the Harvest Plan includes consideration of the effects of land instability on the roading network.

Recommendation (n): That the rule requiring a harvest plan is amended to provide for specific reference to require the assessment and management of the potential adverse effects of harvesting activities (and subsequent land instability) on the roading network.

Replanting adjacent to significant natural areas

The rule requires replanting to occur no closer than the stump line of previous crops. It is assumed this rule has been drafted in this manner to provide for existing use rights considerations. It is recommended, as mentioned above, that consideration is given to the consistency between existing use rights and the replanting definition/timeframes.

Recommendation (o): The existing use rights requirements are made explicit in the guidance documentation (if not deemed to have expired on harvesting).

General Conditions

It is important that vegetation clearance and disturbance activities do not destroy the habitat of indigenous fauna and that all fauna, rather than only bird species, are considered with regard to nesting sites.

Recommendation (p): That the permitted activity condition for vegetation clearance and disturbance includes a provision which states 'is not the habitat to indigenous fauna'.

Recommendation (q): That the reference to bird species under the 'Nesting Times' rule, refers to all indigenous fauna, rather than just bird species.

7. Is the NES-PF the best option to meet the assessment criteria (Box 13)?

A National Environmental Standard provides for national consistency. This is potentially positive for forestry operators, as they will have increased certainty of rules throughout all areas of New Zealand. However, ongoing training and guidance documents will be required to ensure the rules are applied consistently throughout New Zealand.

Recommendation (r): That ongoing training and guidance to forestry operators and local authorities is provided to ensure consistent implementation of the NES-PF.

8. Have the expected costs and benefits of the NES-PF been adequately identified?

The consultation document and support documents comprehensively consider the potential costs and benefits of the NES-PF. The impact of the costs and benefits which affect Rangitikei District Council are outlined below. As a very small district council, resources are limited, thus any increases will have a more significant effect.

(i) District Plan Change

In the short term, the NES-PF will create increased costs, due to the requirement to undertake a plan change to reflect the standard.

(ii) District Plan Review

Rangitikei District Council is currently operating under the second generation district plan, which became fully operational in October 2013. Thus, a review is due by 2023. At this stage Council has no plans to undertake a sectional review. There are potential savings for this future plan review as plantation forestry will not need to be dealt with (outside of the issues where Council can be more stringent). These potential savings are considered to be minor.

(iii) Monitoring of permitted activity conditions

The NZIER economic analysis notes that there is a variable approach for compliance monitoring throughout New Zealand. This variation extends from reactive monitoring based on an identified breach or complaint, through to proactive monitoring where regular liaison between forestry operators and council staff occurs. The variation between these two approaches creates significantly different cost requirements. It is suggested that MPI provides guidance on which approach they expect to be taken, or whether local authorities will have responsibility.

If a proactive approach is required, it would be helpful to give consideration to the implications for smaller territorial authorities. In a larger council, increased monitoring requirements might be absorbed within the planning team, but in the Rangitikei District Council the increased monitoring requirements will fall on one part-time planner. One potential means of easing this is enabling local authorities to recover the costs of monitoring permitted activity conditions. While monitoring of resource consent conditions can be recovered from the consent holder, at present the cost of monitoring of permitted activity conditions is borne by the ratepayer.

Recommendation (s): That consideration is given to the increased costs of the proposed NES PF from required district plan changes and monitoring requirements, particularly small territorial authorities, and whether local authorities will be empowered to recover the costs of monitoring compliance with the NES-PF.

9. Are there any issues which might affect successful implementation of the NES-PF?

There are a number of issues which might affect the successful implementation of the NES-PF. These include a lack of training/understanding of the requirements by local authorities and foresters and lack of consistency in the implementation of the NES-PF. The purpose of the NES-PF is to make the regulatory environment surrounding plantation forestry more consistent. If staff in local authorities have different interpretations, monitoring regimes or consenting requirements, then the consistency strived for will be reduced. These issues will best be addressed by initial and ongoing training and workshops with local authorities and MPI staff. This reinforces our earlier recommendation for such opportunities.

Due to the considerable changes which may result from this consultation round, and that legal rules are yet to be formulated, it would be appropriate for the Ministry to undertake further consultation once the regulations have been formed.

Recommendation (t): A further consultation process occurs once the rules have been formally drafted.

10. Please describe any risks or opportunities that you consider have not been identified or addressed in the proposal.

A risk not considered in the consultation document is where the liability of non-compliance with the NES-PF would sit. For many small forestry owners contractors are engaged to undertake works e.g. harvesting, earthworks, afforestation and replanting. Clarity required as to whether liability non-compliance issues would affect the contractor, the forest owner, or both.

If liability was to sit with the forestry owner, then consideration would need to be given to the benefits of implementing a system of 'approved operators' or another system where the forest owner would be able to assess the capability of the operator.

Recommendation (u): Increased clarity is given regarding liability on forest owners and operators for non-compliance with the NES-PF and if appropriate consider the potential of 'approved operators'.

11. Will the proposed NES-PF support regional councils to implement the NES-FM (6.1).

This is not applicable to the Rangitikei District.

12. What resources or other implementation activities would help you to prepare for and comply with the proposed NES-PF? How should these activities been delivered?

Training and the provision of guidance documents will be essential for the successful implementation of the NES-PF. It will be important that all local authorities are correctly and consistently applying the rules of the NES-PF, existing use rights and have a consistent approach for processing similar resource consent applications.

The most helpful implementation activities will be:

- Local workshops.
- Guidance material – particularly guidance on how to apply existing use rights and where liability would fall if there are non-compliances with the provisions (e.g. on the property owner, the operator, or both).
- Trained staff at MPI available and actively engaged to address ongoing questions.
- Trained staff available to attend regional planning events.
- Templates provided where appropriate – e.g. if there will be reporting requirements.
- Further guidance and information on bird nesting sites. There are permitted activity standards for setbacks, but it is unclear where information may be sourced for identification of these sites.

13. Are there any other issues you would like to raise?

No

Conclusion

In summary, Rangitikei District Council has the following recommendations:

- a. That the permitted activity conditions allowing neighbour approval for afforestation, forestry quarrying setbacks and noise are removed from the final NES-PF.
- b. That the final NES-PF retains the proposed notice of commencement for harvesting, earthworks and forestry quarrying activities and adds the requirement for a notice of commencement for afforestation and replanting activities.
- c. That the final NES-PF retains the matters where local authorities are able to increase stringency
- d. That clarity is provided regarding whether existing district plan provisions for outstanding natural features and landscapes and heritage sites will be required to go through a plan change process.
- e. That the risk management tools are monitored for effectiveness and updated regularly to reflect better information for best practice.

- f. That the definition of plantation forestry is consistent with existing legislation - and that a minimum area of 2 ha applies.
- g. The restricted discretionary considerations for planting setback (district matters) are extended.
- h. The intent of the rule under earthworks for road widening and realignment is clarified to ensure the public roading network is excluded.
- i. That areas of jurisdiction are retained in the final NES-PF, however, consideration is given to the jurisdiction for vegetation clearance, nesting times, significant natural areas and wilding tree risk and allowing specific jurisdictions to be determined by each region.
- j. That the district council setbacks from the afforestation section are included in the replanting section.
- k. That increased guidance and clarity is given around the issue of existing use rights for replanting activities and whether existing use rights should be deemed as having expired on harvesting.
- l. That the rationale section under harvesting activities and the notice of commencement are amended to refer to relevant councils.
- m. That the rule for slash and debris management under the harvesting activities provisions is amended to provide for specific reference to the adverse effect slash and debris entering waterways can have on bridges, as well as, avoiding slash and debris collapse onto the roading network.
- n. That the rule requiring a harvest plan is amended to provide for specific reference to require the assessment and management of the potential adverse effects of harvesting activities (and subsequent land instability) on the roading network.
- o. The existing use rights requirements are made explicit in the guidance documentation (if not deemed to have expired on harvesting).
- p. That the permitted activity condition for vegetation clearance and disturbance includes a provision which states 'is not the habitat to indigenous fauna'.
- q. That the reference to bird species under the 'Nesting Times' rule, refers to all indigenous fauna, rather than just bird species.
- r. That ongoing training and guidance is provided to ensure consistent implementation of the NES-PF.
- s. That consideration is given to the increased costs of the proposed NES PF from required district plan changes and monitoring requirements, particularly small territorial authorities, and whether local authorities will be empowered to recover the costs of monitoring compliance with the NES-PF.
- t. A further consultation process occurs once the rules have been formally drafted.

- u. Increased clarity is given regarding liability on forest owners and operators for non-compliance with the NES-PF and if appropriate consider the potential of 'approved operators'.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andy Watson', with a stylized, cursive script.

Andy Watson
Mayor of the Rangitikei District