



# Regulatory Impact Statement: National Environmental Standards for Commercial Forestry

<b>Decision sought</b>	<i>This interim RIS and related discussion document accompany a Cabinet paper seeking agreement to publicly consult on proposals for changes to the National Environmental Standards for Commercial Forestry (NES-CF).</i>
<b>Agency responsible</b>	<i>The Ministry for Primary Industries Ministry for the Environment</i>
<b>Proposing Ministers</b>	<i>RMA Reform; Forestry; Environment; Under-Secretary for the Environment</i>
<b>Date finalised</b>	<i>17 April 2025</i>

Cabinet agreed to consult on proposals to amend the National Environmental Standards for Commercial Forestry (the NES-CF) as part of the second phase of the resource management system – National Direction package. Government objectives for Resource Management Act 1991 (RMA) reform include to “make it easier to get things done by enabling primary sector growth and development, including forestry”. Furthermore, the Minister of Forestry has announced his objective, endorsed by Cabinet, to restore confidence and certainty across the forestry sector.

For the NES-CF, the Minister of Forestry has committed to “remove regulatory burden and uncertainty for the commercial forestry sector” (CAB-24-MIN-0246 refers). The proposals in this RIS aim to increase the efficiency and certainty of managing commercial forestry activities while supporting or improving environmental outcomes.

The proposals are to:

- restrict the matters that councils can consider for making more stringent rules than in the NES-CF so that councils focus on the most at-risk areas and have a clear evidence base to justify more stringent rules;
- amend the slash management regulations to avoid over regulation of low-risk sites and provide clearer and more effective regulations for managing high-risk sites; and
- make minor amendments, identified through targeted engagement with the sector and councils, to reduce red-tape and provide clearer regulations.

## Summary: Problem definition and options

### What is the policy problem?

There are three policy issues covered in this RIS.

***Issue A: Local authorities introducing forestry rules more stringent than the NES-CF leading to uncertainty and additional cost***

1. The NES-CF includes regulations that allow council RMA plans to introduce new rules that are more stringent than the NES-CF. In some parts of the country, there are issues with how these regulations are being used, which is leading to unnecessary costs and uncertainties on the forestry sector.
2. Two of these NES-CF regulations are:
  - Regulation 6(1)(a) allows councils to make more stringent rules if needed to manage the effects from commercial forestry on freshwater<sup>1</sup>.
  - Regulation 6(4A), allows councils broad discretion for more stringent rules to control aspects of afforestation, including location.
3. The forestry sector, and Ministers, are concerned that some councils' use of regulation 6(1)(a) is not always clearly justified, and that this imposes unnecessary costs and uncertainties on the forestry sector. Although regulation 6(4A) has not been used, it provides councils with a wide discretion, which could result in variable council rules between regions, and creates uncertainty for the sector.
4. Non-regulatory intervention, such as further guidance to councils from central agencies, is useful. However, feedback from stakeholders and Ministers is that regulatory change should be considered to effectively address the uncertainty and cost of the current situation.

***Issue B: Slash management rules are costly and not fit for purpose for stakeholders or the environment***

5. Extreme weather events, such as those in Tairāwhiti and the Hawke's Bay, and the resulting damage associated with commercial forests, led to NES-CF changes to better manage slash. New slash management regulations (69(5-7)) were made in 2023 which are prescriptive, setting dimension size limits of slash,<sup>2</sup> and placing volume limits on how much slash could be left in forest harvest areas (the 'cutover'<sup>3</sup>).
6. The new rules have caused practical issues for foresters and councils resulting in increased costs and technical difficulty to retrieve and store material, and to measure residual slash for compliance purposes. The problem is that the current regulations do not achieve an appropriate level of environmental protection commensurate with the slash mobilisation risk. During targeted engagement councils and foresters described areas covered by the new regulations where the risk of slash mobilisation is low and they see no benefit in removing slash but, the new regulations require its removal.
7. An effective and efficient regulation should focus effort and cost on areas where there is a high risk of slash mobilisation (slash being washed downstream during periods of high rainfall).

***Issue C: Minor changes made to the NES-CF in 2023 are causing inefficiency and adding unnecessary regulatory burden***

8. Stakeholder engagement in 2024 identified some minor and technical changes made to the NES-CF in 2023 have increased implementation costs for industry and councils. Some new NES-CF requirements appear to duplicate work for activities that are already covered by existing regulation in the NES-CF. In other parts, wording changes have led to

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<sup>1</sup> NES-CF regulation 6(1)(a) "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".

<sup>2</sup> **Slash** means any tree waste left behind after commercial forestry activities.

<sup>3</sup> **Cutover** means the land area that has been harvested, and any adjacent land between the harvested area and any land that would be covered by water during a 5% Annual Exceedance Probability (AEP) event, but does not include water bodies or land that would be covered by water during a 5% AEP event.

confusion and a lack of clarity about the meaning of certain terms. While feedback on these issues is clear, officials have not identified environmental or other benefits of these changes.

**What is the policy objective?**

9. The Government's seven objectives for RMA reform, including through the National Direction package, were agreed by Cabinet in March 2024 (CAB-24-MIN-0069 refers). This includes to: "*make it easier to get things done by enabling primary sector growth and development, including forestry*".
10. The NES-CF objectives are to:
  - maintain or improve the environmental outcomes associated with commercial forestry activities; and
  - increase the efficiency and certainty of managing commercial forestry activities.
11. The Government has committed to restoring confidence and certainty across the forestry sector. The proposed NES-CF amendments aim to provide greater certainty for the forestry sector and help them meet environmental obligations.

**What policy options have been considered, including any alternatives to regulation?**

***Options considered for Issue A: Local authorities introducing forestry rules more stringent than the NES-CF leading to uncertainty and additional cost***

12. For regulation 6(1)(a), which enables councils to make more stringent rules if needed to manage the effects from commercial forestry on freshwater, options analysed include:
  - a. The status quo (no changes);
  - b. Repealing of the whole regulation 6(1)(a); or
  - c. Amending regulation 6(1)(a) to be more specific about the criteria for how councils can impose stricter rules than the NES-CF. *This is the preferred option for regulation 6(1)(a).*
13. Early analysis also considered options to amend other parts of section 6 in the NES-CF, or to consider carving out Gisborne as the only region allowed to have more stringent rules.
14. For regulation 6(4A), which enables councils' broad discretion to have more stringent rules to control aspects of afforestation, options analysed include:
  - a. The status quo (no changes); or
  - b. Repealing of the whole regulation 6(4A). *This is the preferred option for regulation 6(4A).*
15. An option to remove all of section 6 (i.e. all regulations that allow for local authorities to introduce forestry rules more stringent than the NES-CF) was also considered as part of our early analysis.

***Options considered for Issue B: Slash management rules are costly and not fit for purpose for stakeholders or the environment***

16. Three options were considered for slash management rules:
  - a. The status quo (no changes);
  - b. Introducing a slash management risk assessment approach (*this is the preferred option*); or
  - c. Amending the dimensions of slash as set out in the regulations.
17. Other options considered as part of early analysis included repealing the changes made in 2023, and the use of non-regulatory options such as guidance.

***Options considered for Issue C: Minor changes made to the NES-CF in 2023 are causing inefficiency and adding unnecessary regulatory burden***

18. There are four minor change proposals under consideration. All four proposals analysed have a preferred option with the status quo:

- a. To remove a duplicative requirement for afforestation and replanting plans (in regulations 10A and 77A, and in schedule 3 of the NES-CF);
- b. To remove a requirement to identify ‘woody debris’ (in schedules 3, 4, 5 and 6 of the NES-CF);
- c. To clarify wording about wilding conifer standards (in regulations 11(4)(b) and 79(5)(b)); and
- d. To correct an error where the word “not” has been added to requirements for low-intensity harvesting (regulation 71A(b)).

**What consultation has been undertaken?**

19. Public consultation on the National Direction package will take place in 2025 to seek input before proposals are revised for final Cabinet decisions. Ahead of a formal public consultation, officials have not undertaken broad public engagement on these proposals.
20. However, targeted pre-engagement with stakeholders and some iwi/Māori groups has informed policy options. Feedback from commercial forestry interests shows support for the proposals and how they can achieve increased clarity with the NES-CF regulations and improve certainty for the sector.
21. Feedback from councils has been mixed, with some councils concerned about the impact of changes to their discretionary abilities. Some councils were concerned about meeting their freshwater obligations, which is linked to proposals to change section 6 of the NES-CF. Other councils commented that the new 2023 slash management regulations are hard for them to understand, and successfully do their monitoring and compliance functions accordingly. There was mixed feedback about which proposed options would be the most workable for councils and foresters.
- a. Gisborne District Council is particularly concerned that changes to regulation 6 could directly affect policy responses they are developing after Cyclone Gabrielle and the subsequent Ministerial Inquiry into Land Use report. Effective control of erosion and sediment is still a strong focus for them.
  - b. Targeted Iwi/Māori engagement occurred with groups in the Tairāwhiti and Hawke’s Bay regions. Feedback centred on the need to improve environmental outcomes linked to forestry, and more broadly on the process and scope of the RMA reform programme as a whole.
22. Feedback from environmental interests has also been considered as part of options development. Although the objectives include improving environmental outcomes, some environmental groups consider the scope of the proposals to be too narrow and that a more thorough review of the entire NES-CF is necessary. Public consultation will be important to test the workability of proposed amendments to the NES-CF and to thoroughly understand the impacts of the proposed options.

**Is the preferred option in the Cabinet paper the same as preferred option in the RIS?**

23. The preferred options in the RIS to amend the NES-CF are all the same as the recommended options in the Cabinet paper.

**Costs (Core information)**

**Note - an independent CBA has been commissioned and is expected to help ensure the costs and benefits are more comprehensive, alongside the feedback we expect to receive from consultation.**

**Issue A - Local authorities introducing forestry rules more stringent than the NES-CF**

24. Regulation 6(1)(a), allows councils to make more stringent rules, if needed, to manage the effects from commercial forestry on freshwater. Costs of the preferred option to amend the regulation include:
- Overall costs are not expected to change significantly. However, some councils may incur initial administration costs if current plans need to be aligned with the new regulations. Clearer regulations would be expected to reduce costs for all system users (e.g. foresters).
  - Councils with localised environmental factors that require rules more stringent than the NES-CF to manage erosion from forestry harvesting are likely to incur costs associated with developing the evidence base to justify a proposed plan change.
25. No councils have used regulation 6(4A), therefore the proposal to repeal the regulation is not expected incur costs.
26. Changes to council stringency are not expected to negatively impact the environment.. Councils that do introduce more stringent rules than the NES-CF under regulation 6 are likely to further reduce any detrimental impacts of commercial forestry within that area.

***Issue B - Slash management rules set out in the NES-CF***

27. Costs of the preferred option to introduce a slash management risk assessment approach include:
- Some increased cost for harvest planners to assess slash mobilisation risk, ongoing costs in high-risk areas is likely to be comparable with the status quo (e.g. if resource consent is required).
  - Overall costs are not expected to change significantly.
  - Small scale foresters may incur marginally greater costs of slash risk assessments, but overall, assessments are likely to result in fewer consents required and therefore less cost.
  - Overall costs for Māori with an interest in forestry (forest and landowners) is expected to be reduced.
28. Changes to slash management regulations are expected to have little to minor positive environmental impacts. Harvest sites with low risk of slash mobilisation are not expected to have negative environmental impacts from the proposals, and some areas may benefit from slash being left in areas where it is currently required to be removed (e.g. by protecting soil from erosion). Areas with high risk will be managed in a way appropriate to that risk.

***Issue C: Minor changes made to the NES-CF in 2023 are causing inefficiency and adding unnecessary regulatory burden***

29. The preferred options are expected to clarify regulations and reduce costs for all system users.

**Benefits (Core information)**

**Note that an independent CBA has been commissioned and is expected to help ensure the costs and benefits are more comprehensive, alongside the feedback we expect to receive from consultation.**

***Issue A - Local authorities introducing forestry rules more stringent than the NES-CF***

30. For regulation 6(1)(a), which enables councils to make more stringent rules if needed to manage the effects from commercial forestry on freshwater, benefits of the preferred option to amend the regulation include:

- a. An ongoing reduction in costs for foresters in resource required to participate and comment on plan changes and make submissions, in addition to reductions in administrative costs (for consents and management plans).
- b. It is likely that the overall costs for Māori with an interest in forestry will be reduced.
- c. We would expect that more clarity and certainty on the regulations would benefit both regulators and regulated groups.

31. Repealing regulation 6(4A) is expected to provide increased certainty for foresters and landowners.

***Issue B - Slash management rules set out in the NES-CF***

32. For slash management rules, benefits of the preferred option to introduce a slash management risk assessment approach include:

- a. Ongoing reduction in costs for foresters in slash removal with significantly decreased effort (and cost) for removal in low-risk areas.
- b. The slash risk assessments would likely target consents to high-risk areas, resulting in fewer consents and overall, less cost.
- c. Overall costs for Māori with an interest in forestry (forest and landowners) is expected to be reduced.

***Issue C: Minor changes made to the NES-CF in 2023 are causing inefficiency and adding unnecessary regulatory burden***

33. Benefits of the preferred minor changes to the NES-CF include overall benefits for foresters, including Māori with an interest in forestry (forest and landowners), due to clearer regulations.

**Balance of benefits and costs (Core information)**

**Does the RIS indicate that the benefits of the Minister’s preferred option are likely to outweigh the costs?**

- 34. The preliminary marginal costs and benefits of the proposed amendments to the NES-CF indicate that the benefits of the Minister’s preferred option are likely to outweigh the costs.
- 35. Public consultation and the independent cost-benefit analysis that has been commissioned will inform the final costs and benefits of the proposed amendments to the NES-CF.

**Implementation**

**How will the proposal be implemented, who will implement it, and what are the risks?**

- 36. Implementation of proposals is expected to occur following final Cabinet decisions on the proposals (after public consultation has taken place and this interim RIS is updated as a final document). Changes to the NES-CF are expected to occur via enactment in the Gazette and public notification of the changes.
- 37. Councils are responsible for implementation of the NES-CF and will monitor and evaluate the amended regulations.
- 38. For all proposals, government agencies (MPI and MfE) expect to use regular engagement with the forestry sector and councils to undertake ongoing regulatory monitoring and evaluation. Specific implementation details for the different issues are set out below.

***Implementing proposals for Issue A: Local authorities introducing forestry rules more stringent than the NES-CF***

39. Implementation of amended regulation 6(1)(a) will impact councils seeking to introduce council plan rules more stringent than the NES-CF using this provision.
40. Councils currently with more stringent rules than the NES-CF under existing regulation 6(1)(a) will need to go through a plan alignment process as set out in MPI guidance,<sup>4</sup> and remove any rule that duplicates or conflicts with the amended regulation. They must do this as soon as practicable after the date the NES comes into force without using the RMA Schedule 1 process<sup>5</sup>. Councils intending to introduce more stringent rules under the amended regulation 6(1)(a) would be required to follow the plan change process set out in schedule 1 of the RMA.<sup>6</sup>
41. MPI will provide guidance to ensure councils are clear about the intent of the amended provision, the type of evidence expected to demonstrate more stringent rules are required, and the expectations for mapping affected land.
42. The proposed amendment to regulation 6(1)(a) will remove reference to the National Policy Statement for Freshwater Management (NPS-FM). At the time of writing, the Government has proposed changes to NPS-FM. Changes to the NPS-FM (and other national directions such as the New Zealand Coastal Policy Statement) are not expected to impact how councils might be required to manage the risk of severe erosion on receiving environments, including the coastal environment.
43. No councils have used regulation 6(4A), which enables councils' broad discretion to have more stringent rules to control afforestation. Therefore, to deliver the preferred option (of removing the regulation), no implementation and monitoring will be required).

***Implementing proposals for Issue B: Slash management rules***

44. Implementation of the proposed slash risk management framework will impact foresters and councils through new requirements for information, assessment, and documentation. It will also reduce the unnecessary removal of slash and unnecessary resource consents for harvest areas with low slash mobilisation risk. For harvest areas assessed as having high slash mobilisation risk, there may be additional requirements to implement mitigations (they are already removing slash, and measuring residual slash).
45. The development of a risk assessment template by MPI is required for implementation. The template will set out the risk criteria and risk thresholds that determine whether an area of proposed forest harvest will fall into a low or high-risk category. An early-stage draft template will be included in the discussion document to seek feedback during public consultation on these proposals. Targeted workshops during or after consultation will assist in optimising this template for risk assessment and practical application during harvest planning. Implementation assistance maybe required with this option.
46. Forestry harvest that meets permitted activity standards following a slash mobilisation risk assessment, will continue to be subject to council monitoring.

***Issue C: Minor changes made to the NES-CF in 2023 are causing inefficiency and adding unnecessary regulatory burden***

47. The proposed minor changes are expected to have only minor implementation needs and are expected to reduce documentation requirements.

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<sup>4</sup> <https://www.mpi.govt.nz/dmsdocument/27720-Resource-Management-Regulations-guidance-National-Environmental-Standards-for-Plantation-Forestry>

<sup>5</sup> This process may change with the replacement of the RMA.

<sup>6</sup>The Resource Management Act<sup>6</sup> (RMA) requires the provisions in a District Plan to be reviewed every 10 years. However, it is best practice for the District Plan to be regularly reviewed, and the RMA requires 5 yearly monitoring.

## **Limitations and Constraints on Analysis**

48. Policy development has been progressed under tight timeframes. As a result, we have been unable to engage widely and the evidence to assess the proposals is therefore limited. This has in turn limited the scope and complexity of the analysis.

### ***Limits on the agreed scope of the proposals***

49. Cabinet has agreed [CAB-24-MIN-0246 refers] that the objective of the proposals is to remove regulatory burden and uncertainty for the commercial forestry sector. This focus has limited the range of possible changes to the NES-CF to the problems identified in this document.

50. These proposals do not prevent a future review of the NES-CF, or broader RMA reform from identifying and addressing issues outside the scope of current proposals.

### ***The timeframes for RMA reform limit the extent of public engagement and opportunities to align instruments***

51. The Government has committed to developing and amending a package of National Direction documents. This package is due to be implemented in 2025. This means that there is a short timeframe for engagement with Treaty partners and stakeholders, and for aligning the changes to the NES-CF to other national direction and the Phase 3 resource management reforms.

52. Mitigations for the limited public engagement include the use of targeted engagement to help ensure proposals reflect feedback from key stakeholders, and the coordination and cross-referencing of proposals from the Ministry for the Environment to help minimise risk of misalignment between instruments.

### ***Data and evidence limitations and mitigations***

53. The amended regulations have only been in place since late 2023, leaving little time for them to bed in and for their impacts to be fully understood. In addition, environmental effects can be difficult to ascribe to a particular land use as there is no national monitoring programme for the NES-CF, and council environmental monitoring is usually carried out at a catchment level.

54. Available evidence from industry and iwi indicates that the recent NES-CF amendments increased uncertainty, and can be costly and time consuming to implement. However, data on the scale and impact of the problem, economic or cost/benefit analysis of the amendments, and information about consequent effects of any amendments progressed is limited.

55. Limited anecdotal and empirical evidence gathered through targeted engagement with foresters and council staff has identified problems with current slash management regulations. While the data and evidence is limited, it does support the argument that the recently amended slash management regulations are not fit for purpose.

56. The minor NES-CF changes to improve efficiency (Issue C) were identified through targeted engagement. Our analysis of these proposed changes supports their need to increase efficiency and certainty.

57. The analysis on the proposals' impacts on existing Treaty Settlements, and groups with Mana Whakahono ā Rohe is included in a separate Treaty Impact Analysis document. The document covers other arrangements with councils on resource management plans and/or consenting decisions and will be informed by public consultation.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:



**Alastair Cameron**  
**Director, Primary Sector Policy,**  
**Ministry for Primary Industries**  
**17 April 2025**

### Quality Assurance Statement

**Reviewing Agency:** Ministry for the Environment and the Ministry for Primary Industries

**QA rating:** Meets

**Panel Comment:**

A quality assurance panel with members from the Ministry for the Environment and the Ministry for Primary Industries has reviewed the interim Regulatory Impact Statement. The panel considers that it **meets** the Quality Assurance criteria.

The RIS clearly states the limitations and scope constraints on the problem definition, evidence and options, along with the Government's objectives for this work and the wider RM Reform. We note that this is an interim RIS ahead of public consultation on a wider package of RMA National Direction proposals. The RIS notes that the public consultation process intends to test the workability of the proposals and to improve understanding of the impacts, however, the panel has not reviewed the discussion document.

The RIS demonstrates a convincing problem definition and clearly sets out a range of options and evaluation criteria and shows clearly that alternative options have been carefully considered.

## Section 1: Diagnosing the policy problem

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### 1.1 What is the context behind the policy problem and how is the status quo expected to develop?

*Forestry is a significant industry in New Zealand*

1. Forestry is a large contributor to New Zealand’s economy, with export values contributing \$5.9 billion in the year to 30 June 2024 and is expected to reach \$6.6 billion by 2028. Forestry contributes to the economy by employing between 35,000 and 40,000 people in timber production, processing, and the commercial sector.
2. There is significant potential for the forestry industry to support the Government’s export growth goals, and the Government has committed to growing and future-proofing the sector.
3. In 2023, proposals for forestry regulation were recorded in the National Party manifesto document “Forests for a Stronger Economy” and in the National – New Zealand First Coalition agreement<sup>7</sup>.
  - a. The National Party’s plan to grow forestry and wood processing included:<sup>8</sup>
    - i. Reverse the recent changes that require council consents for all new forestry planting, rather than simply being clear about areas where planting should not happen;
    - ii. Update the National Environmental Standard for Plantation Forestry (NES-PF) based on the findings of the recent review; and
    - iii. Prioritise slash management as a mandatory part of forest harvest plans.
  - b. The New Zealand First/National coalition agreement sought to:
    - i. Make it easier to consent new infrastructure including renewable energy, allow farmers to farm, get more houses built, and enhance primary sector including fish and aquaculture, forestry, pastoral, horticulture and mining.
    - ii. Amend the National Environmental Standards for Plantation Forestry (NES-PF) regulations to place a duty upon harvesters to contain and remove post-harvest slash.

*Forestry rules aim to improve environmental outcomes and certainty for the industry*

4. The RMA ensures that natural and physical resources are managed sustainably. The NES-CF sits within the RMA framework and provides consistent national rules that councils implement to manage the environmental effects of forestry.
5. The Resource Management (National Environmental Standards for Plantation Forestry) 2017 (NES-PF) came into force on 1 May 2018. The objectives of the regulations are to:
  - a. maintain or improve the environmental outcomes associated with commercial forestry activities; and
  - b. increase the efficiency and certainty of managing commercial forestry activities.
6. In certain circumstances, councils need flexibility in rules to protect or manage sensitive or unique environments. Regulation 6 sets out when a council can make rules in a plan that are more stringent than the NES-CF to manage these unique situations.

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<sup>7</sup>[https://assets.nationbuilder.com/nzfirst/pages/4462/attachments/original/1700784896/National\\_\\_\\_NZ\\_F\\_Coalition\\_Agreement\\_signed\\_-\\_24\\_Nov\\_2023.pdf](https://assets.nationbuilder.com/nzfirst/pages/4462/attachments/original/1700784896/National___NZ_F_Coalition_Agreement_signed_-_24_Nov_2023.pdf)

<sup>8</sup> <https://www.national.org.nz/policies/forests-for-a-strong-economy>

7. In 2019<sup>9</sup>, a Year One review of the regulations was commenced by MPI. This review identified some areas where improvements to the regulations would help them better achieve their objectives.
8. Around the same time as the review, there was an increase in public interest and commentary on the costs and benefits of commercial forestry. The recent (at the time) and projected increases in exotic afforestation raised a broad range of concerns about adverse effects among some communities, primary sector interests, environmental non-governmental organisations and councils.
9. Alongside recommendations from the original NES-CF Year One review, the previous Government also proposed changes to respond to the increased concerns in some rural communities about commercial forestry, particularly increased exotic continuous-cover forestry planted as ‘carbon forests’. The previous Government introduced rules to make it easier for councils to influence afforestation decisions, including on the location of new forests (through the introduction of regulation 6(4A)). Extreme weather events, such as those in Tairāwhiti and Hawke’s Bay was also linked to the decisions to set prescriptive standards aimed at better managing forestry slash from forest harvest (more detail is set out in the policy problem, paras 35-44).
10. Changes made in 2023 to the NES-CF<sup>10</sup> relevant to this proposal include:<sup>11</sup>
  - a. a new regulation enabling councils to develop plan rules more stringent or lenient than the NES-CF, in relation to afforestation;
  - b. a new standard for removing forestry slash from the harvest cutover;<sup>12</sup>
  - c. other operational changes, including changes to the wilding conifer standards, an increase in documentation requirements through afforestation and replanting plans, and additional harvest management plan requirements.

*The Government has committed to reforming the RMA system through a phased approach*

11. The Government’s RMA reform programme is being progressed through three phases:
  - a. Phase One [completed in December 2023] – repeal the Natural and Built Environment Act and Spatial Planning Act.
  - b. Phase Two [underway] - targeted changes to the existing resource management system, through the Fast-track Approvals Bill, two bills to amend the RMA and a package of national direction.
  - c. Phase Three – legislation to replace the Resource Management Act.
12. The proposed NES-CF amendments are part of Phase Two of the RMA reform programme. Phase Two changes under the RMA are intended to have an immediate positive impact for New Zealanders to get things done while we stand up the new system (Phase three).
13. Phase Three proposes to replace the RMA with new resource management laws premised on the enjoyment of property rights as a guiding principle. Final decisions on new legislation to replace the RMA are yet to be made, however, national direction is proposed to be a part of the new resource management system.

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<sup>9</sup> <https://www.mpi.govt.nz/forestry/national-environmental-standards-commercial-forestry/#:~:text=Year%20One%20review%20of%20the%20NES%2DPF&text=Overall%2C%20the%20Year%20One%20review,would%20lift%20performance%20and%20compliance>.

<sup>10</sup> In 2023 the regulations changed name from NES-PF to NES for Commercial Forestry (NES-CF) to reflect the broader scope than just pine forests.

<sup>11</sup> The 2023 changes include more than what is detailed here. For a full list of changes, please refer to the [2023 final recommendations and decisions report](#) on changes to the NES-CF.

<sup>12</sup> “Cutover” is defined in the NES-CF as: the land area that has been harvested, and any adjacent land between the harvested area and any land that would be covered by water during a 5% AEP event, but does not include water bodies or land that would be covered by water during a 5% AEP event.

14. Cabinet has agreed to include the NES-CF amendments in the second phase of the resource management system amendments to “remove regulatory burden and uncertainty for the commercial forestry sector” (CAB-25-MIN-0080.01 refers). The scope of these amendments includes:
- a. reversing changes intended to increase council discretion for afforestation;
  - b. repealing the NES-CF clause 6(4A) and modify or repeal NES-CF clause 6(1)(a); and
  - c. reviewing the slash settings.

*How is the status quo expected to develop if no action is taken?*

15. If no action is taken the regulations will persist with uncertainty and unnecessary costs (as set out in the problem definition). Councils and foresters will continue to lack clarity over how to apply and enforce the parts of the NES-CF that are within scope of this review.
16. The NES-CF amendments have only been in force since 3 November 2023, and there is no systematic evaluation of how they are, or are not, contributing to the achievement of the objectives of the NES-CF. Key issues have been raised by the sector, Government, and consenting authorities relating to some of the recent changes. These issues are set out in the problem section below. If no action is taken, the problems identified are expected to continue and potentially worsen as uncertainties and unnecessary costs grow.
17. While challenging to quantify the size of the problem, in 2024, at least two councils used regulation 6(1)(a) to justify rules in council plans supported with unclear evidence or intent, and an incomplete process. These failed attempts by councils to introduce more stringent rules than the NES-CF created unnecessary costs and uncertainty for the forestry sector who are responsible for challenging the proposed changes if a lack of thorough evidence and analysis has been applied. This provides the rationale to amend the regulations to make the requirements for applying more stringent rules clearer.
18. Regulation 6(4A) allows councils broad discretion to have more stringent rules than the NES-CF for afforestation, increasing planning uncertainty for the sector.
19. Under the status quo, it is likely that council plans proposing more stringent rules than the NES-CF will increase. Creating more stringent rules than the NES-CF, will impose costs on the forestry sector and contribute to uncertainty, impacting investment decisions.
20. Maintaining the current slash management regulations, will continue to impose unnecessary costs on councils and foresters to comply with regulations 69(5-7). Regulations 69(5-7) requires significant slash removal for all forestry harvest on all orange and red zone land.<sup>13</sup> Orange zone may include sites of high fluvial and surface erosion risk where the presence of slash may support erosion management and have low risk of slash mobilisation.
21. Similarly, not making the minor changes to increase the efficiency and certainty of the NES-CF, would mean the regulated parties’ requirements for unnecessary paperwork would persist and some regulations will remain unclear and uncertain.

*Other ongoing government work programmes with interdependencies and linkages to the NES-CF that are relevant context from a systems view*

22. The proposed NES-CF amendments complement other Government initiatives that increase efficiency and certainty for the commercial forestry sector. The Government has

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<sup>13</sup> Orange and red zone land refers to high (orange) and very high (red) erosion risk land as determined by the Erosion Susceptibility Classification.

already repealed the mandatory registration system for log traders and forestry advisors.<sup>14</sup> The Government is improving the resource consenting framework for wood processing to reduce the time it takes to consent new facilities and to re-consent existing ones.<sup>15</sup>

23. The Government is also exploring Emissions Trading Scheme (ETS) cost recovery options to reduce costs for certain forestry participants in the ETS.
24. Additional government policy related to managing afforestation includes the second Emissions Reduction Plan (ERP2) which contains several policies that incentivise afforestation, and policy proposals relating to public-private partnerships to plant trees on Crown land. The Government has also announced policy changes intended to limit how much farmland is converted to exotic forest and registered in the ETS.

## **1. 2 What is the policy problem or opportunity?**

25. The policy problems in the NES-CF are set as three different issues:

- a. Issue A - Local authorities introducing forestry rules more stringent than the NES-CF
- b. Issue B - Slash management rules set out in the NES-CF.
- c. Issue C - Minor changes made to the NES-CF in 2023 are causing inefficiency and adding unnecessary regulatory burden.

26. These policy problems are outlined in the following parts.

## **1. 3 Issue A: Local authorities introducing forestry rules more stringent than the NES-CF**

27. National standards for commercial forestry provide consistency for foresters and councils in the regulation of commercial forestry activities. However, national standards don't recognise site specific, or locally specific conditions that may require a more nuanced approach. The standards set out in regulation 6 enable councils a more nuanced approach, through introducing more stringent rules than the NES-CF.
28. To protect or manage sensitive or unique environments, in some cases councils may need more stringent rules than the NES-CF. The circumstances and criteria where stringency is enabled is set out in regulation 6. While many parts of regulation 6 are working as intended, two of the eleven stringency regulations<sup>16</sup> are unclear in how they are to be used and are contributing to regulatory uncertainty.
29. Council use of the stringency regulation is not always being justified clearly, and that this is imposing unnecessary costs and uncertainties on the forestry sector. Costs include those for forestry companies (and officials at Ministerial request) reviewing council proposals, and in at least one instance, forestry companies successfully challenging a council in court where they considered the proposed rules which would be more stringent than the NES-CF were not justified on the evidence or the requirements of the plan-making process.
30. The two parts of regulation 6 that form the issue are:
  - a. Regulation 6(1)(a) if the rule gives effect to an objective developed to give effect to the National Policy Statement for Freshwater Management.

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<sup>14</sup> In June 2024 the Government repealed legislation requiring the compulsory registration of log traders and forestry advisers: <https://www.beehive.govt.nz/release/government-repeals-costly-log-trade-legislation>

<sup>15</sup> <https://www.beehive.govt.nz/release/growing-potential-new-zealand%E2%80%99s-forestry-sector-partnership>

<sup>16</sup> NES-CF regulation 6 - Relationship between rules and these regulations

- b. Regulation 6(4A), which may be more stringent or lenient than the afforestation regulations. This allows councils broad discretion to have more stringent rules to control any aspect of afforestation, including location.
31. The original intent of 6(1)(a) was to allow councils to give effect to the new NPS-FM, as it was introduced at the same time as the NES-CF, and how councils would give effect to it was unknown. Councils have used it to manage sediment in uniquely erosion prone catchments, and this ability is proposed to be maintained.
  32. The intent for 6(4A) was to allow councils to decide where new afforestation would go, particularly to manage the loss of productive land to carbon forests.
  33. Although the size of the problem is challenging to quantify, in 2024, at least two councils used regulation 6(1)(a) to justify rules in council plans with unclear evidence or intent, and an incomplete process. These endeavours by councils to introduce more stringent rules than the NES-CF provide a good rationale to amend the regulations.
  34. Council plans which set more stringent rules than the NES-CF without demonstrable evidence of need are assumed to impose unnecessary costs and uncertainties on the forestry sector.

#### **1.4 Issue B: Slash management rules in the NES-CF**

35. Forestry slash provides environmental benefits to soil during the post-harvest commercial forestry lifecycle. However, if not managed well, in certain environments, slash can mobilise (travel downstream) and cause detrimental impacts on downstream environments and communities.
36. In 2023, slash management regulation 69(5-7) were introduced to the NES-CF. Extreme weather events, such as those in Tairāwhiti and the Hawke's Bay, and the corresponding damage associated with commercial forests, led to NES-CF changes to better manage slash. The new requirements took a prescriptive approach, setting dimension sizes of wood and placing cubic metre limitations on how much slash could be left on the forest cutover (the harvested area).
37. While the new requirements have only been in place a short time, officials consider the new rules have resulted in practical issues for foresters and councils, including increased costs and technical difficulty retrieving and storing material, and measuring residual slash for compliance purposes, without any clear evidence of improved environmental outcomes or benefits. The problem is that regulation 69 (5-7) does not currently achieve an appropriate level of environmental protection commensurate with the slash mobilisation risk.
38. Although there are instances where slash on the forest cutover has mobilised and caused adverse effects downstream, there is no quantifiable national evidence to demonstrate the environmental benefits or risk reduction from removing large quantities of slash from all orange zone land.
39. For example, we have seen one resource consent for harvest of an orange zone site (where the harvest would otherwise be a permitted activity) where there is no risk of slash mobilising, and no downstream risk as there are no waterways on the site. Despite this the consent requires ongoing inspection and monitoring of the cutover following specified storm and rainfall events, which will entail ongoing cost and effort over the life of the consent.
40. During targeted engagement councils and foresters both described areas which are covered by the regulation where the risk of slash mobilisation is low and they don't see any benefit in removing it, but the new regulation (regulation 69(5-7)) require its removal.
41. The potential for harm from mobilised slash is very real in some places. Slash on the cutover can mobilise if carried by a landslide or debris flow, and is able to reach a waterway

which will carry it downstream. This is almost always triggered by very high rainfall weather events.

42. The risk of landslides and debris flows will vary significantly according to the physical characteristics of the site, the way in which it is harvested, as well as weather conditions (e.g. high rainfall) during the window of vulnerability<sup>17</sup>. As a result, the size of any risk reduction can only be assessed on a site-by-site basis.
43. The current slash regulations are underpinned by a risk-based framework, but the 2023 amendments are too prescriptive, and do not provide flexibility to cater to site specific risks.
44. An effective and efficient regulation should focus increased effort and cost on areas where the risk of slash mobilisation is high.

### **1. 5 Issue C: Minor changes to the NES-CF to improve efficiency and reduce regulatory burden**

45. Stakeholder engagement in 2024 has identified that some minor and technical changes made to the NES-CF in 2023 have increased paperwork and costs for industry and councils. There is duplication in some new NES-CF requirements, because the activities they are managing are already covered by existing regulation in the NES-CF. In other places, wording changes have led to confusion and a lack of clarity about what certain terms might mean. While feedback on costs is clear, officials have not identified environmental or other benefits arising from these changes.
46. Changes made in 2023 have led to the following specific issues:
  - a. A new requirement for afforestation and replanting plans (regulations 10A and 77A, and schedule 3) which were introduced to support the increased emphasis on afforestation management. However, the requirements are already duplicated by existing regulation in the NES-CF.
  - b. A new requirement to identify 'woody debris' is included in schedules 3, 4, 5 and 6, but the term is not defined, and it is causing confusion without any improved environmental outcome.
  - c. The wilding conifer standards were amended to make them more robust but are now unclear about the requirements of the wilding tree risk calculator score, how it must be followed and what must be provided to the council, which is causing confusion.
  - d. A section setting out requirements for low-intensity harvesting) includes the word "not" in error (regulation 71A(b)).

### **1. 6 What objectives are sought in relation to the policy problem?**

#### *Objectives as part of the RMA reform*

47. The Government objectives for RMA reform, including through the National Direction package were agreed by Cabinet in March 2024 (CAB-24-MIN-0246 refers). This included the objective to make it easier to get things done by enabling primary sector growth and development, including forestry (the full set of 7 objectives is recorded in the Cabinet minute).
48. For the Farming and Primary Sector package in the National Direction work programme, the Government has set the following objectives:

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<sup>17</sup> The 'window of vulnerability' is a period of 6-8 years following clear-fell harvesting when the landscape is susceptible to rain-induced landslides. Recent research indicates the maximum landslide and density occurred on land harvested 1-4 years (and on average 2-3 years) before the event (Phillips et al, *Exploring the post-harvest 'window of vulnerability' to landslides in New Zealand steepland plantation forests'* Ecological Engineering 206 (2024).

- a. enabling primary sector growth and development (including aquaculture, forestry, pastoral, horticultural, and mining);
  - b. safeguarding the environment and human health;
  - c. adapting to the effects of climate change and reducing the risks from natural hazards;
  - d. improving regulatory quality in the resource management system; and
  - e. upholding Treaty of Waitangi settlements and other related arrangements.
49. All proposed changes to National Direction instruments in the Farming and Primary Sector work programme seek to meet these objectives. Specific assessment criteria for the proposed changes have been agreed for all national direction proposals and are outlined below.

*Objectives for forestry in particular*

50. The Government has committed to enabling primary sector growth and development, and to restoring confidence and certainty across the forestry sector. The proposed NES-CF amendments aim to provide greater certainty for the forestry sector and help them meet environmental obligations and are to address issues of:
- local authorities introducing more stringent rules than the NES-CF causing uncertainty, the objective is to achieve nationally consistent and clear regulations that recognise the complexities in different regions.
  - slash regulation, the objective is to balance the risks from harvest, such as slash, as well as support the industry’s social licence to operate and ability to drive economic returns.
51. The NES-CF objectives are to:
- maintain or improve the environmental outcomes associated with commercial forestry activities
  - increase the efficiency and certainty of managing commercial forestry activities.

**1.7 What consultation has been undertaken?**

52. Public consultation on the National Direction package will take place in 2025 to seek input before proposals are revised for final Cabinet decisions. Ahead of a formal public consultation, officials have not undertaken broad public engagement on these proposals.
53. However, targeted pre-engagement with stakeholders and some iwi/Māori groups has informed policy options.
- a. Feedback from commercial forestry interests shows support for the proposals and how they can achieve increased clarity with the NES-CF regulations and improve certainty for the sector.
  - b. Feedback from councils has been mixed, with some councils concerned about how changes to their discretionary abilities will be impacted. Some councils expressed concern about meeting their freshwater obligations, which is linked to proposals to change section 6 of the NES-CF. Other councils provided feedback that the new slash management regulations are hard for them to understand, and successfully do their monitoring and compliance functions accordingly. There was mixed feedback about what options being considered (for slash management) would be the most workable for councils and foresters.
  - c. Gisborne District Council is particularly concerned that changes to regulation 6 could directly affect the policy responses they are developing following Cyclone Gabrielle and the subsequent Ministerial Inquiry into Land Use report. The effective control of erosion and sediment remains a strong focus for them.

- d. Targeted Iwi/Māori engagement occurred with groups in the Tairāwhiti and Hawke's Bay regions. Feedback centred on the need to improve environmental outcomes linked to forestry, and more broadly on the process and scope of the RMA reform programme as a whole.
  - e. Feedback from environmental interests has also been considered as part of options development. While the objectives include improving environmental outcomes, feedback suggests that some environmental groups consider the scope of the proposals to be too narrow and that a more thorough review of the entire NES-CF is necessary.
54. Public consultation will be important to test the workability of proposed amendments to the NES-CF and to thoroughly understand the impacts of the proposed options.

## **Section 2: Assessing options to address the policy problem**

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### **2.1 What criteria will be used to compare options to the status quo?**

55. For the Farming and Primary Sector National Direction work programme, the Government has set the following assessment criteria:
- **Effectiveness**- will be assessed against two criteria:
    - i. The extent to which the option contributes to the attainment of the relevant high-level objectives, including upholding Treaty settlements.
    - ii. The option should also provide a solution to the identified problem.
  - **Efficiency**- will be assessed against three criteria:
    - i. The extent to which the option is the best way to achieve the objectives.
    - ii. The option should provide enough flexibility to allow local circumstances to be adequately taken into account at the local level.
    - iii. The option is cost effective.
  - **Alignment**: The extent to which the option integrates well with other proposals and the wider statutory framework.
  - **Implementation**: The extent to which the option is clear about the requirements for its implementation by local government/others and that it can be easily implemented.
  - **Treaty of Waitangi**: The extent to which the option is consistent or gives effect to Treaty settlements and te Tiriti principles.

### **2.2 What scope will options be considered within?**

58. Policy development has been progressed under tight timeframes. As a result, we have been unable to engage widely and the evidence to assess the proposals is therefore limited. This has in turn limited the scope and complexity of the analysis.

#### *Limits on the agreed scope of the proposals*

56. Cabinet has agreed [CAB-24-MIN-0246 refers] that the objective of the proposals is to remove regulatory burden and uncertainty for the commercial forestry sector by making targeted regulatory changes to the NES-CF. This focus has limited the range of possible changes to the NES-CF to the problems identified in this document. These proposals do not prevent a future review of the NES-CF, or broader RMA reform, from identifying and addressing issues outside the scope of current proposals.

*The timeframes for RMA reform limit the extent of public engagement and opportunities to align instruments*

57. The Government has committed to developing and amending a package of National Direction documents. This package is due to be implemented in 2025. This means that there is a short timeframe for engagement with Treaty partners and stakeholders, and for aligning the changes to the NES-CF both to other national direction and the Phase 3 resource management reforms.
58. Mitigations include the use of targeted engagement to help ensure proposals reflect feedback from key stakeholders, and the coordination and cross-referencing of proposals being run out of the Ministry for the Environment to help minimise risk of misalignment between instruments.

*Data and evidence limitations and mitigations*

59. The amended regulations have only been in place since late 2023, leaving little time for them to bed in and for their impacts to be fully understood. The varied nature of New Zealand's landscape means it is difficult to ascertain regulatory cause and effect. Council environmental monitoring is usually carried out at a catchment level, and where forestry is one of several land uses in a catchment, environmental effects can be difficult to ascribe to a particular land use.
60. There is some evidence from industry and iwi indicating that the recent NES-CF amendments increase uncertainty and can be costly and time consuming to implement. However, data on the scale and impact of the problem, economic or cost/benefit analysis of the amendments, and information about consequent effects of any amendments progressed is limited.
61. Data and evidence to support the problem definition of slash management includes anecdotal evidence gathered through targeted engagement with foresters and council staff, and a range of resource consents that have been shared with us. While the data and evidence is limited, it does support the argument that the recently amended slash management regulations are not fit for purpose.
62. The minor NES-CF changes to improve efficiency have been identified through targeted engagement and our analysis of these proposed changes supports the need to make them to increase efficiency and certainty.
63. The analysis on the impacts of the proposals on existing Treaty Settlements, and groups with Mana Whakahono ā Rohe is included in a separate Treaty Impact Analysis document, which covers other arrangements with councils around resource management plans and/or consenting decisions. This will also be further informed by public consultation.

**2. 3 What options are being considered?**

64. Options to amend the NES-CF are analysed in three parts:
  - a. Issue A - Local authorities introducing forestry rules more stringent than the NES-CF.
  - b. Issue B - Slash management rules set out in the NES-CF.
  - c. Issue C - Minor changes to the NES-CF to improve efficiency and reduce regulatory burden.
65. Analysis of Issue A is split into two parts, as set out below.

**2. 4 Issue A Part 1- Regulation 6(1)(a) – options to amend matters over which local authorities can introduce more stringent rules than the NES-CF**

66. Options considered for regulation 6(1)(a) include:
  - a. A1. the status quo (no change);
  - b. A2. repealing 6(1)(a); or

- c. A3. amending 6(1)(a) to be more specific about when councils can impose stricter rules than the NES-CF to address the risk of severe erosion from a commercial forestry activity.
67. Options to amend regulation 6(1)(a) represent a trade-off between national consistency and allowing flexibility for councils to introduce specific rules that recognise locally specific conditions. Other options that were considered but not progressed are set out below.

**2.5 Other options for enabling local authorities to introduce rules more stringent than the NES-CF that were considered but not progressed**

68. Broad options were considered to address the identified problems of clarity and certainty with two of the NES-CF regulations that enable more stringent rules than the NES-CF. Options considered but not progressed, include:
- a. repealing 6(1)(a) entirely, but amending 6(3) to include specific geologies that present a major risk factor for severe erosion in Gisborne and northern Hawkes Bay;
  - b. explicitly carving out Gisborne as the only region allowed to make more stringent rules than the NES-CF in relation to 6(1)(a); and
  - c. removing regulation 6 in its entirety.
69. Option a) was not progressed because the specific geology in Gisborne and northern Hawkes Bay that contributes to high erosion risk is not the only factor contributing to very high erosion susceptibility, and stringency may be required for other land types.
70. Option b) was not progressed because it would not be sufficiently flexible for other regions that may require more stringent rules than the NES-CF (for example, Marlborough or Tasman).
71. Option c) was not progressed for similar reasons, and because the matters in regulation 6 were included for specific reasons and should not be removed without careful analysis. Repealing regulation 6 would limit the ability of councils to manage environmental effects of commercial forestry where they have evidence that more stringent rules than those in the NES-CF are required to manage those effects.

**Option A1 – Status quo for regulation 6(1)(a) [Status Quo / Counterfactual]**

72. Option A1 would retain the status quo and make no changes to NES-CF regulation 6(1)(a). Currently seven regional councils (out of a total of 16) are using, or intending to use 6(1)(a) to introduce new rules into regional plans to give effect to the NPS-FM. The Government has restricted the ability of regional councils to notify “freshwater planning instruments” until a new NPS-FM is gazetted (or 31 December 2025), so we do not expect to see new proposals for the use of stringency in the short term.
73. This option (status quo) is not effective in achieving the objective of enabling primary sector growth because variable council plan rules increase uncertainty for foresters. Foresters need a degree of certainty because of the very long investment horizon with forestry. The regulation also lacks specificity, as evidenced by some councils proposing stricter rules than the NES-CF without clearly demonstrating how an NPS-FM objective will be met.
74. Variable council rules require the forestry sector to engage in every plan-making process. This is an inefficient use of resources for the forestry sector, and for councils.
75. Our analysis suggests the time and resource requirements for this risk undermines the NES-CF objective to increase the efficiency and certainty of managing commercial forestry activities.

### **Option A2 – Repeal regulation 6(1)(a)**

76. Option A2 is to repeal NES-CF regulation 6(1)(a). Repealing NES-CF regulation 6(1)(a) would:

- prevent councils making more stringent rules to give effect to the NPS-FM objectives; and
- require councils that have already introduced more stringent rules using 6(1)(a) to undertake a plan alignment process to remove any rules that are more stringent than the NES-CF.

77. Repealing regulation 6(1)(a) would be straight forward for local government to implement. However, it would require councils that have made stringent rules to repeal those changes.

78. Repealing 6(1)(a) may result in poorer environmental outcomes, in some locations, than the status quo, where plan rules have been developed that are more stringent than the NES-CF to give effect to the NPS-FM objectives.

79. Option A2 is effective in achieving the objective of enabling primary sector growth but may not be effective in achieving the objective of safeguarding the environment and human health, in locations where plan rules more stringent than the NES-CF are required to managed localised effects.

### **Option A3 – Amend regulation 6(1)(a) to manage areas of high risk – (preferred option)**

80. Option A3 would clarify the scope of stringency and allow a council to make more stringent rules where:

- a. it is required to manage the risk of severe erosion from a commercial forestry activity from a defined area which will have significant adverse effects on downstream infrastructure, property, or receiving environments, including the coastal environment;
- b. it can be demonstrated that the risk cannot be managed using the existing rules; and
- c. an underlying risk exists within the defined area that has been identified through mapping this area at a 1:10,000 scale OR using a 1m<sup>2</sup> Digital Elevation Model. This finer scale mapping will ensure evidence focuses on specific factors of the land that have the potential to cause clearly identified effects off the site and are not applied generally<sup>18</sup>.

81. Option A3 focuses on severe erosion which can generate significant downstream risks off the forestry site, and where significant changes to land use or forestry practice may be the best or only option to managing the problem.

82. Under Option A3, councils will still be able to manage areas of high-risk by including rules in their plans that are more stringent than the NES-CF. Option A3 focuses on managing highly erosion-prone land, and includes the management of potential effects on downstream receiving environments.

83. Amending regulation 6(1)(a) as outlined above is effective because it enables primary sector growth and development, while enabling councils to introduce more stringent rules than the NES-CF to:

- a. safeguard the environment and human health;
- b. adapt to the effects of climate change and reduce the risks from natural hazards; and
- c. improve regulatory quality in the resource management system.

84. Making the regulation more specific will efficiently balance the needs of national standards and councils to introduce more stringent rules than the NES-CF.

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<sup>18</sup> If a general risk was identified that would apply across an entire region it would be more appropriate to consider changes to the parent regulations so it could be assessed nationally.

85. Implementation costs of the amended Regulation 6(1)(a) will be limited to councils who will benefit from stricter plan rules. The impact of amending regulation 6(1)(a) will better enable growth in the forestry sector while still meeting environmental obligations.
86. The NES-CF continues to manage the risks of erosion and sedimentation from forestry activities, as it was designed to do. However, amending regulation 6(1)(a) to enable localised risks to be managed in specific situations will limit the ability of councils to propose more stringent rules seeking to give effect to NPS-FM objectives that are not clearly linked to forestry specific effects.
87. Amending regulation 6(1)(a) is a trade-off between flexibility for councils, in how they manage environmental effects and providing certainty for the sector. Consultation with stakeholders (councils, foresters, communities and environmental groups) will seek feedback on potential situations where more stringent rules are required, and the impacts of this option.

## **2. 6 Issue A Part 2 – Options for 6 (4A)- Repealing stringency for afforestation**

88. Two options have been considered for Issue A - Part 2 (regulation 6(4A)):
  - a. A2.1. the status quo (no change), or
  - b. A2.2. repealing 6(4A).

### **Issue A2.1 – Status quo for regulation 6(4A)**

89. Option A2.1 is retaining the status quo and making no further changes to NES-CF regulation 6(4A). This allows councils to make any rule in a plan more stringent or lenient than the afforestation section (subpart 1 of Part 2) of the regulations. It enables councils to control the location, size, species, consent status and operating rules for afforestation with commercial forestry in any area, using any criteria that fall within the purpose of the RMA.
90. Uncertainty is the biggest cost associated with regulation 6(4A) as it enables different afforestation rules between councils – undermining the benefits of having nationally consistent rules for commercial forestry. It could also increase barriers to afforestation, which undermines investment confidence and options for the sector.
91. The benefit of regulation 6(4A) is that it provides broad scope for councils to address community preferences for afforestation for a wide variety of reasons. This increases local control over land use beyond the matters the NES-CF already controls as set out in subpart 1 (wilding tree risk and control, significant natural areas, outstanding natural features and landscapes, visual amenity landscapes, and setbacks from waterbodies, roads and neighbouring properties).

### **Option A2.2 – Repealing regulation 6(4A) – (preferred option)**

92. Option A2.2 would repeal regulation 6(4A) in its entirety. The NES-CF sets controls for the main environmental effects of commercial forestry managed under the RMA, though some effects are managed under other Acts (for example, pest management under the Biosecurity Act) or out of scope of the regulations (for example, water yield). If regulation 6(4A) is repealed, afforestation rules would continue to be controlled by other (existing) regulations in the NES-CF.
93. Repealing 6(4A) increases investment certainty by reducing the ability for councils to introduce plan rules creating regional variance. It also reduces the complexity of the operating environment for foresters to comply with regulations, which was a key problem the NES-CF was developed to resolve.

94. Repealing regulation 6(4A) is expected to increase certainty for the forestry and farming sectors to enable them to consider investments in forestry with certainty as long as they meet the requirements of the NES-CF.
95. Amendments or alternatives to 6(4A) were not developed further because the Government has a clear policy intent to repeal the regulation, and the benefits that 6(4A) can offer, such as management of environmental effects of afforestation, are provided for under other parts of the NES-CF.

**Key for assessment criteria in table 1 over the page:**

- ++** much better than doing nothing/the status quo/counterfactual
- +** better than doing nothing/the status quo/counterfactual
- 0** about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

**Table 1 - How do the options for local authorities introducing forestry rules more stringent than the NES-CF compare to the status quo/counterfactual?**

		Issue A options - - options for regulation 6(1)(a)			Issue A2 –options for regulation 6 (4A)	
		Option A1 – <i>Status Quo / Counterfactual</i>	Option A2 – <i>Repeal regulation 6(1)(a)</i>	Option A3 - <i>Amend regulation 6(1)(a) - (preferred option)</i>	Option A2.1 – <i>Status quo</i>	Option A2.2 – <i>Repealing regulation 6(4A) – (preferred option)</i>
<b>Effectiveness</b>	Does the option achieve the objectives?	0	+	++	0	++
	Does the option achieve the objectives?	0	+	++	0	++
<b>Efficiency</b>	Is the option the best way to achieve the objectives?	0	0	++	0	++
	Is it providing enough flexibility to allow local circumstances to be adequately taken into account?	0	-	+	0	--
	Is it cost-effective?	0	++	+	0	++
<b>Alignment</b> - Does the option integrate well with other proposals and the wider statutory framework?		0	-	+	0	++
<b>Implementation</b> - Is the option clear about what is required for implementation by local government/others and easily implemented?		0	++	+	0	++
<b>Treaty of Waitangi</b> Whether it is consistent or gives effects to Treaty settlements and te Tiriti principles		0	0	0	0	0
<b>Overall assessment</b>		0	+	++	0	++

## 2. 7 What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

96. Officials recommend that option A3 is progressed to amend NES-CF regulation 6(1)(a) because it provides greater clarity to councils on what grounds they can introduce more stringent rules than the NES-CF and provides greater certainty on the evidence base required.
97. It is expected that some councils will need to use 6(1)(a) to make more stringent rules than the NES-CF to manage localised issues and be justified by a sound evidence base. For example, Gisborne District Council have indicated that they intend to use regulation 6(1)(a) to manage the impacts of extreme weather events on highly erosion-prone land through an overlay that would restrict commercial forestry activities (the overlay would also affect other land uses).
98. Gisborne has a high number of extreme weather events, and in general forests provide a stabilising land cover to reduce erosion. However, forest land that is within the ‘window of vulnerability’<sup>19</sup> following harvest is very vulnerable to shallow landslides. During Cyclones Hale and Gabrielle in early 2023, there was extensive slash mobilisation and sediment loss across commercial forests, farmland, and native forests.
99. These impacts were felt downstream, where large amounts of slash and sediment accumulated on land and beaches, and damaged infrastructure such as roads and bridges. Investigations following the storms have identified some cases where regulations were not complied with but in many cases compliance with regulations and resource consents were insufficient to halt the damage caused by such significant rainfall events. A proposed plan change could encompass land use changes which would be difficult to achieve without the use of more stringent rules than the NES-CF.
100. There are also examples of proposed plan changes where the evidence base or the process may not meet the standards required by regulation 6, indicating unclear policy intent. The fact the few councils have successfully used regulation 6(1)(a) to introduce rules more stringent than the NES-CF demonstrates the need for amendments to make the regulation clearer. For example, Canterbury Regional Council recently appointed a panel which recommended two rules in relation to sediment discharges that were more stringent than those in the NES-CF.<sup>20</sup> These rules were challenged, and the High Court found that adequate reasons were not provided for the decisions to include the rules, and that expert evidence and legal submissions were not adequately considered.<sup>21</sup>
101. Another example is Otago District Council’s (ODC) draft rules on forestry setbacks for their Land and Water Regional Plan (which was developed to give effect to the NPS-FM 2020). A section 32 evaluation was undertaken, but there was little assessment of the impacts of requiring a consent for all exotic forest plantations greater than 10 hectares, though this could impose significant costs for the forestry industry.
102. ODC’s section 32 evaluation provided some general information about forestry as a land use, community views on forestry as a land use, and selected environmental factors,

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<sup>19</sup> The ‘window of vulnerability’ is a period of 6-8 years following clear-fell harvesting when the landscape is susceptible to rain-induced landslides. Recent research indicates the maximum landslide and density occurred on land harvested 1-4 years (and on average 2-3 years) before the event (Phillips et al, *Exploring the post-harvest ‘window of vulnerability’ to landslides in New Zealand steep-land plantation forests’* Ecological Engineering 206 (2024)).

<sup>20</sup> ECan included water yield in its discussion of a more stringent forestry consenting regime. Water yield is outside the scope of the NES-CF and ORC can make rules relating to water yield.

<sup>21</sup> The decision in *Rayonier v Canterbury Regional Council* found that, on evidence and process, the council had not justified a need for more stringent rules than those in the NES-CF.

but it did not provide evidence of how changes were required to address freshwater issues in the region.

103. Based on the information available it appears that the draft ODC rules treat afforestation and its potential effects in a different way to other primary production activities such as agriculture and horticulture without clear justification. At the time of writing this RIS we have not seen evidence of the purpose or justifications that ODC are using for rule stringency under 6(1)(a).
104. For regulation 6(4A), officials recommend that option A2.2 is progressed. This removes the ability for councils to introduce stricter rules than the NES-CF for broad reasons and provide certainty to the sector. Further analysis of the impacts of the preferred option, compared to the status quo, is outlined in paragraphs 90-92.

## 2. 8 Is the Minister’s preferred option in the Cabinet paper the same as the agency’s preferred option in the RIS?

105. The Minister’s preferred option for how local authorities can introduce forestry rules more stringent than the NES-CF in the Cabinet paper are the same as the agency’s preferred option in the RIS.

**Table 2- What are the marginal costs and benefits of the preferred option in the Cabinet paper?**

Affected groups	Comment	Impact	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups (forest owners, harvest planners, consenting staff, harvest contractors)	Ongoing reduction in costs for foresters in resource required to participate and comment on plan changes and make submissions, in addition to reductions in administrative costs (for consents and management plans).	High - Difficult to quantify - unknown effects for stringency provision but likely to result in more certainty for the sector.	Medium - Some increase in certainty for changes to stringency provisions.
Regulators (councils)	Initial administration costs for councils who need to align plans with the new stringency regulations; reduced costs in plan making where stringency is no longer possible, but potentially higher costs for some councils where plan changes are proposed	Low - Overall costs are not expected to change significantly at the macro level.	Medium - The proposed NES-CF changes take a risk-based approach with a greater requirement for evidence.

	and the required evidence may be costly to gather.		
Government	Initial cost of developing stringency guidance; ongoing overview of implementation and results; potential ongoing need to monitor use of stringency.	Medium - Uncertain effect on use of stringency.	Medium - Changes take a risk-based approach so impact will depend on how they are used.
Iwi/Māori - more detailed analysis is included in the Treaty Impact Analysis prepared alongside this document.	Overall costs for Māori with an interest in forestry (forest and landowners) will be reduced. No significant identified effects for other groups. To be tested during consultation.	Medium - Difficult to quantify but expected to be positive for Māori with an interest in forestry.	Medium - Changes take a risk-based approach so impact will depend on local circumstances.
Public	No direct cost.	Low - No direct reduction in financial costs.	Medium - Changes take a risk-based approach so impact will depend on how they are used.
<b>Total monetised costs</b>	Not available - difficult to quantify	Not available	Not available
<b>Non-monetised costs</b>	Medium costs	Medium	Medium Low
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	May be perception in some rural communities that local control has decreased.	Unknown effects for stringency provision.	Medium - Some increase in certainty for changes to stringency provisions.
Regulators	Will vary across councils. Councils with existing capability in forestry are likely to be unphased by changes to stringency; others may find a risk-	Medium – the proposed changes give councils more clarity and certainty on the regulations.	Medium - The proposed NES-CF changes take a risk-based approach with a greater requirement for evidence.

	based approach challenging.		
Iwi/Māori	Overall benefits for Māori with an interest in forestry (forest and landowners) due to clearer regulations.	Medium - Māori foresters will be better off with increased clarity over council stringency regulations.	Medium – Clearer regulations provide more certainty.
Public	Communities with localised risks will have clearer parameters to implement more stringent rules under the amended regulation 6(1)(a).	Low – Communities with localised risks will benefit from more stringent rules under the amended regulation 6(1)(a).	Medium - Changes take a risk-based approach so impact will depend on how they are used.
<b>Total monetised benefits</b>	Difficult to quantify	Not available	Not available
<b>Non-monetised benefits</b>	Difficult to quantify	Medium	Low

106. The marginal costs and benefits of the proposed amendments to the NES-CF outlined in Table 2 will be further informed by an independent cost-benefit analysis and public consultation.

## Delivering an option

### 2. 9 How will the proposal be implemented?

107. Amending NES-CF regulation 6(1)(a) will be straightforward for most councils as the proposal will continue using the current RMA process to make council plan changes, yet with more clarity about the conditions under which councils can do so. Where councils have made more stringent rules under 6(1)(a) they will need to undergo a plan alignment process,<sup>22</sup> and strike out any rules which no longer comply with the amended regulation.

108. At the time of writing there was uncertainty about the extent of changes to the NPS-FM, and the timing of the Ministerial moratorium on plan changes to give effect to the freshwater process. The implementation requirements may change as we get more certainty about the amended NPS-FM.

109. Guidance will be required to ensure councils are clear about the intent of the amended provision, the type of evidence expected to demonstrate more stringent rules are required, and the expectations for mapping affected land.

110. NES-CF regulation 6(4A) was only introduced in late 2023 and no council has notified new council plan rules under it, therefore no implementation and monitoring will be required to remove 6(4A).

### 2. 10 How will the proposal be monitored, evaluated, and reviewed?

111. Implementing more stringent rules that NES-CF under regulation 6 requires a council plan change. The process for a council plan change is set out in the RMA, which includes

<sup>22</sup> Per NES-PF Plan Alignment Guidance, May 2018.

requirements for a robust evidence base, public consultation and in consultation with the Minister for the Environment and other Ministers of the Crown who may be affected by the plan.<sup>23</sup>

112. Where the Minister for the Environment has a concern about any proposed use of the amended regulation, the Minister has the option to take further steps by exercising ministerial powers, as appropriate to the situation.

## **2. 11 Issue B - Options for slash management in the NES-CF**

113. Three primary options have been considered for slash management:

- a. B1 - the status quo (no change);
- b. B2 - introducing a slash management risk assessment approach; and
- c. B3 - amending the slash dimensions in regulations 69(5-7).

114. In designing options, we considered the balance between the risks of slash mobilising, and the potential effects if it does mobilise, with the costs and safety considerations of retrieving and managing slash for foresters. We considered a prescriptive slash management approach underpinned by a risk-based framework, and a more flexible risk-based approach that can cater to site specific risks.

115. We consider that all slash management options carry risks, that if they occur, will be borne by landowners and communities (e.g. damage to land and infrastructure, health and safety issues, damage to waterways and beaches, and loss of amenity); others will be borne by the forestry sector (e.g. clean-up costs, enforcement action and prosecution, and loss of reputation, both in the area and nationally).

116. We also considered how these options could be practicably implemented for foresters and councils. These include requirements for information, assessment, and documentation, as well as practical implementation during the harvest process, such as implementing mitigations, removing slash, and measuring residual slash.

### ***Other slash management options that were considered but not progressed.***

117. We did not consider the option of repealing the changes made to regulation 69(5-7) in 2023 because the new standard was developed to address a demonstrated problem of slash mobilisation and downstream harm in some places. Targeted engagement confirmed this, including from the forestry industry, with common feedback that it is the scope and form of the standard that is causing the current issues.

118. We did not consider non-regulatory options as it is a regulation that is not working well, and on balance amending the regulation within an otherwise functional framework is more efficient than canvassing broader options. However, since the new slash regulations came into force in 2023, Te Uru Rākau – New Zealand Forest Service, has published a resource to improve understanding of slash risk and mitigation and management options.<sup>24</sup> This will help foresters to meet the requirements of the standard, including understanding when action is required.

119. We have not considered slash management regulations in other countries. Few countries' commercial forestry industries operate as New Zealand's does, with many countries managing their indigenous forests for timber, sometimes with quite different harvest regimes, and usually on less steep, erodible land (much of the land with high risk of slash mobilisation was planted to control erosion). For example, rules on managing slash in

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<sup>23</sup> RMA Schedule 1 – Part 1 – Section 1 Consultation

<sup>24</sup> 'Slash risk management handbook', June 2024, Te Uru Rākau – New Zealand Forest Service

British Columbia limit how much slash can be removed because they seek to protect the soil resource.

120. Several other options were considered to amend slash management regulations in the NES-CF, but they were not progressed for the following reasons:
- a. *Reduce the area of forest required to comply with regulation 69(5-7) by exempting certain land use capability units where landslide risk is low.* This option would reassess the land use capability units that make up the orange zone of the Erosion Susceptibility Calculator (ESC),<sup>25</sup> to identify those with geologies that do not have high risk of shallow landslides and exempt them from the requirements of regulation 69(5-7). We did not pursue this option because geology on its own is not the only risk for mobilisation, and it is not a predictor of downstream risk, so further risk assessment would be required to ensure sites are not over, or under-risked. However, as a common theme from targeted engagement was the importance of geology on mobilisation risk, this option is being considered as a risk criterion in the slash management risk assessment.
  - b. *Require a slash risk assessment per option two for all zones (green, yellow, orange and red).* This was considered because the 1:50,000 scale of the ESC introduces the possibility that small pockets of higher risk land may be included in these units which is apparent when mapped at 1:10,000 scale. There is a balance between requiring an assessment where it is not needed and ensuring we cover risk, so we intend to seek feedback on any potential risk in green and yellow zones during consultation, and the nature of that risk.
  - c. *Require a slash risk assessment per option B2 with requirements to remove differing amounts of slash depending on the level of risk.* This option would be complex for both harvest planners and council compliance officers and could reduce certainty for both parties.
121. Targeted engagement has focussed on identifying options rather than specific views about options so we cannot comment at this stage on views of the different options. However, the options assessed were deemed to be the most favourable of all slash management options considered.

### **Option B1 – Status quo for slash management retaining section 69(5-7) unchanged**

122. Option B1 is retaining the status quo and makes no further changes to NES-CF regulations 69(5-7).
123. This option would retain high costs to both councils and foresters with an uncertain level of risk reduction. There is no evidence to quantify how removing a specific quantity of slash from a site will reduce the risk of slash mobilisation, however, removing slash from the cutover will reduce the amount available for mobilisation if a slope fails under it.
124. Without clear evidence that regulations 69(5-7) are targeting the risk of slash mobilisation appropriately, the current regulation is not likely to meet the objectives of maintaining or improving the environmental outcomes or increasing the efficiency and certainty of managing commercial forestry activities.
125. The current regulations are causing inconsistent compliance efforts as some councils work with their sector to tailor compliance to their understanding of risk in their region, while others do not. Many forestry companies work across council boundaries, and it is

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<sup>25</sup> A land use capability (LUC) unit indicates an area of land (a polygon) with roughly consistent geology, soils and slope, and erosion forms and severity. The ESC is made up of LUC polygons which have been ranked according to erosion risk of Low (green), Moderate (yellow), High (orange) and Very High (red).

inefficient for different councils to manage the same regulation in different ways and creates uncertainty for foresters.

126. Regulation 69(5-7) is a permitted activity condition for harvest, and a resource consent must be sought if it cannot be met. Councils can issue a consent enabling slash to be left on the cutover, but that is an expensive, time-consuming way to satisfy a regulation if the problem is the regulation being insufficiently targeted to risk and effects.
127. The status quo has surfaced issues with accurate measurement techniques, the cost and timing of measurement, and enforcement uncertainty. These will remain an issue for any requirement to manage slash on the forest cutover, though measurement techniques are rapidly being trialled and the issue may be resolved in time. However, it has added a new cost to forest harvest, and we have no evidence that this cost is proportionate to the risk it seeks to reduce.
128. Retaining the regulation is likely to result in most forest harvest requiring resource consent in orange zone land, principally to allow greater volumes of slash to be left on the cutover. The regulations are designed for forest harvest on orange zone land to be permitted if conditions are met. If managing slash on orange zone land should require resource consent to tailor conditions, the regulations should reflect that.

### **Option B2 – Introduce a slash management risk assessment approach – (preferred)**

129. Option B2 would introduce a new risk assessment approach to slash management on the cutover. This option would require an assessment of slash mobilisation risk for forest harvest in the orange erosion susceptibility classification (ESC) zone. A draft slash mobilisation risk assessment template has been developed for testing as part of the consultation.
130. Green and yellow zone land have low and medium erosion susceptibility respectively, and therefore have low risk of slash mobilisation from landslides and debris flows. However, because the ESC maps land at 1:50,000 scale there is a small possibility that areas with higher erosion susceptibility will be included within a green or yellow LUC unit, which will appear in 1:10,000 scale mapping during harvest planning. We will test during consultation whether the introduction of a requirement to undertake a slash mobilisation risk assessment would be beneficial for these zones, and if so, what risk criteria would apply (e.g. slope angle, soil type, geology, proximity to waterways etc).
131. The purpose of the requirement to undertake a slash mobilisation risk assessment is threefold:
  - a. To triage forest land for slash mobilisation risk by identifying land that is low risk during harvest planning. On low-risk land there would be no requirement for further management of cutover slash beyond those imposed through harvest contracts, or good forest practice.
  - b. To identify land where slash mobilisation risk is not low, but where practices can be put in place to mitigate any risk, such that the site, if managed according to those practices will have low slash mobilisation risk. In this case the mitigations will become part of the management plan and there will be no requirements for further management of cutover slash beyond those imposed through the harvest management plan,<sup>26</sup> harvest contracts, or good forest practice.
  - c. To identify land where slash mobilisation risk is high, where moving slash from high-risk areas of the cutover may be required to reduce the risk of slash mobilising should a landslide occur, or a flood in the case of flatter land.

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<sup>26</sup> Regulation 66(7) says that any harvesting activities must be undertaken in accordance with the harvest plan.

132. This option requires amendments to regulations 66, 69, and schedule 6 and the development of a slash mobilisation risk assessment template for incorporation by reference in the regulations.
133. A slash mobilisation risk assessment would apply across the harvest area, but it is likely that different areas of the cutover will have different levels of risk, as topography and proximity to waterways will differ. The intention is that only those areas with high risk of slash mobilisation need to be managed, though where slash mobilisation risk is high across the whole harvest area, it should be treated accordingly.
134. A slash management risk assessment approach will introduce additional harvest planning requirements. This will be a new (albeit relatively small) cost on all foresters, but overall will be less costly than the status quo, which requires planning for and removal of, large quantities of forestry slash. This option is effective in achieving the objective of enabling primary sector growth, and in achieving the objective of safeguarding the environment and human health.
135. It is anticipated that this option would target consents to high-risk areas, resulting in fewer resource consents which will overall reduce the costs on council relative to the status quo, though it will require council staff to improve their understanding of slash risk and risk management. Overall, this will be an efficient option, as council staff are already issuing consent conditions which manage slash risk.
136. The implementation costs on forests will increase through the requirement for all harvest operations being required to undertake a risk assessment. We would expect some smaller operators to be less familiar with a risk assessment process. Therefore, the costs of implementing this option may disproportionately impact small forest holders.
137. However, the risk assessment tool will enable more efficient identification of risks on a given site (including where consents are still required). Ultimately, this should manage the risk of slash mobilisation more efficiently.
138. The slash management risk assessment approach is expected to align with the proposed National Direction on Natural Hazards which will take a risk management approach. We are not aware of any misalignment with other National Direction proposals and will continue to monitor the progress and potential alignment issues of the instruments as they develop.
139. Where an area is found to be at high risk of slash mobilisation, the forester will need to plan to manage this, including through removal of slash where appropriate. For harvest contractors, this proposal will significantly reduce harvest costs in areas where slash risk is not high. For council consent and compliance and enforcement staff, this will require a greater understanding of risk and appropriate risk mitigations.

### **Option B3: Amend the slash dimensions in regulations 69(5-7)**

140. This option would increase the size/volume threshold, allowing more slash to remain on the cutover, in recognition of the range of issues associated with the existing standard as set out in the problem definition.
141. We propose to consult on specifications for removal of slash greater than 3.1 metres long with a small end diameter (SED) of 10 cm, with a residual allowance of 15 cubic metres of material that can be left on the cutover. 3.1 metres long and 10 cm SED is the smallest pulp grade log across much of New Zealand, and although material of this size is not always merchantable and will need to be stored on the landing, harvest contractors should have the equipment to retrieve it.
142. This option is expected to reduce the cost of retrieval, reduce the amount of material that needs to be managed on the landing and stored in a place where it will not mobilise, address issues the sector faces with the suitability of retrieval equipment for smaller slash

fragments and align the size dimension in the regulation to the smallest merchantable log size.

143. This option would be straightforward to implement as it would apply in the same way as the current standard, but with a reduced burden on foresters to plan for and remove large volumes of slash. It would reduce the number of consents required, which would reduce the current burden on the regulatory system.
144. This option would continue to manage some of the risk of slash mobilisation, while reducing the overly prescriptive regulation of sites which have low slash risk. It is not known what effects this would have. Due to the different receiving environments into which slash may mobilise, building an evidence base of safe or appropriate size/volume thresholds would be extremely costly and complex.
145. Amending the slash standard dimensions will be effective in achieving the objective of enabling primary sector growth by providing certainty to the sector and to councils. However, this option may not be effective in achieving the objective of safeguarding the environment and human health because on high-risk sites it would allow an increased quantity to remain compared to the status quo.
146. This option will not efficiently identify the risks on a given site, and therefore it will not be an efficient option.

**Table 3 - How do the NES-CF options for amending slash management rules in the NES-CF compare to the status quo/counterfactual?**

		Option B1 – Status Quo	Option B2 – Introduce a slash management risk assessment approach – (preferred)	Option B3: Amend the slash dimensions in regulations 69(5-7)
<b>Effectiveness</b>	Does the option achieve the objectives?	0	++	+
	Does it provide a solution to the identified problem?	0	++	+
<b>Efficiency</b>	Is the option the best way to achieve the objectives?	0	++	+
	Is it providing enough flexibility to allow local circumstances to be adequately taken into account?	0	++	0
	Is it cost-effective?	0	++	+
<b>Alignment</b> - Does the option integrate well with other proposals and the wider statutory framework?		0	++	+
<b>Implementation</b> - Is the option clear about what is required for implementation by local government/others and easily implemented?		0	0/+	++
<b>Treaty of Waitangi</b> - Whether it is consistent or gives effects to Treaty settlements and te Tiriti principles		0	0	0
<b>Overall assessment</b>		0	++	+

Key for assessment criteria

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

**2. 12 What option for amending slash management rules in the NES-CF is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

147. Option B2 is likely to best address the problem, meet the policy objectives and deliver the highest net benefits: requiring a slash risk assessment for all forestry harvesting activities as part of the management plan process will enable more efficient identification of risks on a given site (including where consents are still required).
148. The harvest management plan already requires that environmental risks associated with the activity are identified and operational responses to those risks that avoid, remedy or mitigate the adverse effects of the activity on the environment are provided. Foresters are required to operate according to this plan. Adding a specific requirement to assess slash risk on the cutover should more efficiently manage the risk of slash mobilisation from that part of the harvest site.
149. Option B2 balances these factors in the most effective way. It reduces costs for foresters by removing a blanket requirement to remove slash from all orange zone cutovers, but still requires attention to areas of slash which pose risk for downstream communities and action to avoid, remedy or mitigate that risk. The preferred option (B2) is effective in meeting the desired objectives, while also providing a solution to the problem of overly burdensome regulation.
150. This option is efficient and cost effective by reducing consents required for low-risk sites that are currently being sought under the status quo for no operational purpose.
151. This option requires additional risk assessment work by the harvest planner and as a result removes the requirement to plan for removing material that is low risk, including finding options for managing and storing material brought to the landing.
152. The development of a risk assessment template is required for implementation. The template would set out the risk criteria and risk thresholds that determine whether an area of proposed forest harvest will fall into a low or high-risk category. A draft template has been developed to seek feedback during public consultation on these proposals. Implementation assistance from MPI may be required with this option.

**2. 13 Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?**

153. The Minister's preferred option for slash management rules in the NES-CF in the Cabinet paper are the same as the agency's preferred option in the RIS.

**Table 4 - What are the marginal costs and benefits of the preferred option in the Cabinet paper?**

Affected groups	Comment	Impact	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups (forest owners, harvest planners, consenting staff, harvest contractors)	Ongoing reduction in costs for foresters in slash removal; some increased effort for harvest planners in assessing slash mobilisation risk, but significantly decreased effort for removal in low-risk areas; high risk areas will have ongoing costs but expected to be lower with more flexible options.	High - Difficult to quantify but expected to be substantially positive. Reduced costs for slash retrieval and management but unknown increase for slash management risk assessment. Small scale foresters may incur marginally greater costs to undertake slash risk assessments, but assessments are likely to result in fewer consents and therefore, less cost.	Medium - Increased operational certainty for low-risk sites, but some ongoing uncertainty over appropriate controls for high-risk sites due to varied nature of risk.
Regulators (councils)	Reduced effort enforcing a hard standard for slash, and writing consents, but ongoing need to understand slash risk and mitigations for enforcement and consents.	Low - Overall costs are not expected to change significantly at the macro level.	Medium - The proposed NES-CF changes take a risk-based approach with a greater requirement for evidence.
Government	Initial cost of developing and socialising a slash management risk assessment template and guidance and stringency guidance; ongoing overview of implementation and results.	Medium - Uncertain effect on slash management. Changes take a risk-based approach so impact will depend on how they are used.	Medium - Changes take a risk-based approach so impact will depend on how they are used.
Iwi/Māori - more detailed analysis is included in the Treaty Impact Analysis	Overall costs for Māori with an interest in forestry (forest and landowners) will be	Medium - Difficult to quantify but expected to be positive for Māori	Medium - Changes take a risk-based approach so the

prepared alongside this document.	reduced. No significant identified effects for other groups. To be tested during consultation.	with an interest in forestry.	impact will depend on local circumstances.
Public	No direct cost. Greater focus on slash risk is expected to reduce costs borne by communities affected by slash over time.	Low - No direct reduction in financial costs, but more effective risk management will benefit communities downstream of forestry activities.	Medium - Changes take a risk-based approach so impact will depend on local circumstances .
<b>Total monetised costs</b>	Not available - difficult to quantify	Not available	Not available
<b>Non-monetised costs</b>	Medium costs	Medium	Medium
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	Potential increase in public confidence that slash will be well managed.	Medium - Difficult to quantify but expected to be substantially positive. Risk based slash management will benefit regulated groups by more effectively identifying sites that require greater management (and possibly resource consent).	Medium - Some; increased operational certainty for low-risk sites for managing slash.
Regulators	Will vary across councils. Councils with existing capability in forestry are likely to welcome changes to slash regulations; others may find a risk-based approach challenging.	Medium – Some initial guidance may be required for the new slash risk assessment.	Medium - The proposed NES-CF changes take a risk-based approach with a greater requirement for evidence.
Iwi/Māori	Overall benefits for Māori with an interest in forestry (forest and landowners) due to clearer regulations. Wider Māori values maintained/enhanced by more effective slash management regulations.	Medium - Māori foresters (who disproportionately own smaller forestry blocks) will need to implement the new slash management framework, but overall will be better off with a risk-based framework	Medium – Clearer regulations provide more certainty – particularly for Māori foresters implementing the new slash

		to more effectively manage identified low and high-risk sites.	management framework.
Public	Greater focus on slash risk is expected to increase confidence in the forestry sector over time, particularly in communities affected by slash.	Low – More effective management of slash will mitigate downstream effects of slash mobilisation.	Medium - Changes take a risk-based approach so impact will depend on how they are used.
<b>Total monetised benefits</b>	Difficult to quantify	Not available	Not available
<b>Non-monetised benefits</b>	Difficult to quantify	Medium	Low

154. The marginal costs and benefits of the proposed amendments to the NES-CF outlined in Table 4 will be further informed by an independent cost-benefit analysis and public consultation.

## Delivering an option

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### 2. 14 How will the amended slash management rules in the NES-CF be implemented?

155. A harvest management plan is and will remain a requirement for forestry harvest, and it must include a range of information for the area it covers, including identifying areas of particular risk and/or requiring particular protection, including in relation to slash management.<sup>27</sup>

156. The proposal to require a slash mobilisation risk assessment would add an additional step specific to the harvest planning process.

157. A draft slash mobilisation risk assessment template setting out proposed risk and assessment criteria will be provided for consultation. Implementing this option would require forest planners to go through an additional process as part of their harvest planning. Many forest planners already do this to meet internal company risk assessment requirements and to comply with Schedule 6(4). Although we do not have evidence, we expect some smaller operators to be less familiar with the process.

158. Where familiarity with risk factors and risk mitigations is low, assessing slash mobilisation risk on a regular basis may be a challenge. With suitable guidance, risk assessment knowledge and capability will be lifted across the sector.

159. For harvest contractors this proposal will significantly reduce harvest costs in areas where slash risk is not high. Where areas are assessed as more than low risk, they will need to follow the mitigations set by the harvest planner. Mitigations set by the harvest planner will be known ahead of pricing the job so they can be priced into the contract rate.

160. A greater understanding of risk and appropriate risk mitigation measures will be required by council consent, compliance and enforcement staff, and it may require them to assess what is an appropriate amount of slash to be left on a high-risk cutover.

161. Guidance will be required to ensure councils are clear about the intent of the amended provision, and how to go about assessing a slash mobilisation risk assessment.

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<sup>27</sup> Schedule 6(4).

## **2.15 How will the proposal be monitored, evaluated, and reviewed?**

162. Councils are responsible for the implementation of the NES-CF and will monitor and evaluate the amended regulations. Forestry harvest that meets permitted activity standards, following a slash mobilisation risk assessment, will be subject to council monitoring.
163. Through regular engagement with the forestry sector and councils, government agencies (MPI and MfE) will undertake ongoing review of how the amended regulations are bedding in.

## **2. 16 Issue C - Options to increase efficiency and certainty in the NES-CF**

164. There are four matters requiring amendment to increase efficiency and certainty in the NES-CF:
- a. C1 – remove unnecessary requirements for afforestation and replanting plans in regulations 10A and 77A, and schedule 3;
  - b. C2 - the requirement to identify ‘woody debris’ in schedules 3, 4, 5 and 6;
  - c. C3 - wilding conifer standards 11(4)(b) and 79(5)(b) have unclear intent; and
  - d. C4 - regulation 71A(b) includes the word “not” in error.
165. These proposed changes are expected to increase efficiency because they either reduce regulated parties’ requirements for unnecessary paperwork, or the proposals clarify the regulations and increase certainty. This improves regulatory efficiency with no additional costs, other than communicating these amendments to users of the regulation.
166. We have not identified any alignment issues with other national direction instruments. Moreover, the proposed changes will increase clarity for users of the regulations (both foresters and councils) over the matters that are controlled under the NES-CF.

### **Option C1 - Removing the requirement for afforestation and replanting plans**

167. The first matter removes the requirement for afforestation and replanting plans. Removing the requirement for afforestation and replanting plans reduces documentation compared to the status quo. Documentation serves no clear purpose for two activities (afforestation and replanting) that have low effects on the environment, and the NES-CF does not control how trees are to be planted.
168. The NES-CF requires management plans where forestry quarrying, earthworks and harvest are carried out as permitted activities and sets out processes to be followed to manage environmental effects. The requirements for plans are set out in schedules to the regulations and they must be provided to the council on request.
169. Additional requirements for management plans for afforestation and replanting activities were introduced in 2023 to manage environmental (biophysical) effects for afforestation and replanting activities. Previously, afforestation and replanting activities did not have plans to demonstrate compliance with permitted activity standards.
170. This option will not reduce the requirements to manage environmental effects of afforestation and replanting as these are addressed elsewhere in the NES-CF, such as through notice requirements, restrictions on afforestation, permitted activity conditions, and matters of discretion where resource consent is required. Therefore, removing the requirement for afforestation and replanting plans is both more effective and efficient than the status quo.
171. Removing the requirement for afforestation and replanting plans, removes a requirement to provide information about future effects, such as potential sediment generation, that may not occur until the forest is harvested in 25 to 45 years. Sediment

generation is, at most, a very minimal effect in planting a forest, and a growing forest will provide a significant control on erosion and sedimentation effects.

172. Issues relating to the environmental impacts of afforestation and replanting (e.g. wilding conifer risk, shading and the need for setbacks from waterways) are managed through standards at afforestation and replanting. The additional requirements to submit afforestation and replanting management plans duplicates the requirements in the NES-CF.
173. The new standards (set out in schedule 3) require considerable documentation but do not manage any additional environmental effects, nor provide additional powers to councils to do anything with the information beyond what was previously required through notice.

### **Option C2 - Removing the requirement to identify ‘woody debris’**

174. The second matter removes the requirement to identify ‘woody debris’ in schedules 3, 4, 5 and 6. The term ‘woody debris’ is not defined, appears nowhere else in the regulations and there is no regulatory power or standard related to the term, making its use confusing for both foresters and councils.
175. Adding the requirement to identify risks from woody debris that could impact downstream receiving environments was intended to manage risks on downstream environments. However, the term was not defined when introduced, and no analysis was undertaken on how it would better manage those risks.
176. Defining the term “woody debris” is challenging because in a general sense it includes material not from commercial forestry activities. In addition, analysis of what a definition could include led to duplications with existing definitions (e.g. slash).
177. Removing the term ‘woody debris’ from the regulations will reduce the confusion and uncertainty over regulatory requirements for councils and foresters, without reducing the intent of the standards to manage slash and sediment.

### **Option C3 - Minor wording changes to wilding conifer standards**

178. Option C3 inserts a minor wording change to wilding conifer standards 11(4)(b) and 79(5)(b). The purpose of the change is to give effect to the original intent of specifying exactly what documentation in relation to wilding tree risk calculations is required to be provided to councils.
179. The proposal to amend regulations 11(4)(b) and 79(5)(b) seeks to reduce extraneous wording and link the required activity to the notice requirement:
- a. Regulation 11(4): The relevant regional council and territorial authority must be given the following at the same time as notice is given under regulation 10:
    - i. (a) the score required under subclause (1) and the calculations that were used to calculate the final wilding tree risk calculator score and supporting evidence for each calculation.
  - b. Regulation 79(5): The relevant regional council and territorial authority must be given the following at the same time as notice is given under regulation 78A:
    - i. (a) the score required under subclause (1) and the calculations that were used to calculate the final wilding tree risk calculator score and supporting evidence for each calculation.
180. Clarifying the wilding conifer regulations 11(4)(b) and 79(5)(b) will make the intent clear and implementation easier for both foresters and councils.
181. We considered making no change to the regulations and relying on guidance to clarify our intent but considered the change easy to make and beneficial for the avoidance of doubt.

#### **Option C4 - Correct an error in regulation 71A**

182. Option C4 corrects an error in regulation 71A for the permitted activity status of low intensity harvesting by removing the word 'not'. The wording of 71A was contrary to what was intended. Correcting the error clarifies and reduces confusion. We did not consider any other options.

**Table 5 - How do the options to increase efficiency and certainty in the NES-CF compare to the status quo/counterfactual?**

		Option C – Status Quo	Option C1 - Removing requirement for afforestation and replanting plans	Option C2 - Removing the requirement to identify 'woody debris'	Option C3 - Minor wording changes to wilding conifer standards	Option C4 - Correct an error in regulation 71A
<b>Effectiveness</b>	Does the option achieve the objectives?	0	++	++	++	++
	Does it provide a solution to the identified problem?	0	++	++	++	++
<b>Efficiency</b>	Is the option the best way to achieve the objectives?	0	++	++	++	++
	Is it providing enough flexibility to allow local circumstances to be adequately taken into account?	0	++	+	++	++
	Is it cost-effective?	0	++	++	++	++
<b>Alignment</b> - Does the option integrate well with other proposals and the wider statutory framework?		0	++	++	++	++
<b>Implementation</b> - Is the option clear about what is required for implementation by local government/others and easily implemented?		0	0/+	++	++	++
<b>Treaty of Waitangi</b> - Whether it is consistent or gives effects to Treaty settlements and te Tiriti principles		0	0	0	0	0
<b>Overall assessment</b>		0	++	++	++	++

## 2. 17 What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

183. There are four matters being taken forward to increase efficiency and certainty and are effective in that the proposed options contribute to the attainment of the relevant high-level objectives, including upholding Treaty settlements. These options all provide solutions to the identified problems.

## 2. 18 Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

184. The Minister's preferred option for minor amendments to the NES-CF in the Cabinet paper are the same as the agency's preferred option in the RIS.

## Table 6 - What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups (forest owners, harvest planners, consenting staff, harvest contractors)	Clearer regulations will reduce costs for all system users.	High - Clearer regulations will reduce costs for all system users.	Medium - Increased regulatory certainty for all system users.
Regulators (councils)	Clearer regulations will reduce costs for all system users.	High - Clearer regulations will reduce costs for all system users.	Medium - Increased regulatory certainty for all system users.
Government	Clearer regulations will reduce costs for all system users.	High - Clearer regulations will reduce costs for all system users.	Medium - Increased regulatory certainty for all system users.
Iwi/Māori - more detailed analysis is included in the Treaty Impact Analysis prepared alongside this document.	Clearer regulations will reduce costs for all system users.	High - Clearer regulations will reduce costs for all system users.	Medium - Increased regulatory certainty for all system users.
Public	No direct cost.	Low - No direct reduction in financial costs.	Medium - Increased regulatory certainty for all system users.
<b>Total monetised costs</b>	Not available - Difficult to quantify.	Not available	Not available

<b>Non-monetised costs</b>	Medium costs	Medium	Medium
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	Clearer regulations will benefit all system users.	Medium - Clearer regulations will benefit all system users.	Medium - Clearer regulations will benefit all system users.
Regulators	Clearer regulations will benefit all system users.	Medium – Clearer regulations will benefit all system users.	Medium - Clearer regulations will benefit all system users.
Iwi/Māori	Overall benefits for Māori with an interest in forestry (forest and land owners) due to clearer regulations.	Medium - Clearer regulations will benefit Māori foresters (who disproportionately own smaller forestry blocks).	Medium – Clearer regulations provide more certainty Māori foresters.
Public	Clearer regulations are expected to increase confidence in the forestry sector over time.	Low – More effective regulations will benefit all system users.	Low – More effective regulations will benefit all system users.
<b>Total monetised benefits</b>	Difficult to quantify	Not available	Not available
<b>Non-monetised benefits</b>	Difficult to quantify	Medium	Low

185. The marginal costs and benefits of the proposed amendments to the NES-CF outlined in Table 6 will be further informed by an independent cost-benefit analysis and public consultation.

## Delivering an option

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### 2. 19 How will the proposal be implemented?

186. Implementing the four minor changes to the NES-CF will require minimal effort from regulators and foresters because:

- a. Removing a duplicative requirement for afforestation and replanting plans (in regulations 10A and 77A, and in schedule 3 of the NES-CF) will require no extra work from either regulators or foresters;
- b. Remove the requirement to identify ‘woody debris’ (in schedules 3, 4, 5 and 6 of the NES-CF) will remove a regulatory requirement on foresters, which will no longer need to be monitored by councils;
- c. Clarifying wording about wilding conifer standards (in regulations 11(4)(b) and 79(5)(b)) will make compliance with and enforcement of the regulations easier; and

- d. Correcting the error where the word “not” has been added to requirements for low-intensity harvesting (regulation 71A(b)) will also make compliance with and enforcement of the regulations easier.
187. Overall, these minor changes are expected to have only minor implementation needs, with an expected reduction in documentation requirements as a result of the proposals.

## **2. 20 How will the proposal be monitored, evaluated, and reviewed?**

188. Councils are responsible for implementing the NES-CF and will monitor and evaluate the amended regulations. Government agencies (MPI and MfE) will undertake ongoing review of how the amended regulations are bedding in through regular engagement with the forestry sector and councils.
189. Stakeholder engagement in 2024 identified these minor and technical changes that need to be made to the NES-CF. Ongoing stakeholder engagement will be used to monitor and evaluate the amended regulations to determine if further review is required.