

Appendix 3 – Example permitted activity rule framework

Provision	Comments
<p><u>Explanatory note</u></p> <p>The requirements specified in the <i>Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017</i> also apply, as rules, in addition to Rules WH.R20/P.R19. Plan users must refer to the regulations and they should be read in conjunction with the rules in PC1. Where the requirements in PC1 conflict with the regulations of the <i>Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017</i> the more stringent provision applies.</p>	<p>New explanatory note to support implementation in the event a permitted activity rule is adopted by the Panel. This explanatory note replaces those above WH.R20 and P.R19 in my recommended amendments in Appendix 1 of my Right of Reply evidence.</p>
<p><u>Rule WH.R20/P.R19: Commercial forestry – permitted activity</u></p> <p><i>Where the most recent Wellington Regional Council monitoring report, published in accordance with section 35(2A) of the Resource Management Act (1991), demonstrates the measure of suspended fine sediment does not meet the target attribute state at the relevant target attribute state monitoring site for the Part Freshwater Management Units set out in Table 8.4(WH.R20)/Table 9.2(P.R19) (including all those downstream of the commercial forestry activity), in addition to the regulations contained in the <i>Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017</i>, any:</i></p> <ul style="list-style-type: none"> (a) Afforestation; and/or (b) Replanting; and/or (c) Discharge of sediment to a surface water body associated with harvesting, earthworks, vegetation clearance (commercial forestry), or mechanical land preparation 	<ul style="list-style-type: none"> • This rule is drafted on the basis that the stringency test is only met where TAS are not met. If the Panel are of the mind that stringency is also required where TAS are met (i.e. to maintain TAS), then the text in italics may be deleted. • Based on the evidence of Mr Reardon, conspicuous change in visual clarity is the most appropriate visual clarity/suspended sediment related performance standard in the forestry context. The NES-CF already includes permitted activity regulations related to conspicuous change in visual clarity and adverse effects on aquatic life (the s107 tests) and the example rules apply in addition to the NES-CF requirements so there is no need for a specific visual clarity standard • Some of the requirements of forestry management plans (as defined) may not be suitable for a certification process and there is still an element of discretion for any reviewer/certifier in the certification criteria in (a) that is difficult to resolve.

is a permitted activity provided the following conditions are met:

- a) a **forestry management plan** is submitted to, and certified by, the Wellington Regional Council (*or approved forestry management plan certifier*) prior to the activity commencing. Certification shall be restricted to the following matters:
 - i. That the plan(s) includes all the requirements of the **forestry management plan** definition
 - ii. That the proposed **earthworks** or **harvesting** methodology is appropriate for the terrain
 - iii. The plan includes the location and design criteria of all **forestry infrastructure** and confirmation **any forestry infrastructure** is appropriately designed and located in accordance with **good management practice**

(good management practice for this rule means:

1. NZ Forest Owners Association Road Engineering Manual 2020
<https://www.nzfoa.org.nz/resources/file-libraries-resources/transport-and-roading/843-nz-forest-road-engineering-manual-2020/file>
2. NZ Forest Owners Association Road Engineering Manual, Operators Guide 2020
<https://www.nzfoa.org.nz/resources/file-libraries-resources/transport-and-roading/844-nz-forest-road-engineering-manual-operators-guide-2020/file>
3. NZ Forest Owners Association Forest Practice Guides (updated 2020)
 - i. Earthworks (1.1 – 1.4)

- Clause (c) removes the carve-outs or vagueness around whether or not an activity can occur within setbacks under the NES-CF
- Where specific exclusions do not apply, earthworks has a mandatory 10m setback requirement under the NES-CF. However, afforestation, harvesting, mechanical land preparation and replanting and have 5m setbacks if the bank full channel width of the river is smaller than 3m. This standardises the setback requirements for all listed activities to 10m.
- A 10m setback for harvesting with no carve-outs for removal of trees closer than 10m may have unintended consequences (trees falling into water bodies due to disease or lack of maintenance/management) if trees within the setback are not harvested because of the need for resource consent. There may also be ETS implications if greater setbacks are required for replanting, as this could lead to loss of areas of current forest, and if an equivalent area cannot be found elsewhere, this loss of forest area could be considered 'deforestation' and the landowner may be subject to financial penalty under the ETS.
- Permitted activity (d) addresses the concern about no specific requirements related to replanting or stabilisation post-harvest under the NES-CF discussed during the hearing. There are standards in the NES-CF related to stabilisation post earthworks already so earthworks does not need to be covered here
- In clauses (d) and (e), land zoned Red or Orange in the ESC could be replaced with potential erosion risk land mapping (Maps 90 and 93)
- As an alternative approach, the Panel could adopt a permitted activity standard related to listed activities on Red or Orange zoned land or potential erosion risk land i.e. if activity occurs on specified land then it cannot meet permitted activity standard and consent is

<p>ii. Erosion and Sediment Control Measures (2.1-2.8)</p> <p>iii. Tracks (4.1 – 4.2)</p> <p>iv. Vegetation to Manage Erosion (5.1-5.4)</p> <p>v. Harvest Slash (6.1-6.3)</p> <p>https://docs.nzfoa.org.nz/forest-practice-guides</p> <p>4. The Greater Wellington Regional Council Erosion and Sediment Control Guidelines for the Wellington Region 2021 gw.govt.nz/assets/Documents/2022/03/Erosion-and-Sediment-Control-Guide-for-Land-Disturbing-Activities-in-the-Wellington-Region.pdf</p> <p>iv. For afforestation and replanting, the location of planting will be unlikely to result in significant adverse effects during future earthworks or harvesting</p> <p>v. The forestry management plan includes appropriate post earthworks and harvesting maintenance and monitoring measures</p> <p>and</p> <p>b) The forestry management plan is complied with; and</p> <p>c) Afforestation, replanting, earthworks, harvesting, vegetation clearance (commercial forestry) or mechanical land preparation must not occur within 10 m of a surface water body; and</p> <p>d) Post harvesting, any cutover harvest area must be replanted within 18-months, or in the case of land not proposed for replanting, the land must be revegetated or otherwise stabilised in accordance with the following timeframes:</p>	<p>required. To be more clearly linked with RPS Change 1 this could apply only to afforestation and replanting.</p> <ul style="list-style-type: none"> • There may also need to be some provision or direction around what happens if any amendments need to be made to a certified management plan as part of a permitted activity standard (e.g. any amendments will need to be re-certified that they meet the criteria)
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<p>i. 6-months on land zoned Red or Orange in the Erosion Susceptibility Classification</p> <p>ii. 12-months on all other land</p> <p>Or</p> <p>e) Afforestation, replanting, earthworks, harvesting, vegetation clearance (commercial forestry) or mechanical land preparation must not occur on land zoned Red or Orange in the Erosion Susceptibility Classification</p> <p>Note: The Erosion Susceptibility Classification can be accessed at https://www.mpi.govt.nz/forestry/national-environmental-standards-commercial-forestry/erosion-susceptibility-classification/</p>	
<p><u>Rule WH.R21/P.R20: Commercial forestry – Restricted discretionary activity</u></p> <p>Afforestation, replanting, or the discharge of sediment to a surface water body associated with harvesting, earthworks, vegetation clearance (commercial forestry), or mechanical land preparation that does not meet the conditions outlined in Rule WH.R20/P.R19 is a restricted discretionary activity.</p>	<p>Could be any activity status more restrictive than permitted. I have used a restricted discretionary activity for this example for the reasons I have outlined in my rebuttal evidence¹ and discussed during the hearing.</p>
<p><u>Forestry infrastructure (definition)</u></p> <p>Has the same meaning as given in section 3 of the <i>Resource Management (National Environmental Standards for-Commercial Forestry) Regulations 2017</i>. In the context of this plan, forestry infrastructure only includes forestry roads, forestry tracks, landings, stormwater and sediment control structures, and water run-off controls as defined in section 3 of the <i>Resource Management</i></p>	<p>Potential new definition required to support implementation.</p>

¹ Table 3 Point 3 of my rebuttal evidence

<p><i>(National Environmental Standards for Commercial Forestry) Regulations 2017</i></p>	
<p><u>Forestry management plan (definition)</u></p> <p>Means a plan prepared by a suitably qualified or experienced person in accordance with the following requirements:</p> <p>1. The listed requirements of the following schedules of the <i>Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017</i> (or any subsequent amendments to these Schedules):</p> <ul style="list-style-type: none"> (a) Schedule 3 (Afforestation and Replanting Management Plan) sections 1, 2, 3, 4(2) and 4(3) and 5; (b) Schedule 4 (Forestry Earthworks Management Plan) sections 1, 2, 3, 4(2) and 4(3), 5 and 6; (c) Schedule 6 (Harvest Management Plan) sections 1, 2, 3, 4(2), 4(3) and 4(4), 5 and 6 <p>2. The methods or management measures outlined in the plan shall be in accordance with:</p> <ul style="list-style-type: none"> (a) NZ Forest Owners Association Road Engineering Manual 2020 https://www.nzfoa.org.nz/resources/file-libraries-resources/transport-and-roading/843-nz-forest-road-engineering-manual-2020/file (b) NZ Forest Owners Association Road Engineering Manual, Operators Guide 2020 https://www.nzfoa.org.nz/resources/file-libraries- 	<p>Some of the requirements of forestry management plans may not be appropriate for a certification process. For example:</p> <ul style="list-style-type: none"> ○ Not all methods or management measures in the NZFOA Road Engineering Manual and Forest Practice Guides contain specific design criteria or requirements for where or how some of these methods or management measures are to be used and many are described as ‘recommendations’ rather than requirements ○ Clauses 3(iv) related to methodology and outcomes of a field assessment and (v) regarding specific management strategies for potential erosion risk land would be difficult to implement under a ‘certification’ process. These requirements are more aligned with a more fulsome discretionary consideration and approval process – is the level of information sufficient to understand the potential effects and does it meet the objectives/intent of theses requirements.

[resources/transport-and-roading/844-nz-forest-road-engineering-manual-operators-guide-2020/file](#)

(c) NZ Forest Owners Association Forest Practice Guides (updated 2020)

- Earthworks (1.1 – 1.4)
- Erosion and Sediment Control Measures (2.1-2.8)
- Tracks (4.1 – 4.2)
- Vegetation to Manage Erosion (5.1-5.4)
- Harvest Slash (6.1-6.3)

<https://docs.nzfoa.org.nz/forest-practice-guides>

(d) The Greater Wellington Regional Council Erosion and Sediment Control Guidelines for the Wellington Region 2021

gw.govt.nz/assets/Documents/2022/03/Erosion-and-Sediment-Control-Guide-for-Land-Disturbing-Activities-in-the-Wellington-Region.pdf

3. In addition to the above requirements, the plan must include the following information:

- (i) Contour lines at intervals equal to or less than 5 metres;
- (ii) A plan(s) or map(s) identifying any sites or features listed in Schedule A (outstanding water bodies), Schedule C (mana whenua), Schedule F1, F2 or F3 (ecosystems and habitats with indigenous biodiversity), Schedule H (contact recreation and Māori customary use) and Schedule I (important trout fishery rivers and spawning waters) within or adjacent to land subject to **commercial forestry activity**

<p>(iii) A plan(s) or map(s) and photographs (where practicable) identifying potential erosion risk land or land identified as having an elevated risk of erosion during the field assessment required by clause (iv) affected by commercial forestry activity</p> <p>(iv) The methodology and outcomes of a field assessment to evaluate erosion risk on land affected by commercial forestry activity</p> <p>The purpose of the evaluation in (iv) is to confirm the erosion risk of potential erosion risk land and to identify any other land with elevated risk of erosion (e.g. any evidence of: failure or deterioration of the condition of any existing forestry infrastructure; mass earth movement; signs of existing erosion or slope failure; steep or incised gullies that will convey flow during rainfall)</p> <p>(v) Any specific management strategies or practices for potential erosion risk land or land identified as having an elevated risk of erosion that will be implemented to manage the risk of sediment discharge from commercial forestry activity so that it is no greater than that expected from commercial forestry activity on land that is not potential erosion risk land or land identified as having an elevated risk of erosion</p> <p>Note 1: A suitably qualified or experienced person means a person who holds a relevant qualification, including in forestry, engineering, geotechnical or soil sciences and/or is experienced and skilled in a field relevant to forestry with at least 5 years' experience.</p>	
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<p>Note 2: A forestry management plan relates to regulations that manage commercial forestry in the context of sedimentation. There are other considerations and provisions in the <i>Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017</i> that arise in relation to other values, for instance, natural character and biodiversity, that may also apply.</p>	
<p>Forestry management plan certifier (definition)</p> <p>A suitably qualified and experienced person approved by the Chief Executive of the Wellington Regional Council for the purpose of certifying forestry management plans.</p>	<p>Potential definition to support implementation in the event the Panel proceeds with a permitted activity rule and an independent certifier is the preferred approach.</p>