Further submission

of

China National Forestry Group

regarding

Greater Wellington Regional Council

Natural Resources Plan – Plan Change 1,

Hearing Stream 3 Forestry and Landuse

Preliminaries

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Introduction

Following are further submissions in relation to the submission points raised in the original substantive submissions of China Forestry Group (CFG) in response to the proposed Greater Wellington Regional Council Natural Resources Plan Change 1 (PC1).

These further submissions relate to the specific CFG submission points addressed in the GWRC Section 42A reports and supporting technical reports as prepared for the Hearing Stream 2.

Who are we?

CFG are owners of forests in the Greater Wellington Region. The forests are commercial plantations forests that occur in various parts of the wider region but include what were the Council owned forest assets that were sold as cutting rights by the Regional Council in 2018 (see map Appendix 1). CFG also own freehold forests in the Wairarapa and considerable estate nationwide.

Day-to-day management of the forests in the Southern North Island is undertaken by the forest management services firm Forest 360 (based in the Wellington Region) in accordance with management agreements and plans exercised between the two parties. All management of the past GWRC forests is undertaken in accordance with the terms and conditions of the 'Cutting Right" agreements including regular reporting to and liaison with GWRC staff on matters including management and coordination of risks and interactions related to the extensive public use of parts of the estate, protection of important historic features, biodiversity matters and regular operational compliance monitoring.

Forest 360 hold FSC environmental certification for the estates that are the subject of this submission.

CFG and its associates are thus part of the communities of Whaitu Te Whanganui -a-Tara and Te Awarua-o-Porirua and their outputs and efforts contribute directly to the social, economic and environmental fabric of the local and wider region.

Summary of Further Submissions

China Forestry Group – (CFG) have reviewed the various technical reports prepared on behalf of Council and the Section 42 analysis and recommendations.
In summary:

- We acknowledge the recognition that the erosion layers as developed were inappropriate for the purpose and have been removed from the proposed regulatory framework.
- We are completely unclear as to the final intent of the proposed rule s WH.R20 and P.R19 in relation to the management of forestry areas in part FMU's where TAS's are being met. There is a serious uncertainty that must be resolved.
- We acknowledge the evidence explaining the rationale behind cumulative impacts on TAS, whereby upper catchments may meet or exceed TAS limits (a reasonably common occurrence in plantation forests) while still contributing to failure of TAS hurdles downstream.
- However, we are particularly concerned with reference to the Hutt river (Rules 1 (e-i) where A state part FMUs that include forestry and have included forestry operations over numerous years, would be caught under the proposed consenting framework when significant influences such as bed recontouring and urban runoff are all heavily concentrated in the river reach below those tributaries in a pert FMU that is not meeting the TAS levels.
- We note that in conjunction with other parties (including local Councils), the forest industry is currently engaged in two long-term catchment studies. One in Donald Creek in Nelson and one revisiting the past long-term study in Pakuratahi in the Hawkes Bay. Both studies are seeking to scientifically quantify the effects of harvesting (or reharvesting) and earthworks including application of enhanced Erosion and sediment controls upon water quality.
- It is the view of CFG that in the absence of such information, and the clear evidential statements that it is not possible to determine whether the proposed rules in PC1 will be more or less effective than adherence to the NES-CF, nor what the specific efficacy will be in the long-term, it is doubtful the council can suitably justify some of the proposed rules at this time.
- If the council is to impose stringency under regulation 6 of the NES-CF, that stringency should go no further than controlled activity consenting and only in areas where the part FMU with forestry present is not meeting its TAS.
- CFG are generally supportive of the statements in the report by Kevin Reardon. While sedimentation is directly related to the activities of earthworks and harvesting, we are of the opinion that there are likely limitations to the level of improvement that can be achieved if the existing good management practices are competently applied.
- CFG consider there could be grounds for requiring a controlled consent status for planting and replanting on steeper terrains and in FMUs where the TAS was not being met. While replanting a crop after harvest has low to negligible direct impact upon sedimentation, the layout and geometry of the proposed next rotation can potentially provide opportunities to

eliminate problem areas thus lowering the sedimentation risks in the next rotation. This could provide the opportunity for constructive engagement with Council Land managers on future proofing the forest and adopting alternative land management strategies where beneficial.

- CFG support the proposed new methods in supporting increased capacity and competency and in monitoring forestry operations, noting that this is in-line with the recommendations of the Whaitua committees and that costs are recoverable for monitoring, even for permitted activities.

Submission in response – stream3

Definitions

CFG note and support:

I. The adjustments aligning previously notified definitions around forestry activities to those used in the NES-CF.

II. The clarification in relation to earthworks when undertaken as part of a forestry management activity i.e. they are forestry earthworks subject to regimes controlled by the NES-CF or adjusted proposed regulatory regimes arising from this plan change process. This is important because experience has provided numerous examples of discretion creep where consent conditions applicable to civil works have been attempted to be applied in forestry situations.

III. In a similar vein the adjustment to move vegetation clearance associated with forestry into a regulatory framework for forestry is also strongly supported. Plantations inherently follow landforms topography and past vegetation cover. Their boundaries are not uniform, straight lined nor separated from adjacent indigenous vegetation by fences. Those boundaries established years prior often took little account of natural reversion processes in adjacent lands and riparians nor were road line alignments often considered in detail. Consequently, small areas of localized damage or even clearance are often unavoidable, however the regulations of the NES-CF were specifically designed to manage these issues outside of SNA's, threatened species habitats etc.

IV. The removal of the definitions of Highest Erosion Risk Land- Plantation forestry and Vegetation clearance, associated maps and rules pertaining to those definitions. It is agreed that the application of this approach was not fit for purpose.

Policy

CFG acknowledge and support the decision to refocus policy away from the prohibited and retirement framework originally notified and predicated upon the "Highest risk erosion – Forestry" mapping.

WH.P28 & PP.26

With respect to the amended proposal WH.P28 /PP.26 *that "Discharges of sediment from commercial forestry shall be minimized by –*

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

(b) *improving management of plantation commercial forestry by requiring forestry management plans to be prepared and complied with*.

CFG note that:

I. Forestry activities of harvesting, earthworks and afforestation/replanting already require management plants to be prepared and complied with under the NES-CF. These management plans require details in a format almost identical in every respect to those required under the NES-CF.

II. CFG endorse the alignment of any requirements for management plans to be aligned with those already templated in the NES-CF and the role that such plans can play in enabling improvements in activity management outcomes and accountability.

III. Nevertheless, if consenting is to be required CFG are of the view that the wording of WH.P28 needs to be amended. Currently the term "requiring resource consent applications to <u>demonstrate that erosion and any discharge of sediment will be minimized</u>……"is not reflective of what is possible. To 'demonstrate' generally implies an ability to show or prove something – in this case, that sediment discharges will be minimized, the latter implying a level comparable to a range of values that might exist.

IV. As was canvassed from much of the discussion within the Secn 42 technical advice, there is no dispute that sediment discharges will arise from forestry as a land use, albeit much reduced levels compared to other land use. But, the magnitude of what is generated can be influenced by a wide variety of factors, controllable and uncontrollable, as is the efficacy of the practices implemented to manage the discharge levels. Specific levels, minimized or otherwise, at a specific site, are not provable in a document.

V. CFG believes the text should be amended to "**requiring resource consent applications to document the management practices that will be applied to manage and limit erosion processes that may contribute to discharges of sediment into receiving waters environments……**"

VI. CFG suggest there could be a degree of ambiguity between the language used in the proposed recommendation i.e. "*requiring resource consent applications to demonstrate that erosion and any discharge of sediment will be minimized having regard to the quality of the receiving environment particularly in part Freshwater Management Unit's where visual clarity TAS are not met*…." and other phraseology used in relation to rule WH.R20 & P.R19 see below). In this case does having "regard to the quality of the receiving environment; particularly in part Freshwater Management Unit's where visual clarity TAS' are not met….." potentially imply:

a. one does not need to have as much regard if the relevant FMU TAS is met but a consent will still be required, or

b. only if the part FMU within which the commercial forest is located fails the TAS standard will consenting be required or

c. consenting might be required if the part FMU in which the forest is located meets the TAS but this part FMU is a tributary to the wider FMU in which it exists which fails the TAS threshold.

We address this further under the Rules sub-heading.

VII. In reviewing the Section 42a rationale for the proposed policy CFG note:

a. It is unclear as to the justification listed for the consenting requirement as stated i.e.
    i. *"Retention of the policies provides policy direction that would not otherwise exist in the event that permitted activity regulations of the NES-CF are not met and a consent is required"*.
    ii. However, under the NES, if an activity planned in accordance with the relevant schedules of the NES-PF is unlikely to or cannot meet the permitted activity conditions then a consent must be applied for as a default position. If the required permitted activity conditions are not met during operations, then the party undertaking the activity are subject to enforcement.

b. The removal of the approach to highest risk erosion mapping and approach is supported. It was never fit-for-purpose.
c. The enabling of a wider set of tools to be applied to manage erosion risk other than attempting native revegetation is supported.

d. The removal of the prohibition on new forestry activities and the retirement of existing forest areas will substantially reduce the potential gross liability under the ETS at a regional level. However, if as proposed, consenting remains discretionary, consents for replanting may be refused. This suggests that while the probability of an occurrence of ETS liabilities, is reduced, it may well remain for some. At the property and particularly small scale (few to 10's of hectares), the impact could be financially significant or forcing the abandonment of the crop which brings its own long-term complications. In these situations, there should be a policy provision closely linking GWRC land management programs to assist an affected landowner to achieve revegetation compatible with the ETS requirements.

e. Forest (activity) management plans are already embedded as a tool within the NES-CF and the proposed Schedules 34a-c are almost identically aligned with the management planning requirements of the NES-CF (which must be supplied to Councils) and must be complied with. CFG while strongly supporting the use of these planning functions to improve the transparency and efficacy of on-ground behavior. We do not see a clear link between the benefits claimed for linking these plans to a consent as having material effect in providing clarity to users as to what constitutes good practice, the information required for the consent (the scheduled plan templates already dictate the areas to be addressed) nor how this further demonstrates how adverse effects on water quality can be managed.

f. We do accept the association with a consent gives the council the right to require changes. However, the operation of the NES-CF was specifically designed such that councils could still advise and suggest changes. Ignoring that advice potentially added risk to the forest operator if, through monitoring, they are subsequently found to have breached conditions.

g. This design approach has been described in evidence as a 'high trust model'. But in fact, its rationale was intended a 'high accountability' model and was built in to overcome the problem widely acknowledged (including in GWRC evidence), that lack of knowledge and training amongst council staff was a problem in application of the RMA to Forestry. For the sector these problems were leading to high cost, delay and unworkable conditions and uncertainty. The NES-model was designed to streamline the process for lower risk (permitted activity) situations while leaving the incumbent operator accountable and at risk if they got it wrong.

Rules

Rule WH.R20 P.R19

CFG note the proposed changes to the regulatory framework with rules WH.R20 &PR.19 replacing the previously notified rules hierarchy applying to forestry activities. In relation to this proposed amendment CFG record the following matters.

I. **Potential conflict in interpretation**, namely

a. Policy WH.P28 and P.P26 propose that consents will be required to manage the effects of sediment "…particularly in part Freshwater Management Unit's where visual clarity TAS are not met" (see discussion in Policy above).

b. Rule WH.R20/P.R19 proposes that a discretionary consent will be required for forestry activities where "*where the most recent Wellington Regional Council monitoring record measure of visual clarity for the relevant catchment **does not meet** the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Table 8.4*"

c. Using the same language, the associated explanatory text states "*Where the most recent Wellington Regional Council monitoring record demonstrates the measure of visual clarity for the relevant catchment **meets** the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Table 8.4, commercial forestry activity is regulated by the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2023"*.

d. These two statements align but do not appear to avoid a level of ambiguity with the Policy statement discussed above.

e. Based on the S42A report para 153 statement of Mr Watson, our interpretation is that despite some ambiguity between policy and rule, the intent as currently amended and clarified in the rule explanatory note is that forestry operations in a **part FMU that meets the required TAS target will be regulated by the NES-CF not through consenting**. To the extent that it defers back to the use of the NES-CF. We support this outcome, noting that for those part FMUs already meeting TAS 'A', there will be limitations on what level of further improvement can be practically achieved notwithstanding the evidence Dr Greer in HS HS 2 report concerning the potential for some cumulative downstream contributions to other prt FMU's.

f. However there is then a direct conflict with the statement in Watsons S42A report Para 210 "*To this end, I acknowledge that because the Te Awa Kairangi lower mainstem (Hutt River at Boulcott) TAS site is 'nested', this will mean those pFMUs upstream of this site will be considered to be not meeting TAS and will require consent, even though the relevant pFMUs might be meeting or exceeding TAS. This includes activities within the Ōrongorongo, Te Awa Kairangi and Wainuiomata small forested and Te Awa Kairangi forested mainstems, Te Awa Kairangi rural streams and rural mainstems and Te Awa Kairangi urban streams pFMUs*".

g. We therefore question what is the actually being proposed?. Is the explanatory note in rule WH.R20 correct?, is it expressed incorrectly? CFG suggest it would be grossly disingenuous to suggest the amendment that the NES-CF will prevail where a part FMU TAS is met where infact the situation as described in 'f' above is the intended interpretation and is likely to mean that in practical terms, discretionary consenting will in fact prevail over almost any forestry activities in the two whaitua. In this case it is notable that Blyth in discussing the Hutt R Para 34 pg 17 notes "*This suggests that the suspended fine sediment TAS effectively requires a return to natural state in the Hutt River, and by extension any activity (including commercial forestry), that increases sediment losses compared to indigenous forest contributes to the TAS not being met"*

h. We especially question the validity of the alternative when for the example at Hutt River (Boulcott) we are aware of regular and repeated operations in the bed of the river for gravel load removal and bed reshaping for flood management purposes. This would lead to substantial sediment generation and prolonged periods of discharge as the bed of the Hutt River resettled and reshaped after such operations.

i. As noted in sub para(e) above, if forestry has been conducted in a part FMU and the TASs remain at A then there are likely to be limitations on the improvement that can be achieved to raise the numeric levels within a band A in the part FMU to sufficiently achieve a band A status in the Hutt. Such would require achievement of a near natural state in a productive landscape. Such is unlikely achievable, cost effective nor fair in addressing the underlying problem sources.

II. **Issues with the TAS**.

There remains a lack of clarity as to how the TAS data will be applied. In reviewing the proposed changes CFG note:

a. That in proposed rule WH.R20 & P.R19 the text and explanatory notes refer to "*where the **most recent** Wellington Regional Council monitoring record measure of visual clarity for the relevant catchment **does not meet……"***

b. Our understanding was that TAS monitoring performance would be based on rolling averages over a number of years which we believe to be essential.

c. Notwithstanding that fact, we note that in his evidence for Hearing Strem 2 Blythe, in discussing sediment levels in the Mangaroa also raised important issues regarding the nature of influences upon visual clarity levels including:

   i. Response times in years or even decades to adjustments in land use.
   ii. The strong links between sediment variability and storm events and longer-term changes in climate.
   iii. The benefit that might accrue from more event based paired monitoring to and longer time series comparisons to adjust for shifts in climate and land use.

d. As there are no decisions in respect of HS 2 CFG are unaware whether there has been further consideration of these recommendations in the proposed adjusted rules. However, these matters are in the view of CFG material to the use of the TASs as a basis for rule setting. The extract of Blyth's comments and CFG's submission related to these points are in Appendix 2.

e. CFG remains concerned that if there is not a 'feedback' mechanism built into the monitoring system informing TASs settings that recognizes and if necessary, adjusts TAS targets in the light of longer-term calibration work. There becomes a risk rules are being imposed to achieve targets that may be unachievable or are drowned out 'noise or underlying trends' arising from events over which there is little or no control. This could be especially relevant where in the situation or similar situations to that canvassed in paras Rules 1 e-I above.

III. Forestry practices and impact upon sedimentation.

CFG recognize that as a land disturbing primary industry, commercial forestry does contribute to sedimentation. It is well established that over the period of a forest cycle a commercial forest will produce substantially less sediment than pastoral agriculture but nevertheless as stated by Blyth, will produce more sediment than a natural undisturbed forest.

a. The challenge facing regulators and the forest sector now is that there is no scientifically robust information to demonstrate what gains have been achieved over the recent past by improved practices, what gains might be achievable through consistent application of currently recognized good practice, and what gains will be possible with even better practices than those that currently form the basis of 'good practice management'.

b. The advent of the NES-PF in May 2018 and now NES-CF in Nov 2023 brought within a whole new regime of regulation. Associated with that in 2018, there was a formalization of a range of 'good practice guides' to assist implementation on the ground. To date there are now 26 guides, most of which either directly or indirectly cover methods and techniques to reduce sediment and erosion or protect water quality in the course of forestry activities. The guides specifically related to earthworks construction supplement the comprehensive Forest Owners Engineering manual and operators guide. The practice guides are also all published in Tablet compatible format for use in the field. New guides can be produced or adjusted at any time.

c. In between the advent of the NES-PF which took over 6 years of intermittent working party work with representation from ENGO's and Councils as well as industry and officials. The Covid epidemic starting in 2020 causing considerable disruption to the sector and at the time the PC1 and whaitua committees were deliberating, the NES-PF had in practical terms barely started. The revisions leading to the NES-CF, as well as seeking to include carbon forestry into

the same framework also saw major revisions to deal with slash mobilization in extreme rainfall following the Gisborne floods[1].

d. In respect of the timelines required to differentiate improvements in forest practice from past practice via visual clarity trends, there has simply been too little time and even less so when matters of training and upskilling is overlaid.

e. Presently there are two long term research projects being funded by both the industry, research organisations and others including councils. Both are multi-year projects seeking to advance the understanding of the dynamics of water quality and ecology through the harvest cycle.
    i. In Donald Creek[2] in the Nelson region, two catchments are being harvested – one with what are considered current good practice and one employing more intensive erosion and sediment control (ESC) measures. The first catchment has been harvested using current good practice. We understand results show not unexpected localized impacts but no perceivable impact at the monitoring site beyond the confluence with the next river. The site involving more intense ESC application is in progress.
    ii. In the Pakuratahi[3], in the Hawkes Bay, the original study that determined much of the data about the relative sediment contributions between forestry and pastoral hill country farming is being revisited for the next rotation harvest. With modern monitoring equipment and expanded scope, this study too should further inform the effects of harvest in the second rotation, with modern application of good practice and on much more erodible landforms.

f. CFG see that in his technical evidence for HS 3 Greer noted that:
    i. In his analysis only three part FMU's were likely to meet **ALL the TASs** with the proposed amended PC1 regulatory regime[4]. The three included the Te Awa Kairangi and Wainuiomata small forested and forested mainstems part FMU that includes commercial forest areas that have been harvested over successive years in the past and currently meet the TAS standards (A) for suspended sediment and macroinvertebrates and all other measures[5].

    ii. In responding to the original submissions from forestry sector participants, Greer made some important observations, namely that:

[1] Many if not all operations resulting in prosecution in the Gisborne region were consented by Council and subject to the council planning rules at that time.
[2] Donald Creek Catchment Study 2020-2027 - One Forty One.

[3] Scion - Next chapter for the Pakuratahi land use study
[4] Table 2 updated Assessment, pg 10, Greer HS3 technical evidence.
[5] Table 4 Current (30th June 2024) state of river attributes pg 55, Greer HS2 technical evidence.

1. *"It is my understanding that the forestry provisions of PC1 are not driven by a scientific argument that they are necessary to achieve the suspended fine sediment TASs in Table 8.4 and 9.2 of PC1. Rather, they are at least partially driven by a policy viewpoint on equity". And "Whether this approach is appropriate is a policy matter outside my scope of evidence".*

2. While Greer presented evidence[6] pointing to a level of contribution of sediment from forestry in a number of catchments where TASs were not being met, Greer also stated that *35.1 " The extent to which the notified PC1 provisions will reduce sediment losses has not been considered through the whaitua or PC1 development processes". And 35.2 "The extent to which the NES-CF will reduce sediment losses has not been considered through the whaitua or PC1 science processes". And "Thus, it is uncertain whether either the PC1 provisions or the NES-CF will contribute to the TAS being met, or that one will achieve demonstrably greater sediment losses than the other"*

g. Taking account of this evidence and the information presented above, CFG are of the view that:
   i. There is little scientific basis on which to form a view as to the level to which changes to the current suite of good practice methods, if well implemented, will influence visual clarity over the long-term average.

   ii. Nor is there good scientific evidence to differentiate any such practice or implementation or new practice over the potential noise from other influences as discussed in the 'Issues with the TASs 11 a-e' above.

   iii. That in practical terms, the current state of part FMUs with commercial forestry present are largely reflective of standards and competency applied before the NES-PF/CF came into force notwithstanding there still remain issues in execution under the NES-CF.

   iv. While we agree with the evidence of Mr Reardon concerning variable and sometimes poor execution of activities on the ground, especially amongst smaller contractors much of this relates to training, understanding of the practice standards and enforcement.

IV. **Consenting vs the NES-CF**.

CFG acknowledge that in removing the rules relating to retirement and prohibition of forestry on erodible land GWRC have made an important change. We are, as canvassed previously, completely unclear as to the real intent in relation to activities undertaken in part FMUs where TASs are met but downstream FMUs TASs are not.

[6] Pg 17, Greer HS3 technical evidence

a. In reviewing the statement of evidence from Mr Watson, Reardon and Pepperrell we acknowledge:

   i. That standards of application in some operations are not yet operating to required good practice and that this can be more of a problem for small operators.

   ii. That the Schedules of the NES-CF do not require best practice guides to be followed and some may not be using them.

   iii. We acknowledge that the mapping requirements of the NES-CF schedules do not require a resolution scale that may be necessary to identify and decipher high erosion risk areas although rapid advances in technology are resolving the cost and access issues to the extent that most if not all larger entities are using much higher quality mapping as a default.

   iv. That some elements of the NES -CF conditions are hard to interpret. However, there is often an underlying reason for this, arising because when operating in a forest situation many of the decisions made are very nuanced to the particular site. For example:

      1. When working in/ with a natural landform during an earthworks operation use of some civil earthworks techniques such as decanting sediment ponds are not physically possible so forestry relies on compaction, dispersion and cover. Dispersion is achieved by bunding and cross-culverting but when placing such devices, a matter of a few metres can make a big difference to the effectiveness of avoidance of sediment discharge to a water body.
      2. Such matters are very difficult to specify in rules and this point is acknowledge to some degree by Mr Watson in recognizing the inappropriateness of trying to specify wider blanket setbacks from streams. Similar is the tension between safety and environmental matters.

      We conclude that while the probability of such conflicts or uncertainties arising can be reduced by good planning and operational execution, they will not be always eliminated. Attempting to write such matters out of existence by consent rules is unrealistic and has caused its own problems in the past.

b. In effect what the council is facing here is similar to the challenges facing the farming community where it is difficult to prescribe standards and direct measures that deliver desired outcomes consistently across a variety of landscapes and systems – hence farm plans or in the case of Forestry the NES-CF forestry plan schedules.

c. As the summation of the evidence from Reardon and Pepperell referred to by Watson CFG take the view that what is missing and being sought is a means by which the council can engage with sector participants directly at the property scale to ensure some of the deficiencies that might be present in the NES-CF can be checked and better addressed if necessary. To this end the

council is seeking to use a restricted discretionary consent process that, as noted previously, may entail almost all forestry activities or alternatively those that occur in part FMUs that don't meet the TASs.

d. In taking this path, CFG while acknowledging some deficiencies, contend that the council is ignoring the significant changes the NES-PF/CF first implied, the progress that is being made in improved operational standards (not withstanding greater challenges at the smaller scale of operator), and the reality that level of improvement attainable will unlikely become apparent for some years and is unlikely to be able to be differentiated from change already in play due to broader adoption of the NES-PF /CF relative to pre NES-PF/CF activities.

e. In seeking to implement Discretionary Consenting as a matter of stringency over Regulation 6 of the NES-CF, while acknowledging the intended strengthening of non-regulatory approaches by GWRC, CFG believe there has not been sufficient evaluation to justify this step. In exercising stringency, the council is required to make a detailed assessment that should:

> *(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
>
> *(i) economic growth that are anticipated to be provided or reduced; and*
>
> *(ii) employment that are anticipated to be provided or reduced; and*
>
> *(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*
>
> *(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

f. In this case CFG do not believe GWRC have adequately assessed the full suite of options between using non-regulatory methods and imposing discretionary consenting upon large portions of the sector when:

i) The most regular problems seem to be occurring at the smaller scale.

ii) There is expected benefit from improved planning, execution and enforcement but the magnitude and period by which such benefits are realized are also imprecise or unknown.

iii) The tools and assessed benefits that would be enabled from improvement beyond current good practice well executed are also as yet unknown.

g. CFG believe critical factors impacting the performance the sector in general are:

i) <u>The layout of the forest block</u>. Decisions made 20-30 years earlier set a path that has a strong influence on the ease with which earthworks and harvesting can be undertaken to high environmental standards. Time of planting or replanting decisions are the opportunity to define boundaries that avoid risky sites or better protect streams and other required features while reducing harvest problems. CFG note that in their experience within the GWRC 'cutting right' forests the processes of engagement with council post-harvest has been a positive exercise with regular excisions, retirements and boundary

adjustments at quite small scale being agreed for replanting to enable a better environmentally and commercially performing future plantation.

ii) Good planning prior to harvest. As already raised, good planning, particularly in relation to harvest layout and earthworks is essential. The Schedules of the NES-CF seek to assist this process and the adoption of almost identical schedules in the proposed changes to the plan rules maintain this imperative. However, what is put down on a plan and what actually happens upon execution on the ground can be two different things just as what is written into consent conditions does not guarantee outcomes as the aftermath of the Gisborne floods demonstrated.

iii) Execution on the ground is the third major element and this is totally dependent upon the competency of the actors, their training and their supervision including monitoring and enforcement.

h. The points above reflect much of what was raised in the technical advice and analysis undertaken by GWRC so there is little disagreement at a principled level. Where CFG stand is that the better engagement between the sector and the regulator i.e. the chance to work in partnership to achieve better results can:

i) Be largely achieved through active implementation of non-regulatory methods OR

ii) Failing that, if the commissioners decide otherwise, by setting a requirement for a controlled consent, applicable only for part FMU's where TASs were not being met, and with the council reserving control over matters over and above the relevant proposed schedules, that strictly address the gaps identified, such as:

(1) Higher resolution mapping.

(2) Specifically referencing in the management plan good practice guidelines that are going to be employed relevant to the site, thus locking them in as part of the consent.

(3) Engaging with council land management teams to devise a revised restocking plan (or afforestation plan) that where necessary is adjusted to improve eventual sediment protection outcomes. Such engagement could mirror the nature of the process already being applied to the Wellington region's forests which, at the time of sale, exhibited the same range of problems from past poor decisions as are being faced by private forest owners now. As noted previously, it would also facilitate the targeting of whatever landowner assistance programs might be available to assist retirement, revegetation with non-commercial species, pest and weed control etc.

i. In our view, in the regulatory cascade, a controlled consent is adequate to enable the engagement and compulsory backfilling of potential NES shortcomings the council seeks while giving landowners that security that they will get a consent and by ensuring the focus is on those matters where effective improvements to protect water and limit sediment delivery, the purpose of the rule, can be applied without the often much more onerous delays, consultation uncertainty and other costly components that accompany limited discretionary consents.

j. We note that Watson in his report, acknowledges *the concerns from NZFFA about the ability and expertise of GWRC staff to exercise prescribed matters of control, which subject to my recommended amendments will now largely be reflected as matters of discretion*. He then goes on to describe how such shortfalls can be overcome by the employment of *consultants or advisors as required and recoup costs associated with assessing both the merits of granting a resource consent and compliance with resource consent*.

k. In our experience elsewhere, this has been one of the very reasons why consenting processes have often degenerated into prolonged, expensive and uncertain processes as ill-experienced staff constantly refer information on to consultants seek further information and employ consultants to get a second opinion on the first consultant's work. It is for this reason that CFG believe there must be very demonstrable benefits to be accrued from the proposed consenting regime over and above those achievable from the proper implementation of the NES-CF supported by added non-regulatory methods.

l. We suggest this is what the whaitua committees also had in mind when they avoided recommending new and more stringent rule sets for forestry.

V. Non-Regulatory Methods:

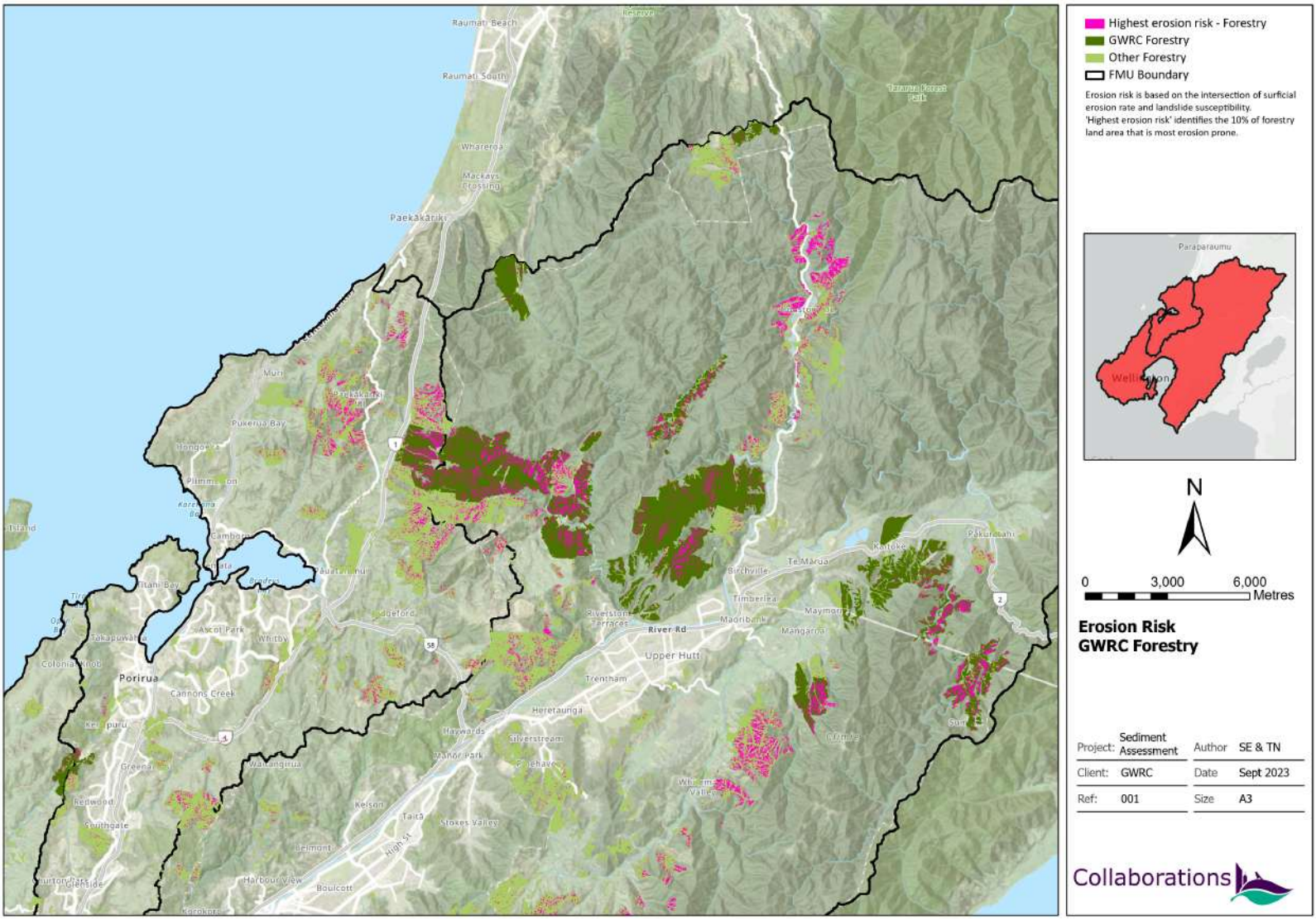
Reflecting upon the evidence of Pepperall, CFG suggest many of the matters raised in the evidence are illustrative of lack of training/ understanding and low levels of monitoring and where necessary enforcement. That levels of non-compliance are occurring and possibly tracking up as a result of increased monitoring effort should come as no surprise and does not necessarily mean the NES-CF or any other rule base would be failing. What would be a concern is that if such trends continue over the medium term despite a meaniful program of engagement and education. To this end CFG:

i. Endorse the proposed adoption of the non-regulatory approaches to support the forestry rules. In relation to the potential effectiveness of these in relation to achieving improved forestry practice we particularly endorce:

   a. Method M44A (c) *providing education and promoting good management practice in forestry with a focus on awareness and adherence to the requirements of the NZ Forest Owners Association Forest Practice Guides and NZ Forest Owners Association Road Engineering Manual or any other relevant is consistent with good management practice.*

   b. Method M44B where consents are required*, developing standard consent conditions for forestry activities which enable Wellington Regional Council to assess the performance of forestry activities and their contribution to sediment loads at different stages of the forestry cycle.*

Appendix 1 *CFG estate affected by proposed plan.*



Appendix 2 Extract from CFG Stream 2 further submission regarding TAS

> "42 ….*Changes in suspended sediment load due to landuse changes and implementing mitigations (for example, land retirement or pole planting) can take many years, if not decades to be expressed as water quality improvements, particularly when accounting for inter-annual variations in climate"*
>
> *"46 Sediment is highly variable and tied strongly to storm events and landuse practices. As visual clarity and TSS data is collected through SOE monitoring (~12 per year, per site), it is possible that event-based sediment loads may have been missed, or rainfall intensity may have been lower than normal. No climatic analysis has been completed due to time constraints to compare the last 5-years of rainfall against the 'baseline' (2012-2017) period".*
>
> *"50 As discussed in paragraph 47 and presented in Table 1, it is evident in some PC1 streams (across both Whaitua) that greater event based paired sampling in the short term, or consideration of current visual clarity state over a longer time period (to account for variabilities in climate and landuse that may be missed in monthly SOE) would be helpful to reduce this uncertainty in visual clarity current state and comparison to the PC1 TASs"*

It is CFG's view that these points raised in GWRC expert evidence reflect some of the concerns underlying our submission point. The issue is not that the targets should be abandoned or wrong but that what is the feed back loop that is built into the system to recognise the potential for increasing stochastic events as a result of climate change influences?

We and GWRC are not in a position to predict how these changes may materialise in the region, but we can expect increased frequency and severity in storm events. Under such scenarios, the landscapes will respond in the only way they can, irrespective of land cover, and that implies increased erosion, landsliding and stream channel erosion and reconfiguring. All these could lead to significant increases in sediment delivery and pressures on aquatic ecosystem health, the effects of which span years and are driven by extremes rather than averages.

CFG therefore remain concerned, not about the existence of the TAS baselines and setting of targets which are necessary management, but by how the system is to differentiate between expected efficacy of actions to meet targets based in currently measured baselines and the possibility that concurrently the 'natural state' of waterbodies is being challenged by matters over which there is little control. We believe this matter needs to be addressed in the plan or the plan referenced to the established methodology by which this issue would be addressed. Its omission is a potentially serious flaw and is of particular relevance when plan rulemaking proposes significant changes and constraints upon land use.