Waikato Regional Council Feedback on Revised National Environmental Standard for Plantation Forestry

TO: Ministry for the Environment
   P O Box 10-382
   WELLINGTON 6143

FROM: The Chief Executive Officer
      Environment Waikato
      PO Box 4010
      HAMILTON EAST 3216

1 Executive Summary

A. Council is supportive of government enabling sustainable management of resources through National Policy Statements and National Environmental Standards (NES). However, the Waikato Regional Council’s position remains that the revised Proposed National Environmental Standard for Plantation Forestry ("the Revised NES") should not proceed as it is flawed in almost every respect. The rationale for the NES has not been proven and none of the issues raised by the Council in its feedback have been adequately dealt with.

B. The Minister for the Environment’s stated desire was that an NES for Plantation Forestry would not relax environmental standards, nor impose additional costs. The outcome is somewhat different – environmental standards are reduced in high-risk areas such as the Coromandel Peninsula. Costs are increased in other areas with additional auditing requirements and performance standards or consents being required where they are not at present.

C. The scope of the Revised NES is highly problematic as it focuses on one land use, rather than the effects of activities regardless of underlying land use.
D. The implications of the Revised NES regime to a large extent are dependent on an underlying erosion susceptibility classification (ESC). While some detail of the ESC has been developed, there are significant scale, boundary and technical limitations to the use and interpretation of the ESC for the purposes of the NES. At present, reliance on the ESC makes the Revised NES unworkable.

E. The NES does not differentiate at all between the widely varying environmental risks based on receiving environment values. This aspect is considered to be a major flaw in the Revised NES.

F. The proposed NES is complex and difficult to understand both in relation to the regime it proposes to establish, the detail contained within the document and, most significantly, how it may be implemented. It will be impossible to implement in many cases with reliance on mapping to 1:50,000 and a number of unenforceable standards.

G. The underlying ESC does not reflect current knowledge for the Coromandel area with respect to the risks of shallow landslides. As a consequence, the ESC significantly under predicts the risk of landslides in the Coromandel area. The Revised NES therefore inappropriately permits earthworks and harvesting in large areas. If the Revised NPS is to proceed, we request Coromandel specific provisions to address the risk of landslides, as discussed in section 4.

H. The process used to develop the NES has been rushed and has excluded those who have raised legitimate concerns and constructive criticism. It is requested that the Minister carefully considers the costs that would be imposed on the forestry industry and the costs associated with the uncertainty inherent in the Revised NES before making a decision about whether to proceed with this NES.

I. Further comments on a number of specific matters within the Revised NES are attached within Appendix 1.

2 Benefits of forestry industry

Although much of this feedback is critical of the Revised NES and the process undertaken in its development, the positive benefits of plantation forestry are acknowledged at the outset, particularly when compared to more intensive land uses. These benefits are well documented and include significant contributions to:

➢ Employment and the economy
➢ Reducing flood peaks/solf erosion and improving/or maintaining water quality
➢ Recreational use
➢ Climate change and carbon sequestration
Biodiversity and landscape values and
Cultural, historic and heritage values

Another important aspect acknowledged at the outset relates to the issue of certainty to be able to harvest plantation forests. As a fundamental principle, it is accepted that if a party is allowed to establish a plantation forest then that forest must be allowed to be harvested, although there may be a case for rare exceptions to this. The council therefore supports the concept of “front-loading” the planning process.

3 Costs

The Revised NES increases both consenting and ongoing costs for the industry in parts of the Waikato region where afforestation should be encouraged. This is a perverse outcome and one that cuts across what Waikato Regional Council and central government are trying to achieve.

Central government has funded water quality improvements in the Lake Taupo catchment and provided a 'clean-up' fund for the Waikato River catchment (including the Waipa catchment) through Treaty settlements. Waikato Regional Council is promoting afforestation through its Carbon Strategy and on the ground support.

The Revised NES would result in approximately 12,500 ha of 'moderate' ESC land (ie class 6e and 7 land) currently in grass in the Taupo catchment requiring consent for afforestation to occur. Approximately 12,000 ha of 'moderate' ESC land currently in grass in the Waipa catchment would require consent for afforestation to occur. Across the Waikato region in total, approximately 115,000 of 'moderate' ESC land currently in grass would require consent for afforestation to occur. Under the Waikato Regional Plan (or any current District Plans), no consent for afforestation in these areas would be required. In addition, the Revised NES contains performance standards within 'low' ESC areas that are more onerous than those in the Waikato Regional Plan for these areas.

It is questioned whether the benefits to the existing forestry industry from reduced consenting requirements are really greater than the additional costs on existing and new industry players as a result of more consents and more onerous performance standards and costs to councils and communities of amending plans and dealing with the effects from reduced environmental standards in certain places.

4 Erosion Susceptibility Classification

There are significant issues concerning the scale and boundary identification on the ground (or by any other means) of the ESC mapping provided. Even the so called 'high definition' maps provided are of extremely limited use in this regard and the scale/definition provided is completely unworkable as a means to implement the Revised NES. The lack of identifying
features on the ESC maps has made any comparison of the Revised NES with current requirements very difficult and time consuming.

The Waikato Regional Plan (WRP) generally requires consents for earthworks in high risk erosion areas and permits harvesting (except for the Coromandel area). The WRP requires consents for earthworks based on (in part) a definition of 'high risk erosion areas'. One of the 'high risk erosion areas' criterion is slopes exceeding 25 degrees. The 25 degree criterion was derived from a region wide assessment of Land Use Capability data as slope is often a key factor underlying susceptibility to erosion. Not surprisingly as a result, the Revised NES/ESC model at a gross scale establishes a regime of activity status for earthworks and harvesting similar to that of the WRP.

The significant exception to this is the Coromandel area, where more recent area specific studies by Landcare Research have shown that the critical slope angle for the initiation of landslides is 20 degrees. Accordingly, the WRP has a rule that requires harvesting of more than 50ha on slopes exceeding 20 degrees to require a controlled activity consent. The LUC does not reflect the Landcare studies in regard to risk of landsliding on slopes as low as 20 degrees, hence the ESC does not reflect this risk either. The end result, as indicated within Council’s original submission, is that the ESC significantly under predicts the risk of landslides in the Coromandel area. As a result, the revised NES inappropriately permits earthworks and harvesting in large areas where (in our view) consents should be required for those activities.

Coromandel examples can be provided (if required) of land mapped as 'moderate' erosion susceptibility' (ie requiring no consents for earthworks or harvesting) which exhibit severe landsliding and land mapped as 'high' erosion susceptibility' (ie requiring controlled activity consents required for earthworks and no consents for harvesting) which has suffered from extreme landsliding.

One option to account for the risk of landsliding in the Coromandel is to have Coromandel specific rules. It is apparent that earthflow country specific rules have been included within the earthworks section of the Revised NES so clearly particular matters of significance concerning the ESC can be accommodated within the Revised NES. Another possible option would be to consider lowering the LUC thresholds underlying the ESC categories for the Coromandel area to take account of the area specific Landcare information available (ie 20 degree slope angle as being critical regarding landslide risk). As a minimum the ESC needs to be revised to incorporate the most up to date LUC information for the Coromandel, which appears to have been omitted in the analysis to date. A third option would be to reserve control over timing and size of catchment areas harvested in the Coromandel area.

There are a number of practical recommendations/comments within the ESC report that are worthy of further consideration and development which could significantly improve implementation of the Revised NES. Given the strong technical and practical basis on which most of these comments have been made, it is disappointing to see so few of them developed or referred to within the Revised NES and it is requested that further development/consideration of these aspects be undertaken prior to finalising the Revised NES.
5 Process

The Waikato Regional Council lodged feedback on the proposed NES in September 2010 (doc#1774913). Since then staff have offered to meet with Ministry for the Environment staff on several occasions to discuss issues raised. Despite the scope and nature of issues raised within the Council's feedback, there has been no contact from the Ministry for the Environment in this respect.

Feedback was sought from Council staff in May 2011 on the proposed erosion susceptibility classification (ESC). There was no prior notice or involvement regarding this matter. Due to technical issues in the nature of the ESC detail provided and the very compressed timeframes available for comment, it was not possible for staff to consider the ESC or provide any feedback at that point, even though it is a key underlying factor in the proposed NES.

Given the lack of involvement, that there was no prior notice of the release of the Revised NES and the compressed timeframes by which comments are required, only a very limited assessment and response by the Council has been possible to the Revised NES.

It is difficult to see how a process which fails to address many of the issues raised in the Council’s feedback or includes opportunities to discuss matters with the Council is a collaborative process. Plantation forestry occupies 12% (321,300ha) of the Waikato region, being 17% of the national forest estate. Ensuring the workability of the Revised NES in this region should therefore be considered important.

6 Conclusion

Waikato Regional Council is disappointed in the Revised NES. Council cannot support a document that is flawed in its methodology and will have significant problems in its implementation.

The Council questions whether the Revised NES achieves what the Minister for the Environment set out to achieve and requests that the Minister carefully considers the costs that would be imposed on the forestry industry and the costs associated with the uncertainty inherent in the revised NES before making a decision about whether to proceed with a NES for Plantation Forestry.

Bob Laing
Chief Executive
## Appendix 1

**Waikato Regional Council Further Comments on the Revised NES for Plantation Forestry (June 2011)**

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<thead>
<tr>
<th>Name</th>
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<tr>
<td>Organisation</td>
<td>Walkato Regional Council</td>
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</table>
| Postal address | Private Bag 3038  
Walkato Mail Centre  
Hamilton 3240 |
| Email |  |

### Outcomes and Objectives section

#### Comment

A. Revised 'Outcome Statement'

The revised outcome statement is significantly improved over the objective originally proposed although the Council has no confidence that the Revised NES can deliver on the revised Outcome Statement.

B. Objectives

The Revised NES sets out 11 Objectives (page 7) which is conceptually an improvement of the original proposal, but it fails to set out any subsequent mechanism for delivering on many of those Objectives. The current list of Objectives includes a number of objectives that the NES is not currently capable of delivering on. The Objectives require significant development and mechanisms in their NES need refinement to be capable of delivering on the Objectives.

By way of example, Objective 8 purports that clear bottom line standards are established and that operational activities are linked to environmental consequences. However the revised NES is silent on establishing any process for recognition of site specific environmental ‘bottom line’ standards, for example water quality standards as required to be established by the NPS for Freshwater. Likewise, bundling is not addressed (Objective 4) and good environmental outcomes via measurable outcomes and benchmarks (Objective 5) are not included within the revised NES.

Objective 10 purports ‘clear and transparent rules that can be effectively monitored by local and regional authorities’. As a number of proposed conditions contain vague and unenforceable terminology such as ‘minimise excessive’, ‘practicably’, ‘wherever practicable’, ‘as soon as practicable’, ‘as far as practicable’, ‘minimise’, ‘deactivated’, ‘not exacerbating’, ‘damage to receiving environments’, ‘appropriate’ etc, it is difficult to see how Objective 10 can be achieved for many conditions.
C. Table 1 Environmental Outcomes (page 9)
A number of environmental outcomes are listed within Table 1, although as Table 1 is not referred to anywhere within the Revised NES its purpose is undefined/unknown. In addition, it is not clear whether these outcomes are sought at a national, regional or local level or their consistency with desired outcomes from other national planning documents.

Definition of Plantation Forestry section

Definition of Plantation Forestry (page 16)
The revised definition now includes “areas that have been planted and has/or will be harvested and/or replanted”. This definition now implies that if an area of plantation forest is not to be replanted (i.e. in the case of the 20,000ha of central North island forests converted to pastoral farming) then those areas of plantation forest are outside of the scope to the Revised NES (i.e. cannot be harvested on the terms set out within the NES).

Activity Status in the Revised Proposal section

ESC Boundary Issues
The Environment Court, in a case involving the Marlborough District Council, has previously thrown out the concept of using land use capability boundaries as a means to identification of activity status due to inaccuracies, on ground boundary identification, uncertainty etc but the NES proposes the same method to determine activity status.

Determining activity status
Preliminary assessment of a limited number of forested areas within the Waikato Region has shown that application of the ESC in determining an appropriate or consistent activity status to be quite variable.

While all Permitted Activities default to a harsher activity status if conditions are not met, there is no guidance provided on what level of breach or period of breach would be sufficient to trigger a change in activity status. This is a significant implementation issue and with no guidance provided it is assumed that it will be left for the Councils to resolve, with potential for widely inconsistent approaches taken across NZ. Perhaps the maximum period that a breach can occur before the activity status changes should be stated. This would provide for a period where the Council could put the operator ‘on notice’ allowing the operator a specified period to remediate the breach in performance, if possible.

The activity status for activities which straddles two or more ESC classes may well have to default to the activity class assigned to the highest ESC class – this would potentially avoid many of the ESC boundary/scale issues.
Q1: Do you agree with the changes to the afforestation section?  □ No

**Comment**

The level of disagreement noted among the working group on this key issue is of major concern and not surprising given the site specific matters required to determine appropriate setbacks, being an approach that is not compatible with the proposed NES approach to this issue. The 1m setback proposed (page 28) for perennial stream channels <1m width is nonsensical and equivalent to no setback requirement. The setback from all perennial streams with a channel width <3m should be a 5m minimum. This has been the minimum required and has had widespread acceptance within the forest industry within the Waikato region for many years and there is no reason provided to reduce the 5m minimum setback. In addition, it makes far more sense to be able to be more stringent about setbacks in the exception areas identified on p.28 rather than having a blanket 10m setback so that setbacks can protect the values of those areas.

Matters over which discretion applies should include stream crossings.

Q2: Do you agree with the changes to the replanting section?  □ No

**Comment**

The 1m setback proposed for perennial stream channels <1m width is nonsensical and equivalent to no setback requirement. The setback from all perennial streams with a channel width <3m should be a 5m minimum. This has been the minimum required and has had widespread acceptance within the forest industry within the Waikato region for many years and there is no reason provided to reduce the 5m minimum setback. In addition, it makes far more sense to be able to be more stringent about setbacks in the exception areas identified on p.28 rather than having a blanket 10m setback so that setbacks can protect the values of those areas.

Q3: Do you agree with the changes to the mechanical land preparation section?  □ No

**Comment**

It is questioned why nesting times are restricted to being a district council matter when the effects of mechanical land preparation may also be managed by the regional council.

Mechanical Land Preparation and Quarrying are not sufficiently defined or limited in scale, scope or location to be treated any differently from earthworks. Hence the Council considers that Mechanical Land Preparation and Quarrying should have the same status as Earthworks for all ESC areas as the effects of all of these activities are not necessarily dissimilar.
<table>
<thead>
<tr>
<th>Q4: Do you agree with the changes to the harvesting section?</th>
<th>□ No</th>
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<tr>
<td>Comment</td>
<td>Terms such as 'minimise excessive soil erosion and/or sediment discharge to water' (page 45) are meaningless, particularly when combined with a vague requirement to re-vegetate within 18 months. This type of condition is unenforceable and actually allows for unlimited soil erosion and/or sediment discharge to water as a result of harvesting. More specific criteria/conditions need to be developed regarding scale, proximity to water bodies, location of skid sites/landings and much shorter time frames for those areas where re-vegetation must be undertaken. It is unclear how the term 'damage to receiving environments' (page 47) is to be interpreted. Effects on water quality and riparian vegetation should be included within the ecological and aquatic effects that discretion applies to, in line with mechanical land preparation and other activities.</td>
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<td>Q5: Do you agree with the changes to the pruning and thinning to waste section?</td>
<td>Not assessed</td>
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<td>Comment</td>
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<td>Q6: Do you agree with the changes to the earthworks section?</td>
<td>□ No</td>
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<td>Comment</td>
<td>The term 'activity site' (page 59) is not defined; hence the whole condition becomes uncertain. It is presumed to mean one contiguous area of activity but in any case needs to be defined. Removal of all sediment discharge standards (page 60 - 61) is inconsistent with the recently released NPS on Freshwater whose regional councils are required to set standards for all water bodies and establish policies towards meeting those standards. Additional conditions are required in relation to earthworks. For example, for all earthworks (excluding maintenance) there should be an excluded winter period (eg May to September) when bulk earthworks cannot be undertaken unless a specific local council approval is given. Similarly, conditions are required to ensure all bulk earthworks are stabilised via vegetation, slipl, hay, metal or other appropriate period by the beginning of the winter exclusion period.</td>
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<td>Q7: Do you agree with the changes to the quarrying section?</td>
<td>□ No</td>
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<td>Comment</td>
<td>Mechanical Land Preparation and Quarrying are not sufficiently defined or limited in scale, scope or location to be treated any differently from earthworks. Hence the Council considers that Mechanical Land Preparation and Quarrying should have the same status as Earthworks for all ESC areas as the effects of all of these activities are not necessarily dissimilar.</td>
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<td>Q8: Do you agree with the changes to the river crossings section?</td>
<td>□ Yes, partially</td>
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<td>Comment</td>
<td>Council supports the establishment of terms and conditions for the maintenance of stream and river crossings and debris traps, particularly so as there is no scale, timing or time bound restrictions on these works and the term 'maintenance' in this context is undefined. At present, the revised NES does not provide any opportunity to influence the type and location of river crossings or tie good practice to the values of the waterbody.</td>
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**Q9: Do you have comments on the detail of the ROAR system?**

**Comment**

The simplistic ROAR analysis provided is unable to usefully assist with determining issues regarding NES implementation or any other matter.

**Q10: Where the working group could not reach consensus, the areas in Table 4 were highlighted blue. Do you have any comments about these issues?**

**Comment**

The level of disagreement indicates that significant further development is required on these issues.

### Comments on Other Matters

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<tr>
<td><strong>A. Uncertain performance standards</strong></td>
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<td>A number of proposed performance standards contain vague and unenforceable terminology such as 'minimise excessive', 'practically', 'wherever practicable', 'as soon as practicable', 'as far as practicable', 'minimise', 'deactivated', 'not exacerbating', 'damage to receiving environments', 'appropriate' etc.</td>
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<td><strong>B. Appendix 2, 3 &amp; 4</strong></td>
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<td>Further development is required of the proposed appendices which are simplistic and provide no real basis for assessment of compliance. It is not clear how the forms contained within these appendices are to be applied to individual sites ranging or to whole forests.</td>
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<td><strong>C. Glossary</strong></td>
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<td>The definition of 'regionally significant' (page 113) is strongly opposed. The definition of 'regionally significant' proposed in the Revised NES is inconsistent with the terminology of 'outstanding' freshwater bodies in the NPS for Freshwater and the NPS's focus on identifying values of waterbodies. The Revised NES definition is not consistent with the Proposed Regional Policy Statement for the Waikato Region which also focuses on identifying and protecting the values of waterbodies.</td>
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<td><strong>D. Technical guidelines</strong></td>
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<td>For an NES it would be prudent to develop Technical Guidelines (either as appendices to Forestry BMP Guidelines or as a Field Guide). It would list specific metrics / dimensions associated with BMP practices.</td>
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