13 June 2011

Consultation on Proposed NES for Plantation Forestry
Ministry for the Environment
PO Box 10-362
WELLINGTON 6143

Emailed to: standards@mfe.govt.nz

Dear Sir/Madam

REVISED PROPOSED NES FOR PLANTATION FORESTRY

Submission Summary

1. The Electricity Networks Association (ENA) represents all of New Zealand’s electricity distributors (EDB's). We welcome the opportunity to comment on the revised proposed NES for Plantation Forestry.

2. ENA is extremely disappointed to see that not only have the improvements we sought on the previous draft (in the interest of safety and supply security and for more efficient processes under the RMA) not been implemented, but we see that the discretionary ability for Councils to be more stringent when there are effects on utility infrastructure (and fire risk) has now been removed from the revised proposed NES.

3. ENA endorses the submission made by the EEA which details the issues more fully and contains photographic and other evidence from our members which clearly illustrates that the status quo approach (relying on Councils to consider these matters in their plans) is not working. Moreover, we are concerned that the proposed removal of ‘infrastructure’ and ‘fire risk’ from the situations where Councils can be more stringent than the NES will worsen the situation from the status quo.

4. We note that the proposed NES, however, still allows for setbacks from other kinds of infrastructure and also provides a mechanism for written permission from those infrastructure owners to allow that activity to be permitted within those setbacks (i.e. the NES allows for third party
discussions and approvals). We originally submitted for similar considerations for electricity infrastructure where the safety and supply security implications of tree contact with power lines are high, and struggle to see why this has been omitted from the revised proposed NES.

5. In our view, the ‘working group’ was not representative of all affected stakeholders (it was primarily comprised of forestry representatives and local/central government bodies). ENA considers this capture has resulted in a forestry-centric revised proposed NES, one that suits the needs of forestry in terms of having an efficient national standard from their point of view, without also adequately considering those they impact on. We do note however that this revised proposed NES does not necessarily reflect MfE’s view.

Comment on the Revised Proposed NES for Plantation Forestry

6. We consider that the revised proposed NES fails to meet the RMA objectives under section 5 of the Act (i.e the Act’s purpose):

5. Purpose
(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

1. (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
2. (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
3. (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

7. Because it fails to consider all those that forestry impacts on, we also consider that the revised proposed NES also fails to meet the aims of the RMA Phase II Review which has as its objectives:

“The Government’s main objectives for the Phase Two reforms are:

- Providing greater central government direction on resource management
• Improving economic efficiency of implementation without compromising underlying environmental integrity
• Avoiding duplication of processes under the RMA and other statutes
• Achieving efficient and improved participation of Maori in resource management processes.”
  (From Building Competitive Cites: Summary of Submissions; January 2011).

8. The Phase II Review highlighted a clear need for more national guidance.
    “Submitters across the board were supportive of the need for greater national guidance”
    (from Building Competitive Cites: Summary of Submissions; January 2011).

9. In our previous submissions to you we noted that leaving EDB considerations to the status quo (i.e. to local plans) was extremely uncertain and costly. We were concerned that, in the previous draft, the NES did not require a district plan to include such a provision, nor was there any national guidance to Councils on these issues. We submitted that it would not be efficient, or necessarily very successful in terms of outcome, to tackle this plan-by-plan. (Our members work across multiple councils - one member would have to work through 24 plan changes to achieve what the NES could – in our view this is hugely inefficient, costly and uncertain. Another member estimates the cost of them for seeking a private plan change to manage these issues has reached the order of $100,000). The NES provides a vital opportunity to improve the status quo, yet the revised proposed NES not only sidesteps that opportunity, it steps backwards by removing ‘infrastructure’ and ‘fire risk’ from Councils’ ‘ability to be more stringent’.

10. It has been suggested by the ‘working group’ that EDB’s should seek to get easements under/near their existing works, in the event someone chooses to change the land use to forestry. We disagree, and submit that those changing land use should abide by the purpose of the RMA, and by appropriate land use rules, and that these include considering the effects on existing infrastructure.

11. The working group apparently also considers that the Electricity (Hazards from Trees) Regulations 2003 are the means to address the issues experienced by EDBs in forestry settings. The Tree Regulations are a reactive and limited tool and have been found by our members not to be sufficient for the issues arising in forestry, as we have detailed previously. The Tree Regulations have to cover all trees, and measures that would be appropriate in forestry settings would not be appropriate to set and apply in other areas (such as the urban environment). Moreover, these regulations do not deal with trees at the planning and planting stages, but
merely the limited, piecemeal management of them, after the fact, when they encroach near power lines.

12. In a forestry setting, the sheer volume of trees, and the more serious issues that arise, warrant a more proactive and efficient approach in our view. Pre-emptively addressing these at the planting stage through an NES is consistent with the purpose of the RMA itself, and of the RMA Phase II review objectives. In contrast, we consider not to do so, contravenes these objectives.

13. Members report significant outages imposed by tree contact with lines in forests (see the EEA and others’ submissions for more details, including photos). If EDB’s (regulated by the Commerce Commission) exceed allowed thresholds for outages (measured as SAIDI under the price-quality path requirements) the Court can order a pecuniary penalty payment under the Commerce Act (which can be up to $5 million in the case of a body corporate). For these reasons, and to ensure a secure supply for customers, members minimise outages to the best of their ability. Trims done by EDB’s under the Tree Regulations consequently often use live line techniques to reduce outages and SAIDI minutes. It is worth noting that the significant outages imposed via the forestry sector occur not only by trees falling into lines, but when harvesting – foresters request power shut downs so they can safely harvest (because the trees have been planted too close in the first place). These power shut-downs can not only affect neighbouring consumers, and the regulated company in terms of SAIDI but also - depending on the lines involved - can put wider security of supply at risk, and can affect the revenue of others (such as generators/retailers).

14. In contrast, potential issues and any outages in an urban setting caused by trees falling into lines are quickly identified and remedied. Members have indicated that the costs of a tree inflicted outage in an urban area is in the order of the low thousands, whereas identifying and remedying the cause of faults in a forestry setting will quickly run into the 10’s of thousands (and members cite examples of where costs have neared or exceeded $100,000).

15. As the EEA submission details, the costs of trying to manage these issues under the status quo are high and much of these costs ultimately fall on other consumers and companies, rather than on commercial forest owners.

16. We also query the two scenario approach, depending on ETS liabilities/solutions. We would appreciate involvement in the ETS discussions & developments, and wish to understand more behind the thinking that would allow deviations from a setback because a solution to
the ETS issue cannot be found. Here we note there is currently a review of the ETS framework underway. As noted previously, we too are concerned about the perverse incentives the ETS may cause in relation to trees near power lines.

Concluding Comment

17. ENA thanks the MfE for the opportunity to make this submission. Tree growth within fall distance to power lines, and the harvesting of such trees, poses significant safety and functional risks, and costs, and the opportunity to implement pre-emptive tools to address the issues in this space going forward is a significant and important one that absolutely should not be missed. We do not wish to imply that there is an issue with all forestry owners, as many work well with their local lines companies. However clearly from evidence provided by members in support of this and the EEA submission, there are significant and widespread issues under the status quo. The revised proposed NES will, as it stands, purposefully serve to not to improve on that (poor) status quo, and will remove the ability of Councils to consider these critical matters when forests are planted and replanted.

18. For these reasons, ENA strongly opposes the revised proposed NES.

Yours sincerely

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