PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR
PLANTATION FORESTRY
REVISED PROPOSAL

Submission from

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<th>Organisation/agency</th>
<th>TASMAN DISTRICT COUNCIL</th>
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1. INTRODUCTION

1.1 The Tasman District Council appreciates the opportunity to comment on the development of a National Environment Standard (NES) for plantation forestry, however, it notes the very short timeframe provided for feedback on the revised proposal and considers this does not enable proper consideration of the proposed changes.

2. GENERAL COMMENTS

2.1 In general, the Tasman District Council regards the revised proposal as much improved on the original. The Council does however, continue to have concerns about the content, and more particularly, the impact of the NES on both the control of afforestation activities in the region and on the regional and district planning provisions that it has already adopted in its Tasman District Council Resource Management Plan (TRMP). Some general comments are provided below followed by feedback on the specific provisions of Section 4.

2.2 The concept of ‘front loading’ decisions around new afforestation is supported. For this to work effectively, there needs to be a greater range of discretion provided for to account for potential future risks and adverse effects associated with planting, earthworks and harvesting activities.

The listed of matters currently included is not comprehensive given the susceptibility of the land to erosion, the range of activities during a full cycle of plantation forestry and the potential for significant off-site effects. This in combination with the variability of sensitivity of receiving environments across the country makes an unrestricted discretion more appropriate.

The Council requests that:
Any afforestation, mechanical land preparation, earthworks and quarrying activities in red areas be discretionary activities.

2.3 Permitted Activity Monitoring

The Council supports in principle that permitted activities with robust conditions, including potential for development of self auditing, are appropriate and cost effective management measures. However, it notes that the potential effects,
including in particular the cumulative effects of permitted activities can be significant.

The proposal to require a notice of commencement of forestry activities, including information on compliance with permitted conditions, is a good means of having operators address compliance with permitted rules. However, it will inevitably lead to a greater community expectation regarding monitoring of permitted forestry activities. The monitoring of permitted activities is a significant cost for councils.

The Council requests that the Minister considers providing Councils with more explicit means to recover costs of monitoring compliance with permitted activities.

2.4 Erosion Susceptibility Mapping

The erosion susceptibility classification for Tasman has overstated erosion risk from a significant area of relatively stable Moutere gravel derived geology (mainly for Classes VIle16 and VIIle11). A map and schedule showing the Council’s preferred interpretation within the scope of the NES and NZLRI is attached with this submission as attachments 1 and 1a.

The Council requests that
That the Erosion Susceptibility mapping and resulting green, yellow, orange and red areas for Tasman District Council be amended as shown on the attached map.

The Council further notes the need for a process to enable refinement of erosion susceptibility maps to incorporate enhanced information at a better resolution over time.

The Council requests that the NES state a process and timeframe for committing to reviews of the erosion susceptibility maps for any region.

2.5 Water Bodies

The ability to be more stringent in respect of significant water bodies is supported. The Council notes that there is currently little consistency in what may be regarded as nationally outstanding water bodies, except perhaps as provided for by Water Conservation Orders. Clarity as to whether this is the intended interpretation for nationally outstanding would be helpful.

There is a lack of clear direction around nationally outstanding water bodies, and the lack of guidance around terms used in the rules for things like terrestrial habitat, spawning areas and sensitive receiving environments, as well as the various river, value and habitat combinations that exist throughout the country.

The Council requests that the ability to be more stringent apply to rivers that are identified as regionally significant. This allows regional solutions for regionally significant values.

Technical guidance as to appropriate setbacks for various more commonly occurring scenarios should be developed to provide for further consistency. See also comments in relation to setbacks from rivers below.

2.6 Notification

The council does not agree that non-notification provisions should be written into the NES. The wide range in activities regulated by the NES in various topographies, in both remote and near to built areas and in a wide range of
ecosystems and situations mean that non-notification decisions should be made on a case by case basis. Section 95A provides adequate direction.

The Council requests the removal of all non-notification provisions

2.7 Review of Authority Rules (ROAR)
A full assessment of the ROAR has not been possible due to the limited time available for providing feedback. The Council notes that the NES is directed at activities specific to the plantation forest industry. As such it departs significantly from the effects-based approach previously adopted by the Council and this has led to a number of variations in terminology and phrasing for rules. In addition, being a unitary authority, Tasman administers a combined plan, and afforestation activities are addressed in multiple locations throughout the Council’s plan. A quick overview of the ROAR indicates that the assessment is not entirely accurate. Among other things, it overlooks some district provisions in relation to nuisances and cross boundary effects and does not account for the absence of harvesting, pruning and thinning rules in the Council plan. There are many variations in detail (especially in relation to design details for crossings) between the council plan rules and the NES, but their overall effect is difficult to ascertain.

3. DISTRICT AND REGIONAL FUNCTIONS

3.1 The Council’s TRMP (like many other district plans) contains a number of setback provisions for new plantation forestry near boundaries, roads, residential zones, dwellings etc. The reasons it gives for requiring setbacks includes things like management of cross boundary effects, and management of amenity and nuisances such as shading, open space, noise, spray and fire risk. These aspects are considered generally outside the scope of the NES (section 3.1), however, setbacks are still prescribed in the NES as district conditions (section 4.2). Non-compliance with setbacks means the afforestation activity in green and yellow defaults to controlled (if archaeological conditions met) with only shading and icing effects being the matters of control. In orange and red areas, the activity is restricted discretionary with no discretion over these matters at all.

3.2 The proposed NES matters of control reduce the ability of both district and regional councils to properly account for cross boundary and nuisance effects, not just from the trees but especially from associated earthworks and future harvesting activities.

3.3 If these issues are not addressed more comprehensively in the NES, local councils will need to consider setback provisions to properly manage cross boundary, amenity and nuisance effects separately and potentially inconsistently.

The Council requests:
That the matters of control and discretion for afforestation in any area include management of cross boundary and amenity effects such as shading, open space, noise, spray and fire risk.

4. ARCHAEOLOGICAL SITES

4.1 The Council notes that there are both District and Regional rule provisions in respect of archaeological sites. It appears an unnecessary duplication in provisions not just in respect of council functions and duties, but also in respect of the duties and functions of the Historic Places Trust.
The Council requests:
That the duties and controls of district and regional councils in respect of archaeological sites be better identified to reduce duplication.

4.2 The NES specifies several non-complying activities in relation to disturbance of archaeological sites. It is odd that this is the only potential circumstance that results in a non-complying status, given the range of potential adverse effects relating to afforestation, earth works and land preparation activities. It is also the only aspect also protected by additional regulation under the Historic Places Act and through the Historic Places Trust, which will apply in addition to and alongside the provisions of the NES. Given the tests of RMA Section 104D, (i.e that the effects are minor or that the application will not be contrary to objectives and policies) further guidance as to what objectives and policies the activity is to be assessed against is required.

The Council requests:
That the NES provisions for archaeological sites be reviewed and if considered necessary in the current form, that:
Further guidance as to what objectives and policies any non-complying application is to be assessed against.

5. AFFORESTATION

Q1: Do you agree with the changes to the afforestation section? □ Yes □ No □ In part

Comment
1. The wilding tree risk calculator provides a good assessment of the probability for trees to spread beyond the boundaries of proposed plantations. However, the nature of the risk of this potential spread will vary according to the characteristics of the surrounding land. Spread of trees to neighbouring areas of outstanding landscape or native vegetation will pose a greater risk of adverse effect which is not accounted for in the calculator.

The Council seeks:
Either
That the calculator be adjusted to allow for the more significant adverse effects where neighbouring land is outstanding landscape or significant indigenous vegetation
or
That the rules allow for additional consideration of the risks of wildling trees in areas of outstanding landscape or significant indigenous vegetation

2. Setbacks from dwellings
The Council prefers the previous wording in relation to setbacks for dwellings. The setback from dwellings should apply to all dwellings, not just those adjoining, and that protection from adverse effects for current and future owners of the dwelling should be a minimum requirement.

See also section 3 above.

Where the working group could not reach consensus, the areas in table 4 were highlighted blue.

1. Paved or formed roads
The Council requests that the condition refer to formed roads.
2. Setbacks from rivers
The Council observes that a 1m setback does not provide any effective management for any forestry effects including adverse effects on aquatic ecosystems.

The Council notes that the current NZ Environmental Code of Practice for Plantation Forestry contains a best practice requirement for a planting setback of 5m from rivers less than 3m. It seeks that this standard be applied as a more practical and effective measure of control of adverse effects on aquatic ecosystems, during planting as well as during future harvesting operations.

Exception areas
In relation to the setbacks for the exception areas (terrestrial habitats, threatened species etc), we note that the areas listed have no particular clarity or meaning as the descriptions are not described in the NES nor are they likely to have the same meaning or application at the regional level.

The Council requests an ability to be more stringent for setbacks along regionally significant rivers. This allows a council to identify a river as regionally significant for one or more values such as fish spawning, presence of threatened species etc and which may be adversely affected by plantation forest activities on adjacent land. It is more appropriate that these setbacks be determined on a regional basis.

6. REPLANTING

Q2: Do you agree with the changes to the replanting section?

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Taking into account the constraints of the ETS liability issues, Council considers that good practice would require a connection to be made between the previous harvesting operations and issues arising from harvesting existing trees near waterways. If management of slash or harvesting earthworks was not able to prevent damage to or deposition into waterways, or causes off-site effects future planting should account for those constraints and be set back appropriately.

Where the working group could not reach consensus, the areas in table 4 were highlighted blue.

7. MECHANICAL LAND PREPARATION

Q3: Do you agree with the changes to the Mechanical Land Preparation (MLP) section?

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1. Topsoil/subsoil
The Council does not agree with the proposal to separate topsoil and subsoil. Topsoil may not always be present on a site being disturbed. Any exposed soil presents a risk in terms of erosion and off-site movement of sediment. The Council requests that the term “soil” be used and that it means both soil and sub-soil.
2. Erosion and Sediment Control Plans
In any land disturbance operation (associated with harvesting, mechanical land preparation, quarrying or earthworks) there is a potential for off-site movement of sediment. There are best practice measures available to minimise off-site movement of sediment (some of which are described in the NZ Environmental Code of Practice for Plantation Forestry.)

Any land disturbance operation should account for the nature and significance of sedimentation risks and adopt best practice as appropriate. This can be achieved through the preparation of an Erosion and Sediment Control Plan. A description of what needs to be addressed in Erosion and Sediment Control Plans is attached to this submission as attachment 2.

This concept needs to be part of the proposed Earthworks plan (provided in the appendix 3 of the NES) and be appropriate to the nature and scale of the activity. In particular it refers in B2 to measures taken to comply with the stabilisation and containment condition and sediment and storm water control measures.

The absence of sediment discharge concentrations in relation to this land disturbance activity makes it even more important that all best practice measures are identified and adopted.

The Council requests that in respect of MLP, soil containment and stabilisation measures (including cut-offs) be adopted to prevent sediment entering waterways or moving off-site.

3. Slope limitations permitted activity
The proposal allows for virtually any MLP, with no restrictions on slope or method. Significant soil disturbance through methods such as blading and rootraking on any slopes are permissible “where machines cannot be safely operated across the slope”
The Council seeks a slope limitation of 25 degrees.

4. Tunnel gully risk
The erosion susceptibility mapping should be used to show where tunnel gully is a potential erosion risk. The evidence of gully erosion is not a suitable restriction as vegetation may provide for stability until the land is disturbed.

Where the working group could not reach consensus, the areas in table 4 were highlighted blue.

1. Slope limitations
As above - a limitation of 25 degrees is sought

8. HARVESTING

Q1: Do you agree with the changes to the harvesting section?  

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Comment

1. Ground disturbance
The condition relating to ‘excessive soil erosion’ is vague and uncertain and potentially allows for unsustainable sedimentation and soil loss.

In any harvesting operation, soil erosion and sediment discharge should be minimised by adoption of best practice measures. This can best be
demonstrated by the preparation of an Erosion and Sediment Control Plan appropriate to the nature and scale of the activity. See comments for the MLP section.

The absence of sediment discharge concentrations in relation to this land disturbance activity makes it even more important that all best practice measures are identified and adopted.

Where the working group could not reach consensus, the areas in table 4 were highlighted blue.

1. Setback of harvesting machinery from the riparian areas
Damage to riparian vegetation during harvesting will undermine the proper functioning of that vegetation including its function as a buffer between the land use activities and the river.

9. PRUNING AND THINNING TO WASTE

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<th>Q1: Do you agree with the changes to the Pruning and Thinning to Waste section?</th>
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Where the working group could not reach consensus, the areas in table 4 were highlighted blue.

10. EARTHWORKS

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<th>Q1: Do you agree with the changes to the earthworks section?</th>
<th>☐ Yes ☐ No ☐ In part</th>
<th>Comment</th>
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1. Upgrade
The meaning for “maintenance and upgrade” includes activities to maintain existing earthworks (roadways and landings), minor reshaping of existing forest roads, clearing of water tables and installation of water controls and road metalling. Upgrade does not include road widening.
The Council requests that the word “upgrade” needs to be deleted from both the meaning and the rule activity description for consistency and clarity.

2. Earthworks Plan
The development and requirement for an earthworks plan is supported. We suggest a slight amendment to refer to it as a Sediment and Erosion Control Plan to ensure that the purpose for the plan is more accurately represented.
The removal of sediment discharge standards means it is essential that all best practice measures are identified and adopted.

3. Slope
The slope restriction should be with reference to the general land area not the works site (a road is not likely to exceed 20 degrees, but may traverse much steeper slopes.)
The impact of this condition is variable in Tasman District as the Council’s existing rules apply differently in the proposed new areas. The further refinement of the erosion susceptibility mapping will assist Council and forest owners to improve management under the NES.

The Council requests the slope restriction be as follows:

*The Predominant Slope where the activity occurs does not exceed 25 degrees – where predominant slope means the most common natural slope of any area of land subject to any land disturbance, measured in degrees from horizontal.*

4. **Maximum areas.**
The rule as written does not limit density of tracking, especially on steeper slopes.
The rule is also quite restrictive in terms of scale of the activity.

The Council suggests an alternative threshold limit of 1ha maximum area.

5. **Stabilisation and containment**
Stabilisation measures need to be in place until vegetation cover grows. There needs to be clear requirements for Erosion and Sediment Control Planning to deal with risks in the interim periods.

Engineering techniques include benching, dewatering, compacting.

Firebreaks need not be vegetated, but they must be required to be stable.

6. **Matters**
Include reference to timing of operations, placement and compaction of fill.

7. **Temporary tracks**
There is no guidance as to what constitutes ‘temporary’. There is no reasonable justification for allowing temporary tracks to be exempt from setback requirements. The effects of earthworks for a temporary track can be as significant as for permanent tracks. The justification for reduced setbacks can only be assessed on a case by case basis.

The Council requests that the provisions for temporary tracks be removed.

8. **Design matters**
Water table culverts - The 325mm minimum size is considered too small to properly account for risks of blockage. The council seeks a 400mm minimum.

9. **Earth flow country.**
The council suggests that the term ‘erth flow country is uncertain and that if ‘earth flow country’ in yellow areas requires separate provisions, its erosion classification may require amending.

11. **QUARRYING**

| Q1: Do you agree with the changes to the quarrying section? |
|---------------------|------------------|
| Yes | No | In part |
| 1. Earthworks controls |

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For permitted quarries, the Council seeks a requirement for Erosion and Sediment Control provisions appropriate to the nature and scale of the activity.

The absence of sediment discharge concentrations in relation to this land disturbance activity makes it even more important that all best practice measures are identified and adopted.

2. Fill and spoil
These should be required to be stabilised and prevented from moving into water bodies.

3. Earthworks provisions
The only applicable district conditions in the earthworks permitted activity currently relate to notification, auditing and archaeological sites. If appropriate changes can be made to archaeological provisions, there is unlikely to be a need for separate district provisions for notification and auditing in relation to the earthworks.

12. RIVER CROSSINGS

Q1: Do you agree with the changes to the River Crossings section?

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Comment
1. Use of Zones to manage effects of river crossings.
The use of green – red zones relate to erosion susceptibility of the land. The classification system used does not assess river stability. The Council suggests that the river crossing rules apply regardless of the erosion susceptibility area.

2. Best Practice during construction and maintenance
Works being carried out to minimise release of sediment is a vague and somewhat uncertain condition with little compliance and enforcement benefit. Best practice includes proper timing and location to avoid spawning reaches.

3. Permitted size threshold.
The Council supports a size limitation for permitted culverts and crossings. However, it suggests the trigger threshold be based on the width of river bed and that 3m is an appropriate threshold. The bed width is easy to measure and monitor and reflects the river flow irrespective of geology. It also provides an indicator of maximum culvert size.

4. Minimum culvert size
Consistent with managing risks of blockages in water table culverts and to ensure some consistency, the minimum culvert size should be 400mm.

5. Matters
Add to the matters: erosion and sediment controls

Battery culverts require special design and installation to avoid adverse effects,
especially in relation to fish passage. However, in theory they could be subject to the same performance standards as for culverts.

Activity status for river crossings
See 1 above.
## Proposed variations for the NES Forestry ESC for Tasman

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<td>Small insignificant areas surrounded by very high potential land</td>
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Proposed NES Forestry: Erosion Risk Susceptibility for Tasman District

Legend

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Proposed ESC tasman

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- low
- moderate
- very high

Kilometers

0 4 5 9 18 27 36

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Erosion and Sediment Control Plans
An Erosion and Sediment Control Plan identifies methods used to minimise erosion from exposed soil and minimise sediment being transported offsite or into waterways.
An Erosion and Sediment Control Plan should be developed and implemented wherever activities involve earthworks, recontouring, disturbance of soil, or removal of vegetation exposing soil.
An Erosion and Sediment Control Plan may be combined with an Earthworks Plan that outlines staging, cut/fill areas and stock pile locations, etc.
The detail given in an Erosion and Sediment Control Plan should be site specific and appropriate to the scale of the activity, and the proximity and sensitivity of the potential receiving environments.
Erosion and Sediment Control Plans should be based on best practice and should include, as appropriate, consideration of:

- Any staging of the activity and methods to minimise land disturbance
- The control of upper catchment water and methods to separate clean water from dirty water including perimeter controls
- Methods to protect the land surface from erosion
- The need for end hauling excavated material and the secure placement of spoil
- Methods to minimise sediment leaving the site, including detention devices
- Protection of watercourses
- Protection of steep slopes
- Methods of stabilising exposed areas rapidly
- Relevant experience and training of staff
- Ongoing monitoring and maintenance of any erosion and sediment controls
- Ongoing assessment and evolution of the Erosion and Sediment Control Plan to ensure methods continue to be effective for the duration of the activity.