Submission

By the: Northland Regional Council

On Revised Proposed National Environmental Standard for Plantation Forestry

To: Ministry for the Environment, PO Box 10362, Wellington 6143

1. The Northland Regional Council (Council) thanks the Ministry for the Environment for the opportunity to comment on the revised proposal for a National Environmental Standard for Plantation Forestry (NES).

2. Plantation forestry is a significant industry in Northland with approximately 165,000ha of the region managed for timber production, the majority of which is first rotation. Forestry has both positive economic and environmental benefits and can have negative impacts on soil and water resources. We expect any regulation for forestry to promote sustainable management by removing the barriers to realising the benefits of forestry while managing negative effects on the environment.

3. Council sees forestry as an opportunity to raise Northland’s economic performance and supports providing increased certainty for the industry where effects can be managed. Council therefore considers the revised NES is an improvement on the original proposal and supports the new Outcome Statement and the outcomes sought detailed in Table 1. Council also recognises that the NES provisions have relied conditions of consent which have been widely used throughout New Zealand to manage forestry activity.

4. Council still has concerns over the permitted baseline which remains unresolved and that the appropriate cost/benefit analysis on this issue has not been done to date. This combined with the short consultation period makes it very difficult to assess the NES in terms of sustainable management and its costs and benefits to Northland. Council’s initial assessment also indicates that the NES could also have implications for councils in giving effect to recently gazetted Coastal and Freshwater National Policy Statements.
5. Council supports the use of industry codes of practice and guidance in managing forestry activity. To this end, Council and forestry interests are currently in the process of developing a forestry guideline for Northland. Council suggests that should the NES not proceed, this option would go a long way towards resolving the issues identified for both local government and the forestry industry.

Summary

Council makes the following points with regard to the NES as an approach to the issue and in relation to the specifics of the revised NES:

- Council considers that if the NES approach is to be used, it should be very clear that the NES has adopted a “whole of activity” approach when setting regulation for forestry.
- The effect of the NES on the permitted baseline must be resolved as there are significant implications New Zealand wide if the NES establishes permitted activities for land uses (eg earthworks and quarrying). Council supports identification of the risks, cost and benefits prior to proceeding with the NES as an option.
- Water quality concerns remain and there is potential for conflict between the NES and the water quality objectives and policies of the NPS for freshwater (A1-A3).
- The NES should recognise the duty imposed under Policies 13 and 22 of the New Zealand Coastal Policy Statement 2010 (NZCPS).
- If the NES is to proceed changes of a minor technical nature a recommended and proposed below in 4.4.

6. Submission

6.1 Whole of Activity Approach

Council recommends that if the NES approach is adopted that it be explicit that a “whole of activity” approach has been used whereby the environmental benefits of forestry and the comparatively short duration of negative effects (largely confined to establishment and harvest phases) over the forestry cycle as a whole have been recognised in setting regulatory controls. In other words, that the net benefits specific to forestry activity over the whole activity cycle are recognised in the level of
control applied and that these benefits do not necessarily occur as a result of other land uses.

6.2 Permitted Baseline

The issue of the permitted baseline has not been resolved in the revised NES. There is an expectation that like cases should be treated alike and where particular activities and effects are permitted under the NES there is a case for also allowing them when associated with other land uses. There are implications for resource management in New Zealand if the NES sets permitted baselines for activities such as earthworks, indigenous vegetation clearance, river crossings and quarrying.

In Table 2 of the revised NES it is stated “The revised policy does not resolve the potential implications of a permitted baseline. If the NES option remains, a final cost–benefit analysis will need to attempt to quantify the implications of the proposal on a permitted baseline.” The cost/benefit analysis should be undertaken when assessing options and whether they (and the NES itself) are necessary, appropriate, effective, and efficient etc. The analysis must be done prior to refining the controls in the NES given the potential implications.

If the NES is applying an environmental baseline approach then in effect there is no environmental baseline for water quality impacts as a result of forestry. This could set a de facto (non) standard for other activities not associated with forestry (e.g. rural or urban land uses) and could be at odds with the approach adopted in the NPS for Freshwater Management, in particular Policy A1 of the NPS for Freshwater Management (See 4.2 below.) It is therefore crucial that the NES is explicit that a “whole of activity” approach specific to forestry has been used and does not apply an indiscriminate permitted baseline.

6.3 Water Quality

The NES does not allow regional councils to be more stringent than the NES on the basis of safeguarding the life supporting capacity of water and water quality in general, despite these being core functions under sections 5(2)(b) and section 30 of the RMA. Further, Objective A1 of the
National Policy Statement for Freshwater Management (NPS Freshwater) seeks to safeguard the life supporting capacity and aquatic ecosystems of fresh water. In doing so, regional councils must:

- ensure plans establish freshwater objectives and set freshwater quality limits for all bodies of freshwater in their region to give effect to the objectives of the NPS (Policy A1), and;
- Where water bodies do not meet freshwater objectives made under Policy A1, regional councils must specify targets and implement methods to improve water quality to meet those targets within a defined timeframe (Policy A2), and;
- Where permissible make rules requiring the adoption of the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of a contaminant to water or land where it may enter water (Policy A3(b)).

The NES may therefore frustrate the aim of the Freshwater NPS, particularly where forestry harvest and associated earthworks impact on water quality limits set under Policy A1. We therefore recommend that if the NES proceeds it should consider the ability for regional councils to be more stringent where this is necessary to meet water quality limits set under Policy A1 of the Freshwater NPS. Options for harvest timing or staging to manage cumulative effects on waterbodies could also be considered.

A related concern is that section 70 RMA does not allow regional councils to identify an activity as permitted where discharges may result in a number of changes to water quality (for example significant adverse effects on aquatic life or the conspicuous change in colour/visual clarity). While it is unclear whether this limitation applies to a NES, the council is concerned that in some cases forestry activities provided for in the NES as permitted activities would not be able to meet the standards in section 70. Contaminants of concern include sediment and harvest slash, which can affect colour/visual clarity and levels of dissolved oxygen respectively. If the NES intends to allow impacts on water quality, it should be explicit that this is in recognition of the temporary nature of
adverse effects and the long term benefits for water quality over the forestry cycle as a whole.

6.4 New Zealand Coastal Policy Statement
It is a matter of national importance under section 6(a) RMA to preserve the natural character of the coastal environment, wetlands, lakes, rivers and their margins and to protect them from inappropriate subdivision, use and development. Also Policy 13(1) of the NZCPS requires adverse effects on outstanding natural character in the coastal environment be avoided. The NES must therefore recognise this requirement and allow councils to be more stringent on the basis of protecting at least outstanding natural character (as is the case with outstanding natural features and landscapes).

Policy 22(3) of the NZCPS also requires councils to control the impacts of vegetation removal on sedimentation including the impacts of harvesting plantation forestry. This requirement must also be specifically recognised in the NES as it applies to all water bodies in the coastal environment (not just the coastal marine area and outstanding/regionally significant water bodies).

6.5 Technical Amendments
The following changes are recommended should the NES proceed.

- Significant natural areas (page 24): The NES allows councils to be more stringent to protect significant indigenous vegetation and significant habitats of indigenous fauna where these are identified in plans. Council recommends that the term “identified in plans” include such areas identified by way of criteria as many plans do not map such features.

- Quarrying: The restricted discretionary status for quarrying in green, yellow and orange areas should apply to both district and regional consents (not just district as proposed) as many of the matters of control/discretion relate to regional council functions under section 30 RMA.

- River crossings: The basis for setting the activity status for river crossings on erosion susceptibility is unclear. It would seem more
appropriate to determine activity status on the basis of whether the river is nationally or regionally outstanding, which would also align with the NPS Freshwater. For clarity, the specifications on culvert width on Page 74 could be improved by deleting “plus” and using and instead.

7 Conclusion
While Council supports greater certainty for the forestry industry and consider the revised NES an improvement, several issues remain unresolved. We remain concerned that the implications (risks, costs and benefits) of the NES in terms of setting permitted baselines have not been assessed. It is therefore extremely difficult to assess the merits of the NES in terms of sustainable management and its costs and benefits to Northland. Council recommends that should the NES progress, that it do so on the basis of a sound assessment of the risks, costs and benefits. It should also be very clear that the regulatory controls of the NES have been developed in specific recognition of both the positive and negative impacts of the forestry activity cycle as a whole, which are not necessarily a feature of other land uses. Alignment with both the NZCPS and Freshwater NPS should also be improved prior to MfE submitting the NES for Cabinet approval.

Under Delegated Authority

Councillor Tony Davies-Colley

Councillor Joe Carr

Dated 13 June 2011