

Form 5

Submission on notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To Greater Wellington Regional Council (“GWRC”)

Name of submitter: New Zealand Carbon Farming Group (“NZCF”)

This is a submission on a change proposed to the following plan (“the proposal”):

Proposed Plan Change 1 to the operative Natural Resources Plan for the Wellington Region (“NRP”), being partly a freshwater planning instrument (“Proposed Plan Change 1”).

NZCF could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that my submission relates to are:

Provisions that directly, or indirectly, impact on commercial forestry activities. Including the following provisions:

Definitions

- New definition: ‘Afforestation’;
- Amended definition: ‘Earthworks’;
- New definition: ‘Erosion and sediment management plan’;
- New definition: ‘Harvesting’;
- New definition: ‘Highest erosion risk land (plantation forestry)’;
- New definition: ‘Mechanical land preparation’;
- New definition: ‘Registered forestry adviser’;
- New definition: ‘Replanting’;
- New definition: ‘Vegetation clearance (for the purposes of Rules WH.R20, WH.R21 and P.R19, P.R20)’.

Policies

- Policy WH.P28: Achieving reductions in sediment discharges from plantation forestry; and
- Policy P.P26: Achieving reductions in sediment discharges from plantation forestry.

Rules

- New ‘Note’ that immediately precedes Rule WH-R.20 sets out the provisions of the NESPF that the rules prevail over;
- New Rule WH-R.20: Plantation forestry – controlled activity;
- New Rule WH.R21: Plantation forestry – discretionary activity;
- New Rule WH.R22: Plantation forestry on highest erosion risk land – prohibited activity;
- New ‘Note’ that immediately precedes Rule P-R.19 sets out the provisions of the NESPF that the rules prevail over;
- New Rule P.R19: Plantation forestry – controlled activity;
- New Rule P.R20: Plantation forestry – discretionary activity; and
- New Rule P.R21: Plantation Forestry on highest erosion risk land – prohibited.

Schedules

- New Schedule 34: Plantation Forestry Erosion and Sediment Management Plan.

Maps

- New Map 92 Highest erosion risk land (Plantation forestry) – Te Awarua-o-Porirua; and
- New Map 95 Highest erosion risk land (Plantation forestry) – Te Whanganui-a-Tara.

NZCF's submission is:

Background: The New Zealand Carbon Farming Group

The New Zealand Carbon Farming group of entities owns and manages the country's largest privately-owned forest estate of permanent forests that is managed to transition to a native conservation estate and is therefore one of the biggest contributors to New Zealand's climate change response. NZCF's owned forest are carefully managed to regenerate over time into a 100% indigenous and biodiverse conservation estate.

NZCF is a science-based organisation that has, for the last decade, followed a key philosophy of planting the right tree in the right place.

NZCF's management programme includes a range of ongoing interventions that are essential for a successful forest outcome. This includes careful selection and preparation of the site for planting, planting density and the control of exotic weeds, which can compete with the exotic trees. The company also operates an intensive animal eradication programme, as well as subsequent monitoring and control, to protect the health of the forest.

Maintaining a healthy and resilient forest is key. As part of this, thinning of the forest is a component of the active management regime. NZCF also is working actively with Fire and Emergency New Zealand on its country wide fire mitigation and prevention programme.

NZCF is of the view that through its planting practices and management regime it can play a significant bridging role in New Zealand's climate response, until other strategies and new technologies for reducing emissions have a realistic chance of being implemented.

Statutory Context

Section 67 of the RMA directs the content of regional plans. Clause (3) requires a regional plan to give effect to:

- “(a) any national policy statement; and*
- (b) any New Zealand coastal policy statement; and*
- (ba) a national planning standard; and*
- (c) any regional policy statement.”*

In the case of the Proposed Plan Change, the relevant provisions of the National Policy Statement for Freshwater Management 2020 (“NPSFM”) and the Operative Regional Policy Statement for the Wellington Region 2013 (“WRPS”) must be given effect to.

Section 66(2) of the RMA sets out, in addition to the requirement to give effect to the NPSFM and the WRPS, other matters that shall be had regard to in preparing a regional plan. Those that are relevant are:

- Proposed Change 1 to the WRPS;
- Te Whaitua te Whanganui-a-Tara Implementation Programme;
- Te Awarua-o-Porirua Whaitua: Whaitua Implementation Programme;
- New Zealand's Emissions Reduction Plan;
- New Zealand's National Adaptation Plan.

The Section 32 Report includes a description of the content of these documents, with the exception of the Emissions Reduction Plan and National Adaptation Plan. These plans are addressed briefly later in this submission.

The Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 and Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017

The Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (“NESCF”) came into effects on 3 November 2023. The NESCF is an amended version of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (“NESPF”). The new NESCF applies to plantation forests and exotic continuous-cover forests (carbon forests) that are deliberately established for commercial purposes. The intention of the amended regulations is to better manage the effects of large-scale forestry on the environment. The 2023 amendments

- enable councils to consider more factors when making rules about forestry in their plans, including its location;
- require carbon foresters (as with plantation foresters) to plan out how they will meet environmental requirements for different forestry activities on their sites;
- update and expand the requirements that applied to plantation foresters;
- state clear rules for carbon forest harvest should this be undertaken.
- introduce a range of operational changes including a new permitted activity standard for managing forestry slash at harvest and new requirements around management of wilding trees; and
- provide nationally consistent regulations to manage the environmental effects of forestry.

The Proposed Plan Change references the NESPF. The NESPF, in Regulation 6 provides that:

“Plan rules may be more stringent than these regulations

National instruments

- (1) *A rule in a plan may be more stringent than these regulations if the rule gives effect to—*
- (a) *an objective developed to give effect to the National Policy Statement for Freshwater Management;*
 - (b) *any of policies 11, 13, 15, and 22 of the New Zealand Coastal Policy Statement 2010.*

Matters of national importance

- (2) *A rule in a plan may be more stringent than these regulations if the rule recognises and provides for the protection of—*
- (a) *outstanding natural features and landscapes from inappropriate use and development; or*
 - (b) *significant natural areas.*

Unique and sensitive environments

- (3) *A rule in a plan may be more stringent than these regulations if the rule manages any—*
- (a) *activities in any green, yellow, or orange zone containing separation point granite soils areas that are identified in a regional policy statement, regional plan, or district plan;*
 - (b) *activities in any geothermal area or any karst geology that are identified in a regional policy statement, regional plan, or district plan;*
 - (c) *activities conducted within 1 km upstream of the abstraction point of a drinking water supply for more than 25 people where the water take is from a water body;*

- (d) *forestry quarrying activities conducted over a shallow water table (less than 30 m below ground level) that is above an aquifer used for a human drinking water supply.*
- (4) *The areas and geology referred to in subclause (3)(b)—*
 - (a) *may be identified in a policy statement or plan by any form of description; and*
 - (b) *include only areas and geology where the location is identified in the policy statement or plan by a map, a schedule, or a description of the area or geology.”*

The Proposed Plan Change includes Rules that are more stringent than the NESPF and incorporates some provisions (definitions) from the NESPF.

New Zealand Carbon Farming Group’s Submission

Premise of the Proposed Plan Change

The stated purpose of the Proposed Plan Change is to give effect to the NPSFM in two of the five whitua of the Wellington region and implement the regulatory and some of the non-regulatory recommendations from the Whitua Te Whanganui-a-Tara Implementation Programme (“TWT WIP”) and Te Awarua-o-Porirua Implementation Programme (“TAoP WIP”), including by implementing the National Objectives Framework (“NOF”) within the Te Awarua-o-Porirua and Te Whanganui-a-Tara whitua.

The Section 32 Report concludes that the outcome sought by the Proposed Plan Change is the reduction of sediment in the rivers in Te Awarua-o-Porirua and Te Whanganui-a-Tara. The Section 32 Report concludes that:

- plantation forestry has associated land disturbance and discharges of sediment;
- forestry is a major land use in the Te Awarua-o-Porirua and Te Whanganui-a-Tara whitua (13.5% and 8% respectively);
- much of this forestry is located on steep land in the higher elevation areas;
- harvesting of the forests occurs and will continue to occur;
- therefore, to control sediment and meet outcomes, a combination of regulation of land uses and discharges will be required (including the avoidance of soil disturbance associated with plantation forestry on land with high risk of erosion, incentives and rules to permanently revegetate high risk erosion land).

While NZCF accepts that some forestry related activities have adverse effects (including in respect of the discharge of sediment), NZCF considers that the Proposed Plan Change documentation does not provide sufficient evidence, or technical data to support the proposed regulatory response. Further, it is considered that the regulatory response included in the Proposed Plan Change, being the avoidance of land disturbance, is disproportionate to the outcome sought by the Proposed Plan Change, being the **reduction** of sediment in rivers. These matters are addressed in further detail in the remainder of this submission.

Use of the Freshwater Planning Instrument process

NZCF notes that the majority of provisions of the Proposed Plan Change that are subject to this submission form part of a freshwater planning instrument. The Section 32 Report provides the following justification in ‘Table A1: Analysis of PC1 provisions, including definitions, schedules, and maps, to identify the freshwater planning instrument’ in respect of the forestry related provisions:

“These policies, rules, method and supporting definitions, schedules and maps focus on the management of rural land use activities, forestry, and vegetation clearance. These provisions seek to manage the use of land to achieve freshwater outcomes. They relate to objectives that give effect to the NPS-FM.”

Given that the stated primary intent of the provisions is to manage a land use activity, NZCF considers that the Proposed Plan Change draws a longbow in determining the scope of the freshwater planning instrument. NZCF

is concerned that using a freshwater planning instrument to address land use activities inappropriately the procedural rights of NZCF as a submitter.

Further, it is noted that the Proposed Plan Change, including the Section 32 Report, does not explicitly identify the Objective that gives rise to the provisions being a freshwater planning instrument.

Scope of the Proposed Plan Change

The provisions of the Proposed Plan Change relate to production forestry. 'Production forestry' is defined in the NRP with reference to the NES-PF. This means that permanent forests, such as commercial forests for carbon sequestration purposes, are not managed by the provisions of the Proposed Plan Change.

That said, the Section 32 Report includes the following statement that suggests that the scope of the Proposed Plan Change expand as the NES-CF is addressed through submissions and decision-making:

"In these FMUs, plantation forest management is currently only subject to the regulations of the NES-PF, that came into force on 1 May 2018. From 03 November 2023, the NES-PF will be replaced by the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2023 (NES-CF). The NES-CF extends the NES-PF to cover carbon forests as well as plantation forests, so the Plan Change 1 provisions applying to forestry are expected to remain appropriate with respect to the NES-CF, with some amendments to terminology. As the NES-CF will not be in effect at the date of notification of Plan Change 1, any amendments will be managed through the submissions and decision-making process."

NZCF is of the view that, while submission and decision-making process can address the alignment of the provisions of the Proposed Plan Change with the NESCF, submissions and decision-making cannot be used to expand the scope of the Proposed Plan Change to also address 'carbon forests'. For the avoidance of doubt, NZCF considers that the management of discharges from 'carbon forests', or 'carbon forests' more generally, is outside the scope of the Proposed Plan Change.

The efficiency and effectiveness of the NESCF

While the Proposed Plan Change acknowledges that the NESCF came into force on 3 November 2023, the Proposed Plan Change does not give explicit consideration to whether the NESCF (and particularly amendments that strengthen the approaches to the management of adverse effects of forestry related activities) are able to achieve the stated outcome of the Proposed Plan Change, being the reduction of sediment in rivers in the two whites.

The NESCF is a national direction planning instrument and secondary legislation made under sections 43, 43A and 44 of the RMA. Given the purpose and role in the hierarchy of RMA planning instruments, NZCF considers that it is important for the Council to allow the NESCF to be appropriately implemented (including required monitoring). NZCF considers that it is premature for the Council to promulgate a plan change to regulate production forest activities when new regulations have been made. NZCF seeks that the Proposed Plan Change is withdrawn (or the Proposed Plan Change is not included in the NRP) until such time as the efficiency and effectiveness of the NESCF has been monitored and the results of such monitoring support the need for provisions in the NRP.

Relationship of the NESCF to the NESPF and provisions that prevail over the NESPF

As set out above, the Proposed Plan Change references, and prevails over, the NESPF. NZCF understands that this means that the Proposed Plan Change prevails over those regulations in the NESPF listed in the 'Note' that accompanies the proposed new Rules in Chapters 8 and 9. In terms of the NESCF, the Section 32 Report states:

"The National Environmental Standards for Commercial Forestry (NES-CF) will, from 03 November 2023, supersede the NES-PF. The NES-CF will regulate commercial forestry activities for both carbon and timber production (plantation) forests. Plan Change 1 will introduce new provisions for forestry for the management

of best practice to reduce sediment from sites. It is not expected that the NES-CF will impact on the approach being taken to manage forestry in Plan Change 1, and the new provisions will prevail over NES-CF rules.”

NZCF is of the view that this gives rise to an issue in respect of whether the Proposed Plan Change provisions prevail over the NESCF. It is NZCF’s view that the provisions of the Proposed Plan Change cannot prevail over the NESCF because this was not included in the Proposed Plan Change, as notified. Put simply, and as also described above, NZCF does not consider that this confusion can be remedied by simply replacing the acronym ‘NESPF’ with ‘NESCF’ without the scope of the Proposed Plan Change being called into question.

For this reason, NZCF seeks that the Proposed Plan Change is withdrawn (or the Proposed Plan Change is not included in the NRP).

Relationship to WRPS

As set out above, Proposed Change 1 to the WRPS has been notified. Proposed Change 1 is, amongst other matters, to give effect to the NPSFM and is therefore a freshwater planning instrument (in part). Submissions on Proposed Change 1 are currently being heard and the final form of the WRPS (incorporating decisions on Proposed Change 1) is not known.

The Proposed Plan Change that is subject of this submission is also a freshwater planning instrument that is to give effect to the NPSFM. It can therefore be concluded that the final form of provisions in the WRPS as a result of Proposed Change 1 will be relevant, and need to be given effect to, in the NRP.

NZCF considers that, because the content of the WRPS that gives effect to the NPSFM is yet to be determined, it is premature and inefficient to notify NRP provisions that are also to give effect to the NPSFM. For this reason, NZCF seeks that the Proposed Plan Change is withdrawn (or the Proposed Plan Change is not included in the NRP).

Relationship with the Te Whaitua te Whanganui-a-Tara Implementation Programme 2021

NZCF acknowledges that the Te Whaitua te Whanganui-a-Tara Implementation Programme addresses plantation forestry as follows:

“Plantation forestry can have benefits for water quality, but it also brings a high risk of sediment loss in the years after harvesting, particularly in the headwaters of Te Awa Kairangi/Hutt River. Unfortunately, the evidence we have heard suggests that good-practice sediment management in line with national rules is not yet being consistently used. This suggests a need to ramp up investigations of, and prosecutions for, poor management with greater accountability to communities affected by the consequences of poor practice.”

In response, the Implementation Programme includes the following recommendation:

“SUPPORTING BEST PRACTICE AND COMPLIANCE OF FORESTRY OPERATIONS

37 *Greater Wellington provides enough staff and resources to:*

- *Work with forestry groups (New Zealand Farm Forestry Association, New Zealand Forest Owners Association) and contractors to provide proactive advisory support that includes ensuring all forestry operators are aware (by 2023) of relevant regulatory requirements and good practice*
- *Ensure all forestry operators in the whaitua are monitored for compliance with the National Environmental Standard for Plantation Forestry (NES-PF) and other relevant requirements from 2023 onwards, and share this monitoring information with the community*
- *Take enforcement action on non-compliance.”*

NZCF is of the view that, while purported to implement the recommendations in the Implementation Plan, the Proposed Plan Change does not resemble the recommendations. In this regard, the Implementation Plan relies on the NESPF, whereas the Proposed Plan Change seeks to override it. Further, the Proposed Plan Change fails to acknowledge the benefits for water quality from plantation forestry that have been identified in the

Implementation Plan. For this reason, NZCF seeks that the Proposed Plan Change be withdrawn (or the Proposed Plan Change is not included in the NRP) and redrafted to reflect the recommendations in the Implementation Plan.

Relationship with the Te Awarua-o-Porirua Whaitua Implementation Programme 2019

NZCF acknowledges that the Te Awarua-o-Porirua Whaitua Implementation Programme concludes as follows:

“Earthworks and forestry operations, if undertaken correctly and on suitable land, should result in minimal (if any) discharges of sediment to the streams and harbour. The challenge is to ensure all earthworks and forestry operations are undertaken on suitable land and using good practice and the risks of sediment-laden water running off-site is minimised.”

The Implementation Programme includes a specific section that addresses forestry that is reproduced in full below.

“10.3 Forestry

Approximately 13% of the land in Te Awarua-o-Porirua Whaitua is estimated to be in forestry, most of which will reach maturity within the next ten years. Harvesting activities that are not undertaken using good practice standards can result in significant increases in sediment loads.

The National Environmental Standard for Plantation Forestry (NESPF) permits most forestry activities as long as forestry operators meet specific conditions to prevent significant adverse environmental effects. The regulations are based on existing good practice standards for the forestry industry.

The NESPF uses a nation-wide scale Erosion Susceptibility Classification that determines the risk of erosion on land. Where land is categorised as having a high or very high erosion risk, resource consents are required for various activities such as earthworks associated with forestry and harvesting operations. The NESPF does not identify high or very high risk areas in the Whaitua and therefore no consents are required, that is all forestry activity in the Whaitua is deemed permitted.

The NESPF allows for more stringent rules in a regional plan to be set to give effect to an objective developed under the NPSFM, including more detailed local-scale assessments and mapping of erosion susceptible land that would trigger consent. The Committee considered whether more stringent rules were required to achieve the sediment objectives and concluded that the permitted framework of NESPF should be given time to be implemented. The Committee did, however, think it was important to ensure the forestry operations were carried out in compliance with good practice and the NESPF requirements and recommended all permitted forestry operations were monitored for compliance and enforcement action taken where necessary. The Committee also concluded that it was important to improve understanding and mapping of erosion prone land at the local whaitua scale to inform future planning; this has been incorporated into recommendations in section 11.1.

The NESPF contains provisions for enabling Greater Wellington the ability to charge for monitoring of permitted activities. The Committee recommends Greater Wellington adopts a charging policy to allow it to recover costs associated with monitoring compliance of permitted forestry activities.

Recommendation 54

Greater Wellington works with the forestry sector to identify potential barriers and risks to good practice in reducing sediment from forestry operations and works with the industry to overcome the risks and barriers.

Recommendation 55

Upon receiving notice under the NESPF of earthworks, forestry quarrying or harvesting in the Te Awarua-o-Porirua Whaitua, Greater Wellington requests a copy of the Forestry Earthworks Management Plan and Harvest Plan or Quarry Erosion and Sediment Management Plan and actively monitors compliance to ensure sediment discharges to waterbodies are minimised.

Recommendation 56

Greater Wellington provides sufficient resources to deliver consistent advice on forestry good practice and compliance, both within the Whaitua and across the region.

Recommendation 57

Greater Wellington develops a charging policy under the NESPF for the monitoring of permitted activities.

NZCF is of the view that, while purported to implement the recommendations in the Implementation Plan, the Proposed Plan Change does not resemble the recommendations. In this regard, this Implementation Plan also relies on the NESPF and explicitly acknowledges that time should be allowed for the NESPF to be implemented. Further, as with the Te Whaitua te Whanganui-a-Tara Implementation Programme, the Proposed Plan Change fails to respond to the recommendations that emphasise engagement and monitoring. NZCF agrees that the NESPF, and now the NESCF, should be given time to 'bed-in' before more stringent provisions are included in the NRP. For this reason, NZCF seeks that the Proposed Plan Change be withdrawn (or the Proposed Plan Change is not included in the NRP) and redrafted to reflect the recommendations in the Implementation Plan.

New Zealand's climate change obligations

Despite the direction given in section 66 of the RMA, the Proposed Plan Change, including accompanying supporting documentation, is silent on the implications of the Proposed Plan Change in respect of New Zealand's climate change response, and the contribution forestry makes to this response. That is:

- The Proposed Plan Change has not given any consideration to the Emissions Trading Scheme, which is established and comprehensively managed under the Climate Change Response Act 2002, including the obligations and liabilities therein. For instance, the liability and costs for deforestation.
- The Proposed Plan Change is directly contrary to New Zealand's Emissions Reduction Plan (made in accordance with section 5Z1 of the Climate Change Response Act 2002). The Emissions Reduction Plan includes an entire chapter (Chapter 14) that addresses forestry.¹ This chapter identifies the following 'key actions' to support the role of forestry in meeting New Zealand's 2050 targets:

"Support afforestation by:

- *considering amendments to the New Zealand Emissions Trading Scheme (NZ ETS) and resource management settings to achieve the right type and scale of forests, in the right place*
- *supporting landowners and others to undertake afforestation, particularly for erodible land*
- *providing advisory services to land users, councils, Māori and other stakeholders to support choices for sustainable afforestation.*

Encourage native forests as long-term carbon sinks through reducing costs and improving incentives.

Maintain existing forests by exploring options to reduce deforestation and encourage forest management practices that increase carbon stocks in pre-1990 forests.

Grow the forestry and wood processing industry to deliver more value from low-carbon products, while delivering jobs for communities."

- The Proposed Plan Change is not consistent with the New Zealand's National Adaptation Plan (made in accordance with section 5Z1 of the Climate Change Response Act 2002) and particularly does not consider the implications of Actions 3.13 and 6.12 set out below:

"Action 3.13: Provide a forestry planning and advisory service

Timeframe: Years 1–6 (2022–28)

Lead agency: MPI

Relevant portfolio: Forestry

Primarily supports: Objective NE1

Status: Current

"Action 6.12: Implement the Sustainable Land Management Hill Country Erosion Programme

Timeframe: Year 1–6 (2022–28)

Lead agency: MPI

Relevant portfolio: Forestry

Primarily supports: Objective NE1

Status: Current

¹ <https://environment.govt.nz/assets/Emissions-reduction-plan-chapter-14-forestry.pdf>

The forestry planning and advisory service will help to reduce climate risks by providing data informed advice and planning tools. Advice will be on both harvest and non-harvest forestry – for example, to help decision makers consider where land is available for new forestry; where restoration, regeneration and reversion may be needed; and where unsuitable land may need to be retired from forestry, including conversion from plantation to indigenous forestry. The advisory service will support vulnerable groups such as rural communities, producers and Māori with land management, economic development and job creation.”

The Sustainable Land Management Hill Country Erosion Programme will support regional planning for, and treatment of, erosion-prone land and, in turn, contribute to afforestation. Afforestation can reduce soil loss and other effects from the increasing scale and magnitude of storms. It also mitigates downstream damage to infrastructure. The programme reduces the impacts of erosion and sediment deposition most acutely felt by farmers and rural communities during heavy weather events, such as the high-rainfall event on the East Coast in March 2022.”

For these reasons, NZCF considers that the Proposed Plan Change should be withdrawn (or not included in the NRP).

Evaluation under section 32 of the RMA

Section 32 of the RMA requires the following:

“Requirements for preparing and publishing evaluation reports

(1) An evaluation report required under this Act must—

- (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
 - (i) identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - (iii) summarising the reasons for deciding on the provisions; and*
- (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

(2) An assessment under subsection (1)(b)(ii) must—

- (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.”*

NZCF has reviewed the Section 32 Report is of the view that the Report:

- fails to clearly identify the Objective, or Objectives, that the provisions of the Proposed Plan Change are to achieve and therefore does not support a conclusion that the provisions are the most appropriate;

- does not include any evidence to support conclusions in respect of the extent to which sediment in streams is reduced by the various options that are evaluated;
- fails to consider the potential for sediment losses from land uses other than forestry, that is, the potential for sediment losses to be greater where land is put to alternative uses;
- does not address New Zealand's Emissions Reduction Plan (made in accordance with section 5ZI of the Climate Change Response Act 2002) as required by section 66 of the RMA and particularly does not consider the contribution forestry makes to achieving New Zealand's emissions reduction target;
- does not address New Zealand's National Adaptation Plan (made in accordance with section 5ZI of the Climate Change Response Act 2002) as required by section 66 of the RMA and particularly does not consider 'Action 6.12: Implement the Sustainable Land Management Hill Country Erosion Programme' and the acknowledgement that afforestation can reduce soil loss;
- does not consider the efficiency or costs in respect of the practical implications of Maps 92 and 95, that is, the cost of areas where forestry is prohibited by virtue of the maps causing the ability to use neighbouring land for forest to be prevented or constraint through ownership, scale, access and economic constraints;
- fails to describe or set out the social costs of the various options that have been evaluated;
- does not quantify the costs of the various options, including in respect of employment and the New Zealand Emissions Trading Scheme; and
- does not provide any evidence or data to support the conclusion that the environment is degraded as a result of the status quo, including the NESPF, and that the existing policy framework is unsuccessful at achieving outcomes set by objectives in NRP, Implementation Plans or national instruments.

In terms provisions prevailing over the Regulations in the NESPF, section 32(4) requires that:

“(4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.”

In this regard, NZCF considers that the Proposed Plan Change is flawed because the evaluation required under section 32(4) has not been completed or document in the Section 32 Report. For this reason, NZCF seeks that the Proposed Plan Change is withdrawn (or the Proposed Plan Change is not included in the NRP).

In all, it is NZCF's conclusion that the Section 32 Report is inadequate and fails to confirm that the provisions are the most appropriate, efficient or effective means to achieve Objectives or give effect to higher order planning instruments.

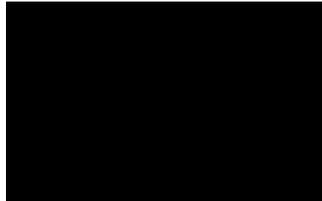
NZCF seeks the following decision from the local authority:

1. That the provisions of the Proposed Plan Change that regulate commercial forestry, including those provisions that are intended to prevail over the NESPF, are withdrawn (or the Proposed Plan Change is not included in the NRP) until such time as:
 - the efficiency and effectiveness of the NESCF has been monitored and the results of such monitoring support the need for provisions in the NRP that prevail over the NESCF;
 - the scope of the Proposed Plan Change clarified, including in respect of permanent forests, or commercial forests planted for carbon sequestration purposes;
 - decisions on submissions on Proposed Change 1 to the WRPS have been made;
 - the recommendations in the Te Whaitua te Whanganui-a-Tara Implementation Programme 2021 accurately and appropriately reflected in Proposed Plan Change provisions;
 - a fulsome evaluation of the provisions is undertaken in a manner consistent with section 32 of the RMA, with the outcome of that evaluation confirming the necessity of the Proposed Plan Change; and

- an evaluation is completed under section 32(4) of the RMA, that explicitly evaluates the relevant provisions of the Proposed Plan Change relative to the NESPF, with the outcome of that evaluation confirming the necessity of provisions that prevail over the NESPF.
2. Should the relevant provisions of the Proposed Plan Change not be withdrawn (or the Proposed Plan Change is included in the NRP), NZCF seeks that the Proposed Plan Change is amended to make all required changes, including the specific amendments set out in Table at **Appendix A**. It is noted that the relief in Appendix A is only sought should NZCF's primary relief (being the withdrawal of the Proposed Plan Change or the Proposed Plan Change not being include in the NRP) not be accepted.
 3. Such further, alternative or consequential relief as may be necessary to fully give effect to this submission.
 4. Consistent with the Implementation Plans' recommendations, NZCF is available and willing to work collaboratively with GWRC, including through the sharing of information in respect of commercial forestry and the implementation of the NESCF, to further develop practice and any necessary regulatory intervention to address the adverse effects of discharges from commercial forestry activities on water quality.

NZCF wishes to be heard in support of its submission.

If others make a similar submission, NZCF will consider presenting a joint case with them at a hearing



**Signature of person authorised to sign
on behalf of New Zealand Carbon Farming Group**

Date: 15 December 2023

Organisation:	Consultant Ainsley McLeod Consulting Limited ainsley@amconsulting.co.nz	Submitter New Zealand Carbon Farming Group tayla.westman@nzcarbonfarming.co.nz
Electronic address for service:		
Telephone:	+64 27 215 0600	027 250 1957
Postal address:	8 Aikmans Road, Merivale, Christchurch 8014	PO Box 37713, Parnell, Auckland 1151
Contact person:	Ainsley McLeod, Director/Planner	Tayla Westman, Corporate Counsel

Appendix A – New Zealand Carbon Farming Limited: Submissions on Proposed Plan Change 1 to the operative Natural Resources Plan for the Wellington Region

The following table sets out the decisions sought by NZCF, including specific amendments to the provisions of the Proposed Plan Change and reasons, in addition to those set out in the body of this submission (above), for NZCF’s support for, or opposition to, the notified provisions of the Proposed Plan Change. The Proposed Plan Change text is shown in black underline and black strikethrough. The amendments included in the relief sought by NZCF are shown in red double underline and ~~red double strikethrough~~).

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
Chapter 2 Interpretation				
2.2 Definitions 'Afforestation'	Support	✓	NZCF does not oppose the inclusion of a definition of 'Afforestation' in the NRP on the basis that the term should be consistently understood where it is used in the provisions of the NRP. NZCF notes that the proposed definition refers to the NESPF 2017 and as such does not address the establishment of permanent forests, including commercial forests for carbon sequestration purposes.	Retain the definition of 'Afforestation' as notified.
2.2 Definitions 'Earthworks'	Support	✘	NZCF does not oppose the inclusion of a definition of 'Earthworks' in the NRP and notes that the definition appropriately replicates the definition required by the National Planning Standards for most activities. That said, in respect of the definition that applies to Rules WH.R20, WH.R21, P.R19 and P.R20, NZCF notes that the proposed definition refers to the NESPF 2017 and therefore the exception in the definition does not apply to earthworks for the establishment of permanent forests, including commercial forests for carbon sequestration purposes.	Retain the definition of 'Earthworks' as notified.
2.2 Definitions 'Erosion and sediment'	Support in part	✓	Subject to relief sought in this submission, NZCF is unsure whether a definition of 'Erosion and sediment management	Retain the definition of 'Erosion and sediment management plan' as notified where the definition is necessary to assist the implementation of the NRP.

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
management plan'			plan' is necessary for the implementation of the NRP. That said, NZCF does not oppose the definition.	
2.2 Definitions 'Harvesting'	Support	✓	NZCF does not oppose the inclusion of a definition of 'Harvesting' in the NRP on the basis that the term should be consistently understood where it is used in the provisions of the NRP. NZCF notes that the proposed definition refers to the NESPF 2017 and as such does not address the establishment of permanent forests, including commercial forests for carbon sequestration purposes.	Retain the definition of 'Harvesting' as notified.
2.2 Definitions 'Highest erosion risk land (plantation forestry)'	Oppose	✓	Consistent with relief sought in this submission, NZCF opposes proposed Maps 92 and 95 in their entirety. On this basis, NZCF does not consider that the definition of 'Highest erosion risk land (plantation forestry)' is necessary or appropriate.	Consistent with the relief sought in this submission, delete the definition of 'Highest erosion risk land (plantation forestry)' in its entirety.
2.2 Definitions 'Mechanical land preparation'	Support	✓	NZCF does not oppose the inclusion of a definition of 'Mechanical land preparation' in the NRP on the basis that the term should be consistently understood where it is used in the provisions of the NRP. NZCF notes that the proposed definition refers to the NESPF 2017 and as such does not address the establishment of permanent forests, including commercial forests for carbon sequestration purposes.	Retain the definition of 'Mechanical land preparation' as notified.
2.2 Definitions 'Registered forestry adviser'	Support in part	✓	Subject to relief sought in this submission, NZCF does not oppose the definition of 'Registered forestry adviser'. However, NZCF considers that the proposed definition inappropriately narrows the advice that may be given by a person registered under the Forests (Registration of Log Traders and Forest Advisers) Amendment Act 2020. That is, section 63M of the Forests (Registration of Log Traders and Forest Advisers) Amendment Act 2020 includes a more fulsome list of matters on which advice may be given. NZCF notes that no rationale for narrowing these matters in the proposed definition is given in the Section 32 Report. NZCF considers that, to the extent that a definition is necessary, the definition should include all matters	Amend the definition of 'Registered forestry adviser' as follows: <i>"Means a person registered under s63Q or s63T of Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020 that is authorised to provide a forestry advice service defined by s63M of the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020. give advice that relates to:</i> <i>(a) the establishment, management, or protection of a forest, and</i> <i>(b) the management or protection of land used, or intended to be used, for any purpose in connection with a forest or proposed forest, including biophysical and land use topics</i>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			in Section 63M and seeks that the definition is amended accordingly.	described in Ministry for Primary Industries, 2022, Guidance: What is a forestry adviser? and (c) the beneficial effects of forests, including how they contribute to environmental outcomes."
2.2 Definitions 'Replanting'	Support	✓	NZCF does not oppose the inclusion of a definition of 'Replanting' in the NRP on the basis that the term should be consistently understood where it is used in the provisions of the NRP. NZCF notes that the proposed definition refers to the NESPF 2017 and as such does not address the establishment of permanent forests, including commercial forests for carbon sequestration purposes.	Retain the definition of 'Replanting' as notified.
2.2 Definitions 'Vegetation clearance (for the purposes of Rules WH.R20, WH.R21 and P.R19, P.R20)'	Support	✓	Subject to the relief sought in this submission, NZCF does not oppose the inclusion of a definition of 'Vegetation clearance' in the NRP on the basis that the term should be consistently understood where it is used in the provisions of the NRP. NZCF notes that the proposed definition refers to the NESPF 2017 and as such does not address the vegetation clearance for permanent forests, including commercial forests for carbon sequestration purposes.	Retain the definition of 'Vegetation clearance' as notified.
Chapter 8 Whaitua Te Whanganui-a-Tara				
8.2 Policies 8.2.4 Rural land use and earthworks Policy WH.P28: Achieving reductions in sediment discharges from plantation forestry	Oppose	✓	Subject to the relief sought in this submission, NZCF generally opposes Policy WH.P28 for all of the reasons set out in this submission. More specifically, in terms of clause (a), NZCF seeks that the clause is deleted because: <ul style="list-style-type: none"> the rationale for, and appropriateness of, the approach to the identification of highest erosion risk land (plantation forestry) is not clearly set out; the rationale for departing from the erosion susceptibility classification in the NESPF is not set out in the manner required by section 32(4); The practical implications of the mapping and associated provisions have not been considered, including the extent to which the mapped areas result in greater constraints 	Amend Policy WH.P28: Achieving reductions in sediment discharges from plantation forestry "Reduce discharges of sediment from plantation forestry by: (a) identifying highest erosion risk land (plantation forestry); and (b) improving management of plantation forestry by requiring erosion and sediment management plans to be prepared and complied with; and (c) requiring that on highest erosion risk land (plantation forestry), plantation forestry is not established or continued beyond the harvest of existing plantation forest."

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			<p>because matters such as scale, ownership and topography may result in larger areas no longer being viable for forestry uses.</p> <p>In terms of clause (b), NZCF notes that planning and implementing erosion and sediment control is a normal part of forest operations. The NESPF includes requirement to manage erosion and sediment in any case. These Regulations have been updated in the NESCF. NZCF seeks limited amendments to clause (b) to reflect current best practice.</p> <p>NZCF does not support clause (c) of the Policy because preventing the establishment of plantation forestry, or the continuation of plantation forestry, in identified areas:</p> <ul style="list-style-type: none"> • is not supported by evidence and may not result in the outcome sought, being reduced sediment in rivers; • is not necessary or appropriate to give effect to any provision of a higher order planning instrument; • is inconsistent with the recommendations in the Te Whaitua te Whanganui-a-Tara Implementation Programme and the Te Awarua-o-Porirua Whaitua: Whaitua Implementation Programme; and • is contrary to the New Zealand's Emissions Reduction Plan and New Zealand's National Adaptation Plan. <p>For these reasons, NZCF seeks that clause (c) is deleted.</p>	
8.3 Rules 8.3.4 Land uses Note	Oppose	✓	<p>Notwithstanding the primary relief sought by NZCF, NZCF notes that the 'Note' that immediately precedes Rule WH-R20 in the Proposed Plan Change appear to refer to the Regulations of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 in error. If this is the case, subject to matters raised elsewhere in this submission, NZCF seeks that the 'Note' be amended to reference the NESPF 2017.</p>	<p>Amend the Note that precedes Rule WH-R20 as follows:</p> <p><u>"Note</u> <u>Rules WH.R20, WH.R21 and WH.R22 prevail over the following Regulations of the Resource Management (National Environmental Standards for Freshwater Production Forestry) Regulations 202017:</u> <u>Part 2 Regulation of plantation forestry activities</u> <u>Subpart 1—Afforestation</u> <u>Regulations 9(2), 10, 14(3), 15(5), 16(2), 17(1), 17(3), and 17(4)</u> <u>Subpart 3—Earthworks</u> <u>Regulations 24 to 35</u></p>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
				<p><u>Subpart 6—Harvesting</u> <u>Regulation 64(1) and (2), as far as these apply to a Regional Council</u> <u>Regulations 63(2) and (3), 64(3), 65 to 69, 70(3) and (4), and 71</u></p> <p><u>Subpart 7—Mechanical land preparation</u> <u>Regulations 73(2), 74, and 75</u></p> <p><u>Subpart 8—Replanting</u> <u>Regulations 77(2), 78(2) and (3), 80, and 81(3) and (4)</u></p> <p><u>Subpart 9—Ancillary activities</u> <u>Regulations 89 and 90</u> <u>Regulation 95, as far as this applies to a Regional Council</u></p> <p><u>Subpart 10—General provisions (including discharges of sediment)</u> <u>Regulation 97(1)(a), (b), (c), (f) and (g).”</u></p>
<p>8.3 Rules 8.3.4 Land uses Rule WH-R.20 Plantation forestry – controlled activity</p>	<p>Oppose</p>	<p>✓</p>	<p>Notwithstanding the primary relief sought by NZCF, NZCF considers that the Section 32 Report does not establish that controlled activity status is necessary or appropriate where the standards in the proposed Rule are met. That is, the purpose of the Proposed Plan Change is to reduce sediment in rivers and complying with the ‘standards’ will achieve this such that the need for a resource consent to confirm compliance is unnecessarily onerous.</p> <p>Further, consistent with the purpose of the Proposed Plan Change, NZCF considers that the proposed Rule goes beyond the management of discharges by managing activities more generally despite there not always being a direct causal relationship and without consideration of methods that do not result in discharges. NZCF seeks that the Rule is amended to directly relate to the purpose of the Proposed Plan Change.</p> <p>In addition, NZCF does not support the ‘standard’ in clause (d) because:</p> <ul style="list-style-type: none"> the frequency of Council monitoring is not sufficiently certain, that is, NZCF considers that the standard could inappropriately result in a circumstance where, if an 	<p>Amend Rule WH.R20 as follows: “WH.R20: Plantation forestry – permitted controlled activity <u>The discharge of sediment to a surface waterbody associated with afforestation, harvesting, earthworks, vegetation clearance or mechanical land preparation for plantation forestry, and any associated discharge of sediment to a surface waterbody, is a permitted controlled activity providing the following conditions are met:</u></p> <p><u>(a) the land is not high erosion risk land (pasture) or highest erosion risk land (pasture) that was in pasture or scrub on 30 October 2023, and</u></p> <p><u>(b) an erosion and sediment management plan has been prepared in accordance with Schedule 34 (forestry plan), certified by a registered forestry adviser and submitted with the application for resource consent under this rule, and</u></p> <p><u>(c) the concentration of total suspended solids in the discharge from the plantation forestry shall not exceed 100g/m³, except that, if at the time of the discharge the concentration of total suspended solids in the receiving water at or about the point of discharge exceeds 100g/m³,</u></p>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			<p>exceedance is detected, and then Council does not undertake further monitoring for some time, a more stringent activity status is applies (for want of further monitoring by a third party);</p> <ul style="list-style-type: none"> it is not appropriate for a more stringent activity status to apply in circumstances where the activities of third parties in the catchment cause an exceedance, rather it is more appropriate to establish standards for discharges at the source and confine the standards to the matters the party undertaking the activity can control. 	<p><u>the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:</u></p> <p><u>(i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or</u></p> <p><u>(ii) 30% in any other river, and</u></p> <p>(d) the most recent Wellington Regional Council monitoring record demonstrates that the measure of visual clarity for the relevant catchment does not exceed the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Table 9.4.</p> <p>Matters of control</p> <p>1. The content of the erosion and sediment management plan, including the actions, management practices and mitigation measures necessary to ensure that discharge of sediment will be minimised, and will not increase the average annual sediment load for the part Freshwater Management Unit in which the plantation forestry is located</p> <p>2. The area, location and methods employed in the plantation forestry</p> <p>3. The monitoring, record-keeping, reporting and information provision requirements for the holder of the resource consent (including auditing of information) to demonstrate and/or monitor compliance with the resource consent and the erosion and sediment management plan</p> <p>4. The timing, frequency and requirements for review, audit and amendment of the erosion and sediment management plan.”</p>
8.3 Rules 8.3.4 Land uses Rule WH.R21: Plantation forestry –	Support in part	✓	Notwithstanding the primary relief sought by NZCF, NZCF notes that the purpose of the Proposed Plan Change is to reduce sediment in rivers. NZCF considers that the proposed Rule goes beyond the management of discharges by managing activities more generally despite there not always being a direct causal relationship and without consideration of methods that do not	<p>Amend Rule WH.R21 as follows:</p> <p><u>“Rule WH.R21: Plantation forestry – restricted discretionary activity</u></p> <p><u>The discharge of sediment to a surface water body associated with afforestation, harvesting, earthworks, vegetation clearance or mechanical land preparation for plantation</u></p>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
discretionary activity			<p>result in discharges. NZCF seeks that the Rule is amended to directly relate to the purpose of the Proposed Plan Change.</p> <p>Further, NZCF is of the view that potential adverse effects of a discharge of sediment to a river, the considerations that are relevant to that adverse effect, are sufficiently known and confined such that restricted discretionary activity status is the most appropriate activity status to apply in circumstances where the standards in Rule WH.R20 are not met. NZCF suggests that the ‘matters of control’ in Rule WH.R20 are appropriate to apply as ‘matters of discretion’.</p>	<p>forestry and any associated discharge of sediment to a surface water body that does not comply with one or more of the conditions of Rule WH.R20 and is not a prohibited activity under Rule WH.R22 is a restricted discretionary activity.</p> <p><u>Matters of discretion</u></p> <ol style="list-style-type: none"> <u>1. The content of the erosion and sediment management plan, including the actions, management practices and mitigation measures necessary to ensure that discharge of sediment will be minimised, and will not increase the average annual sediment load for the part Freshwater Management Unit in which the plantation forestry is located</u> <u>2. The area, location and methods employed in the plantation forestry</u> <u>3. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent (including auditing of information) to demonstrate and/or monitor compliance with the resource consent and the erosion and sediment management plan</u> <u>4. The timing, frequency and requirements for review, audit and amendment of the erosion and sediment management plan.”</u>
<p>8.3 Rules</p> <p>8.3.4 Land uses</p> <p>Rule WH.R22: Plantation forestry on highest erosion risk land – prohibited activity</p>	Oppose	✓	<p>Notwithstanding NZCF’s primary relief, NZCF opposes Rule P.R21 in its entirety for the following reasons:</p> <ul style="list-style-type: none"> • The Ministry for the Environment’s Quality Planning guidance material in respect of the use of prohibited activity status states: <ul style="list-style-type: none"> “The prohibited activity status is the most restrictive of any activity status and therefore must be used with care. The decision to use it should be backed with strong evidence of its necessity, including justification through objectives and policies.” <p>In this instance, there is neither a strong evidential basis nor objectives and policies (including in the WRPS, the NRP and the Proposed Plan Change) to justify applying the most</p>	<p>Delete Rule WH-R22 in its entirety, as follows:</p> <p>“Rule WH R22: Plantation forestry on highest erosion risk land – prohibited activity</p> <p>Afforestation, earthworks, or mechanical land preparation for plantation forestry on highest erosion risk land (plantation forestry) is a prohibited activity.”</p>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			<p>extreme stringent approach to plantation forestry in particular locations.</p> <ul style="list-style-type: none"> Similarly, in <i>Royal Forest & Bird Protection Society of New Zealand Inc v Whakatane District Council [2017] NZEnvC 51</i> at [62] the Environment Court noted that the complexity of plan making means that the classification of activities is likely to require specific analysis of the effects of that activity again the particular objectives and policies which relate to the activity being assessed. The Court also emphasised that: <ul style="list-style-type: none"> <i>“It is important to note that the statutory framework for the classification of activities contains no provisions which address the application of these categories or classes to any particular activities or in terms of the nature of the effects of any activity. Instead, the scheme of the Act is that the categorization or classification of an activity is to be done by rules under s 77A. Such rules, like all others in a district plan, must be examined and assessed in accordance with the requirements of s 32 of the Act and consistent with the requirement under s 76(3) of the Act to have regard to the actual or potential effect on the environment of the activity under consideration including, in particular, any adverse effect.”</i> <p>NZCF is not aware of any operative objective or policy that directs such a stringent outcome. Further, no analysis of the nature described has been completed or documented in this instance.</p> <ul style="list-style-type: none"> The proposed Rule is overly stringent in circumstances where the activities addressed by the Rule can be undertaken in a way that does not result in sediment discharges to rivers. That is, no consideration has been given to afforestation being undertaken in a manner that does not result in discharges. It is possible that the Rule could result in an increase in discharges of sediment to rivers because, as acknowledged 	

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			<p>in the Implementation Plans and the National Adaptation Plan, the continued use of the identified area for forestry is likely to reduce discharges over the life of a forest to a greater extent than other uses of the land, including retirement.</p> <ul style="list-style-type: none"> Applying prohibited activity status to one use of highest erosion risk land is not even-handed on the basis that other potential land uses are not similarly managed. In this regard, a more even-handed rule would be more directly related to the potential adverse effects of activities. That is, prohibiting the effects of discharges to freshwater, rather than prohibiting an activity. As above, the purpose of the rule is to reduce sediment in rivers, yet the rule prevents an activity as a whole in an ill-defined area. NZCF consider that no direct causal relationship has been established for the activity and area such that prohibited activity status is appropriate or necessary. Prohibited activity status is inconsistent with, and contrary to, the recommendations of Te Whaitua te Whanganui-a-Tara Implementation Programme and Te Awarua-o-Porirua Whaitua: Whaitua Implementation Programme. Prohibited activity status is contrary to the New Zealand's Emissions Reduction Plan and New Zealand's National Adaptation Plan. <p>For all of these reasons, NZCF seeks the deletion of the Rule in its entirety.</p>	
Chapter 9 Te Awarua-o-Porirua Whaitua				
9.2 Policies 9.2.4 Rural Land Uses and Earthworks Policy P.P26: Achieving reductions in	Oppose	✓	<p>Subject to the relief sought in this submission, NZCF generally opposes Policy P.P26 for all of the reasons set out in this submission.</p> <p>More specifically, in terms of clause (a), NZCF seeks that the clause is deleted because:</p>	<p>Amend Policy P.P26 as follows: <u>"Policy P.P26: Achieving reductions in sediment discharges from plantation forestry</u> <u>Reduce discharges of sediment from plantation forestry by:</u> <u>(a) identifying highest erosion risk land (plantation forestry),</u> <u>and</u></p>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
sediment discharges from plantation forestry			<ul style="list-style-type: none"> the rationale for, and appropriateness of, the approach to the identification of highest erosion risk land (plantation forestry) is not clearly set out; the rationale for departing from the erosion susceptibility classification in the NESPF is not set out in the manner required by section 32(4); The practical implications of the mapping and associated provisions have not been considered, including the extent to which the mapped areas result in greater constraints because matters such as scale, ownership and topography may result in larger areas no longer being viable for forestry uses. <p>In terms of clause (b), NZCF notes that planning and implementing erosion and sediment control is a normal part of forest operations. The NESPF includes requirement to manage erosion and sediment in any case. These Regulations have been updated in the NESCF. NZCF seeks limited amendments to clause (b) to reflect current best practice.</p> <p>NZCF does not support clause (c) of the Policy because preventing the establishment of plantation forestry, or the continuation of plantation forestry, in identified areas:</p> <ul style="list-style-type: none"> is not supported by evidence and may not result in the outcome sought, being reduced sediment in rivers; is not necessary or appropriate to give effect to any provision of a higher order planning instrument; is inconsistent with the recommendations in the Te Whaitua te Whanganui-a-Tara Implementation Programme and the Te Awarua-o-Porirua Whaitua: Whaitua Implementation Programme; and is contrary to the New Zealand's Emissions Reduction Plan and New Zealand's National Adaptation Plan. <p>For these reasons, NZCF seeks that clause (c) is deleted.</p>	<p>(b) improving management of plantation forestry by requiring erosion and sediment management plans to be prepared and complied with, and</p> <p>(c) requiring that on highest erosion risk land (plantation forestry), plantation forestry is not established or continued beyond the harvest of existing plantation forest."</p>
9.3 Rules 9.3.4 Land uses	Oppose	✓	Notwithstanding the primary relief sought by NZCF, NZCF notes that the 'Note' that immediately precedes Rule P.R19 in the	Amend the Note that precedes Rule P.R19 and follows: <i>"Note</i>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			Proposed Plan Change appear to refer to the Regulations of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 in error. If this is the case, subject to matters raised elsewhere in this submission, NZCF seeks that the 'Note' be amended to reference the NESPF 2017.	<p><u>Rules P.R19, P.R20 and P.R21 prevail over the following Regulations of the Resource Management (National Environmental Standards for Freshwater Production Forestry) Regulations 2020:</u></p> <p><u>Part 2 Regulation of plantation forestry activities</u></p> <p><u>Subpart 1—Afforestation</u> <u>Regulations 9(2), 10, 14(3), 15(5), 16(2), 17(1), 17(3), and 17(4)</u></p> <p><u>Subpart 3—Earthworks</u> <u>Regulations 24 to 35</u></p> <p><u>Subpart 6—Harvesting</u> <u>Regulation 64(1) and (2), as far as these apply to a Regional Council</u> <u>Regulations 63(2) and (3), 64(3), 65 to 69, 70(3) and (4), and 71</u></p> <p><u>Subpart 7—Mechanical land preparation</u> <u>Regulations 73(2), 74, and 75</u></p> <p><u>Subpart 8—Replanting</u> <u>Regulations 77(2), 78(2) and (3), 80, and 81(3) and (4)</u></p> <p><u>Subpart 9—Ancillary activities</u> <u>Regulations 89 and 90</u> <u>Regulation 95, as far as this applies to a Regional Council</u></p> <p><u>Subpart 10—General provisions (including discharges of sediment)</u> <u>Regulation 97(1)(a), (b), (c), (f) and (g)."</u></p>
9.3 Rules 9.3.4 Land uses Rule P.R19: Plantation forestry – controlled activity	Oppose	✓	<p>Notwithstanding the primary relief sought by NZCF, NZCF considers that the Section 32 Report does not establish that controlled activity status is necessary or appropriate where the standards in the proposed Rule are met. That is, the purpose of the Proposed Plan Change is to reduce sediment in rivers and complying with the 'standards' will achieve this such that the need for a resource consent to confirm compliance is unnecessarily onerous.</p> <p>Further, consistent with the purpose of the Proposed Plan Change, NZCF considers that the proposed Rule goes beyond</p>	<p>Amend Rule P.R19 as follows:</p> <p><u>"Rule P.R19: Plantation forestry – permitted controlled activity</u> <u>The discharge of sediment to a waterbody associated with the</u> <u>use of land for afforestation, harvesting, earthworks, or</u> <u>mechanical land preparation for plantation forestry and any</u> <u>associated discharge of sediment to a surface water body is a</u> <u>permitted controlled activity providing the following conditions</u> <u>are met:</u></p>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			<p>the management of discharges by managing activities more generally despite there not always being a direct causal relationship and without consideration of methods that do not result in discharges. NZCF seeks that the Rule is amended to directly relate to the purpose of the Proposed Plan Change.</p> <p>In addition, NZCF does not support the 'standard' in clause (d) because:</p> <ul style="list-style-type: none"> the frequency of Council monitoring is not sufficiently certain, that is, NZCF considers that the standard could inappropriate result in a circumstance where, if an exceedance is detected, and then Council does not undertake further monitoring for some time, a more stringent activity status is applies (for want of further monitoring by a third party); it is not appropriate for a more stringent activity status to apply in circumstances where the activities of third parties in the catchment cause an exceedance, rather it is more appropriate to establish standards for discharges at the source and confine the standards to the matters the party undertaking the activity can control. 	<p><u>(a) the land is not high erosion risk land (pasture) or highest erosion risk land (pasture) that was in pasture or scrub on 30 October 2023, and</u></p> <p><u>(b) an erosion and sediment management plan has been prepared in accordance with Schedule 34 (forestry plan), certified and submitted with the application for resource consent under this rule, and</u></p> <p><u>(c) the concentration of total suspended solids in the discharge from the plantation forestry shall not exceed 100g/m³, except that, if at the time of the discharge the concentration of total suspended solids in the receiving water at or about the point of discharge exceeds 100g/m³, the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:</u></p> <p><u>(i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or</u></p> <p><u>(ii) 30% in any other river, and</u></p> <p><u>(d) the most recent Council monitoring record demonstrates that the measure of visual clarity for the relevant catchment does not exceed the target attribute state at any monitoring site within the relevant part Freshwater Management Unit set out in Tables 9.1 and 9.2.</u></p> <p><u>Matters of control</u></p> <p><u>1. The content of the erosion and sediment management plan, including the actions, management practices and mitigation measures necessary to ensure that discharge of sediment will be minimised, and will not increase the average annual sediment load for the part Freshwater Management Unit in which the plantation forestry is located</u></p> <p><u>2. The area, location and methods employed in the plantation forestry</u></p> <p><u>3. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent (including auditing of information) to demonstrate</u></p>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
				and/or monitor compliance with the resource consent and the erosion and sediment management plan 4. The timing, frequency and requirements for review, audit and amendment of the erosion and sediment management plan."
9.3 Rules 9.3.4 Land uses Rule P.R20: Plantation forestry – discretionary activity	Oppose	✓	Notwithstanding the primary relief sought by NZCF, NZCF notes that the purpose of the Proposed Plan Change is to reduce sediment in rivers. NZCF considers that the proposed Rule goes beyond the management of discharges by managing activities more generally despite there not always being a direct causal relationship and without consideration of methods that do not result in discharges. NZCF seeks that the Rule is amended to directly relate to the purpose of the Proposed Plan Change. Further, NZCF is of the view that potential adverse effects of a discharge of sediment to a river, the considerations that are relevant to that adverse effect, are sufficiently known and confined such that restricted discretionary activity status is the most appropriate activity status to apply in circumstances where the standards in Rule P.R19 are not met. NZCF suggests that the 'matters of control' in Rule P.R19 are appropriate to apply as 'matters of discretion'.	Amend Rule P.R20 as follows: "Rule P.R20: Plantation forestry – <u>restricted discretionary activity</u> <u>The discharge of sediment to a surface waterbody associated with afforestation, harvesting, earthworks, vegetation clearance or mechanical land preparation for plantation forestry and any associated discharge of sediment to a surface water body that does not comply with one or more of the conditions of Rule P.R19 is a restricted discretionary activity.</u> <u>Matters of discretion</u> <u>1. The content of the erosion and sediment management plan, including the actions, management practices and mitigation measures necessary to ensure that discharge of sediment will be minimised, and will not increase the average annual sediment load for the part Freshwater Management Unit in which the plantation forestry is located</u> <u>2. The area, location and methods employed in the plantation forestry</u> <u>3. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent (including auditing of information) to demonstrate and/or monitor compliance with the resource consent and the erosion and sediment management plan</u> <u>4. The timing, frequency and requirements for review, audit and amendment of the erosion and sediment management plan."</u>
9.3 Rules 9.3.4 Land uses	Oppose	✓	Notwithstanding NZCF's primary relief, NZCF opposes Rule P.R21 in its entirety for the following reasons:	Delete Rule P.R21 in its entirety as follows: "Rule P.R21: Plantation Forestry on highest erosion risk land – prohibited activity"

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
Rule P.R21: Plantation Forestry on highest erosion risk land – prohibited			<ul style="list-style-type: none"> The Ministry for the Environment’s Quality Planning guidance material in respect of the use of prohibited activity status states: <p><i>“The prohibited activity status is the most restrictive of any activity status and therefore must be used with care. The decision to use it should be backed with strong evidence of its necessity, including justification through objectives and policies.”</i></p> <p>In this instance, there is neither a strong evidential basis nor objectives and policies (including in the WRPS, the NRP and the Proposed Plan Change) to justify applying the most extreme stringent approach to plantation forestry in particular locations.</p> Similarly, in <i>Royal Forest & Bird Protection Society of New Zealand Inc v Whakatane District Council [2017] NZEnvC 51</i> at [62] the Environment Court noted that the complexity of plan making means that the classification of activities is likely to require specific analysis of the effects of that activity again the particular objectives and policies which relate to the activity being assessed. The Court also emphasised that: <p><i>“It is important to note that the statutory framework for the classification of activities contains no provisions which address the application of these categories or classes to any particular activities or in terms of the nature of the effects of any activity. Instead, the scheme of the Act is that the categorization or classification of an activity is to be done by rules under s 77A. Such rules, like all others in a district plan, must be examined and assessed in accordance with the requirements of s 32 of the Act and consistent with the requirement under s 76(3) of the Act to have regard to the actual or potential effect on the environment of the activity under consideration including, in particular, any adverse effect.”</i></p> <p>NZCF is not aware of any operative objective or policy that directs such a stringent outcome. Further, no analysis of</p> 	<p><u>Afforestation, earthworks, or mechanical land preparation for plantation forestry on highest erosion risk land (plantation forestry) is a prohibited activity.”</u></p>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			<p>the nature described has been completed or documented in this instance.</p> <ul style="list-style-type: none"> • The proposed Rule is overly stringent in circumstances where the activities addressed by the Rule can be undertaken in a way that does not result in sediment discharges to rivers. That is, no consideration has been given to afforestation being undertake in a manner that does not result in discharges. • It is possible that the Rule could result in an increase in discharges of sediment to rivers because, as acknowledged in the Implementation Plans and the National Adaptation Plan, the continued use of the identified area for forestry is likely to reduce discharges over the life of a forest to a greater extent than other uses of the land, including retirement. • Applying prohibited activity status to one use of highest erosion risk land is not even-handed on the basis that other potential land uses are not similarly managed. In this regard, a more even-handed rule would be more directly related to the potential adverse effects of activities. That is, prohibiting the effects of discharges to freshwater, rather than prohibiting an activity. • As above, the purpose of the rule is to reduce sediment in rivers, yet the rule prevents an activity as a whole in an ill-defined area. NZCF consider that no direct causal relationship has been established for the activity and area such that prohibited activity status is appropriate or necessary. • Prohibited activity status is inconsistent with, and contrary to, the recommendations of Te Whaitua te Whanganui-a-Tara Implementation Programme and Te Awarua-o-Porirua Whaitua: Whaitua Implementation Programme. • Prohibited activity status is contrary to the New Zealand’s Emissions Reduction Plan and New Zealand’s National Adaptation Plan. 	

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			For all of these reasons, NZCF seeks the deletion of the Rule in its entirety.	
Chapter 12 Schedules				
Schedule 34: Plantation Forestry Erosion and Sediment Management Plan	Support in part	✓	<p>NZCF does not support clause B of Schedule 34 because the clause:</p> <ul style="list-style-type: none"> is inappropriately expressed as a standard or rule and could be understood to be an absolute requirement; in (4) appears to direct a single future use of the subject land and, in doing so, inappropriately erodes the ability for a landowner to make use of their property; appears to have inappropriately (and without evidence) formed a view woody revegetation is the only means to reduce sediment discharges to water. <p>NZCF supports clause D to the extent that the ability to amend the Erosion and Sediment Management Plan is provided. NZCF considers that providing the ability to make amendments is necessary to respond effectively and efficiently to site requirements.</p>	<p>Amend Schedule 34 as follows:</p> <p><u>"A Purpose of the Erosion and Sediment Management Plan</u> <u>The purpose of an Erosion and Sediment Management Plan is:</u> <u>(a) to identify the risks of the loss of sediment from the</u> <u>plantation forestry to waterbodies, and</u> <u>(b) identify management practices and mitigation measures to</u> <u>address these risks.</u></p> <p><u>B Management objectives</u> <u>The Erosion and Sediment Management Plan must demonstrate</u> <u>that the measures adopted to address the identified risks are</u> <u>designed to will:</u></p> <ol style="list-style-type: none"> <u>1. minimise sediment loss to waterbodies from activities in the</u> <u>plantation forest by adopting, as a minimum, good</u> <u>management practice, and</u> <u>2. avoid an increase in risk of loss of sediment to water</u> <u>relative to the risk of loss that exists from the land in a</u> <u>natural state, and</u> <u>3. achieve the discharge standard in Rule WH.R20(c) or Rule</u> <u>P.R19(c) for any discharge of water and sediment from</u> <u>plantation forestry into a surface water body, and</u> <u>4. provide for plantation forestry on highest erosion risk land</u> <u>(Plantation forestry) to progressively reduce and cease</u> <u>beyond the next harvest. This land is to be restored and</u> <u>revegetated with appropriate permanent woody species.</u> <p>...</p> <p><u>D Amendment of Erosion and Sediment Management</u> <u>Plan</u> <u>Unless otherwise required by the Wellington Regional Council in</u> <u>accordance with any conditions of any resource consent held in</u> <u>respect of the plantation forest or property, changes can be</u> <u>made to the Erosion and Sediment Management Plan without</u></p>

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
				<p><u>triggering the need for a consent review or review by a registered forestry adviser provided:</u></p> <p><u>(a) the purpose of the Erosion and Sediment Management Plan will continue to be achieved, and</u></p> <p><u>(b) the change to the Erosion and Sediment Management Plan does not contravene any mandatory requirement of any resource consent held in respect of the plantation forest or property, or any requirement of the Plan that is not already authorised, and</u></p> <p><u>(c) the nature of the change is documented in writing and made available to the Wellington Regional Council.”</u></p>
Chapter 13 Maps				
Map 92 Highest erosion risk land (Plantation forestry) – Te Awarua-o-Porirua	Oppose	✓	<p>NZCF does not support the mapping of highest erosion risk land (Plantation forestry) because:</p> <ul style="list-style-type: none"> the rationale for, and appropriateness of, the approach to the identification of highest erosion risk land (plantation forestry) is not clearly set out; the rationale for departing from the erosion susceptibility classification in the NESPF is not set out in the manner required by section 32(4); and The practical implications of the mapping and associated provisions have not been considered, including the extent to which the mapped areas result in greater constraints because matters such as scale, ownership and topography may result in larger areas no longer being viable for forestry uses. 	Delete Map 92 and replace with the erosion susceptibility classification in the NESPF throughout the Proposed Plan Change.
Map 95 Highest erosion risk land (Plantation forestry) – Te Whanganui-a-Tara	Oppose	✓	<p>NZCF does not support the mapping of highest erosion risk land (Plantation forestry) because:</p> <ul style="list-style-type: none"> the rationale for, and appropriateness of, the approach to the identification of highest erosion risk land (plantation forestry) is not clearly set out; the rationale for departing from the erosion susceptibility classification in the NESPF is not set out in the manner required by section 32(4); and 	Delete Map 95 and replace with the erosion susceptibility classification in the NESPF throughout the Proposed Plan Change.

Provision	Support/ Oppose	Freshwater Planning Instrument	Submission/Reasons	Decision Sought
			<ul style="list-style-type: none"> The practical implications of the mapping and associated provisions have not been considered, including the extent to which the mapped areas result in greater constraints because matters such as scale, ownership and topography may result in larger areas no longer being viable for forestry uses. 	