



Commercial Plantation Forestry Compliance Strategy

Resource Use Directorate

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1. Introduction

Plantation forestry regulatory compliance is managed by the Rural Compliance Team within the Resource Use Directorate for Waikato Regional Council (WRC).

While some legacy plantation forestry activities are still regulated by regional resource consents, it had become increasingly common for these activities to occur under the auspices of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NES-PF) and now the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (NES-CF).

The NES-CF applies specifically to exotic continuous-cover forest or commercial harvesting operation and associated activities to forestry operations that is at least 1 hectare in continuous cover. Forestry activities are generally undertaken as a permitted activity if all the relevant conditions of the NES-CF are met, although some criteria within the NES-CF does also provide for Resource Management Act (RMA) consents should specified risk factors be exceeded. Regardless of the regulatory regime, all forestry activities do come with varying environmental risk.

This was recognised during the development of the NES-PF and retained with the now operative NES-CF with an expectation that permitted activities were to be actively monitored for compliance with the NES-CF regulations, much in the same vein as compliance, monitoring and enforcement (CME) is undertaken for activities authorised through regional plan consent conditions, with cost recovery provisions included.

The RMA does not prescribe how councils should carry out CME functions. However, there are both national¹ and regional² guidance documents as how to best achieve CME generally. All councils have limited resources and as a matter of necessity must take a strategic approach to achieve high rates of compliance, but must also strive to meet the requirements of our Enforcement Policy³ when responding to incidents of non-compliance.

¹ *Regional Sector Strategic Compliance Framework 2019-2024*

² *Resource Use Directorate Compliance Strategy 2018-2021*

³ *Enforcement Policy (waikatoregion.govt.nz/enforcement-policy)*





2. Objectives

Under the NES-CF, regional councils are required to monitor both permitted and consented activities. Compliance with forestry related resource consents and permitted activity conditions are equally important, and CME activities should be balanced to reflect this.

The overall objective of the Commercial Forestry Compliance Strategy is to ensure forestry operations are undertaken to a standard that minimises adverse environmental effects, meets forestry best practice guidelines, maximises compliance with all regulations and consent requirements, and brings about positive behaviour change.

Four key objectives form the approach taken by the Rural Compliance Team:

Consistency – delivering comparable CME outcomes where circumstances are similar for all parties, subject to the provisions of the national standards.

Transparency – utilise established and effective processes to document compliance and adhere to WRC policy relating to WRC and best practice standards.

Cost-effectiveness – charge actual and reasonable costs, pursuant to the Schedule of fees and charges in the council’s annual plan⁴, for the monitoring of compliance of permitted activities under the NES-CF (Part 3, Reg. 106).

Proportionality – produce a scaled response to non-compliance, corresponding to the culpability of any offending party and to any adverse environmental effects caused.

⁴ 2023/24 Annual Plan (waikatoregion.govt.nz/annual-plan-202324)

3. Legislation

The *Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017* came into effect on 1 May 2018 but has now been superseded by the *National Environmental Standards for Commercial Forestry Amendment Regulations 2023 (NES-CF)* as of 3 November 2023. These regulations are authorised under sections 43 and 43A of the *Resource Management Act 1991*.

In general terms, NES regulations set out technical standards, methods or requirements relating to matters under the RMA, and provide consistent rules across the country by setting planning requirements for certain specified activities.

The NES-CF regulations cover the following plantation forestry activities.

- Afforestation (planting new forest inclusive of carbon forest registered under the ETS).
- Pruning and thinning-to-waste (selective felling of trees where the felled trees remain on site).
- Earthworks.
- River crossings.
- Forestry quarrying (extraction of rock, sand or gravel within a plantation forest or for operation of a forest on adjacent land).
- Harvesting.
- Mechanical land preparation.
- Replanting (inclusive of carbon forest registered under the ETS).
- Ancillary activities relating to slash traps and indigenous and non-indigenous vegetation clearance.
- Discharges, disturbances, diversions, noise, dust, indigenous bird nesting, and fuel storage and refuelling.

4. NES-CF notification requirements

Under the NES-CF, the relevant regional council and territorial authority must be given written notice of any river crossing, quarrying and harvesting activities at least 20 and no more than 60 working days before the date on which the relevant activity is planned to begin, and a minimum of two days before the date on which salvage operations are to begin. Earthworks in Green and Yellow ESC zones have a minimum notification timeframe of 10 working days, whereas Orange and Red ESC require a minimum of 20 working days. Afforestation and replanting activities have notification timeframes of least 20 working days and no more than 8 months.

The council receives plans for afforestation, replanting earthworks, harvesting and forestry quarrying activities upon request. These plans need to include details as stipulated in Schedules 3- 6 of the NES-CF. To understand the scale of notified forestry activities in this region, Table 1 shows that in the 2 years between 1 July 2021 and ending 30 June 2023, a total of 531 notifications or applications were received for the following activities:

Table 1: Notifications for the year 2021-2023

Activities	21/2	22/23
Afforestation	39	35
Earthworks	74	110
Forestry quarrying	1	2
Harvesting	102	137
Mechanical land preparation	2	0
Replanting	3	1
River crossings	6	13
Resource consent – harvesting	3	
Resource consent – replanting	1	
Resource consent – quarry		1
Resource consent – river crossing		2
Totals	231	300

5. Monitoring and compliance

The Rural Compliance Team has adopted the following CME approach for forestry related activities.

- Permitted activities notified to WRC under the NES-CF are assumed to have occurred as from the stated dates within the notification documentation, unless otherwise informed.
 - Upon request, stakeholders are to provide Afforestation Management Plan, Replanting Management Plan, Harvest Plans, Earthworks Plans or Quarry Erosion Plans where these activities are to be undertaken. As a matter of practice, the default position of WRC is to request these plans to assist in an initial triage process.
 - WRC will evaluate the level of perceived risk of the activity based on the plan(s) supplied, land topography and erosion susceptibility class, the complexity of the operation, the existing environment, and the history of compliance (if any) of the forestry contractor/harvest manager, using a risk matrix (Table 2) and assigning the notification a priority rating.
 - Council methods range from desktop analysis through to physical site inspections, with an assessment against the relevant National Environmental Standards for Commercial Forestry regulations or existing resource consent conditions.
- Areas of priority when undertaking an inspection relate to land disturbance and the potential for interaction with water, whether this be from track and road formation, stream crossing structures, skid/landing formation and harvesting activities with associated management of slash.
 - WRC take a precautionary approach and will undertake site inspections on any site that is light on document detail; such sites will also be deemed as a high priority to visit, even when external factors indicate the site is low risk.
 - Aerial monitoring inspections are undertaken periodically to both monitor compliance with the provisions of the NES-CF and to identify non-notified afforestation, harvesting and earthworks operations.
 - A satellite mapping project is being developed which aims to identify forestry related activities within the Waikato region. This service will be used to assess the size, scale, potential impacts and notification status (notified or non-notified) of these activities.



5.1 Risk criteria matrix

Risk is triaged by senior rural compliance staff using the following subjective criteria.

- Plan quality – plans produced are clear, including all required information outlined by Schedules 3-6 (NES-CF) for Afforestation, Replanting, Earthworks, Harvesting and Quarry erosion and sediment management plan(s).
- Topography – erosion susceptibility classification – highest ranked erosion zoning for the area will apply.
- Scale – area to be harvested (area) and exposed to earthworks (area, distance and volume).
- Sensitivity – potential effects on the environment. Includes receiving environment, proximity to water ways, river crossings, fish spawning indicator, significant natural areas (SNA), proximity to geothermal areas, archaeological sites and infrastructure as defined in section 2(1) of the Act.
- Methodology – plan methodologies are written to best practice guidelines for each activity. *
- Compliance history – rated on past WRC audit reports and site visits. Where compliance history is unknown, the risk will be rated high until such a time as an assessment is carried out and an accurate compliance rating can be applied.
- Perception – rated on the number of complaints (if any) received.

**This is often only confirmed during a site visit.*

5.2 Current resources

NES-CF compliance monitoring is resourced by members of the Rural Compliance Team and the services of an external compliance monitoring contractor to ensure geographical coverage and cost efficiency across the region. At a high level, in-house expertise, triaging and prioritising of NES-CF notifications is provided by the Senior Compliance Advisor – Forestry, and Senior Rural Compliance Officer – Forestry.

Resourcing will be reviewed as required, depending upon workloads, and on developing forestry specific CME expertise within the Rural Compliance Team. Equipment resources will also be sought as the team's capability develops. This will be in the form of bespoke vehicles, drones, software and satellite technology.

5.2.1 Role of the monitoring contractor

Monitoring contractors are employed by WRC to undertake site inspections for the Rural Compliance Team and monitor compliance with resource consents and/or the NES-CF.

The contractor's role when monitoring forestry sites is to assess physical activities occurring on site against the NES-CF regulations and consent conditions, and against relevant industry and council guidelines. In doing so, the contractor works to CME best practice in respect of lawfully entering private property, capturing information to an evidential standard and, crucially, passing on their observations in a timely fashion. Should significant non-compliance be identified on site then it is expected that clear direction is given to halt non-compliance and/or to take remedial action. Decisions with respect to enforcement action sits outside the contractor remit and is the purview of delegated council staff.



5.3 Outputs

An inspection notice (IN), as referenced in Appendix 1, will also contain commentary and photographic evidence on the state of operations with respect to compliance with the regulations stipulated in the NES-CF, primarily relating to issues of potential sedimentation effects for each activity (i.e. landing, tracks, roading, river crossings), stabilisation and slash management, and will receive a compliance rating of 1-4, where applicable.

Table 2: rating risk matrix and description

1	Best practice – no further action required.	Full compliance
2	Minor technical issue with control devices, where the purpose of the consent conditions, plan rules/ESCP guidelines/national standard regulations have been met.	Low risk non-compliance
3	Controls absent or construction of device is so poor that it leads to/is likely to lead to failure as an efficient erosion/sediment control method, where the purpose of the consent conditions, plan rules/ESCP guidelines/national standard regulations have not been met and there is a moderate risk of adverse environmental effects.	Moderate non-compliance
4	Controls absent or construction of device is so poor that it leads to/is likely to lead to failure as an efficient erosion/sediment control method, where the purpose of the consent conditions, plan rules/ESCP guidelines/national standard regulations have not been met and there is a high risk of adverse environmental effect.	Significant non-compliance

5.4 Follow-up

As a matter of routine, the need for further monitoring effort will be based on the current compliance status as determined within the IN, the degree of willingness to engage with the council to resolve any matters arising, and any risk factors identified within the original notification when compared to what was observed during the site inspection.

The need for follow-up site inspections is assessed primarily on whether there was any observed or potential environmental harm or malpractice. More frequent site visits will be undertaken for a site that remains non-compliant; this aims to promote compliance and reduce environmental risk. A site with a compliance rating of 2, 3 or 4 will receive a follow-up enquiry regarding implementation of remedial actions, with a timeframe provided for within the IN. With the exception of a compliance rating of 4, where a site demonstrates a willingness to comply and risk factors can be discounted by providing follow up photographic proof of remedial works having been completed, a follow-up site inspection may not be necessary.

Any site that received a compliance rating of 4 will be contacted by WRC to provide an opportunity for an explanation and to propose a remedial action plan. Enforcement may follow depending on the environmental risk, previous compliance history, and the willingness of an offender to address the issues in a timely manner.

WRC is committed to continually working with the forestry industry to ensure the best outcomes for the environment are achieved through the implementation of best practice.

5.5 Recording and reporting

An IRIS (Integrated Regional Information System) regime is generated based on the party making the required notification, generally the forest manager or harvest manager. Each specific location becomes a regime activity as most parties have multiple operations underway at any given time.

An IRIS observation is created for each monitoring inspection and any relevant enforcement outcome entered against it. These form the basis of monthly and annual CME reports. Rural Compliance records and reports on the following information in relation to NES-CF permitted activities, whereas forestry related consent CME records report to the Regional Consents Section.

- Number and type of NES-CF notifications.
- Number of compliance monitoring inspections carried out.
- Compliance outcomes.
- Enforcement outcomes.
- Complaints received.
- Non-notified activities identified.

5.6 Compliance and enforcement

Any level of non-compliance (compliance ratings of 2, 3 or 4) requires an enforcement outcome to be recorded against it. A breakdown of compliance and enforcement portions are included in Figure 1.

For low-risk and moderate non-compliance, no further enforcement action and education are likely to be appropriate enforcement outcomes, including in combination with a directive outcome such as the issuing of an abatement notice(s).

Sites and incidents resulting in more significant non-compliance will require further investigation and enforcement follow up. There is a need to ensure that the response is appropriate compared to the scale of effects and is consistent with enforcement decision making across the Rural Compliance Team.

The full range of enforcement tools are available, consistent with the WRC Enforcement Policy:

- no further enforcement action
- education
- formal warning
- infringement notice.
- abatement notice.
- prosecution.
- enforcement order.

CME best practice recognises a range of measures in which to encourage high levels of compliance, and Figure 2 illustrates a progressive response dependent upon the level of culpability.

Figure 1: Compliance and enforcement portions

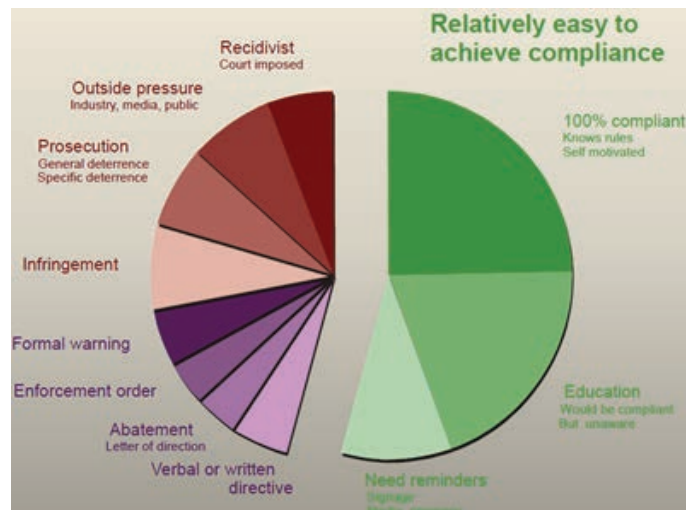
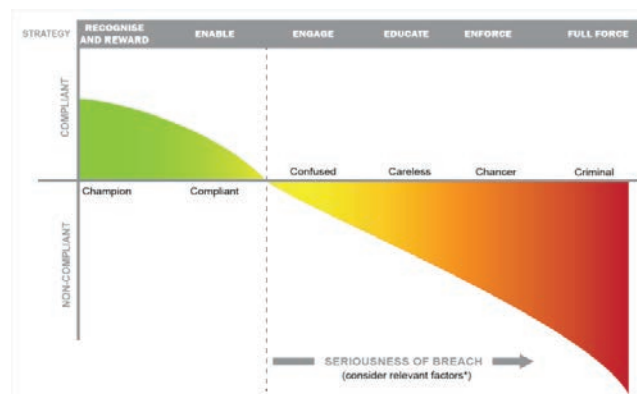


Figure 2: Strategic compliance with the RMA



5.7 Cost recovery

In accordance with s44A (7)-(8) of the RMA and NES-CF Part 3 – Regulation 106, the local authority may charge for monitoring the following permitted activities.

- a. Afforestation
- b. Earthworks
- c. River crossing
- d. Forestry quarrying
- e. Harvesting

5.7.1 Waikato Regional Council charging policy

S36(1)(c) of the RMA provides for charging of the s35 function of monitoring as outlined within the Waikato Regional Council Long Term Plan.

Monitoring of Permitted Activities under the NES-CF pursuant to Part 3, Regulation 106 will be charged on an actual and reasonable cost basis.

The following formula applies to charging for NES-CF compliance monitoring services:

Charge = (staff/contractor time x charge rate)

Due to the size of the Waikato region and WRC being based in Hamilton city, travel costs are typically capped to ensure forestry operators are not overwhelmed with compliance expenses. The exception to this will be if multiple non-compliance issues are observed, requiring multiple site visits. In this scenario, full costs will be recovered, the purpose being to encourage compliant practices when undertaking harvest operations.

Holders of NES-CF notifications or their agents will pay for costs incurred on an ongoing basis as they occur, unless otherwise agreed by WRC.

The result of the triage process for NES notifications has resulted in an increase in site inspections and face to face interactions, with attendant costs being generated and charged according to the user pays principle. The increase in direct charges being experienced by Industry is not only a factor of the contractor model but also a direct result of a more focussed cost recovery policy compared to work practices in the past by WRC staff.

5.8 Education and engagement

Appendix 2 lists several documents from within the industry and from local and central government. These provide guidance on operational practices, the implementation of control measures that minimise the disturbance caused by forestry operations, and achieve the objectives of NES-CF regulations.

Highlighted by these documents are several methodologies that are available and may be suitable given the variability within the forestry sector. As a compliance section, we consider that all methods and techniques described have a place dependent upon the site specifics of the activity.

5.8.1 Internal training

Given the nuanced nature of the forestry industry, it is necessary for compliance officers to have a firm understanding of what constitutes good or bad practice. Opportunities will be explored and resources allocated to enable compliance officers to succeed, including the provision of industry-based training, mentored ground inspections, and interaction with other industry professionals.

5.8.2 Industry engagement

As part of an ongoing *Forestry Compliance Strategy*, opportunities will be pursued to enable further industry engagement, aiming to improve the understanding of council expectations, and reciprocally to provide an avenue for industry professionals to express the challenges they face. Formally, this will be centred around attendance at events such as the Environmental Forestry Conference, and, informally, bespoke feedback is welcomed from industry professionals.

5.8.3 Cross-regional engagement

A cross-regional forum has also been rekindled between councils which aims to compare forestry compliance experiences. The ultimate aim being to improve CME consistency across the regions in which foresters operate in.

6. Conclusion

Forestry related CME has been adopted by the Rural Compliance Team within WRC. The team carry out regulatory functions under the NES-CF and, as part of this, aim to apply a consistent, transparent, cost-effective and proportional approach in managing the responsibility.

Forestry activities are risk profiled and prioritised which informs the monitoring that the team undertakes. Outputs from monitoring include inspection notices, follow-up visits and, if required, enforcement may be delivered. The purpose of this approach is to achieve positive environmental outcomes and to ensure best practice methods are being utilised.

The monitoring strategy uses regulatory tools to target poor performers and activities that pose the greatest risk to the environment. The Forestry Compliance Strategy will consider all alleged non-compliances to determine the necessary interventions and actions, to minimise impacts on the environment and community, and to maximise deterrence.

As part of its ongoing responsibilities, the team will develop relationships with both industry and government stakeholders to ensure consistent interpretation and action is applied. Ideally, in partnership with the industry, WRC will also aim to promote best practice in the forestry sector and reward those striving to ensure plantation forestry activities are undertaken in a sustainable manner.



Appendices

WAIKATO REGIONAL COUNCIL NATIONAL ENVIRONMENTAL STANDARDS-FORESTRY INSPECTION NOTICE



Important Note

Overall site grade is determined through site ratings and general observations made by the RCO/contractor.

OVERALL SITE GRADE:
1

This Notice is provided as recommendations as to the standard of controls and practices observed onsite and forms part of a compliance assessment that may be used by Waikato Regional Council in assessing site compliance. However, any potential enforcement actions will be considered in conjunction with other relevant information.

1	Full compliance – best practice – no further action required; meets all relevant consent conditions, plan rules, and national standard regulations.
2	Low risk non-compliance – minor technical issue with control devices, where the purpose of the consent conditions, plan rules/ESCP guidelines/national standard regulations have been met.
3	Moderate non-compliance – controls absent, or construction of device is so poor that it leads to/is likely to lead to failure as an efficient erosion/sediment control method, where the purpose of the consent conditions, plan rules/ESCP guidelines/national standard regulations have not been met and there is a moderate risk of adverse environmental effects.
4	Significant non-compliance – controls absent, or construction of device is so poor that it leads to/is likely to lead to failure as an efficient erosion/sediment control method, where the purpose of the consent conditions, plan rules/ESCP guidelines/national standard regulations have not been met and there is a high risk of adverse environmental effect.

SF = silt fence; DEB = decanting earth bund; TB = topsoil bund; CD = contour drain; CP = catch pit; SB = slash bund; EB = earth bund/knock-out pit; S = seed stabilisation; SS = slash stabilisation; HM = hay/mulch stabilisation; HS = hydroseed; R = roughening; WCO = water cut-outs; HH= humps and hollows; WT = water table; AWT = armored water table.

Contact details

Site name:			
File No:			
AUTH ID(s):			
Date:		Time:	Weather:
RCO/WRC			
Harvest manager:			
Person(s)			
Emailed to:			

Comments:

Operation:	Control:	Rating:	Comments:	Action Date:
Roading/tracks				
Skid sites				
Machine tracking				
Stream crossings				
Slash management				

Monitored by:	
Warrant of Authority shown to:	
Notice of Inspection located:	N/A

Supporting documents

The following documents are referenced by the council and stakeholders as having relevance to forestry activity best practice and, by implication, give effect to compliance with both resource consent conditions and NES regulations.

- Forestry Earthworks & Harvesting Guidelines for Northland (March 2012)
- New Zealand Environmental Code of Practice for Plantation Forestry (Revised 2015)
- New Zealand Forest Road Engineering Manual - Operators Guide (Updated February 2020)
- Farm Owners Forest Practice guides – Version 2 (January 2020)
- Forestry Earthworks Construction Guide for Operators
- Bay of Plenty Regional Council Guideline (2012/04) Erosion and sediment control for forestry operations guidelines.
- Environment Waikato Technical Report No.2009/02 Erosion & Sediment Control -Guidelines for Soil Disturbing Activities (January 2009) and updated factsheets.
- Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 User Guide – May 2018. Ministry for Primary Industries.
- Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 Consenting and Compliance Guide - May 2018. Ministry for Primary Industries.
- Resource Management (National Environmental Standards for Commercial Forestry 2017)



He taiao mauriora ▲ **Healthy environment**

He hapori hihiri ▲ **Vibrant communities**

He ōhanga pakari ▲ **Strong economy**

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