

NES-CF

Landowner Guidance

You have a forest on your land and are entering into an agreement for another person or company to harvest the trees.

When considering which company to go with, as well as considering the commercial elements of your agreement, you should also consider the environmental outcomes and potential liabilities that you will inherit during the works and when the harvesting is complete.

Overview of the NES-CF

The Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (NES-CF) sets out a national framework for managing the environmental effects of commercial forestry. They apply to forests larger than one hectare that are planted for harvest and cover activities such as harvesting, earthworks, replanting, afforestation, river crossings, and slash traps. The NES-CF does not apply to non-commercial tree activities such as orchards, shelter belts, or nurseries. Many forestry activities are permitted under the NES-CF, provided all applicable

standards are met. Where those standards cannot be met, a resource consent is required. For example, harvesting in areas classified as "red" under the Erosion Susceptibility Classification (ESC) system requires a Slash Mobilisation Risk Assessment (SMRA), which may result in a resource consent being required.

Resource consents and conditions

Resource consents are required where permitted activity standards cannot be met and provide a formal approval framework for forestry activities. These consents typically include detailed conditions designed to avoid, remedy, or mitigate adverse environmental effects. Conditions may address a range of matters such as erosion control, sediment management, slash management, and the protection of water bodies.

Examples of consent conditions include requirements to remove slash from high-risk areas and store it on stable ground, and implement stormwater controls to reduce the risk of sediment discharge. Consents may also require ongoing inspection, maintenance, and reporting, particularly for features such as slash traps, river crossings, and earthworks. In some cases, conditions extend beyond the harvesting phase and require continued management of the site

to ensure long-term environmental stability.

Land use consents for forestry activities generally attach to the land, meaning they remain in place if ownership changes. However, other types of consents, such as discharge permits or consents relating to riverbeds, may need to be formally transferred. Consent holders are responsible for ensuring that all conditions are complied with at all times. While consents can be surrendered with Council approval, this does not remove responsibility for any previous breaches or outstanding requirements, including rehabilitation works or ongoing obligations tied to the site.

Who holds and manages resource consents

Resource consents can be held by landowners, contractors, or forest managers. If the landowner holds the consent, contractors must operate under it with permission and comply with all conditions.

Obligations and compliance

Compliance with permitted activity standards and resource consent conditions is a fundamental requirement under the NES-CF and Resource Management Act 1991 (RMA) framework. Consent holders must not only understand the specific conditions of their consent,



but also actively implement and maintain measures to ensure those conditions are met throughout the duration of the activity and, where required, beyond it.

This includes ensuring that erosion and sediment controls are in place and functioning, that slash is managed appropriately, and that works are carried out in accordance with industry best practice. Regular monitoring, maintenance, and timely responses to issues such as storm damage or instability are critical to maintaining compliance.

When engaging contractors, landowners and consent holders must clearly define roles and responsibilities to ensure that all parties understand who is responsible for meeting specific consent conditions. However, delegating work does not transfer legal responsibility. Consent holders remain ultimately accountable for compliance and are expected to take all reasonable steps to prevent breaches, including supervising works, addressing risks early, and ensuring corrective actions are undertaken where necessary.

Liability under the Resource Management Act 1991

Under the RMA, it is an offence to carry out activities that breach

regulations, plans, or consent conditions, including discharging contaminants such as sediment or slash into waterways. Landowners may be held liable for the actions of contractors or employees if they permit or fail to prevent an offence.

Liability could arise if a landowner knew, or should have known, that non-compliance was occurring and did not take reasonable steps to address it. Landowners are expected to do everything reasonably possible to ensure forestry operations comply with legal requirements and industry best practice.

Window of Vulnerability (WOV) inspections

Council may undertake monitoring during the “Window of Vulnerability,” which is the period following harvesting when land is at increased risk of landslides, erosion, and debris flows until the replanted forest establishes sufficient root strength and canopy cover. This period typically lasts around six years but can vary depending on planting density, timing of replanting, and site-specific factors such as slope, geology, and terrain.

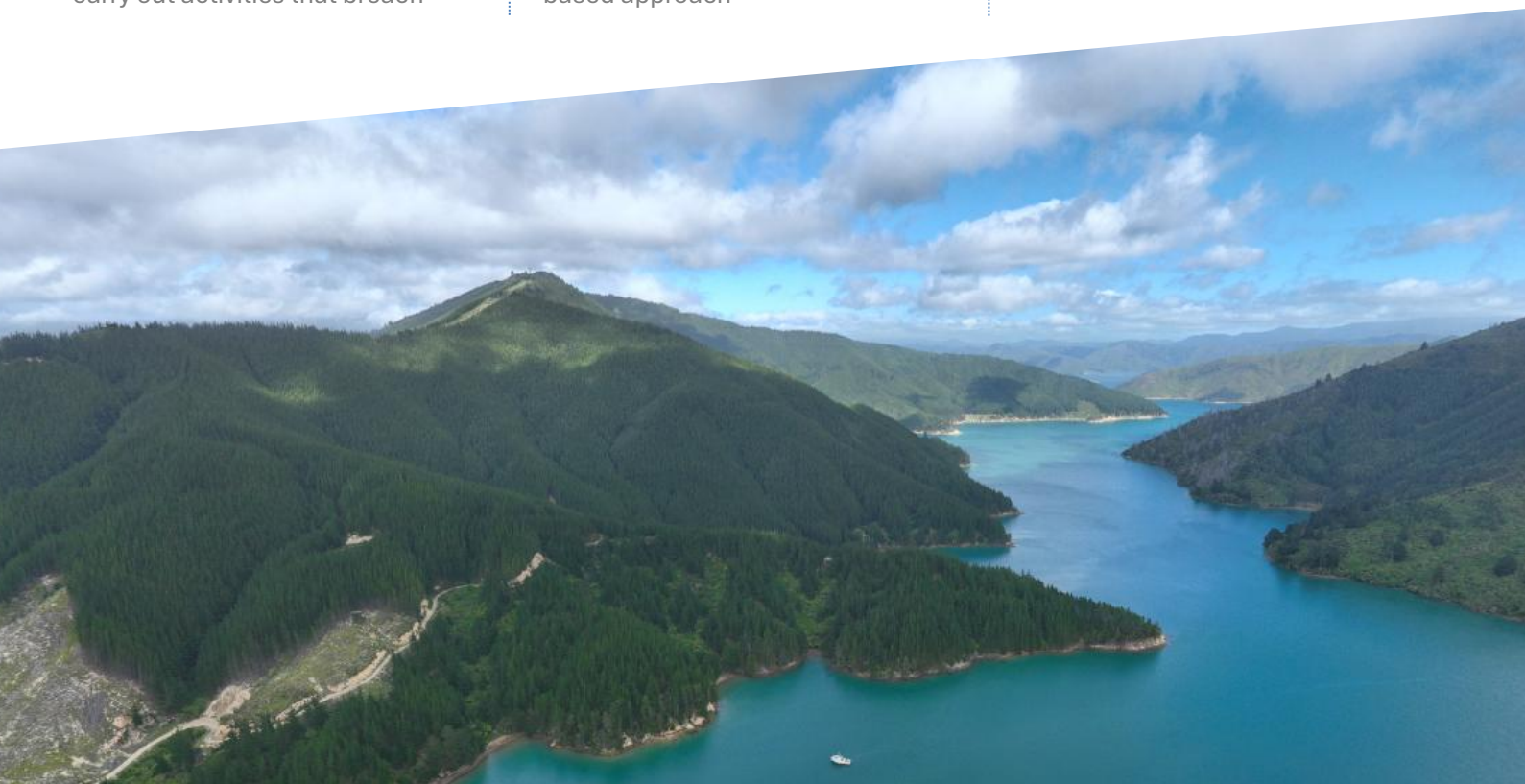
These inspections follow a risk-based approach

and are carried out to assess erosion and sediment risks, monitor compliance with NES-CF or resource consent conditions, and provide a record of site conditions following post-harvest remediation. Inspections also help identify whether further mitigation measures are required to reduce environmental risk.

Council Inspections and Monitoring

Council undertakes a range of inspections, including post-harvest and window of vulnerability monitoring, to assess environmental risks and compliance with regulatory requirements. These inspections are typically carried out by a Council Environmental Protection Officer or an authorised contractor, who will contact the landowner or manager to arrange site access and ensure all relevant health and safety procedures are followed.

Costs associated with monitoring may be charged to the landowner or consent holder in accordance with the RMA and Council’s schedule of fees, including for certain permitted activities under the NES-CF.



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Prior to work starting

Rather than waiting until things go wrong, it is much better to make your own enquiries before work starts on your property. You should ask the forest contractor the following questions:

- What works will be undertaken, where and when? Ask to see the harvest and earthworks plans and make sure they match your understanding of your land, for example, that proposed roads avoid unstable slopes.
- Are resource consents required for the works, or will they be done under the permitted activity Regulations?
- Have any necessary resource consent or a certificate of compliance been applied for/or obtained?
- What do the conditions of any resource consent or Regulations require?
- Does the resource consent cover all, or just part, of the work that is to be carried out?
- Has the company operated in Marlborough before? Do they have any local references that you can contact to discuss their previous performance?
- Does the company have documented environmental and/or engineering standards? How do they ensure that works are undertaken to meet these standards? For example, do they monitor and audit the quality of work and how 'hands on' are they in overseeing the works?
- What happens when harvesting is completed? How will landings, roads, tracks and slash piles be left?
- What ongoing maintenance do the roads and river crossings require? Who will be responsible for this?
- How long will the slash trap be in place? How often does it need to be checked and cleared? What equipment is needed for this?
- What are your expectations for slash removal?
- What will happen after harvest, will the land be replanted? Have the consents been obtained for replanting if they are required (e.g. in "Red" ESC areas)? What are the implications of not replanting the land?

Where possible you should have responses to these questions documented in writing. The contract that you have with the contractor should also clearly set out responsibilities and expectations of each party.

If you do not take a proactive approach to resource management matters before work commences, and something goes wrong, you could end up sharing or solely legally liable.

The best price contract may not incorporate work that meets industry best practices and suitable environmental considerations and may leave you responsible for costly ongoing remediation.

Post-Harvest

Council recommends that you undertake a detailed post-harvest inspection with the contractor or forest manager to ensure that things have been left in a good state, and as you expect. A post-harvest checklist should be produced and signed off by both parties. Remember, the easiest time to rectify issues is when contractors are still on the property and equipment and machinery is available to do the work.

If you are unhappy with what you see you should refuse to sign off on the works and agree with the contractor on what needs to be rectified. If this fails, you should seek legal advice, or if you suspect that the contractor has not complied with a condition of consent or a regulation, or you become aware of environmental issues, you should contact the Council to discuss the situation.

It is important to identify any ongoing maintenance required, and responsibilities for completing maintenance works.



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