

# Memo

4 May 2018

**To:** Peter Vari, Acting Manager, Planning – North, West and Islands

**From:** Alison Pye, Principal Planner, Planning – North, West and Islands

**Subject:** **Plan Update to the Hauraki Gulf Islands section of the Auckland Council District Plan (HGI Plan) responding to the National Environmental Standard for Plantation Forestry (NESPF)**

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## National Environmental Standard for Plantation Forestry

### 1 - Overview for plan alignment

This memo presents plan-wide interpretation / planner reviews and recommendations for the alignment of the Auckland District Plan – Hauraki and Gulf Islands Section – Operative 2013 (HGI Plan) with the NESPF.

The NESPF requires an update to the HGI Plan to be undertaken without a notification or submission process, as is normally required by the RMA. Only changes that are required or a direct consequence of the NESPF will be made to the HGI Plan.

A separate memo has been prepared for alignment of the Auckland Unitary Plan with the NESPF.

Link to NESPF regulations:

<http://www.legislation.govt.nz/regulation/public/2017/0174/latest/whole.html>

### What is included in the NESPF?

The NESPF regulates 'plantation forestry' activities, which it defines as:

*plantation forest or plantation forestry means a forest deliberately established for commercial purposes, being—*

- (a) *at least 1 ha of continuous forest cover of forest species that has been planted and has or will be harvested or replanted; and*
- (b) *includes all associated forestry infrastructure; but*
- (c) *does not include—*
  - (i) *a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or*
  - (ii) *forest species in urban areas; or*
  - (iii) *nurseries and seed orchards; or*
  - (iv) *trees grown for fruit or nuts; or*

- (v) *long-term ecological restoration planting of forest species; or*
- (vi) *willows and poplars space planted for soil conservation purposes*

Forestry in ‘urban areas’ is excluded from the definition of ‘plantation forestry’. For the sake of clarity, the **NESPF is considered to apply** in the following zones:

#### HGI Plan

- Landform 1 (coastal cliffs)
- Landform 2 (sand flats)
- Landform 3 (alluvial flats)
- Landform 4 (wetlands)
- Landform 5 (productive land)
- Landform 6 (regenerating slopes)
- Landform 7 (forest and bush)
- Rural 1 (landscape amenity)
- Rural 2 (western landscape)
- Rural 3 (rakino amenity)

Note: Pakatoa and Rotoroa islands were considered for inclusion within the coverage of the NESPF but were ruled out on the basis that they were consistent with the NESPF definition of ‘urban area’ which includes “land that is primarily zoned for residential and commercial activities with adjoining special purpose and open space zones”.

Forestry smaller than 1ha, or forestry that is not in the zones described, is **not regulated by the NESPF**.

There are eight main **activities regulated by the NESPF**, and eight ancillary or general activities which are also regulated where they relate to the operation of a plantation forest. These are:

Plantation forestry activities	Ancillary and general activities	Schedules
<ul style="list-style-type: none"> <li>• Afforestation</li> <li>• Pruning and thinning to waste</li> <li>• Harvesting</li> <li>• Replanting</li> <li>• River crossings</li> <li>• Earthworks</li> <li>• Forestry quarrying</li> <li>• Mechanical land preparation</li> </ul>	<ul style="list-style-type: none"> <li>• Slash traps</li> <li>• Discharges, disturbances, and diversions</li> <li>• Fuel storage and refuelling</li> <li>• Indigenous vegetation clearance</li> <li>• Non-indigenous clearance</li> <li>• Indigenous bird nesting</li> <li>• Noise and vibration</li> <li>• Dust</li> </ul>	<ul style="list-style-type: none"> <li>• Forestry earthworks management plan specifications</li> <li>• Harvesting management plan specifications</li> <li>• Quarry erosion and sediment management plan specifications</li> </ul>

## NESPF equivalents with the HGI Plan

Forestry activities regulated by the NESPF don't match exactly forestry activities managed in the HGI Plan. You can find the approximate HGI Plan equivalent provisions for each of the NESPF activities in the table below. Note that some defined terms also differ between the HGI Plan and the NESPF. Refer to the respective definitions in the NESPF and the HGI Plan as relevant.

NESPF	Hauraki and Gulf Islands Section – Operative 2013	
Forestry activity / regulation	Forestry activity	Chapter / part of the plan
<ul style="list-style-type: none"> <li>• Subpart 1 - Afforestation</li> <li>• Subpart 2 - Pruning and thinning to waste</li> <li>• Subpart 6 - Harvesting</li> <li>• Subpart 8 - Replanting</li> </ul>	<ul style="list-style-type: none"> <li>• Forestry</li> <li>• Rural property management plan</li> </ul>	<ul style="list-style-type: none"> <li>• Chapter 7 – Heritage</li> <li>• Chapter 10c – Development controls for all Land units</li> <li>• Chapter 11 – Assessment matters Forestry as a discretionary activity (management plan)</li> </ul>
<ul style="list-style-type: none"> <li>• Subpart 3 - Earthworks</li> <li>• Subpart 7 - Mechanical land preparation</li> </ul>	<ul style="list-style-type: none"> <li>• Development controls:               <ul style="list-style-type: none"> <li>- Earthworks</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Chapter 10c – Development controls for all Land units - Controls for conservation and amenity Earthworks</li> </ul>
<ul style="list-style-type: none"> <li>• Subpart 4 - River crossings</li> <li>• Slash traps</li> <li>• Regulation 97 - Discharges, disturbances, and diversions</li> <li>• Regulation 104,105 - Fuel storage and refuelling</li> </ul>	N/A N/A N/A <ul style="list-style-type: none"> <li>• Hazardous facilities and Contaminated Land</li> </ul>	Chapter 9 – Hazardous facilities and Contaminated Land
<ul style="list-style-type: none"> <li>• Regulation 98,99 - Noise and vibration</li> </ul>	<ul style="list-style-type: none"> <li>• Development controls:               <ul style="list-style-type: none"> <li>- Noise</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Chapter 10c – Development controls for all land units Controls for conservation and amenity Noise</li> </ul>
<ul style="list-style-type: none"> <li>• Subpart 5 - Forestry quarrying</li> </ul>	N/A	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
<ul style="list-style-type: none"> <li>• Regulations 83-92 - Slash traps</li> </ul>	<ul style="list-style-type: none"> <li>• Forestry</li> </ul>	<ul style="list-style-type: none"> <li>• Chapter 11 – Assessment matters: Forestry as a discretionary activity (management plan)</li> </ul>
<ul style="list-style-type: none"> <li>• Regulation 93,94 - Indigenous vegetation clearance</li> <li>• Regulation 95 - Non-indigenous clearance</li> </ul>	<ul style="list-style-type: none"> <li>• Heritage               <ul style="list-style-type: none"> <li>- SEA</li> </ul> </li> <li>• Development controls:               <ul style="list-style-type: none"> <li>- Vegetation protection</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Chapter 7 Heritage               <ul style="list-style-type: none"> <li>- SEA</li> </ul> </li> <li>• Chapter 10c – Development controls for all land units: Vegetation protection</li> </ul>

<ul style="list-style-type: none"> <li>Regulation 102,103 - Indigenous bird nesting</li> </ul>		<ul style="list-style-type: none"> <li>Chapter 11 Assessment matters: Forestry as a discretionary activity (threatened and unusual plant and animal species)</li> </ul>
<ul style="list-style-type: none"> <li>Regulation 100,101 - Dust</li> </ul>	N/A	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<ul style="list-style-type: none"> <li>Schedule 3 - Forestry earthworks management plan and harvest plan specifications</li> <li>Schedule 4 - Quarry erosion and sediment management plan specifications</li> </ul>	<ul style="list-style-type: none"> <li>Forestry</li> </ul> N/A	<ul style="list-style-type: none"> <li>Chapter 11 – Assessment matters: Forestry as a discretionary activity (management plan)</li> </ul>

### Plan may be more stringent than the NESPF

Regulation 6 of the NESPF allows rules and standards in a plan to be **more stringent than NESPF** regulations where forestry activity is located within Visual Amenity Landscapes (as defined by the NESPF), Significant Ecological Sites (HGI Plan) or in the overlays of the Unitary Plan for SEA, ONL, ONC, HNC, Water Supply Management Areas, Coastal environment for activities that generate sediment.

Within these areas, where there is conflict between the rules in the plan and the NESPF regulations, the more stringent provision applies. Outside of these areas, forestry activity that is regulated by the NESPF applies, to the exclusion of the relevant plan rules.

For the alignment of the Auckland Unitary Plan, and Hauraki Gulf Islands Plan the Council will retain provisions which are more stringent than the NESPF when forestry activities will take place within:

- Visual amenity landscapes (as defined in NESPF)
- areas identified in the Unitary Plan as ONL, HNC and ONC
- Ecologically significant sites
- Landform 1 (coastal cliffs) \*\*High natural character, visual prominent, coastal values
- Landform 2 (sand flats) \*\*High natural character, ecological and visual amenity values, coastal location
- Landform 3 (alluvial flats) \*\* note visual amenity
- Landform 4 (wetlands)\*\*Important natural environment, incl. largely unmodified wetland High natural character, ecological and hydrological value systems
- Landform 5 (productive land)\*\* note visual amenity
- Landform 6 (regenerating slopes)\*\* note also visual amenity. High natural character, ecological and visual amenity – incl. visual prominence in coastal locations
- Landform 7 (forest and bush) \*\* note also visual amenity \*\*High conservation and ecological value, high natural character and visual amenity – significant contribution
- Rural 1 (landscape amenity)
- Rural 2 (western landscape) high natural character, coastal environment \*\*note also visual amenity
- Rural 3 (Rakino amenity) coastal environment \*\* note also visual amenity

All of the land units have visual amenity values consistent with the NESPF definition of 'visual amenity landscape'.

All of the land units coincide (to varying degrees) with areas identified in the HGI Plan as Significant Ecological sites and to areas identified in the Unitary Plan as ONL, HNC and ONC.

### **Effects and activities not regulated by the NESPF**

The explanatory text of the NESPF clarifies that plans may continue to manage the effects of activities which are not addressed within the NESPF. As the NESPF does not include objectives and policies, assumptions have been made about what effects of plantation forestry activities are *not* managed by the regulations.

**Examples of where the NESPF is not considered to manage effects of forestry, or forestry-related activities which are addressed within the HGI Plan:**

#### **Effects not managed under NESPF**

- Archaeological sites,
- Geological items
- Scheduled site surrounds,
- Buildings, objects, properties and places of special value
- Conservation areas
- Maori heritage
- Scheduled trees
- Volcanic viewshafts

### **Approach to mark-up:**

Amendment of the relevant rules of the HGI Plan to give effect to the NESPF can be achieved with guidance notes. This is the simplest way to amend the existing provisions and assist plan users to determine whether district plan provisions prevail and/or NESPF provisions prevail.

Guidance notes/ statements are recommended to the following chapters of the HGI Plan:

- Chapter 10a Land Units - Introductions (**(Landform 1-7 and Rural 1-3)**)  
Regulation 13 of the NESPF states that '*Afforestation must not occur within a visual amenity landscape if rules in the relevant plan restrict plantation forestry activities in the area*'.  
The introductions to each of Landform 1-7 and Rural 1-3 include a description of their character, landscape and amenity values. An analysis of the descriptions identifies that all the areas are consistent with the NESPF definition of 'visual amenity landscape'.

A statement at the end of each land unit's introduction, identifying that the land unit is a visual amenity landscape in terms of the NESPF is recommended.

- Chapter 10a Land units - activity tables; (Land units 1-7 and Rural 1-3 only)  
The activity tables specify the activity status for 'Forestry' and for 'Rural Property Management Plans' (which can include forestry as a component) as follows:
  - Rural Property Management Plans is a Discretionary Activity (**Landform 1-7 and Rural 1-3**)
  - Forestry is a Discretionary Activity (Landforms 3 and 5)
  - Forestry is a Non-complying activity (default activity status) (**Landform 1, 2, 4, 6, 7 and Rural 1-3**)

Guidance notes beneath the activity table of each land unit are recommended, providing a directive that the activity status specified in the activity tables must be checked against the NESPF to confirm; and to provide guidance where the provisions are in conflict with the NESPF (i.e. which rules take precedence).

- Chapter 10c – Development controls for land units and settlement areas  
All activities – whatever their activity status, are required to meet development controls set out in chapter 10c. The following development controls address matters covered in the NESPF regulations and are more restrictive than some of the regulations
  - 10c.5.1 Vegetation Protection
  - 10c.5.3 Noise
  - 10c.5.5 Earthworks
  - 10c.5.6 Coastal, wetland and waterbody protection

Guidance notes for each of the above are recommended, providing a directive that the activity status specified in the control must be checked against the NESPF to confirm the actual status; and to provide guidance where the provisions are in conflict with the NESPF (i.e. which rules take precedence).

- Chapter 7 Heritage.  
Except for 'Ecologically Significant Sites', the content of Chapter 7 Heritage applies to matters that are outside the scope of the NESPF regulations (e.g. archaeological sites).

Two guidance statements are recommended:

- A guidance statement to the introduction section of the chapter to clarify the issues of scope,
- A guidance statement to rule 7.11 Ecologically Significant Sites to guide interpretation of activity status where the provisions are in conflict with the NESPF (i.e. that the more stringent rule prevails).

- Chapter 9 Hazardous facilities and contaminated land  
The chapter contains provisions for fuel storage and refuelling activities which are in parts more restrictive than the NESPF regulations.

A guidance note is recommended at 9.1 Introduction providing a directive that the activity status specified in the control must be checked against the NESPF to confirm; and to provide guidance where the provisions are in conflict with the NESPF (i.e. which rules take precedence).

## Recommended mark-up

### - Ch 10a - Introduction

1. Add the following as a 'last paragraph' to the introduction statement of each land unit **Landform 1-7 and Rural 1-3 (section 10a.2 to 8, and 10a19 to 21)**

For the purposes of implementation of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NESPF), Land unit – [name of land unit] is a visual amenity landscape[HYPERLINK] as defined by the NESPF.

### Ch 10a Activity Tables

2. Add the following note under each activity table **Landform 1-7 and Rural 1-3** in relation to 'Forestry' and 'Rural Property Management Plan'.

Note: Forestry activity in this land-unit is affected by the National Environmental Standard for Plantation Forestry (NSPF) [HYPERLINK]. The NESPF must be referred to to determine the exact activity status of forestry in this land unit. Particular regard should be given to whether the forestry activity is proposed to occur in the following areas:

- Visual Amenity Landscape (NESPF) (see section XX Introduction)
- Significant Ecological Site (HGI Plan)
- Outstanding Natural Features Overlay (AUP);
- Outstanding Natural Landscapes Overlay (AUP);
- Outstanding Natural Character Overlay (AUP);
- High Natural Character Overlay (AUP);
- Water supply Management Area Overlay (AUP);
- Coastal environment for activities that generate sediment (AUP);

In the above listed areas, where there is conflict between the rules in this plan and the NESPF, the more stringent provision applies. Outside of these areas, the NESPF will apply, to the exclusion of the relevant plan rules.

3. Add a corresponding reference number for the above 'note' against the activity table listings for 'Forestry' and 'Rural Property Management Plan'

## Ch10c Development controls

4. Add a note to chapter 10c.1 *Introduction*,

**Note 2:** The rules for vegetation protection, noise, earthworks and coastal, wetland and waterbody protection are affected by the Resource Management (National Environmental Standard for Plantation Forestry) Regulations 2017 (NESPF) as follows:

Where there is conflict between the rules in this plan and the NESPF regulations in relation to any of the areas listed below, the more stringent provision applies.

- Significant Ecological Site (HGI Plan)
- Outstanding Natural Features Overlay (AUP);
- Outstanding Natural Landscapes Overlay (AUP);
- Outstanding Natural Character Overlay(AUP);
- High Natural Character Overlay(AUP);
- Water supply Management Area Overlay(AUP);
- Coastal environment for activities that generate sediment (AUP);

Outside of these areas, the NESPF will apply, to the exclusion of the relevant district plan rules.

5. Add a note to Rule 10c.5.1 Vegetation Protection:

**Note 2:** The vegetation protection rules are affected by the Resource Management (National Environmental Standard for Plantation Forestry) Regulations 2017 (NESPF). Refer to section 10c.1 Introduction for guidance in relation to activities that are in scope of the NESPF.

6. Add a note to Rule 10c.5.3 Noise:

3. The noise rules are affected by the Resource Management (National Environmental Standard for Plantation Forestry) Regulations 2017 (NESPF). Refer to section 10c.1 Introduction for guidance in relation to activities that are in scope of the NESPF.

7. Add a note to Rule 10c.5.5 Earthworks:

**Note 2:** The earthworks rules are affected by the Resource Management (National Environmental Standard for Plantation Forestry) Regulations 2017 (NESPF). Refer to section 10c.1 Introduction for guidance in relation to activities that are in scope of the NESPF.

8. Add a note to Rule 10c.5.6 Coastal, wetland and water body protection yards:



Note: The coastal, wetland and waterbody protection yards rules are affected by the Resource Management (National Environmental Standard for Plantation Forestry) Regulations 2017 (NESPF). Refer to section 10c.1 Introduction for guidance in relation to activities that are in scope of the NESPF.

## Chapter 7 Heritage

### 9. Add a note to chapter 7.1 Introduction

Note: With the exception of Significant Ecological Sites, the heritage resource provisions contained in Part 7 Heritage are not affected by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NESPF). The provisions set out in section 7.11 Significant Ecological Sites are in scope of NESPF. They are affected by the NESPF as follows: The NESPF allows the plan to include more restrictive provisions when an activity is located within an ecologically significant site. Where there is conflict between the rules in the plan and the NESPF in relation to a Significant Ecological Site the more stringent provision applies.

### 10. Add a note at the end of Rule 7.11 Ecologically significant sites

Note: The Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NESPF) allows the plan to include more restrictive provisions when an activity is located within an ecologically significant site. Where there is conflict between the rules in the plan and the NESPF regulations in relation to a Significant Ecological Site, the more stringent provision applies.

## Chapter 9 Hazardous facilities and contaminated land

### 11. Add a bullet point at the end of 9.1 Introduction

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*In addition to the provisions of this plan... the following must also be adhered to*

- *The relevant provisions of the Regional Plan and Regional Policy Statement ...*
- *Regulations for hazardous substances under the Hazardous Substances and New Organisms Act ...*
- The Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NESPF) In particular, the NESPF allows rules in the plan to include more restrictive provisions when an activity is located within the following areas:
  - Significant Ecological Site (HGI Plan)
  - Outstanding Natural Features Overlay (AUP);
  - Outstanding Natural Landscapes Overlay (AUP);

- Outstanding Natural Character Overlay (AUP);
- High Natural Character Overlay (AUP);
- Water supply Management Area Overlay (AUP);
- Coastal environment for activities that generate sediment (AUP);

Where there is conflict between the rules in the plan and the NESPF regulations in relation to any of the above, the more stringent provision applies.

Outside of these areas, forestry that is regulated by NESPF will apply, to the exclusion of the relevant plan rules.