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WPMA's Submission on the Forests (Legal Harvest Assurance) Amendment Bill

The Wood Processors & Manufacturers Association of New Zealand (WPMA) would like to provide the following comments on the Forests (Legal Harvest Assurance) Amendment Bill (the Bill).

WPMA would appreciate the opportunity of an invitation to appear in person in support of this submission.

WPMA represents the perspectives and interests of its members, including sawmill operators, timber manufacturers, pulp and paper producers, and suppliers to the industry. Our members are companies that have made major investments in adding value to New Zealand's annual forest harvest, which contributes to a bio-circular economy and provides economic growth and employment opportunities across regional and metropolitan areas throughout New Zealand.

Domestically processed and manufactured wood products make a significant contribution to the New Zealand economy, with exports expected to increase by 12% to \$2.85 billion in the year to 30 June 2022.¹ The wider wood processing sector is a large employer of workers across New Zealand, with 30,645 workers employed, mostly in the regions with mature producing forests and consistent log supply.²

WPMA's members are directly affected by the Bill in being required to register for legal harvest, from foresters to primary processors of logs and/or exporters of timber products.

WPMA agrees with the purpose of the Bill, to strengthen the international reputation of the New Zealand forestry and wood processing sector and in safeguarding and enhancing market access for our forestry exports.

The mechanisms needed to deliver on the legislative requirements contained within the Bill are to be covered in the yet to be completed regulations. Our support for the Bill is conditional on the assumption that it:

- meets the expectations of the full range of importing countries' border entry requirements that maintain and improve New Zealand's export opportunities of wood products, and
- minimises the direct cost of compliance to the sector in recognition of the important contribution a wood processing and manufacturer sector makes to New Zealand's aspiration of a circular net-zero emission economy by 2050.

WPMA's submission identifies areas and makes recommendations on how the Bill could be enhanced from the perspective of the wood processor and manufacturer sector.

¹ MPI's Situation and Outlook for Primary Industries June 2022 ([link](#))

² Forestry and Wood Processing Workforce Action Plan 2020–2024 ([link](#))

Section 80 Legal harvest information requirements

Under section 80(b) it appears that the person registered to provide assurance of legal harvest must provide legal harvest information to the recipient before or when the timber or timber product is supplied to their customers (the recipient). It would appear that this section would require a registered person to provide legal harvest information each time they sell timber products to their customer regardless of the size of batch on the domestic or export market. This would appear to be excessive and administratively burdensome.

The provision of legal harvest information should be based on customer demand for this information rather than being a mandatory requirement given other legislative obligations required of persons registered for legal harvest proposed under the Bill. As an alternative, the capacity to establish cost-effective 'trusted supply chain' arrangements could be established, whereby the assumed supply of the same or similar wood product between identified parties can be taken as sourced from 'legal' harvest, subject to randomised checks to verify this type of arrangement.

WPMA recommends that section 80(b) be amended to:

*(b) the person must, **where requested**, provide the legal harvest information to the recipient before or when the timber or timber product is supplied to the recipient:*

Class of persons should be defined

Section 81(a) describes a 'class of persons', which is also referred to under sections 86(1)(a), 113(3)(b), 115(1)(b), 138(2), 140(1), 177(1)(a), 198(1), 201(1)(a) and 215(2)(b)(ii). The 'class of persons' is not defined within the Bill, making it unclear which individuals and/or groups would fall under this category. The lack of a definition limits our ability to provide meaningful comment on these sections and represents both an uncertainty and a potential cost to members.

WPMA recommends that 'class of persons' be defined in a similar manner to 'class of individuals' under section 76 – Interpretation, or alternatively where the term is first mentioned.

Section 84 Persons must be registered for legal harvest before carrying out certain activities

Under subsection 84(1)(b) a person must be registered for legal harvest where they carry out in trade first processing of regulated timber.

A number of WPMA's members manufacture pulp and paper products, MDF and particleboard from wood chips and fibre sourced as the first processor of regulated timber, but also source wood chips and fibre from other wood processors to provide sufficient supply to optimise manufacturing capacity to produce these types of products.

Requirements for wood manufacturers who use 'first processing' and 'second processing' sources of regulated timber in ensuring the integrity of the supply of legally harvested timber have not been considered within the Bill. If not included, we would expect these to be explained more clearly in the regulations.

Section 85 Registration criteria for legal harvest

Section 85(1)(a) provides that a person registered for a legal harvest must meet a 'fit and proper person' test. This is a requirement for the Secretary to be able to accept registered persons under a legal harvest register.

Where the person is an office bearer for a parent entity, it is less clear how a wood processor or manufacturer would meet the fit and proper person test. While this is covered in limited depth under section 92, a fuller explanation or definition is recommended to assist large-scale multi-site operations to better understand their obligations as a 'person' registered for legal harvest. Ideally, some capacity for the onus of responsibility to be transferred from the individual to a parent entity should be considered where the practical cost and liability of non-compliance also falls on the parent entity, which is common commercial practice.

While accepting that such transfer of responsibility must not diminish the lines of accountability in ensuring timber products are from a legally harvested supply, the Bill should provide more clarity in better informing wood processors and manufacturers (and other companies to which the Bill covers) of their ability to meet the fit and proper person test as a legal entity rather than as an individual. This could take the form of undertaking a good character assessment of the legal entity to be registered for legal harvest against a checklist of requirements set by the Secretary.

Section 88 Registered person must not receive regulated timber or specified timber products unless they also receive legal harvest information or exceptions apply

Under section 88(a) a registered person must not receive regulated timber unless they also receive the legal harvest information from the supplier of the timber products. This represents a blunt regulatory requirement which could prove excessive and unnecessary in practice, particularly if wood processors are receiving regular truckloads of logs or amalgamated wood residues from different forestry sources.

This is made more difficult where transport operators are exempted (under section 86(2)(c)) and bear no responsibility for ensuring legal harvest information is provided to the registered person. We also see risks in suppliers (particularly regular suppliers) not providing the information before logging trucks reach wood processors, and it being unreasonable to have them wait (costing time and money) while the legal harvest information is sorted out retrospectively.

WPMA recommends that the following new section be added to section 88:

(d) they received legal harvest information with the first shipment of timber or timber products in regular and ongoing supply. [or words to that effect]

Section 101 Recognised certification schemes

WPMA supports the power of the Secretary to recognise certification schemes in the operation of a due diligence system for registered persons that could be provided by the Forest Stewardship Council (FSC) or the Programme for the Endorsement of Forest Certification (PEFC). We also note that PEFC requires adherence to AS/NZS 4708 (Sustainable forestry standard) and therefore verified compliance with local laws in the chain of custody of wood products they certify.

WPMA understands that eco-certified forest products (PEFC and FSC) are accepted evidence of the legality of forest product supply chains by many of New Zealand's trading partners. We similarly understand that reference to compliance with eco-certification requirements is regularly relied on by New Zealand importers of wood products for sale on the domestic market.

WPMA reinforce that reciprocity and equivalence of regulatory obligation between New Zealand produced and imported wood products is maintained to ensure this country's wood processors and manufacturers are not disadvantaged more than is already the case through the increasing use of non-tariff barriers (e.g. refer to MFAT funded report by Sense Partners on [*Impact of global trade distortions – Effects on NZ exports of logs, timber and fibreboard*](#)).

Feedback from WPMA members that hold either FSC or PEFC certification note that it takes approximately 50% of an employee's time to complete the administrative requirements in meeting certification regardless of the size of the business. Avoiding the completion of duplicate administrative requirements in achieving the same outcome would appear to be entirely reasonable.

Section 110 – Application of export statement

Under section 110(2)(a) a person may apply to the Secretary for an exporter statement which requires them to specify the countries they intend to export relegated timber or specified timber products to. WPMA questions why a person/company needs to identify each country they intend to export to as part of the application process. This would be understandable if the Government decides to impose export bans on certain countries. Should this be required, the Secretary could issue a notification/advisory that exporter statements no longer applies to a certain country(s).

To be consistent with the intent of section 74(b) in safeguarding and enhancing market access for the wood processing and forestry sectors, exporter statements should apply to all countries the person/company exports to.

WPMA recommends the removal of subsection 110(2)(a).

Section 113 Export requirements

Export requirements need to be intentional, well-defined and specific to avoid confusion for individuals and businesses trading between nations. Providing the Secretary with the power to specify requirements that officials deem 'desirable' or popular at any one point in time over and above a minimum export requirement could impact unnecessarily on WPMA members' ability to manufacture, including for export.

The requirement that endorsement of products as 'legal' is needed for their sale makes an uncertain definition a matter of sovereign risk. Investment in domestic wood processing (whether traditional building and packaging) will be assisted by the certainty that they comply with New Zealand and international regulations, which now includes the proposed requirement that timber products are 'legally harvested'. The clearer and more straight-forward the compliance regime, the less risk of variable or unreasonable intervention up to and including non-tariff barrier action(s) put in place by another country.

We also note that there is no test on what might be considered 'desirable' in specifying additional export requirements or reference made to regulations in this regard, which reinforces WPMA's recommendation to delete 'or desirable' from subsections 113(2)(b)(i) and 113(4).

Under subsection 113(2)(b)(i) WPMA recommends this be amended to:

*necessary **or desirable** for the purpose of facilitating access to overseas markets; or*

Under subsection 113(4) WPMA recommends this be amended to:

*The Secretary may, in the notice, specify requirements that the Secretary is satisfied are necessary **or desirable** for the purpose of maintaining consistency with any standards, requirements, or recommended practices that apply or are accepted internationally.*

[Section 119 Recognition of agencies](#)

Currently, the FSC or PEFC schemes will periodically audit a company to ensure they are complying to certification standards, including an assessment and verification of forest operations as 'legal'. The inclusion of 'legality' as a certification criterion has resulted in a number of countries citing PEFC and FSC eco-labelling as a means of demonstrating compliance of forest products operating with local laws and legal practices. The use of established eco-certification labels as a means of compliance with New Zealand legal harvest laws is supported for reasons of efficiency and because the verity of such claims is potentially enforceable under the Fair Trading Act 1986 in the truthful representation of products.

It is unclear from section 119, or other aspects of the Bill, whether or not a certification scheme is able to be accepted as a 'recognised agency' to assess a company's due diligence system. This may become clearer in the drafting of regulations. Nonetheless, WPMA believes that provided employees of the certification schemes satisfy the requirements under subsection 119(3), then they should be considered for approval by the Secretary as assessors of due diligence systems, which is already a core audit function of the schemes.

[Section 132 Legal harvest register](#)

WPMA questions the purpose of persons registered for legal harvest needing to hold a history of any previous export statements proposed under section 132(3)(c)(ii) for an unspecified time.

WPMA recommends that section 132(3)(c)(ii) be deleted, or alternatively specify a reasonable timeframe to hold previous export statements, which could follow IRD's requirement for holding financial information or FSC's requirement of holding records for 5 years.

[Section 140 Secretary's power to obtain information](#)

Under section 140(d) the Secretary has broad mandatory powers to collect statistical information. We question the appropriateness of subsections 140(d)(i) and 140(d)(iii) as we do not believe it aligns with or meets the fundamental purpose of the Bill as described under section 74.

Subsection 140(d)(ii) would appear to be more aligned with the Secretary's ability to validate and provide assurance to domestic and international customers/governments of the legal harvest of regulated timber.

In view of this WPMA recommends that subsections 140(d)(i) and 140(d)(iii) be deleted.

In making such requests for statistical information, the Secretary should also consider the time and cost to persons registered for legal harvest in providing this information. The legal obligation to expand the collection of information can impose substantial costs to businesses, particularly where large wood processing and manufacturing operations source logs and wood fibre/chips from multiple parties ranging from small and large forest estates.

[Section 166 Rules setting practice standards for legal harvest](#)

It is unclear what rules the Secretary may make in setting practice standards for legal harvest. We observe that 'practice standards' for log traders has been broadly outlined into four areas under section 208(2). Unfortunately, this is absent from section 166 in the same way as section 208(2).

Given the obligations of registered persons under Part 5 to adhere to 'practice standards' for legal harvest (under sections 87(e)) and the associated due diligence system (under section 98 (3)(b)), a better understanding of what practice standards might cover is warranted.

Part 6 Log Traders

The Bill repeals provisions under the Forest (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020 (Amendment Act) relevant to log traders due to operational overlaps of the proposed legal harvest system and the regulations for log traders.

Under the existing Amendment Act wood processors and manufacturers are required to register as log traders by 6 August 2023. Under the Bill (including the proposed incorporation of log traders), our members will be required to register for legal harvest as well as log traders.

As the Bill is written it is difficult to interpret how the mechanism will operate where wood processors and manufacturers are required to register for legal harvest and register as log traders. WPMA would hope that the yet to be completed regulations will clearly and rationally outline the standards for log traders where they provide assurance that timber purchased for their parent company has been legally harvested to the extent of meeting other requirements expected of a registered person for legal harvest under the Bill.

To ensure the operational effectiveness of a legal harvest system that enables wood processors and manufacturers to meet multiple obligations, WPMA encourages the Ministry for Primary Industries to actively engage with industry in the development of regulations. This may involve an assessment of areas of duplication in meeting both log trader and legal harvest requirements, followed by an examination of mechanisms to streamline administration functions and minimise compliance costs to businesses.

For more information

Should you wish to discuss any aspect of this submission, please call me on 027 226 3331.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Macaulay', written in a cursive style.

Stephen Macaulay
CEO – Wood Processors & Manufacturers Association