

**IN THE ENVIRONMENT COURT  
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA  
KI TĀMAKI MAKĀURAU**

**Decision [2024] NZEnvC 316**

IN THE MATTER OF

an application under s 314 of the  
Resource Management Act 1991

BETWEEN

GISBORNE DISTRICT COUNCIL

(ENV-2024-AKL-131)

Applicant

AND

ARATU FORESTS LIMITED

Respondent

Court: Chief Environment Court Judge D A Kirkpatrick sitting alone  
under s 279 of the Act

Hearing: On the papers  
Last case event: 22 November 2024

Counsel: A Hopkinson and V Brewer for Gisborne District Council  
A Darroch and L Castle for Aratu Forests Limited  
A Limmer KC for Mana Taiao Tairāwhiti (s 274 party)

Date of Decision: 3 December 2024

Date of Issue: 3 December 2024

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**DECISION OF THE ENVIRONMENT COURT ON APPLICATION  
FOR ENFORCEMENT ORDERS**

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A: Under ss 314 and 279 of the Resource Management Act 1991, the Environment  
Court, by consent, makes the orders set out in Annexure 1 to this decision.

B: Under s 285 of the Act, there is no order as to costs.

Gisborne District Council v Aratu Forests Limited



## **REASONS**

### **Introduction**

[1] On 4 July 2024, Gisborne District Council sought enforcement orders against Aratu Forests Limited and others in respect of the properties known as “Te Marunga Forest”. The issues relate to the discharge of woody debris and sediment from commercial forestry activities.

### **Background as set out in the application for enforcement orders**

#### ***Te Marunga Forest***

[2] Te Marunga Forest is a 9,000 hectare plantation pine forest, approximately 12 kilometres west of Tolaga Bay, Gisborne.

[3] Aratu Forests Limited owns Te Marunga Forest and holds the relevant forestry harvesting and earthworks consents for the forest.

[4] The terrain in Te Marunga Forest is steep and prone to severe erosion. Most of Te Marunga Forest is in the red zone, being land defined in Regulation 3 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (**NES-CF**) as having an erosion susceptibility rating of “very high”. Most of Te Marunga Forest is also classified as Land Overlay 3 or 3A (i.e., the most highly erodible soils in the Gisborne region) under the Tairāwhiti Resource Management Plan.

[5] There are a number of streams that flow through Te Marunga Forest and join with larger rivers. These include streams in Te Marunga Forest that flow into the Mangatokerau River, which has its headwaters within Te Marunga Forest and flows out of the southeastern part of the forest. From the forest boundary, the Mangatokerau River flows for approximately four kilometres until it joins with Hikuwai River.

[6] Other streams flow from the eastern part of Te Marunga Forest into the Hikuwai River, including the Waitoroko Stream. The Hikuwai River flows adjacent to the eastern boundary of Te Marunga Forest before joining with the Mangatokerau

River near the southeastern corner of Te Marunga Forest. These two rivers then join the Uawa River at a point seven kilometres downstream before the Uawa River flows into the sea at Tolaga Bay. Several state highway bridges cross the Hikuwai River immediately downstream of Te Marunga Forest.

[7] The streams in the southwestern part of Te Marunga Forest are within the Mangaheia River catchment. The Mangaheia River flows generally along Tauwhareparae Road in an easterly direction until it joins the Uawa River.

[8] At least 22 streams within Te Marunga Forest are classified as Protected Watercourses in Schedule G21 of the TRMP. Protected watercourses are areas that receive enhanced protection under the TRMP and are intended to be retired as part of vegetation clearance resource consents. The watercourses in Te Marunga Forest that are specified as protected include the Mangatokerau River, tributaries of the Mangatokerau River, tributaries of the Hikuwai River, the Waitoroko Stream and its tributaries, the Tohitu Stream and its tributaries and the Takamapohia Stream and its tributaries.

### ***Harvesting of pine trees at Te Marunga Forest and previous prosecution***

[9] The majority of the harvesting of pine trees at Te Marunga Forest occurred between 2011 and 2021. No harvesting occurred in 2022 or 2023. The harvesting between 2011 and 2021 was authorised by 13 resource consents that were granted to Aratu Forests Ltd by the Council between 2011 and 2016. Each of those resource consents had a 10-year term. None of these resource consents expressly authorised the discharge of contaminants (e.g. slash, harvesting debris, felled trees, wind throw trees and/or sediment) into water, or onto land where those contaminants could enter water.

[10] Harvesting practices at Te Marunga Forest have been poor and include leaving large amounts of slash, felled trees/logs and windthrow on unstable skid sites and slopes in a position where it can readily be mobilised by erosion and / or large rain events and discharge to watercourses.

[11] The widespread nature of these practices at Te Marunga Forest have resulted in

multiple discharges of sediment and woody debris during adverse weather events to water, with significant adverse environmental effects on watercourses both within and downstream of Te Marunga Forest.

[12] When ex-tropical Cyclone Cook affected the Gisborne region in April 2017 a large debris slide occurred from landing 52000 at Te Marunga Forest and discharged to a tributary (Waterfall Creek) of the Mangatokerau River.

[13] Then, during a rain event in June 2018, large amounts of sediment and forestry harvesting debris were mobilised from a number of collapsed skid sites and hill faces in Te Marunga Forest. This resulted in that material migrating out of the forest into the Mangatokerau River. This material caused significant damage to properties and houses immediately downstream of Te Marunga Forest, including the Te Kira property and the Gough property.

[14] Aratu Forests Limited was prosecuted as a result of the Council's investigation of the June 2018 discharges at Te Marunga Forest. On 17 February 2020 Aratu Forests Limited was convicted for the June 2018 discharges at Te Marunga Forest and fined \$229,500. It was also ordered to pay reparation of \$125,000 for emotional harm suffered by the occupants of the Te Kira property immediately downstream of the forest.<sup>1</sup>

[15] Large amounts of the slash, harvesting debris and felled trees that were mobilised within Te Marunga Forest during the June 2018 rain event, remained in the forest. However, this material was in locations where it was at risk of further mobilisation in future rain events or slope failures.

### ***Council inspections following Cyclone Hale and Cyclone Gabrielle***

[16] The Gisborne region was affected by Cyclone Hale in early January 2023 and then by Cyclone Gabrielle in mid-February 2023.

[17] During these weather events large volumes of slash, harvesting debris, felled trees and windthrow trees were again mobilised in Te Marunga Forest. This material

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<sup>1</sup> *Gisborne District Council v Aratu Forests Limited* [2020] NZDC 2808.

had been left on unstable skid sites or slopes following harvesting or had been left within gully systems in Te Marunga Forest after the June 2018 weather event.

[18] Large amounts of the woody debris that was mobilised in Te Marunga Forest during the cyclones in January and February 2023 migrated out of the forest via the Mangatokerau River, the Waitoroko Stream, the Mangaheia River, and the Hikuwai River. (As stated, the Waitoroko Stream, the Mangatokerau River, the Mangaheia River and the Hikuwai River all flow into the Uawa River, which flows to the sea at Tolaga Bay.)

[19] Following Cyclone Hale and Cyclone Gabrielle, Council enforcement officers carried out aerial assessments and ground-based inspections of Te Marunga Forest and the properties immediately downstream of the forest.

[20] After Cyclone Hale, Council officers observed that slash, harvesting debris and felled trees had been mobilised from Te Marunga Forest and formed two large debris dams downstream of the forest, namely:

- (a) A large debris dam at the confluence of Waitoroko Stream and the Hikuwai River. The debris dam was approximately 300 metres in length, was located approximately 100 metres downstream of Te Marunga Forest and was approximately 100 metres upstream of the Hikuwai No.1 bridge on State Highway 35; and
- (b) A large debris dam at the Paroa Road bridge over the Mangatokerau River. This debris dam was located approximately four kilometres downstream of where the river exits Te Marunga Forest.

[21] After Cyclone Gabrielle, Council officers found that the woody debris forming one of these large debris dams (i.e. the debris dam at the confluence of the Waitoroko Stream and the Hikuwai River) had been mobilised during Cyclone Gabrielle. The debris had travelled further downstream and destroyed Hikuwai No.1 Bridge on State Highway 35.

[22] After both Cyclone Hale and Cyclone Gabrielle Council officers also observed that large amounts of slash, harvesting debris and felled trees from Te Marunga Forest

had been mobilised into the Mangatokerau Valley and then to the Te Kira property and the Gough property.

[23] During inspections of Te Marunga Forest in January, February and March 2023, Council officers observed the following issues within the forest:

- (a) A number of skid sites throughout the forest had failed causing slash, forestry waste and logs to slide down hill faces and enter watercourses or ephemeral flowpaths;
- (b) A number of skid sites throughout the forest containing slash and harvesting debris were at high risk of failure;
- (c) Forestry slash and felled logs were in streams and ephemeral flowpaths at multiple locations and was at risk of being mobilised further downstream during future rain events;
- (d) Significant infrastructure failures had occurred including collapsed skid sites, blocked culverts, road failures and discharges of sediment;
- (e) Large amounts of harvesting waste (slash) and trees remained on slopes at the forest where it was likely to migrate down slopes into streams as a result of erosion and/or future rain events;
- (f) Large amounts of slash, harvesting debris, felled trees and windthrow trees remain in positions at the forest including on steep hill faces where that material is likely to discharge to the streams within Te Marunga Forest and flow out of the forest to the Mangatokerau, Mangaheia and Hikuwai Rivers causing damage beyond the forest.

[24] Since 2015 the Tairāwhiti region has experienced significant damage to watercourses, beaches near river mouths, and infrastructure as the result of woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) discharging from commercial pine forests during significant rain events. These significant rain events (and the associated damage from forestry slash mobilised in these events) are a persistent risk. The frequency and scale of the damage

from such events has increased recently.

[25] The poor forestry harvesting practices in the region, in combination with the steep topography and highly erodible soils, mean that unless forest owners and operators remove woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) from unstable locations during harvesting, the environmental impacts in forests and downstream of forests will recur until all of the material is flushed from the forests.

[26] Te Marunga Forest is typical in all respects. It has steep hill faces and highly erodible soil. More than 4,600 hectares of clear fell harvesting has been carried out at the forest with poor skid site construction and large amounts of slash and felled trees being left at the conclusion of harvesting where it can migrate down slopes into streams and rivers which flow into the Uawa River, which flows into the sea at Tolaga Bay.

[27] The ongoing discharges of contaminants to watercourses that have occurred at Te Marunga Forest as the result of the commercial forestry harvesting activities are contraventions of section 15(1)(b) of the RMA. This provides that no person may discharge any contaminant onto land in circumstances that may result in that contaminant entering water. Woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) and sediment are all contaminants as defined in section 2 of the RMA.

[28] The issues at Te Marunga Forest also engage section 17(1) of the RMA, which provides that every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by, or on behalf of, the person, whether or not the activity is carried on in accordance with any of sections 10, 10A, 10B, and 20A, or a national environmental standard, a rule, a resource consent, or a designation.

[29] Previous attempts by the Council to address the compliance issues at Te Marunga Forest (including prosecution, abatement notices and compliance reports) have failed to stop the ongoing discharge of woody debris and sediment at and from Te Marunga Forest.

[30] The issues at Te Marunga Forest are part of a broader problem in the Tairāwhiti region involving ongoing large-scale forestry debris mobilisation in weather events. This issue was the subject of a ministerial inquiry in 2023 (Ministerial Land Use Inquiry), which set out its findings in a report titled *Outrage to Optimism* (May 2023).

***Meeting on 14 November 2023 and abatement notice***

[31] Council enforcement officers met with Aratu Forests Limited (**Aratu**) representatives on 14 November 2023 to discuss the need for Aratu to take responsibility for the clean-up of woody debris within Te Marunga Forest and in downstream areas of the Mangatokerau Valley.

[32] The Aratu representatives objected to carrying out the further clean-up work on a number of grounds.

[33] On 21 November 2023 Council issued an abatement notice to Aratu requiring removal of all forestry debris from 132 Paroa Road, Tolaga Bay and from the section of the Mangatokerau River valley between Te Marunga Forest and 132 Paroa Road. The deadline for compliance with this notice was 1 February 2024.

[34] As at the date of the application for enforcement orders most of the material had been removed from the areas referred to in the November 2023 abatement notice.

***Council aerial assessments of Te Marunga Forest***

[35] Council aerial assessments on 29 June 2023, 27 November 2023 and 29 November 2023 confirmed that woody material on the slopes and skid sites at Te Marunga Forest remains at high risk of mobilisation into the streams at Te Marunga Forest and mobilisation downstream to neighbouring properties and into the Mangatokerau, Mangaheia and Hikuwai Rivers.

***Council inspection of Te Marunga Forest on 22 March 2024***

[36] In March 2024 the Council became aware through a third party that Aratu had resumed harvesting at Te Marunga Forest after a two-year hiatus.

[37] Council enforcement officers carried out an inspection of the resumed



harvesting area at Te Marunga Forest on 22 March 2024. During this inspection the officers observed:

- (a) 12 months on from the 2023 storms, very little had been done to remediate the roads, water controls, and log jams at Te Marunga Forest;
- (b) Aratu was using the wrong harvesting methods and machines. Felled logs were being dragged up steep slopes by cable haulers. As the logs were dragged up the slopes they were gouging out deep channels in the hill face, scouring the slopes and sweeping slash and debris into waterways;
- (c) New log jams have accumulated in streams and ephemeral flowpaths in the current harvest areas, without regard to whether these log jams can / will be removed;
- (d) Log jams that pre-date the current harvesting activities have been made worse, with more slash and woody debris being deposited in the streams and ephemeral channels; and
- (e) At the skids where post-harvest rehabilitation works have been carried out, the works were poorly executed and further rehabilitation work was required.

***Council inspection of Te Marunga Forest on 10 May 2024***

[38] Council enforcement officers carried out a further inspection of the resumed harvesting area at Te Marunga Forest on 10 May 2024. During this inspection the officers observed that Aratu had taken a number of steps since the March 2024 inspection to address the Council's concerns from that inspection. However, the current area of harvesting remained in a poor state, with a variety of issues, which means skid and roading collapses are likely in a large rain event, which would trigger further mobilisation of harvesting debris, felled trees, windthrow trees and sediment into streams in Te Marunga Forest.

[39] Ongoing compliance issues included the following:

- (a) A grapple excavator had been operated in the Takamapohia Stream to

remove harvesting debris from the stream. This had caused damage to the stream bed. Some of the slash removed by the excavator had been placed in piles on banks immediately above the stream or other locations near the stream where it is likely to re-mobilise in future rain events. In some locations windthrow trees and harvesting debris remained in the Takamapohia Stream;

- (b) At Skid 39008 (which is a skid being used as an end haul site for the permanent storage of harvesting waste), there was slash and harvesting debris in ephemeral channels and also on the cut over (harvested area) near this skid. The water and sediment controls were poor which is an issue at this site given it is at high risk of failing due to being poorly constructed and now carrying the weight from a significant volume of harvesting debris;
- (c) At Skid 39006 there was a hauler machine leaking oil. A large catchment pan had been placed under the hauler to catch leaking oil but oil was floating on the surface of puddles under and around the hauler;
- (d) Officers observed a lot of harvesting debris in streams and ephemerals near skid sites; and
- (e) At Skid 41002 there were a lot of old windthrow trees that are at risk of mobilisation in future weather events. Water controls on the road near this skid were missing flumes resulting in erosion from where water was scouring the soil below the outlets of the drainage pipes.

### ***Environmental effects***

[40] The environmental effects associated with the log jams and woody debris entering watercourses at Te Marunga Forest include damage caused to instream habitat, blockages interrupting the continuity of flow for anything living in the stream, the negative stressor effects on aquatic ecosystems caused by sediment, downstream damage, and accumulative impacts associated with any future events. Large woody debris can also block and damage downstream infrastructure (including bridges on the Hikuwai River), and cause marine hazards at Tolaga Bay beaches.

[41] Discharges of woody debris and sediment also adversely impact freshwater and coastal ecosystems, downstream infrastructure and property, downstream communities, and the associated costs borne by the ratepayers and central government. For example, the Council has spent more than \$1.2 million since July 2018 just clearing forestry debris from the main affected beaches in the region (i.e., Waikanae Beach and Tolaga Bay). Central government has allocated more than \$53 million to fund the removal of large woody debris from beaches and waterways in the Gisborne region following Cyclone Gabrielle.

### **Notice of opposition**

[42] On 30 July 2024, the Respondents filed a notice of opposition to the application.

[43] The notice recorded the orders were opposed generally on the following grounds:

- (a) The majority of the plantation pine trees in the Te Marunga Forest were harvested in the period of 2010 to 2018. The Forest was owned during this period by Hikurangi Forest Farms Ltd;
- (b) The Forest was purchased by an Australian-based international forestry investment manager (New Forests) in July 2019. As part of the sale process, the previous owner agreed to:
  - (i) Complete considerable remedial work in the Forest after the June 2018 severe weather event. This included moving woody debris away from areas of potential entry to waterways;
  - (ii) Carry out repair work and compensate neighbours for damage caused to their properties. This included a confidential settlement with Mr Te Kira and included the woody debris remaining on his land;
- (c) The Council was aware of the remedial work which had been completed. It accepted that by February 2020 (or did not indicate any contrary view) that the deficiencies in the Forest had been substantively addressed;

- (d) The Respondents took over the Forest knowing that there were legacy issues resulting from the prior poor harvesting practices but again with the understanding that these had been substantively addressed;
- (e) The size and intensity of Cyclones Hale and Gabrielle (and their close proximity) were very significant. This meant:
  - (i) The extensive remedial work in the Forest was overwhelmed;
  - (ii) Many landslips and bedrock failures occurred which were unrelated and unconnected to any harvesting activity;
- (f) Woody debris /sediment still remaining on Mr Te Kira's property from the June 2018 event was re-mobilised and contributed to downstream effects; and
- (g) Aratu has completed considerable further remedial work after Cyclones Hale and Gabrielle to remove woody debris from the catchment. It considers that it has effectively complied with the abatement notice issued by the Council.

[44] The Respondents acknowledged the concern expressed by the Council (and effectively for the local community) about the need to take steps to reduce the risk of a further event.

[45] Aratu Forests Ltd advised it has been completing assessments in its forests to prioritise what is required. It was willing to work with the Council to identify the work which will achieve the best environmental outcome available. It anticipated that this would involve the removal of woody debris where reasonably possible as well as targeted replanting and other alternatives such as debris nets (if they are legally available). There is also a need for the work to be safely completed and to have a direct impact on reducing the risk.

### **Mana Taiao Tairāwhiti**

[46] Mana Taiao Tairāwhiti (**MTT**) joined the proceedings as a s 274 party.

### **Enforcement orders agreed by consent**

[47] The parties had been working to be able to seek enforcement orders by consent. An evidence exchange timetable was in place should that have not been possible.

[48] By memorandum dated 22 November 2024, Gisborne District Council, Aratu Forests Limited and Mana Taiao Tairāwhiti advised that they have agreed enforcement orders can be made by consent, with no issue as to costs. The memorandum set out the orders sought to be made by consent.

[49] The intent of the agreed enforcement orders is to cease discharges of woody debris from commercial forestry (including felled trees), windthrow trees, slash, harvesting debris) or sediment from commercial forestry activities into streams within Te Marunga Forest, and stop migration of woody debris from commercial forestry beyond Te Marunga Forest. The enforcement orders do this by:

- (a) First, requiring elimination or minimisation of the risk posed by skid sites, waterways, roads and hill slopes; and
- (b) Secondly, requiring the installation and maintenance of slash catching devices to effectively mitigate any remaining risk after all required remedial work on skid sites, waterways, roads and hill slopes, has been completed. Slash catchers are not relied on as a primary means of risk management.

### **Evaluation**

[50] Relying on various provisions of the Act, including ss 15, 17 and 314(1)-(5), various orders are sought. In summary, the sections on which the parties rely and which enable the Court to make enforcement orders are as follows:

- (a) Section 314(1)(a)(i) to require a person to cease anything that contravenes or is likely to contravene the Act, and under (a)(ii) is likely to be noxious, dangerous, offensive or objectionable so as to have adverse effect on the environment;
- (b) Section 314(1)(b)(i) to ensure compliance by or on behalf of a person with

the Act, and under (b)(ii) that is necessary to avoid, remedy or mitigate a likely adverse effect on the environment caused by or on behalf of that person;

- (c) Section 314(c) to remedy or mitigate any adverse effect on the environment caused by or on behalf of that person;
- (d) Section 314(1)(da) to do something that is necessary to avoid, remedy or mitigate and adverse effect on the environment relating to land of which the person is the owner or occupier;
- (e) Section 15 prohibits the discharge of contaminants unless they are expressly allowed by a rule in a plan, national environmental standard, or other regulation or a resource consent; and
- (f) Section 17 imposes a general duty to avoid, remedy or mitigate the adverse effects of an activity.

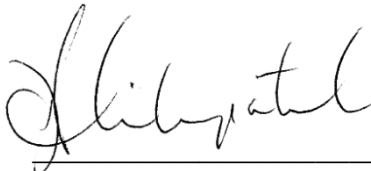
[51] The Court is satisfied that enforcement orders are necessary to ensure the discharges of woody debris and sediment from the Forests cease. Those issues have caused actual adverse effects on the environment with the potential for them to continue if not addressed. Sediment discharges from the Forest are contrary to s 15 of the Act. Orders are therefore made pursuant to s 314 of the Act.

[52] The Court notes the proposed orders also refer to s 315(2) and (3) of the Act. Despite the orders being agreed, I find that s 315(2) and (3) are not applicable. The Court does not make orders under s 315 of the Act, unless a specific application has been made for consent to comply with the orders on behalf of a respondent. If it should later prove necessary, an application can be made under s 315.

## **Outcome**

[53] Under ss 314 and 279 of the Resource Management Act 1991, the Environment Court, by consent, makes the orders set out in Annexure 1 to this decision.

[54] Under s 285 of the Act, there is no order as to costs.



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**D A Kirkpatrick**  
**Chief Environment Court Judge**



## Annexure 1

A: Under ss 314 and 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, makes the following orders:

### Orders

1. That, pursuant to sections 15(1)(a), 15(1)(b), 17(3)(a), 17(3)(b), 314(1)(a)(i), 314(1)(a)(ii), 314(1)(b)(i), 314(1)(b)(ii), 314(1)(c), 314(1)(d), 314(1)(da), 314(2), 314(3), 314(4) and 314(5) of the RMA, **ARATU FORESTS LIMITED (Respondent)** is required, in respect of the forest known as “Te Marunga Forest” located approximately 12 kilometres west of Tolaga Bay, Gisborne (Legal Identifiers: GS1D/642, GS4B/206, GS4B/716, GS4D/66, GS4D/208, GS4D/771, GS4D/988, GS4D/1008, GS4D/1342, GS5C/149, GS5C/150, GS5C/151, GS5C/152, GS5C/610, GS5C/687 and GS5D/362) to:
  - (a) Cease discharging woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) or sediment onto or into land where it may enter water;
  - (b) Cease discharging woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) beyond the boundary of Te Marunga Forest;

### ***Risk assessment of Te Marunga Forest***

- (c) Engage a suitably qualified and experienced person (approved in writing by Gisborne District Council) to prepare a **Risk Assessment Methodology, Risk Assessment Map** and **Risk Assessment Report** for Te Marunga Forest. The purpose of this risk assessment process is to identify:
  - (i) All locations where woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) has accumulated in any streams, rivers or ephemeral flowpaths;



- (ii) All locations where woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) is at high risk of collapse from a skid site (landing), including but not limited to locations where that woody debris is located on the edge of a skid site or immediately below a skid site, where there are tension cracks in the skid site, or where the material under the skid contains uncompacted fill, stumps or vegetation;
  - (iii) All locations where sediment is at high risk of collapse and entering watercourses, including ephemeral flowpaths, from skid sites or roads, including but not limited to locations where there are tension cracks, large amounts of sidecast fill on or over the edges of skids/roads, poorly compacted fill, and/or slumping;
  - (iv) All locations where woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) on slopes is at high risk of being mobilised into watercourses, including ephemeral flowpaths;
- (d) Provide the **Risk Assessment Methodology** to Gisborne District Council for comment by **13 December 2024**. The Risk Assessment Methodology must define the risk assessment process used, including all inputs and a decision matrix, that allows the relative risk of mobilisation of woody debris or sediment to be quantified and ranked for the purposes of prioritising remedial works to de-risk Te Marunga Forest;
- (e) Provide the **Risk Assessment Map** to Gisborne District Council for comment by **20 December 2024**. The Risk Assessment Map must be prepared using the Risk Assessment Methodology to identify high risk skid sites, waterways, roads, and slopes and their assessed level of risk rating;
- (f) Provide the **Risk Assessment Report** to Gisborne District Council for written approval by **30 January 2025**. The Risk Assessment Report must record:

- (i) The risk assessment process used;
  - (ii) The skid sites, waterways, roads, and slopes identified as high risk and their assessed “risk ranking” for the purpose of prioritising remedial works;
  - (iii) Options for removing the woody debris from commercial forestry at the foregoing identified locations or if removal is not possible in every instance, options for eliminating or minimising the risk of woody debris or sediment discharges at each of these identified locations;
  - (iv) Where options for remediating high risk areas identified in the report include leaving woody debris in situ, the Risk Assessment Report will identify why that option is considered by the respondents to be appropriate and what alternative risk-mitigation methods will be used;
- (g) Prepare a further written risk assessment report (**Further Risk Assessment Report**) identifying the application of the Risk Assessment Methodology to skid sites, waterways, roads, and slopes, to identify any other remaining risk areas for remediation. The Further Risk Assessment Report must include:
- (i) The risk assessment process used;
  - (ii) The skid sites, waterways, roads, and slopes identified as at-risk and their assessed “risk ranking” for the purpose of prioritising remedial works;
  - (iii) A map (or maps) identifying these remaining risk areas;
  - (iv) Options for removing the woody debris from commercial forestry at the foregoing identified locations or if removal is not possible in every instance, options for eliminating or minimising the risk of woody debris or sediment discharges at each of these identified

locations;

- (v) Where options for minimising risks at the remaining risk areas identified in the Report include leaving woody debris in situ, the Further Risk Assessment Report will identify why that option is considered by the respondents to be appropriate and what alternative risk-mitigation methods will be used;
- (h) Provide the Further Risk Assessment Report required by order 1(g) to Gisborne District Council for written approval by **28 February 2025**;

***Woody debris removal from high risk locations***

- (i) Remove all woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) from all high risk locations identified in the Risk Assessment Report and Risk Assessment Map and dispose of that material (e.g. by burning or end-hauling) or move it to a location in Te Marunga Forest identified as a safe disposal location in the Risk Assessment Map, as soon as possible and by no later than five months after approval of the Risk Assessment Report (unless the Risk Assessment Report states that the best option for a specified high risk area is to leave material in situ and that option has been approved by Gisborne District Council for that specified high risk area);
- (j) Obtain written certification from a suitably qualified independent expert approved in writing by Gisborne District Council that the foregoing woody debris removal works in 1(i) have been completed in accordance with the Risk Assessment Report;
- (k) Provide the foregoing written certification (i.e. referred to in 1(j)) to Gisborne District Council within 28 days of the work referred to in 1(i) being completed;

***Skid site woody debris removal and rehabilitation for high risk locations***

- (l) Pull back all felled trees, slash, waste logging material and fill from the edges of skid sites and areas below skid sites that can be reached by a long-reach excavator, in the high risk locations identified in the Risk Assessment Report and Risk Assessment Map and dispose of that material or move it to a location where it cannot be remobilised, as soon as possible and by no later than five months after approval of the Risk Assessment Report, unless the Risk Assessment Report states that the only practicable option for a specified high risk area is to leave material in situ and that option has been approved by Gisborne District Council for that specified high risk area);
- (m) Obtain written certification a suitably qualified independent expert approved in writing by Gisborne District Council) that the foregoing works in 1(l) have been carried out in accordance with the Risk Assessment Report;
- (n) Provide the foregoing certification (i.e. referred to in 1(m)) to Gisborne District Council within 28 days of the work referred to in 1(l) being completed;

***Woody debris removal from remaining risk locations***

- (o) Remove all woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) from remaining risk locations identified in the Further Risk Assessment Report and Further Risk Assessment Map and dispose of that material (e.g. by burning or end-hauling) or move it to a location in Te Marunga Forest identified as a safe disposal location in the Risk Assessment Map, as soon as possible and by no later than seventeen months after approval of the further Risk Assessment Report (unless the Risk Assessment Report states that the only practicable option for a specified remaining risk area is to leave material in situ and that option has been approved by Gisborne District

Council for that specified remaining risk area);

- (p) Obtain written certification from a suitably qualified independent expert approved in writing by Gisborne District Council that the foregoing woody debris removal works in 1(o) have been completed in accordance with the Further Risk Assessment Report;
- (q) Provide the foregoing written certification (i.e. referred to in 1(p)) to Gisborne District Council within 28 days of the work referred to in 1(o) being completed;

***Skid site woody debris removal and remediation from remaining risk locations***

- (r) Pull back all felled trees, slash, waste logging material and fill from the edges of skid sites and areas below skid sites that can be reached by a long-reach excavator, in the remaining risk locations identified in the Further Risk Assessment Report and Further Risk Assessment Map and dispose of that material or move it to a safe disposal location where it cannot be remobilised, as soon as possible and by no later than seventeen months after approval of the further Risk Assessment Report unless the Further Risk Assessment Report states that the only practicable option for a specified remaining risk area is to leave material in situ and that option has been approved by Gisborne District Council for that specified high risk area;
- (s) Obtain written certification a suitably qualified independent expert approved in writing by Gisborne District Council) that the foregoing works in 1(r) have been carried out to in accordance with the Further Risk Assessment Report;
- (t) Provide the foregoing certification (i.e. referred to in 1(s)) to Gisborne District Council within 28 days of the work referred to in 1(r) being completed;

***Water controls***

- (u) Install effective water and sediment controls to eliminate or minimise the risk of erosion and the mobilisation of sediment at all skids/landings and on all tracks and roads at Te Marunga Forest as soon as possible and by no later than **1 December 2025**;
- (v) Ensure that the water and sediment controls installed under clause 1(u):
  - (i) Accord with the hydrological principles and guidelines at Appendix A of these order;
  - (ii) Include one discharge point for every 1,000m<sup>2</sup> of surface area;
  - (iii) Prevent ponding except in specified areas, e.g. sedimentation traps;
  - (iv) Include four discharge points for each skid site / landing provided clauses (v) to (vii) below are able to be met (and if not, record why less discharge points have been used);
  - (v) Discharge runoff via diffuse/dispersed methods wherever possible;
  - (vi) All discharge points should be to natural or 'hard ground'. If this is not possible, then erosion control measures will be required;
  - (vii) All discharges should be through a treatment device installed in natural ground;
  - (viii) All discharges should be flumed, ideally with ribbed pipe, with appropriate erosion control at both the inlet and outlet;
  - (ix) Direct water away from fill;
  - (x) Direct water away from skid sites/landings;
  - (xi) Direct water away from the edges of skid sites/landings;
  - (xii) Manage the accumulation of runoff so that it does not exceed the capacity and erosion resistance of drains and water tables;

- (xiii) Include an adequate number of appropriately sized and spaced culverts and cut-offs on track/roads, in accordance with or better than the NZ Forest Owners Association Practice Guide (2020)/NZ Forest Road Engineering Manual Operators Guide 2020;
- (xiv) Include secondary flow paths for situations where the capacity of any water or sediment control device may be exceeded;
- (w) Obtain written certification from a suitably qualified independent expert approved in writing by Gisborne District Council that the works listed in 1(v) (to achieve 1(u)) have been installed as required;
- (x) Provide the foregoing certification (i.e. referred to in 1(w)) to Gisborne District Council within 28 days of the work referred to in 1(u) being completed;

***Woody debris catchers / slash catchers***

- (y) Engage a suitably qualified and experienced person (approved in writing by Gisborne District Council) to prepare a report and map recommending the locations and designs for a proposed network of slash catchers (**the Slash Catcher Network report**) to be installed at Te Marunga Forest in order to minimise or eliminate the residual risk of woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) mobilising beyond Te Marunga Forest so that there are no unlawful discharges of woody debris or sediment from commercial forestry;
- (z) The Slash Catcher Network report must address the following matters in sufficient detail for Gisborne District Council to assess the viability of the Slash Catcher Network proposed:
  - (i) Number and location of slash catchers;
  - (ii) Catchment area above each slash catcher;
  - (iii) Estimated volume of residual woody debris, with the potential to

be mobilised, in the catchment above each slash catcher;

- (iv) Proposed concept design of each slash catcher;
  - (v) The volume of woody debris that can be retained behind each slash catcher;
  - (vi) Anticipated effects on flows, erosion and river and bank stability;
  - (vii) Potential impact if slash catcher is overtopped or bypassed and how this risk will be mitigated;
  - (viii) Potential flood flows;
  - (ix) Access and maintenance, including proposed disposal areas;
- (aa) Provide the Slash Catcher Network report and map to Gisborne District Council and Mana Taiao Tairāwhiti by **13 December 2024** for written approval by Gisborne District Council;
  - (bb) If Gisborne District Council approves the Slash Catcher Network set out in the report – after seeking and receiving feedback from Mana Taiao Tairāwhiti – the Respondents will lodge an application for a resource consent for the Slash Catcher Network within three months of receiving the Council's written approval;
  - (cc) Install the Slash Catcher Network in accordance with the Slash Catcher Network report and map (and in accordance with any resource consent), within 12 months of resource consent being granted and in any event not later than **31 August 2026**;
  - (dd) Obtain written certification from a suitably qualified independent expert, who has been approved in writing by Gisborne District Council, that the slash catchers forming the Slash Catcher Network referred to above in 1(cc) have been installed according to the consent specifications and provide this certification to Gisborne District Council within 28 days of the work referred to in 1(cc) being



completed;

- (ee) Inspect and photograph the installed slash catchers every 3 months for the first three years after they have been installed, and then every 6 months;
- (ff) In addition to (ee) above, inspect and photograph the installed slash catchers after every rain event when either 15mm/hr or 110mm/24-hours or more of rain is recorded at Gisborne District Council's Mangaheia @ Willowbank rain gauge;
- (gg) Ensure that:
  - (i) The installed slash catchers are regularly cleared of woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) and indigenous vegetation, to maintain their capacity to effectively address the residual risk of woody debris discharges from commercial forestry at all times;
  - (ii) Any damage to the slash catchers is repaired in a timely manner;
- (hh) Ensure a suitably qualified independent expert (approved in writing by Gisborne District Council) inspects the Slash Catcher Network referred to above in 1(cc) by **31 August 2026** and every six months thereafter (until 15 December 2030) to assess whether the slash catchers are operating effectively and whether they are being appropriately cleared and maintained;
- (ii) If the Slash Catcher Network report is not approved by Gisborne District Council by **1 March 2025** and / or resource consent is not granted for the Slash Catcher Network by **1 August 2025**, then Gisborne District Council can apply (on notice to the parties) to the Court to vary these enforcement orders to require installation of an alternative Slash Catcher Network;

### ***Monitoring and maintenance***

- (jj) Carry out ongoing monitoring of all skid sites and water and sediment controls, and carry out any necessary maintenance and remedial work to eliminate or minimise the risk of skid sites triggering erosion, landslides and/or debris collapses, and to ensure that all water and sediment controls remain effective;
- (kk) Carry out ongoing monitoring of all streams and if any further woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) is mobilised into any streams remove that debris and remove it from Te Marunga Forest or place it in a safe disposal location identified in the Risk Assessment Map within 28 days of discovering that debris (or if removal is not possible, seek approval from Gisborne District Council to leave material in situ);
- (ll) Carry out ongoing monitoring of any safe disposal locations identified in the Risk Assessment Map to ensure that material in these locations is not at risk of being mobilised or triggering erosion, landslides and/or debris collapses;
- (mm) Carry out aerial and / or ground-based surveys of the high risk skid sites, water and sediment controls, and safe disposal locations following any rain event when either 15mm/hr or 110mm/24-hours or more of rain is recorded at Gisborne District Council's Mangaheia (@ Willowbank rain gauge) to identify any locations requiring remedial works to eliminate or minimise the risk of woody debris from commercial forestry and sediment mobilising to watercourses, including ephemeral streams, within or beyond Te Marunga Forest;
- (nn) Carry out any necessary maintenance and remedial work to address issues identified in the inspections referred to in 1(ll) and 1(mm);
- (oo) Ensure a suitably qualified and experienced independent expert approved in writing by Gisborne District Council:

- (i) Inspects a representative selection comprising at least 10% of all skid sites, water and sediment controls, and safe disposal locations across the forest every six months from 15 December 2024 to 15 December 2027 and then every 12 months from 15 December 2023;
- (ii) Prepares a further remedial works plan for any remedial works required to address issues identified in the inspections referred to in 1(oo)(i) (which includes a timeframe for those works) and provides that plan to the Council for approval within 28 days of the relevant inspection;
- (pp) Carry out all remedial works set out in any approved further remedial works plan prepared under clause 1(oo)(ii) within the timeframe specified in that plan and provides written confirmation to Gisborne District Council's enforcement manager of completion of those remedial works, within fourteen days of completion;

### ***Reporting***

- (qq) In respect of orders 1(i), 1(l), 1(o), 1(r) and 1(u), provide fortnightly progress reports to Gisborne District Council's enforcement manager detailing remedial work undertaken and identifying at-risk locations where remedial works have been completed;
- (rr) Provide a written inspection report to Gisborne District Council's enforcement manager within fourteen days of:
  - (i) Each inspection by an independent expert referred to at 1(oo) above confirming the inspection has occurred, whether the remedial works and water and sediment controls are being appropriately maintained, and identifying whether any further remedial works or maintenance is required and if so, the timeframe within which the remedial works or maintenance should be undertaken;

- (ii) Each slash catcher inspection referred to at 1(ee) and 1(hh) above confirming that the inspection has occurred and including descriptions of debris cleared, damage to the structure and any repairs undertaken;
- (iii) Each slash catcher inspection by an independent expert referred to at 1(rr)(ii) above confirming that the inspection has occurred and reporting on the condition of the slash catchers at the time of inspection, and whether the slash catchers are being appropriately cleared and maintained;
- (iv) Any stream inspection or debris removal from a stream referred to at 1(kk) above;

***Future harvesting activities***

- (ss) If the Respondents intend to resume harvesting activities at Te Marunga Forest pursuant to extant resource consents, then the Respondents must:
  - (i) notify Gisborne District Council and Mana Taiao Tairāwhiti in writing at least 4 months prior to resuming any further harvesting works at Te Marunga Forest;
  - (ii) provide a Risk Management Plan (**RMP**) for any further harvesting at Te Marunga Forest, to Gisborne District Council for approval, at least 4 months prior to undertaking any further harvesting activities. Before giving approval the Council shall consider feedback from Mana Taiao Tairāwhiti on the proposed RMP;
  - (iii) the objective of the RMP is to ensure that future harvesting activities at Te Marunga Forest do not cause unlawful discharges from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) or sediment into waterbodies within Te Marunga Forest and/or beyond the boundary of Te

Marunga Forest;

- (iv) the RMP shall set out the measures that will be undertaken in order to achieve the above objective, including by reference (but not limited to):
  - (1) the extent of the area that will be harvested at any one time;
  - (2) the measures to address waste harvesting material;
  - (3) the effective management of skids to ensure that woody debris does not migrate beyond the boundaries of the skid site;
  - (4) the design, establishment and maintenance of appropriate water controls at skid sites and roading, including the hydrological principles and guidelines to be applied to the works. For the avoidance of doubt, the water controls shall address the matters set out in Order 1(v) above;
  - (5) if the Slash Catcher Network is to be utilised to manage residual risk from woody debris, consideration of the capacity of the Slash Catcher Network to fulfil that function or whether further slash catchers are required and if so, the location and design;
  - (6) areas of Te Marunga Forest that will be retired from commercial forestry and actively restored with indigenous forest, after they have been harvested;
- (v) any further harvesting at Te Marunga Forest shall be undertaken in accordance with the relevant resource consents and the approved RMP;
- (vi) any further harvesting at Te Marunga Forest shall be subject to the same monitoring and reporting requirements as set out in Orders 1(jj) – (rr) above.

- B: The Respondents will comply with these enforcement orders from the time they are made and continue complying with these enforcement orders unless they are varied or cancelled by the Environment Court.
- C: Wherever these orders require reports or information to be provided by the Respondents to Gisborne District Council, the Respondents will also provide those reports or that information to Mana Taiao Tairāwhiti and at the same time.
- D: The Respondents will be jointly and severally liable for the actual and reasonable costs incurred by Gisborne District Council in ensuring compliance with these enforcement orders.
- E: The foregoing orders will apply to the personal representatives, successors, and assigns of the Respondents to the same extent as they apply to the Respondents.
- F: If it later transpires that the foregoing orders do not prevent discharges of woody debris from commercial forestry (including felled trees, windthrow trees, slash, harvesting debris) or sediment into streams within Te Marunga Forest and / or do not prevent the migration of woody debris from commercial forestry beyond Te Marunga Forest, Gisborne District Council or Mana Taiao Tairāwhiti can apply to the Court to vary these orders.
- G: If any of the dates provided for compliance in this enforcement order are unable to be met, then any party to these orders can apply to the Court to vary the deadline for compliance, 30 days prior to expiry of the deadline
- H: The Respondents can request Gisborne District Council to review the monitoring requirements in Orders 1(jj) to (pp) after five years of the orders coming into force and if they are no longer considered necessary to file a consent memorandum to cancel or vary those orders.
- I: The terms of these orders can later be varied by the Court on an application to the Court and/or by the filing of a consent memorandum by the parties.