

**BEFORE THE HEARINGS PANEL  
FOR THE PROPOSED WAIMAKARIRI DISTRICT PLAN**

**UNDER** the Resource Management Act 1991 (RMA)

**IN THE MATTER** of the Proposed Waimakariri District Plan

**AND**

**IN THE MATTER** of Hearing Stream 6: Rural and Open Space Zones

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**SUPPLEMENTARY STATEMENT OF EVIDENCE OF SERENA ORR ON  
BEHALF OF THE CANTERBURY REGIONAL COUNCIL**

**RURAL AND OPEN SPACE AND RECREATION ZONES**

**13 OCTOBER 2023**

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## INTRODUCTION

- 1 My full name is Serena Ashleigh Orr. I am a Planner at the Canterbury Regional Council (**Council**). I hold the qualifications and have the experience set out in my statement of evidence dated 25 September 2023.
- 2 The Council appeared before the Panel on Monday, 9 October 2023. This supplementary statement of evidence addressed the following questions:
  - (a) Is there anything in the National Policy Statement for Highly Productive Land (**NPS-HPL**) that precludes the Canterbury Regional Policy Statement (**CRPS**) from protecting soils beyond those considered to be highly productive under the NPS-HPL?
  - (b) Is there any commentary that the Council can provide with respect to wilding pine species and the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 (**NES-CF**)?

### **Is there anything in the NPS-HPL that precludes the CRPS from protecting soils beyond those considered to be highly productive under the NPS-HPL?**

- 3 The NPS-HPL has a single objective, which is to protect highly productive land for use in land-based primary production, both now and for future generations. The NPS-HPL is otherwise silent on matters regarding soil outside of the definition of highly productive land as identified under clause 3.5 of the NPS.
- 4 Clause 3.4(3) of the NPS-HPL allows regional councils to map land as highly productive land in a general rural zone or a rural production zone, where it is not LUC 1, 2 or 3 land as highly productive land if the land is or has the potential to be highly productive. For example, soil best for viticulture may not be LUC 1, 2, or 3 but still has a high productive capacity.
- 5 Under section 45 of the Resource Management Act 1991 (**RMA** or **Act**), the purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of the Act. Despite this, section 30 of the RMA lays out the

functions of regional councils under the Act, which includes the control of the use of land for the purpose of soil conservation. Section 2 of the RMA defines soil conservation to mean avoiding, remedying, or mitigating soil erosion and maintaining the physical, chemical, and biological qualities of soil.

- 6 Chapter 15 of the CRPS addresses this two-part definition of soil conservation as it relates to soil quality and soil erosion. This chapter identifies the maintenance of soil quality, life-supporting capacity, and/or the mauri or health of soils as fundamental to the sustainable management of soil.
- 7 The principal reasons and explanation to Policy 15.3.1 of the CRPS (avoid remedy or mitigate soil degradation) advises that the protection of soil quality is, however, not absolute and that there will be situations where soil will be degraded due to land uses and where it may not be appropriate to foreclose a development, such as in existing urban locations or where alternatives are unavailable. The provisions of Chapter 15 do not sit alone and work in conjunction with other provisions of the CRPS. I consider that the rural lifestyle zone is however unlikely to be used as a means of providing for significant development capacity under the NPS-UD due to the 4 hectare minimum lot sizes and that this is more likely to be provided for in residential zones.
- 8 In my opinion, the policies and objectives of the CRPS are not inconsistent with those of the NPS-HPL. The NPS-HPL is very directive where it applies, however, it does not apply to soils that are not contained in highly productive land. Alternatively, the provisions of Chapter 15 provide consideration of soil quality and erosion much more broadly than protecting highly productive land for use in land-based primary production. The proposed Waimakariri District Plan (**pWDP**) must give effect to both the CRPS policies and objectives and to the NPS-HPL. There is nothing in the NPS-HPL that precludes the CRPS from protecting soils beyond those considered to be highly productive under the NPS-HPL.

**Is there any commentary that the Council can provide with respect to wilding pine species and the NES-CF?**

- 9 Amendments to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (**NES-PF**) have now been incorporated into the NES-CF which was gazetted on 5 October 2023 and will come into effect on 3 November 2023.
- 10 The scope of the NES-CF now applies to carbon forestry (exotic continuous-cover forestry) as well as plantation forestry above 1 hectare. The definition of exotic continuous-cover forestry:
- (a) means a forest that is deliberately established for commercial purposes, being at least 1 ha of continuous forest cover of exotic forest species that has been planted and—
    - (i) will not be harvested or replanted; or
    - (ii) is intended to be used for low-intensity harvesting 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 indigenous forest species; or
    - (vi) willows and poplars space planted for soil conservation purposes.
- 11 Rules GRUZ-R2 and RLZ-R2, as well as definitions and the GA-AN4 may need to be amended to recognise the new application of the NES-CF. It may also be useful to locate the advice note in the rural zone chapter to assist plan users' awareness of the NES-CF and the regulations that apply within the rural zone.

- 12 The NES-CF introduced a new regulation (regulation 6(4A)) to provide unfettered discretion to local authorities to control afforestation that may be more stringent or lenient than the NES-CF. Prior to the gazettal of the NES-CF, the NES-PF restricted the scope by which a rule in a plan could be more stringent than the regulations to specific national instruments, matters of national importance, and unique and sensitive environments.
- 13 Regulation 11 of the NES-CF contains the permitted activity condition for wilding tree risk and control. At clause 3, this regulation sets a wilding tree risk calculator score of 12 or more as the limit for where afforestation must not be carried out. The range of this score goes from zero to 22 and I note that a score of less than 12 does not necessarily correspond to low or no risk, as actual risk depends on many site-specific considerations and some of these can be subject to change.
- 14 For forestry which is now covered under the NES-CF, there is the ability for more stringent controls in the pWDP to be imposed to manage wilding risk from afforestation, in particular in areas vulnerable to the adverse effects of wildings such as landscape values, ecological values or wildfire risk (subject to matters of scope which Mr Buckley may be better placed to comment on).
- 15 Various controls in the NES-CF can be made more stringent to better assist councils to manage wilding tree risk such as by increasing setbacks (regulation 14), extending minimum notification periods for afforestation (regulation 10), or requiring management plans to be submitted for approval to enable improved risk auditing, oversight, and compliance checks (regulation 10A).
- 16 The permitted afforestation setback distance of 10 metres from a boundary under different ownership is considered generally inadequate. The Canterbury Regional Pest Management Plan (**CRPMP**)<sup>1</sup> provides a 200-metre setback of wilding trees from an adjoining property boundary within the wilding conifer containment area as most seeds fall within 200 metres of its source. Once wildings establish beyond the foresters' property, the ability to manage wildings becomes more limited. The

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<sup>1</sup> <https://www.ecan.govt.nz/your-region/plans-strategies-and-bylaws/canterbury-regional-pest-management-plan/>

- CRPMP cannot force the source owner of wilding trees to take responsibility for their external effects beyond their property boundaries.
- 17 However, there is the ability for private arrangements to be put in place to manage wildings on affected party neighbours and this can be signalled by the Waimakariri District Council through the activity status, associated standards and notification provisions for afforestation activities in their plan.
- 18 I have not commented on wilding tree risk from planting outside the scope of the NES-CF as councils' discretion (which is unfettered) remains unchanged by the NES-CF other than to note that changes may need to be made to some proposed provisions, subject to scope, to better align with the new definitions and scope of the NES-CF.
- 19 I note that during the hearing I was asked about including a list of prohibited species in the pWDP and note that there is a complete list of declared pest species included in section 4.1 of the CRPMP and pest agents<sup>2</sup> in section 4.2 of the CRPMP. The objectives and rules relating to pest conifers are set out in section 6.3 of the CRPMP.
- 20 I also refer to sections 154O(1) and 154N(19) of the Biosecurity Act 1993 (**BSA**). These sections deal with offences under the BSA.
- 21 Section 154O states that a person commits an offence under the BSA if they fail to comply with, relevantly, section 52 of the BSA, which in turn provides that no person shall knowingly communicate, cause to be communicated, release, or cause to be released, or otherwise spread any pest or unwanted organism (subject to certain conditions). As noted above, section 4.1 of the CRPMP contains the complete list of declared pest species in the Canterbury region and pest agents in section 4.2 of the CRPMP.
- 22 Section 154N(19) states that a person commits an offence against the BSA who fails to comply with a rule in a regional pest management plan or a regional pathway management plan that specifies that a contravention of the rule creates an offence against the BSA.

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<sup>2</sup> BSA, s 2. Pest agent, in relation to any pest, means any organism capable of— (a) helping the pest replicate, spread, or survive; or (b) interfering with the management of the pest.

23 In my opinion, it would be good practice to refer to the CRPMP for the complete list of declared pest species, which may change over time. While certain species could be listed in the pWDP, the pWDP should also direct plan users to consult the CRPMP.

Dated this 13<sup>th</sup> day of October 2023



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Serena Orr