

Managing Exotic Afforestation Consultation  
Ministry for Primary Industries  
PO Box 2526  
Wellington 6140

22 April 2022

## SUBMISSION BY LAWYERS FOR CLIMATE ACTION NZ ON MANAGING EXOTIC AFFORESTATION INCENTIVES

### Introduction

- 1 Lawyers for Climate Action NZ Inc (**LCANZI**) is a non-profit group of over 350 lawyers. We advocate for legislation and policies to ensure Aotearoa New Zealand meets or exceeds its commitment under the Paris Agreement to achieve net zero carbon emissions as soon as possible and no later than 2050. More information about us can be found on our website: <https://www.lawyersforclimateaction.nz/>.
- 2 This submission responds to the Government's discussion document *Managing Exotic Afforestation Incentives – A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme (Discussion Document)*. We have not attempted to answer the 26 consultation questions in the document. Rather, our comments address overarching issues about the proposed changes to the Emissions Trading Scheme (**ETS**) to exclude permanent exotic forestry.

### Summary

- 3 LCANZI's primary submission is that, whatever approach is adopted for permanent forestry under the ETS, the likely emissions impact of adopting such a policy, and the flow-on effect on the amount of overseas carbon credits that Aotearoa New Zealand will need to purchase to meet its Paris Agreement commitment, need to be carefully considered.
- 4 Secondly, irrespective of whether any of the options for forestry proposed in the Discussion Document is adopted, this will not resolve the underlying design flaws within the ETS, in particular:
  - (a) the lack of a meaningful limit on gross emissions (due to limited coverage and the stockpile);
  - (b) the inability to incentivise gross emissions reductions over removals; and
  - (c) the inability to incentivise mitigation measures/removals with the greatest co-benefits/least negative impacts.
- 5 In light of these issues, LCANZI supports a more fundamental review of the ETS, including consideration of whether it should be supplemented or replaced with a tax on gross emissions and a separate incentive framework for removals.

## Discussion

- 6 LCANZI does not have a firm view on whether exotic forests should be excluded from the permanent forestry category under the ETS. We have had the benefit of reading the submission by the Environmental Defence Society in draft and acknowledge the force of the points they have made in support of the proposal to exclude permanent exotic forests. However, LCANZI's focus when considering the Discussion Document is the necessity for Aotearoa New Zealand to have a robust emissions reduction plan that is consistent with limiting global warming to 1.5C and that will meet its Paris Agreement commitments. Through this lens, LCANZI has several concerns with the proposals in the Discussion Document.
- 7 The Discussion Document and Regulatory Impact Statement focus on the economic effects on local rural communities of excessive permanent exotic afforestation. While this concern is understandable, it is important not to lose sight of the urgent need to substantially reduce net emissions by 2030 to limit global warming to 1.5C. In light of this, we are concerned that there is relatively little analysis of the different emissions profiles that would potentially result from the proposed regulatory changes.
- 8 For example, the Discussion Document assumes that the exclusion of exotic permanent forests from the ETS would result in less afforestation (or slower afforestation) overall with a corresponding reduction in carbon removals in the period from 2016-2035 (see Table 3 of the Discussion Document) but it is not clear to what extent land that might have been used for exotic afforestation would instead be used for productive exotic forest, permanent indigenous forest or simply not be converted to a forest. This has significant climate implications for Aotearoa New Zealand. The emission profile of land that remains as agricultural land because a permanent exotic forest did not attract carbon credits is very different to land that would have been permanent exotic forest but instead was converted to permanent indigenous forest.
- 9 Further, there is a lack of analysis as to the implications of the anticipated reduction in carbon removals (below the Climate Change Commission's demonstration pathway) for Aotearoa New Zealand's ability to meet its domestic emissions budgets and its nationally determined contribution under the Paris Agreement. We consider that further analysis is needed to ensure that the potential climate impact and economic costs of this policy shift are fully understood – for example, assuming the change will significantly reduce the afforestation of land due to the relative cost/profitability of indigenous over exotic afforestation then this will increase the amount of gross emissions reductions required to meet domestic budgets and the amount of offshore mitigation required to meet Aotearoa New Zealand's nationally determined contribution under Paris Agreement.
- 10 LCANZI also considers the idea that rapid planting of exotics might create a surplus of NZUs that stalls the reduction in gross emissions to be misplaced. It is a version of the "waterbed" argument that doing something good on climate policy has no effect with a fixed quantity cap (that is, it's like saying removing all petrol cars might be bad because the price of NZUs might fall). But, of course the cap can be adjusted to take into account more rapid than expected planting so it is not neutralised out. It also seems a fanciful concern when, on a GHGI basis, our net CO<sub>2</sub> is projected to be higher in 2021-30 than any of the previous three decades.

- 11 If there was a change to the status quo (option 2 or 3 in the Discussion Document) LCANZI is supportive of option 3, in that LCANZI supports a nuanced approach to afforestation. It considers option 2 to be too blunt an instrument to achieve the goal of increasing indigenous afforestation.
- 12 If option 3 is adopted, consideration should also be given to other mechanisms to achieve increased indigenous afforestation. This could include subsidisation and tax implications favouring indigenous afforestation over exotic. The response to this issue should not be limited to changes to the ETS.
- 13 Finally, this consultation highlights underlying problems with the concept of the ETS as a solution to greenhouse gas emissions in New Zealand. The idea behind the ETS (if it included all emissions and if the stockpile was addressed) is that it would provide a quantitative cap on emissions and drive least cost abatement. However, as the policy discussion in relation to exotics highlights, least cost abatement is not always the best option. Further, a reduction in gross emissions is better than an increase in removals, unit for unit.
- 14 This discussion also highlights the failure of the ETS to recognise and reward co-benefits provided by some forms of mitigation but not others (such as the planting of natives in a coordinated manner that would allow for wildlife corridors or in areas that can be most easily kept predator free). In light of these deficiencies, we consider there may be benefits in rethinking the ETS and replacing (or supplementing) it with a tax on gross emissions, with separate incentives for removals. This is particularly the case given the lack of a meaningful cap on gross emissions contained in the ETS.



Jenny Cooper QC  
President, Lawyers for Climate Action NZ Inc.