

Submission — National Direction for Exotic Afforestation
Forestry & Bioeconomy Team
Ministry for Primary Industries
PO Box 2526
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SUBMISSION BY LAWYERS FOR CLIMATE ACTION NZ ON NATIONAL DIRECTION FOR PLANTATION AND EXOTIC CARBON AFFORESTATION

Introduction and summary

- 1 Lawyers for Climate Action NZ Inc (**LCANZI**) is a non-profit society and registered charity made up of almost 500 lawyers and associate members. 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 MPI Discussion Paper “National direction for plantation and exotic carbon afforestation” (October 2022).
- 3 Our submission relates to Parts A and C of the Discussion Paper.
- 4 On Part A:
 - (a) We generally support the proposal to extend the scope of the National Environmental Standards for Plantation Forestry (NES-PF) to include exotic carbon afforestation, and of the requirement for all forests to have a Forest Management Plan; and
 - (b) We propose that there be a requirement for Forest Management Plans for exotic carbon forests to include detailed methods and milestones to transition to indigenous forestry, as well as methods for the certification and audit of Forest Management Plans.
- 5 On Part C:
 - (a) We support the proposed new requirement for forests over 1 hectare to have a Wildfire Risk Management Plan (which should be part of a Forest Management Plan);
 - (b) We submit that the regulations should require such Wildfire Risk Management Plans to be held by the Council and FENZ, and to be competently peer reviewed and audited; and

- (c) We propose that the Government and industry should develop template risk Wildfire Risk Management Plans that are appropriate for small to medium forests in a given region.

Part A — managing the environmental effects of exotic carbon forests

- 6 Our starting point is that LCANZ does not consider that a massive increase in forestry is the best way for New Zealand to achieve its goal of achieving net zero carbon emissions. It is widely accepted that we must decrease our gross emissions rapidly and not rely on offsets through carbon removals from forestry.
- 7 However, we acknowledge that carbon removals through forestry are a significant part of our Emissions Reduction Plan, and we support efforts to ensure the appropriate regulatory settings are in place to support landowners to undertake afforestation and ensure that afforestation provides a reliable carbon sink. National direction through amendments to the NES-PF is an appropriate way of providing this regulation in a manner that promotes efficiency and certainty in the management of exotic carbon forestry. National direction also recognises the scale and national significance of afforestation as a carbon offset method.
- 8 We submit that the amended NES-PF should be geared towards a long-term reorientation from exotic afforestation to indigenous forests. A transition towards indigenous forests has significant advantages in terms of reducing the risk of stock loss from disease, pest incursions and fire, as well as co-benefits. The overall regulatory system needs to embed incentives for landowners to transition from exotic carbon forestry to indigenous forestry over time — through the NES-PF consenting structure and/or the ETS settings and/or other regulations.
- 9 Forest Management Plans are an appropriate way to facilitate the transition towards indigenous forests, if that is the forest owner’s intention. The amended NES-PF should require these Forest Management Plans to set out the proposed forest outcomes and the required interventions and milestones to achieve a transition from exotic to indigenous species.
- 10 These Forest Management Plans should be certified by an independent certifier. The forest should also be audited for compliance with its plan at regular intervals. These certification and audit mechanisms are necessary to create confidence that the forest is being appropriately managed as a carbon sink and that the transition from exotic to indigenous species is occurring (if that is the plan for the forest).
- 11 The Discussion Paper notes general public agreement with the use of Forest Management Plans and ensuring that forest owners cannot “plant and walk-away”. We consider there is a risk that, even with a quality Forest Management Plan, a landowner may not have adequate incentive to continue to comply with that Plan (and meet any indigenous forestry outcomes) over the long-term timeframes of a forest. We propose that MPI investigates methods by which councils can obtain assurances as to performance, such as performance bonds, compulsory insurance, or an ability (as a last resort) to undertake forest maintenance and recover costs from the landowner.
- 12 We recognise that the aspects of the regulatory regime we are proposing would impose additional costs on forest owners. We consider these costs are justifiable in ensuring

carbon forestry is a well managed and effective carbon sink, and that New Zealand does not place undue reliance on carbon removals through forestry.

Part C — improving wildfire risk management in all forests

- 13 The Discussion Paper proceeds on the correct premise that wildfire risk will increase across New Zealand as a result of climate change, and that it is important to mitigate this risk. Aside from the obvious health and safety risks to people, ecosystems, infrastructure and communities, wildfires also threaten the integrity of forestry as an effective carbon sink.
- 14 We support the proposal for a Wildfire Risk Management Plan (WRMP) to be mandatory for forests over 1 hectare. Such a WRMP should be a component of the Forest Management Plan discussed above.
- 15 The Discussion Paper proposes that the requirements for a WRMP should vary according to the size of the forest, on the basis that forest size is a proxy for wildfire risk. We endorse that simple approach to tailoring the requirements of a WRMP, but note that other risk factors such as forest species or regional climate could also be significant and require a tailored approach.
- 16 The Discussion Paper proposes that the landowner would only be required to attest to the council that a WRMP has been prepared and that it “is held by the notifier where it can be referred to in the event of a fire”. We submit that, in addition, the WRMP should be held by the Council and FENZ so that it can be referred to without delay in the event of a fast moving wildfire outbreak or very high fire risk season.
- 17 We also submit that WRMPs should be certified and audited in the same or similar manner we have proposed for Forest Management Plans.
- 18 The Discussion Paper notes that templates and guidance material for forests should be developed in relation to WRMPs. We support that proposal because templates assist to reduce the compliance cost for forest owners and ensure a consistent high quality approach to wildfire risk management. This will be particularly important for smaller forest owners. We consider that templates ought to be developed on a region-by-region basis.



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