

**BEFORE THE PROPOSED OTAGO
REGIONAL POLICY STATEMENT
HEARINGS PANEL**

UNDER

the Resource Management Act
1991

AND

IN THE MATTER

of submissions on the
proposed Otago Regional
Policy Statement 2021
(excluding parts determined to
be a freshwater planning
instrument)

**STATEMENT OF REBUTTAL EVIDENCE OF AINSLEY JEAN MCLEOD ON
BEHALF OF NEW ZEALAND CARBON FARMING LIMITED (FS00602)**

PLANNING

12 December 2022

1. INTRODUCTION

Qualifications and Experience

- 1.1** My full name is Ainsley Jean McLeod. I hold the qualifications of a Bachelor of Arts (Geography and Anthropology) and a Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute.
- 1.2** I am a self-employed planner, trading as Ainsley McLeod Consulting Limited. I have over 20 years' experience in planning practice, primarily as a consultant planner based in Otago, Wellington and Christchurch, during which time I have undertaken consenting, designation and policy planning work. I have provided planning advice to a range of clients including central and local government, and the private sector. I have acted as an expert witness on a number of occasions before hearings panels, boards of inquiry and the Environment Court.
- 1.3** Over the last 18 months I have provided planning advice to New Zealand Carbon Farming Limited ("NZCF") in respect of the establishment of permanent carbon sequestration forests at locations across New Zealand.
- 1.4** I assisted with the preparation of NZCF's further submission on submissions made in respect of the proposed Otago Regional Policy Statement ("pORPS"), participated in pre-hearing without prejudice discussions with representatives of Otago Regional Council ("Council") and other submitters, and am now engaged to provide expert planning rebuttal evidence in relation to the evidence of Victoria van der Spek filed on behalf of Waitaki District Council ("WDC").

Code of Conduct

- 1.5** Although this matter is not before the Environment Court, I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses as contained in the Court's 2014 Practice Note,

including paragraph 4.16 that sets out the appropriate scope for rebuttal evidence. I have complied with the Code of Conduct when preparing my written statement of rebuttal evidence and will do so when I give oral evidence before the Hearings Panel.

- 1.6** My qualifications as an expert are referenced above. I confirm that the issues addressed in this statement of rebuttal evidence are within my area of expertise. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the rebuttal evidence. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Scope of Rebuttal Evidence

- 1.7** This statement of rebuttal evidence responds to matters raised in the evidence of Ms van der Spek, filed on behalf of WDC in respect of the inclusion of definition of 'carbon forestry' in the pORPS.¹

2. RESPONSE TO MS VAN DER SPEK'S EVIDENCE

- 2.1** In her evidence, Ms van der Spek explains her understanding of the recommendations made in the relevant Section 42A Report and summarises the outcome of the without prejudice pre-hearing discussions that occurred earlier this year, being the drafting of a possible definition of 'carbon/permanent forestry'.

- 2.2** The 'Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 1: Introduction and general themes' dated 4 May 2022 considers the need for a definition and concludes:

"185. To support the relief sought in other provisions, Waitaki DC seeks to include a definition of carbon forestry to the pORPS. While that has become the main term used to describe permanent forestry plantations, I note that the ETS uses the term "permanent forests".

¹ Submission reference 00140.002. NZCF made a neutral submission on this submission point seeking that careful consideration be given to the consequences of the definition being included pORPS.

In my opinion, that is a clearer term than carbon forestry and removes the need for a definition as it is self-evident what a permanent forest is. I recommend accepting this submission, and the further submission by NZ Carbon Farming, in part.”

2.3 Ms van der Spek sets out communications between the Council, submitters and other parties² in relation to the definition of ‘carbon/permanent forestry’ that were held in the context of pre-hearing discussions directed by the now disestablished Freshwater Hearings Panel convened by the Chief Freshwater Commissioner.

2.4 Supplementary evidence filed on behalf of the Council does not address the relief sought in submissions or the pre-hearing discussions.

2.5 Ms van der Spek acknowledges that the Ministry for Primary Industries and the Ministry for the Environment have released a ‘National direction for plantation and exotic carbon afforestation’³ (“Discussion Paper”). Consultation on this discussion paper has recently closed. Ms van der Spek’s evidence concludes:

“16. I consider that the draft definition for exotic carbon forestry contained in Discussion Paper No: 2022/10 to be fit for purpose, and if adopted and included within the NESPF, would provide sufficient direction to apply consistent terminology and management approaches in relation to the carbon forestry activity through the Otago Regional Policy Statement and within lower order planning documents in the region.

17. I therefore no longer consider it necessary to pursue a regional definition for carbon (permanent) forestry for the Otago region. No further relief is sought on this matter.

18. However, if a national definition for exotic carbon forestry is not adopted, then it would be valuable to continue to pursue a regional definition.”

² Being parties that have not made a submission in respect of carbon forestry or permanent forestry.

³ <https://www.mpi.govt.nz/dmsdocument/53623-National-direction-for-plantation-and-exotic-carbon-afforestation>

2.6 The the Discussion Paper's purpose is to seek feedback on changes to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 ("NES-PF").

2.7 The Discussion Paper amendments seek to:

- (a) manage the biophysical effects of permanent exotic (carbon) forestry;
- (b) enable a more planned approach in all exotic forests;
- (c) improve wildfire management in all exotic forests;
- (d) address key findings of the Year One Review of the NES-PF.

2.8 Given the contemporaneous review of the NPS-PF, which includes a consideration of national direction for carbon/permanent forestry, I am of a similar opinion to that of Ms van der Spek. That is, I consider that it is unnecessary, inappropriate and inefficient for the pORPS to address permanent forestry activities when the same issues are being addressed through potential amendments higher order planning instruments. It is my opinion that including a policy response to permanent forestry activities in the pORPS is pre-emptive and has the potential to result in inconsistencies between planning instruments. For these reasons, it is also my conclusion that a definition of 'permanent/carbon forestry' should not be included in the pORPS.



12 December 2022

Ainsley Jean McLeod