

ADDERLEY HEAD



BEFORE THE INDEPENDENT HEARING COMMISSIONERS

IN THE MATTER OF the Resource Management Act 1991 ('the Act')

AND

IN THE MATTER OF of the proposed Canterbury Land and Water Regional Plan

BETWEEN **RAYONIER NEW ZEALAND LTD**
Submitter

AND **CANTERBURY REGIONAL COUNCIL**
Local Authority

FURTHER LEGAL SUBMISSIONS ON BEHALF OF RAYONIER NEW ZEALAND LTD

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1 INTRODUCTION

- 1.1 In my opening for Rayonier New Zealand Limited (Rayonier), I submitted that the case for amendment to the proposed Land & Water Regional Plan (pLWRP) as proposed by Rayonier is compelling because it is supported by cogent expert and industry evidence. This seems consistent with how the hearing has transpired, with the key issues discussed relating to managing the effects of plantation forestry, and ensuring that the plan provisions are workable and effective.
- 1.2 Rayonier is filing the following supplementary evidence to address matters of detail that were raised during the hearing:
- (a) supplementary evidence of Mr Kelvin Meredith;
 - (b) supplementary evidence of Dr Chris Phillips;
 - (c) supplementary evidence of Dr John Quinn; and
 - (d) supplementary evidence of Mr Nick Boyes.
- 1.3 These further submissions discuss the issues arising at the hearing following the same general structure as my opening submissions. I do not intend to repeat matters that I have already addressed, but have used the same headings to make it clear how the various issues fit within the overall case presented by Rayonier.

2 PRELIMINARY MATTERS

Scope

- 2.1 The issue of scope has been addressed in my opening submissions. I have considered how the legal principles on scope set out in those submissions apply to the various changes to the plan provisions attached as Appendix 1 to the supplementary evidence of Mr Boyes.
- 2.2 The plan provisions proposed by Mr Boyes involve relatively minor changes to the amendments contained within Appendix 2 of his evidence-in-chief. In my submission, they can properly be described as refinement and/or clarification of the relief sought by Rayonier.
- 2.3 As mentioned in my opening submission, Rayonier's original submission on pLWRP requested quite specific relief to particular rules as well as an alternative regulatory approach through a separate forestry rule - similar to the approach adopted in the Horizons One Plan. Further, Rayonier's submission also requested that pLWRP incorporate any consequential or additional amendments necessary to give effect to

the intent of Rayonier's submission and which support the alternative approach to managing forestry as a permitted activity.

- 2.4 In my submission, the various changes proposed by Mr Boyes are within scope of Rayonier's original submission as the changes are each directed toward giving effect to Rayonier's primary submission, which is to enable routine plantation forestry activities to occur as a permitted activity within the Canterbury region.

3 SEDIMENTATION EFFECTS OF PLANTATION FORESTRY

Rule 5.72A - Suspended Sediment Control and Schedule 5

- 3.1 The supplementary evidence of Dr Quinn addresses the following queries raised by the Commissioners at the hearing:
- Whether his recommendations at paragraph 23 of his evidence-in-chief applies to all, or only some, of the water classes within Schedule 5;
 - Whether the proposed wording in paragraph 29 of his evidence-in-chief relating to Rule 5.72(b) should apply to other rules that contain reference to suspended sediment levels in the pLWRP;
 - To provide his view about how to measure compliance with the limits mentioned in Schedule 5 of the pLWRP; and
 - The relative merits of the different approaches to monitoring compliance with suspended solids / clarity standards outlined in his evidence-in-chief compared to the amendment to Rule 5.72 proposed by Mr Boyes.
- 3.2 Regarding the latter, Dr Quinn discusses the advantages of moving away from stormwater suspended solids standards to use of an Erosion and Sediment Control Plan supported by instream compliance monitoring. On this basis, Dr Quinn supports the amendments proposed by Mr Boyes regarding Rule 5.72 (now Rule 5.72A).
- 3.3 Prompted by the Commissioners' question, Dr Quinn also suggests further amendments to (a) remove reference to compliance monitoring at below the median flow and (b) ensure that compliance is monitored at an appropriate spatial scale over an appropriate time scale. These changes are included in Appendix 1 of Mr Boyes' supplementary evidence.

4 EFFECTS OF PLANTATION FORESTRY ON WATER BODIES AND RIPARIAN MARGINS

Rule 5.148 - Riparian Margins

- 4.1 Mr Boyes responds to questions raised regarding replanting of areas subject to Rule 5.148 and clarifies that the amendments requested by Rayonier do not seek to alter

the setbacks provided in the Rule and are directed toward providing exceptions to the conditions that apply to activities within the existing setbacks for plantation forestry activities.

5 EFFECTS OF PLANTATION FORESTRY ON EROSION-PRONE AREAS

Rule 5.150 – Replanting Periods and High Soil Erosion Risk Map

Implementation of the Soil Erosion Risk Map

- 5.1 The Commissioners have requested Dr Phillips consider what additional text is required in the pLWRP to assist implementation of the High-Soil Erosion Map at Appendix 2 of the s42A report. This map is related to Rules 5.150 – 5.154 of the notified plan (Vegetation Clearance and Earthworks in Erosion-Prone Areas).
- 5.2 Should the relief requested by Rayonier be accepted by the Commissioners then Rayonier will be able to undertake routine forestry activities as a permitted activity within the areas identified in Appendix 2.
- 5.3 However, in the event that the Commissioners are not minded to accept Rayonier’s relief or, alternatively, would like further advice regarding implementation of the High-Soil Erosion Map, Dr Phillips discusses in his supplementary evidence suggested amendments to the pLWRP including how land susceptible to erosion can be more accurately mapped.

Timeframe for revegetation

- 5.4 Mr Boyes refers to the timeframe for revegetation following harvest as discussed at the hearing and clarifies his evidence by confirming that, in his view, an 18-month period is appropriate, consistent with the changes requested at Appendix 2 of his evidence-in-chief.
- 5.5 Mr Meredith also addresses this matter in his supplementary evidence and explains why the 18-month period is considered necessary by Rayonier. Mr Meredith also discusses the extent to which a harvested site is vulnerable to accelerated erosion as a result of vegetation clearance.
- 5.6 In my submission, the supplementary evidence on this point supports Rayonier’s request for an 18-month period for revegetation following harvest. Rayonier seeks a very specific exception to the rules to enable this important, albeit routine, aspect of plantation forestry to occur within a permitted activity framework.

6 PLWRP PROVISIONS (INCLUDING DEFINITIONS)

- 6.1 Mr Boyes’ supplementary evidence includes at Appendix 1 updated pLWRP amendments recommended by Mr Boyes. The additional changes respond to

comments made by Commissioners at the hearing and the supplementary evidence filed by Rayonier's witnesses.

7 SECTION 32 EVALUATION

- 7.1 The Commissioners have requested further information regarding the Forest Stewardship Council (FSC) certification of Rayonier's forest within the Canterbury region. Attached as Appendix 1 to the supplementary evidence of Mr Meredith is a Forest Management Certification Report (the Report) prepared by an independent certification company in accord with SGS Forest Management Standard (AD33) adapted for New Zealand plantations¹. The Report applies to all of Rayonier's forests within New Zealand, including forests located in the Canterbury region. The main evaluation for FSC certification was completed during June 2011. Subsequently, one surveillance (or annual audit) has been completed, between 11 - 15 June 2012. Other features of the FSC certification and audit process are discussed in the supplementary evidence of Mr Meredith.
- 7.2 FSC certification and the Report confirm the existence of rigorous third-party accreditation of the Environmental Management System (EMS) established by many forest companies in New Zealand. The Report provides also corroborates the evidence of Mr Meredith as to the benefits provided by plantation forestry. These matters are particularly discussed at the section entitled "Socio-economic and environmental context" at pages 18-20.
- 7.3 In my submission, the evidence for Rayonier demonstrates that plantation forestry provides a considerable range and scale of benefits to the environment and the community. The evidence also shows that most large forestry companies, including Rayonier (which owns the majority of plantation forestry in the Canterbury), operate under EMS supported by FSC certification. Such EMS require application of good practice guidelines. The evidence of both Dr Quinn and Dr Phillips comments favourably on the improved environmental performance resulting from the implementation of such guidelines by the forestry sector. These distinguishing factors, in combination with the matters discussed at Section 10 of my opening submissions, support separate rules for plantation forestry.

Dated this 22nd day of April 2013



Chris Fowler
Counsel for Rayonier New Zealand Ltd

¹ See page 1 of the Report (Evaluation Standard).