

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY THE  
TIMARU DISTRICT COUNCIL**

**IN THE MATTER OF**

The Resource Management Act 1991 (**RMA** or  
**the Act**)

**AND**

**IN THE MATTER OF**

Hearing of Submissions and Further  
Submissions on the Proposed Timaru District  
Plan (**PTDP** or **the Proposed Plan**)

**AND**

**IN THE MATTER OF**

Submissions and Further Submissions on the  
Proposed Timaru District Plan by **Port Blakely  
Limited**

---

**EVIDENCE OF BARRY GRAEME WELLS  
ON BEHALF OF PORT BLAKELY LIMITED REGARDING HEARING (D) NATURAL  
ENVIRONMENT**

Dated: 25 October 2024

---

Presented for filing by:  
Chris Fowler / Shona Walter  
PO Box 18, Christchurch  
T 021 311 784 / 022 400 66 76  
chris.fowler@saunders.co.nz / shona.walter@saunders.co.nz

## INTRODUCTION

- 1 My name is Barry Graeme Wells.
- 2 I hold a Bachelor of Engineer Degree (First Class Honours) in Forest Engineering, from the University of Canterbury.
- 3 I am the South Island Regional Manager with Port Blakely Limited (**Port Blakely**)
- 4 I have worked for Port Blakely for close to 19 years. Prior to being the South Island Regional Manager, I held the position of Operations Manager – Harvesting for 11 years, and prior to that the position of Forest Manager for 7 years. These roles were based out of Port Blakely's Timaru office. I have also held Harvest Planning and Roding roles with two other forests companies within NZ, and overall have 28 years of practical forestry experience.
- 5 My role in relation to the Timaru Proposed District Plan (**Proposed Plan**) is as an expert witness to Port Blakely on forestry operations.
- 6 Although this is not an Environment Court proceeding, I have read the Environment Court's Code of Conduct and agree to comply with it. My qualifications as an expert are set out above. The matters addressed in my evidence are within my area of expertise, however where I make statements on issues that are not in my area of expertise, I will state whose evidence I have relied upon. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

## SCOPE OF EVIDENCE

- 7 In my evidence I address the following topics:
  - (a) The forestry sectors response to the introduction of the NES-PF (now NES-CF)
  - (b) Port Blakely's approach to management under the NES-CF of:
    - (i) indigenous vegetation clearance that is incidental to plantation forestry operations, riparian margins & sensitive areas and indigenous vegetation clearance in Significant Natural Areas (SNAs);

- (ii) earthworks in riparian margins; and
  - (c) Port Blakely's costs arising from compliance with NES-CF regulations in relation to the matters above, and
  - (d) Additional costs and uncertainty for forestry companies and related businesses within the Canterbury region caused by the Proposed Plan rules related to indigenous vegetation clearance and earthworks in riparian margins.
- 8 In preparing this statement of evidence I have considered the statement of evidence provided by Melissa Pearson (SLR Consulting) in respect of planning matters.

### **SUMMARY OF MY EVIDENCE**

- 9 Port Blakely are a large scale, long term, and responsible forest owner within the Timaru District. The current NES-CF, along with other forest industry guidance, adequately controls our operations and protects the natural environment.
- 10 Port Blakely introduced a variety of different measures and made financial investments to comply with the NES-CF. In particular NES-CF measures which manage the environmental effects of indigenous vegetation clearance and earthworks in riparian margins.
- 11 There has never been an in-forest inspection by Timaru District Council (**Council**) staff, so they have no knowledge of current management practices and how the NES-CF rules currently manage environmental effects.
- 12 I am concerned about the potential implications of the Proposed Plan, where it duplicates the requirements of the NES-CF and the additional costs and uncertainty which flow from this.

### **CONTEXT**

- 13 Port Blakely manages Saddle Peak Forest and Geraldine Forest, both located in the Timaru District and are 7,654 ha in total.<sup>1</sup> The location of these forests is shown in **Appendix A**.

---

<sup>1</sup> This includes plantation forest, fallow land, native bush, significant natural areas, non-forest, roads and forestry tracks.

- 14 Port Blakely is a member of the New Zealand Forest Owners Association and has been part of an internationally recognised certification process for responsible forestry practices since 2003, with new forests assessed and added to the certificate as they are purchased and/ or established. This certification is audited on an annual basis. Port Blakely is committed to a strong Health and Safety culture across our staff and contractors along with responsible environmental management as per the company value of Stewardship. Port Blakely's commitment to positive environmental practices in the Canterbury region is proven with examples such as an invitation to be a member of the Timaru District Council Biodiversity Steering Group and the significant involvement and support of the South Canterbury Long-Tailed Bat project.
- 15 Port Blakely lodged a submission on the Proposed Plan, which included a submission on the Ecosystems & Biodiversity Chapter and the Natural Character Chapter.

## **FORESTRY SECTOR RESPONSE TO NES-PF (NOW NES-CF)**

### **Gazettal of the NES-PF**

- 16 The commencement of the National Environmental Standards for Plantation Forestry (the **NES-PF**) on 1 May 2018 introduced a range of new regulations that plantation forestry owners, managers and contractors need to comply with.
- 17 The NES-PF was amended by the National Environmental Standards for Commercial Forestry (**NES-CF**), when the NES-CF came into effect on 3 November 2023. The main changes made by the NES-CF include changing the name to the NES-CF, giving councils more power to decide where new forests are located and the regulations were extended to also apply to exotic continuous-cover forests that are deliberately established for commercial purposes (carbon forests).<sup>2</sup>
- 18 Port Blakely supports the NES-CF and the nationally consistent land use planning regime it has introduced. As a company that operates throughout New Zealand, Port Blakely was concerned at the ongoing planning churn and

---

<sup>2</sup> <https://www.mpi.govt.nz/forestry/getting-started-forestry/forestry-rules-regulations/introduction-to-the-national-environmental-standards-for-commercial-forestry-nes-cf>.

the inconsistency of controls across the country when forestry operations were controlled exclusively by regional and district planning instruments. The NES-CF applies to all plantation forests whether they are owned/managed by a large corporate or a farm forester. The NES-CF has provided certainty for Port Blakely (and other forestry companies) in managing the effects of its forestry operations on the environment in a consistent way across New Zealand.

- 19 The NES-CF resulted in a response at a national level (lead by government and forest owners) and at the level of individual forestry companies to help shift plantation forestry management and operations towards compliance with the new regulatory regime.

### **National Response to the introduction of the NES-CF**

- 20 A major platform of the NES-CF is the mandatory obligation to produce afforestation management plans and forestry harvesting and earthworks management plans. The Ministry of Primary Industry (**MPI**) has developed various guidance documents on the implementation of the NES-CF including indigenous vegetation clearance, afforestation and earthworks. The New Zealand Forest Owners Association (**NZFOA**), after discussion with MPI, has developed 28 specific Forest Practice Guidelines (**FPGs**) that provide tool boxes of various measures that may be used to meet the regulations. These FPGs are posted on the NZFOA web site. The first FPGs were produced in 2018 and were updated in February 2020.
- 21 The FPGs cover earthwork construction, erosion and sediment control measures, crossings, and tracks. The FPGs have focused guidance on erosion and sediment control and the stabilisation of operational sites. With regard to the use of the FPGs, the NZFOA web site states (existing emphasis):

*"The NES-PF has provided a consistent regulatory approach for various forestry activities including earthworks, crossings and harvesting. A major platform of the regulation is that a forestry earthworks management plan and harvest plan (a Management Plan) is to be prepared. The specifications in schedule 3 of the NES-PF set out the details of the matters to be included in such a plan. There is a requirement to describe the management practices that will be carried out.*

*The guides provide various options (a tool box) of management practice. It is anticipated that in describing management practices that a Management Plan may refer to a guide or part of a guide.*

***The guides are not statutory documents however, care must be taken to references to a guide. If a Management Plan states that a certain guide or part of a guide is going to be followed then those provisions of that***

*guide will form part of compliance with the NES-PF regulations. In other words, the provisions will form part of your regulatory obligation under the RMA.”<sup>3</sup>*

- 22 An example of the guidance is attached as **Appendix B** MPI NES-PF Guidance Vegetation Clearance and **Appendix C** NZFOA Forest Practice Guide 1.2 Earthworks Construction Clearing and Stripping.
- 23 In 2020 the NZFOA updated its 2012 documents, the NZ Forest Road Engineering Manual and the Operators Guide. These documents are available on the NZFOA web site. They relate to building roads and landings and deal with health and safety and environmental issues.

#### **Port Blakely’s response to NES-CF**

- 24 Port Blakely has an environmental management strategy (**EMS**) that is underpinned by Industry Best Practice, NES-CF requirements, individual council rules where greater stringency is applied over the NES-CF, and Resource Consent conditions where applicable. Our EMS is a framework for processes and procedures and contains relevant documents. We don’t have specific rules within our EMS, as the rules are contained in other sources. The only exception to this would be Rare/Threatened/Endangered species management.
- 25 We also have an Annual Environmental Improvement Plan, which specifies what we want to achieve on a 12 month basis around environmental management and reporting. This is where the action to review work practices in relation to new rules/policies/regulations etc would occur. With the outcome of that review communicated to the operations team.
- 26 These standards, along with the NZFOA NZ Forest Road Engineering Manual and the NZFOA environmental Code of Practice have been used by Port Blakely when planning forestry operations and in particular vegetation clearance and earthworks. The environmental standards are referred to in contracts with contractors employed to undertake the forestry operations. Contractors are required to keep a copy of the environmental standards on site. Port Blakely has an internal auditing process for all operational contractors. All sites are visited regularly during the operations, and a signoff

---

<sup>3</sup> [Forest Practice Guides • Documents Library: Forest Owners Association \(nzfoa.org.nz\)](https://www.nzfoa.org.nz/Forest-Practice-Guides-Documents-Library).

form is completed as operations (or parts of operations) are completed using a formal audit tool.

- 27 When changes to the NES-CF came into effect, management communicated this to staff. We are a relatively small team so can be nimble when things change. For example, we pro-actively implemented a more defined road standard a couple of years ago as a result of a bit of confusion in the field, to try to standardise our works between forests and different contractors/operators.
- 28 The measures we take to inform contractors about our environmental standards under the NES-CF is mostly through emails and one on one discussions. But primarily contractors find out about the details of the work they have to do through the job prescription that is developed for the work at each site.

#### **MANAGEMENT OF INDIGENOUS VEGETATION CLEARANCE UNDER THE NES-CF Port Blakely's Timaru operations**

- 29 There are SNAs within both Saddle Peak Forest and Geraldine Forest. As an example, a map of the Geraldine forests is attached at **Appendix D**. This map shows that within the SNAs, there are existing forestry tracks and roads.
- 30 There are also some perennial waterways but all smaller than 3m width, and many ephemeral waterways. There are some wetlands, including the Robinson wetland in the Geraldine Forest that we have developed/enhanced with native plantings etc.
- 31 When it comes to managing the effects on indigenous vegetation, the harvest planner is responsible if the activity is harvesting or roading. If we are carrying out afforestation, raking/windrowing etc, then it is the silviculture planner who is responsible.
- 32 The harvest planner and silviculture planner mainly use GIS mapping to assist in their planning. They also have access to Council's SNA reports, plus access to advice from an expert ecologist contracted to Port Blakely.
- 33 When it comes to carrying out different forestry operations close to SNAs, we always try to avoid any damage, but occasionally incidental damage occurs around the edges, as is permitted under NES-CF. We plan blocks to harvest trees away from SNAs, and where possible will mechanically fell trees so they

can be directed away from SNAs. In a couple of cases, we have worked with the ecologist to remove exotic trees from within/adjacent to the SNA and replant the cleared areas in native species so they won't be an issue into the future. This has been a proactive approach to enhance the SNA areas in the long term, although some short-term incidental damage can result.

34 As a land use, plantation forestry has a special relationship with indigenous vegetation. The following excerpt from page 1 of the MPI guidance document at Appendix B, explains further, (emphasis added):

*"As a land use, plantation forestry differs from most other types of cultivation in that the crop area remains undisturbed for lengthy periods of time until the crop is ready for harvesting. In that time, non-forest species often grow up within and adjacent to the plantation forest trees, including indigenous vegetation species. In certain circumstances, such as edge damage, some level of indigenous vegetation clearance or incidental damage is therefore unavoidable for operational reasons. For example, harvesting and associated earthworks (including the construction of forestry roads) often involve removal of indigenous vegetation alongside the forest species being harvested where indigenous vegetation has grown up in the understory of the plantation forest. **The conditions in Regulation 93 are to ensure that indigenous vegetation clearance or incidental damage only occurs in specific circumstances and that foresters take proactive steps to minimise the extent of any clearance or damage where this is unavailable.**"<sup>4</sup>*

35 Ms Pearson's planning evidence sets out the provisions of the NES-CF which regulate indigenous vegetation clearance and incidental damage associated with commercial forestry activities which are a permitted activity. I refer to paragraphs 39 to 43 in her evidence.

36 We take the NES-CF very seriously when planning our operations. We place a great emphasis on the protection of SNA areas and try to enhance them in the long term. We also do our best to protect other areas of indigenous vegetation that aren't SNAs (e.g. riparian margins, road batters, failed areas within a stand etc). On occasion some incidental damage does occur around the edges through operations, but by and large our company ethos is to

---

<sup>4</sup> Ministry for Primary Industries, NESPF Vegetation clearance, p.1.



manage these areas as if they are SNAs, even though there is no formal recognition of them in the District Plan.

#### **MANAGEMENT OF EARTHWORKS IN RIPARIAN MARGINS UNDER THE NES-CF**

- 37 The greatest potential impact from earthworks carried out in riparian margins is for new/existing crossings that pass through riparian areas adjacent to waterways. In complying with the NES-CF, we avoid placing any roads parallel to waterways within the riparian margins. Industry best practice is applied and any damage to riparian margins (width etc) is minimised. We aim for a site where the riparian vegetation is already damaged or missing (where topography etc allows). A suitable crossing point is planned and chosen, water controls are put in place, sediment traps are put in place at culvert mouths and outlets. Sediment traps are put in place where water tables would flow into a waterway. Sediment cloth or hay bales are used on occasion in conjunction with the sediment traps. Exposed soil is compacted and stabilised through grass seeding or spreading hay bales etc.
- 38 Earthworks are an essential part of forestry operations, as they provide the physical infrastructure needed to establish, maintain and harvest a plantation forest. If not properly planned and managed, earthworks can result in erosion and sediment discharge to waterways. The rules in the NES-CF have been specially designed to manage these effects and are administered by regional councils.
- 39 If earthworks involve more than 500m<sup>2</sup> of soil disturbance in any 3 month period, the regional council must be given written notice of the activity, along with a forestry earthworks management plan. A forestry earthworks management plan is prepared in accordance with Schedule 4 of the NES-CF. Port Blakely carried out a similar process to managing earthworks before the NES-CF was introduced.
- 40 The control of stormwater has always been part of planning earthworks in Port Blakely's plantation forests, including planning to avoid concentration of high volumes of stormwater by frequent dispersal and treatment. A normal measure is that on earthworks for roads, water tables with frequent cut offs with sediment traps and or dispersal to stable land, are constructed. However, NES-CF regulations 24 to 35 provide further emphasis on sediment control, which are administered by the regional council.

- 41 If the permitted activity thresholds set out in regulations 24 to 33 of the NES-CF cannot be met, a resource consent is required from the regional council as a controlled or restricted discretionary activity. For example, Port Blakely obtained a land use consent to disturb banks and the bed of a waterway in a dry gully and a discharge consent for discharging sediment into a dry gully from the Otago Regional Council. The purpose of the consents were to carry out earthworks close to riparian margins, so we could aerially extract trees over the top of the mainly dry gullies at the head of a catchment within our forest.
- 42 We also have existing long term consents in place with ECan for the Geraldine Forest and Saddle Peak Forest within the Timaru District, attached at **Appendix E**. These consents allow for crossings to be constructed across waterways/through riparian margins with conditions designed to minimise soil disturbance and soil erosion and to minimise sediment flowing into any surface water.
- 43 The NES-CF approach that requires formal management plans to include and apply environmental standards to forestry operations has simplified internal auditing and provides a written “check list” for ECan compliance monitoring. Internal auditing of contractors includes a written checklist against the NES-CF regulations and Port Blakely environmental standards. The majority of forestry operations are carried out by contractors. Port Blakely regularly undertake site visits and deals with issues of compliance as they arise. Port Blakely does have a formal audit process and contractors are formally audited annually, but are subject to informal audits and observations on a weekly basis and all operation sites have a post-harvest audit. Corrective action requirements (**CARs**) are issued for any non-compliance with a timeframe and specific action noted. The ultimate performance control is set out in the contract between the contractor and Port Blakely and significant non-compliance can result in termination.
- 44 Since the introduction of NES-PF, we have had a series of compliance inspections carried out by ECan for the Geraldine<sup>5</sup> and Waimate<sup>6</sup> forests. The inspections were against our Resource Consent conditions, not the NES-PF/CF. The outcomes from these inspections were fully compliant with

---

<sup>5</sup> Inspections carried out in: May 2024, June 2023, May 2022, March 2020.

<sup>6</sup> Inspections carried out in: March 2021, March 2022, October 2018.

commentary around sediment trap maintenance. Although these inspections were against our Resource Consent conditions, we would also comply with the NES-CF regulations if inspected for that purpose.

#### **COSTS TO COMPLY WITH THE NES-CF**

- 45 Meeting the NES-CF requirements that protect indigenous vegetation in plantation forests and avoid sedimentation of waterbodies involves a number of practices, depending on the circumstances.
- 46 For the clearance of indigenous vegetation during harvesting operations, to comply with the NES-CF we need to assess the areas prior to harvesting, including bringing in an ecologist to help guide us in our planning. Compliance also involves the use of different methods/machinery/equipment to complete the task. In some cases, additional roading is required to be constructed so that we can meet the requirements around protection of indigenous vegetation, SNAs and riparian areas.
- 47 The clearance of indigenous vegetation clearance within failed plantation forests is permitted under the NES-CF. For Port Blakely there has been no real issues here in terms of adapting our operations to comply with the NES-CF.
- 48 For indigenous vegetation clearance prior to reforestation, if the area has been harvested within the last 5 years, then this is permitted under NES-CF. All of our re-planting happens within this period (to meet Emissions Trading Scheme requirements).
- 49 For earthworks that are close to rivers/wetlands, additional planning of options for harvest and associated access is carried out. Depending on the site, we might need to construct additional roads so that areas can be accessed from "each side" so that crossings aren't required. Where needed we may need various methods, such as the use of armouring of batters and exposed soil, sediment traps, fluming, riprap, sediment cloth, grass seeding, hydroseeding, altering the timing of operations to suit the season, end hauling of spoil material. These are all examples of forest practices that are implemented to comply with the NES-CF.
- 50 These types of practice are planned in forests where erodible soils increase the risks of sedimentation. Recent new road and upgrade projects have resulted in a significant cost increase over budget of approx. 60% (e.g. \$50K per km to \$80k per km). The main contributor to the increase in price is in the

additional benching and compaction of fill slopes, along with underside berming which directs stormwater away from erosion prone fill slopes. It requires additional excavation for the road to be wider in order to get a stable platform on the road edge to form the berm. The berm and side fill needs to be compacted as practically as possible. In some cases, a berm will increase the load on the outside of the road edge and may create additional risk in highly erodible soils, so alternative mitigations may need to be implemented.

- 51 Other practices also come at a cost. End-hauling is the largest cost; costs increase significantly when the distance to the safe deposition location increases. End-hauling is an NES-PF requirement on steeper slopes over 35 degrees. Hydroseeding costs range from \$1.05/m<sup>2</sup> to \$4.50/m<sup>2</sup>. The cost to armour water tables around culverts and on steeper areas is variable. I am aware of a project in North Canterbury where the cost of water table armouring was approximately \$10,000 for less than a continuous kilometres of road within a plantation forest.
- 52 The NES-CF rule to divert storm water within 10m of a river crossing requires increased culvert installation at a cost of approx. \$600 per culvert (x2 per crossing = \$1200 per crossing).

### **ISSUES ARISING FROM TIMARU PROPOSED DISTRICT PLAN RULES**

- 53 I have a range of concerns regarding the potential implications of the Proposed Plan and the additional costs and uncertainty it will create for foresters and other businesses within the Canterbury region. These matters are discussed in the following paragraphs.
- 54 I am not sure when, where and how compliance under Proposed Plan is going to be measured or achieved.
- 55 The Council have had very little involvement with Port Blakely's forestry operations in the Timaru District and have never been on site to monitor or inspect our operations in relation to the NES-CF, or current Operative District Plan rules.
- 56 Port Blakely has not been contacted by the Council to understand how we run our forestry operations or manage adverse effects in sensitive environments, which might have helped them understand how the NES-CF provisions already manage these environments well. The only time Council staff have been on site is through involvement with stakeholder groups

related to long tail bat projects. It does seem odd that greater stringency is being applied to many rules compared to the NES-CF, when there have been no inspections undertaken, which would mean there is no knowledge of whether the current rules are inadequate in any way.

- 57 In general terms, the NES-PF and subsequent NES-CF was brought in as a way of standardising forestry rules across regions and districts within New Zealand. This provided all stakeholders with certainty and standardised methodologies for operational management, when working across territorial boundaries. As a result, territorial authorities are required to provide justification as to why their rules need to be more stringent than the national standard, which we have not seen from the Council, as discussed further in the evidence of Ms Pearson. Prior to implementing more stringent rules, we would also expect that the Council have monitoring data to show why greater stringency is required.
- 58 For larger forest owners such as Port Blakely, having standardised rules is beneficial as contractors often work across territorial boundaries. Having one set of rules to follow is simple and results in better environmental outcomes. If each authority implements something different then there is significant extra cost to the forest owner through the development of additional internal rules/policies/protocols to ensure compliance, additional monitoring, and in some cases obtaining resource consent. An estimate of those costs were provided in paragraphs 59-64 below. This is the way it used to be prior to the NES-PF/CF, which is why the national standard was developed and introduced in the first place.

### **Ecosystems and Indigenous biodiversity provisions in the PDP**

- 59 My main concern with the Ecosystems and Indigenous Biodiversity chapter is ECO-R1, particularly how the rule will make it difficult for Port Blakely to manage forestry roads, tracks, batters and culverts. There is an allowance for indigenous vegetation clearance to maintain "public" roads within SNA areas, however this excludes the ability to undertake maintenance and minor upgrades of existing private roads within a SNA. In our situation the road has been in place for 50-60 years, whereas the SNA has only been designated within the last 10 years. For the effective commercial management of our forest infrastructure and operations, and to ensure environmental protection through maintaining road batters, water tables and culverts, the maintenance of existing private infrastructure associated with commercial forestry activities

within SNA areas must be permitted. This is in line with the NES-CF Regulation 93.

### **Natural character provisions in the PDP**

60 NATC-R1 and NATC-R3 managing vegetation clearance and earthworks respectively in riparian margins are more stringent than current NES-CF rules. They would impact our ability to construct necessary internal roads and associated crossing points (culverts or bridges) for ongoing harvesting and roading operations. Additionally, the rules as written reverts to the RMA definition of a river. Ms Pearson addresses this difference in her evidence at paragraph 77 to 80, which I refer to here. Depending on the definition of the term "river", as we have witnessed in other regions, this could include gentle swales in the land formation where water flows only during rainfall events. If this interpretation was taken by the Council, then this rule would have major impacts to our operations and require the consenting for what has up until now been permitted activity. The NES-CF differentiates here in that it only applies to "perennial" waterways that can support aquatic habitat, so it is clear that those smaller gullies that might only flow water a few days a year, are not included.

61 For the reasons discussed above, it is considered that Port Blakely would not be able to comply with the Proposed Plan rules, and would therefore need to apply for resource consent with the Council to allow our existing operations to continue. Again, this seems perverse when Council staff have not inspected our operations and therefore have no idea whether the NES-CF regulations are inadequate for the management of natural character values.

### **Consenting implications of the Proposed Plan provisions**

62 There will likely be an increased cost to our operations within our forests in the Timaru District due to the need to apply for consent for indigenous vegetation clearance that is incidental to forestry operations within SNAs. This is currently permitted under the NES-CF, but is now considered a restricted discretionary activity under ECO-R1 (2).

63 There will be an increase in consenting costs for indigenous vegetation clearance in SNAs to maintain forestry tracks and roads running through SNAs. This is considered a permitted activity under the NES-CF and is now a Restricted Discretionary activity.

- 64 There will be an increase in consenting costs for general vegetation clearance associated with commercial forestry activities carried out in riparian margins of a river that is not a High Naturalness Water Body (**HNWB**).<sup>7</sup> Due to the uncertainty about how the term “river” will be interpreted by the Council, this rule could have a major impact to our operations. This is currently permitted under the NES-CF, but is now considered a restricted discretionary activity NATC-R1.
- 65 There will also be an increase in consenting costs for earthworks in riparian margins of a river that is not a HNWB. Under the NES-CF, territorial authorities are not responsible for earthworks in riparian margins. In the circumstances where the earthworks do not meet the permitted standards in NATC-R3, commercial forestry activities will now be considered a restricted discretionary. This creates uncertainty and unnecessary compliance risk for Port Blakely. To mitigate compliance risk, Port Blakely may be forced to seek resource consents to avoid potential enforcement action for non-compliance with the new rules.
- 66 Further, it is regional authorities which administer the regulations that manage earthworks carried out in riparian margins. Any resource consents needed for earthworks within riparian margins are required from ECan and assessed against the rules in Subpart 3 of the NES-CF. The inclusion of similar and more stringent controls under the Proposed Plan represents a doubling up of regulation, and the potential need to apply for a resource consent to the

---

<sup>7</sup> Means the surface water bodies which are identified:

1. *As a High Naturalness Water Body in the Canterbury Land and Water Regional Plan; and*
2. *In Schedule 1 and items 1 and 2 in Schedule 2 of the Water Conservation (Rangitata River) Order 2006 as having outstanding characteristics or features including wild, scenic and other natural characteristics and amenity and intrinsic values.*

*being:*

- a. *Clyde River and all tributaries;*
- b. *Havelock Rivers and all tributaries;*
- c. *Ōrāri River and tributaries From the mouth of the gorge (at or about BY19:553-335 5133500N 1455300E) to the headwaters; and*
- d. *Milford Lagoon and Ōrakipaoa Creek From the mouth of the lagoon (at or about 5095987N 1468610E) to the confluence of Burkes Creek and Ōrakipaoa Creek (at or about 5097932N 1467093E).*
- e. *Rangitata River main stem from confluence with Clyde and Havelock Rivers to the top of the gorge (at or about J36:636174) “upper Rangitata”;*
- f. *Rangitata River main stem from the top of the gorge (at or about J36:636174) to the water level recorder at Klondyke (at or about J36:666149) “the gorge”.*

Council, as well as ECan for the exact same activity. This extra regulatory burden represents extra costs associated with consenting, without any real clear reasoning as to the benefits of this double consenting regime.

- 67 In terms of recent resource consents obtained by Port Blakely from the Otago Regional Council, for relatively simple ones we are finding costs of perhaps \$7,000-\$8,000 per consent which includes the time of staff preparing them, the costs of experts (such as freshwater ecologists) and the actual application costs. More complicated consent applications would involve additional costs. The number of consents that would be needed would depend if the Council required a consent for every situation of a non-complying activity, or whether they would allow a more "global" consent for the same activity in the same forest (which would logically have the same effects) over a certain period. Global consents are typically more complex and expensive and may cost approximately \$20,000 per forest. In terms of overall additional consenting costs for Port Blakely arising from the Proposed Plan rules discussed above, the worst case might be 10-15 consents per year (\$120,000 in total per year); best case might be 3 consents per year (\$24,000 in total per year).

## **SECTION 42A REPORT**

- 68 The s42A Report recommends acceptance of Port Blakely's submission that the NES-CF provisions should prevail over the Proposed Plan where there is no justification in the s32 Report for more stringent rules. A range of reasons are given for the Reporting Officer's recommendation, some of which relate to my area of expertise.
- 69 The approach I have adopted in this statement of evidence is to identify those parts of the s42A Report where I agree or disagree and explain my reasons.
- 70 At paragraph 7.13.37 and paragraph 8.11.28, the s42A Report states:

*With respect to exempting plantation forestry activities, I consider that this change provides greater clarity that the Plan provisions are not applying greater stringency than the NESCF, does not result in a different approach being taken in this district. I consider that the costs and benefits of this approach are as per those associated with the NESCF and therefore anticipated when the NES was introduced.*



71 I do agree with this. The inclusion of the advice note about plantation forestry activities will avoid duplication with the NES-CF and clarifies which rules.

72 At paragraph 7.1.17, the s42A Report states:

*Based on the above, I consider that additional controls are required in the PDP to control indigenous vegetation clearance outside identified SNA areas, in order to achieve ECO-O2 and meet the Council's function under s31(1)(b)(iii). I recommend that an additional policy and rule be added relating to this. The drafting of the rule is based on similar rules contained in the Partially Operative Selwyn District Plan and proposed Waimakariri District Plan, and refined through input from Mr Harding. I consider that this addresses the matter raised by Frank, H [90.23], Forest and Bird [156.3, 156.106, 156.107, 156.116] and Dir. General Conservation [166.29]. For completeness, I consider that this approach is more efficient than the alternate suggested by Forest and Bird [156.21], in terms of mapping Improved Pasture and only permitting vegetation clearance in those areas. I consider that this would go beyond what is necessary to achieve the objectives of the chapter.*

73 I initially did not agree with this statement, as the NES-CF already regulates indigenous vegetation clearance associated with plantation forestry activities and the inclusion of the rule represents a duplication of regulations already provided by the NES-CF, without providing any further environmental benefit.

74 However, I note that there is an inconsistency between the proposed drafting of ECO-R1.4 in paragraph 7.1.27 of the s42A report and Appendix 1 to that report, which contains the full mark up of the ECO chapter. The version of ECO-R1.4 in paragraph 7.1.27 does not include the NES-CF advice note, whereas the same rule does include the advice note in Appendix 1.

75 I do agree with the version of ECO-R1.4 in Appendix 1, which includes the advice note, because it clarifies that ECO-R1.4 does not apply to indigenous vegetation clearance associated with plantation forestry operation and that the NES-CF applies instead.

**CONCLUSION**

- 76 Port Blakely supports the NES-CF even though it imposes greater controls on forestry operations. The NES-CF provides certainty to Port Blakely's ability to operate. Yes, extensive planning is required but that also provides the basis for being able to develop Port Blakely's wood flow programme. If the provisions of the NES-CF cannot be met then the appropriate resource consent can be applied for. The NES-CF sets out the matters of discretion that are retained by the council. This process provides a level of planning certainty to Port Blakely. The forestry sector in Timaru and the Council have been operating under the NES-CF for just 7 years. I had hoped that we could have all worked together to assess the impact on the environment of the new regulations. Rules in the Proposed Plan are a significant departure from the NES-CF. The Proposed Plan rules have been produced with little explanation as to why they are necessary after the introduction of the extensive provisions of the NES-CF.
- 77 Overall, the outcome Port Blakely seeks is that the Proposed Plan indigenous vegetation clearance rules, vegetation clearance rules and earthworks in riparian margins rules are deleted and that the Council works with the forest industry to assess the effectiveness of the NES-CF in protecting the environment in the Timaru District.
- 78 Thank you for the opportunity to present my evidence.

Barry Wells  
25 October 2024