

## FURTHER SUBMISSION ON PLAN CHANGE 18 TO MACKENZIE DISTRICT PLAN

**TO:** Mackenzie District Council (**Council**)  
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### INTRODUCTION

- 1 EDS has an interest in the proposal that is greater than the interest the general public has. EDS is a public interest environmental group, formed in 1971. The focus of its work is on achieving positive environmental outcomes through improving the quality of Aotearoa New Zealand's legal and policy frameworks and statutory decision-making processes. It has been actively involved in the Mackenzie District seeking to ensure protection of the Mackenzie Basin's unique and threatened biodiversity and of its iconic landscape values. EDS lodged a submission on Plan Change 18 to the Mackenzie District Plan (**PC18**). It could not gain an advantage in trade competition through this further submission. EDS wishes to be heard in support of this further submission and would be prepared to consider presenting a joint case with others making a similar further submission at any hearing.

### FURTHER SUBMISSION POINTS

Submission #	Submitter	Submission Point	EDS position
2	Maryburn Station	Amend improved pasture definition.	Oppose.  The proposed definition risks capturing areas which include indigenous vegetation, including areas that are significant under s6(c) RMA.
2	Maryburn Station	Vegetation clearance associated with irrigation should be permitted.	Oppose.  Irrigation results in clearance of indigenous vegetation and should be subject to regulatory

			oversight.
2	Maryburn Station	Policy framework should recognise the District Plan's SONS may include areas that can be cleared.	Oppose.
3	Simons Pass Station Ltd	Introduce soil erosion considerations.	Oppose in part.  Considerations relating to soil erosion may be acceptable but should not be used to justify activities which would adversely affect indigenous vegetation/ecosystems.
3	Simons Pass Station Limited	Permit vegetation clearance in FBAs.	Oppose in part.  Some permitted clearance/reduced activity status in FBAs may be acceptable however identification of an area as FBA does not mean every activity should be permitted. Some FBAs are large and have biodiversity values that, although not significant, are important in achieving the ss30 and 31 RMA obligation of maintaining indigenous biodiversity.
3	Simons Pass Station Limited	Changes to Rule 19.1.1.1 to clarify application.	Support in part.  It is critical any confusion over how the rules apply is removed to avoid issues of application akin to those faced under the operative District Plan (e.g. creation of loop holes).
3	Simons Pass Station Limited	Changes to Appendix Y to ensure consistency in terminology and focus on no net loss of indigenous biodiversity generally, not of significant indigenous biodiversity.	Support in part.  The concept of no net loss is more appropriately connected with maintenance of indigenous biodiversity

			generally.
4	Carol Burke	Changes to reflect that all existing remaining indigenous biodiversity in the Mackenzie Basin is significant. Amendments to the proposed rules to ensure all areas with significant values are protected.	Support.  Agree with submission's supporting reasons.
4	Carol Burke	Amendments to Appendix Y to ensure ecological assessments are peer reviewed and all consents recorded.	Support.  Agree with submission's supporting reasons.
5	Colin Morns	Delete permitted activity rule for clearance of improved pasture on basis that the definition is ambiguous and open to misinterpretation.	Support.  Agree with submissions supporting reasons. Open to a permitted activity rule for improved pasture if an appropriate definition can be formulated.
6	Mackenzie Guardians Inc	Delete permitted activity rule for clearance of improved pasture on basis that the definition is ambiguous and open to misinterpretation.	Support.  Agree with submissions supporting reasons. Open to a permitted activity rule for improved pasture if an appropriate definition can be formulated.
6	Mackenzie Guardians Inc	Amend definition of indigenous vegetation to include domestic gardens, plants for screening and harvest on basis exclusions should be included in the rules, not the definition.	Support.  Agree definition should not include exemptions (i.e indigenous vegetation in a domestic garden is still indigenous vegetation) and that the definition must capture mixed exotic/indigenous areas.
6	Mackenzie Guardians Inc	Amend objectives to include consideration of ONL values.	Support.  Biodiversity values and landscape values are intimately intertwined in the Mackenzie Basin and consideration of both is necessary to ensure protection of both, and an integrated approach

			to management and protection.
7	Fish & Game New Zealand	Define areas of improved pasture by mapping those areas.	Support in part.  Agree with concept in principle. Mapping provides certainty and clarity. Acceptability turns on the identification process ensuring only areas where all indigenous biodiversity values are lost are captured.
7	Fish & Game NZ	Oppose Policy 3 on basis allowing clearance that achieves no net loss will not achieve protection of significant indigenous biodiversity.	Support.  Protect means “keep safe from harm, injury, or damage”. A goal of no net loss means that some areas may be lost provided the equivalent area is gained elsewhere. This is not consistent with protection.
7	Fish & Game NZ	Amend Policies 5 & 6 to delete ability to offset adverse effects on basis offsetting will not protect the Mackenzie Basin’s significant indigenous biodiversity.	Support.  Protect means “keep safe from harm, injury, or damage”. Provision for offsetting means that loss or degradation of one area is allowed on basis of gains in another. This does not achieve protection.
8	Canterbury Regional Council	Include policy to progressively include new SONS in the District Plan.	Support.  Council has acknowledged its mapped SONS are incomplete. As SONS are confirmed they should be brought into the District Plan. As per its submission, EDS considers the entire remaining corridor of connectivity in the Mackenzie Basin is

			significant under s6(c) and should be mapped as SONS.
8	Canterbury Regional Council	Revise objectives and policies to have separate, targeted provisions applying to areas with significant indigenous biodiversity and those without. Examples provided in Table 1.	Support in part / oppose in part.  Agree that separate provisions ensure clarity and a targeted management approach. However, do not agree with the proposed policy framework in Table 1, for example avoidance of adverse effects on s6(c) significant areas "where practicable". Adverse effects on s6(c) significant areas should be avoided.
8	Canterbury Regional Council	Amend policies to clarify avoidance is preferred.	Oppose in part.  Agree policies should be amended to make management framework for s6(c) significant areas more stringent, however a preference of avoidance is insufficient. Avoidance of adverse effects on significant indigenous biodiversity should be required.
8	Canterbury Regional Council	Amend definition of indigenous vegetation to identify specific plant communities and delete exclusions. Exclusions should be included in rules.	Support in part.  Agree exclusions should be included in rules. Consider that listing of plant communities is not necessary and risks some plants not being protected (i.e. if they are not listed).
8	Canterbury Regional Council	Amend definition of improved pasture to: a. include an exotic cover dominance threshold from 2017; or b. introduce a threshold for permitted clearance in improved pasture; or	Support in part / oppose in part.  Agree the definition of improved pasture is uncertain and will provide for large scale clearance of areas with

		c. provide for clearance in improved pasture as a control activity.	s6(c) significant biodiversity values. However the proposed amended definitions are opposed because: a. Option a is unclear: What does 'dominant in cover' mean?; How is Council to establish if a field was dominant in cover at December 2017 in the future?; the 15 year exclusion is inappropriate in context of the Mackenzie Basin's specific vegetation. b. Options b and c rely on the proposed definition of improved pasture and therefore fall afoul of the same failings as the notified definition and rules – providing for permitted clearance of areas with s6(c) significant biodiversity values.
8	Canterbury Regional Council	Delete provision for permitted clearance in order to comply with the Regional Pest Management Strategy.	Support.  Agree with submission's supporting reasons.
10	Herman Frank	Amend definition of vegetation clearance to capture other methods of clearance, in particular displacement by exotic trees.	Support.  Agree with submission's supporting reasons.
11	Genesis Energy Ltd	Amendments/deletions/additions to greater facilitate clearance associated with the Waitaki Power Scheme.	Oppose.  Accept bespoke approach to vegetation clearance for the Waitaki Scheme. However, the changes sought are excessively lenient, providing for extensive clearance. For example: a. The combination of the deletion of the definitions of maintenance and

			<p>refurbishment activities, inclusion of refurbishment and upgrading as a permitted activity, further additions to Rule 2 to expand its ambit, and the new definitions of Waitaki Power Scheme Activities and Waitaki Power Scheme Area, would effectively provide a carte blanche for vegetation clearance of both existing cleared areas and new.</p> <p>b. The proposed definition of indigenous vegetation introduces a % dominance threshold. Experience under the operative District Plan shows this is almost impossible to apply. The 66% threshold is also inappropriately low in the Mackenzie context.</p> <p>c. The new proposed Objective X sets vegetation clearance as a goal of the District Plan, again effectively providing a carte blanche for vegetation clearance.</p> <p>d. The caveats added to Objectives 1 and 2 mean that in effect biodiversity will never be safeguarded in context of the Scheme as clearance is provided for in almost every instance.</p> <p>e. Amendments to Policy 1 seek to prevent identification of s6(c) significant areas within the Waitaki Power Scheme Area. This creates a factual fiction. There is no evidence</p>
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			<p>there are no s6(c) areas within the Scheme Area. If there are they should be protected in accordance with s6(c) RMA.</p> <p>f. Amendments to Policy 2 provide for effects on s6(c) significant indigenous biodiversity to be avoided, remedied, mitigated, offset, or compensated for. This effects management regime is insufficiently stringent in context of the Basin's unique biodiversity. Avoidance should be required.</p> <p>g. The amendments to Policy 7 similarly reflect an approach focused on excessive ability to clear as of right.</p> <p>The proposed amended planning framework is inappropriate in an environment like the Mackenzie Basin which is home to highly threatened and vulnerable indigenous biodiversity. The amendments sought are inconsistent with Council's obligations to protect significant biodiversity under s6 RMA or maintain biodiversity under s31 RMA.</p>
12	Glenrock Station Ltd	Amend definition of vegetation clearance.	<p>Oppose.</p> <p>Proposed definition will facilitate large scale clearance of significant indigenous vegetation.</p>
12	Glenrock Station Ltd	Amend Objective 2 to delete goal of retaining indigenous	Oppose.



		vegetation.	Retention of remaining indigenous vegetation in the Mackenzie Basin is critical to the survival of the dryland ecosystem. The Objective gives effect to the RPS – i.e. the Mackenzie Basin is an “appropriate location” to require retention, restoration, and enhancement (Policy 9.2.2 RPS).
12	Glenrock Station Ltd	Insert new policy recognising economic, social, and cultural benefits of rural land use.	Oppose.  The focus of new Section 19 is on indigenous biodiversity and its protection. Issue more appropriately dealt with elsewhere in the District Plan.
12	Glenrock Station Ltd	Suite of amendments across the provisions to incorporate reference to identification of areas of indigenous vegetation that can be retained and restored, and to actions to retain those values.	Support in part.  Retention and restoration of indigenous biodiversity outside s6(c) significant areas is supported. However, for the avoidance of doubt (as this does not appear to be the intention of the proposed amendments) this should not be used as a means to allow for loss or degradation of areas with significant indigenous biodiversity values.
13	Meridian Energy Ltd	Amendments/deletions/additions to greater facilitate clearance associated with the Waitaki Power Scheme.	Oppose.  Accept bespoke approach to vegetation clearance for the Waitaki Scheme. However, the changes sought are excessively lenient, providing for extensive clearance. For example:

			<p>a. The combination of the deletion of the definitions of maintenance and refurbishment activities, inclusion of refurbishment and upgrading as a permitted activity, further additions to Rule 2 to expand its ambit, and the new definitions of Waitaki Power Scheme Activities and Waitaki Power Scheme Area, would effectively provide a carte blanche for vegetation clearance of both existing cleared areas and new.</p> <p>b. The proposed definition of indigenous vegetation introduces a % dominance threshold. Experience under the operative District Plan shows this is almost impossible to apply. The 66% threshold is also inappropriately low in the Mackenzie context.</p> <p>c. The new proposed Objective X sets vegetation clearance as a goal of the District Plan, again effectively providing a carte blanche for vegetation clearance.</p> <p>d. The caveats added to Objectives 1 and 2 mean that in effect biodiversity will never be safeguarded in context of the Scheme as clearance is provided for in almost every instance.</p> <p>e. Amendments to Policy 1 seek to prevent identification of s6(c) significant areas within</p>
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			<p>the Waitaki Power Scheme Area. This creates a factual fiction. There is no evidence there are no s6(c) areas within the Scheme Area. If there are they should be protected in accordance with s6(c) RMA.</p> <p>f. Amendments to Policy 2 provide for effects on s6(c) significant indigenous biodiversity to be avoided, remedied, mitigated, offset, or compensated for. This effects management regime is insufficiently stringent in context of the Basin's unique biodiversity. Avoidance should be required.</p> <p>g. The amendments to Policy 7 similarly reflect an approach focused on excessive ability to clear as of right.</p> <p>The proposed amended planning framework is inappropriate in an environment like the Mackenzie Basin which is home to highly threatened and vulnerable indigenous biodiversity. The amendments sought are inconsistent with Council's obligations to protect significant biodiversity under s6 RMA or maintain biodiversity under s31 RMA.</p>
14	Opuha Water Ltd	Amendments/deletions/additions to provide a bespoke approach to clearance of indigenous vegetation as part of the Opuha	<p>Oppose in part.</p> <p>Open to considering specific management</p>

		Dam and Irrigation Scheme.	<p>approach for the Opuia Dam. However, as proposed the provisions would provide for excessive clearance as a permitted activity and fail to provide for consideration of all relevant matters in respect of clearance for which consent is required. This approach is inappropriate in an environment like the Mackenzie Basin which is home to highly threatened and vulnerable indigenous biodiversity. The amendments sought are not consistent with Council's obligations to protect significant biodiversity under s6 RMA or maintain biodiversity under s31 RMA.</p>
15	Pukaki Tourism Holdings Ltd	Amendments to include for voluntary FBPs.	<p>Oppose in part.</p> <p>Agree that a planned and holistic approach to farm management is positive. However, it is not clear how the proposal is intended to fit with the proposed rules framework.</p> <p>Adoption of a voluntary FBP should not be used as a means of achieving permitted clearance.</p>
16	Mt Gerald Station Ltd	Considers PC18 is inappropriate as it adopts "a blanket approach that reduces the threshold of clearance of indigenous vegetation to zero" in areas not identified as SONS.	<p>Oppose.</p> <p>PC18 does not take a blanket approach nor does it provide for no clearance. It provides for some permitted clearance and in other situations it requires consent for clearance.</p>

			That approach is entirely appropriate in particular given the acknowledgement by Council that its mapped SONS are incomplete. There will be many other areas in the Mackenzie Basin that are significant under s6(c) RMA.
16	Mt Gerald Station Ltd	Opposes permitted activities being focused on maintenance and consent requirement for new activities	Oppose.  Given the significance of the indigenous biodiversity in areas that have not been developed (including in areas that have been subject to lower level modification) it is entirely appropriate Council retain regulatory oversight over new activities which could result in loss of those values. This is additionally important given the incompleteness of the SONS mapping.
16	Mt Gerald Station Ltd	Provisions do not adequately take into account tenure review process findings.	Oppose.  The assessment under tenure review is undertaken as part of an entirely different legislative process with different tests and different requirements placed on decision-makers. It is not available to Council to ignore its responsibilities under the RMA on basis of analyses undertaken as part of an entirely separate process.
16	Mt Gerald Station	Amend definition of indigenous biodiversity.	Oppose.  Proposed definitions (importing % cover

			thresholds) are uncertain and impossible to implement. It will lead to a continuation of the application and interpretation problems which plague the current District Plan.
16	Mt Gerald Station	Vegetation clearance as part of a FBP be a controlled activity.	Oppose.  Due to the significance and vulnerability of the Mackenzie Basin's remaining indigenous vegetation it is critical Council retain the ability to assess and refuse consent.
16	Mt Gerald Station	Vegetation clearance not connected to an FBP be a restriction discretionary activity.	Oppose.  Due to the multiple issues and values at play in the Mackenzie Basin (e.g. ONL, natural character, biodiversity, indigenous, development) it is appropriate Council have the ability to consider all objectives and policies when assessing consent applications.
16	Mt Gerald Station Ltd	Vegetation clearance rules be subject to exemptions (examples listed in attached Table).	Oppose.  Exemptions in the current District Plan have been manipulated resulting in large scale clearance of significant indigenous biodiversity. Regulatory oversight is important and necessary to ensure protection of the values that remain.
17	The Wolds Station Ltd	Considers PC18 is inappropriate as it adopts "a blanket approach that reduces the threshold of clearance of indigenous vegetation to zero" in areas not	Oppose.  PC18 does not take a blanket approach nor does it provide for no

		identified as SONS.	clearance. It provides for some permitted clearance and in other situations it requires consent for clearance. That approach is entirely appropriate in particular given the acknowledgement by Council that its mapped SONS are incomplete. There will be many other areas in the Mackenzie Basin that are significant under s6(c) RMA.
17	The Wolds Station Ltd	Opposes permitted activities being focused on maintenance and consent requirement for new activities	Oppose.  Given the significance of the indigenous biodiversity in areas that have not been developed (including in areas that have been subject to lower level modification) it is entirely appropriate Council retain regulatory oversight over new activities which could result in loss of those values.
17	The Wolds Station Ltd	Provisions do not adequately take into account tenure review process findings.	Oppose.  The assessment under tenure review is undertaken as part of an entirely different legislative process with different tests and different requirements placed on decision-makers. It is not available to Council to ignore its responsibilities under the RMA on basis of analyses undertaken as part of an entirely separate process.
17	The Wolds Station Ltd	Opposes policy of no net loss of significant indigenous biodiversity.	Oppose.  No net loss is consistent

			with “maintenance” – Council’s obligation under s31 RMA.
17	The Wolds Station Ltd	Opposes offsetting policy on basis there is no ability to achieve a net gain of biodiversity in the Mackenzie Basin.	Oppose.  This is incorrect. It is possible to achieve a net gain through active management and restoration.
17	The Wolds Station Ltd	Amend definition of indigenous biodiversity.	Oppose.  Proposed definitions (importing % cover thresholds) are uncertain and impossible to implement. It will lead to a continuation of the application and interpretation problems which plague the current District Plan.
17	The Wolds Station Ltd	Vegetation clearance as part of a FBP be a controlled activity.	Oppose.  Due to the significance and vulnerability of the Mackenzie Basin’s remaining indigenous vegetation it is critical Council retain the ability to refuse consent.
17	The Wolds Station Ltd	Other vegetation clearance should be a restriction discretionary activity.	Oppose.  Due to the multiple issues and values at play in the Mackenzie Basin (e.g. ONL, natural character, biodiversity, indigenous, development) it is appropriate Council have the ability to consider all objectives and policies when considering consent applications.
17	The Wolds Station Ltd	Vegetation clearance rules be subject to exemptions (examples listed in attached Table)	Oppose.  Exemptions in the current District Plan



			have been manipulated resulting in large scale clearance of significant indigenous biodiversity. Regulatory oversight is important and necessary to ensure protection of the values that remain.
18	Director-General of Conservation	New definition of biodiversity offset.	Support in part.  Agree a definition is required. However, any definition must include the criteria to which a biodiversity offset must adhere consistent with the BBOP principles.
18	Director-General of Conservation	Amend definition of improved pasture.	Support in part.  Concept of mapping improved pasture areas is supported in principle, as is the proposed criteria that an area be confirmed by a qualified ecologist as having 'lost' its ecological values to qualify as improved pasture. The criteria in (a) is only acceptable if it acts as the trigger for an assessment of whether all biodiversity values are lost, it is not an appropriate criteria for determining whether an area is improved.
18	Director-General of Conservation	Amend definition of indigenous vegetation.	Support in part.  Agree definition should not include exemptions (i.e indigenous vegetation in a domestic garden is still indigenous vegetation) and that the definition must capture mixed exotic/indigenous areas.
18	Director-General of Conservation	Insert definition of significant indigenous vegetation.	Support.  Ensures clarity.

18	Director-General of Conservation	Amend Objective 3 (and corresponding lower order provisions) to require identification of all indigenous biodiversity across a farm as part of a FBP process.	Support.  Agree identification of all indigenous biodiversity is the only way to consider the effects of comprehensive proposals at a farm wide scale.
18	Director-General of Conservation	Amend Policy 1 to delete the reference to District Plan.	Support.  Agree with submission's supporting reasons.
18	Director-General of Conservation	Insert new policy requiring avoidance of adverse effects on significant indigenous biodiversity.	Support.  Avoidance is the appropriate effects management framework given the significance and vulnerability of the Mackenzie Basin's remaining indigenous biodiversity.
18	Director-General of Conservation	Amend Policy 3 to delete significant.	Support.  Agree with submission's supporting reasons.
18	Director-General of Conservation	Replace Policy 5 with new policy.	Support in part.  The proposed new policy structure is much clearer and supported in principle. However, it appears to cut across the requirement to avoid adverse effects in significant areas. That requirement must bite as a bottom line.
18	Director-General of Conservation	Amend Policy 6 to specify all BBOP offsetting criteria.	Support.  Agree with submission's supporting reasons.
18	Director-General of Conservation	Amend Rule 1 to clarify the vegetation clearance rules take precedence over rules in other parts of the District Plan.	Support.  Agree with submission's supporting reasons.
18	Director-General of Conservation	Amendments to the relevant policies and Appendix Y to ensure FBP's are only available as part of	Support in part.

		a consenting process and to ensure transparency around content.	
18	Director-General of Conservation	Amendments to matters of discretion to provide for consideration of landscape effects.	Support.  Biodiversity values and landscape values are intimately intertwined in the Mackenzie Basin and consideration of both is necessary to ensure protection of both, and an integrated approach to management and protection.
19	Blue Lake Investment Ltd	Amendments to include for voluntary FBPs.	Oppose in part.  Agree that a planned and holistic approach to farm management is positive. However, it is not clear how the proposal is intended to fit with the proposed rules framework. Adoption of a voluntary FBP should not be used as a means of achieving permitted clearance, pastoral intensification, agricultural conversion, or other development.
19	Blue Lake Investment Ltd	Amend definition of biological diversity.	Support.  Agree with submission's supporting reasons.
20	Forest & Bird	New definition of no net loss.	Support.  The concept of no net loss is an important component of PC18's framework and defining it supports clarity and consistency in interpretation and application.
20	Forest & Bird	Amend definition of indigenous vegetation.	Support in part.  Agree indigenous vegetation should capture all vegetation

			that is indigenous irrespective of the purpose of its planting. Agree with focus on area/site in principle as it ensures focus on indigenous vegetation appropriate to the environment/ecosystem, however failure to define area/site means currently the definition is not sufficiently clear.
20	Forest & Bird	Amendments to provide for avoidance of adverse effects on significant indigenous biodiversity.	Support. Agree with submission's supporting reasons.
20	Forest & Bird	Amendments to Policy 6 to separate concepts of biodiversity offsetting and biodiversity compensation.	Support. Offsetting and compensation are distinct concepts and should be treated as such. Offsetting is subject to defined criteria and should be preferred. Compensation should be subject to limits – there are some situations where loss/damage should not occur/cannot be compensated for.
20	Forest & Bird	Amendments to permitted clearance rule for plantation forestry.	Support. Care needs to be taken to ensure the permitted standard complies with the NES-PF which provides opportunity for more stringent controls if required to protect areas of significant indigenous biodiversity.
		Amendments to Appendix Y.	Support. Agree with submission's supporting reasons.
21	Marion Seymour	Amendments to provide for permitted maintenance of stock tracks.	Support in part. The issue is understood

			and the amendments sought may be acceptable subject to appropriate parameters.
21	Marion Seymour	Amendments to insert new provisions differentiating the Mackenzie Basin floor with the Hill Country.	Support in part / oppose in part.  Open to the approach in principle. Care needs to be taken to ensure appropriate protections apply. The Hill Country contains different indigenous biodiversity to the Basin floor but that biodiversity can be equally as significant.