



SUBMISSION ON MACKENZIE DISTRICT COUNCIL DISTRICT PLAN REVIEW STAGE THREE

26 January 2024

To: Mackenzie District Council
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1. This submission is on the Mackenzie District Plan Review Stage Three, specifically Plan Change 23 (General Rural Zone, Natural Features and Landscapes, Natural Character) and Plan Change 26 (Renewable Electricity Generation and Infrastructure) of the Mackenzie District Plan (the **Plan Changes**).
2. EDS could not gain an advantage in trade competition through this submission.
3. The specific provisions of the Plan Changes that this submission relates to are set out in **Appendix A** of this submission.
4. For the reasons set out below, and in Appendix A, EDS submits that the Plan Changes:
 - a. Fail to promote the sustainable management of natural and physical resources.
 - b. Are otherwise inconsistent with, or contrary to, the purpose and principles expressed in Part 2 of the Resource Management Act 1991 (**RMA**).
 - c. Fail to fulfil Councils functions under s 31 RMA.
 - d. Will potentially allow for the generation of significant adverse effects on the environment, specifically effects on the outstanding natural landscapes and indigenous biodiversity values of the Mackenzie Basin as a result of:

- i. Renewable electricity generation;
 - ii. Wilding conifer control; and
 - iii. Agricultural activities such as oversowing and top dressing.
- e. Will re-litigate previously contested and highly contentious Plan Change 13 issues which are now settled.

5. EDS seeks the relief set out in Appendix A, or such similar and consequential relief as necessary to address this submission.
6. EDS wishes to be heard in support of this submission.
7. If others present a similar case EDS will consider presenting a joint case at hearing.

DATED 26 January 2024



John Commissaris
Legal Advisor
Environmental Defence Society Inc.

Appendix A

Provision	Comment	Relief sought
Plan Change 23		
NFL-P11	EDS seeks amendment to ensure that this policy does not provide for mob-stocking, intensification (i.e., through irrigation, cultivation, direct drilling, oversowing and topdressing etc) or additional clearance of indigenous vegetation, which have consequential effects on the dryland landscape and ecological values of the Mackenzie Basin.	Oppose notified wording. Insert qualifying text to address concern.
NFL-R6	<p>The Wilding Conifer Removal Overlay included in the Planning Maps is currently confined to areas that are fully infested with wilding pines with closed canopy cover. EDS agrees there is merit in providing a pathway for the removal of wildings, as a permitted activity, in these discrete areas.</p> <p>The Wilding Conifer Removal Overlay, in its current form, is crucial to EDS's support of this rule. If the Overlay is removed or amended, EDS reserves its right to change its position.</p>	Support the rule, and associated overlay, as notified.
NFL-R7	<p>See comments in relation to NFL-R6 regarding the Wilding Conifer Removal Overlay.</p> <p>EDS is also concerned that NFL-R7(2) creates a pathway for intensification following removal of wildings. While NFL-R7(3) prevents the land from being irrigated, the rule allows for other forms of intensification.</p>	Amend NFL-R7(3) to cover other forms of agricultural conversion (i.e., direct drilling and cultivation) and vegetation clearance (e.g., oversowing and topdressing, mob stocking and overplanting).
NFL-R8	<p>EDS opposes this rule in its entirety.</p> <p>The control of oversowing and topdressing in the Mackenzie Basin has been a topic of debate for many years, including through the PC13 decade-long litigation, PC17 and current PC18 process. Oversowing and topdressing, at increased frequencies and</p>	Delete rule. It is not appropriate to provide for oversowing and topdressing, that may have significant adverse effects on the Mackenzie Basin ONL and associated indigenous

	<p>scale, can have significant adverse effects on the indigenous biodiversity and outstanding natural landscape of the Mackenzie Basin. Further, the Wilding Conifer Management Area Overlay is extensive, and many areas in the Overlay are known to contain significant indigenous vegetation and significant habitats of indigenous fauna, which must be protected in accordance with s 6(c) RMA.</p> <p>EDS is concerned about the potential misuse of the proposed rule to provide a pathway for intensification and notes that oversowing and topdressing at increased frequencies and scales has previously been used to provide a pathway for more intensive agricultural activities (i.e., cultivation and irrigation). Including in the context of oversowing and top dressing for pest (wilding control).</p> <p>The proposed rule does not prevent such misuse (and eventual intensification) occurring. Further, as a controlled activity, consent cannot be declined. Deletion of the rule is sought.</p>	<p>biodiversity, as a controlled activity.</p>
NFL-MD2	<p>The maintenance of indigenous biodiversity is an important function of territorial authorities under s31(1)(b)(iii) RMA. NFL-MD2 currently only provides for consideration of significant indigenous biodiversity. The Matters of Discretion should allow for consideration of all indigenous biodiversity, not only significant indigenous biodiversity.</p> <p>Ecological evidence is that direct drilling, topdressing and oversowing at a level high enough to support increased stocking rates (and to control the re-infestation of wilding pines) is not consistent with the protection of significant indigenous vegetation, maintenance of indigenous vegetation and protection of the associated landscape values of the Mackenzie Basin ONL. NFL-MD2(c) should be amended to focus on the</p>	<p>Amend (a) to refer to the maintenance of indigenous biodiversity and protection of significant indigenous biodiversity.</p> <p>Amend (c) as follows:</p> <p>The frequency and rate of direct drilling, topdressing and oversowing required to support an increased stocking rate sufficient to remove emergent wilding conifer seedlings in the short to medium term whilst and whether <u>retaining landscape and ecological values are retained.</u></p> <p><u>Insert new matter of discretion to address edge effects.</u></p>

	<p>effects of these activities on landscape and indigenous biodiversity values.</p> <p>EDS also seeks that edge effects be inserted as a matter of discretion, due to the effects intensive land development (used as a method to clear wilding pines) can have on adjacent dryland vegetation (and associated landscape values).</p>	
GRUZ-P7	<p>As the General Rural Zone policies apply in addition to those in the NFL Overlay, EDS is concerned that GRUZ-P7(2) may result in unintended consequences in the Mackenzie Basin ONL (and elsewhere).</p> <p>Intensification of land (via irrigation, cultivation, direct drilling etc) is a land use that assists in containing or eradicating wilding conifers. Therefore, GRUZ-P7(2) has the effect of promoting these activities in circumstances where they may be inappropriate.</p>	Delete GRUZ-P7(2) or limit its application to outside the Mackenzie Basin ONL.
Plan Change 26		
INF-P5	Policy should include a cross-reference to INF-P7, as the requirements in INF-P7 applies in addition to those in INF-P5	Include a cross-reference to INF-P7.
INF-P7	EDS supports INF-P7 as it aligns with the policy direction in the National Policy Statement for Indigenous Biodiversity 2023.	Support policy as notified.
INF-MD1	EDS seeks the inclusion of a specific Matter of Discretion relating to indigenous biodiversity.	Include an additional matter of discretion requiring consideration of the effects on indigenous biodiversity.
REG-P4	This policy does not provide sufficient protection for indigenous biodiversity.	Include environmental limits, for example those set out in INF-P7(1) - (5), and require avoidance of adverse effects if limits cannot be achieved.
REG-P5	<p>Oppose policy.</p> <p>Policy REG-P5 does not provide sufficient protection for indigenous biodiversity, and will not give effect to Council's obligations under s 31(1)(b)(iii) or s 6(c) RMA. It also</p>	Include environmental limits for landscape and indigenous biodiversity in the policy (for example those set out in INF-P7(1) - (5) for indigenous

	<p>will not provide for the protection of outstanding natural landscapes in accordance with section 6(b) RMA.</p> <p>Further policy direction and limits are required to set out when renewable energy activities are not appropriate (for example because the indigenous biodiversity or landscape values lost are too great).</p> <p>Interaction between this policy and policy REG-P6 is not clear.</p>	<p>biodiversity), and require avoidance of adverse effects if limits cannot be achieved.</p> <p>Amend to make clear what the relationship between this policy and policy REG-P6 is.</p>
REG-P6	<p>Oppose policy.</p> <p>Policy REG-P6 does not provide sufficient protection for indigenous biodiversity and will not give effect to Council's obligations under s 31(1)(b)(iii) or s 6(c) RMA. It also will not provide for the protection of outstanding natural landscapes in accordance with section 6(b) RMA.</p> <p>Further direction, and limits, are required to set out when renewable energy activities are not appropriate (for example because the indigenous biodiversity or landscape values lost are too great).</p> <p>Interaction between this policy and policy REG-P5 is not clear.</p>	<p>Include environmental limits for landscape and indigenous biodiversity in the policy (for example those set out in INF-P7(1) - (5) for indigenous biodiversity), and require avoidance of adverse effects if limits cannot be achieved.</p> <p>Amend to make clear what the relationship between this policy and policy REG-P5 is.</p>
REG-MD4	EDS seeks the inclusion of a specific matter of discretion relating to indigenous biodiversity.	Include an additional matter of discretion requiring consideration of the effects on indigenous biodiversity.