

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
I MUA I TE KOOTI TAIAO O AOTEAROA**

Env-2021-CHC -

*IN THE MATTER of the Resource Management Act
1991 (“Act”)*

AND

*IN THE MATTER of an appeal under clause 14 Schedule 1 of
the Act*

BETWEEN

Meridian Energy Limited

Appellant

AND

Mackenzie District Council

Respondent

NOTICE OF APPEAL

DATED 4 August 2021

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**Notice of appeal to Environment Court against decision By Mackenzie
District Council on Plan Change 18**

To The Registrar
Environment Court
Christchurch

[1] I, **MERIDIAN ENERGY LIMITED** (“the Appellant” and the “Applicant”) appeal a decision of Mackenzie District Council on the Plan Change 18.

[2] I made a submission on that plan change.

[3] I am not a trade competitor for the purposes of [section 308D](#) of the Resource Management Act 1991.

[4] I am directly affected by an effect of the subject of the appeal that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

[5] I received notice of the final decision on the plan change by the Mackenzie District Council on 24 June 2021.

[6] The decision was made by a Panel making recommendations (the Panel’s Recommendations) in a report dated 12 April 2021 and the decision of the Mackenzie District Council dated 22 June 2021 (collectively the Decision).

[7] The part of the Decision that I am appealing against is summarised in Column B of Table 1 in **Attachment 1**. Areas of appeal relate to the following inclusive list of matters:

(a) The definition of significant indigenous vegetation and significant habitats of indigenous fauna;

- (b) The relationship between Policy 5, which addresses renewable energy generation activities, and Policies 2 and 3, which seek to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna and to maintain or enhance indigenous biodiversity outside of areas of significant vegetation and significant habitats of indigenous fauna;
 - (c) The relationship of Condition 5 in Rule 2.1.1. to the rest of the Conditions in Rule 2.1.1; and
 - (d) The absence of ‘compensation’ from the methods identified in Rule 2.2.1(d) for addressing adverse effects on indigenous biodiversity related to the WPS.
- [8] The reasons for the appeal are as follows:
- (a) Summarised in Column D Table 1 in **Attachment 1**;
 - (b) The NPS-REG and Canterbury RPS are not implemented by the decision.
- [9] I seek the following relief:
- (a) The relief in Column C of Table 1 in **Attachment 1**;
 - (b) Such other alternative or consequential relief that is necessary or appropriate to address the substance of the matters addressed in the appeal or to achieve the outcomes in my submission and further submission and to implement NPSREG
- [10] I attach the following documents to this notice:
- (a) **ATTACHMENT 1** - Table 1;
 - (b) **ATTACHMENT 2** - a copy of my submission and further submission
 - (c) **ATTACHMENT 3** – Submissions that I supported or opposed
 - (d) **ATTACHMENT 4** - a copy of the relevant decision;

- (e) **ATTACHMENT 5** - a list of names and addresses of persons to be served with a copy of this notice.

Date: 4 August 2021



Signature of Humphrey Tapper:
(as an authorised person to sign on behalf of appellant)

This document is filed by Humphrey Tapper, In-House Counsel for the Appellant. The address for service of the Appellant is 287/293 Durham Street North, Christchurch Central.

Documents for service on the Appellant may be left at that address for service or may be:

- (a) Posted to the Humphrey Tapper at Meridian Energy Limited 287 -293 Durham Street North Christchurch 8140.for service; or
- (b) Sent by email to humphrey.tapper@meridianenergy.co.nz

Any documents served on the Appellant's solicitor should also be served on the Appellant's counsel, Mr John Maassen at john@johnmaassen.com

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in [section 274\(1\)](#) and [Part 11A](#) of the Act.

You may apply to the Environment Court under [section 281](#) of the Act for a waiver of the above timing or service requirements (*see* [form 38](#)).

*How to obtain copies of documents relating to appeal

The copy of this notice served on you does not have attached a copy of the appellant's submission and (*or or*) the decision (*or part of the decision*) appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

ATTACHMENT 1

Table 1 for Median Energy Ltd appeal on Plan Change 18

Table 1 Column A	Column B	Column C	Column D
Relevant part of Commissioners' recommendation	Commissioners' recommended provision for Plan Change 18	Relief sought by Appellant	Reasons for relief
Section 3, Definitions Definition of significant indigenous vegetation and significant habitats of indigenous fauna.	<p>“Significant indigenous vegetation and significant habitats of indigenous fauna: means areas of indigenous vegetation or habitats of indigenous fauna which:</p> <p>a) meet the criteria listed in the Canterbury Regional Policy Statement’s Policy 9.3.1 and Appendix 3; or</p> <p>b) are listed in Appendix I as a Site of Natural Significance; and</p> <p>c) includes any areas that do not comprise improved pasture within the glacial derived or alluvial (depositional) outwash and moraine gravel ecosystems of the Mackenzie Basin as shown on Figure 1.”</p>	<p>The Appellant seeks either:</p> <p>i. Deletion of subsection c) and Figure 1 from the definition of significant indigenous vegetation and significant habitats of indigenous fauna; or</p> <p>ii. Amendments to subsection c) that exempt the Waitaki Power Scheme’s (WPS) existing footprint, cores sites and areas covered by an operating easement from the definition of significant indigenous vegetation and significant habitats of indigenous fauna.</p>	<p>The impact of the Commissioners’ recommended definition, in combination with the Commissioners’ recommended Condition 5 of Rule 2.1.1, leads to the clearance of indigenous vegetation associated with existing authorised WPS sites that are located in the “glacial derived or alluvial (depositional) outwash and moraine gravel ecosystems of the Mackenzie Basin as shown on Figure 1” being a restricted discretionary activity.</p> <p>This constraint is unnecessarily restrictive, since existing authorised WPS sites are highly modified and many of these sites will not include significant indigenous vegetation and significant habitats of indigenous fauna when assessed against the criteria set in Appendix 3 of the Canterbury Regional Policy Statement. On this basis, the definition, in combination with Condition 5 of Rule 2.1.1, is not consistent with the National Policy Statement for Renewable Energy Generation 2011 (NPSREG).</p>
Policy 5	<p>The Commissioners recommended that Policy 5 read as follows:</p> <p>“Despite Policy 2, to manage effects on indigenous biodiversity in a way that</p>	<p>The Appellant seeks the following amendments to Policy 5.</p> <p>“Despite Policy 2 <u>and Policy 3</u>, to manage effects on indigenous biodiversity in a way</p>	<p>Policy 5 seeks to ensure that adverse effects on indigenous biodiversity are managed in a way that recognises the national significance of renewable energy generation. To achieve</p>

	<p>recognises the national significance of renewable energy generation activities and the electricity transmission network and provides for their development, operation, upgrading, and maintenance by:</p> <ul style="list-style-type: none"> a) Enabling indigenous vegetation clearance that is essential for the operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid and the Opuha Scheme; and b) Providing for the upgrading and development of renewable energy generation and the electricity transmission network, while managing any adverse effects on indigenous biodiversity, having particular regard to: <ul style="list-style-type: none"> i. the location of existing structures and infrastructure and the need to locate the generation activity where the renewable energy resource is available; and ii. the logistical, technical and operational constraints associated with the activity; and iii. the importance of maintaining and increasing the output from existing renewable electricity generation activities; and iv. environmental compensation which benefits the local environment affected, as an alternate, or in addition to offsetting, to address any 	<p>that recognises the national significance of renewable energy generation activities and the electricity transmission network and provides for their development, operation, upgrading, and maintenance by:</p> <ul style="list-style-type: none"> a) Enabling <u>the clearance of indigenous vegetation and habitats of indigenous fauna where the</u> clearance that is essential for the operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid and the Opuha Scheme; and b) Providing for the <u>clearance of indigenous vegetation and habitats of indigenous fauna where the clearance is for the</u> upgrading and development of renewable energy generation and the electricity transmission network, while managing any adverse effects on indigenous biodiversity, having particular regard to: <ul style="list-style-type: none"> i. the location of existing structures and infrastructure and the need to locate the generation activity where the renewable energy resource is available; and ii. the logistical, technical and operational constraints associated with the activity; and iii. the importance of maintaining and increasing the output from existing renewable electricity generation activities; and 	<p>this, Policy 5 commences with “Despite Policy 2, ...”.</p> <p>The Appellant considers that Policy 5 should apply despite both of Policies 2 and 3. The Appellant considers that this is more consistent with the NPSREG and avoids unresolvable tensions arising if Policies 3 and 5 were to be applied at the same time to WPS activities.</p> <p>The Appellant also considers that Policy 5(b) should be amended to more directly provide for the clearance of indigenous vegetation and habitats of indigenous fauna while upgrading and developing renewable energy generation; and that Policy 5(a) should be clear that it is enabling both the clearance of indigenous vegetation and the habitats of indigenous fauna.</p>
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	significant residual environmental effects.”	iv. environmental compensation which benefits the local environment affected, as an alternate, or in addition to offsetting, to address any significant residual environmental effects.”	
Rule 2.1.1	<p>The Commissioners recommended that Rule 2.1.1 read as follows:</p> <p>“The clearance of indigenous vegetation associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme is a permitted activity where one or more of the following conditions are met:</p> <ol style="list-style-type: none"> 1. The clearance is a consequence of an emergency occurring on, or failure of, the Waitaki Power Scheme, the National Grid or the Opuha Scheme; or 2. The clearance meets the conditions in Rule 1.1.1, or 3. The clearance is required for the operation, maintenance or refurbishment of the Waitaki Power Scheme within the following areas; <ol style="list-style-type: none"> i. The existing footprint of the Waitaki Power Scheme. ii. On core sites associated with the Waitaki Power Scheme. iii. On areas covered by an operating easement associated with the Waitaki Power Scheme; or 4. The clearance is required for the operation, maintenance or refurbishment 	<p>The Appellant seeks the following amendments to Rule 2.1.1.</p> <p>“The clearance of indigenous vegetation <u>and habitats of indigenous fauna</u> associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme is <u>are</u> a permitted activity where one or more of the following conditions are met:</p> <ol style="list-style-type: none"> 1. The clearance is a consequence of an emergency occurring on, or failure of, the Waitaki Power Scheme, the National Grid or the Opuha Scheme; or 2. The clearance meets the conditions in Rule 1.1.1, or 3. The clearance is required for the operation, maintenance or refurbishment of the Waitaki Power Scheme within the following areas; <ol style="list-style-type: none"> i. The existing footprint of the Waitaki Power Scheme. ii. On core sites associated with the Waitaki Power Scheme. iii. On areas covered by an operating easement associated with the Waitaki Power Scheme; or 	<p>Rule 2.1.1 identifies when the clearance of indigenous vegetation associated with the WPS, the National Grid and the Opuha Scheme is permitted. To be permitted, Rule 2.1.1 states that “one or more of the following conditions” must be met. This means that the conditions that follow the introductory part of Rule 2.1.1 are disjunctive. However, the list of conditions includes an “and” between Conditions 4 and 5.</p> <p>The Appellant considers that the “and” should be an “or” to ensure that Rule 2.1.1 can be implemented as intended by the Commissioners. Alternatively, the Appellant seeks the deletion of Condition 5.</p> <p>Further to the above, the Appellant considers that the Rule should be specific to both the clearance of indigenous vegetation and the clearance of habitats of indigenous fauna.</p>

	<p>of the National Grid or the Opuha Scheme; and</p> <p>5. The clearance is located outside areas of significant indigenous vegetation and significant habitats of indigenous fauna identified in accordance with Policy 1”</p>	<p>4. The clearance is required for the operation, maintenance or refurbishment of the National Grid or the Opuha Scheme; and <u>or</u></p> <p>5. The clearance is located outside areas of significant indigenous vegetation and significant habitats of indigenous fauna identified in accordance with Policy 1”</p> <p>Alternatively, the Appellant seeks the following amendments to Rule 2.1.1:</p> <p>“The clearance of indigenous vegetation <u>and habitats of indigenous fauna</u> associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme is <u>are</u> a permitted activity where one or more of the following conditions are met:</p> <ol style="list-style-type: none"> 1. The clearance is a consequence of an emergency occurring on, or failure of, the Waitaki Power Scheme, the National Grid or the Opuha Scheme; or 2. The clearance meets the conditions in Rule 1.1.1, or 3. The clearance is required for the operation, maintenance or refurbishment of the Waitaki Power Scheme within the following areas; <ol style="list-style-type: none"> i. The existing footprint of the Waitaki Power Scheme. ii. On core sites associated with the Waitaki Power Scheme. 	
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		<p>iii. On areas covered by an operating easement associated with the Waitaki Power Scheme; or</p> <p>4. The clearance is required for the operation, maintenance or refurbishment of the National Grid or the Opuha Scheme; and</p> <p>5. The clearance is located outside areas of significant indigenous vegetation and significant habitats of indigenous fauna identified in accordance with Policy 1”</p>	
<p>Rule 2.2.1.</p>	<p>The Commissioners recommended that Rule 2.2.1 read as follows:</p> <p>“The clearance of indigenous vegetation associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme that does not comply with one or more of the conditions of Rule 2.1.1.</p> <p>The Council will restrict its discretion to the following matters:</p> <p>(a) Whether the works are occurring on a surface that has previously been modified by the construction, operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid or the Opuha Scheme;</p> <p>(b) The adequacy of the identification of biodiversity values, including, but not limited to identification of areas of significant indigenous vegetation or significant habitats of indigenous fauna, and values outside of these areas that are</p>	<p>The Appellant seeks the following amendments to Rule 2.2.1.</p> <p>“The clearance of indigenous vegetation <u>and habitats of indigenous fauna</u> associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme that does not comply with one or more of the conditions of Rule 2.1.1. <u>is a restricted discretionary activity.</u></p> <p>The Council will restrict its discretion to the following matters:</p> <p>(a) Whether the works are occurring on a surface that has previously been modified by the construction, operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid or the Opuha Scheme;</p> <p>(b) The adequacy of the identification of biodiversity values, including, but not limited to identification of areas of significant indigenous vegetation or significant habitats of indigenous fauna,</p>	<p>Policy C2 of the NPSREG, requires that “when considering any residual environmental effects of renewable electricity generation activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected.”</p> <p>The Appellant considers that for PC18 to be consistent with the NPSREG, matter d) of Rule 2.2.1 should include environmental compensation as a method to avoid, remedy or mitigate adverse effects on indigenous biodiversity.</p> <p>Consistent with the previous relief sought, the Appellant considers that the Rule should be specific to both the clearance of indigenous vegetation and the clearance of habitats of indigenous fauna.</p> <p>In addition, the Appellant considers that the body of the rule should clearly state the status</p>

	<p>particularly important for ecosystem connectivity, function, diversity, and integrity;</p> <p>(c) Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological functions (including connectivity, function, diversity and integrity) expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;</p> <p>(d) Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;</p> <p>(e) Any technical or operational constraints associated with the proposed activity requiring vegetation clearance;</p> <p>(f) The benefits the proposed activity provides to the local community and beyond;</p> <p>(g) The adequacy of monitoring;</p> <p>(h) The review of conditions; and</p> <p>(i) Consent duration.</p>	<p>and values outside of these areas that are particularly important for ecosystem connectivity, function, diversity, and integrity;</p> <p>(c) Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological functions (including connectivity, function, diversity and integrity) expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;</p> <p>(d) Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity, and offset <u>or compensate for</u> residual significant effects on indigenous biodiversity;</p> <p>(e) Any technical or operational constraints associated with the proposed activity requiring vegetation clearance;</p> <p>(f) The benefits the proposed activity provides to the local community and beyond;</p> <p>(g) The adequacy of monitoring;</p> <p>(h) The review of conditions; and</p> <p>(i) Consent duration.”</p>	<p>of the activity, rather than relying on the title above the rule to define the activity status (as is the case in the Commissioners’ recommended Rule 2.2.1).</p>
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ATTACHMENT 2

**SUBMISSION ON THE PROPOSED PLAN CHANGE 18 – INDIGENOUS
BIODIVERSITY UNDER THE FIRST SCHEDULE TO THE RESOURCE
MANAGEMENT ACT 1991**

To: Plan Change 18 – Indigenous Biodiversity
Mackenzie District Council
PO Box 52
FAIRLIE 7949

planning@mackenzie.govt.nz

Name: Meridian Energy Limited
PO Box 2146
CHRISTCHURCH 8140

Attention: Andrew Feierabend
Phone: (03) 03 357-9731
Mobile: 021 898 143
Email: andrew.feierabend@meridianenergy.co.nz

Meridian Energy Limited (Meridian) makes the general and specific submissions on Proposed Plan Change 18 – Indigenous Biodiversity (PC18) set out in the **attached** document.

Meridian confirms its submission does not relate to trade competition or the effects of trade competition.

Meridian would like to be heard in support of its submissions

If other persons make a similar submission then Meridian would consider presenting joint evidence at the time of the hearing.



Andrew Feierabend
For and behalf of Meridian Energy Limited

Dated this 9th day of March 2018

OUTLINE OF SUBMISSION

This submission is structured under the following headings:

- Part One: Overview and Background – Reasons for Submission
- Part Two: General Submissions to Proposed Plan Change 18
- Part Three: Specific Submission to Proposed Plan Change 18

PART ONE: OVERVIEW AND BACKGROUND (REASONS FOR SUBMISSION)

1. Part One of this submission provides the overriding reasons for the submissions that are lodged on PC18. These reasons inform all of the outcomes sought in the specific submissions. As such Part One, Two and Three are to be read and considered as part of the submission on PC18.
2. Meridian is a limited liability company listed on the New Zealand Stock Exchange, 51% of which is owned by the New Zealand Government. It is one of three companies formed from the split of the Electricity Corporation of New Zealand (ECNZ) on 1 April 1999.
3. Meridian's core business is the generation, marketing, trading and retailing of electricity and the management of associated assets and ancillary structures in New Zealand.
4. Meridian is the single largest generator of electricity in New Zealand. Within the Mackenzie District its assets consist of part of the Waitaki Power Scheme. Genesis Energy has the remaining assets forming the overall Scheme.
5. The Waitaki Power Scheme consists of eight power stations, four canal systems and numerous dams, weirs, gates and other control structures that operate as a linked hydro-electricity generation chain. This chain includes; large modified storage lakes, a series of diversions via canals, and a cascade of in-river dams. The scheme was progressively constructed between 1928 and 1985.
6. The Waitaki Power Scheme is the largest hydro-electric power scheme in New Zealand, with controllable and flexible generating capacity of 1,723MW. This scheme contributes on average some 18% of New Zealand's annual electricity supply, although at times this can be as high as 30% of the national requirement. Lakes Tekapo and Pukaki provide approximately 2,500GWh of energy storage capacity, almost 60% of New Zealand's hydro storage. The scheme supports the HVDC link, which is connected to the South Island transmission network at the site of Benmore Power Station. In addition, the scheme provides essential ancillary services to the electricity system in relation to frequency keeping, spinning reserve, over frequency reserve and voltage support.
7. Relevant to the preparation of District Plans is the National Policy Statement on Renewable Electricity Generation (NPSREG) 2011. PC18 must give effect to National Policy statements as required by section 62(3) of the Act.

The objective of the NPSREG is "to recognise the National significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such as the proportion of New Zealand's electricity generated from renewable energy sources increases

to a level that meets or exceeds the New Zealand Government's National targets for renewable electricity generation."

8. The NPSREG also:
 - recognises the benefits of renewable electricity generation activities
 - acknowledges the practical limitations of achieving New Zealand's target for electricity generation from renewable resources
 - acknowledges the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities in particular the need to locate the renewable electricity generation activity where the renewable energy resource is available
 - seeks to manage reverse sensitivity effects on renewable electricity generation activities;
 - seeks the incorporation of provisions for renewable electricity generation activities into regional policy statements and regional and district plans
 - Provides for the development, operation, maintenance and upgrading of existing and new hydro-electricity resources.
9. In addition to the NPSREG, sections 7(i) and 7(j) of the RMA expressly require all persons exercising functions and powers under it to have particular regard to the effects of climate change and the benefits to be derived from the use and development of renewable energy. These include having particular regard to these matters in the preparation of regional and district planning documents.
10. The Canterbury Regional Policy Statement (CRPS) Chapter 16 addresses energy and has a number of specific provisions addressing renewable electricity generation. In particular:
 - a. Objective 16.2.2 which is to have a reliable and resilient generation and supply of energy for the region, and wider contribution beyond Canterbury with a particular emphasis on renewable energy;
 - b. Objective 16.2.2(6) which recognises the locational constraints in the development of renewable electricity generation activities; and
 - c. Policy 16.3.3 which recognises and provides for the local, regional and national benefits when considering proposed or existing renewable energy generation facilities, having particular regard, amongst other things, to maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions.

PART TWO: GENERAL RELIEF SOUGHT FOR PROPOSED PC18

11. Meridian seeks as general relief that the Waitaki Power Scheme is appropriately provided for when introducing controls on land use to protect indigenous biodiversity. Meridian seeks the specific relief in Part Three, any relief of similar effect, and any consequential amendment necessary in response to Meridian's submission or relief necessary to give effect to the NPSREG and the CRPS having regard to its interests as set out in this submission.
12. Meridian is particularly interested in ensuring that Waitaki Power Scheme can continue to be developed, operated, maintained and upgraded.

13. While supportive of a number of provisions Meridian believes that the PC18 can better reflect the NPSREG. Meridian submits that the PC18 should be changed through the addition, refocusing or providing clarity to a number of provisions that relate to, or could impact on renewable electricity generation activities.
14. Meridian considers that the approach taken to PC18 is not providing for the integrated management of the effects of the use, development or protection of land and associated natural and physical resources as it relates to the Waitaki Power Scheme. This lack of integration is evident within the proposed provisions and the accompanying Section 32 report.
15. Meridian acknowledges that the suite of rules within Rule 2 does specifically address the Waitaki Power Scheme. This approach of having a suite of Waitaki Power Scheme rules is supported. Providing a separate rule suite is important. Not to do so would result in the Waitaki Power Scheme activities being addressed under Rule 1 suite of rules. There are perverse outcomes that would result if the Waitaki Power Scheme were considered under the Rule 1 suite of rules, including:
 - The Waitaki Power Scheme is a hydro generation scheme. Its very nature means that most of the activities it undertakes occurs on, in and around lakes and rivers.
 - Ongoing maintenance, including vegetation clearance is necessary in order to maintain the structural integrity of the scheme, particularly canals. Maintaining the structural integrity of physical resources, such as canals is a necessity for the Dam Safety Assurance Programme and is necessary for health and safety reasons.
 - The Rule 1 suite of rules contains standards for permitted and restricted discretionary activities that any clearance of indigenous vegetation cannot be within 100m of a lake or 20 metres of the bank of a river.
 - Clearance of any indigenous vegetation, irrespective of its significance or insignificance, that breach the lake or river setback standards would necessitate consent as a non-complying activity.
 - Any exemptions provided in the definition of indigenous vegetation do not apply to activities associated with the Waitaki Power Scheme. The indigenous vegetation definition in combination with the rules would render any vegetation clearance, even an individual plant forming part of a landscaping area a non-complying activity.
 - Requiring a non-complying activity consent for any indigenous vegetation clearance associated Waitaki Power Scheme activity could not be considered to be the most appropriate way to achieve the objectives; nor be efficient or effective when considering the economic and social costs that would result from such provisions; would not give effect to the CRPS, particularly Chapter 16 and would not give effect to the NPSREG.
16. Within the Rule 2 suite of provisions Meridian considers the activity status for a number of activities associated with the Waitaki Power Scheme, particularly refurbishment and upgrading is not appropriate and does not give effect to Chapter 16 of the CRPS nor the NPSREG.
17. While a Section 32 evaluation report has been completed all of the matters specified in Section 32(1), (2) and (3) that must be addressed, have not been.

18. Plan Change 18 as notified imposes additional regulation on activities, and imposes a more stringent activity status for a number of activities associated with the Waitaki Power Scheme, than the current activity status in the Operative District Plan. The Section 32 undertaken does not raise any particular issues that have occurred with respect to the activities associated with the Waitaki Power Scheme. The level of regulation in the notified plan change is not the most appropriate, nor is it necessary.
19. There is no assessment of the costs and benefits of the rules, particularly their economic impact. This is particularly important when considering provisions that impact on the Waitaki Power Scheme. The Section 32 evaluation is inadequate to justify the provisions and level of regulation proposed.
20. The Section 32 does not contain any evaluation of those objectives and policies within the Plan Change that are currently included in the current District Plan. Further there has been inadequate consideration the new provisions relative to existing objectives in the Plan, particularly those provisions affecting the Waitaki Power Scheme. While the Section 32 consideration of existing provisions, are different than apply to new provisions, their relationship and context within the new Plan Change need to be considered.
21. The provisions within PC18 relocated from Chapter 7 were developed prior to the current CRPS and prior to the NPSREG. Given that neither the current CRPS nor NPSREG existed at the time those provisions were originally included in the District Plan, there can be no automatic acceptance that these transferred provisions do give effect to the CRPS and NPSREG. Insufficient consideration has been given to their appropriateness within this changed context.
22. Insufficient attention has been paid to the direction given in Chapter 9 Ecosystems and Indigenous Biodiversity of the CRPS. PC18 results in a high level of regulation on indigenous vegetation removal, irrespective of its significance. This Plan Change will result in increased costs of compliance. There has been no robust evaluation of the costs and benefits. The level of regulation is not necessary and does not give effect to the provisions of Chapters 9 and Chapter 16 of the CRPS.
23. The relative functions of regional councils and territorial authorities in the Resource Management Act have not be given due attention when drafting the provisions of PC18. The appropriate functions are further informed by the CRPS. Further, insufficient consideration has been given to other methods and regulations, including in regional plans that address the same resource management matters. This is evident in provisions impacting riparian margins, the beds of lakes and rivers and water quality matters. There has been insufficient evaluation undertaken to determine that the provisions notified are the most appropriate, are efficient and effective and are necessary.
24. There are no material risks to achieving the goal of no net loss to indigenous biodiversity having regard to the priorities in the CRPS from vegetation clearance for the continued development, operation, maintenance and upgrading of the nationally significant Waitaki Power Scheme within the **Waitaki Power Scheme Management Area**¹ and the purpose of the Act is best served by enabling those activities.

¹ The Waitaki Power Scheme Management Area consists of the existing footprint of the scheme, the core sites owned by Meridian Energy managed for hydro generation purposes

25. There are special features associated with the Waitaki Power Scheme that mean activities outside the existing **Waitaki Power Scheme Management Area** or resulting in any increase of the maximum operating level of a lake or water storage area or the creation of a new water storage area should be considered and provided for where appropriate in order to achieve the purpose of the Act.
26. Given the above, and in addressing the document as notified Meridian has identified a number of provisions that should be improved to either achieve greater consistency with the purpose of the RMA and with current government, and the CRPS. The specific relief being sought by Meridian is outlined in the following section of this submission.
27. Meridian's requests for specific relief outlined in the Table below should not be taken as limiting the general submissions and requests for relief and reasons for this relief identified this section.

associated with the Waitaki Power Scheme and areas Meridian has an operating easement over.

PART THREE: SPECIFIC SUBMISSION TABLE

Specific Provision	Submission	Decision Sought [New text shown as <u>underlined</u> and deleted text shown as strike-through]
All submission points	Meridian has identified specific changes it seeks in the submission points below. However, it is recognised that that alternative ways of providing the same or similar relief may also be appropriate. There may also be consequential changes that are necessary.	Meridian seeks the relief set out below, any relief of similar effect, alternative relief that addresses the matters of concern and any consequential amendment necessary in response to Meridians submissions.
Definition Waitaki Power Scheme	<p>Oppose in Part</p> <p>Providing a definition of the Waitaki Power Scheme is important and is generally supported. The NPSREG identifies that the benefits of renewable electricity generation is a matter of national significance. Given that the Waitaki Power Scheme is the largest generation scheme in New Zealand it is appropriate that this national significance be recognised in the definition.</p> <p>In addition some minor grammatical corrections to the definition are sought.</p>	<p>Amend the definition of Waitaki Power Scheme to read:</p> <p>Waitaki Power Scheme: means the <u>nationally significant</u> electricity generation activities in the Waitaki River Catchment including the structures, works, facilities, components, plant and activities undertaken to facilitate and enable the generation of electricity from water. It includes power stations, dams, weirs, control structures, penstocks, canals, tunnels, siphons, spillways, intakes, storage of goods, materials and substances, switchyards, fish and elver screens and passes, booms, site investigation works, erosion and flood control, access requirements (including public access), jetties, slipways and landing places, signs, earthworks, monitoring, investigation and communication equipment and transmission network.</p>
Definition Maintenance	<p>Oppose in Part</p> <p>Providing for the maintenance and operation of the Waitaki Power Scheme as permitted activities are supported.</p>	<p>Delete the definition of maintenance on the basis that the definition of Waitaki Power Scheme Activities is inserted.</p> <p>Insert a new definition of "Waitaki Power Scheme Activities" as follows:</p>

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<p>New Definition Waitaki Power Scheme Activities</p>	<p>However, other activities, such as refurbishment, renewal and upgrading should also be permitted activities.</p> <p>Plan Change 18 imposes a greater level of regulation for a number of activities associated with the Waitaki Power Scheme than exists in the current Operative Plan. The Section 32 does not address in any detail any issues associated with the Waitaki Power Scheme that warrant this increased level of regulation.</p> <p>This submission seeks to ensure efficient and effective electricity generation associated with the Waitaki Power Scheme. This is consistent with Policy E2 of the NPSREG which is to provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities to the extent applicable to the district. It is also consistent with the objective of the NPSREG which is to provide for the ".....development, operation, maintenance and upgrading of new and existing renewable electricity generation activities.....".</p> <p>The Waitaki Power Scheme exists, and is the largest hydro generation scheme in New Zealand. The ability for this scheme to continue to operate effectively should be a significant resource management issue within the District. The District Plan should provide for its lawful operation, maintenance, development and upgrading, without imposing unnecessary constraints and costs.</p> <p>The amended definition includes the aspects of operation, maintenance, refurbishment, and upgrading and as such will</p>	<p>Maintenance of Waitaki Power Scheme means undertaking work and activities, including erosion control works, necessary to keep the Waitaki Power Scheme operating at an efficient and safe level.</p> <p><u>Waitaki Power Scheme Activities means the act of managing and using natural and physical resources for generation of electricity and ensuring the safe and efficient performance of the lawfully established Waitaki Power Scheme.</u></p> <p><u>It includes conducting and/or undertaking work, activities and the development and operation of activities associated with the generation of electricity. This includes erosion control works necessary to keep the Waitaki Power Scheme operating at an efficient and safe level and includes upgrading or renewal of machinery, buildings, plant, structures, facilities, works or components.</u></p>

Specific Provision	Submission	Decision Sought [New text shown as <u>underlined</u> and deleted text shown as strike-through]
	<p>provide a more appropriate level of regulation for activities associated with the nationally significant Waitaki Power Scheme.</p> <p>The level of control sought by Meridian will give effect to Chapter 16 of the CRPS and the NPSREG.</p>	
<p>New Definition of Waitaki Power Scheme Management Area</p>	<p>Existing management areas are already devoted to the operation of the Waitaki Power Scheme and this should continue.</p> <p>The definition identifies the area where these activities occur and must continue to occur</p>	<p>Insert a new definition to read:</p> <p><u>Waitaki Power Scheme Management Area means land within the following areas:</u></p> <p><u>a. The existing footprint of the Waitaki Power Scheme.</u></p> <p><u>b. On core sites associated with the Waitaki Power Scheme.</u></p> <p><u>c. On areas covered by an operating easement associated with the Waitaki Power Scheme.</u></p>
<p>Definition Refurbishment</p>	<p>Oppose</p> <p>The definition of refurbishment in combination with the activity status as notified means a number of activities associated with the Waitaki Power Scheme are subject to an inappropriate level of regulation.</p> <p>Linked to the submission lodged on the definition of maintenance and Waitaki Power Scheme Activities, the definition of refurbishment is no longer required.</p>	<p>Delete the definition of refurbishment on the basis that the definition of Waitaki Power Scheme Activities is inserted.</p> <p>Refurbishment of Waitaki Power Scheme: means the upgrade or renewal (to gain efficiencies in generating and transmitting electricity) of machinery, buildings, plant, structure, facilities works or components and operating facilities associated with the Waitaki Power Scheme.</p>

Specific Provision	Submission	Decision Sought [New text shown as <u>underlined</u> and deleted text shown as strike through]
<p>Definition Indigenous Vegetation</p>	<p>Oppose</p> <p>The definition of indigenous vegetation is too broad.</p> <p>This definition, when implemented in combination with a number of provisions result in a level of regulatory control that is not the most appropriate to implement and achieve the objectives and policies.</p> <p>In the context of Rules 1.1 and 1.2 indigenous vegetation clearance within proximity of a lake or river would be a non-complying activity. This exceedingly high threshold is not justified.</p> <p>When considered in the context of Rules 2.2 and 2.3 if the definition remains unchanged there will be a disproportionate and inappropriate impact on the current and existing activities already being undertaken by Meridian.</p> <p>The definition does exclude some activities, including that the definition "does not include plants within a domestic garden or that have been planted for the use of screening/shelter purposes e.g. as farm hedgerows, or that have been deliberately planted for the purpose of harvest". None of these exclusions would apply to any activities or vegetation on any site where Meridian undertakes its activities. This is because any planting is not a domestic garden; nor is it necessarily for screening or shelter purposes; nor would it have been planted for the purpose of harvest. This means</p>	<p>Amend the definition of Indigenous Vegetation to read:</p> <p>Indigenous Vegetation: Means a plant community of where <u>where</u> species native to New Zealand <u>dominate and comprise 66% or more of the ground cover</u>, which may include exotic vegetation but does not include plants within a domestic garden or that have been planted for the use of screening/shelter purposes e.g. as farm hedgerows, for landscaping, or that have been deliberately planted for the purpose of harvest, <u>or planted as part of the construction Waitaki Power Scheme</u>.</p> <p>Or as an alternative to changing the definition</p> <p>Amend permitted activity rules in Rule 1.1 to read:</p> <p>1.1 Permitted Activities – Indigenous Vegetation Clearance</p> <p><u>1.1.1 Clearance of indigenous vegetation where native species do not dominate and comprise less than 66% of the ground cover.</u></p> <p>1.1.1A <u>Clearance of indigenous vegetation where native species dominate and comprise 66% or more of the ground cover</u> is a permitted activity provided the following conditions are met:</p> <p>1. The clearance is for.....</p> <p>And</p>

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	<p>that even an individual plant native to New Zealand, even if within a landscaped area, is not covered by any exclusion.</p> <p>By virtue of Rules 2.2.1 and 2.2.2 the removal of any plant irrespective of its importance could render consent being required for either a restricted discretionary for any refurbishment activity or a full discretionary activity for any new activity.</p> <p>This definition in combination with the rules that apply to the Waitaki Power Scheme demonstrates that the implications of Plan Change 18 have not been properly considered with respect to the activities associated with the Waitaki Power Scheme. This is evident from the lack of specific consideration of these matters in the Section 32.</p> <p>The proposed definition of indigenous vegetation is even less determinative than the definition that was within the operative plan. This definition has no threshold consideration and given the wide reach of the rules particularly those in Rules 1.1 and 1.2 where a number of activities would be rendered a non-complying activity and in 2.2 and 2.3 where consent would be required this definition is not appropriate.</p> <p>In determining whether a plant community is indigenous it should be based on estimated vegetated cover, and native species should dominate the community. This is sought to be included in the definition.</p>	<p>Amend permitted activity Rule 2 as follows:</p> <p>2.1 Permitted Activities – Indigenous Vegetation Clearance</p> <p>2.1.1</p> <p><u>2.1.1A Clearance of indigenous vegetation required for Waitaki Power Scheme Activities where native species do not dominate and comprise less than 66% of the groundcover.</u></p> <p>2.1.2 Clearance <u>of indigenous vegetation where native species dominate and comprise 66% or more of the ground cover</u> is required for the operation maintenance of Waitaki Power Scheme <u>Activities, within the Waitaki Power Scheme Management Area.</u></p> <p>2.3 Discretionary Activity</p> <p>2.2.3 Any indigenous vegetation clearance <u>where native species dominate and comprise 66% or more of the ground cover</u> associated</p> <p>Specific changes are not sought to Rule 2.2 and Rule 2.2.1 as these provisions are sought to be deleted through other submissions.</p>

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	<p>Alternative relief is also provided if the definition is not sought to be changed. This is to insert new provisions into Rules 1 and Rule 2.</p>	
<p>New Objective</p>	<p>Oppose in Part</p> <p>Meridian seeks a new objective be included.</p> <p>Having no objective addressing the Waitaki Power Scheme does not provide the appropriate links between objectives, policies and rules.</p> <p>Section 75 of the Resource Management Act is clear that policies are to implement objectives and rules are to implement policies. An objective is needed to ensure there is a clear relationship between the objective, Policy 7 and Rule 3.2.</p> <p>While it is understood that PC18 is part of a staged review of the District Plan and that further provisions, including objectives will be addressed in other chapters of the District Plan, it is not appropriate to defer inclusion of an objective addressing the Waitaki Power Scheme until a later time, when there are specific provisions addressing the scheme included in the Plan Change.</p> <p>The new Objective provides specific recognition to the Waitaki Power Scheme. This provides a direct relationship between the objectives and Policy 7 and Rule 2.</p>	<p>Insert a New Objective to read:</p> <p><u>For activities associated with the nationally significant Waitaki Power Scheme to:</u></p> <p><u>(a) Address the special characteristics and significance of the Waitaki Power Scheme</u></p> <p><u>(b) Enable vegetation clearance for the continued development, operation, maintenance and upgrading of the nationally significant Waitaki Power Scheme within the Waitaki Power Scheme Management Area</u></p> <p><u>(c) Provide for appropriate vegetation clearance necessary for the continued development, operation, maintenance and upgrading of the nationally significant Waitaki Power Scheme outside the Waitaki Power Scheme Management Area.</u></p>

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	<p>Failing to recognise and address through an objective the special case of the Waitaki Power Scheme and the issue of Indigenous Biodiversity does not give effect to NPSREG or the CRPS</p> <p>The objective recognises existing allocation of land use including vegetation clearance for the operational activities of the Waitaki Power Scheme within the existing management area of the Scheme and aims of the CRPS on indigenous biodiversity are not directed at protecting indigenous vegetation of lawful activities involving no significant change in the character of existing land use. In addition having regard to the priorities of the RPS it is implausible such land use needs to be controlled.</p> <p>The objective recognises that there may be tension between achieving protection of indigenous biodiversity and facilitating the continued development, operation, maintenance and upgrading of the nationally significant Waitaki Power Scheme outside its existing management area and only provides for appropriate vegetation clearance.</p> <p>This implements Chapters 9 and 16 of the CRPS and the NPSREG.</p>	
Objective 1	<p>Oppose in Part</p> <p>Objective 1 has been transferred from Chapter 7 Rural. However, the objective in its entirety is not appropriate within the context of Plan Change 18. In particular, the focus of maintaining natural biological and physical processes and riparian margins are</p>	<p>Amend Objective 1 to read:</p> <p>To safeguard indigenous biodiversity and ecosystem functioning through the protection and enhancement of <u>the values of</u> significant indigenous vegetation and habitats, riparian margins and the maintenance of natural biological and physical processes.</p>

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	<p>inappropriate and unnecessary within the context of this Plan Change.</p> <p>While potentially understandable within the context of Chapter 7 (a chapter which contained provisions relating to riparian areas, natural landscape and landform considerations) due consideration has not been given to whether this objective is appropriate within the changed context of Chapter 18.</p> <p>A suitable evaluation of the amended and existing provisions has not been undertaken.</p> <p>In particular, relative to this objective there has been no consideration whether this is the most appropriate way to achieve the purpose of the Act. Since this objective was developed the CRPS is now different, including identification of which functions are most appropriately to be addressed by the regional council and district councils.</p> <p>The reference to "the values of" being inserted provides greater consistency with the approach in the CRPS, particularly Objective 9.2.3.</p>	
Objective 2	<p>Oppose in Part</p> <p>Similar to the submission lodged on Objective 1, Objective 2 also addresses a number of matters including riparian areas,</p>	Amend Objective 2 to read:

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	<p>maintenance of natural biological and physical processes that are unnecessary within this objective.</p> <p>The amendment sought to the objective more clearly focuses on the important matters in 6(c) of the Resource Management Act being the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, section 7(d) intrinsic values of ecosystems and the functions of a territorial authority in Section 31(b)(iii), being the maintenance of indigenous biological diversity.</p> <p>Further, addressing the maintenance of biological diversity and then separately references the retention of indigenous vegetation in the policy is repetitive and unnecessary.</p> <p>The amendment sought provides clarity that maintaining biological diversity is to occur at a District scale.</p>	<p><u>Except as provided for in Objective (X²)</u> Land development activities are managed to ensure the maintenance of indigenous biodiversity <u>in the District</u>, including the protection and/or enhancement of significant indigenous vegetation and habitats, and riparian areas the maintenance of natural biological and physical processes; and the retention of indigenous vegetation.</p>
Policy 1	<p>Oppose in Part</p> <p>Policy 1 has been transferred from Chapter 7 Rural. However, the Policy in its entirety is not appropriate within the context of Plan Change 18.</p> <p>Since the time that this Policy was included within the Operative District Plan the CRPS has been reviewed. This means that the</p>	<p>Amend Policy 1 to read:</p> <p>To identify in the District Plan sites of significant indigenous vegetation or habitat in accordance with the criteria listed in the Canterbury Regional Policy Statement <u>and to provide (Subject to Policy 7) for their protection.</u> and to prevent development which reduces the values of these sites.</p>

² Reference is to the new objective sought by Meridian in the previous submission point.

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	<p>current wording cannot be considered to automatically give effect to the CRPS.</p> <p>The proposed wording of Policy 1 does not give effect to the CRPS. The CRPS ecosystem and indigenous biodiversity policies, particularly Policy 9.3.1 relates to protecting significant areas to ensure no net loss of indigenous biodiversity or indigenous biodiversity values as a result of land use activities. This is different to "preventing development which reduces the values of these sites or features". Providing protection for a significant area does not mean that prevention of activities that may reduce the values is the only management option that should be available.</p> <p>In relation to renewable electricity generation activities Policy 16.3.5 of the CRPS provides a range of options that can be applied to managing adverse effects on significant natural and physical resources, not solely avoidance. The range of measures includes avoiding, remedying, mitigating, offsetting measures and environmental compensation. This range of management options are clearly specified in Policy 16.3.5 particularly Clauses 2(b) and (4). The current wording 'prevent development' is not appropriate and does not give effect to the CRPS.</p>	
Policy 2 and New Policy	<p>Oppose in Part</p> <p>Policy 2 has been transferred from Chapter 7 Rural. However, the Policy in its entirety is not appropriate within the context of Plan Change 18.</p>	<p>Amend Policy 2 to read:</p> <p><u>2.</u> To avoid, remedy or mitigate, adverse effects on the natural character and <u>significant indigenous vegetation and</u></p>

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	<p>Since the time that this Policy was included within the Operative District Plan the CRPS has been reviewed. This means that the current wording cannot be considered automatically appropriate to give effect to the CRPS.</p> <p>Seeking to insert this policy without amendment into a new chapter fails to recognise that the context within the Plan where this provision is to sit has significantly changed.</p> <p>Consistent with the submission lodged on Objective 1, Policy 2 also contains a number of matters that are inappropriate and unnecessary within the context of this Plan Change. There are also a number of matters in the policy that are not, directly applicable to indigenous biodiversity. The focus on landform, hydrology, physical processes aquatic habitat and water quality are not appropriate.</p> <p>The inclusion of this policy does not give due consideration to the different functions of a regional council and territorial authority in Sections 30 and 31 of the Resource Management Act. It also does not given effect to the functional split identified in the CRPS, particularly with respect to matters such as hydrology and water quality.</p> <p>It is noted that there is not consistency in the language and terms used with the objectives and policies addressing biodiversity, while</p>	<p>significant habitats of indigenous fauna in indigenous land and water ecosystems functions in the District including:</p> <ul style="list-style-type: none"> a) Landform, physical processes and hydrology b) Remaining areas of significant indigenous vegetation and habitat, and linkages between these areas c) Aquatic habitat and water quality and quantity <p>AND</p> <p>Insert a new Policy 2A to read:</p> <p><u>2A. To manage actual or potential effects of the use, development and protection of land to maintain indigenous biological diversity in the District.</u></p>

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	<p>the rules focus on vegetation clearance. This creates discord and impacts on the efficient implementation of the provisions.</p> <p>Clause 2(b) addresses linkages between areas of remaining significant indigenous vegetation and habitat. The section 32 has not provided any basis as to the function of linkages. This may raise the value and protection around non-significant vegetation and habitat in situations where it does not fulfil an actual linkage function. Where linkages are important they will already have been considered in the determination of significance under the criteria within the CRPS.</p> <p>When considering the matters addressed by Policy 2 a more appropriate approach is to recognise that the CRPS signals a different approach may be appropriate when dealing with significant indigenous vegetation and significant habitats of indigenous fauna and other values.</p> <p>The relief sought seeks to ensure that the policy is better focused. Splitting the matters addressed by Policy 2 into two separate policies will give effect to the CRPS and the NPSREG.</p>	
Policy 7	<p>Oppose in Part</p> <p>The intent of Policy 7 which recognises the importance of renewable electricity generation and transmission is supported.</p>	<p>Amend Policy 7 to read:</p> <p>To recognise <u>and provide for the nationally significant renewable energy generation and transmission activities of the Waitaki Power Scheme and the special features of that activity including:</u></p>

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	<p>This policy provides the basis for the provisions contained in Rule 2. It is appropriate and necessary to provide separate provisions addressing activities associated with the nationally significant Waitaki Power Scheme.</p> <p>The parts of the policy not supported are addressed below.</p> <p>Firstly the Policy not recognising the national significance of renewable energy generation and transmission is not supported.</p> <p>In addition the reference to "consistent with the objectives and policies of this Plan" are not appropriate and should be deleted.</p> <p>As the full suite of provisions that will form the review of the Mackenzie District Plan are not known it is not effective to provide a policy that requires consistent with as yet unknown provisions. This is not effective, efficient nor reasonable. Retaining the words "consistent with the objectives and policies of this plan" provide uncertainty and mean that the submitter cannot determine what this policy may actually have on them.</p> <p>The reference to consistent with objectives and policies of this Plan is not needed and should be deleted. Policy 7 will be interpreted alongside other objectives and policies in the District Plan. It is not appropriate to provide a subservient relationship of this policy and all other policies of the District Plan, including policies not yet developed and notified.</p>	<p>a. <u>the need to locate the activity where the renewable energy resource is available;</u></p> <p>b. <u>logistical or technical practicalities associated with developing, upgrading, operating or maintaining the activity;</u></p> <p>c. <u>the location of existing structures and infrastructure and</u> consistent with objectives and policies of this Plan, to provide for its <u>development, upgrading operation,</u> maintenance and upgrading enhancement by:</p> <p>(i) <u>Treating indigenous vegetation clearance associated with development, operation, maintenance and upgrading of the Waitaki Electric Power Scheme as distinct from Indigenous Vegetation Clearance for other activities</u></p> <p>(ii) <u>Permitting Indigenous Vegetation Clearance in areas that are part of the Waitaki Power Scheme Management Area where they involve Waitaki Power Scheme Activities</u></p> <p>(iii) <u>Despite Policy 6 in any areas outside the Waitaki Power Scheme Management Area to provide for development maintenance and upgrading of the Waitaki Electric Power Scheme by allowing appropriate environmental off-setting and/or environmental compensation of residual adverse effects (i.e. effects where it is not reasonably practicable to prevent adverse effects).</u></p>

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	<p>Also given the nature and extent of the Waitaki Power Scheme it is important to recognise the practical and technical constraints on the scheme and its locational requirements. This is not a scheme that can be replicated elsewhere, or moved.</p> <p>With respect to transmission the National Environmental Standard for Electricity Transmission Activities takes precedence over any rules in the District Plan relating to operation, maintenance, upgrading, relocation and removal of national grid electricity transmission facilities that existed on 14 January 2010. The National Policy Statement on Electricity Transmission 2008 (NPSET) recognises the national significance of the need to operate, maintain, develop and upgrade the electricity transmission network and Section 75 (3) of the RMA requires district plans to give effect to the NPSET. These matters support the changes sought to the Policy.</p> <p>It is appropriate to have a Policy related to the Waitaki Power Scheme that is an intermediate provision between Objectives and Rules that resolves the tensions in the Objectives by providing greater specificity on how to reconcile them appropriately in order to assist in future decision making where discretions exist while also heralding the rule frame work that is necessary to implement the Policy</p> <p>These provisions implement Policy C1 of the NPSREG and Objective 16.2.2 of the CRPS.</p>	

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	<p>The changes sought to the policy will ensure that relevant matters necessary to give effect to the CRPS provisions relating to renewable electricity generation and the NPSREG are given effect to.</p>	
<p>Rule 2.1.1</p>	<p>Support Providing for clearance as a consequence of an emergency occurring on, or failure of, the Waitaki Power Scheme is supported.</p>	<p>Retain Rule 2.1.1</p>
<p>Rule 2.1.2</p>	<p>Oppose in Part</p> <p>Providing for vegetation clearance associated with the operation and maintenance of the Waitaki Power Scheme as a permitted activity is supported. This includes the need to manage a variety of flows and situations, including flood situations, that do not constitute an emergency.</p> <p>It is appropriate to include provisions specific to the Waitaki Power Scheme given its physical presence and significance within the District and the approach to renewable electricity generation in the NPSREG and Chapter 16 of the CRPS.</p> <p>Providing for these activities as permitted does in part give effect to the CRPS, particularly Policy 16.3.3.</p>	<p>Amend Rule 2.1.2 to read:</p> <p>2.1 Permitted Activities – Indigenous Vegetation Clearance</p> <p>2.1.2 Clearance is required for the operation-maintenance-of Waitaki Power Scheme <u>Activities</u>, within the <u>Waitaki Power Scheme Management Area</u> following areas;</p> <ul style="list-style-type: none"> • The existing footprint of the Waitaki Power Scheme. • On core sites associated with the Waitaki Power Scheme. • On areas covered by an operating easement associated with the Waitaki Power Scheme. <p><u>2.1.3 For any activity, clearance that is a permitted activity under Rule 1.1.1.</u></p>

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	<p>However, Meridian considers that the activity status for a number of activities associated with the Waitaki Power Scheme, particularly refurbishment, enhancement and upgrading is not appropriate and does not give effect to Chapter 16 of the CRPS nor the NPSREG.</p> <p>Plan Change 18 as notified imposes additional regulation on activities, and imposes a different activity status for activities associated with the Waitaki Power Scheme than the current activity status in the Operative District Plan. The Section 32 does not identify issues that have arisen with respect to the activities associated with the Waitaki Power Scheme. The level of regulation in the notified plan change is not the most appropriate, nor is it necessary.</p> <p>There is no assessment of the costs and benefits of the rules, particularly the economic impact of these rules. The combination of the definition of indigenous vegetation, the lack of clarity in many of the objectives and policies combined with the activity status creates uncertainty as to how activities will be assessed and does not provide regulation that is commensurate with the actual or potential effects of the activity. It is apparent that a number of the provisions, including the definition of indigenous vegetation has not given due consideration to implications of these provisions on the activities associated with the Waitaki Power Scheme.</p> <p>There are real consequences of the increased regulatory environment that would be imposed with PC18. None of the costs</p>	

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	<p>have been accounted for and due consideration has not been given to the impact of this regulation in giving effect to the NPSREG and Chapter 16 of CRPS.</p> <p>The Section 32 evaluation is inadequate to justify the provisions and level of regulation proposed. Due consideration has not been given to why the activity status in the Operative Plan should be so significantly departed from.</p> <p>The activity status for activities other than maintenance and operation is not supported.</p> <p>Consistent with the operative Plan, a discretionary activity status is appropriate for activities that involve any increase in the maximum operating level of a lake or water storage area, or the creation of a new lake or storage area.</p> <p>Other activities should be provided for as permitted activities within the Waitaki Power Scheme Management Area associated with the Waitaki Hydro Scheme.</p> <p>In addition, if indigenous vegetation clearance for any activity outside the management area of the Waitaki Scheme is provided for as a permitted activity under Rule 1 then this should not result in a more stringent activity status under Rule 2.</p>	

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	<p>The relief sought to the rules relies on the definition of "Waitaki Power Scheme Activities" addressed in the submission lodged on the definitions being adopted.</p>	
Rule 2.2	<p>Oppose</p> <p>The activity status for refurbishment activities as a restricted discretionary activity is not supported. Refurbishment activities which are to enable generation and transmission upgrades and renewals occurring within the existing footprint, the core land, or within the operating easements should be permitted activities.</p> <p>Given the issues raised in the submission addressing the very broad definition of indigenous vegetation restricted discretionary activity status for these activities will impose significant regulatory cost and will not give effect to the NPSREG.</p> <p>It is noted that when considering the proposed rule as a restricted discretionary activity the matters that discretion are restricted to do not explicitly acknowledge the national significance of the activity. Given the objective of the NPSREG this is not appropriate.</p> <p>This relief sought in the submission will give effect to the NPSREG including Policy A, the CRPS Policy 16.6.3 particularly clause (1).</p>	<p>Delete Rule 2.2 and provide for refurbishment as part of the activities associated with the Waitaki Power Scheme, as part of the Waitaki Power Scheme Activities as permitted activity, consistent with the submission lodged on the definitions and Rule 2.1.2.</p>
Rule 2.3	Oppose in Part	Amend Rule 2.3 to read:

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	<p>The most stringent activity status being discretionary is supported. Given the nature of the Waitaki Power Scheme and the NPSREG and Chapter 16 of the CRPS a non-complying activity status applying to any activities associated with the Waitaki Power Scheme would not give effect to either document.</p> <p>However, the activity status for any indigenous vegetation clearance associated with any new facility, structure or works associated with the Waitaki Power Scheme being discretionary is not supported.</p> <p>Activities which are occurring within Waitaki Power Scheme Management Area being the existing footprint, the core land, or within the operating easements should be permitted activities. This has been addressed in the submission on the permitted activity rules and in the submission seeking a definition of Waitaki Power Scheme Activities.</p> <p>The concern with the activity status is also linked to the issues raised in the submission on the definition of indigenous vegetation. A discretionary activity status for any new activity will impose significant regulatory cost and will not give effect to the NPSREG.</p> <p>This discretionary activity status does not give effect to the CRPS Policy 16.6.3, the objective of the NPSREG providing for development, operation, maintenance and upgrading and does not have particular regard to the practical implications for achieving</p>	<p>2.3 Discretionary Activity – Indigenous Vegetation Clearance</p> <p>2.3.1 Any <u>Indigenous vegetation clearance for Waitaki Power Scheme Activities not permitted under Rules 2.1.1, 2.1.2 or Rule 2.1.3.</u> Any Indigenous vegetation clearance associated with any new facility, structure or works associated with the Waitaki Power Scheme.</p> <p>2.3. <u>Indigenous vegetation clearance necessary to achieve an increase in the maximum operating level of a lake or water storage area or to create a new lake or water storage area.</u></p>

Specific Provision	Submission	Decision Sought [New text shown as <u>underlined</u> and deleted text shown as strike through]
	<p>New Zealand’s target for electricity generation from renewable resources consistent with Policy B. With respect to Policy E2 upgrading has not been provided for to the extent applicable to the District.</p> <p>Given the issues raised in the submission addressing the broad definition of indigenous vegetation, discretionary activity status any new activity will impose significant regulatory burden and will not give effect to the NPSREG.</p> <p>The submission seeks a consistent approach be taken to discretionary activity status for activities associated with the Waitaki Power Scheme as in the Operative Plan relating to changing the maximum operational level of a lake, or the creation of a new lake or water storage area.</p>	
Scope Rule 1	<p>Support</p> <p>The Proposed Plan Change identifies that these rules do not apply to indigenous vegetation clearance associated with the Waitaki Power Scheme and this approach is supported.</p> <p>However, if activities are proposed that would be permitted activities by virtue of Rule 1.1 it is not considered necessary or appropriate to impose a more stringent activity status if any of these activities were undertaken. It is for this reason that permitted activities in Rule 1.1 are also provided for under Rule 2.1.</p>	<p>Retain the heading 1. “Indigenous Vegetation Clearance excluding indigenous vegetation clearance associated with the Waitaki Power Scheme”.</p> <p>Insert a new permitted activity Rule in Rule 2.1 that states:</p> <p><u>2.1.3 Clearance for any activity that is a permitted activity under Rule 1.1.</u></p>

Specific Provision	Submission	Decision Sought [New text shown as <u>underlined</u> and deleted text shown as strike through]

FURTHER SUBMISSION ON PROPOSED PLAN CHANGE 18 UNDER THE FIRST SCHEDULE TO THE RESOURCE MANAGEMENT ACT 1991

To: Plan Change 18 – Indigenous Biodiversity
Mackenzie District Council
PO Box 52
FAIRLIE 7949

planning@mackenzie.govt.nz

Name: Meridian Energy Limited
PO Box 2146
CHRISTCHURCH 8140

Attention: Andrew Feierabend
Phone: (03) 03 357-9731
Mobile: 021 898 143
Email: andrew.feierabend@meridianenergy.co.nz

Meridian Energy Limited (Meridian) makes the specific further submissions on Proposed Plan Change 18 – Indigenous Biodiversity (PC18) set out in the **attached** document.

Meridian would like to be heard in support of its submission.

In accordance with Clause 8(1)(b) of the First Schedule of the RMA Meridian has an interest in the Proposed Plan Change greater than the interest of the general public.

Meridian could not gain an advantage in trade competition through this submission.

If other persons make a similar submission then Meridian would consider presenting joint evidence at the time of the hearing.



Andrew Feierabend

For and behalf of Meridian Energy Limited

Dated this 2nd day of May 2018

FURTHER SUBMISSIONS

ORIGINAL SUBMISSION REFERENCE	PLAN PROVISION	SUPPORT OR OPPOSE	REASONS
9. Environmental Defence Society Inc 18. Director General of Conservation 20. Forest and Bird	New Definition – no net loss	Oppose	A definition of no-net loss is not necessary and is opposed.
9. Environmental Defence Society Inc	New Definition – “maintenance”	Oppose	The definition of maintenance relating to indigenous biodiversity and linking this to no-net loss is not necessary and is opposed.
9. Environmental Defence Society Inc 18. Director General of Conservation	New Definition – biodiversity offsetting	Oppose	A definition of biodiversity offsetting is not necessary and is opposed. The definitions sought are not necessary or appropriate in the context of the Resource Management Act. The definition seeks to include limitations that are inappropriate and are not consistent with the provisions of the NPSREG.
9. Environmental Defence Society Inc	New Definition – Site of Natural Significance	Oppose	The definition and the implication of the definition in combination with other changes sought by the submitter relating to SONS is neither appropriate nor necessary. If a suite of provisions addressing SONS, including mapping is to be introduced this should be achieved through a further Plan Change where the implications of the provisions are able to fully understood by parties who may

			<p>be affected.</p> <p>The definition sought is uncertain, not appropriate and is not necessary.</p>
<p>18. Director General of Conservation</p> <p>16. Mt Gerald Station</p> <p>17. The Wolds Station</p>	<p>New Definition – Significant Indigenous Vegetation</p>	<p>Oppose</p>	<p>The submitters seek the introduction of a new definition that would give effect to the Canterbury Regional Policy Statement. While the District Plan needs to give effect to the Regional Policy Statement–the introduction of a new definition must be carefully considered in the context of the existing provisions within PC18. The submission in opposition is lodged to ensure that the wider context of the definition and its implications on the implementation of PC18 are able to be considered holistically.</p>
<p>20. Forest and Bird</p>	<p>Objective 1</p>	<p>Oppose</p>	<p>This submission is opposed as the nature and effect of the relief sought and its implications for the implementation of PC18 is unclear.</p>
<p>8. Canterbury Regional Council</p>	<p>Objective 2</p>	<p>Oppose</p>	<p>The submission seeks the policy be deleted as it has a large degree of overlap with Objectives 1 and 3. Deleting the objective is not appropriate. Objective 3 as currently worded only addresses managing values in accordance with Farm Biodiversity Plans and enabling development in accordance with these. Deleting Objective 2 and relying only on Objective 3 will not provide an appropriate framework for non-farming related activities.</p>
<p>18. Director General of Conservation</p>	<p>New Policy</p>	<p>Oppose</p>	<p>The submission seeks a new policy be introduced “to avoid adverse effects of subdivision, use and development on significant indigenous vegetation and habitat”.</p>

			<p>The policy focusing only on avoidance is inappropriate, unnecessary and does not give effect to the Canterbury Regional Policy Statement or the NPSREG. Protection does not mean that avoidance is the only management option.</p> <p>The Canterbury Regional Policy Statement in relation to renewable electricity generation activities recognises the options of avoid, remedy and mitigate, in relation to adverse effects on significant natural and physical resources.</p>
9. Environmental Defence Society Inc	Policy 1 and insertion of new map	Oppose	<p>The submission when addressing Policy 1 seeks a new map identifying the remaining areas of biodiversity/ecological connectivity in the Mackenzie basin be a SONS.</p> <p>If further provisions, including mapping, relating to SONS are to be introduced this should be achieved through a further Plan Change where the implications of the provisions are able to fully understood by parties who may be affected.</p> <p>The submission seeks changes that are uncertain, not appropriate and is not necessary.</p>
20. Forest and Bird	Policy 1	Oppose	<p>The submission seeks the policy be amended so that avoidance is the only management option in relation to significant adverse effects.</p> <p>This focus on avoidance is inappropriate, unnecessary and does not give effect to the Canterbury Regional Policy Statement or the NPSREG.</p>

				The Canterbury Regional Policy Statement in relation to renewable electricity generation activities recognises the options of avoid, remedy and mitigate, in relation to adverse effects on significant natural and physical resources.
9. Environmental Defence Society Inc	Policy 2		Oppose	<p>The submission seeks the policy be amended into two separate policies and that so that avoidance is the only management option in relation to significant indigenous vegetation and habitats.</p> <p>This focus on avoidance is inappropriate, unnecessary and does not give effect to the Canterbury Regional Policy Statement or the NPSREG.</p> <p>The Canterbury Regional Policy Statement in relation to renewable electricity generation activities recognises the options of avoid, remedy and mitigate, in relation to adverse effects on significant natural and physical resources.</p>
7. Fish and Game	Policy 4		Oppose	The submission seeks the policy be amended to include all wetlands and identifies mapping is sought. However, no maps are provided with the submission and as such the implications of the provisions sought are unable to be understood by parties who could be affected.
9. Environmental Defence Society Inc	Policy 4		Oppose	The submission identifies that policy direction on the significant values of the Districts different wetland types should be included. The provisions to achieve this are not identified and as such the implications of the provisions sought are unable to be understood by parties who could be affected.

20. Forest and Bird	Policy 5	Oppose	The submission seeks the policy be deleted. The submission seeks to exclude remediation, mitigation or offsetting from any role in the management of significant indigenous vegetation. This is not supported.
18. Director General of Conservation	Policy 5	Oppose	The changes sought to the policy are not necessary. However, if a change is to be made to the notified policy then the submission is supported in so far as it recognises avoidance, remediation and mitigation as well as offsetting.
9. Environmental Defence Society Inc 20. Forest and Bird 18. Director General of Conservation	Policy 6	Oppose	The submission seeks to delete the notified policy and replace it with a policy approach that does not enable offsetting in areas of significant indigenous vegetation. . The new policy seeks to include limitations that are inappropriate and are not consistent with the provisions of the Canterbury Regional Policy Statement and the NPSREG.
7. Fish and Game	Policy 6	Oppose	The submission seeks that offsetting not be provided as an option relating to indigenous biodiversity. This approach does not give effect to the Regional Policy Statement which recognises offsetting nor the NPSREG.
9. Environmental Defence Society Inc	Relationship with Section 16 of the District Plan	Oppose	The submission seeks to alter the way Section 16 (utilities) of the District Plan operates. The changes sought seek to amend the way Section 16 is to be interpreted. The notification of Plan Change 18 did not make it clear that Section 16 was affected.

			The submission is not supported.
9. Environmental Defence Society Inc	<p>Insert New Policy relating to Outstanding Natural Landscapes and biodiversity values.</p> <p>Amend assessment criteria to consider landscape values.</p>	Oppose	<p>The submission seeks a new policy that recognises the overlap between ONL and biodiversity values and that the assessment criteria and Appendix Y be amended to provide for consideration of landscape effects.</p> <p>However, no wording for the policy is provided and as such implications of the provision sought is unable to be understood by parties who could be affected.</p> <p>The changes sought are not appropriate and not necessary.</p>
14. Opuha Water Limited	<p>Waitaki Power Scheme Provisions</p> <ul style="list-style-type: none"> • Maintenance of Waitaki Power Scheme • Refurbishment of Waitaki Power Scheme • Operating Easement • Policy 7 • Rule Suite 19.2 	Oppose	<p>The submitter seeks that Opuha dam and the Opuha Scheme be recognised and retrofitted into the provisions relating to the Waitaki Power Scheme. This is not supported.</p> <p>It is noted that the Opuha Scheme did not form part of the notified PC 18. If references and provisions relating to the Opuha Scheme are to be inserted within PC18 then they should be done as a separate stream of provisions. The provisions should not be retrofitted into provisions that are specific to the Waitaki Power Scheme.</p>

Address List for Further Submissions

Director-General of Conservation
RMA Shared Services
Department of Conservation
Private Bag 4715
Christchurch Mail Centre 8140
nyozin@doc.govt.nz

Forest & Bird NZ
PO Box 2516
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Environmental Defence Society Inc (EDS)
Po Box 91736
Victoria Street West
Auckland 1142
madeleine@eds.org.nz

Mt Gerald Station Limited
Duncan Cotterill Plaza
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Christchurch 8013
katherine.forward@duncancotterill.com

Environment Canterbury
PO Box 550
Timaru 7940
julia.forsyth@ecan.govt.nz

Central South Island Fish and Game
PO Box 150
Temuka
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Opuha Water Limited
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georgina@gressons.co.nz

The Wolds
Duncan Cotterill Plaza
148 Victoria Street
Christchurch 8013
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ATTACHMENT 3

**SUBMISSION OF MT. GERALD STATION LIMITED (MT GERALD)
ON PLAN CHANGE 18 TO THE MACKENZIE DISTRICT PLAN**

9 March 2018

To Mackenzie District Council

This is a submission on proposed Plan Change 18 – Indigenous biodiversity – to the Mackenzie District Plan (MDP).

1 The specific provisions of the proposal that the submission relates to are identified in the table attached to this submission. Mt Gerald’s position in relation to each provision (with reasons) is as set out in the table.

2 Mt Gerald’s general comments are as follows:

2.1 The proposal fails to strike a balance between achieving the environmental outcomes required by the Resource Management Act and Canterbury Policy Statement 2013 (CRPS) and providing a pathway for development and use of land in accordance with the concept of sustainable management.

2.2 Where areas of significant indigenous vegetation or significant habitats of fauna have not been identified or assessed, it is inappropriate for the Council to adopt a blanket approach that reduces the threshold for clearance of indigenous vegetation to zero.

2.3 The proposed provisions fail to provide for any development-related indigenous vegetation clearance. Permitted activity indigenous vegetation clearance is limited to maintenance and repair of existing infrastructure. This is inefficient land management and does not provide for a reasonable use of productive land.

2.4 The s 32 report does not adequately assess the costs of the proposed provisions to the landowner including the costs associated with identifying and determining significance of indigenous vegetation and habitats, the costs associated with collating information for inclusion in a farm biodiversity plan (including expert advice where this is required) and the costs associated with obtaining more than one resource consent to authorise development.

2.5 The proposed provisions do not adequately take account of the tenure review process or the controls on pastoral intensification and agricultural conversion introduced by plan change 13 particularly the concept of farm base areas - an area identified as appropriate for more intensive development. Properties that have been through tenure review have been subject to rigorous assessment and areas of significant inherent value, including biodiversity/ ecology, landscape and conservation are identified and either returned to the Crown/ DOC or protected

through conservation covenants on any land freeholded. The proposed provisions must be viewed in context alongside the large tracts of conservation land that is already protected and other planning restrictions already in place.

- 2.6 A policy of no net loss of indigenous biodiversity values in areas identified as significant is unrealistic within the Mackenzie Basin subzone where the majority of vegetation is likely to meet the criteria for significance under the CRPS. Proposed objective 2 and policy 3 will curtail development and severely impede landowner ability to make reasonable use of their interest in the land.
- 2.7 The proposed provisions may frustrate Environment Canterbury initiatives such as the fencing of waterways. Under the proposed provisions resource consent will need to be obtained where new fencing is proposed close to the bank of a river. This may act as a deterrent for landowners wishing to be proactive and is counter-productive.
- 2.8 The policies which address off-setting in exchange for development are unachievable. There is no ability to provide for a net-gain in biodiversity in the Mackenzie Basin subzone due to the nature of the environment. The costs associated with providing a net-gain will exceed any economic benefit derived from undertaking vegetation clearance and will curtail the likelihood of any further development.

3 Mt Gerald seeks the following decision:

Primary relief

- 3.1 Modify plan change 18 in accordance with clauses 3.1.1 - 3.1.7 below including such further or other consequential relief as may be necessary to fully give effect to the primary relief sought. The new proposal to include:

- 3.1.1 Vegetation to be classified to three categories – indigenous vegetation, mixed vegetation and introduced vegetation. To be defined as follows:

Indigenous vegetation means a plant community where species native to New Zealand dominate and comprise between 66% to 100% ground cover of the total area.

Mixed vegetation means a plant community comprised of species both native to New Zealand and introduced into New Zealand, and the ground

cover of each group of species comprising between 33% to 66% ground cover of the total area.

Introduced vegetation means a plant community where species introduced into New Zealand dominate and comprise between 66% to 100% ground cover of the total area.

- 3.1.2 Objectives (1 – 3) and policies (1 – 9) as notified subject to any amendments sought in table 1 below.
 - 3.1.3 Rule(s) that provide for clearance of introduced and mixed and vegetation to occur as permitted activities.
 - 3.1.4 Rule(s) that provide for clearance of indigenous vegetation to occur as a controlled activity if a farm management plan (including a component focussed on biodiversity values specific to the property) is prepared. Matters of control to be those set out in table 1 below in relation to rule 19.1.2.1.
 - 3.1.5 Where no farm management plan is prepared rule(s) to provide for clearance of indigenous vegetation to occur as a restricted discretionary activity. Matters of discretion to be those set out in table 1 below in relation to rule 19.1.2.2.
 - 3.1.6 Rules that provide for clearance of significant indigenous vegetation to occur as a non-complying activity.
 - 3.1.7 Rules relating to clearance of indigenous vegetation (including significant vegetation) to be subject to exemptions which would take the form of the permitted activity conditions as notified unless specifically amended in table 1 below. For the avoidance of doubt, any new condition proposed in table 1 below would be carried across.
- 3.2 The commissioning of a further evaluation under s32AA of the RMA.

Secondary relief

- 3.3 In the alternative, plan change 18 to be modified as set out in table 1 below.
- 3.4 Such further or other consequential relief as may be necessary to fully give effect to the matters raised and/or secondary relief sought in this submission, which

may also include the commissioning of a further evaluation under s32AA of the RMA.

Dated 9 March 2018



Katherine Forward
Solicitor for Mt Gerald Station Limited

This document is filed by Katherine Forward of Duncan Cotterill, solicitor for the submitter.

The address for service of the submitter is:

Duncan Cotterill
Duncan Cotterill Plaza
148 Victoria Street
Christchurch 8013

Documents for service on the submitter may be:

- Left at the address for service.
- Posted to the solicitor at 148 Victoria Street, Christchurch 8013
- Transmitted to the solicitor by fax on +64 3 3792430

Please direct enquiries to:

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Email Katherine.Forward@duncancotterill.com

TABLE 1

The Mt Gerald submission relates to:	The Mt Gerald submission is that:	Mt Gerald seeks the following decisions:
SECTION 3 – DEFINITIONS		
Improved Pasture	<p>Oppose:</p> <p>Over time Mt Gerald has invested in traditional farming activities including top dressing and oversowing exotic pasture species to modify land for the purpose of livestock grazing. It is critical that the MDP provide a pathway for continued clearance of vegetation (including significant vegetation and habitats) on land already modified for farming so as to preserve the significant investments already made.</p> <p>However, the terms “cover” and “composition” are uncertain and there is no guidance in place to assist the landowner in determining dominance.</p> <p>Dominance must be restricted to percentage of ground cover, not canopy cover, only. The nature of vegetation in the Mackenzie Basin subzone (even within an area of improved pasture) means the composition of vegetation may fall in favour of indigenous rather than exotic species. While ground cover may be 70% exotic, it is still possible to locate a number of indigenous species which will outnumber the two or three species of clover or grasses introduced. This is particularly so for the rural Stations which span large areas of land and where cultivated paddocks comprise several hundred hectares.</p> <p>It is important for a landowner to be able to interpret and apply the proposed provisions, without requiring expert ecology advice. The assessment of dominance should be restricted to a representative area. Certainty is needed so that land owners are able to proceed in confidence and without fear of enforcement action.</p>	<p>Amend b) as follows:</p> <p><i>b) Exotic pasture species have been deliberately introduced and dominate in <u>ground cover—and composition</u>. For the purposes of this definition the assessment of dominance <u>shall be conducted on a representative area within the area of improved pasture</u> and shall disregard indigenous vegetation which is growing upon land that has previously been modified and enhanced for livestock grazing in accordance with clause a) above and is less than 15 years old</i></p>

<p>Indigenous vegetation</p>	<p>Oppose:</p> <p>The proposed definition is too broad and will capture nearly all vegetation in the Mackenzie Basin subzone. It is inappropriate for areas of non-indigenous vegetation to be subject to indigenous vegetation clearance rules. The purpose of proposed chapter 19 is to address indigenous biodiversity so as to give effect to chapter 9 – Ecosystems and indigenous biodiversity of the CRPS. The proposed definition goes beyond what is required under the RMA of the CRPS.</p> <p>The decision sought will enable a landowner (and Council staff) to make an assessment on the spot whether vegetation is indigenous or not.</p>	<p>Amend definition of indigenous vegetation as follows:</p> <p><i>Means a plant community of species native to New Zealand which may include a minor element of exotic vegetation but does not include plants within a domestic garden or that have been planted for the use of screening/shelter purposes e.g. as farm hedgerows, or that have been deliberately planted for the purpose of harvest</i></p>
<p>New definition - significant indigenous vegetation</p>	<p>The MDP needs to provide guidance as to what constitutes significant indigenous vegetation in the Mackenzie Basin.</p> <p>It is submitted that the introduction of a new appendix Z (that would read similarly to that of appendix 3 to the CRPS but modified to relate specifically to the Mackenzie Basin rather than Canterbury region wide) would assist landowners to interpret and apply the proposed provisions.</p> <p>Appendix Z may include cross reference to existing MDP appendices W and X where appropriate.</p>	<p>Add new definition of significant indigenous vegetation as follows:</p> <p><i>means any indigenous vegetation that meets the criteria set out in Appendix Z</i></p> <p>Appendix Z to include criteria (relevant to the Mackenzie District) for determining significant indigenous vegetation.</p>
<p>Vegetation clearance</p>	<p>Oppose:</p> <p>Irrigation is not an activity that leads to clearance of vegetation – water applied to land encourages plant growth rather than eradicating it. It is accepted that sustained irrigation may change the structure and composition of plant species but irrigation can be distinguished from “cutting, crushing, cultivation, spraying or burning” in that it is not capable of directly</p>	<p>Delete the words “or irrigation” from the definition of vegetation clearance.</p>

	<p>clearing vegetation. It is inappropriate for irrigation to be included in this definition alongside the other listed activities.</p> <p>Irrigation is already included in the definition of agricultural conversion and it is inefficient to require a landowner to obtain two separate resource consents for the same activity.</p>	
CHAPTER 7 – RULE 12: VEGETATION CLEARANCE		
Rule 12.1.1	<p>Support with amendment:</p> <p>Permitted activity status for clearance of non-indigenous vegetation is appropriate however additional exemptions need to be included so that clearance is permitted to occur within riparian areas in circumstances other than only those listed.</p> <p>It is critical to provide a pathway for maintenance, repair, replacement or minor upgrade of infrastructure and for new small scale activities integral to farm management to occur as permitted activities even if these are located within riparian areas.</p> <p>Provision needs to be made for clearance of non-indigenous vegetation to occur where the purpose is to facilitate exclusion of stock from waterways and to provide for the conveyance of stock water where an alternative supply is required.</p> <p>The setback distances in rule 12.1.1.a should be amended. It is not necessary to prevent works within 50m of a wetland. A more appropriate setback distance is 20m.</p>	<p>Amend rule 12.1.1.a as follows:</p> <ul style="list-style-type: none"> - Within 20m of the bank of the main stem of any river listed in Schedule B to the Rural Zone; or - Within 10m of the bank of any other river; or - Within 75m of any lake listed in Schedule B to the Rural Zone; or - Within 50m 20m of or in any wetland or other lake <p>Amend rule 12.1.1.a exemption (i) as follows:</p> <p><i>This standard shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance <u>habitat enhancement or for the maintenance, repair, replacement or minor upgrade of existing fence lines, tracks, roads, stock crossings, firebreaks, drains, ponds, dams, stockyards, farm</u></i></p>

		<p><u>buildings, airstrips water troughs, waterlines, waterway crossings or any other utility</u></p> <p>Amend rule 12.1.1.a exemption (ii) as follows:</p> <p><i>This standard shall not apply to any vegetation clearance which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council under the Resource Management Act 1991</i></p> <p>Add new exemption (iv):</p> <p><i>This standard shall not apply to vegetation clearance associated with small scale farming activities including but not limited to new fence lines, tracks, roads, stock crossings, firebreaks, drains, ponds, dams, small farm buildings, water troughs, waterlines, waterway crossings, providing alternative stock water supply and any other utility</i></p> <p>Add new exemption (v):</p> <p><i>This standard shall not apply to vegetation clearance associated with excluding stock from a</i></p>
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		<i>river, lake, wetland or other waterway</i>
CHAPTER 19 – INDIGENOUS BIODIVERSITY		
Heading	Oppose:	Delete “ <i>Indigenous Biodiversity</i> ” heading and replace with “ <i>Vegetation Clearance</i> ”
Objective 1	<p>Oppose:</p> <p>This objective fails to acknowledge the role of the landowner in achieving environmental outcomes and the need for balance between protection of indigenous biodiversity and the need of landowners and communities to maintain and develop their livelihood to meet their needs, and the needs of future generations.</p> <p>Many landowners in the District value indigenous biodiversity and adjust their farm practices to voluntarily protect significant areas – this is often the sole reason why areas of significant indigenous biodiversity remain.</p>	<p>Delete objective 1 and replace with:</p> <p><i>Safeguarding the life-supporting capacity of indigenous biodiversity and ecosystems while also sustaining the reasonable use of land and natural resources</i></p>
Objective 2	<p>Oppose :</p> <p>The proposed objective will curtail all development in the Mackenzie Basin. It is not only land development activities that impact on indigenous biodiversity. Natural processes such as soil erosion, climate change, nutrient depletion and the introduction of weeds and pests are arguably the main contributors to a decline in biodiversity. Land development activities should not be singled out and penalised for a decline in biodiversity. In some circumstances restricting land use development may exacerbate a decline in biodiversity on the basis that a lower income derived from the farm operation will lead to less money spent on weed and pest control.</p>	<p>Delete objective 2 and replace with:</p> <p><i>To maintain and enhance indigenous biodiversity and ecosystem functioning by protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna</i></p>
Objective 3	Oppose:	Delete objective 3 and

	<p>It is submitted that there are other ways of achieving integration of protection of significant indigenous biodiversity values with development proposals. The Council needs to enable all types of integrated management - not only farm biodiversity plans.</p>	<p>replace with:</p> <p><i>Enable land use activities that achieve integration of development with protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna</i></p>
Policy 1	<p>Oppose:</p> <p>This policy is in conflict with policies 5 and 6 which provide for off-setting as a means to achieve protection of significant indigenous vegetation and habitats. It is not possible to “prevent development which reduces the value of these sites” and at the same time provide for a range of mechanisms to avoid, remedy, mitigate or off-set adverse effects on the value of these sites.</p>	<p>Delete from policy 1 the words:</p> <p><i>“and to prevent development which reduces the values of these sites”</i></p> <p>If the decision sought by Mt Gerald to include a new definition for significant indigenous vegetation a consequential change to this policy will be required – to refer to Appendix Z rather than the CRPS.</p>
Policy 2	<p>Oppose:</p> <p>The concept of sustainable management in s5 RMA requires adverse effects on the environment to be avoided, remedied or mitigated but not at the expense of enabling people and communities to provide for their social, economic and cultural wellbeing.</p>	<p>Delete policy 2 and replace with:</p> <p><i>Enable land use activities that make efficient use of land and resources while avoiding, remedying, mitigating or offsetting adverse effects on water, soil, ecosystems and the natural character of the Mackenzie District</i></p>
Policy 3	<p>Oppose:</p>	<p>Amend policy 3 as follows:</p>

	<p>It is not only rural development that may contribute to a decline in indigenous biodiversity. Any development has the potential to affect indigenous biodiversity.</p> <p>The concept of no net loss must be assessed at a District wide scale rather than on a per property basis. No net loss of indigenous biodiversity values will be achieved if representative areas of significant vegetation and habitat are adequately protected within the District i.e. through QEII covenants, the Lake Tekapo Scenic Reserve and land returned to the Crown under tenure review. It is not necessary for every example of a particular indigenous species to be protected in order to achieve no net loss.</p>	<p>Rural Development, including indigenous vegetation clearance and pastoral intensification, occurs in a way or at a rate that provides for no net loss of indigenous biodiversity values in areas identified as significant <u>when assessed at a District wide scale</u></p>
<p>Policy 4</p>	<p>Oppose:</p> <p>The CRPS provides that any ecologically significant wetland will also be a habitat of significant indigenous fauna so vegetation clearance in relation to ecologically significant wetlands will be managed through other proposed provisions. This policy is not required.</p>	<p>Delete policy 4</p>
<p>Policy 5</p>	<p>Oppose:</p> <p>Achieving protection of significant indigenous vegetation and significant habitats of indigenous fauna (on land that is in private ownership) is entirely dependent on landowner support.</p> <p>Other mechanisms that may achieve protection also need to be listed.</p>	<p>Delete policy 5 and replace with:</p> <p><i>Recognise that the maintenance indigenous biodiversity is dependent on landowner support and will be achieved through a number of mechanisms, including:</i></p> <ul style="list-style-type: none"> - <i>the listing of sites of significant indigenous vegetation and significant habitats of indigenous fauna;</i> - <i>the use of rules regulating clearance of indigenous vegetation;</i> - <i>legal protection by way of covenants; and</i> - <i>landowner commitment to</i>

		<p><i>conservation and stewardship of the natural environment, including though the use of farm biodiversity plans and other farm management plans developed by suitably qualified people</i></p>
Policy 6	<p>Oppose:</p> <p>An offset that provides for a net gain for biodiversity is unachievable in the Mackenzie Basin subzone. There is no ability to obtain the number of indigenous species required to re-establish or protect an area large enough in size to provide a net gain for biodiversity where the area proposed for development is large i.e. part of a rural Station.</p> <p>An off-set may be viewed as a tool to enable development which in turn may justify more restrictive provisions elsewhere in a District plan. This is not the case in the Mackenzie Basin subzone. The only properties likely to obtain any benefit from this policy are smaller lifestyle blocks.</p> <p>It is acknowledged that policy 6 is a direct replication of policy 9.3.6 of the CRPS however to enable a more user friendly MDP it is submitted that the criteria for offsetting would be more appropriately located outside of this policy and within a new appendix ZA.</p>	<p>Delete policy 6 and replace with:</p> <p><i>Allow for a biodiversity offset to be offered by a resource consent applicant where an activity will result in residual adverse effects on significant indigenous vegetation and habitats of significant indigenous fauna that cannot be otherwise avoided, remedied or mitigated</i></p> <p>Move the balance of policy 6 to new appendix ZA</p>
Policy 8	<p>Support with amendment:</p> <p>The decision sought improves readability of the MDP by combining the key matters addressed in policies 8 and 9 into one policy and clarifies that it will take time to achieve enhancement of indigenous biodiversity.</p>	<p>Delete policy 8 and replace with:</p> <p><i>To enable rural land use and development at an on-farm level where development is integrated with a farm biodiversity process that provides for:</i></p> <ul style="list-style-type: none"> - <i>comprehensive identification and protection of significant</i>

		<p>vegetation and significant habitats of indigenous fauna;</p> <ul style="list-style-type: none"> - encourages sustainable management; - adapts to the changing needs of land use and indigenous biodiversity management; and - achieves maintenance, and over time, the enhancement of indigenous biodiversity
Policy 9	<p>Oppose:</p> <p>There needs to be a true collaborative process between the Council and the landowner. It is inappropriate for the Council to transfer the costs associated with obtaining expert advice to identify significant indigenous biodiversity values at an on-farm level to the landowner – the costs should be shared in proportion to the benefit derived, public vs land owner.</p>	Delete policy 9.
New policy	<p>The MDP needs to provide for minor works undertaken as part of normal farming activities to occur to ensure that a landowner is permitted reasonable use of their interest in the land. The decision sought is in keeping with the concept of sustainable management and provides a firm direction in chapter 19 that indigenous biodiversity needs to co-exist with development - provided development proposals also protect areas of significant indigenous vegetation and habitats of significant indigenous fauna.</p>	<p>Add new policy</p> <p><i>To allow clearance of significant indigenous vegetation or habitats of indigenous fauna where such activities are necessary for:</i></p> <ul style="list-style-type: none"> - <i>The management of the site including the management of pests and the removal of diseased, damaged or dead plants;</i> - <i>To facilitate access for livestock, utility structures or farm vehicles past or through the site; and</i> - <i>Enable the reasonable use of land and the maintenance of</i>

		<i>existing infrastructure.</i>
Rule 19.1.1.1	<p>Oppose:</p> <p>It is critical that the MDP provide for some level of indigenous vegetation clearance to occur as a permitted activity however additional conditions are required to provide a greater level of clearance to occur without the need for the landowner to obtain resource consent and be subject to the costs and uncertainty of the consenting process.</p> <p>As well as providing for maintenance and repair of existing activities and farm infrastructure it is appropriate to also provide for replacement or minor upgrade.</p> <p>Provision needs to be made for vegetation clearance associated with new small scale farming activities that are integral to farm management to occur as permitted activities.</p> <p>Provision needs to be made for clearance of indigenous vegetation to occur within a farm base area (an area identified as appropriate for more intensive development) as a permitted activity.</p> <p>Provision needs to be made for clearance of indigenous vegetation to occur where the purpose is to facilitate exclusion of stock from waterways.</p> <p>For the avoidance of doubt it is submitted that maintenance of pastoral intensification and agricultural conversion activities should be explicitly provided for as a permitted activity.</p> <p>Condition 8 should be amended to align the setback provisions with the decision sought for rule 12.1.1.a.</p>	<p>The word “or” needs to be included after conditions 1 – 6 of rule 19.1.1.1. It is critical that one, not all, of the conditions need to be met for the activity to qualify as a permitted activity.</p> <p>Amend condition 1 of rule 19.1.1.1 as follows:</p> <p><i>The clearance is for the purpose of maintenance, repair, <u>replacement or minor upgrade</u> of existing fence lines, tracks, roads, <u>stock crossings</u>, firebreaks, drains, <u>ponds, dams,</u> stockyards, farm buildings, airstrips, water troughs, <u>waterlines,</u> <u>waterway crossings or any other utility</u></i></p> <p>Amend condition 8 of rule 19.1.1.1 so that the setback distances align with the decision sought for rule 12.1.1.a</p> <p>Add new condition 9 to rule 19.1.1.1 as follows:</p> <p><i>The clearance is associated with small scale farming activities including but not limited to new fence lines, tracks, roads, stock crossings, firebreaks, drains, ponds, dams, small</i></p>

		<p><i>farm buildings, water troughs, waterlines, waterway crossings, providing alternative stock water supply and any other utility.</i></p> <p>Add new condition 10 to rule 19.1.1.1 as follows:</p> <p><i>Clearance is within a farm base area contained in Appendix R</i></p> <p>Add new condition 11 to rule 19.1.1.1 as follows:</p> <p><i>Clearance is for the purpose of with excluding stock from a river, lake, wetland or other waterway</i></p> <p>Add new condition 12 to rule 19.1.1.1 as follows:</p> <p><i>For the avoidance of doubt, existing pastoral intensification and agricultural conversion activities may be maintained and this land is exempt from the indigenous vegetation clearance rules</i></p>
Rule 19.1.2.1	<p>Oppose :</p> <p>It is submitted that where a farm biodiversity plan is developed (at great expense to the landowner) that the land owner ought to receive the benefit of a less restrictive activity status for indigenous vegetation clearance that is in compliance with that plan. It should not be available to the Council to decline consent provided the farm biodiversity plan meets the</p>	<p>Change the activity status for clearance under rule 19.1.2.1 from restricted discretionary to controlled.</p> <p>Amend condition 3 of rule 19.1.2.1 so that the setback distances are consistent with the decision</p>

	<p>requirements set out in Appendix Y.</p> <p>Condition 3 should be amended so that the setback provisions are consistent with the decision sought for rule 12.1.1.a</p> <p>A new condition needs to be inserted to provide that an application processed under this rule may proceed on a non-notified basis. This may encourage landowners to buy in to the concept of farm biodiversity plans where development is proposed.</p>	<p>sought for rule 12.1.1.a</p> <p>Delete all matters of discretion and replace with the following matters of control:</p> <ul style="list-style-type: none"> - <i>The extent to which the nature, scale, intensity and location of the proposed activity will adversely affect indigenous biodiversity and the methods proposed in the farm biodiversity plan to avoid, remedy, mitigate or offset these effects;</i> - <i>The extent to which the methods proposed in the farm biodiversity plan will achieve overall maintenance and/or enhancement of indigenous biodiversity and the protection of significant indigenous vegetation and significant habitats of indigenous fauna;</i> - <i>The extent to which the methods, targets, monitoring and reporting proposed in the farm biodiversity plan are adequate to protect the biodiversity values identified; and</i> - <i>The benefits that the activity provides to the local community and beyond</i> <p>Add new condition 4 to rule 19.1.2.1 to provide that any application for resource consent under this rule will be processed on a non-notified basis.</p>
Rule 19.1.2.2	<p>Oppose:</p> <p>This rule needs to specifically provide for clearance to</p>	<p>Amend rule 19.1.2.2 as follows:</p>

	<p>occur as a restricted discretionary activity so that it is consistent with rule 19.2.1.</p> <p>The proposed 5000m² limit is only appropriate for small properties. Where large rural Stations are concerned, which comprise several thousand hectares, the limit should be 5000m² per 100 hectares.</p> <p>Condition 2 should be amended so that the setback provisions are consistent with the decision sought for rule 12.1.1.a</p>	<p><i>Unless provided for in rule 19.2.1 any indigenous vegetation clearance up to 5000m² per 100 hectares within any site in any 5 year continuous period shall be a restricted discretionary activity provided the following conditions are met:</i></p> <p>Amend condition 2 of rule 19.2.2 so that the setback distances are consistent with the decision sought for rule 12.1.1.a</p> <p>Delete all matters of discretion and replace with the following:</p> <ul style="list-style-type: none"> - <i>Whether the site meets the criteria for a significant area of indigenous vegetation or habitat of indigenous fauna in Appendix Z; and if so;</i> - <i>Whether the activity will result in significant effect on the significant values of the long-term viability of the site; and</i> - <i>Whether denying the activity will prevent the landowner making reasonable use of their interest in the land; and</i> - <i>The appropriateness of any indigenous biodiversity offsets or other mitigation measures proposed.</i>
Rule 19.1.3	<p>As above the proposed 5000m² limit is only appropriate for small properties. The limit should be 5000m² per 100 hectares.</p>	<p>Amend rule 19.1.3.1 as follows:</p> <p><i>Any indigenous vegetation</i></p>

	<p>Setback provisions should be consistent with the decision sought for rule 12.1.1.a.</p>	<p><i>clearance up to 5000m² per 100 hectares within any site in any 5 year continuous period.</i></p> <p>Amend condition 3 of rule 19.1.3.2 so that the setback distances are consistent with the decision sought for rule 12.1.1.a</p>
<p>Appendix Y</p>	<p>Support with amendment:</p> <p>Farm biodiversity plans are an effective and accurate way of identifying and protecting areas of significant indigenous vegetation and significant habitats of fauna and identifying where development is possible within a farm enterprise.</p> <p>In order to encourage landowner buy in it is critical that the information to be included in these plans is not overly onerous and can be obtained in a straight forward manner and without putting the landowner to significant expense.</p> <p>In light of the costs associated with preparing a farm biodiversity plan (or other farm management plan), it is critical that these plans remain the property of the landowner at all stages – including where they may become a condition of resource consent. Farm biodiversity plans will contain commercially sensitive information and should be confidential between the landowner and the Council.</p> <p>It is not appropriate that the Council use farm biodiversity plans as a means to establish existing use rights on a property. Historic land management practices are only relevant where they relate to any area of proposed development.</p> <p>It is not appropriate for the Council to require the landowner to complete an assessment of effects as required at C (3) in a farm biodiversity plan. This information will be required with any application for</p>	<p>Insert new condition 4 under the heading 'framework' as follows:</p> <p><i>4. The content of a Farm Biodiversity Plan shall remain the property of the landowner at all times and the information contained within the Farm Biodiversity Plan shall be confidential between the landowner and the Council</i></p> <p>Amend section C(1) as follows:</p> <p><u>In relation to the development area(s)</u> <i>describe historic and current land use management which may include stocking policy, water supply, grazing regimes, improved pasture, biodiversity management where relevant</i></p> <p>Delete C (3).</p> <p>Amend section D as follows:</p>

	<p>resource consent.</p> <p>Other amendments as set out in the decision sought.</p>	<p>Having regard to the information in B above, The purpose of this section is to set out information on management methods to ensure the values <u>areas of significant vegetation and habitats of significant indigenous fauna</u> identified in the assessment at B are protected to ensure no net loss of indigenous biodiversity values in areas identified as significant</p> <p>Delete the word “objective” from D(1) and (3) and replace it with “goal”.</p> <p>Add the words “of significant indigenous vegetation and habitats of significant indigenous fauna” after the words “not net loss” in D(1).</p> <p>Delete the words “management to protect values” from D(1)(c)</p> <p>Amend D(3) as follows:</p> <p><i>Confirmation from an appropriately qualified and experienced ecologist that the proposed methods will likely achieve the objective goal.</i></p> <p>Delete E(2).</p>
Add new appendix Z		Appendix Z to include criteria (relevant to the

		Mackenzie District) for determining significant indigenous vegetation.
Add new appendix ZA		Include new appendix to contain the off-setting detail i.e. that which has been removed from Policy 6.



DOCDM-5412283

9 March 2018

Mackenzie District Council
PO Box 52
Main Street
Fairlie
7949

Attention: Karina Morrow

Dear Karina,

Plan Change 18 and Plan Change 19 – Mackenzie District Plan

Please find enclosed the submission by the Director-General of Conservation in respect of Plan Change 18 and Plan Change 19. The submission identifies the Director-General's concerns.

Please contact Nardia Yozin in the first instance if you wish to discuss any of the matters raised in this submission (03 363 1665, 027 502 3129 or via nyozin@doc.govt.nz).

Yours sincerely

A handwritten signature in blue ink, appearing to read "Sally Jones". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Sally Jones

Operations Manager

Twizel, Eastern South Island

RESOURCE MANAGEMENT ACT 1991

SUBMISSION ON A CHANGE TO THE MACKENZIE DISTRICT PLAN

TO: Mackenzie District Council

SUBMISSION ON: Plan Change 18 – Indigenous Vegetation Clearance
Plan Change 19 – Surface Water Activities

NAME: Lou Sanson
Director-General of Conservation

ADDRESS: RMA Shared Services
Department of Conservation
Private Bag 4715
Christchurch Mail Centre 8140
Attn: Nardia Yozin


**STATEMENT OF SUBMISSION BY THE DIRECTOR-GENERAL OF THE
DEPARTMENT OF CONSERVATION**

Pursuant to clause 6 of the First Schedule of the Resource Management Act 1991 (RMA), I, Sally Jones, Operations Manager, Twizel, acting upon delegation from the Director-General of the Department of Conservation, make the following submission in respect of the Proposed Plan Change 18 and Proposed Plan Change 19 to the Mackenzie District Council.

1. This is a submission on the Plan Change 18 and Plan Change 19 to the Mackenzie District Plan.
2. The specific provisions of the Proposed Plan that my submission relates to are set out in Attachments 1 to this submission. The decisions sought in this submission are required to ensure that the Mackenzie District Plan:
 - a. Recognises and provides for the matters of national importance listed in section 6 of the Act and to has particular regard to the other matters in section 7 of the Act.
 - b. Promotes the sustainable management of natural and physical resources.
 - c. The changes sought are necessary, appropriate and sound resource management practice.
4. I seek the following decision from the Council:
 - 4.1 That the particular provisions of Proposed Plan Change 18 (vegetation Clearance) and Proposed Plan Change 19 (Surface Water Activities) that I support, as identified in Attachment 1, are retained.
 - 4.2 That the amendments, additions and deletions to Proposed Plan Change 18 and Proposed Plan Change 19 sought in Attachments 1 are made.

4.3 Further or alternative relief to like effect to that sought in 4.1 – 4.2 above.

5. I wish to be heard in support of my submission and if others make a similar submission, I will consider presenting a joint case with them at the hearing.



Sally Jones
Operations Manager
Twizel, Eastern South Island

Pursuant to delegated authority
On behalf of
Lou Sanson
Director-General of Conservation

Date: 9/3/18

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011.

ATTACHMENT 1:

PROPOSED PLAN CHANGE 18 and 19– Mackenzie District Plan
SUBMISSION BY THE DIRECTOR-GENERAL OF CONSERVATION

The specific provisions that my submission relates to are set out in Attachment 1. My submissions are set out immediately following these headings, together with the reason and the decision I seek from the Council.

The decision that has been requested may suggest new or revised wording for identified sections of the proposed plan. This wording is intended to be helpful but alternative wording of like effect may be equally acceptable. Text quoted from Proposed Plan Change 18 and Proposed Plan Change 19 and the Mackenzie District Plan shows, text taken from Section 7 – Rural and inserted into the new Section 19 – Biodiversity (original text) as plain text, new text as underlined and original text to be deleted as ~~strikethrough~~. The relief sought by the Department is in double underline for new text or ~~double strikethrough~~ for text seeking to be deleted.

Unless specified in each submission point my reasons for supporting are that the policies are consistent with the purposes and principles of the Resource Management Act 1991 (RMA).

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
Plan Change 18 – Indigenous Vegetation Clearance			
PC18: <u>Section 19 – Definitions Biodiversity (or biological diversity)</u>	<u>Biodiversity (or biological diversity): means the variability of living organisms and the ecological complexes of which they are a part, including diversity within species, between species and of ecosystems.</u>	Support	<i>Retain as notified.</i>
PC18: <u>Section 19 – Definitions (New) Biodiversity Offset</u>	<i>New Definition</i>	(new definition) The D-G considers that it is important 'biodiversity offset' is defined to provide clarity on what this means in terms of outcomes. This definition comes from the CRPS with 'indigenous' added in the second sentence for clarity.	<i>Insert new definition for 'Biodiversity Offset':</i> <u>Biodiversity offset means a measurable conservation outcome resulting from actions which are designed to compensate for significant residual adverse effects on biodiversity arising from human activities after all appropriate prevention and mitigation measures have been taken. The goal of a biodiversity offset is to achieve no net loss and preferably a net gain of indigenous biodiversity on the ground with respect to species composition, habitat structure and ecosystem function. They typically take the form of binding conditions associated with resource consents and can involve bonds, covenants financial contributions and</u>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
PC18: <u>Section 19 – Definitions</u> <u>Farm Biodiversity Management Plan</u>	<u>Farm Biodiversity Management Plan: means a plan that covers the whole of a farming enterprise that is submitted to the Council as part of a resource consent application under Section 19 Indigenous Biodiversity, and is prepared in accordance with Appendix Y.</u>	Support in Part – Amend The D-Gs position of FBP is discussed in the submission points in relation to Objective 3, Policy 9, Rule 1.2.1 and Appendix Y.	<u>biodiversity banking.</u> <i>Retain, provided the submission points for Objective 3, Policy 9, Rule 1.2.1 and Appendix Y are addressed.</i>
PC18: <u>Section 19 – Definitions</u> <u>Improved Pasture</u>	<u>Improved Pasture: means an area of pasture where:</u> a) <u>Species composition and growth have been modified and enhanced for livestock grazing within the previous 15 years, by clearance, cultivation or topdressing and oversowing, or direct drilling; and</u> b) <u>Exotic pasture species have been deliberately introduced and dominate in cover and composition. For the purposes of this definition the assessment of dominance shall disregard indigenous vegetation which is growing on land that has previously been modified and enhanced for livestock grazing in accordance with clause a) above and is less than 15 years old.</u>	Oppose in Part – delete or amend so that areas of improved pasture have to be identified on the planning maps. The D-G also seeks to delete ‘oversowing and topdressing, or direct drilling’ as being improved pasture as in many cases indigenous values and significant indigenous values can still be present where these activities have occurred. Ecologically, cultivation and irrigation is where the D-G considers that improved pasture has been achieved. The Map referred to in the amendment is included in Attachment 2 of this submission. The D-G has based this on known cultivated areas (to the Department Staff) but is aware there may be some areas which are lawfully consented, but yet to be cultivated.	<u>Improved Pasture: means an area of pasture identified on the Planning Maps where:</u> a) <u>Species composition and growth have been modified and enhanced for livestock grazing within the previous 15 years, by clearance, or cultivation or topdressing and oversowing, or direct drilling; and</u> b) <u>It has been determined by a suitably qualified ecologist that indigenous biodiversity values have been lost; and</u> c) <u>Is recorded with the Council as ‘improved Pasture’.</u> Exotic pasture species have been deliberately introduced and dominate in cover and composition. For the purposes of this definition the assessment of dominance shall disregard indigenous vegetation which is growing on land that has previously been modified and enhanced for livestock grazing in accordance with clause a) above and is less than 15 years old.

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
PC18: Section 19 – <u>Definitions</u> <u>Indigenous</u> <u>Vegetation</u>	<u>Indigenous Vegetation: means a plant community of species native to New Zealand, which may include exotic vegetation but does not include plants within a domestic garden or that have been planted for the use of screening/ shelter purposes within a domestic garden or that have been deliberately planted for the purpose of harvest.</u>	Support in Part – Amend The D-G supports the definition where it recognises that indigenous vegetation is a plant community, and that as part of the plant community, exotic vegetation may be present. However, indigenous vegetation is indigenous irrespective of who planted it, and for what purposes. If the Council is not concerned about the removal amenity garden plantings, or intentionally planted indigenous vegetation (for the purpose of harvest), then this exemption should be contained in the rule, not the definition of indigenous vegetation. The D-G is not opposed to these types of vegetation being removed, just considers that this removal should be controlled through the rules rather than the definition. Notified Rule 1.1.1 already includes these exclusions in permitted activity rule 1.1.1.2 and 1.1.1.4.	<u>Indigenous Vegetation: means a plant community of species native to New Zealand, The indigenous vegetation plant community, which may include exotic vegetation but does not include plants within a domestic garden or that have been planted for the use of screening/ shelter purposes within a domestic garden or that have been deliberately planted for the purpose of harvest.</u>
PC18: Section 19 – <u>Definitions (New)</u> <u>Significant Indigenous</u> <u>Vegetation or habitat</u>	<i>New Definition</i>	(new definition) This definition supports the policy framework and provides clarity around what is considered to be significant.	<i>Insert new definition for ‘significant indigenous vegetation and habitat’ as follows:</i> <u>Significant Indigenous Vegetation or habitat: means indigenous vegetation of habitat of indigenous fauna which meets the criteria listed in the Canterbury Regional Policy Statement.</u>
PC18: Section 19 –	Vegetation Clearance: means the felling,	Support	<i>Retain as notified.</i>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
<u>Definitions</u> Vegetation Clearance	clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, or burning <u>or irrigation</u> . Clearance of vegetation shall have the same meaning.	The D-G supports this definition and the mention of particular activities which result in vegetation clearance.	Vegetation Clearance: means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, or burning <u>or irrigation</u> . Clearance of vegetation shall have the same meaning.
PC18: <u>Section 19 – Definitions</u> (New) <u>No net loss</u>	<i>New Definition</i>	(new definition) The D-G considers that it is important ‘no-net-loss’ is defined to provide clarity on what this means in terms of outcomes. This definition comes from the Business Biodiversity Offsetting Programme (BBOP).	<i>Insert a new definition for ‘no net loss’ as follows:</i> <u>No net loss: means no overall reduction in indigenous biodiversity, as measured by type, amount and condition.</u>
PC18: Section 7 – Rural Zone	Rural Objective 1 and Policies 1A, 1B and 1C	Support The D-G agrees with the intent of PC18 to insert a biodiversity specific chapter in the MDP.	<i>Support the deletion of Rural Policy 1A from Section 7 – Rural Zone</i> <i>Support the transfer (with the amendments outlined in this submission) of Rural Objective 1, Rural Policy 1B and Rural Policy 1C into the new Biodiversity Chapter 19 of the MDP.</i>
PC18: Section 7 – Rural Zone Rules – Rule 12 – Vegetation Clearance – Rule 12.1	12.1 Permitted Activities - Vegetation Clearance Reference in this rule to the Mackenzie Basin means that part of the District known as the Mackenzie Basin and identified as such on the map in Appendix E of the Plan	Support The D-G agrees with the intent of PC18 to insert a biodiversity specific chapter in the MDP.	<i>Support the deletion of parts of 12.1 as notified from Section 7 – Rural Zone</i> <i>Support the transfer (with the amendments outlined in this submission) of Rural Objective 1, Rural Policy 1B and Rural Policy 1C into the new Biodiversity Chapter 19 of the MDP.</i>
PC18: Section 7 – Rural Zone Rules – Rule 12 – Vegetation Clearance – Rules 12.1.1b to 12.1.1i	Delete all provisions from Section 7 – Rural Zone Rules 12.1.1b to 12.1.1i	Support The D-G agrees with the intent of PC18 to insert a biodiversity specific chapter in the MDP.	<i>Support the deletion of Rules 12.1.1b – 12.1.1i from Section 7 – Rural Zone Rules.</i>
PC18: Section 7 – Rural Zone Rules – Rule 12 – Vegetation Clearance – Rules 12.2 to 12.2.1	Delete all provisions from Section 7 – Rural Zone Rules 12.2 and 12.2.1	Support The D-G agrees with the intent of PC18 to insert a biodiversity specific chapter in the MDP.	<i>Support the deletion of Rules 12.2 and 12.2.1 from Section 7 – Rural Zone Rules.</i>
PC18: Section 7 – Rural Zone Rules –	Delete all provisions from Section 7 – Rural Zone Rules 12.3 and 12.3.1	Support The D-G agrees with the intent of	<i>Support the deletion of Rules 12.3 and 12.3.1 from Section 7 – Rural Zone Rules.</i>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
Rule 12 – Vegetation Clearance – Rules 12.3 to 12.3.1		PC18 to insert a biodiversity specific chapter in the MDP.	
PC18: <u>Section 19 – Objective 1</u>	To safeguard indigenous biodiversity and ecosystem functioning through the protection and enhancement of significant indigenous vegetation and habitats, riparian margins and the maintenance of natural biological and physical processes.	Support	<i>Retain as notified.</i>
PC18: <u>Section 19 – Objective 2</u>	<u>Land development activities are managed to ensure the maintenance of indigenous biodiversity, including the protection and/or enhancement of significant indigenous vegetation and habitats, and riparian areas; the maintenance of natural biological and physical processes; and the retention of indigenous vegetation.</u>	Support	<i>Retain as notified.</i>
PC18: <u>Section 19 – Objective 3</u>	<u>To support/encourage the integration of land development proposals with comprehensive identification, and protection and/or enhancement of values associated with significant indigenous biodiversity, through providing for comprehensive Farm Biodiversity Plans and enabling development that is in accordance with those plans.</u>	Support in Part - Amend FBP should identify all indigenous biodiversity values across the whole farm. It is the only way to consider the effects of comprehensive proposals at the farm wide scale. FBP already requires that all indigenous vegetation is identified, so it makes sense that the objective provides for this more clearly.	<i>Amend Objective 3 as follows: To support/encourage the integration of land development proposals with comprehensive identification, and protection and/or enhancement of values associated with significant indigenous biodiversity, through providing for comprehensive Farm Biodiversity Plans and enabling development that is in accordance with those plans.</i>
PC18: <u>Section 19 – Policy 1</u>	To identify in the District Plan sites of significant indigenous vegetation or habitat in accordance with the criteria listed in the Canterbury Regional Policy Statement and to prevent development which reduces the	Support in Part The D-G is concerned that mapping does not identify the known significant areas as at 2017 and is outdated. The CRPS contains criteria	<i>Amend Policy 1 as follows: To identify in the District Plan sites of significant indigenous vegetation or habitat in accordance with the criteria listed in the Canterbury Regional Policy Statement and to prevent development which reduces the values of these sites or features.</i>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
	values of these sites or features.	for identifying significant values, which require protection under s6(c) of the RMA. The D-G is concerned that relying only on (outdated) mapped areas, s6(c) or Policies 9.3.1 and 9.3.2 of the CRPS will not be given effect to.	
PC18: <u>Section 19 – New Policy</u>	<u>New Policy</u>	(Insert new Policy) It is important that there is a clear policy hierarchy in the plan which: <ol style="list-style-type: none"> 1. Seeks to identify significant values; 2. Seeks to protect significant values 3. Seeks to maintain indigenous values. This new policy is required to undertake (2) above. It sets a clear direction to protect significant values, giving effects to s6(c) of the RMA and Policies 9.3.1 and 9.3.2 of the CRPS.	<i>Insert new policy as follows:</i> <u>To avoid adverse effects of subdivision, use and development on significant indigenous vegetation and habitat.</u>
PC18: <u>Section 19 – Policy 2</u>	To avoid, remedy or mitigate adverse effects on the natural character and indigenous land and water ecosystems functions in the District including: <ol style="list-style-type: none"> a) Landform, physical processes and hydrology b) Remaining areas of significant indigenous vegetation and habitat, and linkages between these areas c) Aquatic habitat and water quality and quantity 	Support in Part – Amend The D-G in relation to the proposed policy above, the amendment to Policy 2 seeks to maintain indigenous biodiversity values within the Mackenzie District. This is consistent with the Councils function under s31(1)(b)(iii), as well as giving effect policies 9.3.3, 9.3.4 and 9.3.5 of the CRPS.	<i>Amend Policy 2 as follows:</i> To avoid, remedy or mitigate adverse effects on the natural character and indigenous land and water ecosystems functions in the District including: <ol style="list-style-type: none"> a) Landform, physical processes and hydrology b) Remaining areas of significant indigenous vegetation and habitat, and linkages between these areas c) Aquatic habitat and water quality and quantity

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
PC18: Section 19 – Policy 3	<u>Rural development, including indigenous vegetation clearance and pastoral intensification, is to occur in a way or at a rate that provides for no net loss of indigenous biodiversity values in areas identified as significant.</u>	Support in Part – Amend The D-G is concerned that the no net loss approach will only be taken for significant indigenous biodiversity, which requires protection under the RMA. The no net loss approach should be taken for all indigenous biodiversity.	<i>Amend Policy 3 as follows:</i> <u>Rural development, including indigenous vegetation clearance and pastoral intensification, is to occur in a way or at a rate that provides for no net loss of indigenous biodiversity values in areas identified as significant.</u>
PC18: Section 19 – Policy 4	<u>To ensure that land use activities including indigenous vegetation clearance and pastoral intensification do not adversely affect any ecologically significant wetland.</u>	Support – Retain as notified. The Department agrees with the intent of this policy to protect ecologically significant wetlands in the district from the adverse effects of development.	<i>Retain as notified.</i>
PC18: Section 19 – Policy 5	<u>To consider a range of mechanisms for achieving protection of significant indigenous vegetation and significant habits of indigenous fauna, including avoidance, remediation, mitigation or offsetting of adverse effects, and to secure protection through appropriate instruments including resource consent conditions (if approved).</u>	Oppose – Delete and replace with new Policy Biodiversity offsetting should not be used as preference for avoiding, remedied or mitigating adverse effect. The Department supports the Business and Biodiversity Programme (BBOP) approach to biodiversity offsetting and have developed the ‘Guidance on Good Practice Biodiversity Offsetting in New Zealand’ (the Guidance) along with other government agencies. The Guidance promotes a mitigation hierarchy, which strives for avoiding, remedying or mitigating adverse effects in the first instance, and using offsetting for any residual effects	<i>Delete proposed policy 5 and replace with the following policy:</i> To consider a range of mechanisms for achieving protection of significant indigenous vegetation and significant habits of indigenous fauna, including avoidance, remediation, mitigation or offsetting of adverse effects, and to secure protection through appropriate instruments including resource consent conditions (if approved). <u>Manage the effects of activities on indigenous vegetation habitat by:</u> a) <u>Avoiding as far as practicable, and where total avoidance is not practicable, minimising adverse effects</u> b) <u>Requiring remediation where adverse effects cannot be avoided</u> c) <u>Requiring mitigation where adverse effects on the areas identified above cannot be avoided or remedied</u> <u>Where (a), (b), or (c) cannot be met, residual adverse effects that are more than minor are to be offset through protection, restoration and enhancement actions in accordance with Policy (8)</u>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
		<p>which can't be avoided, remedied or mitigated.</p> <p>The Guidance which should be referred to when developing any potential offsetting measures can be found at http://www.doc.govt.nz/Documents/our-work/biodiversity-offsets/the-guidance.pdf.</p> <p>The D-Gs proposed amendment also give effect to Policy 9.3.6 of the CRPS.</p>	<p><u>below.</u></p>
<p>PC18: <u>Section 19 – Policy 6</u></p>	<p><u>Where offsetting is proposed, to apply the following criteria:</u></p> <ul style="list-style-type: none"> a) <u>the offset will only compensate for residual adverse effects that cannot otherwise be avoided, remedied or mitigated;</u> b) <u>the residual adverse effects on biodiversity are capable of being offset and will be fully compensated by the offset to ensure no net loss of biodiversity;</u> c) <u>where the area to be offset is identified as a national priority for protection in accordance with Policy 9.3.2 of the Canterbury Regional Policy Statement 2013 or its successor, the offset must deliver a net gain for biodiversity;</u> d) <u>there is a strong likelihood that the offsets will be achieved in perpetuity; and</u> 	<p>Support in part – amend</p> <p>The Department supports a policy to manage how offsets are used.</p> <p>The proposed amendments complement the mitigation hierarchy supported by BBOP and The Guidance and well as policy 9.3.6 contained in the CRPS.</p> <p>The term 'compensation' has been deleted as under both BBOP and the Guidance, compensation is separate to a biodiversity offset. A biodiversity offset must be a like-for-like offset.</p> <p>Compensation occurs if (following the mitigation hierarchy proposed in the amended policy 6 above), the biodiversity offset isn't like-for-like biodiversity. Compensation is protecting or enhance a different type of biodiversity or financial in nature. Using the term</p>	<p>Amend Policy 5 as follows:</p> <p>Where For any biodiversity offsetting is proposed, to apply the following criteria applies:</p> <ul style="list-style-type: none"> a) <u>the offset is will only compensate for residual adverse effects that cannot otherwise be avoided, remedied or mitigated;</u> b) <u>the residual adverse effects on biodiversity are capable of being offset and will be fully compensated by the offset through protection, restoration and enhancement actions that achieve to ensure no net loss of biodiversity and preferably a net gain in indigenous biodiversity values;</u> c) <u>where the area to be offset is identified as a national priority for protection in accordance with Policy 9.3.2 of the Canterbury Regional Policy Statement 2013 or its successor, the offset must deliver a net gain for biodiversity;</u> d) <u>there is a strong likelihood that the offsets will be achieved in perpetuity; and</u> e) <u>where the offset involves the ongoing protection of a separate site, it will deliver no net loss, and preferably a net gain for indigenous biodiversity conservation.</u>

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	<p>e) <u>where the offset involves the ongoing protection of a separate site, it will deliver no net loss, and preferably a net gain for indigenous biodiversity conservation.</u></p> <p><u>Offsets should re-establish or protect the same type of ecosystem or habitat that is adversely affected, unless an alternative ecosystem or habitat will provide a net gain for indigenous biodiversity.</u></p>	<p>'compensation' in the policy is confusing.</p>	<p><u>Offsets should re-establish or protect the same type of ecosystem or habitat that is adversely affected. Where the offset is for the loss of significant indigenous vegetation or habitat, there must provide for a net gain for indigenous biodiversity, unless an alternative ecosystem or habitat will provide a net gain for indigenous biodiversity.</u></p>
PC18: Section 19 – Policy 8	<p><u>To enable rural land use and development at an on-farm level, where that development is integrated with comprehensive identification, sustainable management and long-term protection of values associated with significant indigenous vegetation and significant habitats of indigenous fauna, through a Farm Biodiversity Plan process.</u></p>	<p>Oppose in Part – Amend</p> <p>Rural development needs to recognise all indigenous biodiversity values over the whole farm. This is because the Mackenzie Basin has experienced extensive biodiversity losses due to previous land use activities, meaning that what remains is highly likely to be 'significant even if it hasn't been mapped in the District Planning Maps. It is important that farm development considers this and appropriate assessments are undertaken of all remaining vegetation to identify significant values and then appropriate manage them in accordance with the proposed Plan framework, the objectives and policies of the CRPS and the RMA.</p> <p>FBP already require that all indigenous vegetation is identified,</p>	<p><i>Amend Policy 8 as follows:</i></p> <p><u>To enable rural land use and development at an on-farm level, where that development is integrated with comprehensive identification, sustainable management and long-term protection of values associated with significant indigenous vegetation and significant habitats of indigenous fauna, through a Farm Biodiversity Plan process.</u></p>

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		so it makes sense that the objective provides for this more clearly.	
PC18: <u>Section 19 – Policy 9</u>	<u>Where a Farm Biodiversity Plan is proposed, to require comprehensive and expert identification of significant indigenous biodiversity values as part of that Plan, and to ensure that any development proposed under that Plan is integrated with protection for those significant values.</u>	Oppose in Part – Amend FBP already require that all indigenous vegetation is identified, so it makes sense that the objective provides for this more clearly. The Mackenzie Basin has experienced extensive biodiversity losses due to previous land use activities, meaning that what remains is highly likely to be 'significant even if it hasn't been mapped in the District Planning Maps. It is important that appropriate assessments are undertaken as part of a FBP process so that of all remaining vegetation assessed against the CRPS significance criteria to ensure that any significant values are managed in accordance with the proposed Plan framework, the objectives and policies of the CRPS and the RMA.	<i>Amend Policy 9 as follows:</i> <u>Where a Farm Biodiversity Plan is proposed, to require comprehensive and expert identification of significant indigenous biodiversity values as part of that Plan, and to ensure that any development proposed under that Plan is integrated with protection for those significant values.</u>
PC18: <u>Section 19 – Rule 1</u>	Rules <u>Indigenous Vegetation Clearance</u> 1. <u>Indigenous Vegetation Clearance excluding indigenous vegetation clearance associated with the Waitaki Power Scheme.</u>	Support in Part - Amend The Department supports the approach of having specific vegetation clearance rules, however is concerned that some permitted activities in the Plan in other sections provide for extensive vegetation clearance to occur unchecked. To give effect to the proposed	<i>Amend Rule 1 as follows:</i> Rules <u>Indigenous Vegetation Clearance</u> <u>The rules contain in this part of Section 19 take precedence over any other rules that may provide for associated indigenous vegetation clearance as part of another activity, including those rules contained in Section 16.</u> 1. <u>Indigenous Vegetation Clearance excluding indigenous vegetation clearance associated with the Waitaki Power</u>

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		objectives and policies in section 19, all vegetation activities need to be subject to the proposed rules.	<u>Scheme.</u>
PC18: Section 19 – Rule 1.1.1 clause 1 to clause 5	<p>1.1. <u>Permitted Activities – Indigenous Vegetation Clearance</u></p> <p>1.1.1. <u>Clearance of indigenous vegetation is a permitted activity provided the following conditions are met:</u></p> <p>1. ...</p> <p>5. ...</p>	<p>Support</p> <p>The D-G supports some permitted activities which cover indigenous vegetation clearance for safety and maintenance, provided these structures for which the clearance relates to are lawfully established. However, the D-G notes that the large parts of the District, the vegetation types are highly unlikely to compromise safety and integrity structures or access due to their small stature and it needs to be ensured that clearance under 1.1.1.1 is not abused.</p>	<i>Retain 1.1.1 clause 1-5 noting the D-Gs concerns.</i>
PC18: Section 19 – Rule 1.1.1 clause 6	<p>1.1. <u>Permitted Activities – Indigenous Vegetation Clearance</u></p> <p>1.1.1. <u>Clearance of indigenous vegetation is a permitted activity provided the following conditions are met:</u></p> <p>6. <u>The clearance is of indigenous vegetation within an area of improved pasture (refer Definitions);</u></p>	<p>Oppose in Part – Amend 1.1.1(6)</p> <p>How Improved pasture is identified appears to be problematic in the context of the Mackenzie Basin and the significant indigenous biodiversity loss which has occurred to date as a result of the (pre PC17) loophole rule.</p> <p>The D-G considers that in order to sustainably manage the significant indigenous biodiversity community, which was confirmed by PC13 to be throughout the whole basin, there needs to be more accurate method for identifying what is considered to</p>	<p><i>Amend 1.1.1 Clause 6 as below:</i></p> <p>1. <u>Indigenous Vegetation Clearance excluding indigenous vegetation clearance associated with the Waitaki Power Scheme</u></p> <p>1.1. <u>Permitted Activities – Indigenous Vegetation Clearance</u></p> <p>1.1.1. <u>Clearance of indigenous vegetation is a permitted activity provided the following conditions are met:</u></p> <p>1. ...</p> <p>6. <u>The clearance is of indigenous vegetation within an identified area of improved pasture (refer Definitions);</u></p>

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		<p>be improved pasture. While the D-G is not averse to landowners maintaining existing sprayed or irrigated land where the values are already lost, land which has been oversowed, topdressed or direct drilled can often still contain indigenous plant communities, and more than likely significant indigenous biodiversity due to the nature of biodiversity loss and rarity within the Mackenzie Basin.</p> <p>The D-G considers that there needs to be a clearer identification of what is improved pasture, and when something is considered to be 'within' improved pasture. The notified provision has the potential to lead to further significant losses, similar to what occurred prior to PC17.</p> <p>The Department considers that identifying 'improved pasture' through this plan change process is the best way to ensure that there is clarity and agreement (or at least a baseline) on what areas are improved pasture. The Department would be comfortable with a permitted activity rule, if identification and assessment occurs.</p>	
PC18: <u>Section 19 – Rule 1.1.1 clauses 7</u>	1.1. <u>Permitted Activities – Indigenous Vegetation Clearance</u>	Support – Retain 1.1.1 clause 7 and 8 as notified.	<i>Retain 1.1.1 clause 7 and 8 as notified.</i>

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and 8	<p>1.1.1. <u>Clearance of indigenous vegetation is a permitted activity provided the following conditions are met:</u></p> <p>7. <u>The clearance is not within a Site of Natural Significance or on land above 900m in altitude;</u></p> <p>8. <u>The clearance is not within:</u></p> <p>a) <u>100m of a lake</u></p> <p>b) <u>20m of the bank of a river</u></p> <p>c) <u>100m of an ecologically significant wetland</u></p> <p>d) <u>50m of all other wetlands</u></p>	<p>The D-G supports the rule hierarchy for the clearance of indigenous vegetation within sensitive areas (SONS, above 900m and waterbody margins)</p>	
PC18: Section 19 – Rule 1.2.1	<p>1.2. <u>Restricted Discretionary Activity – Indigenous Vegetation Clearance</u></p> <p>1.2.1. <u>Unless permitted under Rule 19.1 the clearance of indigenous vegetation is a restricted discretionary activity provided the following conditions are met:</u></p> <p>1. ...</p>	<p>Support in Part – Amend Rule 1.2.1</p> <p>The D-G only supports the use of Farm Biodiversity Management Plans (FBMP) if a consent is required to establish the plan in the first instance. The D-Gs understanding of the FBMP as proposed in PC18 is that is forms part of a comprehensive, farm wide resource consent that signals what development will occur over the whole farm site and requires a significance assessment to be undertaken. The department supports this approach provided:</p> <ul style="list-style-type: none"> ▪ The FBMP is able to be amended by Council through the (resource consent) approval process; ▪ The areas identified under (A)(4)(a)-(i) and (B) are 	<p><i>Ensure that amendments or changes to FBMP are approved, there is transparency around the content of FBMP and that the FBMP is enforceable.</i></p> <p><i>Please see comment on Appendix Y.</i></p>

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		<p>confirmed on the ground by Council, and in particular (A)(4)(c)-(i) and (B) and the methodologies in (D) are confirmed and agreed by an independent ecologist;</p> <ul style="list-style-type: none"> ▪ The implementation of the FBMP is monitored; ▪ Any changes to the FBMP have to be approved through the same process as its establishment. This includes (E)(2); ▪ There is transparency around the content of the FBMP and any changes to it; and ▪ The FBMP is enforceable and where any non-compliances with the FBMP as approved occur, enforcement action can be undertaken by council. <p>It is important to make clear in the district plan, that while the FBMP is not called a resource consent, it is a resource consent and any changes to it need to go through the district plan process.</p>	
<p>PC18: Section 19 – Rule 1.2.1 (matters of discretion)</p>	<p>1.2.1. <u>Unless permitted under Rule 19.1 the clearance of indigenous vegetation clearance is a restricted discretionary activity provided the following conditions are met:</u></p> <p>1. ...</p>	<p>Oppose in Part – Amend</p> <p>The D-G is concerned that the effects of indigenous biodiversity clearance on visual or landscape values are not considered in the determining of consent for vegetation clearance</p>	<p>3.2.1. <u>Unless permitted under Rule 19.1 the clearance of indigenous vegetation clearance is a restricted discretionary activity provided the following conditions are met:</u></p> <p>1. ...</p> <p><u>The Council will restrict its discretion to the following matters:</u></p>

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	<p><u>The Council will restrict its discretion to the following matters:</u></p> <p>1. ...</p>	<p>through a FBP. The D-G recognises that FBP focus on indigenous biodiversity and ecological values but consider that where this vegetation clearance would cause adverse effects on outstanding or significant landscape or visual values, that an assessment of these effects is warranted. This also recognises that often ecological values contribute to the visual or landscape values. Expanding the matters of discretion to include landscape and visual effects would achieve this.</p>	<p>1. ...</p> <p>3. <u>Where the proposed clearance is within an geopreservation site, Area of High Visual Vulnerability, or Scenic Grassland Area, and how the indigenous vegetation proposed to be cleared contributes to the values of these areas and how any proposed clearance will impact on the values of these areas.</u></p> <p>4. <u>Where the clearance is within an Outstanding Natural Feature or Landscape, whether the vegetation proposed to be cleared contributes to the Outstanding Natural Feature or Landscape values and the degree to which the proposed clearance would avoid adverse effects on these values.</u></p>
<p>PC18: <u>Section 19 – Rule 1.2.2</u></p>	<p>1.2.2. <u>Unless provided for in Rule 19.2.1 any indigenous vegetation clearance up to 5000m², within any site in any 5-year continuous period provided the following conditions are met:</u></p> <p>1. <u>The clearance is not within a Site of Natural Significance or on land above 900m in altitude.</u></p> <p>2. <u>The clearance is not within:</u></p> <p>a) <u>100m of a lake</u></p> <p>b) <u>20m of the bank of a river</u></p> <p>c) <u>100m of an ecologically significant wetland</u></p> <p>d) <u>50m of all other wetlands</u></p> <p><u>The Council will restrict its discretion to the following matters:</u></p> <p>1. <u>The actual or potential impacts on</u></p>	<p>Support in Part – Amend Matters of Discretion</p> <p>The D-G seeks that the matters of discretion are amended to:</p> <p>i. Provide a mechanism to undertake significance assessments in accordance with the CRPS significance Criteria;</p> <p>ii. Assess the effects on significant indigenous values, including any how the proposal seeks to avoid adverse effects;</p> <p>iii. Assess the effects on Indigenous biodiversity values, including how the proposal seeks to avoid,</p>	<p>1.2.2. <u>Unless provided for in Rule 19.2.1 any indigenous vegetation clearance up to 5000m², within any site in any 5-year continuous period provided the following conditions are met:</u></p> <p>1. <u>The clearance is not within a Site of Natural Significance or on land above 900m in altitude.</u></p> <p>2. <u>The clearance is not within:</u></p> <p>e) <u>100m of a lake</u></p> <p>f) <u>20m of the bank of a river</u></p> <p>g) <u>100m of an ecologically significant wetland</u></p> <p>h) <u>50m of all other wetlands</u></p> <p><u>The Council will restrict its discretion to the following matters:</u></p> <p>5. <u>The actual or potential impacts on biodiversity or ecological values expected to occur as a result of the proposal, particularly the impact on significant indigenous vegetation and habitat values including the values significant to Ngāi Tahu.</u></p>

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	<p><u>biodiversity or ecological values expected to occur as a result of the proposal, particularly the impact on significant values including the values significant to Ngāi Tahu.</u></p> <p>2. <u>The extent to which species diversity or habitat availability could be adversely impacted by the proposal.</u></p> <p>3. <u>Any potential for mitigation or offsetting of effects on ecosystems and biodiversity values.</u></p> <p>4. <u>Any technical and operational constraints and route, site and method selection process.</u></p> <p>5. <u>The benefits that the activity provides to the local community and beyond.</u></p>	<p>remedy or mitigate adverse effects;</p> <p>iv. Effects on adjacent vegetation and habitat;</p> <p>v. Effects on the ecosystem processes in the Mackenzie Basin;</p> <p>vi. Effects on the wider ecosystem from the proposed clearance and how this may impact function, diversity and integrity; and</p> <p>vii. Any linkages between the vegetation proposed to be cleared and the visual or landscape values which are underpinned by the ecology present.</p> <p>The D-G considers that these are important consideration for the Council to take into account when assessing in proposals for indigenous vegetation clearance and will assist the council in implementing the policies, particularly:</p> <ul style="list-style-type: none"> - Identifying further significant values throughout the life of the Plan; - Achieving biodiversity maintenance; - Ensuring the protection of 	<p>6. <u>Where vegetation meets the criteria for significant indigenous vegetation and habitat, how the proposed clearance has considered the avoidance of adverse effects on the significant values, including if alternative options have been considered.</u></p> <p>7. <u>The extent to which species diversity or habitat availability could be adversely impacted, modified or damaged by the proposal.</u></p> <p>8. <u>Methods proposed to avoid, remedy or mitigate adverse effects including:</u></p> <ul style="list-style-type: none"> a) <u>Soil and water conservation measures</u> b) <u>Animal and plant pest control</u> c) <u>Stock control measures</u> <p>9. <u>The treatment of the area surrounding any clearance created so that vegetation within the adjoining area of significant indigenous vegetation or habitat is not adversely affected.</u></p> <p>10. <u>The effect on the overall ecological integrity and biological diversity throughout the district.</u></p> <p>11. <u>Whether the indigenous vegetation contributes to an important ecological function (such as an ecological corridor or connectivity), or result in ecological fragmentation and the degree to which this function will be compromised or fragmentation increased by the proposed clearance.</u></p> <p>12. <u>The proximity of the area affected by the proposal to riparian margins and wetland.</u></p> <p>13. <u>Where the proposed clearance is within an geopreservation site, Area of High Visual Vulnerability, or Scenic Grassland Area, and how the indigenous vegetation proposed to be cleared contributes to the values of these areas and how any proposed clearance will impact on the values of these areas.</u></p>

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		<p>significant biodiversity and landscape values; and</p> <ul style="list-style-type: none"> - Managing adverse effects appropriately. 	<p>14. <u>Where the clearance is within an Outstanding Natural Feature or Landscape, whether the vegetation proposed to be cleared contributes to the Outstanding Natural Feature or Landscape values and the degree to which the proposed clearance would avoid adverse effects on these values.</u></p> <p>15. <u>The quantity of indigenous vegetation to be cleared and reason for the removal.</u></p> <p>16. <u>Any potential for mitigation or offsetting of effects on ecosystems and biodiversity values.</u></p> <p>17. <u>Any technical and operational constraints and route, site and method selection process.</u></p> <p>18. <u>The benefits that the activity provides to the local community and beyond.</u></p>
<p>PC18: <u>Section 19 – Rule 1.3</u></p>	<p>1.3. <u>Non-Complying Activity – Indigenous Vegetation Clearance</u> <u>The following activities are Non-complying activities unless specified as a Permitted Activity, Restricted Discretionary Activity or Discretionary Activity:</u></p> <p>1.3.2. <u>Any indigenous vegetation clearance of more than 5000m² within any site in any 5-year continuous period.</u></p> <p>1.3.3. <u>Any indigenous vegetation clearance in the following location:</u></p> <ol style="list-style-type: none"> 1. <u>Within a Site of Natural Significance.</u> 2. <u>Above 900m in altitude.</u> 3. <u>Within 100m of a lake, 20m of the bank of a river, 100m of an ecologically significant wetland or 50m of all other wetlands</u> 	<p>Support – retain as notified</p> <p>The Department supports the proposed non-complying Rule.</p>	<p><i>Retain Rule 1.3 as notified.</i></p>

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<p><u>Appendix Y – Farm Biodiversity Plan Framework</u></p>	<p>Introduction <u>The purpose of a Farm Biodiversity Plan is to facilitate integration of development activity with the identification and protection of significant ecological areas to ensure no net loss of biodiversity, on a comprehensive whole of property basis.</u></p> <p>Development of a Farm Biodiversity Plan <u>A Farm Biodiversity Plan can be developed through a collaborative process between the Council and the landowner / land manager. (refer footnote)</u></p> <p><i><u>Note: The Council will work with landowners / land managers in developing a Farm Biodiversity Plan and may provide a suitably qualified ecological expert to identify and assess the indigenous biodiversity of the farming enterprise, and to provide ecological advice on management of those values. Advice may also be provided from an appropriately qualified person who has expertise in land/farm management, where appropriate. Council will not fund experts other than those provided by the Council.</u></i></p> <p>Framework <u>The following sets out the framework for development of a Farm Biodiversity Plan.</u></p> <p>1. <u>A Farm Biodiversity Plan can be provided in one of the following formats:</u></p> <p>a. <u>as a separate stand-alone Farm</u></p>	<p>Oppose in Part – Amend</p> <p>The main amendments are to clarify that the FBP functions much the same as conditions on a resource consent would, and that the Council retains the ability to influence these management methods, as they would resource consent conditions. The D-G supports that management proposed (in (C) and (D)) are developed by a suitably qualified and experienced ecologist. However, the D-G needs to be sure that this information is peer reviewed by Council’s ecologist and any areas of difference in opinion between ecologists are addressed prior to the FBP being approved. The Council needs to retain the ability to suggest amendments to any of the content in the FBP to address their concerns and require that these concerns are addressed through the FBP. Where a review under (E) occurs, any changes need to be approved through the FBP process as would a variation of resource consent. “improved pasture” must be assessed and approved by Council’s independent ecologist, as per the D-G’s proposed amendments to the ‘improved pasture’ definition and how is related to rule 1.1.1.6.</p>	<p><i>Amend Appendix Y as follows:</i></p> <p>Introduction <u>The purpose of a Farm Biodiversity Plan is to facilitate integration of development activity with the identification and protection of significant ecological areas to ensure no net loss of biodiversity, on a comprehensive whole of property basis.</u> <u>A Farm Biodiversity Plan can be developed through a collaborative resource consent which outlines the existing environment, future development and biodiversity values present within a farm enterprise.</u></p> <p>Development of a Farm Biodiversity Plan <u>A Farm Biodiversity Plan can be developed through a collaborative process between the Council and the landowner / land manager. However, a Farm Biodiversity Plan must be approved by Council in order to be implemented as a Farm Biodiversity Plan under Rule 1.1.1.6 (refer footnote)</u> <i><u>Note: The Council will work with landowners / land managers in developing a Farm Biodiversity Plan and may provide a suitably qualified ecological expert to identify and assess the indigenous biodiversity of the farming enterprise, and to provide ecological advice on management of those values. Advice may also be provided from an appropriately qualified person who has expertise in land/farm management, where appropriate. Council will not fund experts other than those provided by the Council.</u></i></p> <p>Framework <u>The following sets out the framework for development of a Farm Biodiversity Plan.</u></p> <p>1. <u>A Farm Biodiversity Plan can be provided in one of the following formats:</u></p> <p>a. <u>as a separate stand-alone Farm Biodiversity Plan; or</u> b. <u>as an additional section to a farm environment plan prepared according to an industry template such as the Beef and Lamb New Zealand Canterbury Farm</u></p>

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	<p><u>Biodiversity Plan; or</u></p> <p>b. <u>as an additional section to a farm environment plan prepared according to an industry template such as the Beef and Lamb New Zealand Canterbury Farm Biodiversity Plan or a plan prepared to meet Schedule 7 of the Canterbury Land and Water Regional Plan.</u></p> <p><i>Note: Where an industry farm biodiversity plan template is used, the Council is only concerned with the sections of that plan which address the matters outlined in this Appendix Y.</i></p> <p>2. <u>A Farm Biodiversity Plan shall apply to a farming enterprise (see Definitions).</u></p> <p>3. <u>A Farm Biodiversity Plan must contain as a minimum:</u></p> <p>A Description of the property and its features:</p> <p>1. <u>Physical address;</u></p> <p>2. <u>Description of the ownership and name of a contact person;</u></p> <p>3. <u>Legal description of the property; and</u></p> <p>4. <u>A map(s) or aerial photograph at a scale that clearly shows, where relevant:</u></p> <p>a. <u>The boundaries of the farming enterprise;</u></p> <p>b. <u>The boundaries of the main land management units on the property or within the property;</u></p> <p>c. <u>The location of all water bodies,</u></p>	<p>The D-G recognises that the FBP manages effects on Biodiversity values but is concerned about how effects on Landscape from these biodiversity values will be addressed.</p> <p>To address these concerns, it is suggested that the matters of discretion in Rule 1.2.2 are extending to include effects on landscape and visual values. The D-G notes that assessments of visual or landscape effects are not part of the FBP framework.</p>	<p><u>Biodiversity Plan or a plan prepared to meet Schedule 7 of the Canterbury Land and Water Regional Plan.</u></p> <p><i>Note: Where an industry farm biodiversity plan template is used, the Council is only concerned with the sections of that plan which address the matters outlined in this Appendix Y.</i></p> <p>2. <u>A Farm Biodiversity Plan shall apply to a farming enterprise (see Definitions).</u></p> <p>3. <u>A Farm Biodiversity Plan must contain as a minimum:</u></p> <p>A Description of the property and its features:</p> <p>1. <u>Physical address;</u></p> <p>2. <u>Description of the ownership and name of a contact person;</u></p> <p>3. <u>Legal description of the property; and</u></p> <p>4. <u>A map(s) or aerial photograph at a scale that clearly shows, where relevant:</u></p> <p>a. <u>The boundaries of the farming enterprise;</u></p> <p>b. <u>The boundaries of the main land management units on the property or within the property;</u></p> <p>c. <u>The location of all water bodies, including riparian vegetation;</u></p> <p>d. <u>Constructed features including buildings, tracks and any fencing to protect biodiversity values (including around riparian areas);</u></p> <p>e. <u>The location of any areas within or adjoining the property that have been identified as a Sites of Natural Significance or are legally protected by way of covenant;</u></p> <p>f. <u>The location of any other areas within the property that may have ecologically significant values;</u></p> <p>g. <u>Areas of improved pasture¹;</u></p> <p>h. <u>Areas of retired land; and</u></p> <p>i. <u>Location of any proposed developments, including intensification of production, new tracks or buildings and areas to be cleared.</u></p> <p>B Description of existing ecological values:</p>

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	<p><u>including riparian vegetation;</u></p> <p>d. <u>Constructed features including buildings, tracks and any fencing to protect biodiversity values (including around riparian areas);</u></p> <p>e. <u>The location of any areas within or adjoining the property that have been identified as a Sites of Natural Significance or are legally protected by way of covenant;</u></p> <p>f. <u>The location of any other areas within the property that may have ecologically significant values;</u></p> <p>g. <u>Areas of improved pasture;</u></p> <p>h. <u>Areas of retired land; and</u></p> <p>i. <u>Location of any proposed developments, including intensification of production, new tracks or buildings and areas to be cleared.</u></p> <p>B Description of existing ecological values: <u>The purpose of this section of the Farm Biodiversity Plan is to describe the indigenous biodiversity of the farming enterprise to understand what the ecological values are and any threats or risks to these values. This will inform how these values are to be managed to achieve the overall goal(s) of maintenance, and over time, enhancement, of indigenous biodiversity on the property/catchment.</u></p> <p>1. <u>This assessment shall be undertaken by a suitably qualified and experienced</u></p>		<p><u>The purpose of this section of the Farm Biodiversity Plan is to describe the indigenous biodiversity of the farming enterprise to understand what the ecological values are and any threats or risks to these values. This will inform how these values are to be managed to achieve the overall goal(s) of maintenance, and over time, enhancement, of indigenous biodiversity on the property/catchment.</u></p> <p>1. <u>This assessment shall be undertaken by a suitably qualified and experienced ecologist.</u></p> <p>2. <u>This assessment shall describe existing ecological values within the farming enterprise and identify any significant sites in accordance with Policy 9.3.1 (1) and 9.3.1 (2) and the criteria in Appendix 3 of the Canterbury Regional Policy Statement 2013.</u></p> <p>3. <u>This assessment shall contain:</u></p> <p>a. <u>Recommended and measurable outcomes to demonstrate achievement of no net loss of identified values of significance;</u></p> <p>b. <u>Recommended actions to achieve these outcomes;</u></p> <p>c. <u>Recommendations for monitoring and review of progress in achieving the outcomes.</u></p> <p>C Development Areas and Activities: <u>The purpose of this section is to understand how the land, including any Sites of Natural Significance, has been managed, what the future management will be, and how this will affect the indigenous biodiversity.</u></p> <p>1. <u>Describe historic and current land use management, including stocking policy, water supply, grazing regimes, improved pasture, biodiversity management, where relevant;</u></p> <p>2. <u>Describe any proposed land use management or activities to be undertaken that would require the clearance or disturbance of indigenous biodiversity and the time frames over which these activities are proposed to occur. Such activities may</u></p>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
	<p><u>ecologist.</u></p> <p>2. <u>This assessment shall describe existing ecological values within the farming enterprise and identify any significant sites in accordance with Policy 9.3.1 (1) and 9.3.1 (2) and the criteria in Appendix 3 of the Canterbury Regional Policy Statement 2013.</u></p> <p>3. <u>This assessment shall contain:</u></p> <p>a. <u>Recommended and measurable outcomes to demonstrate achievement of no net loss of identified values of significance;</u></p> <p>b. <u>Recommended actions to achieve these outcomes;</u></p> <p>c. <u>Recommendations for monitoring and review of progress in achieving the outcomes.</u></p> <p><u>C Development Areas and Activities:</u> <u>The purpose of this section is to understand how the land, including any Sites of Natural Significance, has been managed, what the future management will be, and how this will affect the indigenous biodiversity.</u></p> <p>1. <u>Describe historic and current land use management, including stocking policy, water supply, grazing regimes, improved pasture, biodiversity management, where relevant;</u></p> <p>2. <u>Describe any proposed land use management or activities to be undertaken that would require the clearance or disturbance of indigenous</u></p>		<p><u>include construction of new farm tracks or buildings, intensification of land use, vegetation clearance of previously undisturbed areas, earthworks or cultivation; and</u></p> <p>3. <u>Describe any potential adverse effects of the proposed activities described above on areas of indigenous biodiversity, including any Site of Natural Significance.</u></p> <p><u>D Management Methods to Achieve Protection of Values</u> <u>Having regard to the information in B above, the purpose of this section is to set out information on management methods to ensure the values identified in the assessment at B are protected to ensure no net loss of indigenous biodiversity values in areas identified as significant:</u></p> <p>1. <u>A description of how the objective of 'no net loss' will be met by the proposal/s, including a description of tools and methods to achieve this. These may include:</u></p> <p>a. <u>Formal legal protection;</u></p> <p>b. <u>Pest or weed control;</u></p> <p>c. <u>Grazing regimes/management to protect values;</u></p> <p>d. <u>Fencing;</u></p> <p>e. <u>Restoration planting or other restoration measures;</u></p> <p>f. <u>Confirmation that area/s will not be subject to future land use change or development activity that will impact on the identified values present;</u></p> <p>g. <u>Confirmation that the tools and methods will endure beyond any fragmentation of the farming enterprise e.g. as a result of changes in ownership</u></p> <p>2. <u>The plan shall include for each proposed management method above:</u></p> <p>a. <u>Detail commensurate with the scale of the environmental effects and risks;</u></p> <p>b. <u>Defined measurable targets that clearly set a pathway and timeframe for achievement;</u></p> <p>c. <u>Any proposed monitoring and information or records to</u></p>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
	<p><u>biodiversity and the time frames over which these activities are proposed to occur. Such activities may include construction of new farm tracks or buildings, intensification of land use, vegetation clearance of previously undisturbed areas, earthworks or cultivation; and</u></p> <p>3. <u>Describe any potential adverse effects of the proposed activities described above on areas of indigenous biodiversity, including any Site of Natural Significance.</u></p> <p>D Management Methods to Achieve Protection of Values <u>Having regard to the information in B above, the purpose of this section is to set out information on management methods to ensure the values identified in the assessment at B are protected to ensure no net loss of indigenous biodiversity values in areas identified as significant:</u></p> <p>1. <u>A description of how the objective of 'no net loss' will be met by the proposal/s, including a description of tools and methods to achieve this. These may include:</u></p> <ol style="list-style-type: none"> <u>Formal legal protection;</u> <u>Pest or weed control;</u> <u>Grazing regimes/management to protect values;</u> <u>Fencing;</u> <u>Restoration planting or other</u> 		<p><u>be kept for measuring performance and achievement of the target.</u></p> <p>3. <u>Confirmation from an appropriately qualified and experienced ecologist that the proposed methods will achieve the objective.</u></p> <p>E Monitoring and Reporting on actions: <u>The Farm Biodiversity Plan shall include the following:</u></p> <ol style="list-style-type: none"> <u>Having regard to B (3.) above, describe how the outcomes will be monitored, and how the results will be reported.</u> <u>Describe when a review of management methods will be necessary; how such reviews/s will be undertaken, who by and within what timeframes; and how the results of any review will be implemented.</u> <p>¹ <u>Improved Pasture where it is confirmed by an independent ecologist and there are no indigenous biodiversity values present.</u></p>

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	<p><u>restoration measures;</u></p> <p>f. <u>Confirmation that area/s will not be subject to future land use change or development activity that will impact on the identified values present;</u></p> <p>g. <u>Confirmation that the tools and methods will endure beyond any fragmentation of the farming enterprise e.g. as a result of changes in ownership</u></p> <p>2. <u>The plan shall include for each proposed management method above:</u></p> <p>a. <u>Detail commensurate with the scale of the environmental effects and risks;</u></p> <p>b. <u>Defined measurable targets that clearly set a pathway and timeframe for achievement;</u></p> <p>c. <u>Any proposed monitoring and information or records to be kept for measuring performance and achievement of the target.</u></p> <p>3. <u>Confirmation from an appropriately qualified and experienced ecologist that the proposed methods will achieve the objective.</u></p> <p><u>E Monitoring and Reporting on actions:</u> <u>The Farm Biodiversity Plan shall include the following:</u></p> <p>1. <u>Having regard to B (3.) above, describe how the outcomes will be monitored, and how the results will be reported.</u></p>		

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
	2. <u>Describe when a review of management methods will be necessary; how such reviews/s will be undertaken, who by and within what timeframes; and how the results of any review will be implemented.</u>		
PC19: Section 7 – Rural Objective 8	Rural Objective 8 – Surface of Waterways <u>Activities on or within Waterbodies</u> Recreational activities being undertaken on or within the District waterways and riverbeds in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, recreational values, takata whenua values and general amenity values.	Support The D-G supports this outcome.	<i>Retain as notified</i>
PC19: Section 7 – Rural Objective 8A	<u>Rural Policy 8A – Values of Waterbodies</u> <u>To acknowledge the range of values associated with waterbodies within the District and to maintain or enhance those values through management of activities on or within waterbodies.</u> ---	Support The D-G supports this outcome.	<i>Retain as notified</i>
PC19: Section 7 – Rural Objective 8B	<u>Rural Policy 8B – Lake Pukaki</u> <u>To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding motorised activities on the Lake other than for essential activities.</u> ---	Support The D-G supports this outcome for Lake Pukaki.	<i>Retain as notified</i>
PC19: Section 7 – Rural Objective 8EA	<u>Rural Policy 8E A – Effects on Wildlife and Wildlife Habitats</u> Recreational Use Of Riverbeds And Waterbodies	Support in Part – include provisions to address access to waterbodies	<i>Amend provisions in the plan or signal effective non-regulatory measures which address the access to waterbodies and their margins as these are areas where activities can result in significant</i>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
	<p>To avoid, remedy or mitigate the adverse effects of the recreational use of riverbeds and waterbodies (in particular the use of off-road vehicles and power boats) on wildlife and wildlife habitats.</p> <p>Explanation and Reasons As for Objective 8</p> <ul style="list-style-type: none"> • The braided riverbeds of the Tasman, Dobson, Hopkins, Ohau, Tekapo, Pukaki, Cass, Godley and Macauley rivers are important breeding habitats for many important and threatened species. It is important that care is undertaken during the breeding season as disturbance of parent birds leaves eggs and chicks unattended and therefore extremely vulnerable to predation and cold temperatures. • Off-road vehicles can inadvertently run over eggs and chicks. • Lake Alexandrina and Lake McGregor form part of a wildlife refuge that was initially established in 1899, and re-gazetted in 1957 under the Wildlife Act 1953. At this time restrictions were also gazetted limiting boats to those 'wholly propelled by oars or paddles' to prevent disturbance of wildlife habitats and bird breeding areas. • The predominately single thread braided river channels of the Opihi and Opuha rivers are widely utilised by trout and salmon for spawning. During the 	<p>The D-G supports this policy, however is concerned that there are limited provisions in the plan which address the effects of access or off-road vehicles on beds and margins of waterbodies, which the explanation of this policy considers. The D-G notes that the authority over the disturbance of beds lays with the Regional Council, but would like to see clarity on how this policy seeks to be achieved, possibly through amending provisions in the plan or signalling effective non-regulatory measures which address the access to waterbodies and their margins as these are areas where activities can result in significant adverse effects on biodiversity.</p>	<p><i>adverse effects on biodiversity.</i></p>

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	spawning season (April to September) eggs and fry buried in the riverbed gravels are particularly susceptible to disturbance from motorised boats.		
PC19: Section 7 – Rural Objective 8FB	Rural Policy 8FB - Structures To ensure that the location, design and use of structures and facilities, within or near waterways are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the waterways are avoided or mitigated.	Support in Part – Amend The D-G seeks that the effects of structures on or near waterbodies can result in adverse effects on habitat and ecological processes. Where any structure are considered, the effects on biodiversity values resulting from their construction and occupation should be considered by the Council. The effects of any improved access to waterbodies (e.g. increased usage of that waterbody) should also be considered. As increased access and activity can have adverse effects on habitat.	<i>Amend Rural Policy 8F as follows:</i> Rural Policy 8FB - Structures To ensure that the location, design and use of structures and facilities, within or near waterways are such that any adverse effects on visual qualities, safety, <u>indigenous habitat</u> and conflicts with recreational and other activities on the waterways are avoided or mitigated.
PC19: Section 7 – Rural Objective 8HD	Rural Policy 8HD - Cross Boundary Co-Ordination To co-ordinate with adjoining territorial authorities where activities on the surface of rivers and lakes cross territorial boundaries, including the co-ordination of resource consent processes.	Support The D-G supports the co-ordination between agencies where an activity is across boundaries.	<i>Retain as notified</i>
PC19: Section 7 – Rural Zone Rules Clause 7	OUTDOOR RECREATIONAL ACTIVITIES - <u>EXCLUDING ACTIVITIES ON OR WITHIN WATERBODIES</u> 7.1. Permitted Activities – Outdoor Recreational Activities 7.1.1. Non-commercial...	Support The D-G supports the deletion of surface water activities from these rules and the new rule structure within the plan proposed by PC19.	<i>Retain the deletions and amendments to Clause 7 of the Rural Zone Rules.</i>
Rural Zone Rules	7A ACTIVITIES ON OR WITHIN	Support in Part – Amend	<i>Amend 7A.1 as follows:</i>

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Clause <u>7A.1</u>	<u>WATERBODIES</u> <u>7A.1 Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers</u>	The D-G supports the management of activities provided from through the 7A.1 proposed Rule on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers (other than Opihi and Opuha). However. The D-G is concerned that Rivers Godley, Tasman, Cass and Dobson require additional protection beyond what Rule 7A.1 will provide. This is because these rivers are home to significant indigenous biodiversity and the use of these rivers by any motorised craft could lead to adverse effects on these species.	<u>7A ACTIVITIES ON OR WITHIN WATERBODIES</u> <u>7A.1 Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Godley, Tasman, Cass, Dobson, Opihi and Opuha Rivers</u>
PC19: Section 7 – Rural Zone Rules Clause <u>7A.1.1</u>	<u>7A.1.1 Permitted Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers</u> <u>7A.1.1.a. Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes.</u> <u>7A.1.1.b Non-commercial motorised and non-motorised activities</u> <u>7A.1.1.c Craft on the surface of waterways used for accommodation where all effluent is contained on board the craft.</u>	Support in Part – Amend The D-G supports the management of activities provided from through the 7A.1 proposed Rule on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers (other than Opihi and Opuha). However. The D-G is concerned that Rivers Godley, Tasman, Cass and Dobson require additional protection beyond what Rule 7A.1 will provide. This is because these rivers are home to significant indigenous biodiversity and the use of these rivers by any motorised craft could lead to adverse effects on these species. The D-G support permitted activity 7A.1.1.a as these activities are	<i>Amend 7A.1.1 and 7A.1.1.b and retain 7A.1.1.a as follows:</i> <u>7A.1.1 Permitted Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Godley, Tasman, Cass, Dobson, Opihi and Opuha Rivers</u> <u>7A.1.1.a. Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes.</u> <u>7A.1.1.b Non-commercial motorised and non-motorised activities.</u> <u>Where it is a motorised activity, access to the waterbody must be via a form accessway or boat ramp.</u> <u>7A.1.1.c</u>

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		<p>important for Department staff to carryout their conservation work within waterbodies and their margins.</p> <p>The D-G supports the ability for all non-motorised craft to use and enjoy the waterbodies covered by Rule 7A.1.. However, there is concerns around motorised-craft. This is because regardless of is the operator is undertaking a commercial or recreational activity, the effects would be the same.</p>	
<p>PC19: Section 7 – Rural Zone Rules Clause <u>7A.1.2</u></p>	<p><u>7A.1.2 Discretionary Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers</u></p> <p><u>7A.1.2.a Commercial motorised and non-motorised activities</u></p> <p><u>7A.1.2.b Jetties and boat ramps</u></p>	<p>Support in Part – Amend</p> <p>The D-G supports the management of activities provided through the 7A.1.2 proposed Rule on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers (other than Opihi and Opuha). However. The D-G is concerned that Rivers Godley, Tasman, Cass and Dobson require additional protection beyond what Rule 7A.1.2 will provide. This is because these rivers are home to significant indigenous biodiversity and the use of these rivers by any motorised craft could lead to adverse effects on these species.</p> <p>The D-G supports a discretionary activity status for the activities covered by 7A.1.2.</p>	<p><i>Amend 7A.1.2 as follows:</i></p> <p><u>7A.1.2 Discretionary Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Godley, Tasman, Cass, Dobson, Opihi and Opuha Rivers</u></p> <p><u>7A.1.2.a ...</u></p>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
PC19: Section 7 – Rural Zone Rules Clause <u>7A.1.3</u>	<u>7A.1.3 Non-complying Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers</u> <u>7A.1.3.a Craft on the surface of waterways used for accommodation where effluent is not contained on board the craft.</u>	Support in Part – Amend The D-G supports the management of activities provided from through the 7A.1.3 proposed Rule on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers (other than Opihi and Opuha). However. The D-G is concerned that Rivers Godley, Tasman, Cass and Dobson require additional protection beyond what Rule 7A.1.3 will provide. This is because these rivers are home to significant indigenous biodiversity and the use of these rivers by any motorised craft could lead to adverse effects on these species. The D-G supports a non-complying activity status for the activities covered by 7A.1.2.	<i>Amend 7A.1.3 as follows:</i> <u>7A.1.3 Non-complying Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Godley, Tasman, Cass, Dobson, Opihi and Opuha Rivers</u> <u>7A.1.3.a Craft on the surface of waterways used for accommodation where effluent is not contained on board the craft.</u>
PC19: Section 7 – Rural Zone Rules Clause <u>7A.2.1</u>	<u>7A.2.1 Permitted Activities on or within Lake Pukaki</u> <u>7A.2.1.a Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes.</u> <u>7A.2.1.b Non-commercial non-motorised activities</u>	Support – Retain as notified The D-G supports proposed Rule 7A2.1 which allows for monitoring, research and safety activities and the ability for non-motorised craft to be permitted activities on Lake Pukakai.	<i>Retain 7A.2.1 as notified.</i>
PC19: Section 7 – Rural Zone Rules Clause <u>7A.2.2</u>	<u>7A.2.2 Non-complying Activities on or within Lake Pukaki</u> <u>7A.2.2.a Commercial non-motorised activities</u> <u>7A.2.2.b Jetties and boat ramps</u>	Support – Retain as notified The D-G supports proposed Rule 7A2.2 which restricts motorised commercial activities and the construction of jetties and boat	<i>Retain as notified</i>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
PC19: Section 7 – Rural Zone Rules Clause <u>7A.2.3</u>	<u>7A.2.3 Prohibited Activities</u> <u>7A.2.3.a Commercial motorised activities</u> <u>7A.2.3.b Non-commercial motorised activities</u> <u>7A.2.3.c Craft on the surface of waterways used for accommodation.</u>	ramps on or within Lake Pukakai. Support – Retain as notified The D-G supports proposed Rule 7A.2.3 which prohibits all motorised activities and craft used for accommodation on or within Lake Pukakai.	<i>Retain as notified</i>
PC19: Section 7 – Rural Zone Rules Clause <u>7A.3.1</u>	<u>7A.3.1 Permitted Activities on or within Lakes Alexandrina and McGregor</u> <u>7A.3.1.a Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes.</u> <u>7A.3.1.b Non-commercial non-motorised activities</u>	Support in Part – Amend The D-G supports the specific rules for Lakes Alexandrina and McGregor as it recognises their significant wildlife value and status as a wildlife refuge. The D-G supports proposed Rule 7A.2.3.1a which allows for monitoring, research and safety activities and the ability for non-motorised craft to be permitted activities on both lakes. However, the D-G is concerned the yachts or sail-boats could operate on these lakes, and while they may not be motorised, their wakes can cause significant effects on indigenous biodiversity and therefore does not consider that their use on these lakes is appropriate. The D-G seeks that yachts and sails boats are specifically excluded from the permitted activity rules and are instead prohibited activities.	<i>Amend Rule 7A.3.1.b as follows:</i> <u>7A.3.1 Permitted Activities on or within Lakes Alexandrina and McGregor</u> <u>7A.3.1.a Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes.</u> <u>7A.3.1.b Non-commercial non-motorised activities (excluding yachts and sail-boats).</u>
PC19: Section 7 – Rural Zone Rules	<u>7A.3.2 Discretionary Activities on or within Lakes Alexandrina and McGregor</u>	Support in Part – Amend The D-G supports the specific rules	<i>Amend Rule 7A.3.2.a as follows:</i> <u>7A.3.2 Discretionary Activities on or within Lakes Alexandrina</u>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
Clause 7A.3.2	7A.3.2.a Commercial non-motorised activities	for Lakes Alexandrina and McGregor as it recognises their significant wildlife value and status as a wildlife refuge. The D-G is concerned the yachts or sail-boats could operate on these lakes, and while they may not be motorised, their wakes can cause significant effects on indigenous biodiversity and therefore does not consider that their use on these lakes is appropriate. The D-G seeks that yachts and sails boats are specifically excluded from the permitted activity rules and are instead prohibited activities.	and McGregor 7A.3.2.a Commercial non-motorised activities (excluding yachts and sail-boats).
PC19: Section 7 – Rural Zone Rules Clause 7A.3.3	7A.3.3 Non-complying Activities on or within Lakes Alexandrina and McGregor 7A.3.3.a Jetties and boat ramps 7A.3.3.b Craft on the surface of waterways used for accommodation	Support – Retain as notified The D-G supports the specific rules for Lakes Alexandrina and McGregor as it recognises their significant wildlife value and status as a wildlife refuge.	<i>Retain as notified</i>
PC19: Section 7 – Rural Zone Rules Clause 7A.3.4	7A.3.4 Prohibited Activities on or within Lakes Alexandrina and McGregor 7A.3.4.a Commercial motorised activities 7A.3.4.b Non-commercial motorised activities	Support in Part – Amend The D-G supports that those activities which may have adverse effects on the biodiversity values present on or within Lakes Alexandrina and McGregor. As noted in the D-Gs submission on 7A.3.1 and 7A.3.2 , the use of yachts and sail-boats on the lakes could result in adverse environmental	Amend Rule 7A.3.4 as follows: 7A.3.4 Prohibited Activities on or within Lakes Alexandrina and McGregor 7A.3.4.a Commercial motorised activities 7A.3.4.b Non-commercial motorised activities 7A.3.1.c Commercial sail-boats or yachts 7A.3.1.d Non-commercial sail-boats or yachts

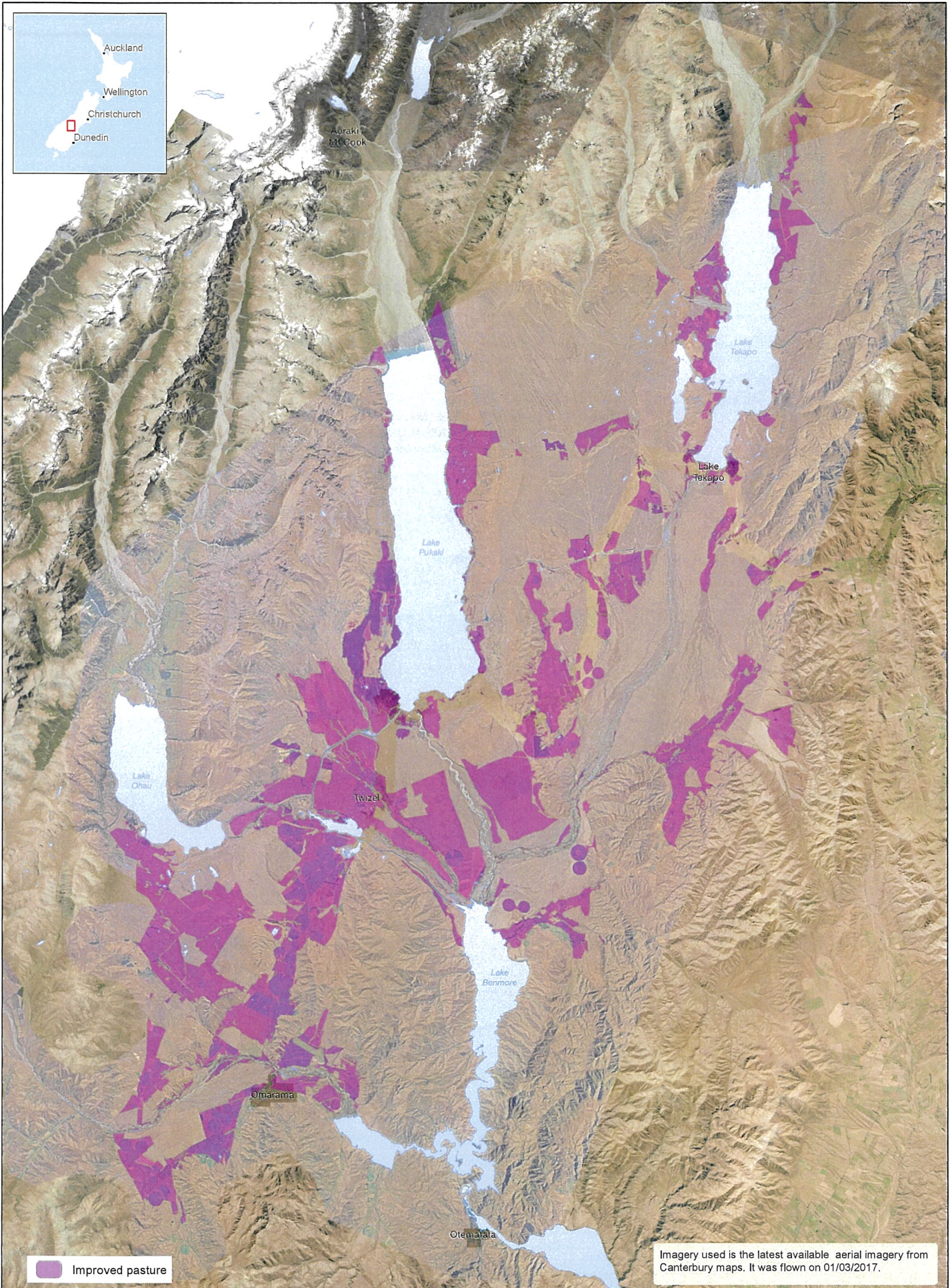
PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
		effects on indigenous biodiversity values, and as such should be treated the same as motorised activities. The D-G seeks for these activities to be included as prohibited activities.	
PC19: Section 7 – Rural Zone Rules Clause <u>7A.4</u>	<u>7A.4 Activities on or within the Opihi and Opuha Rivers</u>	Support in Part – Amend The D-G supports the additional protection proposed for the Opihi and Opuha Rivers. However, the D-G considers that this level of protection should extend to the Godley, Tasman, Cass and Dobson rivers as they require additional protection of their values. This is because these rivers are home to significant indigenous biodiversity and the use of these rivers could lead to adverse effects on these species.	<i>Amend 7A.4 as follows:</i> <u>7A.4 Activities on or within the Godley, Tasman, Cass and Dobson Opihi and Opuha Rivers</u>
PC19: Section 7 – Rural Zone Rules Clause <u>7A.4.1</u>	<u>7A.4.1 Permitted Activities on or within the Opihi and Opuha Rivers</u>	Support in Part – Amend The D-G supports the additional protection proposed for the Opihi and Opuha Rivers. However, the D-G considers that this level of protection should extend to the Godley, Tasman, Cass and Dobson rivers as they require additional protection of their values. This is because these rivers are home to significant indigenous biodiversity and the use of these rivers through certain activities could lead to adverse effects on these species.	<i>Amend 7A.4.1 as follows:</i> <u>7A.4.1 Permitted Activities on or within the Godley, Tasman, Cass and Dobson Opihi and Opuha Rivers</u>

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
		<p>The D-G supports proposed Rule 7A.4.1.a which allows for monitoring, research and safety activities and the ability for non-motorised craft to be permitted activities on the rivers covered by this rule (noting the D-Gs proposed amendments).</p>	
<p>PC19: Section 7 – Rural Zone Rules Clause <u>7A.4.2</u></p>	<p><u>7A.4.2 Discretionary Activities on or within the Opihi and Opuha Rivers</u> <u>7A.4.2.a Jetties and boat ramps</u> <u>7A.4.2.b Commercial non-motorised activities</u></p>	<p>Support in Part – Amend The D-G supports the additional protection proposed for the Opihi and Opuha Rivers. However, the D-G considers that this level of protection should extend to the Godley, Tasman, Cass and Dobson rivers as they require additional protection of their values. This is because these rivers are home to significant indigenous biodiversity and the use of these rivers by any craft or the erection of structures on could lead to adverse effects on these species.</p>	<p><i>Amend 7A.4.2 as follows:</i> <u>7A.4.1 Discretionary Activities on or within the Godley, Tasman, Cass and Dobson Opihi and Opuha Rivers</u></p>
<p>PC19: Section 7 – Rural Zone Rules Clause <u>7A.4.3</u></p>	<p><u>7A.4.3 Non –complying Activities on or within the Opihi and Opuha Rivers</u> <u>7A.4.3.a Commercial motorised activities</u> <u>7A.4.3.b Non-commercial motorised activities</u> <u>7A.4.3.c Craft on the surface of waterways used for accommodation</u></p>	<p>Support in Part – Amend The D-G supports the additional protection proposed for the Opihi and Opuha Rivers. However, the D-G considers that this level of protection should extend to the Godley, Tasman, Cass and Dobson rivers as they require additional protection of their values. This is because these rivers are home to significant indigenous biodiversity and the use</p>	

PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
		of these rivers by any motorised craft could lead to adverse effects on these species.	
PC19: Section 7 – Rural Zone Rules Clause <u>7A – all rules</u>	<u>(all proposed rules in 7A)</u>	Opposed in Part – Amend The D-G is concerned, in particular regarding waterbody margins and braided river beds, of the adverse effects of vehicles and craft.	

ATTACHMENT 2:

**PROPOSED PLAN CHANGE 18 and 19– Mackenzie District Plan
SUBMISSION BY THE DIRECTOR-GENERAL OF CONSERVATION
Improved Pasture Mapping**



5 km

NZGD 2000 New Zealand Transverse Mercator
 Not for publication nor navigation
 Crown Copyright Reserved
 1:300,000
 Produced: 6/03/2018
 DOC, Geospatial Services
 Canterbury Maps
 R131695_Cultivated_Land_Mackenzie_Basin_Pasture.mxd
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Improved Pasture in Mackenzie Basin



**A SUBMISSION FROM THE
CENTRAL SOUTH ISLAND FISH & GAME COUNCIL**

SUBMITTER: Central South Island Fish & Game
c/Angela Christensen
32 Richard Pearse Drive
PO Box 150
Temuka, New Zealand

Ph (03) 615 8400
Email: achristensen@csifgc.org.nz

District Council: Mackenzie District Council
53 Main Street
PO Box 52
Fairlie

This submission is made in reference to the Mackenzie District Plan and Proposed Plan Change 18: Indigenous Biodiversity, and Plan Change 19: Activities on or within Waterbodies.

Fish & Game Councils are Statutory Bodies with Functions (*inter alia*) to:

“manage, maintain, and enhance the sports fishery and game resource in the recreational interests of anglers and hunters”

“maintain and improve the sports fish and game resource by maintaining and improving access; ...”

“In relation to planning, -

to represent the interests and aspirations of anglers and hunters in the statutory process, ... and

to advocate the interests of the Council, including its interests in habitats:...”

Section 26Q, Conservation Act.

In addition, Section 7(h) of the RMA states that all persons *‘shall have particular regard to...the protection of the habitat of trout and salmon.’*

PROPOSED PLAN CHANGE 18: INDIGENOUS BIODIVERSITY

Central South Island Fish & Game’s (CSI) interest in Proposed Plan Change 18 largely lies with how activities are managed on land and the repercussions that these activities have on riparian margins and water quality, and on recreational, biodiversity and amenity values. Activities such as earthworks, vegetation clearance, forestry and agriculture can have adverse effects on land and water and consequently, the species that inhabit these areas.

SUBMISSION

Submission on PC18	Support/Oppose	Reason	Decision sought
Definition: Improved Pasture	Oppose	CSI does not believe that the definition of Improved Pasture is easily understood, nor does it provide for adequate protection for indigenous flora and fauna as it is difficult to understand what areas are currently classified as “improved pasture”.	It would be clearer if the areas that fit this definition were mapped (if they are not already), so it is clear going forward how rules related to this definition are applied.
Definition: Vegetation Clearance	Support with amendments	CSI is not clear as to whether this is referring to Indigenous Vegetation Clearance or any vegetation clearance. It appears that the definition could apply to both. However, indigenous vegetation should also be protected from clearance mechanisms other than those described in the vegetation clearance definition. CSI views that referencing the “clearance of indigenous vegetation” will align better with CRPS 9.3.1 (Territorial authorities obligations) and will better represent the onus of the Territorial Authority to “manage the clearance of indigenous vegetation.”	If retention of Vegetation Clearance is deemed necessary for permitted activities, then a solution could be to introduce a definition specifically for Indigenous Vegetation Clearance that also includes (in addition to those listed for Vegetation Clearance) activities like grazing, artificial drainage, overplanting and over sowing.
Policy 1	Support with amendment	CSI supports identification of significant natural areas through mapping and considers that these areas should be protected. It is not entirely clear what	Amend to the following, or something similar: <i>To identify sites of significant indigenous vegetation or habitat in accordance with the criteria</i>

Submission on PC18	Support/Oppose	Reason	Decision sought
		“reduces the values of these sites” aims to achieve. It would be clearer and align better with the CRPS if the significant natural areas were protected.	<i>listed in the Canterbury Regional Policy Statement and to protect these areas from the adverse effects of land use and development activities.</i>
Policy 3	Support with amendment	The wording of this policy is not clear as it seems to make an exception for clearing indigenous vegetation in an area identified as significant as possible, if it is done in a way or at a rate that provides for no net loss. Would this enable offsetting? If an area is identified as a significant natural area, then these areas should be protected (CRPS 9.3.1 (3)).	Amend to clarify that areas identified as significant are protected.
Policy 4	Support with amendments	The policy refers to ‘ecologically significant wetland’. CSI questions if the ‘ecologically significant wetlands’ within the district have been mapped, and are there possibly other wetlands that also deserve protection? CSI considers that all wetlands in the Mackenzie District are important not only in a geographical/local context but also nationally given the steep decline of wetlands throughout New Zealand, keeping in mind the important contributions they make to ecological processes and functions. The policy would better align with the CRPS if these wetlands are protected.	Amend to the following or something similar, keeping in mind that the wetlands should be identified via maps and pointing out the view that all wetlands in the district are considered by CSI to be ecologically significant: <i>To protect ecologically significant wetlands from land use activities including indigenous vegetation clearance and pastoral intensification.</i>
Policies 5 and 6 as they relate to offsetting	Oppose offsetting	CSI has concerns around the use and implications of offsetting and does not support this in general.	That offsets should not be referenced as an option within a policy or rule as a means to safeguard

Submission on PC18	Support/Oppose	Reason	Decision sought
		<p>Whilst the intentions may be good, there is no guarantee or mechanism in place to ensure that the offsetting activities are carried out and that they achieve the desired outcome, despite condition (6d) that states that there is strong likelihood that the offsets will be achieved in perpetuity. It is not clear how this can be enforced or ensured. There may be situations where offsets cannot appropriately replace indigenous biodiversity due to the rarity or vulnerability of the biodiversity affected. Furthermore, there is a great risk in trying to re-establish or mitigate through offsetting given pests and the extreme climates of the Mackenzie District. There should be no further loss in biodiversity and a gain in biodiversity should be striven for.</p>	indigenous biodiversity.
<p>Indigenous Vegetation Clearance Rules 1.1.1 (8), 1.2.1 (3), 1.2.2 (2), 1.3.2 (3)</p>	<p>Support with amendment</p>	<p>CSI considers that springs are important to protect given their sensitivity to degradation arising from land use change, mainly from overland runoff and silt. Any vegetation clearance around springheads will adversely impact water quality and habitat downstream. Springs provide both habitat for waterfowl as well as aquatic habitat. Small streams can arise from springheads and are vulnerable to siltation if the spring is not protected, which can adversely affect spawning and the health of</p>	<p>That springs also be provided protection from vegetation clearance.</p>

Submission on PC18	Support/Oppose	Reason	Decision sought
		the fishery.	

PROPOSED PLAN CHANGE 19: ACTIVITIES ON OR WITHIN WATERBODIES

Activities on the surface of waterways can have adverse effects on both the natural environment and on human experience and enjoyment of an area. These adverse effects can compound with increased usage and pressure on land, water, and air. Given the remoteness, solitude, and high natural character of many locations within the Mackenzie District, noise can adversely impact recreational users such as anglers who seek quiet, remote areas. Continual disturbance of an area can be seen to intrude on the “wilderness” experience. That being said, some of the waterways in the Mackenzie District are used by anglers for recreational sports fishing opportunities and it is necessary to access these areas by boat. The Conservation Act (1987) directs Fish and Game “(b) to maintain and improve the sports fish and game resource (i) by maintaining and improving access.” It is a delicate balance to protect habitat, amenity values and recreational values (which includes access).

SUBMISSION

Submission on PC19	Support/Oppose	Reason	Decision sought
Rural Objective 8- Activities on or within Waterbodies	Support	The values of the District can be adversely affected by recreational activities if not managed appropriately. CSI supports this objective that recognises the District’s values and aims to avoid, remedy or mitigate potential adverse effects on them.	Retain as proposed
Rural Policy 8A- Values of Waterbodies	Support	CSI supports policy that maintains or enhances the values listed under Policy 8	Retain as proposed
Rural Policy 8B- Lake Pukaki	Oppose	Whilst CSI recognises the beauty of Lake Pukaki, CSI supports the use of the lake by non-commercial boats for recreational purposes such as angling. Non-commercial boat angling currently takes place on the lake and we do not consider that it adversely affects the values listed under Objective 8 or Policy 8A.	Reword to: <i>To protect the unique natural quiet, beauty and tranquillity values and experiences of Lake Pukaki by avoiding <u>commercial</u> motorised activities on the Lake...</i>
Rural Policy 8C- Commercial Activities	Support	It is important to assess commercial activities via the resource consent	Retain as proposed

Submission on PC19	Support/Oppose	Reason	Decision sought
		pathway to understand the impacts of a proposal to ensure it meets the objective of the plan.	
Rural Policy 8E- Effects on Wildlife and Wildlife Habitats	Support	CSI supports this policy given the fishery values in the Mackenzie District and the importance of maintaining or enhancing them as directed by the Conservation Act (1987). CSI supports the prevention of motorised craft upstream of the confluence of the Opihi and Opuha rivers to protect spawning.	Retain as proposed
	Explanation and Reasons-Support with amendment	For clarity, CSI recommends amendments to clarify the species, and spawning and incubation times for the particular waterways that are referred to.	Reword bullet point 5 to the following or something similar: <i>The predominately single thread braided river channels of the Opihi and Opuha rivers and the single, narrow confines of the South Opuha and North Opuha are widely utilised by trout and salmon for spawning, incubation and juvenile rearing. The Opihi and Opuha rivers contain brown trout and salmon (spawning season 1 Apr-30 Sept) and the N Opuha and S Opuha contain brown and rainbow trout (spawning 1 May-30 Nov).</i>
	Implementation Methods-Support with amendment	CSI does not have a statutory mandate to identify breeding areas of braided riverbed birds and therefore, our involvement in this area should be removed.	Under Implementation Methods, delete Fish and Game Council where reference is made to braided riverbed birds.
Rural Policy 8H- Cross Boundary Co- Ordination	Support	CSI supports a co-ordinated approach to managing surface water activities. It is considered important to	Retain as proposed

Submission on PC19	Support/Oppose	Reason	Decision sought
		have consistent provisions and communications to avoid confusion and to provide all users and stakeholders with reliable information.	
Rural Zone Rules 7A.1.1.a	Support	CSI undertakes scientific fisheries research and the use of boats to do this is essential.	Retain as proposed
7A.2.1.a	Support	CSI undertakes scientific fisheries research and the use of boats to do this is essential.	Retain as proposed
7A.2.3.b	Oppose	Boat angling provides a recreational opportunity for anglers on the lake. The 2014/15 National Anglers Survey indicates that 1,950 angling days were spent at L. Pukaki and a portion of those would be boat anglers. This rule would prohibit them from taking part in this recreational opportunity.	Delete 7A.2.3.b
7A.3.1.a	Support	CSI undertakes scientific fisheries research and the use of boats to do this is essential.	Retain as proposed
7A.3.4 including subclauses (a) and (b)	Support	CSI supports the prohibited activity status of motorised craft on Lakes Alexandrina and McGregor.	Retain as proposed
7A.4.1.a	Support	CSI undertakes scientific fisheries research and the use of boats to do this is essential.	Retain as proposed
7A.4.3 including subclauses (a) and (b)	Support	Classifying motorised activities as non-complying is supported by CSI in order to protect the values of the rivers and	Retain as proposed

Submission on PC19	Support/Oppose	Reason	Decision sought
		ecosystems as outlined in the Objectives and Policies.	

CSI wishes to be heard in support and expansion of this submission. If others are making a similar submission, CSI will consider presenting a joint case with them at the hearing.

Signature:



A Christensen
Date: 9 March 2018

FORM 5

SUBMISSION ON A PUBLICLY NOTIFIED
PLAN CHANGE/ VARIATION

CLAUSE 6 OF FIRST SCHEDULE
RESOURCE MANAGEMENT ACT 1991

To: Mackenzie District Council
PO Box 52
FAIRLIE 7949

Full name of submitter: The Words Station Limited

Address for service: Duncan Cottenill
Duncan Cottenill Plaza
149 Victoria Street

Telephone: Christchurch 8013

Fax/email: Katherine.forward@duncancottenill.com

Contact person: Katherine Forward (solicitor)

(name and designation, if applicable)

This is a submission on proposed Plan Change 18/ ~~Plan Change 19~~ to the Mackenzie District Plan *(please select Plan Change)*

The specific provisions of the proposal that my submission relates to are:
(give details)

AS per the attached submission.

My submission is:

(include whether you support or oppose the specific provisions or wish to have them amended and the reasons for your views)

AS per the attached submission.

Continued overleaf

I seek the following decision from the Mackenzie District Council:

(give precise details)

AS per the attached submission.

- I wish to be heard in support of my submission
- I do not wish to be heard in support of my submission

(tick one box)

If others make a similar submission I **would** / ~~would not~~ *(delete one)* be prepared to consider presenting a joint case with them at any hearing.



Signature of submitter or person authorised to sign on behalf of submitter
(A signature is not required if you make your submission by electronic means.)

9 March 2018

Date

If you have any queries about this form or the proposed plan change or variation, please contact Karina Morrow, Group Manager Planning and regulation, Mackenzie District Council.

**SUBMISSION OF THE WOLDS STATION LIMITED (THE WOLDS)
ON PLAN CHANGE 18 TO THE MACKENZIE DISTRICT PLAN**

9 March 2018

To Mackenzie District Council

This is a submission on proposed Plan Change 18 – Indigenous biodiversity – to the Mackenzie District Plan (MDP).

- 1 The specific provisions of the proposal that the submission relates to are identified in the table attached to this submission. The Wolds position in relation to each provision (with reasons) is as set out in the table.
- 2 The Wolds general comments are as follows:
 - 2.1 The proposal fails to strike a balance between achieving the environmental outcomes required by the Resource Management Act and Canterbury Policy Statement 2013 (CRPS) and providing a pathway for development and use of land in accordance with the concept of sustainable management.
 - 2.2 Where areas of significant indigenous vegetation or significant habitats of fauna have not been identified or assessed, it is inappropriate for the Council to adopt a blanket approach that reduces the threshold for clearance of indigenous vegetation to zero.
 - 2.3 The proposed provisions fail to provide for any development-related indigenous vegetation clearance. Permitted activity indigenous vegetation clearance is limited to maintenance and repair of existing infrastructure. This is inefficient land management and does not provide for a reasonable use of productive land.
 - 2.4 The s 32 report does not adequately assess the costs of the proposed provisions to the landowner including the costs associated with identifying and determining significance of indigenous vegetation and habitats, the costs associated with collating information for inclusion in a farm biodiversity plan (including expert advice where this is required) and the costs associated with obtaining more than one resource consent to authorise development.
 - 2.5 The proposed provisions do not adequately take account of the tenure review process or the controls on pastoral intensification and agricultural conversion introduced by plan change 13 particularly the concept of farm base areas - an area identified as appropriate for more intensive development. Properties that have been through tenure review have been subject to rigorous assessment and areas of significant inherent value, including biodiversity/ ecology, landscape and conservation are identified and either returned to the Crown/ DOC or protected

through conservation covenants on any land freeholded. The proposed provisions must be viewed in context alongside the large tracts of conservation land that is already protected and other planning restrictions already in place.

- 2.6 A policy of no net loss of indigenous biodiversity values in areas identified as significant is unrealistic within the Mackenzie Basin subzone where the majority of vegetation is likely to meet the criteria for significance under the CRPS. Proposed objective 2 and policy 3 will curtail development and severely impede landowner ability to make reasonable use of their interest in the land.
- 2.7 The proposed provisions may frustrate Environment Canterbury initiatives such as the fencing of waterways. Under the proposed provisions resource consent will need to be obtained where new fencing is proposed close to the bank of a river. This may act as a deterrent for landowners wishing to be proactive and is counter-productive.
- 2.8 The policies which address off-setting in exchange for development are unachievable. There is no ability to provide for a net-gain in biodiversity in the Mackenzie Basin subzone due to the nature of the environment. The costs associated with providing a net-gain will exceed any economic benefit derived from undertaking vegetation clearance and will curtail the likelihood of any further development.

3 The Wolds seeks the following decision:

Primary relief

3.1 Modify plan change 18 in accordance with clauses 3.1.1 - 3.1.7 below including such further or other consequential relief as may be necessary to fully give effect to the primary relief sought. The new proposal to include:

3.1.1 Vegetation to be classified to three categories – indigenous vegetation, mixed vegetation and introduced vegetation. To be defined as follows:

Indigenous vegetation means a plant community where species native to New Zealand dominate and comprise between 66% to 100% ground cover of the total area.

Mixed vegetation means a plant community comprised of species both native to New Zealand and introduced into New Zealand, and the ground

cover of each group of species comprising between 33% to 66% ground cover of the total area.

Introduced vegetation means a plant community where species introduced into New Zealand dominate and comprise between 66% to 100% ground cover of the total area.

- 3.1.2 Objectives (1 – 3) and policies (1 – 9) as notified subject to any amendments sought in table 1 below.
- 3.1.3 Rule(s) that provide for clearance of introduced and mixed and vegetation to occur as permitted activities.
- 3.1.4 Rule(s) that provide for clearance of indigenous vegetation to occur as a controlled activity if a farm management plan (including a component focussed on biodiversity values specific to the property) is prepared. Matters of control to be those set out in table 1 below in relation to rule 19.1.2.1.
- 3.1.5 Where no farm management plan is prepared rule(s) to provide for clearance of indigenous vegetation to occur as a restricted discretionary activity. Matters of discretion to be those set out in table 1 below in relation to rule 19.1.2.2.
- 3.1.6 Rules that provide for clearance of significant indigenous vegetation to occur as a non-complying activity.
- 3.1.7 Rules relating to clearance of indigenous vegetation (including significant vegetation) to be subject to exemptions which would take the form of the permitted activity conditions as notified unless specifically amended in table 1 below. For the avoidance of doubt, any new condition proposed in table 1 below would be carried across.

- 3.2 The commissioning of a further evaluation under s32AA of the RMA.

Secondary relief

- 3.3 In the alternative, plan change 18 to be modified as set out in table 1 below.
- 3.4 Such further or other consequential relief as may be necessary to fully give effect to the matters raised and/or secondary relief sought in this submission, which

may also include including the commissioning of a further evaluation under s32AA of the RMA.

Dated 9 March 2018



Katherine Forward
Solicitor for the Wolds Station Limited

This document is filed by Katherine Forward of Duncan Cotterill, solicitor for the submitter.

The address for service of the submitter is:

Duncan Cotterill
Duncan Cotterill Plaza
148 Victoria Street
Christchurch 8013

Documents for service on the submitter may be:

- Left at the address for service.
- Posted to the solicitor at 148 Victoria Street, Christchurch 8013
- Transmitted to the solicitor by fax on +64 3 3792430

Please direct enquiries to:

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Duncan Cotterill
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TABLE 1

The Wolds submission relates to:	The Wolds submission is that:	The Wolds seeks the following decisions:
SECTION 3 – DEFINITIONS		
Improved Pasture	<p>Oppose:</p> <p>Over time the Wolds has invested in traditional farming activities including top dressing and oversowing exotic pasture species to modify land for the purpose of livestock grazing. It is critical that the MDP provide a pathway for continued clearance of vegetation (including significant vegetation and habitats) on land modified for farming so as to preserve the significant investments already made.</p> <p>However, the terms “cover” and “composition” are uncertain and there is no guidance in place to assist the landowner in determining dominance.</p> <p>Dominance must be restricted to percentage of ground cover, not canopy cover, only. The nature of vegetation in the Mackenzie Basin subzone (even within an area of improved pasture) means the composition of vegetation may fall in favour of indigenous rather than exotic species. While ground cover may be 70% exotic, it is still possible to locate a number of indigenous species which will outnumber the two or three species of clover or grasses introduced. This is particularly so for the rural Stations which span large areas of land and where cultivated paddocks comprise several hundred hectares.</p> <p>It is important for a landowner to be able to interpret and apply the proposed provisions, without requiring expert ecology advice. The assessment of dominance should be restricted to a representative area. Certainty is needed so that land owners are able to proceed in confidence and without fear of enforcement action.</p>	<p>Amend b) as follows:</p> <p><i>b) Exotic pasture species have been deliberately introduced and dominate in <u>ground</u> cover—and <u>composition</u>. For the purposes of this definition the assessment of dominance <u>shall be conducted on a representative area within the area of improved pasture</u> and shall disregard indigenous vegetation which is growing upon land that has previously been modified and enhanced for livestock grazing in accordance with clause a) above and is less than 15 years old</i></p>

<p>Indigenous vegetation</p>	<p>Oppose:</p> <p>The proposed definition is too broad and will capture nearly all vegetation in the Mackenzie Basin subzone. It is inappropriate for areas of non-indigenous vegetation to be subject to indigenous vegetation clearance rules. The purpose of proposed chapter 19 is to address indigenous biodiversity so as to give effect to chapter 9 – Ecosystems and indigenous biodiversity of the CRPS. The proposed definition goes beyond what is required under the RMA of the CRPS.</p> <p>The decision sought will enable a landowner (and Council staff) to make an assessment on the spot whether vegetation is indigenous or not.</p>	<p>Amend definition of indigenous vegetation as follows:</p> <p><i>Means a plant community of species native to New Zealand which may include a minor element of exotic vegetation but does not include plants within a domestic garden or that have been planted for the use of screening/shelter purposes e.g. as farm hedgerows, or that have been deliberately planted for the purpose of harvest</i></p>
<p>New definition - significant indigenous vegetation</p>	<p>The MDP needs to provide guidance as to what constitutes significant indigenous vegetation in the Mackenzie Basin.</p> <p>It is submitted that the introduction of a new appendix Z (that would read similarly to that of appendix 3 to the CRPS but modified to relate specifically to the Mackenzie Basin rather than Canterbury region wide) would assist landowners to interpret and apply the proposed provisions.</p> <p>Appendix Z may include cross reference to existing MDP appendices W and X where appropriate.</p>	<p>Add new definition of significant indigenous vegetation as follows:</p> <p><i>means any indigenous vegetation that meets the criteria set out in Appendix Z</i></p> <p>Appendix Z to include criteria (relevant to the Mackenzie District) for determining significant indigenous vegetation.</p>
<p>Vegetation clearance</p>	<p>Oppose:</p> <p>Irrigation is not an activity that leads to clearance of vegetation – water applied to land encourages plant growth rather than eradicating it. It is accepted that sustained irrigation may change the structure and composition of plant species but irrigation can be distinguished from “cutting, crushing, cultivation, spraying or burning” in that it is not capable of directly</p>	<p>Delete the words “or irrigation” from the definition of vegetation clearance.</p>

	<p>clearing vegetation. It is inappropriate for irrigation to be included in this definition alongside the other listed activities.</p> <p>Irrigation is already included in the definition of agricultural conversion and it is inefficient to require a landowner to obtain two separate resource consents for the same activity.</p>	
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CHAPTER 7 – RULE 12: VEGETATION CLEARANCE

<p>Rule 12.1.1</p>	<p>Support with amendment:</p> <p>Permitted activity status for clearance of non-indigenous vegetation is appropriate, however additional exemptions need to be included so that clearance is permitted to occur within riparian areas in circumstances other than only those listed.</p> <p>It is critical to provide a pathway for maintenance, repair, replacement or minor upgrade of infrastructure and for new small scale activities integral to farm management to occur as permitted activities even if these are located within riparian areas.</p> <p>Provision needs to be made for clearance of non-indigenous vegetation to occur where the purpose is to facilitate exclusion of stock from waterways and to provide for the conveyance of stock water where an alternative supply is required.</p> <p>The setback distances in rule 12.1.1.a should be amended. It is not necessary to prevent clearance within 50m of a wetland. A more appropriate setback distance is 20m.</p>	<p>Amend rule 12.1.1.a as follows:</p> <ul style="list-style-type: none"> - Within 20m of the bank of the main stem of any river listed in Schedule B to the Rural Zone; or - Within 10m of the bank of any other river; or - Within 75m of any lake listed in Schedule B to the Rural Zone; or - Within 50m of or in any wetland or other lake <p>Amend rule 12.1.1.a exemption (i) as follows:</p> <p><i>This standard shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance habitat enhancement <u>or for the maintenance, repair, replacement or minor upgrade of existing fence lines, tracks, roads, stock crossings, firebreaks, drains, ponds, dams, stockyards, farm</u></i></p>
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		<p><u>buildings, airstrips water troughs, waterlines, waterway crossings or any other utility</u></p> <p>Amend rule 12.1.1.a exemption (ii) as follows:</p> <p><i>This standard shall not apply to any vegetation clearance which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council under the Resource Management Act 1991</i></p> <p>Add new exemption (iv):</p> <p><i>This standard shall not apply to vegetation clearance associated with small scale farming activities including but not limited to new fence lines, tracks, roads, stock crossings, firebreaks, drains, ponds, dams, small farm buildings, water troughs, waterlines, waterway crossings, providing alternative stock water supply and any other utility</i></p> <p>Add new exemption (v):</p> <p><i>This standard shall not apply to vegetation clearance associated with excluding stock from a</i></p>
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		<i>river, lake, wetland or other waterway</i>
CHAPTER 19 – INDIGENOUS BIODIVERSITY		
Heading	Oppose:	Delete <i>“Indigenous Biodiversity”</i> heading and replace with <i>“Vegetation Clearance”</i>
Objective 1	Oppose: This objective fails to acknowledge the role of the landowner in achieving environmental outcomes and the need for balance between protection of indigenous biodiversity and the need of landowners and communities to maintain and develop their livelihood to meet their needs, and the needs of future generations. Many landowners in the District value indigenous biodiversity and adjust their farm practices to voluntarily protect significant areas – this is often the sole reason why areas of significant indigenous biodiversity remain.	Delete objective 1 and replace with: <i>Safeguarding the life-supporting capacity of indigenous biodiversity and ecosystems while also sustaining the reasonable use of land and natural resources</i>
Objective 2	Oppose : The proposed objective will curtail all development in the Mackenzie Basin. It is not only land development activities that impact on indigenous biodiversity. Natural processes such as soil erosion, climate change, nutrient depletion and the introduction of weeds and pests are arguably the main contributors to a decline in biodiversity. Land development activities should not be singled out and penalised for a decline in biodiversity. In some circumstances restricting land use development may exacerbate a decline in biodiversity on the basis that a lower income derived from the farm operation will lead to less money spent on weed and pest control.	Delete objective 2 and replace with: <i>To maintain and enhance indigenous biodiversity and ecosystem functioning by protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna</i>
Objective 3	Oppose:	Delete objective 3 and

	It is submitted that there are other ways of achieving integration of protection of significant indigenous biodiversity values with development proposals. The Council needs to enable all types of integrated management - not only farm biodiversity plans.	replace with: <i>Enable land use activities that achieve integration of development with protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna</i>
Policy 1	Oppose: This policy is in conflict with policies 5 and 6 which provide for off-setting as a means to achieve protection of significant indigenous vegetation and habitats. It is not possible to “prevent development which reduces the value of these sites” and at the same time provide for a range of mechanisms to avoid, remedy, mitigate or off-set adverse effects on the value of these sites.	Delete from policy 1 the words: <i>“and to prevent development which reduces the values of these sites”</i> If the decision sought by the Wolds to include a new definition for significant indigenous vegetation a consequential change to this policy will be required – to refer to Appendix Z rather than the CRPS.
Policy 2	Oppose: The concept of sustainable management in s5 RMA requires adverse effects on the environment to be avoided, remedied or mitigated but not at the expense of enabling people and communities to provide for their social, economic and cultural wellbeing.	Delete policy 2 and replace with: <i>Enable land use activities that make efficient use of land and resources while avoiding, remedying, mitigating or offsetting adverse effects on water, soil, ecosystems and the natural character of the Mackenzie District</i>
Policy 3	Oppose:	Amend policy 3 as follows:

	<p>It is not only rural development that may contribute to a decline in indigenous biodiversity. Any development has the potential to affect indigenous biodiversity.</p> <p>The concept of no net loss must be assessed at a District wide scale rather than on a per property basis. No net loss of indigenous biodiversity values will be achieved if representative areas of significant vegetation and habitat are adequately protected within the District i.e. through QEII covenants, the Lake Tekapo Scenic Reserve and land returned to the Crown under tenure review. It is not necessary for every example of a particular indigenous species to be protected in order to achieve no net loss.</p>	<p><i>Rural Development, including indigenous vegetation clearance and pastoral intensification, occurs in a way or at a rate that provides for no net loss of indigenous biodiversity values in areas identified as significant <u>when assessed at a District wide scale</u></i></p>
<p>Policy 4</p>	<p>Oppose:</p> <p>The CRPS provides that any ecologically significant wetland will also be a habitat of significant indigenous fauna so vegetation clearance in relation to ecologically significant wetlands will be managed through other proposed provisions. This policy is not required.</p>	<p>Delete policy 4</p>
<p>Policy 5</p>	<p>Oppose:</p> <p>Achieving protection of significant indigenous vegetation and significant habitats of indigenous fauna (on land that is in private ownership) is entirely dependent on landowner support.</p> <p>Other mechanisms that may achieve protection also need to be listed.</p>	<p>Delete policy 5 and replace with:</p> <p><i>Recognise that the maintenance of indigenous biodiversity is dependent on landowner support and will be achieved through a number of mechanisms, including:</i></p> <ul style="list-style-type: none"> - <i>the listing of sites of significant indigenous vegetation and significant habitats of indigenous fauna;</i> - <i>the use of rules regulating clearance of indigenous vegetation;</i> - <i>legal protection by way of covenants; and</i> - <i>landowner commitment to</i>

		<p><i>conservation and stewardship of the natural environment, including though the use of farm biodiversity plans and other farm management plans developed by suitably qualified people</i></p>
<p>Policy 6</p>	<p>Oppose:</p> <p>An offset that provides for a net gain for biodiversity is unachievable in the Mackenzie Basin subzone. There is no ability to obtain the number of indigenous species required to re-establish or protect an area large enough in size to provide a net gain for biodiversity where the area proposed for development is large i.e. part of a rural Station.</p> <p>An off-set may be viewed as a tool to enable development which in turn may justify more restrictive provisions elsewhere in a District plan. This is not the case in the Mackenzie Basin subzone. The only properties likely to obtain any benefit from this policy are smaller lifestyle blocks.</p> <p>It is acknowledged that policy 6 is a direct replication of policy 9.3.6 of the CRPS however to enable a more user friendly MDP it is submitted that the criteria for offsetting would be more appropriately located outside of this policy and within a new appendix ZA.</p>	<p>Delete policy 6 and replace with:</p> <p><i>Allow for a biodiversity offset to be offered by a resource consent applicant where an activity will result in residual adverse effects on significant indigenous vegetation and habitats of significant indigenous fauna that cannot be otherwise avoided, remedied or mitigated</i></p> <p>Move the balance of policy 6 to new appendix ZA</p>
<p>Policy 8</p>	<p>Support with amendment:</p> <p>The decision sought improves readability of the MDP by combining the key matters addressed in policies 8 and 9 into one policy and clarifies that it will take time to achieve enhancement of indigenous biodiversity.</p>	<p>Delete policy 8 and replace with:</p> <p><i>To enable rural land use and development at an on-farm level where development is integrated with a farm biodiversity process that provides for:</i></p> <ul style="list-style-type: none"> - <i>comprehensive identification and protection of significant</i>

		<p><i>vegetation and significant habitats of indigenous fauna;</i></p> <ul style="list-style-type: none"> - <i>encourages sustainable management;</i> - <i>adapts to the changing needs of land use and indigenous biodiversity management; and</i> - <i>achieves maintenance, and over time, the enhancement of indigenous biodiversity</i>
Policy 9	<p>Oppose:</p> <p>There needs to be a true collaborative process between the Council and the landowner. It is inappropriate for the Council to transfer the costs associated with obtaining expert advice to identify significant indigenous biodiversity values at an on-farm level to the landowner – the costs should be shared in proportion to the benefit derived, public vs land owner.</p>	Delete policy 9.
New policy	<p>The MDP needs to provide for minor works undertaken as part of normal farming activities to occur to ensure that a landowner is permitted reasonable use of their interest in the land. The decision sought is in keeping with the concept of sustainable management and provides a firm direction in chapter 19 that indigenous biodiversity needs to co-exist with development - provided development proposals also protect areas of significant indigenous vegetation and habitats of significant indigenous fauna.</p>	<p>Add new policy</p> <p><i>To allow clearance of significant indigenous vegetation or habitats of indigenous fauna where such activities are necessary for:</i></p> <ul style="list-style-type: none"> - <i>The management of the site including the management of pests and the removal of diseased, damaged or dead plants;</i> - <i>To facilitate access for livestock, utility structures or farm vehicles past or through the site; and</i> - <i>Enable the reasonable use of land and the maintenance of</i>

		<i>existing infrastructure.</i>
Rule 19.1.1.1	<p>Oppose:</p> <p>It is critical that the MDP provide for some level of indigenous vegetation clearance to occur as a permitted activity however additional conditions are required to provide a greater level of clearance to occur without the need for the landowner to obtain resource consent and be subject to the costs and uncertainty of the consenting process.</p> <p>As well as providing for maintenance and repair of existing activities and farm infrastructure it is appropriate to also provide for replacement or minor upgrade.</p> <p>Provision needs to be made for vegetation clearance associated with new small scale farming activities that are integral to farm management to occur as permitted activities.</p> <p>Provision needs to be made for clearance of indigenous vegetation to occur within a farm base area (an area identified as appropriate for more intensive development) as a permitted activity.</p> <p>Provision needs to be made for clearance of indigenous vegetation to occur where the purpose is to facilitate exclusion of stock from waterways.</p> <p>For the avoidance of doubt it is submitted that maintenance of pastoral intensification and agricultural conversion activities should be explicitly provided for as a permitted activity.</p> <p>Condition 8 should be amended to align the setback provisions with the decision sought for rule 12.1.1.a.</p>	<p>The word “or” needs to be included after conditions 1 – 6 of rule 19.1.1.1. It is critical that one, not all, of the conditions need to be met for the activity to qualify as a permitted activity.</p> <p>Amend condition 1 of rule 19.1.1.1 as follows:</p> <p><i>The clearance is for the purpose of maintenance, repair, <u>replacement or minor upgrade</u> of existing fence lines, tracks, roads, <u>stock crossings,</u> firebreaks, drains, <u>ponds,</u> <u>dams,</u> stockyards, farm buildings, airstrips, water troughs, <u>waterlines,</u> <u>waterway crossings or any other utility</u></i></p> <p>Amend condition 8 of rule 19.1.1.1 so that the setback distances align with the decision sought for rule 12.1.1.a</p> <p>Add new condition 9 to rule 19.1.1.1 as follows:</p> <p><i>The clearance is associated with small scale farming activities including but not limited to new fence lines, tracks, roads, stock crossings, firebreaks, drains, ponds, dams, small</i></p>

		<p><i>farm buildings, water troughs, waterlines, waterway crossings, providing alternative stock water supply and any other utility.</i></p> <p>Add new condition 10 to rule 19.1.1.1 as follows:</p> <p><i>Clearance is within a farm base area contained in Appendix R</i></p> <p>Add new condition 11 to rule 19.1.1.1 as follows:</p> <p><i>Clearance is for the purpose of with excluding stock from a river, lake, wetland or other waterway</i></p> <p>Add new condition 12 to rule 19.1.1.1 as follows:</p> <p><i>For the avoidance of doubt, existing pastoral intensification and agricultural conversion activities may be maintained and this land is exempt from the indigenous vegetation clearance rules</i></p>
Rule 19.1.2.1	<p>Oppose :</p> <p>It is submitted that where a farm biodiversity plan is developed (at great expense to the landowner) that the land owner ought to receive the benefit of a less restrictive activity status for indigenous vegetation clearance that is in compliance with that plan. It should not be available to the Council to decline consent provided the farm biodiversity plan meets the</p>	<p>Change the activity status for clearance under rule 19.1.2.1 from restricted discretionary to controlled.</p> <p>Amend condition 3 of rule 19.1.2.1 so that the setback distances are consistent with the decision</p>

	<p>requirements set out in Appendix Y.</p> <p>Condition 3 should be amended so that the setback provisions are consistent with the decision sought for rule 12.1.1.a</p> <p>A new condition needs to be inserted to provide that an application processed under this rule may proceed on a non-notified basis. This may encourage landowners to buy in to the concept of farm biodiversity plans where development is proposed.</p>	<p>sought for rule 12.1.1.a</p> <p>Delete all matters of discretion and replace with the following matters of control:</p> <ul style="list-style-type: none"> - <i>The extent to which the nature, scale, intensity and location of the proposed activity will adversely affect indigenous biodiversity and the methods proposed in the farm biodiversity plan to avoid, remedy, mitigate or offset these effects;</i> - <i>The extent to which the methods proposed in the farm biodiversity plan will achieve overall maintenance and/or enhancement of indigenous biodiversity and the protection of significant indigenous vegetation and significant habitats of indigenous fauna;</i> - <i>The extent to which the methods, targets, monitoring and reporting proposed in the farm biodiversity plan are adequate to protect the biodiversity values identified; and</i> - <i>The benefits that the activity provides to the local community and beyond</i> <p>Add new condition 4 to rule 19.1.2.1 to provide that any application for resource consent under this rule will be processed on a non-notified basis.</p>
Rule 19.1.2.2	<p>Oppose:</p> <p>This rule needs to specifically provide for clearance to</p>	<p>Amend rule 19.1.2.2 as follows:</p>

	<p>occur as a restricted discretionary activity so that it is consistent with rule 19.2.1.</p> <p>The proposed 5000m² limit is only appropriate for small properties. Where large rural Stations are concerned, which comprise several thousand hectares, the limit should be 5000m² per 100 hectares.</p> <p>Condition 2 should be amended so that the setback provisions are consistent with the decision sought for rule 12.1.1.a</p>	<p><i>Unless provided for in rule 19.2.1 any indigenous vegetation clearance up to 5000m² <u>per 100 hectares</u> within any site in any 5 year continuous period <u>shall be a restricted discretionary activity</u> provided the following conditions are met:</i></p> <p>Amend condition 2 of rule 19.2.2 so that the setback distances are consistent with the decision sought for rule 12.1.1.a</p> <p>Delete all matters of discretion and replace with the following:</p> <ul style="list-style-type: none"> - <i>Whether the site meets the criteria for a significant area of indigenous vegetation or habitat of indigenous fauna in Appendix Z; and if so;</i> - <i>Whether the activity will result in significant effect on the significant values of the long-term viability of the site; and</i> - <i>Whether denying the activity will prevent the landowner making reasonable use of their interest in the land; and</i> - <i>The appropriateness of any indigenous biodiversity offsets or other mitigation measures proposed.</i>
Rule 19.1.3	As above the proposed 5000m ² limit is only appropriate for small properties. The limit should be 5000m ² per 100 hectares.	Amend rule 19.1.3.1 as follows: <i>Any indigenous vegetation</i>

	<p>Setback provisions should be consistent with the decision sought for rule 12.1.1.a.</p>	<p><i>clearance up to 5000m² per 100 hectares within any site in any 5 year continuous period.</i></p> <p>Amend condition 3 of rule 19.1.3.2 so that the setback distances are consistent with the decision sought for rule 12.1.1.a</p>
<p>Appendix Y</p>	<p>Support with amendment:</p> <p>Farm biodiversity plans are an effective and accurate way of identifying and protecting areas of significant indigenous vegetation and significant habitats of fauna and identifying where development is possible within a farm enterprise.</p> <p>In order to encourage landowner “buy-in” it is critical that the information to be included in these plans is not overly onerous and can be obtained in a straight forward manner and without putting the landowner to significant expense.</p> <p>In light of the costs associated with preparing a farm biodiversity plan (or other farm management plan), it is critical that these plans remain the property of the landowner at all stages – including where they may become a condition of resource consent. Farm biodiversity plans will contain commercially sensitive information and should be confidential between the landowner and the Council.</p> <p>It is not appropriate that the Council use farm biodiversity plans as a means to establish existing use rights on a property. Historic land management practices are only relevant where they relate to any area of proposed development.</p> <p>It is not appropriate for the Council to require the landowner to complete an assessment of effects as required at C (3) in a farm biodiversity plan. This information will be required with any application for</p>	<p>Insert new condition 4 under the heading ‘framework’ as follows:</p> <p><i>4. The content of a Farm Biodiversity Plan shall remain the property of the landowner at all times and the information contained within the Farm Biodiversity Plan shall be confidential between the landowner and the Council</i></p> <p>Amend section C(1) as follows:</p> <p><u>In relation to the development area(s)</u> <i>describe historic and current land use management which may include stocking policy, water supply, grazing regimes, improved pasture, biodiversity management where relevant</i></p> <p>Delete C (3).</p> <p>Amend section D as follows:</p>

	<p>resource consent.</p> <p>Other amendments as set out in the decision sought.</p>	<p>Having regard to the information in B above, The purpose of this section is to set out information on management methods to ensure the values <u>areas of significant vegetation and habitats of significant indigenous fauna</u> identified in the assessment at B are protected to ensure no net loss of indigenous biodiversity values in areas identified as significant</p> <p>Delete the word “objective” from D(1) and (3) and replace it with “goal”.</p> <p>Add the words “of significant indigenous vegetation and habitats of significant indigenous fauna” after the words “not net loss” in D(1).</p> <p>Delete the words “management to protect values” from D(1)(c).</p> <p>Amend D(3) as follows:</p> <p><i>Confirmation from an appropriately qualified and experienced ecologist that the proposed methods will likely achieve the objective goal.</i></p> <p>Delete E(2).</p>
<p>Add new appendix Z</p>		<p>Appendix Z to include criteria (relevant to the</p>

		Mackenzie District) for determining significant indigenous vegetation.
Add new appendix ZA		Include new appendix to contain the off-setting detail i.e. that which has been removed from Policy 6.

SUBMISSION ON PLAN CHANGE 18 TO MACKENZIE DISTRICT PLAN

TO: Mackenzie District Council (**Council**)
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DATE: 9 March 2018

INTRODUCTION

- 1 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 ecology and of its iconic landscape values. Experience shows the operative planning framework's approach is not working. Regulatory failure has allowed extensive vegetation clearance, pastoral intensification, and agricultural conversion¹ resulting in widespread degradation and loss of endangered, vulnerable, and rare ecosystems, and of outstanding natural landscape (**ONL**) values. Degradation and loss is accelerating.
- 2 This submission is made on Plan Change 18 to the Mackenzie District Plan (**PC18**) which introduces objectives and policies for indigenous biodiversity and indigenous vegetation clearance rules. PC18 is a crucial element in achieving the regulatory change urgently required.
- 3 This submission is structured as follows:
 - a. Summary
 - b. Mackenzie Basin
 - c. Legislative Framework

¹ To use the terms applied to different intensification activities by PC13:

Pastoral intensification: means subdivisional fencing and/or topdressing and oversowing.

Agricultural conversion: means direct drilling or cultivation (by ploughing, discing or otherwise) or irrigation.

d. Submission Table

SUMMARY

4 In summary, EDS submits that:

- a. The Mackenzie District is home to important indigenous biodiversity values which are nationally and internationally unique. Those values are fragile and currently under immense pressure from land use intensification. They are rapidly being lost. The Basin's biodiversity and landscape values are at a tipping point, exceedance of which will see it no longer qualify as outstanding under s6(b) RMA or significant under s6(c) RMA.
- b. A robust and stringent planning framework is required if loss and degradation of biodiversity, landscape, and natural character values is to be stopped. PC18's provisions are a key component of that framework.
- c. PC18 is a positive step away from the complexity and opaqueness of the operative District Plan. However, absent the changes sought in this submission EDS considers PC18 would:
 - Not promote the sustainable management of resources.
 - Not recognise and provide for protection and preservation of s6(a), (b), and (c) RMA values as a matter of national importance.
 - Not give effect to the Canterbury Regional Policy Statement, in particular Chapter 9.
 - Represent a failure by Council to fulfil its function under s31 RMA to maintain indigenous biological diversity.
 - Fail to achieve the designated purpose of a district plan.
 - Not warrant confirmation under s32 RMA.
 - Allow the generation of significant adverse effects on the environment.
- d. The key issues with PC18 are:
 - Failure to update mapped Sites of Natural Significance² (SONS). In the Mackenzie Basin, the entire remaining, undeveloped corridor (see **Attachment A**³) should be identified as a SONS.
 - Failure to address the overlap between s6(b) and (c) values. Clearance of vegetation can also have significant adverse effects on ONL values.

² Being those areas which qualify as significant under s6(c) RMA.

³ Attachment A shows the remaining corridor of indigenous biodiversity value as identified by ecologists before the Environment Court during the PC13 hearing.

- Failure to require avoidance of adverse effects on SONS and non-mapped s6(c) significant areas, in particular in the Mackenzie Basin. The Basin’s biodiversity values are extremely fragile. Many exist nowhere else and are on the verge of extinction. Avoidance of adverse effects is appropriate and necessary.
- Provision for permitted activities which would result in extensive clearance, including of non-mapped significant areas. In particular because of:
 - Failure to include a cap on permitted clearance under Rule 1.1.1.
 - The exemption included in the definition of “improved pasture”.
 - Failure to include sufficient parameters around clearance for the Waitaki Power Scheme.
 - Failure to include matters of discretion regarding protection of SONS and non-mapped significant areas, and protection of ONL values.

5 The specific relief sought is set out in table form below. EDS also seeks any alternative and/or consequential relief necessary to address the issues raised.

6 EDS wishes to be heard in support of its submission. It will consider bringing a joint case with others with the same interests.

THE MACKENZIE BASIN

7 EDS’s key area of interest is the Mackenzie Basin. The Basin’s landscape and biodiversity values are unique. It is valued because it is one of New Zealand’s environmental extremes: cold, high, and dry, with its sequence of landforms almost entirely derived from the glaciers and their melting. It still has extensive connected areas of dryland, wetland, and fresh water ecosystems found nowhere else and recognised as rare and threatened.

8 But in the past five years the Basin has been modified, largely as a result of farming intensification. It has changed from a unique, complex matrix of indigenous cushion and mat vegetation, shrub, and grasslands to an artificial, exotic, and alien monoculture. Once the Basin’s ecosystems, flora, and fauna are lost they are lost globally, forever.

9 It is EDS’s understanding that:⁴

- a. Across the Basin floor (both WDC and MDC jurisdictions) the area of indigenous vegetation and ecosystems directly lost to land use change between 1990 and 2017 exceeds approximately 68,000ha. That is 22.5% of the total Basin floor.⁵
- b. 22.5% greatly understates the percentage of the Basin that has experienced adverse ecological effects from land use change because many effects extend far beyond the

⁴ Statistics from Dr Susan Walker. Also provided in evidence on PC13 and Simons Pass preliminary tenure review proposal.

⁵ Which is approximately 301,000ha.

sites where ecosystems are directly lost (e.g. through fragmentation, loss of species population, fresh water effects).

- c. Half of the direct ecosystem loss (about 34,000ha) occurred between 2009 and present. It has accelerated in the last four to five years, with between 65%-85% of conversion occurring in the last three years.⁶ Recently issued but unimplemented consents threaten to further increase ecological loss.
- 10 In short, a tipping point, exceedance of which sees biodiversity and landscape values eradicated, is perilously close to being reached. In the part of the Basin under WDC jurisdiction (Omarama) the tipping point has already been surpassed. In the Canterbury Plains, analogous values have been long annihilated. As a result, the part of the Basin in Council jurisdiction is the last bastion for much of its biodiversity, geology, geomorphology, and associated iconic views. Landscape scale ecological and landscape connectivity and coherence persist. Loss in Canterbury and Waitaki renders what remains in Council jurisdiction of even greater importance.
- 11 The underlying cause of loss and degradation of biodiversity and landscape values is cross-institutional policy and regulatory failure resulting from:
- a. Bad decision-making on tenure review and discretionary consents on pastoral lease land which sets up an expectation of land development/intensification.
 - b. Regional council failure to consider terrestrial biodiversity and landscape effects when considering applications for water take and use consents.⁷
 - c. Opaque drafting creating ‘loopholes’ in the planning framework providing opportunity to avoid regulatory oversight.⁸
 - d. Incomplete definitions meaning some activities physically/practically resulting in vegetation clearance are not subject to regulatory oversight.⁹
 - e. Failure to review ‘interim rules’ facilitating manipulation of loopholes and definitional deficiencies.¹⁰
 - f. Lack of capacity to undertake compliance, monitoring, and enforcement action.¹¹

⁶ PC13 11th EC Decision at [92].

⁷ 12 regional consents for water take for irrigation were issued by Canterbury Regional Council between November 2015 and November 2016, totally approximately 13,000ha. On top of the area already developed (either by irrigation or dryland intensification) there is no doubt the Mackenzie Agreement would be meaningless if that area is irrigated.

⁸ In particular in Rules 7.12.1.1g and 7.12.1.1h. Subject to interim suspension by PC17. For specific details see: *Environmental Defence Society Inc v Mackenzie District Council* [2016] NZEnvC 253.

⁹ *Royal Forest & Bird Protection Society of NZ Inc v Waitaki District Council* [2012] NZHC 2096. In the part of the Basin in MDC jurisdiction this has now been remedied by the Court’s decisions on PC13 (see 11th EC Decision and 12th EC Decision).

¹⁰ Again, in particular in Rules 7.12.1.1g and 7.12.1.1h. Subject to interim suspension by PC17. For specific details see: *Environmental Defence Society Inc v Mackenzie District Council* [2016] NZEnvC 253.

¹¹ The 2014/2015 NMS data indicates MDC and no resource for these functions.

- 12 The operative planning framework is clearly not working. Change is urgently required. PC18 and the wider District Plan review provides Council with an opportunity to take a fresh, strategic, and innovative approach to managing the Basin. It should not let that opportunity pass.

LEGISLATIVE FRAMEWORK

Resource Management Act

- 13 The relevant provisions under the RMA are directive. Council through its District Plan must *inter alia*:
- a. Recognise and provide for the protection of ONLs. The Environment Court has confirmed the entire Mackenzie Basin is an ONL (s6(b) RMA).¹²
 - b. Recognise and provide for protection of significant indigenous vegetation and habitats of indigenous fauna (**significant areas**). The Environment Court has observed that the remaining area ecological connectivity in the Mackenzie Basin is significant (s6(c) RMA).¹³
 - c. Control the effects of the use, development, or protection of land for the purpose of the maintenance of biological diversity.
 - d. Give effect to the Canterbury Regional Policy Statement (**RPS**).

Regional Policy Statement

- 14 The key section of the RPS is Section 9 Indigenous biological diversity. PC18 must give effect to the provisions in Section 9 RPS and other relevant RPS sections¹⁴. Key elements of Section 9 are:
- a. Ongoing loss and degradation of ecosystems and indigenous biodiversity and difficulties with identification of significant areas are identified as significant regional resource management issues (Issues 9.1.1 and 9.1.2). Lowland and montane environments are identified as having experienced the greatest loss and, as a consequence, remaining indigenous biodiversity in those environments as “having a correspondingly higher significance and is in greatest need of protection...” (Explanation, Issue 9.1.2).
 - b. Dual objectives of halting biodiversity decline and restoring and enhancing ecosystems and biodiversity (Objectives 9.2.1 and 9.2.1).
 - c. Objective 9.2.3 is the protection of significant indigenous vegetation and habitats. This is achieved through identifying significant areas and then ensuring their protection to ensure no net loss of indigenous biodiversity values from land use (Policy 9.3.1). District

¹² PC13 1st EC Decision.

¹³ PC13 11th EC Decision.

¹⁴ In particular Sections 7, 10, 12 as identified in the introduction to Section 9.

plans must include provisions to provide for identification and protection of significant areas (method 3, Policy 9.3.1). This must include rules which trigger case-by-case assessment of indigenous vegetation clearance to allow for identification of significance areas (method 4, Policy 9.3.1).

- d. Policy 9.3.2 sets out priorities for protection to which district plans must give effect. These include land environments where less than 20% of original indigenous vegetation cover remains, wetlands, originally rare ecosystem types, and habitats of threatened or at risk species. All of these priority areas are found across large tracts of the Mackenzie Basin, in particular in the remaining area of ecological and landscape connectivity.
- e. Policy 9.3.3 requires adoption of an integrated approach *inter alia* across catchments where connectivity is an issue for sustaining habitats and ecosystem function. The Mackenzie Basin is one of those areas. Policy 9.3.4 is complementary, promoting enhancement and restoration to improve functioning and long term sustainability. The need for action to restore fragmented, degraded, or scarce natural habitats to restore ecosystem functioning is a key driver for those policies (explanation, Policy 9.3.4).
- f. A key anticipated environmental result is that the “overall functioning and intrinsic value of Canterbury’s existing ecosystems and indigenous biodiversity are protected from adverse effects of land use and development”.

SUBMISSION TABLE

Provision	Relief	Reasons
Gaps		
Failure to identify all SONS.	Mapping of all SONS, including mapping of the Mackenzie Basin’s remaining contiguous/connected area of biodiversity (and geomorphological and landscape) value as a SONS.	Identification of the Mackenzie Basin’s remaining area of connectivity of biodiversity values as a SONS is consistent with the Environment Court’s finding that where the Basin has not been subject to pastoral intensification/agricultural conversion, is a SONS for s6(c) RMA ^{15 16} purposes and an ONL for s6(b) RMA purposes ¹⁷ . Ecologists in PC13 identified at a basic level where contiguity and connectivity remains at request of the Court. ¹⁸ Spatial mapping has many positives. It is

¹⁵ PC13 11th EC Decision.

¹⁶ It is not clear from the Consultation Documents the extent and location of the 8 additional SONS it has identified as part of preparing for the Review.

¹⁷ PC13 1st EC Decision.

¹⁸ Attachment B to EDS’s feedback of 20 September 2017 on the vegetation clearance rule consultation documents.

		clear and simple for plan users, plan regulators, and the public. It allows easy delineation between different areas and application of targeted rules to each. It reduces complexity of monitoring as outcomes on the ground can be cross-checked against those expected and visually represented under the spatial plan. This assists with management of cumulative effects. It also removes issues over Council inability to access properties to undertake SONS assessments. ¹⁹ It aligns with the Mackenzie Agreement shared vision of a drylands park to which stakeholders with a multiplicity of perspectives are signatory. It also gives effect to the RPS which requires identification and protection of SONS ²⁰ , and identifies fragmentation of ecosystems as a key contributor to ecosystem loss, and achieving connectivity as a key restoration objective. ²¹
Failure to take an integrated approach to protecting ONL and ecological/biodiversity values.	Insert a new policy recognising the overlap between ONL and biodiversity values. Amend the assessment criteria and Appendix Y to provide for consideration of landscape effects as set out below.	Landscape value and ecological and biodiversity values are intimately interlinked (see for example RPS landscape criteria). In the context of the Mackenzie Basin this has been acknowledged by the Environment Court. For Council to fulfil its obligations under s6(b) RMA and under the District Plan's landscape objectives and policies (introduced by PC13) it is necessary for this overlap to be recognised in Section 9 RPS and discretion reserved to consider adverse effects on landscape values.
Failure to address relationship with Section 16 District Plan.	Insert policy direction that Section 9 and associated vegetation clearance rules apply to all activities and other parts of the plan, including Section 16.	Broad, poorly drafted exemptions in Section 16 have been relied on to allow for large-scale permitted clearance resulting in loss of s6(c) and (b) RMA values. This is not acceptable. Robust regulatory oversight is required to ensure those values are protected.
Definitions		

¹⁹ An issue specifically identified by the Consultation Documents, and which has also arisen in context of PC13 and PC17.

²⁰ Objective 9.2.3, Policy 9.3.1 RPS.

²¹ Objective 9.2.2 including principal reasons and explanation, Policy 9.3.4 RPS.

Improved pasture	Delete proposed definition.	<p>PC18's proposed definition is uncertain, relies upon ambiguous concepts, and is therefore unsuitable as a permitted standard. Subparagraph (b) creates a factual fiction where areas which are in fact predominately indigenous will be treated as if they are not and vegetation clearance will be permitted. Lack of clarity around key terms used in the definition means its ambit is potentially wide. For example, as drafted the definition would allow clearance of 14 year old indigenous vegetation over 100% of a farming enterprise not mapped as a SONS if it had been subject to a single clearance action (e.g. cutting, spraying, burning) 14 years ago.</p> <p>Key terms that contribute to the loop-hole include:</p> <ul style="list-style-type: none"> - What qualifies as "modification and enhancement"? This is relevant to subparagraphs (a) and (b). In context of (b) failure to define means that a single round of spraying 14 years ago would trigger the exemption in (b). - When is the "previous 15 year" period to be calculated from? This is the exact drafting error that lead to the loop-hole in the operative rules. - Is the 15 year period appropriate? EDS's expert advice is that it is not. Indigenous vegetation with significant values will persist in many areas where there have been one or a number of 'improvement' interventions in a 15 year period. - When are exotic pasture species "deliberately introduced"? - When do exotic pasture species "dominate in cover"? <p>When paired with the proposed permitted rule for vegetation clearance for "improved pasture" this definition would facilitate wide-spread clearance across the Mackenzie Basin in areas with s6(c) significant values. This would have corresponding adverse effects on s6(b) values.</p>
Indigenous vegetation	Delete proposed definition	The proposed definition is not clear and uses terms which themselves need defining.

	<p>and replace with:</p> <p>Any plant community, which supports plant species naturally originating in New Zealand and their associated ecosystems, including where exotic species (species not naturally occurring in New Zealand) form part of that ecosystem (including tussock grasslands).</p>	<p>Recognition of overlap between exotic and indigenous vegetation is positive, however clarity is required as to the relationship between those two groups.</p> <p>EDS is not opposed to providing for clearance of indigenous vegetation in some situations e.g. if planted for harvest. However, the definition is not the appropriate place to exclude certain vegetation. If the vegetation concerned is indigenous it is indigenous. The correct place to provide for such clearance is through a rule.</p>
<p>New definition: Maintenance</p>	<p>Insert new definition:</p> <p>In relation to indigenous biodiversity “maintenance” means to enable indigenous biodiversity to continue by achieving “no net loss”.</p>	<p>Maintenance of biodiversity is a key outcome sought by PC18. It is important it is defined. Maintenance is not defined by the RMA or the RPS. The definition proposed relies on the common dictionary definition of maintenance and incorporates the concept of no net lost consistent with the approach taken by PC18.</p>
<p>New definition: No net loss</p>	<p>Insert new definition:</p> <p>In relation to indigenous biodiversity, “no net loss” means no reasonably measurable overall reduction in:</p> <p>a)the diversity of indigenous species or recognised taxonomic units; and b)indigenous species’ population sizes (taking into account natural fluctuations) and long term viability; and c)the natural range inhabited by indigenous species; and d)the range and ecological health and functioning of assemblages of indigenous species, community types and ecosystems</p>	<p>No net loss is a key outcome sought by PC18. It is important it is defined. The proposed definition is that used by the RPS. Repetition of the definition in the District Plan is efficient and assists with ease of understanding.</p>
<p>New definition:</p>	<p>Insert a new definition of</p>	<p>Addressed below under Policy 6.</p>

Biodiversity offsetting	<p>biodiversity offsetting.</p> <p>Definitions and analysis addressed below under Policy 6.</p>	
Site of Natural Significance (or SONS)	<p>Insert new definition:</p> <p>SONS means significant sites of indigenous vegetation and fauna habitat identified in the District Plan maps. Not all sites qualifying as significant under s6(c) RMA and Policy 9.3.1 RPS in the District have been mapped. Other sites will be identified on a case-by-case basis.</p>	<p>SONS' are an important concept under PC18 and the District Plan. It is important the term is defined. The Environment Court has found and Council has acknowledged not all significant areas have been mapped as SONS under the District Plan. Non-mapped sites must also be protected in order for Council to fulfil its obligations under s6(c) RMA and Section 9 RPS. As a result the definition of SONS should acknowledge that mapped SONS are not exhaustive, consistent with the approach in PC18 to identify further SONS via a case-by-case process.</p>
Objectives		
Objective 1	<p>Amend as follows:</p> <p>To safeguard indigenous biodiversity and ecosystem functioning through:</p> <ul style="list-style-type: none"> a. the protection and enhancement of significant indigenous vegetation and habitats, riparian margins; and b. the maintenance of <u>indigenous biological diversity.</u> natural biological and physical processes. 	<p>The objective is opposed in part. The two limbs align with the Council's obligations under s6 and s31 RMA. Amendments are proposed to make the Objective's two limbs more clear. As proposed it is not clear what the second limb is trying to achieve, in particular because the terms natural biological and physical processes are not clear or defined. The proposed amendment simplifies the Objective and is supported by a new definition of maintenance which focuses on flora, fauna, and processes.</p>
Objective 2		Support.
Objective 3	Amend Objective 3 as follows:	Oppose in part. Objective 3 only refers to the use of FBPs to protect significant areas. FBPs apply to an entire farming enterprise.

	<p>To support/encourage the integration of land development proposals with comprehensive identification, and protection and/or enhancement of values associated with significant indigenous biodiversity, <u>and maintenance of indigenous biodiversity outside significant areas</u>, through providing for comprehensive Farm Biodiversity Plans and enabling development that is in accordance with those plans.</p>	<p>That enterprise will include areas which qualify as significant under s6(c) and areas which do not. Non-significant areas cannot be ignored if biodiversity is to be maintained. In addition, enabling of development in accordance with FBPs is only acceptable if those FBPs are robust and ensures biodiversity values are appropriately addressed. Changes are sought to the relevant rules and FBP requirements to achieve that outcome.</p>
<p>Policies</p>		
<p>Policy 1</p>	<p>Amend as follows:</p> <p>Delete the words “in the District Plan”.</p> <p>Insert a new map identifying the remaining area of biodiversity/ecological connectivity in the Mackenzie Basin as a SONS.</p>	<p>Oppose in part because:</p> <ul style="list-style-type: none"> - The District Plan does not identify all SONS. PC18 sets up a planning framework where non-mapped significant sites are identified and protected on a case-by-case basis consistent with the RPS (method 3, Policy 9.3.1). As a result, Policy 1 should not be solely focused on identification of significant areas in the District Plan. - Ecologists in PC13 identified at a basic level where biodiversity/ecological contiguity and connectivity remains in the Basin at request of the Court and that that area qualified as significant under s6(c) RMA (i.e. as a SONS). Currently PC18 and the District Plan only identify small pockets of SONS across the Basin. As a result, the more stringent rules framework applying to SONS in order to ensure protection of significant values only applies to a small portion of the Basin. In fact the values present across much of the Basin are deserving of that level

		of protection.
Policy 2	<p>Delete proposed policy and replace with:</p> <p>Policy 2A</p> <p>Avoid adverse effects on significant indigenous vegetation and habitat, riparian areas, and linkages between these areas.</p> <p>Policy 2B</p> <p>Avoid, remedy, or mitigate adverse effects on indigenous biological diversity outside of significant areas.</p>	<p>Policy 2 is opposed because:</p> <ul style="list-style-type: none"> - The Mackenzie Basin is in a state of crisis. Its biodiversity/ecological values are being lost at a rapid pace and with those s6(a) and (b) natural character and landscape values. It is at a tipping point beyond which its significant and outstanding values will not survive. Robust and stringent effects management is required if this trend of loss is to be halted and reversed. Avoidance of adverse effects on significant areas is required. - Outside of significant areas a more flexible effects management framework is acceptable. - The terms used in the proposed policy are not clear, and it is not clear how they fit with requirements under the RPS and ss6 and 31 RMA.
Policy 3	<p>Amend as follows:</p> <p>Delete the words at the end of Policy 3 “in areas identified as significant.”</p>	<p>Policy 3 is opposed in part. The goal of no net loss applies to maintenance of indigenous biodiversity across the District, not significant sites. Protection of significant sites is a key tool to achieving no net loss. Significant sites are not areas where the ‘unders and overs’ approach that can be connected with the no net loss concept applies. This interpretation gives effect to Policy 9.3.1(3) RPS which requires identified significant areas to be protected “to ensure no net loss of indigenous biodiversity” generally.</p>
Policy 4	<p>Amend as follows:</p> <p>To ensure that land use activities including indigenous vegetation clearance and pastoral intensification <u>and agricultural conversion</u> do not adversely affect any</p>	<p>Policy 4 is opposed in part. Changes are made to:</p> <ul style="list-style-type: none"> - Include reference to agricultural conversion which was introduced by PC13 and captures activities different to pastoral intensification with equal potential to have adverse effects.

	<p>ecologically significant <u>the significant values of</u> wetlands.</p> <p>Policy direction on the significant values of the District's different wetland types should also be included.</p>	<ul style="list-style-type: none"> - Give effect to the NPSFM which requires protection of the significant values of all wetlands.
Policy 5	<p>Delete proposed policy and replace with:</p> <p>Policy 5</p> <p>To consider a range of mechanisms for securing protection if consent is granted including:</p> <ol style="list-style-type: none"> Consent conditions. Joint management agreements. Covenants. 	<p>Direction in Policy 5 as to how protection can be secured is supported. Outside of that Policy 5 is opposed because:</p> <ul style="list-style-type: none"> - As noted above, the fragility of the District's remaining significant areas, in particular in the Mackenzie Basin, demand an avoidance approach. - Offsetting is a process by which residual adverse effects on one area is allowed on basis they will be counterbalanced by a gain in another. This does not achieve "protection" which requires the resource affected to be "kept safe from harm, injury, or damage"²².
Policy 6	<p>Delete proposed policy and replace with:</p> <p>Policy 6</p> <p>To consider use of biodiversity offsetting to address residual adverse effects on indigenous biological diversity outside of areas of significant indigenous vegetation and habitats where effects cannot be avoided, remedied or mitigated.</p> <p>Insert new definition of biodiversity offsetting which includes all BBOP principles (Attachment B).</p>	<p>The Policy is opposed in part. Ability to consider use of biodiversity offsetting in accepted at a conceptual level however:</p> <ul style="list-style-type: none"> - It should not apply to significant areas for the reasons outline above. In the Mackenzie context avoidance is required. - Biodiversity offsetting is a specific tool, subject to criteria agreed by ecological experts internationally. Those criteria should apply. Many of the criteria are proposed to apply, some are not. A definition of biodiversity offsetting is proposed which aligns with international best practice. That definition builds on and complements the RPS criteria.

²² *Royal Forest & Bird Protection Society Inc v New Plymouth District Council* [2015] NZEnvC 219.

Policy 7	<p>Delete proposed policy and replace with:</p> <p>Policy 7</p> <p>To recognise that the location of renewable energy generation structures and activities can overlap with indigenous biological diversity values.</p>	<p>Recognition of overlap between energy generation activities and existence of indigenous biological diversity is accepted in principle. However, as worded Policy 7 is not appropriate for inclusion in a district plan chapter focused on indigenous biological diversity. It is solely focused on recognising the values of renewable energy generation. That is addressed in other parts of the District Plan.</p>
Policies 8 & 9	<p>Amend as follows:</p> <p>Policy 8 To enable rural land use and development at an on-farm level, where that development is integrated with comprehensive identification, sustainable management, and long-term protection of values associated with significant indigenous vegetation and significant habitats of indigenous fauna, <u>and maintenance of indigenous biological diversity</u>, through a Farm Biodiversity Plan process.</p>	<p>Policies 8 and 9 are opposed in part. Currently both focus only on significant biodiversity. However management of indigenous biological diversity outside significant sites is also required to ensure maintenance is achieved. Protection of significant sites is an important element of overall maintenance, but only one element. This is reflected in Appendix C and the FBP requirements themselves.</p>
Rules		
Rule 1.1.1 Permitted activities	<p>Amend as follows:</p> <ul style="list-style-type: none"> - All permitted clearance should be subject to a maximum clearance cap or alternative, specific parameters around clearance. - Delete Rule 1.1.1.6. 	<p>Provision for some permitted clearance is accepted at a conceptual level however:</p> <ul style="list-style-type: none"> - All permitted clearance should be subject to a maximum clearance cap. Permitted clearance for permitted purposes can be extensive (e.g. farm tracks). A cap and/or specific parameters to control extent of clearance is particularly important to ensure cumulative effects are addressed. It is also imperative given that not all SONS have been identified in

		<p>PC18 or the District Plan. This means that the rules framework must be set to ensure regulatory oversight at the point where protection of significant ecological values may be compromised. This is particularly important in the Mackenzie Basin.</p> <ul style="list-style-type: none"> - When paired with the proposed definition of “improved pasture” Rule 1.1.1.6 provides for extensive clearance across the whole of the Mackenzie Basin as a permitted activity. This is strongly opposed on basis of the significance of the Basin’s ecological value, the need to protect those values, and the fact that not all SONS in the Basin have been identified. The complexity, diversity, fragility of the Basin’s ecological values means regulatory oversight of what is potentially large-scale clearance is appropriate. - Rules 1.1.1.7 and 1.1.1.8 are supported. SONS and the identified waterbodies represented some of the District’s highest value environments. Stringent and robust protection is appropriate.
<p>Rule 1.2.1 Restricted discretionary activities (FBP)</p>	<p>Amend as follows:</p> <ul style="list-style-type: none"> - New matter 1(b) <p>Adequately identifies biodiversity values including:</p> <ol style="list-style-type: none"> a. SONS b. Other areas of significant indigenous vegetation or habitat of indigenous species using the criteria provided in Appendix 3 of the CRPS. c. Biodiversity values outside (a) and (b) areas in particular those important for 	<p>Provision for clearance subject to a FBP is support at a conceptual level, however:</p> <ul style="list-style-type: none"> - The FBP requirements need work. This is addressed below. - Re matter of discretion 1: <ol style="list-style-type: none"> (a) Reliance on achievement of the purposes in Appendix Y is only acceptable if those are consistent with Section 9’s Objectives and Policies and Council’s obligations under ss6 and 31 RMA. This is addressed below. (b) The District Plan needs to be clear how it addresses mapped SONS and areas that are significant but have not yet been mapped. Matter 1(b) needs to be clear that reliance on mapped SONS is inadequate

	<p>ecosystem connective, function, diversity, and integrity.</p> <ul style="list-style-type: none"> - New matter 1 <p>Make identification of threats on the values identified under matter 1(b) a new, stand-alone matter of discretion.</p> <ul style="list-style-type: none"> - Matters 1(c) and (d) <p>Delete the word adequate.</p> <ul style="list-style-type: none"> - New matter 1 <p>Includes methods that will maintain indigenous biodiversity outside significant areas, including effects on the wider ecosystem from the proposed clearance and how this may impact connectivity, function, diversity and integrity.</p> <ul style="list-style-type: none"> - New matter 1 <p>Includes methods that will protect outstanding natural landscape values resulting from links between between the vegetation proposed to be cleared and the visual or landscape values which are underpinned by the ecology present, including with reference to Appendices X & W.</p> <ul style="list-style-type: none"> - Matter 2(a) <p>Delete "identified as significant".</p> <ul style="list-style-type: none"> - Matter 2(d) 	<p>and that a significance assessment of remaining areas on the property is required. Matter 1(b) addresses two matters – identification and threats. These should be split to ensure clarity.</p> <ul style="list-style-type: none"> (c) Matters 1(c) and (d) both refer to "adequate" protection. The word adequate is redundant. Protection is either achieved or it is not. (d) The matters under Part 1 do not address biodiversity outside of significant areas. This is necessary for Council to be confident it is fulfilling its s31 functions. Protection of significant areas is only one part of that requirement. <ul style="list-style-type: none"> - Re matter of discretion 2: <ul style="list-style-type: none"> (a) The no net loss test should not be applied to significant areas. The 'unders and overs approach' no net loss implies is not appropriate where the objective is to protect. In the Basin, the fragility of the remaining values demands an avoidance approach to protection. (b) Matter 2(d) is not clear. The issue is not one of 'potential' to address effects but adequacy of proposed measures to address effects. Further, in respect of significant areas, in particular in the Mackenzie Basin, the fragility of the remaining values demands an avoidance approach to protection. (c) Matter 2(g) is not an issue of compliance with a FBP. (d) A new matter of discretion is required to ensure consideration of the link between biodiversity values and landscape values.
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	<p>Delete and replace with: Includes methods that will protect significant indigenous vegetation and significant habitats of indigenous fauna.</p> <ul style="list-style-type: none"> - Matter 2(g) <p>Delete.</p>	
<p>Rule 1.2.2 Restricted discretionary activities</p>	<p>Amend as follows:</p> <ul style="list-style-type: none"> - New matter <p>Adequately identifies biodiversity values including:</p> <ol style="list-style-type: none"> a. SONS b. Other areas of significant indigenous vegetation or habitat of indigenous species using the criteria provided in Appendix 3 of the CRPS. c. Biodiversity values outside (a) and (b) areas in particular those important for ecosystem connective, function, diversity, and integrity. <ul style="list-style-type: none"> - New matter <p>Includes methods to protect significant indigenous vegetation and significant habitats of indigenous fauna.</p> <ul style="list-style-type: none"> - New matter <p>Includes methods that will</p>	<p>Provisions for some clearance as a restricted discretionary activity without a FMP is acceptable in principle, however:</p> <ul style="list-style-type: none"> - The cap proposed is high. It is only appropriate if the additional matters of discretion are sought. - In significant areas, in particular in the Mackenzie Basin, the fragility of the remaining values demands an avoidance approach to protection. It is important Council clearly reserves its discretion on that point. Simply considering the “impacts” of a proposal (matter 1) does not extend to addressing those impacts. - In respect of areas that are not significant remediation should be considered by Council as a tool available to address effects (matter 3) - Monitoring of effects is equally as important in respect of general clearance as clearance under an FMP.

	<p>maintain indigenous biodiversity outside significant areas, including effects on the wider ecosystem from the proposed clearance and how this may impact connectivity, function, diversity and integrity.</p> <ul style="list-style-type: none"> - New matter <p>Includes methods to protect outstanding natural landscape values resulting from links between the vegetation proposed to be cleared and the visual or landscape values which are underpinned by the ecology present, including by reference to Appendices X & W.</p> <ul style="list-style-type: none"> - Matter 3 <p>Insert “remediation” before “mitigation”.</p> <ul style="list-style-type: none"> - New matter <p>The adequacy of proposed monitoring and reporting.</p>	
Rule 1.3 Non-complying activities.	Retain.	Rules 1.3.1 and 1.3.2 are supported. Stringent control and regulatory oversight are appropriate in respect of the listed environments.
Section 2 Waitaki Scheme	<p>Insert controls on the extent of permitted clearance for example:</p> <ul style="list-style-type: none"> - No permitted clearance in SONS. - Parameters around permitted clearance elsewhere. 	<p>Bespoke provision for clearance for the Waitaki Power Scheme is accepted in principle, however:</p> <ul style="list-style-type: none"> - Because of the definitions proposed (e.g. core sites) the potential extent and location of permitted clearance provided for is unacceptable. Clearance of mapped SONS or unmapped significant areas could

	<p>Insert new matters of discretion:</p> <p>Adequately identifies biodiversity values including:</p> <ul style="list-style-type: none"> d. SONS e. Other areas of significant indigenous vegetation or habitat of indigenous species using the criteria provided in Appendix 3 of the CRPS. f. Biodiversity values outside (a) and (b) areas in particular those important for ecosystem connective, function, diversity, and integrity. <p>Includes methods to protect significant indigenous vegetation and significant habitats of indigenous fauna.</p> <p>The adequacy of proposed monitoring and reporting.</p> <p>Includes methods to protect outstanding natural landscape values resulting from links between the vegetation proposed to be cleared and the visual or landscape values which are underpinned by the ecology present, including by reference to Appendices X & W.</p>	<p>occur. This clearance could have a significant adverse effect on retention of the remaining area of landscape and ecological connectivity in the Basin and persistence of ecological values. The environment does not care for what purpose clearance is occurring. Additional controls are required.</p> <ul style="list-style-type: none"> - The restricted discretionary criteria do not address significant areas and do not reserve Council discretion to consider and require avoidance of adverse effects on those areas. As noted above, the fragility of the Basin’s ecological values justify and avoidance approach. - Monitoring of effects is equally as important in respect of clearance for the Waitaki Power Scheme as for clearance under an FBP. - The matters of discretion do not address overlap between biodiversity values and landscape values.
Appendix Y	Amendments to address the issues identified.	<p>An approach to controlling vegetation clearance which promotes use of a FBP is supported in principle. However:</p> <ul style="list-style-type: none"> - The District Plan needs to make

		<p>clear that FBP's form part of a consent and ensure that required actions and review are included as conditions of consent.</p> <ul style="list-style-type: none"> - Section A: <ul style="list-style-type: none"> (a) Fails to require identification of all areas with s6(c) values not identified as SONS (matter f is insufficiently specific). (b) Fails to require identification of Farm Based Areas. (c) Should require identification of the different areas subject to different management regimes e.g. lawful oversowing and topdressing vs. lawful irrigation (matter g is insufficiently specific). (d) Fails to require identification of ONL values. - Section B: <ul style="list-style-type: none"> (a) The chapeau fails to identify protection of significant areas as a goal to be achieved. This is inconsistent with the RMA, RPS, and proposed objectives & policies. (b) Fails to require identification of the values associated with mapped SONS. This is required for clarity. (c) Fails to require identification of recommend outcomes to achieve protection of significant areas. (d) Matter 3(a) should relate to biodiversity generally, not significant areas. (e) Fails to require identification of and the link between ecological and biodiversity values and ONL values. - Section C: <ul style="list-style-type: none"> (a) The chapeau does not capture significant areas identified as a result of the process in Section A and B. It should. Mapped SONS are incomplete and do not include large areas where significant values are acknowledged to exist.
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		<p>Protection of those values is required whether they are identified in the District Plan maps or via a site specific assessment. Matter 3 also fails to clearly distinguish between and require assessment of effects on significant areas identified under Sections A & B.</p> <ul style="list-style-type: none"> (b) Fails to require identification of effects on ONL values. (c) Fails to clearly require identification of effects on non-mapped significant sites and indigenous biological more generally. <ul style="list-style-type: none"> - Section D: <ul style="list-style-type: none"> (a) The chapeau should also require decision-makers to have regard to Section C as well as Section B. Otherwise decision-makers are only directed to consider the values in assessing adequacy of management methods and not the specific activity to which those methods apply. (b) Matter 1 only refers to “no net loss”. Further direction is required to tie that to an outcome. The description should explain how “no net loss” of indigenous biodiversity will be met and how protection of significant areas will be achieved. (c) Matters 2 and 3 (in particular the requirement to include defined measureable targets) are supported. This ensures a clear, monitored trajectory of improvement with ability to change or stop an activity if that trajectory is unsatisfactory. (d) Fails to require identification measures to ensure protection of ONL values. - Section E: <ul style="list-style-type: none"> (a) Care needs to be taken to ensure that elements which should be included in consent
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		conditions are not included in a FBP. Requirements for review are one of those elements. There may be a role for review in a FBP but this should also be addressed in conditions of consent.
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BBOP¹ Principles on Biodiversity Offsets

Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development² after appropriate prevention and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground with respect to species composition, habitat structure, ecosystem function and people's use and cultural values associated with biodiversity.

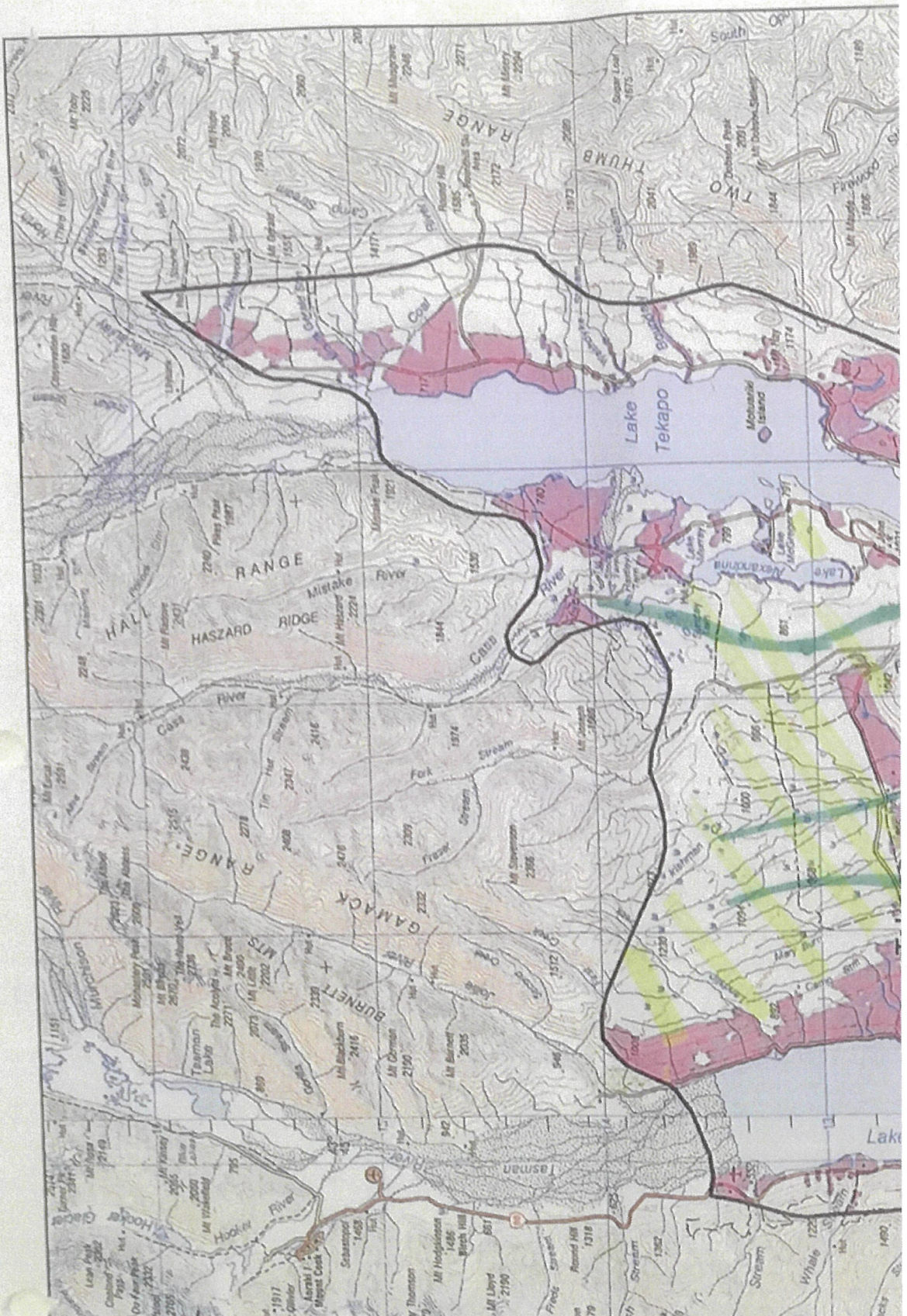
These principles establish a framework for designing and implementing biodiversity offsets and verifying their success. Biodiversity offsets should be designed to comply with all relevant national and international law, and planned and implemented in accordance with the Convention on Biological Diversity and its ecosystem approach, as articulated in National Biodiversity Strategies and Action Plans.

1. **Adherence to the mitigation hierarchy:** A biodiversity offset is a commitment to compensate for significant residual adverse impacts on biodiversity identified after appropriate avoidance, minimization and on-site rehabilitation measures have been taken according to the mitigation hierarchy.
2. **Limits to what can be offset:** There are situations where residual impacts cannot be fully compensated for by a biodiversity offset because of the irreplaceability or vulnerability of the biodiversity affected.
3. **Landscape Context:** A biodiversity offset should be designed and implemented in a landscape context to achieve the expected measurable conservation outcomes taking into account available information on the full range of biological, social and cultural values of biodiversity and supporting an ecosystem approach.
4. **No net loss:** A biodiversity offset should be designed and implemented to achieve *in situ*, measurable conservation outcomes that can reasonably be expected to result in no net loss and preferably a net gain of biodiversity.
5. **Additional conservation outcomes:** A biodiversity offset should achieve conservation outcomes above and beyond results that would have occurred if the offset had not taken place. Offset design and implementation should avoid displacing activities harmful to biodiversity to other locations.
6. **Stakeholder participation:** In areas affected by the project and by the biodiversity offset, the effective participation of stakeholders should be ensured in decision-making about biodiversity offsets, including their evaluation, selection, design, implementation and monitoring.
7. **Equity:** A biodiversity offset should be designed and implemented in an equitable manner, which means the sharing among stakeholders of the rights and responsibilities, risks and rewards associated with a project and offset in a fair and balanced way, respecting legal and customary arrangements. Special consideration should be given to respecting both internationally and nationally recognised rights of indigenous peoples and local communities.
8. **Long-term outcomes:** The design and implementation of a biodiversity offset should be based on an adaptive management approach, incorporating monitoring and evaluation, with the objective of securing outcomes that last at least as long as the project's impacts and preferably in perpetuity.
9. **Transparency:** The design and implementation of a biodiversity offset, and communication of its results to the public, should be undertaken in a transparent and timely manner.
10. **Science and traditional knowledge:** The design and implementation of a biodiversity offset should be a documented process informed by sound science, including an appropriate consideration of traditional knowledge.

¹ To learn more about the Business and Biodiversity Offsets Programme (BBOP), see: <http://bbop.forest-trends.org/>

² While biodiversity offsets are defined here in terms of specific development projects (such as a road or a mine), they could also be used to compensate for the broader effects of programmes and plans.

EXHIBIT 14'S



ATTACHMENT 4

Plan Change 18 – Public Notification of Decision

At its meeting on 22 June 2021 Mackenzie District Council resolved to adopt the Commissioner's recommendations in respect of Plan Change 18 to the Mackenzie District Plan. Plan Change 18 addresses the management of Indigenous Biodiversity within the Mackenzie District.

The Mackenzie District Plan is amended in accordance with this decision.

A copy of the decision and all relevant documentation can be found at mackenzie.govt.nz.

Anyone who made a submission on Plan Change 18 may appeal to the Environment Court against the Council's decision. Appeals must be in the prescribed form and reach Council within 30 days of this notice. Attention is drawn to Clause 14 of Schedule 1 of the Resource Management Act 1991.

A copy of any appeals must also be served on the Mackenzie District Council.

This notice is given in accordance with Clause 10 of Schedule 1 of the Resource Management Act 1991.

**IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of
Proposed Plan Change 18 to the Mackenzie District Plan**

**REPORT AND RECOMMENDATIONS
OF THE
HEARING COMMISSIONERS**

12 April 2021

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Appendix A: Recommendations on submissions

Appendix B: Amended provisions

Appendix C: Tracked changes version of PC18 as notified

List of Submitters and Abbreviations

Submitter Number	Further submission?	Full Submitter Name	Abbreviation
1	Y	Federated Farmers of New Zealand	FFNZ
2		Maryburn Station	
3	Y	Simons Pass Station Limited	SPSL
4		Carol Linda Burke	C Burke
5		Colin John Morris	C Morris
6	Y	Mackenzie Guardians Inc	
7		Central South Island Fish & Game Council	Fish & Game
8		Canterbury Regional Council	CRC
9	Y	Environmental Defence Society	EDS
10		Hermann Frank	H Frank
11	Y	Genesis Energy Limited	Genesis
12	Y	Glenrock Station Limited	
13	Y	Meridian Energy Limited	Meridian
14	Y	Opuha Water Limited	OWL
15		Pukaki Tourism Holdings Limited	PTHL
16	Y	Mt Gerald Station Limited	Mt Gerald
17	Y	The Wolds Station Limited	The Wolds
18	Y	Director-General of Conservation	DOC
19		Blue Lake Investments New Zealand Limited	BLINZ
20	Y	Royal Forest and Bird Protection Society of NZ	Forest & Bird
21		Marion Seymour	M Seymour
	Y	Transpower New Zealand Limited	Transpower

1 Introduction

1. In 20 December 2017 The Mackenzie District Council (MDC) notified proposed Plan Change 18 – Indigenous Biodiversity (PC18) to the Mackenzie District Plan (MDP). PC18 substantially revised the provisions in the MDP relating to the management of indigenous biodiversity. We understand MDC considered that the previous MDP provisions did not sufficiently recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (as required by s6(c) of the Resource Management Act 1991 (RMA)) and did not give effect to the Canterbury Regional Policy Statement (CRPS).

2 Appointment of hearing commissioners

2. The MDC, acting under s34A of the RMA, appointed us the undersigned, as hearing commissioners to hear and determine the submissions on PC18. The MDC reserved unto itself the authority to approve the proposed plan change pursuant to Clause 17 of Schedule 1 to the RMA.

3 Hearing of submissions

3. A total of 21 submissions and 13 further submissions were received on PC18. Only one of the further submitters (Transpower) was not an original submitter.
4. We received a report¹ under section 42A of the RMA on PC18 and the submissions on it authored by Liz White, a consultant planner. Expert evidence from MDC (as proposer of PC18) prepared by Mike Harding, a consultant ecologist, was provided at the same time as the Section 42A Report.²
5. Expert evidence from submitters was pre-circulated in accordance with procedural directions that we issued. We made provision for expert caucusing and the preparation of Joint Witness Statements (JWS) and we received a JWS³ from consultant planners Philip Mitchell and Sue Ruston regarding the provisions of PC18 that relate to the Waitaki Power Scheme (WPS).

¹ Mackenzie District Plan, Proposed Plan Change 18 - Indigenous Biodiversity, Section 42A Hearings Report, 14 December 2020, Report on submissions and further submissions, Report prepared by Liz White, Consultant Planner.

² Mackenzie District Plan, Proposed Plan Change 18 - Indigenous Biodiversity, Section 42A Hearings Report – Ecology, 10 December 2020, Technical Report – Ecology, Evidence of Mike Harding, Environmental Consultant.

³ Joint Witness Statement Planning Meridian Energy Limited and Genesis Energy Limited, 26 February 2021.

6. We held a hearing in the MDC offices in Fairlie over the period 8 to 10 March 2021. We endeavoured to conduct the hearings with a minimum of formality to an extent that allowed for fairness to all submitters. An audio recording of the proceedings was made by MDC and is available on request. Following the completion of the public hearings, we deliberated on the matters raised in the submissions, made findings on them and prepared this Recommendation report.

4 Our approach to this Recommendation Report

7. As noted earlier we received a comprehensive Section 42A Report that was complemented by an end of hearing reply report from Ms White,⁴ which we understand was informed by a post-hearing report authored by Mr Harding.⁵ The Section 42A Report summarised the submission points and assessed them under a series of headings that (following some introductory comments and background material) generally corresponded to the sequence of provisions in PC18.
8. To assist readers, we have structured this Recommendation Report using that same format.
9. To avoid unnecessary repetition, and as provided for by section 113(3)(b) of the RMA, we adopt the 'summary of decisions sought' for each submitter as contained in the Section 42A Report. In some cases, having carefully considered the submissions and evidence presented, we agree with Ms White's assessment and recommendations. Where that occurs, we simply state that we adopt those assessments and recommendations.
10. Where we come to a different conclusion based on our own assessment of the submissions and the evidence lodged by submitters, we set out our own reasons and recommendations in narrative form.
11. In Appendix A of this Recommendation Report, we set out our recommendations on the submissions. The reasons for those recommendations are contained in the body of this Recommendations Report and are not repeated in Appendix A. We have based Appendix A on the summary of submissions prepared by MDC. As a result, our Appendix A (comprising only 10 pages) is relatively short compared to similar schedules contained in other plan change decisions that readers may be familiar with.

⁴ Mackenzie District Plan, Proposed Plan Change 18 – Indigenous Biodiversity, Section 42A Officer's Reply Report, Report Prepared by Liz White, Consultant Planner, 26 March 2021.

⁵ Mackenzie District Plan Proposed Plan Change 18 Indigenous Biodiversity, Post-Hearing Reply to Commissioners Ecology, Mike Harding, Environmental Consultant, 26 March 2021.

12. A consequence of our approach is that parts of the Section 42A Report that we adopt and cross-refer to **are to be read as forming part of this Recommendation Report**.
13. In Appendix B we attach a 'clean' version of the wording that we recommend for PC18.
14. In Appendix C we attach a document that shows the amendments made to the notified version of PC18 with additions shown in underlining and deletions in ~~strikeout~~. To assist readers all changes to the notified provisions recommended by us are shown in **grey wash**. We have also attributed each amendment to a submission, to Clause 16(2) of Schedule 1 of the RMA (where an amendment is made to clarify the intent of the provision), or to Clause 10(2)(b) of Schedule 1 of the RMA (where a consequential amendment is made as a result of an amendment to another provision).

4 Current MDP Provisions

15. The MDP became operative in 2004 and it contained provisions relating to indigenous biodiversity in its Rural Section (Section 7). There are also other policies, for example those pertaining to pastoral intensification and agricultural conversion, that include reference to indigenous vegetation, but are more focussed on landscape values.
16. The MDP also identifies, in Appendix I, Sites of Natural Significance (SONS) that have been assessed as being significant in terms of RMA s6(c). A range of provisions apply to SONS including, but not limited to, indigenous vegetation clearance rules.
17. We understand that the SONS listed in the MDP were identified in the 1990s and are inadequate and incomplete.⁶ The SONS were identified prior to the promulgation of the CRPS and only around 30% of them have been reviewed and assessed against the CRPS criteria.⁷ However, the results of these reviews have not been formalised through amendments to Appendix 1 of the MDP.
18. The current MDP rule framework (Rule 12) generally provides for clearance of indigenous vegetation up to a specified threshold as a permitted activity. The threshold varies depending on either the location of the clearance or the type of vegetation being cleared and there are various exemptions as tabulated in the Section 42A Report.

⁶ Evidence of Mike Harding, paras 41-45.

⁷ Appendix 3 - Criteria for determining significant indigenous vegetation and significant habitat of indigenous biodiversity.

5 Overview of PC18

19. PC18 proposes to transfer the main indigenous biodiversity provisions from Section 7 into a separate section (Section 19) that specifically focuses on indigenous biodiversity.⁸

The Section 42A Report summarised the key aspects of PC18 as follows:

- *The removal of indigenous biodiversity provisions from Section 7 – Rural Zone. As well as the objective and policy suite, this includes deletion of most, but not all, parts of Rule 12 (the vegetation clearance rule described above). The rules remaining within Rule 12 are those that apply to vegetation clearance and are not specifically limited to indigenous vegetation.*
- *The inclusion of two new objectives (2 & 3), in addition to the existing objective transferred from Section 7 (now proposed Objective 1).*
- *The inclusion of seven new policies (3-9), in addition to the two existing policies transferred from Section 7 (now proposed Policies 1 & 2).*
- *A new suite of indigenous vegetation clearance rules that provide for:*
 - *Clearance of indigenous vegetation as a permitted activity in certain specified circumstances.*
 - *Provision for the clearance of indigenous vegetation through a restricted discretionary activity consent pathway, where either a Farm Biodiversity Plan (FBP) is prepared in accordance with the specifications set out in Appendix Y, or the clearance is 5,000m² or less within any site in any 5-year continuous period.*
 - *Clearance of indigenous vegetation as a non-complying activity in specified circumstances (more than 5,000m² within any site in any 5-year continuous period without a FBP; within an identified Site of Natural Significance; above 900m in altitude; within specific distances of various waterbodies).*
 - *A separate set of rules for indigenous vegetation clearance associated with the Waitaki Power Scheme.*
- *The Farm Biodiversity Plan (FBP) process is intended to provide a consenting pathway for the integration of land development proposals (that involve indigenous vegetation clearance) with management of indigenous biodiversity across a whole property. The FBP would specifically include assessment and identification of indigenous biodiversity values and as such would provide a process for the identification of areas of significance, assessed against the criteria in the CRPS.*

⁸ Prior to notification of PC18, MDC sought and obtained an Environment Court declaration that within the Mackenzie Basin Subzone, proposed Rules 1.1 – 1.3 in PC18 have immediate legal effect on notification.

6 Statutory and planning context for PC18

6.1 RMA Provisions

20. The Section 42A Report described the statutory and planning context relevant to PC18. We adopt that description and note that the relevant context includes the following RMA provisions:

- Section 5 [purpose of the Act and the meaning of sustainable management] and s6(c) [the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna] and sections 7(a) [kaitiakitanga]; 7(aa) [the ethic of stewardship]; 7(b) [the efficient use and development of natural and physical resources]; and 7(d) [the intrinsic values of ecosystems].
- Section 31(1)(a) of the RMA and more particularly under s31(1)(b)(iii) the MDC's specific function of controlling effects of the use, development or protection of land, including for the purpose of maintaining indigenous biological diversity.

21. We assume readers will be familiar with those provisions and so we do not elaborate on them here.

6.2 National Policy Statement for Renewable Electricity Generation 2011 (NPSREG)

22. Section 75(3)(a) of the RMA requires a district plan to give effect to the any national policy statement.

23. The NPSREG is relevant as PC18 contains provisions that apply to indigenous vegetation clearance associated with the Waitaki Power Scheme (WPS). The NPSREG seeks recognition of the national significance of renewable electricity generation (REG) activities by providing for their development, operation, maintenance and upgrade in order to increase the proportion of energy generated from renewable energy sources in line with Government targets. Relevantly here, the NPSREG directs that district plans include provisions to provide for the development, operation, maintenance and upgrading of new and existing hydro-electricity generation activities.

24. In section 20 of this Recommendation Report we discuss provisions of the MDP that relate to the Waitaki Power Scheme and by association the NPSREG.

6.3 National Policy Statement on Electricity Transmission 2008 (NPSET)

25. The NPSET is not central to PC18, however Transpower⁹ is a further submitter on PC18 and in particular on the provisions that relate to the clearance of indigenous vegetation

associated with the National Grid. The NPSET directs that the national significance of the electricity transmission network is recognised by facilitating the operation, maintenance and upgrade of the National Grid while managing adverse effects on the environment.

6.4 National Policy Statement for Freshwater Management 2020 (NPSFM)

26. The NPSFM is also not central to PC18 but it contains relevant provisions, particularly those relating to wetlands in Subpart 3. Of particular relevance here is the definition of “improved pasture” in section 3.21(1). That term is central to PC18 and we discuss this matter further in section 29 of this Recommendation Report. Suffice to say at this point that, as directed by section 75(3)(a) of the RMA, we have adopted the NPSFM definition of “improved pasture” in our recommended amendments to PC18 as notified.

6.5 National Planning Standards (NP Standards)

27. Section 75(3)(ba) of the RMA requires a district plan to give effect to a national planning standard. The May 2019 NP Standards are focussed on the structure and format of plans and we note PC18 is not required to align with them.¹⁰ However, we agree with the Ms White that there are some aspects of the NP Standards that may be considered as best practice in terms of how the Plan is structured and how provisions are numbered and ordered.

6.5 Draft National Policy Statement for Indigenous Biodiversity 2019 (dNPSIB)

28. The dNPSIB has no legal standing and so we do not consider it to be determinative.

6.6 Canterbury Regional Policy Statement (CRPS)

29. Section 75(3)(c) of the RMA requires a district plan to give effect to a regional policy statement.
30. Section 9 of the CRPS pertains to ecosystems and indigenous biodiversity and it is central to our consideration of PC18 and the submissions and further submissions on it. Section 9 states¹¹ that MDC has sole responsibility for controlling the use of land to maintain indigenous biological diversity on all land outside of wetlands, the coastal marine area, and beds of rivers and lakes. CRC and MDC have joint responsibility for controlling use of land in beds of rivers and lakes and wetlands, if the MDP identifies a

⁹ The owner and operator of the National Grid.

¹⁰ Standard 17, clause 4.

¹¹ As required by s62(1)(i)(iii) of the RMA.

significant area which includes a bed of a river/lake or a wetland, or includes indigenous vegetation clearance provisions that apply to these areas.

31. The Section 42A Report listed the three RPS Section 9 objectives, which are:

- *9.2.1 – The decline in the quality and quantity of Canterbury’s ecosystems and indigenous biodiversity is halted and their life-supporting capacity and mauri safeguarded.*
- *9.2.2 - Restoration or enhancement of ecosystem functioning and indigenous biodiversity, in appropriate locations, particularly where it can contribute to Canterbury’s distinctive natural character and identity and to the social, cultural, environmental and economic well-being of its people and communities.*
- *9.2.3 – Areas of significant indigenous vegetation and significant habitats of indigenous fauna are identified and their values and ecosystem functions protected.*

32. The Section 42A Report also summarised key RPS policies as follows:

- *Policy 9.3.1 directs how significance is to be determined and links to an Appendix containing criteria. Method 3 under this policy directs territorial authorities to provide for the identification and protection of significant areas, with District Plan rules managing indigenous vegetation clearance to provide for a case-by-case assessment of the significance of an area and whether protection is warranted. Method 5 also encourages working with landowners to identify significant areas for inclusion in district plans.*
- *Policy 9.3.3 directs the adoption of an integrated and co-ordinated management approach to halting the decline in the region’s biodiversity through various methods. Of relevance to territorial authorities, Method 4 directs that provisions are included in district plans to achieve integrated management of the actual and potential effects of land use on the life-supporting capacity and/or mauri of ecosystems and the protection of indigenous biodiversity.*
- *A number of the methods under different policies state all local authorities should protect significant areas/life-supporting capacity and/or mauri of ecosystems etc (depending on the focus of the policy), as they undertake their own operations, unless the adverse effects on the areas/habitats/ecosystems cannot be avoided, and are necessary for the maintenance of erosion or flood protection structures or for the prevention of damage to life or property by floods/fire or safeguarding public health.*
- *Policy 9.3.4 seeks to promote the enhancement and restoration of Canterbury’ ecosystems and indigenous biodiversity in “appropriate locations” where it will improve the functioning and long-term sustainability of the ecosystems.*

- *Policy 9.3.6 sets criteria that are to be applied to biodiversity offsets.*

33. We have strived to give effect to these RPS provisions when considering PC18 and the submissions and further submission on it. We refer to relevant RPS provisions in subsequent parts of this Recommendation Report.

6.7 Te Mana O Te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020

34. In August 2020 the Department of Conservation released Te Mana o Te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 (Biodiversity Strategy). The Strategy is a strategic plan for biodiversity in New Zealand. It includes five overarching outcomes, supported by 13 objectives that are based around three pou (or pillars), which are intended to provide direction and focus to guide towards the changes needed to achieve the outcomes. Each objective includes specific goals.

35. In accordance with section 74(2)(b)(i) of the RMA we have had regard to the relevance of the Biodiversity Strategy when assessing the submissions on PC18.

6.8 Section 32AA Assessment

36. In compliance with section 32 and Clause 5 of Schedule 1 of the RMA, the MDC prepared and publicly notified an evaluation report dated 10 December 2017 ('the Section 32 Report'). We have had particular regard to the Section 32 Report.¹² Section 32AA of the RMA requires a further evaluation of any changes made to PC18 after the initial evaluation report is completed. The further evaluation can be the subject of a separate report, or it can be referred to in the decision-making record.¹³ If it is referred to in the decision-making record, it should contain sufficient detail to demonstrate that a further evaluation has been duly undertaken.¹⁴

37. If the amended PC18 text arising from our recommendations on submissions is adopted by MDC, this Recommendation Report (including Appendices A, B and C) is intended to form part of MDC's decision-making record. Therefore, in compliance with Schedule 1,¹⁵ and electing the second option in RMA section 32AA(1)(d), we record that we have undertaken a further evaluation of any amendments to PC18 that are additional to those evaluated and recommended by Ms White and accepted by us.¹⁶

¹² RMA, s66(1)(e).

¹³ RMA, s 32AA(1)(d) and (2).

¹⁴ RMA, s 32AA(1)(d)(ii).

¹⁵ RMA, Schedule 1, cl 10(2)(ab).

¹⁶ As we have noted previously, we have adopted the author's reasoning (or justification) for the amendments she recommended to us that we find favour with.

38. We recognise that our evaluation is not confined to assessing the benefits and costs. The evaluation has to include the duties prescribed by the Act and higher-order instruments and so that may require constraints on farming activities, which may extend beyond what farmers have already adopted, whether voluntarily or to conform with the MDP to date.
39. Further, we find that the evaluation on benefits and costs cannot be made on economic grounds alone. Some benefits and costs of constraints on farming activities and some consequential social wellbeing may (with some generality) be quantified in money's worth. But it is not practicable, on the evidence presented, for us to quantify in that way benefits and costs to environmental cultural wellbeing and indigenous biodiversity specifically. So, in those respects we have made assessments that are broad and conceptual, rather than analytical and calculated.

7 General direction of PC18

40. There are several submitters¹⁷ who broadly support the direction of PC18. We note and accept those submissions because as will be seen later in the Recommendation Report, we accept the general tenor of PC18. There were also submitters who opposed the direction of PC18. For the same reason, we have rejected those submissions.

8 Section 32 Report

41. Four submitters¹⁸ raised concerns about the adequacy of the MDC's s32 evaluation. We adopt Ms White's summary and analysis of those submissions.

9 Section Title and Numbering, Terminology

42. Some submitters¹⁹ queried the provisions numbering used in PC18, others²⁰ queried the name of the new Section 19 and some²¹ sought that references to "*biodiversity*" be amended to refer to "*indigenous biodiversity*". We adopt Ms White's summary and analysis of those submissions, which is that, for the sake of consistency with the NP Standards, Section 19 should be titled '*Ecosystems and indigenous biodiversity*'.

¹⁷ FFNZ (#1), C Morris (#5), CRC (#8), EDS (#9), PTH (#15), DOC (#18), BLINZ (#19), Forest & Bird (#20)

¹⁸ Genesis (#11), Meridian (#13), Mt Gerald (#16), The Wolds (#17).

¹⁹ Including OWL (#14).

²⁰ Including Mt Gerald (#16) and The Wolds (#17).

²¹ SPSL (#3).

43. SPSL (#3) sought that any references to “*biodiversity*” be amended to refer to “*indigenous biodiversity*”. We agree that references within the PC18 provisions²² referring to “*biodiversity*” should be amended to refer to “*indigenous biodiversity*”²³.
44. We observe that the notified provisions contained some odd numbering. We have not attempted to rectify that as doing so will make it harder for submitters to understand the amendments we recommend. The numbering can be improved in due course by the MDC under clause 16 to Schedule 1 of the RMA.

10 Identifying significant areas

45. As noted by several submitters and outlined by Mr Harding²⁴ it is evident that not all RMA s6(c) significant areas within the District are listed as SONS in Appendix I of the MDP, and PC18 does not include any additions to Appendix I. Instead, the proposed Farm Biodiversity Plan (FBP) process would require, on a case-by-case basis, an assessment of all areas of indigenous biodiversity, with management of both significant and non-significant areas being addressed in the FBP.
46. We adopt Ms White’s summary of submissions on this issue.
47. We note that MDC will be proceeding to map further SONS, but that process will not be completed for some time. Accordingly, we agree with Ms White that it is not sufficient for PC18 to only recognise and protect Appendix I SONS, and allow for vegetation clearance outside those areas, without some assessment of significance by way of a consent process. We note that the criteria for significance are set out in the Appendix 3 of the CRPS and are reflected in PC18.
48. We agree with submitters that it would improve PC18 if the term “significant indigenous vegetation and habitats of indigenous fauna” was defined in the Plan.²⁵ In that regard the definition should obviously refer to the criteria listed in the CRPS’s Policy 9.3.1 and Appendix 3. It should also refer to areas that are included in Appendix I of the MDP as a Site of Natural Significance.
49. We note from the evidence of Mr Harding, Dr Susan Walker and Nicholas Head that the Mackenzie Basin is the largest of New Zealand’s inter-montane basins and supports extensive montane glacial and fluvio-glacial landforms (moraines and outwash terraces)

²² Policy 6, Rules 1.2.1, 1.2.2 and 2.2.1, and Appendix Y.

²³ SPSL (#3).

²⁴ EIC Mike Harding, para 44.

²⁵ For example, the EIC of Amelia Ching DOC (#18), para 69.

which support distinct indigenous ecosystems (some of which are nationally threatened), which are not replicated to this extent anywhere else in the country.

50. We also note from the evidence of Dr Walker that the Environment Court has found that the Mackenzie Basin Outstanding Natural Landscape (ONL) is a significant natural area in terms of CRPS Appendix 3 criterion 4. Dr Walker also considered that CRPS Appendix 3 criterion 6²⁶ and 8 were met. Dr Walker concluded that the remaining indigenous ecosystems and plant communities of the Mackenzie Basin floor were irreplaceable and their clearance would cause permanent loss that could not be offset or compensated for.²⁷
51. The evidence of Mr Head advised that where not intensively developed, these moraine and outwash ecosystems supported significant ecological values when assessed in accordance with the criteria in the CRPS. He advised that the moraine and outwash ecosystems are classified as originally rare and their extent and variety is not replicated elsewhere in New Zealand. Mr Head considered that those ecosystems were poorly protected and were threatened, and consequently, they were a national priority for protection.²⁸
52. We find the evidence of Dr Walker and Mr Head to be persuasive and conclude that the PC18 definition of “significant indigenous vegetation and habitats of indigenous fauna” should additionally refer to those moraine and outwash terrace landforms. To assist with the implementation of that addition to the definition we find that the map showing the extent of naturally rare ecosystems (moraines and inland alluvial outwash gravels) in the Mackenzie Basin (Map 2) in Appendix 5 of Mr Head’s evidence should be included in PC18.²⁹
53. We find that the benefits of protecting irreplaceable and unique significant areas of indigenous vegetation outweigh the costs this approach might impose on landowners.
54. Some submitters raised the issue of significant geological or geomorphological features related to s6(b) of the RMA which are also listed in MDP Appendix I. Notwithstanding

²⁶ Criterion 6 relates to “Rarity/Distinctiveness” and is “Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, occurs within an originally rare ecosystem, or has developed as a result of an unusual environmental factor or combinations of factors.” Criterion 8 relates to “ecological context” and is “Vegetation or habitat of indigenous fauna that provides or contributes to an important ecological linkage or network, or provides an important buffering function.”

²⁷ EIC Walker EDS (#9), paras 16 to 18.

²⁸ EIC Nicholas Head Forest and Bird (#20), paras 61 and 6.2.

²⁹ EDS submitted seeking spatial mapping of remaining areas of biodiversity values.

that some of these features may serve an indirect role for biodiversity, we find that references to them should be omitted from MDP Section 19 (PC18). We consider that retaining those references would inappropriately dilute the primary focus of Section 19 on indigenous biodiversity matters. We note and adopt Ms White's conclusion that other MDP provisions adequately refer to those features.³⁰

11 How Section 19 relates to landscape matters

55. Some submitters³¹ sought that PC18 be amended to acknowledge that indigenous vegetation is a significant component of the outstanding natural landscape in the Mackenzie Basin or that landscape values and ecological and biodiversity values are interlinked. We adopt Ms White's summary of those submissions.
56. We agree with and adopt Ms White's assessment and recommendations that notwithstanding that the focus of Section 19 should be on indigenous biodiversity, it is appropriate to expand the matters of discretion within the Section 19 restricted discretionary activity rules to enable the effects of indigenous vegetation clearance on landscapes to be had regard to by decision-makers. However, given other provisions of the MDP, we find that further policy direction on that matter is not required and nor should Appendix Y, which sets out the requirements for Farm Biodiversity Plans, include the management of landscapes.

12 How Section 19 relates to the rest of the MDP

57. Some submitters³² sought additional provisions relating Section 19 rules to all activities and other parts of the MDP, including Section 16. We adopt Ms White's summary of those submissions. We note that Section 16 of the MDP deals with utilities and we agree with Ms White that utilities should be subject to the rules in Section 19 and that an advisory note should be inserted at the start of the Section 19 rules explicitly stating that.

13 Objectives 1, 2 and 3

58. PC18 contained three objectives. Objective 1 was relocated from Section 7 of the MDP³³ without any changes. Objectives 2 and 3 were new and they read respectively:

³⁰ Including Rural Objective 3A, Rural Policy 3A1, Rural Policy 3A3, Policy 3B1, and Policies 3B3 and 3B4.

³¹ Including CRC (#8) and EDS (#9).

³² Including EDS (#9) and DOC (#18)

³³ It was titled "Rural Objective 1 – Indigenous Ecosystems, Vegetation and Habitat".

Land development activities are managed to ensure the maintenance of indigenous biodiversity, including the protection and/or enhancement of significant indigenous vegetation and habitats, and riparian areas; the maintenance of natural biological and physical processes; and the retention of indigenous vegetation.

To support/encourage the integration of land development proposals with comprehensive identification, and protection and/or enhancement of values associated with significant indigenous biodiversity, through providing for comprehensive Farm Biodiversity Plans and enabling development that is in accordance with those plans.

59. There were numerous submissions on the objectives and we adopt Ms White's summary of them.
60. We agree with submitters³⁴ that PC18 provides an opportunity to rethink the usefulness of the three notified objectives and replace them with more clear and targeted provisions. In that regard we agree with submitters³⁵ that the PC18 objective(s) should clearly distinguish between the outcome sought for significant areas of indigenous vegetation (under s6(c) of the RMA) and the outcome sought in relation to more broadly maintaining or enhancing indigenous vegetation elsewhere (RMA s31(1)(b)(iii)).
61. We generally adopt Ms White's analysis of submissions on the objectives, including:
- Identification of further areas of significant indigenous vegetation and significant habitats of indigenous fauna is an action and therefore does not fit within an objective (which should be outcome focused);
 - There is overlap between Objective 1 and Objective 2 as notified;
 - The objective(s) should be focussed on the maintenance of indigenous biodiversity, rather than "*retention of all indigenous vegetation*" and should refer to "*land use and development*";³⁶ and
 - Objective 3 is currently drafted as a policy and FBPs are a tool intended to achieve the outcomes described in Objectives 1 and 2.
62. Ms White recommended that Objective 3 be omitted and Objectives 1 and 2 be combined. We agree with that recommendation in general terms but find that the

³⁴ Including CRC (#8) and EDS (#9).

³⁵ Including DOC (#18).

³⁶ We note the evidence of Mr Harding that he is unaware of any evidence that soil erosion, climate change or nutrient depletion are the main contributors to the decline in biodiversity. In his view, in addition to grazing and pests, land development is the main additional contributor to a decline in indigenous biodiversity in the Mackenzie Basin. He also notes that the impact of land development on biodiversity is the contributor that can be most effectively addressed by MDP rules (paras 57 – 64).

wording of the new objective should explicitly state outcomes for areas of significant indigenous vegetation and significant habitats of indigenous fauna and separately state outcomes for indigenous biodiversity outside of those areas.

63. However, notwithstanding the CRPS provisions³⁷ relating to the significant values of wetlands and riparian areas, we agree with submitters who considered that those values were a subset of indigenous biodiversity and so they did not need to be specifically listed in the objective.
64. We agree with the evidence of Ms Ching that the objective that relates to indigenous biodiversity outside of the significant areas should refer to maintaining or enhancing that biodiversity, as this is consistent with RMA s6(c) and CRPS Objective 9.2.2 and Policy 9.3.4.³⁸
65. We accordingly recommend that Objectives 1, 2 and 3 as notified are replaced with a single objective as set out in Appendix B to this Recommendation Report.

14 Policy 1

66. Policy 1 was relocated from Section 7 (currently it is Rural Policy 1B) but updated to refer to the criteria in the CRPS and reference to significant geological or geomorphological features was deleted. There were a number of submissions on the objectives and we adopt Ms White's summary of those submissions
67. We agree with submitters³⁹ who seek deletion of the phrases "*in the District Plan*" and "*to prevent development which reduces the values of these sites*" for the reasons set out by Ms White. We generally agree with and adopt Ms White's assessment of other submissions and her recommended revised wording for Policy 1.
68. However, we also agree with Ms Ching that Policy 1 should refer to assessing and identifying sites of significance.⁴⁰

15 Policy 2

69. Policy 2 was relocated from Section 7. There were numerous submissions on Policy 2 and we adopt Ms White's summary of those submissions.

³⁷ Including Objective 9.2.3 and Policy 9.3.1(3).

³⁸ EIC Ching DOC (#18), paras 32 to 35.

³⁹ Including EDS (#9), DOC (#18)

⁴⁰ EIC Ching DOC (#18), para 46.

70. We agree with Ms White that the focus of Policy 2 should be on how adverse effects on areas of indigenous biodiversity are managed, rather than dealing with other activities or enabling land use. As with the PC18 objectives, we also agree with submitters that the PC18 policies should clearly distinguish between the protection outcome sought for significant areas (under s6(c) of the RMA) and those sought in relation to more broadly maintaining biodiversity elsewhere (RMA s31(1)(b)(iii)). This Policy should relate to the latter.
71. We agree with Ms White's recommendation to substantially delete Policy 2 as notified. It simply parrots the "*avoid, remedy or mitigate*" mantra of section 5 of the RMA and provides no additional substantive guidance to decision-makers. We also note the Policy's potential for overlap with Policies 3 and 5 in relation to significant areas.
72. Importantly, we agree with submitters⁴¹ that substantive policy guidance is required on how effects on non-significant indigenous biodiversity areas are to be managed. In our view this should go beyond simply repeating section 5 of the RMA and, as suggested by several submitters,⁴² it should specify a clear hierarchy of obligations, commencing with avoiding adverse effects of indigenous vegetation clearance where practicable, and then cascading down through remedying, mitigating and finally offsetting those effects. In that regard we agree with submitters⁴³ that offsetting should not be used as a first option, as the primary outcome should be to "avoid" additional loss of indigenous vegetation and habitats of indigenous fauna.
73. Ms White recast Policy 2 as Policy 9. We consider that it would be better if it was recast as Policy 3 and recommend that it is substantially revised to specify a clear hierarchy of obligations.

16 Policy 3

74. There were numerous submissions on Policy 3 and we adopt Ms White's summary of those submissions.
75. We agree with Ms White that the Policy should refer to land use and development 'including' indigenous vegetation clearance and pastoral intensification for the reasons that she states. We find it should also include "agricultural conversion" so as to be consistent with subsequent revised provisions.

⁴¹ Including EDS (#9) and CRC (#8).

⁴² Including CRC (#8) and DOC (#18) in relation to their submissions on Policy 5.

⁴³ Including Mackenzie Guardians (#6).

76. However, we differ from Ms White insofar as we do not see the merit of retaining the Policy (she recast it as Policy 2) as a standalone provision. In that regard we agree with submitters that the amended Policy does not provide adequate protection of significant indigenous vegetation as required by RMA s6(c), CRPS Objective 9.2.3, CRPS Policy 9.3.1 and the amended Objective 1 of Section 19 of the MDP. It would also lack recognition of the national priorities for protection as required by Policy 9.3.2 of the CRPS.⁴⁴
77. We agree with Dr Walker that the off-site effects of the land use already established in the Mackenzie Basin are now progressively, and measurably, reducing and modifying the area of significant indigenous vegetation that remains. Therefore, the only rate of development that might now achieve no net loss is a negative rate. Additional vegetation clearance and pastoral intensification will measurably exacerbate the cumulative reduction (net loss) that is currently underway.⁴⁵
78. We find that the bulk of the wording of Ms White's Policy 2 as set out in her s42A Report should be merged into a new Policy 2 that sets out clear expectations for areas of significant indigenous vegetation and significant habitats of indigenous fauna. We do not consider that the revamped Policy should refer to "*no net loss of significant indigenous biodiversity values*". Instead, we find on the evidence of Dr Walker in particular the policy direction should unequivocally refer to avoiding the clearance of that vegetation and avoiding adverse effects on those habitats. The exception is where those activities are permitted under Rules 1.1.1 or 2.1.1 or are required in relation to the WPS, Opuha Scheme or National Grid.

17 Policy 4

79. There were numerous submissions on Policy 4 and we adopt Ms White's summary of them.
80. Policy 4 as notified referred to ecologically significant wetlands. CRPS Policy 9.3.5 requires that "*the natural, physical, cultural, amenity, recreational and historic heritage values*" of ecologically significant wetlands are protected. CRPS Policy 9.3.5 directs that ecologically significant wetlands are assessed against the matters set out in Policy 9.3.1 which in turn refers to the criteria in CRPS Appendix 3. We note Ms White's advice that as a consequence, the broader policies in both the CRPS and PC18 that apply to all

⁴⁴ Including the EIC of Ching DOC (#18), paras 54 and 55.

⁴⁵ EIC Dr Walker EDS (#9), para 46.

significant areas will apply equally to ecologically significant wetlands. We agree and find that there is no need to refer separately to wetlands in the PC18 provisions.

81. We recommend the deletion of notified Policy 4.

18 Policy 5

82. There were numerous submissions on Policy 5 and we adopt Ms White's summary of them.

83. Policy 5 provided broad direction about mechanisms for the management of effects, including offsetting. We agree with submitters⁴⁶ that detailed policy guidance relating to offsetting should be deleted from Policy 5 given the comprehensive nature of notified Policy 6 that deals with offsetting. Having said that, we also agree with submitters that offsetting should only apply in relation to non-significant areas. The clear outcome to be achieved by PC18 is the protection (meaning⁴⁷ "safe from harm, injury, or damage") of significant indigenous vegetation and significant habitats of indigenous fauna. In our view that requires adverse effects on those areas to be avoided. On the evidence of Dr Walker and Mr Head we are not persuaded that should be allowed to occur for the Mackenzie Basin significant areas as a result of offsetting.

84. In particular we note the evidence of Mr Harding:

Biodiversity offsets are complex and fraught, due to the difficulty of measuring/quantifying indigenous biodiversity, the irreplaceability of indigenous ecosystems, and the challenges of monitoring the outcomes.

In the Mackenzie Basin, the only ecosystems that could readily be replaced (like for like) are those on very recently-formed land surfaces. Here, indigenous species will quickly recolonise, and plant succession could be managed so that the eventual plant community/habitat is very similar to that which has been lost elsewhere. But, unless the new community/habitat is created and colonised before the existing one is destroyed, there will be interim net loss of habitat for indigenous plant and animal species. This may have a significant effect on sedentary species such as lizards or robust grasshopper, or migratory bird species if they are faithful to breeding sites.

Other Mackenzie Basin ecosystems, such as outwash terraces and moraines, support older more complex plant communities with more intricate plant-soil-climate

⁴⁶ Including C Burke (#4) and EDS (#9).

⁴⁷ Submissions of Counsel on Behalf of The Environmental Defence Society Incorporated, 3 March 2021, para 12.

*relationships. These would be very difficult to re-establish or replicate. This difficulty is accentuated in the Mackenzie Basin by the altitude, climate, and exotic plant and animal pest threats.*⁴⁸

85. We note Ms White's view that she did not agree with submitters who sought that offsetting is removed as an option, or is only applied to non-significant areas. She maintained that the CRPS provides for biodiversity offsets as appropriate mitigation in those circumstances set out in Policy 9.3.6 and that when read with Policy 9.3.1(3) it is clear this applies to significant areas. However, we accept the submission of counsel for Forest and Bird (#20) that the CRPS does contain provisions which amount to limits for offsetting, including those situations where the indigenous biodiversity at risk is so significant that it should not be significantly modified or destroyed under any circumstances, or where residual effects cannot be fully compensated because the biodiversity is highly vulnerable or irreplaceable⁴⁹.
86. We are also mindful that, from Mr Willis's helpful answers to our questions at the hearing, and based on his own involvement in the development of the CRPS provisions, the concept of biodiversity offsets was fairly new at that time and has since evolved considerably. He said that the offsetting provisions were intended to apply principally to large infrastructure projects, on a regional level, and were not considered to be as relevant for application on a smaller site-by-site basis.
87. We also agree with submitters⁵⁰ that Policy 5 should focus on the mechanisms for how protection can be secured; rather than focussing on the management of effects. We therefore recommended that notified Policy 5 be amended and recast as Policy 7.
88. Other than as outlined above, we adopt Ms White's analysis of and recommendations on other submission points, including those of Mt Gerald (#16) and The Wolds (#17).

19 Policy 6

89. There were numerous submissions on Policy 6 and we adopt Ms White's summary of them.
90. We agree with CRC (#8) that Policy 6 is consistent with CRPS Policy 9.3.6 and we note that DOC (#18) supports having a policy on how offsets are used. We agree with Ms White that the guidance provided by Policy 6 should not be placed in an Appendix.

⁴⁸ EIC Harding, paras 66 to 68.

⁴⁹ CRPS, Policy 9.3.6, Explanation and Reasons.

⁵⁰ Including EDS (#9).

91. We are not persuaded that Policy 6 should be expanded beyond CRPS Policy 9.3.6 but agree with submitters⁵¹ that a definition of ‘biodiversity offset’ would improve the clarity and certainty of the provisions.
92. Other than as outlined above, we adopt Ms White’s analysis of and recommendations on other submission points, other than in order to be consistent with higher order documents the provisions should refer to offsetting “significant” residual adverse effects.
93. We recommend the revised wording of Policy 6 and the definition of “biodiversity offset” that are set out in the Section 42A Report. However, we consider that the Policy would more logically follow our recommended Policy 3 (thereby becoming Policy 4).

20 Waitaki Power Scheme

94. This section of our Recommendation Report considers provisions relating to the Waitaki Power Scheme (WPS). We note that the Section 42A Report helpfully set out other existing MDP provisions that are relevant to the WPS.⁵² We also note that the WPS is a scheduled activity under the MDP and Schedule A to Section 7 sets out the areas and facilities that form the scheduled activities, as well as the activities that are permitted, controlled and discretionary.
95. In PC18, notified Policy 7 (our recommended Policy 5) directs that the economic and social importance of renewable energy generation and transmission is recognised and its upgrading, maintenance and enhancement is provided for. That appropriately gives effect to the NPSREG, NPSET and CRPS provisions including Objective 16.2.2 and Policies 16.3.3, 16.3.4 and 16.3.5.
96. PC18’s Rules 2.1.1, 2.2.1 and 2.3.1 as notified appropriately apply to the WPS.
97. In terms of issues raised by Meridian and Genesis we have been persuaded that a new objective specific to the renewable electricity generation and transmission⁵³ is required. We make that finding notwithstanding the fact that PC18 is concerned with the management of indigenous biodiversity, and other existing MDP provisions (as noted above) provide guidance to decision-makers regarding the WPS. On balance we consider that the clear and certain obligations of the NPSREG, the NPSET and CRPS necessitate the objective sought by the submitters.

⁵¹ Including DOC (#18)

⁵² Including Rural Objective 3B and Rural Objective 11, Policy 3B6 and Rural Policy 11A.

⁵³ See for example EIC Mitchell Genesis (#11) para 63; EIC Ruston Meridian (#13) para 45.

98. We note that in her Reply Report Ms White reached a similar conclusion.⁵⁴ We also note that Ms McLeod for Transpower initially considered that such an additional objective was not required, but at the hearing she advised that she had altered her conclusion on the matter and now supported a new objective.
99. Apart from inserting a new objective (or an additional clause to the new Objective 1 that we recommend), on the evidence provided we find that amendments to the WPS provisions are desirable to give better effect to the superior instruments including:
- a) Clarifying under RMA Schedule 1 Clause 16(2) that the electricity transmission network provisions of what is now Policy 5 include the National Grid.⁵⁵ As a consequence of that we find that Rules 2.1.1. and 2.1.2 should be similarly amended;
 - b) Amending what is now Policy 5(a) and Rule 2.1.1 to enable refurbishment of the WPS and the National Grid in appropriate locations;⁵⁶
 - c) Amending what is now Policy 5(b) to use the words “having particular regard to” as that better accords with the direction in s104 RMA;⁵⁷ and
 - d) Amending the matters of discretion in Rule 2.2.1 to insert a clause to refer to how vegetation clearance can impact indigenous biodiversity connectivity, function, diversity and integrity.⁵⁸
100. We also consider that for the sake of consistency matter of discretion (g) of Rule 2.2.1 should be amended under RMA Schedule 1 Clause 16(2) to mirror the wording of Rule 1.2.2 matter of discretion 8.

21 Policy 7

101. There were numerous submissions on Policy 7 (now Policy 5) and we adopt Ms White’s summary of them.
102. We agree with Ms White that the amended policy sought by Genesis and Meridian would extend beyond the management of indigenous biodiversity and inappropriately place emphasis on renewable electricity generation and transmission activities more broadly.

⁵⁴ Reply Report, para 68.

⁵⁵ EIC McLeod Transpower), para 51.

⁵⁶ EIC Ruston Meridian (#13), para 15(e) and (f); Mitchell Genesis (#11) para 65.

⁵⁷ EIC Ruston Meridian (#13), para 76.

⁵⁸ EIC Andrew Willis CRC (#8), paras 10.24 and 10.25.

Having said that, we also agree with her that several of the additions and changes sought by those submitters would improve the Policy as was outlined above.

103. We agree with retaining the distinction between enabling operation and maintenance activities (and now also refurbishment) on one hand and providing for upgrading and development activities on the other. We also agree with the need to take into account advice from Mr Harding regarding the ecological values associated with the Tekapo, Pūkaki and Ohāu river systems and the importance of referring to those waterbodies in the Policy.⁵⁹
104. We generally adopt Ms White's analysis of and recommendations on other submission points.

22 Rules

105. We adopt Ms White's summary of submissions on the rules applying to the WPS.
106. We are not persuaded that WPS renewal or upgrading activities should be a permitted activity insofar as that relates to effects on indigenous biodiversity. We acknowledge that NPSREG requires that the national significance of the WPS is recognised, including by providing for its upgrading. That can still be realised by way of an appropriately framed consenting pathway under RDA Rule 2.2.1 that also ensures the indigenous biodiversity outcomes sought by the MDP and CRPS are achieved.
107. We find that to be an appropriate balance between the benefits of protecting indigenous vegetation and the costs imposed on the WPS.
108. We find that Rule 2.2.1 should be retained as a restricted discretionary rule and not be amended to a controlled activity for the simple fact that decision-makers should retain the ability to decline applications if the merits, or rather adverse effects, so justify.
109. In that regard we note Mr Harding's opinion that the ecological effects of refurbishment are likely to be greater than the effects of maintenance and operation, because new works are likely to remove or disturb additional areas of significant indigenous vegetation or habitat.⁶⁰ However, we are persuaded by the evidence of Meridian that refurbishment can be appropriately permitted in areas that have not been identified as containing significant indigenous vegetation or significant habitats of indigenous fauna.⁶¹

⁵⁹ Evidence of Mike Harding, paras 80-86.

⁶⁰ Evidence of Mike Harding, para 86.

⁶¹ EIC Ruston Meridian (#13), para 15(f) and in particular 74.

110. We note Ms White's concern⁶² that there would be no conditions on the refurbishment activities, but we do share that concern as refurbishment would not occur as a permitted activity within significant areas.
111. We reject the submission of Meridian (#13) seeking an additional permitted activity rule is added for "clearance of indigenous vegetation required for Waitaki Power Scheme Activities where native species do not dominate and comprise less than 66% of groundcover" with Rule being 2.1.2 amended to refer to clearance above 66%.
112. The reason for that is we accept the evidence of Mr Harding that referring to a cover of 66% is inappropriate because there are very few indigenous plant communities on depositional landforms in the Mackenzie Basin where native species form more than 66% cover. Mr Harding advised that most basin-floor plant communities are degraded and include a high component of exotic species and may include a substantial portion of bare ground.
113. We consider that the entry conditions to Rule 2.2.1 should be amended to simply refer to non-compliance with one or more of the conditions of Rule 2.1.1. That being the case there is no need for a 'drop down' rule to follow Rule 2.2.1 and so Rule 2.2.3 can be omitted.
114. Other than as outlined above and in section 20 of this Recommendation Report, we generally adopt Ms White's analysis of and recommendations on other submission points relating to the WPS rules. In saying that we have also amended some of the matters of discretion in Rule 2.2.1 in light of the helpful planning evidence provided by Meridian, Genesis and Transpower. We have also sought, as consequential amendments, to align the matters of discretion in Rules 1.2.2 and 2.2.1 where that was appropriate.

23 Definition of Waitaki Power Scheme

115. PC18 includes a definition of the WPS. We adopt Ms White's summary of submissions on it. We agree with Ms White that the purpose of a definition is to provide clarity about what provisions relying on that definition apply to. Consequently, we are not persuaded that the definition needs to highlight the national significance of the WPS.

⁶² Reply Report, para 79.

24 National Grid

116. Transpower sought, through a further submission, to extend WPS provisions to apply to the National Grid. We consider that it was implicit in the provisions as notified (insofar as they referred to electricity transmission) that they captured the National Grid and so we find that the provisions can and should be clarified in that regard.

25 Opuha Scheme

117. OWL (#14) sought that Policy 7 as notified was extended to irrigation, community supply and river enhancement schemes and that the rule framework applying to the WPS was extended to apply to the Opuha Scheme. We note that Genesis, Meridian and DOC, in their further submissions, opposed the provisions being extended to apply to the Opuha Scheme, given that the specific provisions relating to the WPS relate to renewable electricity generation activities, and therefore are intended to give effect to the NPSREG; which does not include provisions for irrigation or community supply. We agree with that latter point.

118. However, having said that we acknowledge the Opuha Scheme is regionally significant infrastructure and it contains a small 7.5 MW hydroelectricity generation component. For that reason, the NPSREG applies to it and we find that PC18 would be improved by including a definition of the hydroelectricity element of the Opuha Scheme and by referring to that Scheme in provisions that already cater to the WPS. We note that in her Reply Report Ms White reached the same conclusion.⁶³

26 Farm Biodiversity Plans

119. This section of our Recommendation Report considers provisions relating to Farm Biodiversity Plans (FBPs).

26.1 Policies 8 and 9 and Rule 1.2.1

120. We adopt Ms White's summary of submissions on notified Policies 8 and 9.

121. We accept the submissions of Mt Gerald (#16) and The Wolds (#17) to combine Policies 8 and 9 into one policy given the overlap between them. We also agree with CRC (#8) and Forest & Bird (#20) that the words "*values associated with*" in Policy 8 should be deleted.

⁶³ Reply Report, para 66.

122. In order to give effect to amended Objective 1, we consider that the Policy should require a broad assessment⁶⁴ of all indigenous biodiversity values with identified significant vegetation and habitats thereafter being protected and other indigenous biodiversity being maintained. That would include the significant indigenous biodiversity values of wetlands and riparian areas.
123. We agree with Ms White and submitters⁶⁵ that the Policy should refer to enhancing indigenous biodiversity and that it can usefully include elements of what was previously Objective 3 as notified.
124. We note the reservations of some submitters regarding the efficacy of the FBP process and its new or 'novel' nature, together with the role of council planning staff in administering it.⁶⁶ However, we consider that the proposed regime could be successfully implemented over time and is not dissimilar to Farm Environment Plans that have been widely adopted in relation to water quality matters, including in the RMA itself in terms of Part 9A dealing with Freshwater Farm Plans.
125. However, in response to those concerns we find that Rule 1.2.1 should be deleted and that instead the requirements for the FBP should become an 'entry condition' to Rule 1.2.2. In that way the efficacy of the FBP process can be assessed over time, without running the risk of wide spread and inappropriate indigenous vegetation clearance occurring in the meantime.
126. We find that to be an appropriate balance between the benefits of enabling the use of FBP's and the costs imposed on landowners of doing so.
127. We note that the deletion of Rule 1.2.1 and the incorporation of the FBP as "a condition for achieving restricted discretionary status" was supported in both the EDS legal submissions⁶⁷ and in the post-hearing response provided by EDS.⁶⁸
128. Importantly, Rule 1.2.2 as recommended by us excludes "areas of significant indigenous vegetation and significant habitats of indigenous fauna." Accordingly, the recommended definition of that term will ensure the protection of glacial derived or alluvial (depositional)

⁶⁴ Noting that issues of cost sharing relate to the executive functions of the MDC and are therefore not appropriate to address in the MDP. Such matters are more appropriately dealt with in the MDC long term and annual plans.

⁶⁵ Including Glenrock Station (#12), Mt Gerald (#16) and The Wolds (#17).

⁶⁶ For example, the EIC of Dr Walker EDS (#9), para 54; EIC Nicholas Head Forest and Bird (#20) para 4.9.

⁶⁷ At para 49.

⁶⁸ Memorandum responding to questions raised in regard to Plan Change 18, EDS, 16 March 2012, paras 9 and 13.

outwash and moraine gravel ecosystems of the Mackenzie Basin that many submitters were primarily (in our view) concerned about.

129. In her Reply Report Ms White expressed the view that it was problematic to rely on an assessment of significance being undertaken in order to determine activity status, because it lacked sufficient certainty.⁶⁹ However, she then went on to say that she had less concern with significance being used to distinguish between a restricted discretionary and non-complying activity because consent is required in either case.⁷⁰ We agree. If an applicant fails to adequately demonstrate that their proposed vegetation clearance falls outside an area of significant indigenous vegetation or a significant habitat of indigenous fauna then their application would not qualify under our recommended Rule 1.2.2 and it would default to be a non-complying activity under Rule 1.3.2. In either case consent is required.
130. We note that under our recommended amendments to the Rules, should a landowner not wish to prepare a FBP then their resource consent application to undertake vegetation clearance defaults to a non-complying activity under Rule 1.3.1 (because it does not meet our recommended 'entry condition' 2 of Rule 1.2.2). Therefore the 'door is not shut' on landowners who opt for that approach, but their consent applications will need to satisfy the requirements of RMA section 104D before they can be assessed on their merits under RMA section 104. We find that to be an appropriate balance between the benefits of protecting indigenous vegetation and the costs imposed on landowners.
131. We adopt Ms White's analysis of and recommendations on other submission points relating to Policies 8 and 9 as notified.

26.2 Definitions of 'Farming Enterprise' and 'Farm Biodiversity Management Plan'

132. We adopt Ms White's summary of submissions on these provisions.
133. For the reasons raised by submitters and set out by Ms White we agree that the definition of a 'farming enterprise' should be changed to 'farming operation' and amended to apply to either a single property or a multiple property operation. We also agree with Mr Willis that while it may be implicit that a farming operation could include contiguous or non-contiguous parcels, explicitly referring to contiguous or non-contiguous land parcels provides some additional clarity.⁷¹

⁶⁹ Reply Report, para 14.

⁷⁰ Reply Report, para 19.

⁷¹ EIC Wills CRC (#8), para 9.5.

134. Similarly, for the reasons set out by Ms White, we agree that the definition of Farm Biodiversity Plan should be omitted and the rules (now our recommended Rule 1.2.2) should be expanded to address relevant definitional matters. We also agree with and adopt her assessment of the submissions on Rule 1.2.1's matters of discretion, but find that improvements to her recommended wording can be made to better clarify the guidance to decision-makers and reflect the requirements of Objective 1 and PC18's amended polices.

26.3 Farm Biodiversity Plans – Appendix Y

135. PC18 includes proposed Appendix Y which set out the framework for Farm Biodiversity Plans. We adopt Ms White's summary of submissions on Appendix Y.

136. In response to the issue raised by SPSL (#3)⁷² we find that the word "net" should be omitted from the Introduction text and from clause B(3)(a) because of our earlier findings that adverse effects on significant areas must be avoided and that offsetting should be limited to 'non-significant' areas or values.

137. In light of the submissions received and our recommendation to delete Rule 1.2.1 and include the FBP as an 'entry condition' to Rule 1.2.2, as a consequential amendment we have simplified, condensed, clarified and reordered the contents of Appendix Y. In doing that we have taken note of the fact that condition 1 of Rule 1.2.2 means that the Rule does not enable the clearance of indigenous vegetation within significant areas.

138. In amending Appendix Y we have also reflected on the answers of Federated Farmers representative Angela Johnston to our written questions who advised:

What we have seen with different processes across the country, is that for gains to be realised, farm plan proposals must lead to realistic, living documents that are meaningful to the farmer, not just tick-box templates that are filled in and then never looked at again.

If the farm plan template can be mostly completed by the farmer and is something that is achievable for them to be able to do, with support from experts as required, but not one that requires farmers to spend a fortune or wait years to get access to necessary experts, the tool will remain useful and successful.

⁷² Seeking changes to section B(3)(a) to replace reference to no net loss of "identified values of significance" to "indigenous biodiversity".

139. We agree that if changes are made to an ‘approved’ FBP in future, or any indigenous vegetation clearance is proposed that is inconsistent with the ‘approved’ FBP, then a variation to the original landuse consent will be required.

27 Additional policies

140. This section of our Recommendation Report addresses submissions seeking additional policies that are not otherwise addressed above. We adopt Ms White’s summary of submissions on this topic.

141. In response to Glenrock Station (#12) we agree that an additional Policy (now Policy 8) which generally encourages the maintenance and enhancement of indigenous biodiversity is appropriate. However, we find that an additional policy addressing the importance of rural land use is superfluous and not necessary to give effect to amended Objective 1.

142. Mt Gerald (#16) and The Wolds (#17) consider that the MDP should provide for minor works undertaken as part of normal farming activities to occur to ensure that landowners are “*permitted reasonable use of their interest in the land.*” We agree with Ms White that the additional policy sought would be inconsistent with amended Objective 1 because it would allow for significant areas of indigenous vegetation to be cleared for the specified ‘day to day’ farming activities, regardless of the effects of the that clearance.

28 Permitted Activity Rules

143. Rule 1.1.1 as notified permitted the clearance of indigenous vegetation subject to compliance with one or more of eight specified conditions. We adopt Ms White’s summary of submissions on this topic.

144. We agree with submitters and Ms White that the conditions of Rule 1.1.1 should not apply conjunctively. We also agree that notified conditions 7 and 8 can be replaced by cross-references to Rule 1.3.2 in the remaining conditions of Rule 1.1.1 (other than condition 1).

28.1 Changes sought to condition 1 and additional permitted activities

145. We agree with Ms White, having regard to Mr Harding’s technical comments⁷³ that:

- It would be appropriate to restrict the extent of vegetation clearance to within 2m of the existing fence line or existing road edge;⁷⁴

⁷³ Evidence of Mike Harding, paras 72-79.

⁷⁴ Evidence of Mike Harding, para 74.

- In response to the submission and evidence of Transpower we find that an additional clause 1(b) should be inserted that refers to the operation, maintenance or repair of network utilities given the importance of that infrastructure which often comprises essential community lifelines;
- It is appropriate to extend the condition to apply to reticulated piping associated with water troughs, as this only allows for maintenance and repair of existing piping (not new piping, or upgrading) and aligns with the other activities for which maintenance and repair is provided;
- Similarly, it is appropriate to extend the conditions to stock tracks, stock crossings, ponds and dams, as this only allows for maintenance and repair of existing activities on a similar basis to other activities;
- It is appropriate to provide for the clearance of indigenous vegetation within a Farm Base Area as a permitted activity, as these areas have been surveyed by Mr Harding and the boundaries were set to exclude any areas of significant indigenous vegetation;⁷⁵
- It is not appropriate to permit vegetation clearance for new or upgraded infrastructure;
- Allowing for the ‘opening up creeks and bogs for drainage’ is not appropriate, as it goes beyond maintenance and repair of existing infrastructure;
- It is not appropriate to provide for clearance of ‘mixed’ and ‘introduced’ vegetation. Mr Harding notes that most basin-floor plant communities are degraded and include a high component of exotic species and/or bare ground;⁷⁶
- It is not clear how a standard could be applied to “existing” pastoral intensification or agricultural conversion, as these are land use changes, not ongoing activities; and
- Where the activities identified in Condition 1 are located within an identified waterbody setback, it is appropriate to provide for vegetation clearance associated with their maintenance and repair, as this only provides for clearance in limited circumstances in areas where vegetation is likely to have already been cleared to establish the activity.

146. Consequently, we largely agree with the recommended rewording of Rule 1.1.1 condition 1 as set out in the Section 42A Report.

147. We agree that vegetation clearance within the MDP’s water body setbacks, where it is required to install new fencing, should be specified as a restricted discretionary activity.

⁷⁵ Evidence of Mike Harding, para 79.

⁷⁶ Evidence of Mike Harding, para 87 d).

We therefore recommend the inclusion of a new Rule 1.2.3. However, given that the exclusion of stock from waterbodies is a national priority as reflected by the recent promulgation of the Resource Management (Stock Exclusion) Regulations 2020, we consider that the rule initially recommended by Ms White was disproportionately onerous and it can be simplified. We note that at the hearing representatives of The Wolds and Mt Gerald expressed concern about the complexity of the rule contained in the Section 42A Report.

148. In her Reply Report Ms White recommended simplified wording for Rule 1.2.3. We have considered her recommendations when formulating our own recommended wording. However, we do not agree with her recommendation that Rule 1.2.3 should be a controlled activity.⁷⁷ There is no evidence before us that fences in the area covered by Rule 1.2.3 should always be granted consent. We find it is important to retain a discretion to decline applications if the merits so justify and consider that a restricted discretionary activity status is sufficient for that purpose.
149. We consider our recommended Rule 1.2.3 to be an appropriate balance between the benefits of protecting indigenous vegetation and costs imposed on landowners.
150. Regarding Rule 1.2.4 as recommended by Ms White, we note that Rules 5.167 and 5.169 of the Canterbury Land and Water Plan (LWRP) already regulate vegetation clearance adjacent to the beds of rivers, lakes and wetlands. Additionally, LWRP Rules 5.163 to 5.166 regulate the removal and disturbance of existing vegetation in, on or under the bed of a lake or river. Under section 75(4)(a) of the RMA a district plan must not be inconsistent with a regional plan for any matter specified in section 30(1)(c). Section 30(1)(c) functions do not include terrestrial indigenous biodiversity and so we find that the introduction of Rule 1.2.4 would not breach s75(4)(a).
151. We therefore adopt in general terms Ms White's assessment of the submissions addressing the clearance of indigenous vegetation carried out by or on behalf of a local authority for erosion and flood control works, including within the MDP's water body setbacks. However, we note the submission of CRC that Ms White relied on for her recommendation did not actually request a new restricted discretionary activity rule. Instead, it sought an exemption for the CRC statutory erosion and flood control activities by way of a new condition to permitted activity Rule 1.1.1. We therefore recommend the insertion of a condition to that effect in Rule 1.1.1 and have omitted Ms White's recommended Rule 1.2.4.

⁷⁷ Reply Report, para 65.

28.2 Changes sought to other conditions in Rule 1.1.1

152. We agree with Ms White that:

- Condition 2 does not apply to clearance of indigenous vegetation to provide for afforestation;
- As sought by CRC (#8), notified condition 5, which provided for clearance that was essential for compliance with the Regional Pest Management Strategy, should be omitted;
- There should be a consistent setback from wetlands in the PC18 rules of 50m.

153. We consequently agree with recommended conditions 2 to 6 as set out in the Section 42A Report.

29 Improved Pasture – Rule 1.1.1(6) and related definitions

154. Condition 6 of Rule 1.1.1 provides for the clearance of indigenous vegetation as a permitted activity where it is within an area of improved pasture. Improved pasture is a defined term in PC18. We adopt Ms White’s summary of submissions on these provisions.

155. We endorse the opinion of Mr Harding regarding the validity of concerns raised by the submitters highlighting the ambiguity of the notified definition of “improved pasture”.⁷⁸ We respect Mr Harding’s preference to map these areas and include such maps in PC18, but agree with Ms White that it would not be appropriate to do so. The reasons being that the mapping would affect various landowners, who may not have submitted on PC18, and those who are submitters would have limited time in which to comment on or dispute the mapping. In addition, the mapping undertaken so far by Mr Harding only relates to the Mackenzie Basin and therefore excludes areas of improved pasture outside the Basin.

156. We note the opinion expressed by Mr Harding that it is difficult to provide a definition of ‘improved pasture’ that provides certainty and has universal application. Notwithstanding, Mr Harding helpfully recommended a revised definition for our consideration.⁷⁹ Other experts suggested alternate definitions,⁸⁰ or the use of alternative nomenclature

⁷⁸ Evidence of Mike Harding, paras 101-106.

⁷⁹ Evidence of Mike Harding, para 112.

⁸⁰ Evidence of Peter Espie Mt Gerald (#16) and The Wolds (#17), para 46.

157. As we have discussed above, we have given prominence to the requirement for plans to give effect to any national policy statement⁸¹. We are mindful that the NPSFM contains⁸² a definition for “improved pasture” as follows:

improved pasture means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.

158. We understand from legal submissions provided to us that, as a matter of good planning practice and in order to avoid inconsistency with higher level planning instruments, the NPSFM definition of improved pasture should be applied where the context is appropriate.⁸³

159. We also note that the same definition of ‘improved pasture’ appears in the draft NPSIB. We have stated earlier that the NPSIB is a draft, has no legal standing and it is not determinative. However, we consider that the use of the same definition for ‘improved pasture’ in the operative NPSFM and the draft NPSIB demonstrates a clear intent to achieve consistency of the definition across those national planning instruments.

160. Additionally, and importantly, we consider our recommendation to include the full extent of naturally rare ecosystems (moraines and inland alluvial outwash gravels⁸⁴) in PC18, along with the provisions of Rule 1.2.3, to be an appropriate balance between the benefits of protecting indigenous vegetation and requirements for landowners.

161. Accordingly, we were not persuaded that the context for the definition of ‘improved pasture’ in the MDP is sufficiently different that an alternative or a more stringent definition is necessary or indeed helpful, and we have adopted the definition for improved pasture as set out in the NPSFM for the reasons set out above.

30 Rule 1.2.2

162. Rule 1.2.2 also provides a restricted discretionary activity status for indigenous vegetation clearance of up to 5,000m², within any site, in any 5-year continuous period. This excludes clearance within SONS; land above 900m in altitude; or within specified distances of various waterbodies.

⁸¹ RMA, section 75(3)(a).

⁸² NPSFM, section 3.21(1)

⁸³ Legal submissions of Forest and Bird, para 8; and EDS, para 6.

⁸⁴ Map 2 in Appendix 5 of evidence of Mr Head.

163. We adopt Ms White's summary of submissions on this rule.
164. In section 26.2 of this Recommendation Report we found that Rule 1.2.1 should be deleted and the requirement for a FBP should be included as an 'entry condition' to Rule 1.2.2. We consider that will address the concern of Forest & Bird (#20) that it is not clear if Rule 1.2.2 provides for additional clearance to what may be provided for by a resource consent obtained under Rule 1.2.1.
165. We agree that Rule 1.2.2 requires a spatial limit as well as a temporal limit (the once in 5 years provision). Various submissions sought a range of spatial limits including retention of a reference to site or constraining the activity to a single property or area of 100 hectares. In her Reply Report Ms White recommended⁸⁵ an additional area limitation of "per 100 ha where a site is greater than 100 ha" and we find that to be an appropriate balance between the benefits of protecting indigenous vegetation and the costs imposed on landowners.
166. We have assessed the submissions on the matters of discretion in Rules 1.2.1 and 1.2.2 together with Ms White's various recommendations and have recommended amendments that we find improve the clarity and certainty of the provisions in Rule 1.2.2.
167. We were also persuaded by the evidence of Dr Walker, Mr Head and Rosalie Snoyink and Liz Weir representing the Mackenzie Guardians that 'edge effects' were a matter that should be considered by decision-makers and so we have included that as a matter of discretion in Rule 1.2.2.

31 Non-complying Activity Rule (Rules 1.3.1 and 1.3.2)

168. We adopt Ms White's summary of submissions on these rules.
169. We consider that Rule 1.3.1 can be simplified to refer to any indigenous vegetation clearance not categorised as a Permitted Activity or Restricted Discretionary Activity.

32 Rule 12 - Section 7

170. PC18 proposes to delete the rules in Section 7 relating to the clearance of vegetation clearance which are contained in Rule 12. However, because Rule 12.1.1.a applies to vegetation clearance in riparian areas and this applies to any vegetation clearance, not just indigenous vegetation, PC18 does not propose to delete this part of Rule 12.

⁸⁵ Reply Report, para 40.

171. We adopt Ms White's summary of submissions on this rule.
172. We agree with Ms White that it is appropriate to make it clear that Rule 12.1.1 does not apply to indigenous vegetation. We also agree with submitters⁸⁶ that it is appropriate to retain a discretionary rule so that the activity status currently applying to activities which do not meet Rule 12.1.1.a is retained.
173. We, along with some submitters, were confused by Rule 12.1.1 because it purported to relate to the clearance of non-indigenous vegetation but its only conditions related to riparian vegetation. We asked Ms White to address this in Reply. She advised that she did not share those concerns, as in her opinion provided the clearance is outside the specified riparian areas, the conditions of Rule 12.1.1.a will be met and therefore the clearance will be permitted under 12.1.1. However, for the avoidance of doubt, she recommended amending Rule 12.2.1 to refer explicitly to non-compliance with the standards in 12.2.1.a.⁸⁷ we find that to be appropriate.
174. We find that changes sought by CRC (#8), OWL (#14), Transpower (further submission), Mt Gerald (#16) and The Wolds (#17) to various parts of Rule 12.1.1 that PC18 does not propose to amend are out of scope – they are not 'on' PC18.

33 Definitions

175. We adopt Ms White's summary of submissions on the definitions.

33.1 Biodiversity (or biological diversity)

176. We recommend the definition of Biodiversity (or biological diversity) is amended as set out in the Section 42A Report.

33.2 Indigenous Vegetation

177. We agree with submitters⁸⁸ and Ms White that it is appropriate for the definition to define what comprises indigenous vegetation. Any exemptions should be contained within the relevant rules.
178. We accept the evidence of Mr Harding, he having carefully considered the submissions on this definition in our view, that the definition should read: "*Means a community of vascular plants, mosses and/or lichens that includes species native to the ecological district. The community may include exotic species.*"

⁸⁶ Including CRC (#8) and OWL (#14).

⁸⁷ Reply Report, para 8.

⁸⁸ Mackenzie Guardians (#6), CRC (#8), EDS (#9), DOC (#18), Forest & Bird (#20).

179. We find his reasoning, as set out below, to be persuasive:

- “*community*” means that it cannot be a single native plant species in exotic vegetation.
- “*vascular plants, mosses and/or lichens*” ensures that the definition includes non-vascular species (such as mosses) and lichens, which are an important component of native plant communities in the Mackenzie Basin.
- “*native to the ecological district*” means that the plant species must be native to the area, which is important because some native species are weedy outside their natural range. He also notes that ‘Ecological Districts’ are already defined and mapped.
- Inclusion of “*exotic species*” is not essential but is important in the context of the Mackenzie Basin.⁸⁹

180. In her Reply Report Ms White, based on the Mr Harding’s advice, noted that the definition of ‘indigenous vegetation’ recommended by her in the Section 42A Report might include plant communities that are heavily modified by exotic plants such as dense wilding pine, broom or gorse infestations. Mr Harding suggested that his could be addressed by providing for that type of vegetation to be cleared, so long as it did not result in the clearance of associated indigenous plant species. Ms White accordingly recommended that exemptions be added to the definition of ‘indigenous vegetation’. We find that to be appropriate and we recommend accordingly.

33.3 Vegetation Clearance

181. The MDP already contains a definition for “*vegetation clearance*”. It is proposed through PC18 to amend it as follows:

Means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, or burning or irrigation. Clearance of vegetation shall have the same meaning.

182. We note that CRC (#8) supports the definition being amended to include irrigation as a method of vegetation clearance. In that regard Mr Harding stated that irrigation is an important, if not essential, activity to effectively convert vegetation to exotic pasture or crops, especially in the drier eastern part of the Mackenzie Basin. He noted that while other methods (e.g. top dressing, direct drilling) will introduce exotic pasture or crop species, they will not necessarily displace all indigenous species, and land subject to

⁸⁹ Evidence of Mike Harding, paras 88-89.

these activities will frequently still provide habitat for indigenous fauna. He also noted that often, the application of water is required to complete the conversion.⁹⁰

183. In the Reply Report Ms White recommended omitting the word “irrigation” from the definition because in the Mackenzie Basin, irrigation was already controlled through the MDP’s Section 15A rules and an application made under those rules also allows for consideration against the PC18 policy framework.⁹¹ We are not persuaded that is appropriate and prefer the evidence of Mr Harding on this matter.
184. On the evidence we find that the word “irrigation” should be included in the definition.
185. We accept the advice of Mr Harding that artificial drainage, overplanting, oversowing and topdressing can result in the clearance or modification of vegetation.⁹² We find that those activities should also be included within the definition.
186. Having said that, we also accept the evidence of the Wolds and Mt Gerald that oversowing and top dressing (OS&TD) has occurred extensively over existing farmed land in the past and regular maintenance fertiliser applied to such land does not have the same adverse effects that OS&TD has on undeveloped land has.⁹³
187. In his Reply Report Mr Harding noted that there are areas in the Mackenzie Basin that have vegetation comprising scattered tussocks and/or matagouri, but is otherwise dominated by exotic pasture species. These areas did not appear to have been cultivated, though the vegetation had clearly been modified by ongoing pastoral use; most likely by regular OS&TD and grazing. Mr Harding considered that at these locations, a continuation of OS&TD and grazing might have only minor adverse effects on indigenous biodiversity and may actually favour the continued growth of some indigenous species, such as tussocks or matagouri.⁹⁴
188. Consequently, we find that the references to “*oversowing, topdressing or overplanting*” in the definition of vegetation clearance should be confined to land that is not improved pasture. We find that to be an appropriate balance between the benefits of protecting indigenous vegetation and the costs imposed on landowners.

⁹⁰ Evidence of Mike Harding, para 97.

⁹¹ Reply Report, para 52.

⁹² Evidence of Mike Harding, paras 93-95.

⁹³ EIC John Murray The Wolds (#17), para 8.

⁹⁴ Harding Reply Report, para 44.

189. We agree with Ms White that there are difficulties with adding ‘grazing’ to the definition as this would capture any grazing that might modify vegetation and would therefore extend beyond the particular types of intensive grazing that Mr Harding considers may require control in order to protect indigenous biodiversity. However, we accept the evidence of Ms Ching that the definition should refer to the practice of intensive grazing commonly known in the district as “mobstocking”.⁹⁵ In her Reply Report Ms White recommended a definition for mobstocking that was based on the advice of Mr Harding and we recommend its inclusion.⁹⁶

34 New definitions

190. Other than as addressed earlier in this Recommendation Report, we adopt Ms White’s summary of submissions seeking new definitions.

191. We agree with submitters⁹⁷ and Ms White that providing a definition for no net loss would usefully help guide consideration of resource consent applications. In order to give effect to Section 75(3)(c) of the RMA we find that the CRPS definition should be adopted for that purpose.

192. EDS (#9) seeks that a definition is added for ‘maintenance’. However, given our recommended rewording of what will now be Policy 3 (previously Policy 9) we do not consider that to be necessary.

35 Miscellaneous Matters

193. This section of our Recommendation Report deals with submission points that do not relate to a particular provision and have not otherwise been addressed in the broader topics covered earlier.

194. Maryburn Station (#2) considers that MDC needs to acknowledge how landowners are going to be compensated financially for “*loss of land*”, given the benefits to the wider public through constant plan changes. We find that to be outside the scope of a district plan.

195. Maryburn Station (#2) considers that the policy framework should “*recognise that invariably analysis is more conceptual and provision should be made to recognise that*

⁹⁵ EIC Amelia Ching DOC (#18), para 74.

⁹⁶ Reply Report, para 55.

⁹⁷ Including EDS (#9), DOC (#18) and Forest & Bird (#20).

these [significant] areas may include areas which are able to be cleared". We find that would not give effect to our recommended Objective 1 or to section 6(c) of the RMA.

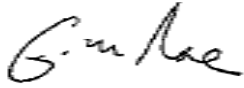
196. C Burke (#4) seeks that all consents issued by all agencies including MDC are "*logged and reviewed*" and their combined impacts taken into account, so that the effectiveness of protection measures can be checked. We find that to be outside the scope of PC18, as it relates to the MDC's executive functions associated with monitoring and enforcement.
197. C Burke (#4), in addition to comments on specific provisions seeks that "*Intent to have no further loss of landscape, landforms, functional ecosystems, flora and fauna should be clearly stated*". She also seeks: strong definitions; clear strong rules; peer reviewed and independent identification of indigenous biodiversity values; robust and independent monitoring of consents with national oversight; ability for Council to request a consent is ceased if identified by error or omission the intent to protect is breached or likely to be breached; clearly set out how compliance is to be achieved and penalties for breaches.
198. We agree with Ms White that, to the extent that PC18 should address these matters, they are already provided for.
199. Maryburn Station (#2) seeks that objectives and policies are amended to recognise the importance of re-establishing vegetation cover of bare soil to avoid, remedy or mitigate the effects of soil loss. SPSL (#3) also considers that the provisions within the plan change should be amended to recognise the issues associated with land at risk of significant soil erosion. We agree with Ms White that PC18 is focused on management of indigenous biodiversity and not soil erosion.

36 Evaluations and Recommendations

200. We have considered and deliberated on the submissions lodged on PC 18 and the reports, evidence and submissions made and given at our public hearing. In making our recommendations on the submissions we have sought to comply with all applicable provisions of the RMA. The relevant matters we have considered, and our reasons for them, are summarised in the main body of this Recommendation Report. We are satisfied that our recommendations are the most appropriate for achieving the purpose of the RMA and for giving effect to the higher-order instruments.
201. Pursuant to the powers delegated to us by the Mackenzie District Council under section 34A of the Resource Management Act 1991 we recommend rejecting or accepting

submissions on PC 18 as set out in Appendix A. We recommend the resultant amended District Plan text set out in Appendix B.

202. Appendix C contains a 'tracked changes' version of the notified provisions of PC18 showing how they would be amended by our recommendations.



Gary Rae



Dr Ian Boothroyd



Robert van Voorthuysen (Chair)

Dated: 12 April 2021

Appendix A Recommendations on Submissions

In addition to the primary submissions making the requests listed in this schedule, the MDC received further submissions in support of, or opposition to, those primary submissions. To the extent that the further submissions are not identified directly in this Appendix, we recommend that they are accepted or rejected according to our recommendations for accepting or rejecting the corresponding primary request.

Submission No.	Name/Organisation	Request	Recommendation
Submissions on Plan Change 18 as a Whole			
2	Maryburn Station	Identify significant indigenous vegetation	Accept in part
2	Maryburn Station	Oppose need to provide for compensation for loss of land	Reject
3	SPSL	Ensure references are to Indigenous biodiversity	Accept
9	EDS	Need to map all SONS, need to recognise overlap between biodiversity, ecological and landscape values, need strong policy showing rules apply in other parts of the Plan	Accept in part
15	PTHL	Approval of a Farm Biodiversity Plan should be enabled and approval should not require resource consent.	Reject
16	Mt Gerald	Modify PC18 as set out in Primary Relief 3.1.1-3.1.7	Accept in part
17	The Wolds	Modify PC18 as set out in Primary Relief 3.1.1-3.1.7	Accept in part
19	BLINZ	Approval of a Farm Biodiversity Plan should be enabled and approval should not require resource consent.	Reject
21	Marion Seymour	The Plan Change does not distinguish between the Basin and Gorge Runs which have very different terrain, land cover, rainfall etc. Weed type species spread very quickly and cause problems for stock so need clearing	Reject
Submissions on the whole of Section 19			
16	Mt Gerald	Change heading to Vegetation Clearance	Reject
16	Mt Gerald	Add Appendix Z with criteria for determining significant indigenous vegetation	Reject
16	Mt Gerald	Add Appendix ZA with off-setting detail	Reject
17	The Wolds	Change heading to Vegetation Clearance	Reject
17	The Wolds	Add Appendix Z with criteria for determining significant indigenous vegetation	Reject
17	The Wolds	Add Appendix ZA with off-setting detail	Reject
Submissions on Biodiversity Objectives 1,2 and 3 and new Objectives			
1	FFNZ	Support	Accept in part

Appendix A Recommendations on Submissions

2	Maryburn Station	Recognise specific identified protected areas and establishing vegetation cover to avoid or remedy soil loss	Reject
4	C Burke	Objective 1 to refer to all remaining indigenous biodiversity	Accept in part
6	Mackenzie Guardians Inc.	Objective 3 support with amendments to include ONL	Reject
8	CRC	Rewrite to clarify listed matters	Accept in part
8	CRC	Objective 1 - Amend to refer to significant habitats of indigenous fauna	Accept in part
8	CRC	Objective 2 - Delete	Accept
9	EDS	Amend to clarify that two limbs in the objective	Accept in part
9	EDS	Objective 3 - Amend	Accept in part
10	Hermann Frank	Objective 3 - reword	Reject
11	Genesis	Add new objective for Waitaki Power Scheme	Accept
11	Genesis	Objective 1 - Amend	Accept in part
11	Genesis	Objective 2 - Amend	Accept in part
12	Glenrock Station Limited	Objectives 2 & 3 - Amend	Accept in part
13	Meridian	Add new objective for Waitaki Power Scheme	Accept
13	Meridian	Objective 1 - Amend	Accept in part
13	Meridian	Objective 2 - Amend	Accept in part
16	Mt Gerald	Replace Objective 1	Accept in part
16	Mt Gerald	Replace Objective 2	Accept in part
16	Mt Gerald	Replace Objective 3	Accept in part
17	The Wolds	Replace Objective 1	Accept in part
17	The Wolds	Replace Objective 2	Accept in part
17	The Wolds	Replace Objective 3	Accept in part
18	DOC	Objective 3 Amend	Accept in part
20	Forest and Bird	Split Objective 1 into two separate objectives	Accept in part

Appendix A Recommendations on Submissions

20	Forest and Bird	Objective 3 - delete	Accept
Submissions on Biodiversity Policies			
1	FFNZ	Support	Accept in part
2	Maryburn Station	Recognise specific identified protected areas and establishing vegetation cover to avoid or remedy soil loss	Reject
3	SPSL	New policy needed to recognise response to soil erosion.	Reject
8	CRC	Rewrite to clarify listed matters	Accept in part
12	Glenrock Station Limited	Add new policies 4A and 5A	Accept in part
16	Mt Gerald	Add new policy for minor works	Accept in part
17	The Wolds	Add new policy for minor works	Accept in part
18	DOC	Add new policy protect significant values	Accept in part
Submissions on Biodiversity Policy 1			
7	Fish & Game	Amend to refer to CRPS criteria	Accept
9	EDS	Amend and include map of biodiversity/ecological connectivity	Accept in part
11	Genesis	Amend	Accept in part
13	Meridian	Amend	Accept in part
16	Mt Gerald	Amend Policy 1	Accept in part
17	The Wolds	Amend Policy 1	Accept in part
18	DOC	Amend	Accept in part
20	Forest and Bird	Amend	Accept in part
Submissions on Biodiversity Policy 2			
8	CRC	Replace policy	Accept in part
9	EDS	Replace Policy 2 with Policies 2A and 2B	Accept in part
11	Genesis	Amend and add new Policy 2A	Accept in part
13	Meridian	Amend and add new Policy 2A	Accept in part
16	Mt Gerald	Replace Policy 2	Accept in part
17	The Wolds	Replace Policy 2	Accept in part

Appendix A Recommendations on Submissions

18	DOC	Amend	Accept in part
20	Forest and Bird	Amend	Accept in part
Submissions on Biodiversity Policy 3			
4	C Burke	Amend to exclude indigenous vegetation clearance	Reject
7	Fish & Game	Amend to clarify that areas identified as significant are protected	Accept
8	CRC	Minor rewording	Accept in part
9	EDS	Amend	Accept in part
16	Mt Gerald	Amend Policy 3	Accept in part
17	The Wolds	Amend Policy 3	Accept in part
18	DOC	Amend	Accept in part
20	Forest and Bird	Delete	Accept
Submissions on Biodiversity Policy 4			
7	Fish & Game	Amend to include all wetlands	Reject
9	EDS	Amend	Reject
16	Mt Gerald	Delete Policy 4	Accept
17	The Wolds	Delete Policy 4	Accept
Submissions on Biodiversity Policy 5			
4	C Burke	Remove provision for offsetting	Accept
6	Mackenzie Guardians Inc.	Support in part - Off-setting should not be first option	Accept
7	Fish & Game	Oppose offsetting	Accept
8	CRC	Rewording to reflect priorities for management	Accept in part
9	EDS	Delete and Replace Policy 5	Accept in part
10	Hermann Frank	Reword	Reject
16	Mt Gerald	Replace Policy 5	Accept in part
17	The Wolds	Replace Policy 5	Accept in part
18	DOC	Delete and replace Policy 5	Accept in part
20	Forest and Bird	Delete	Accept in part
Submissions on Biodiversity Policy 6			

Appendix A Recommendations on Submissions

4	C Burke	Remove provision for offsetting	Reject
6	Mackenzie Guardians Inc.	Support in part - Off-setting should not be first option	Accept in part
7	Fish & Game	Oppose offsetting	Reject
9	EDS	Delete and Replace Policy 6	Reject
14	OWL	Amend	Accept in part
16	Mt Gerald	Replace Policy 6	Accept in part
17	The Wolds	Replace Policy 6	Accept in part
18	DOC	Amend	Accept in part
20	Forest and Bird	Amend	Accept in part
Submissions on Biodiversity Policy 7			
9	EDS	Delete and Replace Policy 7	Reject
11	Genesis	Amend	Accept in part
12	Glenrock Station Limited	Add new Policy 7A	Reject
13	Meridian	Amend	Accept in part
14	OWL	Amend	Accept in part
Submissions on Biodiversity Policy 8			
8	CRC	Minor rewording	Accept in part
9	EDS	Amend	Accept in part
12	Glenrock Station Limited	Amend	Accept in part
18	DOC	Amend	Accept in part
20	Forest and Bird	Delete heading and amend policy 8	Accept in part
16	Mt Gerald	Combine polices 8 & 9	Accept in part
17	The Wolds	Combine polices 8 & 9	Accept in part
Submissions on Biodiversity Policy 9			
9	EDS	Amend	Accept in part
12	Glenrock Station Limited	Amend	Accept in part
16	Mt Gerald	Delete Policy 9	Accept

Appendix A Recommendations on Submissions

17	The Wolds	Delete Policy 9	Accept
18	DOC	Amend	Accept in part
20	Forest and Bird	Delete heading	Accept
Submissions on Biodiversity Rules Vegetation clearance excluding Waitaki Power Scheme			
7	Fish & Game	Amend so springs also protected from veg clearance	Reject
18	DOC	Amend by specifying precedence of the rules	Reject
Submissions on Biodiversity Rules - Permitted Activities excluding Waitaki Power Scheme			
1	FFNZ	Amend to include piping network	Accept
2	Maryburn Station	Rule 1.1.1 needs clarification	Accept in part
3	SPSL	Rule 1.1.1 needs clarification re conditions	Accept in part
4	C Burke	Delete 1.1.1(6) Confusing and unnecessary	Accept in part
4	C Burke	1.1.1(7) Amend to exclude all valuable areas	Accept in part
5	Colin John Morris	Delete 1.1.1(6)	Accept
6	Mackenzie Guardians Inc.	Oppose rule 1.1.1(6) Clearer definition needed	Accept in part
8	CRC	Clarify that conditions 7 and 8 must be met, delete condition 5, and reword	Accept
9	EDS	Rule 1.1.1 Add maximum clearance cap or similar parameters, delete 1.1.1(6)	Accept in part
16	Mt Gerald	Rule 1.1.1 Amend conditions	Accept in part
17	The Wolds	Rule 1.1.1 Amend conditions	Accept in part
18	DOC	Rule 1.1.1.6 Amend to require improved pasture to be identified	Reject
20	Forest and Bird	Rule 1.1.1 Amend condition 1 and 2 and delete condition 6	Accept in part
21	Marion Seymour	Rule 1.1.1 add in stock tracks	Accept
Submissions on Biodiversity Rules - Restricted Discretionary Activities excluding Waitaki Power Scheme			
4	C Burke	Oppose should be no indigenous veg clearance	Reject
8	CRC	Rule 1.2.1 Include reference to farming operation	Accept in part
8	CRC	Rule 1.2.2 reword and add matters of discretion	Accept in part
9	EDS	Rule 1.2.1 amend by adding matters of discretion	Accept in part
9	EDS	Rule 1.2.2 amend by adding matters of discretion	Accept in part
10	Hermann Frank	Rule 1.2.2 - change 100m2 to 1000m2 and consequentially Rule 1.3.1	Reject

Appendix A Recommendations on Submissions

12	Glenrock Station Limited	Rule 1.2.1 Amend matters of discretion	Accept in part
16	Mt Gerald	Rule 1.2.1 change activity status to controlled, amend conditions, and replace matters of control	Reject
16	Mt Gerald	Rule 1.2.2 change activity status to restricted discretionary, amend conditions, and replace matters of control	Reject
17	The Wolds	Rule 1.2.1 change activity status to controlled, amend conditions, and replace matters of control	Reject
17	The Wolds	Rule 1.2.2 change activity status to restricted discretionary, amend conditions, and replace matters of control	Reject
18	DOC	Rule 1.2.1 Amend	Accept in part
18	DOC	Rule 1.2.2 Amend	Accept in part
20	Forest and Bird	Rule 1.2.1 Delete	Accept
20	Forest and Bird	Rule 1.2.2 Amend matters of discretion	Accept in part
Submissions on Biodiversity Rules - Discretionary Activities excluding Waitaki Power Scheme			
8	CRC	Rule 1.3.1 reword	Accept in part
16	Mt Gerald	Rule 1.3.1 include a per 100 ha ratio & amend condition 3	Reject
17	The Wolds	Rule 1.3.1 include a per 100 ha ratio & amend condition 3	Reject
20	Forest and Bird	Amend introductory words	Accept in part
Submissions on Biodiversity Rules Vegetation clearance in Waitaki Power Scheme - Permitted Activities			
9	EDS	Insert controls on extent of permitted clearance	Accept in part
11	Genesis	Support	Accept in part
11	Genesis	Rule 2.1.2 - Amend	Accept in part
11	Genesis	Rule 2.1 Add new permitted activity	Accept in part
13	Meridian	Support	Accept in part
13	Meridian	Rule 2.1.2 - Amend	Accept in part
13	Meridian	Rule 2.1 Add new permitted activity	Accept in part
14	OWL	Rules 2.1.1, 2.2.1 & 2.3.1 Add reference to Opuha Scheme	Accept in part
Submissions on Biodiversity Rules Vegetation clearance in Waitaki Power Scheme - Restricted Discretionary Activities			

Appendix A Recommendations on Submissions

8	CRC	Rule 2.2.1(b) add matters of discretion	Accept in part
11	Genesis	Rule 2.2 - Delete	Reject
11	Genesis	Rule 2.3 - Amend and add new rule	Accept in part
13	Meridian	Rule 2.2 - Delete	Reject
13	Meridian	Rule 2.3 - Amend and add new rule	Accept in part
Submissions on Appendix Y - Farm Biodiversity Plan Framework			
1	FFNZ	Support	Accept in part
3	SPSL	B3(a) should refer to no net loss of indigenous biodiversity	Reject
4	C Burke	Include historic and current consents	Reject
6	Mackenzie Guardians Inc.	Support with clear definition of improved pasture	Accept in part
9	EDS	Various amendments	Accept in part
12	Glenrock Station Limited	Amend Introduction, Description of Property and Values and add new Management Methods	Accept in part
16	Mt Gerald	Insert new condition and amend section C(1), delete c(3), amend Section D	Accept in part
17	The Wolds	Insert new condition and amend section C(1), delete c(3), amend Section D	Accept in part
18	DOC	Amend to clarify the FBP functions the same as conditions on a consent.	Accept in part
20	Forest and Bird	Amend to address concerns in submission	Accept in part
Submissions on Definitions			
2	Maryburn Station	Improved pasture - amend to include all existing pasture sown in exotic species.	Accept in part
5	Colin John Morris	Amend "improved pasture" definition as ambiguous	Accept in part
6	Mackenzie Guardians Inc.	Improved pasture - amend definition to avoid loopholes	Accept in part
6	Mackenzie Guardians Inc.	Indigenous vegetation - should include exclusions e.g. domestic garden	Accept in part
7	Fish & Game	Improved pasture - clarify what areas this applies to	Accept in part
8	CRC	Farming Enterprise - reword	Accept in part
8	CRC	Indigenous vegetation - Amend	Accept in part
8	CRC	Improved pasture - Amend	Accept in part
9	EDS	Improved pasture - delete	Reject
9	EDS	Indigenous vegetation - delete	Reject

Appendix A Recommendations on Submissions

9	EDS	add definition of "maintenance"	Reject
9	EDS	add definition of "no net loss"	Accept
9	EDS	add definition of "biodiversity offsetting"	Accept
9	EDS	add definition of "Site of Natural Significance"	Accept
10	Hermann Frank	Vegetation clearance - reword	Accept in part
11	Genesis	Waitaki Power Scheme - amend definition	Reject
11	Genesis	Maintenance of Waitaki Power Scheme - delete and replace with definition of Waitaki Power Scheme Activities	Reject
11	Genesis	Add new definition of Waitaki Power Scheme Management Area	Reject
11	Genesis	Refurbishment -delete and replace with definition of Waitaki Power Scheme Activities	Reject
11	Genesis	Indigenous Vegetation - amend or change rules 1.1,2.1 and 2.3	Accept in part
12	Glenrock Station Limited	Improved Pasture - Amend	Accept in part
12	Glenrock Station Limited	Indigenous Vegetation - support if amend improved pasture definition	Accept in part
13	Meridian	Waitaki Power Scheme - amend definition	Reject
13	Meridian	Maintenance of Waitaki Power Scheme - delete and replace with definition of Waitaki Power Scheme Activities	Reject
13	Meridian	Add new definition of Waitaki Power Scheme Management Area	Reject
13	Meridian	Refurbishment -delete and replace with definition of Waitaki Power Scheme Activities	Reject
13	Meridian	Indigenous Vegetation - amend or change rules 1.1,2.1 and 2.3	Accept in part
14	OWL	Maintenance of Waitaki Power Scheme - by adding reference to Opuha	Accept
Submissions on Definitions			
14	OWL	Refurbishment -amend by adding reference to Opuha	Accept in part
14	OWL	Add definition of "Opuha Scheme"	Accept
14	OWL	Operating Easement - amend	Reject
16	Mt Gerald	Improved Pasture - Amend	Accept in part
16	Mt Gerald	Indigenous vegetation - Amend to include minor element of exotic vegetation	Accept
16	Mt Gerald	Add new definition of "Significant indigenous vegetation"	Accept in part
16	Mt Gerald	Vegetation clearance - delete reference to irrigation	Reject

Appendix A Recommendations on Submissions

17	The Wolds	Improved Pasture - Amend	Accept in part
17	The Wolds	Indigenous vegetation - Amend to include minor element of exotic vegetation	Accept
17	The Wolds	Add new definition of "Significant indigenous vegetation"	Accept in part
17	The Wolds	Vegetation clearance - delete reference to irrigation	Reject
18	DOC	Add definition of "Biodiversity Offset"	Accept
18	DOC	Improved Pasture - Amend to refer to Planning Maps	Reject
18	DOC	Add definition of "No net loss"	Accept
20	Forest and Bird	Biodiversity - Amend to match RMA definition	Accept in part
20	Forest and Bird	Improved Pasture - delete definition	Accept in part
20	Forest and Bird	Add definition of "no net loss"	Accept
20	Forest and Bird	Indigenous Vegetation - Amend	Accept in part
7	Fish & Game	Vegetation clearance - need to clarify to cover indigenous	Accept in part
18	DOC	Indigenous vegetation - Amend	Accept in part
18	DOC	Add definition of "Significant Indigenous Vegetation or Habitat"	Accept
Submissions on Rural Rules			
8	CRC	Rule 12.1.1 Remove exemption in (ii) and notes	Reject
8	CRC	Rule 12.1.1 Reword	Reject
10	Hermann Frank	Rule 12.1.1 to apply only to non-indigenous vegetation	Reject
14	OWL	Rule 12.1.1.a - Add new clauses relating to the Opuha Scheme	Reject
16	Mt Gerald	Rule 12.1.1.a - modify riparian standards, add and/or modify exemptions	Reject
17	The Wolds	Rule 12.1.1.a - modify riparian standards, add and/or modify exemptions	Reject
20	Forest and Bird	Change Riparian Margin to Area	Reject

SECTION 3 - DEFINITIONS

Biodiversity (or biological diversity): means the variability among living organisms and the ecological complexes of which they are a part, including diversity within species, between species and of ecosystems.

Biodiversity offset: means a measurable conservation outcome resulting from actions which are designed to compensate for significant residual adverse effects on indigenous biodiversity arising from human activities after all appropriate prevention and mitigation measures have been taken. The goal of a biodiversity offset is to achieve no net loss and preferably a net gain of indigenous biodiversity on the ground with respect to species composition, habitat structure and ecosystem function. They typically take the form of binding conditions associated with resource consents and can involve bonds, covenants financial contributions and biodiversity banking.

Farming Operation: means an area of land, including an aggregation of parcels of land (whether contiguous or non-contiguous), held in single or multiple ownership (whether or not held in common ownership), that constitutes a single operating unit for the purpose of farming management.

Improved Pasture: means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.

Indigenous Vegetation: means a community of vascular plants, mosses and/or lichens that includes species native to the ecological district. The community may include exotic species, but does not include vegetation that has been planted as part of a domestic garden, for amenity purposes or as a shelterbelt, or exotic woody pest plants.

Mobstocking: means confining livestock in an area in which there is insufficient feed and in a way that results in the removal of all or most available vegetation.

No net loss: means, in relation to indigenous biodiversity, no reasonably measurable overall reduction in:

- a) the diversity of indigenous species or recognised taxonomic units; and
- b) indigenous species' population sizes (taking into account natural fluctuations) and long-term viability; and
- c) the natural range inhabited by indigenous species; and
- d) the range and ecological health and functioning of assemblages of indigenous species, community types and ecosystems

Significant indigenous vegetation and significant habitats of indigenous fauna: means areas of indigenous vegetation or habitats of indigenous fauna which:

- a) meet the criteria listed in the Canterbury Regional Policy Statement's Policy 9.3.1 and Appendix 3; or
- b) are listed in Appendix I as a Site of Natural Significance; and

Appendix B Amended Provisions

- c) *includes any areas that do not comprise **improved pasture** within the glacial derived or alluvial (depositional) outwash and moraine gravel ecosystems of the Mackenzie Basin as shown on Figure 1.*

Vegetation Clearance: *means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, burning, irrigation, artificial drainage, and mob stocking. It includes oversowing, topdressing or overplanting on land that is not **improved pasture**. Clearance of vegetation shall have the same meaning.*

Waitaki Power Scheme: *means the electricity generation activities in the Waitaki River Catchment including the structures, works, facilities, components, plant and activities undertaken to facilitate and enable the generation of electricity from water. It includes power stations, dams, weirs, control structures, penstocks, canals, tunnels, siphons, spillways, intakes, storage of goods, materials and substances, switchyards, fish and elver screens and passes, booms, site investigation works, erosion and flood control, access requirements (including public access), jetties, slipways and landing places, signs, earthworks, monitoring, investigation and communication equipment and transmission network.*

Opuha Scheme: *means the electricity generation activity associated with the Opuha Dam and power station (including the regulating pond and downstream weir) and all structures, works, facilities, components, plant and activities undertaken to facilitate that generation.*

Maintenance of Waitaki Power Scheme, Opuha Scheme or National Grid: *means undertaking work and activities, including erosion control works, necessary to keep the infrastructure operating at an efficient and safe level.*

Refurbishment of Waitaki Power Scheme Opuha Scheme or National Grid: *means the upgrade or renewal (to gain efficiencies in generating and transmitting electricity) of machinery, buildings, plant, structure, facilities, works or components and operating facilities associated with the infrastructure.*

Core Sites: *means land owned by Genesis Energy or Meridian Energy that is managed for hydro generation purposes associated with the Waitaki Power Scheme.*

Operating Easement: *means land Genesis Energy or Meridian Energy has an operating easement over. The purpose of this easement is to provide for activities to be undertaken by Genesis Energy or Meridian Energy as part of the management of the hydro facilities associated with the Waitaki Power Scheme. destruction*

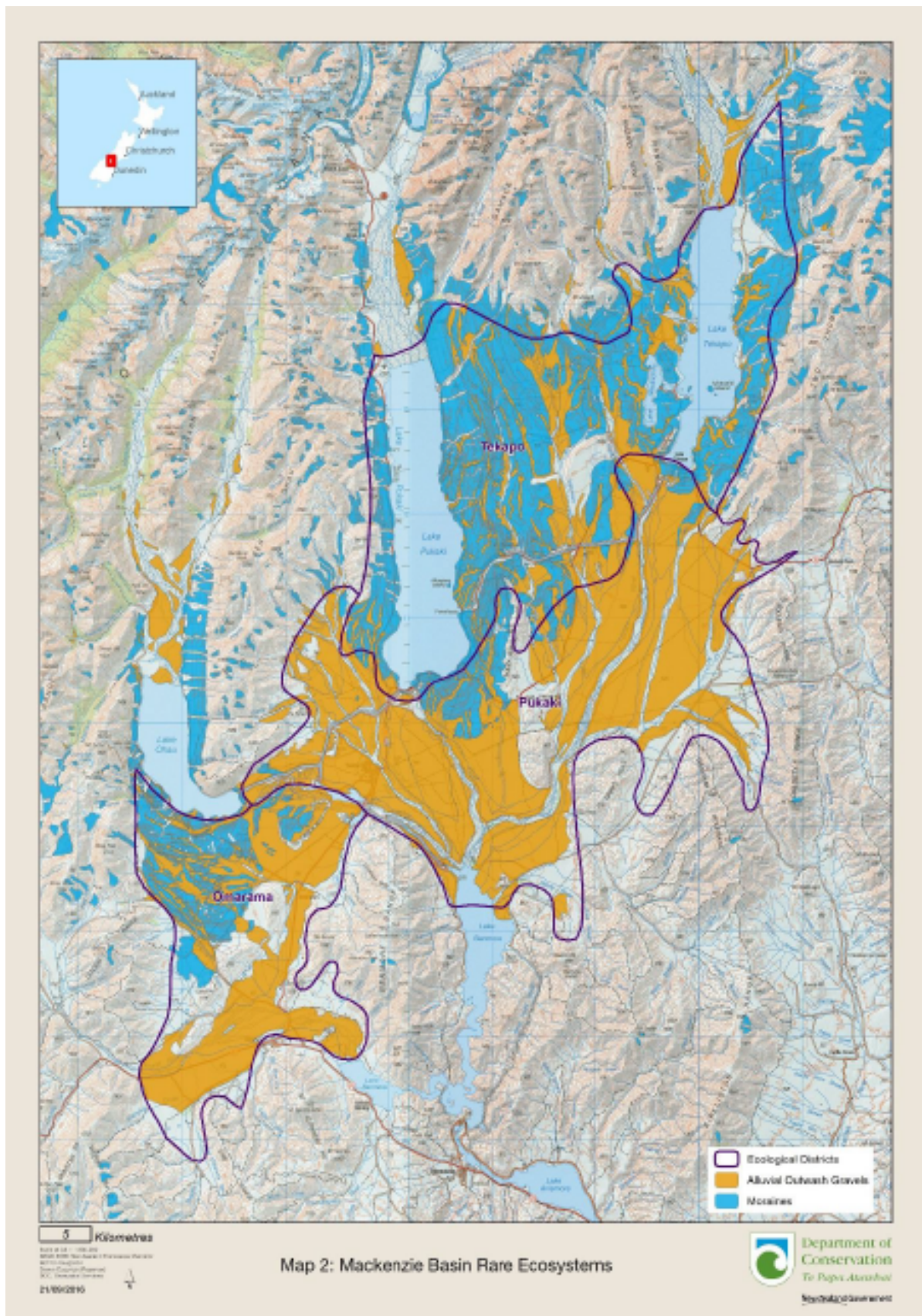


Figure One: Mackenzie Basin alluvial outwash and moraine ecosystems

SECTION 7 – RURAL ZONE RULES

12 NON-INDIGENOUS VEGETATION CLEARANCE

Note: This rule applies to the clearance of non-indigenous vegetation. Clearance of indigenous vegetation is controlled in Section 19 of this Plan.

12.1 Permitted Activities - Non-Indigenous Vegetation Clearance

12.1.1 Clearance of non-indigenous vegetation is permitted where it complies with the following standards:

12.1.1.a Riparian Areas

Clearance of vegetation shall not exceed 100m² per hectare in any continuous period of 5 years

- within 20m of the bank of the main stem of any river listed in Schedule B to the Rural Zone; or
- within 10m of the bank of any other river; or
- within 75m of any lake listed in Schedule B to the Rural Zone; or
- within 50m of or in any wetland or other lake.

Exemptions:

- (i) This standard shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance or habitat enhancement;
- (ii) This standard shall not apply to any vegetation clearance which has been granted resource consent, excluding a water permit enabling irrigation for a discretionary or non-complying activity, excluding a water permit enabling irrigation, from the Canterbury Regional Council under the Resource Management Act 1991.
- (iii) This standard shall not apply to any vegetation clearance which is provided for in any one of the following mechanisms:
 - o Section 76 Reserves Act 1977 Declaration
 - o Section 77 Reserves Act 1977 Conservation Covenant
 - o Section 27 Conservation Act 1987 Covenant
 - o Section 29 Conservation Act 1987 Management Agreement
 - o Queen Elizabeth II National Trust Act 1977 Covenant

Provided such mechanism:

- Protects the natural character and functioning of the riparian area, and
- Remains current for the duration of the activity, and
- the terms of the mechanism have not been breached, and
- has been lodged with the Council.

...

12.2 Discretionary Activities - Non-Indigenous Vegetation Clearance

12.2.1 Any clearance of non-indigenous vegetation that does not meet one or more of the standards in Rule 12.1.1.a.

SECTION 19 – ECOSYSTEMS AND INDIGENOUS BIODIVERSITY

OBJECTIVES AND POLICIES

Objective

Land use and development activities are managed to:

- a) protect areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- b) outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, ensure the maintenance and enhancement of indigenous biodiversity, and
- c) despite (a) and (b), recognise and provide for the national significance of the Waitaki Power Scheme and the National Grid when managing effects on indigenous biodiversity arising from the development, operation, maintenance, refurbishment or upgrade of those utilities.

Policies

- 1** To assess and identify areas of significant indigenous vegetation and significant habitats of indigenous fauna in accordance with the criteria listed in Appendix 3 of the Canterbury Regional Policy Statement.
- 2** To protect areas of significant indigenous vegetation and significant habitats of indigenous fauna by ensuring that land use and development, agricultural conversion and pastoral intensification:
 - a) avoids the clearance of indigenous vegetation or any reduction in its extent (including through edge effects); and
 - b) avoids adverse effects on those habitats;unless permitted under Rule 1.1.1 or Rule 2.1.1 or is otherwise consistent with Policy 5.
- 3** Outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, to ensure that indigenous biodiversity is maintained or enhanced by:
 - a) avoiding adverse effects on indigenous vegetation and habitats of indigenous fauna as far as practicable; then
 - b) remedying any adverse effects that cannot be avoided; then
 - c) mitigating any adverse effects that cannot be remedied; then
 - d) offsetting any significant residual adverse effects in accordance with Policy 4.
- 4** For any indigenous biodiversity offsets apply the following criteria:
 - a) the offset will only compensate for significant residual adverse effects that cannot otherwise be avoided, remedied or mitigated;
 - b) the significant residual adverse effects on indigenous biodiversity are capable of being offset and will be fully compensated by the offset to ensure no net loss of indigenous biodiversity;

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- c) where the area to be offset is identified as a national priority for protection in accordance with Policy 9.3.2 of the Canterbury Regional Policy Statement 2013 or its successor, the offset must deliver a net gain for indigenous biodiversity;
 - d) there is a strong likelihood that the offsets will be achieved in perpetuity;
 - e) where the offset involves the ongoing protection of a separate site, it will deliver no net loss, and preferably a net gain for indigenous biodiversity conservation;
 - f) The offset should apply as close as possible to the site incurring the effect, recognising that benefits diminishing with distance from the site; and
 - g) Offsets should re-establish or protect the same type of ecosystem or habitat that is adversely affected.
- 5** Despite Policy 2, to manage effects on indigenous biodiversity in a way that recognises the national significance of renewable energy generation activities and the electricity transmission network and provides for their development, operation, upgrading, and maintenance by:
- a) Enabling indigenous vegetation clearance that is essential for the operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid and the Opuha Scheme; and
 - b) Providing for the upgrading and development of renewable energy generation and the electricity transmission network, while managing any adverse effects on indigenous biodiversity, having particular regard to:
 - i. the location of existing structures and infrastructure and the need to locate the generation activity where the renewable energy resource is available; and
 - ii. the logistical, technical and operational constraints associated with the activity; and
 - iii. the importance of maintaining and increasing the output from existing renewable electricity generation activities; and
 - iv. environmental compensation which benefits the local environment affected, as an alternate, or in addition to offsetting, to address any significant residual environmental effects.
- 6** To enable land use and development at an on-farm level, through a Farm Biodiversity Plan, where comprehensive and expert identification of indigenous biodiversity is undertaken that demonstrates how that use and development will be integrated with:
- a) the long-term protection of significant indigenous vegetation and significant habitats of indigenous fauna;
 - b) the maintenance of other indigenous biodiversity; and
 - c) opportunities for enhancement of indigenous biodiversity, where appropriate.
- 7** To consider a range of mechanisms for securing protection of significant indigenous vegetation and significant habitats of indigenous fauna, including resource consent conditions, management agreements and covenants.

- 8** To recognise and provide for activities, including voluntary initiatives, that contribute towards the protection, maintenance or enhancement of indigenous biodiversity.

RULES

INDIGENOUS VEGETATION CLEARANCE

Note: The rules in this chapter apply to any indigenous vegetation clearance, including clearance undertaken as part of another activity, and apply in addition to the provisions in other sections of this Plan, including Section 16.

Rule 1 - Indigenous Vegetation Clearance excluding indigenous vegetation clearance associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme

1.1 Permitted Activities – Indigenous Vegetation Clearance

- 1.1.1 Clearance of indigenous vegetation is a permitted activity provided one or more of the following conditions are met:
1. The clearance is within 2m of, and for the purpose of:
 - a) the maintenance or repair of, existing fence lines, vehicle tracks, roads, stock tracks, stock crossings, firebreaks, drains, ponds, dams, stockyards, farm buildings, water troughs and associated reticulation piping, or airstrips; or
 - b) the operation, maintenance, repair or upgrade of network utilities permitted by Rule 16.1.1.(j).
 2. The clearance is of indigenous vegetation which has been planted and is managed specifically for the purpose of harvesting and subsequent replanting of plantation forest within 5 years of harvest and the clearance is not within a location specified in Rule 1.3.2; or
 3. The clearance is of the indigenous understorey to plantation forest, and is incidental to permitted or otherwise authorised plantation forest clearance and the clearance is not within a location specified in Rule 1.3.2; or
 4. The clearance is of indigenous vegetation which has been planted and/or is managed as part of a domestic garden or has been planted for amenity purposes or as a shelterbelt and the clearance is not within a location specified in Rule 1.3.2; or
 5. The clearance is of indigenous vegetation carried out by or on behalf of a local authority for erosion and flood control works, including within 75m of a lake, 20m of the bank of a river, or 50m of any wetland;
 6. The clearance is of indigenous vegetation within a defined Farm Base Area (see Appendix R); or

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7. The clearance is of indigenous vegetation within an area of improved pasture and the clearance is not within a location specified in Rule 1.3.2.

1.2 Restricted Discretionary Activity – Indigenous Vegetation Clearance

1.2.1 *Intentionally blank*

1.2.2. Other than as permitted by Rule 1.1.1 the clearance of up 5000m² of indigenous vegetation within a site, or per 100ha where a site is greater than 100ha, in any 5-year continuous period is a restricted discretionary activity provided the following conditions are met:

1. The clearance is not within:
 - a) an area of significant indigenous vegetation or a significant habitat of indigenous fauna;
 - b) land above 900m in altitude;
 - c) 75m of a lake;
 - d) 20m of the bank of a river; or
 - e) 50m of any wetland; and
2. A Farm Biodiversity Plan is prepared in accordance with Appendix Y for the farming operation and submitted with the application for resource consent.

The Council will restrict its discretion to the following matters:

1. The adequacy of and implementation of the Farm Biodiversity Plan;
2. The area of indigenous vegetation to be cleared and the reasons for the intended clearance;
3. Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological function expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;
4. Managing edge effects;
5. Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;
6. Any technical or operational constraints on the activity necessitating the clearance of indigenous vegetation;
7. Where the clearance is within an Outstanding Natural Feature or Landscape, a geopreservation site, Area of High Visual Vulnerability or Scenic Grassland Area, managing the indigenous vegetation clearance to, as far as is practicable, avoid adversely affecting those features, landscapes, sites or areas;
8. The adequacy of monitoring and reporting;
9. The review of conditions; and
10. Consent duration.

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- 1.2.3. The clearance of indigenous vegetation within 75m of a lake, 20m of the bank of a river, or 50m of any wetland, for the purpose of installing a fence to exclude stock, is a restricted discretionary activity.

The Council will restrict its discretion to the following matters:

- i. The location of the fence.
- ii. Managing the effects of the intended clearance of indigenous vegetation.

1.3 Non-Complying Activity – Indigenous Vegetation Clearance

The following activities are Non-complying activities:

- 1.3.1 Any indigenous vegetation clearance not categorised as a Permitted Activity or Restricted Discretionary Activity.
- 1.3.2 Any indigenous vegetation clearance in the following locations, unless specified as a permitted activity under Rule 1.1.1.1, 1.1.1.5 or 1.1.1.6 or a restricted discretionary activity under Rule 1.2.3¹:
1. Within an area of significant indigenous vegetation or significant habitat of indigenous fauna.
 2. Above 900m in altitude.
 3. Within 75m of a lake, 20m of the bank of a river, or 50m of any wetland.

2 INDIGENOUS VEGETATION CLEARANCE ASSOCIATED WITH THE WAITAKI POWER SCHEME, THE NATIONAL GRID OR THE OPUHA SCHEME

2.1 Permitted Activities – Indigenous Vegetation Clearance

- 2.1.1. The clearance of indigenous vegetation associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme is a permitted activity where one or more of the following conditions are met:
1. The clearance is a consequence of an emergency occurring on, or failure of, the Waitaki Power Scheme, the National Grid or the Opuha Scheme; or
 2. The clearance meets the conditions in Rule 1.1.1, or
 3. The clearance is required for the operation, maintenance or refurbishment of the Waitaki Power Scheme within the following areas;
 - i. The existing footprint of the Waitaki Power Scheme.
 - ii. On core sites associated with the Waitaki Power Scheme.
 - iii. On areas covered by an operating easement associated with the Waitaki Power Scheme; or
 4. The clearance is required for the operation, maintenance or refurbishment of the National Grid or the Opuha Scheme; and

¹ Amended pursuant to Clause 16(2) of Schedule 1 of the Resource Management Act 1991, as directed by Commissioners, prior to adoption of recommendation by Mackenzie District Council.

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5. The clearance is located outside areas of significant indigenous vegetation and significant habitats of indigenous fauna identified in accordance with Policy 1.

2.2 Restricted Discretionary Activity – Indigenous Vegetation Clearance

- 2.2.1 The clearance of indigenous vegetation associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme that does not comply with one or more of the conditions of Rule 2.1.1.

The Council will restrict its discretion to the following matters:

- (a) Whether the works are occurring on a surface that has previously been modified by the construction, operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid or the Opuha Scheme;
- (b) The adequacy of the identification of biodiversity values, including, but not limited to identification of areas of significant indigenous vegetation or significant habitats of indigenous fauna, and values outside of these areas that are particularly important for ecosystem connectivity, function, diversity, and integrity;
- (c) Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological functions (including connectivity, function, diversity and integrity) expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;
- (d) Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;
- (e) Any technical or operational constraints associated with the proposed activity requiring vegetation clearance;
- (f) The benefits the proposed activity provides to the local community and beyond;
- (g) The adequacy of monitoring;
- (h) The review of conditions; and
- (i) Consent duration.

APPENDIX Y - FARM BIODIVERSITY PLAN FRAMEWORK

Introduction

The purpose of a Farm Biodiversity Plan is to facilitate the maintenance or enhancement of indigenous biodiversity for a farming operation.

Development of a Farm Biodiversity Plan

A Farm Biodiversity Plan can be developed through a collaborative process between the Council and the landowner / land manager, but is only authorised by the Council through the resource consent process.

Framework

The following sets out the framework for development of a Farm Biodiversity Plan.

1. A Farm Biodiversity Plan can be provided in one of the following formats:
 - a) as a separate stand-alone Farm Biodiversity Plan; or
 - b) as an additional section to a farm environment plan prepared according to an industry template such as the Beef and Lamb New Zealand Canterbury Farm Biodiversity Plan or a plan prepared to meet Schedule 7 of the Canterbury Land and Water Regional Plan.

Note: Where an industry farm biodiversity plan template is used, the Council is only concerned with the sections of that plan which address the matters outlined in this Appendix Y.

2. A Farm Biodiversity Plan shall apply to a farming operation.
3. A Farm Biodiversity Plan must contain as a minimum the matters contained in Parts A, B, C and D that follow.

A Description of the property and its features:

1. Physical address;
2. Description of the ownership and name of a contact person;
3. Legal description of the land used for the farming operation; and
4. A map(s) or aerial photograph at a scale that clearly shows, where relevant:
 - a) The boundaries of the farming operation;
 - b) The boundaries of the main land management units within the farming operation;
 - c) The location of all water bodies, including wetlands and riparian vegetation;
 - d) Constructed features including buildings, tracks and any fencing to protect indigenous biodiversity values (including around riparian areas);
 - e) The location of any areas within or adjoining the farming operation that have been identified as areas of significant indigenous vegetation or significant habitats of indigenous fauna or are legally protected by way of covenant;
 - f) The location of any areas within or adjoining the farming operation that have been identified as an Outstanding Natural Landscape or Feature, a geopreservation site, Area of High Visual Vulnerability or Scenic Grassland Area;

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- g) The location of any Farm Base Areas;
- h) Areas of improved pasture;
- i) Areas of retired land; and
- j) Location of any proposed developments, including intensification of production, new tracks or buildings and areas to be cleared.

B Development Areas and Farming Operation Activities:

The purpose of this section of the Farm Biodiversity Plan is to understand how the land has been managed, what the future management will be, and how this will affect the indigenous biodiversity. The Farm Biodiversity Plan shall:

1. Describe historic and current land use management, including stocking policy, water supply, grazing regimes, improved pasture, and indigenous biodiversity management,
2. Describe any proposed land use management or activities to be undertaken that would require the clearance or disturbance of indigenous biodiversity and the time frames over which these activities are proposed to occur. Such activities may include construction of new farm tracks or buildings, intensification of land use, indigenous vegetation clearance within previously undisturbed areas, earthworks or cultivation.

C Description of existing indigenous biodiversity and its intended management:

The purpose of this section of the Farm Biodiversity Plan is to describe the indigenous biodiversity of the farming operation and how it will be managed.

1. An assessment of existing indigenous biodiversity values shall be undertaken by a suitably qualified and experienced ecologist, including the identification of areas of significant indigenous vegetation or significant habitats of indigenous fauna.
2. The assessment shall contain:
 - a) Recommendations to achieve maintenance and, where appropriate, enhancement of indigenous biodiversity outside significant areas.
 - b) Recommended actions to achieve these outcomes which may include:
 - i. Formal legal protection;
 - ii. Pest or weed control;
 - iii. Grazing regimes;
 - iv. Fencing;
 - v. Restoration planting or other restoration measures;
 - vi. Confirmation of which area/s will not be subject to future land use change or development;
 - vii. Confirmation that the tools and methods will endure beyond any fragmentation of the farming operation e.g. as a result of changes in ownership.
 - c) Recommendations for monitoring and review of progress in achieving the outcomes.

D Monitoring and Reporting on actions:

The Farm Biodiversity Plan shall include a description of how the recommendations in Part C (2) will be monitored and reviewed.

Note: The review described in D above does not supersede the requirement to apply for a change of condition(s) to any resource consent associated with the Farm Biodiversity Plan that may be necessary as a result of the review. It is also separate to any review of consent conditions that the Council may initiate under section 128 of the Resource Management Act 1991.

Note to readers: Throughout Appendix C advice to readers that does not form part of the District Plan provisions is shown in *italics* and *red font*.

SECTION 7 – RURAL ZONE

The following objectives and policies are relocated to notified Chapter 19 – Indigenous Biodiversity (detailed below):

- a) Rural Objective 1 - Indigenous Ecosystems, Vegetation and Habitat and Rural policies;*
- b) Rural Policy 1B - Identification and Protection of Special Sites;*
- c) Rural Policy 1C - Natural Character and Ecosystem Functions;*

Text that struck through is to be deleted from Section 7

Text that is double struck through is to be deleted and moved from Section 7 to a new Section 19 – Indigenous Biodiversity

~~**Rural Objective 1 – Indigenous Ecosystems, Vegetation And Habitat**~~

~~*To safeguard indigenous biodiversity and ecosystem functioning through the protection and enhancement of significant indigenous vegetation and habitats, riparian margins and the maintenance of natural biological and physical processes.*~~

Reasons

- ~~• Section 6 of the Act requires the Council to recognise and provide for protection of areas of significant indigenous vegetation and significant habitats for indigenous fauna.~~
- ~~• The District still contains many areas that have particular natural conservation value, some of which contain nationally significant species which are deserving of protection.~~
- ~~• It is appropriate that the values of areas of particular natural significance are protected both because of their intrinsic ecological worth, their contribution towards biodiversity and their value to the people of the District.~~
- ~~• the retention of indigenous vegetation and habitat is important for the maintenance of ecosystem functioning, and the retention of indigenous biodiversity, soil and water values, natural character, landscape and amenity.~~

~~**Rural Policy 1A – Department Of Conservation And Landholders**~~

~~*To promote the long-term protection of sites with significant conservation values by encouraging:*~~

- ~~– landholders and relevant agencies to pursue protection mechanisms and agreements;~~
- ~~– tenure review processes under the Land Act and Crown Pastoral Land Act 1998;~~
- ~~– implementation of the Conservation Management Strategy and the Management Plan for the Aoraki/Mount Cook National Park.~~

Explanation and Reasons

- ~~• As for Objective 1.~~
- ~~• Conservation of natural values can be achieved over time with the goodwill and initiative of landholders working in partnership with relevant agencies and landholder groups.~~
- ~~• Landholder initiatives, joint projects and voluntary protection mechanisms can be encouraged through co-operation with Department of Conservation which has a statutory obligation to advocate the protection of areas of significant conservation value.~~
- ~~• The Aoraki/Mount Cook National Park Management Plan has as one of its purposes the preservation of indigenous plants and animals. It is appropriate that the Council support management of the National Park on this basis.~~

Implementation Methods

- ~~• Identify sites of significance.~~
- ~~• Promoting reasons and merits of protection of areas.~~
- ~~• Providing information on and promote opportunities for protection, including management agreements and covenants.~~

- Provide for exemptions from Plan rules where alternative protection mechanisms are in place.
- Rates relief for landholders protecting indigenous vegetation.

Environmental Results Anticipated

- Gradual preservation of areas of significant conservation values by way of conservation covenants, management plans, transfer to the Crown, or other means.

~~Rural Policy 1B – Identification And Protection Of Special Sites~~

~~To identify in the District Plan sites of significant indigenous vegetation or habitat (in accordance with the criteria listed in the Reasons below), and significant geological or geomorphological features, and to prevent development which reduces the values of these sites or features.~~

Explanation and Reasons

- As for Objective 1.
- Loss or significant reductions in the ecological integrity and functioning, habitat values or amenity values of any significant natural site or area needs to be avoided.
- It is desirable that the District Plan controls activities which may adversely affect areas of indigenous animals and plants and geological and geomorphological features of significant value to the district.
- Activities involving vegetation clearance, land disturbance through earthworks and the erection of buildings, and the planting of trees can destroy indigenous plants and animals directly, or indirectly through the modification of habitat.
- Other activities such as oversowing and topdressing and changes in stocking regimes can also adversely effect conservation values.

Primary criteria used to identify sites of natural significance:

- i Intactness – The area is little modified by human activity, comprises a predominately intact indigenous system and is not affected in a major way by weed or pest species.
- ii Rarity – The area supports an indigenous species, habitat or community of species which is rare and vulnerable within the ecological district or threatened nationally.
- iii Representativeness – The best examples of particular vegetation types, habitats or ecological processes which are typical of their ecological district.
- iv Distinctiveness/Special Ecological Characteristics – The type and range of unusual features of the area itself and the role of the area in relationship to other areas locally, regionally or nationally, including:
 - presence of species at their distribution limit
 - levels of endemism
 - supporting protected indigenous fauna for some part of their life-cycle (e.g. breeding, feeding moulting, roosting), whether on a regular or infrequent basis
 - playing an important role in the life-cycle of protected migratory indigenous fauna
 - continuing an intact sequence, or a substantial part of an intact sequence of unusual ecological features or gradients.
- v Diversity and pattern – areas exhibiting a high degree of biological diversity in terms of:
 - Vegetation
 - Habitat types
 - Species
 - Ecological processes

Secondary criteria used to assist in identifying sites of natural significance:

- i Scientific Value – The area is a type of locality or other recognised scientific reference area.
- ii Connectivity – The extent to which the area has ecological value due to its location and functioning in relation to its surroundings. An area may be ecologically significant

~~because of its connections to a neighbouring area, or as part of a network of areas of fauna habitat, or as a buffer.~~

- iii ~~Size and shape – The degree to which the size and shape of an area is conducive to it being, or becoming, ecologically self-sustaining.~~

Implementation Methods

- ~~Identify sites of significance.~~
 - ~~Controls within Sites of Natural Significance: limiting volume, area and slope of earthworks, tree planting, vegetation clearance, building and pastoral intensification.~~
- ~~Promoting reasons and merits of protection of areas.~~
- ~~Providing information on and promote opportunities for protection, including management agreements and covenants.~~
- ~~Provide for exemptions from Plan rules where alternative protection mechanisms are in place.~~
- ~~Rates relief for landholders protecting indigenous vegetation.~~
- ~~Review of Rules 12.1.1 (g) and 12.1.1 (h)~~

~~A review of Rules 12.1.1 (g) and 12.1.1 (h) will commence 3 years after the date at which the Plan became operative. These Rules will continue to apply until such time as the review is complete and a new Rule(s) is substituted. The agreed process for such a review is as follows:~~

- ~~(i) — The Mackenzie District Council will review the extent and condition of short tussock grasslands and associated communities in the Mackenzie Basin, and the extent of cultivation and modification of these areas since the Plan became operative. Council will consult interested parties including landholders, Federated Farmers, Department of Conservation, Environment Canterbury, and environmental and community organisations. It will use relevant information such as the ortho-digital technology of the RFT (Rural Futures Trust). It will consider matters such as the economic, ecological, landscape and other values of the short tussock grasslands and associated vegetation.~~
- ~~(ii) — The review process may result in the Council amending the Plan and/or Rules 12.1.1 (g) Short Tussock Grasslands and 12.1.1 (h) Indigenous Cushion and Mat Vegetation and Associated Communities to identify areas where development and modification needs to be more strictly controlled and/or areas where the above Rules would no longer apply.~~

~~Council has chosen to provide exemptions from the rules controlling adverse effects on Sites of Natural Significance where management agreements or covenants are in place. Council will monitor the effectiveness of these to maintain the significant values of these sites. If this review indicates that the values of the sites are not being satisfactorily maintained the Council will reconsider the mechanisms available to maintain these values.~~

Environmental Results Anticipated

- ~~Protection of the natural habitats of indigenous plants and animals from the adverse effects of human activities and a reduced overall rate of degradation of indigenous habitats and biodiversity.~~

Rural Policy 1C – Natural Character And Ecosystem Functions

~~To avoid, remedy or mitigate adverse effects on the natural character and indigenous land and water ecosystem functions of the District, including~~

- ~~i — land form, physical processes and hydrology;~~
 - ~~ii — remaining areas of significant indigenous vegetation and habitat, and linkages between these areas;~~
 - ~~iii — aquatic habitat and water quality and quantity.~~
-
-

Explanations and Reasons

- ~~As for Objective 1~~

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- ~~Safeguarding the life-supporting capacity of air, water, soil and ecosystems is a prerequisite for sustainable management to occur~~
- ~~The policy recognises New Zealand's responsibilities under the Biodiversity Convention to preserve biological diversity.~~

Implementation Methods

- ~~Taking Policy 1C into account in administering the Resource Management Act 1991 and this District Plan.~~
- ~~To review the provisions for indigenous vegetation following assessment of ecological values within the Fairlie Basin.~~
- ~~To monitor the effectiveness of the Canterbury Regional Council resource consent exemptions to the indigenous vegetation clearance provisions in the District Plan and review them when the ecological and landscape assessments are complete.~~

Environmental Effects Anticipated

- ~~Maintenance of the natural character and indigenous land and water ecosystems within the District.~~

In PC18 as notified Rural Zone Rule 12 - Vegetation Clearance was partially deleted. Amendments to the notified provisions of PC18 recommended by the Independent Hearing Panel are shown in ~~strikeout~~, underlining and grey wash.

12 VEGETATION CLEARANCE

12.1 Permitted Activities - Vegetation Clearance

~~Reference in this rule to the Mackenzie Basin means that part of the District known as the Mackenzie Basin and identified as such on the map in Appendix E of the Plan~~

12.1.1 Clearance of vegetation is permitted where it complies with the following standards:

12.1.1.a Riparian Areas

Clearance of vegetation shall not exceed 100m² per hectare in any continuous period of 5 years

- within 20m of the bank of the main stem of any river listed in Schedule B to the Rural Zone; or
- within 10m of the bank of any other river; or
- within 75m of any lake listed in Schedule B to the Rural Zone; or
- within 50m of or in any wetland or other lake.

Exemptions:

- (i) This standard shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance or habitat enhancement;
- (ii) This standard shall not apply to any vegetation clearance which has been granted resource consent, ~~excluding a water permit enabling irrigation,~~¹ for a discretionary or non-complying activity from the Canterbury Regional Council under the Resource Management Act 1991.
- (iii) This standard shall not apply to any vegetation clearance which is provided for in any one of the following mechanisms:
 - Section 76 Reserves Act 1977 Declaration
 - Section 77 Reserves Act 1977 Conservation Covenant
 - Section 27 Conservation Act 1987 Covenant
 - Section 29 Conservation Act 1987 Management Agreement
 - Queen Elizabeth II National Trust Act 1977 Covenant

Provided such mechanism:

- Protects the natural character and functioning of the riparian area, and
- Remains current for the duration of the activity, and
- the terms of the mechanism have not been breached, and
- has been lodged with the Council.

12.1.1.b Sites of Natural Significance

~~Clearance of indigenous vegetation shall not exceed 100m² per hectare in any continuous 5 year period within any Site of Natural Significance identified on the Planning Maps.~~

Exemptions:

- (i) ~~This standard shall not apply to any clearance of indigenous vegetation which are provided for in any one of the following mechanisms:~~
 - ~~Section 76 Reserves Act 1977 Declaration~~
 - ~~Section 77 Reserves Act 1977 Conservation Covenant~~
 - ~~Section 27 Conservation Act 1987 Covenant~~

¹ Clause 16(2) clarification

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- Section 29 Conservation Act 1987 Management Agreement
 - Queen Elizabeth II National Trust Act 1977 Covenant
- provided such mechanism:
- Protects the significant natural character of the Site of Natural Significance, and
 - Remains current for the duration of the activity, and
 - the terms of the mechanism have not been breached, and
 - has been lodged with the Council.
- (ii) ~~This standard shall not apply to any earthworks for the purpose of track maintenance.~~
- 12.1.1.c **Tall Tussock and Canopy**
There shall be no clearance of:
- ~~— indigenous vegetation which has an average maximum canopy height of greater than 3 metres and exceeds 500 square metres~~
 - ~~— more than 100 square metres of tall tussock (*Chionochloa* sp.)~~
- Exemptions:
- (i) ~~This rule shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance;~~
- (ii) ~~This standard shall not apply to any vegetation clearance which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council under the Resource Management Act 1991.~~
- 12.1.1.d **Wetlands**
In any wetland exceeding 1,000m² in area there shall be no modification by clearance of indigenous vegetation, cultivation, or damage by deposition of material.
- Exemptions:
This rule shall not apply to:
- any removal of declared weed pests; or
 - any vegetation clearance for the purpose of track maintenance.
- Note: Consent may be required from the Canterbury Regional Council for any damming, drainage or diversion, or vegetation clearance alongside or within waterways and wetlands.*
- 12.1.1.e **High Altitude Areas**
Clearance of indigenous vegetation shall not exceed 100m² per hectare in any continuous 5 year period on land above 900m in altitude.
- Exemptions:**
- (i) ~~This standard shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance.~~
- (ii) ~~This standard shall not apply to any vegetation clearance which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council under the Resource Management Act 1991.~~
- 12.1.1.f **Shrublands**
On any site in the Mackenzie Basin in any continuous period of five years there shall be no clearance of:
- (i) ~~Bog pine (*Dacrydium bidwillii*) shrublands~~
- (ii) ~~More than 2000 square metres of:~~
- ~~Open indigenous shrublands containing at least three of the following indicator species where these shrubs are prominent: native broom (*Carmichaelia* species) or; tauhinu (*Cassinia* species) or; porcupine shrub (*Melicytus* species) or; *Coprosma intertexta** or; prostrate kowhai* (*Sophora prostrata*);~~

~~* Refer to Appendix N for drawings of these specific indicator species.~~

- ~~• Dense indigenous shrublands containing at least five of the following indicator species: *Coprosma* species or; *Corokia cotoneaster** or; climbers (*Clematis*, *Rubus*, *Parsonsia*, *Muehlenbeckia* species) or; mountain wine berry* (*Aristotelia fruticosa*) or; *Hebe* species or; *Olearia* species or; native broom species (*Carmichaelia*)~~

~~* Refer to Appendix N for drawings of these specific indicator species.~~

- ~~• Matagouri-dominated shrublands (*Discaria toumatu*) on river flood plains, river terraces, alluvial fans or lower mountain/hill slopes which have an average canopy height of greater than 1.5 metres, where there are more than 5 shrubs of this height and where the vegetation has not been cleared since 1985, provided that any matagouri that has been induced by regular oversowing and topdressing shall be exempt. For the purposes of this rule, regular oversowing and topdressing is defined as having occurred at least three times since 1985.~~

Exemptions

This rule shall not apply to:

- ~~• Any removal of declared weed pests; or~~
- ~~• Vegetation clearance for the purpose of track maintenance or fenceline maintenance within existing disturbed formations; or~~
- ~~• Any vegetation clearance including burning which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council/Environment Canterbury under the Resource Management Act 1991.~~

For the purpose of this Rule:

- ~~• Open indigenous shrublands excludes scattered individual outlier plants that do not visually contribute to the makeup of the shrubland;~~
- ~~• Dense shrublands are characterised by a generally closed canopy, although there will be open patches within the shrubland. As a rule of thumb, a person would have difficulty walking through a dense shrubland and would expect to get scratched;~~
- ~~• Lower mountain/hill slopes are characterised as being underlain by bedrock in contrast to moraine slopes which are composed of glacial till.~~

12.1.1.g

Short Tussock Grasslands

~~An interim Rule that will be reviewed three years after the Plan becomes operative.~~

~~On each of the individual farm properties existing in the Mackenzie Basin Map as at 1 January 2002 in any continuous period of five years there shall be no clearance including cultivation above the following thresholds of short tussock grasslands, consisting of silver or blue (*Poa* species), or *Elymus solandri*, or fescue tussock where tussocks exceed 15% canopy cover:~~

- ~~(i) — 40 hectares or less — Permitted Activity~~
- ~~(ii) — Greater than 40 hectares — Discretionary Activity~~

~~Performance Standards for Permitted Activity~~

- ~~• The landholder shall notify the Mackenzie District Council of the proposed clearance 4 months prior to the clearance being undertaken and shall supply a map of the proposed site.~~
- ~~• The clearance shall be more than 150m from the boundaries of any existing Sites of Natural Significance.~~

Exemptions

This rule shall not apply to:

- ~~• Any removal of declared weed pests; or~~

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- ~~Vegetation clearance for the purpose of track maintenance or fenceline maintenance within existing disturbed formations; or~~
- ~~Any vegetation clearance including burning which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council/Environment Canterbury under the Resource Management Act 1991; or~~
- ~~Any short tussock grassland where the site has been oversown, and topdressed at least three times in the last 10 years prior to new clearance so that the inter-tussock vegetation is dominated by clovers and/or exotic grasses.~~

12.1.1.h

Indigenous Cushion and Mat Vegetation and Associated Communities

~~An interim Rule that will be revised three years after the Plan becomes operative.~~

~~On each of the individual farm properties existing in the Mackenzie Basin as at 1 January 2002 in any continuous period of five years there shall be no clearance including cultivation above the following thresholds of indigenous cushion, mat (*Raoulia* species) or herb and scabweed vegetation where at least 50% of the vegetation ground cover comprises vascular and non-vascular indigenous species, OR where the number of vascular indigenous species is greater than 20:~~

- ~~(i) — 10 hectares or less — Permitted Activity~~
- ~~(ii) — Greater than 10 hectares — Discretionary Activity~~

Performance Standards for Permitted Activity:

- ~~The landholder shall notify the Mackenzie District Council of the proposed clearance 4 months prior to the clearance being undertaken and shall supply a map of the proposed site.~~
- ~~The clearance shall be more than 150m from the boundaries of any existing Sites of Natural Significance.~~

Exemptions

~~This rule shall not apply to:~~

- ~~Any removal of declared weed pests; or~~
- ~~Vegetation clearance for the purpose of track maintenance or fenceline maintenance within existing disturbed formations; or~~
- ~~Any vegetation clearance including burning which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council/Environment Canterbury under the Resource Management Act 1991; or~~
- ~~Any indigenous cushion or mat vegetation where the site has been oversown, and topdressed at least three times in the last 10 years prior to new clearance so that the site is dominated by clovers and/or exotic grasses.~~

For the purposes of Rule 12.1.1(g) and 12.1.1(h):

~~The intention of the landholder notifying the Mackenzie District Council of permitted clearance activities is to allow interested parties to assess their interest in the proposed area, to discuss the proposal with the landholder and to undertake an inspection where appropriate. All inspections will be the result of voluntary agreement between the parties.~~

- ~~The Mackenzie District Council will maintain a publicly available register of permitted clearance activities as notified by landowners under these Rules.~~
- ~~For Discretionary Activities, the Mackenzie District Council will require areas of short tussock and indigenous cushion and mat vegetation to be significant in terms of the primary and secondary criteria for significance in Rural Policy 1B (i.e., the criteria used to identify Sites of Natural Significance) if these areas are to be protected from clearance. When assessing 'significance', the Mackenzie District Council shall restrict its assessment solely to the criteria set out in Rural Policy 1B.~~

12.1.1.i **Areas outside the Mackenzie Basin**

An interim rule that will be reviewed upon completion of the Eastern Mackenzie landscape and ecological values study.

There shall be no clearance of:

- ~~Matagouri which has an average maximum canopy height greater than 1.5 metres and exceeds 500m² (in one continuous block) in any continuous period of 5 years.~~
- ~~more than 100m² of tall tussock (chionochloa sp.)~~
- ~~indigenous vegetation which has an average maximum canopy height greater than 3 metres and exceeds 500m².~~
- ~~more than 5000m² of indigenous vegetation except where the clearance is carried out within an area of improved pasture~~

Exemptions:

This rule shall not apply to:

- ~~any removal of declared weed pests or vegetation clearance for the purpose of track maintenance; or~~
- ~~any vegetation clearance which has been granted resource consent by the Canterbury Regional Council under the Resource Management Act 1991.~~

~~For the purpose of this rule improved pasture shall mean an area where species composition and growth has clearly been significantly modified or enhanced within the last 10 years by cultivation or top dressing and over sowing or direct drilling, and where exotic species are obvious.~~

12.2 **Discretionary Activities - Vegetation Clearance**

12.2.1 ~~Any clearance of vegetation not provided for as a Permitted Activity or Non-Complying Activity that does not meet one or more of the standards in Rule 12.1.1.a²~~

12.3 ~~Non-Complying Activities~~

12.3.1 ~~Clearance of more than 10% of the total area of indigenous vegetation cover present on any Site of Natural Significance identified on the Planning Maps.~~

² Mr Gerald and the Wolds

Amendments to the notified provisions of PC18 recommended by the Independent Hearing Panel are shown in ~~strikeout~~, underlining and ~~grey wash~~.

SECTION 3 - DEFINITIONS

Biodiversity (or biological diversity): means the variability of living organisms and the ecological complexes of which they are a part, including diversity within species, between species and of ecosystems.

Biodiversity offset: means a measurable conservation outcome resulting from actions which are designed to compensate for significant residual adverse effects on indigenous biodiversity arising from human activities after all appropriate prevention and mitigation measures have been taken. The goal of a biodiversity offset is to achieve no net loss and preferably a net gain of indigenous biodiversity on the ground with respect to species composition, habitat structure and ecosystem function. They typically take the form of binding conditions associated with resource consents and can involve bonds, covenants financial contributions and biodiversity banking.³

Farming Operation: means an area of land, including an aggregation of parcels of land (whether contiguous or non-contiguous), held in single or multiple ownership (whether or not held in common ownership), that constitutes a single operating unit for the purpose of farming management.⁴

Farm Biodiversity Plan: means a plan that covers the whole of a farming enterprise that is submitted to the Council as part of a resource consent application under Section 19 Indigenous Biodiversity, and is prepared in accordance with Appendix Y.⁵

Farming Enterprise: means an aggregation of parcels of land held in single or multiple ownership (whether or not held in common ownership) that constitutes a single operating unit for the purpose of farming management.⁶

Improved Pasture: : means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing. ~~pasture where:~~

- a) ~~Species composition and growth have been modified and enhanced for livestock grazing within the previous 15 years, by clearance, cultivation or topdressing and oversowing, or direct drilling; and~~
- b) ~~Exotic pasture species have been deliberately introduced and dominate in cover and composition. For the purposes of this definition the assessment of dominance shall disregard indigenous vegetation which is growing upon land that has previously been modified and enhanced for livestock grazing in accordance with clause a) above and is less than 15 years old.~~⁷

Indigenous Vegetation: Means a plant community of vascular plants, mosses and/or lichens that includes species native to the ecological district. The community may include exotic species, but does not include vegetation that has been planted as part of a domestic garden, for amenity purposes or as a shelterbelt, or exotic woody pest plants. ~~native to New Zealand, which may include exotic vegetation but does not include plants within a domestic garden or that have been planted for the use of screening/shelter purposes e.g. as farm hedgerows, or that have been deliberately planted for the purpose of harvest.~~⁸

Mobstocking: means confining livestock in an area in which there is insufficient feed and in a way that results in the removal of all or most available vegetation.⁹

No net loss: means, in relation to indigenous biodiversity, no reasonably measurable overall reduction in:

- a) the diversity of indigenous species or recognised taxonomic units; and

³ EDS, DOC

⁴ CRC

⁵ Clause 10(2)(b) amendment

⁶ Clause 10(2)(b) amendment consequential to CRC submission

⁷ C Morris, Mackenzie Guardians, Fish and Game, CRC, Mt Gerald, DOC, Forest and Bird

⁸ Mackenzie Guardians, CRC, EDS, DOC

⁹ DOC

- b) indigenous species' population sizes (taking into account natural fluctuations) and long-term viability; and
- c) the natural range inhabited by indigenous species; and
- d) the range and ecological health and functioning of assemblages of indigenous species, community types and ecosystems.¹⁰

Significant indigenous vegetation and significant habitats of indigenous fauna: means areas of indigenous vegetation or habitats of indigenous fauna which:

- a) meet the criteria listed in the Canterbury Regional Policy Statement's Policy 9.3.1 and Appendix 3; or
- b) are listed in Appendix I as a Site of Natural Significance; and
- c) includes any areas that do not comprise **improved pasture** within the glacial derived or alluvial (depositional) outwash and moraine gravel ecosystems of the Mackenzie Basin as shown on Figure 1.¹¹

Vegetation Clearance: means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, or burning, or irrigation artificial drainage, and mob stocking. It includes oversowing, topdressing or overplanting on land that is not improved pasture¹². Clearance of vegetation shall have the same meaning.

Waitaki Power Scheme: means the electricity generation activities in the Waitaki River Catchment including the structures, works facilities, components, plant and activities undertaken to facilitate and enable the generation of electricity from water. It includes power stations, dams, weirs, control structures, penstocks, canals, tunnels, siphons, spillways, intakes, storage of goods, materials and substances, switchyards, fish and elver screens and passes, boom, site investigation works, erosion and flood control, access requirements (including public access), jetties, slipways and landing places, signs, earthworks, monitoring, investigation and communication equipment and transmission network.

Opuha Scheme: means the electricity generation activity associated with the Opuha Dam and power station (including the regulating pond and downstream weir) and all structures, works, facilities, components, plant and activities undertaken to facilitate that generation.¹³

Maintenance of Waitaki Power Scheme, Opuha Scheme or National Grid:¹⁴ means undertaking work and activities, including erosion control works, necessary to keep the infrastructure Waitaki Power Scheme¹⁵ operating at an efficient and safe level.

Refurbishment of Waitaki Power Scheme, Opuha Scheme or National Grid:¹⁶ means the upgrade or renewal (to gain efficiencies in generating and transmitting electricity) of machinery, buildings, plant, structure, facilities works or components and operating facilities associated with the infrastructure Waitaki Power Scheme.¹⁷

Core Sites: means land owned by Genesis Energy or Meridian Energy that is managed for hydro generation purposes associated with the Waitaki Power Scheme.

Operating Easement: means land Genesis Energy or Meridian Energy has an operating easement over. The purpose of this easement is to provide for activities to be undertaken by Genesis Energy or Meridian Energy as part of the management of the hydro facilities associated with the Waitaki Power Scheme.

¹⁰ EDS, DOC, Forest and Bird

¹¹ C Burke, CRC, EDS, Mt Gerald, DOC

¹² SPSL, Fish and Game

¹³ OWL

¹⁴ Clause 10(2)(b) amendment

¹⁵ Clause 10(2)(b) amendment

¹⁶ Clause 10(2)(b) amendment

¹⁷ Clause 10(2)(b) amendment

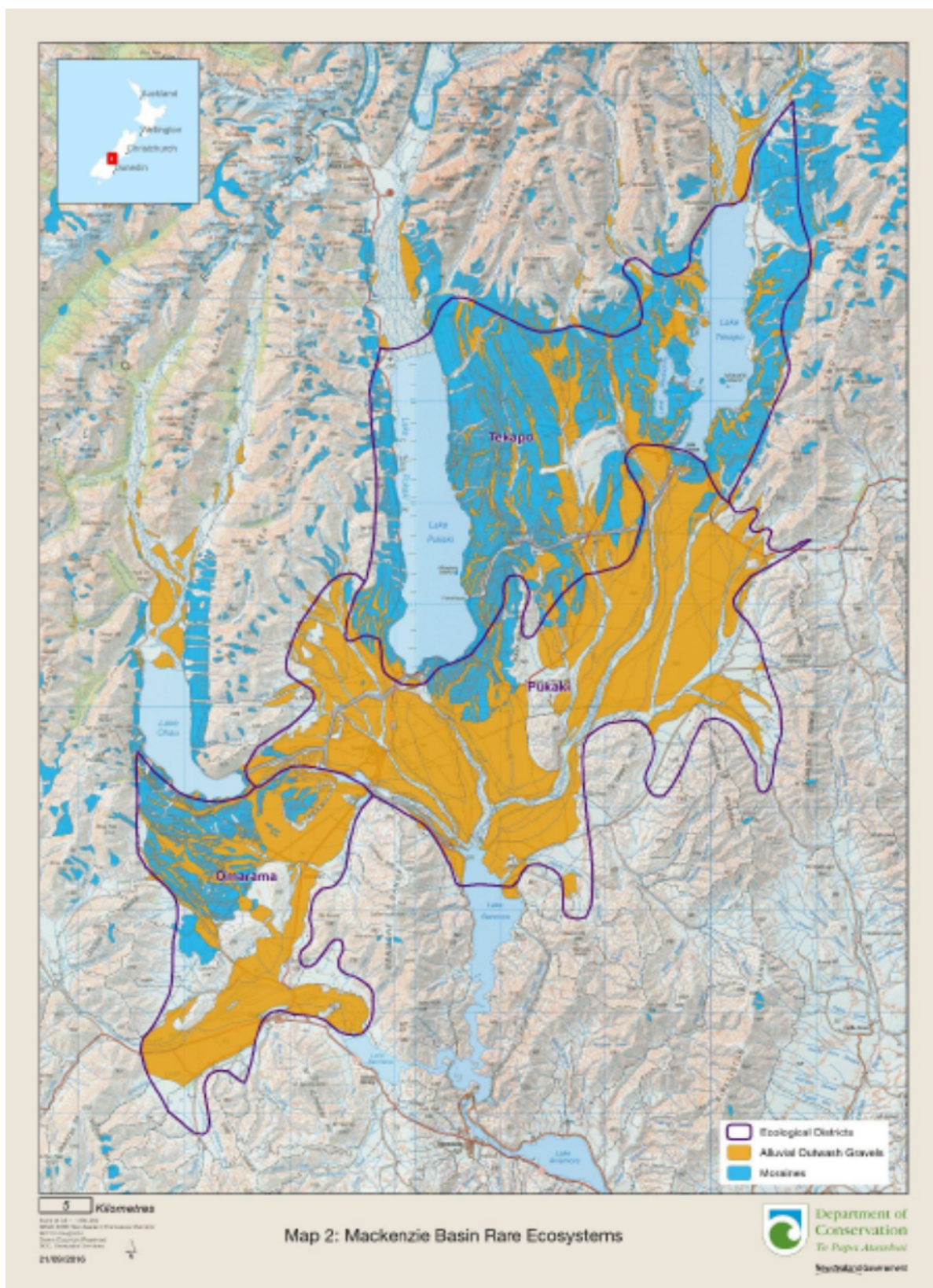


Figure One: Mackenzie Basin alluvial outwash and moraine ecosystems¹⁸

¹⁸ Fish and Game, EDS.

SECTION 19 –INDIGENOUS BIODIVERSITY

OBJECTIVES AND POLICIES

Objectives

1. To safeguard indigenous biodiversity and ecosystem functioning through the protection and enhancement of significant indigenous vegetation and habitats, riparian margins and the maintenance of natural biological and physical processes.¹⁹
2. Land development activities are managed to ensure the maintenance of indigenous biodiversity, including the protection and/or enhancement of significant indigenous vegetation and habitats, and riparian areas; the maintenance of natural biological and physical processes; and the retention of indigenous vegetation.²⁰
3. To support/encourage the integration of land development proposals with comprehensive identification, and protection and/or enhancement of values associated with significant indigenous biodiversity, through providing for comprehensive Farm Biodiversity Plans and enabling development that is in accordance with those plans.²¹

Land use and development activities are managed to:

- a) protect areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- b) outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, ensure the maintenance and enhancement of indigenous biodiversity, and²²
- c) despite (a) and (b), recognise and provide for the national significance of the Waitaki Power Scheme and the National Grid when managing effects on indigenous biodiversity arising from the development, operation, maintenance, refurbishment or upgrade of those utilities.²³

Policies

1. To assess and²⁴ identify in the District Plan sites²⁵ areas²⁶ of significant indigenous vegetation or and significant habitats of indigenous fauna²⁷ in accordance with the criteria listed in Appendix 3 of²⁸ the Canterbury Regional Policy Statement and to prevent development which reduces the values of these sites.²⁹
2. To avoid, remedy or mitigate adverse effects on the natural character and indigenous land and water ecosystems functions in the District including:
 - a) Landform, physical processes and hydrology
 - b) Remaining areas of significant indigenous vegetation and habitat, and linkages between these areas

¹⁹ EDS, Mt Gerald, The Wolds

²⁰ CRC, Glenrock Station, Mt Gerald, The Wolds

²¹ Mt Gerald, The Wolds, Forest and Bird

²² CRC, EDS, Glenrock Station,

²³ Genesis, Meridian, Transpower, CRC, Forest and Bird, EDS

²⁴ Clause 10(2)(b) consequential to DOC

²⁵ EDS, DOC

²⁶ Clause 16(2) clarification

²⁷ Clause 16(2) clarification

²⁸ Clause 16(2) clarification

²⁹ Meridian, Mt Gerald, The Wolds

e) ~~Aquatic habitat and water quality and quantity~~³⁰

~~To protect areas of significant indigenous vegetation and significant habitats of indigenous fauna by ensuring that land use and development, agricultural conversion and pastoral intensification:~~

- a) ~~avoids the clearance of indigenous vegetation or any reduction in its extent (including through edge effects); and~~
- b) ~~avoids adverse effects on those habitats;~~

~~unless permitted under Rule 1.1.1 or Rule 2.1.1 or is otherwise consistent with Policy 5.~~³¹

~~3. Rural development, including indigenous vegetation clearance and pastoral intensification, occurs in a way or at a rate that provides for no net loss of indigenous biodiversity values in areas identified as significant.~~³²

~~Outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, to ensure that indigenous biodiversity is maintained or enhanced by:~~

- a) ~~avoiding adverse effects on indigenous vegetation and habitats of indigenous fauna as far as practicable; then~~
- b) ~~remediating any adverse effects that cannot be avoided; then~~
- c) ~~mitigating any adverse effects that cannot be remedied; then~~
- d) ~~offsetting any significant residual adverse effects in accordance with Policy 4.~~³³

~~4. To ensure that land use activities including indigenous vegetation clearance and pastoral intensification do not adversely affect any ecologically significant wetland.~~³⁴

~~5. To consider a range of mechanisms for achieving protection of significant indigenous vegetation and significant habitats of indigenous fauna, including avoidance, remediation, mitigation or offsetting of adverse effects, and to secure that protection through appropriate instruments including resource consent conditions (if approved).~~ *Relocated to be Policy 7*

~~6.4 For any indigenous biodiversity offsets Where offsetting is proposed, to~~³⁵ ~~apply the following criteria:~~

- a) ~~the offset will only compensate for significant~~³⁶ ~~residual adverse effects that cannot otherwise be avoided, remedied or mitigated;~~
- b) ~~the significant~~³⁷ ~~residual adverse effects on indigenous~~³⁸ ~~biodiversity are capable of being offset and will be fully compensated by the offset to ensure no net loss of biodiversity;~~
- c) ~~where the area to be offset is identified as a national priority for protection in accordance with Policy 9.3.2 of the Canterbury Regional Policy Statement 2013 or its successor, the offset must deliver a net gain for biodiversity;~~
- d) ~~there is a strong likelihood that the offsets will be achieved in perpetuity; and~~³⁹
- e) ~~where the offset involves the ongoing protection of a separate site, it will deliver no net loss, and preferably a net gain for indigenous biodiversity conservation;~~
- f) ~~The offset should apply as close as possible to the site incurring the effect, recognising that benefits diminishing with distance from the site; and~~⁴⁰

³⁰ CRC, EDS, Genesis, Meridian, Mt Gerald, The Wolds

³¹ CRC, EDS, Genesis, DOC

³² CRC, Mt Gerald, The Wolds, Forest and Bird

³³ Burke, Fish and Game, CRC, EDS, Meridian, DOC

³⁴ Mt Gerald, The Wolds

³⁵ DOC, SPSL

³⁶ Clause 16(2) clarification

³⁷ Clause 16(2) clarification

³⁸ SPSL

³⁹ Clause 10(2)(b) amendment

⁴⁰ EDS

- g) ~~Offsets should re-establish or protect the same type of ecosystem or habitat that is adversely affected, unless an alternative ecosystem or habitat will provide a net gain for indigenous biodiversity.~~⁴¹

7.5 ~~Despite Policy 2, to manage effects on indigenous biodiversity in a way that recognises the national significance⁴² To recognise the economic and social importance⁴³ of renewable energy generation activities⁴⁴ and the electricity⁴⁵ transmission network consistent with objectives and policies of this Plan, to and provides for their development, operation,⁴⁶ its upgrading, and maintenance by and enhancement.~~⁴⁷

- a) ~~Enabling indigenous vegetation clearance that is essential for the operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid and the Opuha Scheme; and~~⁴⁸
- b) ~~Providing for the upgrading and development of renewable energy generation and the electricity transmission network, while managing any adverse effects on indigenous biodiversity, having particular regard to:~~
- ~~i. the location of existing structures and infrastructure and the need to locate the generation activity where the renewable energy resource is available; and~~
 - ~~ii. the logistical, technical and operational constraints associated with the activity; and~~
 - ~~iii. the importance of maintaining and increasing the output from existing renewable electricity generation activities; and~~
 - ~~iv. environmental compensation which benefits the local environment affected, as an alternate, or in addition to offsetting, to address any significant residual environmental effects.~~⁴⁹

Additional Policies applying to Farm Biodiversity Plans⁵⁰

8.6 ~~To enable rural⁵¹ land use and development at an on-farm level, through a Farm Biodiversity Plan,⁵² where that development is integrated with⁵³ comprehensive and expert⁵⁴ identification, sustainable management and long-term protection of values associated with significant indigenous vegetation and significant habitats of indigenous fauna, through a Farm Biodiversity Plan process⁵⁵ of indigenous biodiversity is undertaken that demonstrates how that use and development will be integrated with.~~⁵⁶

- a) ~~the long-term protection of significant indigenous vegetation and significant habitats of indigenous fauna;~~⁵⁷
- b) ~~the maintenance of other indigenous biodiversity; and~~⁵⁸
- c) ~~opportunities for enhancement of indigenous biodiversity, where appropriate.~~⁵⁹

⁴¹ DOC

⁴² Genesis, Meridian

⁴³ Clause 10(2)(b) amendment

⁴⁴ Clause 16(2) clarification

⁴⁵ Clause 16(2) clarification

⁴⁶ Genesis, Meridian

⁴⁷ Clause 10(2)(b) amendment

⁴⁸ Genesis, Meridian, OWL, Transpower

⁴⁹ Genesis, Meridian

⁵⁰ Forest and Bird

⁵¹ Clause 16(2) clarification

⁵² Clause 10(2)(b) amendment

⁵³ Clause 10(2)(b) amendment

⁵⁴ Clause 10(2)(b) amendment

⁵⁵ CRC

⁵⁶ Mt Gerald, The Wolds

⁵⁷ EDS

⁵⁸ EDS, Glenrock Station, Mt Gerald, The Wolds

⁵⁹ EDS, Glenrock Station, Mt Gerald, The Wolds.

9. Where a Farm Biodiversity Plan is proposed, to require comprehensive and expert identification of significant indigenous biodiversity values as part of that Plan, and to ensure that any development proposed under that Plan is integrated with protection for those significant values.⁶⁰
- 5.7 To consider a range of mechanisms for securing ~~achieving~~⁶¹ protection of significant indigenous vegetation and significant habitats of indigenous fauna, including resource consent conditions, management agreements and covenants ~~avoidance, remediation, mitigation or offsetting of adverse effects, and to secure that protection through appropriate instruments including resource consent conditions (if approved).~~⁶²
8. To recognise and provide for activities, including voluntary initiatives, that contribute towards the protection, maintenance or enhancement of indigenous biodiversity.⁶³

RULES

INDIGENOUS VEGETATION CLEARANCE

Note: The rules in this chapter apply to any indigenous vegetation clearance, including clearance undertaken as part of another activity, and apply in addition to the provisions in other sections of this Plan, including Section 16.⁶⁴

1. Indigenous Vegetation Clearance excluding indigenous vegetation clearance associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme⁶⁵

1.1 Permitted Activities – Indigenous Vegetation Clearance

- 1.1.1 Clearance of indigenous vegetation is a permitted activity provided one or more of⁶⁶ the following conditions are met:
1. The clearance is within 2m of, and⁶⁷ for the purpose of:
 - a) the maintenance or repair of existing fence lines, vehicle tracks, roads, stock tracks,⁶⁸ stock crossings,⁶⁹ firebreaks, drains, ponds, dams,⁷⁰ stockyards, farm buildings, water troughs and associated reticulation piping,⁷¹ or airstrips; or
 - b) the operation, maintenance, repair or upgrade of network utilities permitted by Rule 16.1.1.(j).⁷²
 2. The clearance is of indigenous vegetation which has been planted and is managed specifically for the purpose of harvesting and subsequent replanting of plantation forest within 5 years of harvest and the clearance is not within a location specified in Rule 1.3.2; or⁷³

⁶⁰ Mr Gerald, The Wolds.

⁶¹ Glenrock Station

⁶² Burke, Mackenzie Guardians, EDS, Mt Gerald, The Wolds, Forest and Bird.

⁶³ Glenrock Station, Mt Gerald, The Wolds.

⁶⁴ EDS, DOC

⁶⁵ Clause 10(2)(b) amendment

⁶⁶ Clause 16(2) clarification

⁶⁷ Forest and Bird

⁶⁸ M Seymour

⁶⁹ Mt Gerald, The Wolds

⁷⁰ Mt Gerald, The Wolds

⁷¹ FFNZ

⁷² Transpower

⁷³ Clause 10(2)(b) amendment

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3. ~~The clearance is of the indigenous understorey to plantation forest, and is incidental to permitted or otherwise authorised plantation forest clearance and the clearance is not within a location specified in Rule 1.3.2; or;~~⁷⁴
4. ~~The clearance is of indigenous vegetation which has been planted and/or is managed as part of a domestic garden or has been planted for amenity purposes or as a shelterbelt and the clearance is not within a location specified in Rule 1.3.2; or;~~⁷⁵
5. ~~The clearance is essential for compliance with the Regional Pest Management Strategy;~~⁷⁶ ~~The clearance is of indigenous vegetation carried out by or on behalf of a local authority for erosion and flood control works, including within 75m of a lake, 20m of the bank of a river, or 50m of any wetland;~~⁷⁷
6. ~~The clearance is of indigenous vegetation within a defined Farm Base Area (see Appendix R); or~~⁷⁸
- 6 7. ~~The clearance is of indigenous vegetation within an area of improved pasture (refer Definitions) and the clearance is not within a location specified in Rule 1.3.2;~~⁷⁹
7. ~~The clearance is not within a Site of Natural Significance or on land above 900m in altitude;~~⁸⁰
8. ~~The clearance is not within:~~
 - a) ~~100m of a lake~~
 - b) ~~20m of the bank of a river~~
 - c) ~~100m of an ecologically significant wetland~~
 - d) ~~50m of all other wetlands~~⁸¹

1.2 Restricted Discretionary Activity – Indigenous Vegetation Clearance

1.2.1 ~~Unless permitted under Rule 19.1 the clearance of indigenous vegetation clearance is a restricted discretionary activity provided the following conditions are met:~~

1. ~~The farm enterprise has a Farm Biodiversity Plan (see Definitions);~~
2. ~~The clearance is not within a Site of Natural Significance or on land above 900m in altitude.~~
3. ~~The clearance is not within:~~
 - a) ~~100m of a lake~~
 - b) ~~20m of the bank of a river~~
 - c) ~~100m of an ecologically significant wetland~~
 - d) ~~50m of all other wetlands~~

~~The Council will restrict its discretion to the following matters:~~

1. ~~The quality of a Farm Biodiversity Plan, including whether the Farm Biodiversity Plan:~~
 - a) ~~Achieves the purpose set out in in Appendix Y;~~
 - b) ~~Adequately identifies the biodiversity values, and in particular significant indigenous vegetation or habitat of indigenous species using the criteria provided in Appendix 3 of the Canterbury Regional Policy Statement, and also identifies actual and potential threats to those values;~~
 - e) ~~Includes methods that will adequately protect the significant biodiversity values identified; and~~

⁷⁴ Clause 10(2)(b) amendment

⁷⁵ Clause 10(2)(b) amendment

⁷⁶ CRC

⁷⁷ CRC

⁷⁸ SPSL, Mt Gerald, The Wolds

⁷⁹ Clause 10(2)(b) amendment

⁸⁰ SPSL, C Burke

⁸¹ SPSL, CRC, Maryburn Station

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- d) ~~Includes appropriate monitoring and reporting methods to adequately protect the biodiversity values identified.~~
2. ~~Compliance with a Farm Biodiversity Plan~~
- a) ~~Whether the proposal achieves no net loss of indigenous biodiversity values identified as significant.~~
- b) ~~The actual or potential impacts on biodiversity or ecological values expected to occur as a result of the proposal, particularly the impact on significant values including the values significant to Ngāi Tahu.~~
- c) ~~The extent to which species diversity or habitat availability could be adversely impacted by the proposal.~~
- d) ~~Any potential for avoiding, remedying, mitigating or otherwise offsetting or compensating for adverse effects on significant indigenous vegetation and significant habitats of indigenous fauna.~~
- e) ~~Monitoring requirements including collection, recording and provision of information and how these can be adapted over time in response to information on the effectiveness of measures to avoid, remedy or mitigate adverse effects on indigenous biodiversity.~~
- f) ~~Conditions to ensure obligations in respect of biodiversity endure, including beyond any changes of ownership (wholly or partially) of the landholding and review of conditions.~~
- g) ~~The benefits that the activity provides to the local community and beyond.~~⁸²
- 1.2.2. ~~Other than as permitted by Rule 1.1.1 the Unless provided for in Rule 19.2.1 any indigenous vegetation~~⁸³ ~~clearance up to 5000m² of indigenous vegetation~~⁸⁴ ~~within any site, or per 100ha where a site is greater than 100ha,~~⁸⁵ ~~in any 5-year continuous period provided the following conditions are met:~~
1. ~~The clearance is not within:~~
- a) ~~an area of significant indigenous vegetation or a significant habitat of indigenous fauna a Site of Natural Significance~~⁸⁶ ~~or on~~
- b) ~~land above 900m in altitude;~~
2. ~~The clearance is not within:~~⁸⁷
- c) ~~100m 75m~~⁸⁸ ~~of a lake~~
- d) ~~20m of the bank of a river~~
- ~~100m of an ecologically significant wetland~~⁸⁹
- e) ~~50m of all other any~~⁹⁰ ~~wetlands~~
2. ~~A Farm Biodiversity Plan is prepared in accordance with Appendix Y for the farming operation and submitted with the application for resource consent.~~⁹¹
- The Council will restrict its discretion to the following matters:
1. ~~The adequacy of and implementation of the Farm Biodiversity Plan;~~⁹²
2. ~~The area of indigenous vegetation to be cleared and the reasons for the intended clearance;~~⁹³

⁸² C Burke, Forest and Bird

⁸³ Clause 16(2) clarification

⁸⁴ Clause 16(2) clarification

⁸⁵ CRC

⁸⁶ Clause 10(2)(b) amendment

⁸⁷ Clause 10(2)(b) amendment

⁸⁸ Mt Gerald, The Wolds

⁸⁹ Mt Gerald, The Wolds, Fish and Game

⁹⁰ Mt Gerald, The Wolds, Fish and Game

⁹¹ Mackenzie Guardians,

⁹² Clause 10(2)(b) amendment

⁹³ DOC, EDS

- ~~1.3~~ Managing⁹⁴ the actual or potential impacts on indigenous⁹⁵ biodiversity, species diversity, habitat availability⁹⁶ or ecological function values⁹⁷ expected to occur as a result of the proposal, particularly the impact on significant values including the⁹⁸ values significant to Ngāi Tahu.
- ~~4.~~ Managing edge effects.⁹⁹
- ~~2.5~~ Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;¹⁰⁰ The extent to which species diversity or habitat availability could be adversely impacted by the proposal.¹⁰¹
- ~~3~~ Any potential for mitigation or offsetting of effects on ecosystems and biodiversity values.¹⁰²
- ~~4.6~~ Any technical and or operational constraints on the activity necessitating the clearance of indigenous vegetation and route, site and method selection process.¹⁰³
- ~~4~~ The benefits that the activity provides to the local community and beyond.
- ~~7~~ Where the clearance is within an Outstanding Natural Feature or Landscape, a geopreservation site, Area of High Visual Vulnerability or Scenic Grassland Area, managing the indigenous vegetation clearance to, as far as is practicable, avoid adversely affecting those features, landscapes, sites or areas;¹⁰⁴
- ~~8~~ The adequacy of monitoring and reporting.¹⁰⁵
- ~~9~~ The review of conditions; and¹⁰⁶
- ~~10~~ Consent duration¹⁰⁷

~~1.2.3.~~ The clearance of indigenous vegetation within 75m of a lake, 20m of the bank of a river, or 50m of any wetland, for the purpose of installing a fence to exclude stock, is a restricted discretionary activity.

The Council will restrict its discretion to the following matters:

- i. The location of the fence.
- ii. Managing the effects of the intended clearance of indigenous vegetation.¹⁰⁸

1.3 Non-Complying Activity – Indigenous Vegetation Clearance

The following activities are Non-complying activities unless specified as a Permitted Activity, Restricted Discretionary Activity or Discretionary Activity:¹⁰⁹

1.3.1 Any indigenous vegetation clearance not categorised as a Permitted Activity or Restricted Discretionary Activity¹¹⁰ of more than 5000m² within any site in any 5-year continuous period.¹¹¹

1.3.2 Any indigenous vegetation clearance in the following locations unless specified as a permitted activity under Rule 1.1.1.1, 1.1.1.5 or 1.1.1.6 or a restricted discretionary activity under Rule 1.2.3¹¹²:

⁹⁴ Clause 16(2) clarification

⁹⁵ SPSL

⁹⁶ Clause 10(2)(b) amendment

⁹⁷ Clause 16(2) clarification

⁹⁸ Clause 16(2) clarification

⁹⁹ Mackenzie Guardians, DOC

¹⁰⁰ DOC, Forest and Bird

¹⁰¹ Clause 10(2)(b) amendment

¹⁰² Clause 10(2)(b) amendment

¹⁰³ Clause 10(2)(b) amendment

¹⁰⁴ DOC, EDS

¹⁰⁵ EDS

¹⁰⁶ Clause 16(2) clarification

¹⁰⁷ Clause 16(2) clarification

¹⁰⁸ Mr Gerald, The Wolds

¹⁰⁹ Clause 10(2)(b) amendment

¹¹⁰ Forest and Bird

¹¹¹ Clause 10(2)(b) amendment

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1. Within an area of significant indigenous vegetation or significant habitat of indigenous fauna a Site of Natural Significance.¹¹³
2. Above 900m in altitude.
3. Within 400m 75m of a lake, 20m of the bank of a river, 400m of an ecologically significant wetland or 50m of any all other wetlands.¹¹⁴

2 INDIGENOUS VEGETATION CLEARANCE ASSOCIATED WITH THE WAITAKI POWER SCHEME THE NATIONAL GRID OR THE OPUHA SCHEME¹¹⁵

2.1 Permitted Activities – Indigenous Vegetation Clearance

2.1.1. The clearance of indigenous vegetation associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme is a permitted activity where one or more of the following conditions are met:¹¹⁶

1. The clearance is a consequence of an emergency occurring on, or failure of, the Waitaki Power Scheme, the National Grid or the Opuha Scheme; or¹¹⁷
2. The clearance meets the conditions in Rule 1.1.1, or¹¹⁸
3. 2.1.2 The clearance is required for the operation, and maintenance or refurbishment¹¹⁹ of the Waitaki Power Scheme, within the following areas:
 - i. The existing footprint of the Waitaki Power Scheme.
 - ii. On core sites associated with the Waitaki Power Scheme.
 - iii. On areas covered by an operating easement associated with the Waitaki Power Scheme.
4. The clearance is required for the operation, maintenance or refurbishment of the National Grid or the Opuha Scheme; and¹²⁰
5. The clearance is located outside areas of significant indigenous vegetation and significant habitats of indigenous fauna identified in accordance with Policy 1.¹²¹

2.2 Restricted Discretionary Activity – Indigenous Vegetation Clearance

2.2.1 The clearance of Any indigenous vegetation associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme that does not comply with one or more of the conditions of Rule 2.1.1.¹²² clearance associated with the refurbishment of the Waitaki Power Scheme within the following areas:

- The existing footprint of the Waitaki Power Scheme.
- On core sites associated with the Waitaki Power Scheme.
- On areas covered by an operating easement associated with the Waitaki Power Scheme.¹²³

The Council will restrict its discretion to the following matters:

¹¹² Amended pursuant to Clause 16(2) of Schedule 1 of the Resource Management Act 1991, as directed by Commissioners, prior to adoption of recommendation by Mackenzie District Council.

¹¹³ Clause 10(2)(b) amendment

¹¹⁴ All changes to condition 3 are Clause 10(2)(b) amendments

¹¹⁵ Clause 10(2)(b) amendment

¹¹⁶ Genesis, Meridian, OWL, Transpower

¹¹⁷ Genesis, Meridian

¹¹⁸ Genesis, meridian

¹¹⁹ Genesis, Meridian

¹²⁰ OWL, Transpower

¹²¹ EDS

¹²² Meridian

¹²³ Clause 10(2)(b) amendment and Clause 16(2) clarification

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- (a) Whether the works are occurring on a surface that has previously been modified by the construction, operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid or the Opuha Scheme;¹²⁴
- (b) The adequacy of the identification of biodiversity values, including, but not limited to identification of areas of significant indigenous vegetation or significant habitats of indigenous fauna, and values outside of these areas that are particularly important for ecosystem connectivity, function, diversity, and integrity;¹²⁵
- ~~(b) (c)~~ Managing the actual or potential impacts on indigenous biodiversity, species diversity, habitat availability or ecological functions (including connectivity, function, diversity and integrity)¹²⁶ values expected to occur as a result of the proposal, particularly the impact on significant values including the¹²⁷ values significant to Ngāi Tahu;
- (d) Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;¹²⁸
- ~~(e)~~ The extent to which species diversity or habitat availability could be adversely impacted by the proposal.
- ~~(d)~~ Any potential for mitigation or offsetting of effects on ecosystems and biodiversity values.
- (e) Any technical and or operational constraints associated with the proposed activity requiring vegetation clearance and route, site and method selection process.¹²⁹
- (f) The benefits that the activity provides to the local community and beyond;
- (g) The adequacy of monitoring;¹³⁰
- (h) The review of conditions; and¹³¹
- (i) Consent duration.¹³²

2.3 Discretionary Activity – Indigenous Vegetation Clearance

- ~~2.3.1 Any indigenous vegetation clearance associated with any new facility, structure or works associated with the Waitaki Power Scheme.~~¹³³

¹²⁴ Clause 10(2)(b) amendment, also OWL, Transpower

¹²⁵ EDS, also Clause 10(2)(b) amendment following deletion of notified (d) and (e)

¹²⁶ DOC

¹²⁷ Clause 16(2) clarification

¹²⁸ EDS

¹²⁹ Clause 16(2) clarification

¹³⁰ EDS

¹³¹ Clause 16(2) clarification

¹³² Clause 16(2) clarification

¹³³ Clause 10(2)(b) amendment

A. Add the following Appendix Y to the Mackenzie District Plan

APPENDIX Y - FARM BIODIVERSITY PLAN FRAMEWORK

Introduction

The purpose of a Farm Biodiversity Plan is to facilitate the maintenance or enhancement of indigenous biodiversity for a farming operation integration of development activity with the identification and protection of significant ecological areas to ensure no net loss of biodiversity, on a comprehensive whole of property basis.¹³⁴

Development of a Farm Biodiversity Plan

A Farm Biodiversity Plan can be developed through a collaborative process between the Council and the landowner / land manager. (refer footnote)¹³⁵ but is only authorised by the Council through the resource consent process.¹³⁵

Framework

The following sets out the framework for development of a Farm Biodiversity Plan.

1. A Farm Biodiversity Plan can be provided in one of the following formats:
 - a) as a separate stand-alone Farm Biodiversity Plan; or
 - b) as an additional section to a farm environment plan prepared according to an industry template such as the Beef and Lamb New Zealand Canterbury Farm Biodiversity Plan or a plan prepared to meet Schedule 7 of the Canterbury Land and Water Regional Plan.

Note: Where an industry farm biodiversity plan template is used, the Council is only concerned with the sections of that plan which address the matters outlined in this Appendix Y.
2. A Farm Biodiversity Plan shall apply to a farming operation enterprise (see Definitions).¹³⁶
3. A Farm Biodiversity Plan must contain as a minimum the matters contained in Parts A, B, C and D that follow.¹³⁷

NOTE The Council will work with landowners / land managers in developing a Farm Biodiversity Plan and may provide a suitably qualified ecological expert to identify and assess the indigenous biodiversity of the farming enterprise, and to provide ecological advice on management of those values. Advice may also be provided from an appropriately qualified person who has expertise in land/farm management, where appropriate. Council will not fund experts other than those provided by the Council.

¹³⁴ DOC, EDS, Glenrock Station,

¹³⁵ DOC

¹³⁶ Clause 10(2)(b) amendment

¹³⁷ Clause 16(2) clarification

A Description of the property and its features:

1. Physical address;
2. Description of the ownership and name of a contact person;
3. Legal description of the land used for the farming operation ~~property~~;¹³⁸ and
4. A map(s) or aerial photograph at a scale that clearly shows, where relevant:
 - a) The boundaries of the farming operation ~~enterprise~~;¹³⁹
 - b) The boundaries of the main land management units within the farming operation ~~on the property or within the property~~;¹⁴⁰
 - c) The location of all water bodies, including ~~wetlands and~~¹⁴¹ riparian vegetation;
 - d) Constructed features including buildings, tracks and any fencing to protect biodiversity values (including around riparian areas);
 - e) The location of any areas within or adjoining the farming operation ~~property~~¹⁴² that have been identified as areas of significant indigenous vegetation or significant habitats of indigenous fauna ~~a Sites of Natural Significance~~¹⁴³ or are legally protected by way of covenant;
 - f) The location of any other areas within the farming operation that have been identified as an Outstanding Natural Landscape or Feature, a geopreservation site, Area of High Visual Vulnerability or Scenic Grassland Area ~~property that may have ecologically significant values~~;¹⁴⁴
 - g) The location of any Farm Base Areas;¹⁴⁵
 - h) Areas of improved pasture;
 - i) Areas of retired land; and
 - j) Location of any proposed developments, including intensification of production, new tracks or buildings and areas to be cleared.

C B Development Areas and Farming Operation¹⁴⁶ Activities:

The purpose of this section of the Farm Biodiversity Plan¹⁴⁷ is to understand how the land including any Sites of Natural Significance,¹⁴⁸ has been managed, what the future management will be, and how this will affect the indigenous biodiversity. The Farm Biodiversity Plan shall:¹⁴⁹

1. Describe historic and current land use management, including stocking policy, water supply, grazing regimes, improved pasture, and indigenous¹⁵⁰ biodiversity management, where relevant;¹⁵¹
2. Describe any proposed land use management or activities to be undertaken that would require the clearance or disturbance of indigenous biodiversity and the time frames over which these activities are proposed to occur. Such activities may include construction of new farm tracks or buildings, intensification of land use, indigenous vegetation clearance within previously undisturbed areas, earthworks or cultivation.
3. Describe any potential adverse effects of the proposed activities described above on areas of indigenous biodiversity, including any Site of Natural Significance¹⁵²

¹³⁸ Clause 10(2)(b) amendment

¹³⁹ Clause 10(2)(b) amendment

¹⁴⁰ Clause 10(2)(b) amendment

¹⁴¹ EDS

¹⁴² Clause 10(2)(b) amendment

¹⁴³ DOC

¹⁴⁴ CRC, EDS

¹⁴⁵ SPSL, EDS

¹⁴⁶ Clause 10(2)(b) amendment

¹⁴⁷ Clause 16(2) clarification

¹⁴⁸ EDS

¹⁴⁹ Clause 16(2) clarification

¹⁵⁰ SPSL

¹⁵¹ Clause 10(2)(b) amendment

B — Description of existing ecological values:

~~The purpose of this section of the Farm Biodiversity Plan is to describe the indigenous biodiversity of the farming enterprise to understand what the ecological values are and any threats or risks to these values. This will inform how these values are to be managed to achieve the overall goal(s) of maintenance, and over time, enhancement, of indigenous biodiversity on the property/catchment.~~

- ~~1. This assessment shall be undertaken by a suitably qualified and experienced ecologist.~~
- ~~2. This assessment shall describe existing ecological values within the farming enterprise and identify any significant sites in accordance with Policy 9.3.1 (1) and 9.3.1 (2) and the criteria in Appendix 3 of the Canterbury Regional Policy Statement 2013.~~
- ~~3. This assessment shall contain:
 - ~~a) Recommended and measurable outcomes to demonstrate achievement of no net loss of identified values of significance;~~
 - ~~b) Recommended actions to achieve these outcomes;~~
 - ~~c) Recommendations for monitoring and review of progress in achieving the outcomes.~~~~

[Section B as notified is relocated and renamed as Section C below]

C — Development Areas and Activities:

~~The purpose of this section is to understand how the land, including any Sites of Natural Significance, has been managed, what the future management will be, and how this will affect the indigenous biodiversity.~~

- ~~1. Describe historic and current land use management, including stocking policy, water supply, grazing regimes, improved pasture, biodiversity management, where relevant;~~
- ~~2. Describe any proposed land use management or activities to be undertaken that would require the clearance or disturbance of indigenous biodiversity and the time frames over which these activities are proposed to occur. Such activities may include construction of new farm tracks or buildings, intensification of land use, vegetation clearance of previously undisturbed areas, earthworks or cultivation; and~~
- ~~3. Describe any potential adverse effects of the proposed activities described above on areas of indigenous biodiversity, including any Site of Natural Significance.~~

[Section C as notified is relocated and renamed as Section B above]

D — Management Methods to Achieve Protection of Values

~~Having regard to the information in B above, the purpose of this section is to set out information on management methods to ensure the values identified in the assessment at B are protected to ensure no net loss of indigenous biodiversity values in areas identified as significant.¹⁵³~~

C Description of existing indigenous biodiversity and its intended management

~~The purpose of this section of the Farm Biodiversity Plan is to describe the indigenous biodiversity of the farming operation and how it will be managed.¹⁵⁴~~

- ~~1. An assessment of existing indigenous biodiversity values shall be undertaken by a suitably qualified and experienced ecologist, including the identification of areas of significant indigenous vegetation or significant habitats of indigenous fauna.¹⁵⁵~~
- ~~2. The assessment shall contain:
 - ~~a) Recommendations to achieve maintenance and, where appropriate, enhancement of indigenous biodiversity outside significant areas.¹⁵⁶~~
 - ~~b) A description of how the objective of 'no net loss' will be met by the proposal/s, including a description of tools and methods to achieve this. These Recommended actions to achieve these outcomes which¹⁵⁷ may include:~~~~

¹⁵² DOC

¹⁵³ Clause 10(2)(b) amendment

¹⁵⁴ Clause 10(2)(b) amendment

¹⁵⁵ Burke, EDS, Mt Gerald, The Wolds

¹⁵⁶ EDS

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- i. Formal legal protection;
 - ii. Pest or weed control;
 - iii. Grazing regimes/management to protect values;
 - iv. Fencing;
 - v. Restoration planting or other restoration measures;
 - vi. Confirmation that area/s will not be subject to future land use change or development activity that will impact on the identified values present;
 - vii. Confirmation that the tools and methods will endure beyond any fragmentation of the farming operation enterprise¹⁵⁸ e.g. as a result of changes in ownership
3. Recommendations for monitoring and review of progress in achieving the outcomes.¹⁵⁹
4. The plan shall include for each proposed management method above:
- a) Detail commensurate with the scale of the environmental effects and risks;
 - b) Defined measurable targets that clearly set a pathway and timeframe for achievement;
 - c) Any proposed monitoring and information or records to be kept for measuring performance and achievement of the target.
2. Confirmation from an appropriately qualified and experienced ecologist that the proposed methods will achieve the objective.¹⁶⁰

E D-Monitoring and Reporting on actions:

The Farm Biodiversity Plan shall include a description of how the recommendations in Part C (2) will be monitored and reviewed. the following:

1. Having regard to B (3.) above, describe how the outcomes will be monitored, and how the results will be reported.
2. Describe when a review of management methods will be necessary; how such reviews/s will be undertaken, who by and within what timeframes; and how the results of any review will be implemented.¹⁶¹

*Note: The review described in D above does not supersede the requirement to apply for a change of condition(s) to any resource consent associated with the Farm Biodiversity Plan that may be necessary as a result of the review. It is also separate to any review of consent conditions that the Council may initiate under section 128 of the Resource Management Act 1991.*¹⁶²

CHANGES TO THE PLANNING MAPS

No changes to the planning maps are proposed.

¹⁵⁷ Clause 16(2) clarification

¹⁵⁸ Clause 10(2)(b) amendment

¹⁵⁹ Clause 10(2)(b) amendment

¹⁶⁰ Clause 10(2)(b) amendment consequential on redrafting of new Part C(1) and (2)

¹⁶¹ Clause 10(2)(b) amendment consequential on redrafting of new Part C(3). Also EDS

¹⁶² Clause 16(2) clarification

ATTACHMENT 5

TABLE OF PARTIES TO BE SERVED

Submitter No.	Submitter Name	Submitter address for Service
1	Federated Farmers of New Zealand	Federated Farmers of New Zealand 57A Theodosia Street Timaru 7910
2	Maryburn Station	Maryburn Station 2833 State Highway 8 Lake Tekapo
3	Simons Pass Station Limited	Simons Pass Station Limited Level 3 258 Stuart Street Dunedin 9016
4	Carol Linda Burke	Carol Linda Burke P O Box 107 Twizel
5	Colin John Morris	Colin John Morris 19 Hector Street RD 1 Coalgate
6	Mackenzie Guardians Inc	Mackenzie Guardians Inc c/- PDC Glentunnel 7638
7	Central South Island Fish & Game	Central South Island Fish & Game c/- Angela Christensen 32 Richard Pearse Drive PO Box 150 Temuka
8	Canterbury Regional Council (Environment Canterbury)	Environment Canterbury PO Box 550 Timaru 7940
9	Environmental Defence Society	Environmental Defence Society PO Box 91736 Victoria Street West Auckland 1142
10	Hermann Frank	Hermann Frank Fairview Road RD2 Timaru 7972
11	Genesis Energy Limited	Karen Sky Environmental Manager Genesis Energy Limited 660 Great South Road Greenlane Auckland
12	Glenrock Station Limited	Glenrock Station Limited c/- Gallaway Cook Allan Lawyers PO Box 143 Dunedin 9054 Attention: Bridget Irving

Submitter No.	Submitter Name	Submitter address for Service
13	Meridian Energy Limited	Meridian Energy Limited PO Box 2146 Christchurch 8140 Attention: Andrew Feierabend
14	Opuha Water Limited	Opuha Water Limited c/- Gresson Dorman & Co PO Box 244 Timaru 7940 Attention: Georgina Hamilton
15	Pukaki Tourism Holdings Ltd	Pukaki Tourism Holdings Ltd c/- Vivian + Espie Limited PO Box 2514 Wakatipu Mail Centre Queenstown Attention: Carey Vivian
16	Mt Gerald Station Limited	Mt Gerald Station Limited c/- Duncan Cotterill Duncan Cotterill Plaza 148 Victoria Street Christchurch 8013 Attention: Katherine Forward
17	The Wolds Station Limited	The Wolds Station Limited c/- Duncan Cotterill Duncan Cotterill Plaza 148 Victoria Street Christchurch 8013 Attention: Katherine Forward
18	Lou Sanson Director-General of Conservation	RMA Shared Services Department of Conservation Private Bag 4715 Christchurch Mail Centre 8140 Attention: Nardia Yozin
19	Blue Lake Investments NZ Limited	Blue Lake Investments NZ Limited c/- Vivian + Espie Limited PO Box 2514 Wakatipu Mail Centre Queenstown Attention: Carey Vivian
20	Royal Forest and Bird Protection Society of New Zealand Inc	Forest & Bird PO Box 2516 Christchurch 8140 Attention: Jen Miller
21	Marion Seymour	Marion Seymour Ferintosh Station PB Fairlie 7949