

**1. Overview and Purpose**

This evaluation has been undertaken in conformity with section 32 of the Resource Management Act 1991. The subject matter being evaluated is a new indigenous biodiversity Section 19 to be included In the Mackenzie District Plan. Some of the provisions in this new Section have been transferred from Section 7 Rural. The rules in the new Section 19 are a replacement of the rules currently found in Clause 12 Vegetation Clearance of Section 7 – Rural. The new Section 19 is attached as a Schedule to this report.

**2. Background**

The Council is concerned about impacts of vegetation clearance for farm intensification purposes, on indigenous biodiversity, and in particular significant indigenous vegetation and habitats of significant indigenous fauna. Alongside this has been a concern regarding the effectiveness of the existing indigenous vegetation clearance rules in Clause 12 of the Rural zone of the District Plan which became operative in 2004 and the new Regional Policy Statement provisions, which became operative in 2013. These rules and their exemptions, as they are being applied, have enabled the clearance of indigenous vegetation which has significant value to the landscape and biodiversity of the Mackenzie Basin and which therefore should receive a greater degree of protection.

In response to these concerns and to avoid the potential for additional loss of valued indigenous vegetation, the Council decided to suspend the application of exemptions which applied to two particular indigenous vegetation clearance rules for 12 months. The two rules control clearance of short tussock grasslands and indigenous cushion and mat vegetation and associated communities which are the predominant indigenous plant communities on the floor of the Mackenzie Basin. The temporary suspension of the exemptions was achieved through Plan Change 17 which was notified on 24 December 2016. Decisions were obtained from the Environment Court ordering and declaring that the provisions of Plan Change 17 were to have immediate effect from the date of public notification.

The Council is currently reviewing the District Plan, including a review of the biodiversity policies and provisions. In undertaking this review it initially became apparent that a plan change focused on all vegetation clearance rules in clause 12 of Section 7, which include specific controls in indigenous vegetation clearance, was the most realistic and efficient approach given that the 12 month temporary suspension of exemptions for two rules is to cease on 24 December 2017.

As a result of consultation and additional consideration of these issues the Council has decided that a new standalone section of the District Plan addressing Indigenous Biodiversity is preferable. The reasons for this approach are twofold. Firstly, it recognises the importance of this issue within the Mackenzie District given the large areas containing indigenous biodiversity values and the threats to these areas. Secondly, it moves this issue away from being purely a “rural” issue to being a general issue within the District. In anticipation of the new planning standards which are expected to have a plan structure which deals separately with district wide issues and zone/area issues, it was considered appropriate that this important issue was contained in a separate general section rather than being included only in the Rural section.

Since Plan Change 17 was notified, a decision on the section 293 proposals for Plan Change 13 has been issued. This Decision sets in place a series of controls on pastoral intensification and agricultural conversion in the Mackenzie Basin to limit the adverse effects of farm intensification on outstanding natural landscape and the co-existing ecological values of the Basin. New Section 19 is intended to complement the provisions of Plan Change 13, as decided by the Environment Court.

The inclusion of a new Section 19 – Indigenous Vegetation in the Mackenzie District Plan as a plan change is part of Stage 1 of the formal review of the District Plan

### 3. Consultation

The Council has consulted with the parties as required by Schedule 1 of the Resource Management Act as well as wider consultation with landowners and interest groups set out below. This consultation was undertaken alongside issues and options in relation to activities on the surface of water. Feedback was received from 23 individuals or groups including landowners, neighbouring district councils, Environment Canterbury, Genesis and Meridian, Fish and Game, Mackenzie Guardians, Department of Conservation and Aoraki Environment Consultants on behalf of Te Runanga o Arowhenua.

The responses from this consultation include the following:

- Individual farm biodiversity plans required to recognise that each property requires a different balance between productive use and maintenance of existing indigenous vegetation.
- Important to retain existing exemptions i.e. for track clearance, fencing and weed control
- Exemption needed to enable control of fertiliser induced short Matagouri and anything that assists with control of wilding trees.
- Current traditional farming, needs to be recognised in some way, possibly by existing use certificates.
- If there is a general clearance rule for indigenous vegetation it needs to recognise that a higher level of protection is required for Sites of Natural Significance.
- ECan support Council's use of controls in clearance of indigenous vegetation to give effect to the Regional Policy Statement, including requiring consent for land that is to be irrigated.
- Clearance of indigenous vegetation should be provided for in Farm Base Areas.
- Keep existing exemptions such as clearance of 40ha per 5 years for short tussock.
- Base the definition of indigenous vegetation on the percentage cover rather than the number of species.
- Adopt process where land is inspected by an expert agreed upon by Council and landowner, costs to be shared or minimised and consent is non-notified for smaller areas of clearance.
- Rules for clearance for Sites of Natural Significance need to be tightened as they currently permit successive clearance over time.
- Possible incentives are the creation and use of a Council biodiversity fund to assist with work such as fencing and weed control in significant sites, and free ecological surveys.
- Take tenure review into account as ecological assessment has already occurred.
- Important to control vegetation clearance near rivers and lakes as it can impact on waterways.
- Do not rely on the controls in Plan Change 13 for pastoral intensification to assess and protect significant indigenous vegetation.
- Definition of indigenous vegetation must reflect the complexity of the Basin's flora and that it is often interposed with exotic species and provides significant habitat for fauna and endemic invertebrates (insects).
- A single rule applying to all indigenous vegetation is considered a better option than the current mix of rules for different species.
- The application of irrigation water, where it results in vegetation clearance of indigenous biodiversity should be managed by objectives, policies and methods in the District Plan as reliance on ECan to consider these effects would not be sufficient as they are not required to consider the impacts on indigenous biodiversity.
- Proposal to create a *Mackenzie Basin Natural Heritage Area* with a plan delineating different environments with associated controls, including controls in relation to clearance of indigenous vegetation.

#### 4. Objectives and Policies

The existing Rural zone Objective 1 – Indigenous Ecosystems, Vegetation and Habitat, and its policies, Policy 1B Identification and Protection of Special Sites and Policy 1C – Natural Character and Ecosystem Functions have been transferred from the Rural section into the new Section 19 – Indigenous Biodiversity. In addition two new objectives have been added addressing land management and integration of land development with comprehensive identification of significant indigenous natural values. With regard to policies, two policies have been brought over from the Rural Section and seven new policies added. Four of these relate to the acceptable rate of land development and mechanisms to achieve protection and offsetting, one relates management of indigenous vegetation clearance in relation to works associated with the Waitaki power Scheme and two relate to the use of farm biodiversity plans.

#### 5. Current Rule Provisions

The District Plan currently controls vegetation clearance directly in riparian areas (adjoining lakes rivers and wetlands) as well as controlling clearance of specific forms of indigenous vegetation. All these rules are contained in **Rural Zone Clause 12 – Vegetation Clearance**.

The rules specify the maximum area of clearance of the following indigenous species and plant communities some of which only apply in the Mackenzie Basin or in areas outside the Basin:

- Tall tussock (rule 12.1.1.c & i)
- Canopy vegetation with an average height of 3m (rule 12.1.1.c & i)
- Wetlands (rule 12.1.1.d)
- Indigenous vegetation above 900m in altitude (12.1.1.e)
- Shrubland (12.1.1.f)
- Short tussock grasslands (12.1.1.g amended by Plan Change 17)
- Cushion and Mat vegetation and associated communities (rule 12.1.1.h amended by Plan change 17)
- Matagouri (rule 12.1.1.f & i)
- General (rule 12.1.1.i)

All of the above standards have different levels of clearance beyond which consent is required varying from 500m<sup>2</sup> to 40 hectares. In addition, the exemptions to these rules relating to matters such as track maintenance and pest removal also vary considerably. In addition to these usual exemptions there is a specific exemption in the rules for short tussock and cushion and mat communities which specify that the rules do not apply where that vegetation has been:

*oversown, and topdressed at least three times in the last 10 years prior to new clearance so that:*

- *In the case of short tussock the inter-tussock vegetation is dominated by clovers and/or exotic grasses, and*
- *In the case of indigenous cushion and mat vegetation the site is dominated by clovers and/or exotic grasses.*

Plan Change 17 suspended this exemption in rules 12.1.1.g and 12.1.1.h for a period of 12 months up to 24 December 2017.

The driving force behind the decision to review these rules is threefold. Firstly, there is the need to have rules in place which will prevent the above exemption being available again as this exemption has already provided the basis for considerable clearance of short tussock and mat communities in the Mackenzie Basin. Secondly, the Regional Policy Statement has specific indigenous biodiversity objectives and actions that must be given effect to. Thirdly, there is a desire to have a simpler regime for indigenous vegetation clearance dealing with all species and communities in the same way under the same rules. In particular, there is a desire to have the same threshold level of clearance requiring resource consent and the same exemptions applying to all clearance of

indigenous vegetation throughout the District to aid in interpretation and enforcement. This approach has resulted in a shorter and simpler set of rules.

As with Plan Change 17, the Council will be seeking a declaration and/or order from the Court that those controls dealing with matters at greatest risk within this Plan Change will have immediate effect upon notification pursuant to section 86B (1) (a) and (3) and/or 86D(2) of the Resource Management Act 1991.

Overseeing all these provisions are a number of Rural Zone objectives and policies, the most relevant being Rural Objective 1 and supporting Policies 1B and 1C set out below and all of which are to be transferred to the new Section n 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.*

***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.*

***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.*

Also of relevance are Objectives relating to waterbodies and their margins, landscape values and the high country.

## **6. Relationship with other District Plan provisions**

The recent decision on Plan Change 13 incorporates new rules into the District Plan dealing with pastoral intensification and agricultural conversion. The definition of these two activities is set out below:

*Pastoral intensification: means subdivisinal fencing and/or topdressing and oversowing.*

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

By comparison the definition of vegetation clearance as amended by the proposed plan change is:

*Vegetation clearance: means the felling, clearing or modification of trees or any vegetation by cutting, crushing, spraying, ~~or~~ burning or irrigation.*

If therefore an activity involves cultivation, cutting, crushing or irrigation there is potential for it to fall under both agricultural conversion and vegetation clearance and so require consents under their respective rules. However there are number of situations where these rules do not overlap. Firstly it is noted that people may undertake clearance in advance of activities which comprise intensification or conversion and so it cannot be assumed that the intensification and conversion rules will ensure assessment of vegetation clearance in this situation. It is also noted that while pastoral intensification and agricultural conversion cover a range of activities, they do not include clearance that is not part of a farming activity. It is quite possible that areas could be cleared

for other purposes such as building sites and for the creation of new access tracks. Finally it is noted that the controls on pastoral intensification and agricultural conversion only apply in the Mackenzie Basin and not in the Eastern Mackenzie.

Because the PC13 provisions have just been finalised the Council will not be making any further changes to these provisions. It will be necessary therefore for any new objectives, policies and rules on vegetation clearance to be drafted so that they work with the PC13 rules and avoid, as much as is possible, overlapping and inconsistency between rules.

Other related activities such as forestry and earthworks impact on the viability of indigenous vegetation. These elements will be dealt with as part of the wider review of the District Plan.

## **7. Resource Management Issue**

The primary issue that is being addressed by the proposed changes is the need to avoid additional loss of valued indigenous vegetation through clearance within the District, and in particular, in the Mackenzie Basin. Clearance of vegetation is defined in the Definitions Section of the District Plan (section 3) as “*felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying or burning*” of vegetation. The changes propose to broaden the definition to include irrigation and “any other means” to ensure it covers all forms of clearance. The majority of the rules controlling vegetation relate only to clearance of **indigenous vegetation**. There is a definition of indigenous vegetation in the District Plan, however this definition a quite a technical one and the changes propose a simpler definition to avoid the need for a detailed survey to determine whether the vegetation is “indigenous”.

## **8. Proposed Indigenous Biodiversity Objectives 2 and 3**

The existing biodiversity objective in the Rural zone has been transferred to the new Section 19 – Indigenous Biodiversity and states:

- 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.*

To complement this objective two additional objectives are proposed to provide guidance for land management and to encourage identification of significant indigenous values through a comprehensive approach for individual properties. These objectives are set out below:

- 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.*
- 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.*

Section 32(1)(a) requires that new objectives are evaluated as to whether they are the most appropriate way to achieve the *purposes of the Act*. In addition there is a duty to give effect to the Regional Policy Statement. Section 5 of the Act sets out the purpose as sustainable management of natural and physical resources which is then further described as managing the use, development and protection of natural resources in a way or at a rate

which enables people and communities to provide for their social, economic and cultural well-being. This definition is then qualified by the requirement that at the same time:

- The potential of natural and physical resources must be sustained to meet the foreseeable needs of future generations, and
- The life-supporting capacity of air, water, soil and ecosystems is to be safeguarded

In addition section 6 specifies matters of national importance that must be recognised and provided for when carrying out functions (including plan making) under the Act. Of great relevance and importance is the following matter:

- Protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

Further section 7 requires that particular regard to the intrinsic values of ecosystems and the finite characteristics of natural resources.

All these elements of the purpose of the Act are relevant in the pursuit of maintenance of indigenous biodiversity as required by section 31 which sets out the functions of territorial authorities *for the purpose of giving effect to the Act in its district*: These include

- (a) *The establishment, implementation and review of **objectives, policies and methods** to achieve **integrated management of natural and physical resources in the district***
- (b) *The control of any actual or potential effects of the use, development or protection of land, including for:*
  - *Avoidance or mitigation of natural hazards*
  - ***The maintenance of indigenous biological diversity***

The establishment of a specific Section in the Mackenzie District Plan which has the purpose of protecting significant indigenous and otherwise maintaining indigenous biodiversity within the District is a clear statement on the importance of this issue and satisfies section 31. New **Objective 2** encapsulates the broad goals contained in the purpose of the Act including maintenance of indigenous biodiversity, protection and enhancement of significant natural values and retaining indigenous vegetation as the basis for management of land development. This (management of land development) is a critical factor if indigenous biodiversity is to be maintained particularly in the Mackenzie Basin where indigenous vegetation and habitats of indigenous fauna are ubiquitous but are subject to pressure from land intensification, including irrigated dairying.

**Objective 3** contains a more detailed approach to land management which encourages the integration of land development with comprehensive identification of significant indigenous biodiversity. As part of this Farm Biodiversity Plans are to be developed which contain methods to protect values in conjunction with enabling development. This objective is intended to satisfy Indigenous Biodiversity objective 1 and section 6(c) of the Act.

These objectives achieve the purpose of the Act and give effect to the Regional Policy Statement. They address all the elements of indigenous biodiversity (significant values, riparian areas, maintenance of natural and physical processes and retention of indigenous vegetation) as well as managing land development. The alternative would be to have objectives that rely on landowner initiatives (rather than regulation) without any incentive for this to happen. To date the indications are that without specific forms of control there will continue to be large-scale loss of indigenous vegetation and its associated habitat values. Accordingly it is considered that these objectives are the most appropriate means to achieve the purposes of the Act.

## **9. Proposed Indigenous Biodiversity Policies 1 to 7**

**Policies 1 and 2** set out below are already in the District Plan in the Rural Section 7 and are proposed to be moved to the new Section 19 – Indigenous Biodiversity. They therefore do not require an evaluation under section 32.

1. *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.*
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*
  - c) *Aquatic habitat and water quality and quantity*

**Proposed Policy 3** states:

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*

This policy sets a goal and criterion of no-net loss of significant indigenous biodiversity when assessing rural development including indigenous vegetation clearance. It has the purpose of giving effect to the Canterbury Regional Policy Statement (CRPS) Policy 9.3.1.3 Protecting significant natural areas which requires that significant areas will be protected so that there is no net loss of indigenous biodiversity values. This CRPS policy also specifies under their policy a number of matters that territorial authorities have to, or should, action, most of which are provided for in the proposed new Section 19 of the District Plan.

Any policy which contains a lesser commitment would not give effect to the CRPS but is also not likely to achieve the results sought in proposed Objectives 1, 2 and 3. It is therefore considered that this policy is the most effective in meeting the objectives and satisfying obligations in relation to the CRPS.

**Proposed Policy 4** states:

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

This policy sets a goal and criterion of not adversely affecting ecologically significant wetlands which have been declining in number and area over time. It has the purpose of giving effect to the Canterbury Regional Policy Statement (CRPS) Policy 9.3.5- Wetland protection and enhancement This CRPS policy specifies to ensure these wetlands are identified and protected through district plan provisions.

Any policy which contains a lesser commitment would not give effect to the CRPS but is also not likely to achieve the results sought in proposed Objectives 1, 2 and 3. It is therefore considered that this policy is the most effective in meeting the objectives and satisfying obligations in relation to the CRPS.

**Proposed Policy 5** states:

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).*

This policy is similar to, and replaces, the current Rural Policy 1A – Department of Conservation and Landholders which promotes long term protection of sites through a range of mechanisms. Proposed policy 5 is common in district plans and recognises that some landowners prefer to take initiative on matters of protection rather than having to apply for resource consent. Such an approach simply provides the community with a range of options to achieve the desired level of protection. It is considered the most appropriate method to achieve the objectives.

**Proposed Policy 6** provides for offsetting/compensation for loss of biodiversity but specifies the criteria for determining whether such off-setting is acceptable. Again this policy has the purpose of giving effect to the Canterbury Regional Policy Statement (CRPS), in this case Policy 9.3.6 Limitations on the use of biodiversity offsets. Any policy which did not provide for offsets or provided for them but with less stringent criteria would not give effect to the CRPS, but is also unlikely to achieve the results sought in proposed Objectives 1, 2 and 3. It is therefore considered that this policy is the most effective in meeting the objectives and satisfying obligations in relation to the CRPS.

**Proposed Policy 7** provides for a regime for clearance of indigenous vegetation associated with the various Waitaki Power Scheme works that need to be undertaken. This policy recognises the economic and social importance of this scheme as a contributor to the country's renewable energy generation and transmission.

## **10. Proposed Rules and Indigenous Biodiversity Policies 8 & 9 – Farm Biodiversity Plans**

The proposed **Rule 19 Indigenous Vegetation Clearance** (which replaces **Rural Zone Rule 12 Indigenous Vegetation**) and associated new **Objective 3** and **Policies 7 & 8** relating to Farm Biodiversity Plans have the purpose of creating a robust and easily administered set of rules and which encourage landowners to undertake comprehensive assessment of the biodiversity values on their properties. They are proposed to replace all rules in Clause 12 of Section 7 relating to indigenous vegetation. These rules can be summarised as follows:

- Permitted indigenous vegetation clearance includes clearance for:
  - Track and fence maintenance
  - Where grown specifically for harvest, shelter or as a garden
  - Matagouri within improved pasture
- Indigenous vegetation clearance on land over 900m in altitude or within Site of Natural Significance (SONS) containing significant indigenous vegetation and/or being a significant habitat of indigenous fauna is a Non-complying activity. Currently up to 100m<sup>2</sup> of clearance of SONS is permitted with any greater area being Non-complying
- All indigenous vegetation clearance in identified Scenic Viewing Areas and Scenic Grasslands is Non-complying.
- All other indigenous vegetation, regardless of the size of the area involved requires resource consent as a Restricted Discretionary, Discretionary Activity or a Non-complying Activity
- Indigenous vegetation clearance involving less than 500m<sup>2</sup> is a Restricted Discretionary Activity.
- Indigenous vegetation clearance involving more than 500m<sup>2</sup> any greater area of clearance is a Non-complying Activity. The important exception to this is if a landowner has a comprehensive assessment of the biodiversity values on the property and has a Farm Biodiversity prepared which details these values and how they are to be managed over time along with productive uses of the property. In this situation clearance of indigenous vegetation is a Restricted Discretionary Activity regardless of how much clearance is proposed. This approach is supported by a **new 7 & 8** which state:

7. *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.*



8. *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.*

## **11. Relevant Objectives and Policies**

The objectives and policies most relevant to the issue at hand and against which the proposed provisions need to be assessed against are set out below:

### **Proposed Indigenous Biodiversity 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. (was Rural Objective 1)*
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.*
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.*

### **Policy 2 (was 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.*

### **Rural Objective 3A - Landscape Values**

*Protection of outstanding landscape values, the natural character of the margins of lakes, rivers wetlands and of those natural processes and elements which contribute to the District's overall character and amenity.*

### **Rural Objective 4 - High Country Land**

*To encourage land use activities which sustain or enhance the soil, water and ecosystem functions and natural values of the high country and which protect the outstanding landscape values of the high country, its indigenous plant cover and those natural processes which contribute to its overall character and amenity.*

### **Rural Policy 4B - Ecosystem Functioning, Natural Character And Open Space Values**

*Activities should ensure that overall ecosystem functioning, natural character and open space values of the high country are maintained by:*

- Retaining, as far as possible, indigenous vegetation and habitat*
- Maintaining natural landforms*
- Avoiding, remedying, or mitigating adverse effects on landscape and visual amenity.*

### **Rural Objective 11 - Rural Infrastructure**

*Rural infrastructure which enables the District and the wider community to maintain their economic and social wellbeing*

### **Utility Objective 1 - Effect On The Environment**

*Utilities whose functioning and operation avoid, remedy or mitigate adverse effects on their surrounding environment.*

These objectives and policies have the purpose of highlighting the importance of indigenous vegetation and habitats and the need to safeguard these for the purpose of retaining natural character, ecosystem functions and outstanding landscape values. There is an emphasis on significant indigenous vegetation and habitats as referred to in section 6(c) of the Act, but these provisions do not limit this consideration only to identified significant areas such as the Sites of Natural Significance identified in the District Plan planning maps. Council is aware of expert opinion from independent experts presented to the Environment Court as part of the Plan Change 13 proceedings that a number of the indigenous plant communities, including short tussock areas and areas of mat and cushion plants, would constitute significant indigenous vegetation when assessed against either the criteria referred to in Rural Policy 1B or in the more recent criteria in the Canterbury Regional Policy Statement. These areas, even in a degraded state, may also constitute significant habitats for indigenous fauna. With regard to indigenous vegetation communities of lesser significance, the objectives and policies seek that this plant cover is retained where possible to ensure overall ecosystem functioning, natural character and open space values of the High Country plant cover are maintained.

Rural Objective 11 and Utilities Objective 1 recognise the important role of utilities in providing for local and national needs and in particular electricity needs. This is of particular relevance in the Mackenzie Basin which contains many significant components of the Waitaki Power Scheme which require maintenance, upgrading and refurbishment on an on-going basis, which necessarily involves earthworks and vegetation clearance.

#### **12. Alternative methods to achieve objectives**

Possible methods to achieve the objectives and policies referred to in 8 above are:

- a. **Status quo** – retain existing provisions including the oversowing and topdressing (OSTD) exemption in Rural zone rules 12.1.1g and 12.1.1.h
- b. **Replace** the current vegetation clearance rules in Clause 12 with new rules i.e. **Current Change proposal**
- c. **Remove the OSTD exemption** in current Rural zone rules 12.1.1g and 12.1.1.h
- d. **Rely on pastoral intensification/agricultural conversion** controls which are part of the Plan Change 13, which has been decided by the Environment Court.

#### **13. Evaluation of effectiveness and efficiency of alternative methods**

##### **a. Status quo**

The current rules are complicated due to there being a series of separate rules for each indigenous plant community type. In addition, the thresholds for clearance requiring resource consent vary considerably depending on the plant type. Further, exemptions to the rules also vary considerably and have proven to provide loopholes which enable clearance of vegetation for the purpose of farm intensification without the need for consent. This has enabled large areas to be cleared and certificates of compliance to be obtained providing for such clearance. As no consent has been required for this clearance there has been no ability to assess the value of the vegetation or place limits on its clearance. The rules with their exemptions have not been efficient over time, which is not surprising given that they were only intended to apply for a limited time until detailed assessment of the vegetation resource and means of protecting the resource were reviewed and decided upon.

The exemption from the clearance rules 12.1.1.g & h relating to short tussock and cushion and mat communities applies when the vegetation 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”. Applying this exemption is administratively burdensome as it requires an assessment of whether there has been the required oversowing and topdressing and what the current state of the vegetation is. With a move to irrigation within the drier areas of the Basin there is increased pressure for clearance of existing indigenous vegetation, including short tussock and mat and cushion vegetation. The exemption for oversowing and topdressing has therefore enabled a level of change that was not anticipated when the rule was created. The clearance permitted is also potentially at odds with the objectives and policies of the District Plan – given the farming practices that now exist in the Basin. These objectives and policies seek to safeguard indigenous biodiversity and ecosystem functioning through the protection and enhancement of significant indigenous vegetation and habitats and the maintenance of natural biological and physical processes. This protection has the purposes of maintaining ecosystems, and retaining indigenous biodiversity, soil and water values, natural character, landscape and amenity.

There has been a significant body of evidence provided to the Environment Court that recent clearance activity has been occurring at pace, on a large scale and having irreversible adverse effects on matters of national importance under the RMA.

The status quo is not easy to administer as clearance can occur under the OSTD exemption without notice being given to the Council. Given the vastness of the Basin, this requires considerable vigilance on the part of the Council to ensure any activity purportedly undertaken in reliance on the OSTD exemptions is in fact permitted.

The proposed rules providing for indigenous vegetation clearance associated with Waitaki Power Scheme works are included to clarify the status of this clearance. This is considered appropriate due to the complexity of existing provisions relating to the Power Scheme within the District Plan in the Rural Zone and Utilities Sections of the Plan and given the proposed rules are district wide rules.

**b. Replace Indigenous Vegetation Rules as per proposed Change**

The proposed replacement rules and new Rural Policy 1D – Farm Biodiversity Plans are expected to be a more effective and efficient option than the current rules. The reasons for this are threefold. Firstly, the rules are simpler and more consistent as so are expected to be more easily understood by all parties and easier to administer. For example, in most situations there is no area threshold so any clearance will require consent unless it is for a permitted purpose. It will not therefore be necessary to determine the exact extent of what constitutes indigenous vegetation, to determine whether resource consent is required. This will overcome some of the current difficulties in administering these rules.

Secondly, the rules are effectively more comprehensive as they cover all indigenous vegetation, not just the listed plant communities. Thirdly, the option of landowners preparing farm biodiversity plans as the basis for an application to clear indigenous vegetation is expected to have a number of advantages compared to the existing rules. These advantages include:

- Taking a holistic and integrated view of biodiversity values in the wider context of farm management practices
- Identifying biodiversity values and threats and ways of managing these
- It is a useful tool where multiple activities are proposed over medium to long term including clearance, pastoral intensification and agricultural conversion
- Avoids the need for multiple consents
- There is no limit on the amount of clearance as a Discretionary Activity

The proposed rules provide a clearer regime for indigenous vegetation clearance than the current provisions. It is noted that none of the other options provide for this clarity and the certainty it provides which is an important requirement of the generating companies who undertake numerous works associated with the Waitaki Power Scheme on a continuing basis.

**c. Extension of PC17 – suspension of OSTD exemption**

The suspension of the oversowing and top dressing (OSTD) exemption from the clearance controls in rules 12.1.1.g and 12.1.1.h has been effective in preventing larger scale clearance (greater than the limits set in these rules) as of right. Clearance beyond the area limits will still be possible, but only by way of resource consent. That consent process will provide the Council with an opportunity to receive assessments of the ecological value of the vegetation and ecosystems in place and to make a determination on the basis of these values and other relevant considerations. In terms of efficiency, the removal of the exemption will improve the certainty in applying these rules by removing the need to obtain information about past use and exotic dominance. It is simpler to apply and administer than the current regime.

This approach however does not address concerns about the efficiency of other indigenous vegetation clearance rules discussed in 11.a. above.

**d. Rely on pastoral intensification and agricultural conversion controls**

The decision on Plan Change 13 has finalised provisions relating to pastoral intensification and agricultural conversion in the Mackenzie Basin. These provisions control pastoral intensification, which is defined as subdivisional fencing and/or topdressing and oversowing, and agricultural conversion which is defined as direct drilling or cultivation by ploughing, discing or otherwise) or irrigation. These activities may require vegetation clearance to precede them, or have the effect of clearing vegetation, but they are not directed toward controlling just the activity of clearance.

There are several issues associated with reliance on these controls which means that it is may not be an effective or efficient means of meeting the objectives and policies relating maintenance of indigenous vegetation in the Mackenzie Basin. The first concern is that people may undertake clearance in advance of activities which comprise intensification or conversion, thereby defeating the ability of Council to assess vegetation values at the time of those consent applications. In this regard the risk to vegetation appears to be no different now than it was before the decision on Plan Change 13. A further risk is that while pastoral intensification and agricultural conversion cover a range of activities, they do not include clearance that is not part of a farming activity. It is quite possible that areas could be cleared for other purposes such as building sites and for the creation of new access tracks. Finally there is the issue that controls on pastoral intensification and agricultural conversion only apply in the Mackenzie Basin and not in the Eastern Mackenzie.

**On the basis of this evaluation the option to replace the vegetation clearance rules of clause 12 with those in proposed Change is the most effective and efficient.**

**14. Evaluation of costs and benefits**

**a. Status quo**

Under the current Plan provisions there is less need to apply for resource consents for clearance of indigenous vegetation as there are a variety of exemptions and also thresholds which permit a degree of clearance without the need for resource consent. Specifically after 24 December 2017 advantage would be able to be taken of the OSTD exemption for areas of short tussock and mat and cushion vegetation and so greater clearance could occur without financial cost to landowners. There is therefore less time and cost involved for those wanting to undertake clearance than would be the case if the exemption for OSTD is removed. Further, the costs associated with preparation and processing of the proposed Change would be avoided. There would however be no environmental benefit; rather the removal of this special vegetation would result in a permanent loss and therefore considerable environmental cost.

**b. Replace Indigenous Vegetation Rules as per proposed Change**

The main public costs of replacing the current rules controlling clearance of indigenous vegetation are associated with preparation of the plan change, including consultation costs, drafting, applying to the Court for immediate effect, notification, hearing and deciding on the proposed provisions. As the proposed plan change is part of the review of the District Plan, these are costs that would be incurred regardless of whether they are part of a plan change or not.

The private costs involved will be the need for resource consent for clearance of most forms of indigenous vegetation, and the uncertainty of knowing whether consent will be granted. This in turn may inhibit the future development of farm operations, particularly those involving intensification.

The primary benefit of this approach is the protection of indigenous biodiversity and less opportunity for exploitation of the Plan to irreversibly alter extensive areas of indigenous vegetation and habitat. In addition, anticipated benefits of this approach are that as the rules are simpler and more consistent they are expected to be more easily understood by all parties and easier to administer. Further, the use of farm biodiversity plans is intended to enable an all-of-farm approach combining assessment of biodiversity values with medium to long term development of farm operations.

**c. Extension of PC17 – suspension of OSTD exemption**

The temporary suspension of the OSTD exemption for 12 months could be extended through another plan change. This would require landowners who wish to clear more than 40ha of short tussock or 10ha of mat or cushion vegetation to obtain discretionary status resource consent. The guidance in the Plan is clear that consent is likely to be granted except where significant areas or habitats are affected (in the last bullet point under the "notes" to those rules). In this sense, the largest cost will be to those proposing to clear significant vegetation or habitats. This cost needs to be weighed against the costs to the environment of those resources being removed without some sort of offset or compensation offered. As part of that process they may need to employ an ecologist to prepare an assessment of the value of the vegetation proposed to be cleared. Alternatively the landowner could delay the proposed clearance. Both these options will involve cost and delay, but only for those landowners who had undertaken OSTD as specified in the exemption and who intend to undertake clearance during the year when the exemption is removed. The scale of their costs will depend on the matters including holding costs and commitments to uptake of irrigation allocations. An additional potential cost associated with the delay is that the reviewed District Plan may contain similar or even more stringent controls on indigenous vegetation clearance.

There would be costs associated with preparation and processing of another plan change to extend to suspension of the OSTD exemption. With regard to the environment, there are expected to be benefits as some landowners may choose not proceed with large scale clearance. Alternatively they may choose to apply for resource consent which will have the benefit of an assessment being undertaken of the value of the vegetation. Another cost is that this approach only protects short tussock and cushion and mat communities and so does not provide protection for other indigenous plant communities.

**d. Rely on pastoral intensification control**

The definitions of vegetation clearance and pastoral intensification/agricultural conversion overlap to some extent e.g. in the case of irrigation. To that extent it could be considered that there is additional cost for landowners proposing clearance of indigenous vegetation as consent would be required for both activities. However in reality it is unlikely that there would be much difference in cost as there would be a single application and the same or a similar level of assessment would be required for both activities. In addition the matters against which any proposed development would be assessed would be the same or very similar e.g. impact on landscape values, presence of significant indigenous vegetation, maintenance of indigenous biodiversity and impacts on the viability of the farming operation.

The Council would not bear the cost of proposed PC18 preparation and processing although it is required to review these provisions as they are mostly over ten years old and so there would be costs at some stage. However the environmental implications would be the same as retaining the status quo, namely there would be no environmental benefit; rather the removal of this special vegetation would result in a permanent loss and therefore considerable environmental cost. In addition the pastoral intensification rules do not apply to the Eastern Mackenzie so there greater potential for vegetation to be lost if the pastoral intensification/agricultural conversion rules are relied on.

**15. Adequacy of information and risk of not acting**

There is no single source of information which provides a definitive answer as to how many properties can take advantage of the current indigenous vegetation clearance rules including the OSTD exemption and which therefore could be cleared of their valued indigenous vegetation. There is information however from a variety of sources, including ECan's database of irrigation consents, which indicates that there are a number of properties which have the potential or desire to move to more intensive farming and which is likely to involve clearance of the current indigenous vegetation in some manner. In addition, recent experience indicates that more clearance is expected to occur and that there is a risk that there will be more requests for certificates of compliance for vegetation clearance if the current exemptions and high thresholds remain in place. For these reasons it is considered that the risk of not acting is significant as the vegetation once cleared will effectively be permanently lost.

**10 December 2017**

## SCHEDULE - NEW SECTION 19 of MACKENZIE DISTRICT PLAN

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### Stage 1 of the Review of the Mackenzie District Plan – Plan Change 18

#### SECTION 3 - DEFINITIONS

A. Amend or add definitions as follows (additions shown underlined deletions shown with ~~strikethrough~~)

**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.

**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

**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

**Improved Pasture:** means an area of 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.

**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 e.g. as farm hedgerows or that have been deliberately planted for the purpose of harvest.

**Vegetation Clearance:** 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.

**Waitaki Power Scheme:** means the ~~nationally significant renewable~~ 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.

**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.

**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.

**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.

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**B. Add the following Section 19 – Indigenous biodiversity** into the Mackenzie District Plan

Note: Text that is single underlined has been added

Text that has been double underlined has been moved from Section 7- Rural Zone

## **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.
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.
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.



## Policies

1. 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.
2. To avoid, remedy or mitigate adverse effects on the natural character and indigenous land and water ecosystems functions in the District including:
  - d) Landform, physical processes and hydrology
  - e) Remaining areas of significant indigenous vegetation and habitat, and linkages between these areas
  - f) Aquatic habitat and water quality and quantity
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-
4. To ensure that land use activities including indigenous vegetation clearance and pastoral intensification do not adversely affect any ecologically significant wetland.
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).
6. Where offsetting is proposed, to apply the following criteria:
  - a) the offset will only compensate for residual adverse effects that cannot otherwise be avoided, remedied or mitigated;
  - b) 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;
  - 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
  - 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.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.
7. To recognise the economic and social importance of renewable energy generation and transmission consistent with objectives and policies of this Plan, to provide for its upgrading, maintenance and enhancement.

### **Additional Policies applying to Farm Biodiversity Plans**

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, through a Farm Biodiversity Plan process.

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.

## **RULES**

### **INDIGENOUS VEGETATION CLEARANCE**

#### **1. Indigenous Vegetation Clearance excluding indigenous vegetation clearance associated with the Waitaki Power Scheme**

##### **1.1 Permitted Activities – Indigenous Vegetation Clearance**

1.1.1 Clearance of indigenous vegetation is a permitted activity provided the following conditions are met:

1. The clearance is for the purpose of maintenance or repair of existing fence lines, vehicle tracks, roads, firebreaks, drains, stockyards, farm buildings, water troughs or airstrips;
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;
3. The clearance is of the indigenous understorey to plantation forest, and is incidental to permitted or otherwise authorised plantation forest clearance;
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;
5. The clearance is essential for compliance with the Regional Pest Management Strategy;
6. The clearance is of indigenous vegetation within an area of improved pasture (refer Definitions);
7. The clearance is not within a Site of Natural Significance or on land above 900m in altitude;
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

##### **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;
  - c) Includes methods that will adequately protect the significant biodiversity values identified; and
  - 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 of 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.

1.2.2. Unless provided for in Rule 19.2.1 any indigenous vegetation clearance up to 5000m<sup>2</sup>, within any site in any 5-year continuous period provided the following conditions are met:

1. The clearance is not within a Site of Natural Significance or on land above 900m in altitude.
2. 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:

- a.. 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.
- b. The extent to which species diversity or habitat availability could be adversely impacted by the proposal.
- c. Any potential for mitigation or offsetting of effects on ecosystems and biodiversity values.
- d. Any technical and operational constraints and route, site and method selection process.
- e. The benefits that the activity provides to the local community and beyond.

### **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:

- 1.3.1 Any indigenous vegetation clearance of more than 5000m<sup>2</sup> within any site in any 5-year continuous period.
- 1.3.2 Any indigenous vegetation clearance in the following location:
  1. Within a Site of Natural Significance.
  2. Above 900m in altitude.
  3. Within 100m of a lake, 20m of the bank of a river, 100m of an ecologically significant wetland or 50m of all other wetlands

## **2 INDIGENOUS VEGETATION CLEARANCE ASSOCIATED WITH THE WAITAKI POWER SCHEME**

### **2.1 Permitted Activities – Indigenous Vegetation Clearance**

2.1.1. The clearance is a consequence of an emergency occurring on, or failure of, the Waitaki Power Scheme;

2.1.2 Clearance is required for the operation and maintenance 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.

### **2.2 Restricted Discretionary Activity – Indigenous Vegetation Clearance**

2.2.1 Any indigenous vegetation 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.

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.
- (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 mitigation or offsetting of effects on ecosystems and biodiversity values.
- (e) Any technical and operational constraints and route, site and method selection process.
- (f) The benefits that the activity provides to the local community and beyond.

**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.

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C. **Add the following Appendix Y to the Mackenzie District Plan**

<b><u>APPENDIX Y - FARM BIODIVERSITY PLAN FRAMEWORK</u></b>
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**Introduction**

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.

### **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)<sup>1</sup>

### **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 management 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 enterprise (see Definitions).
3. A Farm Biodiversity Plan must contain as a minimum:

#### **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 property; and
4. A map(s) or aerial photograph at a scale that clearly shows, where relevant:
  - a) The boundaries of the farming enterprise;
  - b) The boundaries of the main land management units on the property or within the property;
  - c) The location of all water bodies, including 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 property that have been identified as a Sites of Natural Significance or are legally protected by way of covenant;
  - f) The location of any other areas within the property that may have ecologically significant values;
  - g) Areas of improved pasture;
  - h) Areas of retired land; and
  - i) Location of any proposed developments, including intensification of production, new tracks or buildings and areas to be cleared.

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**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.

## **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.

## **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.

## **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:

1. 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:
  - a) Formal legal protection;
  - b) Pest or weed control;
  - c) Grazing regimes/management to protect values;
  - d) Fencing;
  - e) Restoration planting or other restoration measures;
  - f) Confirmation that area/s will not be subject to future land use change or development activity that will impact on the identified values present;
  - g) Confirmation that the tools and methods will endure beyond any fragmentation of the farming enterprise e.g. as a result of changes in ownership
2. 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.
3. Confirmation from an appropriately qualified and experienced ecologist that the proposed methods will achieve the objective.

**E Monitoring and Reporting on actions:**

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The Farm Biodiversity Plan shall include 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.
-