

**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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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.

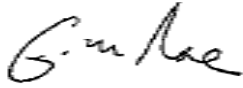
196. C Burke (#4) seeks that all consents issued by all agencies including MDC are "*logged and reviewed*" and their combined impacts taken into account, so that the effectiveness of protection measures can be checked. We find that to be outside the scope of PC18, as it relates to the MDC's executive 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