Form 5: Submission on notified proposal for policy statement or plan, change or variation

Pursuant to clause 6 of the First Schedule of the Resource Management Act 1991

To: Mackenzie District Council (**the Council**)

Name of submitter: Penny Nelson, Director-General of Conservation (the **Director-General**)

1. This is a submission on **Proposed Plan Change 27 (Earthworks, Subdivision, Public Access and Transport)** to the Mackenzie District Plan.

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

3. The specific provisions of the proposal that my submission relates to, and the detailed decisions sought, are set out in **Attachment 1** to this submission.

4. I **seek** the following decision from the Council:

    a. That the particular provisions of Proposed Plan Change 27 that I support, as identified in Attachment 1, are retained;

    b. That the amendments, additions and deletions to Proposed Plan Change 27 sought in Attachments 1 are made; and

    c. Further or alternative relief to like effect to that sought in 4. a. and 4. b. above.

5. The decisions sought in this submission are required to ensure that the Mackenzie District Plan:

    a. Gives effect to the relevant national direction;

    b. Recognises and provides for the matters of national importance listed in section 6 of the Act and has particular regard to the other matters in section 7 of the Act;

    c. Promotes the sustainable management of natural and physical resources; and

d. The changes sought are necessary, appropriate and sound resource management practice.

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

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Manager Operations

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Department of Conservation

Acting pursuant to delegated authority on behalf of Penny Nelson, Director-General of Conservation

Date: 24 January 2024

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

Address for service:

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ATTACHMENT 1:

PROPOSED PLAN CHANGE 27 TO THE MACKENZIE DISTRICT PLAN
SUBMISSION BY THE DIRECTOR-GENERAL OF CONSERVATION

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

The decision that has been requested may suggest new or revised wording for identified sections of the proposed plan. This wording is intended to be helpful but alternative wording of like effect may be equally acceptable. Text quoted from the Proposed Plan Change is shown in *Italics*. The wording of relief sought shows new text as <u>underlined</u> and original text to be deleted as ~~*strikethrough*~~.

Unless specified in each submission point, my reasons for supporting are that the provisions are consistent with the purposes of the Act.

PLAN PROVISION	SUPPORT/OPPOSE	REASON	RELIEF SOUGHT
Entire Plan Change	Support in part	I support the overall approach of providing for Earthworks, Subdivision, Public Access and Transport as giving effect to the relevant higher order documents. For the avoidance of doubt, provisions which are not specifically addressed below are supported for the reasons given in the s32 Report.	Retain as notified, except where specific changes are requested below.
Transport Chapter:			

PLAN PROVISION	SUPPORT/OPPOSE	REASON	RELIEF SOUGHT
Transport – entire chapter	Support	These provisions provide an appropriate framework for management of transport within the District. In particular, they encourage an integrated approach to transport management, and recognise and provide for the benefits of alternative modes of transport and safe active transport. These measure will assist to reduce the adverse environment effects associated with transport.	Retain as notified
Public Access Chapter:			
Public access – entire chapter	Oppose in part	The EPlan version of this plan change provides a hyperlink to the definition of "access" which applies to legal access to properties from the road. This definition is inappropriate in the context of access to public spaces.	Either restrict the use of the defined term "access" to subdivision provisions, or provide a new definition of "public access".
PA-P1 Requirement for public access	Oppose	This policy fails to recognise that provision of public access can create adverse effects on other matters such as indigenous biodiversity and cultural and historic values, so is inconsistent with Part 2 of the RMA and Policy 10.3.5 of the Canterbury Regional Policy Statement.	Amend as follows or words to like effect: "*Require the provision of appropriate public access to and along surface waterbodies listed in PA-SCHED1, except where controls or restrictions on public access are required in order to protect existing environmental values of the waterbody"*

PLAN PROVISION	SUPPORT/OPPOSE	REASON	RELIEF SOUGHT
PA-P2 Consideration for further public access	Oppose	This policy fails to recognise that provision of public access can create adverse effects on other matters such as indigenous biodiversity and cultural and historic values, so is inconsistent with Part 2 of the RMA and Policy 10.3.5 of the Canterbury Regional Policy Statement.	Amend as follows or words to like effect: "*Encourage opportunities and mechanisms to maintain and enhance public access to and along surface waterbodies, including for mahika kai, when a land use or subdivision consent application provides an opportunity for access, with special consideration given to:* *1. those waterbodies listed in PA-SCHED2; and* *2. the creation of any allotment smaller than 4ha which adjoins a waterbody.* *except where controls or restrictions on public access are required in order to protect existing environmental values of the waterbody"*
Subdivision Chapter:			
SUB-R1 to SUB-R7, SUB-S1 to SUB-S10, and SUB-MD1 to SUB-MD9 Rules, Standards and Matters of Discretion	Oppose	The matters of control, matters of discretion, and standards collectively fail to recognise the quality of the environment, amenity values and public open space, so would not achieve Objective SUB-O1 or Policies SUB-P2, SUB-P4 and SUB-P6.	Revise these rules, standards and matters of discretion to effectively and consistently protect and provide for the quality of the environment, amenity values and public open space.

PLAN PROVISION	SUPPORT/OPPOSE	REASON	RELIEF SOUGHT
SUB-R6 and SUB-S8 Ōhau River Precinct	Oppose	The proposed rule and standard fail to protect significant habitats of indigenous fauna, so do not give effect to s6(c) of the RMA. The Ōhau River Precinct is close to the largest remaining breeding colony (~1000 adults) of the Nationally endangered Black-fronted tern/Tarapirohe. There is also a significant population of the Nationally vulnerable Lakes skink (Oligosoma aff. chloronoton "West Otago") in the immediate vicinity. The rule and standard would allow significant risk to those populations from domestic animals, light, and disturbance, and would conflict with existing pest control measures in the area. Given that the proposed rule and standard fail to meet s6(c) of the RMA, Restricted Discretionary Activity status is not appropriate.	Amend the activity status under SUB-R6 to Discretionary, AND Amend the standards under SUB-S8 to adequately recognise and protect the significant habitats of indigenous fauna in the vicinity.
Earthworks Chapter:			
EW-O1 Earthworks	Oppose	This objective fails to address the impacts that earthworks can have on natural values and indigenous biodiversity. Although there are provisions addressing these matters elsewhere in the plan, and in the earthworks policies themselves, it would be more effective and more efficient and effective to integrate those matters directly into this objective.	Amend as follows or words to like effect: “Earthworks to facilitate subdivision, land use and development are undertaken in a way that minimises adverse effects on landscape values, <u>natural values,</u> visual amenity and mana whenua values and protects the safety of people, property and infrastructure.”

PLAN PROVISION	SUPPORT/OPPOSE	REASON	RELIEF SOUGHT
EW-R1 to EW-R4, EW-S1 to EW-S6 Rules and Standards	Oppose	The matters of control, matters of discretion, and standards collectively fail to manage silt and sediment loss, so would not achieve Policy EW-P2 and would risk downstream adverse effects as a result of earthworks.	Revise these rules and standards to effectively and consistently manage silt and sediment loss from earthworks.