

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI**

**Decision No. [2026] NZEnvC 120**

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First  
Schedule of the Act

BETWEEN THE ROYAL FOREST & BIRD  
PROTECTION SOCIETY OF NEW  
ZEALAND INCORPORATED

(ENV-2021-CHC-93)

ENVIRONMENTAL DEFENCE  
SOCIETY INCORPORATED

(ENV-2021-CHC-94)

Appellants

AND MACKENZIE DISTRICT  
COUNCIL

Respondent

Court: Environment Judge J J M Hassan  
Sitting alone in Chambers

Special advisor: D J Bunting

Last case event: 12 March 2026

Date of Decision: 26 May 2026

Date of Issue: 26 May 2026

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**FINAL DETERMINATION OF THE ENVIRONMENT COURT**

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A: Under ss 279(1)(b), 290, 292(1)(b), and 293 Resource Management Act 1991:

- (a) the appeals by Royal Forest & Bird Protection Society Inc and Environmental Defence Society are allowed in part and otherwise dismissed;
- (b) Mackenzie District Council is directed to amend the Plan by making the deletions, amendments and additions to Chs 3 and 19 as set out in the Annexure and to file a reporting memorandum as to that once completed. That includes amendments to align the drafting of rr 1.X.2 and NFL-R8 consequential on the settlement reached in Forest & Bird's PC23 appeal as noted.

B: Costs are reserved with respect to the PC18 appeals. There will be no order for costs in the determination, following settlement, of matters as to the Wilding Conifer Rule NFL-R8. Any application must be made **within 15 working days of the date of this decision**. In determining whether to make an application for costs, the parties are again invited to reflect on two matters:

- (a) this is a plan review appeal proceeding; and
- (b) the final result is one in which all parties may consider they have secured some, but not all, of what they sought.

### **In memory**

**The Environment Court acknowledges the passing of Dr Kelvin Lloyd. Dr Lloyd appeared as an expert witness in the Environment Court on numerous occasions and was well regarded by the judiciary for his professionalism and expertise.**

In this proceeding his expert ecology and biodiversity evidence was of great assistance to the court and to the expert conferencing process. Dr Lloyd's work informed, among other matters, the court's understanding of the ecological significance of the Mackenzie Basin including its nationally significant landforms which remains as the "only remaining viable stronghold" for many 'nationally threatened', 'at-risk' or 'uncommon' plants and animal species.

We express our condolences to his whānau, friends and colleagues.

E ngā rangatira, kua ngaro koutou ki te pō, ki te pū o mahara  
 Kua kore koutou i te tirohanga tangata  
 Kua whetūrangitia i te korowai o Ranginui  
 He mihi, he poroporoaki  
 E moe, i te moenga roa, ki reira okioki ai

To you Sirs who have been lost to the night, to the void of memories  
 To you who are lost from sight  
 Who have been adorned as stars in the heavens  
 We acknowledge and farewell you  
 Rest now in peace.

## REASONS

### Introduction

[1] This determination makes orders to conclude the remaining matters on appeal in the review of the Mackenzie District Plan (Plan), as follows:

- (a) points of appeal on Plan Change 18 (PC18), that is appeal points in relation to Mackenzie District Council's (MDC) 'decision version' of

PC18 (PC18-DV) by the Royal Forest and Bird Protection Society of New Zealand Inc (Forest & Bird) and Environmental Defence Society Incorporated (EDS); and

- (b) related consequential matters to align the drafting of one rule to reflect a consent order settlement involving those appellants in relation to another Plan rule (NFL-R8) as to wilding conifers following court-facilitated mediation (Wilding Conifer Matter).

[2] This is a Judge-alone determination under s279 of the Resource Management Act 1991 (RMA), made with the assistance, as Special Advisor, of retired Environment Commissioner David Bunting. In his former capacity as an Environment Commissioner, Mr Bunting was the other member of the court that heard and made the court's 14 April 2025 decision (Interim Decision).<sup>1</sup> The Interim Decision was appealed.<sup>2</sup> Mr Bunting retired in the juncture between the filing of that appeal and the High Court's adjudged abandonment of the appeal (in January 2026).<sup>3</sup>

[3] In that context, parties were invited to consider different procedural options. They agreed that this was for all remaining matters to be the subject of orders from judge-alone hearing and decision pursuant to s279(1)(c), but with Mr Bunting assisting as an appointed Special Advisor. That appointment under s259 was then made on the basis that Mr Bunting's assistance is on all the matters addressed in this determination.<sup>4</sup>

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<sup>1</sup> *The Royal Forest and Bird Protection Society of New Zealand Inc v Mackenzie District Council* [2025] NZEnvC 125 (Interim Decision).

<sup>2</sup> MBAS notice of appeal dated 8 May 2025.

<sup>3</sup> CIV-2025-409-000248 certification of Deputy Registrar of the High Court of New Zealand at Christchurch, dated 26 January 2026.

<sup>4</sup> Appointed under s259, RMA on 5 March 2025.

***Remaining matters***

- [4] There are in essence three remaining matters to conclude:
- (a) should there be any policy concerning existing use rights in the terms indicated in the Interim Decision (Policy 2C)?<sup>5</sup>
  - (b) should directions under s293 RMA be made to include in the Plan new enabling fence clearance provisions as signalled in the Interim Decision and since developed for consideration by MDC ('New Fence Clearance provisions')?<sup>6</sup>
  - (c) what further refinements should be directed to be made to the drafting of the Plan provisions that were included in Annexure 3 to the Interim Decision to better give effect to the findings in that decision (Final Sections 19 and 3 provisions)?

[5] Directions were made for the filing of supplementary closing submissions on these matters.<sup>7</sup> Responses were received on behalf of MDC and some of the parties.<sup>8</sup>

***Policy 2C is not appropriate***

[6] The Interim Decision invited further submissions on whether a policy as follows should be included in the Plan:<sup>9</sup>

2C Discourage significant ongoing reliance on existing use rights by landowners in Te Manahuna/the Mackenzie Basin where that impedes the management of land use and development for protection of areas of significant

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<sup>5</sup> Interim Decision, at [53], Annexure 3, at [12].

<sup>6</sup> Interim Decision, Annexure 3, at [24].

<sup>7</sup> Interim Decision, at [97] Minute 9 May 2025, Minute 5 March 2026, Minute 6 March 2026. Hopefully these are the ones you intended?

<sup>8</sup> MBAS submissions dated 11 June 2025, MDC submissions 10 July 2025, CRC memorandum of counsel dated 11 July 2025, Forest & Bird memorandum of counsel dated 11 July 2025, MBAS submissions dated 2 September 2025.

<sup>9</sup> Interim Decision, at [53], and Annexure 3, at [12].

indigenous vegetation and significant habitats of indigenous fauna or the maintenance and enhancement of indigenous biodiversity.

[7] As the Interim Decision explains, this idea was proposed in light of evidence as to a widespread practice of simply assuming reliance on existing use rights under s10 RMA. The Interim Decision discusses why that can be problematic. The more widespread such practices, the more difficult it can be to achieve the Plan's objectives concerning indigenous vegetation clearance. Moreover, it can often be problematic to work out whether land use activities satisfy all s10 requirements so as to genuinely enjoy existing use rights. That can give rise to disputes, enforcement action and associated business disruption.

[8] MDC noted various ways in which the drafting proposed for Policy 2C could be improved, were the court to direct that it be included in the Plan.

[9] However, MBAS strongly opposes the idea of including any such policy in the Plan. One of their concerns is that a policy of this nature could curtail statutory rights conferred by s10, RMA. Counsel also raises natural justice concerns. MBAS does not support MDC's refined drafting as sufficient for overcoming their concerns.<sup>10</sup>

[10] I do not agree that a policy of this nature would have the dire consequences feared by MBAS. Inherently, it would be ultra vires for a policy to operate to curtail or remove statutory existing use rights. Nor was it intended in those terms, as the Interim Decision made clear. Rather, it was intended as a policy with non-regulatory effect as a means of assisting users of the Plan towards practices more effective in achieving the Plan's intentions. Nor do I agree that proposing it for consideration was procedurally unfair, given that it pertained to the package of plan provisions on appeal, arose from the evidence and was proposed subject to rights of submission now received.

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<sup>10</sup> MBAS submissions dated 2 September 2025 at [7], [16].

[11] Nevertheless, it is acknowledged that such a policy is novel and that at least as drafted plainly appears to have caused misunderstanding. Furthermore, it is acknowledged not to have been promoted by any of the planning witnesses.

[12] Considering all those matters, I find the balance favours not including Policy 2C in the Plan.

***Section 293 direction on New Fence Clearance provisions is not appropriate***

*Background*

[13] As the Interim Decision discusses, s293 RMA is concerned with circumstances in which the evidence heard in a proposed plan appeal shows there is merit in making changes to the proposed plan that are beyond the jurisdictional scope of relief in any of the relevant appeals. As can be expected, the jurisdiction is limited and remains subject to the constraints of the court's appellate role.<sup>11</sup>

[14] As the Interim Decision also explains, the genesis of the court's thinking as to the potential merits of s293 directions for New Fence Clearance provisions was in the case presented by MBAS. They are a s274 party to the appeals. Without having jurisdictional scope to do so, they pursued through their submissions and evidence a new permitted activity regime for indigenous vegetation clearance associated with the construction of new fence lines.<sup>12</sup> Other parties responded with evidence. In addition, the planning witnesses reported perspectives by joint witness statement following expert conferencing.<sup>13</sup>

[15] The Interim Decision found MBAS's proposal would pose undue risks. However, it identified the potential merits of a more moderate regime for new

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<sup>11</sup> RMA, s293, *Federated Farmers of New Zealand Inc (Mackenzie Branch) v Mackenzie District Council* [2014] NZHC 2616 at [136].

<sup>12</sup> Interim Decision, Annexure 1, at [38].

<sup>13</sup> Interim Decision, Annexure 1, at [5], [49] – [52] and Annexure 2, at [118] – [126].

fence clearance.<sup>14</sup> It reserved scope to make s293 directions:<sup>15</sup>

... to amend the Plan to add a permitted activity r 1.1.1 and a companion restricted discretionary activity r 1.2.8 to provide for New Fence Clearance, as recommended by the JWS-Planning (3).

[16] MDC was directed to prepare for the court's approval as suitable for consultation a set of New Fence Clearance provisions that accorded with the Interim Decision. MDC was then directed to consult on the draft provisions with Te Rūnanga o Arowhenua (Arowhenua), the Director-General of Conservation (Director-General), Federated Farmers of New Zealand Limited (Federated Farmers) and the Chief Executive of Land Information New Zealand (LINZ) and report back.<sup>16</sup> MDC's report recorded that most feedback was generally supportive.<sup>17</sup> Some drafting refinements were suggested.<sup>18</sup>

[17] Federated Farmers responded to MDC with a lengthy memorandum that pursued the inclusion in the Plan of a number of permissive provisions on fencing matters.<sup>19</sup>

### *Submissions*

[18] In light of that consultative process, parties made closing submissions on

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<sup>14</sup> Interim Decision, at [39] – [42], Annexure 1, [50] – [52], Annexure 2, [122] – [123].

<sup>15</sup> Interim Decision, Annexure 3, at [24].

<sup>16</sup> As directed by Interim Decision at [97] and Minute dated 9 May 2025 at [3]. Email from counsel for MDC to the Registry and parties (18 June 2025).

<sup>17</sup> Letter from the Chair of Te Rūnanga o Arowhenua Society Incorporated, Fiona Pimm to Murray Dickson of MDC dated 11 February 2025. The letter explains that Aoraki Environmental Consultancy Limited (AECL) were mandated by Te Rūnanga o Arowhenua to lead environmental policy and planning. AECL reviewed proposed r 1.1.1.10 and discussed it with counsel for MDC. Matters discussed included retired farming areas, pest control, indigenous vegetation protection, and pastoral lease land.

<sup>18</sup> Di Finn (Manager Operations, Department of Conservation, Te Manahuna / Twizel), letter to Michael Garbett regarding consultation on draft fencing rule (13 June 2025). Craig Harris (Commissioner of Crown Lands) to Michael Garbett regarding proposed Plan Change 18 Mackenzie District Plan – s293 direction on new fencing rule (16 June 2025).

<sup>19</sup> Federated Farmers' memorandum of counsel, dated 13 June 2025, Annexure 1.

the merits or otherwise of making s293 directions to change the Plan to include any New Fence Clearance provisions. In essence:

- (a) MDC does not support suggestions by Department of Conservation (DOC) to restrict intensive grazing only to areas devoid of indigenous vegetation and to reduce the indigenous vegetation height threshold. It submits that these changes are impracticable and inappropriate. It supports some drafting refinements offered by LINZ and Federated Farmers and makes further recommendations on drafting;<sup>20</sup>
- (b) CRC supports MDC's position on those matters;<sup>21</sup>
- (c) Forest & Bird, EDS and Mackenzie Guardians Incorporated (Guardians) acknowledge some of the issues raised by LINZ but opposes a number of the drafting changes proposed by MDC, submitting these go too far beyond simple refinements;<sup>22</sup>
- (d) MBAS supports the more enabling regimes sought by Federated Farmers and LINZ, while differing in some respects. They also pursue some additional refinements to the New Fence Clearance Provisions as notified to those persons and bodies.<sup>23</sup>

### *Evaluation*

[19] The consultative process reveals that there is a high level of interest in new fence clearance across the different stakeholder interests in the district. Federated Farmers' memorandum tends to reveal an interest in taking these matters considerably further than the Interim Decision contemplated. However, the relatively confined consultation process cannot safely be assumed to fairly elicit the views of other stakeholders as to what Federated Farmers prefers. Moreover, responses by parties in their supplementary submissions reveal some reasonably

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<sup>20</sup> MDC submissions dated 10 July 2025.

<sup>21</sup> CRC memorandum of counsel dated 11 July 2025.

<sup>22</sup> Forest & Bird, EDS & Guardians, joint submissions dated 11 July 2025.

<sup>23</sup> MBAS submissions dated 11 June 2025.

substantive points of difference even on the merits or otherwise of the New Fence Clearance provisions the subject of the s293 directions made. Those considerations favour leaving matters as to new fence clearance to the usual Sch 1 processes that would follow any notification of proposals by MDC.

[20] In procedural terms, I also bear in mind that this determination is by judge alone under s279, RMA. In a context in which some significant substantive differences are revealed on the merits or otherwise of the New Fence Clearance provisions, I am not satisfied that judge alone determination under s279 is an appropriate or necessarily available means for making s293 directions to include them (or any amended version of them) in the Plan.

[21] For those reasons, I decline to make any further s293 directions as to any New Fence Clearance provisions.

### **Final sections 19 and 3 provisions**

[22] The Interim Decision allowed the appeals in part subject, amongst other things, to final approval for inclusion in the Plan of all provisions to give effect to that decision.<sup>24</sup> To those ends, the Interim Decision directed that MDC consult with other parties and prepare for the court's approval a full set of provisions (including provisional drafting in Annexure 3).

[23] MDC responded by memorandum dated 4 August 2025 (MDC August 2025 memorandum). That response included some suggested technical drafting refinements following input from MDC planning witness, Liz White. By memorandum dated 2 September 2025, MBAS offered their own technical drafting suggestions as well as requesting clarification of some matters (MBAS September 2025 memorandum).<sup>25</sup>

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<sup>24</sup> Interim Decision, at [96].

<sup>25</sup> MBAS memorandum of counsel dated 2 September 2025.

[24] The Annexure responds to those memoranda in detailing how MDC is to now update its Plan to implement the Interim Decision as directed by this final determination.

[25] This determination, therefore, directs that subject appeal points concerning PC1-DV are allowed in part on the basis that PC18 is confirmed, subject to the amendments directed to be made in this determination, as are detailed in the Annexure.

***Definition of “Pastoral Intensification”***

[26] The Interim Decision addressed difficulties with the Plan’s definition of ‘Pastoral Intensification’ as raised by MBAS, including by proposing an alternative drafting approach that appeared to overcome these difficulties.<sup>26</sup> Noting that the drafting in Annexure 3 of the Interim Decision is consistent with the reasoning, MBAS identifies some other Plan provisions that could benefit from being updated to be consistent with that drafting. An example MBAS offer is r 15A.1.1, which currently reads: “*Pastoral Intensification (refer definitions)...*”.<sup>27</sup>

[27] MBAS’s point is noted but is better addressed by MDC as planning authority rather than through this s279 determination.

***Controlled activity r 1.X.1 matter of control vii***

[28] The Interim Decision drafting of this matter of control referred to lapsing for a period longer than 20 years. The September memorandum explains that the relevant intention of the planners in their joint witness statement was to simply refer to periods longer than the 5 year statutory default. Their thinking was to provide flexibility where maintenance vegetation clearance might be undertaken at a low frequency. Accepting that explanation, the drafting has been slightly refined

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<sup>26</sup> Interim Decision, Annexure 1, at [83], [84], Annexure 2, at [40] – [57], Annexure 3.

<sup>27</sup> MBAS memorandum of counsel dated 2 September 2025 at [47].

no longer to refer to any stated lapse duration.<sup>28</sup>

*Notification status of r 1.2.6*

[29] MBAS properly identifies a lacuna in the drafting in the Interim Decision concerning this rule. That is that it is silent as to notification.<sup>29</sup> As with other rules in this set, it should properly make explicit that consent applications will not require written approval and will be non-notified. This is corrected as a technical consequential change.

*Wilding Conifer matter*

[30] Together with the appeals on PC18, aspects of plan change 23<sup>30</sup> (PC23) and 26<sup>31</sup> (PC26) to the Plan were appealed and have been through court-facilitated mediation resulting in settlement.

[31] In particular, Forest & Bird, CRC (as 274 party) and MDC have reached a settlement on Forest & Bird's PC23 appeal. That was as to how the Plan addressed wilding conifer management as an aspect of the Natural Features and Landscape Section of the Plan.<sup>32</sup>

[32] An aspect of that settlement concerns the drafting of Plan r NFL-R8. While that rule is in a different Section of the Plan (i.e. as to Natural Features and Landscape), it serves an equivalent role to what is proposed as r 1.X.2 for inclusion in Section 19 as part of these appeals in PC18.

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<sup>28</sup> MBAS memorandum of counsel dated 2 September 2025, Appendix 1.

<sup>29</sup> MBAS memorandum of counsel dated 2 September 2025 at [49] – [50].

<sup>30</sup> General Rural Zone, Natural Features and Landscapes, and Natural Character.

<sup>31</sup> Renewable Energy Generation and Infrastructure.

<sup>32</sup> Notice of appeal by Forest & Bird dated 16 September 2024.

[33] The drafting of NFL-R8 was resolved by a determination dated 7 November 2025.<sup>33</sup> Forest & Bird, CRC and MDC agree that the clarification in NFL-R8 that topdressing and oversowing are only permitted when undertaken to manage wilding conifers should be applied consistently in both the chapters for Natural Features and Landscapes and Ecosystems and Indigenous Biodiversity.<sup>34</sup>

[34] Accordingly, those PC18 parties seek that the drafting of r 1.X.2 be updated to align with r NFL-R8.

[35] MBAS is not a party to that appeal. However, MBAS's 2 September 2025 memorandum incorporates the recommended updated drafting for r 1.X.2.

[36] The parties report that a joint memorandum seeking consent order is being filed by Forest & Bird, CRC and MDC so as to update r NFL-R8.

[37] I am satisfied there are no procedural fairness impediments and this alignment of drafting is appropriate and can be considered technical consequential change. As such, I find jurisdiction to do this in s292(1)(b).

[38] That is therefore reflected in the refinement to the drafting of r 1.X.1 in the Annexure.

### **Outcome and directions**

[39] Therefore under ss 279(1)(b), 290, 292(1)(b) and 293 RMA:

- (a) the appeals by Forest & Bird and EDS are allowed in part and otherwise dismissed;
- (b) MDC is directed to amend the Plan by making the deletions, amendments and additions to Chs 3 and 19 as set out in the Annexure

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<sup>33</sup> *Royal Forest and Bird Protection Society of New Zealand Inc v Mackenzie District Council* [2025] NZEnvC 364.

<sup>34</sup> At [27].

and to file a reporting memorandum as to that once completed. That includes amendments to align the drafting of rr 1.X.2 and NFL-R8 consequential on the settlement reached in Forest & Bird's PC23 appeal as noted.

### Costs

[40] Costs are reserved with respect to the PC18 appeals. There will be no order for costs in the determination, following settlement, of matters as to the Wilding Conifer Rule NFL-R8. Any application must be made **within 15 working days of the date of this decision**. In determining whether to make an application for costs, the parties are again invited to reflect on two matters:

- (a) this is a plan review appeal proceeding; and
- (b) the final result is one in which all parties may consider they have secured some, but not all, of what they sought.

For the court



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**J J M Hassan**  
Environment Judge | Kaiwhakawā o te Kōti Taiao



## Annexure

### Final drafting of Section 19 provisions directed by this determination to be included in the Plan

*N.B the tracking in the drafting of r 1.X.2 is to reflect the agreed outcome reached between the relevant parties in the PC23 Wilding Conifer Matter as is discussed in this decision.*

#### Policies

##### *Policy 2*

[1] Include Pol 2 in Section 19 from PC18-DV but subject to the amendments shown tracked as follows:

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

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

unless;

i. permitted under Rule 1.1.1 or Rule 2.1.1; or

ii. managed under Policy 2A.

##### *New Policy 2A*

[2] Include in Section 19 a new Policy 2A as follows:

In Te Manahuna/the Mackenzie Basin, to manage the maintenance of pasture by:

- a) topdressing or oversowing at any location where this has been lawfully undertaken within the previous 15 years; and/or
- b) the clearance of matagouri, bracken and manuka, that is less than 1.5 metres in height, where the clearance is at a location that has been lawfully cleared within the previous 20 years –

taking into account each of the following:

- i the cyclical nature of these methods of clearance and their impacts on indigenous biodiversity;
- ii the importance of allowing for the continuation of pastoral farming;
- iii the impact that other threats to indigenous biodiversity may have on the indigenous biodiversity values; and
- iv the value in a partnership approach to the management of indigenous biodiversity, including:
  - A. improvement to the knowledge base around ecological information;
  - B. understanding of the interaction of farming systems and indigenous ecosystems; and
  - C. enabling ongoing monitoring of biodiversity values, and adaptive management where adverse effects on significant biodiversity values arise over time.

### ***New Policy 2B***

[3] Include in Section 19 a new Pol 2B as follows:

- 2B Recognise the stewardship role of landowners and the contribution this makes to maintaining and enhancing indigenous biodiversity values, including managing threats to indigenous biodiversity from pest plants and animals.

## Rules

### *Introductory text under 'Indigenous vegetation clearance'*

[4] Include the three-lined sentence of introductory text as it appears in PC18-DV.

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

[5] Subject to the following, include r 1.1 in the Plan.

#### *Rule 1.1.1*

[6] Amend rule 1.1.1 by deleting condition 1.1.1.7 of PC18-DV and adding new conditions 1.1.1.7 – 1.1.1.9 as follows:

7. The clearance is of indigenous vegetation on an area of land that is currently irrigated, for the purpose of farming activities, where all necessary resource consents for irrigation are being lawfully exercised on that area of land, provided that:
  - a) Prior to the clearance of indigenous vegetation a map (if not previously provided under this rule) of the area of land that is currently lawfully irrigated shall be provided to Council.
  
8. The clearance is of indigenous vegetation that is necessary to remove the pest plants in (a) and (b) where pest plants are removed by the pulling out, felling, cutting including mulching of individual pest plants, spot or target spraying onto the basal bark or leaves of the target pest plants, excluding boom spraying (refer Rule 1.2.5):
  - a) any pest plants identified in the Canterbury Regional Pest Management Plan, or
  - b) ash, barberry, boxthorn, buddleia, false tamarisk, hawthorn, holly, Chinese privet, rowan, silver birch, sycamore, cotoneaster, alders,

horehound, thistles, nettles and ivy species, sweet briar, burdock, ragwort, blackberry (wild aggregates), barley grass, tree lupin and willow.

9. The clearance is of indigenous vegetation outside Te Manahuna / the Mackenzie Basin and within existing crop or pasture and is for the purpose of maintaining the existing crop or pasture (but excluding expansion or intensification), where:
  - a) the indigenous vegetation has grown since a previous lawful clearance; and
  - b) the indigenous vegetation is both less than 15 years in age and has established since 2012; and
  - c) it is outside the following locations:
    - i. An area listed in Appendix I as a Site of Natural Significance
    - ii. Above 900m altitude
    - iii. Within 75m of a lake, 20m of the bank of a river, or 50m of any wetland.
    - iv. Within 50m of limestone outcrops and their associated depositional slope

### ***1.X Controlled Activity – Indigenous Vegetation Clearance***

#### ***1.X.1***

[7] Include in Section 19 a new controlled activity rule 1.X.1 as follows:

1. In Te Manahuna/the Mackenzie Basin, indigenous vegetation clearance ('maintenance vegetation clearance') by each of the following means is a controlled activity provided that the conditions in subclause (2) are met:

- a) topdressing or oversowing; and/or
  - b) clearance of matagouri, bracken and manuka, that is less than 1.5 metres in height.
2. The conditions referred to in subclause (1) are as follows:
- a) if the proposed maintenance vegetation clearance includes topdressing or oversowing, that topdressing or oversowing is on an identified part of any site(s) where it has been lawfully undertaken within the previous 15 years;
  - b) if the proposed maintenance vegetation clearance includes clearance of matagouri, bracken and manuka, that clearance is at a location that has been lawfully cleared of any such species within the previous 20 years;
  - c) property maps are provided with the application showing the spatial extent of where maintenance vegetation clearance is proposed within the site/s;
  - d) information is provided with the application which describes the specific Vegetation Clearance activities and the farm management cycle and/or regime that has previously been lawfully undertaken;
  - e) the consent application shall be for a term of no more than 20 years.

Matters Subject to Council's Control:

- i. Measures to ensure that maintenance vegetation clearance does not include any material change from what previously lawfully occurred with respect to the methodology, cycle and/or average frequency and, for oversowing and/or topdressing, the intensity of application;
- ii. Measures to ensure that maintenance vegetation clearance does not extend the geographic footprint of what previously lawfully occurred;
- iii. Measures to protect any identified areas of significant indigenous

vegetation and significant habitats of indigenous fauna, while still reasonably allowing for maintenance vegetation clearance for the purposes of the continuation of pastoral farming;

- iv. Measures to ensure ‘before, during and after’ monitoring and reporting of representative change in the state of indigenous vegetation biodiversity resulting from exercise of the consent that:
  - A. requires monitoring and reporting of baseline conditions concerning indigenous biodiversity prior to the exercise of consent; and
  - B. requires further monitoring and reporting to assess whether indigenous biodiversity is being maintained, at subsequent intervals of not less than five yearly intervals (or at any more frequent intervals of any topdressing or oversowing), during the term of the consent;
  - C. requires each such report on the outcome of monitoring to be provided to the Council before 1 February the following year;
  - D. requires final monitoring and reporting, prior to and within 6 months of, the expiration of the term of the consent;
  - E. reasonably satisfies the Council as being fit for purpose; and
  - F. where the proposed Maintenance Vegetation Clearance includes topdressing or oversowing, satisfies the further requirements in subclauses v. and vi;
- v. Where the proposed Maintenance Vegetation Clearance includes topdressing or oversowing, monitoring and reporting must:
  - A. use plotted GPS transects not less than five 15m transects per 250ha within the area of each of the site(s) for which consent is sought for maintenance vegetation clearance and an additional one 15m control transect outside each of those site(s); and

- B. provide at least five 1m x 1m vertical ground cover photographs taken in October or November at 3m intervals along each transect identified at A;
- vi. The review of conditions at intervals corresponding to when each report on monitoring is due under consent conditions or is received;
- vii. Whether a longer lapse date than 5 years is required for the implementation of the consent.

Advice notes:

1. With respect to Standard 2, relevant information as to the specific Vegetation Clearance activities and the farm management cycle and/or regime that has previously been lawfully undertaken may without limitation include:
  - a. information concerning the location, nature, frequency and/or methods of clearance used and proposed to be used including maps or plans concerning the specific area or areas the subject of the application, field, farm and/or diary notes, supplier invoices and/or other records;
  - b. details of the pasture species which are within any areas that have been oversown and/or topdressed.
2. A digital camera (including a smartphone) is suitable for capturing photographs at (v)(B), provided images are of suitable resolution.

1.X.2

[8] Include in Section 19 new rule 1.X.2 as follows (tracking showing changes as agreed by relevant parties in the Wilding Conifer Matter as discussed in this decision):

- 1.X.2 The clearance of indigenous vegetation associated with topdressing and oversowing to manage wilding conifers within Wilding Conifer

Overlay areas is a controlled activity, provided the following conditions are met:

1. The activity is undertaken within the Wilding Conifer Removal Overlay or Wilding Conifer Management Overlay included on the Planning Maps; and
- ~~2. The land remains pasture grass for the grazing of livestock.~~
- ~~23.~~ 23. The activity is not undertaken within a Site of Natural Significance as identified in the planning maps.

Matters Subject to Council's Control:

- i. The ~~protection of any remaining~~ adverse effects on significant indigenous ~~vegetation~~ biodiversity and landscape values.
- ii. The ~~impact on~~ exclusion of areas to manage adverse effects on significant indigenous biodiversity and landscape values, including any Sites of Natural Significance, Scenic Viewing Areas, Scenic Grasslands, Lakeside Protection Areas ~~or~~ and Geopreservation Sites.
- iii. The frequency and rate of ~~direct drilling,~~ topdressing and oversowing required to support an ~~increased~~ stocking rate of no more than 3 stock units per hectare ~~sufficient~~ to remove emergent wilding conifer seedlings in the short to medium term ~~whilst retaining landscape and ecological values.~~
- ~~iv. Maintenance of the composition of indigenous vegetation so as to return the land to extensive high country pastoral grazing following effective wilding conifer control.~~
- iv. The ~~appropriate~~ duration of consent required to control emergent wilding conifers seedlings before returning the land to extensive high country pastoral grazing, conservation activity or other permitted activity.
- v. The extent to which the activity satisfies the Landscape Guidelines in NFL-SCHED3.
- vi. The extent and location of any new fencing required to facilitate stocking

rates as an effective tool for emergent wilding conifer control whilst preventing mobstocking.

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

*r 1.2.2*

[9] Include r 1.2.2 subject to the following amendments:

1.2.2. ~~Other than as~~ Except where specified as a permitted, controlled or restricted discretionary activity within Section 19, by Rule 1.1.1 the clearance of up to 5000m<sup>2</sup> of indigenous vegetation within a site, or per 100ha where a site is greater than 100ha, in any 5-year continuous period is a restricted discretionary activity provided the following conditions are met:

1. The clearance is not within a location specified in Rule 1.3.2.
2. A Farm Biodiversity Plan is prepared in accordance with Appendix Y for the farming operation and submitted with the application for resource consent.

The Council will restrict its discretion to the following matters:

1. The adequacy of and implementation of the Farm Biodiversity Plan;
2. The area of indigenous vegetation to be cleared and the reasons for the intended clearance;
3. Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological function expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;
4. Managing edge effects;

5. Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;
6. Any technical or operational constraints on the activity necessitating the clearance of indigenous vegetation;
7. Where the clearance is within an Outstanding Natural Feature or Landscape, a geopreservation site, Area of High Visual Vulnerability or Scenic Grassland Area, managing the indigenous vegetation clearance to, as far as is practicable, avoid adversely affecting those features, landscapes, sites or areas;
8. The adequacy of monitoring and reporting;
9. The review of conditions; and
10. Consent duration.

*r 1.2.4 – Indigenous vegetation clearance outside Te Manahuna/The Basin*

[10] Include r 1.2.4 as follows:

1.2.4 The clearance of indigenous vegetation outside Te Manahuna / the Mackenzie Basin which is:

1. not permitted by Rule 1.1.1.9; and
2. not within an area listed in Rule 1.1.1.9 c) or an area of significant indigenous vegetation or significant habitat of indigenous fauna,

is a restricted discretionary activity.

The Council will restrict its discretion to the following matters:

- i. The area of indigenous vegetation to be cleared and the reasons for the

intended clearance;

- ii. Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological function expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;
- iii. Managing edge effects;
- iv. Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;
- v. Any technical or operational constraints on the activity necessitating the clearance of indigenous vegetation;
- vi. Where the clearance is within an Outstanding Natural Feature or Landscape, managing the indigenous vegetation clearance to, as far as is practicable, avoid adversely affecting those features, landscapes, sites or areas;
- vii. The adequacy of monitoring and reporting;
- viii. The review of conditions; and
- ix. Consent duration.

*rr 1.2.5, 1.2.6 – Boom Spray Clearance*

[11] Include new rr 1.2.5, 1.2.6 as follows (note with the addition of a provision on notification for r 1.2.6 as requested in MBAS's 2 September 2025 memorandum for consistency):

1.2.5 The clearance of indigenous vegetation that is necessary to remove the pest plants identified in (a) or (b) through the use of boom spraying application (including helicopter boom spraying), is a restricted discretionary activity:

- a) any pest plants identified in the Canterbury Regional Pest Management Plan, or
- b) alders, ash, barberry, boxthorn, hawthorn, sweet briar and willow.

The Council will restrict its discretion to the following matters:

- i The area of plant pest infestation to be cleared and the reasons for the intended clearance through the use of boom spraying, including whether alternative methods are required in sensitive locations;
- ii. Methods proposed to control reinfestation, including any need for more intensive practises to be undertaken in the period following the clearance.
- iii. Whether the clearance activity enables the ongoing use of existing farming practices in a manner, and at a same or similar scale, character and intensity, at which the land has previously been farmed beyond the initial period following the clearance;
- iii. Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological function expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;
- iv. Methods or limitations to avoid, remedy or mitigate adverse effects on indigenous biodiversity in particular to reduce risk from spray drift during application;
- v. Any positive effects on indigenous biodiversity resulting from the clearance of the pest plants.

- vi. The adequacy of monitoring and reporting.
- vii. The review of conditions;
- viii. Consent duration.

Notification:

Any application under Rule 1.2.5 will not require the written approval of other persons and shall be non-notified.

- 1.2.6 The clearance of indigenous vegetation by cultivation, where cultivation has been lawfully undertaken within the previous 20 years, and the clearance is not within a location specified in Rule 1.3.2 is a restricted discretionary activity.

The Council will restrict its discretion to the following matters:

- i. Measures to ensure that the proposed cultivation is the same or similar in scale, character, intensity and frequency as the previous lawfully undertaken cultivation.
- ii. Measures to ensure that the proposed cultivation is within the same location as the previous lawfully undertaken cultivation.
- iii. Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological function expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;
- iv. Managing edge effects;
- v. Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;
- vi. Any technical or operational constraints on the activity necessitating the clearance of indigenous vegetation;

- vii. Where the clearance is within an Outstanding Natural Feature or Landscape, a geopreservation site, Area of High Visual Vulnerability or Scenic Grassland Area, managing the indigenous vegetation clearance to, as far as is practicable, avoid adversely affecting those features, landscapes, sites or areas;
- viii. The adequacy of monitoring and reporting;
- ix. The review of conditions; and
- x. Consent duration.

#### Notification

Any application under Rule 1.2.6 will not require the written approval of other persons and shall be non-notified.

#### *r.1.2.7 – Catch all restricted discretionary rule*

[12] Include new r 1.2.7 as follows:

In Te Manahuna / Mackenzie Basin, The clearance of indigenous vegetation clearance ('maintenance vegetation clearance') by each of the following means which does not comply with one or more of the conditions in Rule 1.X.1, is a restricted discretionary activity:

- a) topdressing or oversowing; and/or
- b) clearance of matagouri, bracken and manuka, that is less than 1.5 metres in height.

The Council will restrict its discretion to the following matters:

- i. The location, method, cycle/average frequency of the proposed maintenance vegetation clearance, and in addition for oversowing and/or topdressing, what is to be applied;

- ii. The actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological function expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;
- iii. Edge effects;
- iv. Methods to avoid, remedy or mitigate adverse effects on significant indigenous biodiversity so as to maintain the indigenous biodiversity values over time, alongside continuation of pastoral farming;
- v. Any positive effects on indigenous biodiversity;
- vi. Monitoring and reporting;
- vii. The review of conditions; and
- viii. Consent duration.

Notification:

Any application under Rule 1.2.7 will not require the written approval of other persons and shall be non-notified.

### ***1.3 Non-Complying Activity – Indigenous Vegetation Clearance***

[13] Include rr 1.3.1 and 1.3.2 of PC18-DV subject to the following amendments:

#### **1.3 Non-Complying Activity – Indigenous Vegetation Clearance**

The following activities are Non-complying activities:

- 1.3.1 Any indigenous vegetation clearance not categorised as a Permitted Activity, Controlled Activity, or Restricted Discretionary Activity.
- 1.3.2 Any indigenous vegetation clearance in the following locations, unless

specified as a permitted activity under Rule 1.1.1.1, 1.1.1.5, ~~or 1.1.1.6, 1.1.1.7, 1.1.1.8 or 1.1.1.9 or 1.1.1.10~~, a controlled activity under Rule 1.X.1, or a restricted discretionary activity under Rule 1.2.3, 1.2.5, 1.2.7 or 1.2.8:

1. Within an area of significant indigenous vegetation or significant habitat of indigenous fauna.
2. Above 900m in altitude.
3. Within 75m of a lake, 20m of the bank of a river, or 50m of any wetland.

### Section 3 – Definitions

Make the changes as shown tracked below:

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

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

~~**Pastoral Intensification:** means topdressing and oversowing.~~

**Stock Tracks and Crossings:** (in relation to Section 19, Rule 1.1.1(1)) means manmade tracks or crossings constructed for use by stock but excludes tracks naturally formed by stock use.

**Vegetation Clearance:** means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, burning, irrigation, artificial drainage, mob stocking,. ~~It includes oversowing, topdressing or and overplanting~~

on land that is not improved pasture. Clearance of vegetation shall have the same meaning.

