



## Federated Farmers of New Zealand

### Submission to Mackenzie District Council on Plan Change 18 to the District Plan

6 March 2018

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# SUBMISSION TO MACKENZIE DISTRICT COUNCIL ON PLAN CHANGE 18 TO THE DISTRICT PLAN

Form 5

Submission on publicly notified proposal for policy statement or plan  
*Clause 6 of First Schedule, Resource Management Act 1991*

To: Mackenzie District Council  
PO Box 52  
Fairlie  
[planning@mackenzie.govt.nz](mailto:planning@mackenzie.govt.nz)

Name of submitter: Federated Farmers of New Zealand

Contact: Angela Johnston  
SENIOR REGIONAL POLICY ADVISOR  
  
M 021 518 271  
E [ajohnston@fedfarm.org.nz](mailto:ajohnston@fedfarm.org.nz)

Address for service: Federated Farmers of New Zealand  
57A Theodosia Street  
Timaru 7910

This is a submission on Proposed Plan Change 18 to the District Plan.

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

The specific provisions of the proposal that the submission relates to and the decisions we seek from Council are as detailed on the following page.

Federated Farmers wishes to be heard in support of this submission.

## **FFNZ Submission on Proposed Plan Change 18: Indigenous Biodiversity**

Federated Farmers of New Zealand (FFNZ) welcomes the opportunity to submit on Mackenzie District Council's (MDC) Proposed Plan Change 18 to the District Plan.

FFNZ acknowledges and supports individual members' submissions.

### **Objectives and Policies**

The objectives and policies are clear and adequately address the matters relating to the ongoing loss or potential loss of indigenous biodiversity, whilst meeting the requirements of the Canterbury Regional Policy Statement.

#### Relief Sought

Retain all objectives and policies as notified.

### **Rules**

FFNZ generally supports the proposed rules.

We seek an amendment to Rule 1.1.1, whilst water troughs are included in the permitted activity status, the associated piping network is not. Stock drinking water enters troughs via a piping network and this essential farm infrastructure needs be included as a permitted activity. These pipes are usually buried to prevent damage from livestock, vehicles and the environment.

#### Relief Sought

- i) Amend Rule 1.1.1 to allow for the maintenance or repair of stock drinking water reticulation pipes.

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

1. The clearance is for the purpose of maintenance or repair of existing fence lines, vehicle tracks, road, firebreaks, drains, stockyards, farm buildings, water troughs and associated reticulation piping or airstrips.

- ii) Retain all other rules as notified.

### **Appendix Y – Farm Biodiversity Plan Framework**

FFNZ strongly supports the inclusion of this appendix. A farm biodiversity plan will enable development and production to continue on a property whilst identifying and protecting significant ecological areas ensuring there is no net loss of biodiversity. These plans will provide MDC with a comprehensive and holistic view of the farming enterprise.

FFNZ commends MDC on the proposed collaborative approach between themselves and landowners regarding the development of the farm biodiversity plans. These ongoing working relationships should result in beneficial outcomes for all.

#### Relief Sought

Retain Appendix Y as notified.



FORM 5

SUBMISSION ON A PUBLICLY NOTIFIED  
PLAN CHANGE/ VARIATION

CLAUSE 6 OF FIRST SCHEDULE  
RESOURCE MANAGEMENT ACT 1991

To: Mackenzie District Council  
PO Box 52  
FAIRLIE 7949

Full name of submitter: Maryburn Station

Address for service: 2833 State Highway 8

Lake Tekapo

Telephone: 036806612

Fax/email: penny@maryburn.co.nz

Contact person: Martin & Penny Murray

*(name and designation, if applicable)*

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

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

PC 18 in it's entirety.

My submission is:

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

Council in consultation with individual landowners should identify "significant Indigenous Vegetation"

outside of those area's should be a permitted activity.

Objectives and Policies to be amended to recognise protected areas identified as opposed to protecting all areas.



Objectives and Policies to be amended to recognise to re establish vegetation cover of bare soil to avoid, remedy or mitigate the effects of soil loss.

Definition of "improved pasture" to be ammended to include all exsisting pastures sown into exotic plants for past and future grazing;by cultivation, topdressing, oversowing or direct drilling.

Rule 1.1.1. needs clarification and some conditions amended.

Mackenzie District Council needs to acknowledge how land owners are going to be compensated financially for "loss of land", given the benefits to the wider public, through constant Plan Changes.

Consents granted through the Environment Court and Regional Council should be adhered to, with vegetation clearance being a permitted activity when conveying water for irrigation purposes.

Notwithstanding the identification of Sights of significant indigenous vegetation, the policy framework should recognise that invariably analysis is more conceptual and provision should be made to recognise that these areas may include areas which are able to be cleared.

I seek the following decision from the Mackenzie District Council:

*(give precise details)*

Oppose PC 18 in its current form.

**I wish to be heard** in support of my submission

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

*(tick one box)*

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

Penny Murray

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

07/03/18

Date

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

**FORM 5**

**SUBMISSION ON A PUBLICLY NOTIFIED  
PLAN CHANGE / VARIATION**

**CLAUSE 6 OF FIRST SCHEDULE  
RESOURCE MANAGEMENT ACT 1991**

To: Mackenzie District Council  
PO Box 52  
FAIRLIE 7949

Full name of submitter: Simons Pass Station Limited  
Address for service: Level 3  
258 Stuart Street  
DUNEDIN 9016  
Telephone: 03 474 0900  
Email: mgv@jacksonv.co.nz  
Contact person: Murray Valentine

This is a submission on proposed Plan Change 18 to the Mackenzie District Plan.

The specific provisions of the proposal that my submission relates to are:

All of the provisions, with particular reference to:

- Rule 19.1.1.1;
- Rule 19.1.2.1;
- Rule 19.1.2.2;
- Appendix Y.

My submission is:

The Section 32 Report indicates that the current vegetation clearance rules are complicated and difficult to apply. This is largely because of the complex definition of indigenous vegetation and issues arising due to there being a series of separate rules for each indigenous plant community type. Simons Pass Station Ltd (“SPSL”) agrees that the current rules are difficult to follow and apply on a practical basis and that a new approach is needed. SPSL supports the goal of simplification of the rules.

SPSL also agrees that the PC18 rules represent an improvement on the former approach and, subject to some specific comments below, should be more efficient and effective than the current framework, while allowing for farming activities to occur in appropriate places. This will of course also depend on the manner in which the Mackenzie District Council applies the rules in practice.

SPSL also agrees with the approach of allowing landowners the option of preparing farm biodiversity plans. The Section 32 Report indicates that one of the advantages of this approach is that it allows a “holistic and integrated view of biodiversity values in the wider context of farm management practices”. SPSL agrees that this is important and appropriate. On Simons Pass Station an area of 2,554ha of ecologically significant land has already been set aside as a Dryland Recovery Area. This area will not be irrigated or farmed and SPSL has committed a significant amount of money to protecting, restoring and enhancing the ecologically significant values of this area. Contributions such as this to the protection and enhancement of ecologically significant areas should be considered and taken into account when applications are made to carry out farming activities on other areas that are not significant in terms of indigenous biodiversity. It appears that this will be possible under the new regime via preparation of farm biodiversity plans.

The new rules also introduce permitted activity status for indigenous vegetation clearance on areas of improved pasture. “Improved pasture” is a newly defined term in PC18. SPSL supports this new class of permitted activity and the improved pasture definition. This allows an appropriate balance to be struck between retaining areas of significance in terms of indigenous biodiversity, but allowing farming activities to continue on areas that have already been converted to pasture. The definition of improved pasture is clear and should prove to be straight forward and practical to apply.

It is SPSL’s submission that the rules should however also be modified to recognise the special issues associated with land at risk of significant soil erosion. This is a potential issue where land is largely denuded of any vegetation and is therefore prone to significant loss of topsoil through erosion processes. If this largely denuded land had sparse indigenous vegetation cover, any cultivation of the land to respond to the soil erosion issue could be subject to the indigenous vegetation clearance rules. It is SPSL’s submission that a policy should be introduced recognising the importance of responding to the risk of soil erosion in these circumstances; and further that the risk of soil erosion should be a factor discussed in the farm biodiversity plan, and taken into account as one of the matters of discretion in rules 19.1.2.1 and 19.1.2.2.



SPSL also submits that a rule should be included in Chapter 19 to allow for indigenous vegetation clearance in farm base areas as a permitted activity. This would be consistent with the status of pastoral intensification and agricultural conversion in farm base areas (proposed by Mackenzie District Council in the Plan Change 13 proceedings). This is a matter that was raised in the initial consultation process (per page 2 of the Section 32 Report), but is not considered in the substantive part of the Section 32 Report.

SPSL also has some more detailed comments about specific provisions in PC18. First, it is noted that the new permitted activity rule 19.1.1.1 is not easy to follow. The rule sets out certain conditions that are required for indigenous vegetation clearance to be permitted. It would not be possible for an activity to meet all of the conditions set out in the rule as many are mutually exclusive (for example, 19.1.1.1.1 and 19.1.1.1.2). However, if only one of the conditions is required to be met for permitted activity status, then (for example) any clearance outside a Site of Natural Significance and on land below 900m in altitude could be permitted under 19.1.1.1.7. It seems unlikely that this was the intention. Rule 19.1.1.1 therefore requires amendment to address this issue.

Next, there are various places in the new rules where the term “biodiversity” is used, instead of “indigenous biodiversity”. The references should be to indigenous biodiversity, to ensure consistency with the Indigenous Biodiversity Objectives and Policies in Chapter 19, the requirements in Appendix Y, the relevant policies in the Canterbury Regional Policy Statement and with the Resource Management Act sections 6 and 31. See for example Rule 19.1.2.1 and the matters of discretion at point 1. This refers to the identification of “biodiversity values” in (b), “significant biodiversity values” in (c) and protection of “biodiversity values” in (d). References are also made to “biodiversity” in the matters of discretion at point 2 of the rule, at (b) and (f). Points 1 and 3 of the matters of discretion in Rule 19.1.2.2 have the same issue, as does the Introduction to Appendix Y. The Introduction in Appendix Y refers to “no net loss of biodiversity”. Again, this should refer to no net loss of indigenous biodiversity.

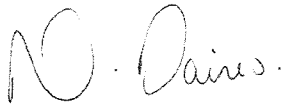
Finally, it is noted that B3(a) in Appendix Y refers to “no net loss of identified values of significance”. However, according to the introduction to Section B, the purpose of this section of the Farm Biodiversity Plan is to achieve the maintenance and enhancement of indigenous biodiversity. It is SPSL’s submission that B3(a) should therefore be reworded to refer to no net loss of indigenous biodiversity.

I seek the following decision from the Mackenzie District Council:

Overall SPSL supports the approach of PC18 and seeks that PC18 be adopted, with modifications made for the issues noted above.

**I wish to be heard** in support of my submission.

If others make a similar submission I **would** be prepared to consider presenting a joint case with them at any hearing.

A handwritten signature in cursive script that reads "N D Daines".

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N D Daines (Barrister)

Signature of person authorised to sign on behalf of submitter

8 March 2018

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Date

## FORM 5

SUBMISSION ON A PUBLICLY NOTIFIED  
PLAN CHANGE/ VARIATIONCLAUSE 6 OF FIRST SCHEDULE  
RESOURCE MANAGEMENT ACT 1991

To: Mackenzie District Council  
PO Box 52  
FAIRLIE 7949

Full name of submitter: Carol Linda Burke  
Address for service: P O Box 107  
Twizel  
Telephone: 027 396 6233  
Fax/email: [carol@montane.nz](mailto:carol@montane.nz)  
Contact person: as above  
(name and designation, if applicable)

This is a **submission on proposed Plan Change 18** to the Mackenzie District Plan

**The specific provisions of the proposal that my submission relates to are:**

- Objectives 1
- Policies 3.
- Policy 5 and 6 / Rule 1.2.1 - 3. 2.d)
- Rules – Indigenous Vegetation Clearance 1.1.1 – 6.
- Rules – Indigenous Vegetation Clearance 1.1.1 – 7.
- Rules - Restricted Discretionary Activity – Indigenous Vegetation Clearance 1.2.2.
- Appendix Y – B 1.

**My Submission in relation to Objective 1 is:**

I wish to have the provisions of this objective (and any further provisions throughout the district plan (specifically Section 19) amended to reflect that all the existing remaining indigenous biodiversity in the Mackenzie Basin is deemed significant.

I seek this because:

- a.) due to the nature of the tenure review process not all outcomes favoured the protection of extremely valuable areas of indigenous biodiversity i.e. some were freeholded in spite of their biodiversity values
- b.) due to the significant change and loss that has occurred in the Mackenzie Basin under intensification of farming practices all remaining indigenous vegetation and habitats are now significant even when in depleted states
- c.) these biodiversity values are unique to New Zealand and unique in New Zealand
- d.) they are irreplaceable i.e. they cannot be recreated once lost

**I seek the following decision from Mackenzie District Council** – that the provisions of this objective (and any further provisions throughout the district plan (specifically Section 19) be amended to reflect that all the existing remaining indigenous biodiversity in the Mackenzie Basin is deemed significant.



**My submission in relation to Policies 3. is:**

I oppose this policy. Indigenous vegetation clearance should not occur in any “way” or at any “rate” – full stop. “Net loss of indigenous biodiversity values” is a nebulous concept that is a very difficult thing to determine – and by the time you have – it’s usually after the event. You can’t stop something that has already occurred, nor can you re-establish ecosystems once they have been annihilated. Pastoral intensification is not the way forward. Everything left should require a resource consent prior to any activity.

**I seek the following decision from Mackenzie District Council** – please amend this policy to exclude indigenous vegetation clearance. I ask the Mackenzie District Council to provide the level of protection that ceases the constant “chipping away” of the Mackenzie Basin ecological values. I ask Council to ensure that any activities that would undermine existing values of landscape, landforms, functional ecosystems, flora and fauna are not permitted activities and that any consents granted by any and all agencies are logged and reviewed as to their combined overall / or individual impact. This both in terms of the types of consents granted by different authorities such that potential conflicts or anomalies likely to impact protection measures can be addressed, that consents granted or potentially to be granted aren’t manipulating the intent of protection measures and that the overall impacts over time do not undermine protection. (i.e. consent mechanisms for the various types of activity that destroy indigenous vegetation e.g. irrigation consents, burning (fire permits), cultivation, over sowing (CPLA consents), felling, mulching, crushing, cutting etc. etc.

**My submission in relation to Policy 5 and 6 / Rule 1.2.1 – 3. 2.d) is:**

I seek to have policy 5 amended to remove provision for offsetting. In regard to Policy 6 I oppose it. Offsetting is not a functional solution. It provides no protection for biodiversity and is a hollow piece of terminology. It provides no tangible/genuine result in terms of maintaining ecosystems. If you need to offset adverse effects – then it’s not a consent which should be granted. Offsetting is an appalling process of either bartering sites and values that should not be available to be bartered in the first place or convincing people that an ecosystem of equal value can be “re-created” or “reestablished”. They can’t. The cost of doing so would exceed the financial gain from the enterprise being granted consent. Hence the provision for potential for offsetting in Rule 1.2.1 – 3.2.d) should be removed.

**I seek the following decision from the Mackenzie District Council** – that if the process of offsetting needs to be used as part of consent process that the consent not be granted.

**My submission in relation to Rule 1.1.1 6. is:**

I oppose this clause (6) of rule (1.1.1). It is confusing and unnecessary to include this. Based on the definition of Indigenous Vegetation, indigenous vegetation would not exist within improved pasture (per the Improved pasture definition) anyway.

**I seek the following decision from the Mackenzie District Council** - Please delete clause (6) of 1.1.1.

**My submission in relation to Rule 1.1.1 7. is:**

I strongly oppose this clause (7) of rule (1.1.1) This needs to be amended to reflect that not all areas of valuable indigenous vegetation are included in the sites of Natural Significance. The Mackenzie Basin cannot afford to lose any more areas of value.

**I seek the following decision from the Mackenzie District Council** - These areas need to be protected, their value recognised and not left vulnerable under a Permitted Activity rule.

**My submission in relation to Rule 1.2.2. is:**

I oppose this rule. There should be **no** indigenous vegetation clearance within any site in any 5-year continuous period under or over 5000m2. Everything that is left – is Significant!

**I seek the following decision from the Mackenzie District Council** - Please protect what is left of the Mackenzie Basins functional ecosystems that support rare flora and fauna, please protect the landforms, please don't let anymore be lost – we will never get another Mackenzie.

**My submission in relation to Appendix Y – B 1. is:**

The assessment of existing ecological values needs to be a peer reviewed and independent process with reference to all and any agencies who hold relevant information relating to the area covered by a Biodiversity Plan. I believe that within a Biodiversity Plan there should be a framework for clearly showing all consents that have been applied for and implemented – this would include historic, current and proposed consents. This framework should also include a history of any activity that has caused loss of Indigenous Vegetation or Landscape Values (i.e. that occurred with or without consent.)

**I seek the following decision from the Mackenzie District Council** - That this process is clearly stated and instituted such that appropriate identification and thus protection of ecological values are inherent in a Biodiversity Plan. The consenting process needs a framework so that the activities which also consents for farm infrastructure

**General comments**


- Intent to have no further loss of landscape, landforms, functional ecosystems, flora and fauna values should be clearly stated.
- Clear definitions are required
- Clear strong rules
- Peer reviewed, and independent identification of Indigenous Biodiversity values is required.
- Robust and independent monitoring of consents granted is required, with review of outcomes. Given the value that is placed on the Mackenzie Basin not just by those who live here there should also be national oversight of consents granted and outcomes. Ability for council to request cessation of a granted consent activities if it is identified that by error or omission on the part of either party the intent to protect is breached or likely to be.
- How is compliance to be achieved / what are penalties for breach? – these need to be clearly spelt out and followed through on.

**I wish to be heard** in support of my submission

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

*(tick one box)*

If others make a similar submission I **would** *(delete one)* be prepared to consider presenting a joint case with them at any hearing.



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

Date: 8 March 2018

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

PC18-5

FORM 5

SUBMISSION ON A PUBLICLY NOTIFIED  
PLAN CHANGE/ VARIATION

CLAUSE 6 OF FIRST SCHEDULE  
RESOURCE MANAGEMENT ACT 1991

To: Mackenzie District Council  
PO Box 52  
FAIRLIE 7949

Full name of submitter: Colin John Morris  
Address for service: 19 Hector St.  
RD1 Coalgate  
Telephone: 03 - 318 - 2643  
Fax/email: colinmorris146@gmail.com  
Contact person: as above  
(name and designation, if applicable)

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

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

Plan change 18 Section 3 Definitions Biodiversity  
Plan change 18 Section 19 Indigenous  
\_\_\_\_\_

My submission is:

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

I wish to support Section 3 Definitions of Plan Change 18  
INDIGENOUS VEGETATION.  
I do not support Section 3 Definitions - Improved Pasture

P.78.



because the definition is too ambiguous and too easily open to misinterpretation.

### Section 19 - Indigenous Biodiversity

I support objectives 1, 2, & 3 because they will safeguard existing vegetation, and encourage indigenous biodiversity.

I support policies 1 - 7.

### RULES: Indigenous Vegetation Clearance

I support rules surrounding Indigenous Vegetation Clearance except 1.1.1. part 6. As stated above, the term 'improved pasture' is too ambiguous; if this exemption is allowed, it could create a loophole that ~~allows~~ indigenous vegetation clearance as a permitted activity, which is contrary to the objectives and policies being sought in the plan change. Oppose 1.1.1. part 6.

I seek the following decision from the Mackenzie District Council:

(give precise details)

Include the definition of Indigenous vegetation

Delete Rule 1.1.1 part 6

I wish to be heard in support of my submission

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

(tick one box)

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

C. Morris

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

March 8 2018

Date

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

FORM 5

SUBMISSION ON A PUBLICLY NOTIFIED  
PLAN CHANGE/ VARIATION

CLAUSE 6 OF FIRST SCHEDULE  
RESOURCE MANAGEMENT ACT 1991

To: Mackenzie District Council  
PO Box 52  
FAIRLIE 7949

Full name of submitter: Mackenzie Guardians Inc.  
Address for service: C/- PDC Atertunnel 7638

Telephone: 03 3182632  
Fax/email: rsnoyinka@xtra.co.nz  
Contact person: Rosalie Snoyink  
*(name and designation, if applicable)*

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

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

Plan Change 18 Sections 3, 19 Objectives, Policies and Rules. Appendix 9. Farm Biodiversity Plan.

Plan Change 19. Rural Objective 8  
Rural Policies 8A, 8B, 8C, 8E, and Rural Zone Rule 7A.2

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

See attached pages 1, 2, 3.

I seek the following decision from the Mackenzie District Council:  
(give precise details)

Approve PC 18 subject to amendments  
listed in the attached pages.

Adopt amendments + additions to Rural Zone Policies  
Adopt new Rural Zone Rules esp. Activities on or within  
lake Rukawa. PC. 19.

I wish to be heard in support of my submission

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

(tick one box)

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

R.J. Duoyink

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

9 March 2018

Date

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

## Mackenzie Guardians' submission on proposed Plan Change 18 is:

### Section 3. Definitions

#### A.

#### Biodiversity (or biological diversity) - Support

**Farm Biodiversity Plan - Support** as long as it is clear that the Plan is part of a Resource Consent. The Council should have the final say if any future changes of conditions are sought, through the process for a Variation of conditions.

**Improved Pasture – Oppose.** This definition should be amended. The definition as written would create further loopholes which have in the past enabled the clearance of large areas of indigenous vegetation which had significant value to the landscape and biodiversity. The definition as written would not complement the provisions of Plan Change 13. There needs to be a clearer, simpler, accurate way of defining improved pasture i.e .land that is clearly identified and mapped showing it is fully cultivated and converted to exotic pasture. As written the definition will not aid interpretation and enforcement of the rules.

**Indigenous Vegetation - Support with amendment** to delete *but does not include plants within a domestic garden, or that have been planted for the use of screening/shelter purposes e.g. as farm hedgerows, or that have been deliberately planted for the purpose of harvest.* These exclusions should be included in rules, not in the definition.

### Section 19. Indigenous Biodiversity

#### Objectives 1 & 2 Support

**Objective 3 Support** with amendments to include consideration of landscape values. The Mackenzie Basin is an Outstanding Natural Landscape (ONL). In the Canterbury Regional Policy Statement (CRPS) is an assessment framework for ONLs which includes **1. Natural Science values.** The geological, topographical, ecological and dynamic components of the landscape.

#### Policies

#### 1 - 4. Support

5. and 6 **Support in part.** Off- setting should not be used as a first option, the primary issue is to **AVOID** additional loss of valued indigenous vegetation and significant habitats of indigenous fauna, and landscape values.

## **Rules**

### **Indigenous Vegetation Clearance**

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

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

6. The clearance of indigenous vegetation within an area of improved pasture.

**Oppose.** Refer to reason for opposing definition of improved pasture. A clearer definition of improved pasture will make this exemption unnecessary. If vegetation has been developed to exotic pasture such that it no longer meets the indigenous vegetation definition, and the land is not essential to maintain and enhance biodiversity and landscape values, it will already be exempt.

### **Appendix Y Farm Biodiversity Plan**

**Support in part.** Mackenzie Guardians support the Farm Biodiversity Plans provided there is a clearer definition of improved pasture and consideration of landscape values is included in the Plan. The Guardians also support the Council providing suitably qualified ecological experts to identify, assess values, and provide ecological advice on the management of those values.



**Mackenzie Guardians submission on Plan Change 19 is:**

**Rural Objective 8. Activities on or within waterbodies Support .**

This objective seeks to **AVOID** the potential adverse effects on public health and safety, recreational values, takata whenua values, conservation and wildlife values. It's clear the area is under growing pressure from increasing numbers of visitors, and activities need to be managed to avoid long lasting adverse effects.

**Rural Policy 8A Values of Waterbodies Support**

Mackenzie Guardians recognize the need to manage activities to avoid the loss of important natural and cultural values.

**Rural Policy 8B Lake Pukaki Support**

Lake Pukaki is especially important to our members, to the wider public of New Zealand. The lake and surrounds is of international significance. The Guardians welcome this policy which seeks to protect the unique, natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding motorized activities on the lake other than for essential activities.

**Rural Policy 8C Commercial Activities Support**

To **AVOID** the adverse effects of commercial activities assessment by way of resource consent is required.

**Rural Policy 8E Effects on Wildlife and Wildlife Habitat. Support** This policy aligns with proposed Plan Change 18, and is complementary to Plan Change 13, which seek to protect indigenous fauna in the Mackenzie District. Biodiversity loss is of huge concern to our members. We need to slow the decline of New Zealand's biodiversity and especially the distinctive wildlife in the Mackenzie.

**Amend Section 7 by adding new clause 7A** Activities on or within waterbodies.

**Support** and in particular **7A2** Activities on or within Lake Pukaki.

Finally Mackenzie Guardians note that noise pollution is not addressed through Plan Change 19. Appropriate rules should be included to control noise levels on waterbodies for both commercial and recreational activities. Just as the Night Sky values are protected the peaceful, quiet and tranquil values, especially on Lake Pukaki, should be protected from high noise levels.

9 March 2018





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

**SUBMITTER:** Central South Island Fish & Game  
c/Angela Christensen  
32 Richard Pearse Drive  
PO Box 150  
Temuka, New Zealand  
  
Ph (03) 615 8400  
Email: achristensen@csifgc.org.nz

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

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

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

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

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

*“In relation to planning, -*

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

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

**Section 26Q, Conservation Act.**

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

## PROPOSED PLAN CHANGE 18: INDIGENOUS BIODIVERSITY

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

### SUBMISSION

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

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



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

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

## PROPOSED PLAN CHANGE 19: ACTIVITIES ON OR WITHIN WATERBODIES

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

### SUBMISSION

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

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

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

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

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

Signature:



A Christensen  
Date: 9 March 2018



Form 5

## Submission on Publicly Notified Proposal for Plan, Change or Variation

Clause 6 of Schedule 1, Resource Management Act 1991

To: Mackenzie District Council

Name of submitter: Canterbury Regional Council (Environment Canterbury)

This is a submission on:

**Plan Change 18 to the Mackenzie District Plan – Indigenous Vegetation**

Environment Canterbury ~~could~~/could not\* gain an advantage in trade competition through this submission.

~~I am/am not~~ directly affected by an effect of the subject matter of the submission that—

~~(a) adversely affects the environment; and~~

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

**The specific provision that the Regional Council's submission relates to is:**

Plan Change 18 in its entirety.

**The Regional Council's submission is:**

The Canterbury Regional Council (Regional Council) supports in part and opposes in part Plan Change 18 Indigenous vegetation (PC18).

The Regional Council is generally in support of PC18 as it is a significant step towards better giving effect to the Canterbury Regional Policy Statement. However, the Regional Council is seeking some changes in PC18 to:

- better give effect to the Canterbury Regional Policy Statement;
- ensure the objectives of PC18 are the most appropriate way to achieve the purpose of the RMA, and that the provisions are the most appropriate way to achieve the objectives;
- improve the clarity of the policy framework;
- improve the clarity and workability of the rules, by amending key definitions and making other amendments; and
- make other minor changes of a technical nature.

## **Reasons for the Regional Council's views:**

### **1. Introduction**

Chapter 9 (Ecosystems & Indigenous Biodiversity) of the Canterbury Regional Policy Statement (CRPS) sets the strategic outcomes for ecosystems and indigenous biodiversity in the Canterbury region. It specifies roles and responsibilities of the Regional Council and territorial authorities. In general terms the Regional Council is responsible for the control of the use of land for the maintenance of indigenous biodiversity in waterbodies, wetlands, the beds of lakes and rivers, and the coastal marine area. Territorial authorities are responsible for the control of the use of land for the maintenance of indigenous biodiversity in all other areas, and PC18 represents an updated policy approach to this.

### **2. CRPS and PC18**

PC18 is required to give effect to the CRPS.<sup>1</sup>

The CRPS has been implemented in different ways in different districts; there is no one set of provisions the Regional Council advocates for in district plans. The policy response needs to address the specific environment and issues for each district council and their community.

The Regional Council considers that PC18 gives effect to the CRPS Chapter 9 in several important ways. The Plan Change -

- replaces the criteria for determining significance in the operative Mackenzie District Plan with the regional criteria for determining significance (Policy 1). This is an important change as it provides consistency across the Canterbury region, and is necessary to give effect to CRPS Policy 9.3.1.
- contains new Policy 3 which seeks that rural development “provides for no net loss of indigenous biodiversity values in areas identified as significant”. This policy also gives effect to CRPS Policy 9.3.1.
- introduces Policy 6 for offsetting, which is consistent with CRPS Policy 9.3.6.
- introduces Policy 4 for ecologically significant wetlands, which is consistent with CRPS Policy 9.3.5.
- uses the concept of a Farm Biodiversity Plan to help manage indigenous vegetation clearance at a farm scale (Policies 7 and 8). This aligns with the Regional Council framework for managing nutrient loss through Farm Environment Plans.
- contains robust rules requiring resource consent for clearance of indigenous vegetation in most circumstances.
- introduces provisions to deal with indigenous vegetation clearance on land associated with the Waitaki Power Scheme, which the CRPS classifies as regionally significant infrastructure.

These are important changes and are supported by the Regional Council.

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<sup>1</sup> RMA, s75(3)(c).

### 3. PC18 Policy Framework

PC18 is an important step towards the effective identification and protection of significant indigenous vegetation in the Mackenzie District. However, there are aspects of PC18 which could be strengthened and clarified, and the Regional Council has some concerns about the extent to which the objectives of PC18 are the most appropriate way to achieve the purpose of the RMA, and the extent to which the provisions are the most appropriate way to achieve the objectives. Overall, there is a lack of clarity in the objectives and policies when taken as a whole.

The Regional Council recognises that some provisions have been “brought across” from the operative Mackenzie District Plan. While this can provide plan users with continuity and familiarity with planning provisions, it can also foreclose the opportunity to take a clearer and more direct approach to managing indigenous biodiversity.

The clarity of the objectives and policies is particularly important, as under the proposed rules many applications for indigenous vegetation clearance are likely to be classified as a non-complying activity. Unless the adverse effects are minor, resource consent officers will have a specific obligation under the RMA to assess whether the clearance application will be contrary to the relevant objectives and policies in the Plan.<sup>2</sup>

There are opportunities to clarify and strengthen the objectives and policies in the Plan in four main areas:

1. the identification of significant indigenous biodiversity;
2. managing significant and non-significant indigenous vegetation;
3. avoiding, remedying and mitigating adverse effects; and
4. the link between indigenous vegetation and landscape in the Mackenzie Basin

#### ***Identification of Significant Indigenous Biodiversity***

The CRPS does not require significant indigenous biodiversity and habitats to be identified in district plans themselves. Other options for identifying significant indigenous biodiversity include general vegetation clearance rules, and consideration of significance as part of the consents process.

The operative Mackenzie District Plan contains a list of “sites of natural significance” (SONS). It is unclear from the objectives and policies what approach will be taken to identifying and listing new SONS in the Plan. New sites could be identified through council surveys in cooperation with landowners, through consents and / or through the development of Farm Biodiversity Plans. There is no stated policy to progressively include new sites in the Plan. It may be that the list of SONS will remain a “static” list of sites identified in the past, with the Farm Biodiversity Plan as the key mechanism to manage any newly identified SONS through the resource consent process. If this is the case, it would be beneficial to make this clear in the policies.

The operative Mackenzie District Plan provisions also contain policy recognition of significant geological or geomorphological features which are of significant value to the district (deleted Rural Policy 1B). As the list of SONS in the Plan contain a number of these sites, it is important that they are covered in the objectives and policies somewhere in the Plan.

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<sup>2</sup> RMA s104D.

**Significant Indigenous Vegetation and Other Biodiversity**

The policies do not explicitly distinguish between the management of indigenous vegetation and habitats that meets the threshold of significance, and wider biodiversity values, where the criteria for significance may not be met.

For example, Objective 1, Objective 2, and Policy 2 in PC18 include references to both significant indigenous vegetation and habitats, as well as other wider terms such as “natural biological and physical processes” and “landforms, physical processes and hydrology”. Objective 1 and Policy 2 have been transferred across from the operative Mackenzie District Plan. However, PC18 provides an opportunity to rethink the usefulness of these types of objectives and policies and replace them with clearer and more targeted provisions.

By way of example, the following high-level policy framework would be broadly consistent with the rules proposed in PC18, and contains many of the elements of the objectives and policies as notified.

**Table 1**

Sites / Areas of Vegetation	Values	Policy Approach
“Sites of natural significance” as identified in the Mackenzie District Plan	These sites are known to be significant	No net loss of significant indigenous biodiversity.  Adverse effects to be avoided wherever practicable, or (in order of priority) remedied, mitigated or offset
Other areas of indigenous vegetation	These areas have not been confirmed to be significant, but there is a high likelihood of significance in the Mackenzie Basin and the possibility of significance elsewhere in the District	Significance identified through consents / Farm Biodiversity Plan process  Adverse effects on significant indigenous vegetation and habitat to be avoided wherever practicable, or (in order of priority) remedied, mitigated or offset  Clearance of other areas of indigenous vegetation is managed, to maintain and enhance biodiversity and landscape values
Improved pasture	These areas are known to contain no significant indigenous vegetation or habitats, although they may contain some limited indigenous vegetation and provide habitat for indigenous fauna.	Able to maintain improved pasture as a permitted activity

Objectives and policies built on a clear policy framework of this type would clearly set out the approach that will be taken to different types of indigenous vegetation and habitat, in way that is transparent to landowners and community.

### ***Avoid, Remedy and Mitigate***

Both Policies 2 and 5 in PC18 are directed at avoiding, remedying or mitigating adverse effects on (among other things) significant indigenous vegetation and significant habitats of indigenous fauna.

These policies do not make it clear that for significant vegetation and habitats, avoiding adverse effects should be the preferred option. For example, a comparable policy in the Christchurch City Plan sets out a clear hierarchy of avoiding adverse effects where practicable as the first option.

### ***9.1.2.2.6 Policy - Protection and management of significant indigenous vegetation and habitats of indigenous fauna listed in Schedule A of Appendix 9.1.6.1***

- a. *Recognise and protect the indigenous vegetation and habitats of indigenous fauna within each site listed in the Sites of Ecological Significance in Schedule A of Appendix 9.1.6.1 so as to ensure no net loss of indigenous biodiversity by:
  - i. *avoiding the adverse effects of vegetation clearance and the disturbance of habitats as far as practicable; then*
  - ii. *remedying any adverse effects that cannot be avoided; then*
  - iii. *mitigating any adverse effects that cannot be remedied; and*
  - iv. *where there are any significant residual adverse effects on the significant indigenous vegetation and significant habitats of indigenous fauna within the site, offsetting them in accordance with Policy 9.1.2.2.14.**

A clear policy intent to avoid effects in the first instance would provide greater consistency with the CRPS. It also provides a clear direction for those applying for and processing resource consents. It would set the overall direction of the policy, while still providing other matters for consideration where avoidance is not a practicable option.

### ***Landscape and Indigenous Vegetation***

During the course of Plan Change 13 to the Mackenzie District Plan, the Environment Court heard extensive evidence on the values of indigenous vegetation in the Mackenzie Basin. It concluded that indigenous vegetation is a significant contributor to the outstanding landscape values in the Mackenzie Basin. It would be helpful to include a policy in the Indigenous Biodiversity chapter that recognises this, and links the provisions in the chapter to the Mackenzie Basin landscape provisions in the Rural chapter. This would help integrate the consideration of pastoral intensification or agricultural conversion, landscape and indigenous vegetation clearance when they are considered in the consent process.

### ***Decision Sought***

Given the importance of these provisions, it would be helpful to take the opportunity to address the policy issues holistically, and in a way that provides clear guidance to landowners and the community. The detail of the decisions sought by the Regional Council is contained in Appendix A.



## 4. Definitions and Rules

### *Indigenous Vegetation*

The definition of indigenous vegetation requires amendment to better reflect the communities of plants that occur widely in the Mackenzie District. Significant indigenous vegetation and significant habitats of indigenous fauna can include a range of introduced species, and can include areas with a mosaic of low growing species and a component of open ground.

The definition contains an “exclusion” for plants in domestic gardens, shelter or harvest. The Permitted Activity Rule contains the same exclusion in 1.1.1.4. It would be preferable to consolidate all the exemptions in the rule.

### *Improved Pasture*

This definition is critical to determining the extent of indigenous vegetation clearance that is permitted under rule 1.1.1.6. The definition will determine the number of consents that will be triggered, and how much control the Council will have over future loss of indigenous vegetation.

There is considerable difficulty in determining what constitutes improved pasture. Much of the rural land in the Mackenzie District has been subject to some degree of improvement in the past, but much of it, particularly within the Mackenzie Basin, still contains indigenous plant communities with significant values. As a first step, there needs to be clear understanding of where on the spectrum there is little likelihood of significant vegetation remaining. A definition could then be “crafted” to reflect this.

A second important factor is the relationship between definition of improved pasture and the wider suite of rules. If the definition of improved pasture is confined to the “intensively improved” end of the spectrum, where land has been cultivated and maintained almost exclusively in exotic pasture, then the rules need to be clear about what clearance is allowed within “partially improved” extensive grazing areas where significant indigenous vegetation may remain, in part as a result of the grazing regime.

The definition as proposed is uncertain. It places the emphasis on what actions have been taken over the previous 15 years, rather than the nature of and values of the existing vegetation. The use of an open-ended time frame (in this case 15 years) means there is no fixed date to form a baseline.

As it stands, the definition is capable of a variety of interpretations, and is therefore likely to cause issues for landowners, when carrying out their farming practices, and for the Council when implementing the Plan.

There are several possible approaches that could be taken to address this issue, including –

- Amend the definition of improved pasture to make it clear that the key determinate of improved pasture is the domination of exotic pasture species at the time that PC18 was notified.
- Set a threshold for permitted indigenous vegetation clearance within areas of improved pasture, to accommodate small-scale farm improvements, and require a restricted discretionary consent above that threshold. This would allow assessment of the values of the indigenous vegetation as part of the consent process
- Make clearance of indigenous vegetation within areas of improved pasture a controlled activity, allowing assessment of the values of the indigenous vegetation as part of the consent process.

It is important to note that in the Mackenzie Basin, Pastoral Intensification and Agricultural Conversion require resource consent in most circumstances, and indigenous vegetation clearance can be considered as part of this process.

### **Site**

The operative rules for clearance of indigenous vegetation do not rely on the definition of “site” for managing the limits or thresholds. Different rules take different approaches, including a per hectare threshold, and a threshold for individual farm properties.<sup>3</sup>

The proposed rules use the term “site” as part of the limit setting. For example -

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

This is problematic, given that the definition of “site” contained in the plan is based on lots and certificates of title. (see Appendix B). This definition of site works best in urban areas, where the site of the land use and the lot are in most cases the same. In rural areas, landholdings are typically made up of a complex of different land parcels ranging from smaller parcels, through to extensive Runs.

Further, the use of a threshold of permitted indigenous vegetation clearance per site does not relate to the effects associated with the clearance, as the effects will ultimately depend on the size of each “site” (which is generally based on the size of a Certificate of Title).

It is more certain to set a threshold for clearance based on a specific area, rather than a “site”. This will provide clarity about how the rule functions, and prevent indigenous vegetation clearance thresholds being applied to multiple lots within one property or farming management unit.

### **Farming Enterprise**

The definition of Farming Enterprise is modelled on the definition in the Land and Water Regional Plan. The Regional definition has been developed as part of the Region’s approach to nutrient management. Having two similar definitions for different purposes may cause some confusion. The definition in PC18 could be changed to refer to “Farming Operation” or similar. It would also be helpful to clarify that parcels of land referred to in the definition are not necessarily contiguous.

### **Vegetation Clearance and Rule 12.1.1.1**

The definition of “vegetation clearance” has been amended to include “irrigation” along with the other methods of vegetation clearance. The Regional Council supports this change. However, this change has an impact on the way Rule 12.1.1.a functions. This rule permits (by way of an exemption to the standard) vegetation clearance in riparian areas where the vegetation clearance “has been granted resource consent for a discretionary or non-complying activity” by the Regional Council.

As vegetation clearance is currently defined, this exemption would apply only where regional consent has been issued for the burning of vegetation. Other vegetation clearance under the Land and Water Regional Plan is permitted or a restricted discretionary activity. Irrigation is commonly discretionary under the relevant Regional plans. This significantly widens the application of this exemption.

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<sup>3</sup> See Rules 12.1.1.e, 12.1.1.c, 12.1.1.g

Riparian vegetation is defined differently in each of the plans, with the Mackenzie District rules being more restrictive than the Regional rules. Protecting riparian vegetation is an important factor in maintaining and improving waterways. Removing duplication of rules where possible is also important, and is planning 'best practice'. The Regional Council would value the opportunity to work through this issue with the Mackenzie District Council as part of the PC18 process. The general nature of the relief sought reflects this.

### **Decision Sought**

The detail of the decisions sought is contained in Appendix A.

## **5. Other Changes**

### ***Ecosystems Linkages***

There is no explicit policy which addresses the linkages between areas of indigenous vegetation and ecosystems. This is an important issue in the Mackenzie Basin, and potentially in the wider Mackenzie District. The addition of a matter for discretion in rule 1.2.2 would allow consideration of this wider context when consent decisions are made.

### ***Conditions of Rule 1.1.1***

Rule 1.1.1 as currently drafted is uncertain and unclear. The list of "conditions" that must be met to be a permitted activity contains two different types of condition. Conditions 1-6 provide alternative situations in which clearance is permitted activity – they can be read as having an "or" between the clauses, and are more properly described as "activities" rather than conditions. Conditions 7 and 8 are two absolute exclusions that apply to each of the activities, and should be read as having an "and" between them. This needs to be clarified.

### ***Exemption for Environment Canterbury River Control***

The Regional Council has statutory responsibilities for erosion and flood control within a number of riverbeds. A permitted activity status allowing for some, non-targeted, consequential clearance of indigenous vegetation whilst undertaking this function is important for this work to be carried out efficiently. This can be achieved by adding a new condition/exemption to the permitted activity rule. When addressing the issue raised about the list of conditions, it should be clarified that indigenous vegetation clearance undertaken for flood control purposes does not have to meet condition 8.

### ***Regional Pest Management Strategy***

The permitted activity rule contains an exemption for clearance that is essential for compliance with the Regional Pest Management Strategy. This has been appropriate in the past, when the main focus of pest management was on maintaining productivity from the land. Decisions on the new Regional Pest Management Plan (RPMP) are expected in the next few weeks. The RPMP seeks to mitigate effects from pests on both production values *and* biodiversity values. The Regional Council consider that it would be inconsistent to enable the removal of indigenous vegetation based solely on compliance with the RPMP. There are alternative methods to vegetation clearance to mitigate pest impacts, or a targeted approach may be appropriate. This is best considered through a consent process, as it is likely to require a discussion with the Regional Council Biosecurity or Biodiversity Officers. This exemption should be removed.

***Farm Biodiversity Plans and Rule 1.2.1***

This rule could be amended to make it explicit that this rule is specific to indigenous vegetation clearance for which a Farm Biodiversity Plan has been prepared and submitted as part of the consent application.

***Activity Status for Non-compliance with Rule 12.1.1***

Rule 12.2 Discretionary Activities – Vegetation Clearance needs to be reinstated, to cover riparian vegetation clearance that does not comply with Rule 12.1.1.

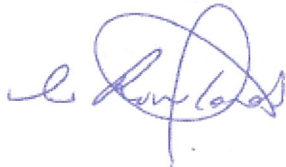
**Decision Sought**

The detail of the decisions sought is contained in Appendix A.

**6. Hearing**

The Regional Council **does** wish to be heard in support of its submission.

~~If others make a similar submission, we will consider presenting a joint case with them at a hearing.~~



Carmel Rowlands  
**Team Leader Planning**

(Authorised under delegated authority from the Canterbury Regional Council)

**Date:** 8 March 2018

**Address for service of submitter:**

Environment Canterbury  
PO Box 550  
Timaru 7940

**Telephone:** 0272049859

**Email:** julia.forsyth@ecan.govt.nz

**Contact person:** Julia Forsyth

## Appendix A: Detail of Decision Sought by the Regional Council

### A. Objectives and Policies

1. The Regional Council seeks that the objectives and policies are rewritten to clarify –
  - The objectives and policies that apply to significant indigenous vegetation and habitats of significant fauna.
  - The objectives and policies that apply to biodiversity more generally.
  - That indigenous vegetation is a significant component of the outstanding natural landscape in the Mackenzie Basin.
  - That for significant indigenous vegetation and significant habitats of indigenous fauna, avoidance of adverse effects should be undertaken wherever it is practicable. Remediation, mitigation and finally offsetting will only be considered where avoidance of adverse effects is not practicable.
  - The policy approach that will be taken to listing further “sites of natural significance” in the District Plan
  - The policy approach to sites of geological or geomorphological significance.

#### In the alternative:

2. Amend Objective 1 as follows -

*To safeguard indigenous biodiversity and ecosystem functioning through:*

- *the protection and enhancement of significant indigenous vegetation and significant habitats of indigenous fauna*
- *the protection and enhancement of riparian margins, and*
- *the maintenance of natural biological and physical processes.*

3. Delete Objective 2 – this has a large degree of overlap with Objective 1 and Policy 3.

4. Amend Objective 3 as follows -

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

5. Delete Policy 2 and replace with the following (or similar) -

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

~~a) Landform, physical processes and hydrology~~

~~b) Remaining areas of significant indigenous vegetation and habitat, and linkages between these areas~~

e) Aquatic habitat and water quality and quantity

To identify and protect other areas of significant indigenous vegetation or habitat for indigenous fauna through Farm Biodiversity Plans and the resource consent process.

6. Amend Policy 3 as follows -

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

7. Amend Policy 5 as follows (or similar) -

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

- avoiding the adverse effects of vegetation clearance and the disturbance of habitats as far as practicable; then
- remedying any adverse effects that cannot be avoided; then
- mitigating any adverse effects that cannot be remedied; and
- where there are any significant residual adverse effects, offsetting them in accordance with Policy 6.

8. Amend Policy 8 as follows -

*To enable rural land use and development at an on-farm level, where that development is integrated with comprehensive identification, sustainable management and long-term protection of ~~values associated with significant~~ indigenous vegetation and significant habitats of indigenous fauna, through a Farm Biodiversity Plan process.*

## **B. Definitions**

1. Amend the definition of farming enterprise as follows (or similar) –

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

2. Amend the definition of indigenous vegetation as follows (or similar) –

*Indigenous Vegetation: means a plant community of species that are native to the district.*

*It includes*

- areas of mat and cushion vegetation
- areas with a component of open ground
- areas with individual or low numbers of threatened or at risk native plant species contained within non-native plant communities
- areas with seasonal growth of indigenous vegetation.

*which may include exotic vegetation, ~~it~~ but does not include plants within a domestic garden or that have been planted for the use of screening/shelter purposes e.g. as farm hedgerows or that have been deliberately planted for the purpose of harvest.*

3. Amend the definition of improved pasture to read (or similar) –

*Improved pasture: means an area of pasture where:*

- a) Exotic pasture species have been deliberately introduced and dominate in cover and composition as at December 2017. Species composition and growth have been modified and enhanced for livestock grazing within the previous 15 years, by clearance, cultivation, or topdressing and oversowing, or direct drilling; and*
- b) ~~Exotic pasture species have been deliberately introduced and dominate in cover and composition.~~*

*For the purposes of this definition the assessment of dominance shall disregard indigenous vegetation which is ~~growing on land that has previously been modified and enhanced for livestock grazing, in accordance with clause a) above and is less than 15 years old.~~*

Alternatively -

4. Introduce a threshold (for example X area per Y area per 5 years) for clearance of indigenous vegetation within improved pasture as a permitted activity. This would allow most indigenous vegetation clearance to be considered through a resource consent process, where the values of the indigenous vegetation can be assessed on a case by case basis.

Alternatively –

5. Amend the rules to make clearance of indigenous vegetation within areas of improved pasture a controlled activity.

## **C. Rules**

1. Amend Rule 1.1.1 to clarify that conditions 7 and 8 (proposed to be renumbered as new condition 1 and 2) must be met, for clearance to be a permitted activity, with the exception that activity 5 (as below) is not required to meet condition 8 (proposed to be renumbered as new condition 2).

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

1. The clearance is for the purpose of maintenance or repair of existing fence lines, vehicle tracks, roads, firebreaks, drains, stockyards, farm buildings, water troughs or airstrips; or
2. The clearance is of indigenous vegetation which has been planted and is managed specifically for the purpose of harvesting and subsequent replanting of plantation forest within 5 years of harvest; or
3. The clearance is of the indigenous understorey to plantation forest, and is incidental to permitted or otherwise authorised plantation forest clearance; or
4. The clearance is of indigenous vegetation which has been planted and/or is managed as part of a domestic garden or has been planted for amenity purposes or as a shelterbelt; or
- ~~5. The clearance is essential for compliance with the Regional Pest Management Strategy~~
5. The clearance is carried out by or on behalf of a local authority and is necessary for erosion and flood control works; or
6. The clearance is of indigenous vegetation within an area of improved pasture (refer Definitions);.

Provided the following conditions are met:

- ~~7. 1.~~ The clearance is not within a Site of Natural Significance or on land above 900m in altitude; and
- ~~8. 2.~~ Except for clearance carried out in accordance with Rule 1.1.1(5),  
~~t~~The clearance is not within:
  - a) 100m of a lake;
  - b) 20m of the bank of a river;
  - c) 100m of an ecologically significant wetland; or
  - d) 50m of all other wetlands.

2. Amend Rule 1.2.1 to read:

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

1. ~~The farm enterprise has a~~ A Farm Biodiversity Plan (see Definitions) is prepared for the farming operation and is submitted with the application for resource consent.

...

3. Amend Rule 1.2.2 to read:

*Unless provided for in Rule 19.2.1, any indigenous vegetation clearance up to 5000m<sup>2</sup> within any site per 100ha in any 5-year continuous period is a restricted discretionary activity provided the following conditions are met:*

...

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



1. *The actual or potential effects on impacts on biodiversity or ecological values expected to occur as a result of the proposal, particularly. This includes the impact on*
  - a) *significant indigenous vegetation values including the values significant to Ngai Tahu*
  - b) *linkages between areas of indigenous vegetation and ecosystems*
  - c) *values of significance to Ngai Tahu*

4. Amend Rule 1.3.1 to read

*Any indigenous vegetation clearance of more than 5000m<sup>2</sup> ~~within any site~~ per 100 ha in any 5-year continuous period ...*

5. Amend Rule 2.2.1 (b) to read

*The actual or potential effects on impacts on biodiversity or ecological values expected to occur as a result of the proposal, particularly. This includes the impact on*

- i. *significant indigenous vegetation values including the values significant to Ngai Tahu*
- ii. *linkages between areas of indigenous vegetation and ecosystem*
- iii. *values of significance to Ngai Tahu*

6. Amend Rule 12.1 by

- Removing the exemption under 12.1.1.1 (ii), and
- Adding a note to the effect that both regional and district resource consents may be required for clearance of riparian vegetation, and
- Adding a note to the effect that these resource consents can be processed together.

Or

- Making other changes which ensure riparian areas are protected from vegetation clearance, but which avoid the need for both regional and district consents where possible.

7. Amend Rule 12.2 to read

## 12.2 ***Discretionary Activities –Vegetation Clearance***

12.2.1 *Any clearance of vegetation not provided for as a Permitted Activity or ~~Non-Complying Activity.~~*

#### **D. Consequential Amendments**

1. Any such other consequential and further relief necessary to give effect to the reasons in this submission.

## **Appendix B: Definition of “Site” from operative Mackenzie District Plan**

**Site:** means

- 1 an area of land which is:
  - a comprised in a single allotment in a single certificate of title; or
  - b comprised in a single lot or balance area on an approved survey plan of subdivision for which a separate certificate of title could be issued without further consent of the Council, being in any case the smaller land area of i or ii; or
- 2 an area of land which is comprised of two or more adjoining lots held together in one certificate of title in such a way that the lots cannot be dealt with separately without prior consent of the Council; or
- 3 an area of land which is comprised of two or more adjoining lots held in two or more certificates of title where such titles are:
  - a subject to a condition imposed under Section 37 of the Building Act or Section 643 of the Local Government Act 1974; or
  - b held together in such a way that they cannot be dealt with separately without the prior consent of the Council ...

**SUBMISSION ON PLAN CHANGE 18 TO MACKENZIE DISTRICT PLAN**

**TO:** Mackenzie District Council (**Council**)  
Karina Morrow, Planning Manager  
PO Box 52  
Fairlie 7949

**BY EMAIL:** [planning@mackenzie.govt.nz](mailto:planning@mackenzie.govt.nz)

**SUBMITTER:** Environmental Defence Society Inc (**EDS**)

**CONTACT:** PO Box 91736  
Victoria Street West  
Auckland 1142  
[madeleine@eds.org.nz](mailto:madeleine@eds.org.nz)

**DATE:** 9 March 2018

**INTRODUCTION**

- 1 EDS is a public interest environmental group, formed in 1971. The focus of its work is on achieving positive environmental outcomes through improving the quality of Aotearoa New Zealand's legal and policy frameworks and statutory decision-making processes. It has been actively involved in the Mackenzie District seeking to ensure protection of the Mackenzie Basin's unique and threatened ecology and of its iconic landscape values. Experience shows the operative planning framework's approach is not working. Regulatory failure has allowed extensive vegetation clearance, pastoral intensification, and agricultural conversion<sup>1</sup> resulting in widespread degradation and loss of endangered, vulnerable, and rare ecosystems, and of outstanding natural landscape (**ONL**) values. Degradation and loss is accelerating.
- 2 This submission is made on Plan Change 18 to the Mackenzie District Plan (**PC18**) which introduces objectives and policies for indigenous biodiversity and indigenous vegetation clearance rules. PC18 is a crucial element in achieving the regulatory change urgently required.
- 3 This submission is structured as follows:
  - a. Summary
  - b. Mackenzie Basin
  - c. Legislative Framework

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<sup>1</sup> To use the terms applied to different intensification activities by PC13:

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

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

d. Submission Table

**SUMMARY**

4 In summary, EDS submits that:

- a. The Mackenzie District is home to important indigenous biodiversity values which are nationally and internationally unique. Those values are fragile and currently under immense pressure from land use intensification. They are rapidly being lost. The Basin's biodiversity and landscape values are at a tipping point, exceedance of which will see it no longer qualify as outstanding under s6(b) RMA or significant under s6(c) RMA.
- b. A robust and stringent planning framework is required if loss and degradation of biodiversity, landscape, and natural character values is to be stopped. PC18's provisions are a key component of that framework.
- c. PC18 is a positive step away from the complexity and opaqueness of the operative District Plan. However, absent the changes sought in this submission EDS considers PC18 would:
  - Not promote the sustainable management of resources.
  - Not recognise and provide for protection and preservation of s6(a), (b), and (c) RMA values as a matter of national importance.
  - Not give effect to the Canterbury Regional Policy Statement, in particular Chapter 9.
  - Represent a failure by Council to fulfil its function under s31 RMA to maintain indigenous biological diversity.
  - Fail to achieve the designated purpose of a district plan.
  - Not warrant confirmation under s32 RMA.
  - Allow the generation of significant adverse effects on the environment.
- d. The key issues with PC18 are:
  - Failure to update mapped Sites of Natural Significance<sup>2</sup> (SONS). In the Mackenzie Basin, the entire remaining, undeveloped corridor (see **Attachment A**<sup>3</sup>) should be identified as a SONS.
  - Failure to address the overlap between s6(b) and (c) values. Clearance of vegetation can also have significant adverse effects on ONL values.

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<sup>2</sup> Being those areas which qualify as significant under s6(c) RMA.

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

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

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

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

#### **THE MACKENZIE BASIN**

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

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

9 It is EDS’s understanding that:<sup>4</sup>

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

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

<sup>5</sup> Which is approximately 301,000ha.

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

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

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<sup>6</sup> PC13 11<sup>th</sup> EC Decision at [92].

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

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

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

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

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

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

## **LEGISLATIVE FRAMEWORK**

### **Resource Management Act**

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

### **Regional Policy Statement**

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

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<sup>12</sup> PC13 1<sup>st</sup> EC Decision.

<sup>13</sup> PC13 11<sup>th</sup> EC Decision.

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



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

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

#### SUBMISSION TABLE

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

<sup>15</sup> PC13 11<sup>th</sup> EC Decision.

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

<sup>17</sup> PC13 1<sup>st</sup> EC Decision.

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

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

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

<sup>20</sup> Objective 9.2.3, Policy 9.3.1 RPS.

<sup>21</sup> Objective 9.2.2 including principal reasons and explanation, Policy 9.3.4 RPS.

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

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

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

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

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

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

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



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

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

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

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

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

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

Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development<sup>2</sup> after appropriate prevention and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground with respect to species composition, habitat structure, ecosystem function and people's use and cultural values associated with biodiversity.

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

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

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

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







**FORM 5**

**SUBMISSION ON A PUBLICLY NOTIFIED  
PLAN CHANGE/ VARIATION**

**CLAUSE 6 OF FIRST SCHEDULE  
RESOURCE MANAGEMENT ACT 1991**

To: Mackenzie District Council  
PO Box 52  
FAIRLIE 7949

Full name of submitter: \_\_\_\_\_Hermann Frank\_\_\_\_\_

Address for service: \_\_\_\_\_Fairview Road RD2\_\_\_\_\_

\_\_\_\_\_Timaru 7972\_\_\_\_\_

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Telephone: \_\_\_\_\_036845399\_\_\_\_\_

Fax/email: \_\_\_\_\_hermann@newfrankland.org\_\_\_\_\_

This is a submission on proposed Plan Change 18 to the Mackenzie District Plan

The specific provisions of the proposal that my submission relates to are:

*Plan Change 18, especially Section 12 and Section 19*

My submission is:

The definition of 'Vegetation Clearance' needs adding other ways of clearance (as indicated in the definition of 'Improved Pasture') and plantings e.g. exotic trees can also displace indigenous vegetation (which in the end has the same effect as clearance). However, the rule should still allow native plantings where this is desirable and site specific.

The transferred Rule 12 from Rural Zone 'Vegetation Clearance' needs clarification, especially as it stands right at the beginning of the this section. The current wording could lead to misunderstandings. This rule does not apply to indigenous vegetation, otherwise there would be a discrepancy with later parts in Section 19.

I support the Plan Change 19 and the general Objectives, Policies and Rules, also Appendix Y. This has been long overdue to bring the District Plan in line with the RMA and RPS, also with the latest decision of the Environment Court. While this is especially important for the Mackenzie Basin, biodiversity values in the Eastern part have also been and are still under threat. However, some objectives and policies need a clearer wording as terms like encouragement and consideration need to go further in a District Plan.

A lot will depend how these objectives, policies and rules are implemented and, where necessary, enforced.

I seek the following decision from the Mackenzie District Council:

*For the definition of 'Vegetation Clearance add the following (in red)*

**Vegetation Clearance:** means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, burning, irrigation, **topdressing, oversowing or planting of non-site specific plants**

*For Rule 12 add the following (in red):*

12.1 Permitted Activities – **Non-indigenous** Vegetation Clearance

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

*Also, it might be better to align the metre values in Rule 12 with the metre values in 1.3.3 in order to have the same set of numbers. Consideration should be given, if Rule 12 might be better placed further down in the document.*

*For Section 19 add/change the following (in red):*

3. To **require and** 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.

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

*Change of Rule 1.2.2 to (in red):*

1.2.2. Unless provided for in Rule 19.2.1 any indigenous vegetation clearance up to **1000m<sup>2</sup>**, within any site in any 5-year continuous period provided the following conditions are met:

*Rule 1.3.1 would need to be changed accordingly i.e. change area to 1000m<sup>2</sup>*

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

Hermann Frank, Timaru

9 March 2018