

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an appeal under Clause 14(1) of
Schedule 1 to the Act

BETWEEN **THE DIRECTOR-GENERAL OF
CONSERVATION**
Appellant

AND **MACKENZIE DISTRICT COUNCIL**
Respondent

NOTICE OF APPEAL BY THE DIRECTOR-GENERAL OF CONSERVATION

Dated 5 August 2021

Department of Conservation
Private Bag 4715
Christchurch 8011

Solicitor acting: Susan Newell
Email: snewell@doc.govt.nz
Telephone: 027 4083306

To The Registrar
Environment Court
Christchurch

1. I, Lewis Vernon Sanson, Director-General of Conservation (DGC), appeal against part of a decision of Mackenzie District Council on the Proposed Plan Change 18 to the Mackenzie District Plan.
2. I made a submission on that plan.
3. I am not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. I received notice of the decision on 25 June 2021.
5. The decision was made by the Mackenzie District Council
6. The parts of the decision that I am appealing are:
 - 6.1 The Council's decision not to identify and map areas of improved pasture by reference to whether the area has been cultivated or irrigated; or alternatively, reliance on the definition of improved pasture and inclusion of the following provisions that require reference to, and interpretation of, the definition of "improved pasture":
 - 6.1.1 Rule 1.1.1.7; and
 - 6.1.2 In the definition of 'significant indigenous vegetation and significant habitats of indigenous fauna', the inclusion of the following text in part (c) of the definition:

*"that do not comprise **improved pasture**"*
 - 6.1.3 In the definition of 'vegetation clearance', the inclusion of the following text:

*"It includes oversowing, topdressing or overplanting on land that is not **improved pasture.**"*
 - 6.2 The Council's decision to amend the Rule 1.1.1.1.a to include 'stock tracks' and 'stock crossing'.
7. The reasons for the appeal are as follows:

- a. The definition of ‘improved pasture’, and inclusion of that term in the definition of ‘significant indigenous vegetation and significant habitat of indigenous fauna’, creates uncertainty regarding the identification of areas of indigenous vegetation.
 - b. Providing for clearance of indigenous vegetation as a permitted activity in areas that fit the definition of improved pasture through Rule 1.1.1.7 in the Council’s decision does not enable the Council to carry out its function under Section 31(1)(b)(iii) of Resource Management Act 1991 (RMA) to control effects of the use of land to maintain indigenous biodiversity and will not provide for the protection of significant indigenous vegetation or significant habitats of indigenous fauna as required by s6(c) of the RMA
 - c. In Rule 1.1.1.1, the Council’s decision to include ‘stock tracks’ and ‘stock crossings’ creates uncertainty about the nature and extent of the areas to which the rule applies as those terms are undefined. The rule may allow for clearance of inappropriately large areas of significant indigenous vegetation as a permitted activity.
8. I seek the following relief:
- a. Amend the provisions of the Mackenzie District Plan to limit areas in which indigenous vegetation clearance is a permitted activity to those areas where unimproved pasture has been improved through cultivation or irrigation, resulting in irreversible loss of indigenous vegetation ecosystems. Amend the provisions of the Mackenzie District Plan as follows:

Provision	Decision Text (<u>underlined</u> where additions are made and strikethrough where text is deleted from the notified text)	Amendments Sought (Bold underline where text is inserted and strikethrough and double underline where text is deleted, by the amendments sought through this appeal)
Definition of ‘Significant indigenous vegetation and significant habitats of indigenous fauna’	<u>Significant indigenous vegetation and significant habitats of indigenous fauna: means areas of indigenous vegetation or habitats of indigenous fauna which:</u> <u>a) meet the criteria listed in the Canterbury Regional Policy Statement’s Policy 9.3.1 and Appendix 3; or</u> <u>b) are listed in Appendix I as a Site of Natural Significance; and</u> <u>c) includes any areas that do not comprise improved pasture within the glacial derived or alluvial (depositional) outwash and moraine gravel ecosystems of the Mackenzie Basin as shown on Figure 1.</u>	<u>Significant indigenous vegetation and significant habitats of indigenous fauna: means areas of indigenous vegetation or habitats of indigenous fauna which:</u> <u>a) meet the criteria listed in the Canterbury Regional Policy Statement’s Policy 9.3.1 and Appendix 3; or</u> <u>b) are listed in Appendix I as a Site of Natural Significance; and</u> <u>c) includes any areas that do not comprise improved pasture within the glacial derived or alluvial (depositional) outwash and moraine gravel ecosystems of the Mackenzie Basin as shown on Figure 1.</u>

Definition of 'Vegetation Clearance'	<i>Vegetation Clearance: means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, or burning, or irrigation artificial drainage, and mob stocking. It includes <u>oversowing, topdressing or overplanting on land that is not improved pasture.</u> Clearance of vegetation shall have the same meaning.</i>	<i>Vegetation Clearance: means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, or burning, or irrigation, artificial drainage, oversowing, topdressing, overplanting, or and mob stocking. It includes <u>oversowing, topdressing or overplanting on land that is not improved pasture.</u> Clearance of vegetation shall have the same meaning.</i>
Rule 1.1.1.7	<i><u>7. The clearance is of indigenous vegetation within an area of improved pasture and the clearance is not within a location specified in Rule 1.3.2;</u></i>	<i><u>7. The clearance is of indigenous vegetation within an area of improved pasture that has previously been cultivated or irrigated, and the clearance is not within a location specified in Rule 1.3.2;</u></i>

b. Amend the provisions of the Mackenzie District Plan as follows:

Provision	Decision Text (<u>underlined</u> where additions are made and strikethrough where text is deleted from the notified text)	Amendments Sought (Bold underline where text is inserted and strikethrough and double underline where text is deleted, by the amendments sought through this appeal)
Rule 1.1.1.1.a	<i>a) <u>the maintenance or repair of, existing fence lines, vehicle tracks, roads, stock tracks, stock crossings, firebreaks, drains, ponds, dams, stockyards, farm buildings, water troughs and associated reticulation piping, or airstrips; or</u></i>	<i>a) <u>the maintenance or repair of, existing fence lines, vehicle tracks, roads, stock tracks, stock crossings, firebreaks, drains, ponds, dams, stockyards, farm buildings, water troughs and associated reticulation piping, or airstrips; or</u></i>

b. Any other relief to like effect, including consequential amendments that the Court considers appropriate;

c. Costs.

8. I attach the following documents to this notice:

- (a) a copy of my submission (Annexure A – Relevant Parts of the Director-General’s Submission).
- (b) a copy of the relevant parts of the decision (Annexure B – The Relevant Decision of Mackenzie District Council).
- (c) a list of names and addresses of persons to be served with a copy of this notice (Annexure C – Parties served with this notice)

.....
Natasha Ryburn, Director of Planning, Permissions and Land
(Under delegated authority for the Director-General of Conservation)

04/08/2021
Date

Address for service of appellant: Department of Conservation
Private Bag 4715
Christchurch 8011

Telephone: 0274083306
email: snewell@doc.govt.nz

Contact persons: S Newell, Solicitor
snewell@doc.govt.nz

Amelia Ching, Planner
aching@doc.govt.nz

How to become party to proceedings

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in [section 274\(1\)](#) and [Part 11A](#) of the Resource Management Act 1991. You may apply to the Environment Court under [section 281](#) of the Resource Management Act 1991 for a waiver of the above timing requirements (see [form 38](#)).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the relevant submission and the relevant decision (or part of the decision). These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Annexure A – Relevant Parts of the Director-General’s Submission

Annexure B – The Relevant Decision of Mackenzie District Council

Annexure C – Parties Served With This Notice