

SECTION 19 – ECOSYSTEMS AND INDIGENOUS BIODIVERSITY

Section 19 has been incorporated into the Operative Mackenzie District Plan following public notification of Plan Change 18 pursuant to Clause 10(5) of Schedule 1 of the Resource Management Act 1991. Plan Change 18 as publicly notified on 24 June 2021 is subject to appeal rights pursuant to Clause 14 of Schedule 1 of the Resource Management Act 1991.

OBJECTIVES AND POLICIES

Objective

Land use and development activities are managed to:

- a) protect areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- b) maintain and enhance indigenous biodiversity outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and
- c) recognise and provide for the national significance of the Waitaki Power Scheme and the National Grid when managing effects on indigenous biodiversity arising from the development, operation, maintenance or refurbishment of those utilities while achieving (a) and (b) as far as practicable.

Policies

- 1 To assess and identify areas of significant indigenous vegetation and significant habitats of indigenous fauna in accordance with the criteria listed in Appendix 3 of the Canterbury Regional Policy Statement.
- 2 To protect areas of significant indigenous vegetation and significant habitats of indigenous fauna by ensuring that land use and development, agricultural conversion and pastoral intensification:
 - a) avoids the clearance of indigenous vegetation or any reduction in its extent (including through edge effects); and
 - b) avoids adverse effects on those habitats; unless permitted under Rule 1.1.1 or Rule 2.1.1.
- 3 Outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, to ensure that indigenous biodiversity is maintained or enhanced by:

- a) avoiding adverse effects on indigenous vegetation and habitats of indigenous fauna as far as practicable; then
- b) remedying any adverse effects that cannot be avoided; then
- c) mitigating any adverse effects that cannot be remedied; then
- d) offsetting more than minor residual adverse effects in accordance with Policy 4.

4 For any indigenous biodiversity offsets apply the following criteria:

- a) where an adverse effect on indigenous biodiversity is required to be avoided in accordance with Policy 2, indigenous biodiversity offsetting cannot be used;
- b) offsetting is not appropriate where:
 - i. there are more than minor residual adverse effects in the values or extent of irreplaceable or vulnerable indigenous biodiversity; or
 - ii. the effects of the proposed activity on indigenous biodiversity are uncertain, unknown or little understood, but potentially significantly adverse;
- c) the more than minor residual adverse effects on indigenous biodiversity are capable of being offset to ensure no net loss of indigenous biodiversity;
- d) where the area to be offset is identified as a national priority for protection in accordance with Policy 9.3.2 of the Canterbury Regional Policy Statement 2013 or its successor, the offset must deliver a net gain for indigenous biodiversity;
- e) there is a strong likelihood that the offsets will be achieved in perpetuity;
- f) where the offset involves the ongoing protection of a separate site, it will deliver no net loss, and preferably a net gain for indigenous biodiversity;
- g) The offset applies as close as possible to the site incurring the effect, recognising that benefits can diminish with distance from the site;
- h) The offset re-establishes or protects the same type of ecosystem or habitat that is adversely affected;
- i) The offset is additional to what otherwise would occur in the absence of the offset, and additional to any remediation or mitigation undertaken in relation to the adverse effects of the activity on indigenous biodiversity; and
- j) The offset describes and measures indigenous biodiversity at the impact and offset sites using calculations that allow for indigenous biodiversity losses and gains to be quantified.

5 Despite Policy 2 and 3, to manage effects on indigenous biodiversity in a way that recognises the national significance of the Waitaki Power Scheme, the National Grid and the Opuha Scheme by:

- a) Enabling the clearance of indigenous vegetation where the clearance is essential for:
 - i. Emergency works;
 - ii. The operation, maintenance or refurbishment of the Waitaki Power Scheme, where:
 - A. The operation, maintenance or refurbishment is within the Scheme's existing footprint or core sites;
 - B. The operation or maintenance is outside the Scheme's existing footprint or core sites but is within the Scheme's operating easement and does not include the formation of new vehicle tracks other than when necessary for erosion control works;
 - C. The refurbishment is outside the Scheme's existing footprint or core sites but is within the Scheme's operating easement and the clearance is not within an area of significant indigenous vegetation or significant habitats of indigenous fauna;
 - iii. The operation, maintenance or upgrade of the National Grid on its existing alignment;
 - iv. The operation, maintenance or refurbishment of the Opuha Scheme, where the refurbishment is not within an area of significant indigenous vegetation or significant habitat of indigenous fauna; and
- b) Providing for the clearance of indigenous vegetation where the clearance is for the development or refurbishment of renewable energy generation and the electricity transmission network for the Waitaki Power Scheme, National Grid and Opuha Scheme that is not otherwise provided for in a) above, while
 - i. having particular regard to:
 - A. the location of existing structures and infrastructure and the need to locate the generation activity where the renewable energy resource is available; and
 - B. the logistical, technical and operational constraints associated with the activity; and
 - C. the importance of maintaining and increasing the output from existing renewable electricity generation activities;
 - ii. applying the following effects management hierarchy:
 - A. Avoiding adverse effects on indigenous vegetation and habitats of indigenous fauna as far as practicable, then

- B. where adverse effects cannot be avoided they are remedied where practicable, then
 - C. where adverse effects cannot be remedied they are mitigated where practicable
 - D. in relation to adverse effects that cannot be avoided, remedied or mitigated, have regard to offsetting that accords with Policy 4 and/or biodiversity compensation that accords with Schedule Z for any more than minor residential adverse effects.
- 6 To enable land use and development at an on-farm level, through a Farm Biodiversity Plan, where comprehensive and expert identification of indigenous biodiversity is undertaken that demonstrates how that use and development will be integrated with:
- a) the long-term protection of significant indigenous vegetation and significant habitats of indigenous fauna;
 - b) the maintenance of other indigenous biodiversity; and
 - c) opportunities for enhancement of indigenous biodiversity, where appropriate.
- 7 To consider a range of mechanisms for securing protection of significant indigenous vegetation and significant habitats of indigenous fauna, including resource consent conditions, management agreements and covenants.
- 8 To recognise and provide for activities, including voluntary initiatives, that contribute towards the protection, maintenance or enhancement of indigenous biodiversity.

RULES

INDIGENOUS VEGETATION CLEARANCE

Note: The rules in this chapter apply to any indigenous vegetation clearance, including clearance undertaken as part of another activity, and apply in addition to the provisions in other sections of this Plan, including Section 16.

Rule 1 - Indigenous Vegetation Clearance excluding indigenous vegetation clearance associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme

1.1 Permitted Activities – Indigenous Vegetation Clearance

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

1. The clearance is within 2m of, and for the purpose of:
 - a) the maintenance or repair of, existing: fence lines, vehicle tracks, roads, stock tracks and crossings, firebreaks, drains, ponds, dams, stockyards, farm buildings, water troughs and associated reticulation piping, or airstrips; or
 - b) activities permitted by Rule 16.1.1.(j).
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 and the clearance is not within a location specified in Rule 1.3.2; or
3. The clearance is of the indigenous understorey to plantation forest, and is incidental to permitted or otherwise authorised plantation forest clearance and the clearance is not within a location specified in Rule 1.3.2; 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 of indigenous vegetation carried out by or on behalf of a local authority for erosion and flood control works, including within 75m of a lake, 20m of the bank of a river, or 50m of any wetland;
6. The clearance is of indigenous vegetation within a defined Farm Base Area (see Appendix R); or
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.

1.2 Restricted Discretionary Activity – Indigenous Vegetation Clearance

1.2.1 *Intentionally blank*

1.2.2 Other than as permitted by Rule 1.1.1 the clearance of up 5000m² of indigenous vegetation within a site, or per 100ha where a site is greater than 100ha, in any 5-year continuous period is a restricted discretionary activity provided the following conditions are met:
The clearance is not within a location specified in Rule 1.3.2.

2. A Farm Biodiversity Plan is prepared in accordance with Appendix Y for the farming operation and submitted with the application for resource consent.

The Council will restrict its discretion to the following matters:

1. The adequacy of and implementation of the Farm Biodiversity Plan;
2. The area of indigenous vegetation to be cleared and the reasons for the intended clearance;
3. Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological function expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;
4. Managing edge effects;
5. Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;
6. Any technical or operational constraints on the activity necessitating the clearance of indigenous vegetation;
7. Where the clearance is within an Outstanding Natural Feature or Landscape, a geopreservation site, Area of High Visual Vulnerability or Scenic Grassland Area, managing the indigenous vegetation clearance to, as far as is practicable, avoid adversely affecting those features, landscapes, sites or areas;
8. The adequacy of monitoring and reporting;
9. The review of conditions; and
10. Consent duration.

- 1.2.3. The clearance of indigenous vegetation within 75m of a lake, 20m of the bank of a river, or 50m of any wetland, for the purpose of installing a fence to exclude stock, is a restricted discretionary activity.

The Council will restrict its discretion to the following matters:

- i. The location of the fence.
- ii. Managing the effects of the intended clearance of indigenous vegetation.

1.3 Non-Complying Activity – Indigenous Vegetation Clearance

The following activities are Non-complying activities:

- 1.3.1 Any indigenous vegetation clearance not categorised as a Permitted Activity or Restricted Discretionary Activity.

1.3.2 Any indigenous vegetation clearance in the following locations, unless specified as a permitted activity under Rule 1.1.1.1, 1.1.1.5 or 1.1.1.6 or a restricted discretionary activity under Rule 1.2.3:

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

2 INDIGENOUS VEGETATION CLEARANCE ASSOCIATED WITH THE WAITAKI POWER SCHEME, THE NATIONAL GRID OR THE OPUHA SCHEME

2.1 Permitted Activities – Indigenous Vegetation Clearance

2.1.1. The clearance of indigenous vegetation associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme is a permitted activity where one or more of the following conditions are met:

1. The clearance is a consequence of an emergency occurring on, or failure of, the Waitaki Power Scheme, the National Grid or the Opuha Scheme; or
2. The clearance meets the conditions in Rule 1.1.1, or
3. The clearance is required for the operation or maintenance of the Waitaki Power Scheme within the following areas;
 - i. The existing footprint of the Waitaki Power Scheme.
 - ii. On core sites associated with the Waitaki Power Scheme.
 - iii. On areas covered by an operating easement associated with the Waitaki Power Scheme, but excluding:
 - A. aerial spraying within the Tekapo River, Pukaki River and lower and upper Opuha River; or
 - B. the forming of new vehicle tracks or roads, other than for vehicle access or carry out erosion control; or
4. The clearance is required for the refurbishment of the Waitaki Power Scheme and is located within the following areas:
 - i. The existing footprint of the Waitaki Power Scheme; or
 - ii. On core sites associated with the Waitaki Power Scheme; or
5. The clearance is required for the refurbishment of the Waitaki Power Scheme, and is located outside of the existing footprint or core sites but within the operating

easement, and outside of significant indigenous vegetation and significant habitats of indigenous fauna; or

6. The clearance is required for the operation, maintenance or upgrade of the National Grid on its existing alignment; and
7. The clearance is required for:
 - i. the operation or maintenance of the Opuha Scheme; or
 - ii. the refurbishment of the Opuha Scheme where it is located outside areas of significant indigenous vegetation and significant habitats of indigenous fauna.

2.2 Restricted Discretionary Activity – Indigenous Vegetation Clearance

2.2.1 The clearance of indigenous vegetation associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme that does not comply with Rule 2.1.1 is a restricted discretionary activity.

The Council will restrict its discretion to the following matters:

- (a) Whether the works are occurring on a surface that has previously been modified by the construction, operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid or the Opuha Scheme;
- (b) The adequacy of the identification of biodiversity values, including, but not limited to identification of areas of significant indigenous vegetation or significant habitats of indigenous fauna, and values outside of these areas that are particularly important for ecosystem connectivity, function, diversity, and integrity;
- (c) Managing the actual or potential adverse effects on indigenous biodiversity, species diversity, habitat availability or ecological functions (including connectivity, function, diversity and integrity) expected to occur as a result of the proposal, particularly the impact on values significant to Ngāi Tahu;
- (d) Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset or compensate for more than minor residual effects on indigenous biodiversity;
- (e) Any technical or operational constraints associated with the proposed activity requiring vegetation clearance;
- (f) The benefits the proposed activity provides to the local community and beyond;
- (g) The adequacy of monitoring;
- (h) The review of conditions; and
- (i) Consent duration.