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

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

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

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

1. This is a submission on **Proposed Plan Change 26 (Renewable Electricity Generation and Infrastructure)** to the Mackenzie District Plan.
2. I could not gain an advantage in trade competition through this submission.
3. The specific provisions of the proposal that my submission relates to, and the detailed decisions sought, are set out in **Attachment 1** to this submission.
4. I **seek** the following decision from the Council:
  - a. That the particular provisions of Proposed Plan Change 26 that I support, as identified in Attachment 1, are retained;
  - b. That the amendments, additions and deletions to Proposed Plan Change 26 sought in Attachments 1 are made; and
  - c. Further or alternative relief to like effect to that sought in 4. a. and 4. b. above.
5. The decisions sought in this submission are required to ensure that the Mackenzie District Plan:
  - a. Gives effect to the relevant national direction;
  - b. Recognises and provides for the matters of national importance listed in section 6 of the Act and has particular regard to the other matters in section 7 of the Act;
  - c. Promotes the sustainable management of natural and physical resources; and

- d. The changes sought are necessary, appropriate and sound resource management practice.
6. I wish to be heard in support of my submission, and if others make a similar submission, I will consider presenting a joint case with them at the hearing.



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**Manager Operations**

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Department of Conservation

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

Date: 24 January 2024

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

**Address for service:**

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## ATTACHMENT 1:

### PROPOSED PLAN CHANGE 26 TO THE MACKENZIE DISTRICT PLAN SUBMISSION BY THE DIRECTOR-GENERAL OF CONSERVATION

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

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

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

PLAN PROVISION	SUPPORT/OPPOSE	REASON	RELIEF SOUGHT
Entire Plan Change	Support in part	<p>I support the overall approach of providing for Infrastructure and Renewable Electricity Generation as giving effect to the relevant higher order documents.</p> <p>For the avoidance of doubt, provisions which are not specifically addressed below are supported for the reasons given in the s32 Report.</p>	Retain as notified, except where specific changes are requested below.
Definitions – regionally significant infrastructure	Oppose	This definition is inconsistent with the Canterbury Regional Policy Statement definition, which also includes renewable electricity generation.	Add a further clause: <i>“x. National, regional and local renewable electricity generation activities of any scale.”</i>

PLAN PROVISION	SUPPORT/OPPOSE	REASON	RELIEF SOUGHT
<b>Infrastructure Chapter:</b>			
Infrastructure – entire chapter	Oppose in part	There is no justification for limiting the applicability of the Ecosystem and Indigenous Biodiversity chapter to only the objective and rules, as policies and methods may also be relevant.	Amend the Introduction as follows: <i>"The provisions of other chapter in this District Plan do not apply to activities managed in this chapter, except as follows:...</i> <del>...The objective and rules in Ecosystems and Indigenous Biodiversity..."</del>
INF-P4 Managing adverse effects of infrastructure	Oppose	The reference in clause 2 to the "surrounding" environment could be interpreted as only applying outside the location of the development itself, which would not allow adequate assessment of environmental effects .	Amend as follows, or words to like effect: <del>"...2. It is compatible with the values and anticipated character of the wider surrounding environment; ..."</del>
INF-P5 Infrastructure in sensitive or significant areas	Oppose in part	<p>This policy adopts an effects management hierarchy approach, which is appropriate, but the drafting could better align with best practice.</p> <p>The policy would allow loss of significant indigenous vegetation and habitats and their values, which is inconsistent with s6(c) and s31(1)(b)(iii) of the RMA, the Objective and Clause 3.10 of the National Policy Statement for Indigenous Biodiversity (NPSIB), and Objective 9.2.3 and Policy 9.3.1 of the Canterbury Regional Policy Statement.</p>	<p>Amend as follows, or words to like effect:  <i>"Avoid locating infrastructure in identified sensitive areas (outside the road reserve) or within an area of significant indigenous vegetation or significant habitat of indigenous fauna, unless:</i></p> <ol style="list-style-type: none"> <li><i>1. there is a functional or operational need for the infrastructure to be in that location;</i></li> <li><i>2. it is demonstrated through site, route or method selection, design measures and other management methods how significant adverse effects on the values of the sensitive or significant area have been avoided as far as practicable, and otherwise <u>minimised or remedied or mitigated</u>;</i></li> <li><i>3. where there are more than minor adverse effects that cannot be avoided, <u>minimised or remedied or mitigated</u>, regard is had to any offsetting or compensation; and</i></li> <li><i>4. Following application of 1. - 3. above, there are no <del>significant</del> <u>more than minor residual</u> adverse effects remaining, (except that this clause shall not apply to the national grid)."</i></li> </ol>

PLAN PROVISION	SUPPORT/OPPOSE	REASON	RELIEF SOUGHT
INF-P7 Infrastructure in Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna	Support in part	This policy appropriately manages effects on significant indigenous vegetation and habitats, subject to the application of the effects management hierarchy aligning with best practice.	Retain as notified, subject to changes sought above to INF-P5.
<b>Renewable Electricity Generation Chapter:</b>			
Renewable Electricity Generation – entire chapter	Oppose in part	There is no justification for excluding Policies 2 and 3 of the Ecosystem and Indigenous Biodiversity chapter from having effect, as these policies set the overall approach to maintaining indigenous biodiversity (noting that regardless of the NPSIB ‘carve-out’ for REG, s6(c) and s31(1)(b)(iii) of the RMA still apply).	Amend the Introduction as follows: <i>“The provisions of other chapter in this District Plan do not apply to activities managed in this chapter, except as follows:...</i> <i>... Ecosystems and Indigenous Biodiversity, <del>but excluding Policies 2 and 3...</del>”</i>
REG-O2 Adverse effects	Oppose	The reference to “appropriately managed” is so uncertain that it provides no effective direction. The Objective should clearly align with the related policies, methods and rules.	Amend as follows, or words to like effect: <i>“The adverse effects of renewable electricity generation activities are <del>appropriately managed</del> avoided as far as practicable within sensitive areas and Sites of Natural Significance [or significant natural areas], and otherwise are minimised.”</i>
REG-P6 Other Renewable Electricity Generation Activities – Within areas of significant indigenous vegetation and significant habitats of indigenous fauna, ONLs, ONFs, riparian areas and SASM or on highly productive land	Oppose in part	<p>This policy adopts an effects management hierarchy approach, which is appropriate, but the drafting could better align with best practice.</p> <p>The policy would allow loss of significant indigenous vegetation and habitats and their values, which is inconsistent with s6(c) and s31(1)(b)(iii) of the RMA, and Objective 9.2.3</p>	<p>Amend as follows, or words to like effect:</p> <p><i>“Provide for renewable electricity generation activities (not otherwise specified in REG-P4) within areas of significant indigenous vegetation and significant habitats of indigenous fauna, Outstanding Natural Landscapes, Outstanding Natural Features, Sites and Areas of Significance to Māori, riparian areas, or within area of Highly Productive Land, where:</i></p> <ol style="list-style-type: none"> <li><i>1. there is a functional need or operational need for the activity to be in that location;</i></li> </ol>

PLAN PROVISION	SUPPORT/OPPOSE	REASON	RELIEF SOUGHT
		and Policy 9.3.1 of the Canterbury Regional Policy Statement.	<ol style="list-style-type: none"> <li>2. <i>adverse effects on the values of the area are avoided as far as practicable, including through site, route or method selection, design measures and other management methods;</i></li> <li>3. <i>adverse effects that cannot be avoided are <u>minimised or remedied</u> <del>or mitigated</del>, where practicable;</i></li> <li>4. <i>regard is had to any offsetting measures or environmental compensation, where there are residual adverse effects that cannot be avoided, <u>minimised or remedied</u> <del>or mitigated</del>; and</i></li> </ol> <i>following application of 1. - 4. above, there are no <u>more than minor residual</u> <del>significant</del> adverse effects remaining."</i>
REG-R4	Oppose	This rule would make any new REG "associated with" an existing hydroelectric power station a controlled activity, with control limited to water levels. This could allow, for example, addition of wind turbines in the vicinity of an existing dam, without any ability to manage the effects of that wind generation.	<p>Amend as follows, or words to like effect:  <i>"Where:</i></p> <ol style="list-style-type: none"> <li>1. <i>The development is within the footprint of the existing hydroelectric power station and will not result in an increase in the maximum operating level of a <u>lake</u> or <u>water</u> storage area authorised at the date this rule was notified, or create a new <u>lake</u> or <u>water</u> storage area."</i></li> </ol> <p>OR</p> <p>Amend the activity status to Discretionary.</p>