

Mackenzie Guardians Incorporated



Submission on Mackenzie District Proposed Plan Change 18 – Indigenous Biodiversity

Submitter: Mackenzie Guardians Inc.

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By email: to Mackenzie District Council Hearings Administrator

Introduction

Mackenzie Guardians is an Incorporated Society, formed in 2009. The aims of the Society are to promote the protection of the natural/naturalistic wildlife, water, vegetation, heritage, and landscape values of the Mackenzie Country. Since 2009 Mackenzie Guardians Inc. (the Society) has participated in several District, Regional, Environment Court and Tenure Review proceedings related to the Mackenzie Basin, including the Mackenzie District Plan Change 13 (PC13) Environment Court hearing.

Proposed Plan Change 18

The Society welcomes the Proposed Plan Change 18 to manage indigenous biodiversity and control indigenous vegetation clearance in the Mackenzie District. While the Mackenzie Basin has been the focus of the Society, the protection, maintenance, and enhancement of indigenous biodiversity across the Mackenzie District is supported.

Background and Plan Change 13 (PC13)

Mackenzie District Plan Change 13 was a lengthy process culminating in a final Environment Court Decision in December 2018. The purpose of Plan Change 13 was to insert provisions into the District Plan to protect the Mackenzie Basin's outstanding natural landscapes and ecology.

During 2016, extensive evidence of the ecosystems and indigenous biodiversity of the Mackenzie Basin was presented by experts at the ENVC PC13 Hearing. In the PC13 Eleventh decision (April 2017) the Court found that much of the vegetation in the Mackenzie Basin ONL is significant as per the criteria in Appendix 3 to the Canterbury Regional Policy Statement (CRPS). Evidence listed 83 threatened, at risk, or uncommon indigenous plant species.

In large parts of the Mackenzie Basin there is not simply one species but 83 species of indigenous plants which qualify. Accordingly, we find on the balance of probabilities that much of the ONL meets the area of significant vegetation criterion, notwithstanding the presence of introduced plants or weeds. This is not a policy decision, simply a determination of fact. (Para 236 Eleventh Decision).

Consequently, the ONL is a significant area under Policy 9.3.1 of the CRPS. (Para 237 Eleventh Decision).

Several PC13 experts submitted that the Basin was reaching or had reached a ‘tipping point’ in terms of deteriorating landscape and indigenous biodiversity values. The loss is ongoing, permitted by the operative plan. More intensive farming is indicated. The PC 18 Section 32 Report (December 2017) records.... *there is information however from a variety of sources, including ECan’s database of irrigation consents, which indicates that there are several properties which have the potential or desire to move to more intensive farming and which is likely to involve clearance of current indigenous vegetation in some manner (para 15).*

The Society considers it urgent that strong objectives, policies, and rules are introduced to the Mackenzie District Plan (PC18) to protect what remains of the Mackenzie Basin’s nationally rare ecosystems and indigenous biodiversity.

Submission

This submission expands on the original submission by the Society, and comments on submissions, and recommendations made in the Section 42A Hearing Reports.

Recommendations in s42A Report	Comment and Relief sought	Reason
Para 73 Recommendation on Title Amend title of Section 19 to: SECTION 19 - <u>ECOSYSTEMS AND INDIGENOUS BIODIVERSITY</u> Para 74 Recommendation Amend references within the provisions from <i>biodiversity</i> to <u><i>indigenous biodiversity</i></u> .	Support	Consistent with National Planning standards. Consistent with Policy 9.3.6 Canterbury Regional Policy Statement (CRPS)
Para 95 s42A Report	The Society agrees with the DOC submission requesting inclusion of a policy in the indigenous biodiversity chapter that recognises indigenous vegetation is a significant contributor to the Mackenzie Basin’s outstanding landscape values, and links to	Would assist the resource consent process if pastoral intensification, agricultural conversion, landscape, and indigenous vegetation

	<p>the Mackenzie Basin landscape provisions in the Rural chapter.</p> <p>The Society disagrees with the comment at para 98 of the s42A report that including ONL values in Chapter 19 is not necessary.</p>	<p>clearance considerations are integrated.</p> <p>The past piecemeal consenting process has resulted in poor indigenous biodiversity and natural landscape outcomes in the Mackenzie Basin.</p>
<p>Para 102 Recommendation on how Section 19 relates to the rest of the MDP.</p> <p>Insert the following at the start of the rules: <u><i>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.</i></u></p>	<p>Support</p>	<p>To best achieve the outcomes sought in PC 18, rules in Section 19 should take precedence over rules in other sections of the MDP that provide for extensive vegetation clearance, including Section 16 Utilities.</p>
<p>Para 127 Recommendation on Objective 1.</p> <p>Delete Objective 1 subject to the changes recommended to Objective 2.</p>	<p>Support</p>	<p>The Society initially supported the inclusion of Objective 1 but accepts combining Objectives 1 and 2 will provide clearer direction.</p>
<p>Para 143 Recommendation on Objective 2.</p> <p>Amend Objective 2 <u><i>Land use and development activities are managed to;</i></u> a) <i>ensure the maintenance of indigenous biodiversity;</i> <u><i>and</i></u> b) <i>protect and enhance significant indigenous vegetation and significant habitats of indigenous fauna and riparian areas.</i></p>	<p>Seek addition <u><i>Land use and development activities are managed to;</i></u> a) <i>ensure the maintenance of indigenous biodiversity; and</i> b) <i>protect and enhance significant indigenous vegetation and significant habitats of indigenous fauna and riparian areas.</i> c) <u><i>Maintain and enhance indigenous character.</i></u></p>	<p>The objective appears to relate to SONS and non-SONS indigenous. It does not address indigenous character.</p>

<p>Para 154 Recommendation on Objective 3. Delete Objective 3</p>	<p>Support</p>	<p>The Society initially supported Objective 3 but accepts that most of what the Plan is seeking is captured in Objective 2.</p>
<p>Para 167 Recommendation on Policy 1. Amend Policy 1 <i>To identify sites of significant indigenous vegetation or habitat in accordance with the criteria listed in the Canterbury Regional Policy Statement.</i></p>	<p>Support in part The Society seeks the following addition: <i>To identify <u>and map</u> sites of significant indigenous vegetation or habitat in accordance with the criteria listed in the Canterbury Regional Policy Statement.</i></p>	<p>Align with requirements in the draft National Policy Statement for Indigenous Biodiversity (NPSIB) para 3.8 (6).</p>
<p>Para 186 Recommendation on Policy 2. Amend Policy 2 <i><u>Outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, avoid, remedy, or mitigate adverse effects on indigenous vegetation, ecological processes, ecosystem functions and linkages between areas of significant indigenous vegetation and significant habitats of indigenous fauna as necessary to ensure that indigenous biodiversity is maintained.</u></i></p>	<p>Support with addition <i><u>Outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, avoid, remedy, or mitigate adverse effects on indigenous vegetation, ecological processes, ecosystem functions and landscape linkages between areas of significant indigenous vegetation and significant habitats of indigenous fauna as necessary to ensure that indigenous biodiversity is maintained.</u></i></p>	<p>Much of the undeveloped Mackenzie Basin floor, though degraded, still supports a diverse range of indigenous flora and fauna. The Society supports the Environmental Defence Society (EDS) submission at para 4.d. that the entire remaining undeveloped corridor in the Mackenzie Basin should be identified as a site of natural significance (SONS).</p>
<p>Para 203 Recommendation on Policy 3. Amend Policy 3. <i><u>Land use and development, including indigenous vegetation clearance and pastoral intensification, <u>only</u> occurs in a way or at a rate that provides for no net loss of <u>significant</u> indigenous biodiversity values.</u></i></p>	<p>Support in part The Society questions if the policy gives effect to the Plan's key objective of maintaining, protecting, and enhancing significant indigenous vegetation and significant habitats of indigenous fauna and riparian areas. Add <u>agricultural conversion</u> to the policy to address indigenous</p>	<p>The concept of 'no net loss' enables 'off setting' which is not a realistic option for the Mackenzie Basin subzone. It is <i>unlikely that a biodiversity offsetting proposal in the Mackenzie Basin would be able to meet the CRPS</i></p>

	<p>vegetation clearance activities not covered in pastoral intensification.</p>	<p><i>Policy 9.3.6 criteria</i> (para 71 s42A Ecology Report).</p>
<p>Para 220 Recommendation on Policy 4. Amend Policy 4. <i>To ensure that land use activities, including indigenous vegetation clearance, <u>agricultural conversion</u> and pastoral intensification, do not adversely affect any ecologically significant <u>values of wetlands or riparian areas</u>.</i></p>	<p>Support in part Delete <u>values of</u>.</p>	<p>Agree agricultural conversion be added to the policy as this will address other activities not covered in pastoral intensification i.e., <i>direct drilling or cultivation (by ploughing, discing or otherwise) or irrigation</i>.</p> <p>Will give effect to the NPS for Freshwater which requires protection of wetlands.</p>
<p>Para 240 Recommendation on Policy 5. Amend Policy 5 and split into two separate policies. <i>To consider a range of mechanisms for <u>securing</u> protection of significant indigenous vegetation and significant habitats of indigenous fauna, including resource consent conditions, <u>management agreements and covenants</u>.</i></p> <p><i><u>To manage the adverse effects of activities on significant indigenous vegetation and significant habitats of indigenous fauna by:</u></i> <i><u>-avoiding the adverse effects of vegetation clearance and the disturbance of habitats as far as practicable; then</u></i> <i><u>-remedying any adverse effects that cannot be avoided; then</u></i> <i><u>-mitigating any adverse effects that cannot be remedied; and</u></i> <i><u>-where there are any significant residual adverse effects,</u></i></p>	<p>Support in part Delete <u>as far as practicable</u>.</p>	<p>‘As far as practicable’ is too loose a term which may provide ‘loopholes’ to clear indigenous vegetation.</p> <p>The Society remains concerned at the use of offsetting as a mechanism to manage adverse effects in the Mackenzie Basin where the avoidance of adverse effects is necessary.</p>

<p><u>offsetting them in accordance with Policy 6.</u></p>		
<p>Para 260 Recommendation on Policy 6 Amend Policy 6 <i>For any indigenous biodiversity offset the following criteria apply:</i></p> <ul style="list-style-type: none"> <i>a) the offset will only compensate for the residual adverse effects that cannot otherwise be avoided, remedied or mitigated</i> <i>b) the residual adverse effects on indigenous biodiversity are capable of being offset and will be fully compensated by the offset to ensure no net loss of indigenous biodiversity</i> <i>c) 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 <u>indigenous</u> biodiversity;</i> <i>d) there is a strong likelihood that the offsets will be achieved in perpetuity; and</i> <i>e) 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 conservation.</i> <p><i>Offsets should re-establish or protect the same type of ecosystem or habitat that is adversely affected, unless an</i></p>	<p>Support in part</p>	<p>The Society supported Policy 6 in their original submission with concerns in relation to offsetting. The Society accepts that offsetting may be appropriate in some parts of the District but is not appropriate for the Mackenzie Basin subzone.</p>

<p><i>alternative ecosystem or habitat will provide a net gain for indigenous biodiversity.</i></p>		
<p>Para 352</p>	<p>The Society disagrees with the s42A writer there is sufficient policy guidance in the MDP regarding how effects on landscapes are to be managed and further policy direction in Chapter 19 is not required.</p>	<p>In consideration of the management of biodiversity, indigenous character needs to be considered, not merely the ecological science.</p>
<p>Para 375</p>	<p>The Society disagrees with the suggestion in the s42A report that provisions relating to visual and landscape values should be standalone considerations (The Society prefers not to use the word visual for landscape includes visual).</p> <p>The Society seeks inclusion of policy direction in Chapter 19 regarding how effects on landscapes are to be managed.</p>	<p>Need to be integral to the indigenous biodiversity consideration, just as biodiversity is considered with landscape.</p>
<p>Para 398 Recommendation on Appendix Y Amend Appendix Y</p>	<p>Oppose The Society did not submit on Policies 8 and 9 in their original submission because of reservations about the use of Farm Biodiversity Plans (FBPs). Appendix Y was supported in general but in this submission the Society is now opposed.</p>	<p>Previous experience of FBPs has confirmed the Society's view that Farm Plans should not be used to seek an easier route through the Resource Consent process. While FBPs may have a place, they should not be used to undermine district wide rules.</p> <p>The Society did not intend that FBPs would create exceptions and provisions for Restricted Discretionary consents.</p> <p>The farm-by-farm approach is opposed because it misses the</p>

		<p>`big picture` scale of the Mackenzie Basin, resulting in further ecosystem loss and fragmentation, and landscape degradation.</p> <p>A previous exemption rule permitted large scale clearance of indigenous vegetation which has had tragic consequences for the Mackenzie Basin.</p> <p>Appendix Y appears to provide a different pathway to numerous `loopholes` resulting in indigenous vegetation clearance.</p> <p>Appendix Y does not address the ongoing loss of indigenous biodiversity and indigenous landscape character in the Mackenzie but permits further clearance. This is contrary to the Plan Change 18 key objective.</p> <p>Farm Biodiversity Plans are unproven as a mechanism to halt the decline of Canterbury's ecosystems and indigenous biodiversity. The Mackenzie's ecosystems are too vulnerable to be put at further risk by untested FBPs.</p> <p>The Society's preference is that PC 18 establish</p>
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		clear, robust, and enforceable rules that can't be compromised and values mitigated away.
Para 435 Recommendations on Changes sought to condition 1 in Rule 1.1.1 and additional permitted activities. Amend Rule 1.1.1	Support in part Delete Condition 6.	<p>It is appropriate to extend condition 1 to apply to reticulated piping associated with water troughs which allows for maintenance and repair of existing piping. It is not appropriate for new reticulated systems to be built as a permitted activity.</p> <p>It is not appropriate to permit clearance relating to the conveyance of water for irrigation purposes. The ECan water take consents do not adequately consider the effects of vegetation clearance.</p> <p>It is not appropriate to permit vegetation clearance for new or upgraded infrastructure.</p>
Rules Rule 1.2.1 iii	Support	This rule can address reduced naturalness in ONLs.
Rule 1.2.2	Oppose	The Society opposes the clearance of indigenous vegetation of up to 5000m ² within any site in any 5-year continuous period. This is potentially another loophole in the Plan, and

		contrary to the key objective.
Rule 1.2.3 ii	Change to <u>Any links between the vegetation proposed to be cleared and the landscape values which are underpinned by the ecology present</u>	This rule needs to address effects of clearance on natural landscape values as well.
<p>Para 462 Recommendation on Improved Pasture – Rule 1.1.6 and related definitions.</p> <p>Amend the definition of ‘improved pasture’ to: <u>Means an area where, as at May 2020, indigenous vegetation had been fully removed and the vegetation converted to exotic pasture or crops.</u></p>	<p>Support with addition of mapping The DOC submission seeking identified areas of improved pasture on planning maps is supported.</p> <p>The Society supports the view of Mr Harding (s42A Ecology Report) that defining the location and extent of improved pasture on a map would avoid the need to assess vegetation against a definition each time vegetation clearance is proposed.</p>	<p>The proposed amended definition clearly determines what constitutes ‘improved pasture’.</p> <p>The definition as it stood was unclear and ambiguous, and permitted large-scale clearance of indigenous vegetation across the Mackenzie subzone.</p> <p>The Society agrees with CRC that there needs to be a fixed date to form a baseline. The Society supports May 2020 as the baseline date.</p> <p>The recommended change to the ‘improved pasture’ definition will protect indigenous biodiversity and aid interpretation and enforcement of the rules.</p>
<p>Para 497 Recommendation on Definition of biodiversity.</p> <p>Amend definition of Biodiversity (or biological diversity to: <i>means the variability among living organisms and the ecological complexes of which</i></p>	Support	Ensures consistency with the RMA

<i>they are a part, including diversity within species, between species and of ecosystems.</i>		
<p>Para 515 Recommendation on definition of ‘indigenous vegetation</p> <p>Amend definition to: <i>Means a community of vascular plants, mosses and/or lichens that include species native to the ecological district. The community may include exotic species.</i></p>	Support	<p>The amended definition will capture most remaining indigenous vegetation in the Mackenzie Basin, most of which is ecologically significant.</p>
<p>Para 529 Recommendation on definition of vegetation clearance</p> <p>Amend the definition of vegetation clearance to: <i>Means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, burning, irrigation, artificial drainage, oversowing, topdressing or overplanting. Clearance of vegetation shall have the same meaning.</i></p>	Support	<p>The Society supports the amendments as the definition now captures most activities that result in vegetation clearance.</p> <p>The Society supports the inclusion of <u>irrigation</u>. This will align with the definition in the Plan Change 13 decision.</p>

Conclusion

Sound regulation to manage and control indigenous vegetation clearance in the Mackenzie Basin has been a long time coming. A proposed MDC Plan Change was notified in September 1999, followed by Environment Court challenges to the vegetation clearance Rule 12.1.1.

Twenty-two years later, after endless plan change hearings and appeals, and after thousands of hectares of indigenous vegetation have been destroyed, there is finally an opportunity through Proposed Plan Change 18 to rectify the lack of regulatory control, and truly protect what remains of the Mackenzie Basin’s nationally rare dryland ecosystems and indigenous biodiversity.

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