



# **Mackenzie**

## **DISTRICT COUNCIL**

**Notice is given of an Extraordinary Meeting of Council to be held on:**

**Date: Tuesday, 22 June 2021**

**Time: 9.30am**

**Location: Council Chambers**

**Fairlie**

# **AGENDA**

## **Extraordinary Council Meeting**

**22 June 2021**

Note: This meeting may be digitally recorded by the minute-taker.

**Council Membership:**

Graham Smith (Chair)

James Leslie

Anne Munro

Stuart Barwood

Murray Cox

Emily Bradbury

Matt Murphy

\*\*\*\*\*

**The purpose of local government:**

(1) The purpose of local government is—

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

(2) In this Act, good-quality, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services, and performance that are—

- (a) efficient; and
- (b) effective; and
- (c) appropriate to present and anticipated future circumstances.

(Local Government Act 2002)



**Order Of Business**

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- 1 OPENING**
- 2 APOLOGIES**
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## 4 REPORTS

### 4.1 ADOPTION OF COMMISSIONERS RECOMMENDATION ON PLAN CHANGE 18 TO THE DISTRICT PLAN

**Author:** Aaron Hakkaart, Manager - Planning

**Authoriser:** Tim Harty, General Manager - Operations

**Attachments:**

1. PC1- Commissioners Recommendation [↓](#) 
2. PC 18 Appendix A [↓](#) 
3. PC 18 Appendix B [↓](#) 
4. PC 18 Appendix C [↓](#) 

#### PURPOSE OF REPORT

For the Council to make a decision on provisions and matters raised in submissions on Plan Change 18 (Indigenous Biodiversity).

#### STAFF RECOMMENDATIONS

1. That the report be received.
2. That Council adopt the recommendations prepared by the hearing commissioners on Plan Change 18 and notify the decision pursuant to Clause 10(4)(b) of Schedule 1 of the Resource management Act 1991.

#### BACKGROUND

In December 2017, the Council notified proposed Plan Change 18 – Indigenous Biodiversity (PC18) to the District Plan (DP). PC18 substantially revised the provisions in the DP relating to the management of indigenous biodiversity. The reason for PC18 was the existing provisions in the DP did not recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, as required by s6(c) of the Resource Management Act 1991 and did not give effect to the Canterbury Regional Policy Statement.

A total of 21 submissions and 13 further submissions were received on PC18. The Council, acting under section 34A of the Resource Management Act 1991, appointed Mr Rob van Voorthuysen, Mr Gary Rae and Dr Ian Boothroyd, as hearing commissioners to hear and determine the submissions on PC18. The commissioners, pursuant to the powers delegated to them by the Council, have considered the submissions and have recommend rejecting or accepting the submissions as set out in Appendix A and have recommend the resultant amended District Plan text set out in Appendix B.

A summary of the hearing commissioner's recommendations is included below. Council is required to make a decision on PC18 on or prior to 30 June 2021.

## POLICY STATUS

PC18 has been developed and heard under Schedule 1 of the Resource Management Act 1991. Once a decision has been notified and the appeals period has ended PC18 will become operative and will form part of the Operative Mackenzie District Plan 2004.

## SIGNIFICANCE OF DECISION

The proposal is not considered to be significant under Council's Significance and Engagement Policy.

## OPTIONS

- Option 1: The Council adopt the recommendations prepared by the hearing commissioners on Plan Change 18 and notify the decision pursuant to Clause 10(4)(b) of Schedule 1 of the Resource Management Act 1991.
- Option 2: The Council do not adopt the recommendations prepared by the hearing commissioners on Plan Change 18 and make a different determination pursuant to Clause 10(4)(b) of Schedule 1 of the Resource Management Act 1991.

## CONSIDERATIONS

### Legal

Council is required to make a decision on PC18 prior to 30 June 2021 for the Plan Change to meet the requirements of the Resource Management Act 1991.

### Key Changes in Hearing Commissioners Recommendation

#### Providing additional protection for significant areas

The Recommendation seeks to address concerns of submitters who seek greater protection for significant areas by:

- Including stronger policy direction which seeks to **avoid** clearance of any significant indigenous vegetation and **avoid** adverse effects on significant habitats of indigenous fauna (except in specifically identified circumstances)
- Defining 'significant indigenous vegetation and significant habitats of indigenous fauna' (hereafter referred to as 'significant areas') to include:
  - existing Sites of Natural Significance (SONS) listed within the District Plan;
  - any area meeting the Regional Policy Statement criteria; and
  - any areas within the glacial derived or alluvial (depositional) outwash and moraine gravel ecosystems of the Mackenzie Basin (unless they are defined as 'improved pasture' – discussed further below)
- Making the clearance of any indigenous vegetation (except where otherwise permitted) within significant areas a non-complying activity. As noted above, outside of existing SONS or glacial derived or alluvial (depositional) outwash and moraine gravel ecosystems of the Mackenzie Basin, this will require a case-by-case assessment to be made against the Canterbury Regional Policy Statement (CRPS) criteria.

- As a consequence of the above, a different activity status is no longer provided for the use of a Farm Biodiversity Plan to manage vegetation clearance within significant areas.

#### Maintaining Indigenous Biodiversity Outside Significant Areas

The Recommendation provides greater direction on how maintenance of indigenous biodiversity outside significant areas is to be achieved. This includes:

- Applying a hierarchy to how adverse effects on non-significant indigenous vegetation and habitats of indigenous fauna are to be managed (avoid first, then remedy, then mitigate, then offset);
- Continuing to provide for the use of Farm Biodiversity Plans, but as noted above, only outside significant areas and only where the clearance is up to 5000m<sup>2</sup>; and
- Clearance of more than 5000m<sup>2</sup> of indigenous vegetation (regardless of the use of a Farm Biodiversity Plan) becomes a non-complying activity.

#### Reducing restrictions on landowners

The Recommendation seeks to address concerns around the provisions placing undue restrictions on carrying out farming activities by:

- Aligning the definition of improved pasture with what is used in other national planning documents. The effect of which is that ongoing clearance is permitted in areas where exotic pasture has *“been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing”*;
- Expanding permitted clearance to allow for a greater range of maintenance activities and clearance within Farm Base Areas; and
- Providing a simpler consent pathway for clearance associated with fencing of waterways.

In addition to the above, the recommendation includes more activities (artificial drainage, mob stocking, and oversowing, topdressing or overplanting on land that is not improved pasture) being included in what is considered ‘vegetation clearance’. This will result in the rules being triggered by more activities, but not within areas of improved pasture.

#### Reducing restrictions on key infrastructure

PC18 as notified applied a different set of rules for indigenous vegetation clearance to the Waitaki Power Scheme, but not the Opuha Power Scheme or the National Grid. The Recommendation extends the provision to include the latter two pieces of infrastructure. The Recommendation also:

- Provides more directive policy guidance about how clearance is to be managed in relation to this infrastructure;
- Permits clearance required for the operation, and maintenance or refurbishment of this infrastructure, where it is outside a significant area; and
- Requires a restricted discretionary consent for all other clearance (including that required for the operation, and maintenance or refurbishment of this infrastructure, where it is within a significant area, or for new development associated with this infrastructure).

**CONCLUSION**

Council has received a recommendation on PC18 from the appointed Commissioner's. Council must now determine whether to adopt the recommendation as a decision or to make any changes prior to adoption.

**IN THE MATTER of the Resource Management Act 1991  
AND  
IN THE MATTER of  
Proposed Plan Change 18 to the Mackenzie District Plan**

**REPORT AND RECOMMENDATIONS  
OF THE  
HEARING COMMISSIONERS**

**12 April 2021**



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**List of Submitters and Abbreviations**

<b>Submitter Number</b>	<b>Further submission?</b>	<b>Full Submitter Name</b>	<b>Abbreviation</b>
1	Y	Federated Farmers of New Zealand	FFNZ
2		Maryburn Station	
3	Y	Simons Pass Station Limited	SPSL
4		Carol Linda Burke	C Burke
5		Colin John Morris	C Morris
6	Y	Mackenzie Guardians Inc	
7		Central South Island Fish & Game Council	Fish & Game
8		Canterbury Regional Council	CRC
9	Y	Environmental Defence Society	EDS
10		Hermann Frank	H Frank
11	Y	Genesis Energy Limited	Genesis
12	Y	Glenrock Station Limited	
13	Y	Meridian Energy Limited	Meridian
14	Y	Opuha Water Limited	OWL
15		Pukaki Tourism Holdings Limited	PTHL
16	Y	Mt Gerald Station Limited	Mt Gerald
17	Y	The Wolds Station Limited	The Wolds
18	Y	Director-General of Conservation	DOC
19		Blue Lake Investments New Zealand Limited	BLINZ
20	Y	Royal Forest and Bird Protection Society of NZ	Forest & Bird
21		Marion Seymour	M Seymour
	Y	Transpower New Zealand Limited	Transpower

## **1 Introduction**

1. In 20 December 2017 The Mackenzie District Council (MDC) notified proposed Plan Change 18 – Indigenous Biodiversity (PC18) to the Mackenzie District Plan (MDP). PC18 substantially revised the provisions in the MDP relating to the management of indigenous biodiversity. We understand MDC considered that the previous MDP provisions did not sufficiently recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (as required by s6(c) of the Resource Management Act 1991 (RMA)) and did not give effect to the Canterbury Regional Policy Statement (CRPS).

## **2 Appointment of hearing commissioners**

2. The MDC, acting under s34A of the RMA, appointed us the undersigned, as hearing commissioners to hear and determine the submissions on PC18. The MDC reserved unto itself the authority to approve the proposed plan change pursuant to Clause 17 of Schedule 1 to the RMA.

## **3 Hearing of submissions**

3. A total of 21 submissions and 13 further submissions were received on PC18. Only one of the further submitters (Transpower) was not an original submitter.
4. We received a report<sup>1</sup> under section 42A of the RMA on PC18 and the submissions on it authored by Liz White, a consultant planner. Expert evidence from MDC (as proposer of PC18) prepared by Mike Harding, a consultant ecologist, was provided at the same time as the Section 42A Report.<sup>2</sup>
5. Expert evidence from submitters was pre-circulated in accordance with procedural directions that we issued. We made provision for expert caucusing and the preparation of Joint Witness Statements (JWS) and we received a JWS<sup>3</sup> from consultant planners Philip Mitchell and Sue Ruston regarding the provisions of PC18 that relate to the Waitaki Power Scheme (WPS).

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<sup>1</sup> Mackenzie District Plan, Proposed Plan Change 18 - Indigenous Biodiversity, Section 42A Hearings Report, 14 December 2020, Report on submissions and further submissions, Report prepared by Liz White, Consultant Planner.

<sup>2</sup> Mackenzie District Plan, Proposed Plan Change 18 - Indigenous Biodiversity, Section 42A Hearings Report – Ecology, 10 December 2020, Technical Report – Ecology, Evidence of Mike Harding, Environmental Consultant.

<sup>3</sup> Joint Witness Statement Planning Meridian Energy Limited and Genesis Energy Limited, 26 February 2021.

6. We held a hearing in the MDC offices in Fairlie over the period 8 to 10 March 2021. We endeavoured to conduct the hearings with a minimum of formality to an extent that allowed for fairness to all submitters. An audio recording of the proceedings was made by MDC and is available on request. Following the completion of the public hearings, we deliberated on the matters raised in the submissions, made findings on them and prepared this Recommendation report.

#### **4 Our approach to this Recommendation Report**

7. As noted earlier we received a comprehensive Section 42A Report that was complemented by an end of hearing reply report from Ms White,<sup>4</sup> which we understand was informed by a post-hearing report authored by Mr Harding.<sup>5</sup> The Section 42A Report summarised the submission points and assessed them under a series of headings that (following some introductory comments and background material) generally corresponded to the sequence of provisions in PC18.
8. To assist readers, we have structured this Recommendation Report using that same format.
9. To avoid unnecessary repetition, and as provided for by section 113(3)(b) of the RMA, we adopt the 'summary of decisions sought' for each submitter as contained in the Section 42A Report. In some cases, having carefully considered the submissions and evidence presented, we agree with Ms White's assessment and recommendations. Where that occurs, we simply state that we adopt those assessments and recommendations.
10. Where we come to a different conclusion based on our own assessment of the submissions and the evidence lodged by submitters, we set out our own reasons and recommendations in narrative form.
11. In Appendix A of this Recommendation Report, we set out our recommendations on the submissions. The reasons for those recommendations are contained in the body of this Recommendations Report and are not repeated in Appendix A. We have based Appendix A on the summary of submissions prepared by MDC. As a result, our

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<sup>4</sup> Mackenzie District Plan, Proposed Plan Change 18 – Indigenous Biodiversity, Section 42A Officer's Reply Report, Report Prepared by Liz White, Consultant Planner, 26 March 2021.

<sup>5</sup> Mackenzie District Plan Proposed Plan Change 18 Indigenous Biodiversity, Post-Hearing Reply to Commissioners Ecology, Mike Harding, Environmental Consultant, 26 March 2021.

Appendix A (comprising only 10 pages) is relatively short compared to similar schedules contained in other plan change decisions that readers may be familiar with.

12. A consequence of our approach is that parts of the Section 42A Report that we adopt and cross-refer to **are to be read as forming part of this Recommendation Report**.
13. In Appendix B we attach a 'clean' version of the wording that we recommend for PC18.
14. In Appendix C we attach a document that shows the amendments made to the notified version of PC18 with additions shown in underlining and deletions in strikeout. To assist readers all changes to the notified provisions recommended by us are shown in **grey wash**. We have also attributed each amendment to a submission, to Clause 16(2) of Schedule 1 of the RMA (where an amendment is made to clarify the intent of the provision), or to Clause 10(2)(b) of Schedule 1 of the RMA (where a consequential amendment is made as a result of an amendment to another provision).

#### **4 Current MDP Provisions**

15. The MDP became operative in 2004 and it contained provisions relating to indigenous biodiversity in its Rural Section (Section 7). There are also other policies, for example those pertaining to pastoral intensification and agricultural conversion, that include reference to indigenous vegetation, but are more focussed on landscape values.
16. The MDP also identifies, in Appendix I, Sites of Natural Significance (SONS) that have been assessed as being significant in terms of RMA s6(c). A range of provisions apply to SONS including, but not limited to, indigenous vegetation clearance rules.
17. We understand that the SONS listed in the MDP were identified in the 1990s and are inadequate and incomplete.<sup>6</sup> The SONS were identified prior to the promulgation of the CRPS and only around 30% of them have been reviewed and assessed against the CRPS criteria.<sup>7</sup> However, the results of these reviews have not been formalised through amendments to Appendix 1 of the MDP.
18. The current MDP rule framework (Rule 12) generally provides for clearance of indigenous vegetation up to a specified threshold as a permitted activity. The threshold varies depending on either the location of the clearance or the type of vegetation being cleared and there are various exemptions as tabulated in the Section 42A Report.

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<sup>6</sup> Evidence of Mike Harding, paras 41-45.

<sup>7</sup> Appendix 3 - Criteria for determining significant indigenous vegetation and significant habitat of indigenous biodiversity.

## 5 Overview of PC18

19. PC18 proposes to transfer the main indigenous biodiversity provisions from Section 7 into a separate section (Section 19) that specifically focuses on indigenous biodiversity.<sup>8</sup>

The Section 42A Report summarised the key aspects of PC18 as follows:

- *The removal of indigenous biodiversity provisions from Section 7 – Rural Zone. As well as the objective and policy suite, this includes deletion of most, but not all, parts of Rule 12 (the vegetation clearance rule described above). The rules remaining within Rule 12 are those that apply to vegetation clearance and are not specifically limited to indigenous vegetation.*
- *The inclusion of two new objectives (2 & 3), in addition to the existing objective transferred from Section 7 (now proposed Objective 1).*
- *The inclusion of seven new policies (3-9), in addition to the two existing policies transferred from Section 7 (now proposed Policies 1 & 2).*
- *A new suite of indigenous vegetation clearance rules that provide for:*
  - *Clearance of indigenous vegetation as a permitted activity in certain specified circumstances.*
  - *Provision for the clearance of indigenous vegetation through a restricted discretionary activity consent pathway, where either a Farm Biodiversity Plan (FBP) is prepared in accordance with the specifications set out in Appendix Y, or the clearance is 5,000m<sup>2</sup> or less within any site in any 5-year continuous period.*
  - *Clearance of indigenous vegetation as a non-complying activity in specified circumstances (more than 5,000m<sup>2</sup> within any site in any 5-year continuous period without a FBP; within an identified Site of Natural Significance; above 900m in altitude; within specific distances of various waterbodies).*
  - *A separate set of rules for indigenous vegetation clearance associated with the Waitaki Power Scheme.*
- *The Farm Biodiversity Plan (FBP) process is intended to provide a consenting pathway for the integration of land development proposals (that involve indigenous vegetation clearance) with management of indigenous biodiversity across a whole property. The FBP would specifically include assessment and identification of indigenous biodiversity values and as such would provide a process for the identification of areas of significance, assessed against the criteria in the CRPS.*

<sup>8</sup> Prior to notification of PC18, MDC sought and obtained an Environment Court declaration that within the Mackenzie Basin Subzone, proposed Rules 1.1 – 1.3 in PC18 have immediate legal effect on notification.

## **6 Statutory and planning context for PC18**

### **6.1 RMA Provisions**

20. The Section 42A Report described the statutory and planning context relevant to PC18. We adopt that description and note that the relevant context includes the following RMA provisions:

- Section 5 [purpose of the Act and the meaning of sustainable management] and s6(c) [the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna] and sections 7(a) [kaitiakitanga]; 7(aa) [the ethic of stewardship]; 7(b) [the efficient use and development of natural and physical resources]; and 7(d) [the intrinsic values of ecosystems].
- Section 31(1)(a) of the RMA and more particularly under s31(1)(b)(iii) the MDC's specific function of controlling effects of the use, development or protection of land, including for the purpose of maintaining indigenous biological diversity.

21. We assume readers will be familiar with those provisions and so we do not elaborate on them here.

### **6.2 National Policy Statement for Renewable Electricity Generation 2011 (NPSREG)**

22. Section 75(3)(a) of the RMA requires a district plan to give effect to the any national policy statement.
23. The NPSREG is relevant as PC18 contains provisions that apply to indigenous vegetation clearance associated with the Waitaki Power Scheme (WPS). The NPSREG seeks recognition of the national significance of renewable electricity generation (REG) activities by providing for their development, operation, maintenance and upgrade in order to increase the proportion of energy generated from renewable energy sources in line with Government targets. Relevantly here, the NPSREG directs that district plans include provisions to provide for the development, operation, maintenance and upgrading of new and existing hydro-electricity generation activities.
24. In section 20 of this Recommendation Report we discuss provisions of the MDP that relate to the Waitaki Power Scheme and by association the NPSREG.



**6.3 National Policy Statement on Electricity Transmission 2008 (NPSET)**

25. The NPSET is not central to PC18, however Transpower<sup>9</sup> is a further submitter on PC18 and in particular on the provisions that relate to the clearance of indigenous vegetation associated with the National Grid. The NPSET directs that the national significance of the electricity transmission network is recognised by facilitating the operation, maintenance and upgrade of the National Grid while managing adverse effects on the environment.

**6.4 National Policy Statement for Freshwater Management 2020 (NPSFM)**

26. The NPSFM is also not central to PC18 but it contains relevant provisions, particularly those relating to wetlands in Subpart 3. Of particular relevance here is the definition of “improved pasture” in section 3.21(1). That term is central to PC18 and we discuss this matter further in section 29 of this Recommendation Report. Suffice to say at this point that, as directed by section 75(3)(a) of the RMA, we have adopted the NPSFM definition of “improved pasture” in our recommended amendments to PC18 as notified.

**6.5 National Planning Standards (NP Standards)**

27. Section 75(3)(ba) of the RMA requires a district plan to give effect to a national planning standard. The May 2019 NP Standards are focussed on the structure and format of plans and we note PC18 is not required to align with them.<sup>10</sup> However, we agree with the Ms White that there are some aspects of the NP Standards that may be considered as best practice in terms of how the Plan is structured and how provisions are numbered and ordered.

**6.5 Draft National Policy Statement for Indigenous Biodiversity 2019 (dNPSIB)**

28. The dNPSIB has no legal standing and so we do not consider it to be determinative.

**6.6 Canterbury Regional Policy Statement (CRPS)**

29. Section 75(3)(c) of the RMA requires a district plan to give effect to a regional policy statement.
30. Section 9 of the CRPS pertains to ecosystems and indigenous biodiversity and it is central to our consideration of PC18 and the submissions and further submissions on it. Section 9 states<sup>11</sup> that MDC has sole responsibility for controlling the use of land to

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<sup>9</sup> The owner and operator of the National Grid.

<sup>10</sup> Standard 17, clause 4.

<sup>11</sup> As required by s62(1)(i)(iii) of the RMA.

maintain indigenous biological diversity on all land outside of wetlands, the coastal marine area, and beds of rivers and lakes. CRC and MDC have joint responsibility for controlling use of land in beds of rivers and lakes and wetlands, if the MDP identifies a significant area which includes a bed of a river/lake or a wetland, or includes indigenous vegetation clearance provisions that apply to these areas.

31. The Section 42A Report listed the three RPS Section 9 objectives, which are:

- *9.2.1 – The decline in the quality and quantity of Canterbury’s ecosystems and indigenous biodiversity is halted and their life-supporting capacity and mauri safeguarded.*
- *9.2.2 - Restoration or enhancement of ecosystem functioning and indigenous biodiversity, in appropriate locations, particularly where it can contribute to Canterbury’s distinctive natural character and identity and to the social, cultural, environmental and economic well-being of its people and communities.*
- *9.2.3 – Areas of significant indigenous vegetation and significant habitats of indigenous fauna are identified and their values and ecosystem functions protected.*

32. The Section 42A Report also summarised key RPS policies as follows:

- *Policy 9.3.1 directs how significance is to be determined and links to an Appendix containing criteria. Method 3 under this policy directs territorial authorities to provide for the identification and protection of significant areas, with District Plan rules managing indigenous vegetation clearance to provide for a case-by-case assessment of the significance of an area and whether protection is warranted. Method 5 also encourages working with landowners to identify significant areas for inclusion in district plans.*
- *Policy 9.3.3 directs the adoption of an integrated and co-ordinated management approach to halting the decline in the region’s biodiversity through various methods. Of relevance to territorial authorities, Method 4 directs that provisions are included in district plans to achieve integrated management of the actual and potential effects of land use on the life-supporting capacity and/or mauri of ecosystems and the protection of indigenous biodiversity.*
- *A number of the methods under different policies state all local authorities should protect significant areas/life-supporting capacity and/or mauri of ecosystems etc (depending on the focus of the policy), as they undertake their own operations, unless the adverse effects on the areas/habitats/ecosystems cannot be avoided, and are necessary for the maintenance of erosion or flood protection structures or for the prevention of damage to life or property by floods/fire or safeguarding public health.*

- *Policy 9.3.4 seeks to promote the enhancement and restoration of Canterbury's ecosystems and indigenous biodiversity in "appropriate locations" where it will improve the functioning and long-term sustainability of the ecosystems.*
- *Policy 9.3.6 sets criteria that are to be applied to biodiversity offsets.*

33. We have strived to give effect to these RPS provisions when considering PC18 and the submissions and further submission on it. We refer to relevant RPS provisions in subsequent parts of this Recommendation Report.

## **6.7 Te Mana O Te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020**

34. In August 2020 the Department of Conservation released Te Mana o Te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 (Biodiversity Strategy). The Strategy is a strategic plan for biodiversity in New Zealand. It includes five overarching outcomes, supported by 13 objectives that are based around three pou (or pillars), which are intended to provide direction and focus to guide towards the changes needed to achieve the outcomes. Each objective includes specific goals.

35. In accordance with section 74(2)(b)(i) of the RMA we have had regard to the relevance of the Biodiversity Strategy when assessing the submissions on PC18.

## **6.8 Section 32AA Assessment**

36. In compliance with section 32 and Clause 5 of Schedule 1 of the RMA, the MDC prepared and publicly notified an evaluation report dated 10 December 2017 ('the Section 32 Report'). We have had particular regard to the Section 32 Report.<sup>12</sup> Section 32AA of the RMA requires a further evaluation of any changes made to PC18 after the initial evaluation report is completed. The further evaluation can be the subject of a separate report, or it can be referred to in the decision-making record.<sup>13</sup> If it is referred to in the decision-making record, it should contain sufficient detail to demonstrate that a further evaluation has been duly undertaken.<sup>14</sup>

37. If the amended PC18 text arising from our recommendations on submissions is adopted by MDC, this Recommendation Report (including Appendices A, B and C) is intended to form part of MDC's decision-making record. Therefore, in compliance with Schedule 1,<sup>15</sup> and electing the second option in RMA section 32AA(1)(d), we record that we have

<sup>12</sup> RMA, s66(1)(e).

<sup>13</sup> RMA, s 32AA(1)(d) and (2).

<sup>14</sup> RMA, s 32AA(1)(d)(ii).

<sup>15</sup> RMA, Schedule 1, cl 10(2)(ab).

undertaken a further evaluation of any amendments to PC18 that are additional to those evaluated and recommended by Ms White and accepted by us.<sup>16</sup>

38. We recognise that our evaluation is not confined to assessing the benefits and costs. The evaluation has to include the duties prescribed by the Act and higher-order instruments and so that may require constraints on farming activities, which may extend beyond what farmers have already adopted, whether voluntarily or to conform with the MDP to date.
39. Further, we find that the evaluation on benefits and costs cannot be made on economic grounds alone. Some benefits and costs of constraints on farming activities and some consequential social wellbeing may (with some generality) be quantified in money's worth. But it is not practicable, on the evidence presented, for us to quantify in that way benefits and costs to environmental cultural wellbeing and indigenous biodiversity specifically. So, in those respects we have made assessments that are broad and conceptual, rather than analytical and calculated.

## **7 General direction of PC18**

40. There are several submitters<sup>17</sup> who broadly support the direction of PC18. We note and accept those submissions because as will be seen later in the Recommendation Report, we accept the general tenor of PC18. There were also submitters who opposed the direction of PC18. For the same reason, we have rejected those submissions.

## **8 Section 32 Report**

41. Four submitters<sup>18</sup> raised concerns about the adequacy of the MDC's s32 evaluation. We adopt Ms White's summary and analysis of those submissions.

## **9 Section Title and Numbering, Terminology**

42. Some submitters<sup>19</sup> queried the provisions numbering used in PC18, others<sup>20</sup> queried the name of the new Section 19 and some<sup>21</sup> sought that references to "*biodiversity*" be amended to refer to "*indigenous biodiversity*". We adopt Ms White's summary and

<sup>16</sup> As we have noted previously, we have adopted the author's reasoning (or justification) for the amendments she recommended to us that we find favour with.

<sup>17</sup> FFNZ (#1), C Morris (#5), CRC (#8), EDS (#9), PTH (#15), DOC (#18), BLINZ (#19), Forest & Bird (#20)

<sup>18</sup> Genesis (#11), Meridian (#13), Mt Gerald (#16), The Wolds (#17).

<sup>19</sup> Including OWL (#14).

<sup>20</sup> Including Mt Gerald (#16) and The Wolds (#17).

<sup>21</sup> SPSL (#3).

analysis of those submissions, which is that, for the sake of consistency with the NP Standards, Section 19 should be titled '*Ecosystems and indigenous biodiversity*'.

43. SPSL (#3) sought that any references to "*biodiversity*" be amended to refer to "*indigenous biodiversity*". We agree that references within the PC18 provisions<sup>22</sup> referring to "*biodiversity*" should be amended to refer to "*indigenous biodiversity*"<sup>23</sup>.
44. We observe that the notified provisions contained some odd numbering. We have not attempted to rectify that as doing so will make it harder for submitters to understand the amendments we recommend. The numbering can be improved in due course by the MDC under clause 16 to Schedule 1 of the RMA.

## 10 Identifying significant areas

45. As noted by several submitters and outlined by Mr Harding<sup>24</sup> it is evident that not all RMA s6(c) significant areas within the District are listed as SONS in Appendix I of the MDP, and PC18 does not include any additions to Appendix I. Instead, the proposed Farm Biodiversity Plan (FBP) process would require, on a case-by-case basis, an assessment of all areas of indigenous biodiversity, with management of both significant and non-significant areas being addressed in the FBP.
46. We adopt Ms White's summary of submissions on this issue.
47. We note that MDC will be proceeding to map further SONS, but that process will not be completed for some time. Accordingly, we agree with Ms White that it is not sufficient for PC18 to only recognise and protect Appendix I SONS, and allow for vegetation clearance outside those areas, without some assessment of significance by way of a consent process. We note that the criteria for significance are set out in the Appendix 3 of the CRPS and are reflected in PC18.
48. We agree with submitters that it would improve PC18 if the term "significant indigenous vegetation and habitats of indigenous fauna" was defined in the Plan.<sup>25</sup> In that regard the definition should obviously refer to the criteria listed in the CRPS's Policy 9.3.1 and Appendix 3. It should also refer to areas that are included in Appendix I of the MDP as a Site of Natural Significance.

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<sup>22</sup> Policy 6, Rules 1.2.1, 1.2.2 and 2.2.1, and Appendix Y.

<sup>23</sup> SPSL (#3).

<sup>24</sup> EIC Mike Harding, para 44.

<sup>25</sup> For example, the EIC of Amelia Ching DOC (#18), para 69.

49. We note from the evidence of Mr Harding, Dr Susan Walker and Nicholas Head that the Mackenzie Basin is the largest of New Zealand's inter-montane basins and supports extensive montane glacial and fluvio-glacial landforms (moraines and outwash terraces) which support distinct indigenous ecosystems (some of which are nationally threatened), which are not replicated to this extent anywhere else in the country.
50. We also note from the evidence of Dr Walker that the Environment Court has found that the Mackenzie Basin Outstanding Natural Landscape (ONL) is a significant natural area in terms of CRPS Appendix 3 criterion 4. Dr Walker also considered that CRPS Appendix 3 criterion 6<sup>26</sup> and 8 were met. Dr Walker concluded that the remaining indigenous ecosystems and plant communities of the Mackenzie Basin floor were irreplaceable and their clearance would cause permanent loss that could not be offset or compensated for.<sup>27</sup>
51. The evidence of Mr Head advised that where not intensively developed, these moraine and outwash ecosystems supported significant ecological values when assessed in accordance with the criteria in the CRPS. He advised that the moraine and outwash ecosystems are classified as originally rare and their extent and variety is not replicated elsewhere in New Zealand. Mr Head considered that those ecosystems were poorly protected and were threatened, and consequently, they were a national priority for protection.<sup>28</sup>
52. We find the evidence of Dr Walker and Mr Head to be persuasive and conclude that the PC18 definition of "significant indigenous vegetation and habitats of indigenous fauna" should additionally refer to those moraine and outwash terrace landforms. To assist with the implementation of that addition to the definition we find that the map showing the extent of naturally rare ecosystems (moraines and inland alluvial outwash gravels) in the Mackenzie Basin (Map 2) in Appendix 5 of Mr Head's evidence should be included in PC18.<sup>29</sup>

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<sup>26</sup> Criterion 6 relates to "Rarity/Distinctiveness" and is "Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, occurs within an originally rare ecosystem, or has developed as a result of an unusual environmental factor or combinations of factors." Criterion 8 relates to "ecological context" and is "Vegetation or habitat of indigenous fauna that provides or contributes to an important ecological linkage or network, or provides an important buffering function."

<sup>27</sup> EIC Walker EDS (#9), paras 16 to 18.

<sup>28</sup> EIC Nicholas Head Forest and Bird (#20), paras 61 and 6.2.

<sup>29</sup> EDS submitted seeking spatial mapping of remaining areas of biodiversity values.

53. We find that that the benefits of protecting irreplaceable and unique significant areas of indigenous vegetation outweigh the costs this approach might impose on landowners.
54. Some submitters raised the issue of significant geological or geomorphological features related to s6(b) of the RMA which are also listed in MDP Appendix I. Notwithstanding that some of these features may serve an indirect role for biodiversity, we find that references to them should be omitted from MDP Section 19 (PC18). We consider that retaining those references would inappropriately dilute the primary focus of Section 19 on indigenous biodiversity matters. We note and adopt Ms White's conclusion that other MDP provisions adequately refer to those features.<sup>30</sup>

## **11 How Section 19 relates to landscape matters**

55. Some submitters<sup>31</sup> sought that PC18 be amended to acknowledge that indigenous vegetation is a significant component of the outstanding natural landscape in the Mackenzie Basin or that landscape values and ecological and biodiversity values are interlinked. We adopt Ms White's summary of those submissions.
56. We agree with and adopt Ms White's assessment and recommendations that notwithstanding that the focus of Section 19 should be on indigenous biodiversity, it is appropriate to expand the matters of discretion within the Section 19 restricted discretionary activity rules to enable the effects of indigenous vegetation clearance on landscapes to be had regard to by decision-makers. However, given other provisions of the MDP, we find that further policy direction on that matter is not required and nor should Appendix Y, which sets out the requirements for Farm Biodiversity Plans, include the management of landscapes.

## **12 How Section 19 relates to the rest of the MDP**

57. Some submitters<sup>32</sup> sought additional provisions relating Section 19 rules to all activities and other parts of the MDP, including Section 16. We adopt Ms White's summary of those submissions. We note that Section 16 of the MDP deals with utilities and we agree with Ms White that utilities should be subject to the rules in Section 19 and that an advisory note should be inserted at the start of the Section 19 rules explicitly stating that.

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<sup>30</sup> Including Rural Objective 3A, Rural Policy 3A1, Rural Policy 3A3, Policy 3B1, and Policies 3B3 and 3B4.

<sup>31</sup> Including CRC (#8) and EDS (#9).

<sup>32</sup> Including EDS (#9) and DOC (#18)

### 13 Objectives 1, 2 and 3

58. PC18 contained three objectives. Objective 1 was relocated from Section 7 of the MDP<sup>33</sup> without any changes. Objectives 2 and 3 were new and they read respectively:

*Land development activities are managed to ensure the maintenance of indigenous biodiversity, including the protection and/or enhancement of significant indigenous vegetation and habitats, and riparian areas; the maintenance of natural biological and physical processes; and the retention of indigenous vegetation.*

*To 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.*

59. There were numerous submissions on the objectives and we adopt Ms White's summary of them.
60. We agree with submitters<sup>34</sup> that PC18 provides an opportunity to rethink the usefulness of the three notified objectives and replace them with more clear and targeted provisions. In that regard we agree with submitters<sup>35</sup> that the PC18 objective(s) should clearly distinguish between the outcome sought for significant areas of indigenous vegetation (under s6(c) of the RMA) and the outcome sought in relation to more broadly maintaining or enhancing indigenous vegetation elsewhere (RMA s31(1)(b)(iii)).
61. We generally adopt Ms White's analysis of submissions on the objectives, including:
- Identification of further areas of significant indigenous vegetation and significant habitats of indigenous fauna is an action and therefore does not fit within an objective (which should be outcome focused);
  - There is overlap between Objective 1 and Objective 2 as notified;
  - The objective(s) should be focussed on the maintenance of indigenous biodiversity, rather than "*retention of all indigenous vegetation*" and should refer to "*land use and development*";<sup>36</sup> and

<sup>33</sup> It was titled "Rural Objective 1 – Indigenous Ecosystems, Vegetation and Habitat".

<sup>34</sup> Including CRC (#8) and EDS (#9).

<sup>35</sup> Including DOC (#18).

<sup>36</sup> We note the evidence of Mr Harding that he is unaware of any evidence that soil erosion, climate change or nutrient depletion are the main contributors to the decline in biodiversity. In his view, in addition to grazing and pests, land development is the main additional contributor to a decline in indigenous biodiversity in the Mackenzie Basin. He also notes that the impact of land development on biodiversity is the contributor that can be most effectively addressed by MDP rules (paras 57 – 64).



- Objective 3 is currently drafted as a policy and FBPs are a tool intended to achieve the outcomes described in Objectives 1 and 2.
62. Ms White recommended that Objective 3 be omitted and Objectives 1 and 2 be combined. We agree with that recommendation in general terms but find that the wording of the new objective should explicitly state outcomes for areas of significant indigenous vegetation and significant habitats of indigenous fauna and separately state outcomes for indigenous biodiversity outside of those areas.
63. However, notwithstanding the CRPS provisions<sup>37</sup> relating to the significant values of wetlands and riparian areas, we agree with submitters who considered that those values were a subset of indigenous biodiversity and so they did not need to be specifically listed in the objective.
64. We agree with the evidence of Ms Ching that the objective that relates to indigenous biodiversity outside of the significant areas should refer to maintaining or enhancing that biodiversity, as this is consistent with RMA s6(c) and CRPS Objective 9.2.2 and Policy 9.3.4.<sup>38</sup>
65. We accordingly recommend that Objectives 1, 2 and 3 as notified are replaced with a single objective as set out in Appendix B to this Recommendation Report.

#### 14 Policy 1

66. Policy 1 was relocated from Section 7 (currently it is Rural Policy 1B) but updated to refer to the criteria in the CRPS and reference to significant geological or geomorphological features was deleted. There were a number of submissions on the objectives and we adopt Ms White's summary of those submissions
67. We agree with submitters<sup>39</sup> who seek deletion of the phrases "*in the District Plan*" and "*to prevent development which reduces the values of these sites*" for the reasons set out by Ms White. We generally agree with and adopt Ms White's assessment of other submissions and her recommended revised wording for Policy 1.
68. However, we also agree with Ms Ching that Policy 1 should refer to assessing and identifying sites of significance.<sup>40</sup>

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<sup>37</sup> Including Objective 9.2.3 and Policy 9.3.1(3).

<sup>38</sup> EIC Ching DOC (#18), paras 32 to 35.

<sup>39</sup> Including EDS (#9), DOC (#18)

<sup>40</sup> EIC Ching DOC (#18), para 46.

## 15 Policy 2

69. Policy 2 was relocated from Section 7. There were numerous submissions on Policy 2 and we adopt Ms White's summary of those submissions.
70. We agree with Ms White that the focus of Policy 2 should be on how adverse effects on areas of indigenous biodiversity are managed, rather than dealing with other activities or enabling land use. As with the PC18 objectives, we also agree with submitters that the PC18 policies should clearly distinguish between the protection outcome sought for significant areas (under s6(c) of the RMA) and those sought in relation to more broadly maintaining biodiversity elsewhere (RMA s31(1)(b)(iii)). This Policy should relate to the latter.
71. We agree with Ms White's recommendation to substantially delete Policy 2 as notified. It simply parrots the "*avoid, remedy or mitigate*" mantra of section 5 of the RMA and provides no additional substantive guidance to decision-makers. We also note the Policy's potential for overlap with Policies 3 and 5 in relation to significant areas.
72. Importantly, we agree with submitters<sup>41</sup> that substantive policy guidance is required on how effects on non-significant indigenous biodiversity areas are to be managed. In our view this should go beyond simply repeating section 5 of the RMA and, as suggested by several submitters,<sup>42</sup> it should specify a clear hierarchy of obligations, commencing with avoiding adverse effects of indigenous vegetation clearance where practicable, and then cascading down through remedying, mitigating and finally offsetting those effects. In that regard we agree with submitters<sup>43</sup> that offsetting should not be used as a first option, as the primary outcome should be to "avoid" additional loss of indigenous vegetation and habitats of indigenous fauna.
73. Ms White recast Policy 2 as Policy 9. We consider that it would be better if it was recast as Policy 3 and recommend that it is substantially revised to specify a clear hierarchy of obligations.

## 16 Policy 3

74. There were numerous submissions on Policy 3 and we adopt Ms White's summary of those submissions.

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<sup>41</sup> Including EDS (#9) and CRC (#8).

<sup>42</sup> Including CRC (#8) and DOC (#18) in relation to their submissions on Policy 5.

<sup>43</sup> Including Mackenzie Guardians (#6).

75. We agree with Ms White that the Policy should refer to land use and development 'including' indigenous vegetation clearance and pastoral intensification for the reasons that she states. We find it should also include "agricultural conversion" so as to be consistent with subsequent revised provisions.
76. However, we differ from Ms White insofar as we do not see the merit of retaining the Policy (she recast it as Policy 2) as a standalone provision. In that regard we agree with submitters that the amended Policy does not provide adequate protection of significant indigenous vegetation as required by RMA s6(c), CRPS Objective 9.2.3, CRPS Policy 9.3.1 and the amended Objective 1 of Section 19 of the MDP. It would also lack recognition of the national priorities for protection as required by Policy 9.3.2 of the CRPS.<sup>44</sup>
77. We agree with Dr Walker that the off-site effects of the land use already established in the Mackenzie Basin are now progressively, and measurably, reducing and modifying the area of significant indigenous vegetation that remains. Therefore, the only rate of development that might now achieve no net loss is a negative rate. Additional vegetation clearance and pastoral intensification will measurably exacerbate the cumulative reduction (net loss) that is currently underway.<sup>45</sup>
78. We find that the bulk of the wording of Ms White's Policy 2 as set out in her s42A Report should be merged into a new Policy 2 that sets out clear expectations for areas of significant indigenous vegetation and significant habitats of indigenous fauna. We do not consider that the revamped Policy should refer to "*no net loss of significant indigenous biodiversity values*". Instead, we find on the evidence of Dr Walker in particular the policy direction should unequivocally refer to avoiding the clearance of that vegetation and avoiding adverse effects on those habitats. The exception is where those activities are permitted under Rules 1.1.1 or 2.1.1 or are required in relation to the WPS, Opuha Scheme or National Grid.

## 17 Policy 4

79. There were numerous submissions on Policy 4 and we adopt Ms White's summary of them.
80. Policy 4 as notified referred to ecologically significant wetlands. CRPS Policy 9.3.5 requires that "*the natural, physical, cultural, amenity, recreational and historic heritage*

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<sup>44</sup> Including the EIC of Ching DOC (#18), paras 54 and 55.

<sup>45</sup> EIC Dr Walker EDS (#9), para 46.

values” of ecologically significant wetlands are protected. CRPS Policy 9.3.5 directs that ecologically significant wetlands are assessed against the matters set out in Policy 9.3.1 which in turn refers to the criteria in CRPS Appendix 3. We note Ms White’s advice that as a consequence, the broader policies in both the CRPS and PC18 that apply to all significant areas will apply equally to ecologically significant wetlands. We agree and find that there is no need to refer separately to wetlands in the PC18 provisions.

81. We recommend the deletion of notified Policy 4.

## 18 Policy 5

82. There were numerous submissions on Policy 5 and we adopt Ms White’s summary of them.

83. Policy 5 provided broad direction about mechanisms for the management of effects, including offsetting. We agree with submitters<sup>46</sup> that detailed policy guidance relating to offsetting should be deleted from Policy 5 given the comprehensive nature of notified Policy 6 that deals with offsetting. Having said that, we also agree with submitters that offsetting should only apply in relation to non-significant areas. The clear outcome to be achieved by PC18 is the protection (meaning<sup>47</sup> “safe from harm, injury, or damage”) of significant indigenous vegetation and significant habitats of indigenous fauna. In our view that requires adverse effects on those areas to be avoided. On the evidence of Dr Walker and Mr Head we are not persuaded that should be allowed to occur for the Mackenzie Basin significant areas as a result of offsetting.

84. In particular we note the evidence of Mr Harding:

*Biodiversity offsets are complex and fraught, due to the difficulty of measuring/quantifying indigenous biodiversity, the irreplaceability of indigenous ecosystems, and the challenges of monitoring the outcomes.*

*In the Mackenzie Basin, the only ecosystems that could readily be replaced (like for like) are those on very recently-formed land surfaces. Here, indigenous species will quickly recolonise, and plant succession could be managed so that the eventual plant community/habitat is very similar to that which has been lost elsewhere. But, unless the new community/habitat is created and colonised before the existing one is destroyed, there will be interim net loss of habitat for indigenous plant and animal*

<sup>46</sup> Including C Burke (#4) and EDS (#9).

<sup>47</sup> Submissions of Counsel on Behalf of The Environmental Defence Society Incorporated, 3 March 2021, para 12.

*species. This may have a significant effect on sedentary species such as lizards or robust grasshopper, or migratory bird species if they are faithful to breeding sites.*

*Other Mackenzie Basin ecosystems, such as outwash terraces and moraines, support older more complex plant communities with more intricate plant-soil-climate relationships. These would be very difficult to re-establish or replicate. This difficulty is accentuated in the Mackenzie Basin by the altitude, climate, and exotic plant and animal pest threats.<sup>48</sup>*

85. We note Ms White's view that she did not agree with submitters who sought that offsetting is removed as an option, or is only applied to non-significant areas. She maintained that the CRPS provides for biodiversity offsets as appropriate mitigation in those circumstances set out in Policy 9.3.6 and that when read with Policy 9.3.1(3) it is clear this applies to significant areas. However, we accept the submission of counsel for Forest and Bird (#20) that the CRPS does contain provisions which amount to limits for offsetting, including those situations where the indigenous biodiversity at risk is so significant that it should not be significantly modified or destroyed under any circumstances, or where residual effects cannot be fully compensated because the biodiversity is highly vulnerable or irreplaceable<sup>49</sup>.
86. We are also mindful that, from Mr Willis's helpful answers to our questions at the hearing, and based on his own involvement in the development of the CRPS provisions, the concept of biodiversity offsets was fairly new at that time and has since evolved considerably. He said that the offsetting provisions were intended to apply principally to large infrastructure projects, on a regional level, and were not considered to be as relevant for application on a smaller site-by-site basis.
87. We also agree with submitters<sup>50</sup> that Policy 5 should focus on the mechanisms for how protection can be secured; rather than focussing on the management of effects. We therefore recommended that notified Policy 5 be amended and recast as Policy 7.
88. Other than as outlined above, we adopt Ms White's analysis of and recommendations on other submission points, including those of Mt Gerald (#16) and The Wolds (#17).

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<sup>48</sup> EIC Harding, paras 66 to 68.

<sup>49</sup> CRPS, Policy 9.3.6, Explanation and Reasons.

<sup>50</sup> Including EDS (#9).

**19 Policy 6**

89. There were numerous submissions on Policy 6 and we adopt Ms White's summary of them.
90. We agree with CRC (#8) that Policy 6 is consistent with CRPS Policy 9.3.6 and we note that DOC (#18) supports having a policy on how offsets are used. We agree with Ms White that the guidance provided by Policy 6 should not be placed in an Appendix.
91. We are not persuaded that Policy 6 should be expanded beyond CRPS Policy 9.3.6 but agree with submitters<sup>51</sup> that a definition of 'biodiversity offset' would improve the clarity and certainty of the provisions.
92. Other than as outlined above, we adopt Ms White's analysis of and recommendations on other submission points, other than in order to be consistent with higher order documents the provisions should refer to offsetting "significant" residual adverse effects.
93. We recommend the revised wording of Policy 6 and the definition of "biodiversity offset" that are set out in the Section 42A Report. However, we consider that the Policy would more logically follow our recommended Policy 3 (thereby becoming Policy 4).

**20 Waitaki Power Scheme**

94. This section of our Recommendation Report considers provisions relating to the Waitaki Power Scheme (WPS). We note that the Section 42A Report helpfully set out other existing MDP provisions that are relevant to the WPS.<sup>52</sup> We also note that the WPS is a scheduled activity under the MDP and Schedule A to Section 7 sets out the areas and facilities that form the scheduled activities, as well as the activities that are permitted, controlled and discretionary.
95. In PC18, notified Policy 7 (our recommended Policy 5) directs that the economic and social importance of renewable energy generation and transmission is recognised and its upgrading, maintenance and enhancement is provided for. That appropriately gives effect to the NPSREG, NPSET and CRPS provisions including Objective 16.2.2 and Policies 16.3.3, 16.3.4 and 16.3.5.
96. PC18's Rules 2.1.1, 2.2.1 and 2.3.1 as notified appropriately apply to the WPS.

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<sup>51</sup> Including DOC (#18)

<sup>52</sup> Including Rural Objective 3B and Rural Objective 11, Policy 3B6 and Rural Policy 11A.

97. In terms of issues raised by Meridian and Genesis we have been persuaded that a new objective specific to the renewable electricity generation and transmission<sup>53</sup> is required. We make that finding notwithstanding the fact that PC18 is concerned with the management of indigenous biodiversity, and other existing MDP provisions (as noted above) provide guidance to decision-makers regarding the WPS. On balance we consider that the clear and certain obligations of the NPSREG, the NPSET and CRPS necessitate the objective sought by the submitters.
98. We note that in her Reply Report Ms White reached a similar conclusion.<sup>54</sup> We also note that Ms McLeod for Transpower initially considered that such an additional objective was not required, but at the hearing she advised that she had altered her conclusion on the matter and now supported a new objective.
99. Apart from inserting a new objective (or an additional clause to the new Objective 1 that we recommend), on the evidence provided we find that amendments to the WPS provisions are desirable to give better effect to the superior instruments including:
- a) Clarifying under RMA Schedule 1 Clause 16(2) that the electricity transmission network provisions of what is now Policy 5 include the National Grid.<sup>55</sup> As a consequence of that we find that Rules 2.1.1. and 2.1.2 should be similarly amended;
  - b) Amending what is now Policy 5(a) and Rule 2.1.1 to enable refurbishment of the WPS and the National Grid in appropriate locations;<sup>56</sup>
  - c) Amending what is now Policy 5(b) to use the words “having particular regard to” as that better accords with the direction in s104 RMA;<sup>57</sup> and
  - d) Amending the matters of discretion in Rule 2.2.1 to insert a clause to refer to how vegetation clearance can impact indigenous biodiversity connectivity, function, diversity and integrity.<sup>58</sup>

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<sup>53</sup> See for example EIC Mitchell Genesis (#11) para 63; EIC Ruston Meridian (#13) para 45.

<sup>54</sup> Reply Report, para 68.

<sup>55</sup> EIC McLeod Transpower, para 51.

<sup>56</sup> EIC Ruston Meridian (#13), para 15(e) and (f); Mitchell Genesis (#11) para 65.

<sup>57</sup> EIC Ruston Meridian (#13), para 76.

<sup>58</sup> EIC Andrew Willis CRC (#8), paras 10.24 and 10.25.

100. We also consider that for the sake of consistency matter of discretion (g) of Rule 2.2.1 should be amended under RMA Schedule 1 Clause 16(2) to mirror the wording of Rule 1.2.2 matter of discretion 8.

## **21 Policy 7**

101. There were numerous submissions on Policy 7 (now Policy 5) and we adopt Ms White's summary of them.
102. We agree with Ms White that the amended policy sought by Genesis and Meridian would extend beyond the management of indigenous biodiversity and inappropriately place emphasis on renewable electricity generation and transmission activities more broadly. Having said that, we also agree with her that several of the additions and changes sought by those submitters would improve the Policy as was outlined above.
103. We agree with retaining the distinction between enabling operation and maintenance activities (and now also refurbishment) on one hand and providing for upgrading and development activities on the other. We also agree with the need to take into account advice from Mr Harding regarding the ecological values associated with the Tekapo, Pūkaki and Ohāu river systems and the importance of referring to those waterbodies in the Policy.<sup>59</sup>
104. We generally adopt Ms White's analysis of and recommendations on other submission points.

## **22 Rules**

105. We adopt Ms White's summary of submissions on the rules applying to the WPS.
106. We are not persuaded that WPS renewal or upgrading activities should be a permitted activity insofar as that relates to effects on indigenous biodiversity. We acknowledge that NPSREG requires that the national significance of the WPS is recognised, including by providing for its upgrading. That can still be realised by way of an appropriately framed consenting pathway under RDA Rule 2.2.1 that also ensures the indigenous biodiversity outcomes sought by the MDP and CRPS are achieved.
107. We find that to be an appropriate balance between the benefits of protecting indigenous vegetation and the costs imposed on the WPS.

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<sup>59</sup> Evidence of Mike Harding, paras 80-86.



108. We find that Rue 2.2.1 should be retained as a restricted discretionary rule and not be amended to a controlled activity for the simple fact that decision-makers should retain the ability to decline applications if the merits, or rather adverse effects, so justify.
109. In that regard we note Mr Harding's opinion that the ecological effects of refurbishment are likely to be greater than the effects of maintenance and operation, because new works are likely to remove or disturb additional areas of significant indigenous vegetation or habitat.<sup>60</sup> However, we are persuaded by the evidence of Meridian that refurbishment can be appropriately permitted in areas that have not been identified as containing significant indigenous vegetation or significant habitats of indigenous fauna.<sup>61</sup>
110. We note Ms White's concern<sup>62</sup> that there would be no conditions on the refurbishment activities, but we do share that concern as refurbishment would not occur as a permitted activity within significant areas.
111. We reject the submission of Meridian (#13) seeking an additional permitted activity rule is added for "clearance of indigenous vegetation required for Waitaki Power Scheme Activities where native species do not dominate and comprise less than 66% of groundcover" with Rule being 2.1.2 amended to refer to clearance above 66%.
112. The reason for that is we accept the evidence of Mr Harding that referring to a cover of 66% is inappropriate because there are very few indigenous plant communities on depositional landforms in the Mackenzie Basin where native species form more than 66% cover. Mr Harding advised that most basin-floor plant communities are degraded and include a high component of exotic species and may include a substantial portion of bare ground.
113. We consider that the entry conditions to Rule 2.2.1 should be amended to simply refer to non-compliance with one or more of the conditions of Rule 2.1.1. That being the case there is no need for a 'drop down' rule to follow Rule 2.2.1 and so Rule 2.2.3 can be omitted.
114. Other than as outlined above and in section 20 of this Recommendation Report, we generally adopt Ms White's analysis of and recommendations on other submission points relating to the WPS rules. In saying that we have also amended some of the matters of discretion in Rule 2.2.1 in light of the helpful planning evidence provided by

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<sup>60</sup> Evidence of Mike Harding, para 86.

<sup>61</sup> EIC Ruston Meridian (#13), para 15(f) and in particular 74.

<sup>62</sup> Reply Report, para 79.

Meridian, Genesis and Transpower. We have also sought, as consequential amendments, to align the matters of discretion in Rules 1.2.2 and 2.2.1 where that was appropriate.

## **23 Definition of Waitaki Power Scheme**

115. PC18 includes a definition of the WPS. We adopt Ms White's summary of submissions on it. We agree with Ms White that the purpose of a definition is to provide clarity about what provisions relying on that definition apply to. Consequently, we are not persuaded that the definition needs to highlight the national significance of the WPS.

## **24 National Grid**

116. Transpower sought, through a further submission, to extend WPS provisions to apply to the National Grid. We consider that it was implicit in the provisions as notified (insofar as they referred to electricity transmission) that they captured the National Grid and so we find that the provisions can and should be clarified in that regard.

## **25 Opuha Scheme**

117. OWL (#14) sought that Policy 7 as notified was extended to irrigation, community supply and river enhancement schemes and that the rule framework applying to the WPS was extended to apply to the Opuha Scheme. We note that Genesis, Meridian and DOC, in their further submissions, opposed the provisions being extended to apply to the Opuha Scheme, given that the specific provisions relating to the WPS relate to renewable electricity generation activities, and therefore are intended to give effect to the NPSREG; which does not include provisions for irrigation or community supply. We agree with that latter point.
118. However, having said that we acknowledge the Opuha Scheme is regionally significant infrastructure and it contains a small 7.5 MW hydroelectricity generation component. For that reason, the NPSREG applies to it and we find that PC18 would be improved by including a definition of the hydroelectricity element of the Opuha Scheme and by referring to that Scheme in provisions that already cater to the WPS. We note that in her Reply Report Ms White reached the same conclusion.<sup>63</sup>

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<sup>63</sup> Reply Report, para 66.

## 26 Farm Biodiversity Plans

119. This section of our Recommendation Report considers provisions relating to Farm Biodiversity Plans (FBPs).

### 26.1 Policies 8 and 9 and Rule 1.2.1

120. We adopt Ms White's summary of submissions on notified Policies 8 and 9.

121. We accept the submissions of Mt Gerald (#16) and The Wolds (#17) to combine Policies 8 and 9 into one policy given the overlap between them. We also agree with CRC (#8) and Forest & Bird (#20) that the words "*values associated with*" in Policy 8 should be deleted.

122. In order to give effect to amended Objective 1, we consider that the Policy should require a broad assessment<sup>64</sup> of all indigenous biodiversity values with identified significant vegetation and habitats thereafter being protected and other indigenous biodiversity being maintained. That would include the significant indigenous biodiversity values of wetlands and riparian areas.

123. We agree with Ms White and submitters<sup>65</sup> that the Policy should refer to enhancing indigenous biodiversity and that it can usefully include elements of what was previously Objective 3 as notified.

124. We note the reservations of some submitters regarding the efficacy of the FBP process and its new or 'novel' nature, together with the role of council planning staff in administering it.<sup>66</sup> However, we consider that the proposed regime could be successfully implemented over time and is not dissimilar to Farm Environment Plans that have been widely adopted in relation to water quality matters, including in the RMA itself in terms of Part 9A dealing with Freshwater Farm Plans.

125. However, in response to those concerns we find that Rule 1.2.1 should be deleted and that instead the requirements for the FBP should become an 'entry condition' to Rule 1.2.2. In that way the efficacy of the FBP process can be assessed over time, without

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<sup>64</sup> Noting that issues of cost sharing relate to the executive functions of the MDC and are therefore not appropriate to address in the MDP. Such matters are more appropriately dealt with in the MDC long term and annual plans.

<sup>65</sup> Including Glenrock Station (#12), Mt Gerald (#16) and The Wolds (#17).

<sup>66</sup> For example, the EIC of Dr Walker EDS (#9), para 54; EIC Nicholas Head Forest and Bird (#20) para 4.9.

running the risk of wide spread and inappropriate indigenous vegetation clearance occurring in the meantime.

126. We find that to be an appropriate balance between the benefits of enabling the use of FBP's and the costs imposed on landowners of doing so.
127. We note that the deletion of Rule 1.2.1 and the incorporation of the FBP as "a condition for achieving restricted discretionary status" was supported in both the EDS legal submissions<sup>67</sup> and in the post-hearing response provided by EDS.<sup>68</sup>
128. Importantly, Rule 1.2.2 as recommended by us excludes "areas of significant indigenous vegetation and significant habitats of indigenous fauna." Accordingly, the recommended definition of that term will ensure the protection of glacial derived or alluvial (depositional) outwash and moraine gravel ecosystems of the Mackenzie Basin that many submitters were primarily (in our view) concerned about.
129. In her Reply Report Ms White expressed the view that it was problematic to rely on an assessment of significance being undertaken in order to determine activity status, because it lacked sufficient certainty.<sup>69</sup> However, she then went on to say that she had less concern with significance being used to distinguish between a restricted discretionary and non-complying activity because consent is required in either case.<sup>70</sup> We agree. If an applicant fails to adequately demonstrate that their proposed vegetation clearance falls outside an area of significant indigenous vegetation or a significant habitat of indigenous fauna then their application would not qualify under our recommended Rule 1.2.2 and it would default to be a non-complying activity under Rule 1.3.2. In either case consent is required.
130. We note that under our recommended amendments to the Rules, should a landowner not wish to prepare a FBP then their resource consent application to undertake vegetation clearance defaults to a non-complying activity under Rule 1.3.1 (because it does not meet our recommended 'entry condition' 2 of Rule 1.2.2). Therefore the 'door is not shut' on landowners who opt for that approach, but their consent applications will need to satisfy the requirements of RMA section 104D before they can be assessed on

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<sup>67</sup> At para 49.

<sup>68</sup> Memorandum responding to questions raised in regard to Plan Change 18, EDS, 16 March 2012, paras 9 and 13.

<sup>69</sup> Reply Report, para 14.

<sup>70</sup> Reply Report, para 19.

their merits under RMA section 104. We find that to be an appropriate balance between the benefits of protecting indigenous vegetation and the costs imposed on landowners.

131. We adopt Ms White's analysis of and recommendations on other submission points relating to Policies 8 and 9 as notified.

## **26.2 Definitions of 'Farming Enterprise' and 'Farm Biodiversity Management Plan'**

132. We adopt Ms White's summary of submissions on these provisions.

133. For the reasons raised by submitters and set out by Ms White we agree that the definition of a 'farming enterprise' should be changed to 'farming operation' and amended to apply to either a single property or a multiple property operation. We also agree with Mr Willis that while it may be implicit that a farming operation could include contiguous or non-contiguous parcels, explicitly referring to contiguous or non-contiguous land parcels provides some additional clarity.<sup>71</sup>

134. Similarly, for the reasons set out by Ms White, we agree that the definition of Farm Biodiversity Plan should be omitted and the rules (now our recommended Rule 1.2.2) should be expanded to address relevant definitional matters. We also agree with and adopt her assessment of the submissions on Rule 1.2.1's matters of discretion, but find that improvements to her recommended wording can be made to better clarify the guidance to decision-makers and reflect the requirements of Objective 1 and PC18's amended policies.

## **26.3 Farm Biodiversity Plans – Appendix Y**

135. PC18 includes proposed Appendix Y which set out the framework for Farm Biodiversity Plans. We adopt Ms White's summary of submissions on Appendix Y.

136. In response to the issue raised by SPSL (#3)<sup>72</sup> we find that the word "net" should be omitted from the Introduction text and from clause B(3)(a) because of our earlier findings that adverse effects on significant areas must be avoided and that offsetting should be limited to 'non-significant' areas or values.

137. In light of the submissions received and our recommendation to delete Rule 1.2.1 and include the FBP as an 'entry condition' to Rule 1.2.2, as a consequential amendment we have simplified, condensed, clarified and reordered the contents of Appendix Y. In doing

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<sup>71</sup> EIC Wills CRC (#8), para 9.5.

<sup>72</sup> Seeking changes to section B(3)(a) to replace reference to no net loss of "*identified values of significance*" to "*indigenous biodiversity*".

that we have taken note of the fact that condition 1 of Rule 1.2.2 means that the Rule does not enable the clearance of indigenous vegetation within significant areas.

138. In amending Appendix Y we have also reflected on the answers of Federated Farmers representative Angela Johnston to our written questions who advised:

*What we have seen with different processes across the country, is that for gains to be realised, farm plan proposals must lead to realistic, living documents that are meaningful to the farmer, not just tick-box templates that are filled in and then never looked at again.*

*If the farm plan template can be mostly completed by the farmer and is something that is achievable for them to be able to do, with support from experts as required, but not one that requires farmers to spend a fortune or wait years to get access to necessary experts, the tool will remain useful and successful.*

139. We agree that if changes are made to an 'approved' FBP in future, or any indigenous vegetation clearance is proposed that is inconsistent with the 'approved' FBP, then a variation to the original landuse consent will be required.

## **27 Additional policies**

140. This section of our Recommendation Report addresses submissions seeking additional policies that are not otherwise addressed above. We adopt Ms White's summary of submissions on this topic.
141. In response to Glenrock Station (#12) we agree that an additional Policy (now Policy 8) which generally encourages the maintenance and enhancement of indigenous biodiversity is appropriate. However, we find that an additional policy addressing the importance of rural land use is superfluous and not necessary to give effect to amended Objective 1.
142. Mt Gerald (#16) and The Wolds (#17) consider that the MDP should provide for minor works undertaken as part of normal farming activities to occur to ensure that landowners are "*permitted reasonable use of their interest in the land.*" We agree with Ms White that the additional policy sought would be inconsistent with amended Objective 1 because it would allow for significant areas of indigenous vegetation to be cleared for the specified 'day to day' farming activities, regardless of the effects of the that clearance.

## 28 Permitted Activity Rules

143. Rule 1.1.1 as notified permitted the clearance of indigenous vegetation subject to compliance with one or more of eight specified conditions. We adopt Ms White's summary of submissions on this topic.
144. We agree with submitters and Ms White that the conditions of Rule 1.1.1 should not apply conjunctively. We also agree that notified conditions 7 and 8 can be replaced by cross-references to Rule 1.3.2 in the remaining conditions of Rule 1.1.1 (other than condition 1).

### 28.1 Changes sought to condition 1 and additional permitted activities

145. We agree with Ms White, having regard to Mr Harding's technical comments<sup>73</sup> that:
- It would be appropriate to restrict the extent of vegetation clearance to within 2m of the existing fence line or existing road edge;<sup>74</sup>
  - In response to the submission and evidence of Transpower we find that an additional clause 1(b) should be inserted that refers to the operation, maintenance or repair of network utilities given the importance of that infrastructure which often comprises essential community lifelines;
  - It is appropriate to extend the condition to apply to reticulated piping associated with water troughs, as this only allows for maintenance and repair of existing piping (not new piping, or upgrading) and aligns with the other activities for which maintenance and repair is provided;
  - Similarly, it is appropriate to extend the conditions to stock tracks, stock crossings, ponds and dams, as this only allows for maintenance and repair of existing activities on a similar basis to other activities;
  - It is appropriate to provide for the clearance of indigenous vegetation within a Farm Base Area as a permitted activity, as these areas have been surveyed by Mr Harding and the boundaries were set to exclude any areas of significant indigenous vegetation;<sup>75</sup>
  - It is not appropriate to permit vegetation clearance for new or upgraded infrastructure;
  - Allowing for the 'opening up creeks and bogs for drainage' is not appropriate, as it goes beyond maintenance and repair of existing infrastructure;

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<sup>73</sup> Evidence of Mike Harding, paras 72-79.

<sup>74</sup> Evidence of Mike Harding, para 74.

<sup>75</sup> Evidence of Mike Harding, para 79.

- It is not appropriate to provide for clearance of 'mixed' and 'introduced' vegetation. Mr Harding notes that most basin-floor plant communities are degraded and include a high component of exotic species and/or bare ground;<sup>76</sup>
- It is not clear how a standard could be applied to "existing" pastoral intensification or agricultural conversion, as these are land use changes, not ongoing activities; and
- Where the activities identified in Condition 1 are located within an identified waterbody setback, it is appropriate to provide for vegetation clearance associated with their maintenance and repair, as this only provides for clearance in limited circumstances in areas where vegetation is likely to have already been cleared to establish the activity.

146. Consequently, we largely agree with the recommended rewording of Rule 1.1.1 condition 1 as set out in the Section 42A Report.

147. We agree that vegetation clearance within the MDP's water body setbacks, where it is required to install new fencing, should be specified as a restricted discretionary activity. We therefore recommend the inclusion of a new Rule 1.2.3. However, given that the exclusion of stock from waterbodies is a national priority as reflected by the recent promulgation of the Resource Management (Stock Exclusion) Regulations 2020, we consider that the rule initially recommended by Ms White was disproportionately onerous and it can be simplified. We note that at the hearing representatives of The Wolds and Mt Gerald expressed concern about the complexity of the rule contained in the Section 42A Report.

148. In her Reply Report Ms White recommended simplified wording for Rule 1.2.3. We have considered her recommendations when formulating our own recommended wording. However, we do not agree with her recommendation that Rule 1.2.3 should be a controlled activity.<sup>77</sup> There is no evidence before us that fences in the area covered by Rule 1.2.3 should always be granted consent. We find it is important to retain a discretion to decline applications if the merits so justify and consider that a restricted discretionary activity status is sufficient for that purpose.

149. We consider our recommended Rule 1.2.3 to be an appropriate balance between the benefits of protecting indigenous vegetation and costs imposed on landowners.

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<sup>76</sup> Evidence of Mike Harding, para 87 d).

<sup>77</sup> Reply Report, para 65.



150. Regarding Rule 1.2.4 as recommended by Ms White, we note that Rules 5.167 and 5.169 of the Canterbury Land and Water Plan (LWRP) already regulate vegetation clearance adjacent to the beds of rivers, lakes and wetlands. Additionally, LWRP Rules 5.163 to 5.166 regulate the removal and disturbance of existing vegetation in, on or under the bed of a lake or river. Under section 75(4)(a) of the RMA a district plan must not be inconsistent with a regional plan for any matter specified in section 30(1)(c). Section 30(1)(c) functions do not include terrestrial indigenous biodiversity and so we find that the introduction of Rule 1.2.4 would not breach s75(4)(a).
151. We therefore adopt in general terms Ms White's assessment of the submissions addressing the clearance of indigenous vegetation carried out by or on behalf of a local authority for erosion and flood control works, including within the MDP's water body setbacks. However, we note the submission of CRC that Ms White relied on for her recommendation did not actually request a new restricted discretionary activity rule. Instead, it sought an exemption for the CRC statutory erosion and flood control activities by way of a new condition to permitted activity Rule 1.1.1. We therefore recommend the insertion of a condition to that effect in Rule 1.1.1 and have omitted Ms White's recommended Rule 1.2.4.

## **28.2 Changes sought to other conditions in Rule 1.1.1**

152. We agree with Ms White that:
- Condition 2 does not apply to clearance of indigenous vegetation to provide for afforestation;
  - As sought by CRC (#8), notified condition 5, which provided for clearance that was essential for compliance with the Regional Pest Management Strategy, should be omitted;
  - There should be a consistent setback from wetlands in the PC18 rules of 50m.
153. We consequently agree with recommended conditions 2 to 6 as set out in the Section 42A Report.

## **29 Improved Pasture – Rule 1.1.1(6) and related definitions**

154. Condition 6 of Rule 1.1.1 provides for the clearance of indigenous vegetation as a permitted activity where it is within an area of improved pasture. Improved pasture is a defined term in PC18. We adopt Ms White's summary of submissions on these provisions.

155. We endorse the opinion of Mr Harding regarding the validity of concerns raised by the submitters highlighting the ambiguity of the notified definition of “improved pasture”.<sup>78</sup> We respect Mr Harding’s preference to map these areas and include such maps in PC18, but agree with Ms White that it would not be appropriate to do so. The reasons being that the mapping would affect various landowners, who may not have submitted on PC18, and those who are submitters would have limited time in which to comment on or dispute the mapping. In addition, the mapping undertaken so far by Mr Harding only relates to the Mackenzie Basin and therefore excludes areas of improved pasture outside the Basin.

156. We note the opinion expressed by Mr Harding that it is difficult to provide a definition of ‘improved pasture’ that provides certainty and has universal application. Notwithstanding, Mr Harding helpfully recommended a revised definition for our consideration.<sup>79</sup> Other experts suggested alternate definitions,<sup>80</sup> or the use of alternative nomenclature

157. As we have discussed above, we have given prominence to the requirement for plans to give effect to any national policy statement<sup>81</sup>. We are mindful that the NPSFM contains<sup>82</sup> a definition for “improved pasture” as follows:

*improved pasture means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.*

158. We understand from legal submissions provided to us that, as a matter of good planning practice and in order to avoid inconsistency with higher level planning instruments, the NPSFM definition of improved pasture should be applied where the context is appropriate.<sup>83</sup>

159. We also note that the same definition of ‘improved pasture’ appears in the draft NPSIB. We have stated earlier that the NPSIB is a draft, has no legal standing and it is not determinative. However, we consider that the use of the same definition for ‘improved

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<sup>78</sup> Evidence of Mike Harding, paras 101-106.

<sup>79</sup> Evidence of Mike Harding, para 112.

<sup>80</sup> Evidence of Peter Espie Mt Gerald (#16) and The Wolds (#17), para 46.

<sup>81</sup> RMA, section 75(3)(a).

<sup>82</sup> NPSFM, section 3.21(1)

<sup>83</sup> Legal submissions of Forest and Bird, para 8; and EDS, para 6.

pasture' in the operative NPSFM and the draft NPSIB demonstrates a clear intent to achieve consistency of the definition across those national planning instruments.

160. Additionally, and importantly, we consider our recommendation to include the full extent of naturally rare ecosystems (moraines and inland alluvial outwash gravels<sup>84</sup>) in PC18, along with the provisions of Rule 1.2.3, to be an appropriate balance between the benefits of protecting indigenous vegetation and requirements for landowners.
161. Accordingly, we were not persuaded that the context for the definition of 'improved pasture' in the MDP is sufficiently different that an alternative or a more stringent definition is necessary or indeed helpful, and we have adopted the definition for improved pasture as set out in the NPSFM for the reasons set out above.

### **30 Rule 1.2.2**

162. Rule 1.2.2 also provides a restricted discretionary activity status for indigenous vegetation clearance of up to 5,000m<sup>2</sup>, within any site, in any 5-year continuous period. This excludes clearance within SONS; land above 900m in altitude; or within specified distances of various waterbodies.
163. We adopt Ms White's summary of submissions on this rule.
164. In section 26.2 of this Recommendation Report we found that Rule 1.2.1 should be deleted and the requirement for a FBP should be included as an 'entry condition' to Rule 1.2.2. We consider that will address the concern of Forest & Bird (#20) that it is not clear if Rule 1.2.2 provides for additional clearance to what may be provided for by a resource consent obtained under Rule 1.2.1.
165. We agree that Rule 1.2.2 requires a spatial limit as well as a temporal limit (the once in 5 years provision). Various submissions sought a range of spatial limits including retention of a reference to site or constraining the activity to a single property or area of 100 hectares. In her Reply Report Ms White recommended<sup>85</sup> an additional area limitation of "per 100 ha where a site is greater than 100 ha" and we find that to be an appropriate balance between the benefits of protecting indigenous vegetation and the costs imposed on landowners.

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<sup>84</sup> Map 2 in Appendix 5 of evidence of Mr Head.

<sup>85</sup> Reply Report, para 40.

166. We have assessed the submissions on the matters of discretion in Rules 1.2.1 and 1.2.2 together with Ms White's various recommendations and have recommended amendments that we find improve the clarity and certainty of the provisions in Rule 1.2.2.
167. We were also persuaded by the evidence of Dr Walker, Mr Head and Rosalie Snoyink and Liz Weir representing the Mackenzie Guardians that 'edge effects' were a matter that should be considered by decision-makers and so we have included that as a matter of discretion in Rule 1.2.2.

### **31 Non-complying Activity Rule (Rules 1.3.1 and 1.3.2)**

168. We adopt Ms White's summary of submissions on these rules.
169. We consider that Rule 1.3.1 can be simplified to refer to any indigenous vegetation clearance not categorised as a Permitted Activity or Restricted Discretionary Activity.

### **32 Rule 12 - Section 7**

170. PC18 proposes to delete the rules in Section 7 relating to the clearance of vegetation clearance which are contained in Rule 12. However, because Rule 12.1.1.a applies to vegetation clearance in riparian areas and this applies to any vegetation clearance, not just indigenous vegetation, PC18 does not propose to delete this part of Rule 12.
171. We adopt Ms White's summary of submissions on this rule.
172. We agree with Ms White that it is appropriate to make it clear that Rule 12.1.1 does not apply to indigenous vegetation. We also agree with submitters<sup>86</sup> that it is appropriate to retain a discretionary rule so that the activity status currently applying to activities which do not meet Rule 12.1.1.a is retained.
173. We, along with some submitters, were confused by Rule 12.1.1 because it purported to relate to the clearance of non-indigenous vegetation but its only conditions related to riparian vegetation. We asked Ms White to address this in Reply. She advised that she did not share those concerns, as in her opinion provided the clearance is outside the specified riparian areas, the conditions of Rule 12.1.1.a will be met and therefore the clearance will be permitted under 12.1.1. However, for the avoidance of doubt, she recommended amending Rule 12.2.1 to refer explicitly to non-compliance with the standards in 12.2.1.a.<sup>87</sup> we find that to be appropriate.

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<sup>86</sup> Including CRC (#8) and OWL (#14).

<sup>87</sup> Reply Report, para 8.

174. We find that changes sought by CRC (#8), OWL (#14), Transpower (further submission), Mt Gerald (#16) and The Wolds (#17) to various parts of Rule 12.1.1 that PC18 does not propose to amend are out of scope – they are not ‘on’ PC18.

### 33 Definitions

175. We adopt Ms White’s summary of submissions on the definitions.

#### 33.1 Biodiversity (or biological diversity)

176. We recommend the definition of Biodiversity (or biological diversity) is amended as set out in the Section 42A Report.

#### 33.2 Indigenous Vegetation

177. We agree with submitters<sup>88</sup> and Ms White that it is appropriate for the definition to define what comprises indigenous vegetation. Any exemptions should be contained within the relevant rules.
178. We accept the evidence of Mr Harding, he having carefully considered the submissions on this definition in our view, that the definition should read: *“Means a community of vascular plants, mosses and/or lichens that includes species native to the ecological district. The community may include exotic species.”*
179. We find his reasoning, as set out below, to be persuasive:
- “community” means that it cannot be a single native plant species in exotic vegetation.
  - “vascular plants, mosses and/or lichens” ensures that the definition includes non-vascular species (such as mosses) and lichens, which are an important component of native plant communities in the Mackenzie Basin.
  - “native to the ecological district” means that the plant species must be native to the area, which is important because some native species are weedy outside their natural range. He also notes that ‘Ecological Districts’ are already defined and mapped.
  - Inclusion of “exotic species” is not essential but is important in the context of the Mackenzie Basin.<sup>89</sup>

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<sup>88</sup> Mackenzie Guardians (#6), CRC (#8), EDS (#9), DOC (#18), Forest & Bird (#20).

<sup>89</sup> Evidence of Mike Harding, paras 88-89.

180. In her Reply Report Ms White, based on the Mr Harding's advice, noted that the definition of 'indigenous vegetation' recommended by her in the Section 42A Report might include plant communities that are heavily modified by exotic plants such as dense wilding pine, broom or gorse infestations. Mr Harding suggested that this could be addressed by providing for that type of vegetation to be cleared, so long as it did not result in the clearance of associated indigenous plant species. Ms White accordingly recommended that exemptions be added to the definition of 'indigenous vegetation'. We find that to be appropriate and we recommend accordingly.

### 33.3 Vegetation Clearance

181. The MDP already contains a definition for "*vegetation clearance*". It is proposed through PC18 to amend it as follows:

*Means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, or burning or irrigation. Clearance of vegetation shall have the same meaning.*

182. We note that CRC (#8) supports the definition being amended to include irrigation as a method of vegetation clearance. In that regard Mr Harding stated that irrigation is an important, if not essential, activity to effectively convert vegetation to exotic pasture or crops, especially in the drier eastern part of the Mackenzie Basin. He noted that while other methods (e.g. top dressing, direct drilling) will introduce exotic pasture or crop species, they will not necessarily displace all indigenous species, and land subject to these activities will frequently still provide habitat for indigenous fauna. He also noted that often, the application of water is required to complete the conversion.<sup>90</sup>
183. In the Reply Report Ms White recommended omitting the word "irrigation" from the definition because in the Mackenzie Basin, irrigation was already controlled through the MDP's Section 15A rules and an application made under those rules also allows for consideration against the PC18 policy framework.<sup>91</sup> We are not persuaded that is appropriate and prefer the evidence of Mr Harding on this matter.
184. On the evidence we find that the word "irrigation" should be included in the definition.

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<sup>90</sup> Evidence of Mike Harding, para 97.

<sup>91</sup> Reply Report, para 52.

185. We accept the advice of Mr Harding that artificial drainage, overplanting, oversowing and topdressing can result in the clearance or modification of vegetation.<sup>92</sup> We find that those activities should also be included within the definition.
186. Having said that, we also accept the evidence of the Wolds and Mt Gerald that oversowing and top dressing (OS&TD) has occurred extensively over existing farmed land in the past and regular maintenance fertiliser applied to such land does not have the same adverse effects that OS&TD has on undeveloped land has.<sup>93</sup>
187. In his Reply Report Mr Harding noted that there are areas in the Mackenzie Basin that have vegetation comprising scattered tussocks and/or matagouri, but is otherwise dominated by exotic pasture species. These areas did not appear to have been cultivated, though the vegetation had clearly been modified by ongoing pastoral use; most likely by regular OS&TD and grazing. Mr Harding considered that at these locations, a continuation of OS&TD and grazing might have only minor adverse effects on indigenous biodiversity and may actually favour the continued growth of some indigenous species, such as tussocks or matagouri.<sup>94</sup>
188. Consequently, we find that the references to “*oversowing, topdressing or overplanting*” in the definition of vegetation clearance should be confined to land that is not improved pasture. We find that to be an appropriate balance between the benefits of protecting indigenous vegetation and the costs imposed on landowners.
189. We agree with Ms White that there are difficulties with adding ‘grazing’ to the definition as this would capture any grazing that might modify vegetation and would therefore extend beyond the particular types of intensive grazing that Mr Harding considers may require control in order to protect indigenous biodiversity. However, we accept the evidence of Ms Ching that the definition should refer to the practice of intensive grazing commonly known in the district as “mobstocking”.<sup>95</sup> In her Reply Report Ms White recommended a definition for mobstocking that was based on the advice of Mr Harding and we recommend its inclusion.<sup>96</sup>

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<sup>92</sup> Evidence of Mike Harding, paras 93-95.

<sup>93</sup> EIC John Murray The Wolds (#17), para 8.

<sup>94</sup> Harding Reply Report, para 44.

<sup>95</sup> EIC Amelia Ching DOC (#18), para 74.

<sup>96</sup> Reply Report, para 55.

### 34 New definitions

190. Other than as addressed earlier in this Recommendation Report, we adopt Ms White's summary of submissions seeking new definitions.
191. We agree with submitters<sup>97</sup> and Ms White that providing a definition for no net loss would usefully help guide consideration of resource consent applications. In order to give effect to Section 75(3)(c) of the RMA we find that the CRPS definition should be adopted for that purpose.
192. EDS (#9) seeks that a definition is added for 'maintenance'. However, given our recommended rewording of what will now be Policy 3 (previously Policy 9) we do not consider that to be necessary.

### 35 Miscellaneous Matters

193. This section of our Recommendation Report deals with submission points that do not relate to a particular provision and have not otherwise been addressed in the broader topics covered earlier.
194. Maryburn Station (#2) considers that MDC needs to acknowledge how landowners are going to be compensated financially for "loss of land", given the benefits to the wider public through constant plan changes. We find that to be outside the scope of a district plan.
195. Maryburn Station (#2) considers that the policy framework should "*recognise that invariably analysis is more conceptual and provision should be made to recognise that these [significant] areas may include areas which are able to be cleared*". We find that would not give effect to our recommended Objective 1 or to section 6(c) of the RMA.
196. C Burke (#4) seeks that all consents issued by all agencies including MDC are "*logged and reviewed*" and their combined impacts taken into account, so that the effectiveness of protection measures can be checked. We find that to be outside the scope of PC18, as it relates to the MDC's executive functions associated with monitoring and enforcement.
197. C Burke (#4), in addition to comments on specific provisions seeks that "*Intent to have no further loss of landscape, landforms, functional ecosystems, flora and fauna should be clearly stated*". She also seeks: strong definitions; clear strong rules; peer reviewed

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<sup>97</sup> Including EDS (#9), DOC (#18) and Forest & Bird (#20).



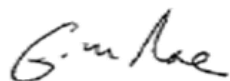
and independent identification of indigenous biodiversity values; robust and independent monitoring of consents with national oversight; ability for Council to request a consent is ceased if identified by error or omission the intent to protect is breached or likely to be breached; clearly set out how compliance is to be achieved and penalties for breaches.

198. We agree with Ms White that, to the extent that PC18 should address these matters, they are already provided for.
199. Maryburn Station (#2) seeks that objectives and policies are amended to recognise the importance of re-establishing vegetation cover of bare soil to avoid, remedy or mitigate the effects of soil loss. SPSL (#3) also considers that the provisions within the plan change should be amended to recognise the issues associated with land at risk of significant soil erosion. We agree with Ms White that PC18 is focused on management of indigenous biodiversity and not soil erosion.

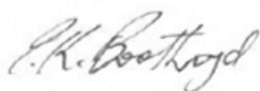
### **36 Evaluations and Recommendations**

200. We have considered and deliberated on the submissions lodged on PC 18 and the reports, evidence and submissions made and given at our public hearing. In making our recommendations on the submissions we have sought to comply with all applicable provisions of the RMA. The relevant matters we have considered, and our reasons for them, are summarised in the main body of this Recommendation Report. We are satisfied that our recommendations are the most appropriate for achieving the purpose of the RMA and for giving effect to the higher-order instruments.
201. Pursuant to the powers delegated to us by the Mackenzie District Council under section 34A of the Resource Management Act 1991 we recommend rejecting or accepting submissions on PC 18 as set out in Appendix A. We recommend the resultant amended District Plan text set out in Appendix B.

202. Appendix C contains a 'tracked changes' version of the notified provisions of PC18 showing how they would be amended by our recommendations.



Gary Rae



Dr Ian Boothroyd



Robert van Voorthuysen (Chair)

**Dated: 12 April 2021**

## Appendix A Recommendations on Submissions

In addition to the primary submissions making the requests listed in this schedule, the MDC received further submissions in support of, or opposition to, those primary submissions. To the extent that the further submissions are not identified directly in this Appendix, we recommend that they are accepted or rejected according to our recommendations for accepting or rejecting the corresponding primary request.			
Submission No.	Name/Organisation	Request	Recommendation
<b>Submissions on Plan Change 18 as a Whole</b>			
2	Maryburn Station	Identify significant indigenous vegetation	Accept in part
2	Maryburn Station	Oppose need to provide for compensation for loss of land	Reject
3	SPSL	Ensure references are to Indigenous biodiversity	Accept
9	EDS	Need to map all SONS, need to recognise overlap between biodiversity, ecological and landscape values, need strong policy showing rules apply in other parts of the Plan	Accept in part
15	PTHL	Approval of a Farm Biodiversity Plan should be enabled and approval should not require resource consent.	Reject
16	Mt Gerald	Modify PC18 as set out in Primary Relief 3.1.1-3.1.7	Accept in part
17	The Wolds	Modify PC18 as set out in Primary Relief 3.1.1-3.1.7	Accept in part
19	BLINZ	Approval of a Farm Biodiversity Plan should be enabled and approval should not require resource consent.	Reject
21	Marion Seymour	The Plan Change does not distinguish between the Basin and Gorge Runs which have very different terrain, land cover, rainfall etc. Weed type species spread very quickly and cause problems for stock so need clearing	Reject
<b>Submissions on the whole of Section 19</b>			
16	Mt Gerald	Change heading to Vegetation Clearance	Reject
16	Mt Gerald	Add Appendix Z with criteria for determining significant indigenous vegetation	Reject
16	Mt Gerald	Add Appendix ZA with off-setting detail	Reject
17	The Wolds	Change heading to Vegetation Clearance	Reject
17	The Wolds	Add Appendix Z with criteria for determining significant indigenous vegetation	Reject
17	The Wolds	Add Appendix ZA with off-setting detail	Reject
<b>Submissions on Biodiversity Objectives 1,2 and 3 and new Objectives</b>			
1	FFNZ	Support	Accept in part

## Appendix A Recommendations on Submissions

2	Maryburn Station	Recognise specific identified protected areas and establishing vegetation cover to avoid or remedy soil loss	Reject
4	C Burke	Objective 1 to refer to all remaining indigenous biodiversity	Accept in part
6	Mackenzie Guardians Inc.	Objective 3 support with amendments to include ONL	Reject
8	CRC	Rewrite to clarify listed matters	Accept in part
8	CRC	Objective 1 - Amend to refer to significant habitats of indigenous fauna	Accept in part
8	CRC	Objective 2 - Delete	Accept
9	EDS	Amend to clarify that two limbs in the objective	Accept in part
9	EDS	Objective 3 - Amend	Accept in part
10	Hermann Frank	Objective 3 - reword	Reject
11	Genesis	Add new objective for Waitaki Power Scheme	Accept
11	Genesis	Objective 1 - Amend	Accept in part
11	Genesis	Objective 2 - Amend	Accept in part
12	Glenrock Station Limited	Objectives 2 & 3 - Amend	Accept in part
13	Meridian	Add new objective for Waitaki Power Scheme	Accept
13	Meridian	Objective 1 - Amend	Accept in part
13	Meridian	Objective 2 - Amend	Accept in part
16	Mt Gerald	Replace Objective 1	Accept in part
16	Mt Gerald	Replace Objective 2	Accept in part
16	Mt Gerald	Replace Objective 3	Accept in part
17	The Wolds	Replace Objective 1	Accept in part
17	The Wolds	Replace Objective 2	Accept in part
17	The Wolds	Replace Objective 3	Accept in part
18	DOC	Objective 3 Amend	Accept in part
20	Forest and Bird	Split Objective 1 into two separate objectives	Accept in part

## Appendix A Recommendations on Submissions

20	Forest and Bird	Objective 3 - delete	Accept
<b>Submissions on Biodiversity Policies</b>			
1	FFNZ	Support	Accept in part
2	Maryburn Station	Recognise specific identified protected areas and establishing vegetation cover to avoid or remedy soil loss	Reject
3	SPSL	New policy needed to recognise response to soil erosion.	Reject
8	CRC	Rewrite to clarify listed matters	Accept in part
12	Glenrock Station Limited	Add new policies 4A and 5A	Accept in part
16	Mt Gerald	Add new policy for minor works	Accept in part
17	The Wolds	Add new policy for minor works	Accept in part
18	DOC	Add new policy protect significant values	Accept in part
<b>Submissions on Biodiversity Policy 1</b>			
7	Fish & Game	Amend to refer to CRPS criteria	Accept
9	EDS	Amend and include map of biodiversity/ecological connectivity	Accept in part
11	Genesis	Amend	Accept in part
13	Meridian	Amend	Accept in part
16	Mt Gerald	Amend Policy 1	Accept in part
17	The Wolds	Amend Policy 1	Accept in part
18	DOC	Amend	Accept in part
20	Forest and Bird	Amend	Accept in part
<b>Submissions on Biodiversity Policy 2</b>			
8	CRC	Replace policy	Accept in part
9	EDS	Replace Policy 2 with Policies 2A and 2B	Accept in part
11	Genesis	Amend and add new Policy 2A	Accept in part
13	Meridian	Amend and add new Policy 2A	Accept in part
16	Mt Gerald	Replace Policy 2	Accept in part
17	The Wolds	Replace Policy 2	Accept in part

## Appendix A Recommendations on Submissions

18	DOC	Amend	Accept in part
20	Forest and Bird	Amend	Accept in part
<b>Submissions on Biodiversity Policy 3</b>			
4	C Burke	Amend to exclude indigenous vegetation clearance	Reject
7	Fish & Game	Amend to clarify that areas identified as significant are protected	Accept
8	CRC	Minor rewording	Accept in part
9	EDS	Amend	Accept in part
16	Mt Gerald	Amend Policy 3	Accept in part
17	The Wolds	Amend Policy 3	Accept in part
18	DOC	Amend	Accept in part
20	Forest and Bird	Delete	Accept
<b>Submissions on Biodiversity Policy 4</b>			
7	Fish & Game	Amend to include all wetlands	Reject
9	EDS	Amend	Reject
16	Mt Gerald	Delete Policy 4	Accept
17	The Wolds	Delete Policy 4	Accept
<b>Submissions on Biodiversity Policy 5</b>			
4	C Burke	Remove provision for offsetting	Accept
6	Mackenzie Guardians Inc.	Support in part - Off-setting should not be first option	Accept
7	Fish & Game	Oppose offsetting	Accept
8	CRC	Rewording to reflect priorities for management	Accept in part
9	EDS	Delete and Replace Policy 5	Accept in part
10	Hermann Frank	Reword	Reject
16	Mt Gerald	Replace Policy 5	Accept in part
17	The Wolds	Replace Policy 5	Accept in part
18	DOC	Delete and replace Policy 5	Accept in part
20	Forest and Bird	Delete	Accept in part
<b>Submissions on Biodiversity Policy 6</b>			

## Appendix A Recommendations on Submissions

4	C Burke	Remove provision for offsetting	Reject
6	Mackenzie Guardians Inc.	Support in part - Off-setting should not be first option	Accept in part
7	Fish & Game	Oppose offsetting	Reject
9	EDS	Delete and Replace Policy 6	Reject
14	OWL	Amend	Accept in part
16	Mt Gerald	Replace Policy 6	Accept in part
17	The Wolds	Replace Policy 6	Accept in part
18	DOC	Amend	Accept in part
20	Forest and Bird	Amend	Accept in part
<b>Submissions on Biodiversity Policy 7</b>			
9	EDS	Delete and Replace Policy 7	Reject
11	Genesis	Amend	Accept in part
12	Glenrock Station Limited	Add new Policy 7A	Reject
13	Meridian	Amend	Accept in part
14	OWL	Amend	Accept in part
<b>Submissions on Biodiversity Policy 8</b>			
8	CRC	Minor rewording	Accept in part
9	EDS	Amend	Accept in part
12	Glenrock Station Limited	Amend	Accept in part
18	DOC	Amend	Accept in part
20	Forest and Bird	Delete heading and amend policy 8	Accept in part
16	Mt Gerald	Combine policies 8 & 9	Accept in part
17	The Wolds	Combine policies 8 & 9	Accept in part
<b>Submissions on Biodiversity Policy 9</b>			
9	EDS	Amend	Accept in part
12	Glenrock Station Limited	Amend	Accept in part
16	Mt Gerald	Delete Policy 9	Accept

## Appendix A Recommendations on Submissions

17	The Wolds	Delete Policy 9	Accept
18	DOC	Amend	Accept in part
20	Forest and Bird	Delete heading	Accept
<b>Submissions on Biodiversity Rules Vegetation clearance excluding Waitaki Power Scheme</b>			
7	Fish & Game	Amend so springs also protected from veg clearance	Reject
18	DOC	Amend by specifying precedence of the rules	Reject
<b>Submissions on Biodiversity Rules - Permitted Activities excluding Waitaki Power Scheme</b>			
1	FFNZ	Amend to include piping network	Accept
2	Maryburn Station	Rule 1.1.1 needs clarification	Accept in part
3	SPSL	Rule 1.1.1 needs clarification re conditions	Accept in part
4	C Burke	Delete 1.1.1(6) Confusing and unnecessary	Accept in part
4	C Burke	1.1.1(7) Amend to exclude all valuable areas	Accept in part
5	Colin John Morris	Delete 1.1.1(6)	Accept
6	Mackenzie Guardians Inc.	Oppose rule 1.1.1(6) Clearer definition needed	Accept in part
8	CRC	Clarify that conditions 7 and 8 must be met, delete condition 5, and reword	Accept
9	EDS	Rule 1.1.1 Add maximum clearance cap or similar parameters, delete 1.1.1(6)	Accept in part
16	Mt Gerald	Rule 1.1.1 Amend conditions	Accept in part
17	The Wolds	Rule 1.1.1 Amend conditions	Accept in part
18	DOC	Rule 1.1.1.6 Amend to require improved pasture to be identified	Reject
20	Forest and Bird	Rule 1.1.1 Amend condition 1 and 2 and delete condition 6	Accept in part
21	Marion Seymour	Rule 1.1.1 add in stock tracks	Accept
<b>Submissions on Biodiversity Rules - Restricted Discretionary Activities excluding Waitaki Power Scheme</b>			
4	C Burke	Oppose should be no indigenous veg clearance	Reject
8	CRC	Rule 1.2.1 Include reference to farming operation	Accept in part
8	CRC	Rule 1.2.2 reword and add matters of discretion	Accept in part
9	EDS	Rule 1.2.1 amend by adding matters of discretion	Accept in part
9	EDS	Rule 1.2.2 amend by adding matters of discretion	Accept in part
10	Hermann Frank	Rule 1.2.2 - change 100m2 to 1000m2 and consequentially Rule 1.3.1	Reject



## Appendix A Recommendations on Submissions

12	Glenrock Station Limited	Rule 1.2.1 Amend matters of discretion	Accept in part
16	Mt Gerald	Rule 1.2.1 change activity status to controlled, amend conditions, and replace matters of control	Reject
16	Mt Gerald	Rule 1.2.2 change activity status to restricted discretionary, amend conditions, and replace matters of control	Reject
17	The Wolds	Rule 1.2.1 change activity status to controlled, amend conditions, and replace matters of control	Reject
17	The Wolds	Rule 1.2.2 change activity status to restricted discretionary, amend conditions, and replace matters of control	Reject
18	DOC	Rule 1.2.1 Amend	Accept in part
18	DOC	Rule 1.2.2 Amend	Accept in part
20	Forest and Bird	Rule 1.2.1 Delete	Accept
20	Forest and Bird	Rule 1.2.2 Amend matters of discretion	Accept in part
<b>Submissions on Biodiversity Rules - Discretionary Activities excluding Waitaki Power Scheme</b>			
8	CRC	Rule 1.3.1 reword	Accept in part
16	Mt Gerald	Rule 1.3.1 include a per 100 ha ratio & amend condition 3	Reject
17	The Wolds	Rule 1.3.1 include a per 100 ha ratio & amend condition 3	Reject
20	Forest and Bird	Amend introductory words	Accept in part
<b>Submissions on Biodiversity Rules Vegetation clearance in Waitaki Power Scheme - Permitted Activities</b>			
9	EDS	Insert controls on extent of permitted clearance	Accept in part
11	Genesis	Support	Accept in part
11	Genesis	Rule 2.1.2 - Amend	Accept in part
11	Genesis	Rule 2.1 Add new permitted activity	Accept in part
13	Meridian	Support	Accept in part
13	Meridian	Rule 2.1.2 - Amend	Accept in part
13	Meridian	Rule 2.1 Add new permitted activity	Accept in part
14	OWL	Rules 2.1.1, 2.2.1 & 2.3.1 Add reference to Opuha Scheme	Accept in part
<b>Submissions on Biodiversity Rules Vegetation clearance in Waitaki Power Scheme - Restricted Discretionary Activities</b>			

## Appendix A Recommendations on Submissions

8	CRC	Rule 2.2.1(b) add matters of discretion	Accept in part
11	Genesis	Rule 2.2 - Delete	Reject
11	Genesis	Rule 2.3 - Amend and add new rule	Accept in part
13	Meridian	Rule 2.2 - Delete	Reject
13	Meridian	Rule 2.3 - Amend and add new rule	Accept in part
<b>Submissions on Appendix Y - Farm Biodiversity Plan Framework</b>			
1	FFNZ	Support	Accept in part
3	SPSL	B3(a) should refer to no net loss of indigenous biodiversity	Reject
4	C Burke	Include historic and current consents	Reject
6	Mackenzie Guardians Inc.	Support with clear definition of improved pasture	Accept in part
9	EDS	Various amendments	Accept in part
12	Glenrock Station Limited	Amend Introduction, Description of Property and Values and add new Management Methods	Accept in part
16	Mt Gerald	Insert new condition and amend section C(1), delete c(3), amend Section D	Accept in part
17	The Wolds	Insert new condition and amend section C(1), delete c(3), amend Section D	Accept in part
18	DOC	Amend to clarify the FBP functions the same as conditions on a consent.	Accept in part
20	Forest and Bird	Amend to address concerns in submission	Accept in part
<b>Submissions on Definitions</b>			
2	Maryburn Station	Improved pasture - amend to include all existing pasture sown in exotic species.	Accept in part
5	Colin John Morris	Amend "improved pasture" definition as ambiguous	Accept in part
6	Mackenzie Guardians Inc.	Improved pasture - amend definition to avoid loopholes	Accept in part
6	Mackenzie Guardians Inc.	Indigenous vegetation - should include exclusions e.g. domestic garden	Accept in part
7	Fish & Game	Improved pasture - clarify what areas this applies to	Accept in part
8	CRC	Farming Enterprise - reword	Accept in part
8	CRC	Indigenous vegetation - Amend	Accept in part
8	CRC	Improved pasture - Amend	Accept in part
9	EDS	Improved pasture - delete	Reject
9	EDS	Indigenous vegetation - delete	Reject

## Appendix A Recommendations on Submissions

9	EDS	add definition of "maintenance"	Reject
9	EDS	add definition of "no net loss"	Accept
9	EDS	add definition of "biodiversity offsetting"	Accept
9	EDS	add definition of "Site of Natural Significance"	Accept
10	Hermann Frank	Vegetation clearance - reword	Accept in part
11	Genesis	Waitaki Power Scheme - amend definition	Reject
11	Genesis	Maintenance of Waitaki Power Scheme - delete and replace with definition of Waitaki Power Scheme Activities	Reject
11	Genesis	Add new definition of Waitaki Power Scheme Management Area	Reject
11	Genesis	Refurbishment -delete and replace with definition of Waitaki Power Scheme Activities	Reject
11	Genesis	Indigenous Vegetation - amend or change rules 1.1,2.1 and 2.3	Accept in part
12	Glenrock Station Limited	Improved Pasture - Amend	Accept in part
12	Glenrock Station Limited	Indigenous Vegetation - support if amend improved pasture definition	Accept in part
13	Meridian	Waitaki Power Scheme - amend definition	Reject
13	Meridian	Maintenance of Waitaki Power Scheme - delete and replace with definition of Waitaki Power Scheme Activities	Reject
13	Meridian	Add new definition of Waitaki Power Scheme Management Area	Reject
13	Meridian	Refurbishment -delete and replace with definition of Waitaki Power Scheme Activities	Reject
13	Meridian	Indigenous Vegetation - amend or change rules 1.1,2.1 and 2.3	Accept in part
14	OWL	Maintenance of Waitaki Power Scheme - by adding reference to Opuha	Accept
<b>Submissions on Definitions</b>			
14	OWL	Refurbishment -amend by adding reference to Opuha	Accept in part
14	OWL	Add definition of "Opuha Scheme"	Accept
14	OWL	Operating Easement - amend	Reject
16	Mt Gerald	Improved Pasture - Amend	Accept in part
16	Mt Gerald	Indigenous vegetation - Amend to include minor element of exotic vegetation	Accept
16	Mt Gerald	Add new definition of "Significant indigenous vegetation"	Accept in part
16	Mt Gerald	Vegetation clearance - delete reference to irrigation	Reject

## Appendix A Recommendations on Submissions

17	The Wolds	Improved Pasture - Amend	Accept in part
17	The Wolds	Indigenous vegetation - Amend to include minor element of exotic vegetation	Accept
17	The Wolds	Add new definition of "Significant indigenous vegetation"	Accept in part
17	The Wolds	Vegetation clearance - delete reference to irrigation	Reject
18	DOC	Add definition of "Biodiversity Offset"	Accept
18	DOC	Improved Pasture - Amend to refer to Planning Maps	Reject
18	DOC	Add definition of "No net loss"	Accept
20	Forest and Bird	Biodiversity - Amend to match RMA definition	Accept in part
20	Forest and Bird	Improved Pasture - delete definition	Accept in part
20	Forest and Bird	Add definition of "no net loss"	Accept
20	Forest and Bird	Indigenous Vegetation - Amend	Accept in part
7	Fish & Game	Vegetation clearance - need to clarify to cover indigenous	Accept in part
18	DOC	Indigenous vegetation - Amend	Accept in part
18	DOC	Add definition of "Significant Indigenous Vegetation or Habitat"	Accept
<b>Submissions on Rural Rules</b>			
8	CRC	Rule 12.1.1 Remove exemption in (ii) and notes	Reject
8	CRC	Rule 12.1.1 Reword	Reject
10	Hermann Frank	Rule 12.1.1 to apply only to non-indigenous vegetation	Reject
14	OWL	Rule 12.1.1.a - Add new clauses relating to the Opuha Scheme	Reject
16	Mt Gerald	Rule 12.1.1.a - modify riparian standards, add and/or modify exemptions	Reject
17	The Wolds	Rule 12.1.1.a - modify riparian standards, add and/or modify exemptions	Reject
20	Forest and Bird	Change Riparian Margin to Area	Reject

## Appendix B Amended Provisions

**SECTION 3 - DEFINITIONS**

**Biodiversity (or biological diversity):** means the variability among living organisms and the ecological complexes of which they are a part, including diversity within species, between species and of ecosystems.

**Biodiversity offset:** means a measurable conservation outcome resulting from actions which are designed to compensate for significant residual adverse effects on indigenous biodiversity arising from human activities after all appropriate prevention and mitigation measures have been taken. The goal of a biodiversity offset is to achieve no net loss and preferably a net gain of indigenous biodiversity on the ground with respect to species composition, habitat structure and ecosystem function. They typically take the form of binding conditions associated with resource consents and can involve bonds, covenants financial contributions and biodiversity banking.

**Farming Operation:** means an area of land, including 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.

**Improved Pasture:** means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.

**Indigenous Vegetation:** means a community of vascular plants, mosses and/or lichens that includes species native to the ecological district. The community may include exotic species, but does not include vegetation that has been planted as part of a domestic garden, for amenity purposes or as a shelterbelt, or exotic woody pest plants.

**Mobstocking:** means confining livestock in an area in which there is insufficient feed and in a way that results in the removal of all or most available vegetation.

**No net loss:** means, in relation to indigenous biodiversity, no reasonably measurable overall reduction in:

- 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

**Significant indigenous vegetation and significant habitats of indigenous fauna:** means areas of indigenous vegetation or habitats of indigenous fauna which:

- a) meet the criteria listed in the Canterbury Regional Policy Statement's Policy 9.3.1 and Appendix 3; or
- b) are listed in Appendix I as a Site of Natural Significance; and

## Appendix B Amended Provisions

- 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.*

**Vegetation Clearance:** *means the felling, clearing or modification of trees or any vegetation by cutting, crushing, cultivation, spraying, burning, irrigation, artificial drainage, and mob stocking. It includes oversowing, topdressing or overplanting on land that is not **improved pasture**. Clearance of vegetation shall have the same meaning.*

**Waitaki Power Scheme:** *means the electricity generation activities in the Waitaki River Catchment including the structures, works, facilities, components, plant and activities undertaken to facilitate and enable the generation of electricity from water. It includes power stations, dams, weirs, control structures, penstocks, canals, tunnels, siphons, spillways, intakes, storage of goods, materials and substances, switchyards, fish and elver screens and passes, booms, site investigation works, erosion and flood control, access requirements (including public access), jetties, slipways and landing places, signs, earthworks, monitoring, investigation and communication equipment and transmission network.*

**Opuha Scheme:** *means the electricity generation activity associated with the Opuha Dam and power station (including the regulating pond and downstream weir) and all structures, works, facilities, components, plant and activities undertaken to facilitate that generation.*

**Maintenance of Waitaki Power Scheme, Opuha Scheme or National Grid:** *means undertaking work and activities, including erosion control works, necessary to keep the infrastructure operating at an efficient and safe level.*

**Refurbishment of Waitaki Power Scheme Opuha Scheme or National Grid:** *means the upgrade or renewal (to gain efficiencies in generating and transmitting electricity) of machinery, buildings, plant, structure, facilities, works or components and operating facilities associated with the infrastructure.*

**Core Sites:** *means land owned by Genesis Energy or Meridian Energy that is managed for hydro generation purposes associated with the Waitaki Power Scheme.*

**Operating Easement:** *means land Genesis Energy or Meridian Energy has an operating easement over. The purpose of this easement is to provide for activities to be undertaken by Genesis Energy or Meridian Energy as part of the management of the hydro facilities associated with the Waitaki Power Scheme. destruction*



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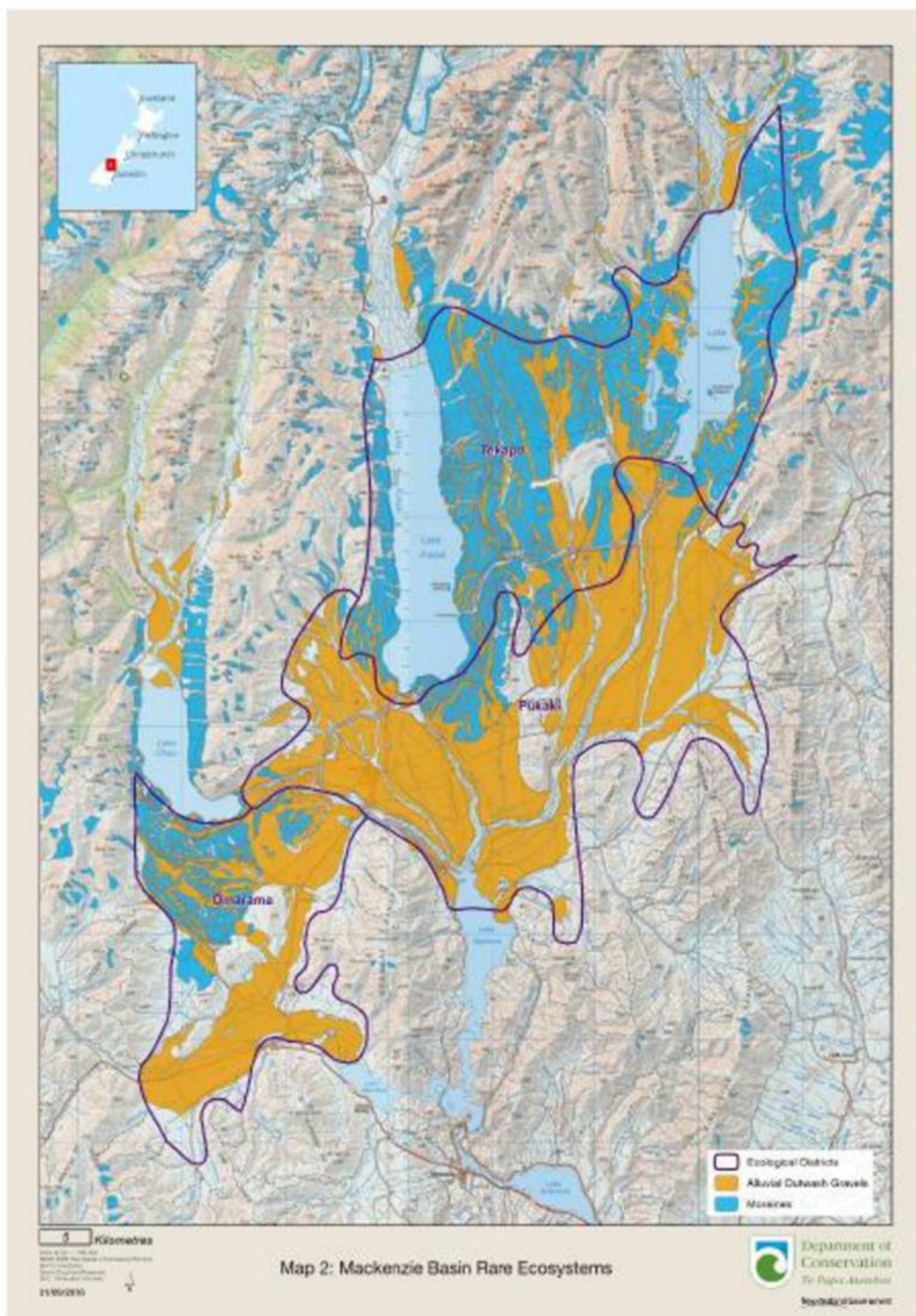


Figure One: Mackenzie Basin alluvial outwash and moraine ecosystems

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**SECTION 7 – RURAL ZONE RULES****12 NON-INDIGENOUS VEGETATION CLEARANCE**

Note: This rule applies to the clearance of non-indigenous vegetation. Clearance of indigenous vegetation is controlled in Section 19 of this Plan.

**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:

**12.1.1.a Riparian Areas**

Clearance of vegetation shall not exceed 100m<sup>2</sup> per hectare in any continuous period of 5 years

- within 20m of the bank of the main stem of any river listed in Schedule B to the Rural Zone; or
- within 10m of the bank of any other river; or
- within 75m of any lake listed in Schedule B to the Rural Zone; or
- within 50m of or in any wetland or other lake.

Exemptions:

- (i) This standard shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance or habitat enhancement;
- (ii) This standard shall not apply to any vegetation clearance which has been granted resource consent, excluding a water permit enabling irrigation for a discretionary or non-complying activity, excluding a water permit enabling irrigation, from the Canterbury Regional Council under the Resource Management Act 1991.
- (iii) This standard shall not apply to any vegetation clearance which is provided for in any one of the following mechanisms:
  - o Section 76 Reserves Act 1977 Declaration
  - o Section 77 Reserves Act 1977 Conservation Covenant
  - o Section 27 Conservation Act 1987 Covenant
  - o Section 29 Conservation Act 1987 Management Agreement
  - o Queen Elizabeth II National Trust Act 1977 Covenant

Provided such mechanism:

- Protects the natural character and functioning of the riparian area, and
- Remains current for the duration of the activity, and
- the terms of the mechanism have not been breached, and
- has been lodged with the Council.

...

**12.2 Discretionary Activities - Non-Indigenous Vegetation Clearance**

12.2.1 Any clearance of non-indigenous vegetation that does not meet one or more of the standards in Rule 12.1.1.a.



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**SECTION 19 – ECOSYSTEMS AND INDIGENOUS BIODIVERSITY****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) outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, ensure the maintenance and enhancement of indigenous biodiversity, and
- c) despite (a) and (b), 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, refurbishment or upgrade of those utilities.

**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 or is otherwise consistent with Policy 5.
- 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 any significant residual adverse effects in accordance with Policy 4.
- 4 For any indigenous biodiversity offsets apply the following criteria:
  - a) the offset will only compensate for significant residual adverse effects that cannot otherwise be avoided, remedied or mitigated;
  - b) the significant 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;

## Appendix B Amended Provisions

- 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 indigenous biodiversity;
  - d) there is a strong likelihood that the offsets will be achieved in perpetuity;
  - 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;
  - f) The offset should apply as close as possible to the site incurring the effect, recognising that benefits diminishing with distance from the site; and
  - g) Offsets should re-establish or protect the same type of ecosystem or habitat that is adversely affected.
- 5** Despite Policy 2, to manage effects on indigenous biodiversity in a way that recognises the national significance of renewable energy generation activities and the electricity transmission network and provides for their development, operation, upgrading, and maintenance by:
- a) Enabling indigenous vegetation clearance that is essential for the operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid and the Opuha Scheme; and
  - b) Providing for the upgrading and development of renewable energy generation and the electricity transmission network, while managing any adverse effects on indigenous biodiversity, having particular regard to:
    - i. the location of existing structures and infrastructure and the need to locate the generation activity where the renewable energy resource is available; and
    - ii. the logistical, technical and operational constraints associated with the activity; and
    - iii. the importance of maintaining and increasing the output from existing renewable electricity generation activities; and
    - iv. environmental compensation which benefits the local environment affected, as an alternate, or in addition to offsetting, to address any significant residual environmental 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.

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- 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, stock crossings, firebreaks, drains, ponds, dams, stockyards, farm buildings, water troughs and associated reticulation piping, or airstrips; or
    - b) the operation, maintenance, repair or upgrade of network utilities 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 and the clearance is not within a location specified in Rule 1.3.2; 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

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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 to 5000m<sup>2</sup> 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:

1. The clearance is not within:
  - a) an area of significant indigenous vegetation or a significant habitat of indigenous fauna;
  - b) land above 900m in altitude;
  - c) 75m of a lake;
  - d) 20m of the bank of a river; or
  - e) 50m of any wetland; and
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.

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- 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:
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, maintenance or refurbishment 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; or
  4. The clearance is required for the operation, maintenance or refurbishment of the National Grid or the Opuha Scheme; and
  5. The clearance is located outside areas of significant indigenous vegetation and significant habitats of indigenous fauna identified in accordance with Policy 1.

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### 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 one or more of the conditions of Rule 2.1.1.

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 residual significant 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.

## Appendix B Amended Provisions

**APPENDIX Y - FARM BIODIVERSITY PLAN FRAMEWORK****Introduction**

The purpose of a Farm Biodiversity Plan is to facilitate the maintenance or enhancement of indigenous biodiversity for a farming operation.

**Development of a Farm Biodiversity Plan**

A Farm Biodiversity Plan can be developed through a collaborative process between the Council and the landowner / land manager, but is only authorised by the Council through the resource consent process.

**Framework**

The following sets out the framework for development of a Farm Biodiversity Plan.

1. A Farm Biodiversity Plan can be provided in one of the following formats:
  - a) as a separate stand-alone Farm Biodiversity Plan; or
  - b) as an additional section to a farm environment plan prepared according to an industry template such as the Beef and Lamb New Zealand Canterbury Farm Biodiversity Plan or a plan prepared to meet Schedule 7 of the Canterbury Land and Water Regional Plan.

*Note: Where an industry farm biodiversity plan template is used, the Council is only concerned with the sections of that plan which address the matters outlined in this Appendix Y.*

2. A Farm Biodiversity Plan shall apply to a farming operation.
3. A Farm Biodiversity Plan must contain as a minimum the matters contained in Parts A, B, C and D that follow.

**A Description of the property and its features:**

1. Physical address;
2. Description of the ownership and name of a contact person;
3. Legal description of the land used for the farming operation; and
4. A map(s) or aerial photograph at a scale that clearly shows, where relevant:
  - a) The boundaries of the farming operation;
  - b) The boundaries of the main land management units within the farming operation;
  - c) The location of all water bodies, including wetlands and riparian vegetation;
  - d) Constructed features including buildings, tracks and any fencing to protect indigenous biodiversity values (including around riparian areas);
  - e) The location of any areas within or adjoining the farming operation that have been identified as areas of significant indigenous vegetation or significant habitats of indigenous fauna or are legally protected by way of covenant;
  - f) The location of any areas within or adjoining the farming operation that have been identified as an Outstanding Natural Landscape or Feature, a geopreservation site, Area of High Visual Vulnerability or Scenic Grassland Area;

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- g) The location of any Farm Base Areas;
- h) Areas of improved pasture;
- i) Areas of retired land; and
- j) Location of any proposed developments, including intensification of production, new tracks or buildings and areas to be cleared.

### **B Development Areas and Farming Operation Activities:**

The purpose of this section of the Farm Biodiversity Plan is to understand how the land has been managed, what the future management will be, and how this will affect the indigenous biodiversity. The Farm Biodiversity Plan shall:

1. Describe historic and current land use management, including stocking policy, water supply, grazing regimes, improved pasture, and indigenous biodiversity management,
2. Describe any proposed land use management or activities to be undertaken that would require the clearance or disturbance of indigenous biodiversity and the time frames over which these activities are proposed to occur. Such activities may include construction of new farm tracks or buildings, intensification of land use, indigenous vegetation clearance within previously undisturbed areas, earthworks or cultivation.

### **C Description of existing indigenous biodiversity and its intended management:**

The purpose of this section of the Farm Biodiversity Plan is to describe the indigenous biodiversity of the farming operation and how it will be managed.

1. An assessment of existing indigenous biodiversity values shall be undertaken by a suitably qualified and experienced ecologist, including the identification of areas of significant indigenous vegetation or significant habitats of indigenous fauna.
2. The assessment shall contain:
  - a) Recommendations to achieve maintenance and, where appropriate, enhancement of indigenous biodiversity outside significant areas.
  - b) Recommended actions to achieve these outcomes which may include:
    - i. Formal legal protection;
    - ii. Pest or weed control;
    - iii. Grazing regimes;
    - iv. Fencing;
    - v. Restoration planting or other restoration measures;
    - vi. Confirmation of which area/s will not be subject to future land use change or development;
    - vii. Confirmation that the tools and methods will endure beyond any fragmentation of the farming operation e.g. as a result of changes in ownership.
  - c) Recommendations for monitoring and review of progress in achieving the outcomes.



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### **D Monitoring and Reporting on actions:**

The Farm Biodiversity Plan shall include a description of how the recommendations in Part C (2) will be monitored and reviewed.

*Note: The review described in D above does not supersede the requirement to apply for a change of condition(s) to any resource consent associated with the Farm Biodiversity Plan that may be necessary as a result of the review. It is also separate to any review of consent conditions that the Council may initiate under section 128 of the Resource Management Act 1991.*

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**Note to readers:** Throughout Appendix C advice to readers that does not form part of the District Plan provisions is shown in *italics* and *red font*.

**SECTION 7 – RURAL ZONE**

*The following objectives and policies are relocated to notified Chapter 19 – Indigenous Biodiversity (detailed below):*

- a) Rural Objective 1 - Indigenous Ecosystems, Vegetation and Habitat and Rural policies;*
- b) Rural Policy 1B - Identification and Protection of Special Sites;*
- c) Rural Policy 1C - Natural Character and Ecosystem Functions;*

*Text that struck-through is to be deleted from Section 7*

*Text that is double-struck through is to be deleted and moved from Section 7 to a new Section 19 – Indigenous Biodiversity*

**~~Rural Objective 1 – Indigenous Ecosystems, Vegetation And Habitat~~**

~~To safeguard indigenous biodiversity and ecosystem functioning through the protection and enhancement of significant indigenous vegetation and habitats, riparian margins and the maintenance of natural biological and physical processes.~~

**Reasons**

- ~~• Section 6 of the Act requires the Council to recognise and provide for protection of areas of significant indigenous vegetation and significant habitats for indigenous fauna.~~
- ~~• The District still contains many areas that have particular natural conservation value, some of which contain nationally significant species which are deserving of protection.~~
- ~~• It is appropriate that the values of areas of particular natural significance are protected both because of their intrinsic ecological worth, their contribution towards biodiversity and their value to the people of the District.~~
- ~~• the retention of indigenous vegetation and habitat is important for the maintenance of ecosystem functioning, and the retention of indigenous biodiversity, soil and water values, natural character, landscape and amenity.~~

**~~Rural Policy 1A – Department Of Conservation And Landholders~~**

~~To promote the long-term protection of sites with significant conservation values by encouraging:~~

- ~~• landholders and relevant agencies to pursue protection mechanisms and agreements;~~
- ~~• tenure review processes under the Land Act and Crown Pastoral Land Act 1998;~~
- ~~• implementation of the Conservation Management Strategy and the Management Plan for the Aoraki/Mount Cook National Park.~~

**Explanation and Reasons**

- ~~• As for Objective 1.~~
- ~~• Conservation of natural values can be achieved over time with the goodwill and initiative of landholders working in partnership with relevant agencies and landholder groups.~~
- ~~• Landholder initiatives, joint projects and voluntary protection mechanisms can be encouraged through co-operation with Department of Conservation which has a statutory obligation to advocate the protection of areas of significant conservation value.~~
- ~~• The Aoraki/Mount Cook National Park Management Plan has as one of its purposes the preservation of indigenous plants and animals. It is appropriate that the Council support management of the National Park on this basis.~~

**Implementation Methods**

- ~~• Identify sites of significance.~~
- ~~• Promoting reasons and merits of protection of areas.~~
- ~~• Providing information on and promote opportunities for protection, including management agreements and covenants.~~

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- Provide for exemptions from Plan rules where alternative protection mechanisms are in place.
- Rates relief for landholders protecting indigenous vegetation.

**Environmental Results Anticipated**

- Gradual preservation of areas of significant conservation values by way of conservation covenants, management plans, transfer to the Crown, or other means.

***Rural Policy 1B – Identification And Protection Of Special Sites***

*To identify in the District Plan sites of significant indigenous vegetation or habitat (in accordance with the criteria listed in the Reasons below), and significant geological or geomorphological features, and to prevent development which reduces the values of these sites or features.*

**Explanation and Reasons**

- As for Objective 1.
- Loss or significant reductions in the ecological integrity and functioning, habitat values or amenity values of any significant natural site or area needs to be avoided.
- It is desirable that the District Plan controls activities which may adversely affect areas of indigenous animals and plants and geological and geomorphological features of significant value to the district.
- Activities involving vegetation clearance, land disturbance through earthworks and the erection of buildings, and the planting of trees can destroy indigenous plants and animals directly, or indirectly through the modification of habitat.
- Other activities such as oversowing and topdressing and changes in stocking regimes can also adversely effect conservation values.

Primary criteria used to identify sites of natural significance:

- i Intactness – The area is little modified by human activity, comprises a predominately intact indigenous system and is not affected in a major way by weed or pest species.
- ii Rarity – The area supports an indigenous species, habitat or community of species which is rare and vulnerable within the ecological district or threatened nationally.
- iii Representativeness – The best examples of particular vegetation types, habitats or ecological processes which are typical of their ecological district.
- iv Distinctiveness/Special Ecological Characteristics – The type and range of unusual features of the area itself and the role of the area in relationship to other areas locally, regionally or nationally, including:
  - presence of species at their distribution limit
  - levels of endemism
  - supporting protected indigenous fauna for some part of their life-cycle (e.g. breeding, feeding moulting, roosting), whether on a regular or infrequent basis
  - playing an important role in the life-cycle of protected migratory indigenous fauna
  - continuing an intact sequence, or a substantial part of an intact sequence of unusual ecological features or gradients.
- v Diversity and pattern – areas exhibiting a high degree of biological diversity in terms of:
  - Vegetation
  - Habitat types
  - Species
  - Ecological processes

Secondary criteria used to assist in identifying sites of natural significance:

- i Scientific Value – The area is a type of locality or other recognised scientific reference area.
- ii Connectivity – The extent to which the area has ecological value due to its location and functioning in relation to its surroundings. An area may be ecologically significant

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because of its connections to a neighbouring area, or as part of a network of areas of fauna habitat, or as a buffer.

- iii — Size and shape — The degree to which the size and shape of an area is conducive to it being, or becoming, ecologically self-sustaining.

**Implementation Methods**

- — Identify sites of significance:
  - — Controls within Sites of Natural Significance: limiting volume, area and slope of earthworks, tree planting, vegetation clearance, building and pastoral intensification.
- — Promoting reasons and merits of protection of areas.
- — Providing information on and promote opportunities for protection, including management agreements and covenants.
- — Provide for exemptions from Plan rules where alternative protection mechanisms are in place.
- — Rates relief for landholders protecting indigenous vegetation.
- — Review of Rules 12.1.1 (g) and 12.1.1 (h)

A review of Rules 12.1.1 (g) and 12.1.1 (h) will commence 3 years after the date at which the Plan became operative. These Rules will continue to apply until such time as the review is complete and a new Rule(s) is substituted. The agreed process for such a review is as follows:

- (i) — The Mackenzie District Council will review the extent and condition of short tussock grasslands and associated communities in the Mackenzie Basin, and the extent of cultivation and modification of these areas since the Plan became operative. Council will consult interested parties including landholders, Federated Farmers, Department of Conservation, Environment Canterbury, and environmental and community organisations. It will use relevant information such as the ortho-digital technology of the RFT (Rural Futures Trust). It will consider matters such as the economic, ecological, landscape and other values of the short tussock grasslands and associated vegetation.
- (ii) — The review process may result in the Council amending the Plan and/or Rules 12.1.1 (g) Short Tussock Grasslands and 12.1.1 (h) Indigenous Cushion and Mat Vegetation and Associated Communities to identify areas where development and modification needs to be more strictly controlled and/or areas where the above Rules would no longer apply.

Council has chosen to provide exemptions from the rules controlling adverse effects on Sites of Natural Significance where management agreements or covenants are in place. Council will monitor the effectiveness of these to maintain the significant values of these sites. If this review indicates that the values of the sites are not being satisfactorily maintained the Council will reconsider the mechanisms available to maintain these values.

**Environmental Results Anticipated**

- — Protection of the natural habitats of indigenous plants and animals from the adverse effects of human activities and a reduced overall rate of degradation of indigenous habitats and biodiversity.

***Rural Policy 1C – Natural Character And Ecosystem Functions***

*To avoid, remedy or mitigate adverse effects on the natural character and indigenous land and water ecosystem functions of the District, including*

- i — land form, physical processes and hydrology;*
- ii — remaining areas of significant indigenous vegetation and habitat, and linkages between these areas;*
- iii — aquatic habitat and water quality and quantity.*

**Explanations and Reasons**

- — As for Objective 1

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- ~~Safeguarding the life-supporting capacity of air, water, soil and ecosystems is a prerequisite for sustainable management to occur~~
- ~~The policy recognises New Zealand's responsibilities under the Biodiversity Convention to preserve biological diversity.~~

**Implementation Methods**

- ~~Taking Policy 1C into account in administering the Resource Management Act 1991 and this District Plan.~~
- ~~To review the provisions for indigenous vegetation following assessment of ecological values within the Fairlie Basin.~~
- ~~To monitor the effectiveness of the Canterbury Regional Council resource consent exemptions to the indigenous vegetation clearance provisions in the District Plan and review them when the ecological and landscape assessments are complete.~~

**Environmental Effects Anticipated**

- ~~Maintenance of the natural character and indigenous land and water ecosystems within the District.~~

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*In PC18 as notified Rural Zone Rule 12 - Vegetation Clearance was partially deleted. Amendments to the notified provisions of PC18 recommended by the Independent Hearing Panel are shown in strikeout, underlining and grey wash.*

**12 VEGETATION CLEARANCE****12.1 Permitted Activities - Vegetation Clearance**

~~Reference in this rule to the Mackenzie Basin means that part of the District known as the Mackenzie Basin and identified as such on the map in Appendix E of the Plan~~

**12.1.1 Clearance of vegetation is permitted where it complies with the following standards:****12.1.1.a Riparian Areas**

Clearance of vegetation shall not exceed 100m<sup>2</sup> per hectare in any continuous period of 5 years

- within 20m of the bank of the main stem of any river listed in Schedule B to the Rural Zone; or
- within 10m of the bank of any other river; or
- within 75m of any lake listed in Schedule B to the Rural Zone; or
- within 50m of or in any wetland or other lake.

Exemptions:

- (i) This standard shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance or habitat enhancement;
- (ii) This standard shall not apply to any vegetation clearance which has been granted resource consent, excluding a water permit enabling irrigation,<sup>1</sup> for a discretionary or non-complying activity from the Canterbury Regional Council under the Resource Management Act 1991.
- (iii) This standard shall not apply to any vegetation clearance which is provided for in any one of the following mechanisms:
  - Section 76 Reserves Act 1977 Declaration
  - Section 77 Reserves Act 1977 Conservation Covenant
  - Section 27 Conservation Act 1987 Covenant
  - Section 29 Conservation Act 1987 Management Agreement
  - Queen Elizabeth II National Trust Act 1977 Covenant

Provided such mechanism:

- Protects the natural character and functioning of the riparian area, and
- Remains current for the duration of the activity, and
- the terms of the mechanism have not been breached, and
- has been lodged with the Council.

**12.1.1.b ~~Sites of Natural Significance~~**

~~Clearance of indigenous vegetation shall not exceed 100m<sup>2</sup> per hectare in any continuous 5 year period within any Site of Natural Significance identified on the Planning Maps.~~

~~Exemptions:~~

- ~~(i) This standard shall not apply to any clearance of indigenous vegetation which are provided for in any one of the following mechanisms:~~
  - ~~○ Section 76 Reserves Act 1977 Declaration~~
  - ~~○ Section 77 Reserves Act 1977 Conservation Covenant~~
  - ~~○ Section 27 Conservation Act 1987 Covenant~~

<sup>1</sup> Clause 16(2) clarification



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- ~~Section 29 Conservation Act 1987 Management Agreement~~
- ~~Queen Elizabeth II National Trust Act 1977 Covenant~~
- ~~provided such mechanism:~~
  - ~~Protects the significant natural character of the Site of Natural Significance, and~~
  - ~~Remains current for the duration of the activity, and~~
  - ~~the terms of the mechanism have not been breached, and~~
  - ~~has been lodged with the Council.~~
- (ii) ~~This standard shall not apply to any earthworks for the purpose of track maintenance.~~
- 12.1.1.c ~~Tall Tussock and Canopy~~  
~~There shall be no clearance of:~~
  - ~~indigenous vegetation which has an average maximum canopy height of greater than 3 metres and exceeds 500 square metres~~
  - ~~more than 100 square metres of tall tussock (Chionochloa sp.)~~~~Exemptions:~~
  - (i) ~~This rule shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance;~~
  - (ii) ~~This standard shall not apply to any vegetation clearance which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council under the Resource Management Act 1991.~~
- 12.1.1.d ~~Wetlands~~  
~~In any wetland exceeding 1,000m<sup>2</sup> in area there shall be no modification by clearance of indigenous vegetation, cultivation, or damage by deposition of material.~~  
~~Exemptions:~~  
~~This rule shall not apply to:~~
  - ~~any removal of declared weed pests; or~~
  - ~~any vegetation clearance for the purpose of track maintenance.~~~~Note: Consent may be required from the Canterbury Regional Council for any damming, drainage or diversion, or vegetation clearance alongside or within waterways and wetlands.~~
- 12.1.1.e ~~High Altitude Areas~~  
~~Clearance of indigenous vegetation shall not exceed 100m<sup>2</sup> per hectare in any continuous 5 year period on land above 900m in altitude.~~  
~~Exemptions:~~
  - (i) ~~This standard shall not apply to any removal of declared weed pests or vegetation clearance for the purpose of track maintenance.~~
  - (ii) ~~This standard shall not apply to any vegetation clearance which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council under the Resource Management Act 1991.~~
- 12.1.1.f ~~Shrublands~~  
~~On any site in the Mackenzie Basin in any continuous period of five years there shall be no clearance of:~~
  - (i) ~~Bog pine (*Dacrydium bidwillii*) shrublands~~
  - (ii) ~~More than 2000 square metres of:~~
    - ~~Open indigenous shrublands containing at least three of the following indicator species where these shrubs are prominent: native broom (*Carmichaelia* species) or; tauhinu (*Cassinia* species) or; porcupine shrub (*Melicytus* species) or; *Coprosma intertexta*\* or; prostrate kowhai\* (*Sophora prostrata*);~~

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~~\* Refer to Appendix N for drawings of these specific indicator species.~~

- ~~• Dense indigenous shrublands containing at least five of the following indicator species: *Coprosma* species or; *Corokia cotoneaster*\* or; climbers (*Clematis*, *Rubus*, *Parsonsia*, *Muehlenbeckia* species) or; mountain wine berry\* (*Aristotelia fruticosa*) or; *Hebe* species or; *Olearia* species or; native broom species (*Carmichaelia*)~~

~~\* Refer to Appendix N for drawings of these specific indicator species.~~

- ~~• Matagouri-dominated shrublands (*Discaria toumatu*) on river flood plains, river terraces, alluvial fans or lower mountain/hill slopes which have an average canopy height of greater than 1.5 metres, where there are more than 5 shrubs of this height and where the vegetation has not been cleared since 1985, provided that any matagouri that has been induced by regular oversowing and topdressing shall be exempt. For the purposes of this rule, regular oversowing and topdressing is defined as having occurred at least three times since 1985.~~

### Exemptions

This rule shall not apply to:

- ~~• Any removal of declared weed pests; or~~
- ~~• Vegetation clearance for the purpose of track maintenance or fenceline maintenance within existing disturbed formations; or~~
- ~~• Any vegetation clearance including burning which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council/Environment Canterbury under the Resource Management Act 1991.~~

For the purpose of this Rule:

- ~~• Open indigenous shrublands excludes scattered individual outlier plants that do not visually contribute to the makeup of the shrubland;~~
- ~~• Dense shrublands are characterised by a generally closed canopy, although there will be open patches within the shrubland. As a rule of thumb, a person would have difficulty walking through a dense shrubland and would expect to get scratched;~~
- ~~• Lower mountain/hill slopes are characterised as being underlain by bedrock in contrast to moraine slopes which are composed of glacial till.~~

### 12.1.1.g Short Tussock Grasslands

~~An interim Rule that will be reviewed three years after the Plan becomes operative.~~

~~On each of the individual farm properties existing in the Mackenzie Basin Map as at 1 January 2002 in any continuous period of five years there shall be no clearance including cultivation above the following thresholds of short tussock grasslands, consisting of silver or blue (*Poa* species), or *Elymus solandri*, or fescue tussock where tussocks exceed 15% canopy cover:~~

- ~~(i) 40 hectares or less – Permitted Activity~~
- ~~(ii) Greater than 40 hectares – Discretionary Activity~~

~~Performance Standards for Permitted Activity~~

- ~~• The landholder shall notify the Mackenzie District Council of the proposed clearance 4 months prior to the clearance being undertaken and shall supply a map of the proposed site.~~
- ~~• The clearance shall be more than 150m from the boundaries of any existing Sites of Natural Significance.~~

### Exemptions

This rule shall not apply to:

- ~~• Any removal of declared weed pests; or~~



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- ~~Vegetation clearance for the purpose of track maintenance or fenceline maintenance within existing disturbed formations; or~~
- ~~Any vegetation clearance including burning which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council/Environment Canterbury under the Resource Management Act 1991; or~~
- ~~Any short tussock grassland where the site has been oversown, and topdressed at least three times in the last 10 years prior to new clearance so that the inter-tussock vegetation is dominated by clovers and/or exotic grasses.~~

**12.1.1.h Indigenous Cushion and Mat Vegetation and Associated Communities**

*An interim Rule that will be revised three years after the Plan becomes operative.*

~~On each of the individual farm properties existing in the Mackenzie Basin as at 1 January 2002 in any continuous period of five years there shall be no clearance including cultivation above the following thresholds of indigenous cushion, mat (*Raoulia* species) or herb and scabweed vegetation where at least 50% of the vegetation ground cover comprises vascular and non-vascular indigenous species, OR where the number of vascular indigenous species is greater than 20:~~

- ~~(i) 10 hectares or less – Permitted Activity~~
- ~~(ii) Greater than 10 hectares – Discretionary Activity~~

**Performance Standards for Permitted Activity:**

- ~~The landholder shall notify the Mackenzie District Council of the proposed clearance 4 months prior to the clearance being undertaken and shall supply a map of the proposed site.~~
- ~~The clearance shall be more than 150m from the boundaries of any existing Sites of Natural Significance.~~

**Exemptions**

~~This rule shall not apply to:~~

- ~~Any removal of declared weed pests; or~~
- ~~Vegetation clearance for the purpose of track maintenance or fenceline maintenance within existing disturbed formations; or~~
- ~~Any vegetation clearance including burning which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council/Environment Canterbury under the Resource Management Act 1991; or~~
- ~~Any indigenous cushion or mat vegetation where the site has been oversown, and topdressed at least three times in the last 10 years prior to new clearance so that the site is dominated by clovers and/or exotic grasses.~~

**For the purposes of Rule 12.1.1(g) and 12.1.1(h):**

~~The intention of the landholder notifying the Mackenzie District Council of permitted clearance activities is to allow interested parties to assess their interest in the proposed area, to discuss the proposal with the landholder and to undertake an inspection where appropriate. All inspections will be the result of voluntary agreement between the parties.~~

- ~~The Mackenzie District Council will maintain a publicly available register of permitted clearance activities as notified by landowners under these Rules.~~
- ~~For Discretionary Activities, the Mackenzie District Council will require areas of short tussock and indigenous cushion and mat vegetation to be significant in terms of the primary and secondary criteria for significance in Rural Policy 1B (i.e., the criteria used to identify Sites of Natural Significance) if these areas are to be protected from clearance. When assessing 'significance', the Mackenzie District Council shall restrict its assessment solely to the criteria set out in Rural Policy 1B.~~

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~~12.1.1.i~~ **Areas outside the Mackenzie Basin**

~~An interim rule that will be reviewed upon completion of the Eastern Mackenzie landscape and ecological values study.~~

~~There shall be no clearance of:~~

- ~~• Matagouri which has an average maximum canopy height greater than 1.5 metres and exceeds 500m<sup>2</sup> (in one continuous block) in any continuous period of 5 years.~~
- ~~• more than 100m<sup>2</sup> of tall tussock (chionochloa sp.)~~
- ~~• indigenous vegetation which has an average maximum canopy height greater than 3 metres and exceeds 500m<sup>2</sup>.~~
- ~~• more than 5000m<sup>2</sup> of indigenous vegetation except where the clearance is carried out within an area of improved pasture~~

**Exemptions:**

~~This rule shall not apply to:~~

- ~~• any removal of declared weed pests or vegetation clearance for the purpose of track maintenance; or~~
- ~~• any vegetation clearance which has been granted resource consent by the Canterbury Regional Council under the Resource Management Act 1991.~~

~~For the purpose of this rule improved pasture shall mean an area where species composition and growth has clearly been significantly modified or enhanced within the last 10 years by cultivation or top dressing and over sowing or direct drilling, and where exotic species are obvious.~~

**12.2 Discretionary Activities - Vegetation Clearance**

~~12.2.1 Any clearance of vegetation not provided for as a Permitted Activity or Non-Complying Activity that does not meet one or more of the standards in Rule 12.1.1.a<sup>2</sup>~~

~~12.3~~ **Non-Complying Activities**

~~12.3.1 Clearance of more than 10% of the total area of indigenous vegetation cover present on any Site of Natural Significance identified on the Planning Maps.~~

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<sup>2</sup> Mr Gerald and the Wolds

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*Amendments to the notified provisions of PC18 recommended by the Independent Hearing Panel are shown in ~~strikeout~~, underlining and grey wash.*

**SECTION 3 - DEFINITIONS**

**Biodiversity (or biological diversity):** means the variability of living organisms and the ecological complexes of which they are a part, including diversity within species, between species and of ecosystems.

**Biodiversity offset:** means a measurable conservation outcome resulting from actions which are designed to compensate for significant residual adverse effects on indigenous biodiversity arising from human activities after all appropriate prevention and mitigation measures have been taken. The goal of a biodiversity offset is to achieve no net loss and preferably a net gain of indigenous biodiversity on the ground with respect to species composition, habitat structure and ecosystem function. They typically take the form of binding conditions associated with resource consents and can involve bonds, covenants financial contributions and biodiversity banking.<sup>3</sup>

**Farming Operation:** means an area of land, including 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.<sup>4</sup>

**Farm Biodiversity Plan:** means a plan that covers the whole of a farming enterprise that is submitted to the Council as part of a resource consent application under Section 19 Indigenous Biodiversity, and is prepared in accordance with Appendix Y.<sup>5</sup>

**Farming Enterprise:** means an aggregation of parcels of land 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.<sup>6</sup>

**Improved Pasture:** : means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing. pasture where:

- a) 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 upon land that has previously been modified and enhanced for livestock grazing in accordance with clause a) above and is less than 15 years old.<sup>7</sup>

**Indigenous Vegetation:** Means a plant community of vascular plants, mosses and/or lichens that includes species native to the ecological district. The community may include exotic species, but does not include vegetation that has been planted as part of a domestic garden, for amenity purposes or as a shelterbelt, or exotic woody pest plants. native to New Zealand, which may include exotic vegetation 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.<sup>8</sup>

**Mobstocking:** means confining livestock in an area in which there is insufficient feed and in a way that results in the removal of all or most available vegetation.<sup>9</sup>

**No net loss:** means, in relation to indigenous biodiversity, no reasonably measurable overall reduction in:

- a) the diversity of indigenous species or recognised taxonomic units; and

<sup>3</sup> EDS, DOC

<sup>4</sup> CRC

<sup>5</sup> Clause 10(2)(b) amendment

<sup>6</sup> Clause 10(2)(b) amendment consequential to CRC submission

<sup>7</sup> C Morris, Mackenzie Guardians, Fish and Game, CRC, Mt Gerald, DOC, Forest and Bird

<sup>8</sup> Mackenzie Guardians, CRC, EDS, DOC

<sup>9</sup> DOC

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- 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.<sup>10</sup>

**Significant indigenous vegetation and significant habitats of indigenous fauna:** means areas of indigenous vegetation or habitats of indigenous fauna which:

- a) meet the criteria listed in the Canterbury Regional Policy Statement's Policy 9.3.1 and Appendix 3; or
- b) are listed in Appendix I as a Site of Natural Significance; and
- 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.<sup>11</sup>

**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 oversowing, topdressing or overplanting on land that is not improved pasture<sup>12</sup>. Clearance of vegetation shall have the same meaning.

**Waitaki Power Scheme:** means the electricity generation activities in the Waitaki River Catchment including the structures, works facilities, components, plant and activities undertaken to facilitate and enable the generation of electricity from water. It includes power stations, dams, weirs, control structures, penstocks, canals, tunnels, siphons, spillways, intakes, storage of goods, materials and substances, switchyards, fish and elver screens and passes, boom, site investigation works, erosion and flood control, access requirements (including public access), jetties, slipways and landing places, signs, earthworks, monitoring, investigation and communication equipment and transmission network.

**Opuha Scheme:** means the electricity generation activity associated with the Opuha Dam and power station (including the regulating pond and downstream weir) and all structures, works, facilities, components, plant and activities undertaken to facilitate that generation.<sup>13</sup>

**Maintenance of Waitaki Power Scheme, Opuha Scheme or National Grid:**<sup>14</sup> means undertaking work and activities, including erosion control works, necessary to keep the infrastructure ~~Waitaki Power Scheme~~<sup>15</sup> operating at an efficient and safe level.

**Refurbishment of Waitaki Power Scheme, Opuha Scheme or National Grid:**<sup>16</sup> means the upgrade or renewal (to gain efficiencies in generating and transmitting electricity) of machinery, buildings, plant, structure, facilities works or components and operating facilities associated with the infrastructure ~~Waitaki Power Scheme~~.<sup>17</sup>

**Core Sites:** means land owned by Genesis Energy or Meridian Energy that is managed for hydro generation purposes associated with the Waitaki Power Scheme.

**Operating Easement:** means land Genesis Energy or Meridian Energy has an operating easement over. The purpose of this easement is to provide for activities to be undertaken by Genesis Energy or Meridian Energy as part of the management of the hydro facilities associated with the Waitaki Power Scheme.

<sup>10</sup> EDS, DOC, Forest and Bird

<sup>11</sup> C Burke, CRC, EDS, Mt Gerald, DOC

<sup>12</sup> SPSL, Fish and Game

<sup>13</sup> OWL

<sup>14</sup> Clause 10(2)(b) amendment

<sup>15</sup> Clause 10(2)(b) amendment

<sup>16</sup> Clause 10(2)(b) amendment

<sup>17</sup> Clause 10(2)(b) amendment



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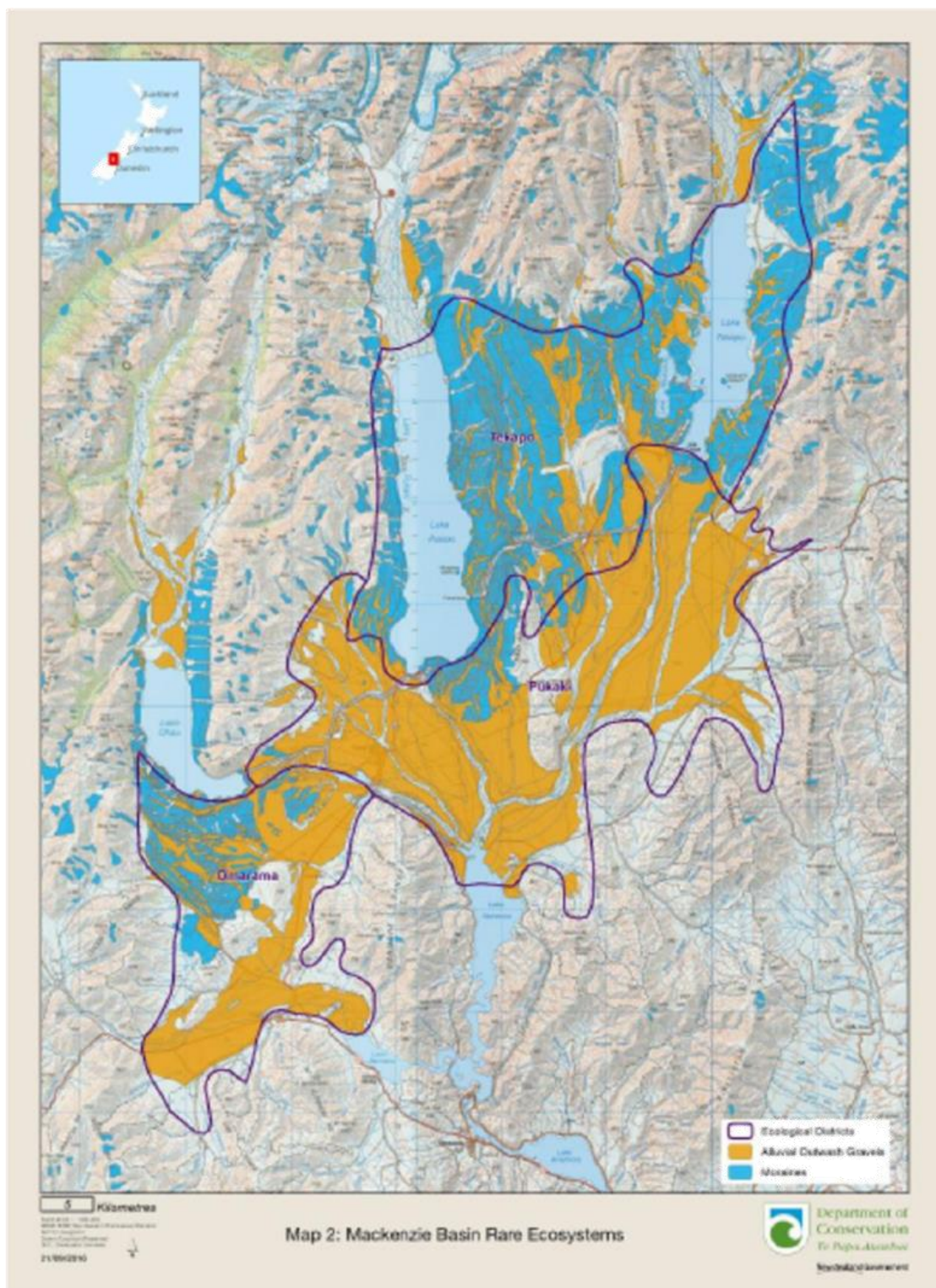


Figure One: Mackenzie Basin alluvial outwash and moraine ecosystems<sup>18</sup>

<sup>18</sup> Fish and Game, EDS.

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**SECTION 19 –INDIGENOUS BIODIVERSITY****OBJECTIVES AND POLICIES****Objectives**

1. To safeguard indigenous biodiversity and ecosystem functioning through the protection and enhancement of significant indigenous vegetation and habitats, riparian margins and the maintenance of natural biological and physical processes.<sup>19</sup>
2. Land development activities are managed to ensure the maintenance of indigenous biodiversity, including the protection and/or enhancement of significant indigenous vegetation and habitats, and riparian areas; the maintenance of natural biological and physical processes; and the retention of indigenous vegetation.<sup>20</sup>
3. To 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.<sup>21</sup>

Land use and development activities are managed to:

- a) protect areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- b) outside of areas of significant indigenous vegetation and significant habitats of indigenous fauna, ensure the maintenance and enhancement of indigenous biodiversity, and<sup>22</sup>
- c) despite (a) and (b), 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, refurbishment or upgrade of those utilities.<sup>23</sup>

**Policies**

1. To assess and<sup>24</sup> identify in the District Plan sites<sup>25</sup> areas<sup>26</sup> of significant indigenous vegetation or and significant habitats of indigenous fauna<sup>27</sup> in accordance with the criteria listed in Appendix 3 of<sup>28</sup> the Canterbury Regional Policy Statement and to prevent development which reduces the values of these sites.<sup>29</sup>
2. 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

<sup>19</sup> EDS, Mt Gerald, The Wolds

<sup>20</sup> CRC, Glenrock Station, Mt Gerald, The Wolds

<sup>21</sup> Mt Gerald, The Wolds, Forest and Bird

<sup>22</sup> CRC, EDS, Glenrock Station,

<sup>23</sup> Genesis, Meridian, Transpower, CRC, Forest and Bird, EDS

<sup>24</sup> Clause 10(2)(b) consequential to DOC

<sup>25</sup> EDS, DOC

<sup>26</sup> Clause 16(2) clarification

<sup>27</sup> Clause 16(2) clarification

<sup>28</sup> Clause 16(2) clarification

<sup>29</sup> Meridian, Mt Gerald, The Wolds



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c) ~~Aquatic habitat and water quality and quantity~~<sup>30</sup>

~~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 or is otherwise consistent with Policy 5.~~<sup>31</sup>

3. ~~Rural development, including indigenous vegetation clearance and pastoral intensification, occurs in a way or at a rate that provides for no net loss of indigenous biodiversity values in areas identified as significant.~~<sup>32</sup>

~~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 any significant residual adverse effects in accordance with Policy 4.~~<sup>33</sup>

4. ~~To ensure that land use activities including indigenous vegetation clearance and pastoral intensification do not adversely affect any ecologically significant wetland.~~<sup>34</sup>

5. ~~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).~~ Relocated to be Policy 7

- 6.4 ~~For any indigenous biodiversity offsets Where offsetting is proposed, to~~<sup>35</sup> apply the following criteria:

- ~~a) the offset will only compensate for significant~~<sup>36</sup> ~~residual adverse effects that cannot otherwise be avoided, remedied or mitigated;~~
- ~~b) the significant~~<sup>37</sup> ~~residual adverse effects on indigenous~~<sup>38</sup> ~~biodiversity are capable of being offset and will be fully compensated by the offset to ensure no net loss of biodiversity;~~
- ~~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 biodiversity;~~
- ~~d) there is a strong likelihood that the offsets will be achieved in perpetuity; and~~<sup>39</sup>
- ~~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;~~
- ~~f) The offset should apply as close as possible to the site incurring the effect, recognising that benefits diminishing with distance from the site; and~~<sup>40</sup>

<sup>30</sup> CRC, EDS, Genesis, Meridian, Mt Gerald, The Wolds

<sup>31</sup> CRC, EDS, Genesis, DOC

<sup>32</sup> CRC, Mt Gerald, The Wolds, Forest and Bird

<sup>33</sup> Burke, Fish and Game, CRC, EDS, Meridian, DOC

<sup>34</sup> Mt Gerald, The Wolds

<sup>35</sup> DOC, SPSL

<sup>36</sup> Clause 16(2) clarification

<sup>37</sup> Clause 16(2) clarification

<sup>38</sup> SPSL

<sup>39</sup> Clause 10(2)(b) amendment

<sup>40</sup> EDS

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- g) ~~Offsets should re-establish or protect the same type of ecosystem or habitat that is adversely affected, unless an alternative ecosystem or habitat will provide a net gain for indigenous biodiversity.~~<sup>41</sup>

**7.5** ~~Despite Policy 2, to manage effects on indigenous biodiversity in a way that recognises the national significance~~<sup>42</sup> ~~To recognise the economic and social importance~~<sup>43</sup> ~~of renewable energy generation activities~~<sup>44</sup> ~~and the electricity~~<sup>45</sup> ~~transmission network consistent with objectives and policies of this Plan, to and provides for their development, operation,~~<sup>46</sup> ~~its upgrading, and maintenance by and enhancement.~~<sup>47</sup>

- a) ~~Enabling indigenous vegetation clearance that is essential for the operation, maintenance or refurbishment of the Waitaki Power Scheme, the National Grid and the Opuha Scheme; and~~<sup>48</sup>
- b) ~~Providing for the upgrading and development of renewable energy generation and the electricity transmission network, while managing any adverse effects on indigenous biodiversity, having particular regard to:~~
- ~~i. the location of existing structures and infrastructure and the need to locate the generation activity where the renewable energy resource is available; and~~
  - ~~ii. the logistical, technical and operational constraints associated with the activity; and~~
  - ~~iii. the importance of maintaining and increasing the output from existing renewable electricity generation activities; and~~
  - ~~iv. environmental compensation which benefits the local environment affected, as an alternate, or in addition to offsetting, to address any significant residual environmental effects.~~<sup>49</sup>

***Additional Policies applying to Farm Biodiversity Plans***<sup>50</sup>

**8.6** ~~To enable rural~~<sup>51</sup> ~~land use and development at an on-farm level, through a Farm Biodiversity Plan,~~<sup>52</sup> ~~where that development is integrated with~~<sup>53</sup> ~~comprehensive and expert~~<sup>54</sup> ~~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~~<sup>55</sup> ~~of indigenous biodiversity is undertaken that demonstrates how that use and development will be integrated with:~~<sup>56</sup>

- a) ~~the long-term protection of significant indigenous vegetation and significant habitats of indigenous fauna;~~<sup>57</sup>
- b) ~~the maintenance of other indigenous biodiversity; and~~<sup>58</sup>
- c) ~~opportunities for enhancement of indigenous biodiversity, where appropriate.~~<sup>59</sup>

<sup>41</sup> DOC

<sup>42</sup> Genesis, Meridian

<sup>43</sup> Clause 10(2)(b) amendment

<sup>44</sup> Clause 16(2) clarification

<sup>45</sup> Clause 16(2) clarification

<sup>46</sup> Genesis, Meridian

<sup>47</sup> Clause 10(2)(b) amendment

<sup>48</sup> Genesis, Meridian, OWL, Transpower

<sup>49</sup> Genesis, Meridian

<sup>50</sup> Forest and Bird

<sup>51</sup> Clause 16(2) clarification

<sup>52</sup> Clause 10(2)(b) amendment

<sup>53</sup> Clause 10(2)(b) amendment

<sup>54</sup> Clause 10(2)(b) amendment

<sup>55</sup> CRC

<sup>56</sup> Mt Gerald, The Wolds

<sup>57</sup> EDS

<sup>58</sup> EDS, Glenrock Station, Mt Gerald, The Wolds

<sup>59</sup> EDS, Glenrock Station, Mt Gerald, The Wolds.



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9. Where a Farm Biodiversity Plan is proposed, to require comprehensive and expert identification of significant indigenous biodiversity values as part of that Plan, and to ensure that any development proposed under that Plan is integrated with protection for those significant values.<sup>60</sup>
- 5.7 To consider a range of mechanisms for securing achieving<sup>61</sup> protection of significant indigenous vegetation and significant habitats of indigenous fauna, including resource consent conditions, management agreements and covenants avoidance, remediation, mitigation or offsetting of adverse effects, and to secure that protection through appropriate instruments including resource consent conditions (if approved).<sup>62</sup>
8. To recognise and provide for activities, including voluntary initiatives, that contribute towards the protection, maintenance or enhancement of indigenous biodiversity.<sup>63</sup>

**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.<sup>64</sup>

**1. Indigenous Vegetation Clearance excluding indigenous vegetation clearance associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme**<sup>65</sup>

**1.1 Permitted Activities – Indigenous Vegetation Clearance**

1.1.1 Clearance of indigenous vegetation is a permitted activity provided one or more of<sup>66</sup> the following conditions are met:

1. The clearance is within 2m of, and<sup>67</sup> for the purpose of:
  - a) the maintenance or repair of existing fence lines, vehicle tracks, roads, stock tracks,<sup>68</sup> stock crossings,<sup>69</sup> firebreaks, drains, ponds, dams,<sup>70</sup> stockyards, farm buildings, water troughs and associated reticulation piping,<sup>71</sup> or airstrips; or
  - b) the operation, maintenance, repair or upgrade of network utilities permitted by Rule 16.1.1.(j).<sup>72</sup>
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.<sup>73</sup>

<sup>60</sup> Mr Gerald, The Wolds.

<sup>61</sup> Glenrock Station

<sup>62</sup> Burke, Mackenzie Guardians, EDS, Mt Gerald, The Wolds, Forest and Bird.

<sup>63</sup> Glenrock Station, Mt Gerald, The Wolds.

<sup>64</sup> EDS, DOC

<sup>65</sup> Clause 10(2)(b) amendment

<sup>66</sup> Clause 16(2) clarification

<sup>67</sup> Forest and Bird

<sup>68</sup> M Seymour

<sup>69</sup> Mt Gerald, The Wolds

<sup>70</sup> Mt Gerald, The Wolds

<sup>71</sup> FENZ

<sup>72</sup> Transpower

<sup>73</sup> Clause 10(2)(b) amendment

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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;<sup>74</sup>~~
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 and the clearance is not within a location specified in Rule 1.3.2; or;<sup>75</sup>~~
5. ~~The clearance is essential for compliance with the Regional Pest Management Strategy;<sup>76</sup> 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;<sup>77</sup>~~
- 6 ~~The clearance is of indigenous vegetation within a defined Farm Base Area (see Appendix R); or<sup>78</sup>~~
- 6.7 ~~The clearance is of indigenous vegetation within an area of improved pasture (refer Definitions) and the clearance is not within a location specified in Rule 1.3.2;<sup>79</sup>~~
7. ~~The clearance is not within a Site of Natural Significance or on land above 900m in altitude;<sup>80</sup>~~
8. ~~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~~
  - d) ~~50m of all other wetlands<sup>81</sup>~~

**1.2 Restricted Discretionary Activity – Indigenous Vegetation Clearance**

~~1.2.1 Unless permitted under Rule 19.1 the clearance of indigenous vegetation clearance is a restricted discretionary activity provided the following conditions are met:~~

1. ~~The farm enterprise has a Farm Biodiversity Plan (see Definitions);~~
2. ~~The clearance is not within a Site of Natural Significance or on land above 900m in altitude;~~
3. ~~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~~
  - d) ~~50m of all other wetlands~~

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

1. ~~The quality of a Farm Biodiversity Plan, including whether the Farm Biodiversity Plan:~~
  - a) ~~Achieves the purpose set out in in Appendix Y;~~
  - b) ~~Adequately identifies the biodiversity values, and in particular significant indigenous vegetation or habitat of indigenous species using the criteria provided in Appendix 3 of the Canterbury Regional Policy Statement, and also identifies actual and potential threats to those values;~~
  - c) ~~Includes methods that will adequately protect the significant biodiversity values identified; and~~

<sup>74</sup> Clause 10(2)(b) amendment

<sup>75</sup> Clause 10(2)(b) amendment

<sup>76</sup> CRC

<sup>77</sup> CRC

<sup>78</sup> SPSL, Mt Gerald, The Wolds

<sup>79</sup> Clause 10(2)(b) amendment

<sup>80</sup> SPSL, C Burke

<sup>81</sup> SPSL, CRC, Maryburn Station

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- d) ~~Includes appropriate monitoring and reporting methods to adequately protect the biodiversity values identified.~~
2. ~~Compliance with a Farm Biodiversity Plan~~
- a) ~~Whether the proposal achieves no net loss of indigenous biodiversity values identified as significant.~~
- b) ~~The actual or potential impacts on biodiversity or ecological values expected to occur as a result of the proposal, particularly the impact on significant values including the values significant to Ngāi Tahu.~~
- c) ~~The extent to which species diversity or habitat availability could be adversely impacted by the proposal.~~
- d) ~~Any potential for avoiding, remedying, mitigating or otherwise offsetting or compensating for adverse effects on significant indigenous vegetation and significant habitats of indigenous fauna.~~
- e) ~~Monitoring requirements including collection, recording and provision of information and how these can be adapted over time in response to information on the effectiveness of measures to avoid, remedy or mitigate adverse effects on indigenous biodiversity.~~
- f) ~~Conditions to ensure obligations in respect of biodiversity endure, including beyond any changes of ownership (wholly or partially) of the landholding and review of conditions.~~
- g) ~~The benefits that the activity provides to the local community and beyond.~~<sup>82</sup>
- 1.2.2. ~~Other than as permitted by Rule 1.1.1 the Unless provided for in Rule 19.2.1 any indigenous vegetation~~<sup>83</sup> ~~clearance up to 5000m<sup>2</sup> of indigenous vegetation~~<sup>84</sup> ~~within any site, or per 100ha where a site is greater than 100ha,~~<sup>85</sup> ~~in any 5-year continuous period provided the following conditions are met:~~
1. ~~The clearance is not within:~~
- a) ~~an area of significant indigenous vegetation or a significant habitat of indigenous fauna a Site of Natural Significance~~<sup>86</sup> ~~or on~~
- b) ~~land above 900m in altitude;~~
2. ~~The clearance is not within:~~<sup>87</sup>
- c) ~~100m 75m~~<sup>88</sup> ~~of a lake~~
- d) ~~20m of the bank of a river~~
- ~~100m of an ecologically significant wetland~~<sup>89</sup>
- e) ~~50m of all other any~~<sup>90</sup> ~~wetlands~~
2. ~~A Farm Biodiversity Plan is prepared in accordance with Appendix Y for the farming operation and submitted with the application for resource consent.~~<sup>91</sup>
- ~~The Council will restrict its discretion to the following matters:~~
1. ~~The adequacy of and implementation of the Farm Biodiversity Plan,~~<sup>92</sup>

<sup>82</sup> C Burke, Forest and Bird<sup>83</sup> Clause 16(2) clarification<sup>84</sup> Clause 16(2) clarification<sup>85</sup> CRC<sup>86</sup> Clause 10(2)(b) amendment<sup>87</sup> Clause 10(2)(b) amendment<sup>88</sup> Mt Gerald, The Wolds<sup>89</sup> Mt Gerald, The Wolds, Fish and Game<sup>90</sup> Mt Gerald, The Wolds, Fish and Game<sup>91</sup> Mackenzie Guardians,<sup>92</sup> Clause 10(2)(b) amendment

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2. The area of indigenous vegetation to be cleared and the reasons for the intended clearance;<sup>93</sup>
  - 4 3 Managing<sup>94</sup> the actual or potential impacts on indigenous<sup>95</sup> biodiversity, species diversity, habitat availability<sup>96</sup> or ecological function values<sup>97</sup> expected to occur as a result of the proposal, particularly the impact on significant values including the<sup>98</sup> values significant to Ngāi Tahu.
  4. Managing edge effects;<sup>99</sup>
  - 2 5 Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;<sup>100</sup> The extent to which species diversity or habitat availability could be adversely impacted by the proposal.<sup>101</sup>
  - 3 Any potential for mitigation or offsetting of effects on ecosystems and biodiversity values.<sup>102</sup>
  - 4 6 Any technical and or operational constraints on the activity necessitating the clearance of indigenous vegetation and route, site and method selection process.<sup>103</sup>
  - 4 The benefits that the activity provides to the local community and beyond.
  - 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.<sup>104</sup>
  - 8 The adequacy of monitoring and reporting;<sup>105</sup>
  - 9 The review of conditions; and<sup>106</sup>
  - 10 Consent duration<sup>107</sup>
- 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.<sup>108</sup>

**1.3 Non-Complying Activity – Indigenous Vegetation Clearance**

The following activities are Non-complying activities unless specified as a Permitted Activity, Restricted Discretionary Activity or Discretionary Activity.<sup>109</sup>

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<sup>93</sup> DOC, EDS

<sup>94</sup> Clause 16(2) clarification

<sup>95</sup> SPSL

<sup>96</sup> Clause 10(2)(b) amendment

<sup>97</sup> Clause 16(2) clarification

<sup>98</sup> Clause 16(2) clarification

<sup>99</sup> Mackenzie Guardians, DOC

<sup>100</sup> DOC, Forest and Bird

<sup>101</sup> Clause 10(2)(b) amendment

<sup>102</sup> Clause 10(2)(b) amendment

<sup>103</sup> Clause 10(2)(b) amendment

<sup>104</sup> DOC, EDS

<sup>105</sup> EDS

<sup>106</sup> Clause 16(2) clarification

<sup>107</sup> Clause 16(2) clarification

<sup>108</sup> Mr Gerald, The Wolds

<sup>109</sup> Clause 10(2)(b) amendment

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1.3.1 Any indigenous vegetation clearance not categorised as a Permitted Activity or Restricted Discretionary Activity<sup>110</sup> of more than 5000m<sup>2</sup> within any site in any 5-year continuous period.<sup>111</sup>

1.3.2 Any indigenous vegetation clearance in the following locations:

1. Within an area of significant indigenous vegetation or significant habitat of indigenous fauna a Site of Natural Significance.<sup>112</sup>
2. Above 900m in altitude.
3. Within 100m 75m of a lake, 20m of the bank of a river, 100m of an ecologically significant wetland or 50m of any all other wetlands.<sup>113</sup>

## **2 INDIGENOUS VEGETATION CLEARANCE ASSOCIATED WITH THE WAITAKI POWER SCHEME THE NATIONAL GRID OR THE OPUHA SCHEME<sup>114</sup>**

### **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:<sup>115</sup>

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<sup>116</sup>
2. The clearance meets the conditions in Rule 1.1.1, or<sup>117</sup>
3. 2.1.2 The clearance is required for the operation, and maintenance or refurbishment<sup>118</sup> 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.
4. The clearance is required for the operation, maintenance or refurbishment of the National Grid or the Opuha Scheme; and<sup>119</sup>
5. The clearance is located outside areas of significant indigenous vegetation and significant habitats of indigenous fauna identified in accordance with Policy 1.<sup>120</sup>

### **2.2 Restricted Discretionary Activity – Indigenous Vegetation Clearance**

2.2.1 The clearance of Any indigenous vegetation associated with the Waitaki Power Scheme, the National Grid or the Opuha Scheme that does not comply with one or more of the conditions of Rule 2.1.1<sup>121</sup> clearance associated with the refurbishment of the Waitaki Power Scheme within the following areas:

- The existing footprint of the Waitaki Power Scheme.
- On core sites associated with the Waitaki Power Scheme.
- On areas covered by an operating easement associated with the Waitaki Power Scheme.<sup>122</sup>

<sup>110</sup> Forest and Bird

<sup>111</sup> Clause 10(2)(b) amendment

<sup>112</sup> Clause 10(2)(b) amendment

<sup>113</sup> All changes to condition 3 are Clause 10(2)(b) amendments

<sup>114</sup> Clause 10(2)(b) amendment

<sup>115</sup> Genesis, Meridian, OWL, Transpower

<sup>116</sup> Genesis, Meridian

<sup>117</sup> Genesis, meridian

<sup>118</sup> Genesis, Meridian

<sup>119</sup> OWL, Transpower

<sup>120</sup> EDS

<sup>121</sup> Meridian

<sup>122</sup> Clause 10(2)(b) amendment and Clause 16(2) clarification

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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;<sup>123</sup>
- (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;<sup>124</sup>
- (b) (c) Managing the actual or potential impacts on indigenous biodiversity, species diversity, habitat availability or ecological functions (including connectivity, function, diversity and integrity)<sup>125</sup> values expected to occur as a result of the proposal, particularly the impact on significant values including the<sup>126</sup> values significant to Ngāi Tahu;
- (d) Methods to avoid, remedy or mitigate adverse effects on indigenous biodiversity and offset residual significant effects on indigenous biodiversity;<sup>127</sup>
- (e) The extent to which species diversity or habitat availability could be adversely impacted by the proposal;
- (d) Any potential for mitigation or offsetting of effects on ecosystems and biodiversity values.
- (e) Any technical and or operational constraints associated with the proposed activity requiring vegetation clearance and route, site and method selection process.<sup>128</sup>
- (f) The benefits that the activity provides to the local community and beyond;
- (g) The adequacy of monitoring;<sup>129</sup>
- (h) The review of conditions; and<sup>130</sup>
- (i) Consent duration.<sup>131</sup>

## **2.3 Discretionary Activity – Indigenous Vegetation Clearance**

- 2.3.1** Any indigenous vegetation clearance associated with any new facility, structure or works associated with the Waitaki Power Scheme.<sup>132</sup>

<sup>123</sup> Clause 10(2)(b) amendment, also OWL, Transpower

<sup>124</sup> EDS, also Clause 10(2)(b) amendment following deletion of notified (d) and (e)

<sup>125</sup> DOC

<sup>126</sup> Clause 16(2) clarification

<sup>127</sup> EDS

<sup>128</sup> Clause 16(2) clarification

<sup>129</sup> EDS

<sup>130</sup> Clause 16(2) clarification

<sup>131</sup> Clause 16(2) clarification

<sup>132</sup> Clause 10(2)(b) amendment



## Appendix C Tracked changes version of PC18 as notified

**A. Add the following Appendix Y to the Mackenzie District Plan****APPENDIX Y - FARM BIODIVERSITY PLAN FRAMEWORK****Introduction**

The purpose of a Farm Biodiversity Plan is to facilitate the maintenance or enhancement of indigenous biodiversity for a farming operation ~~integration of development activity with the identification and protection of significant ecological areas to ensure no net loss of biodiversity, on a comprehensive whole of property basis.~~<sup>133</sup>

**Development of a Farm Biodiversity Plan**

A Farm Biodiversity Plan can be developed through a collaborative process between the Council and the landowner / land manager. ~~(refer footnote)<sup>1</sup>~~ but is only authorised by the Council through the resource consent process.<sup>134</sup>

**Framework**

The following sets out the framework for development of a Farm Biodiversity Plan.

1. A Farm Biodiversity Plan can be provided in one of the following formats:
  - a) as a separate stand-alone Farm Biodiversity Plan; or
  - b) as an additional section to a farm environment plan prepared according to an industry template such as the Beef and Lamb New Zealand Canterbury Farm Biodiversity Plan or a plan prepared to meet Schedule 7 of the Canterbury Land and Water Regional Plan.

*Note: Where an industry farm biodiversity plan template is used, the Council is only concerned with the sections of that plan which address the matters outlined in this Appendix Y.*
2. A Farm Biodiversity Plan shall apply to a farming operation enterprise (see Definitions).<sup>135</sup>
3. A Farm Biodiversity Plan must contain as a minimum the matters contained in Parts A, B, C and D that follow.<sup>136</sup>

**NOTE** The Council will work with landowners / land managers in developing a Farm Biodiversity Plan and may provide a suitably qualified ecological expert to identify and assess the indigenous biodiversity of the farming enterprise, and to provide ecological advice on management of those values. Advice may also be provided from an appropriately qualified person who has expertise in land/farm management, where appropriate. Council will not fund experts other than those provided by the Council.

<sup>133</sup> DOC, EDS, Glenrock Station,

<sup>134</sup> DOC

<sup>135</sup> Clause 10(2)(b) amendment

<sup>136</sup> Clause 16(2) clarification

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**A Description of the property and its features:**

1. Physical address;
2. Description of the ownership and name of a contact person;
3. Legal description of the land used for the farming operation property;<sup>137</sup> and
4. A map(s) or aerial photograph at a scale that clearly shows, where relevant:
  - a) The boundaries of the farming operation enterprise;<sup>138</sup>
  - b) The boundaries of the main land management units within the farming operation on the property or within the property;<sup>139</sup>
  - c) The location of all water bodies, including wetlands and<sup>140</sup> riparian vegetation;
  - d) Constructed features including buildings, tracks and any fencing to protect biodiversity values (including around riparian areas);
  - e) The location of any areas within or adjoining the farming operation property<sup>141</sup> that have been identified as areas of significant indigenous vegetation or significant habitats of indigenous fauna a Sites of Natural Significance<sup>142</sup> or are legally protected by way of covenant;
  - f) The location of any other areas within the farming operation that have been identified as an Outstanding Natural Landscape or Feature, a geopreservation site, Area of High Visual Vulnerability or Scenic Grassland Area property that may have ecologically significant values;<sup>143</sup>
  - g) The location of any Farm Base Areas;<sup>144</sup>
  - h) Areas of improved pasture;
  - i) Areas of retired land; and
  - j) Location of any proposed developments, including intensification of production, new tracks or buildings and areas to be cleared.

**C B Development Areas and Farming Operation<sup>145</sup> Activities:**

The purpose of this section of the Farm Biodiversity Plan<sup>146</sup> is to understand how the land including any Sites of Natural Significance,<sup>147</sup> has been managed, what the future management will be, and how this will affect the indigenous biodiversity. The Farm Biodiversity Plan shall;<sup>148</sup>

1. Describe historic and current land use management, including stocking policy, water supply, grazing regimes, improved pasture, and indigenous<sup>149</sup> biodiversity management, where relevant;<sup>150</sup>
2. Describe any proposed land use management or activities to be undertaken that would require the clearance or disturbance of indigenous biodiversity and the time frames over which these activities are proposed to occur. Such activities may include construction of new farm tracks or buildings, intensification of land use, indigenous vegetation clearance within previously undisturbed areas, earthworks or cultivation.

<sup>137</sup> Clause 10(2)(b) amendment

<sup>138</sup> Clause 10(2)(b) amendment

<sup>139</sup> Clause 10(2)(b) amendment

<sup>140</sup> EDS

<sup>141</sup> Clause 10(2)(b) amendment

<sup>142</sup> DOC

<sup>143</sup> CRC, EDS

<sup>144</sup> SPSL, EDS

<sup>145</sup> Clause 10(2)(b) amendment

<sup>146</sup> Clause 16(2) clarification

<sup>147</sup> EDS

<sup>148</sup> Clause 16(2) clarification

<sup>149</sup> SPSL

<sup>150</sup> Clause 10(2)(b) amendment



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3. Describe any potential adverse effects of the proposed activities described above on areas of indigenous biodiversity, including any Site of Natural Significance<sup>151</sup>

**B Description of existing ecological values:**

The purpose of this section of the Farm Biodiversity Plan is to describe the indigenous biodiversity of the farming enterprise to understand what the ecological values are and any threats or risks to these values. This will inform how these values are to be managed to achieve the overall goal(s) of maintenance, and over time, enhancement, of indigenous biodiversity on the property/catchment.

1. This assessment shall be undertaken by a suitably qualified and experienced ecologist.
2. This assessment shall describe existing ecological values within the farming enterprise and identify any significant sites in accordance with Policy 9.3.1 (1) and 9.3.1 (2) and the criteria in Appendix 3 of the Canterbury Regional Policy Statement 2013.
3. This assessment shall contain:
  - a) Recommended and measurable outcomes to demonstrate achievement of no net loss of identified values of significance;
  - b) Recommended actions to achieve these outcomes;
  - c) Recommendations for monitoring and review of progress in achieving the outcomes.

*[Section B as notified is relocated and renamed as Section C below]*

**C Development Areas and Activities:**

The purpose of this section is to understand how the land, including any Sites of Natural Significance, has been managed, what the future management will be, and how this will affect the indigenous biodiversity.

1. Describe historic and current land use management, including stocking policy, water supply, grazing regimes, improved pasture, biodiversity management, where relevant;
2. Describe any proposed land use management or activities to be undertaken that would require the clearance or disturbance of indigenous biodiversity and the time frames over which these activities are proposed to occur. Such activities may include construction of new farm tracks or buildings, intensification of land use, vegetation clearance of previously undisturbed areas, earthworks or cultivation; and
3. Describe any potential adverse effects of the proposed activities described above on areas of indigenous biodiversity, including any Site of Natural Significance.

*[Section C as notified is relocated and renamed as Section B above]*

**D Management Methods to Achieve Protection of Values**

Having regard to the information in B above, the purpose of this section is to set out information on management methods to ensure the values identified in the assessment at B are protected to ensure no net loss of indigenous biodiversity values in areas identified as significant.<sup>152</sup>

**C Description of existing indigenous biodiversity and its intended management**

The purpose of this section of the Farm Biodiversity Plan is to describe the indigenous biodiversity of the farming operation and how it will be managed.<sup>153</sup>

1. An assessment of existing indigenous biodiversity values shall be undertaken by a suitably qualified and experienced ecologist, including the identification of areas of significant indigenous vegetation or significant habitats of indigenous fauna.<sup>154</sup>
2. The assessment shall contain:
  - a) Recommendations to achieve maintenance and, where appropriate, enhancement of indigenous biodiversity outside significant areas.<sup>155</sup>

<sup>151</sup> DOC

<sup>152</sup> Clause 10(2)(b) amendment

<sup>153</sup> Clause 10(2)(b) amendment

<sup>154</sup> Burke, EDS, Mt Gerald, The Wolds

<sup>155</sup> EDS

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- b) A description of how the objective of 'no net loss' will be met by the proposal/s, including a description of tools and methods to achieve this. These Recommended actions to achieve these outcomes which<sup>156</sup> may include:
- i. Formal legal protection;
  - ii. Pest or weed control;
  - iii. Grazing regimes/management to protect values;
  - iv. Fencing;
  - v. Restoration planting or other restoration measures;
  - vi. Confirmation that area/s will not be subject to future land use change or development activity that will impact on the identified values present;
  - vii. Confirmation that the tools and methods will endure beyond any fragmentation of the farming operation enterprise<sup>157</sup> e.g. as a result of changes in ownership
3. Recommendations for monitoring and review of progress in achieving the outcomes.<sup>158</sup>
1. The plan shall include for each proposed management method above:
    - a) Detail commensurate with the scale of the environmental effects and risks;
    - b) Defined measurable targets that clearly set a pathway and timeframe for achievement;
    - c) Any proposed monitoring and information or records to be kept for measuring performance and achievement of the target.
  2. Confirmation from an appropriately qualified and experienced ecologist that the proposed methods will achieve the objective.<sup>159</sup>

**E D-Monitoring and Reporting on actions:**

The Farm Biodiversity Plan shall include a description of how the recommendations in Part C (2) will be monitored and reviewed. the following:

1. Having regard to B (3.) above, describe how the outcomes will be monitored, and how the results will be reported.
2. Describe when a review of management methods will be necessary; how such reviews/s will be undertaken, who by and within what timeframes; and how the results of any review will be implemented.<sup>160</sup>

*Note: The review described in D above does not supersede the requirement to apply for a change of condition(s) to any resource consent associated with the Farm Biodiversity Plan that may be necessary as a result of the review. It is also separate to any review of consent conditions that the Council may initiate under section 128 of the Resource Management Act 1991.<sup>161</sup>*

**CHANGES TO THE PLANNING MAPS**

No changes to the planning maps are proposed.

<sup>156</sup> Clause 16(2) clarification

<sup>157</sup> Clause 10(2)(b) amendment

<sup>158</sup> Clause 10(2)(b) amendment

<sup>159</sup> Clause 10(2)(b) amendment consequential on redrafting of new Part C(1) and (2)

<sup>160</sup> Clause 10(2)(b) amendment consequential on redrafting of new Part C(3). Also EDS

<sup>161</sup> Clause 16(2) clarification

**5 PUBLIC EXCLUDED****RESOLUTION TO EXCLUDE THE PUBLIC****RECOMMENDATION**

That the public be excluded from the following parts of the proceedings of this meeting.

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48 for the passing of this resolution</b>
<b>5.1 - Increase in Approved Contract Sum: Contract 1222 and 1169</b>	s7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
<b>5.2 - Funding Local Share of Tourism Infrastructure Projects - Twizel Long Vehicle Carpark and Tekapo/Takapo Car Park/Bus Stop</b>	s7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
<b>5.3 - Appointment of External Engineer to Contract for Various Contracts</b>	s7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7