



9 March 2021

**PC 18 Presentation of Forest & Bird's submission  
Mackenzie District Plan**

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**Introduction**

1. Forest & Bird is New Zealand's largest non-government organisation with many thousands of members and supporters. The Society has been involved in advocating for the protection of the Mackenzie Basin landscapes and native plants and animals for decades. We remain alarmed at the continuing rapid rate of ecological loss in the Mackenzie District.
2. Strong protection for vulnerable and irreplaceable nationally important indigenous species and ecosystems is urgently required to prevent their total loss. The identification and protection of significant natural areas in the Mackenzie District is inadequate and outdated. Stronger protection for the remaining sites is long overdue and it is a statutory obligation of the Mackenzie District Council.
3. Forest & Bird welcomes the proposed Plan Change 18 (PC 18) but we are concerned that the plan change does not go far enough to protect significant and maintain indigenous biodiversity and ecosystems in the Mackenzie District. We are concerned that PC 18 as proposed and as amended by the s42A officer's recommendations will exacerbate ecosystem fragmentation and loss of connectivity, and loss of indigenous biodiversity.
4. We acknowledge that the plan change is district wide, and we wish to reinforce the urgent need for strong plan provisions that protect highly vulnerable indigenous species and ecosystems particularly in the Mackenzie Basin sub-zone (Mackenzie Basin) and that provide absolute clarity for land occupiers.
5. We have considered much of the available information, in particular the Councils' ecologist report, the s42A Report and recommendations, and the expert ecological evidence which Mr Head has provided on behalf of Forest & Bird.
6. In speaking to Forest & Bird's submission I will expand on our key concerns, particularly to the extent that they remain relevant after considering the s42A recommendations. Attached to this presentation, for your reference, is a tracked version of PC 18, showing an update to Forest & Bird's relief sought. This takes into account the expert advice of Mr Head and integrates Forest & Bird's relief into the s42A recommendations version of PC 18.

**Identifying, Mapping and Protecting Significant Natural Areas**

7. Forest & Bird understands that the delay in progressing PC 18 was due in part to awaiting the Department of Conservation's (DOC) review of the Te Mana o te Taio Aotearoa New

Zealand Biodiversity Strategy 2020 (Te Mana o te Taiao) and the gazettal of a National Policy Statement for Indigenous Biodiversity (NPS-IB).<sup>1</sup> The Strategy was released in August 2020 and the draft NPS-IB was completed in November 2019 and its gazettal due later this year.<sup>2</sup>

8. In a letter to the Ministry for the Environment, The Mackenzie District Council wrote:

*9. d) Where possible, MDC would like to implement the National Planning Standards. They also wish to integrate any direction in the proposed National Policy Statement on Indigenous Biodiversity (NPS-IB) and the Department of Conservation's (DOC) review of the Biodiversity Strategy 2020 into PC 18. MDC consider that this will be achievable if a hearing is held in October 2020 and a decision issued by 20 December 2020.*<sup>3</sup>

9. That said, while there is no obligation to take into consideration a National Policy Statement that has not yet been gazetted, however given the Council's reasons for delay we are surprised that the plan change does not appear to integrate the direction of the draft NPS-IB direction.

10. The draft NPS-IB requires every territorial authority to undertake a district wide assessment of significant natural areas (SNA) to identifying significant indigenous vegetation and significant habitat of indigenous fauna and then map the areas in the district plan. This is consistent with current direction for identifying and protecting SNAs, as set out in the CRPS.

11. The SNA process is intended as an iterative process that requires ongoing plan changes as the territorial authority identifies and maps new SNA. Council's obligation to ongoing SNA identification, protection and mapping of significant natural areas, as signalled in the draft NPS-IB is not apparent in PC 18.

12. Forest & Bird consider policy to this effect is critical to achieving PC 18 objectives. As suggested by Mr Head, Council's ecologist Mr Harding's maps provide provisional starting point for the extent of remaining significant ecological values to be maintained and protected as a matter of national importance.<sup>4</sup>

13. Forest & Bird supports Mr Harding's approach to mapping, that takes the three-tiered approach to mapping converted, partially converted and everything else – with the last two assumed significant unless otherwise determined by ecological assessment. This approach covers areas that could be more than likely ecologically significant, especially as habitat for native birds, insects and lizards.

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<sup>1</sup> Application by Mackenzie District Council for a 12-month extension of time to issue a decision on proposed Plan Change 18 27 February 2020 Accessed at [https://www.mfe.govt.nz/sites/default/files/media/RMA/20-B-06302\\_application\\_mackenzie\\_district\\_council\\_extension\\_to\\_two-year\\_timeframe\\_decision\\_on\\_pc\\_18.pdf](https://www.mfe.govt.nz/sites/default/files/media/RMA/20-B-06302_application_mackenzie_district_council_extension_to_two-year_timeframe_decision_on_pc_18.pdf) 10 February 2021

<sup>2</sup> Forest & Bird understand that the Minister will make a decision regarding the gazettal of the NPS-IB in July 2021.

<sup>3</sup> Point 9(d) Application by Mackenzie District Council for a 12-month extension of time to issue a decision on proposed Plan Change 18 27 February 2020 Accessed at [https://www.mfe.govt.nz/sites/default/files/media/RMA/20-B-06302\\_application\\_mackenzie\\_district\\_council\\_extension\\_to\\_two-year\\_timeframe\\_decision\\_on\\_pc\\_18.pdf](https://www.mfe.govt.nz/sites/default/files/media/RMA/20-B-06302_application_mackenzie_district_council_extension_to_two-year_timeframe_decision_on_pc_18.pdf) 10 February 2021

<sup>4</sup> Harding Attachment 3

14. Te Mana o te Taiao replaced the New Zealand Biodiversity Strategy 2000. The overarching outcomes are enduring with a broad goal of ensuring that indigenous species and their habitats across Aotearoa New Zealand and beyond are thriving, and the health, integrity and connectivity of ecosystems are maintained and restored.
15. Te Mana o te Taiao is a cross sector strategy and includes a strategic priority of “*getting the system right*”.<sup>5</sup> In Forest & Bird’s view, part of that system includes ensuring district plans support the Strategy outcomes. Similarly, the s42A Report does not appear to have considered the role of PC 18 in getting the system right by for example, ensuring indigenous species thrive, and that the integrity and connectivity of ecosystems is maintained and restored.

### **Mackenzie Outstanding Natural Landscape and Indigenous Biodiversity**

16. Plan Change 13 (PC 13) of the Mackenzie District Plan (MDP) put in place protection of outstanding natural landscape (ONL) values in the Mackenzie Basin. PC 13 established that the whole of that Mackenzie Basin is an ONL and recognised that protecting indigenous vegetation and habitat for indigenous species is vital to maintaining the ONL.
17. The Environment Court heard from ecological experts and concluded that...

*...in large parts of the Mackenzie Basin there is not one species but 83 species of indigenous plants that qualify as threatened or at risk... Accordingly we find on balance of probabilities that much of the ONL meets the area of significance criteria... notwithstanding the presence of introduced plants or weeds.*<sup>6</sup>

*Consequently, the ONL is a significant area under Policy 9.3.1 CRPS.*<sup>7</sup>
18. As well as hearing from ecological experts, the court also heard from landscape experts that the Mackenzie Basin had undergone significant change because of irrigation and other factors and the ONL was at or near a tipping point.<sup>8</sup>
19. The court concluded regarding the geomorphological and ecological characteristics of the Mackenzie Basin, in particular places containing outwash gravels, that these values are inherent values and that large areas containing these values were being lost quickly... and that there was a strong case for an immediate moratorium on freeholding land as well as a review of MDC’s rural policy and implementing methods.<sup>9</sup> That was in 2017.
20. The s42A report does not appear to connect that landscape tipping point with the urgency of protecting any remaining indigenous flora, rare ecosystems and habitat for at risk and declining indigenous fauna, including the nationally critical Kakī (black stilt), nationally vulnerable Tūturiwhatu (banded dotterel) and Mackenzie’s own robust grasshopper, and the connectivity and scale of that habitat, vital to maintaining the Mackenzie ONL. Instead, the

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<sup>5</sup> Te Mana o te Taiao <https://www.doc.govt.nz/globalassets/documents/conservation/biodiversity/anzbs-2020.pdf> p.47

<sup>6</sup> PC 13 11<sup>th</sup> Decision 2017 [236]

<sup>7</sup> PC 13 11<sup>th</sup> Decision 2017 [237]

<sup>8</sup> PC 13 11<sup>th</sup> Decision 2017 [365]

<sup>9</sup> PC 13 11<sup>th</sup> Decision 2017 [550]

recommendations propose a planning framework that signal that indigenous vegetation clearance, pastoral intensification and agricultural conversion is still possible. This appears at odds with the court's conclusion in PC 13 and the council's obligation under the Resource Management s 6 and s 31.<sup>10</sup>

21. It is Forest & Bird's view that the Mackenzie ONL should be protected in the same way as any identified Site of Natural Significance. Again Mr Harding's proposed maps provide a good starting point connecting the ONL with protecting ecological values and developing a planning framework that prevents further fragmentation and loss.

### **Farm Biodiversity Plans**

22. In Forest & Bird's view, a Farm Biodiversity Plan (FBP) is likely to facilitate the ongoing loss of significant indigenous vegetation and fauna habitats in the Mackenzie Basin. As explained by Mr Head in his evidence, the Mackenzie ONL is the sum of its parts. Crucial to maintaining the ONL is avoiding further fragmentation of the Basin's remaining dryland ecosystems. The property-by-property approach promoted through a FBP as a pathway to resource consent for vegetation clearance will likely lead to further ecosystem and landscape fragmentation and loss of indigenous biodiversity.
23. In Forest & Bird's experience, although that may not have been the intention, using FBP or tools to that effect, indigenous biodiversity loses and development wins. Requiring a FBP as part of a restricted discretionary consent to clear indigenous vegetation within the Mackenzie Basin in an area the Environment Court has concluded is significant is not appropriate.
24. Forest & Bird could support the use of FBP as a farm management tool to protect and maintain indigenous biodiversity or for compliance and enforcement. However we remain concerned regarding quality and oversight of any such plan. Whose ecologist? There is no requirement for peer review. Without proper and robust oversight there is no guarantee that a FBP will be effective in achieving objectives for indigenous biodiversity, such as halting its decline and identifying and providing protection for significant areas.<sup>11</sup>
25. In the Mackenzie Basin, considering the irreversible consequences for indigenous species and habitats unique to the basin, the FBP approach appears particularly fraught.

### **Offsetting**

26. Forest & Bird emphasised in its original submission that there are limits to offsetting. Mr Head in his evidence refers to the inappropriateness of offsetting where ecosystems are vulnerable, significant and irreplaceable. He states that "*any reduction of these ecosystems*'

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<sup>10</sup> RMA s 6 Matters of national Importance specifically 6(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development: and 6(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna; RMA s 31 (b) (iii) control actual and potential effects of use, development or protection of land for the purpose of the maintenance of indigenous biological diversity

<sup>11</sup> Canterbury Regional Policy Statement 9.2.1

*extent will cause permanent net loss that cannot be offset or compensated.”* PC 18 needs to contain a clear priority to avoid adverse effects on these types of ecosystems.

Thank you for the opportunity to present. All the best in your deliberations.

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