

DDPR_feedback_0078s		
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	Response Date	Aug 31 22
	Notes	
Q1	Select the chapter you want to provide feedback on	
Q2	In general, to what extent do you support the contents of this chapter?	
Q3	Objective/Policy/Rule/Standard reference:	
Q4	Feedback/Comments	
Q5	Objective/Policy/Rule/Standard reference:	
Q6	Feedback/Comments	
Q7	Objective/Policy/Rule/Standard reference:	
Q8	Feedback/Comments	
Q9	Objective/Policy/Rule/Standard reference:	
Q10	Feedback/Comments	
Q11	supporting documents?	
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Q12	If you need more space, or have any other general comments, please leave them here	

31 August 2022

Waitaki District Council
Planning team

EDS comments on the draft Waitaki District Plan

Tēnā koe

EDS welcomes the opportunity to comment on the draft Waitaki District Plan.

The operative district plan was partially approved in 2004, and following a number of plan changes, became fully operative in 2010. As the RMA requires councils to commence a review of its district plan every 10 years, this review is well overdue.¹

The operative plan provisions are outdated and do not adequately protect the landscape, indigenous biodiversity and other environmental values of the Waitaki District. Of particular concern to EDS is the lack of robust protection for the ecological and landscape values in the Mackenzie Basin outstanding natural landscape.²

The draft provisions are an improvement on the status quo, and EDS commends Council in its work to date. However, further amendments are still required. EDS's comments below seek to better provide for the protection, maintenance and enhancement of landscape and indigenous biodiversity values in the Waitaki District in line with higher order direction.

To prevent, or reduce, the possibility of 'gold rush' consenting occurring under the operative plan provisions, EDS recommends notification of the proposed District Plan occur as soon as practicable, and the notification of provisions relating to significant indigenous vegetation and significant habitat of indigenous fauna with immediate legal effect.³

Some preliminary comments on the draft District Plan are set out below.

Introduction and General Provisions

Definitions

- Indigenous vegetation
 - EDS support in part and seeks the specific inclusion of mosses and lichen in the definition.
- Maintenance and repair
 - The definition of maintenance and repair should specify that there will be no increase in the size, scale or effects of the activity.

¹ Noting that while Waitaki District Council resolved to review its district plan in 2014, it took five years to release the discussion document: Waitaki 2030, which broadly highlighted the issues to be addressed in the revised plan; a further two years to release the draft district plan currently open for consultation. Notification of the district plan is still yet to occur.

² As described in Peart R and Woodhouse C, 2020, *Te Manahuna- Mackenzie Basin and Landscape Protection*, Environmental Defence Society, Auckland.

³ See *Mackenzie District Council* [2017] NZEnvC 202.

- Regionally Significant Infrastructure
 - This definition is too broad, for example it includes community land drainage infrastructure and established community-scale irrigation and stock water infrastructure. This is likely to have unintended consequences and result in inappropriate adverse effects on environmental values. EDS suggests limiting the definition to nationally important infrastructure.
- Significant Natural Area (SNA)
 - EDS supports the definition of significant natural areas but seeks that SNAs are mapped and identified in the Plan in line with the direction in the proposed National Policy Statement on Indigenous Biodiversity (NPSIB).
- Vegetation clearance
 - EDS supports in part the definition of vegetation clearance however makes the following comments:
 - The list of activities included in the definition should also include: mobstocking, shading and edge effects given the adverse impacts of these activities on vegetation.
 - The list of activities encompassed by the definition should not be limited by those listed in (1) – (9).
 - Do not support the exclusion of incidental damage from certain activities.

In addition to the specific comments above, EDS considers the plan would benefit from definitions for “biodiversity” and “no net loss”.

Ecosystems and Indigenous Biodiversity

- ECO-01: Identify and protect Significant Natural Areas
 - Remove reference to “no net loss of indigenous biodiversity”. Protection and no net loss are separate and distinct concepts. “No net loss” is a technical term associated with the use of biodiversity offsetting, which envisages the loss or degradation of one area on the basis of gains in another.
 - Whilst Canterbury RPS Policy 9.3.1 explicitly refers to “no net loss”, the protection of significant indigenous vegetation and significant habitats of indigenous fauna is the ultimate goal of Chapter 9 of the Canterbury RPS, and s 6(c) RMA.
- ECO-P2: Protection of Significant Natural Areas
 - Policy will not achieve protection of SNAs. Adverse effects on SNAs must be avoided. Only outside of SNAs is a more flexible effects management approach, such as that outlined in ECO-P2, acceptable.
 - To address this, the effects management hierarchy outlined in ECO-P2 should be deleted from ECO-P2 and inserted into ECO-P5.
 - EDS also recommends a separate policy on the use of offsetting. Biodiversity offsetting is a specific tool, subject to criteria agreed by ecological experts internationally. Those criteria should apply. See the BBOP Principles and NPSIB Appendix 3.
- ECO-P3: Appropriate activities within Significant Natural Areas
 - Oppose inclusion. Policy is inappropriate in a chapter seeking to protect SNAs and maintain and enhance other indigenous biodiversity. If included, it should only apply to areas outside SNAs.

- Intent is better provided for in permitted activity rules (provided that these are sufficiently certain and subject to specified thresholds – ie. it is unclear what scale and nature of earthworks would maintain biodiversity values).
- ECO-P5: Managing indigenous vegetation outside Significant Natural Areas
 - Policy should not be limited to vegetation only, should apply to all aspects of indigenous biodiversity.
 - See comments on ECO-P2 above regarding the insertion of the effects management hierarchy from ECO-P2. This should replace the current wording.
- Appendix 3: Criteria for evaluating the significance of indigenous vegetation and habitats of indigenous fauna
 - Recommending adopting the criteria for assessing significance as set out in Appendix 1 NPSIB as this is based on best practice.

Natural Features and Landscapes

- NFL-P3: Inappropriate activities on or within an Outstanding Natural Feature or Landscape
 - Reference to “maintain” in (1) should be replaced with “avoids adverse effects on”.
 - Subclauses (1) and (2) address effects on different values. Recommend deletion of the word “or”.
- NFL-P4: Inappropriate activities on or within Significant Natural Features and Rural Scenic Landscapes
 - Reference to “maintain” in (1) should be replaced with “avoids adverse effects on”.
 - Query whether “amenity values” covers all effects to be avoided in (1).
- NFL-R14: Plantation Forestry on or within an Outstanding Natural Feature or Landscape
 - EDS strongly supports inclusion of this prohibited activity rule. Tree planting for commercial purposes is often linear in form with distinctive, unnatural edges. In addition to adverse effects on indigenous biodiversity, this has significant visual and physical effects on landscape values
- Mapping of Outstanding Natural Features Landscape
 - The mapping of Outstanding Natural Landscapes and Features is a major improvement on the operative district plan.
 - Coupled with the tighter rule framework for rural Scenic Landscapes and Significant Natural Features, this is likely to provide much greater protection to the landscape values in the Waitaki District.

In addition to the above, EDS recommends the inclusion of policy direction requiring the avoidance of adverse effects of vegetation clearance on Outstanding Natural Landscapes, Significant Natural Features and Rural Scenic Landscapes. This would recognise the overlap between s 6(b) and (c) values, and the adverse effects that vegetation clearance can have on landscape values (with vegetation clearance and vegetation change having been identified as one of the major threats to landscape values). Amendment to Rule NFL-R10 is also necessary to strengthen the requirement to avoid adverse effects of all vegetation clearance on landscape values.

EDS hopes the above comments are useful. We look forward to submitting on the notified plan in due course.

Ngā mihi,

Cordelia Woodhouse
Solicitor