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# PREFERRED OPTION REPORT TO DISTRICT PLAN COMMITTEE

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<b>DATE:</b>	27 February 2019
<b>TOPIC NAME:</b>	Natural Environment Topic: Vegetation and Ecosystems
<b>SCOPE DESCRIPTION:</b>	To develop an appropriate approach to issues relating to vegetation and ecosystems (biodiversity values) as required by the Resource Management Act and the Canterbury Regional Policy Statement
<b>TOPIC LEAD:</b>	Andrew Mactier
<b>PREPARED BY:</b>	Andrew Mactier (Selwyn District Council)

## EXECUTIVE SUMMARY

<i>Issue 1</i>	<p>The DPR needs to determine whether the existing provisions relating to vegetation and ecosystems are efficient and effective and therefore appropriate to be carried forward into a proposed District Plan, or if amendments to align the operative provisions with current best practice vegetation and ecosystems management outcomes for Selwyn District are necessary.</p> <p>The District Plan Committee decided that the preferred approach to address this topic was through the establishment of a 'Biodiversity Working Group'. That group was established to include a range of representatives, supported by planning and relevant technical ecological advisors. The group met through late 2017 and throughout 2018, according to agreed terms of reference and worked through all the relevant issues and options. The Group has subsequently developed a recommended preferred approach to managing indigenous vegetation and ecosystems for inclusion within the District Plan.</p>
<i>Recommendation 1</i>	That the District Plan Committee endorses the Biodiversity Working Group's recommended provisions outlined in Appendix 1 for further refinement and integration with other District Plan Review topics.
<i>DPC Decision on Issue 1</i>	<p><i>'That the Committee:</i></p> <ul style="list-style-type: none"><li><i>a) Notes the report.</i></li><li><i>b) Endorses the Preferred Options for 'Vegetation and Ecosystems' for further development and engagement, including:</i></li></ul>



	<p>(1) <i>Further refinement and integration of the recommended provisions outlined in Appendix 1 to the report;</i></p> <p>(2) <i>The establishment of a parallel process to investigate the feasibility of an alternative to the proposed improved pasture definition to assist in managing and protecting indigenous biodiversity;</i></p> <p>(3) <i>That, subject to the development of amended 'Biodiversity Working Group Terms of Reference' and wider Council initiatives, the District Plan Committee supports the continuation of the Biodiversity Working Group to support Council with the implementation of indigenous biodiversity related initiatives.</i></p> <p>c) <i>Notes the summary plan.'</i></p>
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<i>Issue 2</i>	Continuation of the Biodiversity Working Group to support Council with the implementation of indigenous biodiversity related initiatives.
<i>Recommendation 2</i>	That, subject to the development of amended 'Biodiversity Working Group Terms of Reference', the District Plan Committee supports the continuation of the Biodiversity Working Group to support Council with the implementation of indigenous biodiversity related initiatives.
<i>DPC Decision on Issue 2</i>	<p><i>'That the Committee:</i></p> <ul style="list-style-type: none"> <li><i>d) Notes the report.</i></li> <li><i>e) Endorses the Preferred Options for 'Vegetation and Ecosystems' for further development and engagement, including:</i> <ul style="list-style-type: none"> <li><i>(4) Further refinement and integration of the recommended provisions outlined in Appendix 1 to the report;</i></li> <li><i>(5) The establishment of a parallel process to investigate the feasibility of an alternative to the proposed improved pasture definition to assist in managing and protecting indigenous biodiversity;</i></li> <li><i>(6) That, subject to the development of amended 'Biodiversity Working Group Terms of Reference' and wider Council initiatives, the District Plan Committee supports the continuation of the Biodiversity Working Group to support Council with the implementation of indigenous biodiversity related initiatives.</i></li> </ul> </li> <li><i>f) Notes the summary plan.'</i></li> </ul>

<i>Issue 3</i>	Difficulties by the Council, landowners and stakeholders in interpreting improved pasture definitions.
<i>Recommendation 3</i>	That the District Plan Committee endorses a parallel process that investigates the feasibility of an alternative to the proposed improved pasture definition to assist in managing and protecting indigenous biodiversity.
<i>DPC Decision on Issue 3</i>	<p><i>'That the Committee:</i></p> <ul style="list-style-type: none"> <li><i>g) Notes the report.</i></li> <li><i>h) Endorses the Preferred Options for 'Vegetation and Ecosystems' for further development and engagement, including:</i> <ul style="list-style-type: none"> <li><i>(7) Further refinement and integration of the recommended provisions outlined in Appendix 1 to the report;</i></li> <li><i>(8) The establishment of a parallel process to investigate the feasibility of an alternative to the proposed improved pasture definition to assist in managing and protecting indigenous biodiversity;</i></li> <li><i>(9) That, subject to the development of amended 'Biodiversity Working Group Terms of Reference' and wider Council initiatives, the District Plan Committee supports the continuation of the Biodiversity Working Group to support Council with the implementation of indigenous biodiversity related initiatives.</i></li> </ul> </li> <li><i>i) Notes the summary plan.'</i></li> </ul>

## 1.0 Introduction

This report provides a summary of the planning issues relating to vegetation and ecosystems (biodiversity values) within the control of the Selwyn District Council.

This topic addresses the matter of the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, as set out in section 6(c) of the Resource Management Act (RMA). The Selwyn District contains many areas of special indigenous vegetation including large areas of national park, as well as highly modified areas in which the remnant indigenous vegetation is now rare and threatened. This topic seeks to set a direction for the protection of these special areas and to ensure that their ongoing protection is ensured, and maintenance of these values can be achieved.

To facilitate engagement and successful outcomes for this topic, the District Plan Committee decided that the preferred approach to address this topic was through the establishment of a 'Biodiversity Working Group' (the Working Group). The Working Group was established to include a range of representatives, supported by planning and relevant technical ecological advisors. The Group met through late 2017 and throughout 2018, according to agreed terms of reference and worked through all the relevant issues and options. The Group has subsequently developed a recommended preferred approach to managing indigenous vegetation and ecosystems for inclusion within the District Plan.

While the recommendations set out in this report are the agreed view of the Working Group, Federated Farmers has subsequent to the Working Group's final recommendation provided additional feedback, including:

- That they support changes to the operative District Plan so that the proposed District Plan aligns with the direction of the CRPS;
- That they encourage rules that properly address a verified issue. However, they have advised that they believe any rules should be a last resort device given the impact they can have on landowners and they do not think management and protection of indigenous biodiversity should rely on the imposition of rules. They would like to see this topic based on education and understanding, where the community works together to protect its future;
- They disagree with some of the approaches in the draft chapter, including:
  - i. the measures to protect certain fauna (rules managing longfin eels and mudfish in Council drains and water races). They do not believe enough on-the-ground assessment and monitoring has been conducted, and if it has been it was not presented the group for a fully considered review or comment.
  - ii. the inclusion of rules to protect braided rivers.
- Some of the definitions proposed could capture existing activities and create unnecessary confusion and court action.

It should be noted that the Working Group's recommended provisions presented as part of this report are to be subject to further work, including on-going stakeholder engagement, prior to this Chapter being Workshopped with the DPC in May.

It is noted this work is inter-dependant on other workstreams, including those relating to sites and areas of cultural significance, heritage items, landscapes, coastal areas and water. It is also noted that this work will need to inform (or be informed by) other workstreams such as Rural General, Subdivision, and Natural Hazards to ensure that biodiversity values are fully considered at the time of drafting objectives, policies and rules and there is alignment with the Canterbury Regional Policy Statement (CRPS).

## 2.0 Summary of Issues – Issue 1

The key resource management issues for vegetation and ecosystems, as they relate to this specific topic include:

- i. The need to give effect to the RMA, the CRPS and other relevant documents.
- ii. There is a need to review the significance criteria and process. The criteria in the operative District Plan do not align with the CRPS criteria and need to be updated to give effect to these. Also, the process of undertaking assessments, including collaborating with landowners and specialists needs to be reframed to ensure that the outcomes expected by the CRPS are achieved.
- iii. There are a range of methods for managing activities that affect areas of significant indigenous vegetation and significant habitats of indigenous fauna, including different rules and thresholds for standards. The rules to be included in the plan need to be appropriate to the values identified, the knowledge held and the threats to biodiversity values.
- iv. Beyond protection, the plan needs to include opportunities to provide for enhancement and restoration where appropriate, and to ensure the ongoing support for the community and stakeholders who play a vital role in the protection and enhancement of biodiversity values.

It is noted that related issues (landscapes, cultural values / sites, coastal areas, natural hazards) will be addressed through separate workstreams and will need, in time, to be integrated with this topic.

## 3.0 Statement of Operative District Plan approach

The issues relating to indigenous vegetation and ecosystems are contained primarily in the Rural Volume and particularly in the Natural Resources section of objectives and policies. The rules are predominantly contained in section C9.21 which addresses activities and clearance of indigenous vegetation and indigenous plant species.

The issues identified include:

- Loss of or damage to areas of significant indigenous vegetation or habitats of indigenous fauna.
- Spread of plant pests.

- Decline in indigenous biodiversity, modification and loss of natural areas, and their associated cultural and amenity values.

The objectives seek:

- Significant areas of indigenous vegetation and habitats of indigenous fauna are recognised and protected and enhancing areas of indigenous vegetation is encouraged.
- No wilding tree spread in the high country.
- Protect, and where practicable enhance indigenous vegetation along riparian margins and wetlands generally.
- The potential adverse effects from activities on areas of indigenous vegetation, habitats of indigenous fauna, and indigenous biodiversity and functioning are avoided, remedied or mitigated.

The policies set out to:

- Initially identify and protect significant ecological sites in partnership with landholders and other stakeholders using the process set out in an appendix. This process calls for a voluntary process of assessment.
- Avoid irreversible damage to or destruction of significant ecological sites.
- Ensure exotic tree species which are prone to wilding spread in the high country, are only planted with an effective plan to remove wilding trees prior to seeding.
- To avoid, remedy or mitigate the adverse effects of wilding trees on the High Country landscape by actively supporting and encouraging coordinated action between Environment Canterbury, the Department of Conservation, University of Canterbury, LINZ, MAF, Forest Research Institute, Selwyn and Other District Councils, landholders and other interested parties to remove existing wilding trees and prevent further spread.
- Encourage the retention of existing indigenous vegetation on the margins of lakes, rivers, wetlands and streams and the enhancement of these areas through management practices which allow for the re-establishment of vegetation of the margins of lakes, rivers, wetlands and streams in areas where it has been depleted.
- Adverse effects on indigenous ecosystems, vegetation and habitat should be avoided, remedied or mitigated where these areas are important for maintaining the indigenous biodiversity and ecosystem functions and natural character of the District.

The rules provide for clearance of indigenous vegetation in a variety of situations and to certain levels.

The planning maps do not identify any Significant Ecological Areas, but Appendix 12 sets out the criteria and process for identifying significant sites. Appendices 13 and 14 set out the threatened uncommon plants and regionally significant plants which relate to the rules above.

## 4.0 Summary of relevant statutory and/or policy context and other background information

### 4.1 Resource Management Act (RMA)

Under Section 6(c) of the Resource Management Act 1991 (RMA) the Council must protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.

Section 7 (b), (c), (d) and (f) require the efficient use and development of natural and physical resources, the maintenance and enhancement of amenity values, the intrinsic values of ecosystems and the maintenance and enhancement of the quality of the environment. Section 8 requires all persons exercising functions and powers under the RMA, in relation to managing the use, development, and protection of natural and physical resources, to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

## 4.2 New Zealand Coastal Policy Statement 2010

The New Zealand Coastal Policy Statement includes the expectation that indigenous biodiversity values will be recognised and protected. This is of particular relevance where such biodiversity values occur within the coastal environment.

## 4.3 Canterbury Regional Policy Statement (CRPS)

Chapter 9 Ecosystems and Indigenous Biodiversity of the Canterbury Regional Policy Statement (CRPS) sets out the regional intention to manage biodiversity values and address the loss of biodiversity. The District Plan must give effect to the CRPS.

Chapter 9 includes objectives seeking to halt the decline of Canterbury's ecosystems and indigenous biodiversity, restore or enhance ecosystems and indigenous biodiversity, and protect significant indigenous vegetation and habitats.

Policy 9.3.1 sets out the means of identifying significance and links to the criteria to be applied by all territorial authorities across the region. As part of this, method 3 requires the Council to set out objectives, policies and may include methods to provide for the identification and protection of significant areas and must include rule(s) to manage clearance of indigenous vegetation to provide for a case by case assessment of significance. The methods for this policy also expect that the Council will engage with Ngāi Tahu as tāngata whenua and should continue to work with landowners to identify significant areas. They also expect that Council should protect significant areas in their own operations and activities and advocate for support and guidance as well as incentives for protection.

Policy 9.3.2 sets out the priorities for protection which need to be integrated into the District Plan provisions, and Policy 9.3.3 anticipates an integrated management approach across the region to work towards halting the decline of biodiversity.

Policy 9.3.4 seeks to promote ecological enhancement and restoration and sets a direction for Councils to consider incentives to enable enhancement and restoration activities, particularly in relation to subdivision of land.

Policy 9.3.5 provides specific recognition of wetlands and the need for their protection and enhancement. The methods for this policy require consideration of wetlands within the district plan provisions.

Policy 9.3.6 specifically addresses biodiversity offsets and clearly sets out the criteria that apply to the use of biodiversity offsets. This provides clarity around the circumstances in which district councils should consider offsetting as a legitimate response to addressing adverse effects.



## 4.4 Mahaanui Iwi Management Plan (IMP)

The focus in the IMP on biodiversity is within Chapter 5.5 Tāne Mahuta which addresses issues of significance pertaining to indigenous biodiversity and mahinga kai; the flora and fauna that make up the domain of Tāne. *Ngāi Tahu has a particular interest in indigenous biodiversity, both for its inherent value on the landscape and the ecosystem services it provides, and with regard to mahinga kai. Indigenous flora and fauna has sustained tāngata whenua for hundreds of years, providing food, fibre, building materials, fuel, medicine and other necessities. The relationship between tāngata whenua and indigenous biodiversity has evolved over centuries of close interaction and is an important part of Ngāi Tahu culture and identity. The protection and enhancement of indigenous biodiversity and mahinga kai underpins many of the issues and policies in this IMP.*

This section set out a range of objectives, issues, and policies around iwi expectations for the management of mahinga kai resources and indigenous biodiversity generally. Of particular relevance is Issue TM2:

*The widespread loss of indigenous biodiversity has significant effects on:*

- (a) The relationship of Ngāi Tahu and their culture and traditions with ancestral lands, water and sites;*
- (b) Mahinga kai values (see Issue TM1); and*
- (c) The health of land, water and communities.*

Biodiversity values are also a relevant issue within a range of other sections of the IMP including:

- 5.3 Wai Māori in relation to the management of water, wetlands, waipuna and riparian margins, together with activities in these areas.
- 5.4 Papatūānuku in relation to soil conservation, earthworks, vegetation burning and clearance, wilding trees and the use of land.

## 4.5 Other Documents of Particular Relevance

The National Policy Statement on Renewable Electricity Generation, and the National Policy Statement on Electricity Transmission will be primarily addressed in the Utilities workstream, but the utility provisions will need to consider the need to protect biodiversity values.

The NZ Biodiversity Strategy 2000-2020 was prepared in response to the state of decline of New Zealand's indigenous biodiversity, and together with the NZ Biodiversity Action Plan 2016-2020, these documents seek to reflect the national intention to turn the tide of biodiversity decline and contribute to stemming global loss of biodiversity.

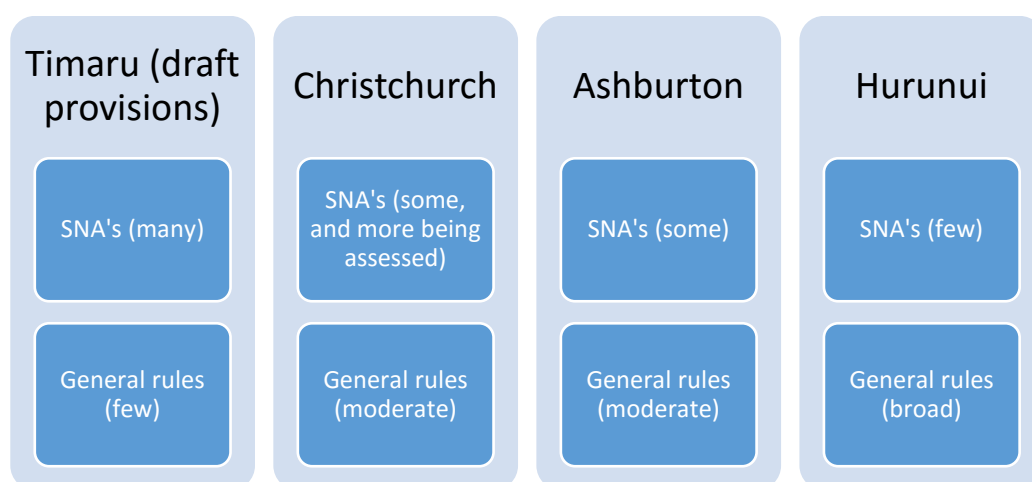
The Canterbury Biodiversity Strategy was developed in 2008 and adopted by most of the territorial authorities in the region (including Selwyn District Council) as well as other key organisations. This strategy provides guidance and a common focus for policy and decision making in relation to biodiversity management in the region. It includes a common vision and goals, together with actions to achieve the goals.

The Canterbury Regional Pest Management Plan 2018-2038 has a role in contributing to the protection of biodiversity values by managing pest species. This plan is administered by Environment Canterbury but is a relevant consideration in developing district plan provisions.

## 5.0 Summary of alternative management responses – Other Districts

In reviewing the operative District Plan provisions, it is relevant to consider the approach taken in other comparable district plans. Throughout the Working Group process consideration was given to other district plans in Canterbury and specifically the Hurunui, Christchurch, Ashburton and draft Timaru provisions.

The reviewed plans can be simply described as follows:



The objectives and policies of the plans reviewed all identify the need to protect significant natural areas (SNAs), and all include the concept of identification of areas against criteria. Not all of the criteria align with the CRPS criteria, primarily due to the timing of the various plan review processes e.g. the Ashburton Plan predates the current CRPS criteria.

At a rule level, the approaches vary considerably. All of the plans include a level of permitted indigenous vegetation clearance, usually relating to recognition of existing activities e.g. tracks or fences. There is however variation in the approach to key issues such as improved pasture, and to general clearance at a permitted activity level.

Three of the plans provide for restricted discretionary and non-complying activity status for clearance beyond permitted levels, with the non-complying activity status relating to significant areas and particular species. The fourth plan (Hurunui) simply takes a discretionary activity path to all clearance that is not permitted.

The planning maps identify significant areas for the purpose of applying the rules. Appendices within each of the plans contain matters such as the applicable criteria and the list of identified sites (where applicable).

## 6.0 Summary of Options to address Issue 1

### 6.1 Option 1a: Status Quo.

This option would involve a continuation of the current approach whereby the Plan has interim rules to manage clearance of indigenous vegetation.

**Effectiveness in Addressing Issues:** This option would not address the issues identified above in section 2.0 and would not adequately give effect to the RMA or CRPS. The criteria used in the operative Plan are out of date and do not align with CRPS criteria and nor would there be sufficient recognition of the need to support enhancement and restoration.

**Risks:** The Plan would not give full effect to the RMA/CRPS and given the issues identified above, may attract many submissions in opposition to this approach.

**Budget or Time Implications:** None as no work would be required. However, it may be that a significant number of concerns and issues are raised through submissions. This could lead to protracted hearing times and even appeals to the Environment Court with subsequent time and cost implications.

**Stakeholder and Community Interests:** Federated Farmers, Department of Conservation, Forest and Bird, Fish and Game, Environment Canterbury, Iwi, LINZ, University of Canterbury, Environmental Defence Society, landowners and special interest groups.

**Recommendation:** This option is not recommended as it does not give full effect to the RMA or the CRPS and neither would it reflect community interest. As such, the Council would not be meeting its statutory obligations.

### 6.2 Option 1b: Adopt the provisions recommended by the Biodiversity Working Group

This option would involve the inclusion of a range of objectives, policies and provisions comprehensively addressing biodiversity values and managing activities to ensure appropriate protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. See **Appendix 1** for a summary of the Working Groups recommended approach.

This option would align with the draft National Planning Standards which require a natural environmental values section within which there is a chapter that addresses ecosystems and indigenous biodiversity if these are identified in the District. There is also a requirement to include objectives, policies and methods, including rules (if any) that will protect those values.

**Effectiveness in Addressing Issue:** This option better enables recognition of the values to be protected from inappropriate activities and will give effect to the RMA and CRPS.

This option will ensure appropriate criteria are applied and assessment undertaken, together with providing support to the wider community through non-statutory processes. It will also provide

recognition to the extensive process undertaken by the Biodiversity Working Group in analysing the issues and proposing an appropriate approach.

**Risks:** This option may mean that resource consents are required for a wider range of activities to ensure that protection is achieved. Consequently, landowners may oppose the provisions and the decisions on the provisions could be appealed to the Environment Court. However, this risk can be mitigated through engagement with landowners of the approximately 60 confirmed SNAs.

**Budget or Time Implications:** Need to engage with landowners of the approximately 60 confirmed SNAs to ensure an understanding of the process, statutory drivers and the implications of the provisions.

**Stakeholder and Community Interests:** Federated Farmers, Department of Conservation, Forest and Bird, Fish and Game, Environment Canterbury, Iwi, LINZ, University of Canterbury, Environmental Defence Society, landowners and special interest groups.

**Recommendation:** This option is recommended as it is an effective and efficient approach that sets a specific policy framework and set of rules for the protection of biodiversity values. It also gives effect to the CRPS and the RMA and ensures that biodiversity values are protected or preserved, and the adverse effects of activities are appropriately managed. Option 1b also gives appropriate recognition to the Biodiversity Working Group process, and recommendations made by the Biodiversity Working Group.

## 7.0 Issue 1 - Preferred Option for further engagement

The Biodiversity Working Group recommends that Option 1b is the most efficient and effective option and gives appropriate recognition to the Biodiversity Working Group process, and recommendations made by the Biodiversity Working Group.

## 8.0 Summary of Issue 2

Throughout the Working Group process, many participants expressed an interest in re-convening a variation of the Working Group to assist Council with the development and implementation of any work programmes associated with management and protection of indigenous biodiversity.

No specific details of what this would entail were discussed, but it could include support and guidance with the development of a Council Indigenous Biodiversity Strategy/Action Plan, assistance with the implementation of any significant natural area assessment programme, and other similar projects.

### 8.1 Option 2a: Status Quo.

This option is for the Working Group to cease, with Council continuing to develop any biodiversity related strategies and/or action plans, and implementing any work programmes based on the current model of community engagement and oversight.

**Effectiveness in Addressing Issues:** This option may be less effective in meeting Council's obligations to consult and engage on indigenous biodiversity matters with the community.

**Risks:** Limited community and stakeholder involvement in the development and implementation of projects with high levels of community interest. Little alignment with central government and Regional Policy Statement expectations that biodiversity outcomes will be improved through a collaborative approach.

**Budget or Time Implications:** None as no additional work to what Council currently undertakes would be required.

**Stakeholder and Community Interests:** Federated Farmers, Department of Conservation, Forest and Bird, Fish and Game, Environment Canterbury, Iwi, LINZ, University of Canterbury, special interest environmental groups, such as Waihora Ellesmere Trust and Te ara Kakariki, and individual private landowners.

**Recommendation:** This option is not recommended as it does not reflect the Working Group's recommendation that such an approach be presented to the District Plan Committee for consideration, nor that the community has an interest in these issues. This option does not align with central government and Regional Policy Statement expectations around a collaborative approach to biodiversity protection, management and restoration.

## 8.2 Option 2b: That Council re-convene a Biodiversity Working Group to support Council with the development and implementation of indigenous biodiversity related initiatives.

This option would involve developing revised Terms of Reference for a Working Group comprising interested stakeholders and members of the wider Selwyn community to assist Council with the development and implementation of various biodiversity related initiatives. Such initiatives could include the development of an Indigenous Biodiversity Strategy/Action Plan, assistance with the Council's SNA assessment programme and input into the Council's restoration and enhancement programme.

**Effectiveness in Addressing Issues:** This option would be more proactive than Option 2a as it would allow for ongoing dialogue and feedback on indigenous biodiversity matters from the community and a wider range of experts in this field than is often the case with the status quo option. This would create efficiencies in Council delivering on any indigenous biodiversity programs/plans through increased collaboration at the front end and allow for more arcuate and effective community and stakeholder engagement. Improved and well supported outcomes could be expected from such an approach, and a possible higher degree of success when seeking central government funding, and possibly private sponsorship or support for the biodiversity work programme actions.

**Risks:** Given the varying nature of the groups involved there may be issues with coming to consensus on ideas or issues. This could hold up initial progress, however it would be better that any issues are voiced early through a working group, and then documented, rather than later in a process.

**Budget or Time Implications:** Limited to staff time to develop new Working Group Terms of Reference that reflects the focus of a re-convened Working Group, along with technical and secretarial support at Working Group meetings (approx. 2-3 per annum?).

**Stakeholder and Community Interests:** Federated Farmers, Department of Conservation, Forest and Bird, Fish and Game, Environment Canterbury, Iwi, LINZ, University of Canterbury, special interest environmental groups, such as Waihora Ellesmere Trust and Te ara Kakariki, and individual private landowners

**Recommendation:** That subject to wider consideration of this initiative by full Council, the Biodiversity Working Group recommends that Option 2b gives appropriate recognition to the Biodiversity Working Group process and recommendations made by the Biodiversity Working Group.

## 8.0 Issue 2 - Preferred Option

The Biodiversity Working Group recommends that Option 2b gives appropriate recognition to the Biodiversity Working Group process, and recommendations made by the Biodiversity Working Group.

## 9.0 Summary of Issue 3

At the Working Group meeting in September 2018, a proposal from the Fish and Game North Canterbury representative was made to the Working Group, recommending an alternative approach to that which was being progressed.

The proposal was to replace the relatively conventional planning approach (where plan rules manage indigenous vegetation clearance, other than in areas which are deemed to be improved pasture<sup>1</sup>) with an approach that maps areas of 'improved pasture' instead and only applies rules outside these areas.

The problem with the current definition of improved pasture is the uncertainty the definition creates for the land user/landowner, the Council and associated agencies, resulting in additional time and

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<sup>1</sup> Operative District Plan definition is: *Improved Pasture: for the purposes of administering indigenous vegetation clearance rules, improved pasture shall mean an area of pasture where species composition and growth has clearly been modified and enhanced for livestock grazing by cultivation or topdressing and over-sowing, or direct drilling, and where exotic pasture species are obvious.*

The Working Group's recommended definition for improved pasture is: *Improved Pasture: Improved pasture means an area of pasture where exotic pasture species have been deliberately introduced, where those exotic pasture species dominate in cover and composition, and where the naturally occurring indigenous species are largely absent from that area.*

costs for all parties of any investigation and possible enforcement action. The definition is reliant on a judgement call being made (predominantly by the land user) as to what is improved pasture, relating to the existing state or to previous development of the area in question. The type of improvement, level of improvement, and how long ago the improvement took place, is not clearly factored into the definition, even though this has a significant bearing on the extent to which the pasture was improved. Limited evidence, such as exotic plant spread, fertiliser drift, previous sporadic grazing, or unsanctioned vegetation clearance, could be used to suggest exotic species were introduced deliberately.

Secondly, both the operative District Plan's definition, as well as the Working Group's recommended definition do not adequately address what 'dominant' indigenous vegetation cover represents, instead relying on an assessment of the indigenous vegetation being "largely absent". In the scenario where stock may have heavily grazed an area of indigenous vegetation to the point where exotic species have colonised to a dominant level, it could be argued that indigenous vegetation has become largely absent due to its highly degraded state.

Another situation could occur where a dominant cover of indigenous vegetation forms a smaller island or corridor, in a much larger area of improved or semi-improved pasture. The farmer in applying the improved pasture definition could argue that because this intact area of indigenous vegetation is relatively small, when compared to the area of developed pasture around it, the definition for largely absent would apply, simply on a comparative ratio basis – meaning the farmer might actually remove this island or corridor, by claiming all of the area is improved pasture under the definition.

The proposal put forward to the Working Group argued that a much clearer method of assessment is required, where the indigenous biodiversity value of the land is determined prior to assessing the "improved pasture" state, noting the emphasis is on protecting remnant indigenous vegetation, as opposed to highly modified land with regenerating indigenous biodiversity of lesser value.

The ultimate outcome of this uncertainty is the continued clearance of areas of indigenous vegetation, some of which may be deemed significant areas of indigenous biodiversity, which arguably should be subject to assessment through a resource consent process.

The Working Group agreed that the Fish and Game proposal may have merit and could be developed further, but that the proposal the Working Group had been working on to that point would continue to its natural conclusion (the presentation of the Working Group's preferred Plan provisions to the DPC). The Working Group agreed to recommend to DPC that the Council make a decision whether or not to undertake further investigations into the feasibility of the Fish and Game proposal in more detail.

In summary, the alternative proposal suggested by the Fish and Game representative involves a process of mapping:

1. areas of land improvement/improved pasture (anticipating that no restrictions on vegetation clearance would apply to these areas);



2. areas with moderate land improvement/moderate indigenous biodiversity values (anticipating some planning controls would apply to these areas), and
3. areas of high biodiversity value (anticipating strong planning controls would apply to these areas).

The proposal is that in the first instance the identification of the various areas would initially be a technical desktop exercise at a high level (using satellite imagery/Landcover Database), then drilling down to individual farm level using aerial photographs. This desktop phase would be followed up with affected landowner engagement for ground-truthing and verifying whether the initial assessment has areas of disagreement. On site investigation would be the only way to ensure accuracy of the information and would allow for assessment against significance criteria if that is to be undertaken.

### Option 3a: Status Quo.

This option would involve endorsing the recommendation to adopt Option 1b of this report and not proceeding with investigations into the feasibility of the 'alternative' approach described above.

**Effectiveness in Addressing Issues:** The status quo option has been through the Working Group process giving a wide range of stakeholder input and, as noted above, enables recognition of the values to be protected from inappropriate activities and will give effect to the RMA and CRPS.

It is not certain whether the status quo option would be more effective in addressing the issues than Option 3b as no detailed analysis of the alternative approach has been carried out.

#### **Risks:**

- Forgoing an opportunity to investigate an alternative approach to that recommended by the Working Group (including the associated uncertainty and costs with interpreting and enforcing vegetation in areas of improved pasture) which may be more efficient and effective;
- Forgoing an opportunity to develop an approach which is more effective in Council giving effect to its RMA and CRPS obligations in terms of protection and management of indigenous biodiversity values;
- High risk that areas of significant indigenous biodiversity that should be protected are lost due to poor interpretation of whatever improved pasture definition is ultimately included in the District Plan;
- Unnecessary costs of monitoring and enforcement due to the uncertainties and issues with the status quo approach identified above;
- Submissions on the Proposed Plan challenging the efficiency and effectiveness of the Working Group's recommended Plan provisions, specifically the uncertainty that may remain around interpretation of the improved pasture definition. Subsequent appeals to the Environment Court may also eventuate.

**Budget or Time Implications:** Limited, as much of the work to develop recommended provisions has been completed through the Working Group process. There may be costs in the event there are



submissions on the proposed Plan from stakeholders with an interest in investigating the alternative option.

**Stakeholder and Community Interests:** Federated Farmers, Department of Conservation, Forest and Bird, Fish and Game, Environment Canterbury, Iwi, LINZ, University of Canterbury, Environmental Defence Society, other special interest groups, such as Ellesmere Sustainable agriculture, Waihora Ellesmere trust, and Te ara Kakariki, individual landowners.

**Recommendation:** This option is not recommended as although it does recognise the collaborative work and recommendation of the Biodiversity Working Group, it does not recognise the Group's support for further investigation of an alternative process.

### Option 3b: Investigate the feasibility of an alternative approach.

This option would involve developing a process to investigate the feasibility of an alternative to the proposed improved pasture definition, with various reporting milestones built into the process so the DPC has opportunities to review progress and make decisions on whether there is merit in continuing with the investigations.

It is noted that, in the event the alternative approach was progressed beyond a feasibility stage, it is likely that the implementation of this alternative approach will take a longer time period than is available prior to notification of the proposed plan. As such, the Working Group recommended provisions would need to be part of the notified plan with any agreed alternative approach being integrated through a variation process.

**Effectiveness in Addressing Issues:** Uncertain. In terms of the investigation process; this option will provide recognition of the Biodiversity Working Group support for investigations into the alternative approach described above. A staged feasibility and reporting process will allow the DPC to have oversight of whether there is merit in progressing to the next stage of the process, or whether it is apparent further investigations are unproductive.

In terms of the effectiveness of the proposed approach of mapping areas of improved pasture; the proposal may mean that Council can better give effect to its requirements under the RMA and CRPS for the identification and protection of indigenous biodiversity.

There may be benefits in identifying areas of improved pasture for Council, landowners and other interested stakeholders in that it may provide more certainty (and associated costs/time savings) about where consents for vegetation clearance activities are or are not required than the current regime (where it is not always clear whether vegetation clearance has occurred within an area of improved pasture or not). However, this may also not be necessary for areas where no works are proposed.

The following points are noted about such a process:

- There would likely be considerable time and costs in setting up a robust process, including:

- developing appropriate project Terms of Reference, methodologies and criteria (including contracting appropriate specialist advice);
- identifying and procuring appropriate technical skills and personnel for both the desktop and ground truthing work;
- development and implementation of a robust communication and engagement process with affected landowners and other stakeholders to confirm the technical desktop assessments (noting that a robust process of engagement could involve contacting and/or meeting hundreds of landowners).
- providing for detailed ecological significance assessments (using the CRPS significance criteria) at, or prior to, the ground truthing phase if this additional step is to be undertaken.
- It is uncertain to what extent the Working Group's recommended provisions would need to be re-worked to fit with any alternative approach outputs or if the rules would remain largely the same as currently proposed by the Group.

**Risks:** Low, as the feasibility process can include reporting milestones built in where DPC can make decisions about whether there is value in continuing or not.

Notwithstanding this, the following risks of the alternative approach are noted:

- Significant time and costs to develop and implement a robust process of engagement with landowners that adequately ground truths the technical desktop phase.
- Resistance from affected landowners and other stakeholders opposed to Council 'imposing' desktop based assessments (in the event there was limited landowner engagement in the ground truthing phase).
- Resistance from affected landowners in allowing access to their land to carry out ground truthing or significance assessments.
- Uncertainty that it will be more effective than the Working Group options 1b and 3a.
- The outcomes may not be supported by landowners and stakeholders who would prefer to apply rules on a case by case basis (options 1b and 3a).
- The provisions remain largely the same, with the addition of mapped areas in which rules would not apply but which are not proposed to be altered.

**Budget or Time Implications:** Uncertain. A detailed scoping and reporting process will need to be developed and approved by DPC.

The technical desktop exercise is probably a relatively straightforward exercise and appears possible to carry out within a relatively timely fashion (up to 3 months, once appropriate personnel have been retained, and robust criteria and methodologies have been developed and approved). There would also likely be a need to establish technical working groups to guide the process and review the outputs at each stage.

There may also be a need to scope additional planning controls associated with new areas that are mapped to understand the implications of the mapping.

The affected landowner engagement phase would likely be the most resource hungry part of this proposal with a need to contact and visit many landowners and properties. Also, any detailed ecological significance assessments during the ground truthing phase are costly (current costs for an 'average' sized ecological assessment is approximately \$4,000 - \$5,000 per assessment, depending on the scale of the property/area assessed).

**Stakeholder and Community Interests:** Federated Farmers, Department of Conservation, Forest and Bird, Fish and Game, Environment Canterbury, Iwi, LINZ, University of Canterbury, Environmental Defence Society, other special interest groups, such as Ellesmere Sustainable agriculture, Waihora Ellesmere trust, and Te ara Kakariki, individual landowners.

**Recommendation:** The Biodiversity Working Group recommends that this option is recommended as it gives appropriate recognition to the process and recommendations of the Biodiversity Working Group as well as exploring the alternative process.

## 10.0 Issue 3 - Preferred Option

The Biodiversity Working Group recommends that Option3b is the preferred option as it appropriately recognises the process and recommendations of the Biodiversity Working Group, as well as exploring the alternative process.

## 11.0 Conclusion

The District Plan Committee endorsed the establishment of a Biodiversity Working Group to assist in the development of draft provisions for the Proposed District Plan. The Working Group met monthly from late 2017 until it's final meeting in December 2018 and worked through all the relevant issues and options to come up with its preferred option to address the relevant issues.

Two options in relation to provisions for the Proposed District Plan were considered: Option 1a was to continue with the status quo approach, which includes interim rules to manage and protect indigenous biodiversity. Option 1b was to include amended objectives, policies and rules to comprehensively addressing biodiversity values and managing activities to ensure appropriate protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. The preferred option is Option 1b.

The Working Group also made recommendations on 2 additional matters: Recommendation 2 was that the Working Group be reconvened, under amended Terms of Reference, to assist Council in the development and implementation of any biodiversity related strategies, plans and related initiatives.

Recommendation 3 was in response to possible issues with the interpretation of improved pasture definitions (the current Operative District Plan definition, and the Working Group's recommended definition). The Working Group's recommendation is that the DPC consider the issue and endorse a parallel process that investigates the feasibility of an alternative to use of an improved pasture definition.



## Appendix 1: Summary of Working Group Recommendations

### District Plan Provisions

- Objectives and policies addressing:
  - Identification and protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna
  - Ongoing assessment
  - Protection of particular species and habitats – crested grebe, Canterbury mudfish, longfin eels (on public drains and water races)
  - Biodiversity management plans
  - Biodiversity Offsetting and Environmental Compensation
  - Recognition of the importance of indigenous biodiversity to Ngāi Tahu
  - Avoidance of risk from pest species
- Definitions of key terms including:
  - Biodiversity
  - Biodiversity management plan
  - Indigenous vegetation
  - Indigenous vegetation clearance
  - Improved pasture
  - Significant natural area (SNA)
  - Waterbody
  - Wetland
- Rules relating to:
  - Permitted clearance of indigenous vegetation (e.g. planted and/or managed as part of a domestic or public garden, where it has been planted and managed specifically for the purpose of harvesting, where specified in an approved biodiversity management plan, for maintenance, repair or replacement of existing fences, vehicle tracks, roads, walkways etc, and by Ngāi Tahu whānui for the purposes of mahinga kai or other customary uses).
  - Restrictions on clearance of indigenous vegetation where it is a listed species (e.g. beech forest) or in a specified area (e.g. within 50m of a wetland or 20m of a waterbody or above 800m).
  - Restrictions on clearance of indigenous vegetation where it is an identified habitat area (e.g. crested grebe nesting areas).
  - Restrictions on clearance of indigenous vegetation and earthworks where it is in a Significant Natural Area.
  - Restrictions on planting of potential pest species (e.g. contorta pine and crack willow).

(see also flow chart summary of rules below)

- Appendices containing:
  - Criteria for Determining Significant Indigenous Vegetation and Significant Habitat of Indigenous Fauna
  - Biodiversity Management Plan Requirements
  - Specified Protection Area maps - Mudfish / Long fin eel / Crested Grebe Protection Areas
  - Indigenous Species and Area Lists
  - Areas subject to specific Biodiversity Rules
- A schedule describing the identified and mapped Significant Natural Areas
- Identification on the Planning Mapping of Significant Natural Areas

## Additional approaches outside the District Plan

- Continuation of the voluntary SNA assessment approach
- Voluntary listing of SNAs in the Plan
- Council support for rates relief for properties with SNAs and continuation of the biodiversity fund and biodiversity officer role.
- Council support for landowners with SNAs, community groups and iwi groups involved in biodiversity enhancement.

**Summary Flow chart for Indigenous Vegetation Clearance Rules** (IVC = Indigenous Vegetation Clearance)

