



**Forest & Bird**  
GIVING NATURE A VOICE

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22 October 2010

West Coast Regional Council  
PO Box 66  
Greymouth  
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Attention: Proposed Regional Land and Water Plan

Dear Sir/Madam

**PROPOSED REGIONAL LAND AND WATER PLAN  
SUBMISSIONS FROM THE ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INC**

Please find enclosed the Royal Forest and Bird Protection Society of New Zealand submissions to the Proposed Regional Land and Water Plan.

Yours sincerely

Jennifer Miller  
Canterbury/West Coast Field Officer



**SUBMISSION ON PUBLICLY NOTIFIED PROPOSED ASHBURTON DISTRICT PLAN UNDER CLAUSE 6 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

To: West Coast Regional Council

Submission on: Proposed Regional Land and Water Plan

Name: Royal Forest and Bird Protection Society of New Zealand Inc (Forest and Bird)

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**STATEMENT OF SUBMISSION BY THE ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INC**

Pursuant to Clause 6 of the First Schedule of the Resource Management Act 1991 the Royal Forest and Bird Protection Society of New Zealand (Forest & Bird) make the following submissions on Proposed Regional Land and Water Plan.

The submissions are structured as follows:

- The specific provisions that this submission relates to are set out below using the same system of identifying numbers as that contained in the plan;
- The wording of relief sought shows new text as underlined and original text to be deleted as ~~strikethrough~~.

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**General Comment**

Forest and Bird has outstanding Environment Court appeals in relation to both the Proposed Water Management Plan and Variation 1 of the Proposed Land and Riverbed Plan. In addition, Forest and Bird has made a submission on Variation 2 of the Land and Riverbed Plan.

The appeal on the Proposed Water Management Plan concerns wetland management, and seeks the inclusion of a suite of objectives, policies and methods relating to wetland management. It also relates to rule 12.4.3 of that Plan. That appeal has been put on hold, pending the outcome of the appeal on Variation 1 of the Land and Riverbed Plan. Forest and Bird notes that this appeal remains to be heard, and does not by this submission give up or withdraw any part of that appeal. Forest and Bird opposes any amendments that would frustrate the ability to have that appeal resolved.

The appeal on Variation 1 of the Land and Riverbed Plan is currently before the Environment Court, and relates to wetland management under that Plan. Forest and Bird is keen to ensure that any decisions made by the Council as part of this Plan merge do not frustrate the potential to give full effect to the outcomes of that appeal. Forest and Bird therefore opposes any plan provisions or amendments that are inconsistent with the Court's findings in respect of the Variation 1 appeal. Any amendments to the Plan should fully reflect the Court's decisions.

The submission on Variation 2 remains to be heard by the Council. Forest and Bird, by this submission, does not give up or withdraw any part of that submission. Forest and Bird opposes any amendments which would frustrate the ability to give effect to the Court's decisions on Variation 1 (which will no doubt be highly relevant to Variation 2).

Forest and Bird considers the Proposed Regional Water Plan has been notified at an inopportune time. It has been difficult to consider the appropriateness of objectives, policies and rules (and their activity status) relating to wetlands in other Chapters of the Plan without knowing the final form that Chapter 5 will take. It has been difficult to know what extent comment and submissions could be made on aspects relating to wetlands in other chapters whilst there is uncertainty around Chapter 5.

Forest and Bird considers that as a result of the notification of the Proposed Plan at this time Council has precluded any opportunity to properly consider how this could occur in an efficient and coherent manner once outstanding appeals have been resolved. It may be there are other ways to structure the Plan as it relates to the management of wetlands than simply 'shoehorning' relevant provisions from Chapter 5 into other Chapters after the Court has made its decision.

Forest and Bird considers a more appropriate course of action would be to withdraw the proposed Regional Land and Water Plan until the outstanding appeals relating to wetland management have been resolved. Any matters that are not operative at that time could then be renotified after there has been a proper consideration of the structure of the whole Plan to ensure provisions relating to wetland management are incorporated into the Plan in a coherent and efficient manner.

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## **SPECIFIC SUBMISSION**

### ***Chapter 3: Land Management***

#### **3.2 Objective**

##### **3.2.1**

Council is required to protect the natural character of the coastal environment, lakes, rivers, and wetlands, protect significant indigenous vegetation and habitats of indigenous fauna. The objective (to avoid or reduce) is less than what is required under Part 11 matters, section 5, 6 and 7 and s31 of the RMA.

Land disturbance can adversely affect the natural character of the coastal environment. The objective will not give proper effect to national priorities set out in Policies 1.12, 1.1.3, 1.14.1.15 of the New Zealand Coastal Policy Statement.

The Explanation to this objective should be rewritten to set out what is required under the RMA and the relevant policies within the NZCPS. This Objective should not simply be one that seeks to minimise *'the likelihood of significant impact on water quality...and infrastructure'*. The Explanation should also refer to the impact land disturbance can have on important ecological values

#### **Relief Sought**

Amend Objective 3.1 to read, or words of similar effect:

~~To avoid or reduce~~ The adverse effects from land disturbance so that on the region's water and soil resources are sustainably managed to ensure important natural values are protected.

Amend the Explanation to this objective to better describe Council's responsibilities.

#### **3.3 Policies**

##### **Policy 3.3.1**

Policy 3.3.1 is supported in part as it acknowledges the effect land disturbance can have on water quality, aquatic species, indigenous vegetation and public access and attempts to manage these effects in an integrated manner.

However it should not be only adverse effects on significant indigenous vegetation and significant faunal habitats that are managed. The importance of retaining indigenous vegetation extends beyond the areas which meet the criteria of being significant in terms of section 6(c). Indigenous vegetation generally is important because it has the following functions:

- to form and maintain soil and underpin other ecological processes
- to provide habitat for native species;
- to intercept, control and filter runoff and maintain freshwater ecological processes

### **Relief Sought**

Amend Policy 3.3.1 (i) to read:

- (i) ~~Significant~~ Indigenous vegetation and ~~significant~~ habitats of indigenous fauna

### **Policy 3.3.3**

Policy 3.3.3 is supported in part.

The removal of riparian vegetation can have a significant effect on water quality and other important ecological values; however the policy does not consider the role indigenous vegetation has, including providing habitat for indigenous fish species and enhancing the natural character of waterbodies.

### *Relief Sought*

*Add a new clause to Policy 3.3.3 to read:*

*(e) Avoid the removal of indigenous vegetation*

### **Policy 3.3.5**

#### **Comment**

Policy 3.3.5 is supported in part however it does not properly set out the matters in Part 11 and section 31 of the RMA. Forest and Bird agrees that new land drainage activities can have an adverse effect on the matters listed but effects need to be managed in a sustainable manner to ensure the reasonably foreseeable needs of future generations. Land drainage has and can result in the significant loss of indigenous vegetation and habitat for indigenous fauna in the West Coast region .If this rate of loss continues the life supporting capacity of water and ecosystems will be further undermined.

#### **Relief Sought**

Amend Policy 3,3,5 to read:

Sustainably ~~Man~~manage the development of new land drainage activities (including humping and hollowing) to ensure that:

**Add** : new clause :

(g) areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected

**Add:** new note to state that significance will be assessed in accordance with Policy 9.2 of the Regional Policy Statement for the purposes of (g).

### **Policy 3.3.7**

#### **Comment**

Policy 3.3.7 is supported in part

This Policy is a non regulatory one and yet there is no method or explanation to provide any certainty as to what form this will take or on what waterbody it is considered appropriate for stock exclusion to be 'encouraged'. The Policy is also vague as to what 'industry best practice' is

acceptable to Council to ensure it is meeting its responsibilities under the RMA. For instance the Joint Fonterra , MAF, MfE and Regional Council's agreement to set targets, the Clean Stream Accord 2003 ,may be considered to be 'best practice' yet many of the targets have not been met and there is no monitoring on the improvement of water quality as a result of the Accord.

Water quality, riparian habitat and instream values are being adversely affected by stock grazing alongside, standing or crossing waterbodies. This Policy fails to address this issue in any meaningful way in the absence of baseline data, targets and monitoring and an explanation of the resources that will be made available to work with landowners to give effect to the policy.

Council should ensure there is monies set aside via the LTCCP/Annual Plan process to ensure there are adequate resources available for this to occur.

The Policy as currently worded and its absence of meaningful methods fails to give effect to Part 11 and section 31 of the RMA.

### **Relief Sought**

Amend Policy 3.3.7 as follows (or words to similar effect):

Policy 3.3.7 To promote the exclusion of farm stock where appropriate from estuaries, wetlands, lakes and rivers and their margins by actively encouraging:

- (a) The establishment, maintenance and enhancement of vegetated riparian buffers with appropriate and locally sourced indigenous species ;
- (b) Land and riparian management to be undertaken in accordance with industry best practice'
- (c) Fencing of waterways to prevent stock access; and
- (d) Construction of bridges or culverts over regular stock crossing points.

### **Add**

- To the 'Explanation' setting out how this Policy will be achieved including outlining what form Council's promotion and encouragement will take and how the effectiveness of this policy will be assessed.
- Add to the 'Explanation' examples of what might be 'industry best practice'

### **Policy 3.3.8**

#### **Comment**

Policy 3.3.8 is supported in part

Forest and Bird supports Council's intention to monitor stock access and the impact they are having on the water quality and the condition of riparian margins and stream habitat in the region.

It is unclear how the monitoring of the impacts of stock access is to occur, or if there is any certainty as to whether this will be able to be carried out. It is stated in **Chapter 21 Monitoring and Review 21.1** Introduction that '*Subject to funding available in its Annual Plan, the Council will monitor the elements of the West Coasts resources, and the effects of their use and development on the environment and effectiveness of the Objectives and Policies within this Plan, page 100.*

It is also unclear the extent of monitoring that has occurred to date, whether there is already sufficient baseline data to make an informed assessment of the water quality trend and ecological health of margins and stream habitat between now and March 2012 when Councils states it will carry out its review .

#### **Relief Sought**

**Add** : to 'Explanation' how this monitoring will occur from the notification of the Plan and March 2012 when the review will take place.

**Amend: Chapter 21 21.2 "Elements to be monitored"** a new bullet point to make it explicit that Council will monitor the effects of farm stock on the regions water quality and ecological health of its margins and stream habitat.

### **Policy 3.3.1 0**

#### **Comment**

Policy 3.3.10 is supported in part. Forest and Bird agrees that riparian vegetation can have significant benefits and inappropriate species can have an adverse effect. Plant species such as crack willow which replaces native species in wetlands and forms vast dense stands and thickets and creates blockages, flooding and structural changes in waterways is one such example of an inappropriate tree species for riparian planting.

The "Explanation" to this Policy does not describe the benefits of indigenous vegetation planted in riparian margins. It is considered that a Policy that sets out to, where possible, retain indigenous vegetation in these areas or to encourage new planting of locally sourced appropriate species is a way in which the Council can more effectively meet their responsibilities under Part 11 and s.31 of the RMA. It would give greater effect to other Objectives and Policies in this Plan to manage water quality and the protection of instream values.

#### **Relief Sought**

Delete Policy 3.3.10 and add New Policy 3.3.10 to read

Retain and maintain vegetation, in particular indigenous vegetation, along the riparian margins of the coast, rivers, lakes and wetlands. Where vegetation is removed, ensure they are replaced with appropriate and locally sourced species.

**Add:** new paragraph following the first to "Explanation" to this Policy to read:

Indigenous vegetation growing along the banks and edges of waterbodies has the following benefits:

- Providing shade which regulates the water temperature;
- Stabilising banks by holding soil together;
- Providing habitat for animal, fish and bird life; and
- Filtering nutrients and sediment out of stormwater running off land (non point discharge).

**Amend:** First sentence of second paragraph of the Explanation to read:

~~It is recognised that~~ The establishment of some riparian vegetation is not always appropriate if it enables the establishment or introduction of pest plants and animals, impedes public access or reduces the flood carrying capacity or causes adverse effects on the stability and performance of infrastructure.

### **3.4 Methods**

A method to encourage and educate users of the risk of spreading pest plants throughout the region is supported. It should also be made explicit by way of a condition of consent.

#### **Relief Sought**

**Add new 3.4.2 to Methods** and renumber accordingly:

**3.4.2** Council will require as condition of any resource consent in relation to works in riparian margins and beds of lakes and rivers a requirement to reduce the risk of machinery spreading pest plants through the region .

## **Chapter 4: Lake and Riverbed Management**

### **4.2 Objective**

#### **Objective 4.2.1**

##### **Comment**

Objective 4.2 is supported, however the Explanation does not properly reflect Council's responsibilities in respect to Part 11 matters RMA.

##### **Relief Sought**

**Amend** the Explanation to the Objective at the second sentence to read:

The Objective seeks to ensure that the provisions within this Plan ~~minimise the likelihood of significant impacts while meeting~~ meet the requirements of Section 5 of the RMA, which stipulates the natural and physical resources be sustainably managed and the requirements of Section 6 which require matters of national importance to be recognised and provided for.

#### **Policy 4.3.2**

##### **Comment**

It is not the case that it is only significant effects that need to be considered in respect to matters listed in this Policy.

##### **Relief Sought**

Amend part of Objective 4.3.2 to read.

To manage bed disturbance, reclamation, deposition and the use, erection, extension, reconstruction, maintenance, alteration, demolition, or removal of structures in, on, under, or over the bed of any lake or river, so that the activity does not cause or contribute to ~~significant~~ adverse effects on:

#### **Policy 4.3.6**

##### **Comment**

It is difficult to understand how this Policy can be given any meaningful effect, how it could be monitored or enforced and fails to provide any explanation as to how the particular stock numbers have been arrived at.

Stock crossing waterbodies impacts on water quality, undermines bank stability and as a result can have a significant effect on the overall ecological health of the waterbody. It is unclear how Council will decide what would be 'unreasonably expensive' in respect to the requirement for landowners to provide for a bridge construction and how it will balance this against any possible adverse effect as required by Council according to Part 11 RMA when they have received a detailed assessment as described in the 'Explanation'.

##### **Relief Sought**

Delete "Explanation" and amend to read (or words to similar effect):

Council will review this Policy as to its effectiveness in achieving Objective 4.2.1 and Policy 4.3.2 by 2012 and consider the requirement for all landowners using flowing waterbodies for regular stock crossings to construct bridges or culverts or another appropriate method .

## **Chapter 5: Wetlands**

This Chapter is **opposed**.

##### **Relief Sought**

Amend Chapter 5 to ensure that it is consistent with any decisions/mediated agreements as a result of the current Environment Court appeal NZ ENV 345 and these amendments are properly incorporated into other relevant Chapters within the Proposed Plan.

## **Chapter 6: Natural and Human Use Values of Water**

### **6.2 Objectives**

#### **Objective 6.2.1 is opposed**

The Objective fails to consider water in terms other than those for human use and development. This Objective should set out clearly the intrinsic values of water, including its importance to indigenous fish and bird species and more accurately reflect what Council is required to consider under section 5 of the RMA and the matters considered in the introduction to Chapter 6.

#### **Relief Sought**

Delete Objective 6.2.1 or amend to give proper effect to the matters that are set out in s5 RMA and section 6, 7, and 8 of the Act.

#### **Objective 6.2.2 is supported in part.**

This Objective correctly sets out to protect waterbodies from inappropriate use and development. Given that there are significant waterbodies in the West Coast region which are the habitat of threatened indigenous species, it should also aim to take opportunities to enhance these habitats where it is possible. The use of the word 'appropriate' is vague and confusing as it would seem this would always be the case if there was an opportunity to do enhance the natural and amenity values of the region's waterbodies.

#### **Relief Sought**

##### **Amend Policy 6.2.2. to read:**

To protect water bodies from inappropriate use and development by maintaining and where appropriate possible enhancing their natural and amenity values including natural character and the life supporting capacity of aquatic ecosystems.

### **6.3 Policies**

**Policy 6.3.1** is supported in part however the policy should accurately reflect Council's responsibilities in terms of Part 11 RMA. It is agreed that priority should be given to avoidance if possible of adverse effects when considering activities in relation to the values listed in the policy. Section 6 RMA requires the protection of the natural character of wetlands, lakes, rivers and their margins not just those that are significant.

#### **Relief Sought**

**Amend** Policy 6.3.1 (d) by deleting 'significant' and amend other policies if necessary.

## **Chapter 9: Special Management Area: Lake Brunner/Kotuku-Whakaoho**

### **9.2 Objectives**

#### **Objective 9.2.1 is supported in part**

Forest and Bird supports Council's efforts to address the declining water quality of this important waterbody and the introduction of a Special Management Area. Considering the significance of the catchment it is considered that this objective should set out to enhance water quality levels beyond 2004 levels.

**Amend** Objective 9.2.1 (and any necessary amendments to the explanation) to the objective to read:

To improve the water quality of Lake Brunner by managing the adverse effects of activities in the catchment to reach an average water clarity of 5.3m by 2020, and then maintain ~~or~~ and enhance this clarity.

#### **Policy 9.3.3**

Policy 9.3.3. is supported in part. Phosphorous is not the only nutrient impacting on the health of the waterbody and efforts to reduce nitrogen should also be made.

### **Relief Sought**

**Amend** Policy 9.3.3. to read:

To reduce the amount of phosphorus and nitrogen discharged in the Lake Brunner catchment.

Amend Explanation to this policy accordingly.

**Policy 9.3.4** is supported however the intention of the policy is not properly reflected in the explanation to it as it states that there will be a '...strong preference given to discharges to land as opposed to water,....'. This would appear to contradict the Policy and would not assist in meeting the objectives of the Special Management Area. .

### **Relief Sought**

**Amend** the Explanation to Policy 9.3.3. to make it clear that Council's policy will be to require discharges to land as opposed to water.

### **9.3.5 To prevent stock access to waterways.**

This policy is supported and is one that in the view of Forest and Bird should be applied region-wide. However the explanation to this policy appears to undermine the intention of the policy. It is not clear how the cost of establishing a suitable stock crossing is to be weighed up against the declining water quality of the lake and the risk to this valuable resource.

### **Relief Sought**

Retain Policy 9.3.5 and amend the Explanation to the policy to describe how preventing stock access is a significant tool in preventing the declining water quality of the area and how this will give effect to the Objective of the Special Management Area.

Apply this Policy to the West Coast region.

### **9.4 Methods**

Forest and Bird supports Council efforts to improve and enhance the water quality of the catchment and the methods proposed. These methods will only be effective if proper resources are made available to ensure they are able to be implemented. Whilst it is not a matter to be considered within this Plan process provision should be made via the Annual Plan to ensure these resources are available.

## **18.1 ACTIVITIES ON LAND**

### **18.1.1 Permitted Activities on Land**

**Rule 1 (f)(iii)** is not supported.

**Rule 1 (l)** impacts as a result of the activities covered in this rule can adversely affect the margins of wetlands.

### **Relief sought**

Delete Rule 1 (f)(iii) and amend to include provisions to be decided by way of Environment Court decision.

**Amend** Rule (l) Where the humping and hollowing, flipping or v-blading is undertaken to create pasture for grazing by stock, wetlands, rivers and streams shall be fenced to exclude stock access.

### **Rule 2. Earthworks in riparian margins**

The status of this activity is not supported. There is the potential to have more than minor effects on water quality and as a result instream values and potentially significant indigenous vegetation due to the activity. The lists of conditions are comprehensive and would require a relatively comprehensive assessment of effects. Council would have no means to consider whether this assessment is robust or informed nor any means of monitoring these effects, as a result would not be meeting its responsibilities under Part 11 of the RMA

### **Relief sought**

Alter the activity status of Rule 2 to a Controlled Activity.

**Rule 3. Earthworks in the Non Erosion Prone Area, outside riparian margins**

The status of this activity is not supported. There is the potential to have more than minor effects on water quality and as a result instream values due to the activity. The lists of conditions are comprehensive and would require a relatively comprehensive assessment of effects. Council would have no means to consider whether this assessment is robust or informed nor any means of monitoring these effects, as a result would not be meeting its responsibilities under Part 11 of the RMA

**Relief sought**

Alter the activity status of Rule 3 to a Controlled Activity.

**Rule 4. Earthworks in Erosion Prone Area One, outside riparian margins**

The status of this activity is not supported. There is the potential to have more than minor effects on water quality and as a result instream values due to the activity. The lists of conditions are comprehensive and would require a relatively comprehensive assessment of effects. Council would have no means to consider whether this assessment is robust or informed nor any means of monitoring these effects, as a result would not be meeting its responsibilities under Part 11 of the RMA

**Relief sought**

Alter the activity status of this rule to a controlled activity and amend other rules accordingly.

**Add** new Rule 4 (j) iii) to ensure there is a setback from the margins of rivers, lakes and wetlands created by the activity are protected from soil erosion as soon as

**Rule 9. Grazing and livestock access to riparian margins**

The rule does not give effect to Part 11 RMA and will not meet the relevant Objectives and Policies

**Relief sought**

Delete the activity status of this rule and amend as applies to the Lake Brunner catchment.

**Rule 10. Grazing and livestock access to riparian margins in the Lake Brunner**

This rule is supported in part as it is not clear how a 1m setback from the edge of the waterway will prevent surface water runoff particularly in high rainfall events. A greater set back would allow for riparian plantings and assist in the objectives, policies and methods as set out in Chapter 9.

**Relief sought**

Amend Rule 10 (a) to provide for fences to be setback from the waters edge to ensure the distance will prevent surface run off.

**Rule 24 Culverts, fords and bridges**

The activity status of this rule is not supported.

There is the potential to have more than minor effects on water quality and as a result instream values due to the activity. The lists of conditions are comprehensive and would require a relatively comprehensive assessment of effects. Council would have no means to consider whether the assessment is robust or informed nor any means of monitoring these effects, as a result would not be meeting its responsibilities under Part 11 of the RMA.

**Relief sought**

Alter the activity status of this rule to a controlled activity.

**Rule 25**

The status of this activity is not supported. There is the potential to have more than minor effects on water quality and as a result instream values due to the activity. The lists of conditions are comprehensive and would require a relatively comprehensive assessment of effects including a fish survey if that information was not readily available. . Council would have no means to consider

whether this assessment is robust or informed, nor any means of monitoring these effects, as a result would not be meeting its responsibilities under Part 11 of the RMA.

**Rule 47 Damming of water**

The status of this activity is not supported. There is the potential to have more than minor effects on water quality and as a result instream values due to the activity. The lists of conditions are comprehensive and would require a relatively comprehensive assessment of effects including a fish survey if that information was not readily available. Council would have no means to consider whether this assessment is robust or informed, nor any means of monitoring these effects, as a result would not be meeting its responsibilities under Part 11 of the RMA.

**Relief sought**

Alter the activity status of this rule to a controlled activity.

**Rule 85 Aerial Discharge of vertebrate pest control agrichemicals**

This rule is supported. Possums have a devastating effect on significant indigenous vegetation and significant habitats.

**Relief sought**

Retain Rule 85

Forest and Bird wishes to be heard in support of this submission.

**Address for service**

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