

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

Decision No. [2023] NZEnvC 82

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14(1) of the First
Schedule of the Act

BETWEEN ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND INCORPORATED

(ENV-2018-CHC-287)

Appellant

AND DUNEDIN CITY COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

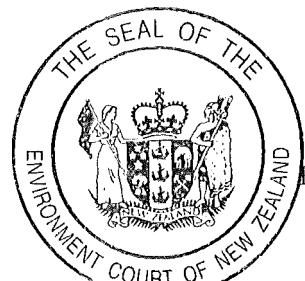
In Chambers at Christchurch

Date of Consent Order: 5 May 2023

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, ('RMA' or 'the Act'), the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Dunedin City Council is to amend the provisions of the proposed Dunedin City Second Generation District Plan as set out in Appendix A, attached to and forming part of this order; and



(2) the appeal otherwise remains extant.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns the appeal by Royal Forest and Bird Protection Society of New Zealand Incorporated (‘Royal Forest and Bird’) on the provisions of the proposed Second Generation Dunedin City District Plan (‘2GP’) regarding policies that manage the effects of activities on biodiversity (DCC Reference numbers 264, 281, 282 and 286).¹

[2] The appeal sought to amend certain policies in the 2GP that manage the effects of activities on biodiversity. The policies are located in Chapter 10 of the 2GP and are organised into three topics:²

- (a) Topic 1: Policies applying within significant areas of indigenous vegetation and habitats of indigenous fauna;
- (b) Topic 2: Policies relating to vegetation clearance; and
- (c) Topic 3: Policy relating to the effects of the subdivision on biodiversity values.

[3] I have read and considered the consent memorandum of the parties dated 31 March 2023 which proposes to resolve parts of the appeal.

[4] I have also read and considered the affidavit by J Macleod dated 21 April 2023, who has satisfied me that the amendments proposed will achieve

¹ ENV-2018-CHC-228.

² Affidavit of Jane Macleod on behalf of Dunedin City Council dated 21 April 2023 at [8].

the objectives of the 2GP, and that granting the relief sought will not impact on the resolution of any other proceeding.³

[5] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the RMA, including Part 2.

Other relevant matters

[6] Several parties had given notice of an intention to become parties under s274 of the Act. Aurora Energy Limited, Federated Farmers of New Zealand Incorporated, Oceana Gold (New Zealand) Limited, Otago Regional Council, the Director General of Conservation, Kāti Huirapa Ronaka Ki Puketeraki and Te ROnanga o Otākou are the remaining active s274 parties to the appeal. The remaining s274 parties have signed the memorandum setting out the relief sought.

[7] In the course of settlement discussions the appellant had identified further changes it wished to have made to policies in Chapter 2 (on biodiversity offsets and compensation), although other parties had raised the issue of scope. The court has issued a decision on the scope issue (dated 4 May 2023). It has concluded that such changes were not foreseeable or consequential on the changes sought in the appeal in relation to policies in Chapter 10. Accordingly, this decision resolves the appellant's appeal in relation to the policies in Chapter 10.

[8] The parties advise that:

- (a) the parties have agreed to the amendments set out in Appendix A;
and
- (b) this is a partial settlement of the appeal from Forest and Bird. The remaining parts of the appeal (DCC Reference numbers 281 and 282) remain to be dealt with at a later date; and

³ Affidavit of B T Morrissey affirmed 10 August 2022 at [69] and [78].

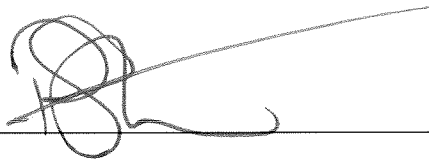
- (c) the amendments have been drafted to be in keeping with the 2GP Style Guide, except that, in assessment rules, new policies 10.2.1.X and 10.2.1.Y have not been paraphrased in full due to their length; and
- (d) an Advice Note will be added to the Plan by Council, as a minor amendment under Clause 16 of Schedule 1 of the RMA, when the relevant mapping has been added to the Council website. This is anticipated to take place in April or May 2023.

[9] No other person has given notice of an intention to become a party under s274 of the Act.

[10] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

Outcome

[11] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



P A Steven
Environment Judge



Appendix 1

- 1 Delete Policies 10.2.1.2, 10.2.1.3 and 10.2.1.4:

Policy 10.2.1.2

Avoid adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna or, if avoidance is not practicable, ensure that:

- a. there is no net loss and preferably a net gain in the biodiversity values of the area; or*
- b. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or*
- c. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7.*

Policy 10.2.1.3

Avoid rural activities (except for rural ancillary retail, rural tourism and rural research), residential activities (except for working from home), early childhood education, commercial activities (except for restaurants or retail activities ancillary to sport and recreation, and stand-alone car parking), industrial activities, major facility activities and indigenous vegetation clearance — large scale in Areas of Significant Biodiversity Value (ASBVs) unless:

- a. there is no net loss and preferably a net gain in the biodiversity values of the ASBV including, but not limited to, those biodiversity values listed in Appendix A1.2; or*
- b. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or*
- c. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7.*

Policy 10.2.1.4

Only allow rural tourism — large scale, rural research — large scale, community and leisure — large scale, sport and recreation, restaurants and retail activities ancillary to sport and recreation, large buildings and structures, earthworks — large scale, shelterbelts and small woodlots, site development activities (except for outdoor storage, parking, loading and access, vegetation clearance, storage and use of hazardous substances), public amenities, network utility activities, transportation activities and natural hazard mitigation activities in Areas of Significant Biodiversity Value (ASBVs) where there is no net loss and preferably a net gain in the biodiversity values of the ASBV including, but not limited to, those biodiversity values listed in Appendix A1.2.

- 2 Insert new Policy 10.2.1.X:



Policy 10.2.1.X

Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), where Policy 10.2.1.Y is met, or where all of the following are met:

- a. the values that contribute to the significance of the area are maintained or enhanced; and
- b. in the coastal environment, as described in Policy 1 of the New Zealand Coastal Policy Statement 2010, adverse effects on the values that contribute to the significance of the area are avoided; and
- c. significant adverse effects on other biodiversity values of the area or habitat are avoided; and
- d. other adverse effects on biodiversity values are avoided or minimised as far as practicable; and
- e. any proposal for biodiversity offsetting is undertaken in accordance with Policy 2.2.3.6; and
- f. any proposal for environmental compensation is undertaken in accordance with Policy 2.2.3.7.

3 Insert new Policy 10.2.1.Y:

Policy 10.2.1.Y

Only allow new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, to locate in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), where all of the following are met:

- a. the activity has a functional need or operational need to locate in the area; and
- b. in the coastal environment, as described in Policy 1 of the New Zealand Coastal Policy Statement 2010, adverse effects on the values that contribute to the significance of the area (according to the criteria in Policy 2.2.3.2) are avoided; and
- c. outside the coastal environment, adverse effects on the values that contribute to the significance of the area are:
 - i. avoided or, if avoidance is not practicable, remedied or mitigated as necessary to maintain the significance of the area; and
 - ii. where adverse effects on these values cannot practicably be avoided, remedied or mitigated, biodiversity offsetting is proposed in accordance with Policy 2.2.3.6; and
 - iii. for residual adverse effects that cannot practicably be avoided, remedied, mitigated or offset, environmental compensation is proposed in accordance with Policy 2.2.3.7; and
- d. adverse effects on other biodiversity values of significant areas of indigenous vegetation and/or habitats of indigenous fauna are avoided or

minimised as far as practicable, including through biodiversity offsetting that is proposed in accordance with Policy 2.2.3.6, or environmental compensation that is proposed in accordance with Policy 2.2.3.7.

- 4 Amend Policy 10.2.1.6 as follows:

Policy 10.2.1.6

Only allow indigenous vegetation clearance - large scale in rural or rural residential zones (outside scheduled Areas of Significant Biodiversity Value), where adverse effects on biodiversity values are avoided or, if avoidance is not practicable, no more than minor.

- 5 Amend Policy 10.2.1.7 as follows:

Policy 10.2.1.7

Only allow indigenous vegetation clearance in a wetland, or where there are in areas that do not meet the criteria for areas of significant indigenous vegetation and/or significant habitats of indigenous fauna in Policy 2.2.3.2, but that contain threatened plant or fauna species or mature trees on the important native species list present, in Appendix A10.3 where there is no net loss and preferably a net gain in biodiversity values;

- a. *any mature trees are retained; or, if this is not practicable,*
- b. *adverse effects on biodiversity values are minimised as far as practicable, including through any biodiversity offsetting that is proposed in accordance with Policy 2.2.3.6, or where this is not practicable, any environmental compensation that is proposed in accordance with Policy 2.2.3.7.*

- 6 Add new Policy 10.2.1.Z as follows:

Policy 10.2.1.Z

Only allow vegetation clearance within, or within the required setback from, a wetland where:

- a. *biodiversity values are maintained or enhanced; and*
- b. *there is no reduction in the extent of natural wetlands (where natural wetlands include wetlands constructed by artificial means to offset impacts on, or restore, an existing or former natural wetland).*

- 7 Amend Policy 10.2.1.11 as follows:

Policy 10.2.1.11

Only allow subdivision activities where the subdivision is designed to design will ensure any future land use or development will:

- a. maintain or enhance, on an on-going basis, biodiversity values;
- b. protect any areas of significant indigenous vegetation and the significant habitats of indigenous fauna; and
- c. be in accordance with policies ~~10.2.1.2, 10.2.1.3, 10.2.1.4~~ 10.2.1.X, 10.2.1.Y and 10.2.1.8.

Section 10 performance standards

- 8 Add a new note to plan users at Rule 10.3.2.3 Protected species (indigenous vegetation clearance) as follows:

Note 10.3.2.3A – Other relevant District Plan provisions

1. Areas that contain species listed in Appendix 10A.1 or Appendix 10A.2 will meet the criteria in Policy 2.2.3.2 for identification as areas of significant indigenous vegetation and/or as significant habitats of indigenous fauna. Areas that contain mature examples (greater than 15 years old) of the tree species listed in Appendix 10A.3 are likely to meet these criteria.

Section 10 assessment rules – performance standard contraventions

- 9 Amend Rule 10.5.3 as follows:

10.5.3 Assessment of contraventions of performance standards in the natural environment section			
Activity		Matters of discretion	Guidance on the assessment of resource consents
2.	Esplanade reserves and strips	a. Effects on biodiversity values and natural character values of riparian margins and the coast	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 10.2.1, Objective 10.2.2. ii. ... iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p>

			<p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u> <p><i>General assessment guidance:</i></p> <p>...</p> <p>v. In assessing whether an activity meets Policy 10.2.1.2<u>Policy 10.2.1.X or Policy 10.2.1.Y (as applicable)</u>, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.2.</p> <p>...</p> <p><i>Conditions that may be imposed include:</i></p>
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3.	Maximum area of vegetation clearance (UBMA)	a. Effects on biodiversity values	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1.</p> <p>ii. ...</p> <p>iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <p>1. <u>Policy 10.2.1.X is met; or</u></p> <p>2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u></p>

			<p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p> <p><i>General assessment guidance:</i></p> <p>...</p> <p>vi. In assessing whether an activity meets Policy 10.2.1.2 <u>Policy 10.2.1.X or Policy 10.2.1.Y (as applicable)</u>, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.2.</p> <p>vii. Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.9.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on biodiversity values, while meeting the operational needs of the activity.</p> <p>...</p>
4.	Protected areas (vegetation clearance)	a. Effects on biodiversity values and the natural character values of riparian margins and the coast	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1, Objective 10.2.2.</p> <p>ii. There is no net loss and preferably a net gain in biodiversity values (Policy 10.2.1.7). <u>Only allow vegetation clearance within, or within the required setback from, a wetland where:</u></p> <ol style="list-style-type: none"> 1 <u>biodiversity values are maintained and enhanced; and</u> 2 <u>there is no reduction in the extent of natural wetlands (where natural wetlands include wetlands constructed by artificial means to offset impacts on, or restore, an</u>

			<p><u>existing or former natural wetland</u> <u>(Policy 10.2.1.Z).</u></p> <p>...</p> <p>v. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <p>1. <u>Policy 10.2.1.X is met; or</u></p> <p>2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u></p>
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			<p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p> <p><i>General assessment guidance:</i></p> <p>...</p> <p>viii. In assessing whether an activity meets Policy 10.2.1.2<u>Policy 10.2.1.X</u> or <u>Policy 10.2.1.Y</u> (as applicable), Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.2.</p> <p>ix. Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.9.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on biodiversity values, while meeting the operational needs of the activity.</p> <p>...</p>
5.	Protected species (indigenous vegetation clearance)	a. Effects on biodiversity values	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1</p> <p>ii. There is no net loss and preferably a net gain in biodiversity values <u>Indigenous vegetation clearance is only allowed in areas that do not meet the criteria for areas of significant indigenous vegetation and/or significant habitats of indigenous fauna in Policy 2.2.3.2, but that contain mature trees on the important species list in Appendix 10A.3 where:</u></p> <ol style="list-style-type: none"> 1 <u>any mature trees are retained; or, if this is not practicable,</u> 2 <u>adverse effects on biodiversity values are minimised as far as</u>

			<p><u>practicable, including through any biodiversity offsetting that is proposed in accordance with Policy 2.2.3.6, or where this is not practicable, any environmental compensation that is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.7)</u></p> <p>iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including</u>
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			<p><u>earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u></p> <p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p> <p><i>General assessment guidance:</i></p> <p><u>X. Where an activity contravenes Rule 10.3.2.3 with respect to flora or fauna species in Appendix 10A.1 or 10A.2, Council will assess the application against relevant policies for areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (i.e. Policy 10.2.1.X or Policy 10.2.1.Y, as applicable).</u></p> <p><u>Y. Where an activity contravenes Rule 10.3.2.3 with respect to tree species in Appendix 10A.3, Council will consider whether the area in which the activity is proposed meets one or more of the criteria set out in Policy 2.2.3.2. If one or more of the criteria is met, then the activity will be assessed against relevant policies for areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (i.e. Policy 10.2.1.X or Policy 10.2.1.Y, as applicable). If not, the activity will be assessed against Policy 10.2.1.7.</u></p> <p>vii. In assessing whether an activity meets <u>Policy 10.2.1.2 Policy 10.2.1.X or Policy 10.2.1.Y (as applicable)</u>, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.2.</p> <p>viii. Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.9.4</p>
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			<p>demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on biodiversity values, while meeting the operational needs of the activity.</p> <p>...</p>
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10.	Setback from coast and water bodies (Rule 10.3.3)	a. Effects on biodiversity values and natural character of riparian margins and the coast	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1, 10.2.2</p> <p>ii. ...</p> <p>iii. ...</p> <p>iv. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <p>1. <u>Policy 10.2.1.X is met; or</u></p> <p>2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u></p>
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			<p><i>General assessment guidance:</i></p> <p>...</p> <p>vi. In assessing whether an activity meets Policy 10.2.1.2 <u>Policy 10.2.1.X or Policy 10.2.1.Y (as applicable)</u>, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.2.</p> <p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p>
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11.	<p>Tree Species outside ASBVs and outside the ONF, ONL, ONCC, HNCC and NCC overlay zones</p>	a. Effects on biodiversity values	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1</p> <p>ii. ...</p> <p>iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <p>1. <u>Policy 10.2.1.X is met; or</u></p> <p>2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u></p>
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			<p><i>General assessment guidance:</i></p> <p>...</p> <p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p>
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10.5.4 Assessment of contraventions of performance standards in other sections			
Activity		Matters of discretion	Guidance on the assessment of resource consents
7.	Site restoration	a. Effects on biodiversity values	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1</p> <p>ii. ...</p> <p>iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 40.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <p>1. Policy 10.2.1.X is met; or</p>

			<p>2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u></p>
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Section 10 assessment rules – restricted discretionary activities

10.6.2 Assessment of all restricted discretionary activities		
Activity		Guidance on the assessment of resource consents
1.	All restricted discretionary activities that are linked to Section 10.6	<p><i>General assessment guidance:</i></p> <ul style="list-style-type: none"> a. For those activities that require assessment against <u>Policy 10.2.1.X or Policy 10.2.1.Y (as applicable)</u>, in assessing whether the activity meets that policy, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.2. b. ... c. For those activities for which effects on the natural character of the coast is a matter of discretion, Council will consider the natural character values that have been identified in Appendix A5, which include biodiversity values among others. These values may not be comprehensive, as they are not based on site-specific assessments. Therefore, a more detailed assessment may be required, under <u>Policy 10.2.1.X or</u>

		<p><u>Policy 10.2.1.Y (as applicable)</u>, to determine the effects of activities on areas of significant indigenous vegetation and significant habitats of indigenous fauna.</p> <p>d. ...</p> <p>e. With respect to Policy 10.2.1.2, Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.9.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on biodiversity values, while meeting the operational needs of the activity.</p>
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10.6.3 Assessment of restricted discretionary activities		
Activity	Matters of discretion	Guidance on the assessment of resource consents
3.	Earthworks - large scale in rural zones	<p>a. Effects on biodiversity values</p> <p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1</p> <p>ii. ...</p> <p>iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p>

			<p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u>
4.	<p>Indigenous vegetation clearance – large scale (rural and rural residential zones, <u>outside scheduled Areas of Significant Biodiversity Value</u>)</p>	<p>a. Effects on biodiversity values</p>	<p><i>Relevant objectives and policies:</i></p> <ol style="list-style-type: none"> i. Objective 10.2.1 ii. Adverse effects on biodiversity values are avoided or, if avoidance is not practicable, no more than minor (Policy 10.2.1.6). iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: <ol style="list-style-type: none"> 1. there is no net loss and preferably a net gain in the biodiversity values of the area; or 2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or

			<p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u> <p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p>
5.	All subdivision activities	a. Effects on biodiversity values and the natural character of riparian margins and the coast	<p><i>Relevant objectives and policies:</i></p> <ol style="list-style-type: none"> i. Objectives 10.2.1, 10.2.2 ii. The design of the subdivision <u>design will and ensure {Forest and Bird, 286} any future land use or development will:</u> <ol style="list-style-type: none"> 1. maintain or enhance, on an on-going basis, biodiversity values (Policy 10.2.1.11.a); 2. protect <u>any {Forest and Bird, 286} areas of significant indigenous vegetation and the</u>

			<p>significant habitats of indigenous fauna (Policy 10.2.1.11.b); and</p> <p>3. be in accordance with policies 10.2.1.2, 10.2.1.3, 10.2.1.410.2.1.X, 10.2.1.Y and 10.2.1.8 (Policy 10.2.1.11.c).</p> <p>iii. ...</p> <p><i>Potential circumstances that may support a consent application include: ...</i></p>
6.	<p>In the ONCC or HNCC overlay zones:</p> <ul style="list-style-type: none"> • Shelterbelts and small woodlots • Earthworks - large scale (that exceed scale thresholds for an ONCC, HNCC) • Network utility structures - large scale (amateur radio configurations only) • Network utility structures - small scale • Public artworks - large scale • General subdivision 	a. Effects on natural character of the coast	<p><i>Relevant objectives and policies:</i></p> <p>i. Objectives 10.2.3</p> <p>ii. ...</p> <p>Y. ...</p> <p>iii. ...</p> <p>iv. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <p>1. Policy 10.2.1.X is met; or</p>

			<p>2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u></p> <p><i>General assessment guidance:</i></p> <p>...</p> <p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p>
7.	<p>In the NCC Overlay Zone:</p> <ul style="list-style-type: none"> • Crematoriums • Forestry • Indigenous vegetation clearance - large scale • Earthworks - large scale (that exceed the scale thresholds for an NCC) 	a. Effects on natural character of the coast	<p><i>Relevant objectives and policies:</i></p> <p>i. Objectives 10.2.1, 10.2.3</p> <p>ii. ...</p> <p>iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna</u></p>

			<p>that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</p> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u>
8.	<p>In the NCC Overlay Zone:</p> <ul style="list-style-type: none"> • Public Artworks - large scale • Network utility poles and masts - small scale • Wind generators - small scale • Hydro generators - small scale • Solar panels - small scale 	a. Effects on natural character of the coast	<p><i>Relevant objectives and policies:</i></p> <ol style="list-style-type: none"> i. Objectives 10.2.1, 10.2.3 ii. ... iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: <ol style="list-style-type: none"> 1. there is no net loss and preferably a net gain in the biodiversity values of the area; or 2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or 3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled</u>

			<p><u>Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u>
10.	<p>In an ASBV:</p> <ul style="list-style-type: none"> • All restricted discretionary buildings and structures activities that are linked to Section 10.6 • Earthworks - large scale (that exceed the scale thresholds for a ASBV) • Shelterbelts and small woodlots • Site development activities (except for outdoor storage, parking, loading and access, 	a. Effects on biodiversity values	<p><i>Relevant objectives and policies:</i></p> <ol style="list-style-type: none"> i. Objective 10.2.1 ii. There is no net loss and preferably a net gain in the biodiversity values of the ASBV including, but not limited to, those biodiversity values listed in Appendix A1.2 (Policy 10.2.1.4). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u>

	<p>vegetation clearance, storage and use of hazardous substances)</p> <ul style="list-style-type: none"> • Network utility poles and masts - small scale • Wind generators - small scale • Hydro generators - small scale • Solar panels - small scale • Network utility structures - large scale (amateur radio configurations only) 		<p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p>
11.	<p>In an ASBV:</p> <ul style="list-style-type: none"> • All subdivision activities 	<p>a. Effects on biodiversity values</p>	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1</p> <p>ii. The design of the subdivision <u>design will ensure</u> and {Forest and Bird, 286} any future land use or development will:</p> <ol style="list-style-type: none"> 1. maintain or enhance, on an on-going basis, biodiversity values (Policy 10.2.1.11.a); 2. protect <u>any</u> {Forest and Bird, 286} areas of significant indigenous vegetation and the significant habitats of indigenous fauna (Policy 10.2.1.11.b); and 3. be in accordance with policies 10.2.1.2, 10.2.1.4 and 10.2.1.3 <u>10.2.1.X and 10.2.1.Y</u> (Policy 10.2.1.11.c).

			<i>Potential circumstances that may support a consent application include: ...</i>
12.	<p>In a UBMA:</p> <ul style="list-style-type: none"> • Earthworks - large scale (that exceed scale thresholds for an UBMA) • All subdivision activities 	a. Effects on biodiversity values	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 10.2.1</p> <p>ii. ...</p> <p>iii. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>1. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u>

			<p>iv. The design of the subdivision design will ensure and {Forest and Bird, 286} any future land use or development will:</p> <ol style="list-style-type: none"> 1. maintain or enhance, on an on-going basis, biodiversity values (Policy 10.2.1.11.a); 2. protect <u>any</u> {Forest and Bird, 286} areas of significant indigenous vegetation and the significant habitats of indigenous fauna (Policy 10.2.1.11.b); and 3. be in accordance with policies 10.2.1.2 <u>10.2.1.X, 10.2.1.Y</u> and 10.2.1.8 (Policy 10.2.1.11.c). <p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p>
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Section 10 assessment rules – discretionary activities

10.7.2 Assessment of discretionary activities		
Activity		Guidance on the assessment of resource consents
1.	All discretionary activities that are linked to Section 10.7, including but not limited to the activities listed below	<p><i>Relevant objectives and policies (priority considerations):</i></p> <ol style="list-style-type: none"> a. ... b. ... c. ... d. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:

~~i. there is no net loss and preferably a net gain in the biodiversity values of the area; or~~

~~ii. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or~~

~~iii. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:~~

- ~~1. Policy 10.2.1.X is met; or~~
- ~~2. in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.~~

~~e. ...~~

~~*Potential circumstances that may support a consent application include:*~~

~~...~~

~~*General assessment guidance*~~

~~...~~

~~i. With respect to Policy 10.2.1.2, Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set~~

		<p>out in Rule 10.9.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on biodiversity values, while meeting the operational needs of the activity.</p> <p>...</p> <p>k. In assessing whether an activity meets Policy 10.2.1.2 Policy 10.2.1.X or Policy 10.2.1.Y (as applicable), Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.2.</p> <p>...</p>
5.	<p>In an ASBV:</p> <ul style="list-style-type: none"> • Rural tourism - large scale (rural zones) • Rural research - large scale outside the Invermay Farm mapped area (rural zones) • Community and leisure - large scale (rural zones) • Sport and recreation (including commercial activities ancillary to sport and recreation) (rural and recreation zones) • Network utility structures - large scale (excluding amateur radio configurations) • Substations • Transportation activities • Natural hazard mitigation activities 	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. Objective 10.2.1</p> <p>b. There is no net loss and preferably a net gain in the biodiversity values of the ASBV including, but not limited to, those biodiversity values listed in Appendix A1.2 (Policy 10.2.1.4). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u>

		<p><i>Potential circumstances that may support a consent application include:</i></p> <p>...</p>
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Section 10 assessment rules – non-complying activities

10.8.2 Assessment of all non-complying activities		
Activity		Guidance on the assessment of resource consents
1.	All non-complying activities that are linked to Section 10.8, including but not limited to the activities listed below	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. ...</p> <p>b. ...</p> <p>c. ...</p> <p>d. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</p> <p>i. there is no net loss and preferably a net gain in the biodiversity values of the area; or</p> <p>ii. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or</p> <p>iii. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.2). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not</u></p>

		<p><u>limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <ol style="list-style-type: none"> 1. <u>Policy 10.2.1.X is met; or</u> 2. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u> <p>...</p> <p><i>General assessment guidance:</i></p> <p>...</p> <p>g. In assessing whether an activity meets Policy 10.2.1.2 <u>Policy 10.2.1.X or Policy 10.2.1.Y (as applicable)</u>, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.2.</p> <p>...</p> <p>j. With respect to Policy 10.2.1.2 and Policy 10.2.1.3, Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.9.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on biodiversity values, while meeting the operational needs of the activity.</p>
2.	<p>In an ASBV:</p> <ul style="list-style-type: none"> • NC activities as indicated in the relevant management or major facility zone. 	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. Objective 10.2.1</p>

		<p>b. There is no net loss and preferably a net gain in the biodiversity values of the ASBV including, but not limited to, those biodiversity values listed in Appendix A1.2; or where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.6; or where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.7 (Policy 10.2.1.3). <u>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), either:</u></p> <ol style="list-style-type: none"> 3. <u>Policy 10.2.1.X is met; or</u> 4. <u>in the case of new roads or additions or alterations to existing roads (roads of national or regional importance only), buildings and structures that form part of rail infrastructure, airport activities, port activities, network utility activities, mining, mineral prospecting and mineral exploration, and any activities ancillary to these, including earthworks and vegetation clearance, Policy 10.2.1.Y is met.</u>
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- 10 Make any consequential changes to plan numbering as required as a result of the above amendments. Minor referencing and style changes may also be made for consistency with the 2GP formatting.

