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Media Release

EDS seeking funding for High Court case on Mackenzie Country dairy conversion

The Environmental Defence Society (EDS) is fighting a High Court appeal by Simons Pass Station Ltd regarding the consenting pathway for further expansion of intensive dairying in the Mackenzie Country.

“The appeal brought by Simons Pass Station Ltd is seeking to overturn an Environment Court decision that granted declarations sought by Mackenzie District Council as to the correct activity status for agricultural conversion consents on the property,” said EDS CEO Gary Taylor.

“For Simons Pass Station Ltd this comes down to whether the water permit to take and use water for irrigation had been “granted” by Environment Canterbury at the relevant date. Under the district plan, the land use consent is to be assessed as a controlled activity if the water permit had been granted before the cutoff date and a discretionary activity if it had not.

“As the water permit was still subject to an appeal on this date, the Environment Court held that the consent was not “granted” for the purpose of the district plan rules. As such agricultural conversion (whether by irrigation or direct drilling) and pastoral intensification at Simons Pass Station requires a discretionary consent.

“Our position is that the Environment Court was correct and that further land use consents for agricultural conversion and pastoral intensification should be treated by the Mackenzie District Council as a discretionary activity. This outcome is significant as it ultimately means Mackenzie District Council is not obliged to grant the consents, as they would have been if it was a controlled activity.

“What’s at stake here is whether pivot irrigators can be turned on for 4,500 hectares of the property.

“EDS considers this case raises nationally important issues regarding ecological and landscape values. We applied to the Ministry for the Environment’s Environmental Legal Assistance Fund for a grant for the proceeding but were turned down.

“This is the first time that I can remember when the ELA Fund turned down an application from EDS.

“In order to run this case we are therefore seeking funding assistance from the public. Donations to the Simons Pass appeal can be made on the EDS website [here](#) and are tax deductible.

The 2-day hearing is listed in the High Court in Christchurch on 23-24 March.

“EDS is represented in the case by Barrister Rob Enright and will be supported by our in-house counsel Cordelia Woodhouse,” Mr Taylor concluded.