

FEDERATED FARMERS OF NEW ZEALAND

MACKENZIE BRANCH

VERBAL SUBMISSION ON PLAN CHANGE 13 TO THE
OPERATIVE MACKENZIE DISTRICT PLAN TO ESTABLISH A
NEW MACKENZIE BASIN SUBZONE WITHIN THE EXISTING
RURAL ZONE.

Introduction

1. My name is John Murray. My qualification is a Bachelor of Agricultural Science degree from the University of Canterbury. I am also a property owner in the district and as such I am personally affected by the proposed plan change. I farm a 8,000Hectare property "The Wolds" , a sheep and beef property south of Lake Tekapo. My livelihood and all of our members livelihoods depend on the landscapes that PC 13 seeks to protect.
2. In support of the evidence presented today are the submissions of Federated Farmers of New Zealand (South Canterbury Province) and Federated Farmers South Island High Country. These groups, together with the Mackenzie branch of Federated Farmers are collectively referred to as FF throughout my submissions.
3. Federated Farmers of New Zealand is a voluntary members organization. FF maintains a strong presence in Canterbury and in the Mackenzie district. Collectively it invests thousands of dollars a year to ensure that members interests are represented throughout the RMA planning process. Our members have more than a significant stake in this process as they are natural resource managers. They invest hundreds of hours and thousands of dollars in stewardship, something they are extremely proud of. It is ironic that some of the landscapes that PC 13 seeks to protect are directly as a result of this stewardship. Attempts to protect these landscapes will not be successful if they alienate those who have the biggest stake in their future management. I am here representing the Mackenzie Branch of Federated Farmers to which most of the thirty one farmers in the 205,000 Ha involved in Plan Change 13 belong.
4. Plan Change 13 is referred to PC 13 throughout my submissions.

5. FF submitted and further submitted opposing PC 13 and seeking its withdrawal. Our submission made detailed comment and recommended changes to PC 13 and it is not my intention to repeat those, more to provide evidence that supports our comments and to highlight particular areas of our submission.
6. On behalf of the Mackenzie Branch of Federated Farmers :
 1. Mr Carey Vivian will present expert evidence on the context and appropriateness of PC 13 to achieve the objectives of Council and of the RMA. He also outlines in his evidence the failings of the section 32 analysis to justify the proposed PC 13.
 2. Dr Michael Steven will present evidence, reviewing Mr Densem's Landscape report and the Council's interpretation and adoption of that report as the basis of PC 13.
 3. Dr David Scott will give evidence on the vegetation changes in the basin.
7. FF seeks that PC 13 be withdrawn on the basis that the section 32 analysis is inadequate, that it is not consistent with section 5 of the RMA, that landowners with significant stake in the impact of the plan change were not adequately consulted in its preparation and that the material effects of the plan change on their business are contrary to the enabling purpose of the Act. Further there FF submits that there is significant scope for refining the landscape assessment of the district to provide for farming activities as permitted activities, to recognise good stewardship and to enable considered and well managed, low impact subdivision to provide for ongoing farm sustainability.
8. We have suggested changes to the objectives policies and rules. This is not an acceptance of a rules based approach to managing landscape within the proposed sub zone, nor is it an acknowledgement that we accept PC 13 in its entirety. FF accepts that it is appropriate to identify and provide for outstanding natural landscapes which the Mackenzie sub zone but strongly opposes PC 13 approach to their identification and protection.

Current plan provisions

9. What is wrong with the current District Plan? It is disturbing to have to go through this process again when the District plan has been operative for only a short time. The extensive negotiation, and giving of positions on both sides, that occurred in developing the District Plan has not been considered in this proposed change.
10. The landscape issue was well debated and all the major publicly accessible views were protected through "scenic viewing areas"(4,023 Ha) and 'lakeside protection areas' (10,475 Ha). In these areas trees and structures over 3m are non-complying. The areas of significant indigenous vegetation and non landscape values were identified as SONS (55,024 Ha). Not one of these objectives, policies or rules relating to landscape protection of the plan proceeded to an environment court hearing - in other words all parties were satisfied with the plan.

11. The areas already protected, by current District Plan provisions add up to 69,522 Ha. There is a total of 205,000 Ha farmed today in the Mackenzie basin, This means approximately 29.5 % of the proposed sub zone has strict controls already to protect landscapes from inappropriate building. In the SONS no development is permitted.
12. in addition to the current plan provisions, Tenure Review is providing for landscape protection in perpetuity, either through the land being purchased outright, or acquired by the Department of Conservation or the 5Km covenanted after tenure –that the Minister requires in tenure review. This is an additional 20000Ha protected.
13. Therefore approximately 40% if the proposed sub zone already has landscape protection. The Environment Court, in a recent decision after a long drawn out Landscape battle that lasted 11 years, found that it a figure of approximately 23% was reasonable protection. While the cases are different it is interesting to note that the Banks Peninsula has areas that are far more easily viewed from highly populated areas. The MacKenzie District and particularly the sub zone in question, it could be argued has far greater capacity to absorb well thought out subdivision and development. The basin has huge areas that are not easily viewed from public places.

FF seeks the withdrawal of PC 13 for the following reasons:

14. The landscape report on which the plan change is based is flawed and has not been carried out using the current best practise. The report fails to separate the outstanding natural landscapes within the Mackenzie sub zone from the not so natural or non-outstanding landscapes that exist in the sub zone. Outstanding natural landscapes have to be assessed on a district wide basis because the sum of a district's landscapes are the only comparison the territorial authority has. Dr Michael Steven will provide expert evidence to support these principles.

Classifying landscapes

15. Mr Densem classified many of the landscapes as “outstanding working landscape”. This has morphed into section 6 landscape protection and required council to address these landscapes as a matter of national importance. It is FF view that this change is critical to the impact on farming. Recognising the working nature of the landscapes in the sub zone would provide primarily for farming and associated activities to be recognised and provided for in the plan change. The change to “outstanding natural landscape” places, in the view of our members and in the view of our evidence presented today, unnecessary restrictions on farming in the entire sub zone.
16. The Densem report (paragraph 2.8, page 11) Land use States “Traditional land use in the Mackenzie has comprised high country extensive lease grazing, or runholding.”
17. While this may have been the case thirty years ago, it is certainly not the case today with large tracts of lands oversown and topdressed. There are significant areas of irrigation, intensive fattening, cropping and dairying. The more intensive farming systems and topdressing have resulted in the tussock grassland areas that are often identified as some of the healthiest, perhaps in the South Island. It can only be described as a perverse outcome that PC13 now seeks to somehow protect these areas from the very activity that has created them.

18. FF accepts that there are outstanding natural landscapes present in this area of the Mackenzie District, but to throw a blanket over an area and to present it as outstanding is not acceptable to our members. The truly outstanding natural landscapes should be carefully identified and protected from inappropriate development, through a comprehensive process of individual property visits in consultation with the landowners, and then only by undertaking a comprehensive review of landscape sub zones and the activities that take place within them can appropriate objectives, policies and rules be formulated that meet the objectives of the community. We submit that there are also large areas which do not fit the definition of either natural or outstanding. These should be removed from the restrictions PC 13 would impose through this more comprehensive approach.

Development pressure

19. Plan change 13 is a reaction to a perception that rural subdivision is out of control - in reality there has been one area of concern around the urban area of Twizel, mostly undertaken by a single developer. There is no problem with farm related development within the rural sub zone. You don't hear any adverse comments from the public about farm buildings being in the wrong place. Farm buildings are an acceptable and often valued part of the rural landscape
20. Tracking and the earthworks associated with farming only have a short term effect and once replanted have minimal impact. The biological values in the sub zone are already protected from inappropriate development by the 80 odd SONS in the district plan.

Appropriateness of proposed plan provisions

21. There is no justification of the need to restrict or control a landowners ability to use and develop their land to the extent of the proposed plan. Farmers don't want uncontrolled subdivision but they do want to retain the right to subdivision and building that is appropriate to their individual situation, providing for sustainable economic farming futures and land use diversification.
22. Building, even in a building node still would require a discretionary consent and would in many cases, be uneconomic to undertake. The building nodes identified would not be the most desirable places to build in most cases, being in cold hollows, surrounded with trees, away from water and with no view.
23. It is the view of our members that the proposed controls on buildings themselves are inappropriate. A great example of farm buildings set against the proposed colour palette and requirements of colour steel buildings. The fact is that many of the working landscapes are already dotted with farming buildings, you could argue that these are an acceptable part of these working landscapes, that they are indeed valued for what they provide and that residents and visitors alike find that a unique and special part of the districts character. What therefore are we seeking to protect. FF submits that the objectives, policies and rules of the plan change do not recognise and provide for this unique character and are not enabling of well established multi generational farming activities.

Consultation

24. The Council failed to adequately consult with the community living within the proposed sub zone. With regard to the Local Government Act, the rural community have never been consulted as to their wishes and needs under the long term community plan. In view of the minimal response from members of the public, it would indicate that the public are happy with the way things are. There was certainly no attempt to consult individual landowners about "lines on maps."

Section 32 analysis flawed

25. It does not identify or analyse the economic realities of current and future rural land use activities in the district or the effect of PC 13 to the ongoing sustainability of rural land use. For example the analysis does not discuss or seek to address the viability of farming activities and the economic challenges farmers face. It takes no account of the stewardship demonstrated by generations of families in the district and the proposed PC 13 impact on that ongoing stewardship. Commissioners should note that no compensation is payable for the costs and loss of rights under the RMA. The community that the section 32 should address, is the farming community, as we live and work in the rural zone and it is the effect of PC 13 on our social and economic well being the section 32 analysis should focus on. The farming community will feel dismayed by the loss of property rights, loss of development ability and the financial impact of PC 13. This will result in a substantial reduction in the capital value of our properties and affect our ability to borrow money. The cost of obtaining consents plus the cost of the delays involved will adversely impact on farm income. All this may well have a major impact on the ability of the farming community to control wilding trees, rabbits and other pests leading to an adverse impact on landscape values at a time when most are borrowing to put bread on the table. The plan fails to provide the rural community with adequate and cost effective means of economic change and growth - essential for it's well-being. For example PC 13 makes the subdivision of a farm into two units each with a homestead, non-complying or the building of a wilderness lodge non-complying. It discourages long term farm sustainability, diversification of land use and providing for farm succession.
26. The analysis fails to acknowledge that landowners play a significant role as stewards of the rural landscape and the need for district plan rules to be cognisant of that stewardship role. The extent to which PC13 seeks to control the location, nature and scale of farm buildings as well as earthworks and tracking is overly complex, unjustified and compromises the ability of rural landowners to adequately resource farm activities
27. At a recent information meeting on PC 13, Patricia Hart was asked why the section 32 analysis did not analyse the economic impact on the farming community. The answer received was "probably because it was too hard to do".
28. Those advocating for greater controls on land use do not consider the cost this imposes on the landowners affected. Surely as a starting point this is the minimum requirement for a section 32 analysis to be completed.

Planning Officers Report

29. The Branch questions why the Twizel zone has been removed from PC 13. This was the area that was put forward as the major driver for PC 13. The reason given was that more work was required. This is true of the whole of PC 13 and it should be withdrawn as well. It could be very unfair on landowners and submitters in the area removed if the boundaries change to put them back into the Mackenzie sub zone. The planning officer present at the Twizel Information meeting said that a map of the area to be excluded was not available, but only a list of submitters. This is completely unsatisfactory in terms of the consultative requirements in the Act.
30. The report does not address the fact that PC 13 goes further than the RMA requires by making development on areas considered not outstanding, non-complying. It also does not acknowledge that the section 32 analysis is incomplete or that significant outstanding landscapes both visual and botanical are already protected in the current plan.
31. No comment is made that the submitters who support the plan change or request further controls have not provided any landscape evidence in support.
32. The report states that free holding removes the restrictions placed on pastoral lease land that do not permit subdivision and building. This is untrue. Subdivision is permitted with the permission of the Commissioner who may not unreasonably withhold his permission. Building is permitted on a pastoral lease as of right with permission from the commissioner required for significant earthworks only. Landscape assessment and the protection of the integrity of those landscapes plays a key role in assessing a property during Tenure Review. It could be argued that this is a more robust assessment than that provided for in district plan provisions. The report also ignores the area returned to the DOC estate (on average over 50% so far) where any significant development that is likely to impact on landscape values is highly unlikely to be allowed. This means a huge increase in landscapes that will be protected as a result of properties completing tenure review with minimal change to the ability to subdivide or build on the remainder. Currently, for all lakeside properties who have not completed tenure review, the Commissioner requires land within 5 Km of a lake to either go to the Crown or have a covenant on the title prohibiting non-farm building within 5 km of a lake. This will stop non-farm residential dwellings on an estimated 80% of the land round the lakes in the sub zone. The livestock able to be carried will also be reduced.
33. It should be noted that all farmed land in the proposed sub zone is privately owned. Pastoral Leaseholders have a title and associated rights in perpetuity.

Nodes

34. While the concept of nodes was discussed with landowners pre the PC notification, the councillors present indicated the concept would not be applied to farm buildings, including farm related residential building. If it had, farmers would have objected strongly to the concept of nodes. We pointed out at the time farmers wished to retain the right to subdivide a reasonably large area of land with a right to build without consent. We also required the status quo as to other farm development. While the concentration of buildings in nodes rather than scattered buildings has a great deal of merit, it is unreasonable to have to create a node in order to put up a homestead after a subdivision.

35. The planning officers report acknowledges there are varying degrees of landscape values within the Mackenzie sub zone. We agree and submit that there are large areas in the Mackenzie sub zone that are not outstanding landscapes visually or with outstanding botanical or geographical features. These areas should be identified and excluded from the sub zone. To say it can not be done is untrue as Dr Michael Steven will submit in his evidence. It seems the Mackenzie District is unwilling to spend the money required to do a more comprehensive landscape study and we as landowners in the sub zone have to suffer for this.

Economic activity and costs

36. If implemented, all farm building, tracking and earthworks would require a resource consent ranging from controlled to non-complying. This is much more onerous and expensive than at present. In the Banks Peninsula case, the judge found that a blanket no development over some 90,000 Ha was unduly restrictive on the farming community. It is Federated Farmers contention that non-complying status in an outstanding landscape area, is very close to prohibited. The costs required for any activity to pass a non-complying test in relation to the value of that activity will simply be prohibitive.

37. The officers report recognises that farmers in the sub zone face tough times financially. It then states that the Council has a duty to "sustainably manage the landscape of the basin because of its special and outstanding values". This is incorrect. The council has an obligation to protect the outstanding natural landscapes within the basin and not the whole basin because the whole basin is not an outstanding natural landscape. We submit that the council has gone too far and in doing so has imposed an unfair and unjustified burden on the landowners in the sub zone. There are also a significant number of freehold titles in the white part of the proposed sub zone currently without any buildings. These sections will be rendered almost valueless by PC 13

Conclusion

38. PC 13 is based on a flawed landscape report which fails to identify the truly outstanding natural landscapes within the basin. The council then puts its own emphasis on this report to achieve the result it wants and its section 32 analysis is inadequate. There is no robustness in the way the input from the farming community was collected or in the way they were consulted.

39. We submit it is not possible for the commissioners to correct these basic errors and come up with a plan that will withstand a challenge to the Environment Court or be acceptable to the farming community. The plan change places an unfair burden on the farming community. We already have controls on much of the farmed area of the basin. The only option you have is to withdraw PC 13 and start again with a robust landscape assessment.

40. Commissioners, you need to appreciate you are dealing with people who are part of this landscape. The farmers in the sub zone produced the landscape you see. We have shaped and modified it over the last 150 years. We rely on this land for our livelihood and our well being and the land requires our input. Farmers are an integral part of this landscape and farming activities such as building, tracking and earthworks should be a permitted activities. By accepting the objectives policies and rules in PC 13 you will be compromising the future or generations of farming families, compromising a farming district but most of all, you will be undermining our stewardship. The Act specifically provides for the ethic of stewardship to be recognised, it is Federated Farmers submission that PC 13 does not.