

Before the Mackenzie District Council

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Plan Change 13 to the Mackenzie District Council

BY **Haldon Station Submitter No. 69**

SUBMISSIONS OF KERRY JOEL KNIGHT
FOR HALDON STATION

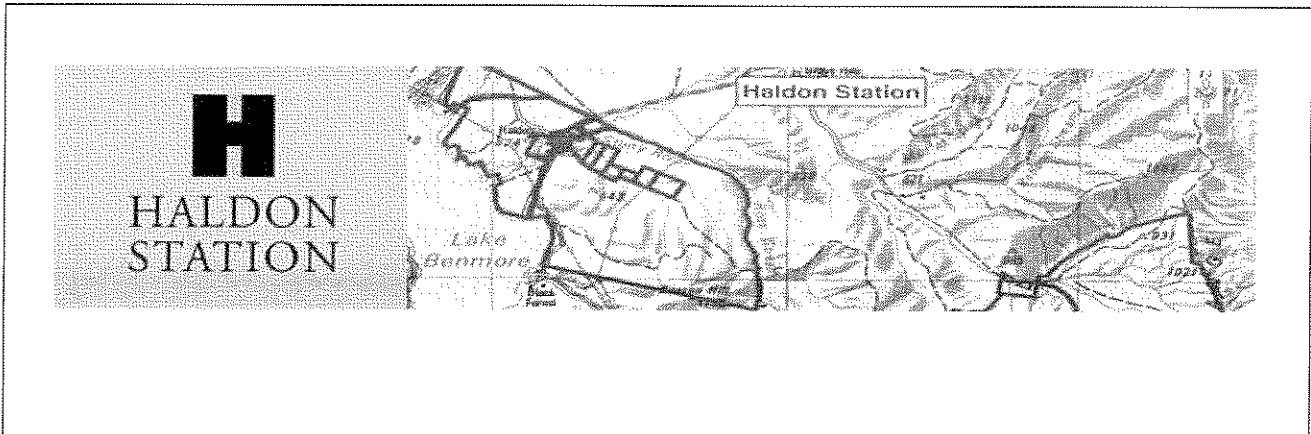
8th September 2008

INTRODUCTION:

My name is Kerry Knight. I am a lawyer and Partner in the law firm Knight Coldicutt.

I am authorised buy the owners of Haldon Station ('Haldon') to give evidence on the submission Haldon made to Proposed Plan Change 13. I have a long personal experience of this property since it was acquired by my wife's family in 1991.

A plan showing the location of Haldon Station in the Mackenzie District is shown below.



I most recently inspected Haldon Station in September 2008. I am familiar with the provisions of the Operative and Proposed Mackenzie District Plans. I am also very familiar with the environs of the Mackenzie District and the manner by which Haldon Station operates in this environment.

I have read the planning officer's report and the additional Technical report on landscape assessment and recommendations with respect to the submission made by Haldon Station and make the following further comments on that report and in support of this submission.

A copy of the Haldon submission is appended to this evidence for ease of reference for the hearings commissioners.

2.0 OVERVIEW:

- 2.1 I commence these submissions by stating that whilst Haldon generally accepts many elements of the philosophy espoused by Plan Change 13 ('the Change') that Haldon prefers to see some further recognition of the activities of farming and legitimate associated and ancillary activities balanced with this philosophy.
- 2.2 The Mackenzie country has been farmed and modified for generations and this has not been to the detriment of the landscape and environs wholesale. Haldon Station's farming activities commenced in 1850. In my submission there needs to be recognition of and provision for these fundamental activities that are conducted in this place as a way of business and a way of life.
- 2.3 It is important that these activities be recognised as compatible with the environs and the outstanding natural landscape. I observe that in my view the landscape, whilst outstanding is not unmodified by people and this fact should be accorded some significance when formulating rules to manage people's lives.
- 2.4 The reporting officer has recorded that "*outstanding natural landscapes*" do not preclude "*working landscapes*" but by simply failing to acknowledge them as a concept and part of the landscape and overall environs they are diminished to a degree.
- 2.5 In our view the history of the Mackenzie Country is - and remains - farming and this needs to be fairly and explicitly recognised by the planning provisions that are applied to it.
- 2.6 Haldon Station ('the Station') is a large rural holding which farms a combination of Merino sheep, red deer, Hereford and more recently, Black Angus cattle. The property is owned by the Klisser family.

- 2.7 The property is extensive having an area of 35,000 acres and is largely self-contained with its own roading infrastructure and dwellings and ancillary farm buildings necessary for the Station's day-to-day operations including its own school for the children of the various employees and farm workers.
- 2.8 The topography varies across the property and includes 18kms of coastline to Lake Benmore. Half the property, being the homeblock, unlike many in the Mackenzie Country, is freehold.
- 2.9 Like any farm the Station needs to have the inherent flexibility to be able to make often-daily decisions as to its operations without recourse in every instance to the provisions of the Resource Management Act involving the making of endless applications for resource consent.
- 2.10 Arguably these activities overall have a legitimate claim to an existing use right in terms of section 10 of the Act to continue a farming activity and all that entails.
- 2.11 Similarly such a remote and private piece of land seeks inherent flexibility to enable and indeed facilitate the day-to-day activities and farming activities and methods and potential expansion of Haldon's legitimate activities.
- 2.12 The rules that are being construed and which now, due to s.9 of the RMA are required to be given some consideration, do not fairly reflect the needs of those who derive their livelihood from the environment and to combat the effects of global warming.
- 2.13 It seems that the only acceptable 'sustainable' scenario that is being advanced for the committee's consideration is one that which favours clustering buildings and preservation of the natural landscape at the expense of the landowners.
- 2.14 In addition the planners in the original report had acknowledged a notional boundary of public areas – these areas are one where the public has views onto

or over a particular area. The planners acknowledged that the public have no view or outlook into Haldon Station as a result of it's isolated location. In actual fact a majority of Haldon Station is not visible by the public unless one is flying overhead or is viewing Haldon from another planet.

2.15 Finally the economics of operating a farm in an uncertain economy, global warming, lack of water and the public's concern relating to ethical and sustainable farming means the existing land used as farming may not be possible in the future, not only at Haldon but anywhere in the MacKenzie. For that reason a District Plan Change cannot eliminate property rights, or cause an occupier hardship in compliance obligations. There needs to be a balance and Plan Change 13 has not acknowledged that.

2.16 The interpretation of 'sustainability' advanced in the officer's report presumes that the only interpretation that may be placed on the management of the district is the preservation of its natural character. However, as the committee will be aware the primary purpose of the RMA is set out at section 6 of Act and states: "*The purpose of this Act is to promote the sustainable management of natural and physical resources. In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety.*" Emphasis added.

2.17 The use of land for farming purposes is a legitimate and sustainable activity entirely consistent with the express purpose of the Act.

2.18 Haldon acknowledges that the types of concerns expressed in the planner's report – such as wilding pines and invasive weed species are problematic – and some have arisen from farming practices in the past.

2.19 It is however, equally true that the farming community is particularly well placed to manage many of these matters in an ongoing way. Take the farmers off the land or make their lifestyles unnecessarily complex by inserting

unnecessary requirements under the RMA and not only will management of these matters become equally fraught but in my view the council would be acting in a manner contrary to the purpose of the Act as set out above.

2.20 Haldon would prefer that its activities could simply be accommodated within the Plan without the necessity of applications for resource consent and or recourse to litigation to conduct its activities.

3.0 THE SUBMISSION(S):

3.1 The submission(s) made sought several changes to the Plan Change. These are dealt with broadly in the way in which these appear in the planner's report.

3.2 Without repeating the detail of the submission Haldon seeks that it be permitted a larger 'node' as discussed within the Change about existing development to accurately reflect the extent of that development and to provide for an additional three nodes on the property to accommodate the needs of the Station, possibly extensions of its activities into matters such as tourism, and if global warming continues, possible future subdivisions as a way of gaining capital, in order to sustain farming.

3.3 These matters are addressed in the technical report prepared by Mr. Densem, which concludes that it is appropriate to consider increasing the size of the node "*to some degree*".

3.4 He does not however, support the increase in the area of the node to the shores of Lake Benmore as sought. His reasoning being that "*I believe any developments should be kept back from the lakeshore and river margins.*"

3.5 To the extent that this is reasoning it fails to acknowledge that development on coastlines is common and the effects of such development can be avoided, remedied or mitigated by the application of simple planning controls such as those associated with colour, materiality and form and screen planting as may be appropriate in the circumstances. An extension of the node to the shores of Lake Benmore is thus sought as this is considered overall to be a reasonable and manageable matter, and is the logical place for nodes. Bearing in mind that boaties are the only public that can view the shoreline on Haldon, surely this change to the District Plan has not been promoted for their benefit. However, we do not agree with the recommendations amendment to Policy 3g - the introduction states that building nodes (and any 10% increase) are required "to ensure that the outstanding natural features and landscaping of the MacKenzie Basin are protected". This is contrary to the purpose of the RMA

which “enables people and communities to provide for their social, economic and cultural wellbeing”... The introduction to the Building Node Section should refer to social, economic and cultural reasons as well.

3.6 We support the report’s recommendations to the extent that they support additional nodes and we would be pleased to discuss the appropriate location of these nodes with the Council as part of the Change as alluded to.

3.7 Haldon has sought that farm buildings outside of nodes comprise a permitted activity. The reporting officer has recommended that this aspect of the submission be declined.

3.8 Instead it is recommended that a resource consent be required every time it is proposed that a building – no matter of what scale – be erected outside of a node that a resource consent be required.

3.9 This is, we are told, due to the need to ensure that it is the right colour, position and screened by landscaping.

3.10 If these values are able to be defined now, surely the council can draft rules with sufficient certainty to avoid the costs and delays in seeking a resource consent every time that what is defined by the plan as comprising a building is proposed on a farm.

3.11 In the case of Haldon the property is freehold and the public viewing opportunities are remote and small in number. The likelihood of Haldon wishing to erect a building so large and visible generating the type of adverse effects that are referred to is equally remote, but at the same time the matters that the plan change says are important are unlikely to be offended – particularly if the council develops performance standards that provide certainty both to the public and those who farm the land.

3.12 For these reasons we request that the construction of buildings comprise a permitted activity and that appropriate performance standards be drafted and

put in the Plan to reflect the areas over which the council has expressed concern.

- 3.13 Haldon seeks that farm buildings and non-farm buildings be permitted to be located closer than 100 metres to each other. 100 metres is an arbitrary figure and bears no relationship to the practical needs of the farmer – who may have legitimate and practical reasons for locating buildings closer together than 100 metres.
- 3.14 Similarly the suggestion in the planner’s report that buildings erected after a certain date be subject to consent are equally arbitrary and without planning purpose. It is unclear what the concerns with proximity are but we suggest these are outweighed by the practical need for the grouping of buildings in reasonable proximity to one another.
- 3.15 For these reasons Haldon seeks that the committee upholds its submission.
- 3.16 Haldon accepts the submission made with respect to roading at page 56 of the officer’s report, which supports the position advanced by Haldon in its primary submissions. There is simply no need for farm roading to be to the standard of public roading – even more so given that this is private property over which the public has no right or expectation to have access.
- 3.17 Haldon has sought that provision be made for dairying and tourism activities as a discretionary activity. I note that the reporting officer considers that this matter is beyond the scope of the current plan change and has recommended that the matter be declined.
- 3.18 Haldon considers that large scale dairying or large scale irrigation is a legitimate farming activity, but the environmental outcomes are unknown. It seeks its inclusion as a farming activity and considers that the Plan Change provisions and the opportunity to exercise discretion on such activities should afford the council sufficient flexibility to consider applications to undertake such activities on their effect on the environment, or as defined by the Plan

Change 13 – to protect and sustain the outstanding natural landscapes and features of the District (i.e. to control detrimental run off into lakes and rivers).

3.19 For the same reasons Haldon has sought that consideration be given to including the activity of tourism and tourist related activities in the Plan. These may be appropriate activities subject to the management of effects and add substantially to the wellbeing of the community.

3.20 Haldon has sought that the provisions of the Change not apply to its property at all and this submission has been recommended to be rejected. The proposition does however have merit. As I have already pointed out the interpretation of sustainable use of natural and physical resources as presented to this committee whilst in some respects laudable omits to recognise that the activities on the land long established and practiced on holdings such as Haldon are equally legitimate.

3.21 Farmers have stewarded these lands for many years and the imposition of well intended but unnecessary planning controls ignores their common law rights to farm their land in the manner to which they are accustomed and assumes that they necessarily require to be controlled by planning rules that in my view have not been drafted with any certainty and will simply impair the farmer's abilities to manage their land and use it in accordance with their rights to do so. For these reasons we suggest that the proposed plan change not be applied to Haldon Station.

3.22 These are my submissions on the Plan Change. I would be pleased to elaborate on any matter as required.

Kerry Knight

8th September 2008

ANNEXURE 1.

Submission made on behalf of Haldon Station