

Plan change

Form 7

Notice of appeal to Environment Court against decision on proposed policy
statement or plan or change or variation

Clause 14(1) of Schedule 1, Resource Management Act 1991

To the Registrar

Environment Court

Auckland, Wellington, and Christchurch

I, Ian James Morrison, appeal against a decision (or part of a decision) of Mackenzie District Council on the following policy statement (or plan or change or variation):

Plan change 23 FMA-Albury range S2a and S2b decisions 19.15 128, 129, 130 19.2 131

I made a submission on that policy variation #16 #38

(o. I /am not* a trade competitor for the purposes of section 308D of the Act.

*Select one.

*Iam not† directly affected by an effect of the subject of the appeal that—

- (a) adversely affects the environment; and
- (b) does not relate to trade competition or the effects of trade competition.

*Omit paragraph if you are not a trade competitor.

†Select one.

I received notice of the decision on 5th August 2024

The decision was made by Mackenzie District council.

The decision (or part of the decision) that I am appealing against is:

[state—

- *To include S2a and S2b in the Albury FMA area; and*
- *To in*
- *fact include the specific provision of FMA in the plan at all*

The reasons for the appeal are as follows: Poor notification. No negotiation.

The original document from Boffa Miskell was hastily done from their own admission and affected landowners were not notified until the plan was finalized and then only if you were notified by Federated farmers and could navigate the plan website.

The addition of S2a and s2b was by way of a submission from an out of district non expert and although some other landholders were able to negotiate these additions with Boffa Miskel I was unable due to the short notice given (3 Days) and it was a Sunday, so they left it in with no input from myself.

The designation of my whole block Silver Hill run 306 pastoral lease has robbed me of the ability to plant some trees for future succession and cash flow opportunities, downgrades my land value in the eye of my bankers and so is a large cut in my property rights.

S2a and S2b are rolling paddock country where silage and hay are made, winter feed

grown. There are stockyards and a dwelling.

I seek the following relief:

Remove the FMA
designation from the
block it is all bellow 900
meters

Or at least remove S2a
and S2b both below 500
meters.

I attach the following documents* to this notice:

- (a) a copy of my submission *or* further submission (with a copy of the submission opposed or supported by my further submission):
- (b) a copy of the relevant decision (*or* part of the decision):
- (c) any other documents necessary for an adequate understanding of the appeal:

(d) Mackenzie District Council as Respondent

*These documents constitute part of this form and, as such, must be attached to both copies of the notice lodged with the Environment Court. The appellant does not need to attach a copy of a regional or district plan or policy statement. In addition, the appellant does not need to attach copies of the submission and decision to the copies of the notice served on other persons if the copy served lists these documents and states that copies may be obtained, on request, from the appellant.

Date: 15/09/2024



Signature of appellant:
(or person authorized to sign
on behalf of appellant)

Address for service of appellant:
353 Brockley Road RD4 Timaru
Phone 036861918 Cell
0278923234
i.a.morrison@farmside.co.nz
Ian James Morrison

Note to appellant

Appeals other than in relation to freshwater planning instruments

You may appeal only if—

- you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and
- in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B) of the Act, may consider only the question of law raised.

Appeals in relation to freshwater planning instruments

You may appeal only if—

- you addressed in your submission or further submission the provision or matter that is the subject of your appeal; and
- the relevant regional council rejected a recommendation of the freshwater hearings panel and decided an alternative solution which resulted in—
 - (a) the provision or matter being included in the freshwater planning instru-



**PLAN CHANGE 23 – GENERAL RURAL ZONE, NATURAL FEATURES AND
LANDSCAPES AND NATURAL CHARACTER**

**FURTHER SUBMISSION ON PROPOSED PLAN CHANGE 23 TO THE MACKENZIE
DISTRICT PLAN**

**FORM 6
UNDER CLAUSE 8 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT
1991**

Details of Further Submitter

Full Name: <small>(Required)</small>	ian James Morrison
Contact Person: <small>(If different from above)</small>	
Postal Address: <small>(optional)</small>	353 Brockley Road Timaru
Email Address: <small>(Required)</small>	i.a.morrison@farmside.co.nz
Telephone Number: <small>(Required)</small>	036861918

Further Submitter Declaration

I am:

a person representing a relevant aspect of the public interest. In this case, also specify the grounds for saying that you come within this category below.

a person who has an interest in the proposal that is greater than the interest the general public has. In this case, also explain the grounds for saying that you come within this category below.

(Tick one box)

I am the owner of Silver Hill an affected property by the Herman Frank submission.

Further Submission Details

I support/oppose the submission of:

(enter the name and address of original submitter and the original submitter number)

Hermann Frank 27 Archer St Timaru Number 06

The particular parts of the submission I support/oppose are:

(clearly indicate which parts of the submission you support or oppose, together with any relevant provisions of the proposal)

I am opposed to all sections of Hermann Franks submission

I also support the Federated Farmers submission on the 900 metre contour line .

The reasons for my support or opposition are:

(give reasons)

Hermann Frank is proposing a large shift in MDC original consulted map lines in regard to plan change 23 proposed by Boffa Miskell. experts in their field. Hermann has no credentials in this field

I believe this is a further invasion of property rights based around one persons ideology on what is significant .The consultation process has been bypassed as this matter was never signaled by the MDC to land owners

His Addition to FMA on the Albury range is highly modified grazing land mostly paddocks

There is already an SNS Tramway stream which was well researched and agreed to be the only part significant. The Tengawai cliffs are already mostly in the SSM and the flora and fauna is abundant having survived Moa Sheep deer and cattle grazing

The rest is very good good paddock country.

I seek that the whole or part (describe part) of the submission be allowed or disallowed:
(give precise details)

I seek the whole of Hermans submission to be disallowed

d: S2a S2b Tramway Block. And Vincents (S2a)

I will speak to both these blocks as one as there is no difference between them.

Just a note to add. Ms Pfluger has stated that the area is not readily visible from any public r. oads.

The recommendation of the 42a report to support the Mr Frank addition to the FMA on Silverhill is very concerning and not consistent with other decisions in the immediate area. This is a large area some 400 hectares in total that is below the 500 metre mark it is divided into 20 paddocks of around 17 hectares, some smaller, some larger, all top dressed and over sown annually since the 1960's. The gully to the north being tramway bush was identified as site 80 SNS in 2001 and included in the district plan with my blessing. The recommendation was that the lower reaches were not identified as meeting the criteria for the plan, neither was the gully named Cherry Bush (see recommendation of Dr. David Norton in his report 2004) which the original FMA area encompasses most of anyway.

There is a 13-hectare pine production forest in the north east corner currently growing a second rotation and was harvested in 2016 after 24 years with outstanding results. This is perfect forestry country not visible and good rainfall. There is no intention of large scale forestry and pastoral lease rules would not allow anyway but smaller areas may in the future be granted. The Mackenzie District Council has many plantations growing in many visible parts of the county. The remaining area is very good pasture being flat to rolling hill and pasture through cultivation. It is highly modified from native and is the powerhouse of the rest of the 1140 hectare run block which is more extensive although OSTD regularly. Silage/Hay are frequently made, and winter feed crops are grown on this site.

There is cattle and sheep yards and a hut beside the river boundary and if the block was ever to be run as a stand alone a homestead maybe built within that vicinity. The run is consented to carry 3800 stock units.

Extensive consents are in place from the commissioner of crown lands including for cultivation, fencing, OSTD, water scheme and plantation forestry. These go through a rigorous consultation with LINZ, DOC and Māori. These are legal existing rights and are included in S2a and S2b.

I request the removal of S2a and S2b from the plan for the above reasons. I did not have the ability to receive a site visit from Ms Pfluger and Nick Boyes as I was away in the North Island when notification came through as an email with no phone up phone message and although I was at home on the 7th of April, I was unaware. The visit would have been helpful to us all as I see an area southwest of the Tengawai Gorge with similar levels of intensification and perhaps steeper identified by Mr Franks was not recommended for conclusion in the 42a report after the visit. The area would have looked more native tussock like from a distance this year as the sub lessee was selling his own farm and removed all stock onto his paddocks to keep them tidy for sale, in evidently my block was left to go to seed which is not its normal state

Appendix 2: Amended Planning Maps

AMENDED FORESTRY MANAGEMENT AREAS (FMA)

In the following figures the notified FMA is denoted by a black dashed line. The amended FMA resulting from our Decision is shown as a dashed red line.

FMA – Albury Range North (Herman Frank, P23.06.12)



FMA - Aibury Range South (Herman Frank, F25.00.14)

File Ref: BM200372_0136_A4P_ONFL_SNFL_Hearing_response_MAP_rf.mxd



Eagle Technology, Land Information New Zealand, GEODD, Community

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Mackenzie District Council

Plan Change 23

Natural Character, Natural Features and Landscapes, General Rural Zone

19.1.3 ONF 3 – Raincliff

117. The Section 42A Report recommended an addition to ONF 3 Raincliff to include the limestone escarpment along Opuha River. This was opposed by submitters Grant Chisholm and Jud Baynes representing the Glen Darrach Trust, which we understand farms the affected land. Submitter Guy Sutherland who also farms within the proposed ONF 3 Overlay similarly opposed ONF 3.
118. We also heard from David Morgan from Raincliff Station, but at the Hearing it became evident that his property does not fall within the extent of the ONF 3 Overlay as recommended by Ms Pflüger. Mr Morgan is concerned about SASMs on his land and that matter is addressed in our Decision on PC24. For the sake of completeness, we note his presentation to us on SASM matters was 'out of scope' as it was not raised in his original submission.
119. Submitters Chisholm, Baynes and Sutherland all spoke at the Hearing and helpfully provided us with speaking notes. Their concerns appeared to focus on the process that led to the recommended extension of the ONL following the original submission lodged by Herman Frank. They were also concerned about future regulations that might arise for their farming operations. We addressed that 'fear of future regulation' matter in section 19.1.1 of this Decision and in short that is not a matter that weighs against the imposition of an ONF Overlay.
120. The submitters provided no expert evidence to substantiate their concerns or to suggest that the land in question did not have the values that led Ms Pflüger to recommend it being classified as an ONF.
121. Having said that, we note that the lower limestone outcrops at Spur Road and the outcrop that the Raincliff Station Homestead is located on will not be included in the extended ONF. Consequently, the additional areas of ONF recommended by Ms Pflüger and Mr Boyes are smaller than the relief sought in the submission from Hermann Frank.
122. We find that the recommended extension to ONF 3 Raincliff is appropriate and we record that it will pose few, if any, additional restrictions on their current farming operations.

19.1.4 ONF 4 - Tengawai Cliff

123. Submitter Andy McNab advised us at the Hearing that that despite the contents of his original submission, he no longer had any issue with recommended Tengawai Cliff ONF 4. Submitter Ian Morrison also generally supported Mr Boyes' recommendation regarding the extent of the proposed ONF 4 Tengawai Cliff, however, he requested the exclusion of two small "red hatched areas" on a plan that he tabled at the Hearing.
124. In her Reply Memorandum Ms Pflüger considered it was more appropriate to identify the ONF as a whole, rather than splitting it into three sections (as was effectively requested by Mr Morrison), because doing so would undermine its cohesiveness. We agree.
125. However, Ms Pflüger advised that in the eastern area where the limestone escarpment was not expressed on the surface, the recommended ONF was 50-120m wide as it included an area of grey shrubland above the Tengawai Gorge. She suggested that part of the ONF could be narrowed as the limestone feature was less legible in that area. We find that ONF 4 Tengawai Cliff should be narrowed in the eastern area of concern to Mr Morrison, as shown in Figure 7 of Ms Pflüger's Reply Memorandum.
126. Submitters A & R McGregor who also farm part of ONF 4 Tengawai Cliff requested that it be reduced to include only the rock escarpment, excluding the farmed area on the slope below. We found their evidence on that matter to be persuasive and in her Reply Memorandum Ms Pflüger recommended that the extent of the ONF could be refined to a minimum that only incorporated the limestone escarpment and its lower legible slopes, while maintaining it as one cohesive feature. We agree.
127. The refined ONF 4 Tengawai Cliff is illustrated in Figure 11 of Ms Pflüger's Reply Memorandum.

19.1.5 FMA - Albury Range



128. Submitters Ian Morrison and Andy McNab opposed the recommended additions to FMA Albury Range in vicinity of the Tengawai Gorge. Their concerns related firstly to an area of existing forestry in the north-eastern corner of Tramway Stream and secondly that much of areas S2a and S2b comprised grazed flats and the gullies only contained manuka, broadleaf and matagouri.
129. Ms Pflüger considered that the forestry area should be excluded from FMA and we find that to be appropriate. The area to be excluded is shown in Figure 8 of her Reply Memorandum.

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Plan Change 23

Natural Character, Natural Features and Landscapes, General Rural Zone

130. Regarding the grazed flats and gullies, Ms Pflüger recommended the retention of those areas in the FMA as they connected the Albury Range with the Tengawai Gorge. In the absence of any expert evidence to the contrary we accept her recommendation.

19.2 Decision

131. We adopt Ms Pflüger's assessments and have decided to make:

- an addition to ONL 2 Two Thumb Range to include the limestone escarpment to the west of Point 793masl;
- two additions to FMA Albury Range in vicinity of the Tengawai Gorge to include the gully systems that contain large areas of native vegetation, but excluding the area of forestry in shown in Figure 8 of her Reply Memorandum;
- an addition to ONF 3 Raincliff to include the limestone escarpment along Opuha River;
- a reduction of ONL 3 Hunter Hills, Dalgety, Rollesby Ranges as shown in shown in Figure 3 of Ms Pfluger's 20 May 2024 Memorandum and Figure 6 of Ms Pflüger's Reply Memorandum; and
- a new ONF 4 Tengawai to include the entire limestone escarpment along Tengawai River as shown in Figure 11 of Ms Pflüger's Reply Memorandum.

132. Consequently, the submissions of Lisburn Farm (37.16), M & V Simpson (23.39), Ian Morrison (23.FS16 and FS38), Andy McNab (23.FS27), Guy Sutherland (23.FS28), and Andrew & Rachel McGregor (23.FS29 and FS30) are all accepted in part.

20. Farm Base Area (FBA) Mapping

20.1 Assessment

133. A number of submitters requested amendments to notified Farm Base Area (FBA) maps.

134. FBA are used within Te Manahuna/the Mackenzie Basin ONL to identify areas within landholdings where the rules provide for a greater scale and intensity of development. Mr Boyes advised that the spatial extent of an FBA varies between properties and does not always reflect the underlying size or use of the property. Consequently, MDC provided an opportunity for landowners to seek changes to the FBAs for inclusion in PC23.

135. Mr Boyes noted that only one response from Grampians Station met MDC's information requirements. As a result, FBA R14 was proposed to be amended through PC23 and one new FBA was created on Omahau Hill.

136. A number of submissions were received on PC23 requesting amendments to the notified FBAs. MDC's landscape expert Yvonne Pflüger assessed those submissions and this assessment is contained in Appendix 6 to Mr Boyes' Section 42A Report.

137. She recommended amendments to:

- FBA-R32a - Pukaki Flats Central as an addition to FBA R32 - Simons Pass in response to the submission of Murray Valentine from Simons Pass Station (Figure 5 of the Section 42A Report);
- FBA-R25 Omahau Downs based on a detailed landscape report provided by submitter Neil Lyons on behalf of Farry Trustees 2014 Limited;
- FBA-R14 Grampians Station (Figure 6 of the Section 42A Report); and
- FBA-R16 Guide Hill based on a detailed landscape report provided by submitter Blue Lake Investments.

138. The amendments to FBA-R25 and FBA-R16 are shown in Figures 5 and 6 respectively of Ms Pflüger's assessment contained in Appendix 6 to Mr Boyes' Section 42A Report.

139. We received a Memorandum from counsel for Grampians Station dated 7 May 2024 stating that the submitter supported the mark-up²⁶ of the e-Plan Map of FBA-R14 in Mr Boyes' Section 42A Report. Accordingly, we do not discuss that submission further.

²⁶ That mark-up included a 1.7ha area on the southern boundary and the removal of the area east of the Transpower Lines from FBA R14 under Clause 16