

Before the Mackenzie District Council

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*in the matter of:* the Resource Management Act 1991

*and*

*in the matter of:* Plan Change 13 to the Operative Mackenzie District Plan  
to establish a new Mackenzie Basin Subzone within the  
existing Rural Zone

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Brief of evidence of Michael Burtscher

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Dated: 8 September 2008

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**Chapman Tripp** *Barristers & Solicitors*

119 Armagh St Tel +64 3 353 4130  
PO Box 2510 Fax +64 3 365 4587  
Christchurch NZ DX WP21035

*Reference:* JM Appleyard ([jo.appleyard@chapmantripp.com](mailto:jo.appleyard@chapmantripp.com))

## **BRIEF OF EVIDENCE OF MICHAEL BURTSCHER**

### **BACKGROUND**

- 1 My name is Michael Burtscher. I represent Mt Gerald Station Limited (*Mt Gerald*), I have lived and worked on Mt Gerald and Richmond Stations all my life. I am a farmer and businessman and reside at Mt Gerald Station with my family.

### **HISTORICAL INFORMATION**

- 2 Aikman and Wilson founded Richmond Station in 1858. T.Brodrick surveyed the 40-acre freehold title around the Richmond homestead in February 1888. Freehold Title CB136/176 was issued on 9 April 1889.
- 3 Separation of Richmond Station into Run 77 (Richmond) and 77A (Mt Gerald Subdivision Station) was surveyed by AG Allom on 15 December 1910. The documentation of this would have occurred sometime in 1911.
- 4 In 1952 the lakeside was surveyed, and various sections along the lakeshore were surrendered from the lease.
- 5 On 23 February 1973 the Richmond lease was varied when the ski field and part of the adjacent Richmond Range were surrendered from the lease to form the ski field lease in perpetuity.
- 6 On 18 September 1990, significant parcels, totalling some 14,000 hectares were surrendered from Mt Gerald Station.
- 7 In the spring of 2007 Richmond Station completed the tenure review process.
- 8 The neighbouring Mt Gerald, which is 6,203 hectares, acquired the bulk of the Richmond Run in freehold title totalling some 5,619 hectares on November 4<sup>th</sup> 2007. The purchase ended 97 years of separation.
- 9 The remainder of Richmond Station stills exists as a separate entity and is in held in two freehold titles of around 17 hectares (1888) and 300 hectares.
- 10 Presently, Mt Gerald Station and the bulk of what was originally Richmond Station are owned by Mt Gerald. Currently both

properties are run together, however in future they may revert to being run as two separate stations.

- 11 I have incorporated this historical record for the benefit of understanding this particular property in its own right and not simply as part of a 'sub-zone'.

**Opposition to Plan Change 13**

- 12 Mt Gerald objects to Proposed Plan Change 13 and asks that it be withdrawn or declined.
- 13 My evidence sets out some general concerns that I have with Plan Change 13 and then issues of particular concern to Mr Gerald from a layperson's perspective, i.e. from the perspective of a person reading the District Plan without formal legal or planning qualifications.
- 14 . To me it defies logic to describe the Mackenzie Basin as an outstanding natural landscape. I can identify with the phrase a "*working landscape*". The landscape has had many modifications over the years. The modifications to name a few are:
- 14.1 Farming since the mid 1850s, which has modified the landscape significantly with the addition of buildings, fencing, application of seed and fertiliser, irrigation, roading and subdivision;
- 14.2 Construction of the hydro electric scheme;
- 14.3 Construction of towns;
- 14.4 The Mount John Observatory;
- 14.5 Recreational Ski Areas;
- 14.6 The Lake Tekapo Military training facility; and
- 14.7 State Highway Eight, which dissects the basin.
- 15 The Densem Report is fundamentally flawed and incorrect on the basis that no detailed study of each station property was concluded, nor was their extensive consultation. In respect of Mt Gerald It is incorrect.

- 16 The section 32 report does not identify or analyse the economic realities of current and future rural land use activities in the Mackenzie District or the effect of Plan Change 13 to the ongoing sustainability of rural land use. I understand that the Resource Management Act 1991 (*RMA*) requires the District Council to weigh up a number of factors. On the one hand is the need to have regard to the protection of outstanding natural landscapes but there are also countervailing social and economic considerations. The Council has a landscape report. Why doesn't it have an economic impact report from a properly qualified person?
- 17 The social and economic well being of station families has been completely overlooked.
- 18 I cannot understand why the Mackenzie District Council considers it appropriate to take a broad-brush approach and define the entire basin as an outstanding natural landscape when clearly it is not. The excuses that the task of identifying parts of the district is too hard or too expensive are unacceptable.
- 19 The officer's report states within the section 'Discretionary Approach' that:
- "A broader discretionary approach is proposed by some submitters as an alternative to nodal development, including a discretionary regime with no minimum lot size. I understand that some of these requests are based on experience in the Queenstown area. While that approach has some advantages in that it is simpler "up front" it has been based on specific identification of outstanding natural landscape and features within a large landscape. This approach was considered, however the as mentioned above large-scale landform(s) of the Mackenzie Basin do not lend themselves to easy identification and separation into discrete landscapes. Even if this were done the areas covered would be so substantial as to be little different than determining that the Basin is an outstanding landscape in its own right as well as containing outstanding landscapes within it."
- 20 The nodal concept whilst having some merit has not been sufficiently tested and is flawed.
- 21 The nodal concept in its current proposed form whilst being a relevant observation in terms of early settlement patterns and clustering of activities is not relevant to the current needs of station owners and people seeking enjoyment and amenity from the Mackenzie Region.

**Policy 3g - Approved building nodes**

- 22 The general thrust of the nodal policy requirements are logical but could equally apply to a discretionary activity. However the limitation of development to such nodes is unacceptable.
- 23 Mt Gerald can see no specific nodal areas allocated under the Densem report, notified plan change or section 32 report. The Plan Change is fundamentally flawed in this respect and would require a variation to remedy this. How do we therefore understand and assess the impacts of this change?
- 24 In Mt Gerald's view a detailed local assessment of the land types of significance and placement of nodes needs to be completed and made transparent to allow further review and comment. This needs to be the subject of a separate process to vary/change the Plan after proper consultations. Assigning a particular number of nodes to particular properties on a district wide basis does not take into account specific site factors.
- 25 Minimum lot areas over 200 hectares are a restricted discretionary activity (but provide no allowance for a building within such a lot). This is unacceptable and limits social and economic wellbeing of those affected.

**Policy 3I - Farm and non residential buildings**

- 26 There is no identification of where these nodes are proposed. This policy is potentially a significant limitation on the rights of the owners to run and operate their land in a manner that is efficient.

**Policy 3J - Remote farm buildings**

- 27 What are the assessment criteria and why should a consultant or planner determine the merits of the location. Location of silos, hay barns, hangers, sheds, water tanks etc should be a controlled activity.

**Rule 4A**

- 28 Section 7 of the RMA requires us to have particular regard to the efficient use and development of the natural and physical resources. A minimum lot area of 200 hectares is clearly not consistent here.
- 29 The size of any lot sizes should be determined by a combination of the land use, topography, and location.
- 30 Mt Gerald believes it is not imperative for all land in the rural zone to have an economic use. In fact there are tracts of land that have

extremely poor soil and adverse climates that would better accommodate the absorption of other uses.

**Tenure review reaction driving Plan Change 13**

- 31 Tenure review has been in process for some 20 years. Each individual tenure review takes some 3-5 years, and in some cases 10 plus years to complete, and is fully notified and consulted.
- 32 The present district wide rules were created concurrently with tenure review taking place. Any assertion that Plan Change 13 is required due to the pressures of tenure review is simply misleading.

**Mt Gerald - Historical Nodes Around Lakes**

- 33 Historically, nodes have been placed close to water around lakes with road access.

Ralph Kruger, a landscape architect, who will be giving evidence spoke with Graham Densem on the above issue in relation to Mt Gerald. Mr Densem commented that:

*'Stations around many lakes including Wakatipu, Wanaka and Hawea have homesteads on their shores, and that these lakes have had water-based transport. The Mackenzie and Waitaki lakes did not – in his opinion. Therefore such settlement locations would be opposing local history.'*

- 34 I disagree with Mr Densem's comments. There are many cases of lakeside homesteads being serviced by vehicular access such as Lake Taupo, Wakatipu, Wanaka, and Tekapo to name a few.
- 35 Further, Mackenzie stations and lakeside homesteads have also had a history of water-based transport.
- 36 We note the following passages from the book 'High Endeavour' by Williams Vance, edition A.H. & A.W. Reed 1980. These passages would seem to be in conflict with Mr Densem's report:

36.1 Page 146 (Runs 226, 267, & 462) Paragraph 4:

"For some years the Glentanner wool was ferried across Lake Pukaki on a whale boat brought from Timaru".

36.2 Page 186 (Run 481) Paragraph 11:

“As there was no road, the wool had to be carted by bullock wagon to the head of Lake Tekapo, then taken by boat down the lake, five bales at a time.”

- 37 These passages clearly recount watercraft being used to service stations.
- 38 Further, over the years we have relied on watercraft access when roads have been impassable to access other stations and the Lake Tekapo Township. Of note was an incident in the late mid 90’s when the Coal River bridge was impassable and the Mt Gerald boat was needed to reach Richmond so as to access the Lake Tekapo Township.
- 39 If the Council wish to embark a nodal style approach based on historical settlement and service patterns, then one would have thought it would be based on historical settlement and service patterns.
- 40 If the nodal approach is to be adopted and most of the basin locked up to appropriate development, then the most appropriate land should be identified in terms of historical settlement patterns. Our landscape architect will comment further on this issue.

**Proposed Nodes**

- 41 In its submission Mt Gerald identified that the existing node on Mt Gerald is too small and should include an area of old trees, which are well established. Within this area a building platform has already been identified for a second homestead.
- 42 The Densem report simply draws an arbitrary line around a treed area without completing a full site visit to ascertain a full understanding of the area. The site of the second homestead was identified some years ago and is out of site from all public view along Lilybank Road and the Lake.
- 43 With the purchase of the freehold adjacent to Mt Gerald (Richmond Run Land) Mt Gerald would also seek a portion of freehold to be included in the existing node. The point here is that the node is again too small and does not take into account different forms of tenure.

- 44 The officers report states in the "*Size of Identified Building Nodes*" that "*Frequently they are based on features further out such as streams, shelterbelts and fences*".
- 45 Clearly this is not the case with the Mt Gerald node and therefore the planners own criteria have not been adhered to.
- 46 The Mt Gerald existing node should be extended.
- 47 Further, Mt Gerald has an area of trees on Lilybank Road (near the Macauley River), which would seem to meet the criteria for a node. The area is of approximately 5ha and is within trees of some 50 — 60 years, and is located half way between Mt Gerald and Lilybank Stations.
- 48 This area also falls outside new rules introduced by the Crown with regard to the tenure review process, but is not within the nodal area marked in the Densem report. There is no evidence to support the view that all of Mt Gerald should not be contained within the nodal area on the same basis as others.
- 49 The Densem report would seem to be at odds with itself with regard to existing treed areas and/or probable historic areas that a node would have occurred. This is again highlights the inconsistencies with the report prepared by Mr Densem, which Council has heavily relied.
- 50 Map 5 of GD Mackenzie Basin Landscape: Visual Vulnerability does not show part of Mt Gerald as having any vulnerability, however is in close proximity to medium vulnerability. Map 6 includes this area within Regionally Outstanding Landscapes. Map 8 Capacity for nodes clearly shows that you can have a node within medium visual vulnerability areas and Regionally Outstanding Landscapes.
- 51 The area of trees mentioned should be identified an existing node.
- 52 Similarly, Richmond Station Run, has recently been purchased by Mt Gerald, and now comprises no homestead nodal area, as this is under separate ownership. The Richmond property has well over 5000 hectares of land and is a viable station in its own right and may in future be operated in its own right.
- 53 An area of trees situated on productive flat paddocks located approximately 26 km from SH8 is some 25 years old which would be suitable for a homestead node for the operation of Richmond.



- 54 This area also has extensive fencing, sheep yards, hay barns, and cultivated paddocks. The area has also recently completed tenure review and went through a robust public process to achieve this outcome. This land is intensive farmland.
- 55 Map 5 of GD Mackenzie Basin Landscape: Visual Vulnerability shows this area as being of low visual vulnerability. Map 6 includes this area within Regionally Outstanding Landscapes. Map 8 clearly shows areas of lakeside that are identified as having capacity for new nodes.
- 56 Surely a further Richmond node would be required for the autonomous nature of the property and given that this area is approximately half way between Old Richmond and Mt Gerald it would seem logical to locate a node at the aforementioned site.
- 57 This area should be identified as an existing node.
- 58 Attached for reference are photo 1&2.
- 59 Further attached for reference only is Map 6 included in GD Mackenzie Basin Landscape Report (with Mt Gerald Existing Node, Mt Gerald Existing McCauley Node, and Richmond Run Existing Node)

#### **Ongoing Development of the Farming Business**

- 60 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 run holding"*.
- 61 Mt Gerald has over the years moved away from *"extensive grazing"* toward a more intensive operation.
- 62 The *"Run Plan"* of the eighties in which some 14,000 hectares of land was retired from Mt Gerald, and the tenure review process in which a further 3,000 hectares was retired from Richmond demonstrates clearly efforts over the years to more intensive farming practices.

#### **SUMMARY**

- 63 The Proposed Plan Change is a knee jerk reaction to a perceived problem that has not been conclusively proved. The present existing zone rules are sufficient to control subdivision and in the event that it was conclusively determined that this was not the case,

then an amendment to the current rules would be far more appropriate. Put simply the Plan Change is unnecessary for achieving the purpose of the RMA.

- 64 The Council's disregard for property rights of landowners is grossly unfair.
- 65 The Council's disregard for farming families and their businesses is unfair and will on the basis of Plan Change 13 financially burden present and future generations.
- 66 Specifically in our case, land adjoining Mt Gerald (formerly Richmond) was purchased to future proof the viability of the station business. The current district plan allows subdivision to take place on rural zoned land. The farming business will never be able to pay for the land acquisition from internal revenue.
- 67 Had we known about the Plan Change in more detail, i.e. been consulted with all reasonable endeavours, we may not have entered into unconditional contractual arrangements to purchase.
- 68 The Council has critically disadvantaged Mt Gerald in economic terms that can be valued in monetary terms. However the social impact may be more difficult to determine and may in fact more crippling than the economic impact in the longer term, if the economic impact is realised by Plan Change 13.
- 69 Plan Change 13 endeavours to make a blanket change to the Mackenzie Basin outside of other areas contained within the present plan. The Plan Change does not take into account social, cultural and economic issues.
- 70 The Plan Change is based on a flawed landscape report and a substandard Section 32 Report.
- 71 The Plan Change in our opinion is not defensible and therefore will not withstand a challenge to the Environment Court.
- 72 Mt Gerald asks that Plan Change 13 be withdrawn or declined.
- 73 If for any reason the Plan Change proceeds then Mt Gerald would submit the following with regard to the two stations its farms:
- 73.1 The Mt Gerald existing node be extended as per **attached** photo 3;

- 73.2 An existing node be established at the end of Lilybank Road as per **attached** photo 4;
- 73.3 An existing node be established to the freehold land on the Richmond Run as per **attached** photos 5,6&7;
- 73.4 Existing node size be appropriate to (but not limited to) *'features further out such as streams, shelterbelts and fences'* but not less than 25 hectares;
- 73.5 New nodes be changed to 10-15 hectares;
- 73.6 There is no minimum of building platforms placed on new nodes;
- 73.7 There is a maximum of 10-15 building platforms placed on new nodes;
- 73.8 There is no minimum or maximum number of building platforms on existing nodes;
- 73.9 Remote farm buildings be a controlled activity i.e. all non residential buildings are permitted including mustering huts and Shearer's quarters;
- 73.10 Tracking and earthworks are permitted activities;
- 73.11 All farming activities are permitted;
- 73.12 Plan Change 13 acknowledges that the Mackenzie is a 'working landscape';
- 73.13 Plan Changed 13 acknowledge 'the Mackenzie has and is being farmed intensively', and amendment is made to all assertions of 'pastoral land use' or the like to include that acknowledgement; and
- 73.14 Plan Change 13 is amended to include the whole Mackenzie District.

Dated: 8 September 2008

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Michael Burtscher

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Mt. Snowd

Richmond Bar

Richmond



(2) Lilybank

Mt. Leavelle Macaulay

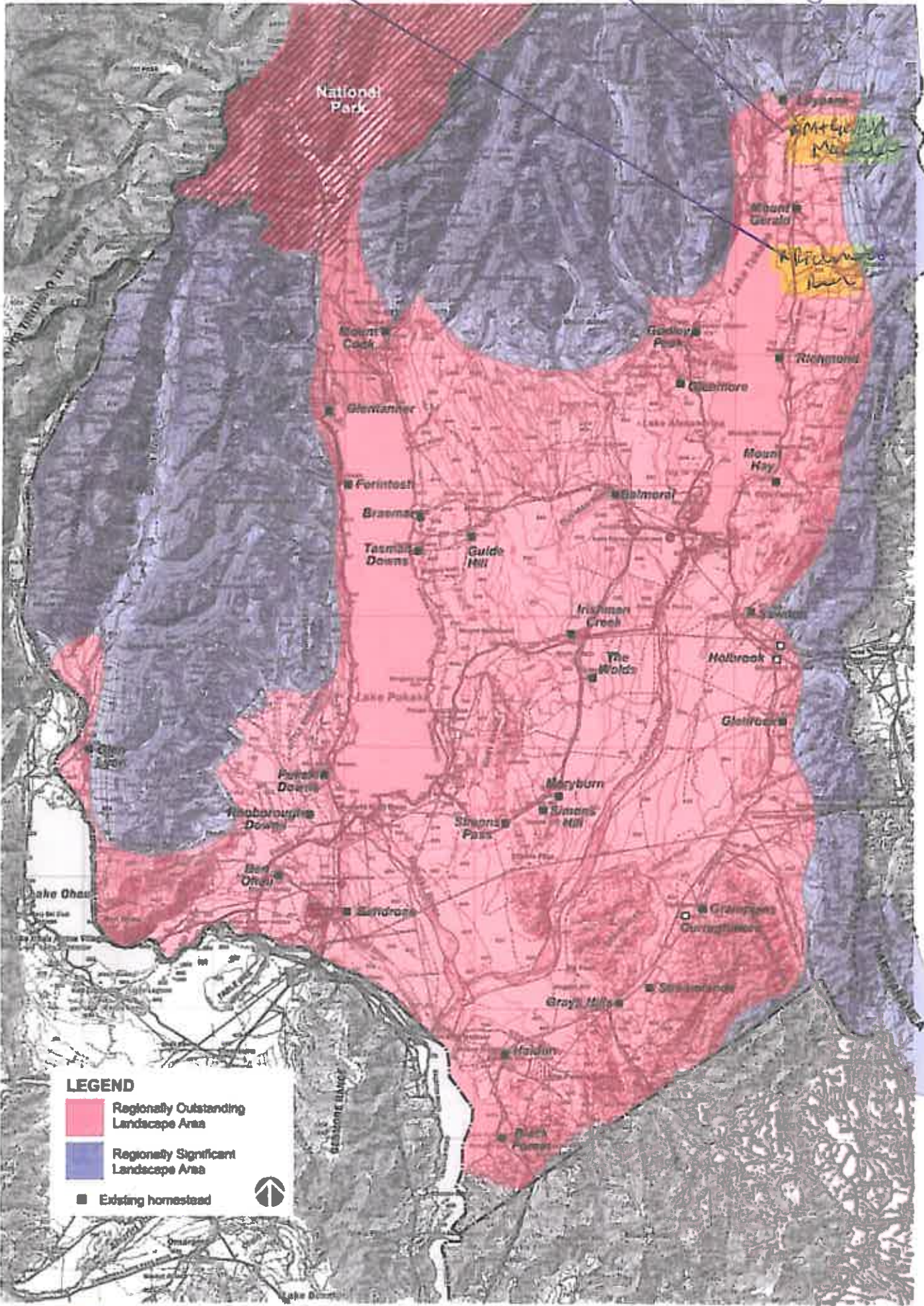
Mt. Leavelle





Kilmorran Run Node

Herold Macaley Node

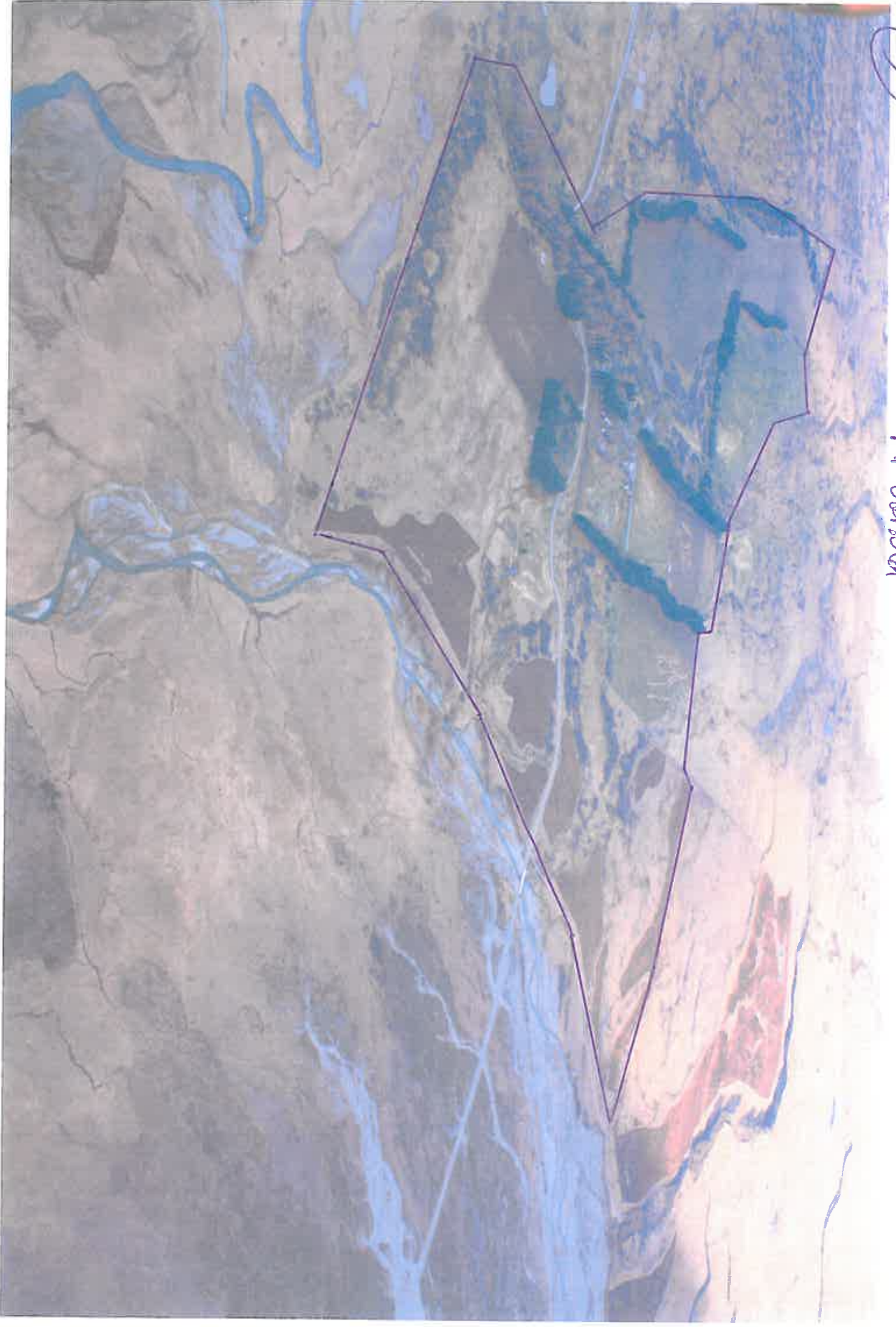


Mackenzie Basin Landscape Map 6  
**REGIONALLY OUTSTANDING & SIGNIFICANT LANDSCAPES**  
 (source Environment Canterbury 1993) December 2007



3

Mt. Gerald





(4)

Mt. Gerald Precambly



5

Richmond Run





(6)

Richmond Run





7

Richard Run

