

RUATANIWHA FARM LTD
PO BOX 70
TWIZEL

11 September 2008

Submission on Plan Change 13. SID 11

Withdraw PC 13 as it is NOT legally supported by the RMA.

PC 13 promotes Objective 3A, Outstanding Landscapes by use of S.6 of the Resource Management Act (RMA). More definitively Section 6(b) of the RMA provides for “the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development”.

The key word here is “natural”.

The Mackenzie Basin is NOT an Outstanding Natural Feature or Landscape (ONFL). It certainly has many *natural* parts which most people would consider to be *outstanding features or landscapes* but to suggest the whole Basin is an ONFL is a grossly misleading overstatement.

The Mackenzie Basin has suffered from major infrastructural development such as dams, power stations, canals, pylons, new lakes and even a new town! The entire Basin has been modified in one form or another. There exist many tree plantations, both wild and managed as well as extensive farming activities.

The Environment Court (*Wakatipu Environment Society v Queenstown Lakes DC C180/99*) has defined the term “natural” as being something which is a product of nature, including pasture and exotic tree species but NOT man-made structures. A landscape with man-made structures may still have a degree of naturalness but it will be less natural than an unaltered landscape or landscape without structures. Given this definition how can S.6 (b) of the RMA be used to justify Objective 3A when the Mackenzie Basin INCLUDES man-made structures such as dams, canals, lakes, power stations, pylons and associated equipment?

Furthermore the recent Environment Court decision (*Briggs & Others v Christchurch City Council C45/2008*) over whether the whole of the Banks Peninsula could be classed an area of ONFL, reinforces our claim that PC13 most probably has no legal basis. The resultant theme of this case was that in no way could you classify the Banks Peninsula in its entirety as an ONFL. The region comprised areas of ONFL but these had to be individually identified, something that PC 13 has not done.

The Mackenzie Basin Subzone forming the basis of PC 13 has been defined by a flawed landscape assessment completed by Mr Densem. There is a serious lack of analysis of the

values of the basin and degrees of naturalness as required in the Banks Peninsula decisions.

Interestingly the judge in the Banks Peninsula case also said that “amending the rules relating to subdivision lot sizes was more efficient and effective than amending the areas classified as ONFL”.

A final determination of the legal status of PC 13 can only be provided for by the Environment Court. Based on recent case law it seems the Councils grounds are shaky at best. Is Council prepared to waste more ratepayers’ money backing a policy that has a good chance of being found inadequate with no legal base?

For The Record.

If the Hearing Panel concur with these thoughts and advise Council to withdraw PC 13, BUT Council choose to ignore this advice and continue with the process, then we propose that both the elected members and Council staff put their own money where their mouths are.

We propose that if Council loses any Environment Court hearing based on PC 13’s questionable legal status then the elected members AND Council staff should pay for all court costs and legal representation of BOTH parties out of their own pockets! It is not acceptable for Mackenzie District ratepayers to fund a plan change that few, if any, desire.

Ratepayers also want to see transparency on the amount of wasted ratepayer money already spent to get to this stage.

Once again we appeal to your wisdom and good sense to advise Council to withdraw PC 13.

However if after this hearing process has concluded Council wish to continue with PC 13, then we submit in opposition to the following issues.

1. Lack of Consultation.

Currently RFL own in excess of 1,800 hectares surrounding Twizel, much of which is farmed with sheep and cattle. At no point was RFL ever consulted with by Council or its representatives with respect PC 13. Why was this when other significant land owners were privy to what Council wanted to achieve?

Was this an oversight or a purposeful decision?

2. Benefits of PC 13 to the Local Economy.

Policy 3B, Economy, Environment & Community, is an absolute joke! It is farcical to even suggest PC 13 will aid the local economy. All it will do is stop progress and the world will go by.

Where is the detailed financial analysis to back up this claim? A similar analysis should also be completed based on the status quo ie: developing the land. None of this has even been considered by Council.

Twizel has grown in recent years on the back of land being freed up by way of subdivision and farming development. Currently there are 3 plumbing firms, 10 builders, 2 building supply firms (including Placemakers), 2 Ready-mix firms and many other small affiliated businesses that would not be here if Twizel were not allowed to grow.

PC 13 will stop everything in its tracks and the growth we have recently seen will be reversed. The occasional out of town visitor may want this but it will do no good to those who live there. Before such a massive change can be contemplated by Council a social impact study must be completed to investigate the probable negative effects of PC 13 on existing communities within the Mackenzie Basin.

As an aside it has been said many times by Council that they had no choice but to implement PC 13 as they had continually received calls from people about inappropriate development in the Mackenzie. Why have these silent majority not bothered to attend the hearing in support of the plan change? Incidentally one of the submitters, Mr R Carrick of Timaru, submitted in support of the Plan Change using the subdivision “in the middle of nowhere, next to Ohau airport/Skydive facility” as his main example, see appendix A. That just happens to be one of Councils subdivisions.

3. Mackenzie Basin Subzone Boundaries.

Why is there a specific subzone boundary and plan for Twizel when Lake Tekapo has no such thing? Why has this boundary been drawn in such a subjective manner to exclude existing residential houses and approved subdivisions? Appendix B. Why has the growth of Twizel been vindictively constrained?

The boundary drawn is contrary to previous advice of Mr Densem and also Policy 3E (now combined with Policy 3C) which provides for residential subdivision in the towns of Twizel and Lake Tekapo. Furthermore it contradicts the previous planning managers desire to use roads as hard natural barriers, see for example the corner of SH8 & Max Smith Drive.

Did Council staff get the elected members approval to the final Mackenzie Basin subzone boundaries before notification of the plan change occurred? What about the Twizel

Community Board, were they ever consulted? Based on their submission in opposition to PC 13 it seems unlikely, see Appendix C.

RFL believe Council staff hoodwinked the elected members by pushing through the final version without them seeing it first. This was totally undemocratic and provides grounds for PC 13's withdrawal at the very least, if not for legal challenge.

Finally why have Twizel related submissions been deferred when they should be resolved first or at least at the same time as the rest of PC 13? It is unfair that Twizel residents and landowners must face uncertainty in the interim. RFL propose that the current Twizel town boundary be enlarged to include all land that is currently consented, or is in the process of being consented, for lifestyle block subdivision. All of these areas must be excluded from the Mackenzie Basin Subzone effective immediately.

Any deferral of Twizel related submissions will only create uncertainty. Based on other submitters to PC 13, any change to the proposed Mackenzie Basin Sub Zone boundaries could be contested creating huge delays and lack of confidence in the immediate area.

4. Minimum Subdivision Size.

Policy 3L restricts all subdivision for residential purposes to within a node whilst restricting all other subdivision to a minimum of 200 hectares. It has been stated (in a highly opinionated view) that small sized lots would be uneconomic however 50 hectares could be economic for many activities other than sheep farming. Crops such as pears, plums, apples, apricots, grapes, berrys, hazelnuts and even tree farming will be grown commercially one day in the Mackenzie. To limit the size of sub dividable lots is a short sighted answer and over reaction.

The minimum lot size should be reduced to 50 hectares.

5. No allocated Identified Building Node.

As mentioned above RFL owns land that is currently farmed with sheep and cattle. To support this operation there exist farm houses, vehicle and storage sheds, all of which identify with the Homestead concept. But no node has been allocated. Why have the operations of RFL been overlooked and left to wallow in the Mackenzie Basin Subzone with no node allocation?

Was this an oversight or a purposeful decision?

Assuming PC 13 is not withdrawn or thrown out by the Environment Court, RFL request an approved building node, the placement of which should include existing residential dwellings and sheds along Ostler Road.

6. Resource Consents to build Residential Dwellings.

All residential dwellings within the proposed Mackenzie Basin sub zone and within the new Manuka Terrace rural-residential zone will require resource consents under PC 13. This is excessive control taken by Council with its primary purpose not to protect the landscape BUT to increase its revenue base.

The resultant effect will be see more compliance costs, more down time and more unhappy ratepayers. Even though PC 13 is not yet part of the District Plan, Council planners have been demanding land use resource consents for houses to be built on previously consented rural residential subdivisions eg: Glen Lyon Road, Ostler Road, Boundary Terrace, Hocken Lane and Manuka Terrace.

The maximum house size limit must be withdrawn. The floor area of 700m² may seem large however it is just another restriction in which Council can have its say.

Council can control the placement and look of proposed houses by way of Consent notices on subdivided lots without needing to resort to a resource consent process.

7. Forestry

Society needs to look at ways to reduce the amount of carbon in the atmosphere in order to reduce the effects of global warming. Trees provide a unique carbon sink, the planting of which has recently been actively promoted by central government. Why then have Council completely overlooked this possibility for land in the Mackenzie Basin?

Forestry will soon become a crop that marginal land owners will look to in order to diversify. Appendix D gives an insight as to what may occur as technologies change and ideas are challenged. The idea of ethanol from trees would also help solve the Wilding problem that currently remains unchecked. To lock out an environment saving opportunity and potential income stream for many landowners is irresponsible at the very least.

Forestry must be allowed in the Mackenzie Basin.

8. Manuka Terrace Rural-Residential Zone.

The proposed Manuka Terrace Rural-Residential Zone contains many new rules which remove freedom of choice for landowners.

- a. Resource Consent to build.

The need for resource consents in order to build residential dwellings goes against the idea of making this area its own Rural-Residential zone. Land owners should be able to apply for a building consent without the requirement of satisfying Council conditions over the placement, design and appearance of the building. This gives too much discretionary control to Council in an area designated for residential purposes and has nothing to do with any landscape protection issues.

b. Minimum lot size.

There currently exists resource consent applications filed with Council for approval before December 19 2007 which must be added to the criteria for rule 9.1 Residential Density. It is currently proposed as:

The minimum site area for each residential unit and minor unit shall be:

- (i) 2ha for lots created or approved by subdivision consent prior to 30 November 2007 and such approval has not lapsed*
- (ii) 4ha for all other lots.*

This above rule should be amended to take into account those RCA's which were submitted well before notification of the plan change and will soon be granted. Discussions were held with the previous Manager, Planning and Regulation whom accepted that those applications applied for before 30 November 07 would be considered by Council to have been created, therefore there would be no issue in obtaining building consent. The current wording needs to be changed to cover these applications.

c. Water and telephone connections.

The requirement that all allotments must connect to reticulated water and telephone systems is unworkable. Currently no reticulated services exist for either of these services. It seems Council is intent on requiring the first sub divider after the plan change becomes operative, to install these.

No regard has been given to the existence of extensive mobile network coverage from both current providers. Furthermore Council has shown a complete disregard for the plentiful supply of underground water and the option of landowners to use imported tank water.

d. Excavation Works.

Excavation earthworks of between 300m³ and 1000m³ and soil exposed of between 1000m² and 2500m² will require resource consent as a controlled activity. This area is small in relation to the lot sizes of minimum 20,000m² and the motivation for such resource consent can only be seen as the provision of another source of future revenue for the Council. The Officers report justifies the volumes based on the number of truckloads

of fill this would be however she must remember the Mackenzie Basin is not in a residential setting such as suburban Christchurch.

The proposed plan change is silent on the type of activity earthworks greater than 1000m³ or 2500m² will be. These may well be non-complying or prohibited activities but once again clarity should be provided. Likewise it is presumed that any earthworks less than 300m³ or 1000m² will not require any type of resource consent. We would like this clarified.

e. Trees.

Tree planting is treated as a non-complying activity and will require resource consent. Surely if some landowners wish to exercise their land right and plant trees to offset their carbon emissions then why should that benefit to society be removed by way of Council decree? This needs to be removed.

In addition amenity plantings of *Pinus nigra* (Corsican Pine) have been included as a prohibited activity. These trees are not common wildings in that they are good looking trees which grow well in the Mackenzie District. To have the planting of them prohibited is an extreme unfair measure taken by Council.

9. Private Vehicle Access.

Section 8.7 limits the number of allotments able to use an existing right of way and also requires turning circles. Surely each case should be judged on its own merits taking into account potential traffic volumes and sight distances? Passing bays or road widening can allow more than the proposed maximum of 6 lots using one right of way, as is the case in many countries around the world.

It should be the decision of the people whom have bought land as to how many users they are happy with. Council has ignored the potential benefit of Body Corporate structures which would be far more efficient than any blanket policy directive.

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APPENDIX A.

MOYLE'S PHARMACY

6 Dee Street

Timaru

Ph: (03) 688 4628

Fax: (03) 684 5335

E-mail moylespharmacy@xtra.co.nz

Ross Carrick M.P.S



3 March 2008.

Mackenzie District Council
P.O. Box 52
Fairlie.



Dear Council Members

Re: Proposed Plan Change 14 – Mackenzie Basin.

I drive to Wanaka quite often and despite the extra time and miles involved, I always travel via the Mackenzie. I do this because of the visual and physical splendour and wonder of the countryside.



I notice, to my horror, that a subdivision is going ahead slap bang “in the middle of nowhere”, creating a blot on the landscape. (next to Ohau airport/Skydive facility)

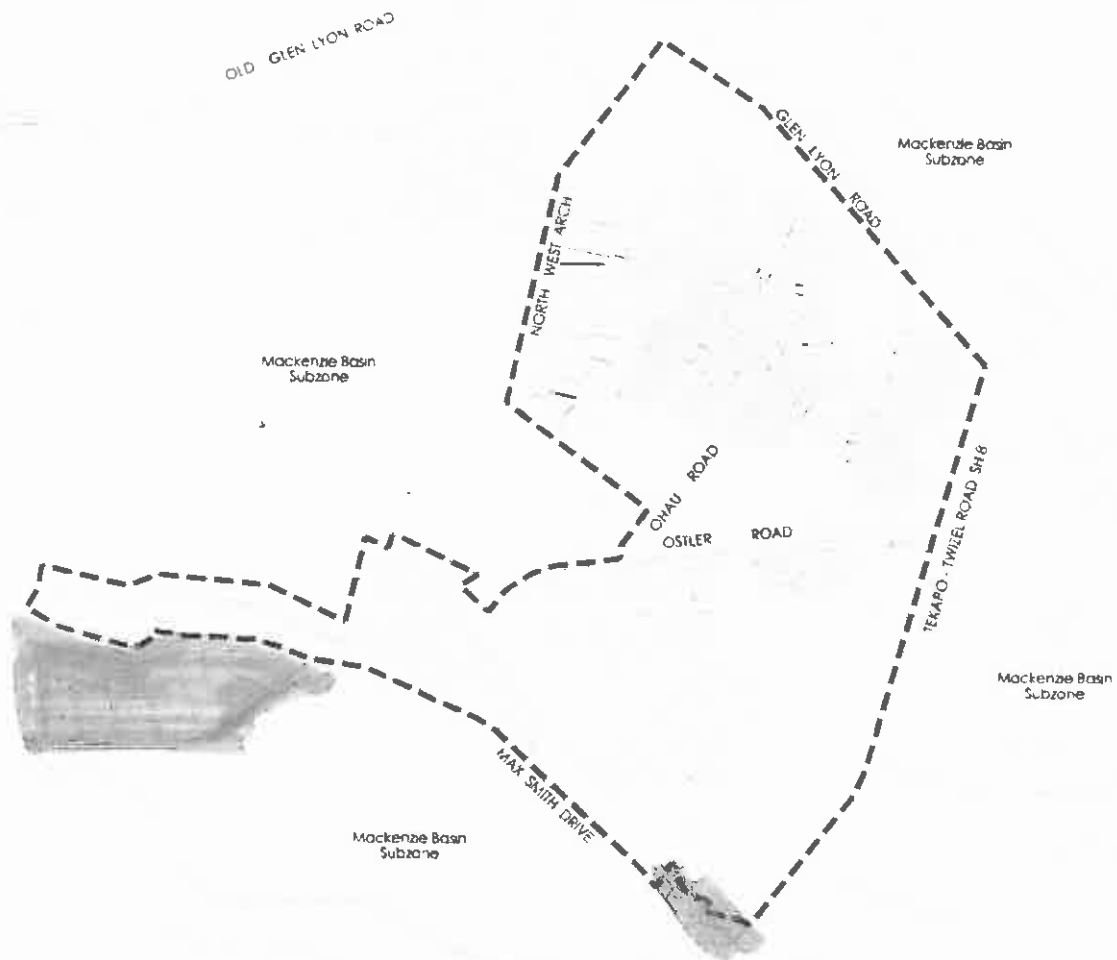
I strongly urge and submit that the outstanding landscapes of the Mackenzie Basin be protected from inappropriate subdivision, development and use, to the greatest possible extent, by way of a Plan Change with the creation of a “Rural Zone – Mackenzie Basin.”

I wish to be heard in support of my submission.

Yours faithfully,

R. W. Carrick MPS

APPENDIX B



Mackenzie Basin Subzone Insert

Scale 1:35000@A4

Legend

- Mackenzie Basin Subzone Boundary

4. I seek the following decision from the Mackenzie District Council: *(Give precise details)*

*
The Twizel Community Board will put forward the following Submission to Plan Change 13. The Twizel Community Board wishes to have an outer rural Boundary that will operate under the existing Rural Rules and will be exempt from the new proposed Rural Sub Zone in Plan Change 13. This area will be known as Twizel Rural Lifestyle. The boundaries will be all area south of the Twizel River from the Pukaki Canal to Lake Benmore. This will be the northern boundary. The Southern boundary will be the old Ohau River Bed from Lake Benmore through Lake Ruotaniwha to the Ohau A Power Station. The western boundary will be from the Ohau A Power Station along the Ohau Canal until it meets the Twizel River.

5. I do or do not wish to be heard in support of my submission. *(Please Tick)*

I do

I do not

6. If others make a similar submission I would or would not be prepared to consider presenting a joint case with them at any hearing. *(Please Tick)*

I would

I would not

(Signature of persons making submission or person authorised to sign of behalf of person making the submission)

(Date)

J Bishop
.....
25 = 02 = 08

Use this space for additional information. Continue on extra paper if necessary (please indicate your name and address) and attach to this form.

Maori land in fuel study

Ngai Tahu, Chevron join forces

By HAMISH MCNEILLY

NGAI Tahu has joined forces with oil giant Chevron to produce biofuels from marginal Maori land.

In April, the runanga, on behalf of Maori landowners, was approached by Lincoln University researchers to participate in a biofuels research bid to develop biofuel technologies, project leader John Reid, of Ngai Tahu, said.

Government funding from the Foundation for Research Science and Technology was secured for the project, with global fuel company Chevron joining as an industry partner.

"This project enhances the opportunity for Ngai Tahu to invest in an entirely new and sustainable industry and opens up opportunities for grass-roots Maori landowners in Te Waipounamu (South Island)," Mr Reid said.

Work has begun on the \$4 million research project, with a selection process under way to determine which plants might be used.

Ngai Tahu kaiwhakahaere (chairman) Mark Solomon hoped the research would enable owners of Maori communal tenure land to develop skills in the "emergent biofuels industry".

"Our people face various challenges that other farming communities are not subject to, such as the inability to obtain

loan finance and the challenges of communal tenure decision making."

The runanga is providing support for the research as part of the He Whenua Whakatipu project, which has been operating for five years. The projects aims to unlock the potential of Maori communal tenure land.

"There is also a possibility that we may financially invest with the landowners if the biofuels research proves to develop commercially viable technologies," Mr Solomon said.

The six-year project would be co-ordinated from the Bio-Protection Research Centre at Lincoln University and be carried out on land north of Oxford, Canterbury. The research team would use non-genetically modified biotechnology with the aim of producing affordable, low impact fuels that were ethically sound, Lincoln University ecology professor Steve Wratten said.

Last Thursday, Parliament passed legislation requiring oil companies to supply fuel with a fixed percentage of biofuel. From October 1, companies will have to supply 0.5% of biofuels, rising to 2.5% by 2012.

Chevron New Zealand chairman Nick Hannan said the company, which markets the Caltex-brand in New Zealand, supported the introduction of a sustainable biofuel supply and had waived any rights to the research results.