

19 October 2009

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by courier

MERIDIAN ENERGY LIMITED v MACKENZIE DISTRICT COUNCIL (PROPOSED PLAN CHANGE 13 TO THE OPERATIVE MACKENZIE DISTRICT PLAN)

- 1 We act for Meridian Energy Limited (*Meridian*) in relation to the above matter.
- 2 Please find **enclosed**, by way of service, a Notice of Appeal by Meridian lodged with the Environment Court today in relation to the above matter.
- 3 Please feel free to contact us should you have any queries relating to the above.

Yours faithfully



 Catherine Somerville / Katherine Harland
PARTNER / SOLICITOR

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Under: the Resource Management Act 1991 (*the Act*)

in the matter of: an appeal against decisions of the Mackenzie District Council on Proposed Plan Change 13 (Mackenzie Basin) to the Operative Mackenzie District Plan under clause 14(1) of the First Schedule of the Act

between: **Meridian Energy Limited**
Appellant

and: **Mackenzie District Council**
Respondent

Notice of appeal against decision by Mckenzie District Council to approve Proposed Plan Change 13 (Mackenzie Basin) to the Operative Mackenzie District Plan

Dated: 19 October 2009

REFERENCE: Catherine Somerville (catherine.somerville@chapmantripp.com)

NOTICE OF APPEAL AGAINST DECISION BY MACKENZIE DISTRICT COUNCIL TO APPROVE PROPOSED PLAN CHANGE 13 (MACKENZIE BASIN) TO THE OPERATIVE MACKENZIE DISTRICT PLAN

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

To The Registrar
Environment Court
Christchurch

Introduction

- 1 Meridian Energy Limited (*Meridian*) appeals against a decision of the Mackenzie District Council (*Respondent*) on Plan Change 13 (Mackenzie Basin) to the Operative Mackenzie District Plan (*PC13*).
- 2 Meridian made submissions and further submissions on PC13, copies of which are attached as **Appendices B and C**. Meridian also presented evidence on 9 September 2008 to the Hearings Committee appointed by the Respondent.
- 3 Meridian received notice of the Respondent's decision on 7 September 2009. The decision to approve PC13 with modifications was made by the Respondent.
- 4 Meridian appeals those provisions of PC13 set out on the table attached to this notice of appeal at **Appendix A**. The table sets out the provisions of PC13 subject to Meridian's appeal, the reasons for the appeal, and the relief sought by Meridian.

Overall reasons for the appeal

- 5 Meridian supports the intent of PC13 as it seeks to protect the outstanding natural landscapes and features of the Mackenzie Basin from inappropriate and sporadic residential subdivision, use and development, where such activities are unrelated to the well-established farming uses of the Basin.
- 6 Meridian's two primary submissions (dated 10 and 11 April 2008) and further submissions (dated 30 May 2008) outlined in detail the concerns Meridian had, and continues to hold, with respect to PC13.
- 7 The crux of Meridian's concern is that PC13 appears to have gone further than intended, by seeking to control all "non-farming" uses, and failing to appropriately recognise that utilities would also fall within the category of "non-farming" uses. Utilities should simply not be subject to the same issues, objectives, policies and rules as residential and

domestic activities. Importantly, no consideration has been given to, or assessment made of, the effects arising from applying such provisions to utilities and the Waitaki Hydro-Electric Power Scheme (*HEPS*) in particular.

- 8 A positive and appropriate further protection flowing from PC13 as notified was a restriction on sporadic subdivision and increased residential development in the Mackenzie Basin. Such development might adversely affect Meridian's infrastructure and operations in the Mackenzie Basin by:
 - 8.1 Increasing demand for domestic water supply, affecting water quantity and reliability of supply for existing users such as Meridian; and
 - 8.2 Inappropriately locating residential development in proximity to existing hydro-electricity generation and transmission infrastructure and operations with resulting adverse effects on the HEPS, and related reverse sensitivity considerations.

- 9 Effects in the second category above include actual constraints on Meridian's infrastructure and operations in the Basin including affecting access to dam, canal and other areas for maintenance purposes, potentially restricting the ability to upgrade the HEPS infrastructure, and affecting civil safety matters and the operation of spillways. Importantly, development in some areas of the Basin may affect the Potential Impact Classification of the Tekapo and Pukaki Canals, which are critical parts of the HEPS.

- 10 Meridian considers that, taken as a whole, the Respondent's decision to approve the parts of PC13 appealed by Meridian:
 - 10.1 Will not promote the sustainable management of natural and physical resources;
 - 10.2 Is contrary to good resource management practice;
 - 10.3 Does not represent the most appropriate way to achieve the purpose of the RMA and therefore contravenes section 32 of the RMA;
 - 10.4 Fails to appropriately recognise and provide for the Waitaki HEPS, including its maintenance and upgrading and new HEPS infrastructure and activities in the future, as a physical resource of local, regional and national importance;

- 10.5 Fails to appropriately avoid, remedy or mitigate actual and potential effects on the Waitaki HEPS arising from subdivision and development within the Mackenzie Basin;
- 10.6 Has failed, in its Section 32 Report and assessment, to consider:
- (a) The effects of applying controls intended for residential and domestic (non-farming) uses onto utilities such as the HEPS (which are also “non-farming”), the advantages and disadvantages of that approach and the costs; and
 - (b) The effects of enabling sporadic subdivision and increased residential development in the Mackenzie Basin in circumstances where such development might adversely affect Meridian’s infrastructure and operations; and
- 10.7 Places inappropriate controls on, and contains inappropriate issues, objectives and policies in respect of, the HEPS resources (encompassing both infrastructure and operations/activities, and both current and future resources of that type) within the Mackenzie Basin.
- 11 Without limiting the generality of the above paragraph 10, the more specific reasons for Meridian’s appeal are set out in the table attached as Appendix A.

Relief sought

- 12 Meridian seeks the following relief:
- 12.1 Changes to the provisions as set out in the table attached as Appendix A (or words to like effect) or such other relief as the Court thinks fit to address Meridian’s concerns; and
 - 12.2 Any necessary further or consequential amendments to PC13 (including to any issues, objectives, policies, methods, explanatory text or rules), which may be required as a result of granting the specific relief sought by Meridian.

Appendices

- 13 The following documents are attached to this notice of appeal:
- 13.1 A table setting out the provisions Meridian seeks to appeal, the reasons for the appeal and the relief sought (Appendix A);
 - 13.2 A copy of Meridian's submission and further submissions (Appendices B and C);
 - 13.3 A copy of the Respondent's decision (**Appendix D**); and
 - 13.4 A list of names and addresses of persons to be served with a copy of this notice (**Appendix E**).

Signed for and on behalf of Meridian Energy Limited by its solicitors and authorised agents Chapman Tripp



Catherine Somerville
Partner
19 October 2009

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to this appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 30 working days after this notice was lodged with the Environment Court.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

**How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of Meridian's submission and further submission, or the Respondent's decision. These documents may be obtained, on request, from our offices, by contacting Katherine Harland (09 357 9000 / katherine.harland@chapmantripp.com).

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington, or Christchurch.

APPENDIX A
Table setting out the provisions Meridian seeks to appeal, the reasons for the appeal and the relief sought

<p>Respondent's Decision</p>	<p>Meridian's Reasons for Appeal</p>	<p>Relief Sought (additions underlined and deletions struck through, or words to like effect), or such other relief as the Court thinks fit to address Meridian's concerns</p>
<p>Objective 3A – Distinctive and Outstanding Landscapes</p> <p>To protect and sustain the distinctive and outstanding natural landscapes and features of the District from subdivision and development that would detract from those landscapes.</p>	<p>The phrase "distinctive landscapes and features" is uncertain and ambiguous. The District Plan, PC13, the Section 32 Report, and the Respondent's decision, do not appropriately define what landscapes or features are "distinctive", nor do they provide any methodology for identification.</p> <p>Further, the objective inappropriately seeks to elevate protection of landscapes and features that are less than outstanding (i.e. distinctive), so that they are protected to the same degree as outstanding natural landscapes and features under section 6(b) of the RMA. As all development may be argued to detract from landscape values the phrase "inappropriate subdivision, use and development" should be used, in accordance with section 6(b).</p> <p>As discussed in paragraphs 39 to 43 of Meridian's original submission, the Section 32 Report accompanying PC13 noted that this objective was to concentrate on the protection of outstanding natural landscapes and features from inappropriate subdivision and development, consistent with section 6(b) of the RMA. A development may detract from a landscape, but still be appropriate (for example because of its positive contribution to other Part 2 matters such as social and economic wellbeing or health and safety).</p> <p>Meridian seeks that Objective 3A be amended to reflect the intent of section 6(b) of the RMA and to acknowledge that development within and around outstanding natural landscapes and features can be appropriate. Meridian notes that the existing HEPS infrastructure and operations (generation and transmission) within the Mackenzie Basin have been located within the environment for a number of years and provide significant national benefits. As such, Meridian considers that such development is appropriate, including in an outstanding landscape.</p>	<p>Objective 3A – <u>Distinctive and Outstanding Natural Landscapes and Features</u></p> <p>To protect and sustain the <u>distinctive and outstanding</u> natural landscapes and features of the District from <u>inappropriate subdivision, use and development that would detract from those landscapes</u>.</p>

<p>Policy 3A – Recognition of Mackenzie Basin</p> <p>To recognise the Mackenzie Basin as having a distinctive and highly valued landscape containing outstanding natural landscapes, and through the Mackenzie Basin Subzone within the Rural Zone, to protect the Basin from inappropriate subdivision, use and development.</p> <p>Explanations and Reasons</p> <p>...</p> <ul style="list-style-type: none"> • Not all areas within the Mackenzie Basin are outstanding. However for the purposes of the District Plan objectives and policies relating to outstanding natural landscapes, reference to the Mackenzie Basin is used to refer to those parts of the Basin that are distinctive and/or outstanding. <p>...</p>	<p>As discussed above in relation to Objective 3A, Meridian considers that this policy also seeks to elevate parts of the Mackenzie Basin that are not outstanding (in terms of section 6(b)) but which are distinctive, so that they have similar status to outstanding natural landscapes and features. As also discussed above, it is not clear what parts of the Basin are considered to be "distinctive". Meridian is also concerned that Policy 3A may be read as inferring that the entire Mackenzie Basin is outstanding, and deserving of section 6(b) protection, when that is not the case.</p> <p>The Section 32 Report noted that the creation of the Mackenzie Basin Subzone is a means of providing a special layer of control over the Basin. The Report also stated that the Mackenzie Basin is among the group of landscapes most qualified for 'outstanding' status in New Zealand. However, the landscape varies markedly throughout the Basin and is not all "natural" (some parts of the Basin are in fact man-made, including the lakes and canals), and Meridian considers that the Respondent needs to ensure that the objectives, policies and rules guard against inappropriate development in the relevant 'outstanding natural landscape and feature' locations.</p> <p>Meridian considers that bullet point 4 of the Explanations and Reasons should be amended to remove the requirement that objectives and policies relating to outstanding natural landscapes also apply to "distinctive" parts of the Mackenzie Basin. Meridian does not consider that it is appropriate for the provision to apply to distinctive landscapes and features as well as those that are outstanding, as this goes beyond the scope of the purpose and principles of the RMA.</p> <p>Meridian also proposes an additional "Explanation and Reason" to be inserted after bullet point 5. The purpose of the additional bullet point is to provide clarity on what matters are to be considered when assessing whether a subdivision, use or development is appropriate or inappropriate.</p>	<p>Policy 3A – Recognition of Mackenzie Basin</p> <p>To recognise the Mackenzie Basin as having a distinctive and highly valued landscape containing outstanding natural landscapes and features, and through the Mackenzie Basin Subzone within the Rural Zone, to protect the Basin from inappropriate subdivision, use and development.</p> <p>Explanations and Reasons</p> <p>...</p> <ul style="list-style-type: none"> • Not all areas within the Mackenzie Basin are outstanding. However for the purposes of the District Plan objectives and policies relating to outstanding natural landscapes and features, reference to the Mackenzie Basin is used to refer to those parts of the Basin that are distinctive and/or outstanding. <p>...</p> <ul style="list-style-type: none"> • When considering whether subdivision, use or development in outstanding natural landscapes and features is appropriate in the Mackenzie Basin Subzone the Council shall, without limitation, have regard to the following: <ol style="list-style-type: none"> i. The scale of any adverse effects ii. The degree of any local, regional and national benefits and any positive effects iii. Compatibility with existing land uses iv. Consistency with existing land forms
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<p>Policy 3C – Adverse impacts of Buildings and Earthworks</p> <p>To avoid adverse impacts on the outstanding natural landscape and features of the Mackenzie Basin, in particular from residential buildings, domestication, structures, earthworks, tracks and roads.</p> <p>Explanations and Reasons</p> <ul style="list-style-type: none"> • Domestication of the Mackenzie Basin landscape can reduce or remove those qualities for which it is valued. These effects include the imposition of buildings, structures, plantings and other patterns associated with development (earthworks, lighting, reflective surfaces etc.) that detract from the open and uncluttered landscape of the Basin. <p>...</p>	<p>Meridian considers that this policy should be more clearly directed at limiting the effects of buildings/structures, domestication, earthworks, tracks and roads associated with residential and domestic uses.</p> <p>As currently worded there is a risk that the policy may be applied to buildings and earthworks (etc) that are associated with utilities such as the Waitaki HEPS and any further modifications, when that is not the intent of PC13 (and has not been assessed in any Section 32 Report). It is understood that the intention is to control non-farming uses such as residential uses not associated with farms, rural lifestyle subdivision, accommodation, and so on, but not utilities. This distinction is important, as the policy requires solely the avoidance of adverse impacts, and does not provide for remedying or mitigation. Utilities will often not be able to avoid all of their adverse effects, as is recognised in PC13 in later provisions.</p> <p>The amendment to the first bullet under the Explanations and Reasons is to ensure that this refers to the same types of activities.</p>	<p>Policy 3C – Adverse impacts of Buildings and Earthworks</p> <p>To avoid adverse impacts on the outstanding natural landscape and features of the Mackenzie Basin, in particular from residential buildings, domestication, structures, earthworks, tracks and roads associated with residential and domestic uses.</p> <p>Explanations and Reasons</p> <ul style="list-style-type: none"> • Domestication of the Mackenzie Basin landscape can reduce or remove those qualities for which it is valued. These effects include the imposition of residential and domestic buildings and associated structures, plantings and other patterns associated with development (earthworks, lighting, reflective surfaces etc.) that detract from the open and uncluttered landscape of the Basin. <p>...</p>
<p>Policy 3D- Adverse Effects of Sporadic Development</p> <p>To control non-farming buildings and subdivision in the Mackenzie Basin (outside of existing farm base areas) to ensure adverse effects on the environment of sporadic development and subdivision are avoided and to sustain existing and likely future productive use of farm holdings</p> <p>Explanations and Reasons</p> <ul style="list-style-type: none"> • ... Adverse effects which are of concern 	<p>Meridian supports this policy in principle, however it seeks amendment to clarify the intent of Policy 3D as noted above in respect of Policy 3C.</p> <p>As currently drafted Policy 3D would apply to all non-farming development (including utilities), although the Explanations and Reasons indicate that its aim is to control residential subdivision and development. Meridian considers that Policy 3D should be clearly limited to residential and domestic uses, to reflect the stated intention and to ensure that only the development intended is caught by this policy.</p> <p>Meridian is concerned that development it wishes to undertake in relation to the HEPS infrastructure and operations would be subject to Policy 3D as it would be “non-farming” development.</p>	<p>Policy 3D- Adverse Effects of Sporadic Development</p> <p>To control non-farming residential and domestic buildings and subdivision in the Mackenzie Basin (outside of existing farm base areas) to ensure adverse effects on the environment of sporadic residential and domestic development and subdivision are avoided, and to sustain existing and likely future productive use of farm holdings.</p> <p>Explanations and Reasons</p> <p>...</p> <p>jk Impacts on the availability quantity and reliability of</p>

<p>within the Mackenzie Basin include:</p> <p>...</p> <p>i Impacts on the availability of water to existing water users.</p>	<p>Clause (j), which needs to be re-numbered as (k), should be amended to make it clear that "availability" includes both the quantity of water available and the reliability of supply.</p>	<p>supply of water to existing water users.</p>
<p>New Policy 3(H)(X) Compatibility of Activities sought, declined by the Respondent</p>	<p>Meridian seeks inclusion of a new Policy 3(H)(X) to explicitly recognise reverse sensitivity effects on the infrastructure and operations associated with the Waitaki HEPS (both generation and transmission). The inclusion of such a new policy was declined by the Respondent.</p> <p>Meridian is concerned that there is the potential for adverse effects arising from activities in close proximity to these infrastructure and activities, including the potential for reverse sensitivity effects. Such effects have the potential to inappropriately constrain or preclude Meridian's continued operations in the Mackenzie Basin.</p> <p>As Meridian considers there is a real potential for such effects to constrain HEPS operations, that are currently present in the Mackenzie Basin and are recognised as being of national importance, Policy 3(H)(X) is proposed to address concerns relating to reverse sensitivity effects by requiring such effects be given regard to when the Council considers new subdivision and residential development.</p>	<p>Policy 3(H)(X) – Compatibility of Activities</p> <p><u>When considering new subdivision and residential development regard shall be given to avoiding reverse sensitivity effects from incompatible and potential sensitive land uses on hydro-electricity generation and transmission infrastructure and operations.</u></p> <p>Explanations and Reasons</p> <ul style="list-style-type: none"> <i>[As for Objective 3A and Policies 3C, 3D, 3E and 3F of the notified version of PC13, amended in accordance with Meridian's submission and further submissions].</i>

<p>Policy 3G - Lakeside areas</p> <p>To avoid adverse impacts of buildings, structures and uses on the landscape values and character of the Mackenzie Basin lakes and their margins.</p> <p>Explanations and Reasons</p> <p>...</p> <ul style="list-style-type: none"> Built development, roads, land use intensification, wilding tree spread and earthworks in the vicinity of these lakes have the real potential to degrade not only their more local landscape character and naturalness, but also the wider and more expansive views up, down and across them. Notwithstanding this, the presence of nationally significant electricity generation and transmission infrastructure within the Mackenzie Basin, and particularly within the outstanding natural landscape areas of Pukaki, Tekapo and Ohau must be acknowledged and the benefits derived from the supply of electricity need to be taken into account when assessing landscape values, character and capacity. 	<p>As was the case with Policies 3C and 3D addressed above, Meridian seeks the inclusion of the words "residential and domestic" in this policy to highlight that the policy is not intended to apply to buildings, structures and uses other than those for residential or domestic use (in accordance with the Section 32 Report undertaken for PC13). In particular Meridian seeks to ensure that this policy does not affect infrastructure and operations associated with the Waitaki HEPS. The second half of the second bullet point in the Explanations and Reasons needs to be deleted as a consequential amendment.</p> <p>If the policy is to apply to utilities then, as a lesser form of relief, it needs to include the phrase "avoid, remedy or mitigate" adverse impacts, so that it is aligned with Objective 1 of the District Plan applying to utilities and section 6(b) of the RMA. If the policy remains, the second half of the second bullet point also needs to be amended to make it clear that the positive effects are not "taken into account when assessing landscape values, character and capacity", but rather that the positive effects will be relevant, as are effects on landscape matters, in the overall Part 2 assessment of an application.</p>	<p>Policy 3G - Lakeside areas</p> <p>To avoid adverse impacts of buildings, structures and uses associated with residential or domestic purposes on the landscape values and character of the Mackenzie Basin lakes and their margins.</p> <p>Explanations and Reasons</p> <p>...</p> <ul style="list-style-type: none"> Built development, roads, land use intensification, wilding tree spread and earthworks in the vicinity of these lakes have the real potential to degrade not only their more local landscape character and naturalness, but also the wider and more expansive views up, down and across them. Notwithstanding this, the presence of nationally significant electricity generation and transmission infrastructure within the Mackenzie Basin, and particularly within the outstanding natural landscape areas of Pukaki, Tekapo and Ohau must be acknowledged and the benefits derived from the supply of electricity need to be taken into account when assessing landscape values, character and capacity.
<p>Policy 3I - Manuka Terrace Rural-Residential Zone</p> <p>...</p> <p>Explanations and reasons</p> <p>...</p>	<p>As discussed above in respect of Policy 3D, clause (f) of the Explanations and Reasons to this policy should be amended to make it clear that "availability" includes both the quantity of water available and the reliability of supply.</p>	<p>Policy 3I - Manuka Terrace Rural-Residential Zone</p> <p>...</p> <p>Explanations and reasons</p> <p>...</p>

<p>...</p> <p>f Taking into consideration the availability of a sustainable domestic water supply and potential effects on water quantity (including existing users) in the District.</p>		<p>f Taking into consideration the availability of a sustainable domestic water supply and potential effects on water quantity and reliability of supply (including existing users) in the District.</p>
<p>...</p> <p>Policy 3J – Renewable Energy</p> <p>...</p> <p>Explanations and reasons</p> <ul style="list-style-type: none"> The Resource Management Act specifies, amongst other matters, that particular regard must be given to the benefits to be derived from the use and development of renewable energy. Utilities of national significance are found within the Mackenzie District. These have distinctive and varied characteristics. Key infrastructure includes the Pukaki High Dam, Tekapo A and B, the Ohau Power Stations, and part of Lake Benmore (which was created specifically for hydro-electricity generation purposes). 	<p>Meridian supports the inclusion of Policy 3J. Minor changes only are sought to the Explanations and Reasons to ensure that Lakes Tekapo, Pukaki, Ruataniwha, and Benmore are themselves recognised as being key infrastructure associated with the HEPS, and to further recognise in the Explanations and Reasons that both physical infrastructure and operations (being uses and activities, for example the control of lake levels), exist within the Basin.</p>	<p>Policy 3J – Renewable Energy</p> <p>...</p> <p>Explanations and reasons</p> <ul style="list-style-type: none"> The Resource Management Act specifies, amongst other matters, that particular regard must be given to the benefits to be derived from the use and development of renewable energy. Utilities of national significance are found within the Mackenzie District. These have distinctive and varied characteristics. Key infrastructure includes Lake Pukaki and the Pukaki High Dam, Lake Tekapo and Tekapo A and B, Lake Ruataniwha and the Ohau Power Stations, and part of Lake Benmore (which was created specifically for hydro-electricity generation purposes).
<p>Objective 3C – Landscape Values</p> <p>Protection of the natural character of the landscape and margins of lakes, rivers and wetlands and of the natural processes and elements that contribute to the District's overall character and amenity.</p> <p>Explanations and Reasons</p> <ul style="list-style-type: none"> While the Mackenzie Basin has been the focus of concern to protect a distinctive landscape, the whole Mackenzie District 	<p>Meridian has concerns with the level of protection sought in this objective for the values listed. Meridian considers that the objective goes further than the provisions of the RMA by requiring absolute protection of the values listed. That "protectionist" approach, repeated in the first bullet point of the Explanations and Reasons, is not consistent with the overall judgement required, in particular by Part 2 of the RMA or the other provisions of the District Plan.</p> <p>Meridian seeks amendment to the third bullet point of the Explanations and Reasons to ensure that it does not prevent future development that has effects on wider visual and landscape considerations while at the same time contributing in a positive way to other Part 2 matters. It is inappropriate for</p>	<p>Objective 3C – Landscape Values</p> <p>Protection, from inappropriate subdivision, use and development, of the natural character of the landscape and margins of lakes, rivers and wetlands and of the natural processes and elements that contribute to the District's overall character and amenity.</p> <p>Explanations and Reasons</p> <ul style="list-style-type: none"> While the Mackenzie Basin has been the focus of concern to protect a distinctive landscape, the whole Mackenzie District has landscape that is a resource

<p>has landscape that is a resource deserving protection.</p> <p>...</p> <ul style="list-style-type: none"> It is appropriate that development, particularly in the high country and Mackenzie Basin has an overriding regard to the wider visual and landscape considerations which are important to the well-being of the district and its inhabitants. 	<p>the District Plan to seek to answer the Part 2 analysis for future applications in the manner proposed. The provisions of other parts of the Mackenzie District Plan provide for utilities and infrastructure, which are synonymous with the District and are themselves recognised as being nationally significant. A more balanced approach is required in PC13 to reflect these values and to ensure that the other matters listed in sections 5, 6 and 7 of the RMA are recognised.</p>	<p><u>deserving protection</u>.</p> <p>...</p> <ul style="list-style-type: none"> It is generally appropriate that development, particularly in the high country and Mackenzie Basin has an overriding regard to the wider visual and landscape considerations which are important to the well-being of the district and its inhabitants. <u>However, some development, for example hydro-electricity generation and transmission, will have positive effects that need to be balanced against any adverse visual and landscape considerations under Part 2 of the RMA. In the Mackenzie Basin this will involve weighing competing issues, for example the benefits to be derived from renewable energy including locational and operational constraints, and adverse effects on natural character.</u>
<p>3.2 Controlled Activities – Buildings</p> <p>...</p> <p>Matters Subject to Council’s Control</p> <ul style="list-style-type: none"> External appearance and location within the landscape 	<p>The Respondent, as consent authority, should also have the ability to consider, and control, effects on water quantity and the reliability of supply, and effects on HEPS infrastructure and operations.</p>	<p>3.2 Controlled Activities – Buildings</p> <p>...</p> <p>Matters Subject to Council’s Control</p> <ul style="list-style-type: none"> External appearance and location within the landscape <u>Effects on water quantity and reliability of supply for existing users arising from domestic water supply</u> <u>Effects on existing hydro-electricity generation and transmission infrastructure and operations.</u>

<p>16.2.1 Farm buildings and Farm Retirement Dwellings</p> <p>...</p> <p>xii. <u>Effects on water quantity and reliability of supply for existing users arising from domestic water supply</u></p> <p>xiii. <u>Effects on existing hydro-electricity generation and transmission infrastructure and operations.</u></p>	<p>As noted above, the Respondent should also have the ability to consider, and control, effects on water quantity and the reliability of supply, and effects on HEPS infrastructure and operations.</p>	<p>16.2.1 Farm buildings and Farm Retirement Dwellings</p> <p>...</p>
<p>4. CONTROLLED ACTIVITIES</p> <p>4.1. ...</p> <p>Matters Subject to Council's Control</p> <p>...</p> <ul style="list-style-type: none"> • ability to withstand strong winds • <u>Effects on water quantity and reliability of supply for existing users arising from domestic water supply</u> • <u>Effects on existing hydro-electricity generation and transmission infrastructure and operations.</u> <p>...</p>	<p>As noted above, the Respondent should also have the ability to consider, and control, effects on water quantity and the reliability of supply, and effects on the HEPS infrastructure and operations.</p>	<p>4. CONTROLLED ACTIVITIES</p> <p>4.1. ...</p> <p>Matters Subject to Council's Control</p> <ul style="list-style-type: none"> • bulk and location including location to avoid natural hazard risk; • access; • servicing; • earthworks; • external appearance and condition; • ability to withstand strong winds <p>...</p>
<p>3 Controlled Activities - Subdivision</p> <p>3a</p> <p>Any subdivision outside the Mackenzie Basin Subzone or within a Farm Base Area within the Mackenzie Basin Subzone which complies with all Primary and Secondary Subdivision Standards shall be a Controlled Activity in respect of the following</p>	<p>As noted above, the Respondent should also have the ability to consider, and control, effects on water quantity and the reliability of supply, and effects on the HEPS infrastructure and operations.</p>	<p>3 Controlled Activities - Subdivision</p> <p>3a</p> <p>Any subdivision outside the Mackenzie Basin Subzone or within a Farm Base Area within the Mackenzie Basin Subzone which complies with all Primary and Secondary Subdivision Standards shall be a Controlled</p>

<p>Activity in respect of the following matters: ...</p>		<p>matters: ... Water Resources</p> <ul style="list-style-type: none"> • <u>Effects on water resources, including quantity and reliability of supply for existing users arising from domestic water supply</u> <p>Utilities</p> <ul style="list-style-type: none"> • <u>Effects on existing hydro-electricity generation and transmission infrastructure and operations</u>
<p>Rule 1.1.2 Assessment Matters: 11.2.u Subdivision for farming activities (see definition), farm retirement dwellings (see definition), and non-farming activities. ...</p>	<p>As noted above, the Respondent should also have the ability to consider, and control, effects on water quantity and the reliability of supply, and effects on the HEPS infrastructure and operations.</p>	<p>Rule 1.1.2 Assessment Matters: 11.2.u Subdivision for farming activities (see definition), farm retirement dwellings (see definition), and non-farming activities. ... v. <u>Effects on water quantity and reliability of supply for existing users arising from domestic water supply</u> vi. <u>Effects on existing hydro-electricity generation and transmission infrastructure and operations.</u></p>

<p>GENERAL – CONTROLS ON SUBDIVISION AND DEVELOPMENT</p>	<p>Meridian has concerns with the outcome of the Commissioners’ decision which significantly departs from the notified version of PC13.</p> <p>Meridian seeks to ensure that the District Plan controls the level of subdivision and residential development able to occur within the Mackenzie Basin, and particularly within specific farm base areas.</p> <p>The farm base areas of concern to Meridian are: The Wolds, Bendrose Station, Black Forest, Braemar, Ferintosh #1, Richmond, Rhoborough Downs, Omahau Downs, Maryburn and Irishman Creek.</p> <p>Meridian’s interest in these farm base areas relates to their proximity to infrastructure associated with the HEPS, including lakes, rivers, canals and transmission lines. To address its concerns Meridian has proposed a number of amendments to the rules regarding “Buildings” and “Subdivision” which are set out in the column opposite.</p> <p>Meridian proposes that a further standard be added to the permitted activity rule limiting additional buildings, where such buildings are to be used for residential purposes, to one additional building per property, effective from the date PC13 becomes operative. This standard will avoid capturing other types of permitted buildings, for example barns and sheds, which are not of concern to Meridian, and will allow opportunity for a smaller number of residential buildings to be added as a permitted activity.</p>	<p>Add a new standard to Rural Zone rule 3.1.2 as follows:</p> <p>3.1.2.a Residential Buildings Within Identified Farm Base Areas</p> <p><u>On any property within Farm Base Areas The Wolds, Bendrose Station, Black Forest, Braemar, Ferintosh #1, Richmond, Rhoborough Downs, Omahau Downs, Maryburn and Irishman Creek the number of buildings to be used for residential purposes shall not exceed the number of such buildings existing as at [the date PC13 becomes operative] plus one additional such building.</u></p>
<p>Continued.</p>	<p>Meridian considers that any proposal seeking more than one additional residential building in the farm base areas of concern to Meridian identified above should be a restricted discretionary activity.</p> <p>Where the proposed permitted activity standard is breached, as noted above Meridian considers that the Respondent should have the ability to consider, and control, effects on water quantity and the reliability of supply, and effects on the HEPS infrastructure and operations.</p>	<p>Add a new rule as a restricted discretionary activity where the above standard is breached as follows:</p> <p>3.X.X Where on any property within Farm Base Areas The Wolds, Bendrose Station, Black Forest, Braemar, Ferintosh #1, Richmond, Rhoborough Downs, Omahau Downs, Maryburn and Irishman Creek, the number of buildings to be used for residential purposes exceeds the number of such buildings existing as at [the date PC13 becomes</p>

		<p>operative] plus one additional such building.</p> <p>Matters Subject to Councils Discretion</p> <ul style="list-style-type: none"> • <u>External appearance and location within the landscape</u> • <u>Effects on water quantity and reliability of supply for existing users arising from domestic water supply</u> • <u>Effects on existing hydro-electricity generation and transmission infrastructure and operations</u>
<p>Continued.</p>	<p>Meridian proposes that within the farm base areas of concern to Meridian identified above, all subdivision should be a restricted discretionary activity subject to the discretion noted above. Meridian considers that making this a restricted discretionary activity avoids subdivision otherwise being subject to the rule which specifies that written approval of other parties will not be required, and the application shall be non-notified.</p> <p>Meridian seeks the elevation of activity status for all subdivision in the farm base areas identified above, because of the development expectation which arises from subdivision if it is granted, even if subsequent buildings will be subject to some control. It is also likely that matters such as access and servicing will be dealt with at the subdivision stage, and these aspects may impact on Meridian's operations.</p> <p>As noted above, Meridian also considers that the Respondent should have the ability to consider, and control, effects on water quantity and the reliability of supply, and effects on the HEPS infrastructure and operations.</p>	<p>Add the following to the Rural Zone subdivision rules as a restricted discretionary activity (with any consequential structural alterations to PC13):</p> <p>X – <u>Any subdivision within Farm Base Areas The Wolds, Bendrose Station, Black Forest, Braemar, Ferintosh #1, Richmond, Rhoborough Downs, Omahau Downs, Maryburn and Irishman Creek farm base areas, which complies with all the Primary and Secondary Subdivision Standards shall be a restricted discretionary activity with the Council's discretion restricted to the following matters:</u></p> <ul style="list-style-type: none"> • <u>the matters listed in rule 3a;</u> • <u>effects on water quantity and reliability of supply for existing users arising from domestic water supply; and</u> • <u>effects on existing hydro-electricity generation and transmission infrastructure and operations.</u>

<p>Continued.</p>	<p>As farm buildings, including farm houses, and farm retirement dwellings are controlled activities outside of farm base areas, with no limit on the number of buildings, Meridian seeks that this status is limited to any existing buildings for residential purposes and an additional two buildings per property, taken from the date PC13 becomes operative. Beyond that limit, Meridian considers that any further such buildings should be assessed as a restricted discretionary activity.</p> <p>As noted above, Meridian also considers that the Respondent should have the ability to consider, and control, effects on water quantity and the reliability of supply, and effects on the HEPS infrastructure and operations.</p>	<p>Add the following additional standard and term to apply to farm buildings and farm retirement buildings within the Mackenzie Basin Subzone outside of any defined Farm Base Areas under the decisions version clause 3.2.2:</p> <p>X. <u>On any property the number of buildings to be used for residential purposes shall not exceed the number of such buildings existing as at [the date PC13 becomes operative] plus two additional such buildings.</u></p> <p>3.X Restricted Discretionary Activities - Buildings</p> <p>3.X - <u>Where on any property within the Mackenzie Basin Subzone outside of any defined farm base area (see Appendix S) the number of buildings to be used for residential purposes exceeds the number of such buildings existing as at [the date PC13 becomes operative] plus two additional such buildings.</u></p> <p>Matters Subject to Councils Discretion</p> <ul style="list-style-type: none"> • <u>External appearance and location within the landscape</u> • <u>Effects on water quality and reliability of supply for existing users arising from domestic water supply</u> • <u>Effects on existing hydro-electricity generation and transmission infrastructure and operations.</u>
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