

**MACKENZIE DISTRICT PLAN**  
**PROPOSED PLAN CHANGE 13**  
**REPORT AND RECOMMENDATIONS / DECISION**

**Proposal:** To introduce provisions into the District Plan to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, use and development. To address some errors and omissions in the subdivision and transportation rules.

**Notification:** Public notification on 19 December 2007 attracted 133 submissions and notification of the summary of submissions on 3 May 2008 drew 114 further submissions.

**Hearing:** A hearing was conducted on the 2<sup>nd</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> of September and the 3<sup>rd</sup> of October 2008, and the 22<sup>nd</sup> of May 2009.

**Commissioners:** David W. Collins, Graeme Page, and Evan Williams.

**Recommendations:** That the Proposed Plan Change is adopted in part: returning to minimal control on subdivision and buildings within re-defined large existing “farm base areas”, and providing for farm buildings (including homesteads, workers’ accommodation), farm retirement dwellings, and subdivision required for farming, outside these farm base areas, but imposing strict controls on other forms of development and subdivision. That the amendments to the subdivision and transportation rules are adopted

Under the Resource Management Act 1991

IN THE MATTER OF Proposed Plan Change 13 to the operative Mackenzie District Plan relating to controls to protect the landscape values of the Mackenzie Basin from inappropriate subdivision, use and development.

**REPORT AND RECOMMENDATIONS TO THE MACKENZIE DISTRICT COUNCIL BY THE HEARING COMMISSIONERS APPOINTED PURSUANT TO SECTION 34A OF THE ACT**

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Text Only

## **ROLE OF THE COMMISSIONERS**

1. We were appointed pursuant to section 34A of the Resource Management Act to consider this proposed Change to the Mackenzie District Plan, hear the submissions from interested parties, and provide this report and recommendations to the Council.

**IF OUR RECOMMENDATIONS ARE ADOPTED BY THE COUNCIL THIS REPORT WILL BECOME THE COUNCIL'S DECISION.**

## **PROPOSED PLAN CHANGE 13**

2. Plan Change 13 is intended to protect the landscape of the Mackenzie Basin. The following paragraphs are from the introduction to the Plan Change and set out the background and purpose of the Proposed Change:

### ***“Background***

The Council is aware that the Mackenzie Basin contains values found nowhere else in New Zealand and that retaining those values is important to the long term economy of the region as well as being a responsibility under the Resource Management Act 1991. There has been considerable subdivision and development pressure for the past five or so years, particularly for residential purposes and particularly within the Mackenzie Basin. Currently the District Plan provides little or no control over such development, creating considerable potential for adverse effects of sporadic subdivision to occur.

Subdivision and re-subdivision of Rural zone land along Manuka Terrace between the Ohau Canal and Lake Ohau has created over 120 lots in a short space of time. Due to the liberal provisions within the District Plan this subdivision and development has largely occurred without control over, or coordination of, servicing, including water supply, roading and sewage treatment and disposal. In addition the impacts on landscape values and character of the immediate and wider area have not been able to be managed.

Additionally, in administering the District Plan since it became operative in 2004 the Council has become aware of a number of errors and omissions in the subdivision and transportation rules.

### ***Purpose***

The primary purpose of this Plan Change is to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, development and use. To achieve this, greater acknowledgement of outstanding natural landscapes and features within the District is provided through the objectives,

policies and rules, particularly as they apply to the Mackenzie Basin. The landscape assessment of the Mackenzie Basin recently undertaken, which also draws on previous assessments, acknowledges the outstanding natural landscape values of the Basin. It also assesses the characteristics of the landscape that have resulted from its use for pastoral farming including the placement of homestead and farm buildings within that landscape. The assessment concludes that the homestead clusters or nodes of farm buildings are generally well located and fit into the landscape, being relatively inconspicuous due to topography, setback or screening. They are also limited in number within the general landscape areas of the Basin, such that they do not adversely affect the overall character of those areas.

The Plan Change is therefore based on the general principle that residential use and subdivision should follow the current land use patterns of the Basin, namely being limited to either existing towns or existing clusters of building usually associated with homesteads. Provision is also made for the establishment of new clusters where they meet stringent standards and have the ability to replicate existing clusters or nodes. The Plan Change also addresses the visual impact of irrigation structures and covered feed in the vicinity of roads by proposing guidelines for landowners.

A new rural residential zone is created for the Manuka Terrace area that lies between the Ohau Canal and Lake Ohau. This zone recognises the recent subdivision of land along Manuka Terrace into large residential lots that has occurred under the current liberal provisions of the District Plan and sets a minimum lot size and site density of 4ha. Some provision is made for houses on existing sub-4ha lots. The zone rules contain controls over earthworks, servicing and the external appearance and location of buildings.

The Plan Change also addresses a number of minor matters and errors and omissions in the subdivision and transportation rules including a limitation on the number of lots that can be served by private rights-of-way and the method of calculating reserve contribution credits.”

3. The Plan Change document then sets out the proposed amendments to the Mackenzie District Plan, which is fully operative. These are: changes to Section 7 Rural Zone consisting of an additional issue statement, new and revised objectives and policies, and new and revised rules, and changes to the rules in Section 12 - Subdivision and Section 14 - Transportation.
4. The main amendments proposed by Plan Change 13 are set out below. It should be noted that we recommend that some of these amendments are not made.

#### Section 7 – Rural Zone

- Establishing a new Mackenzie Basin Subzone within the existing Rural Zone.
- Identify existing building nodes and provide for the establishment of new building nodes and extension of existing building nodes as a discretionary activity within the Mackenzie Basin Subzone.

- Generally limit buildings and subdivision to within existing or approved building nodes, with all non-farming buildings within nodes being restricted discretionary activities.
- Provide for remote non-farming buildings outside nodes as a Controlled Activity.
- Encouraging the appropriate location of irrigation structures and wrapped feed in proximity to roads through guidelines for landowners.
- Controlling larger scale earthworks whether or not the earthworks are part of building node development or subdivision.
- Create a new Rural Residential – Manuka Terrace Zone with a maximum building density of one residential unit and minor unit per 4ha, and with control over earthworks, servicing and the external appearance of buildings.

#### Section 12 - Subdivision rules

- Provide as a discretionary activity subdivision with a minimum allotment area of 200ha within the Mackenzie Basin Subzone (but with no provision for building within such a lot).
- Add wind as a natural hazard for consideration of Controlled Activity subdivisions.
- Add earthworks as a matter for consideration of Controlled Activity subdivisions.
- Provide for a minimum lot size of 4ha in the Rural Residential – Manuka Terrace Zone.
- Require subdivisions within the Rural Residential Manuka Terrace Zone to have a reticulated water supply and connections for electricity and phone.

#### ***Planning Maps***

- Amend Twizel Water Supply Protection Zone Area.
- Amend Planning maps to incorporate the Mackenzie Basin Subzone.

#### ***Miscellaneous Amendments***

- Insert references to Rural Residential zone into Section 9 Hazardous Substances, Section 11 Signs, Section 14 Transportation, and Section 15 Utilities.
- Amend the allotment size provisions to clarify that the boundary adjustment and utility lot standards apply for all zones, not just Residential zones.
- Requiring access to subdivisions of more than 6 lots to be by way of road and not private way or access lot.
- Clarify the requirements for Private Vehicular Access in various zones and for various lengths.
- Amend the calculation method for contributions towards open space and recreation to clarify that the credit for underlying lots is determined by deducting the number of underlying lots from the total number of new lots created.

## **STATUTORY ASSESSMENT FRAMEWORK**

5. Section 74 of the Act sets out matters to be considered in preparing a change to a district plan. Among other things, section 74 requires a local authority to fulfil its functions under section 31 and its duties under section 32, to comply with the required contents of district plans under section 75, and to promote the purpose of the Act set out in Part 2 of the Act.

6. Section 31 provides for: (a) *“the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district.”* Proposed Plan Change 13 proposes amendments to the Rural Section of the District Plan (Section 7) and the Subdivision Section (Section 12). The question we have to consider is whether these would *“...achieve integrated management”* of the effects of resource use.
7. Section 32 of the Act requires consideration of alternatives and the costs and benefits of a proposed change to a district plan.
8. Section 74(2)(a) requires that we *“have regard to”* any proposed regional policy statement and section 75(3)(c) requires that the district plan must *“give effect to”* the relevant regional policy statement. Proposed Change 1 to the Regional Policy Statement is not relevant here, but the Operative Regional Policy Statement contains provisions about regionally significant landscapes.
9. Part 2 of the Act sets out the purpose and the principles of the Act. Section 5 defines the *“sustainable management of resources”* purpose of the Act as generally enabling, but that is subject to the proviso included in section 5(2)(c): *“avoiding, remedying or mitigating any adverse effects on the environment”*.
10. The other matters within Part 2 relevant to Plan Change 13 are section 6(a) *“The preservation of the natural character of ... lakes and rivers and their margins and the protection of them from inappropriate subdivision, use, and development”*, section 6(b) *“The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development,”* section 6(d) *“The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers”*, section 6(e) *“The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga”*, section 7(b): *“The efficient use and development of natural and physical resources”*, section 7(c): *“The maintenance and enhancement of amenity values”*, and section 7(f): *“Maintenance and enhancement of the quality of the environment.”*
11. It is well established law that when considering a proposed Plan Change, whether initiated privately or initiated by a council, there is no presumption in favour of either the present plan or the proposed amendments: they are to be considered on an

equal footing and a decision made on which is more appropriate. Where, as in this case, a plan change proposes more than one amendment it is open to the council to adopt only some of the amendments.

12. It is also well established law that proposed amendments to a plan must not create inconsistencies within the document. We have been concerned to ensure that the “package” of objectives, policies and rules we are recommending are consistent, i.e. the rules are necessary to support the policies, and the policies are appropriate to achieve the objectives.
13. The other matter we have kept in mind is that the range of decisions on submissions is limited by the scope of those submissions, and submissions have to be clearly related to the Plan Change to provide jurisdiction for the Council to amend the Plan Change. We discuss the scope of submissions below, but it can be noted here that as the District Plan prior to Plan Change 13 was permissive and the Change introduced quite stringent controls, there is wide scope for decisions between those two sets of provisions.

## **THE HEARING**

14. We held the main hearing on the 2<sup>nd</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, and 12<sup>th</sup> of September 2008, then convened a hearing to hear submissions relating specifically to the Twizel area on the 3<sup>rd</sup> of November. Prior to the main hearing we visited a range of areas and properties in the Mackenzie Basin to familiarise ourselves with the issues.
15. On the 12<sup>th</sup> of December 2008 we issued a Memorandum to the Parties “...to set out our main conclusions and explain how we intend to complete the Plan Change process.” The Memorandum indicated that “...we intend to recommend a simplified and more permissive planning regime for the Mackenzie Basin than that introduced by Plan Change 13, but one that we consider will preserve the important landscape resource of the Basin.”
16. A process was set out whereby the Council’s landscape architect, Mr Densem, would review what Plan Change 13 termed “Identified Building Nodes” (now recommended to be called “Farm Base Areas”), particularly the ones where owners had questioned the boundaries, and there would be an opportunity for comment on revisions. The Memorandum also set out some new and some revised policies and assessment

matters for possible inclusion in the District Plan through the Plan Change 13 process, and invited comment on these. At the end of that process we convened for a final hearing day (22<sup>nd</sup> May 2009) to allow submitters to present comments on all those matters.

17. A great deal of evidence and argument was presented over the course of the seven day hearing. The following is a record of appearances and a summary of key points. We have commented on some points below, but generally our conclusions on the matters raised are contained in the later sections of this report, so as to minimise repetition.
18. We have had the benefit of comprehensive reports from the Council's planning advisor, Mrs Patricia Harte, and landscape architect, Mr Graham Densem. Their reports were made available to submitters prior to the hearing and provided a useful basis for discussions at the hearing.

#### Tuesday 2<sup>nd</sup> September

19. At the opening of the hearing Commissioner Page declared an interest: his wife has a bach at Lake Alexandrina and he indicated that he would step aside when we were making any decisions relating to that particular area.
20. The first submitter to present at the hearing was Mr Frank Hocken. Mr Hocken raised a concern that the chairman, Commissioner Collins, could have a conflict of interest because he was an appellant in a personal capacity in some appeals over landscape protection provisions in the proposed Banks Peninsula District Plan. Commissioner Collins responded briefly and indicated he would address this matter in more detail in our report. That response is as follows:

*“The question of potential conflicts of interest is a matter for the Council when engaging commissioners. I understand that when this was raised by Mr Hocken and a couple of other submitters the Council obtained legal advice and the matter was properly considered, and no decision was made to withdraw my appointment.*

*It is also important to me however that submitters have confidence that I am able to consider these important issues in the Mackenzie District without any bias. I have acted for the Mackenzie District as a commissioner for more than 10 years and dealt with a number of cases where landscape was an issue. One of the submitters mentioned during the hearing that I had been the commissioner for a controversial*



*proposal for a dwelling within the Lakeside Protection Area on Glenmore Station. As it happens, that application was granted. I also deal with landscape issues in over 20 other districts, in particular the Queenstown Lakes District where landscape is frequently an issue.*

21. Mr Hocken was the first of many submitters to express the view that the Mackenzie Basin landscape is not outstanding and is in fact highly modified. He was critical that the Twizel boundary has not been addressed as part of this Plan Change. Mr Hocken considers that the minimum lot size for subdivision in the Rural Zone should be 50 hectares so as to provide for intensive activities such as fruit growing. He sees no need to control forestry and considers the District Plan should not require consent to build in the Rural-Residential Zone.
22. Mr Andrew Simpson (Balmoral Station and Mt John Station) spoke about farming practice and potentials in the Basin noting that subdivision and amalgamation “*ebbs and flows*” according to the needs of intergenerational farmers. He expressed the view that inappropriate development has not occurred so there is no need to impose additional controls.
23. Mr Duncan McKenzie and Mrs Julie McKenzie (Braemar Station) described their holiday cottage business. Their experience is that guests want to be on their own and they are concerned about the “node” concept in the Plan Change. We can comment here that this concern for privacy and space is relevant to farm workers accommodation and retirement homes for farmers too, and this is part of the reason we are recommending that large areas around existing farming buildings are included in the defined “*Farm Base Areas*”. Mr & Mrs McKenzie expressed the view that there is no need to control colours and materials of buildings if they cannot be seen. They would prefer to have the right to build on any lots created rather than having to go through any assessment process.
24. Dr David Scott, a Tekapo resident and botanist spoke about the Basin landscape, noting the major modifications to the natural landscape such as the hydro canals.
25. Ms Karen Blair, planning consultant for Transpower New Zealand Ltd presented Transpower’s submissions. She noted that the national electricity grid is a significant physical resource providing benefits of national significance. Ms Blair drew our attention to the National Policy Statement on Electricity Transmission 2008. Section

55(2A)(a) of the Resource Management Act requires us to give effect to National Policy Statements. Transpower operates a substation and nine transmission lines in the Basin. Ms Blair suggested that would be helpful for future selection of routes for transmission lines if the parts of the Basin considered to be outstanding natural landscape for the purposes of the Act were identified. She expressed the view that the District Plan policy framework needs to recognise that new hydro electric development maybe appropriate in the Basin.

26. Mr John Murray presented Federated Farmers' submission, indicating that he was speaking on behalf of 31 farmers farming 205,000 hectares. Mr Murray indicated that Federated Farmers accepts that it is appropriate to identify and protect areas of particular significance, but rejects the concept of the whole Basin being an outstanding natural landscape. He noted that the Scenic Viewing Areas (4,023 hectares), the Lakeside Protection Areas (10,275 hectares) and the sites of natural significance (55,024 hectares) were all accepted without appeals. Mr Murray emphasised the importance of not restricting farming activities.
27. Dr David Scott also gave evidence on behalf of Federated Farmers. He noted that the areas of marginal soil are becoming more visually prominent as a contrast with the increasing areas with improved pasture. He suggested that subdivision to a minimum of 50 hectares should be permitted, with the right to build.
28. Dr Michael Steven gave evidence as a landscape architect for Federated Farmers. He was critical of the landscape report prepared for the Council by Mr Graham Densem and expressed the view that much of the Basin is not outstanding natural landscape. In his view a more detailed assessment is required to identify the areas that are. He raised the interesting point that section 6(b) of the Act protects the outstanding natural landscape areas themselves, not views of them. We accept that, but we do not consider it follows that effects of structures on views should not be of concern. That is the purpose of the Scenic Viewing Areas. Plan Change 13, both as notified and now with a less restrictive regime, proposes to retain Scenic Viewing Areas as a useful tool to protect views of the outstanding natural landscapes and features.
29. Dr Steven noted the man-induced modifications to the landscape of the Basin. For example, Lake Pukaki is 50 metres higher than it was before the power scheme was built and is twice the "natural" size. This was a common theme in the presentations by

many submitters. While the point is important we do not accept that the need for protection has to be founded on the landscape being unmodified. Lake Pukaki appears “natural” and its outstanding natural character is only partly diminished, even for those who are aware of this huge modification, by the fact that it is not unmodified. Dr Steven referred us to the Environment Court’s finding in Briggs and Others versus Christchurch City Council C45/2008 that landscapes which may be outstanding at a regional level are not necessarily outstanding at the District Level. While critical of what he saw of a lack of sound basis for the definition of development nodes identified in Plan Change 13, Dr Steven did indicate that he favours clustered rather than scattered development in the Basin.

30. Mr John Murray then presented his own submission (Wolds Station Ltd). He expressed the view that many parts of the Basin could absorb new buildings, particularly the rolling moraine areas where buildings would not be visible from roads. He favours basing controls on Scenic Viewing Areas and Lakeside Protection Areas (possibly modified) rather than blanket controls. Mr Murray opposes control of earth works except in truly outstanding areas.
31. Mr Ross Ivey (Glentanner Station) outlined his concerns about the development nodes outlined in Plan Change 13 and the need to protect views from State Highway 80 towards Aoraki (Mt Cook).

#### Monday 8<sup>th</sup> September

32. Mr Brett Robinson explained the concern that he and other owners at Manuka Terrace have that here is no automatic right to build on the subdivided lots. He noted that the properties are largely invisible from the State Highway and questioned the need to restrict the planting of *Pinus nigra*, which is common in Twizel.
33. Mr Ken Robinson expressed similar concerns. He noted that subdivision consents include conditions on colours etc and indicated that people building at Manuka Terrace do not necessarily want electricity or landline telephones.
34. Ms Anne Braun-Elwert was one of the few submitters who spoke in support of increased control. In her view the provision under Plan Change 13 that there could be up to 10 building platforms in a development node is too permissive. She expressed the view that there is a particular need to protect views up the lakes. In response to a

question, she acknowledged that she would see it as acceptable to provide for more buildings associated with farming, in association with the existing farm base areas.

35. Mrs Anne Murray and Mr Will Murray (Glenmore Station) explained their opposition to more controls. In their view the problem being addressed by Plan Change 13 is just an issue around Twizel. They expressed the view that the present plan provides adequate protection and that any further control would be better achieved through education and collaboration than through regulation. They were critical of the boundaries of the existing development nodes identified in the plan change (since adjusted).
36. Mr Ewan Chapman presented legal submissions on behalf of Glenrock Station Ltd. He argued that landscape that qualifies as outstanding should be obvious whereas it is not obvious in much of the Mackenzie Basin. While accepting that the Plan should control sporadic subdivision, he submitted that farmers mostly locate buildings sensitively. Mr Chapman reminded us that we need to also consider the "*people factor*". That is very much in our minds - the broad purpose the Act set out in section 5 is to enable "*people and communities*" even though that is then tempered by the concerns for the physical environment set out in the provisos in section 5(2) and section 6 and section 7.
37. Ms Ann Scanlan, General Manager/Director of the company farming Glenrock Station and Holbrook Station outlined the company's concerns about the restrictions proposed under Plan Change 13. She was critical of the consultation process and noted that the harsh climate of the Basin means there is a need to allow flexibility in the use of the land.
38. Ms Jo Appleyard appeared as counsel for Mt Gerald Station Ltd, Coldwater Developments Ltd and C Hughes and Associates Ltd. Mr Gerald Station is on the eastern side of Lake Tekapo. Ms Appleyard's clients accept that parts of the Basin are outstanding natural landscape but consider that other parts are just "*picturesque*". Ms Appleyard submitted that Plan Change 13 gives undue weight to section 6(b), suggesting that the concern to protect outstanding natural landscape needs to be weighed against an analysis of the economic implications of controls. She reminded us of the approach the Environment Court has taken in interpreting the word "natural". Ms Appleyard was critical of the development nodes identified in Plan Change 13, describing them as "*arbitrary*".

39. Mr Michael Burtscher, farmer and businessman, discussed the history of the evolving landscape of the Basin, emphasising like others that this is a high modified landscape. Mr Burtscher expressed the view that the development node identified for Mt Gerald is too small, and requested a node on Richmond Station because although Richmond Station is in the same ownership as Mt Gerald Station, it may be operated separately at some time in the future. The requested development node on Richmond Station would be to facilitate farming. Like quite a number of the other farmer/submitters Mr Burtscher indicated he accepts that there needs to be more control on non-farming subdivision and development in the Basin.
40. Ms Appleyard then led evidence from two expert witnesses: Mr Ralf Kruger – landscape architect, and Ms Nicola Scott – resource management consultant. Mr Kruger acknowledged that the District Plan does need strengthening to protect landscape values but he was critical of Plan Change 13. He suggested Mr Densem’s brief had been inadequate as it would require in his view a detailed study to identify the nodes and the areas of outstanding natural landscape properly. Mr Kruger noted that Mr Densem’s report does not actually say that the entire Basin is outstanding natural landscape for the purposes of section 6(b) of the Act – what it says is “...*virtually the entire Basin is “outstanding” in terms of landscape values...*”.
41. Mr Kruger reminded us that “natural” as a landscape term is not the same thing as pristine. This is an important point: many submitters after emphasising the modifications to the landscape of the Basin through farming, introduced trees, hydro-electric development etc. then drew the conclusion that the Basin does not have the “natural” landscape value deserving protection in the way the surrounding mountains have. As discussed below, we do not see classification as “outstanding natural landscape’ for the purposes of section 6(b) of the Act as the only basis for imposing controls to protect landscape values.
42. Mr Kruger expressed the view that there is “*some logic*” in the nodal approach, but he considers that as put forward in Plan Change 13 it is impractical. He was critical of some of the criteria for identifying new nodes under the regime put forward by Plan Change 13 and would prefer a fully discretionary regime with less control on buildings for farming. We found Mr Kruger’s evidence useful and we are recommending some of his suggestions.

43. Ms Nicola Scott, resource management consultant, also favoured a discretionary approach rather than the Plan Change 13 approach of prescribing the broad areas where applications for new development nodes can be made. In her view good building design and careful siting in relation to topography would allow development to be absorbed into the landscape outside of the existing farm base areas. She suggested that the regime for establishing new development nodes proposed by Plan Change 13 could lead to some owners taking up new nodes before other owners in the same landscape sub-area to avoid missing out. Ms Scott expressed the view that the rules should be permissive within the existing developed homestead areas.
44. Mr Kerry Knight, lawyer and developer, appeared for Haldon Station. Haldon Station fronts Lake Benmore and Mr Knight described development options being considered, including holiday homes for the owner's family, viticulture, and tourism developments. He emphasised that each station is different and while he accepts much of the philosophy behind Plan Change 13, he believes the Plan Change does not adequately recognise the needs of farming. For example, he would prefer that farm buildings were permitted, possibly with some performance standards, rather than requiring consent.

#### Tuesday 9<sup>th</sup> September

45. Ms Susan Allan, accountant and farmer, provided further explanation of the submission from Sawdon Station. Like many other submitters, she emphasised the need to provide for farming diversification and supported the need to tighten controls on residential subdivision development in the Basin.
46. Gavin Loxton added further comment on behalf of Sawdon Station and was particularly critical of the consultation process for Plan Change 13.
47. Mr Gerard Cleary appeared as counsel for the "Rhoroborough Group" and Rhoroborough Downs Limited. Rhoroborough Downs is west of Lake Pukaki with frontage to State Highways 8 and 80. Mr Cleary described the circumstances of the property noting particularly that at the time of tenure review some 40% of the property was retained by the Crown partly for landscape reasons, drawing the conclusion that the freeholded balance is not part of an outstanding natural landscape.

48. The need to provide for diversification was again a theme, as was criticism of the practicality of the proposed regime for establishing new development nodes. Mr Cleary pointed to some uncertainties in the rules through words such as “*substantial*” and “*significant*”. He discussed the possibility of a Variation to Plan Change 13 as a way forward. We have considered this but given that there are submissions across the full spectrum from virtually no control to even tighter controls than Plan Change 13 as notified, there is plenty of scope for us to put forward a significantly modified proposal without the need for a further major process. We have provided the further opportunity for participation by stakeholders that a Variation would have provided by issuing a Memorandum and inviting comment on a set of draft rules and assessment matters.
49. Mr Cleary then led evidence from Mr & Mrs Preston – owners, Dr Michael Steven – landscape architect, and Mr Carey Vivian – planner.
50. The Prestons emphasised their perception that the tenure review process had dealt with landscape protection. They wish to sell land for housing near Lake Pukaki and in the Lake Wardell block between the Lake Pukaki Canal and the State Highway 6/State Highway 80 junction. Like some other runholders they emphasised the problem of wilding pines.
51. Dr Steven reiterated the points made in his evidence for Federated Farmers and then turned to the particular circumstances of Rhoborough Downs. He discussed the Lake Wardell block – an old hydro construction village site where the landscape has been highly modified. Loch Logan has also been modified through gravel extraction and in Dr Steven’s view housing development would lead to better rehabilitation. The topography and wilding pines would screen development from public viewpoints.
52. These are examples of a number of proposals raised in submissions and at the hearing by property owners. We have considered whether we should recommend some sort of zoning for these to provide for development (in the cases where we accept the fact that some sort of housing development would be appropriate) but we are reluctant to do that as part of a Change to the District Plan that only addresses protection of the landscape at a broad level.

53. The exception to this is the identification of potential for development around the existing homesteads. As these were “on the table” as part of this Plan Change we believe it has been appropriate to review these in detail and in many cases we are recommending adjustments to the boundaries in response to submissions. We do not think it would be appropriate however to also recommend special provisions for other areas such as Loch Logan and the Lake Wardell block, partly because we do not have sufficient information to devise appropriate rules and partly because there may be third parties who would wish to comment.
54. The final witness for the Rhoborough Group was Mr Carey Vivian, planner, who presented a detailed critique of Plan Change 13 as notified, and provided a helpful set of suggestions for improvements. In response to our questions he expressed support for some greater control of development in order to protect landscape values (that existed in the District Plan prior to Plan Change 13) and said he could see advantages in the nodal approach. However, he favours a discretionary type of regime as in the Queenstown Lakes District rather than the level of control proposed under Plan Change 13.
55. Ms Catherine Somerville appeared as counsel for Meridian Energy. She drew our attention to the 2008 National Policy Statement on Electricity Transmission and discussed the way Plan Change 13 affects Meridian’s infrastructure.
56. Mr Richard Turner, Planning Manager Natural Resources for Meridian, described Meridian’s operations in the Basin. Meridian largely supports the greater controls on development provided by Plan Change 13 but has concerns over the potential for new development identified within the Pukaki spillway to Lake Benmore and near the edge of Lake Pukaki.
57. Mr Nigel Connell, civil engineer with Meridian, discussed the implications of development, particularly housing, within areas potentially affected by any failure of the hydro canals. The Building Act 2004 requires five yearly reviews of the “Potential Impact Classification” (PIC), which is an index of the consequences of a failure of a dam or canal. Some sections of the hydro canals already have a high PIC and any changes in the PIC would lead to a requirement for increased surveillance, expensive evaluations and possibly even earthquake strengthening. Mr Connell indicated that this could lead to “...many hundreds of thousands of dollars per kilometre if upgrade to meet high PIC seismic criteria were found necessary.”



58. Mr Ken Gimblett, consultant planner for Meridian, indicated support for the greater controls on development introduced by Plan Change 13 but expressed the view that Plan Change 13 should clearly provide for Meridian's activities. He noted that Schedule A in Section 7 of the District Plan permits maintenance and some upgrades of Meridian facilities but suggested that there was a need to specifically indicate that hydro-electric power development is not inappropriate in the Basin.
59. Mr Justin Wills, runholder of Irishman Creek since 1989, explained his submission. He has a masters degree in economics and spoke about the economic difficulties from business cycles and dealing with pests. In his view the level of regulation under proposed Plan Change 13 as notified would lead to additional costs and discourage innovation.
60. Mr Simon Cameron reiterated the view of many submitters that much of the Basin is not an outstanding natural landscape and that development proposals require case by case assessment. In his view there is no need to control anything not visible from a State Highway. He described the rate of change in the landscape from wilding trees as "*frightening*" and expressed the view that this is a bigger threat to the landscape than new buildings.

#### Wednesday 10<sup>th</sup> September

61. Mr Aidan Prebble appeared as counsel for Fountainblue Limited, Southern Serenity Limited and Pukaki Tourism Holdings Partnership. Mr Prebble presented a comprehensive critique of Plan Change 13, raising many of the points covered by others earlier in the hearing. The submissions relate to Pukaki Downs Station on the south-western shore of Lake Pukaki, and seek a new eco-tourism sub-zone and a rural-residential zone.
62. Mr Prebble reminded us that in considering a Plan Change we have to first consider whether the proposed objectives are the most appropriate to meet the purpose of the Act, and then consider whether the policies and rules proposed are the most appropriate to achieve those objectives. It would be fair to say that most submitters accept the need for greater control, although many think this should apply only to subdivision and development unrelated to farming. There is a wider range of opinions about whether the policies and rules are appropriate and/or necessary to achieve that objective. We will discuss the specific requests below.

63. Mr Allan Tibby, one of the owners of the submitter companies, described the difficulties with wilding pines and suggested that the funds for control cannot come from traditional farming and must come from eco-tourism.
64. This theme was picked up by Mr Warren Hoy, a tourism consultant, who spoke about the growing importance of tourism and the interest in places like the Mackenzie Basin from "*interactive travellers*". He noted that the Mackenzie Basin accommodation statistics show that the average stay is 1.97 nights compared to 3.08 nights for New Zealand accommodation as a whole. He suggested that the Mackenzie Basin does however have the potential to become a destination for tourists.
65. Mr Carey Vivian, planner, discussed the proposal for a tourism zone covering about a thousand hectares and discussed the comprehensive set of provisions put forward in the submission.
66. Mr Laurence Steven provided further argument for the proposed tourism zone. He noted that Mt Cook Village is effectively full and noted that Mr Densem's report acknowledges that the western Pukaki area could absorb "*low-level commercial tourist accommodation*."
67. Mr Paul Horgan appeared as an environmental advisor to Ngai Tahu. The iwi generally support greater controls on subdivision and development.
68. Mr David Higgins, a member of the board of Ngai Tahu, described how the entire Basin, known as Te Manahuna, has significance to the iwi while specific areas and landscape features have particular cultural significance. It should be mentioned that we have had the benefit of a Cultural Impact Report provided to the Council in May 2008, which due to timing did not form part of the background material for Plan Change 13. It was however discussed in the section 42A officer report. Mr Higgins indicated that the iwi support strict controls around the lakes.
69. Ms Pauline Reid appeared as a representative of Waihao Runaka. She spoke about the particular significance of mauka (mountains) describing them as the "*most sacred part of landscape*". The significance of the mountains means it is also important in her opinion to protect views of them, for example views of Aoraki from the south side of Lake Pukaki.

70. Mr Robert Willis presented the submission from Environment Canterbury (Canterbury Regional Council). Mr Willis is a Senior Resource Management Planner. He reminded us of the obligation under section 75(3) of the Act to ensure that the District Plan gives effect to the Canterbury Regional Policy Statement. Environment Canterbury's submission raised 28 submission points, and while generally supporting Plan Change 13, was critical of some aspects.
71. Mr Willis expressed concern about the "69 *generic and speculative "potential nodes" shown within the pink areas of proposed Appendix R.*" In his view it would be appropriate to reinstate and extend the Lakeside Protection Areas. Mr Willis expressed concern at the suggestion from some earlier submitters that we should attempt to provide equivalent development opportunities on each property, because the circumstances and thus the effects of that would be different from place to place. Mr Willis pointed to a great increase in development pressure over the last few years, since the District Plan was devised.
72. Mrs Helen Simpson elaborated on the submission from Mt Hay Station. The main concern is that the development node identified did not include an area with some existing buildings.
73. Mr Martin Murray spoke on behalf of Classic Properties Ltd which has an interest in Maryburn Station. He expressed the view that only the mountains are an outstanding natural landscape and expressed concern about the boundaries of the development nodes identified. Mr Murray expressed the view that the District Plan should not control farming-related structures.

#### Thursday, 11<sup>th</sup> September

74. Ms Jennifer Miller, a landscape architect with the Department of Conservation presented the Department's submission. The Department generally supports greater control over subdivision and development in the Basin, but the submission expresses concern about the size of the pink areas in proposed Appendix R where new nodes could be established. Ms Miller expressed the view that most of the Basin has a "*high degree of naturalness*" and reiterated the point made by others that "natural" does not mean pristine. She discussed the interesting point that some districts have more outstanding natural landscape than others – there has been the suggestion in some of the decisions of the Environment Court that "outstanding" for the purposes of section 6(b) is to be assessed in relation to landscapes in the district concerned, not in a

national or regional context. In response to a question from us about farm buildings in the landscape, Ms Miller expressed the view that even farm buildings should be located carefully in this landscape.

75. Mrs Marian Seymour, of Ferintosh Station, discussed a concern that the identified node boundary is not appropriate and that a further node should be added for an operational base.
76. Ms Fiona Mackenzie appeared as counsel for Royal Forest and Bird Protection Society Inc. The society supports greater control of the subdivision and development in the Basin and Ms Mackenzie submitted:  
*"...arguments about definitions of outstanding landscape should not get in the way of a sensible attempt to bring some strategic planning and control to building and subdivision activities in the Basin."*
77. Ms Mary Wallace then gave evidence as a landscape architect in support of the Forest and Bird submission. In her assessment the Mackenzie Basin is widely recognised as an outstanding landscape – in art, literature, photography and tourism literature for example. In Ms Wallace's opinion, residential development should be focused at Twizel and Tekapo. She indicated that she can support the nodal/cluster approach as being better than sporadic development, but she suggested that the potential development nodes indicated in Appendix R put forward in the Plan Change could have greater landscape effects than the existing historic development around the homesteads.
78. Mr Andrew Hocken explained the submission from Ruataniwha Farm Limited. The company owns 1,800 hectares surrounding Twizel and the company wishes to have land around Twizel excluded from the proposed Plan Change 13 controls. He spoke about potential for orchards and horticulture and reiterated the points made by others that only parts of the Basin are "natural" in the sense of being unmodified. Mr Hocken suggested that there should be no need to control building on the properties within the Manuka Terrace Rural-Residential Zone because the consent notices on subdivision included some design control.
79. Mr Ken Wigley, of Glen Lyon Station, spoke about the safari business operated from the station and suggested that the boundaries of the development node identified are not in the right place.

80. Mr Bob Macintyre spoke on behalf of Aoraki Trust Lands Limited. The company owns a site intended for a village at the south end of Lake Pukaki, which was gazetted in 1964. This has a special zoning in the District Plan. Mr Macintyre expressed the view that as Plan Change 13 was put forward as being just about rural zones, that zoning should not be affected. We agree – the appropriateness of this special zone was accepted at the time the District Plan was prepared and it involves other issues besides landscape effects. Plan Change 13 is about landscape protection and in the absence of any clear evidence that development of the special zone some day would have particular adverse landscape effects, we would be uneasy about making a decision to remove the special zone as part of this process.
81. Ms Alanya Limmer appeared as counsel for Simons Hill Station Limited, Simons Pass Station Limited, and Pukaki Irrigation Company Limited. She submitted that the broad statements in the Regional Policy Statement are of “*limited assistance*” and suggested that the lack of adequate landscape assessment for Plan Change 13 is “*fatal*”. We will discuss this below. Ms Limmer suggested that the “*need*” for remote farm buildings to be outside identified nodes is an uncertain criterion for assessing applications. In her submission the “*greening*” of the Basin with irrigation is not a significant resource management issue. We suspect that too much has been read into the comments about “*greening*” in Mr Densem’s report as he did not actually suggest that this should be controlled.
82. Ms Limmer then led evidence from Mr Denis Fastier, a director of Simons Hill Station Limited and Pukaki Irrigation Co Limited. The companies own land between Twizel and Lake Tekapo and have been involved in major irrigation and subdivisional fencing development, and propose to irrigate a further 4,000 hectares. Mr Fastier explained the difficulties in making economic use of the land in the Basin, describing the potential for intensification under irrigation and the potential economies of scale with irrigation of large areas. Mr Fastier was critical of the nodes approach stating: “*we need to know that (within reasonable parameters) we can put up the type of farm building we need in the place it is most needed*”.
83. Mr Chris Glasson, landscape architect, then gave evidence on behalf of these submitters. He described the Basin as a “*...special place with its own distinctive identity*”. Like several other speakers he made the distinction between land which is classified as outstanding natural landscape and land which is in the foreground when viewing such areas from public viewpoints. As discussed earlier, we accept that

distinction however we do not consider that simply because the valley floor provides views to the mountains that it is therefore not part of an outstanding natural landscape. Nor do we accept that there is no need to protect views of outstanding natural landscapes and features such as the lakes and surrounding mountains. Mr Glasson did express support for some sort of buffer protection along the State Highway and expressed the view that buildings should not be constructed on the northern side of the moraine hills overlooking Lake Pukaki.

84. The final witness for these submitters was Mr Mike Garland, planner. Mr Garland emphasised that we should assess what landscape is outstanding within the context of the landscapes of the district, not in the context of the region or the nation. He suggested the District Plan could usefully reserve control over the location of building platforms at the time of subdivision (as is done in the Queenstown Lakes District). Mr Garland supported a more permissive regime in relation to the status of various categories of development.
85. The last matter dealt with on the 11<sup>th</sup> September was a written response to the section 42A officers' report sent in by the New Zealand Defence Force. The Defence Force has a particular interest in control of development near the Army's facilities and training areas near Lake Tekapo, so as to avoid reverse sensitivity effects.

#### Friday, 12<sup>th</sup> September

86. We had indicated when opening the hearing that following the presentation of evidence from submitters we would like the reporting officers, Mr Densem and Mrs Harte, to comment on the information and assessment presented by submitters. Such advice of course has to be given at the hearing; we cannot have private discussions with our advisors afterwards. We also indicated that we would allow submitters to respond to the reporting officers' comments after this if they wished.
87. Mr Densem indicated that he accepted that some of the boundaries of the defined nodes of existing development could be improved - he had intended to have a second round of consultations with owners about that. He noted the criticism of the level of detail of his landscape study, but expressed the view that a more detailed study would not have led to fundamentally different conclusions. He indicated that he remains firmly of the view that there is an existing nodal character of development within the Basin, and it is important to confine development to existing and carefully selected possible future nodes if the landscape character is to be retained.

88. Mr Densem noted that he had distinguished between residential, commercial, and farm-related development because these have different potential effects on the landscape. In his assessment, most farm-related development will not degrade landscape character, although very large buildings that were badly sited could be an issue.
89. Mr Densem spoke about the factors which in his assessment give the Mackenzie Basin special landscape character: the large scale, the glacial lakes, the highest mountain in New Zealand, the legible features showing the geological origins of the landscape such as the moraines and outwash fans. He noted that in some places there are views of over 50 kms towards important features, and in his opinion it is important that the Basin should maintain “*empty*” open character between development nodes. He suggested there should be added reference to Ngai Tahu values. Mr Densem suggested that if we were to weaken the proposed controls under Plan Change 13, the Lakeside Protection Areas controls should be reintroduced.
90. Mrs Patricia Harte, planner, expressed the view that Plan Change 13 is not fundamentally flawed as suggested by some submitters and that a greater level of control than was available under the District Plan prior to Plan Change 13 is needed. Mrs Harte expressed support for expanding the definition of farm buildings to include workers’ housing, but would not favour extending this to retirement houses for farmers.
91. Mrs Harte expressed unease at the suggestion by Rhoborough Group that a new tourist development zone could be introduced as part of a plan change with a different focus. In her view that would be better addressed through a privately initiated plan change, which would not be greatly different from applying for a new development node under the regime set out in Plan Change 13, although it would be of a much larger scale.
92. Four submitters then took up our invitation to respond to the further advice from the reporting officers. These were Mr Andrew Hocking, Mr John Murray, Mr Justin Wills, Mr Allan Tibby. Mr Murray suggested that the validity of Plan Change 13 hinges on whether the whole Basin is an outstanding natural landscape. We accept that is true in relation to the special status that has to be accorded to outstanding natural features and landscapes under section 6(b) of the Act, but we do not accept that only outstanding natural landscapes and features justify protection under the Act. Mr Murray urged us to distinguish between development for farming purposes and other

development such as residential subdivision, which was the concern raised at the consultation stage. For example, he suggested there is no need for earthworks controls that would require consent for farm development such as border dyke construction and fencing on slopes.

### 3<sup>rd</sup> November 2008 – Submissions relating to Twizel

93. The hearing was reconvened on the 3<sup>rd</sup> November to hear submissions relating specifically to Twizel and the surrounding area.
  
94. Mr John Bishop, Chairman of the Twizel Community Board, discussed the board's submission. He noted that there had been extensive consultation with residents and presented a map showing preferred long term boundaries (which has been modified since the board lodged its submission).
  
95. Mr Frank Hocken described the bright future he sees for Twizel and suggested the area around Twizel is not an outstanding natural landscape. He described the situation of Hocken Lane (which we have visited) in some detail. There are now 22 lots created or consented. In his opinion the flood risk issue can be addressed through minimum floor levels and sensible siting of buildings and protection of the town water supply can be ensured by requiring advanced on-site effluent disposal systems. He requested that Hocken Lane is excluded from the area affected by Plan Change 13.
  
96. Mr Grant Hocken questioned why his property in Glen Lyon Road, which is connected to Twizel water and sewerage schemes, was included in the area affected by Plan Change 13.
  
97. Mr Bruce White also expressed concerns about restrictions on development in Hocken Lane and was critical of the Council's consultation process for Plan Change 13.
  
98. Mr Andrew Hocken presented the submission from Ruataniwha Farm. The submission relates mainly to the Ohau River block near Twizel where there is an application for a 50-lot subdivision. The submission seeks that this is included in the Manuka Terrace Rural-Residential Zone introduced by Plan Change 13.



99. Mr N Lyons presented the submission by the N & C Lyons Family Trust. The trust's interest is in Omahau Downs Station. Although the submission seeks rural-residential zoning, Mr Lyons acknowledged that it would not be appropriate to have development close to the State Highway.
100. Mr Graeme Todd appeared as counsel for Mackenzie Lifestyles Limited and Rosehip Orchards Ltd. The submissions relate to land across the State Highway from Twizel and seek either than Plan Change 13 is withdrawn or that it provides for rural-residential Zoning. Mr Todd discussed the subdivision applications that have been lodged and proposals to meet various potential concerns related to them. He submitted that the land is not part of an outstanding natural landscape, noting the electricity pylons (more are planned), the substation, the sewage treatment plant and the oxidation ponds in the vicinity.
101. Mr Todd then led evidence from Mr Carey Vivian, consultant planner, who discussed the suitability of the land for rural-residential development and the associated planning issues.
102. Mr Dave Pullen, who is a district councillor, spoke about the efforts of the Council over the last five or six years to plan for water and sewerage for Twizel and areas of possible expansion.
103. Mr Andrew Hocken then presented the submission by Mackenzie Experience Limited. The company owns land at the south end of Twizel, adjoining the State Highway and Max Smith Drive.
104. Mr John Murray presented further comment on behalf of Federated Farmers, expressing the view that the land around Twizel is not outstanding natural landscape.
105. Mrs Pauline Beekhuis spoke as secretary of the Hocken Lane Landowners' Association, on behalf of 17 landowners. She emphasised that the Hocken Lane situation is not like the wider Mackenzie Basin and should be excluded from Plan Change 13 controls or zoned rural-residential as proposed for the Manuka Terrace area. Mrs Beekhuis noted that the Hocken Lane area is screened from the State Highway by vegetation and has an area of 160 hectares in 22 lots, all with defined building platforms, five of which have been built on. Mrs Beekhuis expressed particular concern over the rule introduced by Plan Change 13 relating to the Twizel

Water Supply Protection Area, which the Hocken Lane landowners believe is unnecessary when sophisticated on-site sewerage disposal systems are used.

106. Mr John Beekhuis described how he and his wife had bought a lot in Hocken Lane in November 2004, conditional on Council consent for subdivision and approval of a building platform. The consent was subsequently granted. He expressed the opinion, as an engineer, that catastrophic failure of the bridge in Hocken Lane would be “*extremely unlikely*” and suggested that the water supply should be treated regardless of any potential for contamination from Hocken Lane effluent disposal systems.
107. Evidence relating to Twizel submissions was tabled on behalf of Mr Bruce Willis, Senior Resource Management Planner with Environment Canterbury, and Mr Ken Gimblett, consultant planner for Meridian energy.
108. Statements supporting their submissions were tabled on behalf of Mr Josh Billings and Ann Barton, and Mr Dwane Cadigan and Ms Gina Miller.
109. The hearing relating to Twizel submissions was completed with some further comments from our planning advisor, Mrs Patricia Harte. She noted that work on a plan change dealing comprehensively with Twizel zoning issues is underway. Mrs Harte expressed the view that it is better to avoid contamination of groundwater than to accept it and treat contamination. She noted that most resource consents in Hocken Lane specify where buildings cannot be constructed, rather than defining a permitted building platform.

#### Reconvened Hearing on Draft Provisions Set Out in Our Memorandum

110. Our Memorandum to the Parties of 12<sup>th</sup> December 2008 invited comment in writing on the boundaries of proposed “farm base areas” and on draft policies and assessment matters set out in the Memorandum. A hearing was convened on the 22<sup>nd</sup> of May 2009 to allow those who wished to an opportunity to present their views in person.
111. Mr Brent Pizzey, resource management consultant, presented a statement on behalf of Environment Canterbury. In his opinion the distinctions we are proposing between activities are appropriate in this context, but he expressed unease about the proposals in our Memorandum to reduce some of the controls proposed under Plan Change 13. There was some useful discussion about issues such as how to prevent farm buildings

and retirement homes for farmers being seen as akin to a “permitted baseline”. We agree this requires an explanation of why distinctions are made on the basis of type of activity rather than on the basis of performance standards. There was also some discussion about the distinction between restricted discretionary activities and controlled activities, and the merits or otherwise of providing for retirement houses for farmers away from the identified farm base areas.

112. Ms Teresa Minogue presented a statement on behalf of the New Zealand Transport Agency (formerly Transit NZ). She expressed the view that access should be an assessment matter when considering applications, and expressed concern that we had not suggested a definition of “farm retirement dwelling”.
113. Mr John Murray and Mr Bob Douglas presented further comment from Federated Farmers. Mr Murray expressed the view that viable farming is necessary to protect the Basin environment. If there is no viable farming there will be “*wall to wall trees*” and rabbits. He suggested that if there are adverse landscape effects of farming it is the “*lesser of two evils*”. Mr Murray reiterated the concern over the cost of applications for consent. He suggested that farmers would probably not subdivide off retirement homes because they would not want a rural-residential activity within the farming operation. Mr Murray acknowledged that there is a need to control non-farming activities, but reiterated Federated Farmers position that farm buildings should be permitted without the need for any Council approval provided they are outside the Landscape Protection Areas and the Scenic Viewing Corridors.
114. Mr Allan Tibby reiterated the proposal for a tourism zone on Pukaki Downs Station.
115. Mr Robert Preston discussed the provisions suggested in our Memorandum in relation to the Rhoborough Downs Station submission.
116. The hearing was completed with the presentation of some further advice from the Council’s planning consultant, Mrs Patricia Harte. She discussed the need for clear policy and assessment matters. In relation to Twizel, she recommended that some areas affected by Plan Change 13 because of the position of the sub-zone boundary lines could be left for the forthcoming Twizel plan change by moving those sub-zone boundaries. If this was done for the Hocken Lane area, she would recommend retaining the water supply protection area rule until it is rendered unnecessary by the development of an alternative upstream water source. Mrs Harte questioned whether

we would have sufficient information about the Pukaki Downs Tourist Zone proposal to deal with it as part of Plan Change 13, which was designed to deal with a separate issue.

## **ANALYSIS OF THE PLAN CHANGE AND THE SUBMISSIONS**

### Abandon the Plan Change?

117. In our assessment proposed Plan Change 13 as publicly notified should not proceed, but we are not persuaded that it should simply be abandoned. The purpose of Plan Change 13 is stated as:

*“The primary purpose of this Plan Change is to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, development and use”.*

118. The Plan Change notes:

*“There has been considerable subdivision and development pressure for the last 5 or so years, particularly for residential purposes and particularly within the Mackenzie Basin. Currently, the District Plan provides little or no control over such development, creating considerable potential for adverse effects of sporadic subdivision to occur”.*

119. Many submitters questioned the need for the level of control introduced by Proposed Plan Change 13, but many of these also acknowledged that the Mackenzie Basin does have important landscape values. The debate focused around the kind of controls that are appropriate and acceptable. Plan Change 13 proposes a relatively restrictive regime, while there are submitters seeking that the Plan Change is withdrawn, providing us with a wide range of options between these two positions.

120. This plan change process has generated a considerable amount of useful information about the landscape values of the Mackenzie Basin and the issues related to farming activities. It would be wasteful to ignore this and start afresh.

### Outstanding Natural Landscape

121. Proposed Plan Change 13 put forward a new policy:

*“Policy 3A-Recognition of Mackenzie Basin*

*To recognise the Mackenzie Basin as an outstanding natural landscape and through the Mackenzie Basin Sub-zone within the Rural Zone, to protect the Basin from inappropriate subdivision, use and development.”*

122. We heard evidence from several landscape architects called by submitters questioning whether the Mackenzie Basin is in fact an “*outstanding natural landscape*”. At first sight, this is a significant question because of the requirement under section 6(b) of the Resource Management Act to protect “*outstanding natural landscapes*” as a matter of national importance. There seemed to be an assumption on the part of many people at the hearing that classification of the Basin into areas that are and are not “*outstanding natural landscape*” should determine the level of control over development that would affect landscape. We acknowledge that is the approach in many districts where landscape is an important resource.
123. The situation in the Mackenzie Basin is however unusual. The Basin as a whole is a distinctive and widely valued landscape unit at a regional or national level, and we accept the argument put forward by agencies such as Environment Canterbury, the Royal Forest and Bird Protection Society and the Department of Conservation that the landscape integrity of the Basin as a whole should be maintained. It does not necessarily follow that the whole basin is an “*outstanding natural landscape*” as that term has been interpreted in other districts for the purpose of section 6(b) of the Act.
124. As numerous submitters pointed out, the landscape of the Basin has been modified by hydro-electric development, farming, townships and more recently rural-residential development to the extent that it is difficult to describe some areas as “*natural*”.
125. There is great variability of landscape character within the Basin and great variations in the degree to which particular areas contribute to the overall landscape character of the whole Basin. There is also considerable variation in the sensitivity of areas to modification. It may be possible to distinguish between these areas by mapping them, but it would be a large, complex and potentially just as controversial task, to classify and map landscape units and their sensitivity at the level of detail recently undertaken for Banks Peninsula, for example. We are not sure such detailed mapping would necessarily ensure a better resource management outcome.
126. One difficulty with any mapping exercise in this vast landscape, as illustrated by the proposed “pink areas” put forward in Plan Change 13, is that within areas that might be classified as incapable of absorbing development there may be pockets where structures would be completely hidden, while only a very detailed mapping exercise could really identify areas where it could be confidently predicted that development would have no significant effect on the landscape resource.

127. It must be remembered that section 6(b) of the Act does not provide absolute protection for “outstanding natural landscapes” in any case; it requires that councils protect them from “*inappropriate subdivision, use and development.*” After hearing from many of the Basin’s farmers, we do not regard built development of the Basin for farming purposes, including associated new structures, as generally inappropriate even in areas that in any recognised classification system would probably be identified as “outstanding natural landscape” areas.
128. Our conclusion is that the Basin as a whole has important landscape values and the potential adverse effects of some types of developments on those values can be better controlled by rules that require assessment of development proposals against specified criteria, rather than relying on detailed landscape classification of the Basin, particularly a classification that attempted to distinguish “outstanding natural landscape” from the rest.
129. It must be remembered too that section 6 matters, including section 6(b) which requires the protection of outstanding natural features and landscape, are subservient to the overall purpose of the Act set out in section 5. The purpose is “*sustainable management*” of natural and physical resources, and “*sustainable management*” is defined in a broadly enabling way, but subject to some provisos set out in section 5(2). The evidence was that the sustainable management of the resources of the Basin, including the landscape as an important resource, requires continued productive activities. Without viable productive use the problems of wind erosion, rabbits and wilding pines are anticipated to rapidly become insurmountable.

#### Nodes of Development Approach

130. Plan Change 13 promoted an approach to controlling development using established nodes of development (essentially the base area of each high country station) and a system where new nodes of development could be established by resource consent within areas identified on a map as having capacity for new development. This has proved highly controversial.
131. Outside of the settlements, the pattern of development involving buildings has, until recently, been nodal. Each of the stations has at least one farm base where buildings are concentrated. We accept that these are an expected element in this landscape and almost without exception they do not unduly detract from the landscape. They have a clear relationship with the land and most have been located in sheltered

places, which tend to also be less conspicuous locations. We also accept the landowners' view that more development could take place within these nodes, without significant adverse effects on the landscape.

132. The process for identifying possible new nodes for development under Plan Change 13 raises serious difficulties however. The proposal is to identify areas (shown pink on map 8 of Plan Change 13) where it is anticipated that up to a defined number (between 1 and 5) of new nodes could be absorbed by the landscape. There is an obvious difficulty in that this would promote a *"first in first served"* approach because many of the pink areas include more than one property. More fundamentally, we heard evidence that some submitters consider parts of these pink areas not suitable for new nodes while other submitters consider there are areas outside the pink areas that are equally suitable for development and/or that the maximum number of potential new nodes specified on map 8 is too restrictive.
133. After looking at some of these areas on the ground, we are drawn to the conclusion that it is simply too difficult to define suitable and unsuitable areas at this scale of mapping. We recommend that this part of the Plan Change 13 proposal is discarded, so that new development will not necessarily be confined to the pink areas shown on the map. We also have concerns that the node concept is inflexible, as it requires clustering of at least 5 building platforms within each node. It appears in many cases this would not provide for the type of development proposed by landowners such as a retirement house, additional houses for members of the family or travellers accommodation units that need a degree of separation to achieve a sense of isolation.

#### Farming Activities

134. We heard concerns from farmer submitters that Plan Change 13 would inhibit diversification of farming. While the Plan Change 13 rules would not directly inhibit diversification such as irrigation, there are indications in the background landscape assessment that the *"greening"* of the Basin is seen as undesirable in landscape terms. That may be the case, but in the face of strong evidence that diversification is necessary for the viability of the total farming systems, including the control of rabbits, wilding trees, and soil loss through wind erosion, we consider some detriment to the landscape may have to be accepted. As Mr John Murray noted when summing up for Federated Farmers, negative effects of farming activities on the landscape may be *"the lesser of two evils."*

135. A key to diversification appears to be irrigation. The sustainability of irrigation in the long term has been raised however as Plan Change 13 does not address land use other than subdivision and building, we do not need to make a finding on the merits or otherwise of the impact of irrigation-based development on the Basin.
136. There were concerns from some submitters that the Plan Change 13 requirement for consent, as a Controlled Activity, for farm buildings away from the main farm base would be onerous. We acknowledge that this would involve a process additional to obtaining a building consent under the Building Act, but it may have been overlooked by some people that Controlled Activities by definition cannot be declined and they are invariably processed on a non-notified basis. We recommend that new farm buildings outside the existing farm base areas will be a Controlled Activity anywhere outside the existing identified building nodes, deleting the proposed rule 3.5.6 that would have made some new farm accessory buildings Non-complying Activities.
137. The definition of *“farm building or farm accessory building”* introduced by Plan Change 13 does not clearly include or exclude homesteads or workers’ accommodation. A definition of *“homestead”* is introduced, suggesting that homesteads are not within the definition of *“farm building or farm accessory building”*. This interpretation is reinforced by proposed rule 3.1.2d which states *“Farm buildings shall be a minimum of 100m from any non-farm buildings other than homesteads”*.
138. We agree with the submitters who asserted that homesteads and workers’ accommodation are an integral part of farming operations, and that when the issue is effects on the landscape there is no need to distinguish them from other types of farm buildings.
139. We recommend that the definition of *“farm building or farm accessory building”* specifically includes homesteads (residential units) and workers’ accommodation. Provision for these in the existing farm base areas (previously referred to as identified building nodes) as a permitted activity should allay some of the concern expressed by submitters.

#### Farm Retirement Dwellings

140. A couple of submitters raised concern about the lack of provision for farmers to build retirement houses on their properties. We acknowledge that some farmers wish to



remain on the farm and take an active part in farm work after they “retire” and they may not wish to live in close proximity to family members who have taken over primary responsibility for farm management.

141. It was pointed out that on these large properties there are always suitable sites away from the existing farm base where a retirement house can be erected with minimal adverse effect on landscape values. We consider that should also be provided for as a Controlled Activity, with Council assessment limited to landscape effects.
142. A definition of “farm retirement dwelling” has been recommended: “**Farm Retirement Dwelling** means a dwelling and associated outbuildings occupied by someone who has been engaged in full-time farming of the property on which the farm retirement dwelling was established and his/her family.” This distinguishes farm retirement dwellings from dwellings that could otherwise be built for anyone, but does not limit them to occupation by former owners (longstanding staff would also qualify) and does not prevent more than one farm retirement dwelling on a property.

#### Existing Building Nodes

143. Many submitters questioned the boundaries of the identified existing building nodes shown in the aerial photographs forming part of Plan Change 13 and Mr Densem’s report on the submissions indicated that he could see scope for reviewing the boundaries in some cases. We indicated at the hearing that we would not recommend contested boundaries without seeing them on site.
144. Part of the purpose of our Memorandum to the Parties was to indicate that we had asked Mr Densem to review the boundaries of the identified existing building nodes, having regard to the submissions, if necessary visiting some areas again. We indicated that we saw no need for these nodes to be restricted to any nominal maximum area: the question is the extent of the area within which new buildings will be perceived from public viewpoints as part of the existing group of buildings.
145. The farm base areas now defined in the aerial photographs forming part of this report are the result of that reassessment. Our impression from the farmer submitters who spoke at the reconvened hearing on 22<sup>nd</sup> May is that some people at least are much more comfortable about the boundaries now, and are also able to accept the regime

we are recommending because it better provides for new buildings for farming, both within and outside the defined farm base areas.

### Non-farming Activities

146. Plan Change 13 specified that non-farm buildings within identified or approved nodes are discretionary activities and those outside nodes are non-complying. Plan Change 13 did not change the status of non-farming uses, with the current Rural Zones rules which impose some restrictions on commercial recreational activities, visitors' accommodation, and retail sales applying throughout the Mackenzie Basin Subzone. .
147. In our assessment the distinction the District Plan makes between visitors' accommodation for up to 20 people and visitors' accommodation for over 20 people provides a reasonable demarcation between the scale of accommodation that is likely to be accessory to high country stations, and the sort of accommodation that is not. The evidence was that on some high country stations there is a desire to supplement farming income by providing accommodation. We believe this should be facilitated, but large-scale accommodation should be assessed on the same basis as other non-farming activities.
148. Our recommendation is that all buildings, whether farm or non-farm buildings, should have the status of Permitted Activities within the defined existing farm base areas. Incidentally, we think "existing farm base" is clearer than the term "identified building node" used in the Plan Change because it indicates the function of the areas identified as well as the fact that they contain buildings.
149. We recommend however that non-farm buildings should have the status of Discretionary Activities outside the existing farm base areas, with some new specified assessment criteria. There are two main reasons for greater scrutiny of non-farm activities and buildings than for buildings required for farming. Firstly, as discussed above the evidence was that viable farming activities are necessary to maintain the open landscape – in particular to make the control of wilding pines feasible. Secondly, from our site visits we have the clear impression that farm buildings generally appear to fit into this landscape because even if they are quite large they have an obvious functional relationship to the land. They are an expected element in a farmed landscape.

150. The District Plan already lists relevant objectives, policies and assessment matters but we consider some modifications would provide useful guidance leading to applications that meet the Council's expectations and can thus be granted with minimal cost and delay. Although these were not sought in any submissions, we believe they can be added within the scope of the Plan Change because the set of controls we are recommending are squarely within the continuum between the District Plan as it stood prior the Plan Change and as it now stands with the Change 13 restrictions.

#### Subdivision

151. There was considerable discussion at the hearing about the proposed restrictions on subdivision. We do not see any difficulty about subdivision within the existing identified farm base areas (subject to the traditional controlled activity check on things such as access arrangements), but otherwise we consider subdivision needs to be controlled to prevent fragmentation of land with expectations that new titles imply that development is anticipated.

152. Submitters raised concerns about having a minimum area for subdivision. After considering the arguments advanced, we have come to the view that subdivision to facilitate intensified farming should be related to the intended use of land and that any minimum area implies otherwise.

153. We consider that special provision should be made for subdivision to allow retirement properties for retiring farmers as discussed above. These need to involve a reasonable area of land to discourage subdivision simply to create small rural-residential properties. A minimum area of 50 hectares for retirement properties was discussed at the hearing as being a size sufficient to discourage that but not so large as to discourage genuine proposals where there will be a continuing relationship with the farm as well as the security of separate title. It may be impractical to attempt to prevent sale of these properties when families' circumstances change, but if the dwellings are tied to being retirement homes at the time they are built, and the minimum area sub-divided is at least 50 hectares, we do not see this leading to a significant amount of land fragmentation and sporadic housing.

154. There was evidence at the hearing about the possibility of diversification, particularly where water is available, that could allow viable farming units to be created on suitable parts of extensive grazing stations. We accept that the subdivision rules should

facilitate this but we consider there is still a need at the time of subdivision to consider appropriate location of associated buildings. This could be in the form of building platforms being specified or an assessment whether the proposed lots include an area(s) where likely buildings associated with the proposed land use can be fitted into the landscape.

155. As in the case of buildings for farming purposes, we consider that subdivision for farming purposes should be subject to only the minimum necessary control. Controlled Activity status is not practical however because Controlled Activity applications cannot be declined, and it is conceivable that a lot could be proposed in a location where there is no suitable site for associated buildings. Restricted Discretionary Activity status will allow consideration of the potential effect on landscape of likely future buildings, while giving landowners the security of a process that involves scrutiny of only that issue.
156. Subdivision for non-farming activities raises some other issues. Several landowner submitters expressed ambitions for non-farming developments at some time in the future; specifically rural-residential development, subdivision for holiday homes, and travellers' accommodation. Although these activities do not use the land for production as farming activities do, they do use land as a resource – something that provides benefits. Land is a resource for potential non-farming developments in the Basin not simply because it provides space, but because land in the Basin has an attractive landscape context.
157. We accept that because of the complexity of the topography of the Basin there will be areas capable of absorbing substantial developments without significantly adversely affecting the landscape, as seen from public viewpoints. It is also obvious however that such development in the wrong place would undermine the very landscape resource they benefit from.
158. We agree with the underlying rationale of Plan Change 13 that the landscape impact of such developments will be best managed by concentrating new non-farming developments in nodes, rather than allowing scattered low-density developments throughout the Basin. The problem is that it is impossible without a great deal more landscape assessment to identify where such nodes could be located with minimal landscape impact. As that it is not practical, there has to be consideration of proposals for non-farming development on a case by case basis, assessing them

against some amended policies and assessment matters that we are recommending (see Attachment 1).

159. The recommended assessment matters indicate a preference for permanent residential accommodation to be focused around the existing towns in the Basin because that will allow new residents to contribute socially and economically to those existing communities as well as allowing for efficient servicing, access for emergency services etc.
160. Plan Change 13 deleted the Lakeside Protection Areas and made non-farm buildings anywhere outside the Identified Building Nodes and (future) Approved Building Nodes Non-Complying Activities. We have considered whether that status should stay, at least for the Lakeside Protection Areas. We have concluded that the Lakeside Protection Areas should be reintroduced and that the special values and sensitivity of these areas justifies a stronger control. We therefore recommend that all buildings and subdivision within Lakeside Protection Areas is non-complying. The exception to this is buildings that are within farm base areas that fall within existing lakeside protection areas.

#### Other Matters

161. Submitters expressed concern that the additional earthworks controls introduced through Plan Change 13 would necessitate consent for earthworks required for fencing on slopes, formation of border dykes, and the installation of pipes and power cables. We accept the argument that farmers do not excavate unnecessarily for these developments. It is hard to envisage circumstances where earthworks consent for them would be refused. We recommend earthworks required for those developments are added to the list of exemptions (Rule 4.2.2).
162. We also recommend retaining the Pukaki Village Zone, not because we are persuaded that this is a particularly suitable place for another settlement, but because we are not convinced that the submission requesting its removal is “on” the Plan Change and we consider it would be unreasonable to remove something that has been in the District Plan so long.
163. In relation to submissions seeking rezoning around Twizel, we concur with the Landscape Assessment by Mr Densem that because of the subdivision pattern that now exists to the south and west of Twizel and the influence of the town (Twizel)

nearby, the area no longer possess the high country character of the Basin generally. This is reinforced by there being a number of subdivisions that have been granted, the owners of which have an expectation that houses can be built on the lots created. This conclusion also relates to the Hocken Lane area. We are also aware that a comprehensive review of the future of the Twizel area is underway, which will lead to a separate plan change. We therefore recommend that the area south of Twizel through to Lake Ruataniwha, west from the State Highway through to the Pukaki Canal and north through to the Twizel River /Glen Lyon Road and the Hocken Lane area be removed from the Mackenzie Basin Subzone returning them to control under the Rural Zone (see Attachment 4 to this report which identifies this area).

#### Manuka Terrace Rural Residential Zone and Rules

164 The Plan Change introduced the Manuka Terrace Rural Residential Zone, which is the only rural residential zone in the District. This zone is located around Manuka Terrace, which lies between the Pukaki Canal and Lake Ohau and contains numerous small lot subdivisions that have been created in the recent past. Several submitters requested that this zone be renamed to the 'Twizel Rural Residential Zone' and that additional land be included within it. Some submitters have questioned the need to rezone the area at all, having bought it as a rural property, while other landowners in this area appear to accept the new zone but question the new rules. Given the history of development within the area and the expectation of some land owners regarding servicing of the area, we consider that the rural-residential zoning is appropriate as it allows the Council greater control over the development of this area. We consider that the zone is appropriately named and that no additional land should be added.

In particular we consider that the larger tracts proposed by Mackenzie Lifestyle Ltd, High Country Rosehip Orchards and Fountainblue to be included in the zone near Lake Pukaki and east of Twizel should remain within the Mackenzie Basin Subzone where the adverse effects of residential subdivision and building can be suitably controlled. We are also doubtful whether the creation of new zones as part of decisions on this Plan Change is appropriate as detailed assessment of the impacts of development on the values of each of these areas is needed before rezoning should be provided for. While evidence on some values was provided in evidence we do not consider this was sufficient for the purposes of rezoning.

- 165 Several submitters were opposed to the restrictions placed on visitor accommodation within the Manuka Terrace Subzone. The rule contained within the Plan Change is the same as that in for Residential Zones in the District Plan. We see no need to have a different rule for the rural-residential area. Further we consider that given the difficulties with physical access to the Manuka Terrace area, that commercial uses should not be encouraged.
- 166 The Plan Change specifies that non-farming within the Manuka Terrace Rural-Residential Zone are controlled activities. Several submitters requested that dwellings should be permitted. In some instances the consideration of a building on the existing allotments may have been taken into consideration when subdivision consent was granted e.g. its location in relation to natural hazards, servicing requirements and impact on landscape values. If this is the case, then we consider there is no need to revisit the matter. However, where the issues associated with building a dwelling on the allotments were not considered, then they need to be considered before a dwelling can be built. Controlled activity status is appropriate in this situation as it gives the assurance that the Council must grant consent but subject to specific matters being addressed. We also agree that the matters under Council's control should be expanded to include the servicing of the dwellings.
- 167 Several submissions requested amendments to the earthworks controlled activity rule regarding the volumes controlled. We consider that the threshold volumes and areas for controlled activity status for earthworks are appropriate and Council should specifically assess any earthworks larger than those thresholds to ensure adverse effects on the landscape and site development are minimised. A consequential amendment to the Plan Change is required to make it clear that earthworks up to the volume and area stated in the rule are permitted. We also consider it is appropriate to exempt earthworks that have been approved as part of a subdivision or building consent.
- 168 The matters over which Council has control for earthworks within the Manuka Terrace Rural-Residential Zone has been requested to be expanded to include water quantity, water quality and runoff from construction, stormwater treatment and effect on hydro generation and transmission. Water quantity and the on-going stormwater management are not directly relevant to earthworks, however we are of the opinion that it is appropriate that the impacts of earthworks on water quality during

construction and on neighbouring hydro structures are considered. We therefore recommend that these matters are added to matters over which Council has retained control.

- 169 The planting of trees within the Manuka Terrace Rural-Residential Zone is subject to a control on forestry and the prohibition of certain species for amenity planting. We consider a control on forestry in this locality should be retained given the potential for incompatibility between forestry activities such as harvesting and future residents as indicted by the zoning. Further we consider it is appropriate to prohibit particular species of tree for amenity plantings given their propensity to spread and the lack of mechanisms to control them within the zone.
- 170 Forest and Bird requested a control on containers and the length of time that they can stay on a site. This is matter that impacts on the whole on the District and is considered more appropriately dealt with on a district wide basis.
- 171 The Plan Change controls the minimum site size for a residential unit (residential density) within the Manuka Terrace Rural-Residential Zone. This is 4 hectares for any new lot being created and 2 hectares for those existing lots. Several submitters requested clarification to this rule to provide for those subdivisions that had been granted prior to notification of the Plan Change but had not been implemented. We agree that it is appropriate to amend this rule to provide for those subdivision consents that were granted prior to 19 December 2007, but have yet to result in the creation of a new title. We also consider that is appropriate to ensure that this does not apply to all consents granted, only those that can still be implemented. Where subdivision consent has lapsed, the 2 hectare minimum site standard should no longer apply as a new consent would be required.
- 172 Several submitters have questioned the limitations on building and hard surface coverage within the Manuka Terrace area. The Plan Change provides for a permitted maximum coverage of 700m<sup>2</sup>. This limit provides for a reasonable size dwelling, accessory buildings, hard landscaping and parking areas. The limit is considered to be appropriate in terms of the visual impact and physical disturbance associated with the establishment of such features as this area is part of an outstanding natural landscape and feature. Forest and Bird requested a control on the amount of indigenous vegetation clearance within the zone to retain its vegetation and habitat values. We agree some control is necessary and have included a



standard limiting clearance of native vegetation to that required for the establishment buildings, access and servicing.

#### Subdivision – General Matters and Standards (Chapter 12)

- 173 Clarification was sought by some submitters as to whether the subdivision standards in Chapter 12 of the District Plan and amended by the Plan Change applied to the Manuka Terrace Residential Zone. We confirm they do apply. Amendments to the standards were also sought to include impacts on water quantity and the ability to access electricity generation and transmission infrastructure as matters Council should consider when assessing new subdivisions. We consider the availability of water for subdivisions and impacts on water quantity is a matter that needs to be examined at the time of subdivision consent, as well as being something that needs to be considered at a higher level within the District Council, for example when rezoning land, and through the Regional Council consenting process. Access to infrastructure for maintenance or monitoring is really a matter for the utility operator to negotiate directly with the landowners involved.
- 174 Clarification was also sought as to whether the earthworks provisions under the Controlled activity subdivision rule applied only to subdivision earthworks. We confirm that it does. The amendments included in the Plan Change are additional matters that Council can control when considering a controlled activity subdivision. General earthworks provisions are included in the zoned rules. We recommend these new rules be retained.
- 175 A number of submitters requested that the requirement that all lots in rural residential zones be required to provide a connection to a Council reticulated water supply be removed. Council specifically set this requirement for Manuka Terrace because of potential issues associated with contamination of bore water by effluent treatment and disposal systems on individual sites. We consider that a potable water supply is important when considering a rural-residential subdivision and that reticulation of water within such a subdivision is more desirable than individual wells as such sites are usually disposing of effluent on-site. It creates flexibility in locating disposal areas, as the issue of potential contamination of a neighbour's drinking water supply is no longer a necessary consideration. Self-sufficiency through individual wells is not necessarily an efficient option due to the depths required to obtain water in some parts of the district, particularly Manuka Terrace, and rainwater is often not a viable

solution. We therefore recommend that reticulation of rural-residential areas, particularly Manuka Terrace, be retained.

- 176 With regard to the request to include fire fighting standards for water supplies we consider that while the issue of remote dwellings and the prevention of fire is important, that is more appropriately addressed through the Council's Engineering Code of Practice.
- 177 Several submitters requested that the Manuka Terrace Rural-residential area be exempt from the provision of physical telephone lines as they considered that mobile phones were adequate. While, we acknowledge mobile phones are often the main form of communication, they cannot always be relied upon. We were informed that during the snow event of 2006 that many cell phone tower batteries failed and were not readily repaired leaving some homes without cell phone coverage for several weeks. As reticulated electricity supply is required, and this is usually provided through overhead lines or trenching. Installing telephone lines at the same or similar time as the power lines on the same poles or in the same trench is not usually a significant extra expense when subdividing.
- 178 The Plan Change introduced a new rule in the Subdivision and Transportation chapters requiring access to lots with a potential to accommodate more than 6 residential units to be by way of public road and not by private way or access lot. Several submitters have requested that the Hocken Lane area be exempted from this standard. We understand that the experience of the District Council, and many other territorial authorities, is that there are issues associated with multiple ownership of private rights-of-way. These issues generally revolve around maintenance and who is responsible. These issues become increasingly difficult to address the more owners there are involved. We understand that the threshold of 6 allotments/residential units is commonly used within district plans. We note also that it is a threshold and that an application can be made to have a right-of-way. We see no need to exempt particular areas within this district from these rules.
- 179 The requirement for a turning circle to be provided for right-of-way is to ensure that vehicles do not need to reverse the full length of the right-of-way to exit a site. This is important in rural and rural-residential areas where right-of-way may be particularly

long. As with the number of lots that can access a right-of-way, an application can always be made to not provide the turning circle if it is not practical. We recommend that the standard be retained.

- 180 The Plan Change added reference to the rural-residential zone being subject to reserve contributions requirements. Where a residential unit is proposed, a reserve contribution has always been payable – even in the rural zone. The scale at which this contribution is taken for a rural-residential zone has not been altered and we therefore recommend that the submission requesting a sliding scale for contributions be rejected.

### Transportation

- 181 We understand that the District Plan has always required that the minimum height clearance for any private accessway should be 3.5m and that the plan change does not alter this requirement. We are advised that this limit is similar to the Australian and New Zealand standard, although it is recognised that the some vehicles would not be able to pass under this height and is considered appropriate. We therefore recommend that the provision be retained.

### Signage

- 182 With the reinstatement of the Lakeside Protection Area through these recommendations, there is no need for an additional sign control as requested by The Mackenzie District Council to protect the important lakeside landscapes of the Pukaki Village Zone. We recommend that the original signage rule be retained.

### Twizel Water Supply Protection Area

- 183 We have recommended that area around Twizel, which incorporates the Twizel Water Supply Protection Area, be removed from the Mackenzie Basin Subzone and that it revert to full Rural zone. The area will therefore have the potential to be further developed for residential use and we consider that the Twizel Water Supply Protection Area and associated rule requiring connection to a reticulated system should be retained to provide sufficient protection of the water supply from contamination associated with effluent disposal. Applications to waive or dispense

with this requirement can be made and considered on a case-by-case basis by the Council.

### General Submissions

#### *Dairying*

184. One submitter requested that dairying be made a prohibited activity within the Mackenzie Basin and another that it be made a discretionary activity and to give some emphasis on tourism. We are aware of the concerns relating to the greening of large swathes of land and the introduction of large irrigators and the impact this could have on the distinctive and outstanding landscapes of the Basin. We also acknowledge concerns relating to the potential for dairying to have adverse impacts on waterways, aquifers, topography and soil structure. However we note that the Plan Change is primarily focussed on controlling residential subdivision and development and that the Council have chosen not to control general land use, including farming use, through the Plan Change. We consider that matters associated with intensive farming activities are not ones that can be addressed through this plan change and therefore recommend that these submissions be rejected.

#### *Right to build on existing lots*

185. A number of submitters request some special provision to enable building on lots that have been recently created or for which there is an expectation that building would be permitted. Suggestions for such provision include removing properties from the Mackenzie Basin Subzone and providing specifically for building on specified properties. The two areas where we understand there is the most concern are around Twizel and at Manuka Terrace. Through this Plan Change and our recommendations both of the areas do not fall within the Mackenzie Basin Subzone and so will not be subject to the limitations on subdivision and residential use that apply within that Subzone. The Manuka Terrace Zone has its own subdivision and density requirements that now (as a result of recommended amendments) make specific provision for existing subdivisions created for residential development.

186. We understand that the Council is working on proposed urban extensions, which may create additional rural residential areas or some similar regime on some land currently outside the urban zonings. In the meantime, as a result of recommended amendments, the area around Twizel will now revert to the full Rural zoning which provides for housing and subdivision with few limitations. We are not aware, having heard the submissions, of any subdivisions outside these two areas that would be disadvantaged by the Plan Change rules. If there are any then we suggest that the simplest way to deal with a request for housing is through the discretionary activity consent process provided for in the Plan Change.

#### Other General Submissions

187. Rhoborough Downs requests that the areas of “outstanding natural significance” need to be carefully defined in accordance with section 6 of the Act and it should apply throughout the district, not just the Mackenzie Basin. We have considered the matter of defining what are outstanding natural landscapes in detail earlier in this decision. Regarding the second point raised we consider that Objective 3A, as amended, has been written to apply to all outstanding natural landscapes within the District, not just those within the Mackenzie Basin. If further landscapes were identified in other areas of the District the objective would apply to these. In addition we consider that the revised rules for the Mackenzie Basin Subzone may be suitable to apply to any additional distinctive or outstanding natural landscapes. We therefore recommend that this submission be rejected
188. The New Zealand Defence Force have requested a new objective giving formal recognition of the importance of avoiding reverse sensitivity effects on the Tekapo Military Training Area from badly located development. While we consider that this is a matter worth some recognition within the Plan Change we not consider that it should be the subject of an objective in its own right. In response to other submissions of the NZDF we have recommended that the issues be referred to in the Landscape Issue statement and as matter listed the new Policy 3D relating to consideration of residential development that is to be taken into account in deciding whether residential development should be permitted.
189. Mrs Marion Seymour asks that more attention be paid to noise (aircraft noise at Glentanner Park) and sanitary pollutions from camper vans. We consider these are

not matters within the scope of the Plan Change and therefore recommend that the submission be rejected.

190. Forest and Bird request that the plan change address wind farms and the impact these would have on the landscape. We understand the District Plan already makes specific provision for utilities such as wind farms in section 15 so no further provision is required.
191. Julie Pascoe and M & E Lindsay were concerned about the level of consultation to date and want consultation in the future so the Council can be aware of what is required to make businesses viable. As consultation occurs outside the formal matters contained in the district plan it cannot be addressed through this decision.
192. Haldon Station requested that the plan change not be imposed on the Haldon property. The reason given is that the station is reasonably remote and out of the public's eye and that the public have no need to cross through their property. This is the situation for a number of stations however the issues still remain that there is potential for adverse impacts on the outstanding landscape if poorly sited and designed development occurs. We consider that the consent processes for new buildings, both farm and non-farm, should allow these matters to be appropriately addressed without unnecessary expense for landowners. We therefore recommend that his submission be rejected.
193. Meridian requested that the Plan (Change) clearly state that the new provisions do not relate to Scheduled Activities provided for in Rural Zone Rule 13 and scheduled in Schedule A to the Rural zone, nor to the Utility provisions in section 15 of the Plan. To the extent rules have been retained in the revised Plan Change we consider that for the sake of clarity it is worthwhile specifying in the Rural Zone rules that these rules do not apply utilities provided for in the Utilities provisions of the Plan.
194. CRC and The Conservation Board have requested that the Council commit to addressing the impacts of land use changes on outstanding natural landscapes and features. We consider that such a commitment cannot be meaningfully made through a plan change and therefore recommend that the submissions be rejected.

195. CRC ask that the new Mackenzie Basin Subzone be incorporated into the Planning Maps. The plan of the Mackenzie Basin Subzone attached to the Proposed Plan Change was at a scale that allowed the whole basin to be viewed on two plans only. Overall it is considered that this plan, suitably amended by removing the Twizel area, should be sufficient to identify the Subzone. The alternative of applying an overlay over all the existing Planning Maps that cover the Mackenzie Basin is considered to be cumbersome and unnecessary. We therefore recommend that this submission be rejected.
196. M & E Lindsay request that they be given the right to build a homestead without resource consent and to finish earthworks on Ben Ohau Road. The submitters state that they have been given verbal consent from the Council and have spent money on planning the earthworks as well as a new homestead. We are not aware of any reason to particularly exempt the homestead earthworks from the new rules.
197. Lana Hastie requested that night light should be facing down to preserve the night sky. The District Plan has controls on shielding of lighting to protect the night sky for viewing. These rules apply to much of the Mackenzie Basin and so no additional controls are recommended.
198. AJ Phillips requests that the requirement for resource consent be removed where it did not exist before. That would obviously maintain the status quo, which gives the Council and community no means to manage the location and form of growth within the Mackenzie Basin. This is not considered a responsible option under the Resource Management Act and we recommend that the submissions be rejected.
199. Karen Simpson asks that more incentives and recognition be given to landowners protecting natural landscape and cultural values, including supporting QE II covenants. We consider that this is not a matter that directly relates to Plan Change 13 that focuses primarily on managing development to achieve good landscape outcomes. We understand that ecological values have been addressed through development of the operative District Plan provisions relating to sites of natural significance and exemptions from various rules where QE II covenants and similar

mechanisms are in place. We therefore do not recommend any further changes to the Plan Change.

- 200 Transpower 91/4 requests that the maps be amended to show those parts of the Mackenzie Basin that are outstanding and those that are not. We have already addressed the matter of detailed mapping of landscape values earlier in our decision.
- 201 Te Runanga O Ngai Tahu, Te Runanga O Arowhenua Trust and Te Runanga O Waihao Trust request that the Plan Change be amended to incorporate greater recognition and provision for the relationship between Ngai Tahu and Mackenzie Basin. Ngai Tahu has prepared a cultural assessment report with support from the Council. We understand this report became available to Council after submissions and further submissions were received. The report provides an insight into takata whenua values within the Mackenzie Basin and supports the nodal approach to development and the intention to control the rate of residential development in an orderly and planned manner. They however consider that the Plan Change does not adequately recognise and provide for the fact that the entire basin is a significant cultural landscape to Ngai Tahu and its local hapu. Key concerns include avoiding adverse effects on sites and areas of significance including Maori archaeological sites, potential contamination of groundwater and lake water, social impacts and on those visual catchments such as those from the southern portion of Lakes Pukaki and Ohau looking northwards.
- 202 The Report proposes that a new objective and policies be included to acknowledge the relationship of Ngai Tahu and their ancestral lands, water, sites, waahi tapu and other taonga. They also seek revision of other rural objectives to include reference to cultural landscapes, a definition of cultural landscapes, inclusion of a schedule of cultural landscapes and recognition of these on the planning maps. Buffer zones, which keep lake and riverside areas free of buildings, are also sought.
- 203 As a matter of process we do not think it would be appropriate to include new policy and implementation methods without it being specifically proposed as part of the plan change or submission. We consider however that the cultural assessment report provides a solid basis for consultation on a number matters which could lead to



greater recognition in the District Plan of Ngai Tahu values within the Mackenzie Basin.

- 204 Fountainblue, Southern Serenity and Pukaki Downs Holdings Partnership request a special Eco and Wellness Tourism Activity area/zone for their land holdings on Pukaki Downs. As with the similar request for rural residential zoning in this area we are doubtful whether the creation of new zones as part of decisions on this Plan Change is appropriate as detailed assessment of the impacts of development on the values of each of these areas is needed before rezoning should be provided for. While evidence on some values was provided in evidence we do not consider this was sufficient for the purposes of rezoning.
- 205 NZHPT request that consultation with Arowhenua Runanga and Te Runanga O Ngai Tahu be undertaken and cultural values of Maori heritage values be adequately incorporated in the plan change or some other agreed mechanism. We support this submission in principle should further work be undertaken in relation to protection of Maori Heritage and cultural values.
- 206 Dean Smith requests rules to prevent further wilding tree spread. We have recommended additions to the list of prohibited species for planting however we do not consider the Plan Change or the District Plan is the appropriate vehicle for preventing further wilding spread and we therefore recommend this submission be rejected.
- 207 Dean Smith 106/5 states that there should be colour control on buildings within the Pukaki Airport zone. Because the Airport zone is not part of this Plan Change and no change to its provisions is possible through this submission we recommend this submission be rejected.
- 208 Dean Smith asks for setback for irrigators and other ugly structures. This matter has been considered in relation to Policy 30. On the basis of evidence received we consider that any rule requiring setbacks for these types of structures is difficult to write in a way that provides certainty without interfering with normal farming operations. We therefore recommend that this submission be rejected.

- 209 Ralph Smith & IR Smith Family Trust wants garages and garden sheds not to require resource consent particularly around Twizel. We have recommended that areas around Twizel be removed from the Mackenzie Basin Subzone and so this submission has been accepted..
- 210 The Conservation Board 130/1 ask that the purpose of the Plan Change include heritage landscapes values and that these be addressed by policies and rules. Unfortunately we consider this request lacks detail and so we recommend it be rejected

### Summary of Status of Activities

211. To summarise, we recommend the following:

#### Within Existing Farm Base Areas:

Farm buildings (re-defined to include homesteads and workers' accommodation) – Permitted Activity.

Farm retirement dwellings – Permitted Activity

Non-farm buildings – Permitted Activity, but with the limits on commercial recreation, visitors' accommodation and retailing as in the District Plan prior to Plan Change 13.

#### Outside Existing Farm Base Areas:

Farm buildings (including homesteads and workers' accommodation) – Controlled Activity.

Farm retirement dwellings – Controlled Activity

Non-farm buildings – Discretionary Activity.

Within Lakeside Protection Areas – Non-complying Activity

#### Subdivision:

Subdivision for farming activities – Restricted Discretionary Activity.

Subdivision for a farm retirement dwelling (defined) – Controlled Activity (minimum 50 hectares) if land use consent for the dwelling has been granted or is being considered simultaneously, otherwise Restricted Discretionary Activity.

Subdivision for non-farming activities – Discretionary Activity.

### Amendments to Objectives and Policies

212. As discussed above, we recommend a set of provisions which distinguish between farming and non-farming buildings and subdivision to facilitate these. This distinction allows less restrictive controls over farm buildings than would be needed if all buildings were treated the same. Such a distinction does however require a policy foundation, which we have provided in the recommended amendments to the District Plan set out in Attachment 1.

### Conclusions

213. We are recommending a simplified and more permissive planning regime for the Mackenzie Basin than that introduced by Plan Change 13, but one that we consider will preserve the important landscape resource of the Basin.

214. We would like to thank the submitters and Mrs Harte and Mr Densem for giving us a better appreciation of the difficult decisions and compromises that have to be made in planning for the future of the Mackenzie Basin.

## **RECOMMENDATION**

**We recommend that the Council adopts this report, including the attachments showing the recommended amendments to the District Plan as the Council's decision on Plan Change 13 and that the submissions are accepted, accepted in part, or rejected accordingly.**

David W Collins  
Graeme Page  
Evan Williams  
Hearings Commissioners  
18 August 2009

Attachment 1: Plan Change 13 as Amended by Decision, with changes shown

Attachment 2: Schedule of Decisions on Submissions and Further Submissions

Attachment 3: Plan Change 13 as Amended by Decision, with changes incorporated

Text Only