

Planning Officer Comments – Proposed Plan Change 13

12 September 2008

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1. Section 32

A large number of submitters have raised concerns about the adequacy of the section 32 Report accompanying the Plan Change and in particular said that a full financial assessment of the impacts of the plan change provisions should have been undertaken.

Comment:

Few plan changes have independent financial assessments itemising the financial costs to landowners from Plan Change provisions, rather they adopt a general assessment often in the form of a table with brief comments on the costs and benefits of each alternative considered. In a similar vein most decisions at council and Environment Court level do not go into the detail of costs, however that does not mean that financial and other impacts on landowners are not taken into account in developing plans and making decisions on them.

In the case of Plan Change 13 a range of options are discussed in section 32 and all options involve landowners having to apply for more resource consents than they do under the current District Plan provisions. That is to be expected given the quite liberal provisions of the District Plan. With regard to the costs to landowners it is acknowledged that greater costs will be involved for development because of the increased need for consents, however as just mentioned all options were expected to have similar costs.

Something which is not apparent from the section 32 report is the fact that Council was very cautious in adopting a regime that involved obtaining consents for activities which did not currently require consent or making the consent requirements more onerous e.g. changing the status of activities requiring consent. It was not done lightly.

Many submitters presenting their submissions have raised the costs involved in additional consents and I consider this is something that the Commissioners need to keep very much in mind in making their decisions. While it should not be an overriding concern, it is important. Although not raised in any submission I consider that one aspect of applications which has the potential to cause costs to escalate is the when they are notified, in particular if they are publicly notified. I suggest then that the Panel consider whether it would be appropriate for provisions to be added to the Plan Change specifying whether some application should be non-notified, for example farm buildings outside nodes and non farm buildings within nodes.

2 Outstanding Natural Landscape (s)

This is a matter Graham Densem has addressed. I accept that it is a difficult matter as there is clearly a wide range of opinions among both landscape experts and lay people as to how the Basin and its components should be classified. Jennifer Miller stated that the options for identifying a large scale landscape like the Mackenzie Basin, with variable degrees of naturalness include:

- 1) Identifying very large areas as ONL while excluding small areas that clearly do not meet the threshold
- 2) Selecting smaller areas within the broader landscape to designate as ONL and giving some other classification to the bulk of the landscape.

A third option is, as occur parts of the QLDC area, to determine the value of the landscape at the time an application is made using accepted criteria. If this approach was adopted then of course there needs to be consideration as to what regime should apply to landscapes of different values e.g. ONL as compared to VAL. Many submitters propose having another assessment done and appear to presume this will result in a series of lines being drawn defining ONL and visual amenity landscapes under section 7 of the Act. I suspect that this will bring us back to a similar point in the process.

There is a statement in Policy 3A that of the whole basin is an outstanding natural landscape however the explanation to the policy refers to “not all areas in the Basin are outstanding” I accept this is confusing, however I do not consider that the PC13 is fundamentally flawed because of that. The latter statement was included in part, because it was recognised that some areas around Twizel included in the Subzone in the interim, will be removed once new zoning on the periphery of Twizel are initiated through a plan change.

If the panel conclude that the Basin does contains a series of ONLs, rather than it being a single ONL then I consider that the Objectives and policies require very little change to accommodate this. Some greater changes to the Explanations and Reasons however may be required.

Mention was made that there may be ONLs in other parts of the District and that this should be taken into consideration in determining the “outstandingness” of the Mackenzie Basin. The Council several years ago had both ecological and landscape assessments done for the eastern Mackenzie and these are in draft form. From memory some areas have been assessed as outstanding. Objective 3A and many of the policies proposed are intended to be applied to the Eastern Mackenzie when further work has been done on that project.

3 Nodal Approach – General

Numerous submissions and discussions at the hearing considered the “nodal approach” proposed by PC13. A discretionary approach was also discussed as an alternative. I do not necessarily think these are alternative or mutually exclusive approaches, as the node approach is essential discretionary requiring discretionary activity consent for new nodes or extensions to existing nodes. I will consider that matter later.

The essential aspects of the nodal approach which differentiate it from most other district plan controls is that nodes are the form of development encouraged by the Plan and that nodes must contain a minimum and maximum number of building platforms. The only exception to this is if the node is for a new homestead, in which case it can be the sole occupant of the node.

Many submitters considered there was some landscape and practical merit in the concept of clustering buildings and that the current clustering found around homesteads was a good example of this. However it was very clear that this approach was considered too inflexible for most, but not all landowners. In particular it would not provide for a retirement house, or additional houses for other members of the family that would choose to live some distance from the main homestead. Neither would it provide for people wishing to have a house separated from others to enjoy the Basin’s sense of isolation. In addition single commercial operations or one or a small number of travellers accommodation units would not be provided for.

4 New Nodes

I consider these comments about flexibility are very significant, as there seems little point in promoting a form of development that is unlikely to be taken up. And on the other side of the coin there is little purpose making it more onerous to obtain consent for alternative but potentially more visually acceptable forms of development.

In addition, while a minimum number of building platforms (5) are required to be identified in any proposed node being applied for, there is no obligation to actually establish that number of buildings in the node. So it is possible that a node is applied for with the intention that only one building is to be established, yet to qualify for the node the applicant has had to go through an assessment process on the basis (pretence) of at least five buildings occupying that node. In the circumstances it seems more honest and straightforward that if only one building is proposed that that is all that is applied for.

One of the reasons why nodes were adopted is that it was hoped that by providing for a number of buildings within one site, that houses would not be scattered around areas of the Basin with consequential impacts on specific localised areas or a general reduction in landscape values over a broader area. This could occur if there was a reasonable demand for new houses in the Basin. It could also occur if it is assumed that assessing the cumulative impacts of individual houses within an area is too difficult, causing decisions to be made which result in adverse cumulative impacts.

With regard to demand for new houses (buildings) it is difficult to know what the demand will be in the future. Likewise it is very difficult to assess what new buildings may be required in response to landowners diversifying their productive and commercial options. The Panel are

very fortunate to have received a lot of feedback on these matters, which has increased an understanding of the pressures on landowners and some of the likely responses. However there are still challenges in estimating the level of development likely to occur within the Basin say in the next 5-10 years. While Manuka Terrace may seem like an aberration there clearly was a demand for these lots, which I assume were promoted on the internet or similar. That could happen again. There have also been a number of multi-lot developments applied for around or in the vicinity of Lakes Ohau, Pukaki and Tekapo.

This uncertainty as to the likely level of demand for new houses and other buildings makes consideration of what the appropriate planning response might be very difficult.

With regard to cumulative impacts of developments I discuss this below when I consider the Appendix R Capacity for New Nodes.

On balance I consider that there is not sufficient planning justification for limiting “discretionary” development to clusters of houses within nodes. I therefore recommend that at least the minimum number of building platforms within nodes be removed. Without a minimum only a maximum number of platforms remains. I consider without a minimum number of platforms that the node concept has little or no meaning as a development entity and so should be removed from the plan change. This also has the advantage of simplifying the conceptual and regulation framework within PC 13 – something which a number of submissions sought.

Because there are a number of positive aspects of nodal development, I have made this recommendation reluctantly, however I hope that some other method, inside or outside of the Plan can encourage or promote this form of development.

Obviously there will need to be some alternative form of control on subdivision and development which I discuss later.

5 Capacity for New Nodes

Appendix R to PC13 contains shaded areas where new nodes are suitable with a maximum number of new nodes listed for each of the shaded areas. There are also unshaded areas with Xs which are marked as areas where no new nodes are suitable. The maximum number is a recommendation by Graham Densem that he was asked to provide to assist in assessing cumulative effects on the natural character of areas. These recommended upper limits were included in Policy 3G as a matter that needs to be satisfied if a new node is applied for.

Many comments were made about this Appendix including

- That the definition of the areas was at a coarse level and was hard to locate on the ground
- That such an assessment could not be made without consideration of more localised landscape settings which could permit nodes to establish with negligible impact because of the topography
- That because nodes could take a number of different forms that cumulative impacts could not be assessed ahead of time
- That setting a quota for an area has the potential to cause friction between landowners regarding how it is allocated or could cause landowners to rush in to “retrieve” the nodes.

- That it could give the false idea that any development in the pink areas is okay – this may not reflect the high vulnerability of some of these areas as indicated in plan 7 of Densem report
- That the logic of the areas identified is not clear, particularly the relationship of this map to the Vulnerability to Development classification contained in Map 7 of eh landscape report.

Comments

While I think there is some merit in the proposed approach to capacity and cumulative effects I consider that the difficulties with this approach probably outweigh its benefits. I consider that written description of the characteristics of areas, which make them more or less suitable for built development contained in a policy, assessment matters or even in an appendix to the plan would be preferable. In addition, I think it would be preferable to describe what would be an acceptable level of development, if this were needed, again in words rather than specify a specific number. I accept that this does not make the job of determining cumulative impacts easy, however I consider there will be endless debate about the number and its credibility no matter how robust the analysis is supporting that number. Hopefully if there are a number of developments in an area, the successive assessment of these will inform decision makers with regard to cumulative effects.

I therefore recommend that Appendix R be removed and the reference to the Appendix be removed from Policies 3G and F whether or not the nodal approach is retained.

6 Identified Building Nodes

Many submitters seem keen to have a node (or several) identified on their property. There seems some real advantage in recognising the existing clusters around homesteads and to provide for future development within them with little or no need for consents for such development in relation to visual impacts. The submissions raise issues regarding where the outer boundary of the nodes should be, whether amalgamated properties should have more than one node and whether new nodes should be identified through the plan change process.

Comment

Ideally it would be useful if these existing nodes could be defined by something other than lines on maps .e.g., by a definition in the plan however this may be difficult to achieve. This could create greater flexibility over time. Decisions will therefore need to be made on all the requests relating to identified building nodes.

7 Remote Farm Buildings

There is considerable concern by a number of submitters that farm buildings outside nodes would become non-complying buildings because they would not fall within the definition of remote farm buildings, which requires that these buildings *because of their function (or access requirements) require a location remote from the homestead node.*

Comment

The intention of this definition, and the Controlled Activity rule associated with it, is simply to set up a mechanism for considering farm buildings that are outside nodes. It was considered that any farm building outside the node would be there for a purpose and so almost automatically would fall within the definition of remote farm building.

Given the confusion over this matter I think that it may be simpler to simply refer to “farm buildings” outside identified nodes as requiring controlled activity consent. No definition of remote farm building therefore is needed and rule 3.2.2 amended to simply refer to farm buildings.

I also consider that the Panel should consider whether applications for controlled activity farm buildings should be specified as non-notified in the Plan.

A further issue associated with term “farm buildings” is whether the term should include farm workers accommodation. The definition in PC13 specifies that farm buildings are buildings *the use of which is incidental to the use of the site for farming* (which is in turn defined to refer to production). In a narrow sense worker accommodation is not incidental to production in the same way as a grain silo, however it is needed for the farming activity to occur. I have no problem with the definition being expanded to explicitly cover worker accommodation in its various forms. Some may say that houses will be applied for as workers accommodation but will not be used for this purpose, particularly in the long term. My response is that surplus “married couples” houses around South Canterbury have proven to be a useful addition to the housing stock over time and have provided an option for rural living that might not otherwise existed, so I see no particular problem in the long term.

With regard to other houses associated with the farm, but which don't necessarily constitute “homesteads” this is perhaps more difficult. What I am referring to here is a house for current owners to retire to or for other family members to live on the property. I think this should be encouraged but I am not sure how to best provide for this option in a way that is simple but which does not compromise landscape values where the house is outside an identified building node.

8 Commercial and Tourist Activity

A number of landowners indicated that they have plans for commercial developments on their properties or they wish to have that as a future option. They were concerned that the provision of nodes would not necessarily enable the development they had in mind to be established except as a non-complying activity.

Comments

The Rural zone rules in the District Plan deal with uses and buildings separately so that travellers accommodation or retail activities have to meet the standards listed in rules 8 and 9 of the Rural zone rules and any buildings have to meet the standards in rule 3. Visitor Accommodation is permitted if it provides for 20 or less guests and retail is provided for if the goods are produced locally etc.

This approach still applies under PC 13 except that there are now more controls on where buildings can locate. It is anticipated that in many cases both aspects of a proposal may need consent, that is the activity and the building and these would be considered together.

Fountainblue propose a new zone at Pukaki Downs that will provide for eco tourism and provided the panel with draft objectives policies and rules for the zone, which include provision of an outline plan as the first stage, and subsequent consent for buildings as it is developed. The status of the buildings depends on the level of compliance with the outline development plan but in all cases the draft rules require buildings to obtain consent at least for a controlled activity.

This two-stage approach gives flexibility over time for the developer but does involve a series of consents. This approach has merit and many of the provisions contained in the draft objectives and rules could apply to other sites, not just the Pukaki Downs site. For large-scale developments that are proposed to be developed over time and which need flexibility over time a zoning with this kind of approach could be a useful mechanism. However I am not sure that it would suit all commercial development situations, especially not smaller specific proposal which could be dealt with through a single consent.

9 Revised Approach

The Panel have discussed with a number of submitters what flexibility is available to vary the provision of PC13. I consider that there is a range of submissions that allow considerable modification to be made to the provisions including removing the “nodal approach” and replacement with a system where all built development and subdivision requires a consent, including a discretionary activity consent.

Given my comments above I consider the **identified building nodes** should remain but that other development and subdivision should not have to be in the form of clustered building in nodes. I also have recommended removal of the Capacity for new nodes map and reference to it in relevant policies. Removal of these two aspects leaves a number of matters to be considered including:

- What will be the trigger for control: all buildings, just non-farming buildings, subdivision or building platforms or a combination?
- What will be the status of various buildings and subdivision: will it depend on the classification of the landscape value or sensitivity to change?
- When will the classification of landscape value occur?
- Should there be a maximum number of buildings in any development
- Should all subdivisions have to provide for building platforms?

With regard to the Objectives and policies in PC13 I consider that they are, in general, written in a way that could accommodate a number of different regimes without substantial change. In particular I consider that if an approach was adopted which dealt with built development in the same way regardless of the number of buildings i.e. no preference for clustered buildings in nodes, then the following changes might be needed. (Other changes may be required depending on the final form of controls)

Objective 3A, As per my suggested amendment

Remove reference to “overriding” in bullet point 3 of Explanations

Policy 3A Rerword as suggested by Meridian

To recognise the outstanding natural landscapes of the Mackenzie Basin and through the Mackenzie Basin Subzone within the Rural zone, protect the Basin from inappropriate subdivision use and development

Policy 3B, 3C, 3F, 3K, 3M, 3N and 3O Retain as is

Policy 3D Amend to refer to outstanding natural **landscapes**

Policy 3E Delete

Policy 3G I expect that this will need to very carefully amended to accommodate any new approach, but I think there are a number of useful criteria/assessment matters that could be utilised.

Policy 3H Retain policy re extension of identified building nodes with reference to assessment matters.

Policy 3I & 3J Probably delete

Policy 3L Relates to subdivision – will need to be worked through

Delete definition of approved building node

10 **Ngai Tahu**

I recommended accepting Ngai Tahu’s submission in principal because the cultural impact assessment report was not available to incorporate its findings into the plan change prior to notification. I consider that this matter should be pursued and recommend that the Panel recommend to Council that it pursue discussions with Te Runanga Ngai Tahu to develop options as to how the cultural values of Ngai Tahu within the basin can be protected through the Plan and through other means.

11 **Existing Lots**

A question that is raised in relation to Manuka Terrace and is a particular issue around Twizel is what development rights will be available for land that has a recent subdivision consent but on which no house has been built. This question is also being asked by landowners who have applied for subdivision consent prior to PC13 being notified but for which no decision has been issued. I understand that the reason for some of these subdivision consents not being granted is due to consents having to be obtained from ECan. In relation to Manuka Terrace this is relevant because there is a 4ha residential density control which would prevent houses on 2ha lots. As can be seen from the attached advice from the Planning Officer there are a significant number of lots less than 4ha. In my planning report I recommended that an exemption be given to lots less than 4ha that had subdivision consent granted prior to the Plan Change being notified. I now wish to include in that exemption lots which are contained in subdivision consents that were lodged, but not granted, prior to 20 December 2007.

12 **Greening of Basin**

There are submissions concerned about the reference to “greening” of the Basin in the Issue statement relating to landscape in the Rural zone. I consider that greening is an issue, which is confirmed by the responses received. However if mention of greening in the Issue Statement causes a problem in interpreting the actual objectives and policies of the Plan then I suggest it be removed. I also accept that it has the potential to cause confusion and unnecessary concern for landowners.

13 Control of buildings in Manuka Terrace Rural Residential Zone

Submitters have raised the question whether there is a need to require resource consent for houses within the Manuka Terrace zone when the same matters can be addressed through consent notices on titles. I agree that if a title has a consent notice that deals with the location, design and appearance of any future house then an additional resource consent process is not needed. I attach to this statement information provided to me by the Planning officer which sets out details of some of the consent notices on titles, these deal with the general location of houses – away from ridgelines) and external colours.

I recommend that the requirement for houses in the zone provide an exemption for houses on properties where a consent notice has been attached dealing with the location and external appearance of houses. However I do not consider that houses on lots yet to be created should be exempt as the issues associated with houses are best dealt with comprehensively. This is particularly so with Manuka Terrace where subdivision and the building of houses will be many years apart.

14 Earthworks

Submissions have been made that the thresholds set for earthworks are too low and that regular farming and subdivision earthworks would commonly exceed these standards and would have no long term adverse effects. I consider that large-scale earthworks should be subject to assessment to ensure that erosion, stormwater and landscape impacts are mitigated. However I accept that either the threshold may need to be increased and/or certain earthworks exempted from these rules. In particular there may need to be an exemption for installation of irrigation pipelines etc. I consider that the installation of these pipes falls within permitted activities under the utilities rules and that therefore earthworks associated with these would be part of the permitted activity. However to avoid the potential for these earthworks being included a specific exemption under earthworks rule 4.2.2 could be included.

15 Permitted Baseline

This matter was discussed during the hearing and I comment that it is a matter the panel needs to consider if it is to provide for (say) farm buildings as permitted activities or possibly controlled activities. As mentioned I consider that some of the difficulties with potentially setting a precedent by permitting such buildings is to expressly state in the Plan rules that the right to erect these buildings is not to be considered as part of the permitted baseline.

Patricia Harte
Davie Lovell-Smith Ltd
11 September 2008

Nathan Hole

From: Angie Taylor
Sent: Tuesday, 9 September 2008 3:02 p.m.
To: Nathan Hole
Subject: Manuka terrace info

Hi Nathan,

I have had a quick look at the subdivisions along Manuka Terrace, I have listed some notes below that might be useful for Patricia.

There are about 26 subdivision consents on record for Manuka Terrace, 4 of these are on hold for further information. The first two consents issued (in 2003) did not have any conditions relating to buildings. The majority of consents included the following conditions to be registered as consent notices. However, a number of the earlier consents included these as conditions, with no mention of them to be registered as consent notices.

- (a) *All buildings on the lots shall be sited in such a way as is visually unobtrusive and, in particular, skylines, ridge tops and promontories should be avoided.*
- (b) *The cladding, roof and exterior surfaces of buildings shall be consistent with colours from the Mackenzie District Colour Palette (1994) for the Twizel region.*

I have found one consent that included different conditions - listed below.

- (a) *Prior to the issue of a building consent for a dwelling, the location of the dwelling shall be approved by Council to ensure that all buildings on the lot shall be sited in such a way as is visually unobtrusive and, in particular, skylines, ridge tops and promontories should be avoided.*

This condition shall be the subject of a consent notice on the titles of Lots 1-5 pursuant to Section 221 of the Resource Management Act 1991.

- (b) *The colours of exterior surfaces of buildings shall be natural (in the range of browns, tussock, greys or natural greens), recessive and have a reflectivity of less than 35% and be consistent with colours from the Mackenzie District Colour Palette (1994) for the Twizel region. The colours shall be approved by Council prior to the issue of a building consent.*

This condition shall be the subject of a consent notice on the titles of Lots 1-5 pursuant to Section 221 of the Resource Management Act 1991.

It looks like most of the consents included a number of other conditions relating to water supply, electricity supply, effluent disposal, stormwater, access/roading and track formation - let me know if you need details on any other conditions.

I will send through a map of Manuka terrace in a separate email - this has lots less than 4ha highlighted. There are a number of subdivisions that have been granted, but titles have not yet been issued (these are marked with red boundaries). I have not highlighted these sections (as the GIS system will not show the area of each lot until title is issued), but it looks like a number of these will also be less than 4ha.

Let me know if you need any further info

Thanks, Angie

Angie Taylor
Planner - Mackenzie District Council - angie@mackenzie.govt.nz

- yellow highlighted lots - less than 4ha (mostly around 2ha) - approx 54 lots.

- red lines indicate either applications on hold or granted subdivisions that have not obtained Z24

- * marks subdivision applications on hold for further information.

← active fault line.

