

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I MUA I TE KŌTI TAIAO O AOTEAROA
TE ŌTAUTAHI ROHE**

ENV-CHC-2024-

UNDER

The Resource Management
Act 1991 (**RMA**)

IN THE MATTER OF

An appeal pursuant to Clause
14(1) of the First Schedule of
the RMA against a decision of
an Independent Hearings
Panel in respect of Plan
Change 23 to the Mackenzie
District Plan.

BETWEEN

**MORELEA FARM HOLDINGS
LIMITED**

Appellant

AND

**MACKENZIE DISTRICT
COUNCIL**

Respondent

NOTICE OF APPEAL

Dated: 16 September 2024

GRESSON DORMAN & CO
Solicitors
PO Box 244, Timaru 7940
Telephone 03 687 8004
Facsimile 03 684 4584

Solicitor acting: G C Hamilton / L K O'Brien
georgina@gressons.co.nz / lucy@gressons.co.nz

TO: The Registrar
Environment Court
Christchurch

INTRODUCTION

- 1 Morelea Farm Holdings Limited (**Appellant**) appeals a decision¹ (**Decision**) to reject its submission² on Plan Change 23 (**PC23**) to the Mackenzie District Plan (**Submission**).
- 2 The Submission sought to rezone approximately 23.5ha of land owned by the Appellant on the corner of Geraldine-Fairlie Highway and Clayton Road, comprising Lot 5 approved by subdivision consent RM220008^{3,4} (**Site**) granted by the Mackenzie District Council (**Respondent**), from General Rural Zone (**GRUZ**) to General Industrial Zone (**GIZ**) (**Proposed Rezoning**).
- 3 The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).
- 4 The Appellant received notice of the Decision on 5 August 2024.
- 5 The Decision was made by an independent hearings panel (**Panel**) on behalf of the Respondent.

PROVISIONS BEING APPEALED

- 6 The Appellant appeals against the Decision to reject its submission and retain the General Rural Zoning of the Site proposed by PC23 on the associated planning maps of the Mackenzie District Plan.

GENERAL REASONS FOR APPEAL

- 7 The general reasons for this Appeal are that, in the absence of the relief sought in this Notice of Appeal, the Decision:

¹ Plan Changes 23 - 27 Rezoning Submissions Decision Report dated 31 July 2024, Section 5.2, at [40].

² Submission number 31, dated 26 January 2024.

³ This consent authorised the subdivision of the parent lot, Lot 1 DP 496845.

⁴ Shown in the survey plan attached as **Annexure A**.

- (a) Will not promote the sustainable management of resources, and will therefore not achieve the purpose of the RMA, including by not meeting the reasonably foreseeable needs of future generations;
- (b) Will not promote the efficient use of natural and physical resources;
- (c) Will not achieve the integrated management of the effects of the use, development or protection of land and associated natural and physical resources; and
- (d) Does not represent the most appropriate way of exercising the Respondent's functions, having regard to the efficiency and effectiveness of other reasonably practicable options, and is therefore not appropriate in terms of section 32 and other provisions of the RMA.

SPECIFIC REASONS FOR APPEAL

8 Without limiting the generality of paragraph [7], the particular reasons for the Appeal are as follows:

- (a) The Proposed Rezoning will:
 - (i) Support the projected growth of industrial activity for the Fairlie township and wider Mackenzie District;
 - (ii) Assist in reducing future demand pressures on other industrial land in the wider Mackenzie District; and
 - (iii) Enable a cohesive and consolidated approach to industrial development in the Mackenzie District.
- (b) The Site is located within the boundary of the urban area at Fairlie and opposite land on the Geraldine-Fairlie Highway that was either:
 - (i) Zoned Industrial under the Operative Mackenzie Plan; or
 - (ii) Rezoned from Rural to General Industrial as part of Plan Change 21 to the Mackenzie District Plan, which formed part of Stage 1 of the Mackenzie District Plan review.

This demonstrates that industrial zoning is suitable for land in this locality, and the Proposed Rezoning would be a contiguous to the existing General Industrial Zone.

- (c) The Proposed Rezoning of the Site:
 - (i) Is an appropriate extension of the existing General Industrial Zone, which concentrates industrial activities in one area close to the centre of Fairlie such that it will not interfere with the functioning of Fairlie township;
 - (ii) Is consistent with the preferred “corridor growth” option identified in the Mackenzie Spatial Plan for industrial activities to grow away from the Fairlie township along the Geraldine-Fairlie Highway (SH79);⁵ and
 - (iii) Enables Fairlie to be an industrial hub closer to the main connections of Timaru and Christchurch that service Tekapo/Takapō and Twizel, and as a result, ensures the protection of Tekapo/Takapō as a significant tourist location with outstanding and/or significant values.
- (d) Land currently zoned General Industrial Zone along the Geraldine-Fairlie Highway at Fairlie can be developed once reticulated services are available on the eastern side of the Ōpihi River or through on-site servicing.
- (e) Transportation infrastructure requirements for the Site can be achieved through financial contributions for network upgrades or developer funded network upgrades, and access points from the Site onto the Geraldine-Fairlie Highway (State Highway 79) can be designed to address any concerns of the relevant road controlling authority (e.g., access via Clayton Road).
- (f) Two Sites and Areas of Significance to Māori (**SASM**)⁶ fall outside of the boundary of the Site. Any effects of the future development

⁵ Mackenzie Spatial Plan, dated September 2021, at page 22.

⁶ SASM3 – Te-Kopi-o-Ōpihi Trail, and SASM40 – Ōpihi River.

of the Site on the SASM would be addressed through district and regional consenting processes.

- (g) The Site is a heavily modified farming block and is not considered to be of high biodiversity value, excluding the boundary with the Ōpihi River and flood protection vegetation located along the river side of the Site. The Appellant wishes to exclude these areas of high biodiversity value from the Proposed Rezoning.
- (h) This Appeal will provide an opportunity to identify and manage any other areas that meet the Canterbury Regional Policy Statement's ecological significance criteria.
- (i) Appropriate standards can be developed to control three waters servicing, power and telecommunications, and address any issues concerning natural hazards, transport, landscape, and amenity.
- (j) The Proposed Rezoning is generally consistent with the objectives, policies and strategic direction in the Mackenzie District Plan, including (but not limited to):
 - (i) Strategic objectives MW-O1: Mana Whenua Values, and MW-O2: Mana Whenua Involvement;
 - (ii) Strategic objective NE-O1: Natural Environment;
 - (iii) Strategic objectives UFD-O1: Urban Form and Development;
 - (iv) General Industrial Zone objectives GIZ-O1: Zone Purpose, and GIZ-O2: Zone Character and Amenity Values;
 - (v) General Industrial Zone policies GIZ-P1: Industrial Activities, GIZ-P2: Other Activities, and GIZ-P3: Adverse Effects.
- (k) The Proposed Rezoning is generally consistent with the objectives, policies and strategic direction in the Canterbury Regional Policy Statement 2013, including (but not limited to):
 - (i) Objectives:

(1) 5.2.1: Location, Design and Function of Development (Entire Region); and

(2) 5.2.2: Integration of land-use and regionally significant infrastructure (Wider Region);

(ii) Policies:

(1) 5.3.1: Regional growth (Wider Region);

(2) 5.3.2: Development conditions (Wider Region);

(3) 5.3.5: Servicing development for potable water, and sewage and stormwater disposal (Wider Region);

(4) 5.3.6: Sewage, stormwater and potable water infrastructure (Wider Region);

(5) 5.3.7: Strategic land transport network and arterial roads (Entire Region);

(6) 5.3.8: Land use and transport integration (Wider Region);

(7) 5.3.9: Regionally significant infrastructure (Wider Region); and

(8) 5.3.10: Telecommunication infrastructure (Wider Region).

9 Overall, the Decision fails to consider that the Proposed Rezoning intends to provide for General Industrial Zoning which would be consistent with the objectives in the Mackenzie District Plan (as amended by PC21) and other higher order planning documents such as the Canterbury Regional Policy Statement 2013.

RELIEF SOUGHT

10 The Appellant seeks the following relief:

(a) That the Site be rezoned from General Rural to General Industrial;

- (b) Consequential amendments to the Mackenzie District Plan provisions (objectives, policies, rules and standards) and planning maps to reflect rezoning of the Site to General Industrial Zone;
- (c) Such further or alternate relief, or ancillary changes, that resolve the concerns set out in this Notice of Appeal; and
- (d) Costs.

ATTACHMENTS

- 11 The following documents are attached to this notice:
 - (a) **Annexure A:** Preliminary Survey Plan of the Site.
 - (b) **Annexure B:** The Appellant's original submission on PC23.
 - (c) **Annexure C:** A copy of the Decision – Plan Changes 23 – 27 Rezoning Submissions Decision Report dated 31 July 2024.
 - (d) **Annexure D:** A list of names and addresses of persons to be served with a copy of this notice.
- 12 The Appellant agrees to participate in mediation or another alternative dispute resolution mechanism.

Dated 16 September 2024



Georgina Hamilton
Counsel for Morelea Farm Holdings Limited

Address for service of the Appellant:

Gresson Dorman & Co
PO Box 244, Timaru 7940

Telephone: 03 687 8004
Facsimile: 03 684 4584
Solicitors acting: Georgina Hamilton / Lucy O'Brien
Contact Emails: georgina@gressons.co.nz / lucy@gressons.co.nz

Advice to recipients of copy of notice of appeal*How to become party to proceedings*

You may be a party to the appeal if you made a submission or further submission on the matter of this appeal.

To become a party to the appeal, you must –

- Within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court and service copies of your notice on the relevant local authority and the appellant; and
- Within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

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

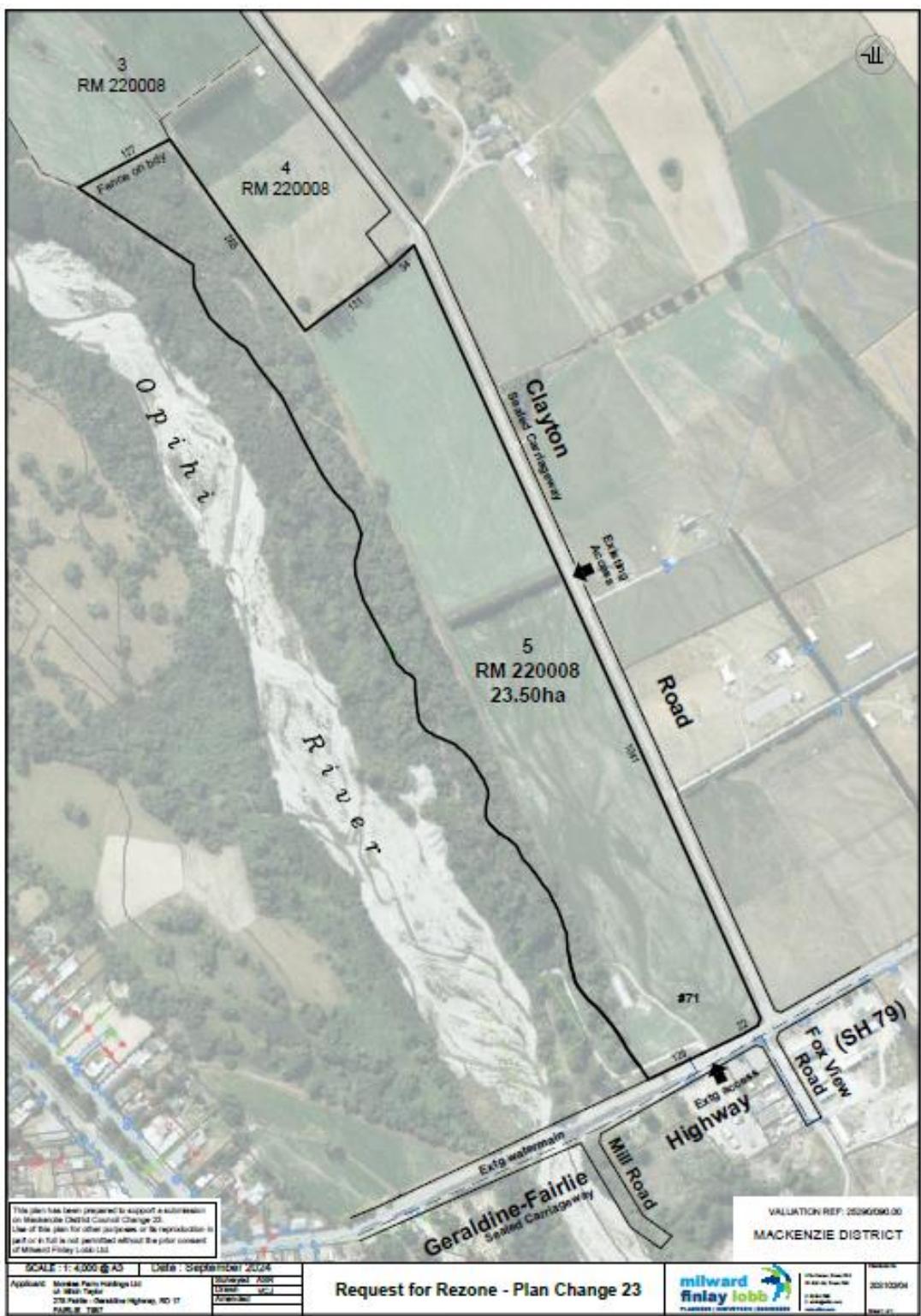
How to obtain copies of documents relating to the appeal

The copy of this notice served on you does not attach a copy of the part of the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

ANNEXURE A: SURVEY PLAN OF SITE



**ANNEXURE B: ORGINAL SUBMISSION OF MORELEA FARM HOLDINGS
LIMITED ON PLAN CHANGE 23 TO THE MACKENZIE DISTRICT PLAN**

From: jetstalk@mackenzie.govt.nz
To: Charmaine.Duffell@rationale.co.nz
Subject: Anonymous User completed Submission Form - Plan Change 23: General Rural Zone, Natural Features and Landscapes, and Natural Character
Date: Friday, 26 January 2024 1:33:08 pm

CAUTION: This email originated from outside Mackenzie District Council. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Submission Form - Plan Change 23: General Rural Zone, Natural Features and Landscapes, and Natural Character with the responses below.

Full Name

Morelea Farm Holdings Limited

Contact person (if different from above)

Melissa McMullan - Milward Finlay Lobb (Agent)

Email address

admin@mflnz.co.nz

Postal Address

PO Box 434, Timaru 7940

Phone number

36847688

Do you believe you could gain an advantage in trade competition through this submission?

No

The specific provisions of the proposal that my submission relates to are as follows:

See attached report

**I support/oppose these provisions:
(include whether you support or oppose in full or in part)**

See attached report

**The reason(s) for my submission are:
(state in summary your reasons, and whether you seek any amendments)**

See attached report

I seek the following decision from the Mackenzie District Council: (give precise details)

It is proposed that Lot 5, approved by subdivision consent with Council reference RM220008, should be rezoned to General Industrial Zone. The land is situated adjacent to the township boundary and existing industrial land. There are considered to be traffic safety benefits in utilising this land as industrial land rather than the new greenfield areas proposed. There are also potential benefits for matters of cultural importance and water quality issues. Further controls can be imposed by conditions that would limit the impact of adverse effects. It is noted that the site currently shares the same level of servicing as existing industrial land on the outskirts of Fairlie. It is considered that as a new area of development it will also be able to be developed in a manner that has best practice in mind.

Do you wish to be heard in support of your submission?

I do

If others make a similar submission would you be prepared to consider presenting a joint case with them at any hearing?

I would

If you have any additional supporting information as part of this submission please attach it here.

https://s3-ap-southeast-2.amazonaws.com/ehq-production-australia/f7b6f5b9e34f6f47c323a3a56f09edc8e1073ee1/original/1706229159/f3ac1b8a27e26b2d6f066e1854fa0ec0_2024_District_Plan_Submission_-_Morelea_Farms.pdf?1706229159

milward finlay lobb



Submission on Mackenzie District Plan Review – Plan Change 23

Client Morelea Farm Holdings Limited

Address 71 Geraldine-Fairlie Highway, Fairlie

File Number 203102/04

Date January 2024



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Submission on the Mackenzie District Plan Change 23

Introduction

1.0 The purpose of this report is to outline the various matters that, in the opinion of the submitter, demonstrate that the land to adjacent to the Opihi River on the Geraldine-Fairlie Highway needs to be included as General Industrial zoned land as part of the Mackenzie District Plan Review.

Spatial Plan Consultation

2.0 As part of the Spatial Plan consultation held during 2021 and 2022 the submitter had discussions with the project team about the potential rezoning of the site. This submission should be considered an extension of that prior consultation.

Site Description

3.0 The site is currently zoned Rural, and is proposed to be rezoned to the General Rural Zone with the Specific Control Area 13 (Eastern Plains) overlay. The site in its entirety is 54.6 hectares. The site has been subject to a subdivision consent application (Council reference RM220008) and the rezoning proposal is centred on Lot 5. An aerial of the subject site is provided below in Figure 1. A copy of the preliminary scheme plan is provided in Figure 2.



Figure 1 – Aerial view of the subject site.

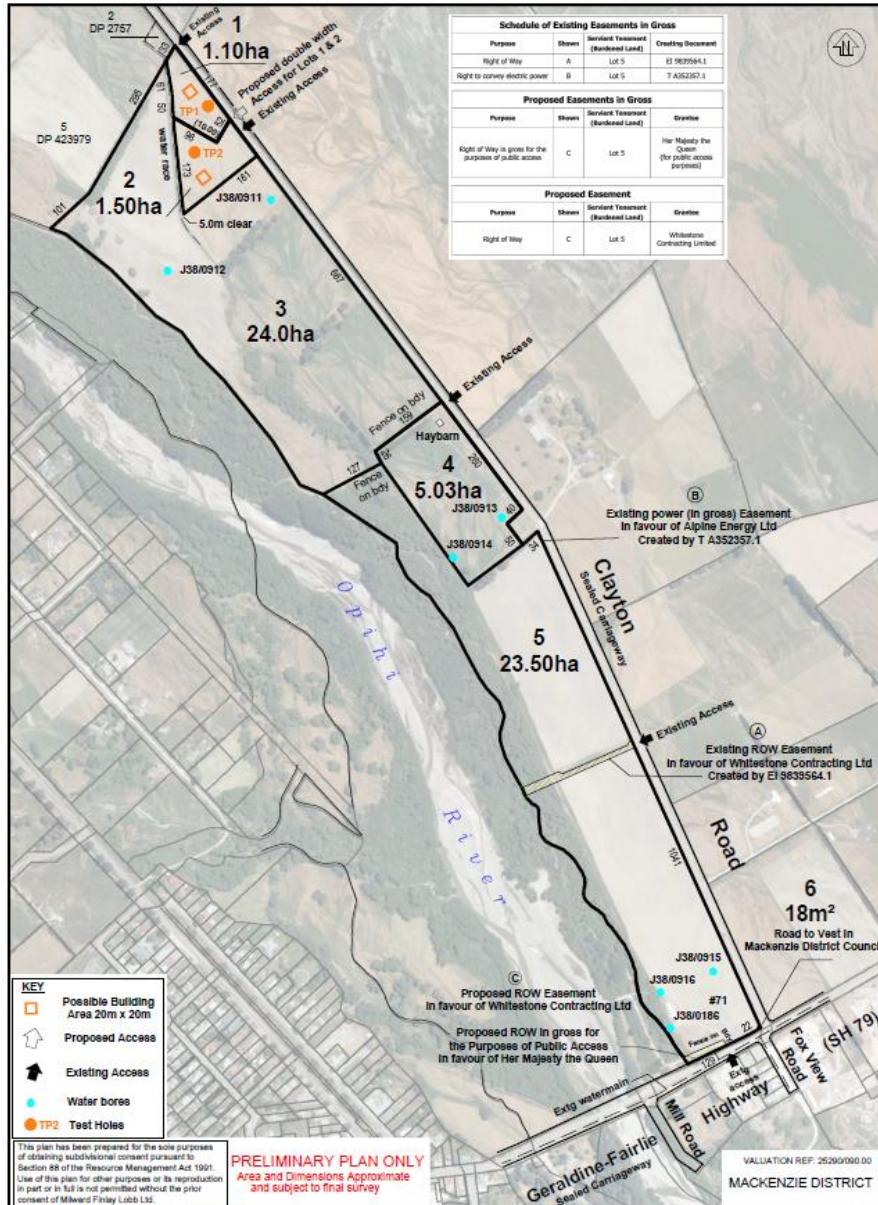


Figure 2 – Preliminary Plan of the subdivision approved by Council, Council reference RM220008.

4.0 The subject property (Lot 1 DP 496845) is the result of an accretion survey in 2016, which also provided for the protection of an existing Alpine Energy Limited electricity line, and a right of way over an existing access utilised by Whitestone Contracting Limited. The site topography is generally flat with slight differences in ground heights, sloping in a south easterly direction.

5.0 The property is rural production land which operates as a mixed farming unit by the submitter, along with further property within the immediate vicinity. The property is vacant land. The Mackenzie Sawmill previously operated on-site, within the area adjacent to the State Highway. The site contains access to the Opihi River Track created by the Fairlie Lions. As a result of discussions held during the



processing of the subdivision application it is noted that the track is to be relocated outside of the property boundaries.

6.0 Lot 5 is situated in close proximity to the Fairlie township and will be fully serviced to the expected level for the area once the works are completed to give effect to the conditions of consent for RM220008. At the time of Fairlie watermain upgrades in 2022 the submitter installed a tee into the watermain that would allow the watermain to be extended up Clayton Road. It is understood that this would be installed at the submitters cost if they wished to use it. It is noted there is currently no piped sewer or stormwater infrastructure available within the locality.

7.0 The site is not considered to be contaminated, nor is the site subject to any natural hazard risk apart from potential flooding. This may have an impact on what can be established on the site, however this will be best dealt with by Environment Canterbury at the time of future development. As the majority of Fairlie and the existing industrial area is covered by the flooding hazard notation it is considered that this should not preclude development as there are a number of different land uses that have been established where this notation applies.

Proposed Zoning

8.0 It is proposed to rezone Lot 5 to the General Industrial Zone. Plan Change 21 rezoned land on the opposite side of Geraldine-Fairlie Highway to General Industrial Zone. It is proposed that the rezoning of Lot 5 is an extension of this. The zoning of the surrounding areas, showing the extent of the General Industrial Zone, is provided below in Figure 3.

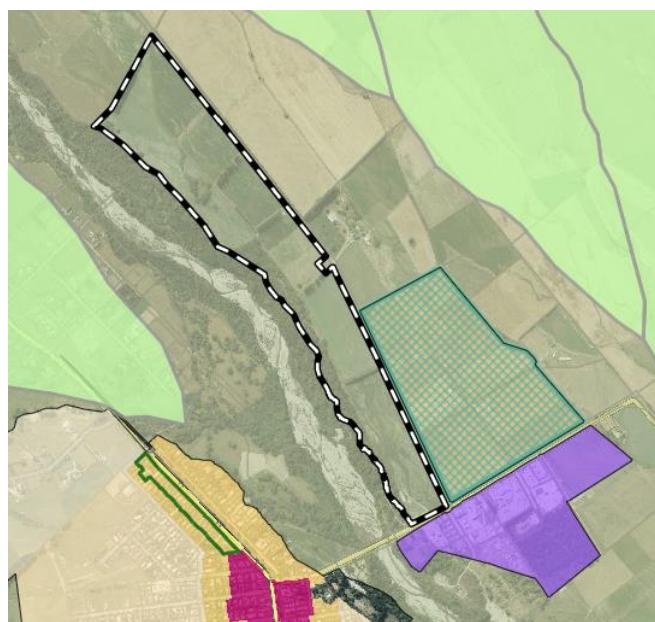


Figure 3 – The proposed zoning for the site is the General Rural Zone, with the Rural Lifestyle Zone proposed on the opposite side of Clayton Road and the existing General Industrial Zone identified in purple.



9.0 It is noted that the additional industrial zoning that was included as a result of Plan Change 21 process was land already used for industrial purposes that was zoned Rural in the past. Therefore, limited new areas of industrial land were opened up as a part of the Plan Change 21 process. It is also noted that the western portion of the General Industrial Land has been developed as a dog park so it will not be able to be developed for Industrial uses.

Proposal within PC23

10.0 At the time of PC21 sites that were to be retained as Rural Zone were precluded from requesting rezoning and submissions that did request this were considered to be out of scope. Land that was rezoned was initiated by Mackenzie District Council. Therefore, this proposal is considered to be relevant to Plan Change 23 which addresses the General Rural Zone.

Effects on the Environment

Traffic Safety

11.0 As part of the process of Plan change 21 Waka Kotahi objected to the proposal, and the proposal was considered to be out of scope of the Plan Change. Discussions were entered into with Waka Kotahi following their objection and it was acknowledged that the development of an Industrial Area would require some potentially significant upgrades to the intersection of Geraldine-Fairlie Road and Clayton Road. A lot of this was contingent on the proposed density of the development and the expected number of road users. Due to the timing of the Plan Change 23-27 provisions being released and resource constraints within Milward Finlay Lobb re-engagement with Waka Kotahi has not been re-instigated. However it is proposed that prior to the hearings more information will be shared between both parties so a better understanding of the proposed development could be understood. At this stage the development of the site will likely be ad hoc and in response to demand. Therefore, upgrades to the road are likely to be staged as the development grows. It is noted that the original discussion with Waka Kotahi noted that they were open to further discussion, the main reason they opposed the application was due to a lack of information about the proposed density and development plan for the site (which was difficult to determine due to the staged nature of the Mackenzie District Plan Review process). Email exchanges with Waka Kotahi on this matter are included as an attachment to this submission.

Cultural

12.0 PC24 has identified the Opihi River as being a Site of Significance to Māori. It is understood that both farming and industrial activity create adverse effects on matters of cultural importance. However, the identified SASM falls outside of the subject site boundary so it is understood that the provisions



proposed under PC24 will not apply to the site. Therefore, no engagement with local runanga has been carried out as part of the preparation of this submission.

Water Quality Concerns

13.0 Industrial activity will see an increase in site coverage and potential contaminants that will need treatment. It is considered that there are systems available that can capture and treat stormwater runoff which lessens the effect of stormwater runoff on neighbouring waterways compared to farming. It is understood that the site will need to be serviced with a reticulated sewer system. This is considered to mitigate adverse effects on groundwater if septic tanks were required.

Landscape and Visual Effects

14.0 It is considered that there is already a significant degree of modification in the surrounding environment with the established industrial area to the south of the Geraldine-Fairlie Road. The proposed area would be an extension of this, and as it is connected to the township (albeit severed by the Opihi River) it allows for easily accessible industrial businesses, without the cumulative traffic safety effects that will arise as a result of development of further sections to the south of State Highway 79.

Any adverse visual effects for users of the Opihi River Track are likely to be mitigated by the track being shifted out of the property boundaries and deeper into the existing vegetation. There is currently no program of work available for that project. Furthermore, there could be landscaping requirements included as part of any rules that would require landscaping to be established alongside boundaries with zoning other than General Industrial Zone.

Ecosystems and Biodiversity

15.0 The site is a heavily modified farming block. The site is not considered to be one of high biodiversity value, apart from the land that is currently planted out along the boundary with the river.

Economic Effects

16.0 The proposed rezoning will allow for more industrial activities to be established within Fairlie which will boost the local economy and allow for small-medium enterprises run to be established. As Fairlie is also a key focal point for companies coming through from Christchurch and Timaru before entering the Mackenzie Basin it has the possibility as being a space that can be used as a staging or office area for these larger companies that will potentially cut down on travel time for staff and clients.



Positive Effects

17.0 As part of the subdivision consent obtained under RM220008 Affected Party Approval was obtained from Waka Kotahi. A condition of this approval required the following Consent Notice to be registered on the Record of Title for Lot 5. This states:

Any dwelling or other noise sensitive location on the site in or partly within 50 metres of the edge of State Highway 79 carriageway must be designed, constructed and maintained to achieve an indoor design noise level of 40 dB L_{Aeq}(24hr) inside all habitable spaces.

This Consent Notice was required as a result of concerns Waka Kotahi have about reverse sensitivity when residential activities are established next to a State Highway. Traffic noise is considered to be a significant cause for concern, particularly when landowners may not have experienced living adjacent to a State Highway in the past. By converting this land to industrial use it will help with reverse sensitivity effects that Waka Kotahi has concerns about in relation to residential development. As the site is adjacent to Lot 4 which is in excess of 5 hectares there is also ample space for a residential dwelling to be established on this site well away from industrial activity to avoid any flow on reverse sensitivity effects from industrial activity.

Statutory Planning Assessment

National Policy Statements

18.0 The following National Policy Statements are currently in operative in New Zealand:

- National Policy Statement for Freshwater Management 2020
- National Policy Statement for Greenhouse Gases from Industrial Process Heat 2023
- National Policy Statement for Highly Productive Land
- National Policy Statement for Indigenous Biodiversity 2023
- National Policy Statement for Renewable Electricity Generation 2011
- National Policy Statement on Electricity Transmission
- National Policy Statement on Urban Development 2020
- New Zealand Coastal Policy Statement

19.0 The National Policy Statement for Freshwater Management 2020 (NPS-FM) is relevant to the proposal. The fundamental concept of the NPS-FM is Te Mana o te Wai and is defined as: *a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.* The purpose of this to place the health of the waterway at the top of the hierarchy of obligations. The Opihi River may be affected by an industrial development. However, as the site will



need to be serviced by reticulated water and sewer networks and stormwater will be treated it is proposed the development may have a more beneficial impact on the heath of the Opihi River rather than a continuation of farming.

Decision sought by the submitter

20.0 It is proposed that Lot 5, approved by subdivision consent with Council reference RM220008, should be rezoned to General Industrial Zone. The land is situated adjacent to the township boundary and existing industrial land. There are considered to be traffic safety benefits in utilising this land as industrial land rather than the new greenfield areas proposed. There are also potential benefits for matters of cultural importance and water quality issues. Further controls can be imposed by conditions that would limit the impact of adverse effects. It is noted that the site currently shares the same level of servicing as existing industrial land on the outskirts of Fairlie. It is considered that as a new area of development it will also be able to be developed in a manner that has best practice in mind.

Prepared by:



Melissa McMullan

LLB BA MPlan

Planner

Reviewed by:



Andrew Rabbidge

BSurv (credit), RPSurv, Assoc NZPI, MS+SNZ, CSNZ

Licensed Cadastral Surveyor

Director, Milward Finlay Lobb Limited

26 January 2024

MFL Admin

From: Livi Whyte <Livi.Whyte@nzta.govt.nz>
Sent: Tuesday, 21 February 2023 11:26 am
To: Melissa McMullan
Subject: RE: MDC - Plan Change 21 & 22 - Further Submissions on behalf of Waka Kotahi

Hi Melissa,

Thanks for your email, I was going to give you a call today based on the recommendation report. We don't have any objections to where this rezoning would be addressed and are happy to continue to engage with yourself and the client as further information is made available.

Happy to discuss.

Kind regards,

Livi Whyte

Planner – Environmental Planning (South)

Poutiaki Taiao | Environmental Planning

Email: Livi.Whyte@nzta.govt.nz

Phone: 03 740 3042

Mobile: 021 229 7348

Waka Kotahi NZ Transport Agency

Christchurch, Level 1, BNZ Centre, 120 Hereford Street

PO Box 1479, Christchurch 8011, New Zealand

[Facebook](#) | [Twitter](#) | [LinkedIn](#)



www.nzta.govt.nz

From: Melissa McMullan <melissa@mflnz.co.nz>

Sent: Tuesday, 21 February 2023 10:42 am

To: Livi Whyte <Livi.Whyte@nzta.govt.nz>

Subject: RE: MDC - Plan Change 21 & 22 - Further Submissions on behalf of Waka Kotahi

CAUTION: The sender of this email is from outside Waka Kotahi. Do not click links, attachments, or reply unless you recognise the sender's email address and know the content is safe.

Hi Livi,

I'm hoping to catch up with my client today on this one. As you've addressed below, there is some difficulty as we do not know what those wider rules around subdivision, industrial and transport look like at this stage. I was hoping to suggest to the hearings panel that this could be addressed as part of Stage 5 of the District Plan Review where they are looking at all the remaining provisions. Would you be open to that as an idea?

Kind Regards,

Melissa McMullan | Planner

www.mflnz.co.nz | m: 027 277 7230 | p: (03) 684 7688 | e: melissa@mflnz.co.nz

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From: Livi Whyte <Livi.Whyte@nzta.govt.nz>

Sent: Wednesday, February 15, 2023 4:51 PM

To: Melissa McMullan <melissa@mflnz.co.nz>

Subject: RE: MDC - Plan Change 21 & 22 - Further Submissions on behalf of Waka Kotahi

Hi Melissa,

Thank you for your time on the phone yesterday. As we discussed the Safety and Network Teams are not against the idea of the proposed land being rezoned to Industrial, however they are not in a position to confirm what upgrades would be necessary at which time without a better idea of the potential traffic generation from the site. The key comments they made are as follows:

- What would the minimum site density be within the industrial land? I appreciate this may still be undetermined based on the rolling review and the subdivision chapter still not being issued.
- There is currently a farm access to the highway, this appears to be the primary access to this property which also shares access to the river as part of a semi formed track. To service industrial traffic movement it would likely require some significant upgrade of both highway and council road depending on proposal.
- Traffic would be a significant consideration and turning/manoeuvring and speed – we would be interested in the proposed type of industrial activity and traffic movements, traffic type, parking, pedestrian movements, walkways etc.
- The Network Manager has also indicated that an industrial activity cannot be undertaken in the existing location and would likely require upgrades on the highway (and potentially local roads) given the interactions on the highway corner has the potential to be high profile.
- Safety & Network have both advised that any upgrades would need to be designed to appropriately accommodate the movements and the cross road Clayton and Fox View Road intersection.
- The proposed solution to the intersection would be informed by traffic modelling and anticipated traffic generation in this location. It is likely that a flush median or two right turn bays may be required (to Clayton Road and Fox View Road) and likely a Diagram E access to Clayton Road (or Council's requirements).
- The Network Manager would also like to better understand the stormwater runoff and servicing, as well as lighting, signage etc. to the industrial area.

While Waka Kotahi are appreciative of you seeking our input for solutions to the proposed rezoning of the land to General Industrial, based on requiring further information we are unable to identify the appropriate thresholds that could be developed in a rule framework at this time for upgrades to the intersection with State Highway 79.

Happy to discuss further.

Kind regards,

Livi Whyte

Planner – Environmental Planning (South)

Poutiaki Taiao | Environmental Planning

Email: Livi.Whyte@nzta.govt.nz

Phone: 03 740 3042

Mobile: 021 229 7348

Waka Kotahi NZ Transport Agency

Christchurch, Level 1, BNZ Centre, 120 Hereford Street

PO Box 1479, Christchurch 8011, New Zealand

[Facebook](#) | [Twitter](#) | [LinkedIn](#)



www.nzta.govt.nz

From: Melissa McMullan <melissa@mflnz.co.nz>

Sent: Tuesday, 14 February 2023 4:15 pm

To: Livi Whyte <Livi.Whyte@nzta.govt.nz>

Subject: RE: MDC - Plan Change 21 & 22 - Further Submissions on behalf of Waka Kotahi

CAUTION: The sender of this email is from outside Waka Kotahi. Do not click links, attachments, or reply unless you recognise the sender's email address and know the content is safe.

Hi Livi,

Hope all is well – any updates from your end on this one? I'm aware we have a tight turnaround prior to the MDC hearings and if I need to arrange some expert comment I will need some time to get reports commissioned etc.

Kind Regards,

Melissa McMullan | Planner



www.mflnz.co.nz | m: 027 277 7230 | p: (03) 684 7688 | e: melissa@mflnz.co.nz

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From: Livi Whyte <Livi.Whyte@nzta.govt.nz>

Sent: Thursday, February 2, 2023 5:06 PM

To: Melissa McMullan <melissa@mflnz.co.nz>

Subject: RE: MDC - Plan Change 21 & 22 - Further Submissions on behalf of Waka Kotahi

Hi Melissa,

I am away on leave from this afternoon but back on Tuesday. Happy to have a meeting then, I am free until 1:30pm so happy to chat before then.

Thanks,

Livi Whyte

Planner – Environmental Planning (South)

Poutiaki Taiao | Environmental Planning

Email: Livi.Whyte@nzta.govt.nz

Phone: 03 740 3042

Mobile: 021 229 7348

Waka Kotahi NZ Transport Agency

Christchurch, Level 1, BNZ Centre, 120 Hereford Street

PO Box 1479, Christchurch 8011, New Zealand

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From: Melissa McMullan <melissa@mflnz.co.nz>

Sent: Thursday, 2 February 2023 4:35 pm

To: Livi Whyte <Livi.Whyte@nzta.govt.nz>

Subject: RE: MDC - Plan Change 21 & 22 - Further Submissions on behalf of Waka Kotahi

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Hi Livi,

Would love to have a chat with you about the Morelea Farms submission at some point. I've just left a message on your phone but thought it might be easier if we lock in a meeting time? Happy for it to be over the phone, zoom or teams, but at the rate I'm currently going missing phone calls it might be safer if I have a set time in my calendar.

Let me know your thoughts.

Kind Regards,

Melissa McMullan | Planner



www.mflnz.co.nz | m: 027 277 7230 | p: (03) 684 7688 | e: melissa@mflnz.co.nz

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From: Livi Whyte <Livi.Whyte@nzta.govt.nz>

Sent: Monday, 16 January 2023 3:20 PM

To: kevin@bligh.co.nz; Kate.Graham@beca.com; [Melissa McMullan <melissa@mflnz.co.nz>](mailto:melissa@mflnz.co.nz); georgina@gressons.co.nz; kim.banks@ppgroup.co.nz

Subject: MDC - Plan Change 21 & 22 - Further Submissions on behalf of Waka Kotahi

Good afternoon,

Please find attached further submission from Waka Kotahi NZ Transport Agency on Plan Change 21 and Plan Change 22 to the Mackenzie District Plan.

Kind regards,

Livi Whyte

Planner – Environmental Planning (South)

Poutiaki Taiao | Environmental Planning

Email: Livi.Whyte@nzta.govt.nz

Phone: 03 740 3042

Mobile: 021 229 7348

Waka Kotahi NZ Transport Agency

Christchurch, Level 1, BNZ Centre, 120 Hereford Street

PO Box 1479, Christchurch 8011, New Zealand

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**ANNEXURE C: PLAN CHANGES 23 – 27 REZONING SUBMISSIONS
DECISION REPORT DATED 31 JULY 2024**



Mackenzie
DISTRICT PLAN REVIEW
TOMORROW'S MACKENZIE
KA AWATEA HŌU

Plan Changes 23 - 27

Rezoning Submissions

Decision Report

31 July 2024

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Appendix 1: Appearances and Tabled Evidence

List of submitters addressed in this report:

Submitter Ref	Further Submitter	Submitter Name	Abbreviation
23		Helen Johnson and Philip McCabe	Johnson and McCabe
31		Morelea Farm Holdings Limited	Morelea Farm
33		Mackenzie Properties Limited	MPL
	FS03	NZ Transport Agency Waka Kotahi	NZTA

Abbreviations used in this report:

Abbreviation	Full Text
CRC	Canterbury Regional Council
CRPS	Canterbury Regional Policy Statement
District	Mackenzie District
District Plan	Mackenzie District Plan
GRUZ	General Rural Zone
ITA	Integrated Transport Assessment
LUC	Land Use Capability
MDC	Mackenzie District Council
NC	Non-complying activity
NPSHPL	National Policy Statement Highly Productive Land
NPSIB	National Policy Statement Indigenous Biodiversity
NPSUD	National Policy Statement on Urban Development May 2020
ONL	Outstanding Natural Landscape
PC23	Plan Change 23 - General Rural Zone, Natural Features and Landscapes, Natural Character
PC25	Plan Change 25 - Rural Lifestyle Zone
RMA	Resource Management Act 1991
Spatial Plan	Mackenzie Spatial Plans, September 2021
SH8	State Highway 8
SH79	State Highway 79
SCA10	Specific Control Area 10 (Clayton Road)
SCA13	Specific Control Area 13 (Eastern Plains)

1. Purpose of Report

1. Pursuant to section 43(1) of the Resource Management Act 1991 (RMA), the MDC has appointed a combined Hearings Panel of four independent commissioners¹ to hear and decide the submissions² on Plan Changes 23 – 27 that sought the rezoning of land.
2. This Decision Report sets out the Hearings Panel's decisions on the rezoning submissions.
3. The initial Section 42A Report and the end of hearing Section 42A Report (Reply Report) for the rezoning submissions are:
 - Section 42A Report: Plan Changes 23 –27, Report on rezoning submissions and further submissions, Author: Lisa Thorne, Date: 3 May 2024
 - Section 42A Report: Plan Changes 23 –27, Rezoning submissions and further submissions, Reply Report, Author: Lisa Thorne, Date: 14 June 2024

4. We note that Ms Thorne's Reply Report only addressed the rezoning submission of Mackenzie Properties Limited. She did not wish to alter her initial recommendations and reasoning for the Johnson and McCabe and Morelea Farm Holdings Limited rezoning submissions.

2. Hearing and Submitters Heard

5. This Decision Report addresses three original submissions and one further submission on PC23. Further submissions are generally not discussed in this Decision Report, because they are either accepted or rejected in conformance with our decisions on the primary submissions to which they relate.
6. The Hearing for the following rezoning submissions³ was held on Tuesday 28 May 2024 in Fairlie:

Submitter Ref	Submitter Name
23	Helen Johnson and Philip McCabe
31	Morelea Farm Holdings Limited
33	Mackenzie Properties Limited

7. The people we heard from are listed in Appendix 1.
8. Copies of any legal submissions or evidence (either precirculated or tabled at the Hearing) are held by the MDC. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Decision Report. We record that we considered all submissions and further submissions, regardless of whether the submitter or further submitter appeared at the Hearing and whether or not they were represented by counsel or expert witnesses.
9. We received opening legal submissions from MDC's legal counsel Michael Garbett who outlined the statutory framework for our decision-making assessment; the nature of each submission and the key issues arising; and the evidence lodged (or the lack of it in some cases).

3. Our Approach

10. The MDC is not a local authority that has an "urban environment" as defined⁴ in the NPSUD. However, we consider that it is relevant for us to firstly consider whether or not the land sought to be rezoned is necessary to meet a development capacity shortfall for that type of zoned land over the ten-year life of the District Plan, which equates to the "medium term" as defined in the NPSUD.
11. If there was a development capacity shortfall, we would then consider whether or not the site can be serviced, if it is subject to natural hazards and how any potential adverse effects of the rezoning might be avoided or mitigated. For completeness, we also briefly address those matters where there is no development capacity shortfall.

¹ Andrew Willis, Raewyn Solomon, Rob van Voorthuysen and Ros Day-Cleavin.

² Along with any Further Submissions on those primary submissions.

³ A separate Decision Report addresses the rezoning submissions of Road Metals Company Limited.

⁴ The MDC townships of Tākaro, Fairlie and Twizel are predominantly urban in character, they are not part of a housing and labour market of at least 10,000 people.

12. We undertook a site visit of all three rezoning sites on Wednesday 29 May 2024.

3.1 Statutory Framework

13. We adopt the statutory framework assessment set out in Mr Garbett's submissions⁵ and section 6 of the Section 42A Report.

3.2 Late Evidence

14. Our Minute 1 required the rezoning submitters to provide evidence in support of their requests that met the requirements of clauses (1), (2) and (3) of s32 of the RMA. That evidence was to be provided no later than Tuesday 9 April 2024.

15. Late submitter evidence⁶ was provided by Johnson and McCabe⁷ on 17 April 2024. On 10 May 2024 Johnson and McCabe sought leave to table further late evidence⁸ and by way of Minute 15 we reluctantly agreed to that request.

3.3 Section 32AA Assessments

16. We have adopted Ms Thorne's assessments and recommendations. We also provide our own assessments of the rezoning requests. However, because we have not made any changes to the notified Plan Changes or the District Plan provisions, we do not need to undertake any s32AA assessments⁹.

4. Johnson and McCabe

4.1 Assessment

17. Ms Thorne recommended that the submission of Johnson and McCabe be rejected.¹⁰

18. The submission sought to rezone around 14.5ha of land of land at 34 Albury Fairlie Road (SH8) from GRUZ (SCA 13¹¹) to Large Lot Residential (LLRZ) with a specific control area similar to Specific Control Area 2¹². The area sought to be rezoned is shown in Figure 1 of Ms Thorne's Section 42A Report.

19. Originally, the submitter sought the ability for the density to increase to one dwelling per 0.2 hectares once servicing was provided and NZTA requirements were met for access to the site from SH8. At the Hearing the submitter's planner (Melissa McMullan) advised that a density increase to one dwelling per 0.2 hectares was no longer sought.

20. The Spatial Plan for Fairlie identified the anticipated future demand for residential development capacity in Fairlie and it resulted in new areas of LLRZ and Low-Density Residential (LRZ) land south and west of Fairlie being zoned through PC21. The northern 15 hectares of the Johnson and McCabe property situated to the west of the Fairlie Showgrounds was zoned as LRZ as part of the PC21 process. That 15-hectare area remains undeveloped.

21. We understand from Ms Johnson and Ms McMullan's evidence to us that the submitter's primary reason for seeking a LLRZ rezoning is to enable roading access to the 15-hectare LRZ site, both in terms of physical access and as means of financing that access. However, that is not an overly relevant consideration for us as it is not our role here to enable access to land that resides outside the Site where rezoning is requested. We also note, based on our site visit, that physical access appears to be available to the 15-hectare LRZ site across Johnson and McCabe's remaining GRUZ land to the south.

⁵ Legal Submissions on behalf of Mackenzie District Council – Rezoning Submissions, Michael Garbett, 17 May 2024. Paragraphs 4 to 8.

⁶ A CRC Flood Hazard Report.

⁷ By their planner Melissa McMullan.

⁸ Updated Flood Hazard Report from Environment Canterbury; Transport Assessment from Mr Antoni Facey at Avanzar Consulting Limited; and water and wastewater modelling from Watershed Engineering Limited.

⁹ Section 32AA(1)(a) of the RMA states that a further evaluation is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed. In this case the proposal is the notified Plan Changes.

¹⁰ Section 42A Report, paragraph 72.

¹¹ Under SUB-S1 minimum lot sizes of no less than 20ha are DIS and minimum lot sizes no less than 4ha are NC.

¹² Where Table1: Table SUB-1 provides for a minimum allotment area of 1 hectare.

22. Instead, we find that the areas zoned LLRZ through PC21, as foreshadowed by the Spatial Plan, already provide for 30 years of LLRZ residential development capacity to meet the anticipated growth in demand. Consequently, there is no medium term LLRZ development capacity shortfall.
23. The submission is rejected on that basis.
24. For completeness we note that technical evidence provided by the submitter relating to wastewater and potable water servicing identified that upgrades would be required to the MDC infrastructure before the site could be serviced. Additionally, NZTA¹³ opposed the provision of access from SH8 to the Site sought to be rezoned and they supported Ms Thorne's recommendation that the submission be rejected.
25. We also note that around 2 hectares of the site is classified as highly productive land (LUC3). Rezoning that land to LLRZ would be contrary to Objective 2.1 and Policy 5 of the NPSHPL, although at the Hearing Ms McMullan advised that the rezoning of that portion of the site could be omitted.
26. In addition to the matters outlined above, we also concur with Mr Garbett's legal submissions and Ms Thorne's advice that:
 - the development of the Site as LLRZ would not achieve strategic Objective UFD-O1 for a number of reasons, including in particular not creating consolidated or integrated growth and development, or connectivity with the Fairlie urban area;
 - no ITA was provided that assessed the feasibility of access to SH8 which has a posted 100kmph speed limit. Ms McMullan's evidence was that access from SH8 to the Site would be facilitated by a reduction of the speed limit to 80kmph but there is no indication that NZTA is contemplating that;
 - we also note that it was apparent from our site visit that providing access to the Site from SH8 would be problematic given the avenue of Peace Trees that line the highway adjacent to the Site. Providing a NZTA compliant accessway would in all likelihood require the removal of one or more of those valued trees. That matter was not addressed by the submitters;
 - rezoning the site to LLRZ would result in the establishment of residential units up to 10m from the SH8 boundary as the 50m setback in GRUZ-Table 1 would not apply, resulting in potential amenity issues for any future residents and reverse sensitivity issues for NZTA;
 - the expert opinion of MDC's landscape and visual effects expert Yvonne Pflüger was that the level of domestication enabled by the rezoning would permanently alter the landscape amenity and character of this area. Retaining the GRUZ zoning would more appropriately achieve the character and amenity outlined in GRUZ-O2; and
 - that in overall terms the existing GRUZ zoning was a better fit with the District Plan strategic directions and was the preferred zoning for the Site.
27. Consequently, even if there was a medium term (3 to 10 year) LLRZ development capacity shortfall in Fairlie, the above issues would result in us rejecting the submission.

4.2 Decision

28. The submission of Johnson and McCabe to rezone around 14.5ha of land at 34 Albury Fairlie Road (State Highway 8) from GRUZ (SCA13) to Large Lot Residential (LLRZ), with a specific control area similar to Specific Control Area 2, is rejected and the GRUZ as notified is retained on the Site.

5. Morelea Farm

5.1 Assessment

29. Ms Thorne recommended that the submission of Morelea Farm be rejected.¹⁴
30. The submission sought to rezone around 23.5ha of land at the corner of Geraldine-Fairlie Highway and Clayton Road from GRUZ (SCA13) to GIZ. The area sought to be rezoned is shown in Figure 3 of Ms Thorne's Section 42A Report.

¹³ NZ Transport Agency Waka Kotahi Reference: 2023-1598, letter to MDC dated 15 May 2024 authored by Nick Reuther under delegated authority from NZTA.

¹⁴ Section 42A Report, paragraph 96.

31. The Spatial Plan for Fairlie provided for the growth for industrial activities away from the town along the southern side of Geraldine-Fairlie Highway (SH79) within the existing GIZ land.

32. At the Hearing, the submitter (Mitch Taylor) said that he had been informed “*by word of mouth*” and from “*a real estate agent*” that there was demand for industrial activities on the Site in question. We have not assigned much if any weight to that hearsay evidence.

33. MDC’s economic expert Benjamin Patterson assessed¹⁵ the existing GIZ development capacity in Fairlie. His assessment concluded¹⁶:

It is not until between 2045 and 2050 that industrial land demand growth across Mackenzie District is projected to exceed the area of land that is still available for further development under current industrial zonings.

The existing expanse of undeveloped general industrial zoned land in Fairlie is much more than is needed to meet projected industrial land demand in Fairlie and in the surrounding Opua over the 30 years to 2050. There is still approximately 14.4 hectares of undeveloped general industrial land in Fairlie, while projected growth in industrial land demand in Fairlie is only anticipated to be 0.9 hectares and demand growth in the surrounding Opua area is projected at 2.6 hectares.

34. There is therefore no GIZ development capacity shortfall in the wider Mackenzie District and in Fairlie in particular.

35. The submission is rejected on that basis.

36. For completeness we note that no technical evidence was provided by the submitter relating to three waters servicing, power and telecommunications; natural hazards; transport; landscape, rural character and natural character.

37. NZTA¹⁷ opposed the submission. They agreed with Ms Thorne’s recommendation to reject the rezoning request. NZTA advised that rezoning of the site should only occur following the provision and review of an ITA and further evaluation of intersection upgrades (Clayton Rd) and access for one lot to be directly to SH79.

38. We also concur with Ms Thorne’s advice that:

- wastewater and sufficient water services are approximately 2km from the proposed Site and will require design, modelling and construction at the developers’ cost;
- the expert opinion of MDC’s landscape and visual effects expert Yvonne Pflüger was that the Site was not contiguous with the existing industrial activities on the other side of SH79 and so it would be severed from that existing industrial land. The Site also directly adjoins a large block of Rural Lifestyle Zone (SCA10) land to the east which could result in future reverse sensitivity issues. Zoning the Site GIZ would also lead to adverse landscape and natural character effects; and
- the expert opinion of MDC’s ecology and biodiversity expert Dr Morris was that approximately 7.2 hectares of the 23.5-hectare site on the true left bank of the Ōpihi River comprised riparian exotic forest that very likely met CRPS ecological significance criteria, meaning that under CRPS Policy 9.3.1.3 the riparian forest area must be protected to ensure no net loss of biodiversity values as a result of land use activities. We note Mr Taylor tabled a report from Irricon relating to the renewal of a farming landuse consent for the site. The Irricon report stated that “*the buffer of vegetation between the farmland and the Ōpihi River holds the status of ‘Land of National Significance’. The vegetation is important and will not be removed ...*”. That report supports Dr Morris’s opinion. We note that at the Hearing Mr Taylor offered to exclude the riparian area from the requested GIZ zoning if necessary

39. Consequently, even if there was a medium term (3 to 10 year) GIZ development capacity shortfall in Fairlie, the above issues would result in us rejecting the submission.

¹⁵ Append 4 titled Economic review of Morelea Farm Holdings Ltd submission to proposed plan change 23 to the Mackenzie District Plan, 15 April 2024.

¹⁶ Ibid, paragraph 13.

¹⁷ NZ Transport Agency Waka Kotahi Reference: 2023-1598, letter to MDC dated 15 May 2024 authored by Nick Reuther under delegated authority from NZTA.

5.2 Decision

40. The submission from Morelea Farm seeking to rezone around 23.5ha of land at the corner of Geraldine-Fairlie Highway (SH79) and Clayton Road from GRUZ (SCA13) to GIZ is rejected.

6. Mackenzie Properties

6.1 Assessment

41. Ms Thorne recommended that the submission Mackenzie Properties Limited (MPL) be rejected.¹⁸

42. The submission sought to rezone approximately 120ha of land at the western end of The Drive, Twizel, from GRUZ to Rural Lifestyle Zone (RLZ) with a minimum allotment area of 4 hectares and to remove the 'Mackenzie Basin ONL' from that land. Ms Thorne advised that the Site is not actually an ONL¹⁹ in the Operative District Plan and PC23 did not change that.

43. The area sought to be rezoned is shown in Figure 1²⁰ above which was provided by Ms Thorne as part of her answers to the questions that we posed in Minute 13.

44. The Spatial Plan for Twizel envisaged the Site remain as GRUZ, as did PC25.

45. As can be seen from the above Figure 1, the Site is bordered to the north-east by a 197-hectare block of RLZ land. To the south-east is a 57-hectare block of land that is zoned RLZ and SCA11 which provides for 1-hectare allotments if connected to reticulated services, otherwise 4 hectares. Both of those blocks are owned by MPL and are currently undeveloped. The site is bordered to the north by land zoned GRUZ.

46. In his pre-circulated Rebuttal evidence²¹ Andrew Hocken (Director of MPL) stated:

The large [197ha] block of land currently zoned Rural Lifestyle Zone (previously Rural Residential 2 Zone) to the west of Twizel, with a density of 4 hectares, is in our view, an inefficient use of the underlying resource and we would never develop this land to a 4-hectare minimum²².

The land we own which is currently zoned to a 4-hectare density will never be developed by Mackenzie Properties to that size. We feel it is an inappropriate use of the land²³.

47. At the Hearing Mr Hocken verbally reiterated that MPL "would never develop" the 197-hectare block to a 4-hectare minimum lot size as enabled by the RLZ zoning (introduced via PC25), as he considered that to be an inefficient use of the underlying resource. He also advised verbally that MPL "would never develop" the 57-hectare site because he envisaged that area being developed into "a future town".

48. MPL provided a suite of expert evidence²⁴ in support of their rezoning request. MDC had that evidence peer reviewed²⁵. Consequently, unlike the Johnson and McCabe and Morelea Farm submissions, in this case we have sufficient technical evidence upon which to assess the rezoning request.

49. Prior to the Hearing we received no evidence regarding the sufficiency of RLZ development capacity in Twizel. Consequently, we asked MDC about that in our Minute 13. In her response Ms Thorne advised that there was currently approximately 465 hectares of undeveloped RLZ land in Twizel, excluding the Ōhau River Precinct No Build Area illustrated in Figure 1 above.

50. Consequently, we find that there is no RLZ development capacity shortfall in Twizel.

51. We make that finding despite Mr Hocken's assertion that much of the currently RLZ zoned land will "never be developed" because over the life of the District Plan (which equates to the medium term of 10 years) that situation may change.

52. On that basis alone the MPL rezoning submission is rejected.

¹⁸ Section 42A Report, paragraph 212.

¹⁹ The site is identified as a Geopreservation Site and an Area of Visual Vulnerability which is outside the ONL.

²⁰ As corrected in the Reply Report because the figure in Minute 13 incorrectly labelled the Lyford Lane RLZ and Manuka Terrace RLZ Areas as Nixons Road and Clayton Road.

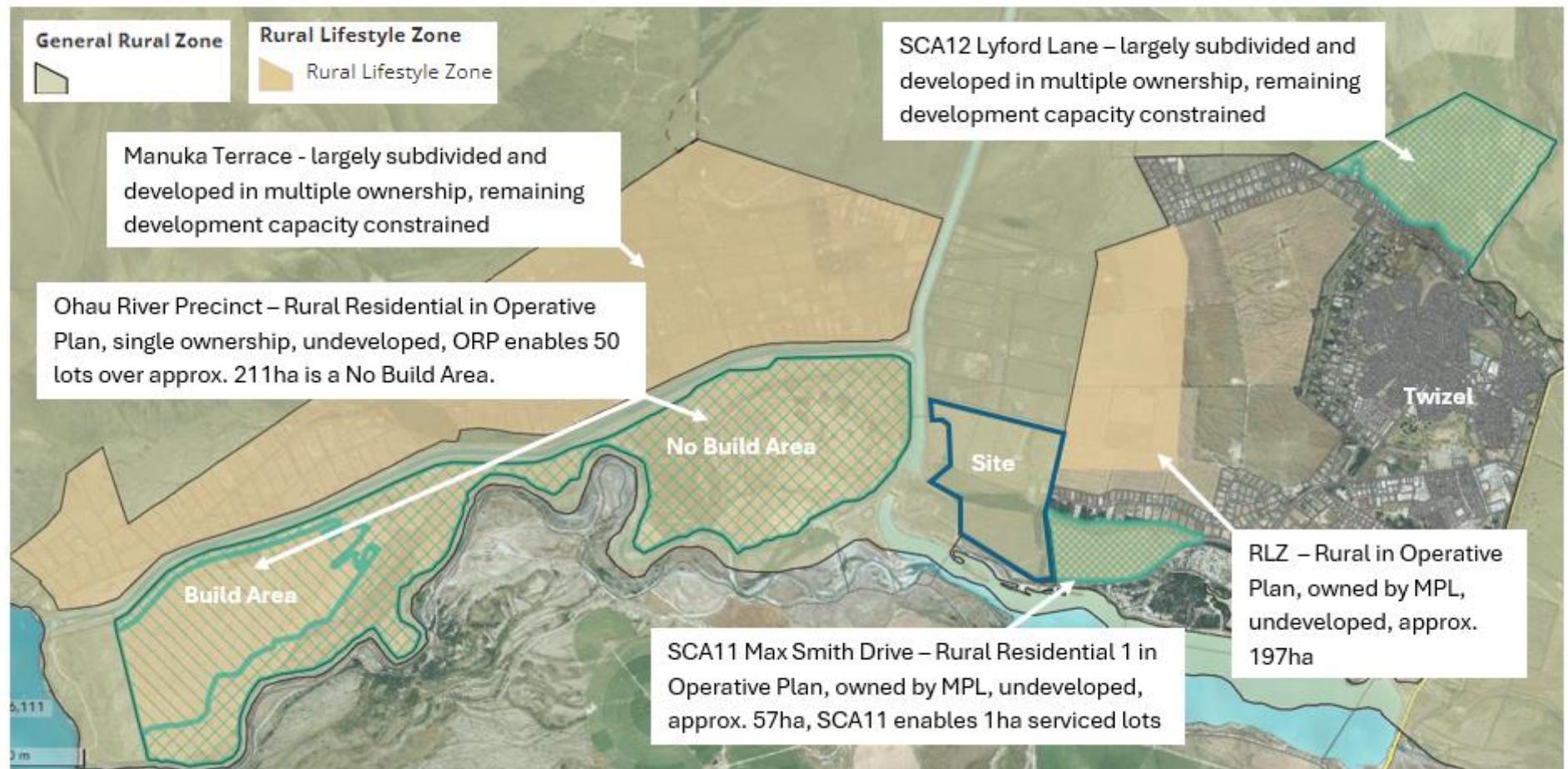
²¹ Statement of Evidence of Andrew Hocken (Mackenzie Properties Limited), Company (Response to Section 42A Report), 15 May 2024

²² Paragraph 7.

²³ Paragraph 16.

²⁴ Andrew Hocken (company), Martina Junca (Three Waters), Antoni Facey (transport), Stephanie Osmers (natural hazards), Glenn Davis (ecology), Paul Smith (landscape) and Andrew Ross (planning).

²⁵ Dr Jaz Nye Morris (ecology), Yvonne Pflueger (landscape and visual effects) and Ashley McLachlan (transport and three waters servicing).

Figure 1: RLZ in Twizel

53. In making that decision, on the basis of Mr Hocken's evidence to the Hearing, we reject Andrew Ross' evidence²⁶ that "If the Site were retained as Rural [namely GRUZ], it would result in it becoming anomaly [sic] in the surrounding environment...". On the contrary, given Mr Hocken's written and verbal evidence to us, we find that rezoning the Site to RLZ would actually create an anomaly as it would be abutted to the north by GRUZ zoned land and to the east by land zoned RLZ that would remain undeveloped farmland. The rezoning sought would also, as advised by Ms Thorne²⁷, proliferate the fragmentation of land that the Plan seeks to avoid.

54. However, for completeness we have also considered the rezoning request on its merits.

55. Having reviewed that evidence we find that there is no 'technical' impediment to the rezoning in terms of:

- ecology, because although there is a very small pocket of uncultivated grassland in the southeast corner of the Site supporting indigenous Resurrection Lichen (*Xanthoparmelia semiviridis* At Risk – Declining) as well as indigenous creeping Pohuehue (*Muehlenbeckia complexa* Not Threatened) which triggers the CRPS and NPSIB ecological significance criteria, any development associated with the rezoning would be able to avoid that small pocket of land entirely;
- transport and three waters servicing, although we acknowledge Mr McLachlan's opinion that the Site would present significant risks to any infrastructure located across the Ostler Fault and that there is a lack of alternative formal access to the wider Site in natural events such as fire²⁸. Mr McLachlan considered the other land already zoned RLZ presented less risk and that land should be developed first; and
- natural hazards arising from liquefaction, slope instability and erosion, and flooding (other than partial inundation in a 1 in 500-year storm event). That of course very much depends on avoiding the risk to residential dwellings posed by the Ostler Fault Rupture Zone (FRZ) mapped by CRC which we discuss next.

6.1.1 *The Ostler Fault*

56. There was no disagreement that residential dwellings should be avoided on the Ostler Fault Rupture Zone (FRZ). The only geotechnical evidence we received was provided by Dr Peter Forrest²⁹ on behalf of MPL. In his speaking notes tabled at the Hearing Dr Forrest stated that by avoiding the location of residential dwellings on the recently mapped FRZ the risks posed by fault rupture had been avoided.

57. Dr Forrest agreed that the construction of the access road network and the conveyance of services across the FRZ put those assets at risk of damage at the time of any significant fault movement, albeit that there were engineering solutions that could minimise the impact of fault movement on that infrastructure, particularly if it was retained in private ownership. Dr Forrest said that conveying power across the FRZ by overhead lines was a more acceptable way of mitigating the risk associated with the severance of in-ground services.

58. For the MDC, Mr McLachlan agreed that retaining the infrastructure in private ownership would avoid transferring the risk to MDC for this infrastructure³⁰.

59. Dr Forrest considered that what remained was the seismic risk associated with ground shaking. He said that risk was both real and present in the wider area of Twizel, but it was specifically managed by the NZ Building Code, the NZ Standards for structural and seismic building design promulgated by MBIE, and Ministry for the Environment guidelines.

60. We accept Dr Forrest's uncontested evidence on these matters.

²⁶ Paragraph 11(b) of his tabled Speaking Notes.

²⁷ Summary of Changes in Response to Rebuttal Evidence – Lisa Thorne, 27 May 2024.

²⁸ In that regard at the Hearing the submitter provided an indication that alternative access could be provided in an emergency from the LLRZ land to the east, from the 197-hectare RLZ block, from the 57-hectare RLZ block, from Max Smith Drive and from the privately owned Pukaki Canal Road.

²⁹ Rebuttal Evidence of Peter Forrest on Behalf of Mackenzie Properties Limited, Geological & Natural Hazards (Response To Section 42A Report), 15 May 2024. Paragraph 3.1, 3.8 and 3.11.

³⁰ Section 42A Reply Report, paragraph 5.

61. Regarding earthquake hazards and the CRPS, Mr Ross contended that a 'No Build Area' reflecting the Ostler FRZ adequately avoided residential dwellings being established in an area of high risk as required by CRPS Objective 11.2.1 which states:

New subdivision, use and development of land which increases the risk of natural hazards to people, property and infrastructure is avoided or, where avoidance is not possible, mitigation measures minimise such risks.

62. Ms Thorne had a different opinion, which we understand to be that upzoning to increase density across a site of which approximately half is within the Ostler Fault Hazard Area would not appropriately achieve the CRPS objectives. However, Ms Thorne's opinion is inconsistent with the only expert geotechnical evidence that we received.

63. On balance, we consider that the risk posed by seismic hazards would not weigh against the rezoning proposal.

6.1.2 Landscape and Visual Amenity

64. We now consider matters regarding landscape and visual amenity.

65. Having reviewed the evidence on landscape and visual amenity we agree with Paul Smith (MPL landscape expert) and Ms Pflüger that it is sensible to assess the proposed rezoning Site in separate components. In his Rebuttal evidence³¹ Mr Smith helpfully included a figure showing the Site divided into five component Areas. We have reproduced that figure below. It includes 'No Build Areas' associated with the Ostler Fault Hazard Area (or FRZ) that was delineated in the report by CRC³² which formed Appendix 6 to Ms Thorne's Section 42A Report.

66. Mr Smith identified a very narrow Area D located to the east of Area C beyond a 'No Build Area'. Area D cannot accommodate any development lots and so we do not discuss it further.

67. The northern terrace area (Areas A and Area B (central)³³ and Area B (western³⁴)) are separated by 'No Build Areas'. Area C is also separated from Areas A and B by a 'No Build Area'.

68. In his speaking notes tabled at the Hearing Mr Smith stressed his assessment was predicated on the Site forming "... the southwest corner of the 1,790ha outwash plain that is anticipated to be substantially modified by the residential and rural living development, that is and will be adjacent the site's northern and eastern boundaries. Therefore, future development within the site will cohesively form part of Twizel".

69. However, Mr Smith advised he was unaware of Mr Hocken's evidence that MPL "would never develop" the RLZ zoned land to the north east and east of the Site. He also conceded that he had "missed off" any assessment of tangata whenua values and interests³⁵. In our view these omissions, particularly Mr Hocken's evidence regarding the adjoining land to the north east and east of the Site, reduces the weight that we can assign to Mr Smith's evidence and we consequently assign greater weight to Ms Pflüger's evidence.

70. Ms Pflüger considered that the escarpments should not be developed and they should remain GRUZ. Mr Smith agreed with that approach, however he recommended a narrower 'No Build Area' between Area B (central) and Area C that only included the tree clad 37m high escarpment. Ms Pflüger concurred with³⁶ Mr Smith on that specific matter.

71. We agree with Ms Pflüger that the southern terrace in the vicinity of Lake Ruataniwha (Area C) is visually more sensitive to change and rezoning it to RLZ would potentially impact on the landscape and recreational values associated with the Lake Ruataniwha Reserve and campground. We find that Area C should be retained as GRUZ.

³¹ Rebuttal Evidence Of Paul Andrew Smith For Mackenzie Properties Ltd, Dated: 15 May 2024. Appendix 1, page 3, Rural Lifestyle Zone Precinct Overlay – No Build Area.

³² Revised Ostler Fault mapping for the Mackenzie District Plan; Report No. R23/46 ISBN 978-1-99-002789-5 (print) 978-1-99-002790-1 (web), Helen Jack, September 2023.

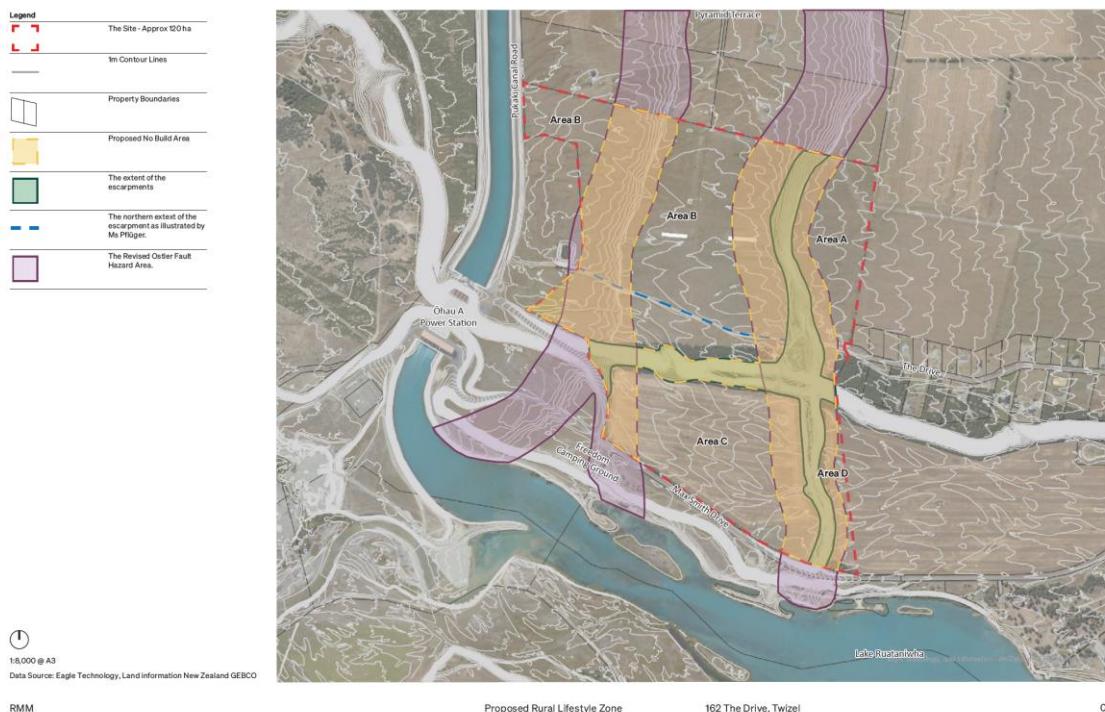
³³ Mr Smith's Figure has two areas labelled 'Area B'. We have referred to these as Area B (central) and Area B (western).

³⁴ This is the 'Area B' that is adjacent to Pukaki Canal Road.

³⁵ Having said that, we observe that Te Runanga Ngai Tahu did not submit on the MPL rezoning request.

³⁶ Memorandum, Response to Rebuttal on PC23 (Re-zoning requests only), 23 May 2024, paragraph 5.

Rural Lifestyle Zone Precinct Overlay - No Build Area

**Mr Smith's Figure**

72. Turning to the two components of the Site that Mr Smith labelled Area B, we note the agreement of Mr Smith and Ms Pflüger that buildings therein would be less visually prominent from nearby viewpoints than buildings in Area C, provided buildings in Area B were set back from the terrace edge along Pukaki Canal. However, we understand Ms Pflüger considered the landscape character effects relating to the domestication and loss of openness of Area B in its entirety³⁷ would be at least 'moderate'³⁸.

73. We observe from the Subdivision Scheme Plan that formed Appendix A of the 9 April 2024 evidence of Andrew Ross that rezoning both components of Area B as RLZ would create a 'finger' of RLZ that could accommodate 12 rural lifestyle dwellings that, given our finding on Area C, would be abutted to the north and south by GRUZ. That would not be in keeping with the existing and anticipated pattern of development for Twizel and would not achieve the intent of the Spatial Plan for Twizel, being the consolidation of residential land within the town, along with well-defined LLRZ and low-density infill.

74. On balance we find that both components of Area B should also remain GRUZ.

75. That left Area A for us to consider. Ms Pflüger considered that rezoning Area A would have low landscape and visual effects given the existing adjacent RLZ zoning. However, Area A is almost entirely covered by the revised Ostler Fault Hazard Area and an associated 'No Build Area'. From the Subdivision Scheme Plan referred to above, it appears that at most two 4 hectare lots might be accommodated in Area A. Those two additional RLZ lots would abut the 197-hectare RLZ block and in theory would not markedly detract from the existing anticipated pattern of development for Twizel. However, Mr Hocken's evidence to us was that the 197-hectare RLZ block will remain undeveloped rural land in the foreseeable future, and because there is no shortfall of RLZ development capacity in Twizel, creating a small two-lot finger of RLZ in Area A would not achieve the objectives of the District Plan in our view.

³⁷ Namely both Area B (central) and Area B (western).

³⁸ 'Moderate' landscape effects equate to 'more than minor' adverse effects in RMA terms according to the Te Tangi a te Manu: Aotearoa New Zealand Landscape Assessment Guidelines, 2022.

6.1.3 Overall Findings

76. On balance, having regard to the issues associated with:

- the absence of a shortfall in development capacity of RLZ zoned land; and
- landscape and visual amenity effects

we find that the MPL submission should be rejected and that retaining the MPL site as GRUZ better meets the objectives of the CRPS and the District Plan.

6.2 Decision

77. The submission of Mackenzie Properties Limited (MPL) to rezone approximately 120 hectares of land at the western end of The Drive, Twizel, from GRUZ to RLZ with a minimum allotment area of 4 hectares is rejected.



Rob van Voorthuysen (Chair)



Raewyn Solomon



Andrew Willis



Ros Day- Cleavin

Appendix 1: Appearances

	Submitter	Name	Role
23	Helen Johnson and Philip McCabe	Melisa McMullan Helen Johnson Philip McCabe	Planner Submitter Submitter
31	Morelea Farm Holdings Limited	Mitch Taylor	Submitter
33	Mackenzie Properties Limited	Andrew Hocken Dr Peter Forrest Paul Smith Andrew Ross	MPL Geotechnical Landscape Planner

Tabled Evidence

	Submitter	Name	Role
FS03	NZTA	Nick Reuther	Planner

ANNEXURE D – LIST OF NAMES AND ADDRESSES OF PERSONS TO BE SERVED WITH A COPY OF THIS NOTICE OF APPEAL

Mackenzie District Council

Attn: Michael Garbett

PO Box 52

Fairlie 7949

By Email: planning@mackenzie.govt.nz / michael.garbett@al.nz

NZ Transport Agency Waka Kotahi

Attn: Nick Reuther

PO Box 1479

Christchurch 8140

By Email: environmental@nzta.govt.nz / nick.reuther@nzta.govt.nz