

21 October 2009

Registrar  
Environment Court  
PO Box 2069  
**CHRISTCHURCH 8140**

Dear Sir/Madam

**FOUNTAIN BLUE LIMITED & ORS V MCKENZIE DISTRICT COUNCIL  
PLAN CHANGE 13**

Please find enclosed by way of filing a Notice of Appeal in respect of this matter together with a cheque in the sum of \$500.00 for filing fee.

The Notice of Appeal is to be served on the persons listed in Annexure 8.3 to the Notice of Appeal.

Yours faithfully  
**CAVELL LEITCH PRINGLE & BOYLE**

Per: 

**AIDAN PREBBLE**  
Partner

*Email: aidan.prebble@cavell.co.nz*  
*Direct Dial: (03) 364 6336*

**IN THE ENVIRONMENT COURT  
CHRISTCHURCH REGISTRY**

**ENV-2009-**

**UNDER** the Resource Management Act 1991

**IN THE MATTER OF** an appeal under clause 14 of the First Schedule  
to the Act

**BETWEEN** **FOUNTAINBLUE LIMITED, SOUTHERN  
SERENITY LIMITED and PUKAKI DOWNS  
TOURISM HOLDINGS PARTNERSHIP**

**Appellants**

**AND** **MACKENZIE DISTRICT COUNCIL**

**Respondent**

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**NOTICE OF APPEAL**

**DATED 21 OCTOBER 2009**

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**AIDAN PREBBLE  
CAVELL LEITCH PRINGLE & BOYLE  
SOLICITORS  
LEVEL 15 CLARENDON TOWER  
PO BOX 799  
CHRISTCHURCH**

**TELEPHONE: (03) 379 9940  
FACSIMILE: (03) 379 2408**

**To:** The Registrar  
Environment Court  
PO Box 2069  
**CHRISTCHURCH**

1. **FOUNTAINBLUE LIMITED, SOUTHERN SERENITY LIMITED and PUKAKI DOWNS TOURISM HOLDINGS PARTNERSHIP** ('Fountainblue') of Twizel appeal a decision of the MacKenzie District Council dated 18 August 2009 on Plan Change 13 ('PC13') to the Mackenzie District Plan.
2. Fountainblue are the owners of Pukaki Downs Station and were a submitter on PC13. The stated intention of PC13 is to protect landscape values in the Mackenzie Basin from inappropriate subdivision, use and development.
3. Fountainblue received notice of the decision on 10 September 2009.
4. The decision was made by independent Commissioners appointed by the Mackenzie District Council.
5. Fountainblue appeal the decision to adopt an amended version of PC13 in its entirety but, in particular, those parts of the decision that either specifically or effectively reject Fountainblue's submissions and relief sought.
6. The reasons for the appeal are as follows:
  - 6.1. That the Commissioners erred in deciding that PC13 should not be abandoned. While it would be wasteful to abandon PC 13 and start again ignoring the information that has been presented as part of the PC13 process thus far, the restrictions PC13 imposes are not appropriate, are not based on a satisfactorily comprehensive assessment of the landscape issues in the Mackenzie Basin and effectively ignore much of the expert evidence presented in any event;
  - 6.2. That the Commissioners erred in not recognising or providing for Fountainblue's existing application for a controlled activity subdivision consent (RM060010, lodged in 2006) in either the same or similar terms to the Manuka Terrace Rural Residential Zone. As a controlled activity the subdivision consent must eventually be granted. The evidence of the impacts of the development, which the Commissioners say should have been provided, form part of the subdivision application;
  - 6.3. That the Commissioners erred in their rejection of an expanded 'existing farm base' (previously an 'identified building node') at Pukaki Downs Station. The farm base proposed by the Commissioners does not represent the extent of existing farm infrastructure and is unduly restrictive, with apparent regard

being had to criteria (such as, existence of sensitive ridgelines and visibility from State Highway 80) that have not been consistently applied to other proposed farm bases under PC13;

- 6.4. Fountainblue says that its proposed existing farm base has not been given equal treatment by the Council. The decision provides for an existing farm base at Pukaki Downs Station of 7.13 ha. In the context of the PC 13 decision:
- (a) The average size of identified existing farm bases is 50 ha;
  - (b) 11 existing farm bases are visible from lakes, 1 being in excess of 200 ha, another 72 ha;
  - (c) Unlike the proposed Pukaki Downs farm base, some identified lakeside farm bases intrude into Lakeside protection zones; and
  - (d) Some farm bases appear to have been enlarged without any submission seeking such an outcome.

Fountainblue does not oppose these amendments but challenges the even-handedness of the Council assessment of its farm base.

- 6.5. That the Commissioners erred in reinstating the Lakeside Protection Zone at Lake Pukaki, which represents an undue restriction on Fountainblue's use of Pukaki Downs Station, especially in light of the failure to provide for existing farm infrastructure that is on the eastern or lake-side of State Highway 80 as part of the existing farm base for Pukaki Downs Station;
- 6.6. That the Commissioners' rejection of Fountainblue's proposed tourism zone (despite some favourable comments) is excessively cautious and restrictive and fails to recognise the opportunity presented to provide guidance for the siting of a tourism zone in an area recognised by the Council's expert Mr Densem (in his report *Landscape Values of the Mackenzie Basin* - February 2007, at pg 58 para 6.14) as having:

“...scope to site new facilities within the landscape without destroying its character or quality. My suggestion is that Council should allow for low level commercial tourist accommodation in the western Pukaki area”;

and,

- 6.7. Overall, PC13 in its current form does not represent the most appropriate means of achieving the aims that the Council has

set. PC13 has made it significantly more difficult and costly to pursue new and innovative ideas to increase tourism in the district, improve the viability of existing operations and the ability of those operations to be sustainably managed. Accordingly PC13 is not the best means of achieving the purpose of the RMA.

7. Fountainblue seeks the following relief:
  - 7.1. That the existing farm base at Pukaki Downs Station in PC13 be amended and extended in accordance with the original submission to better reflect the circumstances that exist on the ground and the scope for further farm development with minimal adverse effects;
  - 7.2. That Fountainblue's existing application for subdivision consent RM060010 be recognised and provided for in PC13 by the creation of a rural residential zone, similar to the Manuka Terrace Rural Residential zone;
  - 7.3. That the reinstated Lakeside Protection Zone at Lake Pukaki be deleted;
  - 7.4. That PC13 be amended to include a suitably sited Tourism zone (or zones) at Pukaki Downs Station;
  - 7.5. Alternatively, if the relief outlined above cannot be accommodated, PC13 be withdrawn to allow for a more thorough landscape investigation to be conducted (taking account of information provided as part of PC13) and a new plan change notified;
  - 7.6. Any further amendments or relief required as a consequence of satisfying Fountainblue's concerns; and
  - 7.7. The costs of and incidental to this appeal.
8. The following documents are attached to this notice:
  - 8.1. A copy of Fountainblue's submission;
  - 8.2. A copy of the Council's decision; and
  - 8.3. A list of names and addresses of persons to be served with a copy of this notice.

**DATED** at Christchurch this 21<sup>st</sup> day of October 2009

  
Counsel for the Appellants

Address for Service of Appellant:

Cavell Leitch Pringle & Boyle  
Level 15, Clarendon Tower  
Cnr Worcester Street & Oxford Terrace  
PO Box 799  
**CHRISTCHURCH**

**Attention: Aidan Prebble**

Telephone: (03) 379 9940  
Facsimile: (03) 379 2408

**Note to appellant**

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of receiving notice of the decision. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

You must serve a copy of this notice on the local authority that made the decision within 30 working days of receiving notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days of lodging it with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, 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).

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

You may be a party to the appeal if you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after this notice was lodged with the Environment Court.

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

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

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

*Advice*

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

**Contact details of Environment Court for lodging documents:**

Documents may be lodged with the Environment Court by lodging them with the Registrar.

The Christchurch address of the Environment Court is:

83 Armagh Street (Cnr Durham Street)  
**CHRISTCHURCH**

Postal address is:

PO Box 2069  
**CHRISTCHURCH**

Telephone and fax numbers are:

Telephone: (03) 962 4170  
Facsimile: (03) 962 4171



**ATTACHMENT 8.3**

**LIST OF NAMES AND ADDRESSES OF PERSONS  
TO BE SERVED WITH A COPY OF THIS NOTICE**

Plan Change 13 - Names and Address of Submitters and Further Submitters

Name	Address1	Address2	Address3	Address4
Mackenzie District Council	C/- Nathan Hole	P O Box 52		FAIRLIE
Phil Rive	68 Mackenzie Drive			TWIZEL
Classic Properties Ltd	Martin Murray	Maryburn Station	Private Bag	FAIRLIE
Andrew Simpson	Balmoral Station	P O Box 91		LAKE TEKAPO
Tasman Downs Station	Ian Hayman	P O Box 17		LAKE TEKAPO
Trustees Est RH Simpson	H J Simpson	Mt Hay Station	P O Box 16	LAKE TEKAPO
Braemar Station Ltd	Julia Mackenzie	P O Box 62		LAKE TEKAPO
Helen Simpson	Mt Hay	P O Box 16		LAKE TEKAPO
JG & CA Murray Family Trust	Jim Murray	P O Box 12		LAKE TEKAPO
CS & PJ Stott	c/- MJ de Buyzer	Berry & Co	P O Box 12	OAMARU
Rhoborough Downs Ltd	Nicola Hornsey	P O Box 17		LAKE TEKAPO
Ruataniwha Farm Ltd	c/- Andrew Hocken	P O Box 17202	Greenlane 1546	AUCKLAND
Emily & Will Murray	Glenmore Stationn	P O Box 97		LAKE TEKAPO
Robert Preston	Rhoborough Downs	Private Bag		FAIRLIE
Donna Marie Falconer	46 Tekapo Drive			TWIZEL
Bruce Pipe	P O 737			TIMARU
Martin Galley	201 Mackenzie Drive			TWIZEL
Glentanner Station Ltd	Mr Ross Ivey	P O Box 23		MOUNT COOK
Dr Dugald McDonald	62 School Road			FAIRLIE
Federated Farmers – South Canterbury	R Douglas	P O Box 665		TIMARU
Federated Farmers – High Country Industry Group	Bob Douglas	P O Box 665		TIMARU
Simons Pass Station Ltd & Pukaki Irrigation Company Ltd	c/- Goodman Steven Tavendale Reid	A C Limmer	P O Box 442	CHRISTCHURCH
NZ Defence Force	c/- Rob Owen	Private Bag 902		UPPER HUTT 5140
Simons Hill Station Ltd	Denis Fastier	Private Bag		FAIRLIE
Mackenzie District Council	c/- Glen Innes	P O Box 52		FAIRLIE
Mackenzie District Council	c/- Glen Innes	P O Box 52		FAIRLIE
Mt Gerald Station Ltd	Michael Burtscher	P O Box 81		LAKE TEKAPO
Fairlie Branch South Canterbury Federated Farmers of New Zealand	c/- Stan Taylor	Morelea	RD 17	FAIRLIE
W E Robinson & W J Ellery	c/- Alan Clark	P O Box 47-587	Ponsonby	AUCKLAND
Rangl Ruru Rowing Parents	c/- David McLernon	15 Snowdon Road		CHRISTCHURCH
John Maxwell Phillips	852a Avonside Drive			CHRISTCHURCH
John Harvey Blair	15 Allum Street	Kohimarama		AUCKLAND 1071
Irishman Creek Station Ltd	Justin Willis	Private Bag 910		TIMARU
New Zealand Transport Agency	Colin Knaggs	P O Box 1479		CHRISTCHURCH

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Name	Address1	Address2	Address3	Address4
Ross Brewer & Diana Brewer	123 Caulfield Ave	Clarence Gdns	South Australia 5039	AUSTRALIA
Willem Johan & Pauline Joan Beekhuis	15 Harcourt Street			DUNEDIN
Oskar & Karoline Reider	c/- White Fox & Jones	T W Evatt	P O Box 1353	CHRISTCHURCH
Christian Burtischer	c/- White Fox & Jones	T W Evatt	P O Box 1353	CHRISTCHURCH
Tekapo Ski Area Ltd	c/- White Fox & Jones	T W Evatt	P O Box 1353	CHRISTCHURCH
Mackenzie Branch Federated Farmers of New Zealand	c/- J B Murray	The Wolds Station	Private Bag	FAIRLIE
The Wolds Station Ltd	c/- J B Murray	P O Box 154		LAKE TEKAPO
H M Murray & B R Murray	The Wolds Station	P O Box 154		LAKE TEKAPO
Roberta Preston	Rhoborough Downs	Private Bag		FAIRLIE
Sarah Preston	Rhoborough Downs Station	Private Bag		FAIRLIE
Mrs Marion Seymour	Ferintosh Station	Private Bag		FAIRLIE
Mrs Marion Seymour	Ferintosh Station	Private Bag		FAIRLIE
Bruce White	50 Rhoboro Road			TWIZEL
Grant & Natasha Hocken	P O Box 70			TWIZEL
The Mackenzie Experience Ltd	c/- Grant Hocken	P O Box 70		TWIZEL
High Country Properties Ltd	c/- Grant Hocken	P O Box 70		TWIZEL
Sawdon Station	c/- RW & AF Allan, GDW Loxton & SAR Allan	P O Box 9		LAKE TEKAPO
Bendrose Station	P O Box 84			TWIZEL
Frank Hocken	P O Box 100			TWIZEL
Malcolm & Karan McDiarmid	Aspen Court Motel	10 Mackenzie Drive		TWIZEL
Guide Hill Station	c/- David Richard & Marion Patricia Gould	Braemar Road		LAKE TEKAPO
N & C Lyons Family Trust	c/- N J Lyons	544a Great King Street		DUNEDIN
Mark Urquhart	Grays Hills	Private Bag		FAIRLIE
Alistair Shearer	9 Bradley Street			TIMARU
Department of Conservation	c/- Cheryl Colley	Private Bag 4715		CHRISTCHURCH
Brent Ramsay & Jason Dickson	80 Oakwood Ave			DUNEDIN
Lone Star Farms Ltd	c/- Rata Consulting Ltd	5 Erniea Terrace	Cashmere	CHRISTCHURCH
Star Holdings Ltd	c/- Rata Consulting Ltd	5 Erniea Terrace	Cashmere	CHRISTCHURCH
South Canterbury Branch of Royal Forest & Bird Protection Society of NZ	c/- Fraser Ross	29a Nile Street		TIMARU
Julie Pascoe	420 Montreal Street		Central City	CHRISTCHURCH
Glenrock Station Ltd	c/- Ann Scanlan	P O Box 421		WANAKA
New Zealand Forest Establishment Ltd	Justine Ashley	c/- Planit R W Batty & Associates Ltd	P O Box 1845	CHRISTCHURCH

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Name	Address1	Address2	Address3	Address4
Aoraki Trust Lands Ltd	c/- Bob Macintyre	P O Box 74111	Market Rd	AUCKLAND
Ken & Jane Wigley	Glen Lyon Station	P O Box 11		TWIZEL
Gillian Pollock	44 Aranui Road	Mapua		NELSON
Haldon Station Ltd	c/- Green Group Ltd	Martin G Green	P O Box 105 153	AUCKLAND
Meridian Energy Ltd	c/- Boffa Miskell	Rochelle Hardy	P O Box 110	CHRISTCHURCH
Meridian Energy Ltd	c/- Boffa Miskell	Rochelle Hardy	P O Box 110	CHRISTCHURCH
Canterbury Aoraki Conservation Board	c/- Brenda Preston	Dept of Conservation	Private Bag 4715	CHRISTCHURCH
Coldwater Group	c/- Caleb Ballin	P O Box 41039	Ferrymead	CHRISTCHURCH
Environment Canterbury	c/- Vin Smith	P O Box 345		CHRISTCHURCH
Sue Keen	Shaelaburn	RD 2		OUTRAM
I Brown	Shaelaburn	RD 2		OUTRAM
Krista Curin	P O Box 142			TWIZEL
Michael & Elaine Lindsay	Omahau Hill	P O Box 155		TWIZEL
Lana Hastie	P O Box 57			TWIZEL
High Country Rosehip Orchards Ltd	c/- Vivian & Espie Ltd	P O Box 2514	Wakatipu	QUEENSTOWN
Mackenzie Lifestyle Ltd	c/- Vivian & Espie Ltd	P O Box 2514	Wakatipu	QUEENSTOWN
Hocken Lane Land Owners Association	c/- The Secretary	Pauline Beekhuis	15 Harcourt Street	DUNEDIN
Andrew Eccleshall	P O Box 79			TWIZEL
Josh Billings & Ann Barton	25 Maffeys Road	Mt Pleasant		CHRISTCHURCH
Steven Rhodes	15 Jasper Way	Springfield Lakes	Brisbane	QUEENSLAND 4300
Ethan Gabriel	398 Mount Cook Highway			TWIZEL
South Island Rowing Inc	The Secretary	P O Box 3261		CHRISTCHURCH
Frank Hocken	P O Box 100			TWIZEL
Frank Hocken	P O Box 100			TWIZEL
Transpower New Zealand Limited	C/- Burton Planning Consultants Ltd	PO Box 33-817	Takapuna	AUCKLAND
Sean Jones	Omahau Station	P O Box 50		TWIZEL
Connie Heath	265 Mackenzie Drive			TWIZEL
David Scott	P O Box 115			LAKE TEKAPO
Marion Gould	Guide Hill Station	P O Box 55		LAKE TEKAPO
S A Bowers	52 Rata Road			TWIZEL
Ross Carrick	C/- Moyles Pharmacy	6 Dee Street		TIMARU
Peter Bell	11 Sloane Street			FAIRLIE
NZ Fire Service	C/- Beca Carter Holdings	P O Box 13 960		CHRISTCHURCH
EO & JE Sullivan	Raymond Sullivan McGlashan	P O Box 557		TIMARU
Te Runanga o Ngai Tahu	PO Box 13046			CHRISTCHURCH

Plan Change 13 - Names and Address of Submitters and Further Submitters

Name	Address1	Address2	Address3	Address4
Murray Ewans	2 Glencairn Road			TWIZEL
Ian Lintott	P O Box 169			TWIZEL
Dean Smith	c/- 6 Holmes Street			WAIMATE
Ralph Smith & I R Smith Family Trust	151 Saddle Hill Road	1 RD		DUNEDIN
Jim & Anne Murray	P O Box 12			LAKE TEKAPO
Ken & Glenda Robinson	42 Brooks View Heights	Tasman	RD 1	UPPER MOUTERE 7173
Brenda Agnew	P O Box 140			TWIZEL
Lake Tekapo Community Board	c/- Peter Maxwell	P O Box 1		LAKE TEKAPO
DJ & J L Rayner	53 Jollie Road			TWIZEL
C Hughes & Associates Ltd	c/- Nicola Scott	P O Box 599		WANAKA
Craig Aaron Robinson	Mawheraiti Postal Centre			GREYMOUTH
K M Lane	121 Deans Ave	Riccarton		CHRISTCHURCH
A J Phillips	45 Collingwood Street			NELSON
Brett J Robinson (Nettlebed Family Trust)	42 Brooks View Heights,	R.D.1	Upper Moutere	NELSON 7173
M Bakker-Geising	854 Fairview Road	RD 2		TIMARU
Valasay Properties Ltd	20 Royds Street	Fendalton		CHRISTCHURCH
Simon & Priscilla Cameron	Ben Ohau Station	P O Box 95		TWIZEL 7944
Angela Robinson	459A North End Road	Fulham	London	UNITED KINGDOM SW6 1NZ
Karen Simpson	Balmoral Station	P O Box 91		LAKE TEKAPO
Shaun Norman	21 Godley Street			TWIZEL
Twizel Community Board	c/- John Bishop	76 Highview Tce	St Andrews Park	QUEENSTOWN
Sam Bosshard & Jen Purdie	P O Box 53			TWIZEL
PGG Wrightson Ltd	c/- Chris Adam	P O Box 521		TIMARU
Canterbury/Aoraki Conservation Board	c/- Brenda Preston	Department of Conservation	Private Bag	CHRISTCHURCH
Andrew Dyer	2 Westminster Place	Rototuna		HAMILTON
Seeam Ghoorah & Daim Ghoorah	P O Box 12			TWIZEL
NZ Historic Places Trust	c/- Joanne Easterbrook	Heritage Advisor	P O Box 4403	CHRISTCHURCH
Ursula Krebs	PO Box 545			WANAKA
Anne Braun-Elwert	PO Box 75			LAKE TEKAPO
A H Hunter	Cl- White Fox & Jones	T W Evatt	PO Box 1353	CHRISTCHURCH