

IN THE MATTER OF: the Resource Management Act 1991

AND

IN THE MATTER OF: Proposed Plan Change 13 (Mackenzie Basin) to the Mackenzie District Plan.

EVIDENCE OF ROBERT BRUCE WILLIS FOR THE CANTERBURY REGIONAL COUNCIL

Hearing of Submissions on Proposed Plan Change 13.

1.0 INTRODUCTION

- 1.1 My name is Robert Bruce Willis. I am employed as a Senior Resource Management Planner by the Canterbury Regional Council (Environment Canterbury – ECan¹) and am based in Timaru. I hold the Degree of Bachelor of Resource Studies from Lincoln University. Since 1995, my work has been focussed primarily in the areas of District Plan development, the interpretation and application of Regional Policy, and input into statutory processes under the Resource Management Act.
- 1.2 My evidence today will set out ECan's position in relation to Proposed Plan Change 13 (Mackenzie Basin) to the Mackenzie District Plan. It will also provide the basis for the submissions lodged by the Regional Council, and the relief sought through submissions and further submissions. ECan's submissions are identified in the Consultant Planner's Report and supplementary attachments.
- 1.3 I will initially set out the background to ECan's submissions and the general basis for the Council's involvement in this process. This will be followed by a critical review of

¹ Environment Canterbury is the promotional name for Canterbury Regional Council.

the matters subject to submission by ECan. I will finish by summarising the key issues and recommending the decision that ECan wishes the Hearings Panel to make.

- 1.4 I can advise that I am familiar with the Mackenzie Basin area, and the broader patterns of land use within this and the surrounding area. Additionally, I have participated in the earlier RMA processes that underpin the current Mackenzie District Plan. I have also been involved in other related processes since this time, for example, the Fairlie Basin Landscape and Ecology project. Where appropriate in my evidence (and for reasons of economy), I will use the abbreviations set out in the Consultant Planner's Report on page 2.

2.0 ECAN'S ROLE

- 2.1 ECan's role in relation to the Proposed Plan Change is prescribed by the Resource Management Act 1991 (the RMA), principally through section 30 – Functions of Regional Councils. Part II, sections 5-8 (Purpose and Principles) of the RMA provides the context for this involvement.
- 2.2 The Canterbury Regional Policy Statement 1998 (the RPS) provides an overview of resource management issues of the region. It sets out the key Objectives, Policies and Methods for the integrated management of natural and physical resources of the region to promote sustainable management. Sections 30, 32, 59, 61 and 62 of the RMA, establish the framework for the RPS.
- 2.3 The RMA requires that Regional Councils and Territorial Authorities establish, implement and review Objectives, Policies and Methods to achieve integrated management of natural and physical resources (sections 30 and 31 RMA). To achieve this, these agencies must act in the most efficient, effective and appropriate manner in the exercise of their functions. This approach anticipates that consideration will occur of the extent to which the District Plan (and its implementation) must be consistent with Regional Policy (section 74(2) RMA), alongside the broader duties prescribed, in this case, by sections 72 - 76 of the Act and the explicit requirement of section 75(3) that a District Plan must give effect to the

RPS. The Act also requires local authorities to observe their own Policy Statements and Plans (section 84 RMA).

2.4 On this basis, ECan lodged submissions in relation to elements of Proposed Plan Change 13 (PC13) where aspects of the proposal were either inconsistent with Regional Policy, or where it was considered that some improvement could be achieved in terms of certainty or coverage of the various provisions. In general, the further submissions were intended to support the provisions of the Proposed Plan Change, or to oppose the introduction of additional matters that were considered contrary to Policy and/or sound RMA practice.

2.5 In total, 28 specific points of submission were lodged, and 44 further submissions. The analysis of these by the Consultant Planner has resulted in the identification of 32 submissions² and 288 further submissions from ECan, which are recorded in **Attachment B** from the Consultant Planner's Report. I would note that, for brevity, I will refer to only those specific submissions and further submissions where key matters are to be discussed.

3.0 PRELIMINARY MATTERS

3.1 Prior to detailing the specific aspects of PC13 subject to submission, I would identify two preliminary matters that I consider are important to provide context to the discussion which follows. Firstly, I would record that ECan endorses the Mackenzie District Council's recognition of the outstanding landscape status of the Mackenzie Basin. The District Council's initiative in seeking to better manage the effects of development on this outstanding landscape (particularly that arising from rural subdivision and residential development) is also supported. As the Proposed Plan Change acknowledges, built development, if not adequately managed, presents a very real risk to these important landscapes; the principle of managing pressures for development through nodes and "clustering" in discrete and compact areas provides a valuable tool to manage built change within this context.

² This apparent discrepancy is principally because of the manner in which submissions and further submissions have been summarised for analysis, and because some further submissions opposed the whole submission.

- 3.2 The second matter relates to the manner in which the landscape studies underpinning PC13³, and that attached to the Consulting Planner's Report (at **Attachment A**), are framed. The reports appear to concern themselves principally with the question of equity and "fairness between properties"⁴ – in that all properties should have equal opportunities to establish nodes – and introduce concepts such as "development entitlements"⁵.
- 3.3 Such an approach ignores the simple fact that landscape (like all natural resources) – and in this case, areas capable of absorbing built development – are not conveniently and uniformly distributed across all properties within the Mackenzie Basin. It is highly unlikely that concepts of equity and fairness in this context will achieve the stated primary purpose of PC13, which is identified as being "...to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, development and use."⁶
- 3.4 ECan supports the stated primary purpose of PC13. My evidence today will expand on this, and will focus on the Policy and Planning basis for ECan's concerns and the relief sought in ECan's submissions.

4.0 ECAN'S SUBMISSIONS

- 4.1 Turning to the specific submissions and further submissions by ECan, I propose to address these in the order that they appear in the Consultant Planner's Report. As noted, and to avoid repetition, I will focus principally on those matters that deserve particular emphasis or where alternative relief is sought from that contained in the Officer Report recommendations.

³ Ref., for example, to "Landscape Values of the Mackenzie Basin" (Graham Densem, February 2007), and "The Mackenzie Basin Landscape: Character and Capacities" (Graham Densem, November 2007).

⁴ Ref. paragraph 52, page 9 from Attachment A.

⁵ Ref. paragraph 173, page 21 from Attachment A.

⁶ Ref. page 1 from Proposed Plan Change 13 "Purpose".

Part 2. – Whole of Plan Submissions

Pages 2 – 6 of the Officer's Report

Pages 1 – 11 of Attachment B

- 4.2 ECan is a further submitter on 27 submissions in this "block". In general, submissions requesting the withdrawal of PC13, and various permutations around this theme are opposed on the basis that ECan supports the principles of the Proposed Plan Change. The identification of the Mackenzie Basin as an Outstanding Natural Landscape is supported by ECan, as is the principle of managed nodal development. The Officer's Report recommends that these submissions are rejected, and this is supported.

Part 3 – Rural Issues 7 – Landscape Values

Pages 6 and 7 of the Officer's Report

Pages 11 and 12 of Attachment B

- 4.3 Five ECan further submissions are recorded in relation to Issue 7. The Officer's Report recommends two amendments to the wording of this provision. These recommended changes are not opposed, although it is noted that the removal of the words "...and with other pressures for lifestyle housing..." from the sixth sentence (page 6 of the Officer's Report) has not been sought through submission, and should be retained; this development pressure is one of the key issues addressed by Plan Change 13.

Part 4 – Objective 3A – Outstanding Landscapes

Pages 7 – 9 of the Officer's Report

Pages 12 – 15 of Attachment B

- 4.4 ECan submission 74/12 seeks that new Objective 3A is reworded to read (additions underlined and deletions shown in strikethrough):

"To protect and enhance ~~sustain~~ the outstanding natural features and landscapes of the Mackenzie District ~~for present and future generations, and~~

the natural processes and elements which contribute to the District's overall character and amenity."

- 4.5 Additional changes were also requested to the Explanation and Reasons to include cross-referencing with other Plan provisions (including Objective 2, Policies 2A and 2B, Objective 4, Policy 4B and Implementation Methods, and Objective 6 and Policy 6A. Reference to the role of the natural character of margins of lakes, rivers and wetlands in sustaining the values of natural features and landscapes was also sought. These additional matters are not considered in the Officer's Report.
- 4.6 Beginning with the change sought to Objective 3A, I would note that the request to replace the term "sustain" with "enhance" is rejected by the Consultant Planner on the grounds that this is an unrealistic goal for the District Plan. I would draw to the panel's attention the requirements of sections 6(b), 6(c), 7(c) and 7(f) of the RMA and the manner in which these are applied through the RPS. Chapter 8 (Landscape, Ecology and Heritage) of the RPS is explicit in seeking both protection and enhancement of natural features and landscapes. Objective 2 (page 106, RPS) seeks, unambiguously:

Protection or enhancement of the natural features and landscapes that contribute to Canterbury's distinctive character and sense of identity, including their associated ecological, cultural, recreational and amenity values.

- 4.7 This is refined further in Policy 3 (page 107, RPS), where natural features and landscapes that meet the criteria for regional significance are to be protected from the adverse effects of the use, development, or protection of natural and physical resources, and their enhancement promoted. On this basis, the changes requested by ECan would bring the District Plan into alignment with Regional Policy. The changes sought are intended to assist the District Plan to give effect to the RPS by improving consistency between documents.

4.8 I do not accept the Consultant Planner's contention that the changes requested are unrealistic, or that they diminish the effectiveness of Objective 3B. Objective 3A refers expressly to outstanding natural features and landscapes, not the "other landscapes" addressed by Objective 3B (which focuses on the landscape and margins of lakes, rivers and wetlands). Additionally, the amendments sought to the Explanation and Reasons are intended to provide comprehensive referencing and linking of issues through the Plan. On this basis, the changes sought by ECan through submission 74/12 are recommended for adoption into the Plan.

Part 5 – Policy 3A – Recognition of Mackenzie Basin

Pages 9 – 11 of the Officer's Report

Pages 15 – 19 of Attachment B

4.9 ECan has one submission and nine recorded further submissions in relation to Proposed Policy 3A. ECan's submission supports Proposed Policy 3A, but seeks some amendment to the Explanation and Reasons that sit with this provision. The Consultant Planner's assessment is that this request has merit, and changes to the Explanation and Reasons are recommended accordingly. This recommendation is supported.

4.10 In relation to the further submissions in opposition to alternative relief sought to Proposed Policy 3A, ECan has opposed the adoption of the term outstanding "working" landscape as having no statutory relevance. Similarly, where FFSC and FFMB seek to further narrow the scope of the Proposed Policy and supporting provisions, this is opposed because it would be unhelpful for users of the Plan, contrary to sound practice, and would significantly reduce the effectiveness of the Plan. It is recommended that these submissions are declined, and the Consultant Planner's assessment and recommendations on this point are endorsed.

Part 6 – Policy 3B – Economy, Environment and Community

Pages 11 and 12 of the Officer's Report

Pages 19 – 22 of Attachment B

- 4.11 Eight further submissions have been lodged by ECan opposing those submissions seeking changes to, or the deletion of, Policy 3B. These submissions seek to remove or diminish the relevance of this Proposed Policy. The Consultant Planner's report provides a concise summary of the basis for declining these submissions. These recommendations are supported.

Part 7 – Policy 3C – Adverse Effects of Sporadic Development

Pages 12 and 13 of the Officer's Report

Pages 22 – 25 of Attachment B

- 4.12 Proposed Policy 3C seeks:

"To avoid the adverse effects on the environment of sporadic development and subdivision."

This Policy is supported. It is succinct and appropriate in the context of PC13 and is not capable of mis-interpretation. It also provides a clear Policy basis for the proposed controls intended to give effect to this provision.

- 4.13 ECan lodged six further submissions, five of which oppose the deletion or amendment of this Proposed Policy, and one of which supports a request to include reference to reverse sensitivity (submission 22/3 – NZDF). The Consultant Planner's Report recommends amendment to this Proposed Policy, which includes the incorporation of Proposed Policy 3E. The changes recommended are not opposed, with the exception of the inclusion of the words "within landscape sub-areas shown in Appendix R". ECan has requested the deletion of Proposed Appendix R through submission 74/2 (page 115 of Attachment B). This will be addressed later in my evidence, suffice to note at this time that, while the changes recommended generally are supported, the inclusion of reference to Appendix R is opposed.

Part 8 – Policy 3D – Adverse Impacts of Buildings and Earthworks

Pages 13 and 14 of the Officer's Report

Pages 25 – 28 of Attachment B

- 4.14 ECan has sought the amendment of Proposed policy 3D to better encompass the threats to the Mackenzie Basin landscape from inappropriate land use and development (CRC 74/7). The changes sought reword the Policy to read (Additions underlined and deletions shown in strikethrough):

To avoid adverse effects ~~impacts~~ on the outstanding natural features and landscapes of the Mackenzie Basin, in particular from buildings, domestication, structures, land use intensification, earthworks, wilding tree spread, tracks and roads.

- 4.15 Changes are also sought to the Explanation and Reasons to incorporate additional matters that are a potential risk to landscape integrity. The Consultant Planner's Report recommends that the submission is accepted in part. The change then recommended to the Proposed Policy introduces the qualifier "residential buildings". This is opposed. For reasons that will be expanded on shortly, I would identify that the landscape values of the Mackenzie Basin are not put at risk just by residential buildings, but by any poorly designed and/or located buildings. Further, the Permitted Baseline for buildings established through PC13 increases the risk to outstanding landscapes. This is tacitly acknowledged the Proposed Policies 3K and 3N, which relates to the effects of both buildings and structures. For these reasons, the inclusion of the term "residential" in reference to buildings in Proposed Policy 3D is opposed.
- 4.16 The Consultant Planner's assessment also considers that reference to land use change and intensification is not appropriate, and that this should only be entertained following robust and detailed assessment of the impacts of such intensification and the costs and benefits of controls. It is accepted that some consideration of alternatives, benefits and costs is required in this case; it would be appropriate for the panel to recommend that the Mackenzie District Council should commit to

undertaking such an analysis given the risk to the outstanding landscape values of the Mackenzie Basin from land use change and intensification.

- 4.17 As a final point, I would identify that the Consultant Planner's report recommends the incorporation of reference to wilding tree spread into this Proposed Policy. This is supported. Note that this recommended change is not shown in the amendments recommended by Officer Report (page 14 and **Attachment C**). It is recommended that this change should be included; the Mackenzie District Plan does concern itself with wilding tree production and spread⁷.

Part 9 – Policy 3E – Limitations on Residential Subdivision and Housing
Pages 15 – 17 of the Officer's Report
Pages 28 – 31 of Attachment B

- 4.18 Proposed Policy 3E is supported by ECan. This provision is a crucial element of PC13, and clearly signals how the Council anticipates that residential-type development should be managed within the Mackenzie Basin. The Consulting Planner recommends that this Proposed Policy is amalgamated with Policy 3C and, with the qualification referred to in paragraphs 4.12 and 4.13 above, the recommendations contained in this section are endorsed.

Part 10 – Policy 3F – Landscape Carrying Capacity
Pages 17 – 19 of the Officer's Report
Pages 31 – 34 of Attachment B

- 4.19 ECan submission CRC 74/13 seeks that Policy 3F is deleted. While I accept that the principle underpinning this Proposed Policy has some merit, I have no confidence that the Method that this provision supports – that is, reliance on the Proposed Appendix R "Capacity for New Nodes" map – establishes a robust basis for determining the appropriate location and design for as yet unidentified new nodes.

⁷ Ref., for example, Issue 3 – Plant and Animal Pests, page 7-5, Mackenzie District Plan.

4.20 Insofar as the Densem study that underpins this approach promotes the restriction of nodal development to areas with capacity to absorb this development, this is a concept that is supported. It is not accepted, however, that the 69 generic and speculative "potential nodes" shown within the pink areas of Proposed Appendix R are sufficiently robust in their definition, or certain in terms of size, location, design, layout, etc. to be a credible approach to managing built development in the manner that would achieve the purpose of PC13. Further, the development of the Proposed Appendix R map is clearly in conflict with Map 7 (Capacity to Absorb Development)⁸ in encapsulating extensive areas of high and medium vulnerability to development.

4.21 When this is considered alongside Mr. Densem's predisposition to providing for "development opportunities" and concern about "equity" in those opportunities, I would suggest that this does not provide a robust or certain basis for securing the outcomes sought by PC13. On this basis, it is recommended that, should the panel decide not to delete Proposed Policy 3F, the wording should be amended to delete reference to a specified threshold number of nodes in the Explanation and Reasons , and the term "built development" retained in preference to the term "residential buildings and domestication" as recommended in the Consultant Planner's Report. The Proposed Policy would then read:

"To recognise the diversity of physical settings and landscapes within the Mackenzie Basin and the varying capacity of these to absorb built development."

Part 11 – Policy 3G – Approved Building Nodes

Pages 19 – 23 of the Officer's Report

Pages 34 – 41 of Attachment B

4.22 One submission and nine further submissions from ECan are recorded in relation to this provision. ECan's submission identifies that Proposed Policy 3G is worded in the form of a Rule. In addition, a substantial number of the listed matters are framed in a manner that is incomplete and too uncertain to ensure any consistent interpretation or measurement; this will compromise the Council's ability (and that of users of the Plan)

⁸ Ref. "The Mackenzie Basin Landscape: Character and Capacities" (Graham Densem, November 2006).

to establish whether compliance with the outcomes of PC13 will be (or has been) achieved.

4.23 Alternative relief is sought in the ECan submission – either the deletion of Proposed Policy 13 and amendment of Proposed Policy 3H, or its amendment. The 22 matters listed within the Proposed Policy are requested to be incorporated into an Appendix to the Plan as matters to which applicants should pay particular attention in seeking to establish new nodes. Some amendment of the wording of these provisions is also sought.

4.24 The Consultant Planner's Report recommends a raft of changes to Proposed Policy 3G. A number of these arise from the ECan submission. If the wider relief requested by ECan is not accepted, I would request that the words "significantly visible", "conspicuous" and "inconspicuous" in points 6, 7, and 15 are amended to state "*reasonably difficult to see*" on the basis set out in the ECan submission. Additionally, and as a consequential change consistent with other ECan submissions, reference to the "Capacity for New Nodes" map in Appendix R should also be deleted from point 20 and the Explanation and Reasons.

Part 12 – Policy 3H – Extensions to Existing Identified Nodes

Pages 24 and 25 of the Officer's Report

Pages 41 – 44 of Attachment B

4.25 ECan submitted on Proposed Policy 3H, and requested amendments to remove any reference to the "operational requirements of the property" as the basis for any extension to existing nodes. The Consulting Planner's Report recommends that this Policy is amalgamated with Proposed Policy 3G, which has been discussed previously. With the qualifications noted in the previous section, the recommendations in respect of this provision are supported.

Part 13 – Policy 3I – Farm and Non-residential Buildings and Policy 3J – Remote Farm Buildings

Pages 25 and 26 of the Officer's Report

Pages 44 – 48 of Attachment B

4.26 No submissions were lodged by ECan in relation to Proposed Policies 3I and 3J however, fourteen further submissions were lodged opposing various changes sought, including the deletion of these provisions. The Consultant Planner's assessment and recommendations include that the two Policies should be amalgamated. This recommendation is not opposed as it retains the essence of both Proposed Policies. I would note, however, that the proposed changes do not retain reference to building design. This term encapsulates concepts such as scale, and should be retained. Additionally, the recommendation includes reference to amending the Proposed Rules to allow that certain building should be made Permitted Activities. Such a change is not supported, for reasons to be addressed later in my evidence dealing with the Permitted Baseline concept.

Part 14 – Policy 3K – Lakeside Areas

Pages 27 – 29 of the Officer's Report

Pages 48 – 52 of Attachment B

4.27 ECan's submission (CRC74/16) contains three elements, only one of which is addressed in the Consultant Planner's Report. The recommended amendments (page 28 of the Report) to the second bullet point of the Explanation and Reasons reflect the relief sought in part 2 of ECan's submission, and are accordingly supported.

4.28 The submission also requested that the Explanation and Reasons be amended to acknowledge cross-boundary landscape issues and the contiguous elements of landscape along and across the boundary with adjacent territorial authorities (principally Waimate and Waitaki Districts). It is considered that this change, while comparatively minor, would improve the recognition of the Mackenzie Basin landform within the wider context. This amendment would assist with the management of

cross-boundary issues (section 75(2)(f) RMA) and the consideration of effects. For this reason, the change sought is recommended for inclusion within the Plan.

- 4.29 The final matter relates also to ECan submission CRC 74/3⁹, which seeks the reinstatement and extension of Lakeside Protection Areas and the control of subdivision and built development within these areas as a Non-complying activity. This element is briefly discussed and dismissed in the Consulting Planner's Report (first paragraph, page 27) – although this assessment does not consider ECan's request.
- 4.30 I would note that PC13 is derived from the recommendations of studies prepared for the Mackenzie District Council by Graham Densem. A key reference is "*The Mackenzie Basin: Character and Capacities*" (Densem, November 2007), which was notified with the Plan Change. In this report, Mr. Densem discusses the Lakeside Protection Areas and their adequacy as a protection mechanism (paragraphs 3.105 and 3.106), noting that the "nodal development" process now proposed would remove the need for such mechanism. This is directly in conflict with conclusions and recommendations within earlier versions of this report and the Densem reports on which 1st Schedule RMA consultation was based.
- 4.31 Examples of this are included at paragraph 3.103 of "*The Mackenzie Basin Landscape: Character and Capacities*" November 2007 (Draft 4, 4 December 2007), and at paragraph 4.4 of an earlier study entitled "*Landscape Values of the Mackenzie Basin*" (G. Densem, Feb '07), which formed the basis for pre-notification consultation. Both of these documents advocate the adoption of a nodal development approach; both also consider that the Lakeside Protection Areas are neither extensive enough, nor the Rules robust enough to afford the levels of protection needed for these vulnerable landscapes, and that these areas should be urgently reviewed to ensure that the immediate lakeshore areas and their wider settings are not compromised by development.

⁹ This is discussed further (although the same case is put) on page 35 (21.2) of the Consulting Planner's Report.

4.32 Quite what has occurred since to justify the removal of these areas is unclear. The Consultant Planner's Report notes that these areas have been found wanting in protecting the lake edge from built development¹⁰. It also indicates an acceptance that these areas are not extensive enough to control effects on lakeside landscapes¹¹. This is consistent with Mr. Densem's and ECan's assessment of the matter. The Consultant Planner argues that buildings in Lakeside Protection Areas are a Discretionary Activity, whereas under PC13 they are Non-complying (outside nodes); this overlooks the change sought by ECan, to Non-complying status, which addresses this anomaly. Rather than recommend the removal of Lakeside Protection Areas, these deficiencies suggest an important need to strengthen control of inappropriate development in these areas. For this reason, I request that ECan's submissions in relation to the Lakeside Protection Areas should be accepted.

Part 15 – Policy 3L – Subdivision

Page 29 of the Officer's Report

Pages 52 – 55 of Attachment B

4.33 Policy 3L sets a clear basis for the manner in which subdivision is anticipated to occur to ensure that the objectives of PC13 are achieved. ECan supports this approach. Seven further submissions were lodged in opposition to submissions seeking the deletion or amendment of this provision. The Consulting Planner's Report recommends that those submissions are declined, and that no change should be made to Proposed Policy 3L. This is also supported.

Part 17 – Policy 3N – Design and Appearance of Buildings

Pages 31 and 32 of the Officer's Report

Pages 56 – 59 of Attachment B

4.34 ECan's submission CRC 74/17 requested the amendment of Proposed Policy 3N to acknowledge the wider domestication that occurs in conjunction with the establishment of buildings (particularly residential buildings, but also to a lesser extent

¹⁰ Ref. first paragraph, page 27 of Consultant Planner's Report. This statement does imply a challenge to the manner in which the District Plan has been administered.

¹¹ Also contained in the first paragraph, page 27 of the Consultant Planner's Report. This endorses the view held by G. Densem that these areas are not extensive enough, but does not justify their deletion.

with other buildings). The submission observed that scale of buildings is a further matter that has a significant bearing on the degree to which impacts on environmental values are managed. Additionally, reference is sought to be included to outstanding natural features, amenity and heritage values as relevant matters in the context of PC13.

- 4.35 The Consulting Planner's Report recommends changes arising from this submission. While these changes are supported, I would request some further amendment to Proposed Policy 3N to include reference to outstanding natural features in addition to the landscape and heritage values of the Mackenzie Basin Sub-zone. These important features are equally vulnerable to adverse effects from poorly designed or sited buildings.

Part 18 – Policy 30 – Views from Roads

Pages 33 and 34 of the Officer's Report

Pages 59 – 62 of Attachment B

- 4.36 ECan is a submitter (CRC 74/18) in support of Proposed Policy 30, and a further submitter on six submissions seeking the deletion or amendment of this provision. The Consulting Planner's Report succinctly summarises the rationale for the amendment recommended to Proposed Policy 30. It recommends changes that allow the Policy a more comprehensive application to land uses that may threaten the landscape values of the Mackenzie Basin. These changes are considered to improve the overall thrust of this Policy in the context of PC13, and are supported.

Part 19 – Implementation Matters

Pages 33 and 34 of the Officer's Report

Pages 62 – 65 of Attachment B

- 4.37 Changes requested to the Implementation Methods (CRC 74/20) are not assessed in detail in the Consulting Planner's Report. Those dealing with Rules are considered later in this report, and I will discuss these at that time. No changes to these

provisions are recommended¹². While it is accepted that some consequential amendment may occur to these provisions as a result of decisions on submissions, I would highlight one aspect of the ECan submission that I consider merits attention. This relates to the use of the term "residential subdivision" at the beginning of this provision.

- 4.38 ECan's submission seeks the deletion of the word "**residential**" from this sentence. This term is considered to be misleading in this context unless the Council presumes to differentiate subdivision for residential purposes from subdivision for other (presumably non-residential) purposes, and require that this distinction is protected through some durable and enforceable mechanism. Unless this is to occur – and it is questionable whether the Council is able to secure such an outcome with or without agreement from the landowner – then the Plan should deal with all subdivision equally. Accordingly, it is recommended that the term "residential" should be deleted from the first sentence of the Implementation Methods.

Part 20 – Objective 3B and Lakeside Protection Policy and Rules

20.1 Objective 3B – Landscape Values

Pages 34 and 35 of the Officer's Report

Pages 65 – 69 of Attachment B

- 4.39 ECan's submission CRC 74/20 supports Proposed Objective 3B, but seeks some minor amendment to this provision to include the most recent established matters for consideration when addressing natural character in the context of landscape values. Six further submissions were also lodged opposing changes sought by other submitters. The Consultant Planner considers that the change requested by ECan has merit. The report rejects those submissions opposed by ECan. The recommended amendment of Objective 3B is set out on page 35 of the report, and these changes are supported, as are the other recommendations.

¹² Ref. Attachment C, page 11.

Part 20 – Objective 3B and Lakeside Protection Policy and Rules

21.2 Existing Policy 3A – Lakeside Landscapes

Page 35 of the Officer's Report

Pages 69 and 70 of Attachment B

- 4.40 PC13 deletes existing Rural Policy 3A, which gives particular attention to managing built development effects on lake margins as a matter of national importance. This Policy states (page 7-22, Mackenzie District Plan):

To avoid or mitigate the effects on lakeside landscapes by controlling the scale, appearance and location of buildings.

- 4.41 ECan's submission CRC 74/3 requests that this provision is reinstated. The submission also requests that these areas should be extended to encapsulate the broader lakeside landscapes that are vulnerable to the effects of inappropriate subdivision and development, and that subdivision and built development within these areas is a Non-complying activity. This request is rejected by the Consultant Planner.
- 4.42 Without wanting to belabour this point, I would identify that the rationale for retaining and enhancing controls in this visually-vulnerable area is already established in reports from the Council's landscape architect. ECan's own landscape advice, and experience of development in these areas, is consistent with Mr. Densem's contention that the present controls are inadequate. I would refer the panel to my earlier discussion of this matter in paragraphs 4.29 – 4.32, and request that the changes sought in ECan's submission are accepted and that the Consultant Planner's recommendation is rejected.

Part 22 – Definitions

22.2 Remote Farm Accessory Buildings

Pages 36 and 37 of the Officer's Report

Pages 71 – 73 of Attachment B

4.43 ECan's submission CRC 74/21 seeks that:

Either the Definition of Remote Farm Accessory Building is deleted from the Plan (and that these buildings become subject to controls that apply to other buildings generally through Proposed Rule 3.4.1, or, that Rule 3.2.2 is amended to make these buildings a Discretionary Activity in the manner sought in submission number CRC 74/8.

4.44 The rationale for this request is that the proposed Definition does not control, for example, the erection of lodges for accommodation, or other buildings that fit within the Plan Definition of "Farming Activity"¹³. Because of this, there is significant potential for the erection of buildings within the Mackenzie Basin that may significantly detract from the landscape values of the area.

4.45 It is accepted that, on occasion, there is a need to erect structures such as feed and implement storage sheds. Such facilities are a vital part of the farming business. The Mackenzie District Council has identified that new farm buildings requiring Building Consent amount to an average of two or three per annum (whether "remote" or otherwise). However, the current structure of PC13 presents a very significant risk that the landscape values of the Mackenzie Basin will be compromised by inappropriate siting or design of such buildings. As PC13 already provides for "Remote Farm Accessory Buildings" as a Controlled Activity (which requires Resource Consent) through Proposed Rule 3.2.2, it is considered that it would not be unduly onerous to change the status to full Discretionary Activity in order to ensure that proposals that are inappropriate can be adequately managed.

4.46 In this way, and provided that further restrictions on height and floor area are prescribed, it is considered that the Definition could remain unchanged, while the Council's ability to properly manage poorly-designed or sited buildings would be enhanced. The alternative would be to not differentiate Remote Farm Accessory

¹³ Ref. page 3-4 from the Mackenzie District Plan (Definitions – "Farming Activity").

Buildings, and to control these structures in a similar manner to other buildings outside nodes.

4.47 I note here that this matter is traversed further at pages 39 and 40 of the Consultant Planner's Report. To avoid unnecessary repetition, I would identify a further matter not considered in this report. This relates to the principle of "Permitted Baseline". This is an important principle for those developing Plans to be aware of. Under this principle, by making particular activities Permitted (and, in some cases, Controlled¹⁴), the Council is also effectively "authorising" any other activities which have the same adverse effects on the environment that the Permitted Activities have (or any lesser adverse effects). It is also important to note that, even though the statutory permitted baseline is not mandatory (i.e. those effects may be disregarded, but do not have to be disregarded), it is a fairly powerful point in favour of granting an application for Resource Consent to point to the fact that the Plan has already stated that those particular effects on the environment are acceptable. Further, the time at which it is more important for the Council to be acutely aware of the operation of the permitted baseline is at the stage when the Plan is being created or amended, rather than at the stage when the Plan is being administered.

4.48 While I am mindful of the need to ensure that controls on built development – and particularly that associated with essential and legitimate farming activities – should not be unduly onerous, it is nevertheless vital that the Council retains the ability to manage the adverse effects of inappropriate development to secure the outcomes sought by PC13. For these reasons, I request that the relief identified above should be accepted.

¹⁴ Ref., for example *Jones v Kapihi Coast DC* EnvC W055/07.

Part 23 – Rural Zone Rules – Mackenzie Basin Subzone – Buildings

23.1 Farm Buildings Within Nodes – Permitted Activity, Rule 3.1.2

Pages 37 – 39 of the Officer's Report

Pages 73 – 76 of Attachment B

- 4.49 Four changes are requested by submission in relation to Proposed permitted Activity Rule 3.1.2. These request:
- Inclusion of an additional standard to restrict maximum site coverage to 100 m² (submission CRC 74/28)
 - Inclusion of reference to controls that apply to Sites of Natural Significance, Scenic Viewing Areas, High Altitude Areas (above 900 masl), and Lakeside Protection Areas (submission CRC 74/30),
 - Restriction of maximum building height to 7 metres (submission CRC 74/5), and
 - Increase to building separation provision to 100 metres from State Highways and 50 metres from other roads (submission CRC 74/29).
- 4.50 The Consultant Planner's Report recommends that these submissions are declined. I do not propose to pursue the first, second and fourth matters identified above. I would, however, note that I consider that the building height threshold is excessive. This is set at 15 metres for farm accessory buildings within nodes. Controls on rural building height applied elsewhere by adjacent Councils range from 8 metres¹⁵ to 10 metres¹⁶, which is approximately one half to two thirds the height currently provided for. These controls are considered to set a more reasonable limit than the permissive 15 metre threshold allowed through Proposed Rule 3.1.2.a.
- 4.51 Given that this control applies to farm building height for the purposes of managing effects on an outstanding landscape while allowing a "reasonable" farm building to be erected (for comparison, a two storey house can be erected with a height of 5 metres), I consider that the seven metre threshold requested is appropriate. I would also identify the potential issue created by the permitted baseline that this Proposed Rule¹ establishes for non-farm buildings within nodes. On this basis, the change

¹⁵ Ref. Timaru District Plan, Rural Zones 4 and 5.

¹⁶ Ref. Waimate and Waitaki District Plan controls.

requested by submission CRC 74/5 above – to reduce the maximum Permitted height of buildings from 15 to 7 metres – should be approved.

Part 23 – Rural Zone Rules – Mackenzie Basin Subzone – Buildings

23.2 Rural 3.2.2 Remote Farm Accessory Buildings – Controlled Activity

Pages 39 and 40 of Officer's Report

Pages 76 – 79 of Attachment B

4.52 This "bundle" of submissions from ECan (CRC 74/8, 74/22 and 74/9) request similar changes to those discussed previously in my evidence. In particular, changes sought to Controlled Activity Proposed Rule 3.2.2 for Remote Farm Accessory Buildings include:

- Amend the Rule to full make new buildings Discretionary Activity status,
- Reduce the height threshold from 15 metres to 7 metres,
- Include a floor area threshold of 40 square metres,
- Increase setbacks from highways and other roads to 100 metres and 50 metres respectively.

4.53 Justification for the amended control status and building height threshold has been canvassed previously. I would, however, identify that the floor area threshold has been sought in response to recommendations by Graham Densem in his landscape study for the District Council¹⁷. In this work, Mr. Densem anticipates that small farm buildings (40 m² suggested), which are sited to avoid "widespread visual impacts" should be allowed as of right. He goes on to note that this allowance should not extend to isolated baches disguised as farm sheds, nor should it extend to large farm barns as could be envisaged for wintering of stock, dairying or other industrial type farming.

4.54 As it stands, the control regime for Remote Farm Accessory Buildings promoted in PC13 is very permissive, particularly when considered alongside the associated Objectives and Policies. When viewed in this context, I consider that the changes requested are reasonable and will provide far greater certainty that the objectives of

¹⁷ Ref. to paragraphs 5.24 and 5.25 from *"The Mackenzie Basin Landscape: character and capabilities"* (Graham Densem, November 2007).

PC13 will be achieved; that is, the protection (and enhancement) of the outstanding natural features and landscapes of the Mackenzie District. Accordingly, I consider that the changes sought should be adopted.

Part 23 – Rural Zone Rules – Mackenzie Basin Subzone – Buildings

23.3 Rural 3.3.1 Non-farm Buildings within Nodes – Restricted Discretionary Activity

Pages 40 - 42 of Officer's Report

Pages 79 – 83 of Attachment B

- 4.55 One submission and nine further submissions from ECan are recorded in relation to Proposed Rule 3.3 (Restricted Discretionary Activities). At the outset, I would note an error in the Consulting Planner's Report where it states (at the top of page 41) that ECan has requested that all non-farm buildings within nodes should be Discretionary Activities. This is not the case, and the Restricted Discretionary Activity status for these buildings within Identified Building Nodes is accepted. What ECan has sought is that all buildings that do not comply with Permitted Activity Standards, as set out in Rule 3.3.2, should be considered as full Discretionary Activities.
- 4.56 The submission does, however, request a range of amendments to this Proposed Rule. Building height is requested to be reduced to seven metres consistent with (and for the same reasons as) changes discussed previously in relation to farm buildings. An increased to setback thresholds from roads is similarly requested.
- 4.57 A limit to the total number of Accessory Buildings¹⁸ is also sought because of the potential for this type of building to be employed to circumvent the controls on maximum non-farm building numbers per node. In the absence of such a control, it is conceivable that numerous "Accessory Buildings" could be erected within nodes as-of-right; the effects of such an outcome would serve to undermine the intent of the controls on building within nodes. It is recommended that limit of 10 Accessory Buildings within each node is set through this Rule.

¹⁸ Ref. page 3-1 from the Mackenzie District Plan (Definitions – Accessory Building).

4.58 It is further requested that reference is made to other controls within the Plan. This is principally for purposes of integration, and to improve clarity and comprehension of the Plan. I would note that this includes the incorporation of reference to the Lakeside Protection Area Rule (3.3.1.j). As I have addressed this issue previously, I do not propose to present the case for retaining this control here, suffice to note that ECan seeks the reinstatement of this provision.

4.59 The final element of this submission seeks that the matters subject to the Council's Discretion are amended. This is because the Proposed matters are considered to be too narrow to allow an adequate understanding of potential effects. Where the Consultant Planner considers that these changes equate simply to a "rewording" of the proposed list and, consequently, "not worthwhile", I would submit that these changes are important to allow a more comprehensive understanding and management of the effects of non-farm buildings within nodes. Accordingly, I seek the following amendments (additions underlined and deletions shown in strikethrough):

- ~~External design and appearance of buildings~~ Effects on landscape and visual amenity
- ~~Visual impact of area attached to building (curtilage)~~ Servicing of the site (sewage, stormwater, water supply, power and telecommunications)
- ~~Visual impact of associated earthworks, hard surfacing and access~~ Bulk and scale of buildings
- Landscaping and planting (including tree removal)

Part 23 – Rural Zone Rules – Mackenzie Basin Subzone – Buildings

23.4 Rule 3.4.1 – Discretionary Activity Buildings

Pages 42 and 43 of Officer's Report

Page 84 of Attachment B

4.60 Two submissions are considered in relation to this provision. ECan is a further submitter in opposition to both. The Consultant Planner recommends that the FFMB submission is declined, and this is recommendation supported. The recommendation to defer the decision on the NZ Forest Establishment submission is not supported, however. While it is accepted that a small element of this submission - which seeks

to permit housing on lots greater than 4 ha created or approved by subdivision consent prior to November 2007 - would apply to land in the vicinity of Twizel, the bulk of this land is situated in the wider Mackenzie Basin. For this reason, I would suggest that the request is patently at odds with the intention of PC13, and should be declined. If specific requests are to apply to the Twizel environs, these should be addressed at the (future) time of a specific Plan Change for the Twizel area.

Part 24 – Rural Zone Rules – Rule 4.2.2 Earthworks and Tracking – Controlled Activity

Page 44 of the Officer's Report

Pages 86 – 88 of Attachment B

4.61 Proposed Rule 4.2.2 introduces a "mid-range" Controlled Activity earthworks threshold between the existing Permitted earthworks and Discretionary earthworks controls. ECan has submitted on this Rule because it significantly increases the scale and nature of earthworks to be tolerated in close proximity to sensitive areas. The submission is intended to align the provision more closely with other similar Rules in the Plan, and to allow that it has some consideration of effects on landscape, amenity and ecosystems. ECan's submission notes that the exemptions contained in this Rule further liberalise controls and increase the risk of diminution of landscape and amenity values. Also, the proposed "Matters subject to the Council's control" appear to significantly restrict a thorough evaluation of effects, and omit fundamental elements such as impacts on landscape, amenity, ecosystems, and other attributes.

4.62 Four changes to this Proposed Rule were consequently sought to address these deficiencies. The first requests the inclusion of riparian setbacks consistent with those contained in Rule 4.1.1.c (page 7-46) of the District Plan. This would see the incorporation of additional reference to:

- 20 metres of the bank of the main stem of any river listed in Schedule B to the Rural Zone, and
- 75 metres of any lake listed in Schedule B to the Rural Zone¹⁹.

¹⁹ Listed rivers and lakes are identified in Schedule B, page 7-93 of the Mackenzie District Plan.

The Consultant Planner's Report accepts this request and recommends the inclusion of the first, but not the second bullet point above. I would seek that both are included.

4.63 The second point seeks the inclusion of reference to Lakeside Protection Areas and Scenic Viewing Areas within those areas excluded from the Proposed Rule. This is not discussed in the Planner's Report, but merits inclusion, in my view, because of the sensitivity of these areas from a landscape perspective. I acknowledge that Lakeside Protection Areas remain an area of contention, but would point out that Scenic Viewing Areas remain as a Plan provision that is not affected by the PC13 process.

4.64 The areas exempted from the Proposed Rule (i.e. to which it does not apply) are also requested for amendment. The ECan submission seeks the incorporation of reference to roads in the second bullet point. It is considered reasonable that earthworks should be allowed for the routine repair of operational tracks and roads. What is of particular concern is the proposal to exempt earthworks associated with approved subdivisions and utility services. Without the ability to scrutinise the size, extent and location of earthworks associated with these activities, there is significant potential for adverse effects to occur. Accordingly, the deletion of the first and third bullet points is sought.

4.65 The final matter relates to the "Matters subject to Council's Control". The ECan submission seeks that this either is deleted or that a further bullet point is added to read:

- ***Impact on landscape, amenity, and indigenous ecosystems.***

This request is endorsed by the Consultant Planner. This recommendation satisfies this element of the submission, and is supported.

Part 25 – Rural Zone (Mackenzie Basin Subzone) – Building Nodes Rules

25.1 and 25.2 Rules 15.1.1 and 15.1.2

Pages 45 - 47 of the Officer's Report

Pages 88 – 94 of Attachment B

- 4.66 ECan submission CRC 74/10 requests the deletion of Proposed Rule 15.1 and the amendment of Proposed Rule 15.2 to make the establishment of all new nodes a Non-complying Activity. Because of the outstanding landscape status of the Mackenzie Basin, all new nodes – that is those not identified at the time of notification of PC13 – are considered to require a degree of scrutiny and testing of effects that is more robust than afforded by Discretionary Activity status.
- 4.67 I have previously identified concerns with Mr. Densem's preoccupation with perceived "equity" in relation to "development entitlements" within the Mackenzie Basin as it relates to nodal development. I have also highlighted concerns with the Proposed Appendix R Map (paragraph 4.20). I would add to this my understanding of Environment Court case law that establishes that, by definition, a Discretionary Activity cannot be contrary to the Objectives and Policies of a Plan and that, as a Discretionary Activity, it is accepted as being generally appropriate in the Zone²⁰.
- 4.68 The change of status to Non-complying will allow a closer degree of scrutiny when new nodes are proposed. All applications will need to pass at least one limb of the threshold test (s.104D RMA) prior to approval being considered. This approach will provide a substantially more robust assessment of new proposals than that currently proposed; when considered on the basis that PC13 does not prescribe maximum node sizes, that the Proposed Appendix R Map is too generic to assist with identifying specific and appropriate sites within the broad expanse of pink areas identified as suitable for new nodes, and that it is not possible to anticipate the combinations and permutations of developments that may arise from PC13, I would suggest that the more stringent level of control is appropriate. Accordingly, I would ask that the relief sought in this submission is granted.

²⁰ See, for example, *Doherty v Dunedin CC* EnvC C6/04.

Part 26 – Manuka Terrace Rural Residential Zone

26.2 and 26.3 Rule 4.1 and 4.2 Buildings and Earthworks – Controlled Activity

Pages 49 and 50 of the Officer's Report

Pages 96 - 99 of Attachment B

4.69 Two submissions were made in relation to these provisions. The first submission (CRC 74/23) deals with the Proposed Manuka Terrace Zone. It requests the inclusion of reference to servicing in the matters over which the Council has reserved control. Specifically, reference is made to servicing for sewage, potable water, power and telecommunications. The Consultant Planner recommends that this submission is accepted, and this is supported. I note that the change recommended refers simply to "servicing". While I have no specific concern about this abbreviation of the relief sought, I would suggest that a fuller listing of these matters may be of greater assistance to lay users of the Plan.

4.70 The second submission (CRC 74/24) is not identified or discussed in the Consultant Planner's Report (although it is identified on page 99 of Attachment B). This submission requests the deletion of the exemption for earthworks "*approved as part of subdivision... consent*" from Proposed Rule 4.2. This provision is opposed because it is not appropriate to exempt a potentially unspecified and unknown amount of earthworks where environmental effects are unable to be assessed. In addition, a further bullet point is sought to be included in the matters subject to Council's control. This is:

- ***Effects on landscape, visual amenity, and environmental health.***

4.71 Given that this control is intended to manage the landscape and amenity effects of earthworks in the Manuka Terrace Zone, it is considered appropriate to seek specific consideration of this aspect when dealing with earthworks. Accordingly, it is requested that the changes sought are adopted.

Part 26 – Manuka Terrace Rural Residential Zone

26.5 Rule 8.1 Prohibited Activities – Amenity Tree Planting

Pages 50 and 51 of the Officer's Report

Pages 96 and 97 of Attachment B

4.72 This submission from ECan requested the inclusion of *pinus Mugo* as a prohibited species within Proposed Rule 8. The Consultant Planner's Report recommends the inclusion of several known wilding-risk pinus species. This approach is supported. The identification and prohibition of planting these species will be of fundamental benefit to the reduction in wilding pine introductions to the Mackenzie Basin.

Part 27 – Subdivision

27.3 Discretionary Activities – Subdivision

Pages 53 and 54 of the Officer's Report

Pages 104 – 106 of Attachment B

4.73 ECan has opposed seven submissions seeking to remove or reduce the 200 ha subdivision threshold from the Proposed Subdivision Rules for the Mackenzie Basin Subzone. ECan's submissions on these controls seek, respectively:

- That Rules controlling the establishment of new nodes and the extension of existing nodes should be amended to make this activity a Non-complying Activity, and to ensure that any extension (of size and activity) can only occur up to a level of 10% above the original size (CRC 74/26), and
- That the Primary Subdivision Standards are amended to incorporate a 10 hectare minimum allotment size as the Controlled Activity threshold in the Rural Zone generally, beyond the Mackenzie Basin Subzone (CRC 74/27).

4.74 Both submissions are rejected by the Consultant Planner. In relation to the first point, I would observe that this provision is closely linked to Proposed Policy 3H. This Policy makes reference to the "*operational requirements of the property*". If the property involves farming as its principle use, it would seem incongruous that domestication (as anticipated by the creation and/or extension of nodes) would be presumed to be consistent with those requirements. In addition, the Proposed Rule providing for the extension of nodes is framed in a way that would conceivably allow

incremental increases in node size through several subsequent subdivisions. This could lead to cumulative and incremental degradation of the landscape and amenity values of the Mackenzie basin, contrary to the District Plan and Regional Council Policies.

- 4.75 I do not consider it unreasonable to signal the maximum anticipated extent of expansion that is to be tolerated for nodes. Because of the inherent values of the Mackenzie Basin landscapes, I consider that it is appropriate to signal a finite limit to development of this kind. Accordingly, I request that this submission is accepted.
- 4.76 The Consultant Planner expresses her view that the second change sought – the amendment of the general rural subdivision allotment size to 10 ha – is beyond the scope of PC13. I respectfully disagree with this contention on the basis that PC13 does amend these Rules, some of which apply district-wide (e.g. Section 12 – Subdivision Contributions). The reason for seeking this change arises from the acknowledged inability of the District Plan to deal adequately with the effects of inappropriate rural subdivision by virtue of the absence of a minimum allotment size in the Rural Zone.
- 4.77 For the Mackenzie District Council to give effect to Regional Policy in relation to subdivision and development in rural areas, it must retain some ability to decline inappropriate proposals. As it stands, the Council does not currently have this ability because of the liberal subdivision provisions for the Rural Zone. Not only is the current regime inconsistent with controls adopted by adjacent territorial authorities, but it also places the Council in jeopardy when considering proposals that do not meet the Policies of the RPS. Examples include the fragmented and ad-hoc multiple-lot subdivisions occurring in the vicinity of Lake Opuha. It is not at all certain that these subdivisions would meet the expectations of Policy 1 from Chapter 12 of the RPS (Settlement and the Built Environment), for example, which seeks settlement and transport patterns that result in increasingly effective and efficient use of energy.

4.78 Despite the misgivings of the Consultant Planner, I would request that this change is accepted. Not only will it allow a greater degree of control over inappropriate subdivision proposals, but it will also more closely align the Mackenzie District Plan with those of adjacent territorial authorities.

Part 30 – Mackenzie Basin Subzone

Page 57 of the Officer's Report

Pages 112 and 113 of Attachment B

4.79 ECan submission CRC 74/1 simply seeks that the Mackenzie basin Subzone Boundary is more clearly defined. This minor point is identified because of the coarse grain of the Attachment 1 Map notified with PC13. It is anticipated that this Map, and the other affected Plan Maps, will be amended in due course as PC13 is finalised and adopted into the Plan. The submission is recommended for acceptance, and this is supported.

Part 32 – Appendix R – Capacity for New Nodes

Pages 57 and 58 of the Officer's Report

Page 19 of Attachment A

Pages 113 – 115 of Attachment B

4.80 Submissions addressing the capacity for new nodes (and focussing on Map 8 – Proposed Appendix R) are considered in the Attachment A Report by Graham Densem. ECan has lodged ten further submissions opposing relief sought by 8 submitters, and one submission (CRC 74/2), which seeks the deletion of Proposed Attachment 3 – Appendix R: Capacity for New Nodes. In addition, I would identify that ECan has also opposed a range of other submissions seeking the inclusion of additional nodes, and related changes in this vein, to provide for residential subdivision and development. These are also considered in Attachment A.

4.81 Rather than address specifically each further submission, I propose to discuss the rationale for opposing these requests as the changes sought and issues raised are, largely, generic. In general, these seek either that additional or extended nodes are

provided on specific properties, or that the Map is amended to provide for more nodes to be created.

4.82 PC13 establishes a regime to enable the establishment of new allotments, dwellings, and nodes where these are appropriate to achieving the overall Objectives and Policies seeking to protect and sustain the outstanding natural landscapes and features of the Mackenzie Basin. The changes sought through these submissions are not based on this principle and, rather, request the provision of (generally unspecified) new nodes. The effects of these changes are unable to be assessed because of the lack of detail in the submissions, and are considered to be void for uncertainty. Additionally, this focus on facilitating “development potential”, rather than the purpose of PC13, places at considerable risk the landscapes of the Basin to a proliferation of unsustainable development. This is the very issue that PC13 seeks to manage.

4.83 I would record my concern at the analysis and recommendations on these submissions in Attachment **A**. While it is not my role to define which specific areas are or are not suitable for nodal development, I believe that I am qualified to observe that basing controls intended to protect outstanding landscapes (as a matter of national importance) on concepts of perceived “*fairness between properties*” and “*development entitlements*” is some considerable distance removed from the concept of sustainable management anticipated by the RMA. Mr. Densem’s conclusions appear to arise more from concerns about perceived “equity” than about environmental capacity.

4.84 This attitude appears to form the basis for many of the conclusions and recommendations reached by Mr. Densem, which includes, for example, the development of Map 8 (Attachment 3 – Appendix R: Capacity for New Nodes). In reading the **Attachment A** Report, it is apparent that there is an arbitrary preoccupation with providing for development, rather than with robust assessment as to whether it achieves the purpose of the RMA. By way of example, I would identify the following statements from Mr. Densem’s “Technical Report L1”, at Attachment A of the Consultant Planner’s Report (underlined words are my emphasis):

- *"I agree with the submitter that the Council needs to take fairness between properties into account when administering this plan change."* (page 9, para. 52)
- *"Such an approach will require restraint in "x" areas, but was hoped would also leave each property with sufficient development opportunities for their purposes".* (page 15, para. 116)
- *"I recommend that...a site visit be sought...with a view to identifying, if possible, mutually acceptable development boundaries..."* (page 15, para 119)
- *"...I would support a visit to the individual properties being arranged and the owners' requirements being provided for in terms of nodes".* (page 20, para. 161)
- *"My opinion is that it would not devalue the landscape character proposed under [PC13] if this property's development entitlements were distributed throughout the wider shelter-planted area of the Irishman Creek homestead"* (page 21, para. 173)

4.85 This theme is further developed in instances dealing with properties such as Mount John²¹. Here, despite acknowledging that the homestead site has been incorporated into the Tekapo township (and, I would add, this has involved the creation of numerous additional allotments), Mr. Densem focuses on the need to create a "renewed farm working area" and node on the basis that this property and Balmoral Station may not be operated as an amalgamated unit. Such an approach serves to highlight the concern that much of this work is preoccupied with the concept of equity in development opportunities rather than with protecting the Basin from inappropriate subdivision, use and development (Proposed Policy 3A).

4.86 To compound this concern, Mr. Densem also proposes a range of ad-hoc additions and amendments to both Proposed Map 8 and to nodes (in response to submissions) without defining with any precision what changes may be anticipated²². This approach removes any certainty for submitters and is opposed. ECan has sought that all nodes should be identified at the time of notification of PC13. Any additional nodes should be required to proceed through the Plan regime established by PC13 to allow a full assessment of each proposal on its merits.

²¹ Ref. submission by K Simpson, pages 13 and 14 from Attachment A (paragraphs 99 – 104), and submission 125/1 and ECan further submission F74 (page 119, Attachment B).

²² See, for example, paragraph 27, page 5, paragraph 119, page 15, and paragraph 161, page 20 from Attachment A

- 4.87 This conveniently leads to the basis for ECan's request that Proposed Attachment 3/Appendix R is deleted. Consistent with the submission that proposed new nodes should be assessed as a Non-complying Activity (CRC 74/10, discussed at paragraph 4.66), ECan has also requested that Map 8 is deleted. While the concept of nodal development is supported, the manner in which up to 69 new nodes are to be allowed through this Proposed Map is opposed.
- 4.88 The analysis used to define the "Landscape Sub-Areas" within Map 8 is in apparent conflict with the vulnerable areas shown in Map 7²³. While the Map indicates, very approximately, areas that may contain nodal development, it cannot be said that this truly indicates where this development is appropriate with any degree of robustness. Further, it is not considered appropriate to define unspecified and unknown residential development over such extensive land areas in the generic manner shown on Map 8. Despite the requirement for Resource Consent to establish (up to 69) new nodes under this regime, it is simply not possible to predetermine that the effects of such extensive development will be consistent with PC13. As noted previously (paragraph 4.67), Discretionary Activities are, in general, accepted as being appropriate in the Zone – in this case the "Landscape Sub-Areas". For these reasons, it is requested that Map 8 is deleted.

Part 36 – General Submissions

36.4 – Other General Submissions

Pages 60 – 66 of the Officer's Report

Pages 123 – 128 of Attachment B

- 4.89 This final submission by ECan (CRC 74/4) requests that the Mackenzie District Council commits to a process to address the broader effects of land use changes on landscape. A new Policy to this effect is sought. This approach has been included in other District Plans in the past, and has been successfully applied²⁴. Having noted this, however, I accept that the submission seeks commitment to an outcome that will require resourcing that cannot be committed through the Plan Change process. This matter may, more appropriately, be addressed through formal advocacy to the Long

²³ As set out in *"The Mackenzie Basin Landscape: Character and Capacities"* (Graham Densem, November 2007).

²⁴ Ref., for example, Policy 16.8.3 (1) (page 135) from the Proposed Waitaki District Plan

Term Council Community Plan process. Accordingly, the Consultant Planner's recommendation is not opposed.

5.0 GENERAL

- 5.1 Before concluding my evidence, I would note that I have not specifically identified or discussed all further submissions lodged by ECan. I would advise that this should in no way be interpreted to suggest that ECan's position on these submissions has changed. Rather, for reasons of economy, discussion of these matters has not occurred. In these cases, the reasons for ECan's opposition to submissions remain.

5.0 CONCLUSION

- 5.1 This concludes my evidence on Proposed plan Change 13. Thank you for the opportunity to present my evidence today. The Mackenzie District Council is to be congratulated for undertaking what was inevitably going to be a controversial, but nevertheless necessary, Plan Change process. These submissions reflect the importance that ECan places on the District Plan as a means of promoting the sustainable management of natural and physical resources; in this case those iconic Mackenzie Basin landscapes which are so highly regarded by residents and visitors alike. Having read through evidence presented on the first day of Hearings, it is apparent that there is widespread acknowledgement of the outstanding classification of this landscape; there are, however, differing views on how it is to be managed in the face of competing interests. I look forward to receiving the outcome of your deliberations in due course.

R B Willis
SENIOR RESOURCE MANAGEMENT PLANNER
10 September 2008

