

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH**

**IN THE MATTER OF**

appeals under clause 14(1) of the First Schedule to the  
Resource Management Act 1991

**BETWEEN**

**FEDERATED FARMERS OF NEW ZEALAND  
(INCORPORATED) MACKENZIE BRANCH**  
ENV-CHC-2009-000193

**HIGH COUNTRY ROSEHIP ORCHARDS LIMITED  
AND MACKENZIE LIFESTYLE LIMITED**  
ENV-CHC-2009-000175

**MOUNT GERALD STATION LIMITED**  
ENV-CHC-2009-000181

**MACKENZIE PROPERTIES LIMITED**  
ENV-CHC-2009-000183

**MERIDIAN ENERGY LIMITED AND GENESIS  
ENERGY LIMITED**  
ENV-CHC-2009-000184

**THE WOLDS STATION LIMITED**  
ENV-CHC-2009-000187

**FOUNTAINBLUE LIMITED & OTHERS**  
ENV-CHC-2009-000190

**R, R AND S PRESTON AND RHOBOROUGH DOWNS  
LIMITED**  
ENV-CHC-2009-000191

**HALDON STATION**  
ENV-2009-CHC-000192

*Appellants*

**AND**

**MACKENZIE DISTRICT COUNCIL**

*Respondent*

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**EVIDENCE IN CHIEF OF BENJAMIN ESPIE  
(LANDSCAPE ARCHITECT)  
ON BEHALF OF BLUE LAKES INVESTMENTS (NZ) LIMITED (SECTION 274 PARTY)  
9 September 2016**

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# 1 QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Benjamin Espie. I reside in Queenstown. I hold the qualifications of Bachelor of Landscape Architecture (with honours) from Lincoln University and Bachelor of Arts from Canterbury University. I am a member of the Southern Branch of the New Zealand Institute of Landscape Architects and was the Chairman of that branch between 2007 and 2016. Since November 2004 I have been a director of Vivian and Espie Limited, a specialist resource management and landscape planning consultancy based in Queenstown. Between March 2001 and November 2004 I was employed as Principal of Landscape Architecture by Civic Corporation Limited, a resource management consultancy company contracted to the Queenstown Lakes District Council.
- 1.2 The majority of my work involves advising clients regarding the protection of landscapes and amenity that the Resource Management Act 1991 (the Act) provides and regarding the landscape provisions of various district and regional plans. I also produce assessment reports and evidence in relation to proposed development. The primary objective of these assessments and evidence is to ascertain the effects of proposed development in relation to landscape character and visual amenity.
- 1.3 Much of my experience has involved providing landscape and visual amenity assessments in relation to resource consent applications and plan changes in rural landscapes. I have compiled many assessment reports and briefs of evidence regarding the landscape and visual amenity aspects of proposed regimes of District Plan provisions to provide for development in the rural areas of a number of districts.
- 1.4 I have been involved in work relating to Proposed Plan Change 13 (PC13) since it was originally notified. This work has involved considering and advising on the landscape and visual amenity outcomes of various iterations of PC13 as it relates to the Mackenzie Basin landscape. I have given evidence to the Court on these matters and have overseen the work of Dr Michael Steven, who also gave evidence to the Court regarding PC13, while he was employed by Vivian and Espie Ltd.
- 1.5 I have read the Code of Conduct for Expert Witnesses contained within the Environment Court Practice Note of November 2014 and agree to comply with it. This evidence is within my area

of expertise, except where I state that I am relying on information I have been given by another person. I confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed herein.

## **2 PURPOSE AND SCOPE OF THIS EVIDENCE**

- 2.1 I have examined the PC13 provisions that were notified by the Mackenzie District Council (MDC) in May 2016 pursuant to Section 293 of the Act (the notified provisions). I have also examined the evidence circulated by the MDC in July 2016. I have been engaged by Blue Lake Investments (NZ) Limited (BLINZL), who are the owners of Guide Hill Station that lies on the eastern side of Lake Pukaki, and have been asked to consider and comment on the appropriateness of the notified provisions insofar as they are relevant to Guide Hill Station.
- 2.2 I circulated a brief of evidence on the 19<sup>th</sup> of August 2016 on behalf of Fountainblue Limited and others (my Fountainblue evidence). In my Fountainblue evidence I discuss the notified provisions in general terms; how they will manage the landscape and visual amenity resources of the Mackenzie Basin, and comment on their general appropriateness (as well as commenting on how they relate to Pukaki Downs Station, which is owned by Fountainblue Limited).
- 2.3 BLINZL adopts my Fountainblue evidence. All of the discussion in my Fountainblue evidence regarding the notified provisions and suggested amendments to them applies to all of the Mackenzie Basin, including both Pukaki Downs Station and Guide Hill Station. Additionally, the discussion in my Fountainblue evidence regarding Mr Densem's evidence also applies to all of the Mackenzie Basin. Part of my discussion of Mr Densem's evidence relates to landscape sensitivity mapping. I have mapped the landscape sensitivity of Guide Hill Station and attach to this evidence as Appendix 1 a paper discussing methodology, a Landscape Sensitivity Table and two associated maps.
- 2.4 In addition to my general discussion of the notified provisions and of Mr Densem's evidence (that is found in my Fountainblue evidence), there are some further relevant matters that relate more specifically to Guide Hill Station and BLINZL. Mr Vivian has circulated a brief of resource management planning evidence of behalf of BLINZL dated the 9<sup>th</sup> of September 2016 (Mr

Vivian's evidence). In his evidence, Mr Vivian sets out some background regarding BLINZL's ownership of Guide Hill Station. Without repeating Mr Vivian's evidence, the matters that BLINZL have most interest in relate to:

- The Mackenzie Trust, the Mackenzie Agreement and the related goals for the management of the Mackenzie Basin's ecology;
- The Farm Base Area (FBA) of Guide Hill Station;
- The Lakeside Protection Area (LPA) as it lies within Guide Hill Station.

2.5 In relation to these matters, Mr Vivian recommends some amendments to the notified provisions. I have structured my evidence such that I firstly comment on the notified provisions and then give some more detailed comments regarding Guide Hill Station's FBA and LPA.

### **3 THE NOTIFIED PROVISIONS**

3.1 Again, my Fountainblue evidence sets out my general opinions and recommendations regarding the notified provisions. In addition to the recommendations that I give in my Fountainblue evidence, I endorse some further amendments to the notified provisions in this section of my evidence. Mr Vivian's evidence sets out the changes to the notified provisions that he recommends. I support those recommended changes and give some comments on them below. Some of Mr Vivian's recommended amendments to the notified provisions relate to planning mechanisms or clarity of wording. I will only comment on his recommended amendments that relate squarely to landscape or visual amenity matters.

3.2 For ease of reference, in this section of my evidence I will set out the provision that I wish to comment on and then give my comments below it.

#### **SECTION 7 – RURAL**

##### **Issues**

##### **Issue 12 The Mackenzie Agreement**

***In 2012 the Council became a signatory to The Mackenzie Agreement. This agreement forms a long term, co-operative relationship, working together to implement a shared vision and strategy for the Mackenzie Country. This vision includes:***

- *A land use pattern which includes a mix of irrigated and dryland agriculture, tourism-related development, and land actively managed for biodiversity and landscape purposes, with integration wherever possible.*
- *A balanced and prosperous local community;*
- *New Zealand's recognition of the Mackenzie Country as an iconic area, accompanied by and enhanced and tangible sense of shared responsibility for restoring and maintaining its natural assets.*

3.3 The above is a new Issue (Issue 12) that Mr Vivian recommends is included in the Issues part of Section 7 of the District Plan. The purpose of this issue is to give weight and attention to the Mackenzie Agreement<sup>1</sup>. The Mackenzie Agreement sets out a vision for the Mackenzie Country that encompasses landscape and land management issues but also many other issues. A great deal of work and consultation has gone into formulating the agreement and getting a wide variety of important entities (including community, farming, tourism, conservation and local government entities) to become signatories.

3.4 In relation to landscape, the Mackenzie Agreement envisages the Mackenzie Basin being covered by a *"land use pattern which includes a mix of irrigated and dryland agriculture, tourism-related development, and land actively managed for biodiversity and landscape purposes, with integration wherever possible"*<sup>2</sup>. In achieving this vision, the Mackenzie Agreement relevantly sets out:

- Irrigated agriculture is envisaged to be limited in scale to approximately 7,500ha of land that is already irrigated, 7,500ha of land that will be irrigated via small-scale operations, and 9,600ha of land that will be irrigated in a large scale way on 5 farming properties<sup>3</sup>.
- Increasing tourism revenue need not necessarily mean significantly increased tourist numbers. The attraction of the Mackenzie Basin in relation to tourism is linked to agriculture (the attraction of the cultural history of the basin) and to the natural environment (the attraction of the landscape of the basin). Tourism operations can

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<sup>1</sup> Which Mr Vivian appends to his evidence.

<sup>2</sup> The Mackenzie Agreement (appended to Mr Vivian's evidence), page 4.

<sup>3</sup> Ibid, page 5.

potentially be configured in such a way that they assist and contribute to environmental conservation<sup>4</sup>.

- Two goals should be perused in relation to environmental conservation:
  - Restoration of examples of the pre-human ecosystem of the basin;
  - Protection and enhancement of areas of tussock ecosystems to maintain a distinctive aspect of the Mackenzie's landscape<sup>5</sup>.
- Wilding pine spread is a major threat to both production and conservation. Advances in control techniques mean that the battle against wilding pines is potentially winnable<sup>6</sup>.
- New sources of revenue are necessary to achieve greater protection of landscape and biodiversity. It is proposed to create the Mackenzie Trust, which would (among other things) enter into Joint Management Agreements that enable some increased development or activity rights in combination with land protection and enhancement measures as a means of achieving the overall vision of the Mackenzie Agreement<sup>7</sup>.

3.5 Given the amount of consultation, work and consensus that the Mackenzie Agreement represents, I consider that it is a very valuable community document and one that sets out a clear vision for the Mackenzie Country in relation to landscape and other issues. I consider that this vision accords with the vision that the notified provisions represent and in terms of landscape matters I consider that the Mackenzie agreement is entirely appropriate and complimentary to the District Plan.

3.6 As will be discussed below, the notified provisions include reference to the Mackenzie Agreement in Policy 3B1 that relates to pastoral intensification. For the reasons above, I consider that it is appropriate that the District Plan refers to the Mackenzie Agreement in a

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<sup>4</sup> Ibid, page 7.

<sup>5</sup> Ibid, pages 9 and 10.

<sup>6</sup> Ibid, page 12.

<sup>7</sup> Ibid, page 14 and 15.

broader way, not just in relation to pastoral intensification. Obviously, the entire suite of Objectives and Policies of the notified provisions are required to appropriately manage the landscapes of the Mackenzie Basin, not just those that relate to the Mackenzie agreement. However, I consider that the work that has been done and that is encapsulated in the Mackenzie Agreement can benefit the community by giving direction regarding land management in relation to landscape goals. Therefore I agree with Mr Vivian's suggested addition to the Issues part of Section 7 of the District Plan.

***Rural Objective 3B – Activities in the Mackenzie Basin's outstanding natural landscape***

- (1) ***Subject to (2)(a), to protect and enhance the outstanding natural landscape of the Mackenzie Basin Subzone in particular the following characteristics and/or values:***
  - (a) *the openness and vastness of the landscape;*
  - (b) *the tussock grasslands;*
  - (c) *the lack of houses and other structures;*
  - (d) *residential development limited to small areas in clusters;*
  - (e) *the form of the mountains, hills and moraines, encircling and/or located in, the Mackenzie Basin;*
  - (f) *undeveloped lakesides and State Highway 8 roadside;*
- (2) ***To maintain and develop structures and works for the Waitaki Power Scheme:***
  - (a) *within the existing footprints of the Tekapo-Pukaki and Ohau Canal Corridor, the Tekapo, Pukaki and Ohau Rivers, along the existing transmission lines, and in the Crown-owned land containing Lake Tekapo, Pukaki, Ruataniwha and Ohau and subject only (in respect of landscape values) to the objectives, policies and methods of implementation within Chapter 15 (Utilities) except for management of exotic tree species in respect of which all of objective (1) and all implementing policies and methods in this section apply;*
  - (b) *elsewhere within the Mackenzie Basin Subzone so as to achieve objective (1) above.*
- (3) ***Subject to objective (1) above and to rural objectives 1, 2 and 4:***
  - (a) *to enable pastoral farming;*
  - (b) *to enable pastoral intensification, including cultivation and/or direct drilling and high intensity (irrigated) farming, in Farm Base Areas and areas for which irrigation consent was granted prior to 14 November 2015 and the effects on the outstanding natural landscape have been addressed through the regional consenting process; and elsewhere, to manage pastoral intensification;*
  - (c) *to enable rural residential subdivision, cluster housing and farm buildings around existing homesteads (where they are outside hazard areas).*

3.7 I consider it appropriate that this over-arching Objective relating to the Mackenzie Basin makes mention of the Mackenzie Agreement and the vision that it seeks to bring about. In relation to this, Mr Vivian recommends an additional new clause (3)(c) and I agree with it. Mr Vivian's clause 3(c) relates to the Mackenzie Agreement's goal of biodiversity and landscape management through combining these activities with other revenue-producing activities (such

as tourism activities. Given that Mr Vivian's clause 3(c) is explicitly subject to clause (1) (and given all the other Objectives and Policies that are relevant) I consider it appropriate that the management of land for biodiversity and landscape purposes (via the Mackenzie Agreement) are activities that are listed as being enabled. Given that such considerable community agreement has been reached regarding the Mackenzie Agreement's goals, I consider that a clause that seeks to enable the Mackenzie Agreement's vision is useful and will assist in clarifying what the policies under this objective seek to achieve.

### **3 BUILDINGS**

#### **3.4 Non-complying Activities – Buildings**

##### **3.4.5 Non-farm buildings and extensions of these buildings within the Mackenzie Basin Subzone outside of defined Farm Base Areas (refer Appendix R) including all non-farm buildings within Lakeside Protection Areas, Scenic Viewing Areas, Scenic Grasslands and land above 900m in altitude identified on the Planning Maps or in Appendix V (Areas of Landscape Management).**

- 3.8 As is set out in my Fountainblue evidence, I support a discretionary activity status for non-farm buildings outside of FBAs on the basis that landscape fragmentation by way of subdivision is a significant threat to the Mackenzie Basin's landscape character and visual amenity but a lesser threat is posed by buildings that are not associated with subdivision.
- 3.9 As is discussed in Mr Vivian's evidence, BLINZL envisage a future management regime for Guide Hill Station that involves research, in conjunction with Lincoln University, in the fields of agricultural land management and ecological conservation. While the details of how the research work will be carried out are yet to be formulated, BLINZL envisage that the research facilities will involve a number of buildings within the FBA of Guide Hill Station but also some outside of the FBA in more remote, and natural, parts of the station. It is currently envisaged that this may include a mobile building that is relocated to different parts of the station periodically.
- 3.10 Further to paragraphs 3.15 to 3.17 of my Fountainblue evidence, in my opinion a discretionary regime is entirely appropriate to regulate activities such as remote buildings associated with research. A resource consent application for an activity of that sort could be publicly notified and would be carefully assessed by the MDC in relation to all relevant Objectives, Policies and

Assessment Matters. I consider that the MDC would have ample ability to ensure resource consent was only granted to buildings that were carefully designed and located and that did not have significant effects on the landscape character or visual amenity of the Mackenzie Basin.

## **4 THE GUIDE HILL STATION FARM BASE AREA**

4.1 The Environment Court's first interim decision regarding PC13<sup>8</sup> confirmed the extent of the Guide Hill Station FBA and this is shown on Appendix 2 of this evidence. As is discussed in Section 7 of Mr Vivian's evidence, a report prepared by Mr Harding on behalf of the MDC that was circulated as part of the notified Section 293 application suggests that the Guide Hill Station FBA should be re-mapped because it overlaps a Site of Natural Significance (being The Black Hole montane lake and associated wetland – Site 22 in Appendix I of the District Plan)<sup>9</sup>. Appendix 2 of this evidence shows the outline of the FBA in relation to the outline of the Site of Natural Significance.

4.2 Paragraphs 3.4 to 3.8 of my Fountainblue evidence discuss FBAs and their definition. FBAs equate to what were often traditionally referred to as homestead blocks or home paddocks. Some of the FBAs identified by the notified documents cover many hectares. I understand Mr Vivian's (and Mr Harding's) rationale that it is most logical to draw the Guide Hill Station FBA so as to exclude the identified Site of Natural Significance. From a landscape planning perspective, I agree with this rationale; it is simplest and gives the clearest direction to users of the district plan if the FBA and the Site of Natural Significance are mutually exclusive. A suggested alternative FBA outline is shown on Appendix 2 of this evidence. Appendix 3 is a series of marked-up photographs that give the logic and justification for the suggested FBA outline.

4.3 In short, my suggested FBA takes in:

- all existing farm base buildings and structures including dwellings;

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<sup>8</sup> Environment Court decision 2011 NZEnvC 387, High Country Rosehip Orchards Limited and others vs. Mackenzie District Council, paragraph 350.

<sup>9</sup> Mike Harding, 5th February 2016, *PC13 Section 293 Report - Desktop Assessment of Farm Base Areas*.

- the more intensively improved pasture around the farm base. In this regard the FBA outline often follows fence lines;
- the formed vehicle tracks around the existing farm base.

4.4 The suggested FBA outline excludes all of the identified Site of Natural Significance. The southern boundary of the FBA is difficult to define decisively in the field since improved pasture extends to the south for a considerable distance. For this southern edge I have chosen to follow an east-west running fence line that marks the southern edge of the paddocks that are closest to the existing farm base activities. Although landscape character is very similar in the area to the south, continuing the FBA in this direction would begin to considerably increase its size. In formulating my suggested FBA outline, I have been conscious of my landscape sensitivity mapping that forms part of Appendix 1 to this evidence.

4.5 In an overall sense, I consider that my suggested FBA outline (as shown on my Appendices 2 and 3) represents an area that is reflective of a traditional home paddocks area, is the most modified part of Guide Hill Station and is an area within which activities that the notified provisions anticipate within a FBA can comfortably sit. I do not consider that any adverse landscape or visual effects will arise if the suggested FBA outline is chosen over the confirmed FBA outline.

## **5 THE GUIDE HILL STATION LAKESIDE PROTECTION AREA**

5.1 The LPA as it crosses Guide Hill Station is shown on Appendix 4 of this evidence. The line showing the extent of the LPA is taken from the Operative District Plan.

5.2 The Policy of the notified provisions that deals with LPAs is Policy 3B6. Mr Vivian's evidence suggests some wording changes to this Policy to make it more workable in a practical sense. LPAs are not defined in the Definitions Section of the Operative District Plan. Policy 3B6 seeks to recognise the importance of the "*lakes, their margins and their settings*". The explanations and reasons relating to this policy state that development in the vicinity of lakes can degrade "*wider and expansive views up, down and across*" the lakes, and that the identified LPAs reflect "*the visual sensitivity of the landscapes around the major lakes*". In researching the origin of the lines showing the extent of the LPAs, I was told by Mr Densem and Ms Harte

(witnesses to be called by the MDC) that these lines were identified by the MDC's planning committee when preparing the District Plan, were based on site visits by the committee and were drawn onto 1:50,000 topographic maps.

- 5.3 Exactly what the term “*settings*” means in this context is somewhat unclear. The citations above also note that expansive views up, down and across lakes are relevant, as is the visual sensitivity of the landscapes around the lakes. Overall, I believe that the District Plan does not make it entirely clear exactly what the LPAs are or how they have been mapped. From the above, it appears most likely that the LPAs are intended to maintain the quality of current views that include the major lakes. Many public viewpoints allow expansive views that include vast areas of lake surface. These views almost always also include a skyline of mountain peaks. Some such viewpoints are very well used, particularly those adjacent to State Highway 8. Judging by the mapping of the LPAs as set out on the District Plan Maps, the intention is not to protect all of the land that is seen from these viewpoints that allow views of the lakes, rather the intention may be to protect the immediate visual setting around the lakes. Since I am not entirely certain of the intention of the LPAs, I am unsure whether they include more land than the lakes “*and their margins*” pursuant to Section 6(a) of Part 2 of the Act, although by including “*settings*” in Policy 3B6, my impression is that the LPAs intended to be broader than just the lakes and their margins.
- 5.4 Appendix 4 to this report is a plan showing the part of Guide Hill Station that is adjacent to Lake Pukaki. A number of different iterations of the LPA line are shown on this plan which reflect the various Appendices of Mr Densem's evidence in chief. I am told by Ms Harte (MDC's resource management planning witness) that only the green line (the LPA line from the Operative District Plan) is valid; i.e. that the LPA lines as shown on the Operative District Plan Maps are the correct lines and that PC13 does not seek any amendments to them. I am unsure whether there is jurisdiction to amend the green line as shown on Appendix 4, however, I give some comments on it below.
- 5.5 In practical terms, the only terrestrial viewpoints that allow views of Lake Pukaki that include the land of Guide Hill Station are those on the western side of the lake, most relevantly along State Highway 80 (Mount Cook Road). From these viewpoints, Lake Pukaki forms the foreground, the more exposed west-facing slopes of Guide Hill Station (and adjacent stations)

form the mid-ground (which is 6 kilometres and more from the viewer) and the Two Thumb range forms a very distant skyline backdrop. The parts of Guide Hill Station that are visible in these views are generally the parts to the west of approximately the FBA that are shaded orange on the Land Description Units and Visibility Plan that forms part of Appendix 1 to this evidence. In short, these are the west-facing slopes that form parts of the terraced landform of the station.

5.6 Obviously, the intention of the LPAs is not to include all land that is visible in views that include the Mackenzie's lakes. If that was the case, the LPAs would cover a great deal of the basin. If the intention is to demarcate the immediate visual setting of the lakes, then I can see some merit in the green line shown on my Appendix 4 but it has not been drawn particularly accurately. The flat paddocks within the station that are immediately adjacent to Hayman Road are very difficult to see from State Highway 80, as are some of the gully areas that are included. I would estimate that more than half of the land of Guide Hill Station that is within the green line of Appendix 4 is invisible from State Highway 80. To be practical, I consider that the most appropriate location for the LPA line in the vicinity of the station is to follow Hayman Road. Hayman Road generally sits on a gentle moraine shelf with a rounded escarpment sloping down to the lake edge to the west of the road. Locating the LPA line along Hayman Road would mean that the rounded escarpment land that forms the lake's immediate visual setting is included within the LPA but the flat paddock land that is not seen from across the lake is excluded.

5.7 Ideally, I believe that the District Plan should give a much clearer definition of what the LPAs are, what they seek to achieve and how they have been mapped. This information should be set out in the Definitions section and in the Explanations and Reasons under Policy 3B6. As I am unclear on the exact purpose of the LPAs, I do not offer any suggested wording in this evidence.

## **6 CONCLUSIONS**

6.1 In relation to landscape and visual amenity matters, I generally agree with the notified provisions. However, I support some amendments to those provisions as set out in this brief of evidence and my Fountainblue evidence.

- 6.2 I agree with Mr Harding and Mr Vivian that the Guide Hill Station should be redrawn so as to exclude Site of Natural Significance 22 as it is identified in the Operative District Plan. I set out a suggested alternative FBA outline in this evidence.
- 6.3 I consider that the definition and purpose of the LPAs are not made clear by the Operative District Plan. Ideally, this should be remedied.
- 6.4 I consider that the edge of the Operative District Plan's LPA as it crosses Guide Hill Station has been drawn in a way that has little logic. I consider that the edge of the LPA would most logically follow Hayman Road in this vicinity.

**Ben Espie**

**vivian+espie**

**19 August 2016.**