

**IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

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

Between

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

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

MOUNT GERALD STATION LIMITED
ENV-2009-CHC-000181

MACKENZIE PROPERTIES LIMITED
ENV-2009-CHC-000183

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

THE WOLDS STATION LIMITED
ENV-2009-CHC-000187

FOUNTAINBLUE LIMITED & OTHERS
ENV-2009-CHC-000190

**R, R AND S PRESTON AND RHOBOROUGH DOWNS
LIMITED**
ENV-2009-CHC-191

HALDON STATION
ENV-2009-CHC-000192

Appellants

And **MACKENZIE DISTRICT COUNCIL**
Respondent

STATEMENT OF EVIDENCE OF LYNDA MARION WEASTELL MURCHISON

on behalf of

FEDERATED FARMERS OF NEW ZEALAND INC

9th September 2016

1. **INTRODUCTION**

- 1.1 My name is Lynda Marion Weastell Murchison. I work as a consultant planner and have a background in regional and district planning and farming.
- 1.2 I hold the following relevant qualifications:
- A Master of Arts degree in Geography (First Class honours) from Canterbury University;
 - Certificates of proficiency in Natural Resource Law (LAWS 304) and Advanced Resource and Regional Planning (ERST 604) from Canterbury and Lincoln universities respectively.
 - A National Certificate in Agriculture (Level 3) from the Open Polytechnic of New Zealand.
 - Full membership of the New Zealand Planning Institute and hearing commissioner accreditation.
- 1.3 I currently hold the Roper Scholarship from Canterbury University for study towards a PhD in science. My chosen field of research is exploring traditional environmental knowledge among inter-generational farmers in Canterbury; and how such knowledge can be used in environmental management.
- 1.4 I have worked in the field of resource management for over 20 years, holding senior planning and managerial positions for Selwyn District Council, Canterbury Regional Council (Environment Canterbury) and Te Rūnanga o Ngāi Tahu (Te Rūnanga). I currently lecture courses in environmental and resource management in the Geography Department at Canterbury University and undertake some consultant planning work.
- 1.5 I have worked extensively in drafting district and regional plans and plan changes, as well as processing resource consents. I drafted much of the operative Selwyn District Plan and have been involved in the drafting or processing of over 80 plan changes for Selwyn District and Hurunui District councils. I drafted Chapter 7 - Freshwater of the Canterbury Regional Policy Statement (CRPS) as notified, several regional catchment plans, and the early drafts of the Canterbury Land and Water Regional Plan (CLWRP).
- 1.6 I worked with Mr Graham Densem in developing the model for identifying and protecting outstanding landscapes and natural features in the operative Selwyn District Plan. More recently I provided evidence to the Independent Hearings Panel on the relationship between sections 6 (a), (b) and (e) of the Resource Management Act 1991 (RMA) in crafting provisions for papakāinga/kāinga nohoanga zones in the Replacement Christchurch District Plan.

- 1.7 I have worked as a sheep and beef farmer in partnership with my husband for over 18 years. The Murchison Family have owned and farmed land at Lake Coleridge since 1878. In 2002 my husband and I purchased our own farm in the Weka Pass, North Canterbury.
- 1.8 I am currently the Provincial President of the North Canterbury Province of Federated Farmers. This is an elected governance role. The North Canterbury Province extends from the Clarence River in the north to the Rakaia River in the south. North Canterbury Federated Farmers is not a party to these proceedings and has no interest in this plan change.
- 1.9 I am familiar with the MacKenzie Basin and the provisions of the Mackenzie District Plan, the Environment Court Interim Decision 387 (2011), Plan Change 13 (PC13) as notified for consultation in November 2015, and the Council's s293 Report.

Code of Conduct for Expert Witnesses

- 1.10 I am familiar with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note (2014) and I have complied with it in preparing this evidence. In particular I confirm that my evidence is within my area of expertise and the opinions I have expressed are my own except where I have stated that I have relied on the evidence of other people. I have not omitted any facts known to me that may be material in influencing my evidence.

Te Rūnanga o Ngāi Tahu/Nga Rūnanga

- 1.11 From time to time I undertake consultancy work for Te Rūnanga and Mahaanui Kurataiao Ltd, an environmental consultancy owned by six pāpatipu rūnanga of Christchurch and North Canterbury. In the latter part of 2015 to early 2016, I had a short-term employment contract with Mahaanui Kurataiao Ltd to help re-establish the company. During that time Te Rūnanga was short staffed and Mahaanui Kurataiao Ltd assisted with some of the workload I was asked to draft a response to the call for expressions of interest on the s293 PC13 process.
- 1.12 In June 2016, I was advised by the General Manager Te Ao Turoa, Ms Kara Edwards, that Te Rūnanga would not be pursuing PC 13 as a s274 party, and I would not be required to do anything further. I requested and obtained her consent to work for another party for this PC13 hearing. That advice was given verbally and by e-mail.
- 1.13 Te Rūnanga and Te Rūnanga o Arowhenua have now registered as s274 parties to these proceedings (I understand Te Rūnanga o Waihao has withdrawn). I confirm that I have not had any involvement in this process for Te Rūnanga. I have since confirmed with Ms Edwards (Te

Rūnanga) and Ms Home (Te Rūnanga o Arowhenua) that they still have no objection to my giving evidence for FFNZ Inc.

- 1.14 I do not believe there are any inconsistencies between the opinions I express in my evidence and those matters I identified as potential matters of interest for Te Rūnanga/nga rūnanga in the letter to MacKenzie District Council.

2. **EXECUTIVE SUMMARY**

- 2.1 I believe the identification of the outstanding landscape values and characteristics of the Mackenzie Basin in Objective 3B1 and recognition of the Waitaki Power Scheme in Objective 3B2 are appropriate objectives for the MacKenzie Basin. If scope allows, I would suggest another objective that recognises and provides for rehe relationship of the people of the MacKenzie Basin with their landscapes: both Ngai Tahu and their ancestors, and the pastoral runholders.

- 2.2 I believe that some of the provisions in PC 13 and in the s293 Report will result in a more restrictive regime on land use and subdivision than that suggested by the Environment Court in Interim Decision 387 (2011) and that are indicated in the landscape evidence as necessary. The approach appears to be one of protecting landscape values but 'locking in' current land use patterns.

- 2.4 There is a wealth of detailed assessment of the core landscape values of the Mackenzie Basin areas and what sorts of effects are appropriate and inappropriate which can be used to both develop and assess the effects of proposals. I support retaining areas of visual vulnerability criteria within the plan.

- 2.5 I support the principal concept of encouraging land use change and development in the Farm Base Areas, but there should also be provision to enable those land uses in other areas with Low Visual Vulnerability; and provision to manage and assess proposals in other areas on their merits.

- 2.6 I support the approach in Objective 3B3 of enabling pastoral farming and managing other land uses, including pastoral intensification, housing and other building. However I think pastoral

farming needs to include provisos for oversowing, topdressing, fencing, shelter belts and dryland cultivation throughout the Basin. I think provision needs to be made for farm accessory buildings such as hay barns, sheds, yards and silos to be able to locate throughout the Basin as a permitted activity.

- 2.7 If scope allows, I recommend the introduction of provisions for Whole of Farm Management Plans. This concept would provide for landholders to develop integrated management plans to support continued pastoral farming of the land and integrating farm production, landscape protection, ecological restoration, pest management, and add recreation, tourism, or other ventures. Whole of Farm Management Plans could be used to provide for activities outside Farm Base Areas; and being tied to a farm they are not easily able to be used

3. **SCOPE OF EVIDENCE**

- 3.1 I have been asked to provide planning evidence in relation to the submissions made by Federated Farmers of New Zealand Incorporated (FFNZ Inc) on the s293 PC 13 consultation process in November 2015.

- 3.2 My evidence addresses the following matters:

- (i) PC 13 Objectives
- (ii) General approach to Managing Landscape Values
- (iii) Provisions for pastoral farming in PC13
- (iv) Provision for other activities in PC13
- (v) Management of wildings
- (vi) Provision for a Whole of Farm Management Plan
- (vii) Attachment One – Amendments to PC13

- 3.4 In preparing my evidence I have considered:

- (i) The relevant provisions of the RMA, in particular its purpose and principles (s5-8) and the provisions relating to preparing district plans (s32, s72-76 & s85).
- (ii) The Canterbury Regional Policy Statement (CRPS), being a matter which a regional plan must give effect to under the RMA (s67(3)); and the National Policy Statement for

Freshwater 2014 and the National Policy Statement for Renewable Electricity Generation (2011) to the extent they may be relevant to the matters covered in my evidence.

- (iii) Te Whakatau Kaupapa – Resource Management Strategy for Canterbury, Te Rūnanga o Ngāi Tahu Freshwater Policy, and the Iwi Management Plan of Kati Huirapa-Arowhenua Rakaia to Waitaki (1992), being relevant iwi planning documents which the Council must take into account when preparing a plan or plan change (s66(2A)(a)).
- (iv) The operative Mackenzie District Plan.
- (v) PC13 and the Environment Court's Interim Decision 387 (2011).
- (vi) Relevant submissions and the Council's S293 Reports.

3.5 My understanding is that proposed new objectives 3B(1) and (2) are settled. Therefore I have focussed my planning assessment primarily on whether the provisions in PC13 are the most appropriate method to implement the objectives of the plan, particularly Objectives 3B(1) and (2). I have considered whether the proposed Objective 3B(3) in PC13 is most appropriate to achieve the purpose of the RMA and give effect to the higher order planning documents.

3.6 In my assessment I have paid particular attention to:

- (i) The functions of the district council under s31 of the RMA because the purpose of a district plan is to assist the council to carry out its functions to achieve the purpose of the RMA (s63).
- (ii) The council's duties under s32 of the RMA.
- (iii) Whether the provisions in PC13 may render land incapable of reasonable use (s85).
- (iv) Whether the proposed policies implement the objectives and the rules implement the policies as required under s74 of the RMA; and
- (v) Whether the provisions on PC13 address the issues raised by the Environment Court in Interim Decision 387 (2011).

3.7 It is not my intention to revisit matters which have already been determined as part of the Environment Court's Interim Decision 387 (2011) and s290. However as a new comer to the proceedings I thought it prudent to outline my understanding of the key matters the Environment Court has determined in relation to this case; as they form the starting point for my evidence.

3.8 My understanding is:

- (i) The Environment Court has decided that all of the MacKenzie Basin is one landscape (para 90, p.46) and it is an outstanding landscape except for Tekapo and Twizel Townships, the 'Twizel Character Area,' and the Dobson River Catchment (para 105, p.52).
- (ii) The Court has noted particular landscape sensitive areas, including Lakeside Protection Areas, Areas of Visual Importance (para 108, p.53) and views from SH 8 and several other main roads (para 10, p.55).
- (iii) Directions have been made for changes and additions to the Mackenzie District Plan, including: new objectives 3B(1) and (2); amendments to the Rural Zone issues statement; a new Rural Objective 3A for landscape values generally; and new Rural-Residential and Tourist zones at Manuka Terrace, Ohau River Block and Pūkaki Downs, all of which are now excluded from PC 13.
- (iv) The Court has identified land uses which it considers are appropriate in the MacKenzie Basin and activities it has concerns about. The Court stated (para 201, p.90) that *'Traditional dryland farming on browntop grasslands (including browntop) should continue to be enabled.'*
- (v) Three activities which are identified as 'threats' to the outstanding landscape values of the MacKenzie Basin are:
 - The spread of plant pests, especially wilding conifers (para 217, pp 95-95 & para 226, p.99).
 - The 'greening' of the landscape from irrigation and associated changes in vegetation cover (para 149, p.71, and paras 205-209, pp 91-92).
 - An increase in the density of built development, particularly new nodes of residential or rural-residential development (para 165-169, pp 78-79).

3.9 The Environment Court Interim Decision 387 (2011) included suggestions for provisions to be included in PC13 to address these issues. The MacKenzie District Council then drafted PC13 for consultation. The Council, after receiving and considering feedback on this document has recommended some amendments to those provisions in the s293 Report. I discuss the changes to PC13 recommended in the s293 Report as part of my evidence.

4. **PC 13 - Objectives**

- 4.1 Objective 3B(1) is to maintain and enhance the outstanding natural landscape of the MacKenzie Basin Subzone; with particular characteristics or values listed in subclasses (a) to (f). These matters relate to the natural and physical features of the landscape. Objective 3B(2) recognises and provides for the structures and works associated with the Waitaki Power Scheme which are part of the basin.
- 4.2 Plan change 13 includes a third objective 3B(3) relating to the management of pastoral farming and residential and rural-residential subdivision, cluster housing and farm buildings. This objective is sub-ordinate to Objective 3B(1) and rural objectives, 1, 2 and 4. The S293 Report recommends retaining this objective subject to some amendments to subclauses (b) and (c); relating to the provisions for pastoral intensification and rural-residential subdivision, cluster housing, and farm buildings.
- 4.3 I believe there is another aspect to the outstanding landscape values of the MacKenzie Basin that should be recognized and provided for in the objectives of PC13; that is the people and their activities and culture and that are part of the landscape and identity of the Mackenzie Basin. There are two communities which spring to mind: Ngāi Tahu and their ancestors; and the high country pastoral farming community.
- 4.4 Since the 1860s the MacKenzie Basin has been synonymous with pastoral runs and the fortunes and misfortunes of the runholders who have lived and farmed there. Its very name is synonymous with pastoral sheep farming. The Mackenzie Country - A Shared Vision & Strategy (2013) states (p.5) *“The dry grasslands of the Mackenzie Country have been extensively farmed in large “sheep stations” since the earliest days of European settlement in the South Island interior. This represents an unbroken continuity of pastoral settlement, practices and lifestyles stretching back over 150 years. Today the MacKenzie Country provides a living sense of connection to the roots of New Zealand as a farming nation.”*
- 4.5 Mr Densem (2015, para 4.1, p.9) notes that the landscape values in the Basin *‘...exist within a landscape already partly intensified from its pre-human state by 150 years of runholding. In scientific and aesthetic terms it already is a partly modified landscape.’* He summarizes the distinguishing characteristics of the MacKenzie Basin Landscape from paragraph 3.22 of his

evidence in chief (2015, Appendix 2, p.22). They include references to cultural and landscape characteristics of farming:

- *'Periodic homestead nodes of shelter around home paddocks, yards, farm buildings, homestead, staff quarters etc [Cultural Pattern]'* (10th bullet point, para 5, p.23)
- *'Noise environment of wind, birdlife, farm stock, flowing water and, away from roads, silence [Aesthetics, Sensory]'* (17th bullet point, para 5, p.23)
- *'European legends of MacKenzie and his dog, and pioneer runholders [Cultural]'* (19th bullet point, para 5, p.23)
- *'Sense of differentness from lowland New Zealand [Landscape Character, Cultural Character, uniqueness]'* (final bullet point, para 5, p.2).

4.6 In his evidence Mr Glasson also identifies farming as part of the MacKenzie Basin Landscape (para 10, p. 3).

4.7 A second community with arguably an even greater association with the Mackenzie Basin landscape is Ngāi Tahu and their ancestors. The Environment Court will undoubtedly hear evidence on this matter on behalf of Te Rūnanga o Arowhenua. However I would be derelict in my duty to the Court as an expert witness to not raise my concern that neither PC13 nor the s293 Report has identified and provided for Ngāi Tahu's association with the MacKenzie Basin and their ancestral lands, waters, sites, wāhi tapu and other taonga as required under s6(e) of the RMA.

4.8 Objective 3B1 deals with the physical landforms that contribute to the outstanding values of the MacKenzie Basin and Objective 3B2 addresses the Waitaki Power Scheme as part of the existing environment. In my view it completes the recognition and provisions of the landscape values of the MacKenzie Basin to have an objective which recognises and provides for the people of this landscape and their relationship with the land.

4.9 No such additional objective has been requested in the FFNZ Inc submission. If there is scope for such an amendment I suggest it could be added to proposed Objective 3B(3) – along the lines of:

To recognise and provide for the relationship of Ngāi Tahu with their ancestral lands, waters, sites, wahi tapu and other tāonga in the Mackenzie Basin.

To recognize pastoral farming and pastoral farming communities as an integral part of the MacKenzie Basin landscape; and subject to Objective 3B1 and rural objectives 1, 2 and 4...

(a) To enable pastoral farming..."

Objective 3B(3)

4.10 The Environment Court's Interim Decision 387 (2011) suggested a third objective to recognize the role of pastoral farming and other activities in the Mackenzie Basin subject to Objective 3B(1) and rural objectives 1, 2 and 4. Plan Change 3 as notified amended the Court's suggested wording for Objective 3B(3). The submission from FFNZ Inc requested Objective 3B(3) be reworded to reflect the words suggested by the Environment Court.

4.11 The changes to Objective 3B(3) from the words suggested in the Environment Court's Interim Decision 387 (2011) to that in PC13 are shown below in track changes.

Subject to objective (1) above, and to rural objectives 1, 2 and 4:

- (a) *To enable pastoral farming ~~while limiting building, fencing and shelter belts~~*
- (b) *To enable pastoral intensification including cultivation and/or direct drilling and high intensity (irrigated) farming in ~~appropriate areas south and east of SH 8 except adjacent to, and in the foreground of views from, State Highways and tourist roads~~ Farm Base Areas and in areas for which irrigation consent was granted prior to 14th 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 ~~preferably~~ around existing homesteads (where they are outside hazard areas) or in the areas of low visual vulnerability shown on map z in the district plan.*

4.12 The reason given for the proposed changes in the s293 Report (para 2.3, p.7) is '...some of the areas suggested in the objective for where pastoral intensification may be enabled are not appropriate given the range of values in the majority of the Basin.'

4.13 I agree with Objective 3B(3) subclause (a) as written in PC13. Fencing and farm buildings are included within the definition of pastoral intensification in PC 13 as notified, so are covered by Objective 3B(3)(2). The s293 Report recommends removing 'subdivisional fencing' from that

definition which will enable that activity to occur throughout the MacKenzie Subzone. Therefore Objective 3B3(a) as notified is appropriately worded in my view.

- 4.14 I agree it would be inappropriate to include in Objective 3B(3)(b) areas where pastoral intensification can occur from a landscape perspective, if pastoral intensification is not appropriate in those areas once other factors are taken into account. However Objective 3B(3)(b) as suggested by the Environment Court included the words '*appropriate areas*' south and east of SH 8...'. I agree with the FFNZ Inc submission that Objective 3B(3)(b) in PC 13 appears to be more restrictive than in the Court's suggested Objective 3B(3)(b).
- 4.14 Objective 3B(3) subclause (c) in PC13 also appears more restrictive than that suggested by the Court. In the Court's suggested objective, rural-residential subdivision, cluster housing and farm buildings can occur around existing homesteads and within areas of Low Visual Vulnerability. Objective 3B(3)(c) in PC13 as restricts those activities to around existing homesteads only.
- 4.15 In his summary report and evidence Mr Densem (2015, para 2.13-2.14, pp5-6) indicates that existing Farm Base Areas and areas with Low Visual Vulnerability are appropriate for these sorts of land uses. However Mr Densem also suggests 'modest or light developments' can be considered in areas of Medium Visual Vulnerability (para 2.12, p,5).
- 4.16 Similarly, Mr Glasson in his evidence (para 18, p.5) states that "...*within these visually vulnerable areas there are discrete places which are able to accommodate development due to landform and vegetation patterns.*" He uses the example of terrace landforms along some Scenic Grassland areas which means the public cannot view these areas for a full 1km from the road (para 19, p.5).
- 4.17 I do not agree it is necessary or appropriate to have such detailed provisions in an objective as those in PC13 Objective 3B(3)(b) for irrigation. In my view that level of detail is more appropriate in a policy or rule to implement an objective; and that level of detail is provided for in Policy 3B13(3) and Rule 15A.1.2.(b).

4.18 I suggest amending Objective 3B(3) to read:

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, other areas of existing or consented irrigation or development, or where pastoral intensification maintains the landscape values identified in Objective 3B1; and*
- (c) *To enable rural-residential subdivision, cluster housing and farm buildings preferably around existing homesteads (where they are outside hazard areas) or in other areas which have low visual vulnerability.*

5. **GENERAL APPROACH TO IDENTIFYING AND MANAGING LANDSCAPE SENSITIVITY**

- 5.1 The Environment Court Interim Decision 387 (2011) found that the MacKenzie Basin is one entire outstanding natural landscape (para 90, p.46). However the Court also agreed that there are areas within the MacKenzie Basin Subzone that have different landscape values and that some land uses will be more appropriate in some of these areas than others.
- 5.2 In his report *The MacKenzie Basin Landscape: character and capacity* (2007) Mr Densem assessed the MacKenzie Basin into areas of High, Medium and Low Visual Vulnerability and provided a detailed assessment of the sorts of land uses which may be appropriate and inappropriate in the different areas. A summary of that assessment is contained in his s293 Report.
- 5.3 Policy 3B1 of PC 13 recognises these areas of visual vulnerability within the Mackenzie Basin. The Explanation and Reasons section to the policy describes the areas, and subsequent policies refer to areas of High, Medium and Low Visual Vulnerability.
- 5.4 The s293 Report has recommended changes to Policy 3B1 and consequential amendments to other policies in PC13 to remove the reference to the visual vulnerability areas, and to delete the corresponding text in the Explanation and Reasons section of Policy 3B1. The reason given in the s293 Report (p.8) is that the areas identified on the maps were causing confusion for landowners; and that the Council received submissions suggesting that visual vulnerability was too narrow an assessment of landscape characteristics (para 5.2, p.8).

- 5.5 The S293 Report recommends an approach whereby the Basin is divided into three categories:
- Farm Base Areas;
 - Lakeside Protection, Scenic Viewing, & Scenic Grassland areas & Sites of Natural Significance; and
 - Rest of the MacKenzie Basin Subzone.
- 5.6 In Farm Base Areas land use change is generally appropriate and a variety of farming and non-farming activities and buildings are provided for as permitted, controlled and discretionary activities.
- 5.7 In Lakeside Protection, Scenic Viewing & Scenic Grassland areas, and Sites of Natural Significance, pastoral farming is permitted and most other land uses including pastoral intensification, subdivision and buildings are non-complying activities. The policies generally seek to discourage or avoid these activities in these areas.
- 5.8 In the remainder of the Basin most activities other than pastoral farming are either discretionary or non-complying, and the policy positions tend to discourage other activities.
- 5.9 FFNZ Inc made a submission on Policy 3B1 supporting in particular the recognition of the role of farming in creating the current landscape values, and requesting that any Visual Vulnerability areas be 'ground-truthed' before being included on the planning maps.
- 5.10 I agree with the submitter that if zones are provided on planning maps, it is helpful to ensure they are assessed on the ground for accuracy.
- 5.11 I also sympathize with the recommendation of the s293 Report around wanting to keep the planning regime relatively simple. However I think the s293 Report has changed the approach from PC13 as notified. The approach has moved from one of assessing the landscape's characteristics and ability to absorb land use change, to one of managing the landscape by trying to maintain current land use patterns; confining any land use change to existing Farm Base Areas.

- 5.12 In my view the approach of classifying the landscapes and identifying the sorts of land uses and effects that may be appropriate or inappropriate in those areas, is a more appropriate method than 'locking land uses in time.' My reasons are as follows.
- 5.13 Firstly the focus is on identifying inappropriate subdivision, use or development rather than not allowing subdivision, use or development at all. Section 6(b) of the RMA requires the protection of outstanding natural features and landscapes from **inappropriate** subdivision, use and development (emphasis added). Objective 12.2.1 of the CRPS (p.125) and Policy 12.3.2 (p.126) use similar wording. The explanation to Policy 12.3.2 (3rd para, p,126) states:
- 'Identification of an outstanding natural feature or landscape is not a prohibition on land-use change. In particular, it is recognized that the outcome sought is protection from inappropriate subdivision, use or development.'*
- 5.14 Secondly, the approach is time-proof. The history of the MacKenzie Basin (and most places) suggests that land use change may result from a variety of external and internal pressures: from changes in commodity values, technology or trends in farming; to changes in government policy or social values. A plan that has policies which identify the core landscape values to be maintained provides more guidance for decision-making than plan provisions that try to prevent land use change.
- 5.15 Thirdly, the simplified regime in PC 13 appears to restrict land use change within the MacKenzie Basin beyond what the Environment Court's Interim Decision 387 (2011) and what Mr Densem's and Mr Glasson's assessments identify are necessary to maintain outstanding landscape values. For example, Mr Densem identified areas of Low Visual Vulnerability as able to absorb land use change; and that areas of Medium Visual Vulnerability may be able to absorb some changes with appropriate management and siting (para 2.12-2.13, pp5-6). He also suggested that in areas of High Visual Vulnerability land use change should be limited, and a separate assessment of natural values also undertaken (para 2.15, p.6). However PC13 as amended by the s293 Report only provides for land use change in the existing Farm Base Areas.
- 5.16 Relying of the evidence of Mr Glasson (paras 16-19, pp 4-5.) and my own planning assessment, I would suggest retaining the visual vulnerability classifications in PC13, and using the landscape assessment criteria that goes with them to assist in resource consent decision-making.

6. PROVISIONS FOR PASTORAL FARMING

- 6.1 The Environment Court Interim Decision 387 (2011) recognizes the need to provide for pastoral farming in the MacKenzie Basin (para 201, p.90). It also identifies changes in farming land uses, in particular irrigation and associated changes in vegetation cover - the 'greening of the Basin' - as affecting its outstanding landscape values; depending on where it occurs (paras 205-208, pp 91-92).
- 6.2 PC 13 as notified includes a new Objective 3B(3) which is subject to Objective 3B(1) and Rural Objectives 1, 2 and 4 and states: '...
- (a) *To enable pastoral farming; and*
 - (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....'*
- 6.4 This objective is implemented by policies which seek to enable pastoral activities or 'traditional pastoral farming' and manage 'pastoral intensification' including Policy 3B1 which states:
- 'To recognize that within the MacKenzie Basin's outstanding natural landscape there are any areas where development **beyond pastoral activities is** either generally inappropriate or should be avoided....'*(emphasis added)
- 6.5 Policy 3B12 reads:
- 'Traditional pastoral farming is encouraged so as to maintain tussock grasslands subject to achievement of the other rural objectives and to Policy 3B7.'*
- 6.6 Policy 3B7 seeks to protect views from state highways and tourist roads and avoid buildings, irrigators, exotic trees, clearance, cultivation and oversowing in the Scenic Grasslands and Scenic Viewing areas.
- 6.7 Policy 3B13 manages the location of pastoral intensification generally: avoiding it in Sites of Natural Significance, Scenic Viewing Areas and Scenic Grasslands, areas adjacent to and

within the foreground of views from State Highways and tourist roads; enabling it in Farm Base Areas and in areas subject to an irrigation permit before 14th November 2015; and managing it elsewhere to retain the landscape values of the MacKenzie Basin.

- 6.8 Pastoral farming is not defined in the Mackenzie District Plan or in PC13. Pastoral intensification is defined in the Mackenzie District Plan (p3-8) as: ‘*means subdivisional fencing, topdressing and oversowing.*’
- 6.9 Plan change 13 proposes a new definition of pastoral intensification within the Mackenzie Subzone which means ‘*subdivisional fencing, cultivation, irrigation, topdressing, oversowing and/or direct drilling.*’
- 6.10 There are no rules for pastoral farming per se in PC13. My understanding is that it would be a permitted activity in accordance with s9 of the RMA. Rule 15.1.1.a deals with irrigators and fences, and Rule 15A. with pastoral intensification. Under Rule 15.A pastoral intensification is:
- A permitted activity within a Farm Base Area or an area for which a water permit has been issued to take and use water for the purpose of irrigation prior to 14 November 2015 and the effects of irrigation on landscape values were assessed as part of that permit process (Rule 15A.1.2);
 - A non-complying activity within Sites of Natural Significance, Scenic Viewing Areas, Scenic Grasslands, or Lakeside Protection Areas or on tussock grasslands within 1 km of State Highway 8 and Haldon, Godley Peaks and Lilybank roads (Rule 15A.3.2); and
 - Otherwise a discretionary activity (Rule 15A.2.1).
- 6.11 The s293 Report (para 8.3, p.13) recommends amending the definition of pastoral intensification to exclude subdivisional fencing; and it recommends changes to the provisions for irrigation discussed below. The s293 Report also recommends another clause be added to Policy 3B13 relating to recognition of agreements between landholders and the MacKenzie Country Trust, which is discussed in section 9 of my evidence.
- 6.12 The submission by FFNZ Inc supports Policy 3B12 but requests some minor wording changes; and requests amendments to Policy 3B13 as a result of requesting other amendments to Attachment C Landscape Map and definitions of pastoral intensification. The reference to Scenic

Grasslands is also requested to be removed on the basis it was not included in the notified plan or raised in the appeal process.

- 6.13 The submission opposes the definition of pastoral intensification both within and outside the MacKenzie Subzone, and requests that the plan recognizes the activities listed in the definition are important activities in maintaining landscape values, such as overseeing and topdressing. The submission also requests that the definition is amended to apply only to *additional* pastoral intensification (emphasis added). The submission also requests the deletion of Rules 15A.1.1 to and 15A.1.2 and to reinstate the 'previous rule 15.1.1.a. This would mean the same rules for pastoral intensification would apply both within and outside the Mackenzie Basin Subzone. The submission asks that Rule 15A.2.1 be amended from a discretionary to a controlled activity and to delete Rule 15A.3.

Assessment

- 6.14 I believe the general approach in PC 13 of distinguishing between a level of pastoral farming as a permitted activity throughout the Basin and managing a level of pastoral intensification, is appropriate. I do not agree that the current definition of pastoral intensification in combination with the rules is the most appropriate method to implement the policies and, in turn, the objectives of PC 13.
- 6.15 I agree with the s293 Report (para 8.3, p.13) that subdivisional fencing should be provided for as a permitted activity across the MacKenzie Basin. I also believe that oversowing and topdressing should be provided for as a permitted activity across the entire MacKenzie Basin for the reasons outlined below.

Fencing

- 6.18 The s293 Report has recommended removing fencing from the definition of pastoral intensification. I support this amendment. As Dr Scott explains in his evidence (paras 5.16-5.17, p11), without the ability to subdivide and fence tussock grasslands a pastoral farmer cannot manage livestock grazing density, to ensure grazing of pastures is even and to a desired level, and at a density that helps with the removal of plant pests. Dr Scott also notes that fencing is necessary to help prevent livestock 'camping' in favourite spots leading to soil degradation (para 5.17, p.11). It is also necessary to exclude livestock from areas where grazing may be undesirable for a variety of reasons.

6.19 Fencing was one of the first activities undertaken by runholders when taking up their pastoral runs in nineteenth century Canterbury. Mr Glasson (para 36 (i), p 8.) suggests stock fences will not have an effect on the landscape values of the Basin except in the most pristine areas of the Basin.

Oversowing & Topdressing

6.20 Dr Scott discusses (paras 8.3-8.4, p.25) the importance of oversowing and topdressing of tussock grasslands to graze them long-term; and to reduce their vulnerability to plant pests and soil erosion. Dr Scott explains that topdressing is necessary to prevent the degeneration of tussock grasslands now, after past practices of grazing without inputs of fertiliser and seed. As Dr Scott explains (paras 7.6(c) &(g), p.17 and para 7.8 p.19 p.17) plant species such as brown top, sweet vernal and hieracium that often colonise in degraded tussock grasslands have very limited palatability and nutritional value for grazing livestock.

6.21 Mr Densem (2015, para 4.8, p.11) describes extensive dryland grazing regimes that he believes maintain tussock cover in the Basin. He states '*This may include oversown but uncultivated grasslands of largely exotic brown top grasses....*'. Mr Glasson states (para 36(ii), p.9) that 'oversowing and topdressing is not an uncommon feature of the MacKenzie Basin landscape, and while it has a greening effect it is transient and changes with the seasons, and has benefits of preventing erosion in degraded areas. He concluded the effects on landscape and amenity values are unlikely to be more than minor (para 36(ii), p.9).

6.22 Relying on the evidence of Dr Scott and Messieurs Densem and Glasson, I believe subdivisional fencing, oversowing and topdressing should be excluded from the provisions for pastoral intensification as they apply in the MacKenzie Subzone and these activities should be included as part of pastoral farming.

Amendments to Pastoral Policies 3B12 & 3B13 & Definition

6.23 I agree with the decision requested in the FFNZ Inc submission for Policy 3B12 and Explanation and Reasons. Policy 3B12 encourages traditional pastoral farming to maintain tussock grasslands. In my view that is not the only reason PC13 should enable pastoral farming; it is necessary for people and communities in the Mackenzie Basin to provide for their economic and social well-being and therefore to achieve the purpose of the Act. It is also

an important part of the MacKenzie Basin landscape character as discussed in paragraphs 4.4 to 4.6 of my evidence.

6.24 Subject to the amendments I recommend to the definition of pastoral intensification being adopted, I do not agree that Policy 3B13(1) should be deleted. It is necessary to implement Objective 3B1 and 3B3. I do not agree with the removal of the reference to Scenic Grasslands in Policy 3B13(2) unless the scope argument raised in the submission is correct; nor the deletion of Policy 3B13(4). In my view some management of pastoral intensification (as amended along the lines set out in my evidence) is necessary to recognize and protect the outstanding landscape values of the MacKenzie Basin. However I do not agree that all pastoral intensification must be avoided in the areas listed in Policy 3B13(2). I recommend Policy 13B(2) and (4) are combined and rewritten to read:

'To manage pastoral intensification to retain the valued characteristics of the MacKenzie Basin Subzone as set out in Policy 3B1, including the values of Sites of Natural Significance, Scenic Viewing Areas, and Scenic Grasslands (including tussock grasslands) adjacent to and within the foreground of views from State Highways and the tourist routes.'

6.25 The FFNZ Inc submission requests the definition of pastoral intensification refer to activities that are additional to pastoral intensification which has already occurred. I do not agree with this amendment for three reasons:

- (i) Section 10 RMA already provides for existing uses to continue even if they contravene a rule in a district plan provided the scale, nature and intensity of the effects are the same or similar;
- (ii) It is not clear what 'additional' fencing or 'additional' oversowing or topdressing means or how it is measured.
- (iii) If the intent is to distinguish between existing and new activities, in my view that is more appropriately done through a rule, as proposed in Rule 15.1.2.a for irrigation.

6.24 The FFNZ Inc submission also asks for the same amendments to apply to the definition of pastoral intensification within the MacKenzie Subzone to apply to the rest of the District outside the Subzone. I do not think that would be within the scope of PC 13. While PC 13 includes an amendment to the definition of pastoral intensification outside the MacKenzie Subzone, this is only a consequence of the new definition for pastoral intensification within the MacKenzie Subzone under PC13.

Cultivation & Direct Drilling

- 6.25 My evidence has already discussed that I do not agree over-sowing, topdressing or fencing should be included in the definition of pastoral intensification in the MacKenzie Subzone. This leaves cultivation including direct drilling, and irrigation. At para 205 of Interim Decision 387 (2011, p.91) the Environment Court discussed that '*...the conversion of brown grasslands into introduced grasses (whether irrigated or not) is generally inappropriate in the MacKenzie Basin.*'
- 6.26 Under PC 13 cultivation and direct drilling is a permitted activity in the Farm Base Areas; non-complying in Sites of Natural Significance and Lakeside Protection, Scenic Viewing and Scenic Grasslands areas; and a discretionary activity over the rest of the MacKenzie Subzone.
- 6.27 The submission from FFNZ Inc has asked that these rules be deleted and Rule 15.1.1.a for pastoral intensification outside the MacKenzie Subzone applies within the MacKenzie Subzone as well. The submission also asks that the status for non-compliance with the rule be a controlled activity under Rule 15.A.2.
- 6.28 Mr Densem (2015, para 4.7, p.11) states that cultivation changes natural soil structure and biological diversity. He also notes that cultivation with irrigation 'creates a monoculture pasture covering that is green in colour.' Mr Glasson (para 40(ii), p.10) also states that the effect of change of colour has the most significant long-term change on the landscape.
- 6.29 Dr Scott notes (para 5.4, p.5) how cultivation can improve soil structure. He also discusses (para 6.8-6.9, p.13) the limitations on plant growth in the MacKenzie Basin which restricts the options available to landholders to grow crops. Therefore Dr Scott concludes cultivation or direct drilling is most likely to grow improved pasture and fodder crops.
- 6.30 Relying on my own agricultural qualifications and experience, cultivating land has occurred on most pastoral runs in Canterbury since the 1860s. The growing of fodder crops or improved pasture is important for animal health; to feed in-lamb ewes during the last 4-6 weeks of gestation and for growing out young stock. Often cultivation occurs in the home paddocks, but in my experience high country runs will have cultivated paddocks in other suitably located flat or easy country for these purposes, particularly on freehold land.

6.31 The cultivation or direct drilling of land as part of a dryland farming operation will not usually result in 'high intensity' farming. Without irrigation, stocking rates remain limited by the risk of summer dry conditions. It is also unlikely that dryland farmers will cultivate large areas of land for fodder crops because of the risk of losing the crop in dry conditions without irrigation.

6.32 I agree with the submission that cultivation should be provided for in the MacKenzie Basin outside of the Farm Base Areas under the same conditions as the rest of the District. Rule 15.1.1.a in the district plan already manages cultivation in Sites of Natural Significance. I readily accept cultivation may affect the colour of the landscape in areas where it occurs. In this instance I believe that effect must be considered alongside the need to grow improved pastures and fodder crops for animal health and to enable runholders to make reasonable use of their interest in their land. If the Court disagrees with this view another option could be to provide for cultivation outside of Farm Base Areas within a Whole of Farm Management Plan which is discussed in Section 9 of my evidence.

Irrigation

6.33 The Environment Court Interim Decision 387 (2011) expressed concerns about the potential impact of irrigation on the outstanding landscape values of the Mackenzie Basin: the visual effect of large-scale irrigators; the change in vegetation colour from golden to green due to improved pasture or other crops supported by irrigation; and the increase density of land use and closer settlement (pp205-209, pp91-92).

6.34 Plan Change 13 addresses irrigation through:

- (i) Objective 3B3(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....'*
- (ii) Policy 3B7 to avoid large-scale irrigators in the Scenic Grasslands and Scenic Viewing Areas; and to manage the location of large-scale irrigators and minimize the adverse visual effects of irrigation pasture adjacent to State Highway 8 or tourist roads.

(iii) Rule 15.1.1.a provides for no large irrigators including liner move irrigation systems and centre pivots within Scenic Viewing Areas, Scenic Grasslands, Sites of Natural Significance or Lakeside Protection Areas or in Appendix V (Areas of Landscape Management). Any irrigators within these areas are a non-complying activity under Rule 15.3.1. In all other areas, there is a setback for large irrigators of 250m from State Highway 8 and the Haldon, Godley Peaks and Lilybank roads. There does not seem to be a status for activities which do not comply with this rule.

(iv) Policy 3B13 and Rules 15A for Pastoral Intensification generally; which includes Rule 15A.1.2(a) which provides for pastoral intensification within Farm Base Areas (subject to a waterway setback condition); and 15A.1.2(b) which allows for pastoral intensification within an area for which a water permit has been granted by the Canterbury Regional Council prior to 14 November 2015 and the effects on the outstanding natural landscape have been addressed through the regional consenting process.

6.35 There is no discussion of the relationship between Rules 15.1.1(a) (i) and (ii) and 15A.1.2(a) and (b). There does not seem to be a status for activities which do not comply with Rule 15.1.1.a.

6.36 The s293 Report has recommended an amendment to Policy 3B7 and Rule 15.1.1.a to apply these provisions to all irrigators.

6.37 FFNZ Inc has made a submission opposing Policy 3B7 because the use of the word 'avoid' is too restrictive, and has requested Rule 15.1.1a be deleted.

Assessment

6.38 In Canterbury there are two different patterns of irrigation on-farm. For example, dryland farming with irrigation, where a small proportion of a dryland farm is irrigated to reduce some of the risk associated with dryland farming. Irrigation may be used to help establish pasture or fodder crops in spring or autumn, or possibly to support a small cash crop to supplement income. The MacKenzie Country Trust Joint Agreement states (p.5 & p.9) that this form of irrigation has been occurring on pastoral farms within the MacKenzie Basin for many years.

- 6.39 Secondly, there is irrigated farming; irrigation is at a scale and with sufficient reliability that it enables the farm to support stocking rates or land uses which would not be possible under a dryland situation. It is this form of irrigation that usually is associated with land use conversions from sheep and beef to dairy.
- 6.40 The MacKenzie Country Trust Joint Agreement (p.15) estimates that approximately 7500ha of the 250 000ha of flats and easy country in the Basin was irrigated in 2013, with another 7500ha proposed for small-scale irrigation on sheep and beef properties. Five farming properties in the Mackenzie Basin hold or have applied for resource consents to irrigate on a larger scale - a total of 9600ha. At the time of writing (May 2013) there was sufficient irrigation after allocation available within the Basin to irrigate a further 8000ha.
- 6.41 The areas on large high country properties which tend to lend themselves to cultivation, irrigation or other intensification are lakeside or river flats and basin or valley floors; often those same areas which are highly valued for their open vistas. Irrigation and associated cultivation will affect vegetation species and colour and may lead to closer settlement and land uses not traditionally associated with high country pastoral runs. Mr Densem (2015, para 4.4, p.10) refers to '*mucky raceways, large functional sheds and night-time lighting associated with intensification.*'
- 6.42 At para 208 (p.92) of Interim Decision 387 (2011), the Court also acknowledges areas in the Basin which are dominated by hieracium species. '*On those areas we judge that change to higher density irrigated farming is not detrimental to perceptions of naturalness.*' Mr Glasson (para 40(iv), p10-11) talks about the landscape effects of irrigation. He concludes irrigation has the potential to also concludes that it may be more difficult to integrate irrigation into the high quality and more sensitive areas in the MacKenzie Basin.
- 6.43 The Environment Court's suggested Objective 3B(3) provided for pastoral intensification and irrigation in appropriate areas south and east of State Highway 8. The Council has not provided for this activity in PC 13, stating in the s293 Report that some of the areas promoted will not be appropriate given the range of values in the majority of the Basin (para 2.3, p.7).
- 6.44 Relying on the evidence of Dr Scott and Mr Glasson, I believe provision should be made in PC 13 to allow for irrigation that supports pastoral farming; not only within the Farm Base Areas but in other parts of the Basin with low visual vulnerability. However I do not agree with the

submission of FFNZ Inc that this should be a permitted activity. I believe each proposal should be assessed on a site-specific basis, considering ecological and landscape values as well as the benefits to the farming operation and any mitigation measures proposed. Provision could be made for irrigation as either a discretionary activity or through a Whole of Farm Management Plan concept discussed in Section 9 below.

Existing Irrigation Consents

- 6.45 The FFNZ Inc submission supports Objective 3B3(3) but requests that the provision for existing irrigation consents include those who have made an application to Environment Canterbury but are not yet through the process. The submission asks to retain Policy 3B13(3) but to delete Rule15A1.2
- 6.46 I agree PC 13 should provide for pastoral intensification in areas of existing irrigated and consented water permits. As discussed under paragraph 4.19, I do not agree the wording of Objective 3B(3)(b) should be as specific as proposed in PC13. I think there would be benefit from clarifying the provisions in Policy 3B13(3) and Rule 15A1.2 for the following reasons.
- 6.47 Firstly, I do not think the wording captures all the situations it ought, if the intent of the provisions is to recognise lawfully consented irrigation as part of the existing environment. Water permits are not issued in perpetuity. When they expire, the consent holder may apply for a new permit, and provided they meet the requirements in s124 of the RMA may continue the existing activity until such time as a decision is made on the new application. If a new permit is granted it will not be a resource consent issued prior to 14 November 2015. Similarly, if a water permit holder applies to Environment Canterbury for a change of consent conditions, my understanding is that the council issues the amended resource consent with a new start date, being the date from which the condition has been amended. Again this may be after 14 November 2015 even though the irrigation activity has occurred for many years.
- 6.48 Secondly it is my understanding that not all existing irrigation permits have been assessed for their effects on landscape values. I have been advised by Ms Bianca Sullivan (Principal Consents Advisor at Environment Canterbury) that while some of the more recent water permits granted for the Upper Waitkai have been assessed for effects on landscape values, some older ones will not have been. Given these activities are part of the existing environment, if a new permit is sought I question whether it would be likely that the application would be declined on

the grounds of effects on landscape values. Any adverse effects on landscape values will have already occurred.

6.49 The wording of Rule 15A.1.2 “*and effects on the outstanding natural landscape have been addressed through the resource consent process*” is not sufficiently certain for a permitted activity. I am not sure what ‘have been addressed’ means. Does this mean that these effects have been assessed in the AEE for the resource consent application; assessed by the Council in its decision-making; or addressed through conditions on the consent?

6.50 I suggest deleting the provision from Objective 3B(3)(b) and rewording Policy 3B13(3) and Rule 15A1.2(b) to read:

Policy 3B13

(3) ‘*To recognize and provide for existing areas of irrigation lawfully established prior to 14 November 2015; and to enable new irrigation in Farm Base Areas and in other locations where the activity maintains or enhances the landscape values of the MacKenzie Basin.*’

Rule 15A1.2(b)

‘*within an area in which permission to take and use water for irrigation was lawfully established prior to 14 November 2015 and that permission has not lapsed.*’

6.47 Finally, I suggest the relationship between the rules for irrigators in Rule 15.1.1.a and 15A1.2(a) and the provisions for pastoral intensification which may involve irrigation in Rule 15A1.2(b), is clarified. Presumably, if a person holds irrigation consent under Rule 15A1.2(b) then they do not have to comply with Rule 15.1.1(a) for irrigators or 15A1.2(a) for setbacks for irrigation. This approach would be in keeping with the justification for Rule 15A1.2(b). However this needs clarifying in the rule. This could be done by adding to the start of Rules 15.1.1a and 15A1.2(a) the words ‘*Except where provided for under Rule 15A1.2(b)...*’

Tree Planting

6.51 Rural Policy 3A2 addresses Tree Planting across the entire Mackenzie District Rural Zone. It states:

‘*To limit structures and tall vegetation within scenic viewing areas to enable views of the landscape to be obtained within and from these areas.*’

- 6.52 Rule 6.1.8c and 6.4.2 make tree planting in Scenic Viewing Areas a discretionary activity. Plan Change 13 amends these rules to apply them to Scenic Grasslands and Appendix V (Areas of Landscape Management).
- 6.53 FFNZ Inc has submitted requesting an amendment to Policy 3A4 and to delete the reference to Scenic Grasslands and Appendix V (Areas of Landscape Management) from rules 6.1.8c and 6.4.2.
- 6.54 The s293 Report has recommended deleting the reference to Appendix V (Areas of Landscape Management) as a consequence of changes recommended to Policy 3B1.
- 6.55 Shelter planting is an important aspect of pastoral farming, to provide livestock with shelter in winter, shade in summer ,and to reduce the effects of wind on soil desiccation and erosion, particularly so given the weather extremes in the MacKenzie Basin.
- 6.56 I agree that planting shelterbelts in Scenic Viewing Areas and Scenic Grasslands could have an adverse effect on the vistas, depending on the position and lengths planted. However in my view shelter planting is a basic element of pastoral farming. Any effects on landscapes in Scenic Grasslands should be considered alongside the need to provide stock with shelter and make reasonable use of farm land.
- 6.57 Rule 6.1.4(p.7-58) of the Mackenzie District Plan already has conditions for the planting of shelter belts in the MacKenzie Basin as a permitted activity. This includes a requirement for them to be setback 300m from the road or planted at 90° to the road; and if planted at 90° to the road, a separation distance of at least 1000m between shelter belts.
- 6.58 If the Court does not agree these rules are adequate to protect landscape values in Scenic Grasslands, another option could be to provide for shelter planting as part of a Whole of Farm Management Plan as discussed under Section 9.
- 6.59 FFNZ's submission also requested changes to Rural Policy 3A4. I understand Policy3A4 is settled and not open to submissions.

7. Farm Buildings

- 7.1 Plan change 13 manages the location, design and appearance of farm buildings. Farm building is defined as: *'means a building the use of which is incidental to the use of the site for a farming activity, dairying and factory farming (refer defections) and does not include dwellings or other buildings used for residential activity.'*
- 7.2 Building is defined in the MacKenzie District Plan (p.3-2) as: *'means any structure or part of a structure whether temporary or permanent, movable or immovable, but does not include...*
- b. Fences, walls & retaining walls of 2m in height or less not used for any other purpose...*
 - c. Structures less than 5m² in area and in addition less than 2m in height*
 - d. Masts, poles, radio and television aerials...*
 - e. Any vehicle, trailer, tent, caravan or boat ...unless...used as a place of accommodation, business or storage.'*
- 7.3 Therefore farm accessory structures such as stock yards, hay barns, grain silos, pump sheds and huts will fall within the definition of a farm building unless they are less than 5m² in area and 2m in height.
- 7.4 Objective 3B1(c) identifies the *'lack of houses and other structures'* as a characteristic of the outstanding landscape values of the MacKenzie Basin. Proposed Objective 3B(3)(c) is to enable farm buildings around existing homesteads (where they are outside hazard areas). The objective is implemented through the following provisions:
- Policy 3B2(2) enables farm buildings in Farm Base Areas subject to bulk and location requirements.
 - Farm buildings are a permitted activity in Farm Base Areas under Rule 3.1.2 subject to conditions relating to bulk and location. Activities which do not comply with the bulk and location requirements are a restricted discretionary activity under Rule 3.3.5(b).
 - Rule 3.1.1.h & 3.4.4 which makes all buildings in Lakeside Projection Areas other than stock fencing a non-complying activity.
 - Rule 3.3.2 which provides for farm buildings and farm retirement dwellings outside the Ostler Fault Hazard Area a controlled activity.

- Residential buildings are a discretionary activity under Rule 3.3.4 (except in the Ostler Fault Hazard Area).
- Farm buildings in Sites of Natural Significance, Scenic Viewing Areas, Scenic Grasslands, Lake Protection Areas, and land above 900m (other than a mustering hut less than 50m² in area) are non-complying activities under Rule 3.4.4; as are all non-farm buildings outside of a Farm Base Area under Rule 3.4.5.

7.5 The s293 Report has made some recommended changes to these provisions:

- (i) Policy 3B2 is amended by removing the references to Visual Vulnerability Areas; adding a reference to protection of environmental values and avoidance of sensitive environments in subclause (2) and expanding subclause (4) to apply not only to residential units but all non-farm buildings.
- (ii) Rule 3.1.2 for farm buildings in Farm Base Areas as a permitted activity is amended to provide for extensions to a farm building.
- (iii) A new Rule 3.2.2. is added for non-farm buildings and extensions to such buildings within Farm Base Areas as a controlled activity.
- (iv) Rule 3.3.2 is deleted as it applies to farm buildings outside of the Farm Base Area as a discretionary activity and Rule 3.3.3 is amended to provide for farm buildings outside of the Farm Base Area as a restricted discretionary activity.
- (v) Rule 3.3.3.b is amended to increase the maximum height to 8m and eight additional conditions relating to bulk, location, setbacks and appearance are added to the rule.
- (vi) Matters of discretion are also added to Rule 3.3.3 relating to appearance and effects on landscape, natural character and environmental values.

7.6 The s293 Report states the reason for the changes is to make the Farm Base Areas the primary location for all buildings (1st bullet point, para 6.1, p.9) including introducing a controlled activity rule for non-farm buildings in Farm Base Areas to encourage this sort of development to locate in the Farm Base Areas (para 6.4, p.9).

7.7 The submission from FFNZ Inc:

- (i) Supports Policy 3B2 in part but wants farm buildings and buildings ancillary to farming recognized as an essential part of everyday farming activity even in High Visual

Vulnerability areas; and more flexibility for the development of non-farm buildings both within and outside the Farm Base Area.

- (ii) Opposes Policy 3B2(4) to strongly discourage non-farm buildings outside the Farm Base Area. The submission supports Policy 3B3 subclauses (1) and (2).
- (iii) Requests an amendment to the definition of farm building to include a primary domestic dwelling and up to four additional dwellings for workers accommodation; but does not include other dwellings or other buildings used for residential activities.
- (v) Requests various amendments to the provisions for buildings to:
 - Make all buildings permitted in Farm Base Areas
 - Provide for Farm Buildings throughout the basin with the same level of control in Low Visual Vulnerability Areas and Farm Base Areas
 - Reinstate the provisions for farm retirement dwellings outside the Farm Base Areas as a controlled activity, and oppose deleting the definition of farm retirement dwelling.

7.8 The Environment Court's Interim Decision 387 (2011) (para 202, p.91) records the Court's view that there should be some controls on farm buildings except in Areas of Low Visual Vulnerability. The Court was also concerned in case a lack of control over farm buildings resulted in *'the unmanaged location and number of farm buildings so as to create a permitted baseline which has more adverse effects than a desired house, for which resource consent is then sought.'*

7.9 I agree with the approach in PC13 to make a distinction between farm buildings and other buildings. I believe this is appropriate given the role which pastoral farming has in the MacKenzie Basin landscape. The approach implements Objective 3B(3)(1) and Policy 3B13 to enable pastoral farming. However I would suggest some changes to the provisions in PC 13 as notified and as amended by the s293 Report.

7.10 Firstly I do not agree with Objective 3B(3)(c) to restrict farm buildings to around existing homesteads or the proposed amendment to Policy 3B2(2) in the s293 Report to remove the provision for buildings in areas of Low Visual Vulnerability. This approach seems to be more restrictive than necessary to address the issues identified by the Environment Court in its the suggested Objective 3B(3)(c) which provided for rural-residential subdivision, cluster housing and farm buildings around existing homesteads and in areas of Low Visual Vulnerability.

- 7.11 I agree with the submission of FFNZ Inc that there should be provision for farm buildings outside of the Farm Base Area as a permitted activity. In particular, there should be provision for what I would term farm accessory buildings: hay barns, pump sheds, another set of yards, a mustering hut. Due to their purpose these buildings by nature will be located away from the Farm Base Areas and close to the blocks they are servicing.
- 7.11 I believe it would be appropriate for PC13 to distinguish between farm accessory buildings of this nature and larger farm buildings such as woolsheds and milking sheds which due to their function and the need for power, water, effluent disposal, and other infrastructure tend to be located close to the homestead and within the Farm Base Areas.
- 7.11 In my opinion these smaller farm accessory buildings could be provided for as a permitted activity throughout the Mackenzie Basin subject to conditions relating to bulk and location. In his s293 Report (2015, para 2.13, p.5) Mr Densem stated that development is appropriate in low visual vulnerability areas and some modest or light developments may be considered in areas of Medium Visual Vulnerability. Mr Glasson (para 41, p.11) notes that farm buildings have the potential to have adverse landscape effects especially in highly sensitive areas, but effects can be mitigated by integrating structures into an existing agricultural setting and keeping them away from ridgelines. The conditions for Rule 3.3.3a could be appropriate except possibly condition 3.3.3.d which allows a building of 600m² floor area.
- 7.12 Secondly, I believe the definition of farm building should include farm dwellings and worker's accommodation. I understand the Environment Court's concern about the inclusion of residential buildings and in the definition of farm buildings, if that may be used as the basis for a permitted baseline argument to allow other dwellings, However, excluding them creates two problems:
- (i) Farm homesteads, shearers quarters and workers accommodation are fundamental aspects for any high country pastoral farming operation.
 - (ii) It creates a difficulty with the rules. For example, provision is made under Rule 3.3.3.a. for musters' huts on land above 900m under the rules for farm buildings as a restricted discretionary activity. But a muster's hut is a residential building so is not covered by the farm building definition in PC 13.

- 7.13 I support the suggestion in the FFNZ Inc submission to amend the definition of farm buildings to include a dwelling and up to four additional buildings for workers or family accommodation. I suggest a slight amendment to the wording to provide for up to four buildings rather than four dwellings, to avoid any confusion as to whether shearer's accommodation or bunkhouses are included. The second limb of the suggested definition in the FFNZ Inc submission is superfluous.
- 7.14 I do not think this amendment would create a permitted baseline precedent for establishing dwellings contrary to PC13 as these buildings would only be erected in Farm Base Areas and PC 13 as amend by the s293 Report already provides for the erection of non-farm buildings within farm base areas as a controlled activity.
- 7.15 Thirdly, I do not support the proposed amendments to Policy 3B2(2) to add a reference to 'protection of environmental values' for erecting farm buildings in Farm Base Areas and 'avoidance of sensitive environments.' The terms are vague and I question how it adds to a policy for Farm Base Areas when the Farm Base Areas are the areas identified in PC13 as the most appropriate places to locate new buildings, and the activities are permitted.
- 7.16 Similarly, I do not agree that new Rule 3.3.3 as proposed in the s293 Report is really a restricted discretionary activity. The matters of discretion in the rule include effects on *'landscape, natural character and environmental values.'* Environmental values is a very broad term that encompasses effects on all aspects of the environment. Therefore in my view the rule is not restricting the consent authority's discretion.
- 7.17 As discussed above, in my view Rule 3.3.3a could become a permitted activity rule particularly as the sites which have the highest landscape values - Sites of Natural Significance, Scenic Viewing Areas, Scenic Grassland Areas, Lakeside Protection Areas and land above 900m are excluded under condition 3.3.3.a.
- 7.17 The original Mackenzie District Plan provisions included a Rule 3.2.2. to provide for farm buildings and farm retirement dwelling outside Farm Base Areas as a controlled activity. There was also a definition of a farm retirement dwelling. These provisions were deleted in PC 13. FFNZ Inc has asked for them to be reinstated.

7.18 I do not agree a specific provision for farm retirement dwellings outside the Farm Base Area as a controlled activity would implement Objective 3B3(c) or policies 3B2(4) and 3B4. However another option could be to use the provisions for a Whole of Farm Management Plan as discussed in Section 9 of my evidence, to provide for a retirement dwelling outside the Farm Base Area, or even a new Farm Base Area if a large property was subdivided as part of succession planning.

8. Subdivision

8.1 The Environment Court Interim Decision 387 (2011) (paras 231-234, pp100-101) discusses the impacts of subdivision on the outstanding landscape values of the MacKenzie Basin. The Court identified effects of subdivision on rural landscape boundaries such as fence lines, vegetation patterns and new roading. The Court also discussed the merits of provisions in the plan distinguishing between farming and non-farming subdivision, which the Court said was unworkable. The Court was also interested in linking the provisions for subdivision of land with obligations around managing or removing wilding conifers.

8.2.1 Plan change 13 introduced the following provisions to manage subdivision:

- Policy 3B2 which deals with subdivision & building development
- Policy 3B5 which deals with landscape aspects of subdivision including a proposed minimum allotment size of 200ha except in Farm Base Areas
- Policy 3B14 which provides for subdivision to manage wilding tree spread
- Rule 3(a) and 6.a.ii(d) and (e) for subdivision in the Farm Base Area as a controlled activity with a minimum allotment size of 4ha or not more than 10 lots of 1ha. However under Rule 4A.a any subdivision in a Farm Base Area is a restricted discretionary activity.
- Rule 4.d for any subdivision in the MacKenzie Basin outside the Farm Base Area or the Oster Fault Hazard Area as a discretionary activity if the minimum allotment size is 200ha (Rule 4.d.).
- Rule 5.b where any subdivision within a Lakeside Protection Area, a Scenic Viewing Area or Scenic Grasslands Area is a non-complying activity unless it is within a Farm Base Area.

8.3 The s293 Report has recommended changes to Policies 3B2 and 3B3 to amend references to areas of visual vulnerability, and to delete Policy 3B5(2) which provides for a minimum allotment size of 200ha outside the Farm Base Areas. There is also an amendment to the next clause in

Policy 3B5 (also labeled (2)) to delete provision for subdivision in Farm Base Areas where they are also Scenic Viewing Areas and Scenic Grassland Areas.

- 8.4 FFNZ Inc has made a submission on Policies 3B5 and 3B7, on Rule 4A. seeking to have it apply outside of Farm Base Areas and opposing Rule 5b for subdivision as a non-complying activity in Scenic Viewing Areas and Scenic Grasslands. The relief sought across several of these the policies and rules is to make provision for subdivision for farming activities, and for smaller allotments.
- 8.5 The provisions in PC 13 to manage subdivision in the MacKenzie Basin appear to focus on subdivision associated with residential or rural-residential development. In my view PC 13 also needs to provide for subdivision as part of farming activities which do not relate to residential development. Such subdivision can be for a variety of purposes, some of which may have no association with residential or rural-residential development, for example:
- Subdivision as part of tenure review or setting aside areas for conservation or protection under different ownership or management.
 - Boundary adjustments or subdivision for the sale and purchase of land between neighbors for farming purposes
 - Farm succession
 - Allotments for utility and infrastructure purposes
- 8.6 I agree with the amendment in the s293 Report to delete Policy 3B5(2) referring to the minimum allotment size. I agree minimum allotment sizes are more appropriate as rules to implement a policy identifying the effects which need to be managed. However I do not agree that simply deleting subclause (2) is the most appropriate approach. This removes the policy which some of the rules for subdivision including the minimum allotment size of 200ha in Primary Standard 6.a.ii(f) implement. It also leaves no provision in Policy 3B5 to guide subdivision for purposes other than residential or rural-residential development.
- 8.7 I would suggest replacing clause 3B5(2) with some guidance for managing subdivision in the MacKenzie Basin which is not associated with residential and rural-residential development. My suggested wording would be along the lines of:

To enable subdivision of land for farming, conservation or pest management purposes throughout the MacKenzie Basin Sub-zone; and

To allow subdivision of land as part of residential or rural-residential development within Farm Base Areas, or otherwise on land which has been zoned for residential or rural-residential development.

- 8.8 Unfortunately the decision requested in the FFNZ Inc submission has not included any revised wording, but there are several points made about the need for provisions for subdivision for both farming and residential and rural-residential purposes which may provide scope.

Wilding Management

- 8.9 The Environment Court's Interim Decision 387 (2011, para 217, pp95-96) identifies the spread of wilding pines as a significant threat to the landscape values of the Mackenzie Basin. Plan change 13 has made some provision for wilding management: through prohibiting the planting of named plant species; and using development options around subdivision, when consent is required for housing or development, or when new zones are proposed, to require wilding pine removal in Policy 3B14 and consequentially Policies 3B3(c), 3B4(3)(c) and 3B5(3).
- 8.10 FFNZ Inc has submitted seeking an amended Policy 3B14 which manages wilding trees by ensuring good management practices are applied and eradication undertaken where appropriate after consultation with Canterbury Regional Council and landholders in the District. The amendment also seeks to replace bullet point 2 with of the Explanation and Reasons with a corresponding amended explanation.
- 8.11 A primary issue with managing wilding pines is to establish whether the activity is a land use in terms of s9 of the RMA, which can therefore be addressed in a district plan. The purpose of a district plan is set out in s72 of the RMA to assist the district council to carry out its functions to achieve the purpose of the RMA. The functions of a district council are set out in s 31 of the RMA.
- 8.12 In my view the amendment to Policy 3B14 sought by FFNZ Inc is not appropriate to be included in a district plan under the RMA because the district council has no powers or functions under

the RMA to compel landowners to manage or eradicate wilding trees. Rather this is a power given to regional councils under the Biosecurity Act 1993, through the Regional Pest Strategy.

- 8.13 Under the Canterbury Regional Pest Strategy 2011-2015 Wilding Conifers are classified in a Biodiversity Protection Programme where they are affecting high value areas. This means management is encouraged by the Council but there are no mandatory requirements (para 8.2, p.54). While the specific relief sought by FFNZ Inc cannot be included in a district plan, the district plan could include, as a method, the need for the district council and community to liaise with the Regional Council about the pest classification of wildings in the Regional Pest Strategy.
- 8.14 The FFNZ Inc submission suggests that Policy 3B14 will have only a partial effect. In my view one of the challenges will be whether the council can impose a condition on a subdivision or land use consent requiring the applicant to remove wilding conifers if that is not an effect of the proposed subdivision or land use activity. My understanding is that the conditions imposed by a consent authority on a resource consent should relate to effects of the proposed activity. Having said that, I am aware that people do use biodiversity offsets and similar concepts to mitigate effects of development proposals, and it may be Policy 3B14 can work in a similar way. Provision could be made through an amendment to Policy 3B14 and using a Whole of Farm Management Plan which I discuss in section 9 of my evidence.

Other Matter

- 8.17 At para 110, p.55 of the Environment Court's Interim Decision 387 (2011) the Court lists the roads within MacKenzie Basin from which views are important. This list includes the '*Haldon Rd to Mackenzie's Pass Rd and the latter road.*' However PC13 has extended that Scenic Viewing Area along the full length of the Haldon Rd.
- 8.18 I understand the Haldon Rd west of Mackenzie Pass Rd intersection is a dead-end road leading to Haldon Station Homestead. At paragraph 176 (p81) of its Interim Decision 387 (2011) the Environment Court said, '*Secondly, we consider that development along Haldon Rd would be – given the length of the road, the small number of farm bases, and the area's distance from tourist routes – unexceptionable in terms of effects upon the landscape.*'
- 8.19 Therefore I presume this extended zoning is an error.

9. WHOLE OF FARM MANAGEMENT PLAN

- 9.1 Management of the landscape and land use issues of the MacKenzie Basin is complex. From a landscape perspective alone, Mr Glasson (para 19, p.5 & paras 45-46, p.12) recommends individual farm plans to make sense of landform and vegetation patterns and create tailored solutions.
- 9.2 The MacKenzie Basin landscape has important and varying ecological values, much of it is vulnerable to pests and soil erosion, areas may have significant cultural, recreational, aesthetic and amenity values, and the Basin is home to a number of economic activities, from hydro-generation to farming to tourism.
- 9.2 Plan change 13 relies on the plan change process to provide for any significant development outside of the Farm Base Areas; either explicitly through Policy 3B4 or indirectly because activities are classified as non-complying and policies seek to avoid or discourage those land uses except within the Farm Base Areas. A plan change may be appropriate for larger-scale residential, rural-residential, or other proposal. It places a significant cost barrier to someone wanting to undertake a smaller-scale project or development; perhaps to diversify or supplement income from pastoral farming.
- 9.2 A planning approach which I think would be appropriate to include in PC13 is provision for a Whole of Farm Management Plan. This concept could enable landholders to develop plans for the management of their entire property including: protecting landscapes with high values, managing pests or erosion issues, ecological conservation or restoration projects, planning for pastoral intensification or irrigation, and provisions for other land uses within and outside the Farm Base Areas. It may even include a plan for a new Farm Base Area if a large property is subdivided as part of succession planning.
- 9.3 The Whole of Farm Management Plan would be assessed in terms of its suitability for an integrated approach to managing the values of the MacKenzie Basin. Activities which are provided for within the Whole of Farm Management Plan are authorized through the approval of that plan. This would need to be done through a resource consent process. This approach has the advantages of:
- (i) Encouraging an integrated approach to land management by providing an easier regulatory path; and

- (ii) Encouraging land use and development that is associated with continuing the traditions of high country pastoral farming in the Basin.

9.4 However it also has the disadvantage of cost, though the Council and other organizations may be able to assist in this regard. Given it would be a Whole of Farm management plan; it is not something which can be used by people who are purchasing land simply for the aim of residential or rural-residential development. A plan change to rezone to a specialist zone would still be the appropriate method for that activity.

9.5 The Mackenzie District already has a structure in place to facilitate such a concept through the Mackenzie Country Trust Agreement. That agreement discusses the possibility of both Land Protection Plans and Land Development Plans. The s293 Report recommends an additional subcase (5) to Policy 3B13 for managing pastoral intensification to take into account any agreement between the MacKenzie Country Trust and landowners.

9.6 To incorporate this approach I would suggest some additional amendments to policies and rules for PC13. This may raise a scope issue. The submission from FFNZ Inc has asked for more lenient provisions for activities outside the Farm Base Areas and the Whole of Farm Management Plan is a half-way point between the provisions in PC 13 as notified and the relief sought in those submissions.

10. **AMENDMENTS TO PLAN PROVISIONS**

10.1 As a result of the assessment I have made in my planning evidence, I would suggest the amendments to PC13 shown in Attachment One. I have made my amendments based on the version of PC13 in the s293 Report.



Lynda Weastell Murchison

9th September 2016