



MACKENZIE DISTRICT COUNCIL
APPLICATION FOR SUBDIVISION CONSENT
RESOURCE MANAGEMENT ACT 1991

To: Mackenzie District Council
PO Box 52
FAIRLIE

Phone: (03) 685-9010
Fax: (03) 685-8533

I/We

Mackenzie Lifestyles Limited
(Full Name)

Of

(Postal Address of Applicant)

apply for the resource consent described below.

1. Names and address of the owner and occupier of the land to which the application relates other than the applicant are:

High Country Rosehip Orchards Ltd

2. This application relates to the following site:

Street Address:	<i>State Highway, Twizel</i>
Legal Description:	<i>Lot 1 DP 16632 & Lot 2 DP 477149</i>
Certificate of Title: (please attach copy)	<i>Attached.</i>
Valuation Number:	<i>-</i>

3. Description of Proposed Activity (attach separate report if necessary):

Subdivision into 7 allotments, land-use on each lot and surrender of RMO70082, RMO0013 and RMO50004.

4. Additional resource consents required in relation to this application:

	Granted	Applied For	To be applied for	N/A
Water Permit				
Discharge Permit			✓	
Land Use Consent		✓		
Other				

5. I/We provide the following information in support of this application to satisfy the requirements of Section 88 (2) of the Resource Management Act 1991:

- ☒ An Assessment of Environmental Effects (see attached explanatory notes). **This is compulsory and should be relevant to the scale of the proposal.**
- ☒ Information required demonstrating compliance with rules, policies and objectives of the District Plan (see attached explanatory notes).
- ☒ Signed affected persons approval forms or a list of names and addresses of all adjoining landowners and occupiers with a plan showing the locations of these properties (where applicable)

6. I/We attach a scaled and uniquely numbered site plan showing (where applicable):

- The position of all new boundaries
- The areas of all new allotments
- The locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips
- The locations and areas of any existing esplanade reserves, esplanade strips and access strips
- The locations and areas of any land part of the bed of a river or lake, to be vested in the Crown or local authority under Section 237A of the Resource Management Act 1991
- The locations and areas of land to be set aside as new road ☐

7. I/We enclose the required deposit fee of:
(See schedule of fees and charges)

\$ 1230.

8. Address for Service of Applicant:

c/- Vivian Espie
 Box 2514
 Waiatapu
 Okechistown 9349

Telephone No(s):

03 441 4189

Fax No(s):

03 441 4190

Email:

carey@vivianespie.co.nz

Signature of applicant or person authorised to sign on behalf of applicant

Date

25 May 16.

RESOURCE CONSENT APPLICATION

MACKENZIE LIFESTYLE LIMITED

SUBDIVISION AND LAND-USE APPLICATION

Subdivision of Lot 1 DP 441401 into six rural-residential allotments and one rural allotment AND the surrender of existing resource consents RM070082, RM100013 and RM150004.

25 MAY 2016

vivian+espie
resource management and landscape planning

MACKENZIE LIFESTYLE LIMITED

Lot 1 Deposit Plan 441901

This resource consent application has been prepared in accordance with the Fourth Schedule of the Resource Management Act 1991 in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

- (1) An application for resource consent for an activity (the activity) must include the following:**
(a) A description of the activity

It is proposed to subdivide Lot 1 DP 422901 (copy attached as **[A]**) into six rural-residential allotments and one rural allotment, and identify seven building platforms for associated residential and rural activity as follows:

Lot	Approximate Area (ha)	Building Platform (m ²)
1	7.0	1,200
2	3.10	1,200
3	2.20	1,200
4	4.60	1,200
5	4.90	1,200
6	2.20	1,200
7	222.00 (balance)	1,500

A copy of the proposed subdivision is attached as **[B]**.

Lots 1 to 6 are proposed to be accessed from an existing access point onto the State Highway which was approved by Resource Consent **RM070080** (copy attached as **[C]**) and formed accordingly.

Lot 7 is proposed to be accessed from an existing access point **RM070082** (copy attached as **[D]**).

Land use consent is sought to erect a dwelling and shed within each lot. Specific building designs are not provided but parameters are set by way of building platforms and additional design restrictions.

The following restrictions are volunteered as part of the application. It is anticipated that these restrictions will be recorded as consent notices on any resultant titles:

- Lots 1 - 6 are each to contain a building platform 40 x 30m (1200m²) in area. The maximum building footprint of future built form within each platform is 600m² in area. Lot 7 is to contain a building platform 50 x 30m (1500m²) in area. The maximum building footprint of future built form within this platform is 750m² in area.
- Building platforms within Lots 1 – 7 have a building height restriction of 5.5m above existing ground level.
- Building restrictions associated with the proposed building platforms within Lots 1 - 7 include:
 - Future buildings shall be of simple forms such as traditional gable cottage forms with no arches, turrets or dormers.
 - No temporary or relocated buildings are permissible.
 - Roof forms of future buildings shall be peaked or mono-pitched at angles between 0 and 25 degrees. Curved roofs are prohibited.
 - Cladding of a future dwelling within any building platform shall be timber (painted or unpainted), cement composite weatherboards (Linea or similar), stacked stone, brick, corrugated iron or steel, solid plaster or a similar material approved by Mackenzie District Council.
 - Exterior roof cladding materials shall be finished in the natural range of browns, greens and greys with a light reflectance value (LRV) of 20% or less.
 - Exterior wall cladding materials shall be finished in the natural range of browns, greens and greys with a LRV of 36% or less.
 - Joinery, gutters and downpipes shall match or be darker than the selected roof or wall colours.
 - Cladding of future sheds within the building platforms shall be of the same materials as the dwelling or clad in Colorsteel finished in the colours Karaka or Ironsand which both have a LRV of 7%.
- No vehicles shall be stored on site unless they are housed in a garage or a shed. A vehicle, in this instance, is any object that has, had, or will have road wheels.
- The proposed layout plan (Appendix 2) outlines vegetation that is to be retained and/or planted within the vicinity of each of the proposed building platforms.
- View lines to Mt Cook from each of the proposed building platforms shall be protected as follows: any vegetation exceeding 3m in height within any lot (excluding vegetation that is proposed to be retained or implemented as outlined on the proposed layout plan) that reduces views towards Mt Cook from any building platform shall be trimmed/topped to be below 3m in height or removed entirely.
- Exterior lighting attached to a building shall not exceed 3m above ground level and be down lighting only. Exterior lighting that is not attached to a building shall not exceed 1m above ground level and be down

lighting only. There shall be no light spill beyond the property boundary. No external lighting shall be used to highlight or accentuate built forms, structural elements or any landscape features.

- Fencing is restricted to standard post-and-wire farm fencing only.
- The part of Lot 7 that lies within 600 metres from SH8 is proposed to be left in its current state as part of this application. However it is recognised that this area could accommodate a golf course, or other recreation/tourism activities in the future. It is important to note that this application does not assess such future activities and does not preclude such activities from being applied for in the future. The part of the Lot 7 that is more than 600 metres from SH8 is to be managed by agricultural activities that include sheep and beef grazing, cropping, cultivation, potential topdressing, over-sowing and direct drilling and additional fencing. .

The proposed lots are proposed to be connected to reticulated water, electricity and telecommunications as approved for the site by resource consents **RM070082**, **RM100013** and **RM150004** (copies attached as **[E]** and **[F]** respectively). Wastewater disposal will be on-site if a connection to the Council's reticulated system is not available.

Approval of this proposal would effectively replace the larger subdivision approved on the site. It is therefore proposed that if this consent is approved it be subject to a condition requiring the surrender of **RM070082**, **RM100013** and **RM150004** pursuant to section 138 of the RMA.

(b) A description of the site at which the activity is to occur

The subject site is on the eastern side of the State Highway, opposite Twizel Township. The site is legally described as Lot 1 DP 422901 as contained in identifier 489340.

(c) The full name and address of each owner or occupier of the site

Subject site: Lot 1 DP 16632 and Lot 3 DP 477149
Owner: High Country Rosehip Orchards Limited
Address: State Highway 8, Twizel

A copy of the relevant Computer Freehold Registers is attached as **[A]**.

(d) A description of any other activities that are part of the proposal to which the application relates

Not applicable.

(e) A description of any other resource consents required for the proposal to which the application relates

No other resource consents are required for the proposal to which this application relates.

(f) An assessment of the activity against the matters set out in Part 2:

Part 2 of the RMA States specifies the purpose of the Act as follows:

Purpose

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The proposed subdivision will not adversely affect any of the above listed matters respective of sustainable management and is therefore consistent with this purpose.

Matters of national importance

- In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*
- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*

- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) the protection of historic heritage from inappropriate subdivision, use, and development*
- (g) the protection of protected customary rights.*

Sub-section (a) is relevant to the extent that the property borders the Twizel River to the west. All development has been set back from the river so as to preserve the natural character of the river and its margin.

Sub-section (b) is relevant to the extent that the Environment Court has found the entire Mackenzie Basin to be part of an Outstanding Natural Landscape. The proposal has been assessed in this context and it is concluded that the proposed development, in combination with surrendering resource consents **RM070082**, **RM100013** and **RM150004**, is appropriate subdivision, use and development of the subject site.

Sub-section (c) is not relevant to the extent that there is no significant indigenous vegetation and significant habitats of indigenous fauna located on the property.

Sub-section (d) is a relevant matter. It is noted that a pedestrian easement was created down the western border of the site (adjacent to the Twizel River) as part of the land tenure review. Part of the alignment of the trail changes as a result of this application, however improved direct access is maintained to the River.

Sub-sections (e) to (g) are not relevant to this application.

Overall, it is considered the proposal provides for all of the matters of national importance in achieving the purpose of the RMA.

Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) kaitiakitanga:

(aa) the ethic of stewardship:

(b) the efficient use and development of natural and physical resources:

(ba) the efficiency of the end use of energy:

(c) the maintenance and enhancement of amenity values:

(d) intrinsic values of ecosystems:

(e) [Repealed]

(f) maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:

(h) the protection of the habitat of trout and salmon:

(i) the effects of climate change:

(j) the benefits to be derived from the use and development of renewable energy.

This activity is not considered to affect matters of kaitiakitanga or the ethic of stewardship, and will not detrimentally affect the intrinsic values of ecosystems or climate change matters. Overall, the proposal is consistent with the other matters listed above and is an efficient use of the land without adversely affecting the wider surrounds.

(g) An assessment of the activity against any relevant provisions of a document referred to in section 104(1)(b).

Section 104(1)(b) of the RMA states:

104 Consideration of applications

(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—

...

(b) any relevant provisions of—

(i) a national environmental standard:

(ii) other regulations:

(iii) a national policy statement:

- (iv) a New Zealand coastal policy statement:*
- (v) a regional policy statement or proposed regional policy statement:*
- (vi) a plan or proposed plan; and ...*

The relevant provisions are (i) a National Environmental Standard (NES), (ii) the Environment Canterbury Regional Policy Statement and Plans, and (iii) the Mackenzie District Plan (as amended by PC13). Each of these will be discussed in turn.

104(1)(b) (i) - NES for Assessing and Managing Contaminants in Soil to Protect Human Health

All applications for resource consents are required to be considered under the National Environmental Standard (NES) for Assessing and Managing Contaminants in Soil to Protect Human Health. Under these regulations, land is considered to be actually or potentially contaminated if an activity or industry on the Hazardous Activities or Industries List (HAIL) has been, or is more likely than not to have been undertaken on that land. The land use history is the trigger in determining whether land requires further assessment under the NES.

Attachment G of the Hazardous Activities or Industries List includes:

- G *Cemeteries and waste recycling, treatment and disposal***
- 1. *Cemeteries*
- 2. *Drum or tank reconditioning or recycling*
- 3. *Landfill sites*
- 4. *Scrap yards including automotive dismantling, wrecking or scrap metal yards*
- 5. *Waste disposal to land (excluding where biosolids have been used as soil conditioners)*
- 6. *Waste recycling or waste or wastewater treatment*

Section 1 SO 18355 contains the Twizel Wastewater Treatment Plant within the site. While the treatment facility is entirely located within its own site, water does drain from the site over the subject land.

The proposal to subdivide the subject site and identify a residential building platform on this lot is a permitted activity under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) as the requirements listed in section 8(4) of the NES listed below have been met:

“8(4) Subdividing land or changing the use of the piece of land is a permitted activity while the following requirements are met:

- (a) a preliminary site investigation of the land or piece of land must exist;*
- (b) a report on the preliminary site investigation must state that it is highly unlikely that there will be a risk to human health if the activity is done to the piece of land;*
- (c) the report must be accompanied by a relevant site plan to which the report is referenced;*
- (d) the consent authority must have the report and the plan.”*

A review has been undertaken of all the MDC consents registered against the lots subject to this application. The review identified that the Mackenzie District Council applied for a HAIL Site under **RM150075** for the sewerage treatment lot and the outfall drain which runs through the subject site. It is understood that **RM150075** is on hold.

I have not been able to obtain a copy of the application at the time of undertaking this assessment. However it is assumed that this application covers the subject site and there is no need to replicate this application as part of this application.

In conclusion, subject to the outcome of **RM150075**, it is considered unlikely that there would be a risk to human health resultant from the development proposed in this application.

104(1)(b) (ii) –Other Regulations, 104(1)(b) (iii) – National Policy Statement and 104(1)(b) (iv) – NZCPS

No other regulations or NPS's are relevant to this proposal.

104(1)(b) (v) - Canterbury Regional Council Plans

Environment Canterbury manages air, land and water matters on a regional scale. Activities on the Site will therefore also need to be assessed under the Canterbury Natural Resources Regional Plan (“NRRP”) and the Canterbury Proposed Land and Water Regional Plan (“PLWP”).

If connection to the public wastewater system is not available, then domestic wastewater treatment and discharge will be required to be provided on site (i.e. sewage tank). The discharge of domestic wastewater from on-site treatment systems is a **Controlled Activity** under Rule WQL12 provided the discharge meets a range of conditions relating to discharge volume, and discharge location and depth.

If the discharge does not meet any of the above standards, it will be considered a **Discretionary Activity**.

The discharge of domestic wastewater from on-site treatment systems (if required) is a **Permitted Activity** under Rule 5.8 provided the discharge meets a range of conditions relating to discharge volume, and discharge location and depth.

If the discharge does not meet permitted activity conditions, it will be considered a **Restricted Discretionary Activity**.

With respect to Objectives and Policies, it is considered not necessary to include within assessment as the Operative District Plan and Plan Change 13 deals with all the relevant matters in more detail.

104(1)(b) (vi) - Mackenzie District Plan (including Plan Change 13)

The Mackenzie District Plan, including amendments sought by Plan Change 13, are discussed at length under Part (2) of this assessment.

- (2) The assessment under subclause (1)(g) must include an assessment of the activity against –**
(a) Any relevant objectives policies or rules in a document; and

(a) Operative District Plan Assessment

(i) Objectives and Policies

The proposal has been considered in light of both the Rural Zone (Section 7) objectives and policies and the Subdivision and Development (Section 12) objectives and policies. Relevant objectives and policies are discussed below.

Objective 1 states:

Rural Objective 1 - Indigenous Ecosystems, Vegetation And Habitat

To safeguard indigenous biodiversity and ecosystem functioning through the protection and enhancement of significant indigenous vegetation and habitats, riparian margins and the maintenance of natural biological and physical processes.

Objective 1 is to be met by the following policies:

Rural Policy 1A - Department Of Conservation And Landholders

To promote the long-term protection of sites with significant conservation values by encouraging:

- landholders and relevant agencies to pursue protection mechanisms and agreements;*
- tenure review processes under the Land Act and Crown Pastoral Land Act 1998;*
- implementation of the Conservation Management Strategy and the Management Plan for the Aoraki/Mount Cook National Park.*

Rural Policy 1B - Identification And Protection Of Special Sites

To identify in the District Plan sites of significant indigenous vegetation or habitat (in accordance with the criteria listed in the Reasons below), and significant geological or geomorphological features, and to prevent development which reduces the values of these sites or features.

Rural Policy 1C - Natural Character And Ecosystem Functions

To avoid, remedy or mitigate adverse effects on the natural character and indigenous land and water ecosystem functions of the District, including

- i land form, physical processes and hydrology;*
- ii remaining areas of significant indigenous vegetation and habitat, and linkages between these areas;*
- iii aquatic habitat and water quality and quantity.*

The site is not known to have any significant conservation value, or areas of significant indigenous vegetation or habitat or geological or geomorphological features therefore Policies 1A and 1B are not affected. The proposal will have only a minor effect on the landscape as detailed in the Landscape Assessment report attached as 'G'. The proposal is therefore considered consistent with this objective and associated policies.

The second objective for the Rural Zone is:

Rural Objective 2 - Natural Character Of Waterbodies And Their Margins

The preservation of the natural character and functioning of the District's lakes, rivers, and wetlands and their margins, and the promotion of public access along these areas.

It is to be met by the following policies:

Rural Policy 2A - Controlling Adverse Effects

Managing by way of standards, guidelines and good management techniques, the adverse effects of activities such as earthworks, vegetation clearance, tree plantings and buildings that have the potential to threaten the survival of riparian vegetation and habitat, or to have significant adverse effects on public access and recreation, river, lake or wetland ecology, natural character, maintenance of bank stability, or water quality and quantity.

Rural Policy 2B - Riparian Margins

To encourage the protection of natural character and conservation values of riparian areas and adjacent water bodies and the provision of public access along riparian margins.

The proposal will not directly impact on the Twizel River. It is considered that this objective and policy will not be affected by the proposal.

The third objective for the Rural Zone relates to landscape, as follows:

Rural Objective 3 - Landscape Values

Protection of outstanding landscape values, the natural character of the margins of lakes, rivers and wetlands and of those natural processes and elements which contribute to the District's overall character and amenity.

It is to be met by the following policies:

Rural Policy 3A - Lakeside Landscapes

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

Rural Policy 3B - Important Landscapes And Natural Features

To limit earthworks on steeper slopes, high altitude areas, and on land containing geopreservation sites to enable the landforms and landscape character of these areas to be maintained.

Rural Policy 3C - Scenic Viewing Areas

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

Rural Policy 3D - Impacts Of Subdivision Use And Development

Avoid or mitigate the effects of subdivision, uses or development which have the potential to modify or detract from areas with a high degree of naturalness, visibility, aesthetic value, including important landscapes, landforms and other natural features.

Rural Policy 3E - Tree Planting

To control the adverse effects of siting, design and potential wilding tree spread of tree planting throughout the District, to enable forestry to be integrated within rural landscapes and to avoid screening of distant landscapes.

Rural Policy 3F - In Harmony With The Landscape

To encourage the use of guidelines for the siting and design of buildings and structures, tracks, and roads, tree planting, signs and fences.

To encourage the use of an agreed colour palette in the choice of external materials and colours of structures throughout the district, which colours are based on those which appear in the natural surroundings of Twizel, Tekapo and Fairlie.

Policies **3A** to **3C** are not relevant to the proposal.

The subject site does not have a high degree of naturalness or aesthetic value. It is, however, highly visible from the State Highway. The effects of visibility are proposed to be avoided or mitigated as detailed in the Landscape Report attached as ‘G’ consistent with **Policy 3D**.

A number of tree planting is proposed for screening and privacy. The applicant is happy for a condition to be imposed on the consent requiring these trees not to have wilding characteristics consistent with **Policy 3E**. With respect to wilding pines growth on the site, Dr Lloyd notes in paragraph 4.5 of his Ecological assessment the following:

*“There are several clumps of planted trees on the outwash plain near State Highway 8, which are a mix of Corsican pine, larch (*Larix decidua*), and *Populus deltoides*. Curiously, the Corsican pine trees in these clumps do not appear to be spreading, whereas the mature Corsican pine trees on the Twizel side of the State Highway have at times been associated with significant spread onto the property (John Lyons, pers. comm.).”*

It is considered that more intensive subdivision as proposed will assist in controlling any wildings tree spread.

The matters detailed in Policy 3F have been considered in the volunteered conditions and design of the subdivision as detailed in the Landscape Report attached as ‘G’.

The fifth objective is as follows:

Rural Objective 5 - Downlands And Plains Soils

Cultivation and livestock management on downlands and plains areas which minimizes potential soil loss and loss in quality of soil.

It is to be met by the following policy:

Rural Policy 5A - Land Use Practices

To promote land use practices on the down lands and plains which do not accelerate erosion or depletion of soil quality and which therefore are appropriate for sustainable land management

It is not likely that the current proposal will accelerate erosion or depletion of soil quality and as such it is considered consistent with this policy and objective.

The sixth objective guiding the Rural Zone is:

Rural Objective 6 - Rural Amenity And Environmental Quality

A level of rural amenity which is consistent with the range of activities anticipated in rural areas, but which does not create unacceptably unpleasant living or working conditions for the District's residents or visitors, nor a significant deterioration of the quality of the general rural and physical environment.

It is to be met by the following relevant policies:

Rural Policy 6B - Setback Of Buildings

To require residential dwellings to be setback from property boundaries to reduce the probability of the residents of these dwellings being exposed to significant adverse effects from an activity on a neighbouring property, and to maintain the visual character of the rural area particularly as viewed from the state highways.

Rural Policy 6D - General Amenity Controls

To encourage and/or control activities to be undertaken in a way which avoids, remedies or mitigates adverse effects on the amenities and physical environment of rural areas.

All building platforms have been set back from property boundaries to control reverse sensitivity effects. The subdivision has been designed avoid, remedy or mitigate effects on the amenity of the rural area.

Objective 7 reads as follows:

Rural Objective 7 - Natural Hazards

Minimal loss of life, damage to assets and infrastructure, or disruption to the community of the District, from natural hazards.

And is to be met by one policy:

Rural Policy 7A - Proximity To Waterways

To control the proximity of buildings to waterways to limit potential loss of life and damage to property.

The site is not known to be subject to any natural hazards. No buildings are proposed by this application. The proposal is consistent with this objective and policy.

Objectives 8 and its policy relate to surface of waterways and are not considered relevant to this proposal.

Similarly, objective 9 and its policy relating to aviation, and Objective 10 and associated policies relating to Aoraki/Mt Cook National Park are not relevant to this proposal.

Objective 11 for the Rural Zone is as follows:

Rural Objective 11 - Rural Infrastructure

Rural infrastructure which enables the District and the wider community to maintain their economic and social wellbeing.

This objective is to be met by the following policy:

Rural Policy 11A – Rural Infrastructure

To recognise the economic and social importance of transportation, electricity generation and transmission, and rural servicing infrastructure and, consistent with other objectives and policies of this Plan, to provide for its upgrading, maintenance and enhancement

As mentioned previously there are power pylons which dissect proposed Lot 7. It is not anticipated that the pylons will be affected by this proposal and as such it is considered that the proposal is not contrary to the above.

With respect to Subdivision and Development Objectives and Policies, the first relevant objective is as follows:

Objective 1 - Subdivision Servicing

The provision of necessary services including safe and efficient access to subdivided allotments in anticipation of the likely effects of land use on those allotments.

This objective is to be met by 13 policies:

- 1 *To integrate subdivision roading with the existing roading network in an efficient manner which reflects expected traffic levels and the safe management of vehicles and pedestrians.*
- 2 *To achieve safe and effective vehicular access to properties in subdivisional developments.*
- 3 *To achieve provision of pedestrian and amenity linkages where useful linkages can be further developed.*
- 4 *To minimise the adverse visual and physical effects of subdivision roading.*
- 5 *To require that water supplies to subdivided allotments are of a sufficient capacity and of a drinkable standard.*
- 6 *To require upon subdivision, that all new lots be provided with a means of connection to a reticulated water supply system, where water from such a system is available.*
- 7 *To require that the provision of any necessary additional water supply, stormwater control or sewage disposal infrastructure and the upgrading of existing infrastructure is undertaken or contributed to by subdividers where appropriate, in recognition of the scale and nature of the anticipated land users.*
- 8 *To encourage the retention of natural open waterways for stormwater to ensure disposal in a manner which maintains or enhances the quality of surface and ground water.*
- 9 *To require that stormwater is disposed of in a manner that avoids inundation of land within or adjoining the subdivision.*
- 10 *To require, upon subdivision, that anticipated development is provided with a means of disposing of sanitary sewage in a manner which is consistent with maintaining public health and minimises adverse effects on the environment.*
- 11 *To require upon subdivision, that all new lots be provided with a means of connection to a reticulated sanitary system, where such a system is available. Where a reticulated system is not available, on site or stand alone communal treatment systems may be installed, subject to any discharge consents required.*
- 12 *To require that provision be made for trade waste disposal upon subdivision of land for anticipated industrial use.*
- 13 *To require that adequate provision is made for the supply of reticulated energy and communication facilities and that the method of reticulation is appropriate to the amenities of the area.*

Safe and efficient access is proposed, in accordance with the designs stipulated by NZTA under RM070080 (subject to further consultation with NZTA). No new roads are proposed. Water is proposed to be connected to reticulated supply in the same or similar manner to what is approved by **RM070082**. Wastewater is proposed to be disposed of on-site if reticulation is not available.

The second objective is:

Objective 2 - Cost Of Services To Be Met By Subdividers and Developers

The costs of the provision of existing services, new services or the upgrading of services which are necessitated by subdivision or development, is to be met by the subdividers and/or developers.

It is to be met by the following policies:

- 1 *To require subdividers and developers to meet the costs of new or upgraded services (including head works), which are attributable to the impacts of the subdivision or development, including where applicable:*
 - *roading and access;*
 - *water supply;*
 - *sewage disposal;*
 - *stormwater disposal;*
 - *trade waste disposal;*
 - *provision of electricity; and*
 - *provision of telecommunications.*
- 2 *To require contributions for creation of new allotments and multi-unit residential development for the purpose of recouping costs of existing public utility services provided by the Council that serve the land in the subdivision or development.*
- 3 *To provide for any contributions to be in accordance with the methods of determination specified in the Rules.*

Connection to any reticulated supplies will be at the applicant's expense consistent with this objective and policies.

Objective 3 – Recreation and Reserves

A conveniently distributed and accessible range of public open space and recreational areas and facilities to meet the diverse needs of residents and visitors to the District.

It is to be met by the following policies:

- 1 *To encourage, and where possible, provide for a range of recreation opportunities within the District.*
- 2 *To ensure the provision of open spaces and recreational areas within or in reasonable proximity to new residential subdivisions to meet the needs of the future community.*
- 3 *To require contributions towards public open space and recreation areas from residential subdivision and from any major residential, business or community development to provide for:*
 - i *Additional parks, walkways and cycleways needed as a result of additional household and/or visitor growth.*
 - ii *Additional open space needed for visual relief or enhancement.*
 - iii *Development and maintenance of neighbourhood parks and local open space to a level at which they are useable and enjoyable.*

No new reserves are proposed by the proposal. It is noted that walking tracks exist through the property at present and it is proposed to amend the alignment creating a slightly shorter, more direct access to the Twizel River.

The fourth objective relates to esplanade provision as follows:

Objective 4 - Esplanade Provision

Development of a system of esplanade areas adjacent to important waterways, and access strips to these esplanade areas, which:

- *enables protection of the margins and retaining of the natural character of lakes and rivers;*
- *maintains or enhances the natural functioning of lakes and rivers, their water quality and aquatic habitats;*
- *provides for public access to and along, and the recreational use of the margins of lakes and rivers, where it is appropriate in terms of conservation values and public safety; and*
- *mitigating natural hazards.*

It is to be met by the following policy:

- 1 *Where appropriate, taking into account the requirements of Section 6(d) of the Act, and the purposes of esplanade provision contained in Section 229, to require esplanade strips or esplanade reserves along waterways when allotments are created.*

As already mentioned, no provision for esplanade provision is proposed as part of this application as this was dealt with as part of the tenure review. The proposal is not contrary to this objective and policy.

The fifth objective relating to Subdivision and Development is as follows:

Objective 5 - Avoidance Of Natural Hazards

The avoidance of subdivision in localities where there are significant natural hazards, unless these can be mitigated without significant adverse effects on the environment.

And is to be met by the following three policies:

- 1 *To ensure that subdivision is either restricted, subject to mitigation measures, or avoided in areas subject to risk from flooding, subsidence or slippage.*
- 2 *To ensure that mitigation measures do not give rise to unnecessary adverse impacts on the environment.*
- 3 *Require esplanade provision be made to mitigate natural hazards.*

The site is not known to be subject to any significant natural hazards and is therefore not likely to require any such mitigation. As such the proposal is not considered to be contrary to this policy.

The final objective reads as follows:

Objective 6 – Design And Location

The avoidance of adverse environmental effects associated with subdivision design and location.

It is to be met by the following policy:

- 1 *To require that the creation of new allotments take into account as far as possible underlying topography and the maintenance of the integrity of any significant nature conservation site; and that any adverse effect on landscape, nature conservation values and amenity are avoided or mitigated.*

The lots have been designed so as to take into account the underlying topography. No adverse effects on landscape, nature conservation values or amenity are likely. In my opinion the proposal meets the intention of this objective and policy.

(ii) Operative Plan Rules and Standards

Section 12 – Subdivision and Development

There is no permitted activity subdivision in the District, any subdivision which complies with all Primary and Secondary Subdivision Standards is a controlled activity pursuant to Rule 3 Section 12, with Council retaining control in respect of the following matters:

- Allotment Size and Dimensions
- Subdivision Design
- Property Access
- Esplanade Provision
- Natural and Other Hazards
- Water Supply
- Stormwater Disposal
- Sanitary Sewage Disposal
- Trade Waste Disposal
- Energy Supply and Telecommunications
- Vegetation and Landscape
- Easements
- Building Location
- Design within 20 metres of Transmission Lines

The proposed subdivision achieves compliance with the Primary and Secondary Subdivision Standards as follows:

6	<i>Primary Subdivision Standards</i>	Compliance
<i>6.a</i>	<i>Allotment Size – Residential Zones</i>	N/a – applies only to Residential Zones
<i>6.b</i>	<i>Water Supply</i>	N/a – applies only to Residential and Business Zones
<i>6.c</i>	<i>Sanitary Sewage Disposal</i>	N/a – applies only to Residential and

	Business Zones
6.d <i>Energy Supply and Telephone Systems</i>	N/a – applies only to Residential and Business Zones
6.e <i>Preservation of Vegetation</i>	N/a – there are no heritage or notable trees on this property
7 Secondary Subdivision Standards	Compliance
7.a <i>Allotment Dimensions</i> ... <i>All allotments created by subdivision in Rural Zones shall have a frontage with a minimum length of 5m.</i> ...	Complies – the proposed lots all have a minimum frontage width of 5m.
7.b <i>Property Access</i>	
7.b.i <i>All new roads shall be laid out and vested in the Council, in accordance with the standards set out in the table below.</i> (Requires All Rural Zone Roads to be a minimum of 15m and a maximum of 20m; minimum carriageway width of 6.2m and maximum of 6.5m. No requirement for kerb and channel or footpaths).	N/a. No new roads are proposed as part of this application.
7.b.ii <i>The carriageway of all new roads laid out and vested in accordance with 7.b.i above shall be formed and sealed.</i>	N/a. No new roads are proposed as part of this application.
7.b.iii <i>Footpaths shall be constructed as</i>	N/a. There is no requirement for footpaths in

<p><i>a sealed strip of 1.5m width within the berm. All areas of berms not sealed in footpath are to be formed in grass.</i></p> <p>...</p>	<p>Rural Zones</p>
<p><i>7.b.iv If a corner lot is included in any subdivision, the corner at the road intersection shall be splayed with a diagonal line reducing each boundary by at least 6m from the corner in a Rural or Residential Zone and at least 3m in a Business zone. The corner rounding or splay shall be vested in the Council.</i></p>	<p>N/a. The proposal does not create any corner lots.</p>
<p><i>7.b.v All new roads vested upon subdivision of land shall be given distinctive names not already in use with the area covered by the District Council. The name shall be agreed to by the Council.</i></p>	<p>N/a. No new roads are proposed as part of this application.</p>
<p><i>7.b.vi Where any new road or road extension is to be vested in the Council or a named private access is provided, the applicant shall pay to the Council a financial contribution for the manufacture and erection of all necessary name plates which must be displayed at the intersections of all other roads. The financial contribution shall be the actual cost of the name plate.</i></p>	<p>N/a. No new roads are proposed as part of this application.</p>

7.b.vii	Any subdivision of land within Pt Res 5177 (CT 38B/189) Sec 53 Blk X Tekapo Village, or Lot 1 DP 63170 (Ex MVWD Depot, Lake Tekapo Village) shall provide for a road linking Greig Street and Murray Place which road shall be to the same standard of Murray Place and Greig Street.	N/a
7.b.viii	All subdivisions shall comply with the relevant rules for access in Section 14.	The proposal has been assessed against these rules and can comply. This assessment is provided in the table below.
7.b.ix	Where land to be subdivided with frontage to a State Highway has practical legal access to an alternative road there shall be no access to the State Highway.	Complies – there is no practical legal access to an alternative road.
7.c	Esplanade Provision	
7.c.i	The Council may require an esplanade strip or esplanade reserve of up to 20 metres to be created or vested when an allotment is created along the bank of any river or the margin of any lake. In considering such a strip or reserve the Council shall take into account the purposes of esplanade strips and reserves in section 229 of the Act, Part II of the Act, Objective 4 and the relevant assessment matters.	No esplanade strip or reserve is proposed as part of this proposal.

<p><i>Any esplanade reserve shall meet the requirements of Section 231 of the Act. The creation of any esplanade strip shall be in accordance with section 232 of the Act.</i></p>	
<p><i>7.c.ii Where a subdivision is:</i></p> <ul style="list-style-type: none"> <i>a. for a minor adjustment to an existing cross-lease or unit title due to the</i> <i>increase in the size of the allotment by alterations to the building outline or</i> <i>the addition of accessory buildings;</i> <i>b. for a minor adjustment to an allotment involving an alteration of no more than</i> <i>10% of the allotment area;</i> <i>c. solely due to land being acquired or created for a road designation, public</i> <i>utility or reserve; or</i> <i>d. for the conversion of cross-lease titles to freehold titles</i> 	<p>N/a</p>

<p><i>the requirements in 7.c.i above shall not apply.</i></p>	
<p>7.d Provision of Land for Open Space and Recreation</p>	
<p><i>Rate of Contribution - Residential</i></p> <p><i>Purposes</i></p> <p><i>Where any subdivision creates separately saleable, additional allotments for residential or visitor accommodation purposes in Residential zones, Business zones, Special Purpose zones or the Rural zone, other than in the Aoraki/Mount Cook National Park,, a cash contribution shall be made to the Council towards the provision of land for open space in the locality, land for recreational facilities and maintenance of recreational facilities and open space based on the following rates:</i></p> <p><i>i Vacant allotments, including vacant parts of allotments for cross-leases and unit titles;</i></p> <p><i>and</i></p> <p><i>ii Allotments created after the erection of a household unit, or where the subdivision and building consent for the household unit are issued in conjunction with one</i></p>	<p>A contribution is likely.</p>

<p>another:</p> <p><i>In the Rural Zone 5% of the average value of 1500m² of each lot assessed as a site for a residential unit.</i></p> <p><i>In all other zones 5% of the average cash value of the allotments in the subdivision, excluding the area of allotments for roads, utilities, reserves, access and similar purposes.</i></p> <p><i>All contributions shall be to the Council in cash, unless negotiated land purchases are made in conjunction with the subdivision.</i></p> <p><i>iii This rule shall not apply to any subdivision for the purposes of farm worker accommodation.</i></p> <p><i>Method of Calculation:</i></p> <p><i>d. All existing allotments, including those already created for cross-lease or unit titles, which when created (either pursuant to a resource consent or consent pursuant to previous legislation) complied with the minimum standards for their respective zone or the standards contained in this</i></p>	
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<p><i>Plan, at the date of public notification of this Plan, shall be deemed to have a credit of 5% of the cash value of their allotment area.</i></p> <p><i>e. The credit for existing allotments, including those already created for crosslease or unit title, shall be deducted from the assessment made in accordance with the rates specified above.</i></p> <p><i>c. The value of land for the purposes of determining the average cash value of allotments shall reflect the value of the lots in the completed development.</i></p> <p><i>Where, within the preceding 10 years:</i></p> <ul style="list-style-type: none"> <i>• a subdivision of land creating the allotment(s) has made provision for land for open space and/or conservation in excess of a previous contribution assessment; or</i> <i>• building(s) erected on the allotment(s) have paid a financial contribution towards the provision of land for open space and recreation the excess contribution or the financial contribution from the building development shall be assessed as a credit and deducted from the value of the subdivision contribution.</i> 	
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7.e Opuha Dam Zone - Allotment Area	N/a
...	

The proposed subdivision also has been assessed against the Transportation Rules for the District. The Standards are listed in section 2 of this chapter as follows:

Standards	Compliance
2.a Minimum Parking Space Requirements (Requires 2 car parks per residential unit).	The proposed building platforms create ample room for car parking.
2.b Assessment of Parking Areas ...	N/a.
2.c Size of Parking Spaces ...	No specific car parking spaces are proposed as part of this application.
2.d Car Spaces for People with Disabilities ...	No specific car parking spaces are proposed as part of this application.
2.e Cash-in-Lieu ...	No specific car parking spaces are proposed as part of this application.
2.f Reverse Maneuvering ...	Complies - there is ample room for on-site maneuvering.
2.g Residential Parking Spaces (Requires dimensions of 2.5 by 5.0)	No specific car parking spaces are proposed as part of this application.
2.h Queuing ...	No specific car parking spaces are proposed as part of this application.

2.i	<i>Loading Areas</i>	N/a.
...		
2.j	<i>Surface and Draining</i>	No specific car parking spaces are proposed as part of this application.
...		
2.k	<i>Landscaping</i> <i>Landscaping shall not adversely affect the visibility of motorists leaving a site or create an unsafe environment for persons using the car park or adjacent footpath....</i>	No landscaping is proposed that adversely affects the visibility of motorists.
2.l	<i>Standards of Vehicle Crossing</i> <i>Vehicle access to any site shall be by way of a vehicle crossing constructed pursuant to Council standards, from the roadway to the road or service lane boundary of the site, and shall be at the owners expense. Vehicle crossings shall be constructed to the following standards:</i> <i>i For 10 or less residential units or activities which generate fewer than 100 normal car traffic movements per day: standard vehicle culverts and crossings to carry car traffic i.e. 225mm</i> <i>ii Drive-in accesses</i>	Complies – the applicant is agreeable to upgrading the existing access if required by NZTA.

<p><i>2.m Length of Vehicle Crossings</i></p> <p><i>The following vehicle crossing lengths shall apply:</i></p> <p>(Requires a minimum of 3m and maximum of 6m).</p> <p><i>The length of culverts and crossings shall be the actual length of channel covers or the length of the fully dropped curb.</i></p>	<p>Complies – again, the applicant is agreeable to upgrading the access if required by NZTA.</p>
<p><i>2.n Distance of Vehicle Crossings from Intersections</i></p> <p>(Table requires a maximum 200m separation from intersections).</p>	<p>The access point of Lots 1 to 6 is within 200 metres of the northern Twizel intersection.</p>
<p><i>2.o Access onto State Highways – All Zones</i></p> <p><i>i Permitted Activities</i></p> <p><i>Accesses onto State Highways which comply with the following standards:</i></p> <p><i>a) No vehicle access shall generate more than 100 vehicles per day.</i></p> <p><i>b) The minimum distances between successive accesses on both sides of the State Highway shall be:</i></p>	<p>Access to Lots 1 – 6 complies in that:</p> <ul style="list-style-type: none"> – the access will not generate more than 100 vehicle movements per day; – the allotment does not have frontage to a side road; – the applicant is agreeable to upgrading the existing access if necessary. <p>It does not comply in that:</p> <ul style="list-style-type: none"> – the access is not located at least 200m from the nearest access.

<p><i>(i) 40 metres where the posted speed is 70 kilometres per hour</i></p> <p><i>(ii) 100 metres where the posted speed is 80 kilometres per hour</i></p> <p><i>(iii) 200 metres where the posted speed is 100 kilometres per hour</i></p> <p><i>c) Where an allotment in a Rural Zone has frontage to a side road, all access shall be from the lesser road in the roading hierarchy.</i></p> <p><i>d) Accesses shall be designed and constructed in accordance with Diagram C (crossing treatment for accesses on state highways with traffic generation less than 30 vehicle movements per day) or Diagram D (Localised road widening and crossing treatment for accesses on state highways with traffic generation between 30 and 100 vehicle movements per day) in Appendix D.</i></p> <p><i>e) For the purpose of this rule the measurement of the distance between successive accesses shall</i></p>	
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<p><i>be taken from the centre points of both accesses measured along the centreline of the frontage road.</i></p> <p><i>f) Where the boundaries of a site which existed as a separate Certificate of Title before 1 February 1997 do not allow the provision of any vehicle crossing whatsoever in conformity with this provision, a single vehicle crossing may be constructed provided it is located in a position which most nearly complies with this provision.</i></p> <p>ii Controlled Activities</p> <p><i>Accesses onto state highways which met standards 2.o.i.a, b and c but do not comply with the design standards in 2.o(i)(d).</i></p> <p>iii Discretionary Activities</p> <p><i>Access onto state highways which do not comply with standards 2.o.i.a, b or c.</i></p>	
<p>2.p Visibility from Accesses</p> <p><i>All private accesses shall be located to ensure continuous visibility up to the minimum sight distances in the following table are achieved</i></p> <p><i>(Shows table which requires 250m site distance)</i></p>	<p>Complies – the required 250m sight distance is achieved from the existing access.</p>

...	
<p>2.q Private Vehicle Access</p> <p><i>All private vehicular access to fee simple title allotments, cross leases, unit titles or leased premises shall be in accordance with the standards set out in the table below.</i></p> <p>(Shows table which requires a legal width of 5m and carriage-way width of 4m)</p> <p>...</p>	<p>Complies - proposed Lots 2 and 3 are proposed to be access via a right of way over proposed Lot 1. The proposed right of way will be constructed to meet these dimensions.</p>
<p>2.r Standard of Vehicle Access</p> <p><i>Rural Zone</i></p> <p><i>Accessways in the Rural zone shall:</i></p> <ul style="list-style-type: none"> - <i>be designed to minimise edge break;</i> - <i>be designed to ensure that vehicles using the access do not reduce the safe and efficient functioning of the adjacent road;</i> - <i>be formed, sealed and maintained to an all weather standard with the first 5.5 metres of the access (as measured from the formed road surface) being formed to ensure that material such as mud, stone chips, or gravel is not carried onto the road.</i> 	<p>Complies - the access can be upgraded in accordance with this standard if necessary.</p>

<p><i>For the purpose of this rule 'all weather standard' means sealing of accesses on sealed roads and compacted level metal surfacing on unsealed roads.</i></p> <p>- <i>be designed to ensure that the efficient drainage of surface flows in the road reserve is not impeded. This will be achieved by the provision of culverts where necessary, being adequately sized, of sufficient length to limit blockages, and with properly formed inlets and outlets.</i></p> <p><i>For the purpose of this rule safe and efficient functioning of the adjacent road requires that where there is likely to be an average of at least 30 heavy vehicle movements in or out of the access (i.e. 15 visits) per month over three consecutive months during a 12 month period, the access shall be designed and maintained so that a truck and semi-trailer or such larger vehicle which regularly uses the access, will not leave the formed carriageway or the formed access when entering or leaving the property.</i></p> <p><i>The diagrams contained in Appendix C specify the swept paths of a truck and semi-trailer and other heavy vehicles. A sample access design (Diagram E) which meet the</i></p>	
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above standard, is shown in Appendix D.	
...	

Overall, under the ODP this proposal is assessed as a controlled activity, as it meets all of the necessary primary and secondary standards for subdivision and other rules.

(b) Plan Change 13 Assessment

Plan Change 13 to the operative District Plan was publicly notified on 19 December 2007 and the hearings held in early September 2008, followed by the hearing of the submissions in early November 2008.

The purpose of the Plan Change is to introduce provisions into the Mackenzie District Plan to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, use and development.

The Commissioner's decision on the proposed Plan Change was issued on 18 August 2009. It was recommended that the proposed Plan Change be accepted in part and that the amendments to the subdivision and transportation rules are adopted. The decision has been subject to a number of appeals and an Environment Court Hearing has been held and a number of interim decisions have been released.

Under Plan Change 13 as decided by the Council, the subject site is located within the Mackenzie Basin Subzone of the wider Rural Zone.

PC13 Objectives and Policies – As Publicly Notified

Under Plan Change 13, the subject site is contained within the Mackenzie Basin Subzone of the Rural Zone. The relevant objectives and policies are contained in Section 7 of the District Plan and are stated below:

Policy 3D- Adverse Effects of Sporadic Development

To control non-farming buildings and subdivision in the Mackenzie Basin (outside of existing farm base areas) to ensure adverse effects on the environment of sporadic development and subdivision are avoided and to sustain existing and likely future productive use of farm holdings

The proposal, which includes the surrender on RM070082, will not result in sporadic subdivision. A large portion of the site (being Lot 7) is being retained for farming activity. Significantly less land would be retained for farming under the existing consents.

Policy 3F – Design and Appearance of Buildings

To control the design, scale, appearance and location of residential buildings, and other buildings where reasonable, with regard to the purpose of the buildings, within the Mackenzie Basin to avoid, remedy or mitigate adverse impacts on the landscape and heritage values of the Basin Subzone.

The proposed design controls (refer to Landscape Report attached as ‘G’) restrict the design of future buildings within the proposed building platforms consistent with this policy in order to avoid, remedy or mitigate adverse landscape and visual amenity effects.

Policy 3H – Views from Roads

To require buildings to be set back from roads, particularly state highways, and to encourage the sensitive location of structures such as large irrigators to avoid or limit screening of views of distinctive and outstanding landscapes of the Mackenzie Basin.

All future buildings will be well set back from existing roads (which in this case is the State Highway) consistent with this policy.

Policy 3B – Economy, Environment and Community

To encourage a healthy productive economy, environment, and community within, and maintain the identity of the Mackenzie Country.

The proposal is for a mix of lots for both rural residential living and farming. The mix of uses proposed enables a healthy, productive economy consistent with this policy.

Objective 3C – Landscape Values

Protection of the natural character of the landscape and margins of lakes, rivers and wetlands and of the natural processes and elements that contribute to the District’s overall character and amenity.

It is considered that the proposed landscape plan and building design controls assist to protect the natural character of the landscape and the natural character of the margin of the Twizel River.

Policy 3O - Tree Planting

To control the adverse effects of siting, design and potential wilding tree spread of tree planting throughout the District, to enable forestry to be integrated within rural landscapes and to avoid screening of distant landscapes.

The proposal will not give rise to any adverse effects associated with proposed tree planting/future outcomes of landscaping.

Rural Policy 3P - In Harmony with The Landscape

To encourage the use of guidelines for the siting and design of buildings and structures, tracks, and roads, tree planting, signs and fences. To encourage the use of an agreed colour palette in the choice of external materials and colours of structures throughout the district, which colours are based on those which appear in the natural surroundings of Twizel, Tekapo and Fairlie where appropriate.

It is considered that those conditions volunteered to be registered as a covenant on the pertinent Certificates of Title will provide for the proposal to be consistent with this policy.

PC13 Objectives and Policies – As Amended by the Draft Section 293 application

The Mackenzie District Council has been directed by the Environment Court to prepare the rules package in accordance with their interim decision findings. Once this has been done the Mackenzie District Council is required to consult on what it has prepared with other parties on the appeal. The Council have now commenced consultation on the rules package and it is understood the section 293 application will be lodged with the Environment Court on 27 May 2016.

The purpose of this section of the assessment is to assess the proposal against the relevant objectives and policies of the draft section 293 application – the most current thinking of the Council in terms of managing resources of the Mackenzie Basin. While this has no statutory weight, it is a worthwhile assessment.

It is noted the Council's section 293 application only relates to new objectives, policies and rules that are yet to be decided by the Court. Some Objectives and Policies that have been decided (via interim decisions) by the Court are included below. I understand that these Objectives and Policies are beyond challenge (but not beyond amendment) and have noted this in the discussion.

Objective 3A – Landscape Values

Protection of the natural character of the landscape and margins of lakes, rivers and wetlands and of the natural processes and elements that contribute to the District's overall character and amenity.

The Objective is to be met by the following relevant policies:

Rural Policy 3A1 – Important Landscapes and Natural Features

To limit earthworks on steeper slopes, high altitude areas and on land containing geo-preservation sites to enable the landforms and landscape character of these areas to be maintained.

Earthworks will be required for access way construction and servicing trenches. This is all on flat land, therefore not on steeper slopes, high altitude area or a geo-preservation site.

Rural Policy 3A2 – Scenic Viewing Areas

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

The proposal is not within a Scenic Viewing Area. Nevertheless the subdivision, including building platform location and associated design controls, has been designed to take account of the wide landscape views to the west from the State Highway. The protection of the view to the south of the southern access road to has previously been identified by Mr Densem as being important (due to the distant view of Lake Benmore). The proposal does not affect that view. The proposal to surrender the existing resource consents is positive in this respect.

Rural Policy 3A3 – Impacts of Subdivision Use and Development

Avoid or mitigate the effects of subdivision, uses or development which may have the potential to modify or detract from areas with a high degree of naturalness, visibility, aesthetic value, including important landscapes, landforms and other natural features.

In my view the proposal to surrender the existing consents in lieu of six rural-residential lots and one rural lot will maintain a high degree of naturalness and views across the site as discussed above. While the existing subdivision was set some distance back from the State Highway, a substantial amount of built form would be visible from the state highway, including a road servicing the subdivision. The proposal is surrender the consents which approve that subdivision, and instead, allow a smaller rural residential type subdivision closer to existing development and mature trees. In my view the proposal will result in positive effects.

Rural Policy 3A4 – Tree Planting

To control the adverse effects of siting, design and potential wilding tree spread of tree planting throughout the District, to enable forestry to be integrated within rural landscapes and to avoid screening of distant landscapes.

More intensive subdivision around the existing trees is likely to, in my opinion, result in better management of the land in respect of wilding pine control consistent with this policy.

Rural Policy 3A5 – In Harmony with the Landscape

To encourage the use of guidelines for the siting and design, buildings and structures, tracks and roads, tree planting, signs and fences.

To encourage the use of an agreed colour palette in the choice of external materials and colours of structures throughout the District, which colours are based on those which appear in the natural surroundings of Twizel, Tekapo and Fairlie.

The siting, design and location of buildings has been carefully considered. It is proposed to control location and design through consent notices on the titles. The proposal is consistent with this policy.

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;*
- (b) elsewhere within the Mackenzie Basin Subzone so as to achieve objective (1) above.*

In my opinion, the proposal to surrender the existing consents in lieu of the proposal will assist in protecting the openness and vastness of proposed Lot 7, cluster development at a much smaller scale at the northern end of the site consistent with this policy.

(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).

Proposed Lot 7 is to be used for farm consistent with this policy. It is possible that Lots 1 to 6 could also be used for small scale (hobby) farms. There are no existing homesteads to cluster development around on the property.

Policy 3B1- Recognition of the Mackenzie Basin's distinctive characteristics

To recognise and identify that within the Mackenzie Basin's outstanding natural landscape there are:

(a) Many areas where development beyond pastoral activities is either generally inappropriate or should be avoided;

(b) Some areas with greater capacity to absorb different or more intensive use and development, including areas of lesser visual vulnerability and identified Farm Base Areas.

The subject site is not one of the many areas where development past pastoral activities is inappropriate or should be avoided. This is due to the fact there are a number of existing consents authorizing subdivision and development on the property, which will be exercised if this alternative proposal is not accepted by the Council.

Policy 3B2 – Subdivision and Building Development

To ensure adverse effects, including cumulative effects, on the environment of sporadic development and subdivision are avoided or mitigated by:

(1) Managing residential and rural residential subdivision and housing development within defined Farm Base Areas (refer to Policy 3B3);

(2) Enabling farm buildings in Farm Base Areas and in areas of low visual vulnerability subject to bulk and location standards and elsewhere managing them in respect of location and external appearance;

(3) Ensuring new residential or rural residential zones in areas of low or medium visual vulnerability achieve Objectives 1, 2, 4, 7, 8 and 11 of the Rural chapter and satisfy Policy 3B4 below;

(4) Strongly discouraging residential units elsewhere in the Mackenzie Basin.

The proposal ensures cumulative effect of development is avoided by surrendering the consents which form part of the receiving environment. The proposal is unique in terms of history that is unlikely to ever be replicated elsewhere in the District.

Policy 3B5 – Landscape Aspects of Subdivision

- (1) In order to minimise its adverse effects, subdivision in the Mackenzie Basin Subzone will not be encouraged except in Farm Base Areas;*
- (2) There should be a minimum lot size of 200 hectares (except in Farm Base Areas);*
- (3) Further subdivision of Lakeside Protection Areas (except for existing Farm Base Areas), Scenic Viewing Areas and Scenic Grasslands will not be allowed;*
- (4) All subdivision shall address the need to remove exotic wildings from the land being subdivided;*
- (5) All subdivision should have regard to topographical and ecological constraints.*

The proposal seeks to minimize the effects of development by surrendering the consents which form part of the receiving environment. The proposal is unique in terms of history that is unlikely to ever be replicated elsewhere in the District.

Policy 3B7 – Views from State Highways and Tourist Roads

- (a) To avoid all buildings, other structures, large irrigators and exotic trees in the Scenic Grasslands and the Scenic Viewing Areas;*
- (b) To require buildings to be set back from roads, particularly state highways, and to manage the sensitive location of structures and large irrigators to avoid or limit screening of views of the outstanding natural landscape of the Mackenzie Basin;*
- (c) To avoid clearance, cultivation or oversowing of Scenic Viewing Areas and Scenic Grasslands, including tussock grasslands, adjacent to and within the foreground of views from State Highways and the tourist roads;*
- (d) Subject to Policy 3B13, to minimise the adverse visual effects of irrigation of pasture adjacent to the state highways or tourist roads.*

All buildings are proposed to be set back from the State Highway.

Policy 3B9 – Reverse Sensitivity

To avoid, remedy or mitigate adverse reverse sensitivity effects of non-farm development and residential activity on rural activities and activities such as power generation, transmission infrastructure, state highways and the Tekapo Military Training Area.

The proposal has been designed to separate development within the rural residential lots from the rural lot. The proposal has also been designed will set back from the sewerage ponds consistent with this policy.

Policy 3B14 – Wilding Trees

To manage wilding trees and their spread by prohibiting the planting of wilding prone trees and, where possible, by requiring their removal:

- (a) at the time of subdivision;*
- (b) when consent is required for housing or development;*
- (c) when new zones are proposed.*

Dr Lloyd concludes the following with respect to Wilding trees:

*“There are several clumps of planted trees on the outwash plain near State Highway 8, which are a mix of Corsican pine, larch (*Larix decidua*), and *Populus deltoides*. Curiously, the Corsican pine trees in these clumps do not appear to be spreading, whereas the mature Corsican pine trees on the Twizel side of the State Highway have at times been associated with significant spread onto the property (John Lyons, pers. comm.).”*

While some of the planted trees on the site have wilding characteristic, there does not appear to be a significant wilding tree spread issue on the site. Nevertheless the applicant is willing to have a condition imposed on the consent requiring the removal of wilding trees that are not necessary for screening and future management of the lots to prevent future wilding spread.

The Council's draft section 293 application includes a number of proposed rules. The Court has made a number of interim decisions with respect to some of the rules, but no final decisions. As such all of the rules are subject to the section 293 application.

The proposed rules regime are summarised as follows:

Area	Farm Buildings		Residential/Other Buildings	
Farm Base Areas	Env Court	MDC	Env Court	MDC
All Farm Base Areas	Permitted	Permitted Rule 3.1.2	-----	Restricted Discretionary Rule 3.3.7

Farm Base Areas in Low Visual Vulnerability (LVV) areas	-----	-----	Restricted Discretionary/ Controlled	-----
Farm Base Areas in Medium Visual Vulnerability (MVV) areas	-----	-----	Restricted Discretionary/ Controlled	-----
Farm Base Areas in High Visual Vulnerability (HVV) areas	-----	-----	Restricted Discretionary	-----
Outside Farm Base Areas				
Outside Farm Base Areas	-----	-----	Non-complying	Non-complying Rule 3.4.5
LVV	Controlled	Controlled Rule 3.2.2	-----	-----
MVV	Restricted Discretionary	Discretionary Rule 3.3.3	-----	-----
HVV	Discretionary	Discretionary Rule 3.3.3	-----	-----

Under this draft section 293 application the proposal will require a non-complying activity pursuant to Rule 3.4.5. A reasonable level of weighting can be afforded to this status given the Environment Court have indicated the same through the interim decisions.

(b) Any relevant requirements, conditions, or permissions in any rules in a document; and

- (3) An application must also include an assessment of the activity's effects on the environment that –
- (a) Includes the information required by clause 6; and

Clause 6 states:

6 Information required in assessment of environmental effects

- (1) An assessment of the activity's effects on the environment must include the following information:
- (a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity;
 - (b) an assessment of the actual or potential effect on the environment of the activity;
 - (c) if the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from such use;
 - (d) if the activity includes the discharge of any contaminant, a description of—
 - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment;
 - (e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect;
 - (f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted;
 - (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved;
 - (h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).
- (2) A requirement to include information in the assessment of environmental effects is subject to the provisions of any policy statement or plan.
- (3) To avoid doubt, subclause (1)(f) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—

- (a) *oblige the applicant to consult any person; or*
- (b) *create any ground for expecting that the applicant will consult any person.*

6(1)(a) Significant Adverse Effects

It is unlikely the proposed activity will result in any significant adverse effect on the environment. No alternative locations or methods have therefore been considered.

6(1)(b) Assessment of Actual or Potential Effect on the Environment

This part of the assessment has been prepared in accordance with the matters over which council reserves control for controlled subdivision activities, and guided by the assessment matters set out at the end of the subdivision chapter.

(a) Allotment Size and Dimensions

Lot sizes arrange from 2.2 hectares to 222 hectares. The subdivision has been designed so that Lots 2 – 5 and 7 have direct access onto the Twizel River. Lots 1 and 6 have pedestrian access to the river. All lots proposed are of a sufficient size to retain a high level of rural amenity without compromising wider, open views, across the site towards Lake Benmore.

(b) Subdivision Design

The allotments are located on a flat area and area of sufficient size to maximize solar advantage. Stormwater can be disposed of on site. No adverse effects are likely with respect to subdivision design.

(c) Property Access

Lots 1 to 6 are proposed to access the site from the existing crossing point at the northern corner of proposed Lot 1. This access point was created through the three lot subdivision approved as part of **RM070000**. Correspondence to NZTA dated 24 July 2008 advises that any further subdivision of these lots will be required to be reassessed at that stage. NZTA have been sent a copy of this application and their views on the proposal will be forwarded to Council on receipt.

The proposal will increase the number of traffic movements onto the State Highway from this existing access point from one residential unit to seven residential units. This equates to approximately 54 traffic movements per

day. In our assessment the proposed access point has good visibility in both directions and the proposed development will result in no more than minor effects on the State Highway.

It is noted that this access point also serves to give MDC access to the sewerage ponds. I understand this access is infrequent. The access point also provides for informal car parking in the road reserve for users of the walking trail. Again this use is infrequent.

Proposed Lot 7 will be accessed from an existing crossing point 24 some distance south of the Twizel township intersection. This crossing place is the approved access point for the 49 Lot rural – residential subdivision (**RM070082**). The proposal is to surrender that consent which approves an access point for 49 lots and replace it with one single dwelling. It is noted that this access point also serves Lot 3 DP 422901 to the south of the subject site.

Overall the proposal significantly reduces the potential access onto the State Highway (by as much as 336 traffic movements per day).

(d) Esplanade Provision

The provision of esplanade reserves has been addressed as part of the recent tenure review undertaken by the Crown. No changes to those esplanade reserves are proposed by this application.

(e) Natural and Other Hazards

The site is not known to be subject to any natural hazards. No adverse effects are anticipated.

(f) Water Supply

It is proposed to service the subdivision by connecting to the Council's reticulated water supply. It is noted that the 49 lots approved as part of **RM070082** approved connecting to this reticulated supply. The proposal surrenders **RM070082** in lieu of the seven lots sought by the application. This results in a reduction of 42 allotments requiring connection of the reticulated water supply.

(g) Stormwater Disposal

All stormwater is proposed to be disposed of on site.

(h) Sanitary Sewage Disposal

Sewage is proposed to be disposed of on site or alternatively connected to the reticulated supply.

(i) Trade Waste Disposal

Not applicable.

(j) Energy Supply and Telecommunications'

Power and phone services have been confirmed to the larger subdivision (**RM070082**). The surrender of that consent, as part of this proposal, indicates an adequate supply for this subdivision.

(k) Vegetation and Landscape

An ecological assessment has been prepared Wildlands Consultants attached as 'H'. Dr Lloyd concludes in the report:

"Most of the site lies on an outwash plain which is an originally rare ecosystem, but there is relatively little indigenous vegetation remaining on this landform within the subject property. Thus clearance of the small areas of indigenous open shrubland, short tussock grassland, and cushion and mat vegetation within the site would be permitted activities for the Rural Zone of the Mackenzie Basin Subzone under the Mackenzie District Plan."

I agree with and rely on Dr Lloyd's findings.

Landscape effects are discussed below with respect to Building Location.

(l) Easements

A number of easements will be required to be created to service the subdivision. This will include access and service easements. It is proposed that the consent be subject to the condition requiring the easements be registered through this subdivision process.

(m) Building Location

Seven building platforms are sought as part of the application. The position, design and detail of the platforms have been described previously in this assessment and the landscape and visual effects assessed by Mr Smith as follows:

“The proposed development will significantly reduce the amount of rural living development within the site, when compared with the consented situation. The proposed rural living development is located within a heavily treed area which provides a better opportunity to absorb development of this type into a rural setting. The majority of the site will retain its open character although increased agricultural activity will be provided for. Overall, I consider that the proposed development will result in a positive change to the landscape character of the site; landscape character will be less modified and more rural than under the consented situation.

In relation to visual effects:

- *The proposed development will be experienced from a 3.2km stretch of SH8. Building platforms 1 – 6 will form a cluster of rural living development, parts of each building platform will be visually experienced from an approximate 600m stretch of SH8 to the north of the site’s shelterbelt. When experienced from the 1.7kms of SH8 that lie to the south of the shelterbelt, sweeping views over the open paddocks that form the majority of the site will be dominant, although there will be some glimpses to parts of building platforms 6 and 7. While under the proposed situation there will be development that is more visually prominent from the section of highway north of the site’s shelterbelt, overall there will be considerably less development and more retention of visual openness.*
- *The proposed development will be experienced from the western fringes of Twizel township, particularly from roads. The proposed development will appear in the foreground of views gained over the site. The proposed development will also be more visually evident as it can be experienced from a stationary position. But significant screening and visual softening by vegetation is included.*
- *The proposed development, when compared with the consented development, will result in a significant reduction in built form that is potentially visible from Twizel River and its margins and associated trails, and neighbouring properties.*
- *When compared with the consented development, I consider that the proposed development will result in a positive change in the visual effects that will be experienced by users of the surrounding public and private places.*

Overall, I consider the proposed development will result in a significant reduction and relocation of the rural living development. Subsequently the proposed development will result in a positive effect to

landscape character and visual amenity as experienced by users of the surrounding public and private places.

I note that it is proposed that a consent notice be registered on each of the allotments requiring all future buildings to be located within the approved building platforms. I agree with and adopt the assessment of Mr Smith.

(n) Design within 20 metres of Transmission Lines

No development is proposed within 20 of the transmission lines that traverse the site.

6(1)(c) Hazardous Substances

No use of hazardous substances are proposed as part of this proposal.

6(1)(d) Discharge of Contaminants

No discharge of any contaminants are proposed as part of this proposal.

6(1)(e) Mitigation Measures

No mitigation measures are considered necessary in addition to consent conditions.

6(1)(f) Affected Parties

As stated previously, NZTA are an affected parties and a copy of this application has been sent to them for comment. No other parties are considered affected by the proposal.

6(1)(g) Monitoring

The scale and significance of the effects of the proposal does not necessitate any monitoring above a normal subdivision process.

6(1)(h) Customary Rights

The proposal is unlikely to affect any customary rights.

6(2) Requirement to Provide Information in AEE

In addition to above, the receiving environment and permitted baseline are relevant to AEE.

The Receiving Environment

The subject site is a 246 hectare property located on the opposite side of State Highway 8 from the Twizel township. The property is bound by State Highway 8 to the west, the Twizel River to the east and the Tekapo River to the south.

There are no buildings on the property. The Twizel Oxidation Ponds (Designation 42 in the MDC District Plan) is located in the northern part of the property also, and is screened by trees. A row of power pylons intersect the property, beginning at the Twizel Substation (Designation 6) adjacent to State Highway 8, crossing the subject property in an east-west direction across the Twizel River and beyond. These structures form part of the receiving environment when viewing the site from the State Highway and Twizel River margins.

As noted in reasons for decision in RM150004, both RM070082 (the 49 lots rural-residential subdivision) and RM100013 (land-use consent for 35 houses) also form part of the receiving environment. To that extent, RM150004 also forms part of the receiving environment (i.e. an additional 5 houses).

Importantly, part of this application is to surrender the consents which form part of the receiving environment and replace them with a modified and significantly lesser proposal. I understand that if this consent application is not granted as proposed, that these receiving environment consents will be exercised.

Activities Permitted by the Plan

Section 104(2) of the Act states that when forming an opinion for the purposes of subsection 104(1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.

With respect to this application, the visual effect of fencing and the planting of non-wildings trees is a permitted activity under the District Plan.

(b) Addresses the matters specified in clause 7; and

Clause 7 states:

7 Matters that must be addressed by assessment of environmental effects

(1) An assessment of the activity's effects on the environment must address the following matters:

- (a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects:*
- (b) any physical effect on the locality, including any landscape and visual effects:*
- (c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:*
- (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:*
- (e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:*
- (f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.*

7(1)(a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects

The proposal, to surrender the consent for 49 rural-residential lots in favor of 6 rural-residential allotments and one farm allotment will have a social and economic effect in terms of less rural-living options around Twizel and less building construction.

7(1)(b) any physical effect on the locality, including any landscape and visual effects

The proposed building platforms have been positioned over 300 metres from the sewerage ponds. No reverse sensitivity effects are therefore anticipated to occur.

Landscape and visual effects have been assessed in a separate report. I rely on the findings of that report.

7(1)(c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity

Ecological effects have been assessed in a report by Wildlands Consulting Limited attached as 'H'. I rely on the findings of that report.

7(1)(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations

The proposal does not adversely affect any aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations. Access to the Twizel River is maintained.

7(1)(e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants

No discharge of contaminants are proposed.

7(1)(f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.

No natural hazards exist on the site, a no use of hazardous substances or installations are proposed.

(c) Includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment

All adverse effects of the proposed subdivision can be effectively avoided, remedied and mitigated as proposed, or by means of consent condition.

3 Additional information required in some applications

An application must also include any of the following that apply:

- (a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1)):
- (b) if the application is affected by section 124 or 165ZH(1)(c) (which relate to existing resource consents), an assessment of the value of the investment of the existing consent holder (for the purposes of section 104(2A)):
- (c) if the activity is to occur in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of section 104(2B)).

The application does not trigger the provision of additional information as outlined above.

Conclusion

In conclusion, I consider the proposal will result in a better environmental outcome than the exercise of the receiving environment consents. I agree with Dr Lloyd that there is relatively little indigenous vegetation remaining on the property and no significant wilding tree spread issue. I also agree with Mr Smith that the proposed development will result in a positive effect to landscape character and visual amenity as experienced by users of the surrounding public land and private places.

REPORT COMPLETED BY:

CAREY VIVIAN

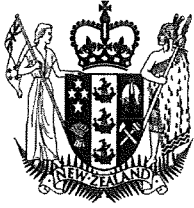
PLANNER

VIVIAN+ESPIE LIMITED

LIST OF ATTACHMENTS

- [A] COPY OF CERTIFICATES OF TITLE, CONSENT NOTICES, COVENANTS AND ENCUMBRANCES
- [B] PROPOSED SUBDIVISION PLAN
- [C] COPY OF RM070080
- [D] COPY OF RM070082
- [E] COPY OF RM100013
- [F] COPY OF RM150014
- [G] LANDSCAPE ASSESSMENT REPORT
- [H] ECOLOGICAL ASSESSMENT REPORT

[A] COPY OF CERTIFICATES OF TITLE, CONSENT NOTICES, COVENANTS AND ENCUMBRANCES



COMPUTER FREEHOLD REGISTER UNDER LAND TRANSFER ACT 1952



Search Copy

Identifier 489340
Land Registration District Canterbury
Date Issued 20 November 2014

Prior References

509804

Estate Fee Simple
Area 246.1960 hectares more or less
Legal Description Lot 1 Deposited Plan 422901

Proprietors

High Country Rosehip Orchards Limited

Interests

817132 Gazette Notice declaring the State Highway Twizel - Omarama Road to be a limited access road - 9.12.1970 at 1.55 pm

Subject to a right to drain sewage over part marked G, H, I and AB on DP 422901 contained in and taken by Gazette Notice 860231 - 17.3.1972 at 9.25 am

Subject to a right to drain sewage over part marked D, J and K on DP 422901 created by Deed of Easement 45A/687 - produced 21.8.1998 at 10.42 am and entered 14.10.1998 at 9:00 am

Subject to Part IVA Conservation Act 1987

Subject to Section 11 Crown Minerals Act 1991

Subject to a right of way (in gross) for purposes of conservation management over part marked AD and a right of way (in gross) for the purposes of public access over part marked AD all on DP 422901 in favour of Her Majesty the Queen created by Easement Instrument 7584791.3 - 19.10.2007 at 9:00 am

Appurtenant hereto is a right of way for the purposes of farm management and stock access and a right to convey water created by Deed of Easement 7584791.4 see CIR 387078 - 19.10.2007 at 9:00 am

8330351.1 Mortgage to Bank of New Zealand - 11.11.2009 at 3:17 pm

9877186.4 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 20.11.2014 at 2:45 pm

Appurtenant hereto is a right of way, a right to drain sewage and water and a right to convey electricity, telecommunications and water created by Easement Instrument 9877186.5 - 20.11.2014 at 2:45 pm

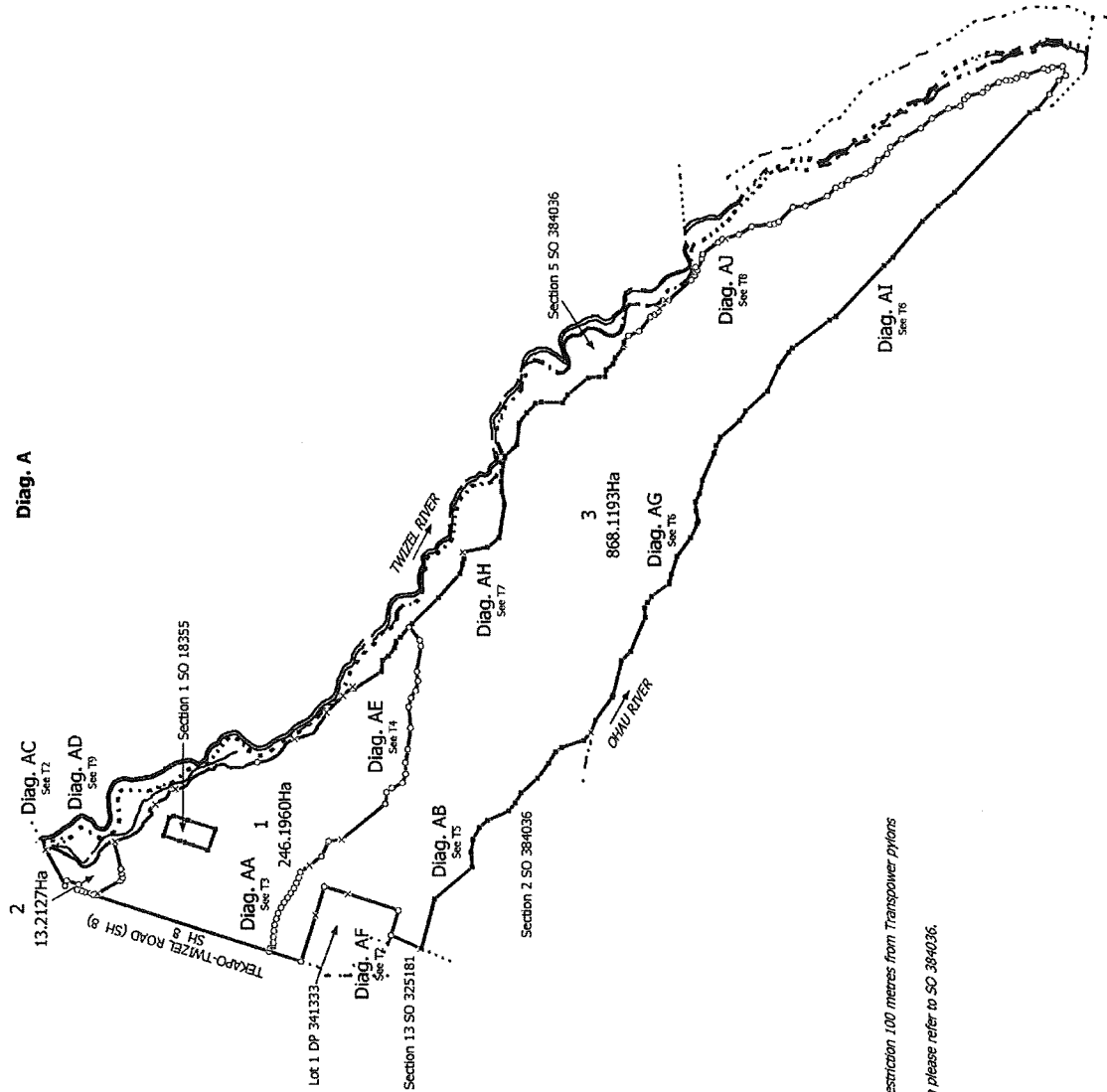
The easements created by Easement Instrument 9877186.5 are subject to Section 243 (a) Resource Management Act 1991

Subject to a right (in gross) to convey electricity over part marked G on DP 478222 in favour of Meridian Energy Limited created by Easement Instrument 9906693.2 - 11.12.2014 at 4:52 pm

Land Covenant in Easement Instrument 9906693.4 - 11.12.2014 at 4:52 pm



Diag. A



Notes

1. Lots 1 and 3 hereon are subject to a building line restriction 1.00 metres from Transpower pylons represented by areas Marked E and F hereon.
2. For dimensions of easements B, AD and AE hereon please refer to SO 384036.

T 1/10

Land District: Canterbury

Digitally Generated Plan
Generated on: 07/10/2009 07:43am Page 4 of 13

Lots 1 - 3 being subdivision of Section 1 SO 384036

Surveyor: Russell Thomas Benne
Firm: Davis Ogilvie & Partners Ltd (Christch

Digital Title Plan
LT 422901
Approved on: 7/10/2009



View Instrument Details

Instrument No. 9877186.4
Status Registered
Date & Time Lodged 20 Nov 2014 14:45
Lodged By Bremer, Anastasia
Instrument Type Consent Notice under s221(4)(a) Resource Management Act 1991

Toitu te
Land whenua
Information
New Zealand



Affected Computer Registers	Land District
-----------------------------	---------------

489340	Canterbury
489341	Canterbury
489342	Canterbury

Annexure Schedule: Contains 1 Page.

Signature

Signed by David Joseph Ehlers as Territorial Authority Representative on 20/11/2014 02:14 PM

*** End of Report ***



CONSENT NOTICE

Pursuant to section 221 of the Resource Management Act 1991, a consent notice shall be registered on the new Certificates of Title for Lots 1 and 3 being defined on DP 422901, requiring that the following conditions of subdivision consent RM070080 shall be complied with on an ongoing basis.

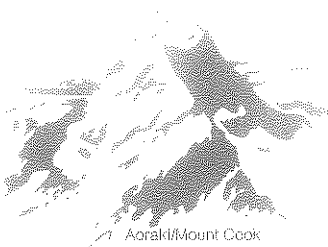
Building line restriction

- a) The owners and occupiers of the lot must not erect or permit the erection of any building within areas shown as E and F on DP 422901.*
- b) The owner and occupiers of the lot must not plant or permit the planting of any trees or shrubs which have the ability to breach the restrictions in the Electricity (Hazard from Trees) Regulations 2003 within areas marked as E and F on DP 422901.*

Dated at Fairlie this 10th day of September 2014

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

PLANNING & REGULATIONS MANAGER



Mackenzie District Council

REF: RM070080 - 25320 00403

21 July 2009

High Country Rosehip Orchards
C/- Vivian Espie Ltd
PO Box 2514
Wakatipu
QUEENSTOWN

Attn: Carey Vivian



Dear Carey,

RESOURCE CONSENT APPLICATION RM070080 – SUBDIVIDE SECTION 1 SO 384036 (3 LOTS), S HWAY 8, PUKAKI WARD

Thank you for your application for resource consent in the above matter. I am pleased to confirm that the Council has granted consent to this application in terms of Sections 104, 104A and 108 of the Resource Management Act 1991. This decision was made by Council Officer(s) pursuant to an authority delegated by the Council, in accordance with section 34A of the Resource Management Act.

Resource consent RM0070080 and conditions are attached. Please ensure that you have read these documents carefully and understand what is required in relation to each of the conditions. If you have any queries, please contact the appropriate officer of the Mackenzie District Council. New titles on subdivisions cannot be raised until all conditions have been complied with to the satisfaction of the Council.

Compliance with conditions

It should be emphasised that to ensure that you comply with this resource consent, all conditions of resource consent must be complied with and the consent holder must continue to comply with all conditions in order that the activity remains lawfully established.

Objections to certain decisions of consent authorities (refer section 357A of the Act)

Please note that pursuant to section 357A of the Resource Management Act, you may, within 15 working days of being notified of this decision, object by notice in writing to the Council in respect of any aspect of this decision. The Council is required by the Act to consider any objection and to decide whether to dismiss or uphold the objection wholly or in part. There is a right of appeal pursuant to section 358 of the Resource Management Act to the Environment Court against the Council's decision on any such objection.

Alternatively, under section 120 of the Act, you may, within 15 working days of receiving notification of this decision, appeal to the Environment Court against the whole or any part of the Council's decision. However, please note that you may not exercise your right of appeal pursuant to section 358 of the Act at the same time as exercising a right of appeal in respect of the same matter under section 120.

Commencement of resource consent (refer section 116 of the Act)

Your attention is drawn to section 116 of the Resource Management Act, which provides that any non-notified resource consent which has been granted shall commence on the date on which the decision on the application is notified (when you receive this letter), or the date when which a decision has been notified on any subsequent appeal or objection.

Term and lapsing of resource consent (refer sections 123 and 125 of the Act)

This resource consent has been granted for an unlimited term.

Your attention is also drawn to section 125 of the Resource Management Act which provides that a resource consent that is not given effect to shall lapse on the expiry of 5 years after the commencement of the consent, or such shorter or longer period provided for in the consent, unless the Council agrees to a longer period upon an application made prior to the expiry of the consent. To give effect to a subdivision consent requires the survey plan be submitted to the Council under section 223 of the Resource Management Act.

Please contact me at the Mackenzie District Council if you have any questions regarding this information on (03) 435 0637.

Yours sincerely



Angie Taylor
PLANNER

for
Nathan Hole
PLANNING & REGULATIONS MANAGER

Email: angie@mackenzie.govt.nz



Mackenzie District Council

SUBDIVISION CONSENT - RM070080

- 1 This resource consent is granted by the Mackenzie District Council pursuant to sections 104 and 104A of the Resource Management Act 1991 and is subject to the attached conditions imposed in accordance with sections 108 and 220 of the Act.
- 2 This consent is granted to: High Country Rosehip Orchards Ltd
- 3 Application description: Subdivision to create 3 rural allotments
- 4 Property location: State Highway 8, Twizel
- 5 Legal description: Sec 1 SO 384036
- 6 Valuation reference: 25320 00403
- 7 Date of decision: 20 July 2009

NATHAN HOLE
PLANNING & REGULATIONS MANAGER

SCHEDULE OF CONDITIONS

Pursuant to sections 108 and 220 of the Resource Management Act 1991 this resource consent is subject to the following conditions.

General

1. The subdivision shall proceed in general accordance with the application received, except where inconsistent with any of the following conditions.

Note: The lapsing period for this consent shall be 5 years after the date of commencement of the consent in accordance with section 125 of the Act.

2. The subdivision plan of Milward Finlay Lobb Ltd, number 192080/2 and dated August 2008, that was received as part of the application is attached as **Appendix A**.

Entranceways

3. The existing entranceway to Lot 2 shall be closed and relocated 70m to the south as shown on the amended access plan provided by New Zealand Transport Authority, dated 25 May 2009. This access shall be upgraded to a NZTA Diagram C standard with a 15m turn in/out radius. All works associated with upgrading this access shall be at full cost to the consent holder. NZTA Diagram C is attached as **Appendix B**.
4. Lot 3 shall utilise 'crossing point 24'. This access shall be upgraded to a NZTA Diagram C standard with a 9m turn in/out radius. The sealing of this shall be from the crossing to the point where the turn in/out seal edges are parallel (in this case 9m). All works associated with upgrading this access shall be at full cost to the consent holder. NZTA Diagram C is attached as **Appendix B**.

Transpower lines

5. The subdivision shall proceed in accordance with the proposed building line restriction of 100m on proposed Lots 1 and 3 (balance lot), as shown on the plan by Milward Finlay Lobb Limited for High Country Rosehip Orchards Ltd, title 'Resource consent application proposed subdivision of Section 1 SO 384036' job no. 192080/2, dated August 2008.

Easements

6. All easements deemed necessary for the purposes of the subdivision be duly reserved and granted

Costs

7. All actual and reasonable costs incurred by the Council in monitoring, enforcement and administration of this resource consent shall be met by the consent holder.

Review

8. Pursuant to section 128(1) of the Resource Management Act 1991, the consent authority may, at or within 6 months of any anniversary of the date of consent, prior to survey plan approval, review the conditions for any of the following purposes:

- a) To deal with inaccuracies contained in the consent application that materially influenced the decision made on the application and is such that it is necessary to apply more appropriate conditions;
- b) To take account of the rules, regulations and policies set out in any relevant District Plan.

Any such notice of the review of the conditions will be served in accordance with section 129 of the Resource Management Act 1991.

Advice Notes:

General

The consent holder shall comply with all statutory requirements, bylaws, Acts, ordinances and lawful directions of officers of the Council.

This subdivision is not complete until section 223 and section 224 certificates have been obtained pursuant to the Resource Management Act 1991.

Roading

The New Zealand Transport Authority's State Highway network consultants, Opus International Consultants Limited, must be contacted for approval to work on the road pursuant to section 51 of the Transit New Zealand Act 1989, at least 3 weeks prior to access being upgraded.

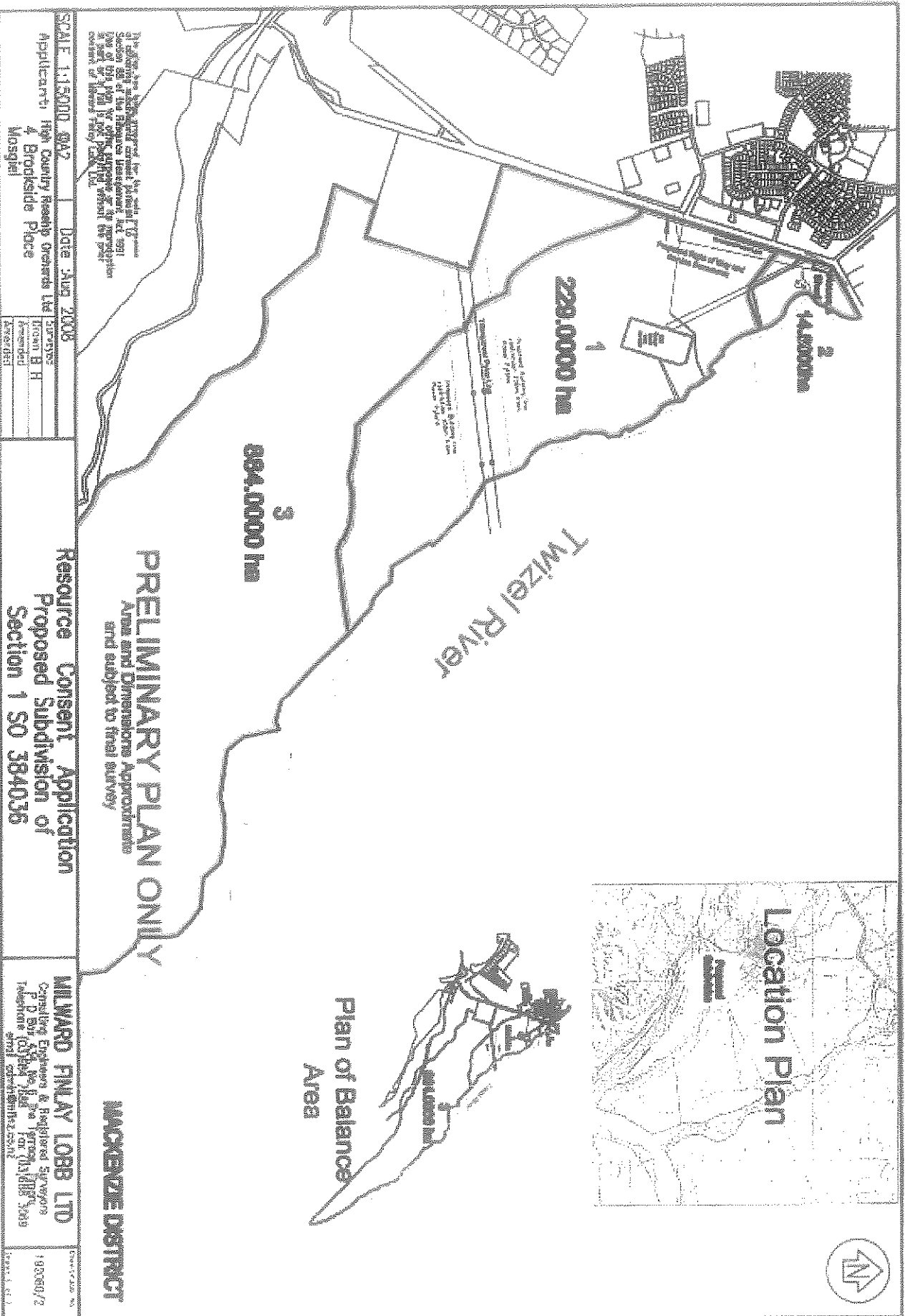
Transpower

All land use activities, including earthworks located on proposed lots 1 and 3 (balance lot) must comply with the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001).

All trees and vegetation planed on proposed Lots 1 and 3 (balance lot) must comply with the Electricity (Hazards from Trees) Regulations 2003.

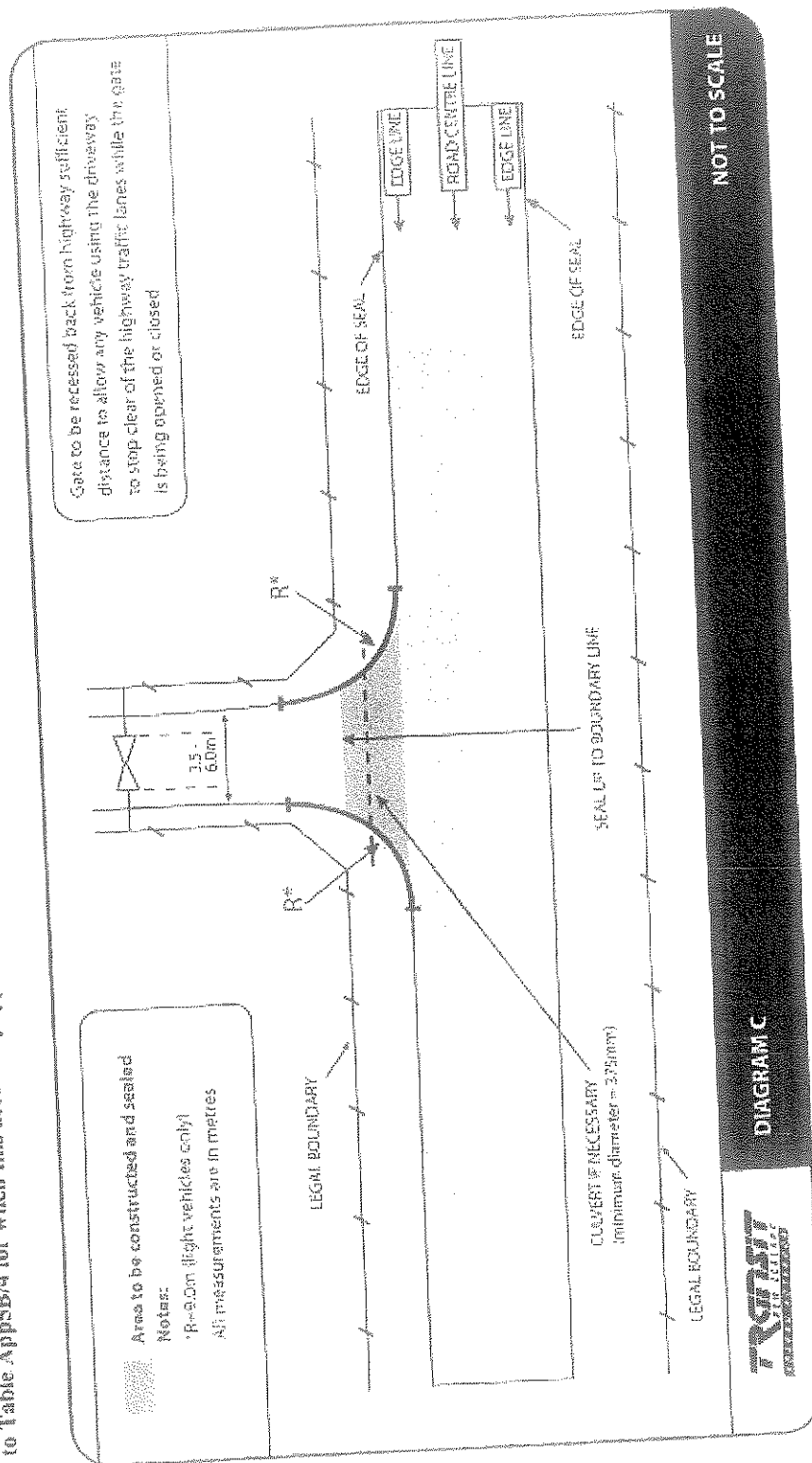
Reasons for decision pursuant to section 113 of the Resource Management Act 1991

1. The proposed activity is consistent with the objectives and policies of the Mackenzie District Plan. Granting of this consent will also achieve the purpose of the Act.
2. The reasons for this decision are discussed in the officer's report which I concur with the conclusions reached.



Appendix 5B – Access standards and guidelines

Refer to Table App5B/4 for when this accessway type should be applied



Mackenzie District Council

SECTION 42A REPORT & DECISION

REPORT TO Manager of Planning & Regulations
SUBJECT Resource Consent Application RM070080
DATE 20 July 2009

APPLICANT High Country Rosehip Orchards Limited
SITE Tekapo-Twizel Road (State Highway 8) to the east of the Twizel Township
Legal Description: Section 1 SO 384036
Valuation reference: 25320 00403
ZONING Rural Zone
STATUS Subdivision: Discretionary Activity
RMA CRITERIA 104, 104A, 106, 108 and 220

PROPOSAL DETAILS

1. Subdivision consent is sought to subdivide the property into 3 rural allotments. Proposed Lot 1 is approximately 229 hectares in area and is located in the upper eastern corner of the site. Proposed Lot 2 includes the existing farm house, located in the northern corner of the site, and will be approximately 14.5 hectares. Proposed Lot 3 will be the balance lot of some 884 hectares.
2. The site is also subject to another subdivision application RM070082. This proposal is to create 49 rural residential allotments, plus a proposed public reserve and access ways; and the creation of a new access road to be vested in Mackenzie District Council.
3. The applicant has requested an eight year lapsing period.

SITE DETAILS

4. The subject site is legally described as Sec 1 SO 384036 and has a total site area of 1127.5280 hectares. The site is referred to as the 'Rosehip Orchards' subdivision and is the initial proposal for Mackenzie Lifestyle Limited.
5. The site is relatively flat, with three terraces which branch off from State Highway 8 at the south western corner of the site. The higher terrace consists of approximately the entire northern half of the site. A terrace extends along the eastern boundary down

towards the Twizel River. There is a small gully to the south of the proposed lots and from here there are a number of terraces which head towards the river to the south.

6. The site is within the Mackenzie Basin, surrounded by the mountainous ranges which include Ben Ohau, Two Thumb, Hall, Gammack and Grampian Ranges. The basin contains the lakes and canals of the Upper Waitaki Power Development and the townships of Twizel, Aoraki/Mount Cook and Tekapo.
7. A row of pylons intersect the site, beginning at the Twizel Substation adjacent to State Highway 8, crossing the subject property in an east-west direction across the Twizel River.
8. The Twizel River is located to the east of the site and the Tekapo River flows along the southern boundary. The western boundary of the site runs along beside State Highway 8.
9. The northern part of the site is located within a flood risk area identified in the Plan.
10. Access to the property is directly off the state highway. The surrounding area is entirely rural in character with power lines running across the property from west to east.

STATUTORY CONSIDERATIONS

11. Subdivision rule 3 (a) states that any subdivision which complies with all primary and secondary subdivision standards shall be a controlled activity. When a subdivision does not comply with all primary standards, its status becomes non-complying and when a subdivision does not comply with all secondary standards, its status becomes discretionary, with respect to the applicable matter.
12. The application complies with all primary standards and secondary standards. However subdivision rule 4(b) requires that all subdivisions located in flood risk areas on the planning maps are to be assessed as discretionary activities. Part of this site is located within a flood risk area as shown on planning map 12.902 M.12.
13. Therefore, the application is a **discretionary** activity.

Mackenzie District Plan & Plan Change 13

14. It is noted that subsequent to the application for subdivision being lodged, Proposed Plan Change 13 was publicly notified by the Mackenzie District Council on 19 December 2007. This plan change identifies a new zone titled the Mackenzie Basin Subzone. This zone aims to recognise the important landscape values of the basin and provide greater protection of these values from inappropriate subdivision, development and use.
15. Section 88A of the Act provides as follows (emphasis added):

88A *Description of type of activity to remain the same*

(1) Subsection (1A) applies if—

- (a) *an application for a resource consent has been made under section 88; and*
- (b) *the type of activity (being controlled, restricted, discretionary, or non-complying) for which the application was made under section 88, or for which the activity is treated under section 77C, is altered after the application was first lodged as a result of—*
 - (i) *a proposed plan being notified; or*
 - (ii) *a decision being made under clause 10(3) of the First Schedule; or*
 - (iii) *otherwise.*

(1A)The application continues to be processed, considered, and decided as an application for the type of activity that it was for, or was treated as being for, at the time the application was first lodged.

(2)Notwithstanding subsection (1), any plan or proposed plan which exists when the application is considered must be had regard to in accordance with section 104(1)(b).

(3) This section applies subject to section 150D.

16. In accordance with section 88A, the application is to be processed and considered in accordance with the provisions of the District Plan that applied at the time of lodgement of the application. That is as a discretionary activity.

Other Matters

17. All provisions under Section 14: *Transportation* are met by this development proposal. The lot sizes are large enough to allow for the provision of vehicle parking and manoeuvring areas on each Lot as required by the District Plan.

OBJECTIVES & POLICIES

Rural

18. Subdivision Objective 5 aims for “*Cultivation and livestock management on down lands and plains areas which minimises potential soil loss and loss in quality of soil.*”
19. The relevant policies associated with this objective are:
- *To promote land use practices on the down lands and plains which do not accelerate erosion or depletion (Policy 5A)*
20. Objective 6 requires that “*A level of rural amenity which is consistent with the range of activities anticipated in rural areas, but which does not create unacceptably unpleasant living or working conditions for the District’s residents or visitors, nor a significant deterioration of the quality of the general rural and physical environment.*”

21. The relevant policy associated with this objective are:

- *To encourage and/or control activities to be undertaken in a way which avoids, remedies or mitigates adverse effects on the amenities and physical environment of rural areas (Policy 6D)*

22. Objective 7 requires that *“Minimal loss of life, damage to assets and infrastructure, or disruption to the community of the District, from natural hazards.”*

23. The relevant policies associated within this objective are:

- *To control the proximity of buildings to waterways to limit potential loss of life and damage to property (Policy 7A).*

24. Objective 11 requires that *“rural infrastructure which enables the District and the wider community to maintain their economic and social wellbeing.”*

25. The relevant policies associated within this objective are:

- *To recognise the economic and social importance of transportation, electricity generation and transmission, and rural servicing infrastructure and, consistent with other objectives and policies of this Plan, to provide for its upgrading, maintenance and enhancement (Policy 11A).*

Subdivision

26. Objective 1 requires that *“the provision of necessary services and efficient access to subdivided allotments in anticipation of the likely effects of land use on those allotments”*

27. The relevant policies associated with this objective are:

- *To achieve safe and effective vehicular access to properties in subdivisional developments.*
- *To achieve provision of pedestrian and amenity linkages where useful linkages can be further developed.*
- *To require that the provision of any necessary additional water supply, stormwater control or sewage disposal infrastructure and the upgrading of existing infrastructure is undertaken or contributed to by subdividers where appropriate, in recognition of the scale and nature of the anticipated land users.*
- *To encourage the retention of natural open waterways for stormwater to ensure disposal in a manner which maintains or enhances the quality of surface and ground water.*
- *To require that stormwater is disposed of in a manner that avoids inundation of land within or adjoining the subdivision.*
- *To require that adequate provision is made for the supply of reticulated energy and communication facilities and that the method of reticulation is appropriate to the amenities of the area.*

28. Objective 2 requires that *“The costs of the provision of existing services, new services or the upgrading of services which are necessitated by subdivision or development, is to be met by the subdividers and/or developers.”*

29. The relevant policies associated with this objective are:

- *To require subdividers and developers to meet the costs of new or upgraded services (including head works), which are attributable to the impacts of the subdivision or development, including where applicable:*
 - *roading and access;*
 - *water supply;*
 - *sewage disposal;*
 - *stormwater disposal;*
 - *trade waste disposal;*
 - *provision of electricity; and*
 - *provision of telecommunications.*
- *To require contributions for creation of new allotments and multi-unit residential development for the purpose of recouping costs of existing public utility services provided by the Council that serve the land in the subdivision or development.*
- *To provide for any contributions to be in accordance with the methods of determination specified in the Rules.*

30. Objective 3 requires that *“A conveniently distributed and accessible range of public open space and recreational areas and facilities to meet the diverse needs of residents and visitors to the District.”*

31. The relevant policies associated with this objective are:

- *To encourage, and where possible, provide for a range of recreation opportunities within the District.*
- *To ensure the provision of open spaces and recreational areas within or in reasonable proximity to new residential subdivisions to meet the needs of the future community.*
- *To require contributions towards public open space and recreation areas from residential subdivision and from any major residential, business or community development to provide for:*

- i Additional parks, walkways and cycleways needed as a result of additional household and/or visitor growth.*
- ii Additional open space needed for visual relief or enhancement.*
- iii Development and maintenance of neighbourhood parks and local open space to a level at which they are useable and enjoyable.*

32. Objective 4 requires that *“Development of a system of esplanade areas adjacent to important waterways, and access strips to these esplanade areas, which:*

- *enables protection of the margins and retaining of the natural character of lakes and rivers;*
- *maintains or enhances the natural functioning of lakes and rivers, their water quality and aquatic habitats;*
- *provides for public access to and along, and the recreational use of the margins of lakes and rivers, where it is appropriate in terms of conservation values and public safety; and*
- *mitigating natural hazards.*

33. The relevant policies associated with this objective are:

- *Where appropriate, taking into account the requirements of Section 6(d) of the Act, and the purposes of esplanade provision contained in Section 229, to require esplanade strips or esplanade reserves along waterways when allotments are created.*

34. Objective 5 requires that *"The avoidance of subdivision in localities where there are significant natural hazards, unless these can be mitigated without significant adverse effects on the environment."*

35. The relevant policies associated with this objective are:

- *To ensure that subdivision is either restricted, subject to mitigation measures, or avoided in areas subject to risk from flooding, subsidence or slippage.*
- *To ensure that mitigation measures do not give rise to unnecessary adverse impacts on the environment.*
- *Require esplanade provision be made to mitigate natural hazards.*

36. Objective 6 requires that *"The avoidance of adverse environmental effects associated with subdivision design and location."*

37. The relevant policies associated with this objective are:

- *To require that the creation of new allotments take into account as far as possible underlying topography and the maintenance of the integrity of any significant nature conservation site; and that any adverse effect on landscape, nature conservation values and amenity are avoided or mitigated.*

Consideration

38. It is considered that the proposal is consistent with the relevant objectives and policies of the District Plan.

39. The proposed subdivision has been designed to be in keeping with the surrounding rural aspect of the area.

AFFECTED PERSONS APPROVALS

40. As access to the lots is from State Highway 8, consultation has been undertaken with the New Zealand transport Agency (NZTA). NZTA have provided approval on the basis that access is upgraded to the appropriate standards.

41. Transpower high voltage lines run through the subject site. Transpower have provided their approval for the proposal on the basis that a condition of consent and a number of advice notes are imposed in relation to safety around these lines.

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

Allotment Size

42. The three proposed lots are all of an adequate size to allow for onsite sewage disposal if it is required.
43. Sewage disposal is already in place for the existing dwelling on proposed Lot 2.
44. The applicant does not intend to provide servicing for proposed Lots 1 and 3 as these are remaining as rural and will not be used for residential use as part of this application.

Subdivision Design

45. The lot sizes are consistent with the rural character and do not over domesticate the site with small intense lot sizes. This appears consistent with general pattern of development in the area.

Property Access

46. The application originally proposed that access for the three lots would be via an existing access way which serves the existing house on Lot 2.
47. The New Zealand Transport Authority (NZTA) have provided their approval on the basis of the following changes to the proposed access.
- Lot 3 shall utilise 'crossing point 24'. This access shall be upgraded to a NZTA Diagram C standard with a 9m turn in/out radius. The sealing of this shall be from the crossing to the point where the turn in/out seal edges are parallel (in this case 9m).
 - The existing access to Lot 2 shall be closed and relocated 70m to the south, in order to meet the required visibility distance of 240m for traffic safety reasons. This access shall be upgraded to a NZTA Diagram C standard with a 15m turn in/out radius
48. Should this consent be granted, it is considered that alterations to the access from the highway can be addressed through conditions placed on the consent.

Esplanade Provision

49. In accordance with the provisions of the Conservation Act 1987, marginal strips have been provided for as part of the recent tenure review undertaken by the Crown. These provide for a 20 metre wide strip of land adjacent to any river greater than three metres in width.

Natural & Other Hazards

50. Part of the northern area of the site and along the eastern boundary adjacent to the Twizel river is located within a flood risk area identified in the District Plan (Planning map 12,902m.12).
51. Environment Canterbury suggests there would be possible issues in regards to flooding potential from the Twizel and Ohau Rivers. As no further residential development is proposed as part of this application, no further action in relation to flooding hazards is considered necessary.
52. The Twizel Oxidation Ponds lay within proposed Lot 1 and the drainage of the ponds falls through this lot. There is a possible issue of ground instability due to these ponds draining through this area of the site.
53. The proposal complies with the requirements of the District Plan in terms of Natural and Other Hazards.

Water Supply

54. Lot 2 has an existing water supply to service the existing dwelling.
55. Lot 1 and 3, however, are not intended for residential development as part of this subdivision and therefore water supply is not required.
56. The proposal complies with the requirements of the District Plan in terms of water supply.

Stormwater Disposal

57. Stormwater disposal for the existing house on Proposed Lot 2 has been provided for. The balance lots 1 and 3 are not intended for residential development, therefore no stormwater disposal method is required.
58. The proposal complies with the requirements of the District Plan in terms of Stormwater Disposal.

Sewage Disposal

59. Once again proposed Lot 2 has existing sewage disposal on site. Lots 1 and 3 will not require sewage disposal as they are not for residential use.
60. The proposal complies with the requirements of the District Plan in terms of sewage disposal.

Energy Supply & Telecommunications

61. Lot 2 already has existing telecommunications and electricity services connected to the site.

62. As no residential development is proposed for Lots 1 & 3, telephone and electricity supplies are not considered necessary.

Vegetation and Landscape

63. The subdivision does not require any further landscaping than what is present as there is no further residential activity occurring on the site.

Easements

64. Legal access is proposed across Lot 2 to Lot 1 via a right of way easement.
65. A condition of consent has been recommended that allows for the alteration and provision of new easements prior to title being issued

Land for open space and recreation

66. No open space areas are proposed as part of this subdivision.
67. Subdivision rule 7(d) requires that where any subdivision creates separately saleable, additional allotments for residential or visitor accommodation purposes in the residential, business, special purpose or rural zone, a contribution shall be made towards the provision of open space and recreational facilities within the localities of the three main towns. The reserves contribution for the rural zone is calculated at a rate of 5% of the average cash value, plus GST, of 1500m² of each lot assessed as a site for a residential unit.
68. The proposed subdivision will create three rural lots; Lot 2 includes an existing dwelling, Lots 1 & 3 are intended for rural purposes. Therefore, it is considered that no additional allotments for residential purposes will be created by this subdivision and no reserves contribution is required.

Location of Buildings

69. No building(s) or building platform(s) are proposed for this proposal.

Design within 20 metres of Transmission Lines

70. Power lines are located from west to east through proposed Lot 1. Transpower NZ have provided their written approval, based on the provision that a condition of consent and a number of advice notes are imposed on the consent. These relate to safety around Transpower structures. It is considered that the conditions are appropriate and it is recommended that these are imposed, should this consent be granted.

Lapsing Period

71. The applicant has requested an 8 year period to implement this resource consent. It is noted that a number of changes are anticipated in the District Plan rules relating to this

site, it is also recognised that the applicant is able apply for an extension at a later date, should they consider it necessary. For these reasons, it is considered reasonable in this circumstance to uphold a 5 year lapsing period.

Summary of Effects

72. It is considered that, with the imposition of suitable conditions of consent, the effects of the proposal will be less than minor.

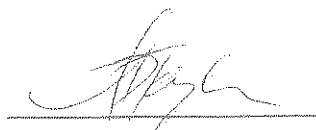
RESOURCE MANAGEMENT ACT 1991

73. As noted above, section 88A of the Act requires that the proposal is assessed in accordance with the rules at the time the application was lodged.
74. Subject to Part II of the Act, section 104 sets out those matters to be considered by the consent authority when considering a resource consent application. It is considered that the proposal is consistent with the relevant matters contained under section 104.
75. The application must also be considered under section 104A of the Act as the application is for a controlled activity.
76. As noted above it is considered that the proposal must be granted and also it will have conditions imposed on the consent by the consent authority under section 108 for matters which it has reserved control in its plan.
77. It is considered that the proposal promotes the purpose and principals of the Act as set out under Part II.

RECOMMENDATION

78. Having considered the proposal under the District Plan and the relevant sections of the Act, it is considered that the subdivision will be consistent with the objectives, policies and standards of the District Plan. Furthermore, it is considered that the proposal meets the requirements of sections 104 and 104A of the Act. The potential effects of the subdivision are considered to be minor, provided the conditions recommended below are imposed. Overall it is recommended that this application should be approved.
79. **Therefore it is recommended that the Council grants consent to the proposed subdivision of Section 1 SO 18355 (RM070080), subject to the draft conditions attached at Appendix A.**

Signed: Angie Taylor
Planner



Date: 9 July 2009

Mackenzie District Council

DECISION ON NON-NOTIFIED RESOURCE CONSENT APPLICATION

DECISION OF Planning and Regulations Manager

SUBJECT Resource Consent Application RM070080 – Rosehip Orchards Ltd

The above recommendation is:

Approved ☒

Rejected ☐

Comments:

I agree with the planner's assessment and recommendation that resource consent be granted subject to the attached conditions.

Signed:

Planning & Regulations Manager



Date: 20.7.09

Recommended conditions of consent

General

1. The subdivision shall proceed in general accordance with the application received, except where inconsistent with any of the following conditions.

Note: The lapsing period for this consent shall be 5 years after the date of commencement of the consent in accordance with section 125 of the Act.

2. The subdivision plan of Milward Finlay Lobb Ltd, number 192080/2 and dated August 2008, that was received as part of the application is attached as **Appendix A**.

Entranceways

3. The existing entranceway to Lot 2 shall be closed and relocated 70m to the south as shown on the amended access plan provided by New Zealand Transport Authority, dated 25 May 2009. This access shall be upgraded to a NZTA Diagram C standard with a 15m turn in/out radius. All works associated with upgrading this access shall be at full cost to the consent holder. NZTA Diagram C is attached as **Appendix B**.
4. Lot 3 shall utilise 'crossing point 24'. This access shall be upgraded to a NZTA Diagram C standard with a 9m turn in/out radius. The sealing of this shall be from the crossing to the point where the turn in/out seal edges are parallel (in this case 9m). All works associated with upgrading this access shall be at full cost to the consent holder. NZTA Diagram C is attached as **Appendix B**.

Transpower lines

5. The subdivision shall proceed in accordance with the proposed building line restriction of 100m on proposed Lots 1 and 3 (balance lot), as shown on the plan by Milward Finlay Lobb Limited for High Country Rosehip Orchards Ltd, title 'Resource consent application proposed subdivision of Section 1 SO 384036' job no. 192080/2, dated August 2008.

Easements

6. All easements deemed necessary for the purposes of the subdivision be duly reserved and granted

Costs

7. All actual and reasonable costs incurred by the Council in monitoring, enforcement and administration of this resource consent shall be met by the consent holder.

Review

8. Pursuant to section 128(1) of the Resource Management Act 1991, the consent authority may, at or within 6 months of any anniversary of the date of consent, prior to survey plan approval, review the conditions for any of the following purposes:

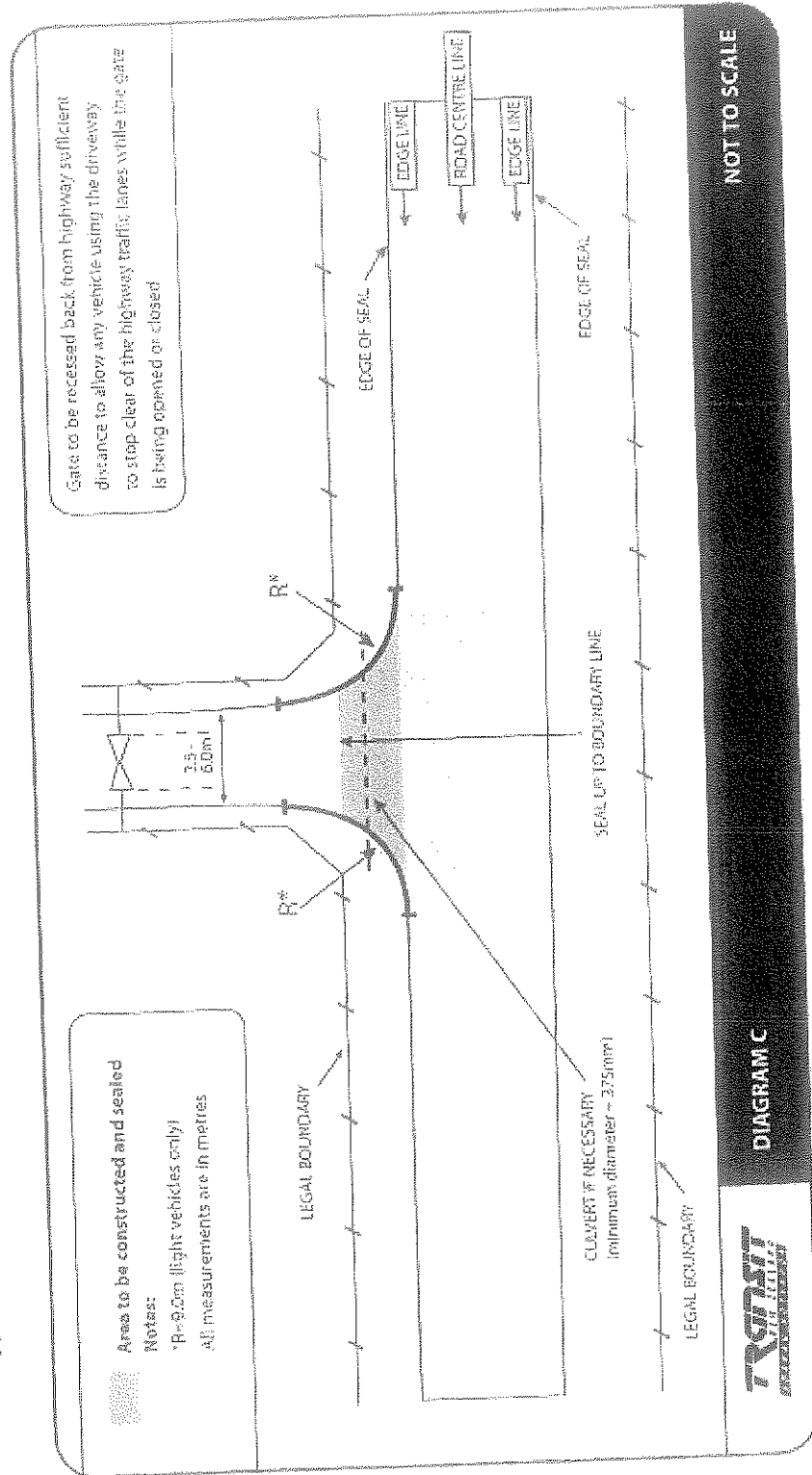
- a) To deal with inaccuracies contained in the consent application that materially influenced the decision made on the application and is such that it is necessary to apply more appropriate conditions;
- b) To take account of the rules, regulations and policies set out in any relevant District Plan.

Any such notice of the review of the conditions will be served in accordance with section 129 of the Resource Management Act 1991.



Appendix 5B – Access standards and guidelines

Refer to Table App5B/4 for when this accessway type should be applied



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IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Application RM070082 by Mackenzie Lifestyle Limited for a subdivision to create 53 allotments to the east of State Highway 8 at Twizel.

DECISION OF HEARING COMMISSIONER

1. I was appointed to hear and determine the above application on behalf of the Mackenzie District Council. The hearing of submissions took place in Twizel on 17 September 2009. I also visited the site on the day of the hearing. I adjourned the hearing at the end of the day, and issued a minute to the parties on 18 September through the Council's reporting officer. Following the receipt of responses to this minute, and following a later response to subsequent discussions between the applicant and Meridian Energy, I closed the hearing on 17 November.

Introduction and background

2. The property subject to the application is located to the east of State Highway 8 (SH8) opposite Twizel. The application property is bordered by SH8 to the west, the Twizel River to the east and the Ohau River to the south. Figure 1 illustrates the background and descriptions set out below.
3. The property is legally described as Section 1 SO 384036 with a total area of 1127.5280 hectares. It was subject to subdivision following the recent approval of resource consent RM070080. This consent related to the subdivision of the entire property into three allotments by 'High Country Rosehip Orchards Ltd'. Lot 1 of that approved subdivision comprises 229ha and in turn contains the site subject to this current subdivision proposal. The subdivision proposed through this application is located in the central part of the Lot 1 and is ultimately proposed to comprise 49 allotments in two stages for future rural residential housing. The final plans of the proposed two-stage subdivision of Lot 1 (RM 070082/1 and 070082/2) are attached to the end of this decision. All references in this decision to "the site" refer to that part of Lot 1 subject to the proposed development.
4. The site was described in detail in the officer's section 42a report, and is generally flat, with a terrace along the eastern boundary down to the Twizel River. The site contains three old river terraces that branch off from State Highway 8 at the south-western corner of the site. The applicant's own

dwelling is located in the northwestern corner of the site, close to SH8 and the Twizel River.

5. The Twizel Wastewater Treatment Plant and associated oxidation ponds are also located in the northwestern part of the site in a location separate from the area proposed for the rural residential subdivision further to the southeast. This 'treatment plant' is identified in the district plan as 'Designation 42'. However an 'outfall trench' from the oxidation ponds forms part of the current treatment system, and extends a considerable distance to the southeast into part of the land comprising the proposed rural residential subdivision. This trench is not designated. I understand it is the medium term intention of the Mackenzie District Council to abandon this trench and replace it with an alternative method of treatment.
6. A row of power pylons intersect the property, beginning at the Twizel Substation adjacent to SH8 to the south of the site, crossing the subject property in an east-west direction and passing across the Twizel River. There is also a much smaller 33kv line on poles passing under the pylons in a northerly direction and eventually serving the control gates at the outlet of Lake Pukaki. Also on the application site is a groundwater monitoring well (RTHOW21) which is used for monitoring purposes by Meridian Energy. This well is outside the area identified for subdivision into residential lots. Otherwise, apart from a number of trees on the northwestern part of the site, it is otherwise devoid of development.

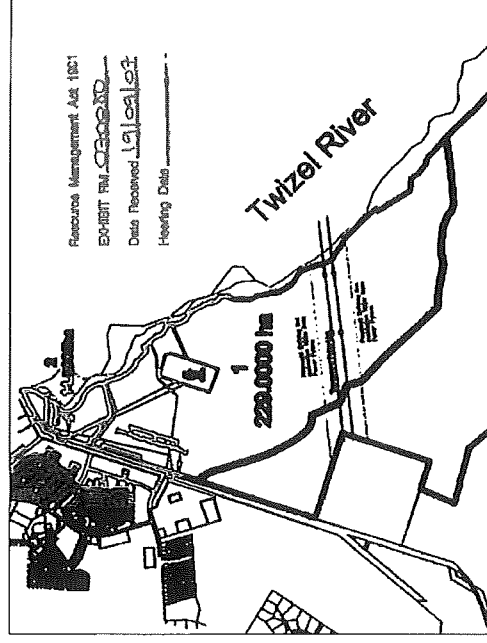


Figure 1: Lot 1 (RM070080)

7. A final matter of background relevance concerns a Certificate of Compliance obtained by the applicant to undertake shelterbelt planting within the site east of State Highway 8 (RM090050). The significance of this is discussed later in this decision.



Certificate of Compliance Plan – Tree planting

8. Under the Certificate of Compliance, the applicant proposed to plant a combination of Arizona Cypress, Mexican White Cedar, and Lawson's Cypress. At the time of the hearing, this planting had not been established.

The Proposal

9. Subdivision consent is sought to create 49 rural residential allotments in two stages, a proposed public reserve and access ways, and a new access road to be vested in the Mackenzie District Council (MDC). The 49 rural residential lots range in size from 1.21 hectares to 3.18 hectares. An access lot (road), reserve lots and the balance lot would also be created.

10. In reference to correspondence from the applicant dated 5 August 2009, the Council was informed that the proposed new road access to the subdivision from SH8 was to be amended to adopt an access point approved under resource consent RM070080. This amendment has the effect of moving the proposed access point from 250 metres north of Ostler Road to 830 metres south of Ostler Road. The applicant produced an amended subdivision plan of the hearing.

11. Walking and cycling tracks and public picnic areas with river access are proposed to the south of the proposed lots, as shown on the subdivision plan. Lot 51 (which is approximately 2.1 hectares) is proposed to be a public reserve area and also to provide for public access to the Twizel River. I understand that a Department of Conservation walking track follows the river and could also be accessed from this proposed reserve.

12. SH8 is a Limited Access Road (LAR) in this location. Access to the new lots is proposed to be via a new road (Lot 52) which would be vested in the Council. This road will be constructed to Mackenzie District Council standards and is proposed to intersect with SH8 through a point identified as 'Crossing Point 24'. The significance of this crossing point was debated between the applicant and NZTA during the hearing; my understanding is that it provides legal access to the applicant's property, but does not in itself authorise access for a rural residential subdivision as proposed.

13. No major earthworks are proposed to establish the subdivision. The only excavation proposed is associated with the construction of the road serving the development, which the applicant considers will meet the permitted activity requirements of the District Plan.

14. The applicant anticipates that the subdivision can be connected to Twizel's existing reticulated water supply. Stormwater from the new lots is to be disposed of on site. The applicant intends that the lots be connected to Council's reticulated system. Letters from service providers have been provided confirming that the subdivision can be reticulated with an electricity and telecommunication supply.

15. The site is traversed by high voltage transmission lines. The applicant has requested that the conditions recommended by Transpower are adopted as conditions of consent. This includes a 100m setback from the transmission lines which will have the effect of confining a number of the future rural residential dwellings to approximately only half of the area of each affected lot.

16. Matters relating to state highway safety and efficiency featured very prominently during the hearing, and accordingly some description of the highway in the vicinity is appropriate.

17. SH8 is an arterial road with a carriageway width of 7m. The road is level and straight in the vicinity of the proposed site access, and it was common ground between the traffic engineers for both the applicant and the New Zealand Transport Agency (NZTA) that although the posted speed limit was 100 km/hour, in reality the 85 percentile traffic speed was at least 110 km/h. The

nearest road junction to the north (830m) is Ostler Road, which provides the southern access to Twizel Township. The more important access is to Twizel is via Rutaniwha Road further north. Both of these roads branch off State Highway 8 to the west. There are no left or right turn lanes at the Ostler Road intersection.

18. Approximately 630m to the south of the proposed access point to the subdivision is the intersection of State Highway 8 and Old Iron Bridge Road, which branches off SH8 to the east. This road is much less important in terms of traffic volumes, and serves the Meridian office/substation and a Black Stilt captive management centre.

19. SH8 was described as having an annual average daily volume of 1677 vehicles (two ways) in 2008, measured south of the State Highway 80 intersection. Daily traffic volumes have been measured as having fallen by approximately 5% between 2004 and 2008. Mr. Carr's evidence for the applicant indicated that the highest volumes observed were on weekdays were between 12pm and 4pm, but even then were at most one vehicle approximately every 29 seconds, or one every 21 seconds on a Sunday afternoon. He described three reported crashes in the vicinity between 2004 and 2008, of which one was associated with an intersection movement.

Notification and Submissions

20. The application was processed on a limited notified basis to the following parties:

- The New Zealand Transport Agency (NZTA)
- Meridian Energy Ltd.
- The Asset Department of the Mackenzie District Council
- Transpower New Zealand

21. The submissions are summarised below as reproduced from the officer's report.

Name	Location of Submitters' Property	Summary of Submission	Relief Sought
NZ Transport Agency	State Highway 8	<ul style="list-style-type: none"> • Increased traffic volumes raise concern for vehicles crossing SH8. • Lack of connectivity for public transport, cycles and pedestrians • The development may encourage and facilitate further urban activity on eastern side of SH8. This could result in cross traffic between Twizel Township 	Opposes proposal. Insufficient access to State Highway

		South west of subject site	and development on the eastern side of the highway.	
Meridian Energy			<ul style="list-style-type: none"> • The proposal has potential to adversely affect, both directly and indirectly, a number of Meridian's assets and interests. 	Neutral view based on conditions imposed on proposal
Mackenzie Council Department	District Assets	Section 1 SO 18355	<ul style="list-style-type: none"> • Concerns of subdivision in the vicinity of the outflow drain will have adverse effects in relation to reverse sensitivity, blockage of the outflow drain and public health. 	Opposes the proposal
Transpower		Power lines run from west to east through subject site	<ul style="list-style-type: none"> • If conditions are imposed that have been prepared by Transpower then there is no objection regarding the proposal. 	Neutral view based on conditions imposed on proposal

Statutory provisions

22. The status of the activity was the subject of some dispute during the hearing, and was complicated by two factors. The first of these is Proposed Plan Change 13 ("PPC 13") to the Operative District Plan. The second relates to the status of the activity under the operative plan, given what appears on the face of it, to be a contradiction within the rules framework.

23. The site is located within the **Rural Zone** under the operative Mackenzie District Plan. The zone includes the majority of rural lands including alpine ski areas and national parks.

24. The relevant objectives and policies and rules are contained within Part 7 (Rural Areas), Part 12 (Subdivision), and Part 14 (Transportation) of the operative District Plan.

Section 12 - Subdivision and Development Rules

25. **Rule 3** states that any subdivision which complies with all primary and secondary subdivision standards shall be a Controlled Activity.

26. The subdivision complies with all primary standards, and with one exception, the secondary subdivision standards. The subdivision is a controlled activity in respect of the following matters:

- Allotment Size and Dimensions
- Subdivision Design
- Property Access
- Esplanade Provision

- Natural and Other Hazards
 - Water Supply
 - Stormwater Disposal
 - Sanitary Sewage Disposal
 - Trade Waste Disposal
 - Energy Supply and Telecommunications
 - Vegetation and Landscape
 - Easements
 - Building Location
 - Design within 20 metres of Transmission Lines
27. In the Rural Zone, lot sizes have no minimum requirements providing the allotment is of sufficient size to provide for disposal of sewage by an on-site field system. The allotment sizes range from 1.21ha to 3.18ha and the application stated that the proposed lots provide sufficient size for on-site sewage disposal.
28. **Rule 4** states that any subdivision which complies with all of the primary subdivision standards but does not comply with any one or more secondary subdivision standards shall be a discretionary activity, in respect of the applicable matter (my emphasis).
29. **Rule 7.b.viii** states that all subdivisions shall comply with the relevant rules for access in section 14.
- Section 14 - Transportation rules**
30. **Rule 2.o.i.a** requires that no vehicle access shall generate more than 100 vehicle movements per day. It was common ground among the parties to the hearing that the proposed subdivision would generate more than 100 vehicle movements per day.
31. The noncompliance with Rule 2.o.i.a results in the subdivision having to be assessed as a **Discretionary (Restricted) Activity**, with the Consent Authority's discretion restricted to the matter of non-compliance. It was at this point that an element of uncertainty arises.
32. **Rule 2.o.iii** is headed "Discretionary Activities". It goes on to say that this rule applies where access on to state highways does not comply with standards 2.o.i.a, b or c.
33. **Rule 1** however, under "Status of Activities" at the beginning of the rules component in Section 14, states that "any activity which does not provide for parking, access and loading in accordance with the following standards shall be a **DISCRETIONARY ACTIVITY** in respect to the matter(s) of non-compliance." (my underlining)
34. It was this apparent discrepancy which resulted in conflicting legal submissions and planning evidence of behalf of the applicant and NZTA; Mr. Giddens position appeared to favour that of the applicant. In her submissions Ms Sinnott for the NZTA stated that:

- "11. A rule in the district plan has the force and effect of a regulation and the normal principles of interpretation apply to those rules. One of the common law principles of interpretation is that where there is a conflict between general and specific provisions, the specific provision should prevail. The specific rule that applies to this application is Rule 2.o.iii of the Transportation Rules.
12. Rule 2.o.iii plainly states that accesses on to state highways that do not comply with 2.o.i.a are "discretionary activities". Rule 2.o.iii does not include any restriction on this, i.e. it does not use a phrase such as "a discretionary activity in respect of the applicable matter".
35. This interpretation was rejected by Mr. Todd for the applicant, who favoured an approach based on the construction of the Transportation rules as a whole.
36. This is an important matter, because if the activity were fully discretionary it could be rejected on grounds such as landscape, let alone access.
37. Having thought about this matter carefully, I have come to support Mr. Todd's interpretation for two reasons. The first is that the introduction to the rules does make it quite clear that noncompliance with any particular standard under the transportation rules (of which access from state highways is one of many) is discretionary in respect of the particular matter concerned. Secondly, under Rule 2.o.iii the "discretionary activity" is described as "Access on to State highways.....", not the activity itself. This is reflected for example in the heading of each transportation rule, e.g., "visibility from accesses" or "Standard of Vehicle Access". This interpretation supports the construction of the rules as set out in section 14 Rule 1, and it would seem to me that any other interpretation would result in the rules being incoherent. There is no doubt that the application could be declined on the grounds of adverse effects resulting from access to the State Highway. However I think it would be drawing a long bow to extend discretion to matters unrelated to access.
38. Turning to PPC 13, Mr. Giddens stated in his report that during "the evolution of the subject application for subdivision consent, Plan Change 13 has been notified, submitted upon, deliberated at a public hearing, and has been formally ratified by the MDC in a decision dated 19 August 2009. This decision was recently notified to the public on 1 September 2009". He added that the purpose of PPC 13 was to:
- "...introduce provisions into the District Plan to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, use and development".
39. He went on to explain that the decision on PPC13 recognised that there needed to be greater control over the scope for residential and rural residential development throughout the Mackenzie Basin. Non farming subdivision and development activities would be subject to at least fully discretionary activity status in the rural zone.

47. I was informed that there was an 'awareness' of the proposal in the Twizel area. More importantly however, and again this rests on the status of the application, the only input other parties could have had, except in respect to conditions on the subdivision, related to highway access where the NZTA was a notified and involved party. I was reasonably satisfied that the MDC had undertaken an appropriate process before deciding that the application should be limited notified. None of the other parties at the hearing raised notification as an issue.

The submissions and evidence

For the applicant

48. **Mr. Graeme Todd, of Mac Todd Legal**, appeared at the hearing as legal counsel for the applicant.
49. Mr. Todd opened his client's case by explaining that the application had been amended to incorporate a two-stage subdivision development pending the decommissioning of the Council's outfall trench from the Wastewater Treatment Plant. This would remove any 'reverse sensitivity' odour issue with respect to the initial subdivision stage. He also said that the access point to the subdivision from SH8 was to be relocated south of Ostler Road. He added that discussions had been held with the MDC's Assets Department, which had resolved the matters raised in their submission.
50. He added that the applicant has submitted in opposition to PCC 13 which he described as a controversial plan change. He said his client's submission had been rejected and that he intended to appeal the Council's decision. In his opinion the weight to be given to PCC13 was at the "bottom end".
51. He submitted that the activity was restricted discretionary under the 'bundling approach' taken when components of an activity had a different consent status. However, he insisted that the application could only be declined on the basis of matters relating to access to SH8. He said that a problem with PPC 13 was that although it sought to protect landscapes in the Mackenzie basin, it did not differentiate between landscapes therein. He noted that the applicant had obtained a Certificate of Compliance enabling tree planting east of SH8 which would have the effect of obscuring views over the site towards Lake Benmore, regardless of whether the subdivision proceeded.
52. In respect to notification issues, he said that the MDC had undertaken a full and proper analysis, and therefore it would be safe to issue a decision on the basis that it would not be open to successful challenge under section 104(3)(d) of the Act. He said that the particular circumstances of this application were unlikely to be repeated, given the subsequent notification of PCC13. Accordingly he considered that there was no precedent arising, or risk of "opening the floodgates" to similar applications. He submitted that the application did not raise any matters as under Sections 6 or 8 of the Act. He added that the site as a whole was distinguishable from other parcels of land in the Mackenzie Basin as it was not contiguous with other private land, and was effectively an 'island'.

40. Mr. Giddens stated that the current application was lodged with the MDC on 25 September 2007. At the time of lodgement the applicable rules were those set out in the operative Mackenzie District Plan.

41. Section 88A (1) of the Act states that:

- "Subsection (1A) applies if—
- an application for a resource consent has been made under section 88; and
- the type of activity (being controlled, restricted, discretionary, or non-complying) for which the application was made under section 88, or for which the activity is treated under section 77C, is altered after the application was first lodged as a result of—
- a proposed plan being notified; or
- a decision being made under clause 10(3) of the First Schedule; or otherwise".

42. PPC13 was notified on 19 December 2007. Section 88A (1A) requires that "the application continues to be processed, considered, and decided as an application for the type of activity that it was for, or was treated as being for, at the time the application was first lodged".

43. Section 88A (2) is of relevance in the consideration of this application for subdivision whereby it is stated that "notwithstanding subsection (1), any plan or proposed plan which exists when the application is considered must be had regard to in accordance with section 104(1) (b)".

44. I have already come to the view that the status of the subdivision application is a restricted discretionary activity with respect to access from SH8, and a controlled activity in respect to other matters. I must "have regard to" the provisions of PPC13 which quite clearly imposes a more testing regime in terms of both rules and objectives/policies than the operative plan. However given the status of the activity, my discretion is quite severely limited in terms of the scope of the matters I can take into account if I were minded to decline consent.

45. I heard conflicting views from Mr. Todd and Ms. Sinott as to a further complicating matter, that is, the weight to be given to PPC13. I have come to the view that the objectives and policies should be given some weight, given the stage that PPC 13 has reached. Again however, I am constrained by the extent to which the objectives and policies of PPC 13 can be applied, even the status of the activity and the scope of the discretion available to me. I can give little or no weight to the rules.

46. Another issue on which I sought clarification at the hearing was the potential for a conclusion that the application should have been publicly notified, given the contentious nature of residential and rural residential subdivision in the Mackenzie basin, the relatively large scale of the current proposal, and the provisions of section 104(3)(d) of the Act.

53. He noted that the applicant still required the consent of the NZTA for access to SH8, and that such consent might be declined. He said there was no requirement that applications of this nature had to be heard together.
54. With respect to the potential aspirations of property purchasers within the future subdivision, he claimed that under the RMA there was no longer the expectation that subdivision consent implied a subsequent right to build.
55. **Andy Carr**, a traffic engineer with the firm of Traffic Design Group, gave evidence on behalf of the applicant.
56. He stated that State Highway 8 in the vicinity of Twizel enjoyed the highest level of service – 'LOS A' – even at peak periods. He stated that the AUSROADS guide to traffic engineering practice defined LOS A as:
- "...a condition of free flow in which individual drivers are virtually unaffected by the presence of others in the traffic stream. The freedom to select desired speeds and to manoeuvre within the traffic stream is extremely high and the general level of comfort and convenience provided is excellent".*
57. The expected traffic generated from a 49 lot development was expected to be in the region of 200 to 400 vehicles per day (2 ways). In his opinion, it was likely to be nearer the lower figure, given that Twizel was a holiday area. He estimated that the maximum hourly movements would be up to 15 vehicle movements in, and 34 vehicle movements out, during the morning 'peak' and 29 in, and 20 out respectively, in the evening peak hour. He anticipated that 80% of these movements would be into Twizel Township on the opposite side of the State Highway. In his opinion, site distances and visibility from the proposed access point were excellent, even to the point beyond which the human eye could see. He considered there was little point in providing an underpass under the state highway.
58. In terms of intersection design, he favoured upgrading the intersection to NZTA "Diagram D" standard, which he considered it consistent with the intersections at Otter Road and Old Iron Bridge Road. He considered that with the turning volume of traffic expected, LOS A would still be achieved, even at peak times. He estimated that the increase in traffic north and south of Twizel would be less than 1% of existing volumes but would increase between 12 and 23% between the site entrance and Twizel, or an increase in the frequency of vehicle movements from one every 29 seconds to one every 21 seconds. Given the distance involved, he considered there would be few pedestrian movements between the proposed subdivision and Twizel, but drew attention to the applicant's offer to provide cycle and vehicle access along the east side of the highway adjacent to the highway frontage.
59. With specific reference to matters raised in the NZTA submission, he commented as follows:
- turning traffic would only likely to amount to one emerging vehicle every 1.7 minutes in the peak hour;

- through traffic speeds and the level of service would remain unaffected;
 - a walking and cycle trail were offered by the applicant to promote pedestrian and cycle access;
 - there was excellent visibility for vehicles, cycles, or pedestrians crossing State Highway 8;
 - development would have to amount to approximately 600 lots to reduce level of service to LOS C;
 - any further development would require a further resource consent, enabling further assessment and submission;
 - the objectives and policies in the regional and district plans emphasise safe access, and the efficiency and safety of the road network. He considered these objectives would be achieved.
60. He also considered that the proposal would not be inconsistent with the Government Policy Statement on Transport, and the Canterbury Regional Land Transport Strategy.
61. **Ben Espie**, a landscape architect in the firm of Vivian and Espie, then gave evidence.
62. His evidence was largely confined to addressing the landscape evidence and conditions suggested in the Council section 42a report. In general terms, he stated that he supported a comprehensive range of conditions being applied to any grant of consent for the subdivision, and made specific comment on the following matters.
63. He opposed the removal of all exotic trees from the western part of the property near the State Highway. He contended that although wilding pines should be removed, he considered a number of the existing exotic trees had been deliberately planted and were successful in screening the wastewater treatment plant, and to some extent the Meridian facility. He also considered that this western part of the site was unlikely to be a successful location for indigenous planting as suggested by the Council, if indeed this was even possible.
64. He supported the proposed restriction on buildings, exotic trees, shrubs, vehicle tracks/driveways, and fences within 40m of the terrace above the Twizel River for the purposes of this description. I understood this to mean proposed lots 38, 39, 46, 48 and 49). Elsewhere in the subdivision, he considered the large lot sizes would be conducive to tree planting.
65. He said he was opposed to any condition that buildings not be visible, and added that screen planting to achieve this objective would in itself appear unusual in the open environment of the Mackenzie Basin. Finally, he opposed restrictions on all exotic planting within 500 m of SH8. In response to a question, he considered the site could not be made to resemble one of the 'form-based clusters' provided for under the PPC 13, as it was too close to Twizel.
66. **Mr. Carey Vivian**, a planning consultant and director of Vivian and Espie Ltd, concluded the evidence for the applicant.

67. He began by addressing the issue of notification, submitting that the proposed subdivision was controlled activity, and could not be declined. In terms of the restriction of access to the State Highway, he noted that NZTA were a party affected and present at the hearing. In his paragraph 21 he stated:
- "It is my opinion that the Council has gone through a very thorough and correct process, and accordingly the commission (sic) can grant resource consent without fear that the application should have been publicly notified and was not".*
68. He emphasised that the application sought consent for subdivision only, and that the erection of subsequent dwellings would be subject to resource consent under Change 13 to the district plan. If the plan change is in fact upheld on appeal, He added however that the applicant had opposed the plan change, at least to the extent of its application to their own land.
69. He supported the proposed restriction on buildings, earthworks and planting within 24m of the existing 33kv the power line. He noted that a meeting had been held with the Mackenzie District Council (Asset Department) who had submitted on the application. He noted that a heads of agreement had been reached that the subdivision would be undertaken in two stages, with 10 lots in close proximity to the outfall trench from the wastewater treatment plant, to be developed as a second stage. In the meantime a large lot 53 would be created parallel to the line of the outfall trench. This was based on what I understood to be the intention of the Mackenzie District Council to replace the outfall trench with an alternative form of effluent treatment on an expanded main site near SH8.
70. He accepted the need for a development set back from the old Twizel River escarpment. With respect to design controls, he concurred with the views of Mr. Giddens for the Council that any conditions on the design and appearance of dwellings should form part of a later consent relating to residential dwellings, including such matters as height, use of materials, roof forms, and building size among other factors. He added however that a condition purporting to restrict the visibility of buildings from the State Highway was likely to be *ultra vires* with respect to a subdivision consent. He made reference to Environment Court cases including *Brookes versus Queenstown Lakes District Council C081/94* in support of his contention.
71. He supported the views expressed by Mr. Espie on landscape matters and Mr. Carr on traffic matters. With respect to the Council's proposed condition requiring removal of all exotic trees on the western side of the property, he commented that the proposed condition sought by the Council could undermine the applicant's long-standing intention to establish a golf course on this part of the site, and that the redevelopment of the area for native grassland would be both incongruous in this location, and unnecessary.
72. He confined his comments on objectives and policies to endorsing Mr. Giddens view that the proposal was not contrary to the (pre-PPC13) objectives and policies. He also considered that in terms of Part 2 of the Act,

the proposal was consistent with subsections 7 (b), (c) and (f) and with section 5 of the Act.

Evidence for the submitters

New Zealand Transport Agency(NZTA)

73. **Ms. Clare Sinnott** of Chapman Tripp presented legal submissions on behalf of the NZTA, which was unquestionably the primary submitter on the application. She clearly set out a number of reasons why she considered the application should be declined.
74. Firstly, she considered that the proposal represented ad hoc development on the eastern side of State Highway 8, bisecting the community of Twizel. She stated that this raised an issue of severance which currently did not exist. It appeared likely that any grant of consent would be followed by further development which would rely on the new access road.
75. She also submitted that the NZTA would likely decline any application for access to the State Highway under section 92B of the Government Roadding Powers Act 1989, and that there was no right of appeal against any decision made through this procedure. She went on to state that I could not be satisfied that legal and physical access would be available to the site. Furthermore, she stated that this was also a reason for declining consent under section 106 of the Act. In her submission this would put the applicant and potentially other parties, to unnecessary inconvenience and expense.
76. She asserted that notwithstanding that the application had been lodged prior to the notification of PPC13, under the district plan as notified, the application could be declined as a discretionary (unrestricted) activity. She relied on a provision under the rules in the Transport Section of the district plan (described earlier) and added that in the event of a conflict between plan provisions, the specific took precedence over the general. In her view the relevant rule clearly specified that the activity was wholly discretionary.
77. She submitted that the objectives and policies of Plan Change 13 should be given considerable weight, as decisions had now been issued by independent commissioners on submissions made to the change.
78. In her view, little reliance could be placed on the applicant's assertion that subsequent dwellings would be subject to resource consent, as it would be difficult to decline consent given that the purpose of the lots was clearly for residential purposes, and that each application for an individual dwelling in isolation would have only a minor effect on the traffic environment. It was the cumulative effect which was considered important, which could be addressed at the subdivision stage. She added that crossing place authorisations were not for the purposes of authorising new public road intersections.
79. Finally, she considered that the officer's report failed to take into account that the application was not only contrary to the district plan, but also to the

Regional Policy Statement and the Canterbury Regional Land Transport Strategy. She said that the activity could not be classified as controlled, as suggested under the section 42a report.

80. **Mr. Tony Spowart**, Traffic Safety Manager for the Christchurch Region of the NZTA, gave evidence.

81. He was in general agreement with Mr. Carr on the traffic volumes and characteristics expected to be attributable to the development and the effect on the relevant section of State Highway 8. In particular, he emphasised the high traffic speeds that have been recently recorded on the highway.

82. He explained that the procedures for obtaining consent under the limited access road (LAR) provisions were designed to ensure that developers were alerted early in the development process, so as not to be 'surprised' by any subsequent refusal for access to a state highway at a later stage.

83. The primary concern that he expressed was one relating to the broad issue of land use and transport. In his opinion, the development would result in the township straddling the State Highway, which would be used for 'commuter' movements between the two - for example, to take children to school or to shop.

84. Because the NZTA mounted on a strenuous attack on the application based on this central issue, I have reproduced two paragraphs from Mr. Spowart's evidence accordingly:

"1. Community severance is one of the major issues facing the NZTA in its management of the State highway network particularly in rural areas. It gives rise to concerns for the safety of people having to cross the highway when moving about their community. While this applies to vehicular traffic they are of particular relevance to pedestrian and cycle movements, to the extent that such severance discourages people from walking or cycling. In more extreme examples larger communities request bypasses at great expense to the public e.g. Amberley, Woodend and Kaikoura are recent examples.

22. The first reaction from the community is to request a lower speed limit. The NZTA is currently confronted with this issue in a number of communities such as Pukekahi, Franz Josef and Little River. The closest example is Lake Tekapo where the speed limit was lowered and pedestrian facilities installed. Undertaking such measures undermines the utility and efficiency of the State highway as a through road".

85. He estimated that the development would generate approximately 255 vehicle movements per day, which was close to Mr. Carr's 'lower end' estimate. Based on a crash prediction model cited, he estimated that the development could result in one injury crash every 12 years, which given the high speeds along the highway could result in a serious accident. In particular, he was concerned about the degree of exposure for cyclists and pedestrians. In his view the NZTA was unlikely to approve the subdivision.

- 86.

Mr. Spowart emphasised that severance was largely a community issue, rather than a matter related to the level of service or capacity. He emphasised that local community expectations resulted in 'political' pressure to reduce speed limits and hence the functionality of state highways. His salient point was that the subdivision created a problem which could be avoided.

87. **Mr. Steve Higgs**, the Planning Manager for the Canterbury West Coast Region of NZTA then gave evidence.

88. He stated that licensed crossing point 24 had been incorrectly identified as a road intersection rather than an access point to Lot 1. He then went on to explore the status of the activity and came to the view that it was fully discretionary and open to be declined not only on access grounds, but on other grounds as well. He added that it was also a noncomplying activity under PPC13.

89. He acknowledged that a significant number of pedestrian movements across the highway were unlikely, but notwithstanding that, the subdivision would not promote social cohesion as the highway would act as a barrier. He was concerned that further development on the site was highly likely, and that the cumulative effects of this would further compromise the safety and efficiency of the state highway as a physical resource.

90. He argued that the proposed subdivision was a stand-alone development which was contrary to Sections 71b) and (j) of the Act. In addition, the proposed subdivision was contrary to the Regional Policy Statement and the Canterbury Land Transport Strategy which have a policy emphasis on sustainable development, the integration of transport and land use planning, and reducing the need to travel. It was important to address development implications at the subdivision stage. In response to a question, he agreed there were no specific policies relating to severance, but that the general tenor of the objectives and policies was one of 'promoting' the safety and efficiency of state highways, and of alternative means of transport. The proposed subdivision did not promote these outcomes.

- 91.

He added that the applicant had not applied for approval under section 92B of the Government Roadway Powers Act and hence it could not be established that legal access was available to the subdivision. He said that although neither of the reporting officers would be involved in any NZTA decision on whether access should be granted, he considered that a grant of consent was unlikely. Although clearly preferring that consent be declined, in the event that it was, he sought that a condition be imposed that the approval of NZTA for a new intersection with the state highway be obtained prior to the subdivision being submitted to the Council for approval under section 223 of the RMA.

Meridian Energy Ltd.

92. **Mr. Ben Williams**, legal counsel (Chapman Tripp), presented legal submissions on behalf of Meridian.
93. He noted the importance of Meridian infrastructure in the area, which contributed 20% of New Zealand's electricity and 60% of its lake storage, with Lake Pukaki being the most important component of the system. This served to reinforce the importance of the 33Kv transmission line crossing the applicant's property which provided electricity to the control gates at Lake Pukaki. There was also the need to protect the Meridian monitoring well which was also on the applicant's property.
94. The issue in contention was not the need to protect the infrastructure itself, but rather the means by which this was to be achieved. Meridian's concerns were that the land under the transmission line corridor would fall under multiple ownership, resulting in more potential parties to deal with in the event of access being required to service the lines. Meridian did not support the use of a consent notice as proposed by the applicant, because it could be cancelled or varied by either the applicant or the Council without any provision for third-party involvement. He also considered that the alternative of 'protection' under the provisions of the Electricity Act 1992 was problematic, because it involved potentially complicated and prolonged procedures for obtaining access to private land. I was left in no doubt that ongoing access to the Meridian infrastructure on the site was the key issue of concern.
95. In Mr. Williams opinion the Council had the power to impose an "easement in gross" under section 220 (f) of the Act and which was also provided for under the provisions of the district plan. As it appeared that the activity was at least restricted discretionary in status, and that Meridian's concerns clearly related to a resource management purpose, he considered that the imposition of a condition of this nature was appropriate in the circumstances.
96. **Mr. Paul Lloyd**, the Hydro Maintenance Manager from Meridian's office in Twizel, then gave evidence. He noted that the 33kv transmission line served the control gates of the largest hydro storage lake in New Zealand, which also had fundamental implications for six downstream hydro stations. In his opinion, access for upgrading was unlikely to result from a need for a facility such as a substation, but might involve changes to the poles and crossarms carrying the lines, or possibly a two pole support structure.
97. He explained that the monitoring well enabled groundwater levels be monitored, and any seepage from the Lake Ruataniwha dam to be measured through manual checks carried out on a monthly basis. He accepted that the proposed subdivision did not adjoin the Ohau River, but observed that for any future subdivision, the river was subject to flood discharges without warning.
98. **Daniel Murray**, a planning consultant with the consultancy URS, was the final witness for Meridian. He stated that the provisions of the district plan including

rural policy 11A, and policies on utilities, strongly supported the protection of existing electrical infrastructure and its upgrading. These provisions were supportive of the imposition of conditions to protect Meridian infrastructure crossing the site.

The officers reports

99. **Mr. Brent Giddens**, a consultant planner with Lakes Consulting Group, gave evidence on behalf of the MDC. His evidence was taken as read.
100. His report explained in detail the background to the application and the identification of the various noncompliances, and undertook an evaluation of the relevant objectives and policies applicable to the application. He stated that the requirement for future dwellings to be subject to a resource consent procedure under PPC 13 was an important influence over the Council's decision to pursue limited notification.
101. He considered that the proposed subdivision design and layout was appropriate. However, noting the evidence of Mr. Cutler, he did not consider that the benefits of the subdivision, such as pedestrian accessways, access to the river, etc, outweighed the adverse landscape effects. He added that design control over future dwellings was not a subdivision matter, but one to be dealt with in subsequent land use consents for future dwellings, should consent be granted.
102. His initial view was that the proposal be classified as a controlled activity. He said the proposed subdivision did not align completely with the objectives and policies for the Rural Zone in the operative district plan, and was contrary to the objectives and policies of PPC 13. Given the status of the activity under the district plan, he considered that consent would have to be granted, and during the course of the hearing he maintained his opinion that consent should still be granted notwithstanding the restricted discretionary status of the activity with respect to access to the state highway.
103. **Mr. Allan Cutler**, a landscape architect with the firm of Morgan and Pollard Associates, then gave evidence on the landscape impacts of the proposal.
104. He noted that the site had been identified in the 2007 Mackenzie Basin Landscape Study as "an area of high vulnerability and having a low capacity to absorb development". He considered that the landscape assessment by the applicant failed to address a number of matters of concern, and confirmed that the mitigation measures proposed could merely qualify the adverse effects of the proposal. He drew attention to comments in the report such as "to a degree" and "as much as possible" as revealing the difficulties in managing the effects of the proposal. He considered the proposed walking and cycling ways constituted compensation, rather than mitigation. He considered the value of additional access to the river corridor was limited.
105. He agreed with the applicant that the escarpments should be avoided in terms of future development. He sought the complete removal of all wilding trees, and opined that the area near the state highway could form the

nucleus of an site set aside for restoration of indigenous vegetation (I understood from the hearing that the applicant's longer-term intentions were to develop this area as a golf course).

106. Mr. Cutler's view was that the proposal was clearly contrary to the objectives and policies of PPC 13, and at least to some degree, the operative district plan as well. He considered the development would have a significant adverse effect on the currently open character of the environment.

Applicant's right of reply

107. Mr. Todd raised a number of points in his right of reply. He said that the proposed development was well known in the area, and no third parties had raised the issue of notification. He considered the issue of notification been thoroughly addressed in the officer's section 93/94 report.

108. He said that the applicant was aware of the NZTA staff position with respect to access to the state highway, and was aware that consent could be declined. He complained that NZTA staff had refused to meet with his clients advisers. However he said that consent from the NZTA for access to the state highway was a separate process to that of subdivision, and the applicant was entitled to pursue these processes separately. In particular, he considered it would be inappropriate for consent to be declined on the basis that another party, the NZTA, might be likely to do so. He made passing reference to the possibility of alternative access from a side road to the east, although this was not pursued at the hearing.

109. He submitted that the proposed subdivision was unlikely to create a precedent given the fact that only two applications had arisen prior to PPC 13 being notified. In any event, he considered the weight to be given to PPC 13 was limited, and reiterated that it had no effect on the statutory status of the activity.

110. With respect to the submission of NZTA, he considered that the generality of the objectives and policies did not warrant consent being declined. He stated that Mr. Carr's report clearly indicated that the effects on the state highway in terms of both efficiency and safety were less than minor, and that in turn of traffic movements there was no "rush hour" in Twizel. He added that while access to the site was classified as a restricted discretionary activity, he submitted that NZTA's claim that noncompliance with the access rule made the activity wholly discretionary, would result from the rules not making any sense.

111. He claimed that the application site could be distinguished as being similar to an 'island' in the area given surrounding land ownership and features, and would not set a precedent for further development on the eastern side of the state highway in general. The proposed development offered the benefits of satisfying demand for rural residential growth in the Mackenzie basin.

ASSESSMENT

112. In undertaking the following assessment, I have also taken into account the assessment matters for subdivision in the district plan.

Traffic effects

113. I accept the State Highway 8 is a physical resource of national importance, and that the protection of its safety and efficiency is of paramount importance. However I do not consider this means that no additional traffic can be introduced through new intersections on to state highways or even LARs, regardless of circumstances. In some cases, such access may be obtained directly to a side road outside the control of the NZTA. Rather, I consider the impacts of any particular proposal come down to a matter of fact and degree in each case. In this case, there is the overarching principle of community severance arising through development on both sides of the state highway, and the adverse effects that may be reasonably foreseen if consent were granted.

114. Counsel for NZTA put it to me that because consent was unlikely to be granted by the NZTA, I should decline consent for this reason. I do not accept this as being a valid reason for declining consent. I am satisfied that the applicant was, and remains, fully aware that consent to establish an intersection to the state highway serving his subdivision could be declined. It is entirely his risk as to whether he wishes to pursue this course of action. More importantly, I consider my role is to assess the proposal in terms of the provisions of the RMA and the relevant planning instruments. I do not think it appropriate for me to decline the application because another hearing body under different legislation might or might not grant consent. Such a far-reaching submission appeared to at least constitute a jurisdictional issue, although this course of action was only suggested to me at the time that the NZTA presented their submission.

115. I agree that community severance is a valid issue of concern. I also hold Mr. Spowart's extensive experience in highway management matters in respect, and at the level of broad principle I support his contention that development on both sides of a state highway can be undesirable and compromise the safety and efficiency of that highway. I also appreciate that this issue extends beyond that of capacity and level of service. However I consider there are a number of matters which distinguish this case from others generally, even though this activity is only restricted discretionary in status.

116. Firstly, I consider that the pattern of development in Twizel itself is quite different from that of many other rural towns. It is a relatively modern purpose built township specifically set back off the state highway to the west, which is protected by an LAR. The complete lack of direct frontage access to SH8 makes it very different from most other long-established rural townships. Apart from the two roads serving the township, there are no other activities directly fronting the highway to my knowledge.

117. Mr. Spowart referred to Amberley, Woodend and Kaikoura as examples of townships where the through traffic function of the highway had been compromised. In fairness to him, he saw these as extreme cases of severance, and he was not attempting (as I understood it) to draw direct parallels with Twizel. Nevertheless, we are faced with the situation in Twizel where the typical pattern of ribbon development along the highway is absent, as are commercial activities. In Kaikoura for example, a mixture of residential, commercial and industrial development straggles along perhaps 3km of the state highway through the township. I do not consider an access road generating approximately 250 vehicle movements per day, creates a level of effects which is in any way comparable to most of these other rural townships.
118. Secondly, I take on board Mr. Spowart's concerns about the high speeds experienced in the area - it is probably one of the fastest sections of state highway in New Zealand. However offsetting this are the very modest volumes of traffic involved - less than 1700 vpd on average. Although no statistics were produced to the hearing, I suspect that traffic volumes through some of the other towns cited in evidence are very much higher than those through Twizel, which of course has no direct frontage to SH8.
119. Thirdly, I consider the likelihood of the town needing to be bypassed - or of the NZTA facing pressure of this kind - is very unlikely in the foreseeable future given traffic volumes and the lack of direct road frontage. Indeed, I consider that there would have to be very high levels of development on the eastern side of the highway before such a possibility would even be remotely likely. The physical pattern of development that would follow any approval of this subdivision would be quite different to that, say, which has evolved at Franz Josef or Pukaki. Traffic noise, such as that frequently associated with high volumes and heavy vehicles, is commonly cited as an example of the adverse effects of conflict between land use and transport. Such a situation simply does not arise here. Similarly, for the same reasons, I doubt whether there would be pressure to lower speed limits given the characteristics of the state highway adjacent to Twizel, although with the passage of time there may be speed enforcement issues to be addressed.
120. Fourthly, moving from the level of broad principle to the detailed assessment of effects, the largely uncontested evidence of Mr. Carr was that LOS A would remain unchanged, even if there were development several magnitudes greater to the east of the SH8. This does not indicate the subdivision would have a significant adverse effect on the function of the highway as a through route. The evidence of both witnesses suggested to me that the safety record of the affected section of state highway was excellent, and the prospect of a significantly increased accident rate was remote. It is always possible one spectacular event could confound an assessment like this, but it would be difficult to contemplate where any access, or even increased traffic through an access onto a state highway anywhere, would be acceptable on the basis of the level of risk that could be reasonably anticipated as a consequence of this development. I note that visibility in both directions is excellent and was well within accepted standards.

121. Fifthly, concerns were raised about a lack of community cohesion through splitting development on either side of SH8, particularly in Mr. Higgs evidence. Again, up to a point this is an entirely valid concern, albeit not raised as a concern in Mr. Giddens report of behalf of the MDC. I am aware that further development has taken place more recently to the west of Twizel, itself a low-density community, which now extends at very low densities for a considerable distance beyond the former periphery of the town. The pattern of development in and around Twizel does not appear particularly attractive to pedestrian or cycle travel, and it shows every sign of being a car dependent community, partly based on its function as a holiday destination. I note that the closest part of the proposed subdivision is at least 670m east of SH8, and I expect that pedestrian or cycle movement across the highway to the centre of the Township is likely to be very modest.
122. Improved access will be facilitated to the existing DOC walkway along the Twizel River which may increase existing pedestrian movements across the highway, or vehicle movements to the car park serving the walkway. I accept that the intervening state highway is an important factor in the pattern of transport movement in Twizel, but the potential for alternative transport modes have to be seen in the context of an existing sprawling car dependent holiday community. Given this situation, I am skeptical that diversification of transport options, which are entirely appropriate in larger urban centres, are likely to have much relevance in a place like Twizel.
123. There was some debate at the hearing as to the appropriate standard of access required between the highway and the road serving the subdivision, and whether in particular this should involve a substantial slip lane. It would seem that the standard of such an access would ultimately be determined by the NZTA were it minded to grant approval under its own procedures to this subdivision application.
- Meridian infrastructure**
124. I heard completely uncontested evidence of the importance of the Meridian 33 Kv transmission line across the application site serving the control gates at Lake Pukaki, and the monitoring well on the applicant's property. It was agreed between the applicant, Meridian, and the Council that a 24m setback for buildings, trees, and earthworks (except roading and services) should be imposed as a condition of consent should the subdivision be approved, and a 5m development exclusion zone around the monitoring well.
125. Apart from this relatively straightforward measure however, the issue in contention was confined to be appropriate legal mechanism required for achieving the protection of the essential infrastructure, not its importance per se.
126. The applicants concern with respect to Meridians submissions seeking the imposition of an easement in gross, was that it could enable a wide range of subsequent 'upgrading' or additional works which may be detrimental to the amenity of the subdivision. From Meridian's perspective, I could understand

why a consent notice, or reliance on the provisions of the Electricity Act, might expose them to the possibility of bureaucratic or legal delays should urgent works be required - with particular emphasis on the need for certainty and timely access.

127. In the minute issued following the hearing, I requested that the parties consider suitable wording in the event the consent might be granted. This was subsequently undertaken and the wording agreed has been incorporated in conditions.

Landscape effects

128. The landscape of the subject site, and the impacts of development on it, can be perhaps be summarised in this description contained in paragraph 25 of Mr. Cutler's evidence:

"Views to and across the site are characterised by an expansive and open landscape. While the transmission pylons exist they are not visually dominant or even visually significant features from most viewpoints. From SH8 the landscape is devoid of buildings and domesticating elements and there is no doubt that this landscape exhibits a highly natural character".

129. He went on to express the view that the development of the site was inappropriate, having regard to the adverse visual impacts and the irreversible nature of the changes that would occur. I note that even the applicant's own landscape assessment (Mr. Stephen Quin, 21 September 2007) was equivocal. In assessing the relevant objectives and policies, Mr. Quin stated in his paragraph 53 of the landscape assessment accompanying the application:

"In regard to these policies, the site is highly visible from a significant stretch [approximately, albeit intermittently, 4 kilometres] of SH8, an approximate 1.6 km stretch of the road that leads from SH8 to Lake Benmore, and parts of Twizel Township such as Waitepo Road and the eastern end of Ositer Road. The site currently displays a relatively high degree of naturalness although it has been modified to an extent by the power pylons that traverse the site and the Council's sewer ponds (which I understand are to be expanded). I consider that future developments such as dwellings, the proposed road, driveways and associated paraphernalia such as cars, fences, gardens, letterboxes etc. will further modify and detract from the naturalness of the site. I consider that these effects could be mitigated by proposing conditions restricting future development [in terms of height design etc.] and through implementing an appropriate landscape plan that will mitigate potential adverse visual effects resulting from development in manner that satisfies the landscape guidelines relating to tree planting in the plan".

130. In landscape terms, these comments are hardly a ringing endorsement of the subdivision proposal. However, because this application has to be assessed against the district plan as notified, and is only a restricted discretionary activity in respect to access to SH8, I am in the position of only being able to impose conditions relating to landscape, not to decline consent on this basis.

The limited discretion available to me also diminishes the application of the objectives and policies, particularly with reference to PPC 13.

131. This creates a significant dilemma in terms of the natural landscape values of the site, which being "expansive and open" in character, results in commonly applied mitigation measures such as screen planting being in itself inconsistent with the protection of these natural values.

132. The subdivision will ultimately result in 49 dwellings being built on the site, and while setback a considerable distance from SH8, will nevertheless have a marked impact on current views towards the head of Lake Benmore. The eventual establishment of on-site planting, accessory buildings etc., will to some extent mitigate the visual impact of dwellings and accessory buildings, but still exacerbate the contrast between the open plain and a treed urban area.

133. At the hearing, the applicant, supported by the reporting officer, agreed that there were significant legal difficulties in imposing design conditions for dwellings on a subdivision consent. Initially such conditions were suggested on the application to address matters such as external colour schemes, cladding, and roof pitch by way of example. Instead, as the current application does not include an application for land use consent to construct houses, this will require a subsequent land use consent. These will presumably be applied for not by the applicant, but on a case-by-case basis by subsequent individual landowners.

134. If PPC13 remains largely unchanged, landowners will need consent to direct dwellings by way of an unrestricted discretionary activity application. It was put to me that this would enable input on design controls as a method of mitigation for landscape effects, and by implication, even the ability to decline consent altogether.

135. Given that the provisions of PPC 13 do not change the status of this particular application, my hands are tied. I can only hope that prospective purchasers are aware that resource consent will be required to build on each lot, and that the granting of such consents is not a certainty. I also consider that the Council is in a most difficult position if it attempts to decline consent altogether - I consider that all it can realistically hope to do is to influence the design and colour of the buildings erected on each lot. To this extent, I concur with the somewhat pessimistic view expressed by Mr. Higgs. Furthermore, each application would be dealt with on an ad hoc basis rather than part of an overall design plan. In considering the effects of this application in landscape terms, I have taken it as a given that most or all of this land will be built on as a consequence of the subdivision consent. The landscape values as they currently exist cannot be protected or mitigated by conditions. All that can be done is to manage the quality of the built environment that will inevitably result from this proposal.

136. This then leads to the mitigation measures put forward. The first of these is that any future structures including dwellings and outbuildings be restricted from being located within 40m of the escarpment south of the Twizel River. This

vegetation. However given that little was known about the existing values of the site, I did not feel there was sufficient evidence to proceed with the condition on that basis.

Provision of services

143. The evidence before me was that the subdivision could be serviced for water, sewer, telecommunications and electricity. A resource consent from the Canterbury Regional Council may be required separately for the disposal of stormwater.

Nuisance effects

144. My attention was drawn to the potential adverse effects that would be experienced as a consequence of dwellings being located adjacent to the outfall trench from the wastewater treatment plant. I understand that odours can be detected from the trench from time to time - quite apart from the fact that it is unlikely to be an attractive feature within a rural residential subdivision. It also appears that the legal status of this trench is somewhat uncertain. In any event, I was informed that the MDC has a resource consent applications in process before the Canterbury Regional Council to establish an enlarged wastewater treatment plant which will not require the continued existence of the outfall trench.

145. The applicant intends that the subdivision be staged, so that an area generally within 50m of the trench would form part of the second stage of subdivision. This would comprise eight residential lots and part of a reserve adjacent to the transmission lines, which under the first stage of the subdivision would be part of a larger communal Lot 53. In addition to a range of other conditions, a further condition would be that no certificate would be issued under section 224(c) of the Act until the trench was decommissioned. This arrangement was arrived at immediately prior to the hearing by way of a 'Heads of Agreement' between the applicant and the MDC.

Natural hazards

146. The proposed subdivision is not adjacent to the Ohau River, which can be subject to sudden discharges without warning as part of the management of the Upper Waitaki Hydro scheme. With respect to the much smaller Twizel River, the Council requested that any possible flood hazards be identified and necessary remediation undertaken. There was no suggestion put to me that the flood risk was of a magnitude which would justify declining consent under section 106 of the Act.

Positive effects

147. Where the subdivision to proceed it would make a further contribution to the provision of housing around Twizel and would confer some benefits in terms of walkways and public access to the Twizel River corridor.

restriction would also apply to exotic trees, shrubs, vehicle tracks in driveways and fences. The purpose of this restriction is to protect the views from the walkway along the Twizel River. There seemed to be a strong level of agreement that such a condition was appropriate.

137. It was also suggested that a range of other matters be used as "guidance" in the formulation of the landscape plan. This would include planting in accordance with the landscape guidelines of the district plan to screen the development from public roads and public places; the establishment of walkways and tree planting to visually connect the development to the existing (Twizel) township; a planting scheme respecting existing natural character and tree patterns; establishing a strip of natural character associated with the pylon corridor; determining the landscape treatment of the proposed access road, public access reserves, and walking and cycle tracks.

138. Given the circumstances surrounding this proposed subdivision, and the sensitivity of the environment, I have concluded that at least some benefit will be obtained through a condition requiring the preparation of a landscape plan for Council approval. In saying this, I am aware that individual property owners may be free to establish their own on-site planting regimes, subject to any restrictions that might apply with respect to transmission lines.

139. There are some factors that do assist the applicant's case, including the fact that sites having outstanding landscape values have not been specifically identified in the Mackenzie basin. The (eventually to be extended) wastewater treatment facility, and the Meridian substation along the frontage of SH8 also detract - but only to a degree - from the natural landscape values of the site.

140. As a final point under the subject of landscape values, I am conscious that the applicant holds a Certificate of Compliance to establish 'shelter belt planting' east of the SH8, as shown on the aerial photograph at the beginning of this decision. Even if the proposed development does not proceed, once the shelter belts had matured the trees would obscure the views of the landscape beyond including Lake Benmore, which are currently able to be enjoyed from the highway. If the development proceeded, the shelter belts would completely screen buildings in the development from view.

141. Like Mr. Giddens, I understand such planting may or may not in fact be established, and I have not treated it as a decisive issue in considering this application. Nevertheless, as a separate matter to the merits or otherwise of the proposed subdivision, the exercise of the rights available under the Certificate of Compliance does carry some weight when considering the extent to which the current of views from the highway can be lawfully protected. Control of the planting of this nature is (as I understand it) one of the activities that would be able to be controlled under proposed PPC13, were it to come into effect in its current form.

142. I noted this suggestion made by Mr. Cutler for the restoration of path of the site near state Highway 8 as a potential site for the rehabilitation of indigenous

Conclusions on effects

148. There were two primary issues raised by this subdivision application, these being landscape values and the potential impacts of development on both sides of the state highway in the vicinity of Twizel.
149. If PPC 13 as modified following Council decisions had been confirmed and in place at the time this application had been received, I would have been minded to decline consent primarily in terms of adverse landscape effects with a subsidiary concern about the initiation of residential development east of the SH8.
150. I can see some merit in terms of the NZIA's contention that it is generally undesirable to split communities by having development on both sides of a state highway, particularly where it is identified as a LAR. However it actually assessing the specific effects of the likely to arise, I the evidence did not satisfy me that the likely actual effects on the safety and efficiency of state highway was not a decisive factor in its own right.
151. Unless in the (what I consider to be unlikely) event of PPC 13 falling completely, I agree with Mr. Todd that the likelihood of subsequent applicants successfully using this proposal as a precedent would be very limited.
152. Without in any way wishing to indicate disrespect to the applicant's position, he is indeed fortunate that the timing of this application has resulted in an outcome (if only with respect to these proceedings) in his favour.

OBJECTIVES AND POLICIES

Mackenzie District Plan

153. The subdivision objectives in the operative plan are found in Part 12.
154. **Objective 1** and its associated suite of policies address the adequacy of servicing arrangements for subdivisions. **Objective 2** relates to the cost of services being met by sub-dividers, while **Objective 5** calls for the avoidance of natural hazards. All of these matters were addressed through the hearing, and were either not the subject of submissions, and/or can be addressed through appropriate conditions of consent.
155. There are a significant number of objectives and policies under both the Operative Plan and the PPC13 relating to landscape values. These range from general to specific in nature, although unsurprisingly PPC 13 has more targeted provisions. I am also required to have regard to the objectives and policies under PPC 13, even if these have no effect on the status of the activity in terms of section 88A of the Act until (and if) they become fully operative. With respect to landscape, I am confined to considering the imposition of conditions.

156. Section 7 of the operative plan contains objectives and policies emphasising the distinctive and outstanding natural landscapes of the Mackenzie District. Those having more specific application are the following:

- **"Rural Policy 3D - Impacts of Subdivision, Use and Development"**

Avoid or mitigate the effects of subdivision, uses or development which have the potential to modify or detract from areas with a high degree of naturalness, visibility, aesthetic value, including important landscapes, landforms and other natural features".

- **"Rural Policy 68 - Setback of Buildings"**

To require residential dwellings to be set back from property boundaries to reduce the probability of the residents of these dwellings being exposed to significant adverse effects from an activity on a neighbouring property, and to maintain the visual character of the rural area particularly as viewed from the state highways".

157. As amended and reinforced following decisions on PPC13, the following provisions apply:

- **"Objective 3A - Distinctive and Outstanding Landscapes"**

To protect and sustain the distinctive and outstanding natural landscapes and features of the district from subdivision and development that would detract from those landscapes"

158. This is supported by Policy 3A.

- **"Policy 38 - Landscape Diversity"**

To recognise the diversity of physical settings and landscapes within the Mackenzie Basin and the varying capacity of these to absorb further subdivision, buildings and domestication, and in particular to recognise the suitability of existing farm base areas to accommodate and absorb additional buildings".

159. This policy is complemented by Policies 3D and 3E.

160. It would be possible to argue that the proposed subdivision was not consistent even with the provisions of the plan as notified, but those provisions are not supported by the very liberal rules regulating the status of activities. However it does not appear to be contrary (in the sense of being 'repugnant') to the objectives and policies is a whole. However the proposed subdivision, based on the expert evidence of to landscape architects, is in my opinion contrary to the policies contained in PPC13. However, all it can be done is to consider these provisions with respect to the imposition of conditions.

161. Turning to matters relating to the design and appearance of development under the operative district plan:

- **"Rural Policy 3F - in Harmony with Landscape**

To encourage the use of guidelines for the siting and design of buildings and structures, tracks, and roads, tree planting, signs and fences".

162. This policy is complemented by rural policies 2A and 6D. Under PPC 13;

- **Policy 3F - Design and Appearance of Buildings**

To control the design, scale, appearance and location of residential buildings, and other buildings where reasonable, with regard to the purpose of the buildings, within the Mackenzie Basin to avoid, remedy or mitigate adverse impacts on the landscape and heritage values of the basin subzones".

163. Ultimately, design and appearance matters are not going to be addressed fully through this application, but rather through the limited scope of the landscape plan to be prepared for submission to the Council, and a less than satisfactory and ad hoc basis in subsequent land use consents for individual dwellings. To the extent that building location can be controlled through a set back from the river terrace south of the Twizel River, and more importantly through a landscape plan accompanying a grant of consent, the proposal at least meets the test of not being 'contrary to' these objectives and policies.

164. Turning to relevant provisions relating to the location of residential development, which has some bearing on the submission by NZTA, the following policies under PPC 13 are relevant:

- **"Policy 3D - Adverse Effects of Sporadic Development**

To control non - farming buildings and subdivision in the Mackenzie Basin (outside of existing farm base areas) to ensure adverse effects on the environment of sporadic development and subdivision are avoided and to sustain existing and likely future productive use of farm holdings".

- **"Policy 3E -Limitations on Residential Subdivision and Housing**

To provide for residential subdivision and housing development in the Mackenzie Basin only within identified urban areas of the Basin (Twizel and Lake Tekapo) within the special zone for a possible small settlement at Lake Pukaki and within identified farm base areas".

165. The provisions in the district plan relating to transport and subdivision are found in Section 12 (Subdivision). Objective 1, Policy 1 states as follows;

"1. To integrate subdivision roading with the existing roading network in an efficient manner which reflects expected traffic levels and the safe management of vehicles and pedestrians".

166. Under Section 14 (Transportation), the objective and policy framework is very brief. The rather general Policy 1 states as follows;

"To protect the efficiency, safety and amenity of various activity areas, the state highway network and the road hierarchy in the district by ensuring adequate on-site parking, loading and access provisions exist".

167. Only Mr. Higgs evidence for the NZTA provided any real analysis of provisions relating to transport matters. He drew my attention to objectives and policies which can be categorised under two broad issues - the protection of the safety and efficiency of the strategic roading network, and land use patterns which support alternative (i.e. not car dependent) transport modes. As well as the district plan , he drew attention to the provisions of the Canterbury Regional Policy Statement, Chapter 15.

168. Policy 1 states;

"Protect Canterbury's existing transport infrastructure and land transport corridors necessary for future strategic transport requirements by avoiding, remedying, or mitigating the adverse effects on the use, development or protection of land and associated natural and physical resources on the transport infrastructure".

169. Policy 3 states;

"Promote changes in movement patterns, travel habits and the location of activities, which achieve a safe, efficient and cost-effective use of the transport infrastructure and reduce the demand for transport".

170. Reference was also made to Objective 1, Objective 2, and Policy 2 which are similar to, and complementary in, their content. In addition, Mr. Higgs drew attention to the Canterbury Regional Land Transport Strategy which he described as a "statutory document". To my knowledge, it does not have the status of a regional plan, and if it were to be had regard to, the only possible relevance it might have is under Section 104(1)(c) of the Act. Policy provisions referred to therein by Mr. Higgs related to supporting the greater use of walking, the maintenance and enhancement of the region's strategic road network, and the promotion of (among other things, housing) "to support sustainable transport choices and reduce the need to travel, especially by private motor vehicles".

171. The difficulty I have with the objective and policy framework in all of these documents is their generality. The principle of avoiding development straddling a major arterial road and (depending on fact and degree in each case) is surprisingly not identified at a policy level in any of the relevant planning documents. For this reason, if an applicant can demonstrate that the safety and efficiency of the state highway will not be significantly affected, it would be difficult under the objective and policy framework to conclude that this particular subdivision is contrary to the objectives and policies. The evidence given by the applicant's traffic consultant, which was not seriously challenged, was that the effects of the proposed access on to

the state highway would not be significant. The proposed subdivision may not promote the transport policies in the RPS, but that is quite another matter to being contrary to them.

172. In recent years planning documents have sought to promote alternative transport options to the private car, and this is typically advanced through subdivision design in larger urban areas. This particular subdivision proposal is for low density car dependent development. In that respect however, it appears typical of other recent development adjacent to Twizel and elsewhere in the Mackenzie Basin. Given the size and population of Twizel and its surrounds, it would be difficult to achieve a pattern of peripheral development which was not primarily – indeed overwhelmingly dependent – on the private car.

173. The proposed subdivision is not of a scale as to raise significant issues associated with the efficient use of energy, and is probably more efficient in that respect than development associated with the various rural "farm base" areas provided for under the district plan. It is also located within close proximity of Twizel itself, which provides a range of services to the wider Mackenzie Basin area.

PART 2 RMA

174. The purpose of the Act is to promote the sustainable management of natural and physical resources. The definition of sustainable management is:

- "managing the use, development and protection of natural and physical resources in a way or at a rate which enables people and communities to provide for their social, economic and cultural well being and for their health and safety while;
- sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- avoiding, remedying, or mitigating any adverse effect of activities on the environment."

175. I consider there are no matters under Section 6 of the Act which arise in terms of this application. Similarly, no matters were drawn to my attention with respect to Section 8 of the Act.

176. I consider the following provisions of Section 7 of the Act are of relevance to the subject application for resource consent; this section states:

- i. "in achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –

- ii. (b) The efficient use and development of natural and physical resources;

- iii. (c) The maintenance and enhancement of amenity values;

(f) Maintenance and enhancement of the quality of the environment"

177. To the extent that it provides for further housing opportunities in the Mackenzie Basin, the proposed activity will enable prospective property owners to provide for their social and economic well-being. A major difficulty with this proposal is that notwithstanding its impacts on the landscape, it is only restricted discretionary in respect to access to the state highway. As it is a controlled activity with respect to other subdivision matters including landscape effects, it has to be assumed that the effects associated with the development have been anticipated by the district plan. In this respect, the applicant is fortunate in terms of the timing of this application being lodged, and the 'protection' conferred by section 88A, in the context of a controlled activity and my ability to impose conditions. I have to conclude that the activity is not contrary to section 5(2)(c) of the Act.

SECTION 104 RMA

178. In considering an application for resource consent, Section 104 (1) of the Act requires that the Consent Authority must, subject to Part 2, have regard to (relevantly in this case):

- Any actual or potential effects on the environment of allowing the activity; and
- Any relevant provisions of –
 - (i) ... A plan or proposed plan
 - (ii) Any other matter the consent authority considers relevant and reasonably necessary to determine the application.

179. In terms of the nature and scale of subdivision anticipated by the district plan as notified, I have concluded that the proposed subdivision, while at least contrary to some of the objectives and policies of PPC 13, is not contrary to the objectives and policies of the plan as notified.

180. Section 104(2) allows the consent authority to disregard an adverse effect of the activity if the plan permits an activity with that effect. I am aware of the potential for an application to either set a precedent or undermine the integrity of the district plan. However it would be difficult to argue that an activity which has a restricted discretionary status in respect to access to SH8, and is otherwise a controlled activity, could be seen as creating a precedent in terms of the plan as notified. However even more importantly, it is only one of two applications in the very fortunate position of not being 'caught' by the public notification PPC 13. In my opinion it would be difficult for an applicant elsewhere in the district to use any grant of consent to this application as a precedent given the circumstances surrounding this application. I consider that while it seems likely that the Council may find it difficult to resist subsequent applications for dwellings within the subdivision, this does not necessarily signal any advantage being conferred on subsequent subdivision applications on the site.

Conditions of consent

181. As part of the officers section 42a report, and as arising through the hearing of the application, an extensive suite of conditions were proposed, in the event that consent might be granted. Many of these can be best described as 'standard' and uncontroversial conditions that were acceptable to all parties in this eventuality. However there were a number of matters which were the subject of considerable contention.
182. The first of these related to the relationship between an approval of the subdivision by the MDC, and the consequences arising from any refusal by the NZTA to grant consent for the subdivision to access SH8 under section 92(b) of the Government Roadways Powers Act 1989. This raised something of a 'chicken and egg' scenario with respect to the processes involved in this case.
183. Section 106(1)(c) of the Act provides that the consent authority may refuse to grant the subdivision consent, or grant consent subject to conditions, if it considers that sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision. Legal and physical access will only be possible provided the NZTA grant consent. Certainly, it would be possible to provide physical access to the highway. I have already expressed the view that it would not be appropriate to decline consent now on the basis that the NZTA might or might not grant consent. Such an approach would also amount to the Council delegating its decision-making powers to another party.
184. I would like to emphasise at this point that it is abundantly clear that the applicant is aware that consent may not be forthcoming from NZTA. Furthermore, I do not consider there is any actual or implied obligation on the NZTA to grant consent on the basis of the decision made on this application.
185. My understanding of section 224(c) of the Act is that the Council can grant consent provided it is satisfied that any conditions have been complied with. If there is no condition that legal or physical access be provided, they would appear to be no grounds for the Council to conclude that the conditions of consent have not been met.
186. The NZTA, supported by the MDC, submitted that was appropriate to impose a condition requiring that the consent holder provide written confirmation that NZTA had given its authorisation prior to the applicant lodging an application for approval of the survey plan under section 223 of the Act. My initial inclination was to support the applicant's reluctance to acquiesce to such a condition, but it would appear that such a condition may in fact be appropriate, given that the Council needs to be satisfied that legal and physical access is available before the survey plan is deposited (meaning NZTA approval has been given).
187. In this case there appears to be a logical sequence that the application under the RMA and the district plan be determined now, followed by the application to the NZTA, which in turn finally informs the Council's decision

under section 224 of the Act. If for any reason the NZTA decline consent under section 92(b) of the Government Roadways Powers Act, there needs to be a condition to protect the Council's position under section 224 of the Act in that eventuality. This may put the applicant to what is ultimately a failed exercise, but they have clearly indicated that this is a risk that prepared to entertain.

188. The second matter relating to conditions, which was also addressed earlier in this decision, concerns the appropriate legal mechanism for the protection of Meridian infrastructure within the proposed subdivision - specifically a 33kV transmission line and a monitoring bore. I confess to having found the approach of the applicant and the submitter to resolving what is essentially an important but very narrowly focused legal issue somewhat frustrating. Eventually however, the parties reached an accommodation which is set out in two schedules attached to this decision.

189. The third issue of disagreement related to conditions concerned the removal of wilding pines from the site. The removal of all such trees was opposed by the applicant on the grounds that some of these were not the result of "self seeding". While I have some difficulty in differentiating between a self seeding pine and a wilding pine, I have come to the view that any wilding pines should be removed from the site, with the exception of any pine trees deliberately established by prior landowners, which are to be separately identified on the landscape plan(s) to be submitted to the Council for approval following this decision. The applicant's possession of a Certificate of Compliance for the planting of 'shelter belts' also had some, but not a determinative, influence over my conclusion on this matter.

190. The final issue raised with respect to conditions was one which I explored with the applicant during the hearing. As noted earlier in this decision, there is a widespread perception by purchasers of newly subdivided residential or rural residential lots, which I consider entirely understandable, that they should be able to build on their allotments as of right, subject to any typical bulk and location standards applicable under the district plan. Under PPC13, should it survive in its present form, a resource consent would be required to erect a dwelling or even to undertake other building or planting activity on the site. Being rural residential, the proposed lots are significantly larger and offer more scope for development than typical residential allotments. The key point at which the need for a resource consent to erect a dwelling needs to be known as at the point where an allotment is sold, rather than being picked up at the building permit stage which may be too late.

191. Although a matter of concern to me, I do not have the ability to require that prospective purchasers be informed that a resource consent may be required for the erection of dwellings on newly created allotments. I do not believe I can impose a condition on the application, however well-intentioned, that a resource consent will be required, because the final outcome of PPC13 cannot be known with certainty, and it is doubtful whether a measure of this nature would satisfy the test of being a 'condition'. The best that can be done in these circumstances is to attach an advice note, recognising however that this is attached to this particular consent, and not any sale and purchase agreement with future purchaser.

Very condition 1
Stage 1 - Lot 50.
Stage 2 -
Stage 3 -

DETERMINATION

I have resolved that the application be granted pursuant to Sections 104, 104A, 104C, and 108 of the Resource Management Act 1991, subject to the following conditions;

1. The consent holder shall undertake the development in accordance with the attached plans stamped "as approved" on 2 November 2009, prepared by Vivian-Espie for High Country Rosehip/Mackenzie Lifestyle Limited, titled "Proposed Subdivision - Stage 1, Ref: 0415LP3 attached to this decision as RM 070082/1, and "Stage 2 Subdivision of Lot 53, Stage 1", Ref: 045LP4, attached to this decision as RM 070082/2 both dated 16 September 2009 and the application as submitted, with the exception of the amendments required by the following conditions of consent.

2. That unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's own expense.

3 All engineering works shall be carried out in accordance with the Mackenzie District Council's policies and standards. The Council's engineering department shall review and approve the engineering drawings, specifications and calculations prior to any physical works commencing. An engineering fee of 2% (including GST) of the estimated value of the physical works is payable when the plans and specifications are submitted for approval.

4. Prior to the commencement of any works on the land being subdivided and prior to the Council signing the Title Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder shall provide to the Mackenzie District Council for approval, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (3), to detail the following engineering works required:

WATER SUPPLY

c) The provision of a restricted water supply of 1,820 litres of water / day / lot for Lots 1 to 49 to the satisfaction of the Council's Asset Manager and in terms of the Council's standards (SNZ PAS 4509:2003). The costs of the connections shall be borne by the consent holder. The engineering designs shall provide for sufficient capacity to meet the possible future demand generated by the lots created by this subdivision and, in addition, the irrigation requirements of the proposed landscaping. Fire hydrants are to be designed and installed in general accordance with the Fire Service Code of Practice (NZS PAS 4509:2003) for Fire Fighting Water Supplies to the satisfaction of the Asset Manager.

SEWER

b) The provision of full sewage reticulation system connecting Lots 1 to 49 to the Council's reticulated system in accordance with Council's standards. The cost of the connections shall be borne by the consent holder.

Sanitary sewer laterals are to be laid to at least 600mm inside the building area of all lots. The laterals are to be installed at a sufficient depth to ensure fall is available to serve the furthestmost part of the lot. The engineering designs shall provide for sufficient capacity to meet the likely future demand generated by the lots created by this subdivision. Connections shall meet the durability requirements of the building code (i.e. have a minimum life of 50 years). The consent holder shall contribute towards any upgrading of the Council's networks needed to allow the networks to manage the additional demand placed upon it by this development. The maximum contribution shall be the actual cost of upgrading the network to the extent that the upgrading is undertaken to allow servicing of the application site.

STORMWATER

c) The provision for stormwater treatment and disposal to Lots 1 to 49. Stormwater from within each allotment shall be discharged in accordance with the resource consent requirements of the Discharge Permits authorised by Environmental Canterbury (if consents are necessary). A copy of any resource consent is to be provided to Mackenzie District Council. The design of the soakage pits shall be based on percolation tests to establish the soakage capability of the sub-soils and soakage pits shall be sized on the basis of discharging the flow from a rainfall event of 45mm/ hour for a duration of one hour without surface ponding. The design of the infiltration areas shall be based upon estimating the ability of the surface soils to infiltrate stormwater to the sub-soils below, allowing for any evapotranspiration effects and the soakage capability of the sub-soils. Based upon testing previously undertaken. The design of soakage pits and infiltration areas shall be carried out by a competent person who shall provide to the Mackenzie District Council a design report and certification, following construction, that soakage pits and infiltration areas were constructed in accordance with design report.

ROADING & ACCESS

a) Plans and specification of all roading, right of ways, and all accesses to Lots 1 to 49 in accordance with Council's standards, subject to Condition 5:

(i) The access road (shown as Lot 52 on the subdivision plans) shall have a legal width of 20 metres, a formed carriageway width of 6.5 metres, and be constructed to comply with the Transportation standards of the District Plan in relation to landscaping, minimum distances, between accesses, and visibility to the satisfaction of the Asset Manager.

(iii) Lot 52 shall be vested in the ownership of the Council. All rights-of-way shall have a formed width of at least 4.0 metres and all accesses are to comply with the Transportation Standards of the District Plan, in particular sight distances, culvert construction, and water tabling.

EARTHWORKS

e) Details and plans of any earthworks. All earthworks undertaken on the site shall be in accordance with NZS 4431:1989.

LIGHTING

- f) Details of any outdoor lighting are to be included with the engineering plans submitted to Council for approval. Lighting is to be bollard lighting only. Certification by an appropriately qualified person that any proposed outdoor lighting complies with the requirements of the Mackenzie District Plan is required prior to the illumination of the outdoor lighting, other than for the purposes of testing the effectiveness of the lighting.

LANDSCAPING

- g) A detailed landscape plan shall be provided to the Manager of Planning & Regulations for approval prior to any development being undertaken on site. The objective of the landscape design is to mitigate visual effects of development on the site and to enhance natural character. Once approved, this landscape plan shall be upheld by way of consent notice of the respective allotments of this subdivision.

The following objectives must be adhered to in the formulation of the landscape plan:

- (i) All existing wilding pines shall be removed from the subject site. Any pines established by planting may be retained, but must be identified on the landscape plan(s) to be submitted for approval under condition 4(g).
- (ii) Any future structures including dwellings and outbuildings shall be located no closer than 40 metres from the edge of the escarpment, as shown on the site plan marked as **RM070082/3** to this decision. Within this area, exotic trees & shrubs, vehicle tracks & driveways, and fences are prohibited with the exception of post and wire fences.
- (iii) The visual effects of any built development shall be softened and screened from public roads and public places with appropriate vegetation including trees and shrubs in a manner that satisfies the landscape guidelines relating to tree planting in the Operative and Proposed District Plan.

The following objectives shall be used as guidance in the formulation of the landscape plan:

- (i) Visually connect the proposed development to the existing township through appropriate planting.
- (ii) Integrate tree planting into existing natural character and patterns.
- (iii) Create a strip of natural character along the open space strip associated with the power pylons.
- (iv) Detail the treatment (soft and/or hard landscaping) of the proposed road to vest in Council.
- (v) Detail the treatment of the proposed public access reserve.
- (vi) Detail the treatment of the proposed walking and cycling tracks to the public access reserve.
- (vii) The consent holder shall have regard to the landscape requirements under Transpower's Rural Corridor Policy where relevant.

- h) The maintenance of the landscaping and walkways on land to be vested in Council shall be the responsibility of the consent holder for the following periods after Section 224 approval or until the agreed time of the transfer of ownership has occurred (trees – 3 years, all other landscaping – 18 months). The transfer of ownership shall take place at a time agreed with the Council's Asset Manager and Community Facilities Manager.

SURVEY PLAN

- i) The survey plan submitted for section 223 approval shall be in accordance with the plan of proposed subdivision being Vivian+Espie for High Country Rosehip/Mackenzie Lifestyle Limited, titled "Proposed Subdivision- Stage 1, Ref: 0415LP3 attached as **RM 070082/1**, and "Stage 2 Subdivision of Lot 53, Stage 1" Ref: 0415LP4, both dated 16 September 2009, attached as **RM 070082/2** and any other relevant information included in the application. The survey plan shall:

- (i) Define and label consent notice areas in Lots 1 – 15 being a corridor parallel to the Christchurch – Twizel A transmission line. The width of this corridor shall be 100 metres measured northwards from the centreline of the transmission line.
- (ii) Define and label consent notice areas in Lots 16 – 24 being a corridor parallel to the Twizel – Deviation A transmission line. The width of this corridor shall be 100 metres measured southwards from the centreline of the transmission line.

ROAD ACCESS

- j) Any intersection of the proposed road (shown as Lot 52 on the subdivision plans) with State Highway 8 shall be designed and constructed to an appropriate standard for a rural State highway/local road intersection.

Note: Refer to advice note (iii).

TELECOMMUNICATION AND ELECTRICITY

- k) That each allotment be provided with the ability to connect to a telecommunications and electrical supply network at the boundary of the net area of the allotment.
- l) All electricity and telephone lines servicing the subdivision shall be underground.

5. The consent holder shall not submit any survey plan in relation to the subdivision to the Mackenzie District Council for approval under section 223 RMA until:

- (a) The NZTA has granted authorisation for the proposed road (shown as Lot 52 on the subdivision plan) to be used for vehicular access to and from State Highway 8 under section 92(b) of the Government Roadway Powers Act 1989; and
- (b) The consent holder has provided the Council with written confirmation from the NZTA that the authorisation referred to in paragraph (a) of this condition has been obtained.

6. Prior to the certification pursuant to Section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
 - a) The submission of 'as-built' plans in accordance with Council's 'as-built' standards, and information required to detail all engineering works completed in relation to or in association with this subdivision.
 - b) The completion of all works detailed in condition (4) above.
 - c) The consent holder shall provide a suitable and usable power supply connection to Lots 1 to 49. These connections shall be underground from any existing reticulation and in accordance with any requirements/standards of Aurora Energy/Delta and Telecom.
 - d) The consent holder shall pay the Council a water supply capital works contribution (plus GST) for each additional allotment (48) prior to approval under section 224 of the Resource Management Act 1991. The capital works contribution payable are those applicable in the Council's Annual Plan for the calendar year that section 224 approval is applied for. The Council will generate an invoice upon receipt of the application for section 224 approval.
 - e) The consent holder shall pay the sanitary sewage capital works contribution (plus GST) for each additional allotment (48) prior to approval under section 224 of the Resource Management Act 1991. The capital works contribution payable are those applicable in the Council's Annual Plan for the calendar year that section 224 approval is applied for. The Council will generate an invoice upon receipt of the application for section 224 approval.
 - f) The consent holder shall pay to the Mackenzie District Council a reserves contribution calculated at the rate of 5% of 1500m² plus GST of the average cash value of the allotments in the subdivision, for 49 additional lots created. The value of the allotment shall be provided by a valuation from a registered valuer, the cost of obtaining this valuation shall be borne by the consent holder. The date of the valuation shall be within six months of the application for approval under section 224. The consent holder is advised that the Council will obtain this valuation on their behalf.
7. Prior to certification pursuant to section 224 of the Act and in accordance with Section 221 of the Resource Management Act 1991, a consent notice shall be registered on the pertinent Certificate of Titles for the performance of the following conditions on a continuing basis:

GENERAL

 - a) Works required as part of landscape plan approved under subdivision consent RM070082 (as attached to this Consent Notice) shall be maintained on an on-going basis. All dead or diseased plants shall be replaced on a continuing basis until all planting shown on the Approved landscape Plan are self-sustaining to the satisfaction of the Manager of Planning & Regulations.
 - b) Prior to granting any resource consent for residential building development on any the allotments affected by the presence of the outfall trench from the Twizel Oxidation Pond (being those allotments within 50m of the outfall trench shown on the plan attached as ~~RM070082/3~~ RM070082/4), investigation shall be undertaken by a suitably qualified engineer as to whether the land is suitable for the proposed

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- development having regard to ground stability and site contamination. If the land is found to be unsuitable, appropriate remediation shall take place prior to the building development. The consent holder shall provide a certificate signed by a suitably qualified and experienced engineer that is addressed and submitted to the Mackenzie District Council, attention Manager Regulatory Services, certifying that the abovementioned land is suitable for residential building development.
- c) Prior to granting any resource consent for residential building development on any of the allotments, an investigation shall be undertaken by a suitably qualified engineer to confirm whether the land is located within the zone of influence of the Twizel River. Specific regard should be given to flood hazard, if the land, or portions of the land, is found to be unsuitable, appropriate remediation shall take place prior to the building development.
 - d) All fencing shall be traditional post-and-rail only although including the post and sheep netting wire fence referred to at condition 16(a). Individual letterboxes shall not be allowed. Communal or clustered letterboxes shall be permitted.
 - e) The escarpment face (as shown on the plan appended as ~~RM070082/3~~ RM070082/4) that runs west to east through the southern extent of the proposed rural living subdivision area shall be kept free of all future development.
 - f) No building or structure shall be constructed within that part of Lots 1 to 24 shown as 'consent notice area' on the approved subdivision scheme plan.

EARTHWORKS

- g) The owners of Lots 1, 2, 7, 15, 16, 18, 19, 22 and 23 must not excavate or otherwise interfere with any land:
 - (i) At a depth greater than 300mm within 6 metres of the outer edge of the visible foundations of the transmission line tower (pylon); or
 - (ii) At a depth greater than 3 metres, between 6 metres and 12 metres of the outer edge of the visible foundation of the transmission line tower (pylon); or
 - (iii) In such a way as to create an unstable batter.
- h) The owners of Lots 1 – 23 and Lot 52 must not deposit any material (either permanently or temporarily) under or near the Christchurch – Twizel A transmission line or the Twizel – Deviation A transmission line would reduce the vertical distance between the ground and the conductors to less than 7.5 metres.

TREES, VEGETATION & MOBILE PLANT

- i) All newly planted trees or vegetation (exceeding a maximum height of two metres and over of full maturity) on Lots 1 – 24 and Lot 52 must:
 - (i) Be setback by horizontal distance of at least 12 metres either side (total of 24 metres) from the centre line of the Christchurch – Twizel A transmission line or Twizel – Deviation A transmission line; and

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- (ii) When fully grown not have the potential to fall within 5 metres of the transmission lines.
- j) All machinery and mobile plant operated on lots 1 - 23 and Lot 52 shall maintain a minimum clearance distance of 4 metres from the Christchurch-Twizel-Deviation-A transmission lines at all times.
- k) All newly planted trees/vegetation (in excess of 2 metres in height at maturity) on proposed Lots 1-7, 11-23 shall be setback by a horizontal distance of at least 12 metres either side (a total of 24 metres) of the centre line of the Christchurch-Twizel-A and Twizel-Deviation-A transmission lines and as shown on the scheme plan prepared by Vivian+Espie for High Country Rosehip/Mackenzie Lifestyle Limited, titled "Proposed Subdivision - Stage 1, dated 16 September 2009 and "Stage 2 Subdivision of Lot 53, Stage 1".
- l) All machinery and mobile plant operated on proposed Lots 1-7, 11-23 and 52 shall maintain a minimum clearance distance of 4 metres from the Christchurch-Twizel-A and Twizel Deviation-A transmission line conductors at all times.
- m) In the case of any tower supporting any conductor, no person may excavate or otherwise interfere with any land:
- At a depth greater than 300mm within 6 metres of the outer edge of the visible foundations of the tower; or
 - At a depth greater than 3 metres, between 6 metres and 12 metres of the outer edge of the visible foundation of the tower; or
- (iii) In such a way as to create an unstable batter.
- n) Excavated or other material shall not be deposited under or near the Christchurch-Twizel-A and Twizel-Deviation-A transmission lines so as to reduce the vertical distance from the ground to the conductors to a distance less than (refer Table 4 in NZECP 34:2001):
- 7.5 metres vertically, across or along driveways or any other land traversable by vehicles;
 - 5.5 metres vertically, on any land not traversable by vehicles due to inaccessibility; and;
 - 3.0 metres in any distance other than vertical on all land.
- Please note that the distances specified include an allowance for mechanic creep (i.e. permanent elongation).

8. If the consent holder:

- Discovers kōiwi Tangata (human skeletal remains), or Māori artefact material, the consent holder shall without delay:
 - Notify the Consent Authority, Tangata whenua and New Zealand Historic Places Trust and in the case of skeletal remains, the New Zealand Police; and
 - Stop work within the immediate vicinity of the discovery to allow a site inspection by the New Zealand Historic Places Trust and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Any kōiwi Tangata discovered shall be handled and removed by tribal elders responsible for the ikainga (custom) appropriate to its removal or preservation.

Site work shall recommence following consultation with the Consent Authority, the New Zealand Historic Places Trust, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- Discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
 - Stop work within the immediate vicinity of the discovery or disturbance; and
 - Advise the Consent Authority, the New Zealand Historic Places Trust, and in the case of Māori features or materials, the Tangata whenua, and if required, shall make an application for an Archaeological Authority pursuant to the Historic Places Act 1993; and
 - Arrange for a suitably qualified archaeologist to undertake a survey of the site.
- Site work shall recommence following consultation with the Consent Authority.
9. All easements shall be granted or reserved.

OVERHEAD CIRCUIT LINES

10. Prior to certification pursuant to section 224 of the Act and in accordance with section 221 of the Resource Management Act 1991, a consent notice shall be registered on the pertinent Certificate of Title for Lots 1 and 2 for the performance of the following conditions on a continuing basis:

- No building is to be constructed, established or occupied within a 24 metre wide corridor centred on the existing 33kV overhead circuit line owned by Meridian Energy without their approval.
- No earthworks, disturbance or interference with the land (excluding roading and services) shall be permitted within a 24 metre wide corridor centred on the existing 33 kV overhead circuit line owned by Meridian Energy without their approval.
- No planting of any vegetation which at maturity exceeds a height of 2 metres with the land shall be permitted within a 24 metre wide corridor centred on the existing 33kV overhead circuit line owned by Meridian Energy without their approval.
- No future owner shall object to Meridian Energy accessing the site (with vehicles and machinery) to maintain the line.
- All future owners shall be advised of the relevant requirements under the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001) and the Electricity (Hazards from Trees) Regulations 2003. For further information contact Meridian Energy.

11. Prior to certification pursuant to section 224 of the Act and in accordance with section 221 of the Resource Management Act 1991, a consent notice shall be registered on the pertinent Certificate of Title for lot 3 authorised by

RM070080 (or the balance lot as a result of this subdivision) for the performance of the following conditions on a continuing basis:

- (a) That the Meridian Energy observation well RHOW21 is protected from removal or interference to allow for the upholding of all Meridian Energy's rights under the Electricity Act 1992.
- (b) That the Meridian Energy observation well shall have a 5 metre radius development exclusion zone from the centre of the well.
- (c) That any future landholder shall not prevent Meridian Energy safe and efficient access to the well.
- (d) That the well and development exclusion zone referred to in (b) above may be fenced by Meridian Energy at their expense.

OUTFALL TRENCH AND STAGING

12. The subdivision shall occur in two stages as follows:

- (a) Stage 1 shall create Lots 1-3, 8-15, 19-31, 33-51, 52A and balance Lot 53 and all roading to service the subdivision, as shown on subdivision scheme plan Vivian+Espie for High Country Rosehip/Mackenzie Lifestyle Limited, titled "Proposed Subdivision- Stage 1", dated 16 September 2009, and attached as RM 070082/1.
- (b) Stage 2 shall subdivide balance Lot 53 to create new Lots 4-7, 16-18, 32, and 52B, as shown on subdivision scheme Vivian+Espie for High Country Rosehip/Mackenzie Lifestyle Limited, titled ~~Subdivision-Stage 1~~ Subdivision of Lot 53, Stage 1, dated 16 September 2009, and attached as RM 070082/2.

13. No part of Lot 38 on subdivision scheme plan Vivian+Espie for High Country Rosehip/Mackenzie Lifestyle Limited, titled "Proposed Subdivision- Stage 1", dated 16 September 2009 (RM 070082/2) shall be situated less than 50 metres from any part of the eastern outer boundary of the outfall trench shown on the plan attached as RM 070082/3-~~RM 070082/4~~.

14. Residential buildings and domestic residential activities shall be prohibited on any part of Lot 8 within 50 metres of the eastern outer boundary of the outfall trench shown on BECA plan Figure No.1 attached to this consent as RM 070082/4. This condition shall be protected by a consent notice registered against the title to Lot 8 pursuant to section 221 Resource Management Act 1981. Such consent notice to be registered against the title for Lot 8 at the same time as the 224(c) certificate referred to at condition 16 is lodged. Such consent notice to be released by the consent authority when the 224(c) certificate referred to at condition 18 is lodged.

15. Use of Lot 53 shall be limited to rural pastoral purposes and it shall not be used for residential development, until Stage 2 of the subdivision is complete.

16. No certificate for the purposes of section 224(c) of the RMA 1991 may be lodged with the Registrar-General of Lands in respect of Lots 1-3, 8-15, 19-31, 33-51, 52A and balance Lot 53 unless and until the consent holder:
(a) Erects a 900mm high post and sheep netting wire fence along both sides of the existing outfall trench 50 metres from the outer boundary of the outfall trench except where the fence runs parallel with the access road and over the culvert crossing the outfall trench referred to at

- condition 16(b). The fence and culvert shall be located generally in accord with BECA plan Figure No. 2 attached to this consent as RM 070082/5. Save for the section of fence running parallel with the access road, such fence shall run from the point where it leaves the Twizel Waste Water Treatment Plant to and around the end of the outfall trench to prevent residents of and visitors to the subdivision entering the land in which the outfall trench is located;
- (b) Designs and constructs a crossing of the outflow trench on the access road immediately north of Lots 6 and 7 such culvert to be appropriately sized and positioned to pipe all flows that might enter the culvert from the outfall trench;
 - (c) Affixes signs to the fence at intervals of 100m warning of the presence of treated effluent in the outfall trench; and
 - (d) Provides a certificate signed by a suitably qualified and experienced engineer that is addressed and submitted to the Mackenzie District Council, attention Manager Regulatory Services, certifying that the above-mentioned fence, culvert, and signage have been established to an appropriate standard in accord with the above conditions so as to protect the public health of future residents, occupants or visitors to Lots 1-3, 8-15, 19-31, 33-51, 52A and balance Lot 53.

17. The fence and culvert referred to at conditions 16(a) and (b) shall remain in place and be maintained by the consent holder in order to protect against both wear and tear, and vandalism or other damage or destruction to the fence or culvert until the 224(c) certificate referred to at condition 18 is lodged.

18. No certificate for the purposes of section 224(c) of the RMA 1991 may be lodged with the Registrar-General of Lands in respect of Lots 4-7, 16-18, 32 and 52B unless and until:

- (a) Sockage basins adjacent to the existing Twizel Wastewater Treatment ponds shown on BECA Plan Figure No. 4 attached to this consent as RM 070082/6 have been constructed and commissioned;
- (b) The wastewater outfall trench shown on BECA Plan Figure No. 1 has been decommissioned;
- (c) A certificate signed by a suitably qualified and experienced wastewater engineer that is addressed and submitted to the Mackenzie District Council, attention Manager Regulatory Services, certifying that the decommissioned outfall trench does not present any public health risks to future residents, occupants or visitors to proposed Lots 4-7, 16-18, 32 and 52B.

19. Residential buildings and domestic residential activities shall be prohibited on any part of Lot 50 within:

- (a) 50 metres of the outer boundary of the outfall trench, as shown by the shaded area on BECA Plan Figure No. 3, and
- (b) 150 metres of the Twizel Waste Water Treatment Plant, as shown by the shaded area on BECA Plan Figure No. 3 attached to this consent as RM 070082/7.

Schedule 1A

Transmission line
CHCDOCO1 237172

20. Condition 19 shall be protected by a consent notice registered against the title to Lot 50 pursuant to section 221 Resource Management Act 1991. Such consent notice to be registered against the title for Lot 50 at the same time as the s224(c) certificate referred to at condition 16 is lodged. With respect to the condition 19(a), such consent notice to be released by the consent authority when the 224(c) certificate referred to at condition 18 is lodged.
21. The consent holder shall cause to be registered in favour of Meridian Energy Limited easements in gross:
- (a) In the form attached as Schedule [1A] creating the right to maintain and operate a transmission line (right to convey electricity and telecommunications) within 10 metres either side of that line; and
 - (b) In the form attached as Schedule [1B] creating the right to maintain and operate an observation well (right to monitor groundwater) on that part of the land within a 5 metre radius of the well.
22. The easements under condition 21 shall be registered on or before the later of:
- (a) The issue of the computer registers for the Land on the subdivision of the Land; or
 - (b) The 5th day after Meridian Energy Limited provides the registered proprietor of the Land a deposited survey plan describing the areas that are to be subject to the easements.

Advice Notes

- i. The Council may elect to exercise its functions and duties through the employment of independent consultants.
- ii. The consent holder should be aware that future consent(s) may be required for land use.
- iii. Any works on the State highway (which includes the State highway road reserve) in order to construct an intersection of the proposed road with the State highway would require authorisation from the NZTA under section 51 of the Government Roadings Powers Act 1989 (including NZTA approval of the design of those works). Construction of any part of the proposed intersection of the new road with the State highway that required works to be undertaken on the State Highway could not proceed until such authorisation was obtained.
- iv. No buildings (including residential dwellings) are permitted as of right on new lots created by this consent and resource consent(s) may be required for land use pursuant to Plan Change 13 to the Mackenzie District Plan (which is subject to appeal).

Robert Charles Nixon
Hearing Commissioner



20 November 2009

Easement instrument to grant easement or profit à prendre, or create land covenant

(Sections 90A and 90F Land Transfer Act 1952)

Grantor

Grantee

MERIDIAN ENERGY LIMITED

Grant of Easement or Profit à prendre or Creation of Covenant

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A grants to the Grantee (and, if so stated, in gross) the easement(s) or profit(s) à prendre set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Schedule A			
Purpose (Nature and extent) of easement, profit or covenant	Shown (plan reference)	Continue in additional Annexure Schedule, if required	
		Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Right to convey electricity	[]		In gross

Easements or profits à prendre rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required: continue in additional Annexure Schedule, if required

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby ~~inserted~~ [added to] or ~~substituted~~ by:

~~Memorandum number~~ _____, ~~registered under section 155A of the Land Transfer Act 1952~~

[the provisions set out in Annexure Schedule]

Covenant provisions

Delete phrases in [] and insert Memorandum number as required: continue in additional Annexure Schedule, if required

The provisions applying to the specified covenants are those set out in:

~~Memorandum number~~ _____, ~~registered under section 155A of the Land Transfer Act 1952~~

~~Annexure Schedule~~

Continuation of "Easements or profits à prendre rights and powers (including terms, covenants and conditions)" Continue in Additional Annexure Schedule(s), if required

WHEREAS

- The Grantor is the registered proprietor of the land in computer freehold registers xxx (hereinafter referred to as the "Land").
- The Grantee owns and operates the Transmission Line over part of the Land and the Grantor has agreed to grant to the Grantee an Easement in Gross over that part of the land which is more particularly described in this Easement Instrument.
- The parties have agreed to certain matters as set out below.

THIS EASEMENT INSTRUMENT WITNESSES THAT:

In consideration of the premises the Grantee shall have as an easement in gross in perpetuity the right to convey electricity over that part of the Grantor's Land comprising a 20 metre wide strip on which the Transmission Line is operated and more particularly being no more than 10 metres on each side of the centre line of the Transmission Line and being marked "x" on Deposited Plan [Plan number] (the "Easement Land") together with and subject to the covenants, rights and powers set out in the First Schedule and together with the following incidental rights and powers:

- THE right to maintain and operate the Transmission Line on, above or below the Easement Land.
- THE right to convey electricity through the Transmission Line in accordance with this Easement Instrument (including without limitation clause 2). The right to convey electricity includes the right to convey telecommunications and computer media to the extent ancillary to the operation of the Grantee's electricity generation and transmission business.
- THE rights of ingress and egress along with any vehicles, machinery or equipment by a reasonable route over and through the land and the right to remain on the Easement Land as may be reasonably necessary while work is proceeding for any purposes necessary or expedient for the exercise by the Grantee of the rights and interests granted in this Easement Instrument.
- THE right to maintain and operate any existing Structures or Fixtures on, above or below the Easement Land which the Grantee considers necessary or expedient for the support, operation or protection of the Transmission Line or to assist in the efficient and proper use of the Transmission Line.
- THE right to keep the Easement Land clear of any Structure or Vegetation subject to those items referred to in the First Schedule.
- THE right to keep the land in the immediate vicinity of the Easement Land clear of any structure or vegetation which is, or is likely, in the sole opinion of the Grantee to be a danger or hazard to the safety or operation of the Transmission Line.

AND the Grantor and Grantee covenant between themselves (with intent to bind themselves and

their respective executors, administrators, successors and assignors) as set out in the First Schedule.

**FIRST SCHEDULE of Easement
"Terms and Conditions"**

- In this Easement Instrument unless the context requires otherwise:

"Convey" includes sending, passing, receiving, conducting, transmitting and transporting.

"Electricity Lines Business" means a business that conveys electricity by line in New Zealand.

"Equipment" includes equipment, tools, machinery, cables, lines, wires and all materials and items required for the purposes of exercising any of the rights given by this Easement Instrument.

"Fixtures" includes ground stays, supports, insulators, casings, devices, apparatus, appliances, antennas, conductors, poles and all associated appurtenances and also points, aerial crossing bridges, bridge abutments and metering devices.

"Grantee" includes the Grantee's engineers, surveyors, workmen, agents, employees, servants, contractors, lessees, licensees or invitees with or without any vehicles machinery or equipment.

"Injurious Affect" bears the same meaning in this Easement Instrument as when those words are used in section 23 of the Electricity Act 1992.

"Machinery" includes cranes, drilling rigs, plant, pile drivers, excavators and other similar tools and machinery.

"Maintain" and "maintenance" shall have the meaning in this Easement Instrument that has been given to the word "maintenance" in section 23 of the Electricity Act 1992.

"Operate" includes to send, pass, receive, conduct, transmit and transport electricity, and/or telecommunications and computer media to the extent ancillary to the operation of the Grantee's electricity generation and transmission business, and "operation" has a similar meaning.

"Road" include road, track and accessway.

"Soil" includes soil, gravel or other similar substances.

"Structures" includes buildings, towers, structures, repeaters, pipes, cables, bridges, roads, walls, frames, swimming pools and fences of any kind.

"Transmission Line" means the existing transmission line, or any replacement transmission line constructed in accordance with this Easement Instrument (including without limitation clause 2), and includes all or any part of any cables, wires, earth wires, conductors or other apparatus, associated, used or intended to be used for the transmission of electricity, and/or

Insert instrument type

Easement instrument

for the transmission of telecommunications and computer media to the extent ancillary to the operation of the Grantee's electricity generation and transmission business (including fibre optic cables), and includes towers, poles, foundations, Structures, equipment and Fixtures, which the Grantee considers necessary or expedient for the support or protection of the Transmission Line and to assist in the efficient and proper use of the Transmission Line PROVIDED that in no event shall this Easement instrument entitle or permit the Grantee to undertake any replacement or upgrade of the Transmission Line that will result in the Land being injuriously Affected.

"Transpower" means Transpower New Zealand Limited or any subsidiary of, or successor to, that company.

"Vegetation" includes all vegetation both cultivated and natural and includes grass, crops, trees and shrubs and includes any vegetation encroaching into the airspace of the Easement Land, but does not include maintained grass, or shrubs of a height of less than three (3) metres, not presenting any danger or hazard to the safety or operation of any Transmission Line.

"Vehicles" include trucks, tractors, cars, bicycles, motorcycles (2 and 4 wheeled), aircraft, trailers, graders, excavation and earthmoving equipment, whether wheeled or tracked.

2. In no event shall this Easement instrument entitle or permit the Grantee to undertake any replacement or upgrade of the Transmission Line that will result in the Land being Injurious Affected. If, notwithstanding this clause, the Land is Injurious Affected by the exercise from time to time of the Grantee's rights under this Easement instrument to replace or upgrade the Transmission Line then the Grantor shall be entitled to full compensation for all loss, injury, or damage so suffered by the Grantor. In default of agreement between the parties, claims for compensation shall be made and determined within the time and in the manner provided by section 57 of the Electricity Act 1992.

3. The Grantor shall have the right to use the Easement Land provided it does not interfere with the rights of the Grantee granted in this Easement instrument. The development by the Grantor of the Land into a golf-course shall not constitute an interference with the rights of the Grantee where such development complies with clause 8.

4. The Grantee shall maintain the Transmission Lines and any Structures or Fixtures in good repair.

5. The Grantee shall carry out all works permitted by this Easement instrument as expeditiously and with as little disturbance to the surface of the Easement Land as possible. Immediately upon the completion of any work the surface of the Easement Land and the Land shall be reinstated as nearly as possible to its original condition by the Grantee.

6. The Grantee will reinstate any underground pipes, cables or other service conduits of the Grantor or any third party having the right to lay, use or maintain them on any part of the land, which are damaged by the carrying on by the Grantee of any work.

7. The Transmission Lines shall remain the property of the Grantee.

8. The Grantor shall not do anything whereby the rights, powers, licences and liberties granted to the Grantee may be interfered with or affected in any way and in particular the Grantor shall

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Insert instrument type

Easement instrument

not without the consent in writing of the Grantee:

- (a) erect or permit the erection of any structures on the Easement Land except as allowed in clause 8(c);
- (b) make any alterations or additions to any structure on the Easement Land which affect its overall dimensions;
- (c) erect any non metallic fence of a height of more than three (3) metres on the Easement Land;
- (d) stockpile or fill with or permit the stockpiling of any soil, or other materials or construct any road, or earthworks on the Easement Land which would in any way reduce the clearance above the ground level of the Transmission Lines or fixtures below the minimum clearance height that may be required from time to time, by any statute, regulations, code of practice or otherwise;
- (e) excavate or otherwise interfere with the Easement Land:
 - (i) at a greater depth than 300mm within 2.2 metres of a Transmission Line Pole or Staywire; or
 - (ii) at a greater depth than 750mm between 2.2 metres and 5 metres of a Transmission Line Pole or Staywire; or
 - (iii) at a greater depth than 300 mm within 6 metres of the outer edge of the visible foundation of a Transmission Line Tower; or
 - (iv) at a greater depth than 3 m between 6 metres and 12 metres of the outer edge of the visible foundation of a Transmission Line Tower; or
 - (v) in such a way as to create an unstable batter for any Transmission Line Support Structure.
- (f) deposit any excavated soil or other material under or near an overhead Transmission Line so as to reduce the distance between the conductor and the ground any more than one metre;
- (g) cause or consent to or acquiesce in, the inundation of the Easement Land BUT nothing in this clause shall require the Grantor to take any steps to do or construct anything to prevent an inundation caused by events beyond the reasonable control of the Grantor;
- (h) carry out any cultivation or permit any growth or vegetation on the Easement Land exceeding a height of three (3) metres above ground level;
- (i) operate any machinery or equipment within 4 metres of the Transmission Line or any fixture;
- (j) do anything on the Easement Land which would or could damage or endanger the Transmission Line or any fixture;

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Insert instrument type
Easement instrument

- (k) carry out any cultivation or permit any structures or vegetation on the Land in the vicinity of the Transmission Line, which, in the sole opinion of the Grantee, is or is likely to be a danger or hazard to the safety or operation of any Transmission Line.
9. If the Grantor consents to or causes or permits any breach of the obligations set out in clause 8, the Grantee shall be entitled to take all reasonable steps to abate or remedy the particular breach including, but not limited to, the trimming or removal of vegetation, the removal or reduction of structures, fences or stockpiles and any other steps necessary for the protection of the Transmission Line on the Easement Land and in the absence of negligence or recklessness, the Grantee shall not be liable to the Grantor, whether in contract, tort or otherwise, for any loss, compensation, damage or expenses incurred or suffered by the Grantor.
10. The Grantee shall use the Transmission Line so that it will interfere with the ordinary cultivation of the land to the minimum extent practicable.
11. The Grantor shall not light any fires or burn off vegetation within the Easement Land without the consent of the Grantee, such consent to be applied for by telephoning the Grantee's nominated office at least five working days prior to the lighting of any such fire.
12. Provided that the Grantee is not in breach of the terms of this Easement Instrument, the Grantee may transfer, lease, assign or licence all or any part of its estate, responsibilities and interest in the Easement Land and/or the rights in this Easement Instrument or any parts of those rights without the consent of the Grantor, but subject to the rights and obligations set out in this Easement Instrument.
13. Without limitation or prejudice to clause 12 but provided that the Grantee is not in breach of the terms of this Easement Instrument the Grantee may novate to Transpower or any Electricity Lines Business all of the Grantee's estate, responsibilities and interest in the Easement Land and this Easement Instrument. On any such novation and from the date of such novation:
- (a) the Grantee shall cease to have any liability or obligation to the Grantor or any other person under or in respect of the Easement Land and this Easement Instrument whether in contract, tort (including negligence) equity or otherwise PROVIDED THAT the Grantee shall not be released from liability for any breach occurring prior to the date of novation; and
- (b) Transpower or the relevant Electricity Lines Business (as applicable) shall be entitled to enforce this Easement Instrument and exercise its rights in respect of the Easement Land, as through this Easement Instrument was originally entered into between Transpower or the relevant Electricity Lines Business (as applicable) (in place of Meridian Energy Limited) and the Grantor.
14. This Easement Instrument shall be binding on and enure for the benefit of the executors, administrators, successors and assigns of both parties.
15. In this Easement Instrument unless inconsistent with the context the singular includes the plural and the masculine gender includes the other genders and vice versa and words importing persons include companies and vice versa.

Insert instrument type
Easement instrument

16. The Grantee shall be responsible for the costs of and incidental to:
- (a) surveying the Easement Land necessary to complete and register this Easement Instrument;
- (b) registering this Easement Instrument against the Certificate of Title to the Servient Land (including, without limitation, procuring the necessary consent of any mortgagee, Caveator or other person having a registered interest in the Servient Land.

Form B

Easement instrument to grant easement or profit à prendre, or create
land covenant

(Sections 90A and 90F Land Transfer Act 1952)

Grantor

[]

Grantee

MERIDIAN ENERGY LIMITED

Grant of Easement or Profit à prendre or Creation of Covenant

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A grants to the Grantee (and, if so stated, in gross) the easement(s) or profit(s) a prendre set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Schedule A			
Continue in additional Annexure Schedule, if required			
Purpose (Nature and extent) of easement, profit or covenant	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Right to monitor groundwater	[]	[]	In gross

Insert instrument type

Easement instrument

Easements or profits à prendre rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby ~~(varied)~~ ~~(negotiated)~~ ~~(added to)~~ or ~~(substituted)~~ by:

~~[Memorandum number]~~, registered under section 155A of the Land Transfer Act 1952

[the provisions set out in Annexure Schedule]

Covenant provisions

Delete phrases in [] and insert Memorandum number as required; continue in additional Annexure Schedule, if required

The provisions applying to the specified covenants are those set out in:

~~[Memorandum number]~~, registered under section 155A of the Land Transfer Act 1952

~~[Annexure Schedule]~~

Continuation of "Easements or profits à prendre rights and powers (including terms, covenants and conditions)" Continue in Additional Annexure Schedule(s), if required

1 DEFINITIONS AND INTERPRETATION

1.1 In this Schedule:

Construct includes erect, install, lay and remove;

Easement Land means the easement land described in Schedule A;

Equipment includes observation wells, devices, apparatus or things:

- (a) used, or proposed to be used, by the Grantee for, or in relation to, gathering, measuring, surveying, monitoring, recording, reporting or transmitting data and information on groundwater; or
- (b) otherwise used, or proposed to be used, by the Grantee for, or in relation to, exercising any of the rights, or performing any of the obligations, under this easement;

Existing Fixed Equipment means the Fixed Equipment on the Easement Land as at 1 January 2006;

Fixed Equipment means any Equipment owned or Constructed, or to be Constructed, by the Grantee on the Easement Land, and any foundation works for such Equipment;

Grantee includes the Grantee's employees, contractors, advisors or invitees;

Interfere includes obstruct, hinder, restrict, inhibit, prevent, interrupt or impede;

Land means the Servient Tenement described in Schedule A;

Machinery means any machinery and plant used, or proposed to be used, by the Grantee for, or in relation to, exercising any of the rights, or performing any of the obligations, under this easement;

Maintain includes inspect, repair, renew and replace;

Vegetation includes all vegetation both cultivated and naturally occurring, including trees, bushes and shrubs, but does not include tussocks, pasture grass and other pasture species; and

Vehicle includes car, truck, trailer and excavator.

1.2 In the construction of this Schedule:

including: mentioning anything after "include", "includes" or "including" does not limit what else might be included;

negative obligations: a reference to a prohibition against doing any thing includes a reference to not permitting, suffering or causing that thing to be done;

*Insert instrument type***Easement instrument**

related terms: where a word or expression is defined, other parts of speech and grammatical forms of that word or expression have corresponding meanings; and *singular, plural and gender:* the singular includes the plural and vice versa, and words importing one gender include the other genders.

2 GRANTEE'S RIGHTS AND OBLIGATIONS

- 2.1 The Grantee may enter onto and have access over the Land with Equipment, Machinery and Vehicles for the purposes of exercising its rights, and performing its obligations, under this easement.
- 2.2 The Grantee may only bring onto the Land a Vehicle having an unladen weight in excess of 3,000 kilograms for the purpose of Maintaining or Constructing Fixed Equipment or remedying any damage. All access to the Land for any other purpose must be on foot or by a Vehicle having an unladen weight of less than 3,000 kilograms.
- 2.3 The Grantee shall give the Grantor 5 days notice of any entry onto and access over the Land by sending that notice to any email address or facsimile number advised by the Grantor for this purpose from time to time.
- 2.4 The Grantee may only Construct new Fixed Equipment on the Easement Land to Maintain Existing Fixed Equipment or Fixed Equipment Constructed in accordance with this provision. The Grantee may not Construct new Fixed Equipment on the Easement Land that occupies a greater ground area than the Existing Fixed Equipment unless the Grantor has given its prior written approval to that Construction.
- 2.5 The Grantee may operate and use Equipment and the Fixed Equipment without interference on the Easement Land for, or in relation to, gathering, measuring, surveying, monitoring, recording, reporting or transmitting data and information on groundwater.
- 2.6 The Grantee will exercise its rights, and perform its obligations, under this easement so as to minimise to the extent practical and reasonable:
- (a) the risk of harm to any human being and any stock;
 - (b) any damage to the Land (including any garden, pasture and crops) and any improvements on the Land; and
 - (c) disturbance to any occupier of the Land and any farming or other activities conducted on the Land.
- 2.7 The Grantee will promptly repair or restore, in accordance with good farming, construction and engineering practices (as applicable), to the extent practical and reasonable, any damage caused by the Grantee to:
- (a) the Land (including any garden and pasture);
 - (b) any improvements on the Land outside the Easement Land; and
 - (c) any standard farm post and wire fence on the Easement Land.

*Insert instrument type***Easement instrument**

- 2.8 The Grantee shall exercise its rights, and perform its obligations, under this easement in accordance with all relevant health and safety legislation. The Grantee indemnifies the Grantor, and will keep the Grantor indemnified, for any costs incurred by the Grantor because the Grantee fails to meet its obligations under this clause 2.8.

3 GRANTOR'S RIGHTS AND OBLIGATIONS

- 3.1 The Grantor shall not acquire any rights or interest in or over any Fixed Equipment.
- 3.2 The Grantor shall not:
- (a) construct, or permit the construction of, any improvements on the Easement Land;
 - (b) plant, or permit the growth of, any Vegetation on the Easement Land;
 - (c) otherwise take or permit any action that would, or could, damage or interfere with the operation of any Fixed Equipment; or
 - (d) otherwise do or permit anything that Interferes with, or may in the future Interfere with, the exercise of the Grantee's rights, or the performance of the Grantee's obligations, under this easement.
- 3.3 Nothing in clause 3.2 shall require the Grantor to remove any tree that was growing on the Easement Land as at 1 January 2000. The Grantee may at its cost remove any such tree if the Grantee determines that removal is desirable to facilitate the operation of any Equipment on the Easement Land.
- 3.4 Without limiting clause 3.2 the Grantee shall be entitled to take reasonable steps to abate or remedy any breach of clause 3.2 and/or remove from the Easement Land any thing that would, or could, damage or Interfere with, any Fixed Equipment, and recover from the Grantor any reasonable costs incurred by the Grantee in doing so.
- 3.5 The Grantor shall provide to the Grantee on request by the Grantee from time to time, a key, or the combination, or other access device, to enable the Grantee to open any lock on any gate on the Land.

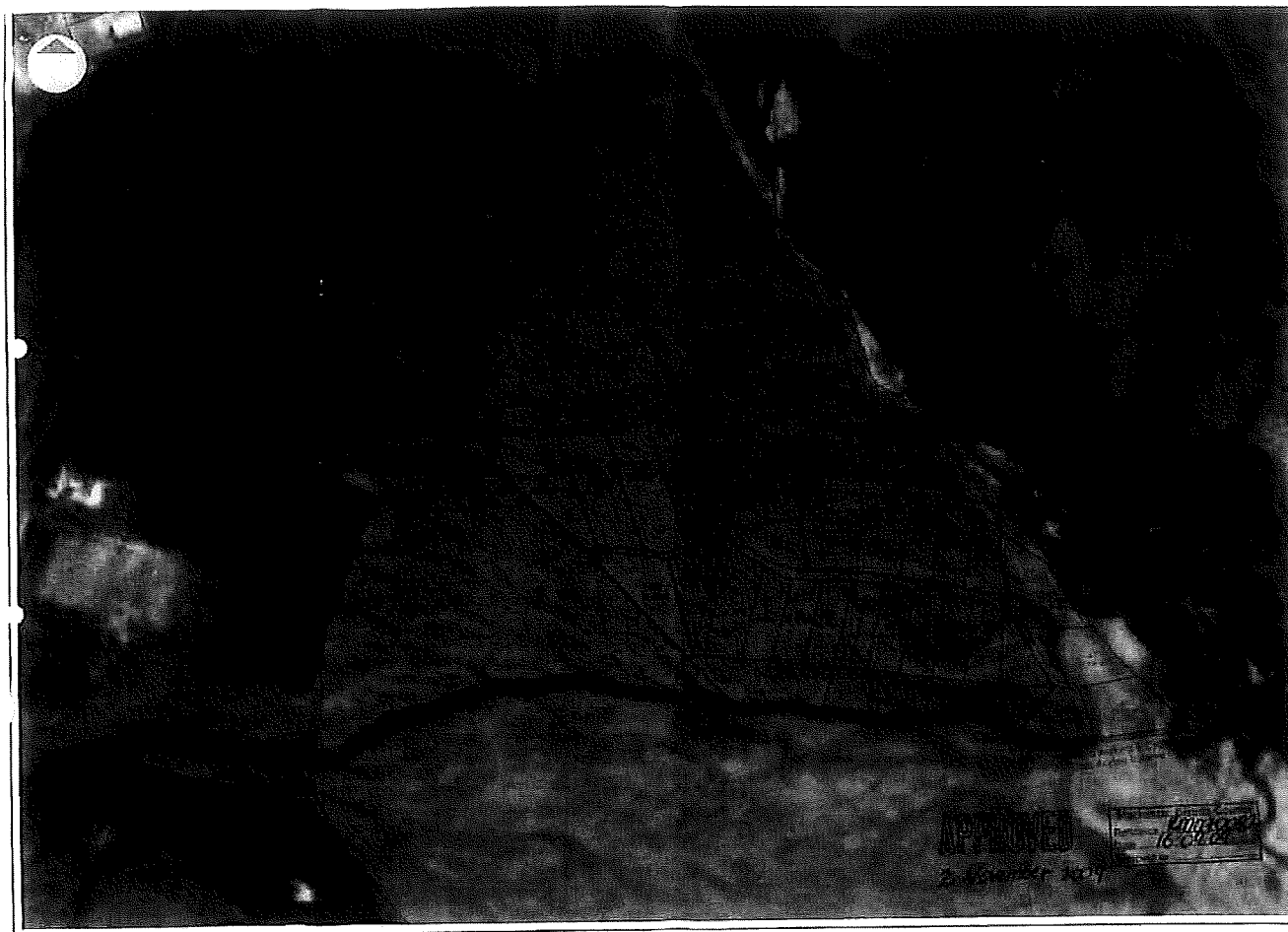


Proposed Subdivision - Stage 1
High Country Rosehip/Mackenzie Uffestyles

Map 04/12/07
Scale 1:12,500

viviant-espi

R.MO70082 / 1

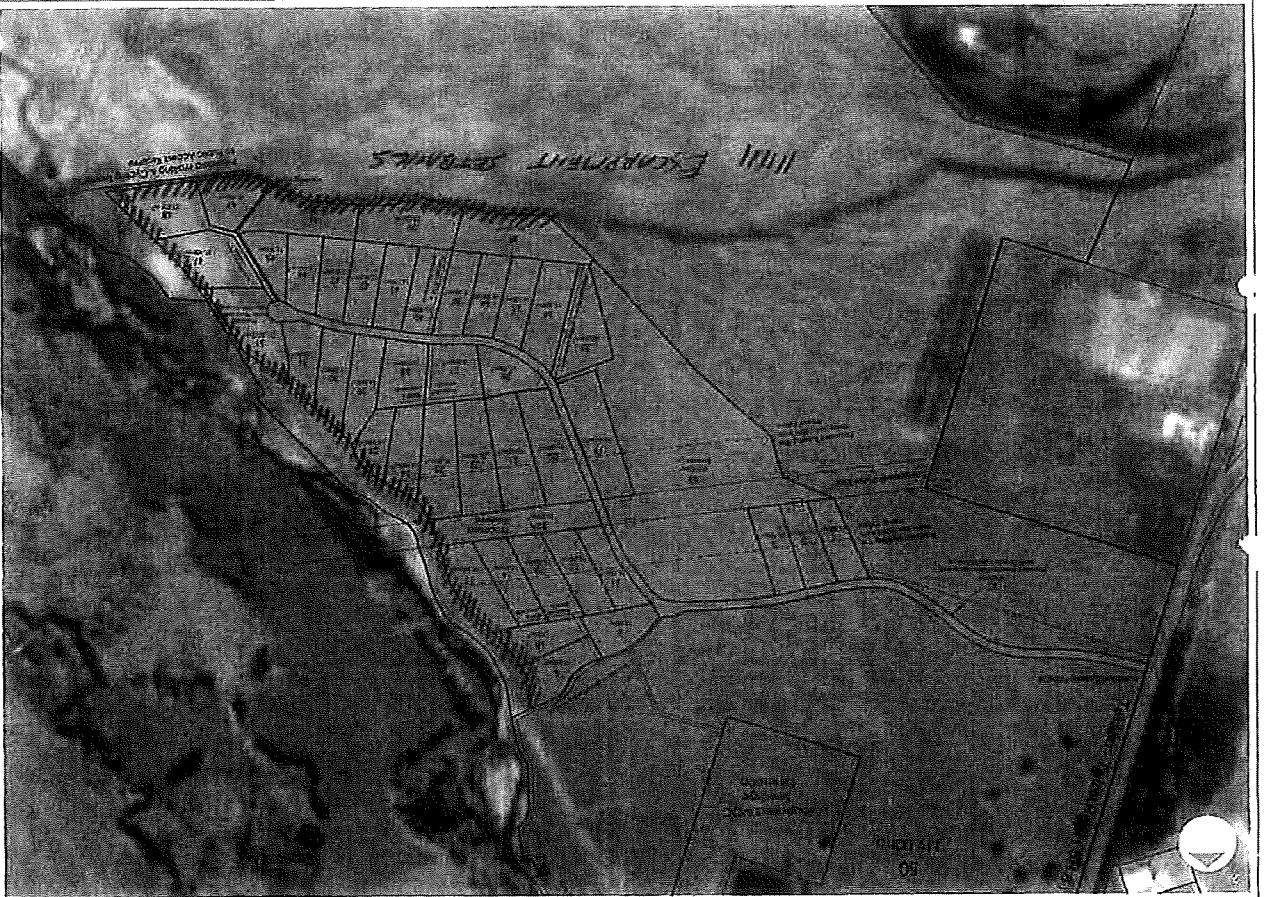


Stage 2 Subdivision of Lot 53, Stage 1
High Country Rosehip/Mackenzie Uffestyles

Map 04/12/07
Scale 1:12,500

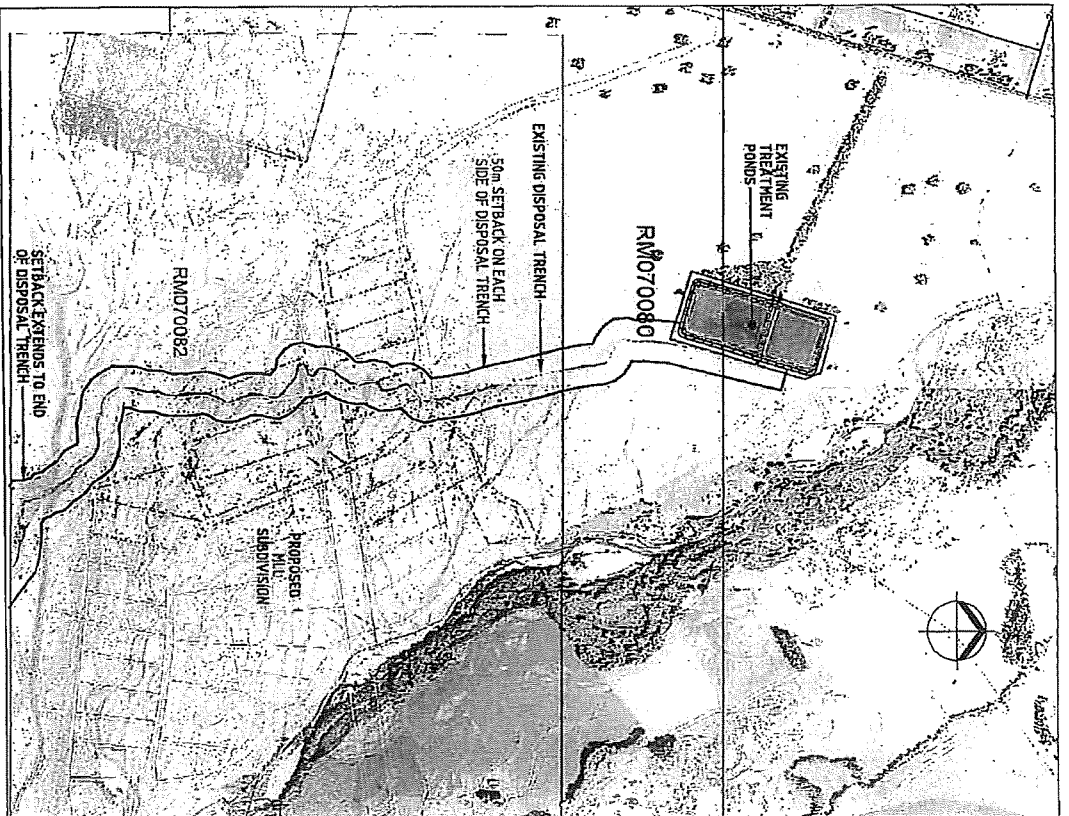
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RM070082/3

Proposed Subdivision - Stage 1
High Country Ranch/Mackenzie Estates
Vivian Respie



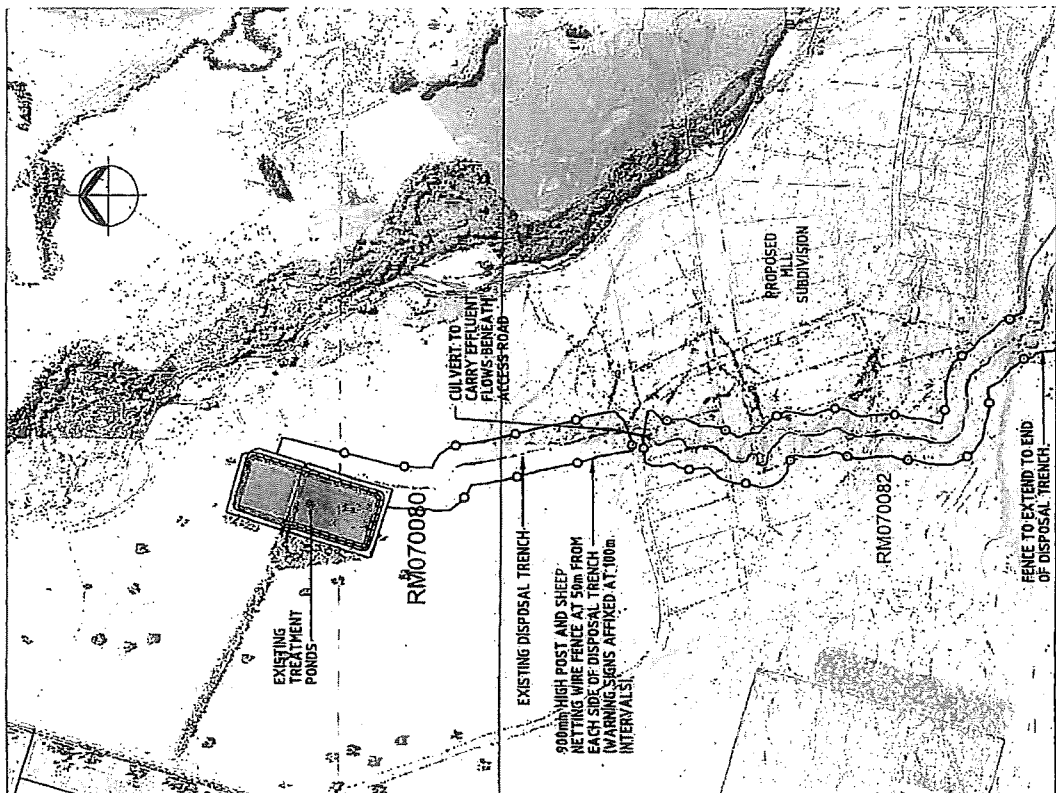
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6512693 07 SEPT 09
2593CK03S

SETBACK FROM
EXISTING TWIZEL WWTTP
DISPOSAL TRENCH

FIGURE NO. 1

RM070082/4

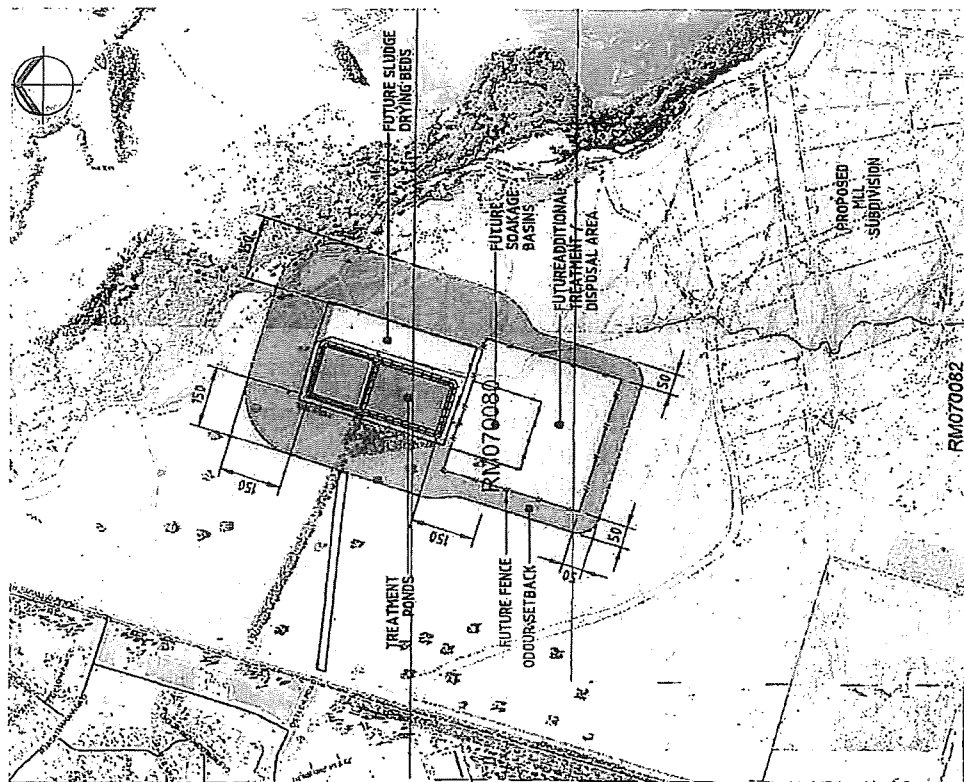


FENCE ALONG
EXISTING TWIZEL WWTP
DISPOSAL TRENCH

FIGURE No. 2

SCALE A4: 1:10000
6512593 07 SEPT 09
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RM070082/5

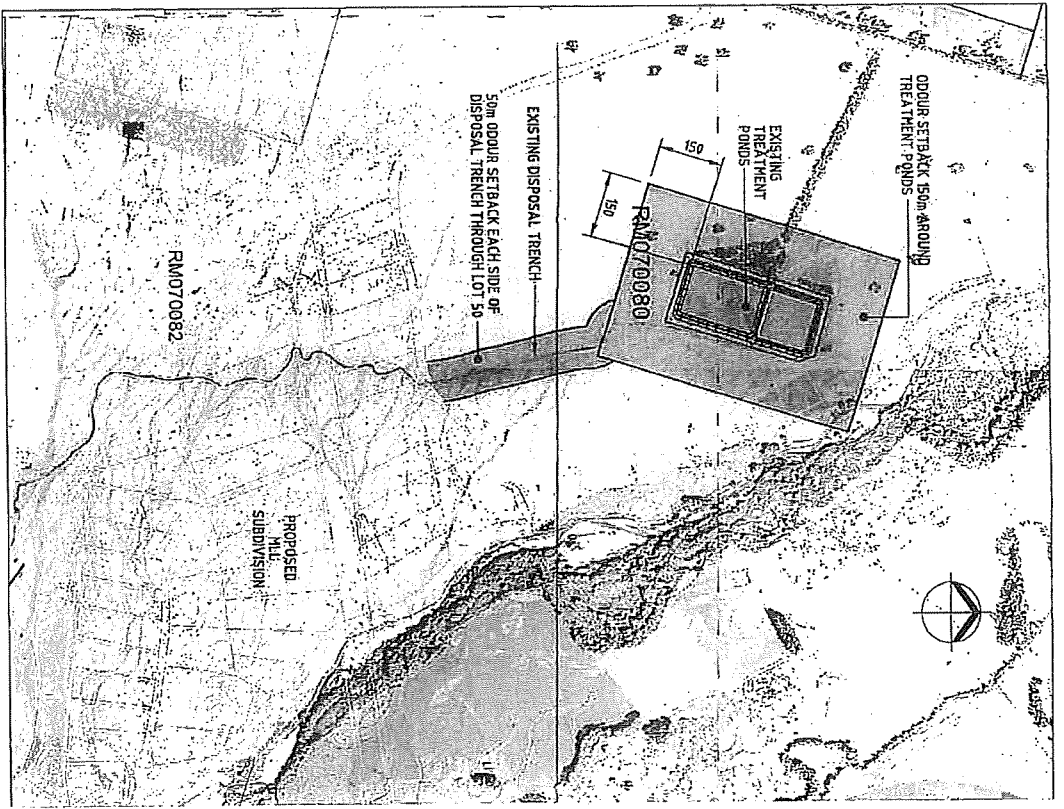


ADDITIONAL LAND REQUIREMENTS FOR TWIZEL
WWTP FOR FUTURE TREATMENT AND DISPOSAL
UPGRADING (INCLUDING ODOR SETBACKS)

FIGURE No. 4

SCALE A4: 1:10000
6512593 7 SEPT 09
2593CK036

RM070082/6



SCALE A4 1:10000

ODOR SETBACK AROUND EXISTING
TWIZEL WWTP AND DISPOSAL TRENCH
THROUGH LOT 50

FIGURE No. 3

6512593 07 SEPT 09
2693CK038

RM070082/7



Mackenzie District Council

LAND USE CONSENT – RM100013

- 1 This resource consent is granted by the Mackenzie District Council pursuant to sections 104 and 104B of the Resource Management Act 1991 and is subject to the attached conditions imposed in accordance with section 108 of the Act.
- 2 This consent is granted to: Mackenzie Lifestyle Limited
- 3 Application description: Locate buildings on 35 lots within Stage 1 of subdivision consent RM070082, within the Mackenzie Basin Subzone
- 4 Property address: State Highway 8, Twizel
- 5 Legal description: Section 1 SO 384036
- 6 Valuation reference: 25320 00403
- 7 Date of decision: 17 March 2011
- 8 Lapsing period: 5 years
- 9 Term Unlimited

NATHAN HOLE
PLANNING & REGULATIONS MANAGER

SCHEDULE OF CONDITIONS

Pursuant to section 108 of the Resource Management Act 1991 this resource consent is subject to the following conditions.

General

1. The consent holder shall comply with the application and plans received 10 February 2010 and amended application and plan received 8 July 2010 unless inconsistent with any of these conditions. The plan received with this application is **attached as Appendix A**.
2. The consent holder shall comply with all other provisions of the District Plan unless stated otherwise in this consent.

Buildings

3. All buildings within the lots shall be located within the building platforms identified on the plan **attached as Appendix A**. In addition, buildings on Lots 9, 10, 15, 23, 24 or 25 shall be setback a minimum of 75m of the terrace shown on the plan, even where a building platform is shown within this setback.
4. At the time a dwelling is erected on any of Lots 1-3, 8-15, 19-31 and 33-49, the owner for the time being shall construct a sealed vehicle crossing in accordance with Council standards.
5. The maximum height for all future buildings on any lot shall be 5.5m from the existing ground level with the exception of 10% of the gross floor areas of each residential dwelling which may reach a maximum of 7m in order to provide for architectural building features and/or chimneys.
6. The exterior cladding of future buildings on any lot shall be restricted to stacked stone, unpainted timber weatherboards, corten steel, colorsteel, plaster or brick finishes in dark recessive colours and/or natural colours derived from the surroundings, with a maximum reflectivity of 40%.
7. The roofing of future buildings on any lot shall be of natural materials such as slate, pre-oxidised copper, timber shingles or colorsteel in dark recessive colours of low reflectivity.
8. Roof forms of future buildings on any lot shall be peaked or mono-pitched at angles between 0° and 25°. Curved roofs shall be prohibited.
9. Future buildings on any lots shall be of simple forms, such as a tradition gable cottage form with no arches, turrets or dormers.
10. The total footprint of all buildings within the building platform on any lot shall not exceed 500m².

11. The basements or foundations of any future buildings on any lot shall not be visible from anywhere outside the site.

Outdoor lighting

12. All outdoor lighting shall be restricted to down lighting and shall comply with the requirements for restricted outdoor lighting as detailed in the District Plan.

Landscaping

13. All newly planted trees or vegetation (exceeding a maximum height of two metres and over at full maturity) on Lots 1 – 24 and Lot 52 must:
 - a) Be setback by a horizontal distance of at least 12 metres either side (total of 24 metres) from the centre line of the Christchurch – Twizel A transmission line or the Twizel – Deviation A transmission line; and
 - b) When fully-grown not have the potential to fall within 5 metres of the transmission lines.
14. The landscape plan required by condition (g) of RM070082 shall also take into account the creation of an open view line from State Highway 8, south-east towards Lake Benmore.

Erosion protection works

15. A management plan shall be provided to the Manager of Planning and Regulations detailing erosion protection works prior to any building development on the site. These works may include, but are not limited to, plantings at the base of the terrace adjacent to the Twizel River and removal and ongoing control of weedy vegetation within the river bed.

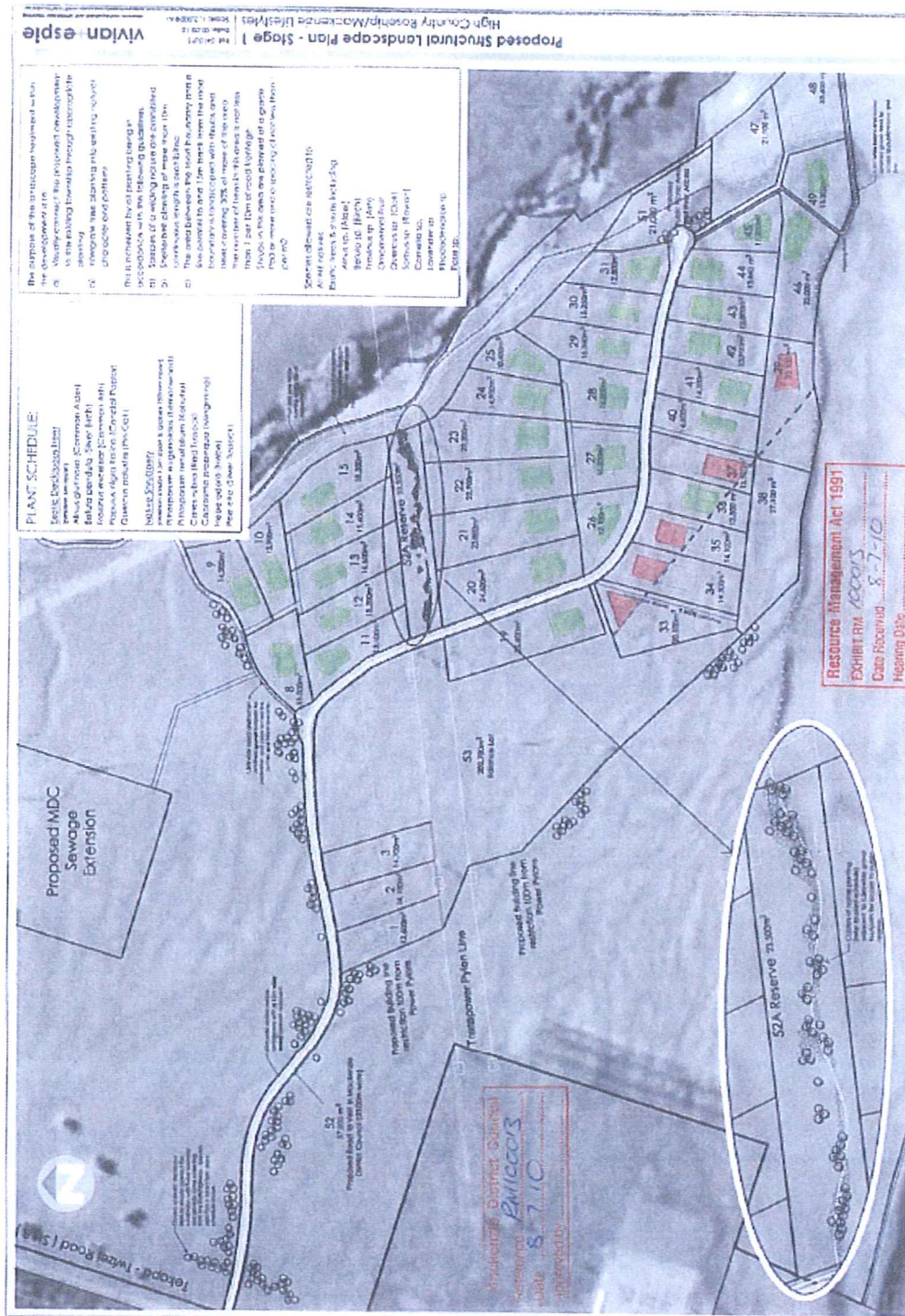
Accidental Discovery Protocol

16. An accidental discovery protocol shall be developed and implemented prior to any earthworks being undertaken on site. If any activity associated with this proposal, such as earthworks, fencing or landscaping, may modify, damage or destroy any archaeological site(s), an authority from the New Zealand Historic Places Trust shall be obtained for the work. An authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under the District or Regional Plan. Evidence of archaeological site may include tailings, mining sites, oven stones, charcoal, shells, ditches, banks, pits, building foundations, and artefacts of Maori or European origin or burials

Reasons for decision pursuant to section 113 of the Resource Management Act 1991

1. The reasons for this decision are described in the officer's section 42A report which I concur with. Overall I consider the proposal to be consistent with the objectives and policies in the District Plan, and that granting this consent will achieve Part II of the Act.
2. I have made this decision under delegation from the Mackenzie District Council as resolved at the meeting of the Mackenzie District Council Planning Committee on 25 November 2010.

note: plan not to stated scale





Mackenzie District Council

LAND USE CONSENT – RM150004

- 1 This resource consent is granted by the Mackenzie District Council pursuant to sections 104 and 104B of the Resource Management Act 1991 and is subject to the attached conditions imposed in accordance with section 108 of the Act.
- 2 This consent is granted to: Mackenzie Lifestyle Limited
- 3 Application description: Locate buildings on Lots 4 – 7 & 18 of subdivision consent RM070082, within the Mackenzie Basin Subzone
- 4 Property address: State Highway 8, Twizel
- 5 Legal description: Section 1 SO 384036
- 6 Valuation reference: 25320 00403
- 7 Date of decision: 23 February 2015
- 8 Lapsing period: 5 years
- 9 Term Unlimited

NATHAN HOLE
PLANNING & REGULATIONS MANAGER

SCHEDULE OF CONDITIONS

Pursuant to section 108 of the Resource Management Act 1991 this resource consent is subject to the following conditions.

General

1. The consent holder shall comply with the application and plans attached and dated 20 February 2015 unless inconsistent with any of these conditions. The plan received with this application is **attached as Appendix A**.
2. The consent holder shall comply with all other provisions of the District Plan unless stated otherwise in this consent.

Buildings

3. All buildings within the lots shall be located within the building platforms identified on the plan **attached as Appendix A**.
4. At the time a dwelling is erected on any of Lots 4 – 7 & 18, the owner for the time being shall construct a sealed vehicle crossing in accordance with Council standards.
5. The maximum height for all future buildings on any lot shall be 5.5m from the existing ground level with the exception of 10% of the gross floor areas of each residential dwelling which may reach a maximum of 7m in order to provide for architectural building features and/or chimneys.
6. The exterior cladding of future buildings on any lot shall be restricted to stacked stone, unpainted timber weatherboards, corten steel, colorsteel, plaster or brick finishes in dark recessive colours and/or natural colours derived from the surroundings, with a maximum reflectivity of 40%.
7. The roofing of future buildings on any lot shall be of natural materials such as slate, pre-oxidised copper, timber shingles or colorsteel in dark recessive colours of low reflectivity.
8. Roof forms of future buildings on any lot shall be peaked or mono-pitched at angles between 0° and 25°. Curved roofs shall be prohibited.
9. Future buildings on any lots shall be of simple forms, such as a tradition gable cottage form with no arches, turrets or dormers.
10. The total footprint of all buildings within the building platform on any lot shall not exceed 500m².
11. The basements or foundations of any future buildings on any lot shall not be visible from anywhere outside the site.

Outdoor lighting

12. All outdoor lighting shall be restricted to down lighting and shall comply with the requirements for restricted outdoor lighting as detailed in the District Plan.

Landscaping

13. All newly planted trees or vegetation (exceeding a maximum height of two metres and over at full maturity) on Lots 4 – 7 and Lot 18 must:
 - a) Be setback by a horizontal distance of at least 12 metres either side (total of 24 metres) from the centre line of the Christchurch – Twizel A transmission line or the Twizel – Deviation A transmission line; and
 - b) When fully-grown not have the potential to fall within 5 metres of the transmission lines.
14. The landscape plan required by condition (g) of RM070082 shall also take into account the creation of an open view line from State Highway 8, south-east towards Lake Benmore.

Erosion protection works

15. A management plan shall be provided to the Manager of Planning and Regulations detailing erosion protection works prior to any building development on the site. These works may include, but are not limited to, plantings at the base of the terrace adjacent to the Twizel River and removal and ongoing control of weedy vegetation within the river bed.

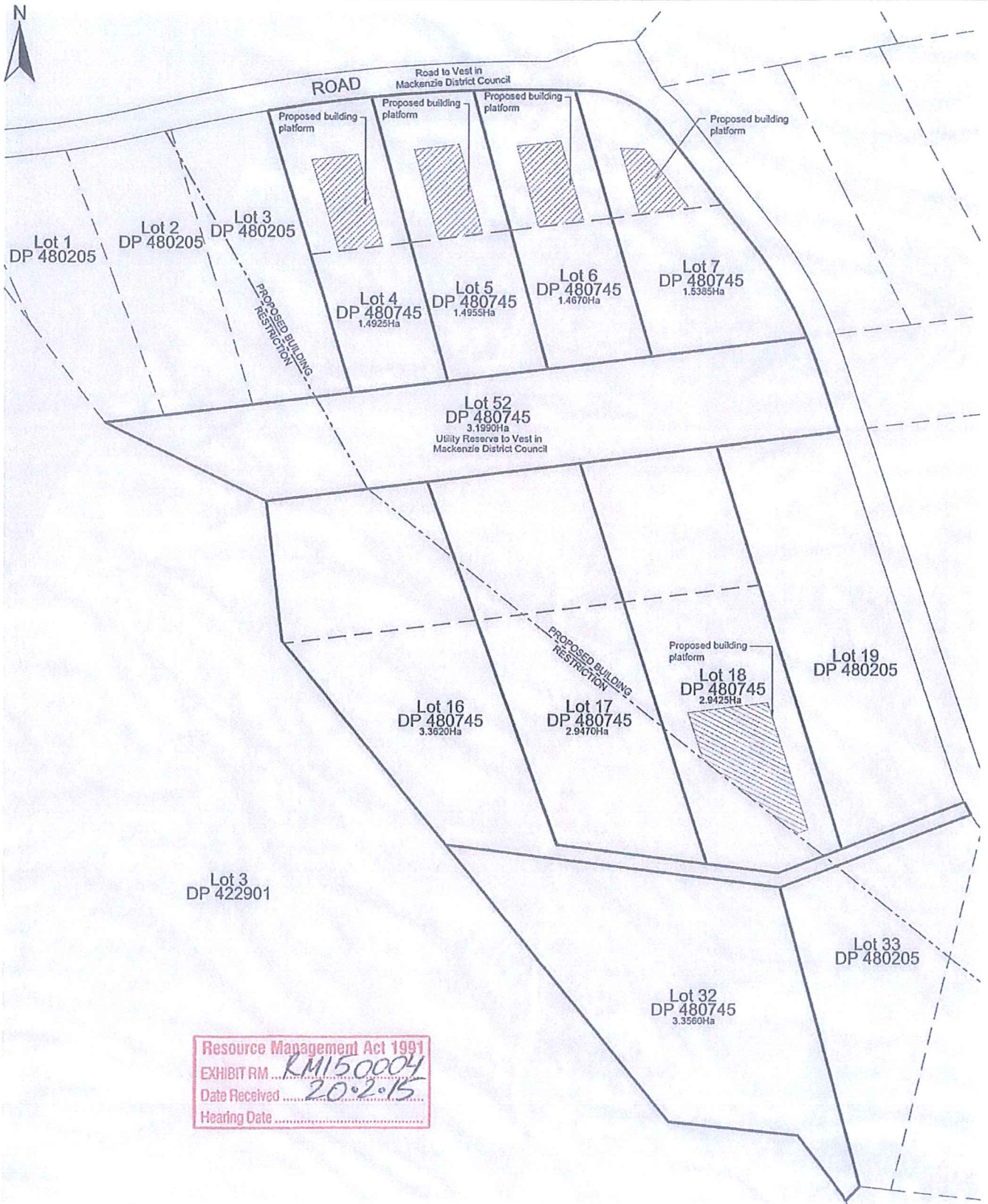
Accidental Discovery Protocol

16. An accidental discovery protocol shall be developed and implemented prior to any earthworks being undertaken on site. If any activity associated with this proposal, such as earthworks, fencing or landscaping, may modify, damage or destroy any archaeological site(s), an authority from the New Zealand Historic Places Trust shall be obtained for the work. An authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under the District or Regional Plan. Evidence of archaeological site may include tailings, mining sites, oven stones, charcoal, shells, ditches, banks, pits, building foundations, and artefacts of Maori or European origin or burials

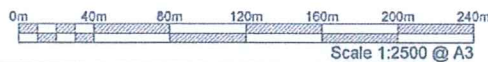
Reasons for decision pursuant to section 113 of the Resource Management Act 1991

1. The applicant seeks land use consent to locate buildings on 5 of the lots created for residential purposes within Stage 2 of subdivision consent RM070082.
2. Under the District Plan 13, Rule 3.3.3 provides for buildings other than farm buildings and farm retirement buildings within the Mackenzie Basing Subzone as a discretionary activity. The proposal seeks to locate residential buildings on lots within the Mackenzie Basin Subzone and is therefore a **discretionary activity** in accordance with the above rule.
3. Subdivision consent RM070082 was granted in November 2009 to create 53 lots. 49 of these lots range in size from 1.21 to 3.18ha and it is intended to develop these in two stages for rural-residential housing. Several landscape reports were prepared as part of the previous subdivision of the site. These reports agreed that the site is part of an open and expansive landscape that displays a natural and undeveloped character. The site is within the Mackenzie Basin Subzone and overall it is considered that the site has important landscape values. In order to protect views across the site looking from the state highway to Lake Benmore, the applicant has allowed for an open view corridor identified by Landscape Architect Graham Densem. It is considered that while part of this view will be affected by the proposal, an open view through to the lake will still be provided. Buildings will be setback by approximately 1km from the highway and the applicant has provided design controls for future buildings including restrictions on exterior colours and material, building height and footprint and location within each lot.
4. Approval has already been granted for the underlying subdivision and section 223 certificate for Stage 1 issued in November 2014 and that this is considered to form part of the receiving environment. In addition, a land use consent RM100013 to locate residential buildings on 35 lots of Stage 1 of the subdivision was granted in March 2011. This land use consent also form part of the receiving environment. It is recognised that each lot could be sold and landowners could apply for individual land use consents to build. It is considered that the current application for consent for 5 lots will allow for consistent building controls on all lots including the 35 lots of Stage 1, which is preferable to considering individual applications.
5. The applicant has identified building platforms within the subject lots. It is considered that these platforms will provide adequate separation distances between future dwellings. In addition, it is noted that a design control identical to Stage 1 land use consent RM100013 has been volunteered by the applicant that restricts the total footprint of all future buildings within the platform on any lot to be a maximum of 500m² and a maximum building height of 5.5m with an exception of 10% of the gross floor area of a dwelling, which may be a maximum of 7m
6. The proposal is to allow for buildings within 5 lots of previously granted subdivision RM070082 (Stage 2). The application does not discuss any alternative locations, however it is recognised that the proposal is linked to the already approved lots.

7. In addition, a number of conditions were imposed on subdivision consent RM070082 for this site. These included the provision of a detailed landscape plan with the objective of the design to mitigate visual effects of development on the site and to enhance natural character. This plan is to be provided to the Manager of Planning for approval prior to any development being undertaken on the site. This condition also detailed objective in relation to this plan including wilding pine removal, a setback of any structures of 40m from the edge of the escarpment and that within this setback area, exotic trees and shrubs, driveways and fences (excluding post and wire fences) are prohibited and that the visual effects of building development shall be softened and screened from public roads and places with appropriate plantings in a manner that satisfies the landscape guidelines of the Operative and Proposed District Plan. It is considered that this condition has been constructed taking into account the overall development and the advice from the two landscape reports and is applicable to the current application. It is therefore considered that this condition addresses landscaping of the site in relation to mitigating as far as possible the effects of the proposal on landscape values.
8. Taking into account the relatively small scale of the current application (5 building platforms) it is considered that the addition of the 5 building platforms to the already approved 35 building platforms of Stage 1 of RM070082 the effects of the proposal will be minor.
9. It is considered that conditions of land use consent RM100013 adequately deal with potential effects of the 35 building platforms and it is recommended for the same conditions to be imposed on the current consent application.
10. It is recognised that the site has significant landscape values, including views from the highway to Lake Benmore. However, it is recognised that the underlying subdivision and a land use consent for 35 building platforms for Stage 1 of that subdivision have been granted and these form part of the receiving environment. It is also recognised that a viewing corridor has been incorporated to allow an open view from the highway to the lake and a range of design controls have been volunteered to reduce the impact of future buildings.
11. Having considered the proposal under the District Plan and the relevant sections of the Act, I consider that the proposal will not be inconsistent with the objectives, policies and standards of the District Plan, and will achieve Part II of the Act. Taking into account the conditions imposed, the effects of the proposal are considered to be minor.



Resource Management Act 1991
EXHIBIT RM. *KM150004*
Date Received *20.2.15*
Hearing Date



CAD ref: 26482 Scheme Plan 301A.dwg

C	11/14	Amended platform & building line	RB
B	11/14	Amended platform location & aerial	RB
A	11/14	Issue for approval	RB
Issue	date	reason	approved

do
DAVIS OGILVIE
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OFFICES ALSO IN:
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LOTS 4 - 7, 16 - 18, 32 & 52 LT 480745

design CH	drawn JT	QA check CH	dwg issue
scale 1:2500 @ A3	date 11/14	file 26482	301 C

**MACKENZIE LIFESTYLE LIMITED
SUBDIVISION AND LAND USE PROPOSAL
STATE HIGHWAY 8 – TWIZEL
LANDSCAPE AND VISUAL EFFECTS ASSESSMENT REPORT**

Paul Smith (Landscape Planner)

vivian+espie

23rd May 2016

INTRODUCTION

- 1 This report identifies and quantifies the landscape and visual effects likely to arise from a proposal to surrender Resource Consents RM070082, RM100013 and RM150004 and to undertake a seven lot subdivision within Section 1, SO 384036, State Highway 8, Twizel (the site).
- 2 The methodology for this assessment has been guided by the landscape related Objectives, Policies and Assessment Matters of the Mackenzie District Council, by the Guidelines for Landscape and Visual Impact Assessment produced by the UK's Landscape Institute and Institute of Environmental Management and Assessment¹, and by the New Zealand Institute of Landscape Architects "Landscape Assessment and Sustainable Management" Practice Note².

THE EXISTING RESOURCE CONSENTS

- 3 Appendix 1 is a copy of the approved subdivision and building platform layout plans that were approved by Resource Consents RM070082, RM100013 and RM150004. In brief, the consented situation provides for the following:
 - Resource Consent RM070082 resulted in the granting of a 53 lot subdivision. Lot sizes range between 10,400m² – 27,100m² in area and the balance lot is 202,700m² in area.
 - At the time of the subdivision, building platforms were not approved. Resource Consent RM100013 resulted in the granting of 35 building platforms within 35 lots. Resource Consent RM150004 resulted in the granting of 5 building platforms within 5 lots.
 - The subdivision is accessed off the eastern side of SH8 via an existing farm access way (to be upgraded) located approximately 830m south of the Ostler Road and SH8 intersection.

¹ Landscape Institute and Institute of Environmental Management and Assessment; 2013; Guidelines for Landscape and Visual Impact Assessment – 3rd Edition'; Routledge, Oxford.

² New Zealand Institute of Landscape Architects Education Foundation; 2010; Best Practice Note 10.1 Landscape Assessment and Sustainable Management'.

- 4 It is proposed that the resource consents relating to the approved development within the site will be surrendered on the basis that the proposed development will be granted.

DESCRIPTION OF THE PROPOSAL

- 5 The details and layout of the proposed activities are set out in the resource consent application and its various appendices including a proposed layout plan. That I attach to this report as Appendix 2. The following are summary points that are relevant to an assessment of landscape issues:

- It is proposed to subdivide the site into 7 allotments.
- Lots 1 - 6 vary in size between approximately 2.20ha – 7.00ha in area. Lot 7 is approximately 222ha in area.
- Land use consent is sought to erect a dwelling and shed within each lot. Specific building designs are not provided but parameters are set by way of building platforms and additional design restrictions.
- Lots 1 - 6 are each to contain a building platform 40 x 30m (1200m²) in area. The maximum building footprint of future built form within each platform is 600m² in area. Lot 7 is to contain a building platform 50 x 30m (1500m²) in area. The maximum building footprint of future built form within this platform is 750m² in area.
- Building platforms within Lots 1 – 7 have a building height restriction of 5.5m above existing ground level. Building restrictions associated with the proposed building platforms within Lots 1 - 7 include:
 - Future buildings shall be of simple forms such as traditional gable cottage forms with no arches, turrets or dormers.
 - No temporary or relocated buildings are permissible.
 - Roof forms of future buildings shall be peaked or mono-pitched at angles between 0 and 25 degrees. Curved roofs are prohibited.

- Cladding of a future dwelling within any building platform shall be timber (painted or unpainted), cement composite weatherboards (Linea or similar), stacked stone, brick, corrugated iron or steel, solid plaster or a similar material approved by Mackenzie District Council.
 - Exterior roof cladding materials shall be finished in the natural range of browns, greens and greys with a light reflectance value (LRV) of 20% or less.
 - Exterior wall cladding materials shall be finished in the natural range of browns, greens and greys with a LRV of 36% or less.
 - Joinery, gutters and downpipes shall match or be darker than the selected roof or wall colours.
 - Cladding of future sheds within the building platforms shall be of the same materials as the dwelling or clad in Colorsteel finished in the colours Karaka or Ironsand which both have a LRV of 7%.
- No vehicles shall be stored on site unless they are housed in a garage or a shed. A vehicle, in this instance, is any object that has, had, or will have road wheels.
 - The proposed layout plan (Appendix 2) outlines vegetation that is to be retained and/or planted within the vicinity of each of the proposed building platforms.
 - View lines to Mt Cook from each of the proposed building platforms shall be protected as follows: any vegetation exceeding 3m in height within any lot (excluding vegetation that is proposed to be retained or implemented as outlined on the proposed layout plan) that reduces views towards Mt Cook from any building platform shall be trimmed/topped to be below 3m in height or removed entirely.
 - Exterior lighting attached to a building shall not exceed 3m above ground level and be down lighting only. Exterior lighting that is not attached to a building shall not exceed 1m above ground level and be down lighting only. There shall be no light spill beyond the property boundary. No external lighting shall be used to highlight or accentuate built forms, structural elements or any landscape features.

- Fencing is restricted to standard post-and-wire farm fencing only.
 - The part of Lot 7 that lies within 600 metres from SH8 is proposed to be left in its current state as part of this application. However it is recognised that this area could accommodate a golf course, or other recreation/tourism activities in the future. It is important to note that this application does not assess such future activities and does not preclude such activities from being applied in the future. The part of the Lot 7 that is more than 600 metres from SH8 is to be managed by agricultural activities that include sheep and beef grazing, cropping, cultivation, potential topdressing, over-sowing and direct drilling and additional fencing.
- 6 In summary, the proposed building restrictions are very similar to the consented building restrictions that were approved by Resource Consents RM100013 and RM150004 allowing for a similar size and style of future built form within each proposed building platform. Additional farming is sought over the bulk of proposed Lot 7.
- 7 The future activities associated with this proposal will most likely develop through the following stages:
- i. Earthworks to upgrade an existing access-way and the creation of all access-ways to each lot and building platform.
 - ii. The implementation of the proposed vegetation as outlined on the proposed layout plan.
 - iii. Construction of future dwellings and sheds within each of the 7 building platforms.
 - iv. The ongoing operation of each lot and building platform and their associated outdoor areas on a day to day basis and the seasonal farming of Lot 7.
- 8 In relation to the mitigation of potential effects, mitigation measure involve the following:
- i. Locating the proposed building platforms behind existing vegetation as much as is practical, as to provide visual screening of the proposed building platforms when experienced from the State Highway.
 - ii. Proposed vegetation will be adjacent to and add to these areas of existing vegetation, also providing visual screening of the proposed building platforms when experienced from SH8.

- iii. Exterior cladding of a future built form within each building platform will be of dark recessive colours.

LANDSCAPE CHARACTER

Existing Landscape Character

- 9 The site is approximately 246ha in area and is located on an old outwash plain, now used for agricultural activities, located between the Twizel River, the Ohau River and SH8.
- 10 The site is bordered to the west by SH8 and further west is Twizel township. Twizel is a small town accessed off the main state highway. Twizel has relatively flat topography, similar to the surrounding area.
- 11 The north-east boundary of the site is adjacent to the Twizel River. Twizel River is formed by a number of small rivers that start on the southern end of the Ben Ohau range. Twizel River runs south from the Ben Ohau Range, adjacent to the sites north-east boundary, and ultimately feeding Lake Benmore.
- 12 The site's south-west boundary is not defined by any topographical features or land marks. The southern boundary follows a small escarpment face. South of the site is another farming property (similar to the site) that is also contained to the outwash plain located between Twizel River, Ohau River and SH8. This southern neighbouring property includes considerable irrigation.
- 13 Twizel townships oxidation ponds are located within the northern half of the site (on Council owned land). Two large stands of conifer trees are located immediately west of the oxidation ponds. A mature conifer hedgerow runs in an approximate east to west direction through the site between SH8 and the largest stand of trees adjacent to the oxidation ponds. North and south of this hedgerow are a large number of groups of mature conifer trees. All of this mature conifer vegetation is located within 600m of SH8. Vegetation patterns within the remainder of the site are primarily of dryland pastoral paddocks.
- 14 Two lines of power pylons, that form part of the national power supply grid, run in an approximate east to west direction through the southern half of the site. These power lines start

from the power station immediately south-west of the site and extend north and east to Christchurch and Timaru respectively.

- 15 The site is largely free of any built form. Existing built form within the site primarily consists of post-and-wire farm fences, farm gates and gravel access tracks.
- 16 As discussed above and outlined on Appendix 1 of this report, Resource Consents RM070082, RM100013 and RM150004 provide for a 53 lot subdivision, 40 building platforms and their associated activities within the southern half of the site. A number of conditions of consent place restrictions on the height and appearance of future dwellings within this subdivision.
- 17 The site is located within the Mackenzie Basin; it is on the Mackenzie District Planning Map 38 and is located within the Rural Zone. The character of the Mackenzie Basin landscape, the values associated with it, and the significance of this landscape in relation to the Act are issues that have been examined by the Environment Court in relation to Proposed Plan Change 13 (PPC13). The Court's interim decision in relation to these proceedings (2011 NZEnvC 387) finds the entire Mackenzie Basin including the site to be part of an outstanding natural landscape (ONL), and this finding is now final.
- 18 The situation with regard to the relevant planning documents that relate to the proposal is somewhat unusual. The Mackenzie District Plan (MDP) is operative, however PPC13 was approved by the Mackenzie District Council in September 2009. This decision was appealed to the Environment Court, which issued its interim decision in December 2011, however zone provisions are yet to be finalised. I understand that the Council is proposing final zone provisions via a section 293 application, however that application is still at the consultation stage.
- 19 Therefore, it is uncertain how the proposal sits in relation to the MDP. Weight cannot be given to the pre-PPC13 MDP provisions since it seems inevitable that these will change. Full weight cannot be given to the provisions proposed by PPC13 since these are yet to be finalized. I have therefore taken little guidance from the MDP in terms of my assessment of effects of the proposed activity. I have simply assessed its effects in relation to the existing environment and report my findings below.

Effects of the Activities on Landscape Character

- 20 When describing effects, I will use the following hierarchy of adjectives:
- Nil or negligible;
 - Slight;
 - Moderate;
 - Substantial;
 - Severe.
- 21 Landscape effects are the effects that an activity may have on the landscape as a resource in its own right. I give my findings and opinions in the subsequent paragraphs.
- 22 The proposed development will surrender the consented rural living subdivision within the southern half of the site, create six rural living type lots with associated building platforms and locate a building platform within the seventh larger lot.
- 23 The proposed subdivision is located within the northern corner of the site, within close proximity of a property (owned by the applicant) similar in size and scale to the six proposed lots. Additionally, similar rural living lots continue to the north, on both sides of SH8. The proposed subdivision has been located and designed around the existing stands of conifer vegetation within the site. The existing vegetation within this part of site, when compared with the southern two thirds of the site, reduces the open character and provides a better opportunity to absorb development of this type into a rural setting. It will also retain the open pastoral paddocks that form the dominant landscape character of the site.
- 24 The proposed development when compared to the consented development, will allow built form and domesticating elements being located within close proximity of SH8. Under the consented situation, the north-west part of the site would retain its treed and semi open character and act as a buffer between users of SH8 and Twizel township and the rural living subdivision within the southern half of the site. As discussed above, I consider that the southern two thirds of the site form the most dominant landscape character of the site; very open and uniform. Under the proposed situation this part of the site will remain open but will be able to be cultivated, cropped and/or grazed. I understand that this could occur under the operative district plan in any event.

- 25 The proposed development will result in a small amount of rural living properties, very similar to, but at a significantly smaller scale to what is currently consented within the site. The majority of the area that is to contain the proposed development is separated from the majority of the site by existing mature areas of conifer vegetation and the oxidation ponds. I consider that these features will adequately contain the potential spread of development and locate it in a logical vicinity that is adjacent to similar development.
- 26 The proposed building platforms are relatively large but an additional restriction relates to the maximum foot print of all buildings within each platform. Furthermore, the outdoor storage of vehicles is prohibited. The overall result of these restrictions is that each building platform is likely to contain a dwelling and a shed in a configuration that is relatively clustered together. The sheds will be relatively uniform in appearance and therefore will bring some homogeneity in terms of character and visual effect and will reduce potential outdoor clutter. Therefore I consider that the proposed restrictions are positive mitigation measures in relation to potential character effects.
- 27 Under the consented situation, the southern part of the site would accommodate a large rural living development. Under the proposed situation this southern part of the site may accommodate farming in the form of grazing, cropping, cultivation etc, as set out on Appendix 2. While irrigation is not provided for, a farming use of the proposed sort will change the surface of the land such that it potentially becomes greener or occupied by some crop. This part of the site would perhaps become more orderly. This would reduce the unoccupied, empty quality and increase human modification, albeit in a rural way. These farming activities would not be provided for over the part of the site within 600m of SH8.
- 28 I consider that this farming activity will alter the character of the relevant part of the site in that it will be more occupied and modified. However, this character change will be considerably less than the character change that would occur under the consented situation, in which the relevant part of the site would become a rural living area.
- 29 In summary, the proposed development will result in a significant reduction to the amount of rural living activity that can occur within the site. It will locate future rural living development within an area that is more capable of absorbing change and retain the majority of the open and rural character of the site, albeit in a way that brings about a more modified rural state.

- 30 Overall, the proposed development will change the landscape character of the site less than the consented situation. I consider that the proposed development will result in a positive change to landscape character in that an overall rural character will remain and more openness will be preserved.

THE VISUAL EFFECTS OF THE PROPOSAL

Existing views and visual amenity

- 31 The area from which the site and the proposed development is potentially visible (zone of theoretical visibility, ZTV) includes parts of nearby public roads, public and private areas with Twizel township, public land associated with Twizel River, and a small number of neighbouring private properties.
- 32 I have not accessed the neighbouring private properties to assess the effects of the proposed development.
- 33 Observers within the ZTV that are potentially affected by the proposal (visual receptors) include:
- Users of State Highway 8.
 - Users of public and private areas within Twizel Township.
 - Users of the Twizel River.
 - Users of neighbouring private properties.
- 34 The subject site currently provides visual open space on the eastern side of SH8 that counterbalances the urban area of Twizel. The site is most commonly visually experienced from SH8. It reads as relatively flat, open, empty plains, typical of the Mackenzie Basin and thereby providing visual amenity. The northern part of the site is less visually open due to mature evergreen trees and the dwelling on the property to the immediate north.
- 35 From the Twizel River corridor, the site is more difficult to see into due to topography. However a public trail provides access adjacent to the subject site's eastern boundary by way of an

easement over the subject site. From this trail, broad views are available across the site. Again, the site reads as open and empty and provides a relatively wild form of visual amenity.

- 36 The consented development would change the visual amenity that is available from both the highway and the riverside trail. From the highway, the road into the consented development would be readily apparent, although dwellings themselves would be distant and visually softened by vegetation. A highway user would be visually aware that the land to the east is not empty farm country. From the riverside trail, the consented development would be visually prominent. A trail user would feel they are travelling immediately adjacent to a rural living neighbourhood.

Effects of the activities on views and visual amenity

- 37 Visual effects are the effects that an activity may have on specific views and on the general visual amenity experienced by people. Paragraph 32 sets out the observers that experience views that are potentially affected by the proposal. I discuss the potential visual effects brought about by the proposal from these locations below:

Users of State Highway 8

- 38 SH8 forms an important part of the main highway system within the South Island connecting Christchurch, Geraldine, Tekapo, Twizel, Omarama, Crowell, Wanaka and Queenstown. SH8 is adjacent to the site's western boundary and is located immediately east of Twizel township. The length of SH8 adjacent to the site is highly used by people who live within the area and people travelling between the above listed towns and cities.
- 39 Users of an approximately 3.2km long stretch of SH8 between Glen Lyon Road and Max Smith Drive gain views of the site and/or visibility of the mature conifer trees within the site. Visibility of the proposed development is potentially gained from the same 3.2km stretch of road.
- 40 Users of this stretch of road, that are south of Old Iron Bridge Road, primarily gain visibility of the mature conifer trees that are proposed to be retained for visual screening purposes. It is difficult for a user of this southern part of the relevant stretch of SH8 to gain a visual understanding of the proposed development. No built form would be visible.
- 41 Users travelling south gain views into the site and visibility of parts of building platforms 1 – 6 and their associated activities when ascending the slight rise in the road south from Twizel River

- near the intersection with Glen Lyons Road. A highway user continues to have views of the platforms for approximately 600m until they reach the shelterbelt within the site, as can be seen on Appendix 3, Viewpoint Locations 1, 2 and 3.
- 42 Building platforms 1 and 5 are located immediately north of the shelterbelt within the site. A future dwelling, shed and their associated domestic activities will be experienced from the majority of this 600m northern stretch of SH8 that is adjacent to the site, as can be seen on Appendix 3, Viewpoint Locations 1, 2 and 3.
- 43 Building platforms 2 and 3 are located east of existing stands of conifer vegetation that are proposed to be retained and areas of proposed vegetation. The existing and proposed vegetation will provide visual screening of the majority of building platforms 2 and 3 from SH8. However, future built form within Lots 2 and 3 will be visible from an approximate 300m stretch of SH8 south of Glen Lyon Road, as can be seen on Appendix 3, Viewpoint Locations 1, 2 and 3.
- 44 Building platform 4 is located east of an existing stand of conifer vegetation that is proposed to be retained and south of building platform 2. Existing and proposed vegetation and future built form within Lot 2, and existing vegetation within Lot 4 will visually screen a future dwelling, shed and their associated domestic activities from the majority of SH8. Future built form within Lot 4 will be potentially visible from an approximate 100m stretch of SH8 immediately south of Glen Lyons Road and an approximate 200m stretch of SH8 immediately north of the shelterbelt, as can be seen on Appendix 3, Viewpoint Locations 1, 2 and 3.
- 45 Building platform 6 is located immediately south of the shelterbelt. It is proposed to remove a small part of the shelterbelt so a future user of building platform 6 can gain views to the north, including views to Mt Cook. The gap in the shelterbelt will provide visual access to parts of a future dwelling, shed and associated domestic activities from part of SH8 to the north of the shelterbelt, as can be seen on Appendix 3, Viewpoint Locations 1, 2 and 3.
- 46 Subsequently, a user of this 600m stretch of SH8 that lies north of the site's shelterbelt will gain visual access to parts of future built form and domestication within Lots 1 – 6. This built form will appear as a small rural living cluster of development spread over approximately 44ha of land. Pastoral paddocks, tall trees, and domestic built form will form part of the foreground view gained from this stretch of highway, similar to the property immediately north of the site. Visibility of the proposed development is most easily gained from this 600m stretch of SH8. If we consider

this stretch of SH8 that is north of the shelterbelt in isolation, then I consider the proposed development will have a moderate adverse visual effect when experienced by users of SH8.

- 47 As a user continues south along SH8, past the shelterbelt, they gain visual access to parts of building platform 7, as can be seen on Appendix 3, Viewpoint Location 5. The eastern end of a future dwelling and/or a shed, finished in dark recessive colours, as it is furthest from the surrounding vegetation will be the most visible part of future built form. Amenity planting north of a future dwelling may reduce the visual prominence of built form. However, in either situation, visual domestication associated with building platform 7 will be experienced from a short stretch of SH8.
- 48 Also, once south of the shelterbelt, a user travelling along SH8 will gain views over the open paddock land that forms the majority of the site and surrounding area. Under the consented situation, as discussed above, the southern half of the site will accommodate a large rural living subdivision. While the buildings of this subdivision will be distant and relatively screened, an observer will be visually aware of the development. Under the proposed situation, the southern part of the site that is more than 600m from SH8 may be farmed and improved. While some of this farming modification may be distantly evident, I consider that the proposed situation will maintain visual amenity much more than the consented situation for highway users that are south of the shelterbelt.
- 49 As a user travels north along SH8, as they pass the power station, they gain long open views over the site and neighbouring properties to the east and north-east. Views directly north are more enclosed by the stands of mature conifers that are dotted throughout the site and the conifer shelterbelt running east to west between SH8 and the oxidation ponds. As mentioned, the proposed development has utilised the existing stands of conifer vegetation to provide visual screening of the proposed building platforms and retains views over open paddocks within the site.
- 50 The proposed access way to building platform 7 will be the first visible sign of the proposed development, as can be seen on Appendix 3, Viewpoint Location 6. This is the vehicle entry point that would be upgraded to a substantial road to provide access to the consented development. Under the proposed situation, the access way would be upgraded only to a gravel formation. The proposed access way runs relatively parallel to SH8 behind a number of existing

stands of conifer trees and through a gap in a row of conifers to building platform 7. The access way will have a gravel finish and will have a very similar appearance to other access ways within the site. The access way will not be highly visible; however, I consider a vehicle travelling along it will be visually prominent.

- 51 Building platform 7 is located north and east of a number of stands and a row of existing conifer vegetation, as can be seen on Appendix 3, Viewpoint Location 5 and 6. This vegetation, for the most part, will provide visual screening of a future dwelling, shed and associated domestic activities within building platform 7 when experienced by users travelling north along SH8.
- 52 Building platform 6 is located immediately south of the shelterbelt within the site and is north and east of existing stands of conifer vegetation that are proposed to be retained. Parts of a future dwelling, shed and associated domestic activities will be intermittently visible behind existing vegetation from an approximate 200m stretch of SH8 within the vicinity of the Ostler Road intersection, as can be seen on Appendix 3, Viewpoint Location 4 and 5.
- 53 When travelling north along SH8 building platforms 1 - 5 will be experienced differently to a user travelling south. The existing and proposed vegetation, when experienced by a user travelling north, provides immediate visual screening of the majority of future built form and domestic elements within Lots 1 - 5. For the most part, a user of SH8 travelling north, once past this existing and proposed vegetation, will have to turn around more than 90 degrees to their right to gain visual access of parts of future built form. When doing so they will gain similar visual access as a user travelling south, as discussed above.
- 54 In summary, visibility of the proposed development will generally be experienced from a relatively close proximity. For the most part, visibility will be restricted to highway users that are north of the site's shelterbelt. The proposal will provide visual access over the open paddocks that make up the majority of the site. I consider that the visual effects resulting from the proposed development, when compared with the consented development, will be more prominent, but will be contained to a significantly smaller area of the site. In terms of visibility from SH8, there will be a significantly less amount of built form and associated activities and there will be an increase in visibility of the open paddocks that form the majority of the site and part of the foreground to the wider vistas east of SH8.

55 Overall, when compared to the consented situation, I consider that the proposed development will increase visual effects on SH8 users that are north of the site's shelterbelt but decrease visual effects for users that are south of the shelterbelt. I consider that the proposed development will result in less overall visual modification and will be visually more in keeping with existing patterns in the landscape.

Users of public and private areas within Twizel Township

56 The proposed development, when compared with the consented development, is located within close proximity of users of public and private areas within Twizel township.

57 The consented development within the site is visible at distances exceeding approximately 700m. The consented development is visible from a relatively small catchment of the western edge of Twizel, within the vicinity of the Ostler Road and SH8 intersection. The northern part of the consented development and an increase in vehicles and human movement will be readily visible from this vicinity.

58 Visibility of the proposed development will be experienced from the western fringes of Twizel township including public and private places along Glen Lyon Road, Ruataniwha Road, Wairepo Road, and Ostler Road. For the most part, the proposed development will appear in the foreground in views to the east when experienced from these areas of Twizel.

59 Users of private properties, public parks or similar spaces have the opportunity to experience the proposed development from a stationary position. Due to this, I consider the proposed development will be more visually evident and will have a greater visual effect, on a user of a stationary position compared with a user experiencing the proposed development from a moving vehicle.

60 In summary, the proposed development will result in future development being located within a relatively close proximity of Twizel township. The proposed development even though significantly smaller in size and scale, when compared with the consented development, will be more readily visible. However, there are relatively few properties or dwellings in the relevant Glen Lyon, Ruataniwha, Wairepo, Ostler Road vicinity. Furthermore, the western edge of SH8 is substantially planted in conifers that screen visibility.

- 61 Overall, I consider that the proposed development will have a slight adverse visual effect on users of the western fringes of Twizel township. Rural living amenity will be evident but only primarily from roads and it will be visually softened and partially screened by vegetation and will be in keeping with its setting.

Users of the Twizel River

- 62 Twizel River runs in a north-west to south-east direction adjacent to the sites north-east boundary. The Twizel River is accessed via the water's surface and rough tracks adjacent to SH8, and via an existing public walking and cycling trail that goes through the northern part of the site and adjacent to the eastern boundary (it is proposed to re-align this public access alignment, as outlined on Appendix 2).
- 63 The water's surface and associated gravel beach areas are lower down than the ground level of the site. The consented development will allow future dwellings to be located within close proximity of Twizel River and are located along approximately half the length of the north-east boundary of the site. The consented development will result in a number of dwellings and domestic elements being visible from the Twizel River. As discussed, the consented rural living development would be very prominent to users of the riverside trail, which passes close to the consented development.
- 64 The proposed building platforms are all located at a minimum distance of approximately 80m from the Twizel River, building platform 3 being the closest. The rural living part of the proposed development that is within close proximity of the Twizel River is relatively short, approximately 250m. Parts of proposed building platforms 2 - 4 are potentially visible from the stretch of the Twizel River that is within close proximity. I consider visibility will be of the upper parts of dark recessive roof lines and domestic vegetation.
- 65 The proposed development, when compared with the consented development, will result in a significant reduction to the amount of built form that is potentially visible from the Twizel River and its associated public land and trail. Locating the proposed development within the vicinity of an existing dwelling and closer to Twizel will result in the majority of the southern two thirds of the site remaining in its open state. A user of the river surface, as they travel down the Twizel River, or walk along its margins, will experience some buildings on the outskirts of Twizel

township and once they pass this, south of the oxidation ponds, will experience an agricultural and natural rural environment, albeit one that involves farming activity.

- 66 Overall, I consider that the proposed development will result in a positive change in the visual effects that will be experienced by users of the Twizel River and the nearby trail.

Users of neighbouring private properties

- 67 Neighbouring properties, excluding those within Twizel Township, include the neighbour to the immediate north (owned by the applicant), a large farming property to the immediate south and the power station to the south.

- 68 The proposed development, when compared with the consented development, will result in a significant reduction in rural living activity. The resultant rural dwellings will be located at an increased distance from the properties south of the site. Proposed mitigation measures will result in the majority of the proposed development being visually screened from these properties. The majority of the site, when experienced from these properties will remain in a rural state.

- 69 Overall, I consider that the proposed development will result in a positive change in the visual effects that will be experienced by users of neighbouring private properties.

CONCLUSIONS

- 70 It is proposed to surrender Resource Consents RM070082, RM100013 and RM150004 which provide for a 53 lot subdivision, with 40 building platforms located in the southern half of the site and undertake a 7 lot subdivision with 7 building platforms located in the northern corner of the site.

- 71 The proposed development will significantly reduce the amount of rural living development within the site, when compared with the consented situation. The proposed rural living development is located within a heavily treed area which provides a better opportunity to absorb development of this type into a rural setting. The majority of the site will retain its open character although increased agricultural activity will be provided for. Overall, I consider that the proposed development will result in a positive change to the landscape character of the site; landscape character will be less modified and more rural than under the consented situation.

72 In relation to visual effects:

- The proposed development will be experienced from a 3.2km stretch of SH8. Building platforms 1 – 6 will form a cluster of rural living development, parts of each building platform will be visually experienced from an approximate 600m stretch of SH8 to the north of the site's shelterbelt. When experienced from the 1.7kms of SH8 that lie to the south of the shelterbelt, sweeping views over the open paddocks that form the majority of the site will be dominant, although there will be some glimpses to parts of building platforms 6 and 7. While under the proposed situation there will be development that is more visually prominent from the section of highway north of the site's shelterbelt, overall there will be considerably less development and more retention of visual openness.
- The proposed development will be experienced from the western fringes of Twizel township, particularly from roads. The proposed development will appear in the foreground of views gained over the site. The proposed development will also be more visually evident as it can be experienced from a stationary position. But significant screening and visual softening by vegetation is included.
- The proposed development, when compared with the consented development, will result in a significant reduction in built form that is potentially visible from Twizel River and its margins and associated trails, and neighbouring properties.
- When compared with the consented development, I consider that the proposed development will result in a positive change in the visual effects that will be experienced by users of the surrounding public and private places.

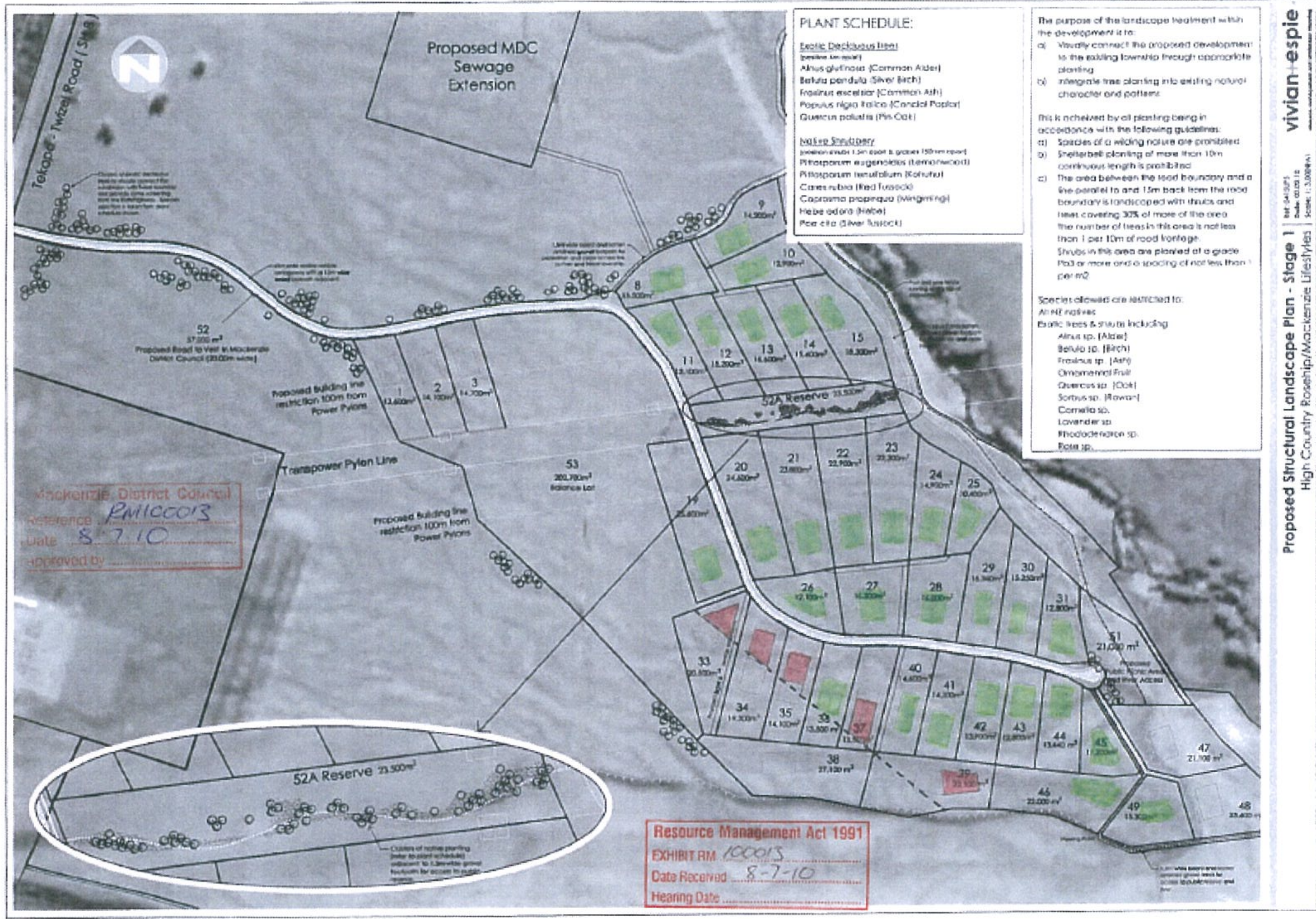
73 Overall, I consider the proposed development will result in a significant reduction and relocation of the rural living development. Subsequently the proposed development will result in a positive effect to landscape character and visual amenity as experienced by users of the surrounding public and private places.

Paul Smith

vivian+espie

23rd May 2016

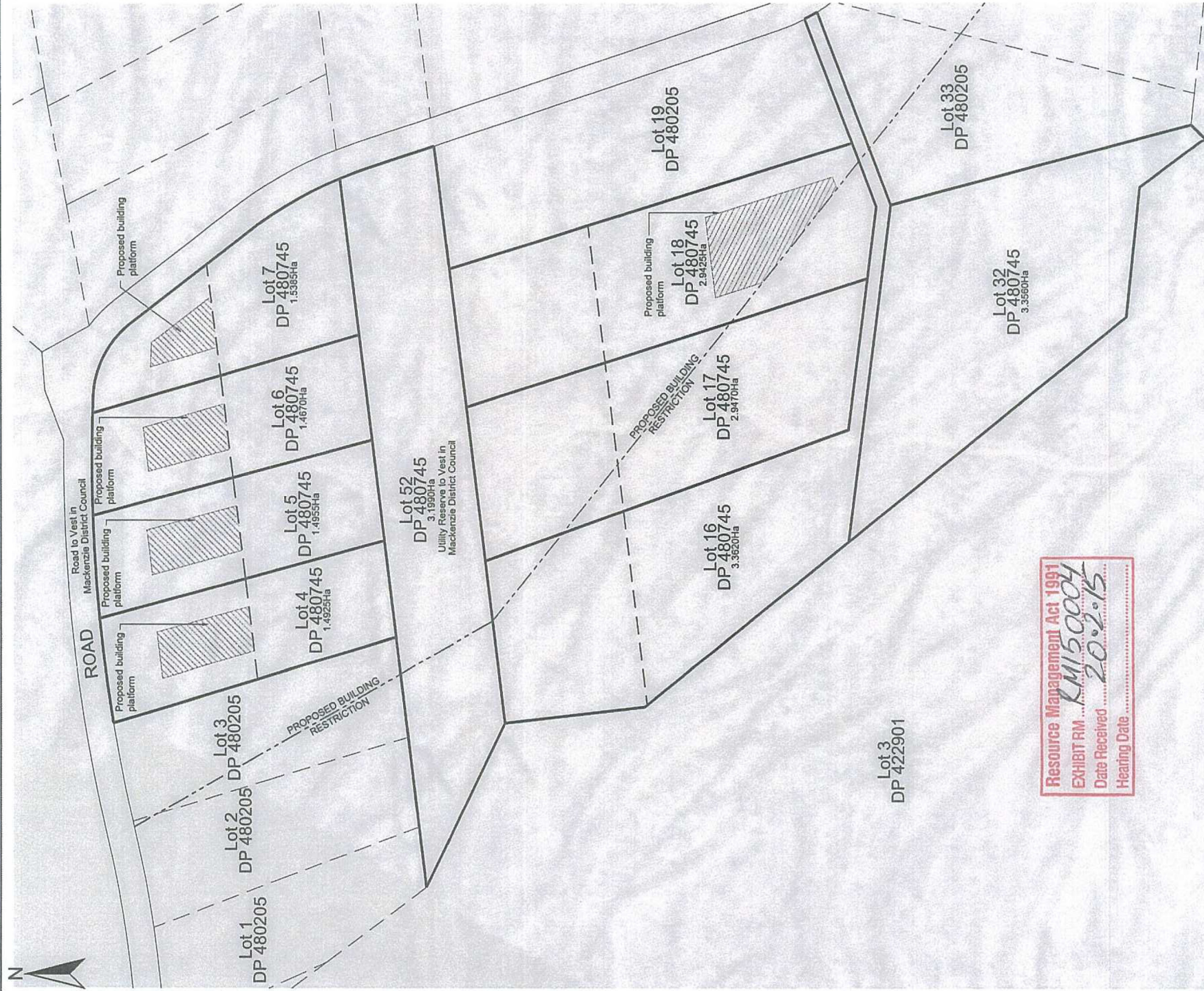
Internally reviewed and approved by Ben Espie 23rd May 2016.



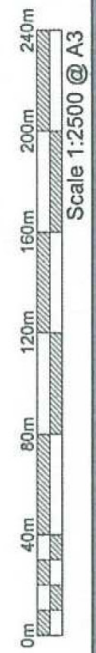
APPENDIX 1: CONSENTED DEVELOPMENT WITHIN THE SITE

This plan outlines the 53 lot subdivision approved by Resource Consent RM070082 and the location of 35 building platforms (green and red rectangles) that were approved by Resource Consent RM100013.


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Resource Management Act 1991
EXHIBIT RM RM150004
Date Received 20.2.15
Hearing Date



C	11/14	Amended platform & building line	RB
B	11/14	Amended platform location & aerial	RB
A	11/14	Issue for approval	RB
Issue	date	reason	approved



DAVIS OGILVIE

CAD ref: 26482 Scheme Plan 301A.dwg

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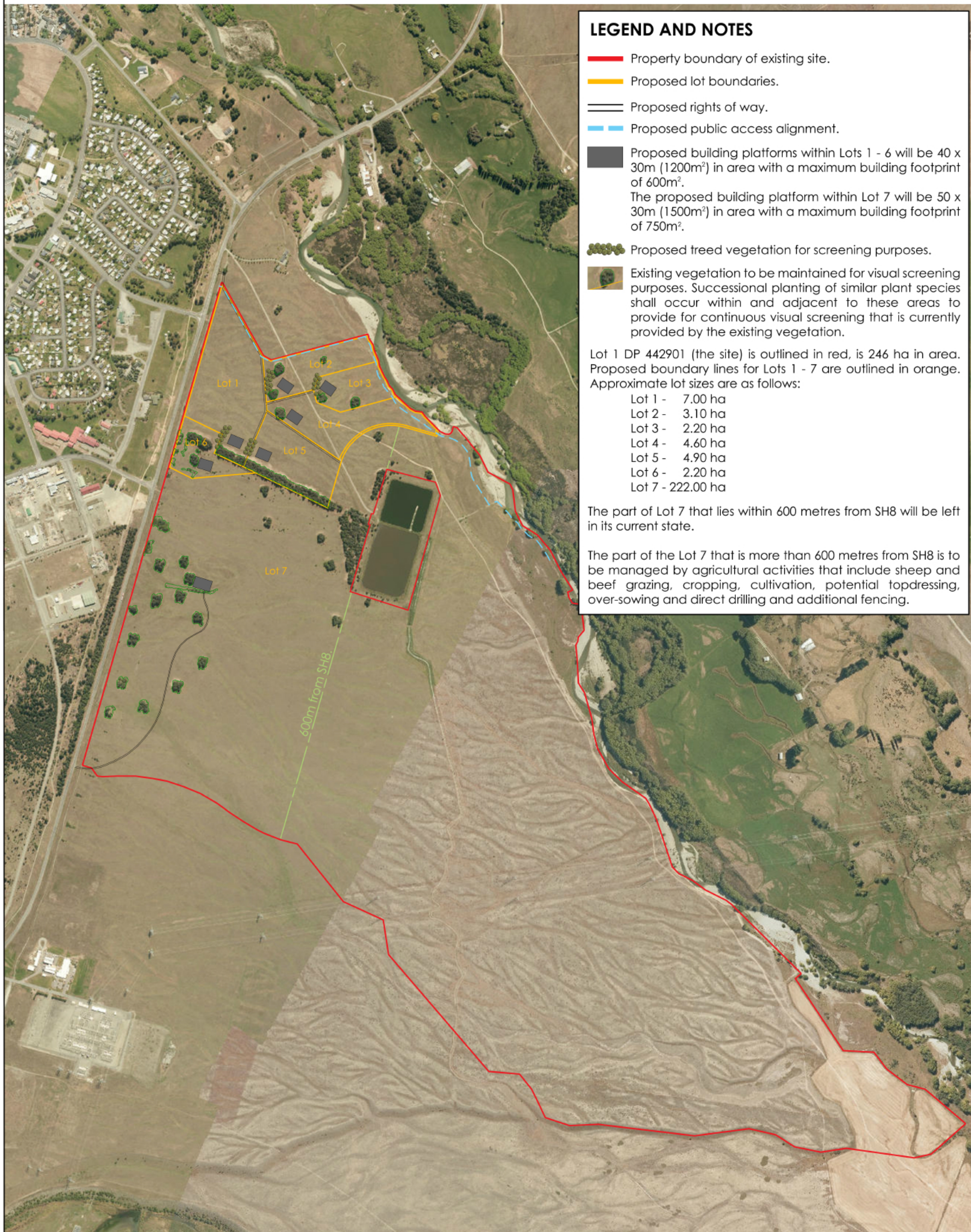
design CH
drawn JT
date 11/14

scale 1:2500
@ A3

QA check CH
file 26482

issue 301C

LOTS 4 - 7, 16 - 18, 32 & 52 LT 480745



LEGEND AND NOTES

- Property boundary of existing site.
- Proposed lot boundaries.
- Proposed rights of way.
- Proposed public access alignment.
- Proposed building platforms within Lots 1 - 6 will be 40 x 30m (1200m²) in area with a maximum building footprint of 600m².
The proposed building platform within Lot 7 will be 50 x 30m (1500m²) in area with a maximum building footprint of 750m².
- Proposed treed vegetation for screening purposes.
- Existing vegetation to be maintained for visual screening purposes. Successional planting of similar plant species shall occur within and adjacent to these areas to provide for continuous visual screening that is currently provided by the existing vegetation.

Lot 1 DP 442901 (the site) is outlined in red, is 246 ha in area. Proposed boundary lines for Lots 1 - 7 are outlined in orange. Approximate lot sizes are as follows:

Lot 1 -	7.00 ha
Lot 2 -	3.10 ha
Lot 3 -	2.20 ha
Lot 4 -	4.60 ha
Lot 5 -	4.90 ha
Lot 6 -	2.20 ha
Lot 7 -	222.00 ha

The part of Lot 7 that lies within 600 metres from SH8 will be left in its current state.

The part of the Lot 7 that is more than 600 metres from SH8 is to be managed by agricultural activities that include sheep and beef grazing, cropping, cultivation, potential topdressing, over-sowing and direct drilling and additional fencing.



REF: 1119 PLP1
DATE: 23.05.2016
SCALE: NOT TO SCALE

APPENDIX 2:

Proposed Layout Plan Mackenzie Lifestyle Ltd - State Highway 8, Twizel

vivian+espie
resource management and landscape planning

vivian+espie Limited Resource Management and Landscape Planning
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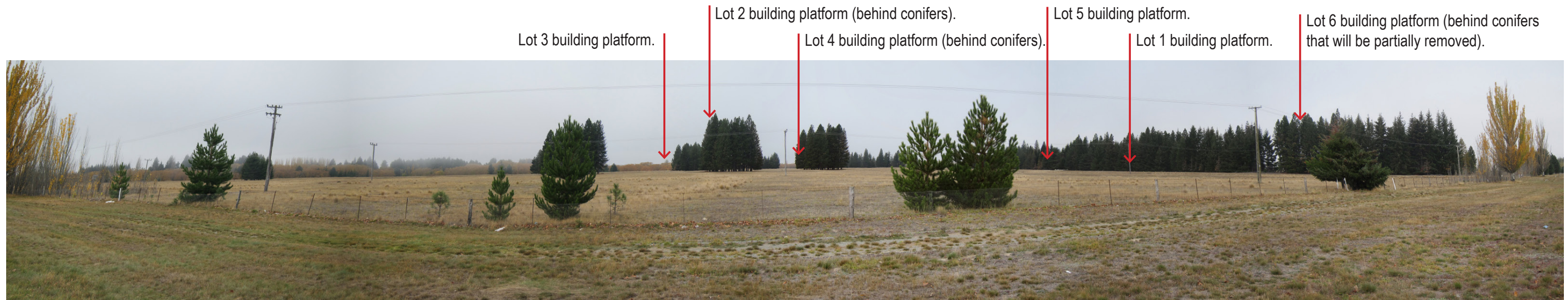
APPENDIX 3: VIEWPOINT LOCATION 1 - Located along State Highway 8, at the entrance to the Lyons property.



APPENDIX 3: VIEWPOINT LOCATION 2 - Located along State Highway 8, at the intersection with Ruataniwha Road.

APPENDIX 3: VIEWPOINT LOCATION PHOTOGRAPHS

All viewpoint locations are along State Highway 8 facing east (towards the site). All photographs were taken between 1:00pm and 2:30pm on Friday the 6th of May, 2016. All photographs have been taken with a digital camera with a 50mm fixed focal length. Panorama photographs have been stitch together/created using the the computer programme Microsoft ICE.Ink.



APPENDIX 3: VIEWPOINT LOCATION 3 - Located along State Highway 8, east of and within close proximity of the Mountain Chalets Motel.



APPENDIX 3: VIEWPOINT LOCATION 4 - Located along State Highway 8, south of and within close proximity of the main shelter belt that runs approximately east to west through the site.

Lot 6 building platform is located behind these conifers.

Lot 7 building platform is located in front of these juvenile conifers.



APPENDIX 3: VIEWPOINT LOCATION 5 - Located along State Highway 8, at the intersection with Ostler Road.



APPENDIX 3: VIEWPOINT LOCATION 6 - Located along State Highway 8, at the southern entrance into the site.

ECOLOGICAL ASSESSMENT OF A PROPOSED PASTORAL INTENSIFICATION PROJECT AT TWIZEL, INLAND CANTERBURY



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and improve our
environments

ECOLOGICAL ASSESSMENT OF A PROPOSED PASTORAL INTENSIFICATION PROJECT AT TWIZEL, INLAND CANTERBURY



A porcupine shrub on the outwash plain within the site.

Contract Report No. 4003

May 2016

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Reviewed and approved for release by:



W.B. Shaw
Director/Principal Ecologist
Wildland Consultants Ltd

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1. INTRODUCTION

Mackenzie Lifestyle Ltd has applied for a resource consent from the Mackenzie District Council to cultivate outwash plain habitat near Twizel. The overall site is 246 ha (Figure 1), of which *c.*150 ha is proposed for pastoral intensification. A proposed residential development will cover 22.6 ha and a *c.*70 ha block of outwash plain near the State Highway will not be developed. A resource consent is required because pastoral intensification may trigger indigenous vegetation clearance rules in the Mackenzie District Plan.

Mackenzie Lifestyle Ltd commissioned Wildland Consultants to undertake an ecological assessment of the areas of potentially cultivated outwash plain habitat, to assess the effects of cultivation of this habitat against indigenous vegetation clearance rules, and to advise on avoidance and mitigation of any adverse effects, if any. This report describes the ecological assessment of the site.

2. METHODS

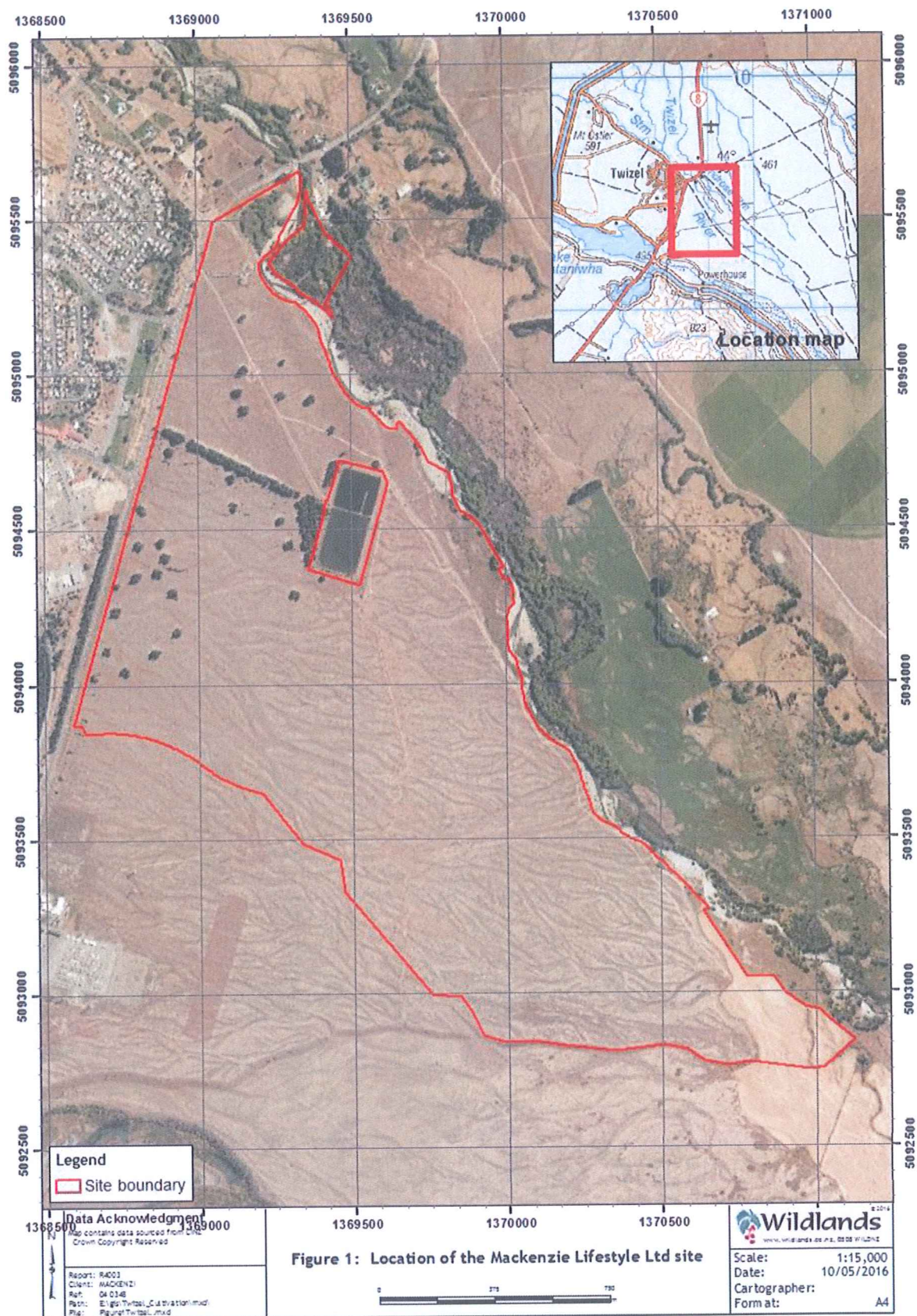
A visit to the proposed pastoral intensification site was undertaken on 6 May 2016. The site was traversed on foot, and notes were made on the vegetation patterns and other ecological features. Vascular plant species and fauna observed during the site visit were recorded. A list of the vascular plant species identified at the site is provided in Appendix 1.

To provide context to the site, relevant existing information and databases were accessed and used where relevant.

3. SITE CONTEXT

The site is an uncultivated, 20,000-40,000 year old, Late Otiran outwash plain (Barrell *et al.* 2011) on the eastern side of State Highway 8, immediately east of Twizel. The site is within the Pukaki Ecological District, which is part of the Mackenzie Ecological Region. Pukaki Ecological District has a semi-arid to sub-humid climate with cold winters and warm summers, and annual rainfall of 600-1,600 mm (McEwen 1987). Depleted grassland (46,853 ha) and low-producing grassland (25,026 ha) are the dominant land cover types within the Pukaki Ecological District, but high producing exotic grassland (14,874 ha) is the next most common cover type, and has increased significantly in the past two decades with the advent of pivot irrigation (Landcover Database v4).

Various small parcels of Stewardship land administered by the Department of Conservation within the Lake Ruataniwha Conservation Area are located along the Twizel River adjacent to the site, and the larger Ben Ohau Conservation Area covers a significant area of the outwash plain some two kilometres to the north of the site.



4. VEGETATION AND HABITATS

4.1 Outwash plain herbfield and grassland

The uncultivated outwash plain supports a typical mosaic of two kinds of vegetation:

- Grassland and herbfield is present on broad interfluves between shallow swales, and comprises patches of browntop (*Agrostis capillaris*) and sweet vernal (*Anthoxanthum odoratum*), within a matrix of mouse-ear hawkweed (*Pilosella officinarum*) and sheep's sorrel (*Rumex acetosella*) (Plate 1), with scattered *Carex breviculmis*, *Rytidosperma pumila*, and hare's foot trefoil (*Trifolium arvensis*), and considerable bare ground. Widely scattered shrubs of porcupine shrub (*Melicytus alpinus*) and sweet brier (*Rosa rubiginosa*), and wilding saplings of Corsican pine (*Pinus nigra* subsp. *nigra*) are also present.



Plate 1: Outwash plain interfluves dominated by patches of browntop (left), mouse-ear hawkweed, and sheep's sorrel, with considerable bare ground (right).

- Within the shallow swales there is less bare ground, and hard tussock (*Festuca novae-zelandiae*) is often prominent (Plate 2), or swards of browntop and mouse-ear hawkweed (Plate 2), and scattered *Carex breviculmis*, *Geranium brevicaule*, *Pimelea prostrata*, Australian sheep's bur (*Acaena agnipila*), and dandelion (*Taraxacum officinale*).

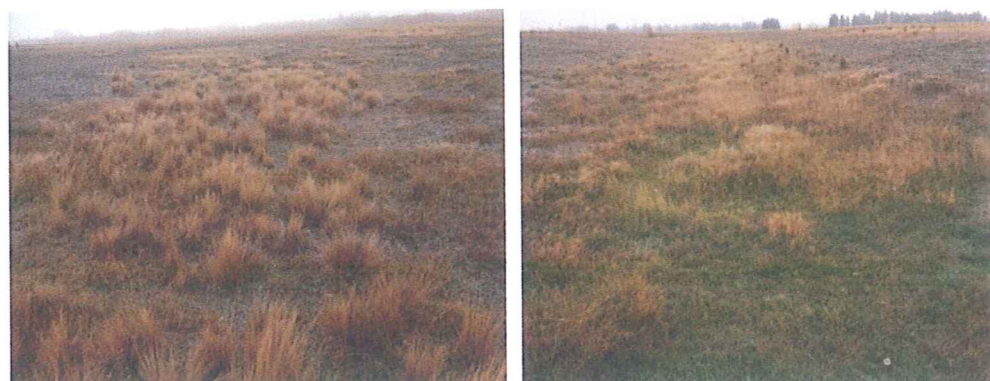


Plate 2: Swales on outwash plain dominated by hard tussock (left) or browntop (right).

4.2 Meltwater channel shrubland and herbfield

A flat-bottomed meltwater channel approximately 65 m across is located in the south-eastern part of the site. This site had the highest vascular plant diversity of any area within the site. The scarp on the southern side of the channel supports shrubs of sweet brier, matagouri (*Discaria toumatou*), and *Carmichaelia petriei* in a matrix of hard tussock. Mouse-ear hawkweed was common among these species, and there were scattered indigenous herbs and grasses including *Anthosachne solandri*, *Rytidosperma pumilum*, *Raoulia subsericea*, *R. australis*, *Pimelea prostrata*, blue tussock (*Poa colensoi*), pātōtara (*Leucopogon fraseri*), *Geranium brevicaule*, and *Acaena caesiiglauca*. On the floor of the meltwater channel, scattered porcupine shrub was present in a matrix of mouse-ear hawkweed, browntop, *Muehlenbeckia axillaris*, and bare ground. *Raoulia australis*, *R. hookeri*, *Geranium brevicaule* were scattered across the meltwater channel floor. The diminutive indigenous grass *Poa maniototo* was present in areas of bare muddy ground, and *Oxalis magellanica* was observed at the margin of a porcupine shrub.



Plate 3: The floor of the meltwater channel, showing low clumps of porcupine shrub in a herbfield matrix.

4.3 Terrace scarp shrubland

A stony scarp between the outwash plain and the alluvial terrace supports scattered shrubs of porcupine shrub, matagouri, Scotch broom (*Cytisus scoparius*), and sweet brier above frequent sheep's sorrel and mouse-ear hawkweed, and scattered woolly mullein (*Verbascum thapsus*), Viper's bugloss (*Echium vulgare*), creeping pōhuehue (*Muehlenbeckia axillaris*), *Raoulia australis*, *Carex breviculmis*, and *Anthosachne solandri* (Plate 4). There is a considerable amount of bare ground.



Plate 4: Terrace riser shrubland with prominent porcupine shrub and considerable amounts of bare ground.

4.4 Alluvial terrace grassland

An alluvial terrace adjacent to the Twizel River on the eastern margin of the site supports dense grassland with scattered trees and shrubs. The grassland is dominated by Chewings fescue (*Festuca rubra*) and hard tussock in flood channels, with creeping pōhuehue and *Acaena fissistipula* intertwined with these grasses, and by browntop in better-drained areas (Plate 5). Yarrow (*Achillea millefolium*) was also prominent. Crack willow (*Salix fragilis*) trees occur near the Twizel River, and scattered shrubs of matagouri, sweet brier, and Scotch broom were also present, together with scattered ponderosa pine (*Pinus ponderosa*) and Corsican pine.

4.5 Tree clumps

There are several clumps of planted trees on the outwash plain near State Highway 8, which are a mix of Corsican pine, larch (*Larix decidua*), and *Populus deltoides*. Curiously, the Corsican pine trees in these clumps do not appear to be spreading, whereas the mature Corsican pine trees on the Twizel side of the State Highway have at times been associated with significant spread onto the property (John Lyons, pers. comm.).



Plate 5: Alluvial terrace beside the Twizel River, with scattered shrubs of matagouri and sweet brier, and dense grassland of browntop on better drained sites.

5. FLORA

5.1 Indigenous species

Less than half (20) of the 51 vascular plant species recorded at the site were indigenous (Appendix 1). None of the indigenous plant species recorded from the site are classified as Threatened or At Risk (as per de Lange *et al.* 2013).

5.2 Pest plants

Exotic pest plant species at the site are the woody species Corsican pine, ponderosa pine, and Scotch broom. All were at relatively low abundance.

6. FAUNA

6.1 Avifauna

Australasian harrier (*Circus approximans*) and skylark (*Alauda arvensis*) were occasionally observed overflying the outwash plain habitats, while grey warbler (*Gerygone igata*), chaffinch (*Fringilla coelebs*), mallard (*Anas platyrhynchos*), and white-faced heron (*Ardea novaehollandiae*) were observed on and adjacent to the alluvial terrace beside the Twizel River, where willow forest and wetlands provide more habitat diversity.

The landholder reported seeing banded dotterel (*Charadrius bicinctus bicinctus*), which is listed as Threatened-Nationally Vulnerable (Robertson *et al.* 2013), on the younger outwash plain downstream from the site, but never on the older outwash plain within the project site.

6.2 Pest animals

Rabbits (*Oryctolagus cuniculus*) and their sign were seen frequently at the site, and hares (*Lepus europaeus*) were seen occasionally. Other pest animals, including possums (*Trichosurus vulpecula*), mustelids (*Mustela* spp.), hedgehogs (*Erinaceus europaeus*), rats (potentially Norway rat - *Rattus norvegicus* and ship rat - *R. rattus*), and mice (*Mus musculus*), are likely to utilise the site at times.

7. NATIONAL PRIORITIES FOR BIODIVERSITY PROTECTION

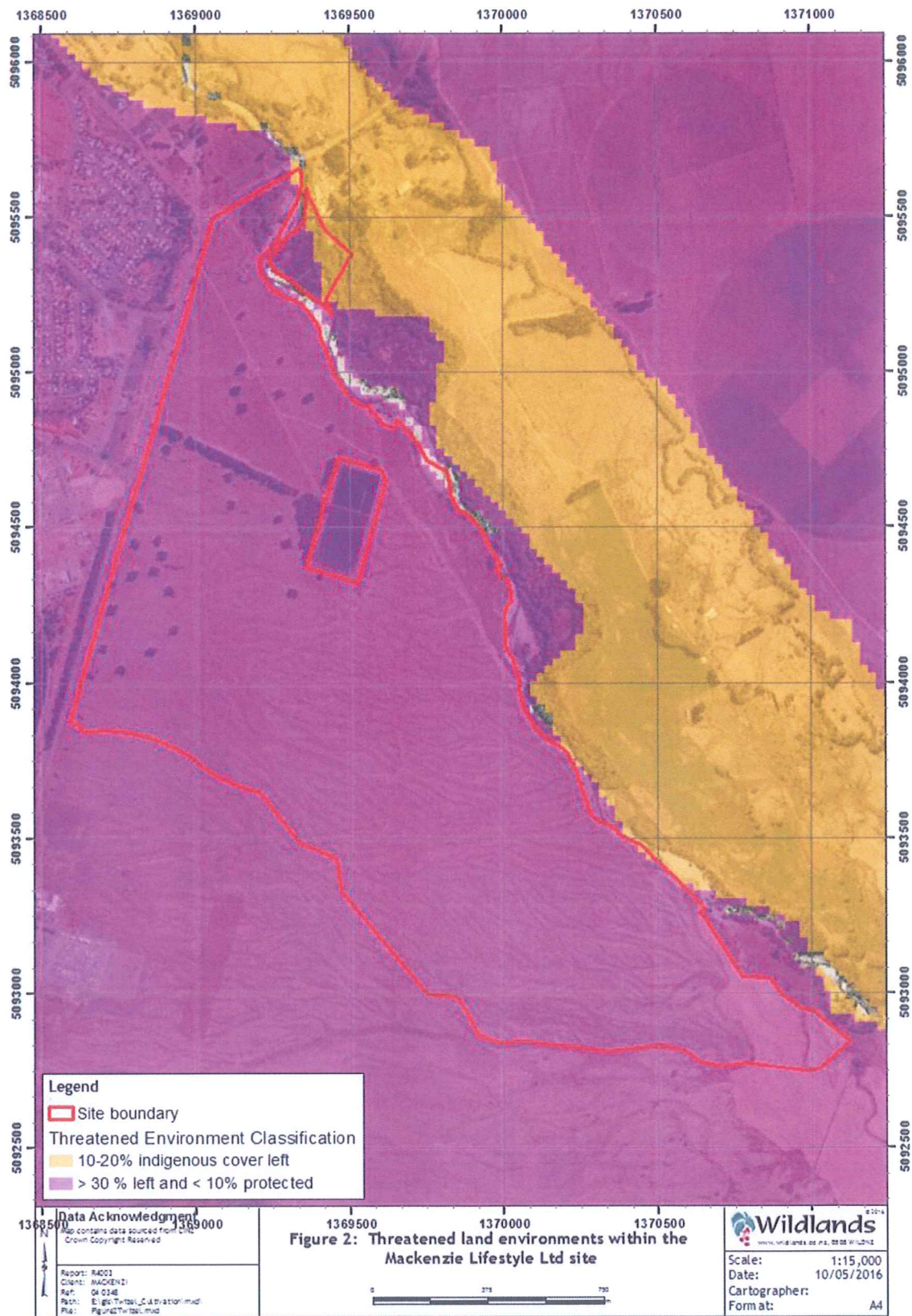
Four national priorities for the protection of rare and threatened indigenous biodiversity on private land have been identified (MfE 2007) and these are listed in the proposed national policy statement on indigenous biodiversity (MfE 2011).

- Priority 1: To protect indigenous vegetation associated with Level IV land environments that have 20% or less remaining in indigenous cover.
- Priority 2: To protect indigenous vegetation associated with sand dunes and wetlands, ecosystems that have become uncommon due to human activity.
- Priority 3: To protect indigenous vegetation associated with ‘originally rare ecosystem’ types not already covered by Priorities 1 and 2.
- Priority 4: To protect habitats of Threatened and At Risk-Declining indigenous species.

The outwash plain lies wholly within the ‘Critically Underprotected’ category of the Threatened Environment Classification (Cieraad *et al.* 2015), with more than 30% of its original vegetation remaining, but less than 10% protected (Figure 2). Thus Priority 1 is not met. There are no wetlands or sand dunes on the site, thus Priority 2 is not met.

Inland outwash gravels, such as the outwash plain on the study site, are an originally rare ecosystem type (Williams *et al.* 2007) that has more recently been classified as Critically Endangered (Holdaway *et al.* 2012) due to recent and historic patterns of biodiversity loss. Thus the very small areas of indigenous vegetation on the site would meet Priority 3.

No Threatened or At Risk-Declining species were recorded from the site, thus Priority 4 is not met.



8. DISTRICT PLAN ASSESSMENT

The site lies within the Rural Zone of the Mackenzie Subzone of the operative Mackenzie District Plan. Clearance of indigenous vegetation within this Rural Zone is governed by a series of rules that vary according to vegetation type. Rules applying to shrubland, short tussock grassland, and cushion and mat vegetation are relevant for the site.

The relevant rules are listed below, with an assessment of site values provided for each rule in turn.

- 12.1.1.f. **Shrublands.** On any site in the Mackenzie Basin in any continuous period of five years there shall be no clearance of:

(i) Bog pine (*Dacrydium bidwillii*) shrublands

(ii) More than 2000 square metres of:

- Open indigenous shrublands containing at least three of the following indicator species where these shrubs are prominent: native broom (*Carmichaelia* species) or; tauhinu (*Cassinia* species) or; porcupine shrub (*Melicytus* species) or; *Coprosma intertexta* or; prostrate kowhai (*Sophora prostrata*);
- Dense indigenous shrublands containing at least five of the following indicator species: *Coprosma* species or; *Corokia cotoneaster* or; climbers (*Clematis*, *Rubus*, *Parsonsia*, *Muehlenbeckia* species) or; mountain wine berry (*Aristotelia fruticosa*) or; *Hebe* species or; *Olearia* species or; native broom species (*Carmichaelia*)
- Matagouri-dominated shrublands (*Discaria toumatou*) on river flood plains, river terraces, alluvial fans or lower mountain/hill slopes which have an average canopy height of greater than 1.5 metres, where there are more than 5 shrubs of this height and where the vegetation has not been cleared since 1985, provided that any matagouri that has been induced by regular oversowing and topdressing shall be exempt. For the purposes of this rule, regular oversowing and topdressing is defined as having occurred at least three times since 1985.

Exemptions This rule shall not apply to:

- Any removal of declared weed pests; or
- Vegetation clearance for the purpose of track maintenance or fenceline maintenance within existing disturbed formations; or
- Any vegetation clearance including burning which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council/Environment Canterbury under the Resource Management Act 1991.

For the purpose of this Rule:

- Open indigenous shrublands excludes scattered individual outlier plants that do not visually contribute to the makeup of the shrubland;
- Dense shrublands are characterised by a generally closed canopy, although there will be open patches within the shrubland. As a rule of thumb, a person would have difficulty walking through a dense shrubland and would expect to get scratched;
- Lower mountain/hill slopes are characterised as being underlain by bedrock in contrast to moraine slopes which are composed of glacial till.

Assessment

The most diverse open indigenous shrubland observed within the site was on the side of the meltwater channel in the southern part of the site. In this shrubland, porcupine shrub and native broom were present, but this constitutes only two of the listed indicator species, when three are necessary to trigger the rule. Similarly, the terrace scarp shrublands supported fewer than three of the indicator shrub species. No dense shrublands were observed within the site, and there were no tall matagouri shrublands on the alluvial terrace. Additionally, all of the open shrublands observed within the site were less than 2,000 m² in size. Thus the shrubland clearance rule is not triggered by the small areas of indigenous shrubland within the site.

• 12.1.1.g. **Short Tussock Grasslands.**

An interim Rule that will be reviewed three years after the Plan becomes operative. On each of the individual farm properties existing in the Mackenzie Basin Map as at 1 January 2002 in any continuous period of five years there shall be no clearance including cultivation above the following thresholds of short tussock grasslands, consisting of silver or blue (*Poa* species), or *Elymus solandri*, or fescue tussock where tussocks exceed 15% canopy cover:

- (i) 40 hectares or less - Permitted Activity
- (ii) Greater than 40 hectares - Discretionary Activity

Performance Standards for Permitted Activity

- The landholder shall notify the Mackenzie District Council of the proposed clearance 4 months prior to the clearance being undertaken and shall supply a map of the proposed site.
- The clearance shall be more than 150m from the boundaries of any existing Sites of Natural Significance.

Exemptions This rule shall not apply to:

- Any removal of declared weed pests; or
- Vegetation clearance for the purpose of track maintenance or fenceline maintenance within existing disturbed formations; or
- Any vegetation clearance including burning which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council/Environment Canterbury under the Resource Management Act 1991; or
- Any short tussock grassland where the site has been oversown, and topdressed at least three times in the last 10 years prior to new clearance so that the inter-tussock vegetation is dominated by clovers and/or exotic grasses.

Assessment

Very small areas of hard tussock within the site may have exceeded 15% cover, but these areas would have a total area much less than 40 ha, so clearance of this short tussock vegetation would be a permitted activity under Rule 12.1.1.g.

- 12.1.1.h. **Indigenous Cushion and Mat Vegetation and Associated Communities**

An interim Rule that will be revised three years after the Plan becomes operative.

On each of the individual farm properties existing in the Mackenzie Basin as at 1 January 2002 in any continuous period of five years there shall be no clearance including cultivation above the following thresholds of indigenous cushion, mat (*Raoulia* species) or herb and scabweed vegetation where at least 50% of the vegetation ground cover comprises vascular and non-vascular indigenous species, OR where the number of vascular indigenous species is greater than 20:

- (i) 10 hectares or less - Permitted Activity
- (ii) Greater than 10 hectares - Discretionary Activity

Performance Standards for Permitted Activity:

- The landholder shall notify the Mackenzie District Council of the proposed clearance 4 months prior to the clearance being undertaken and shall supply a map of the proposed site.
- The clearance shall be more than 150m from the boundaries of any existing Sites of Natural Significance.

Exemptions This rule shall not apply to:

- Any removal of declared weed pests; or
- Vegetation clearance for the purpose of track maintenance or fenceline maintenance within existing disturbed formations; or
- Any vegetation clearance including burning which has been granted resource consent for a discretionary or non-complying activity from the Canterbury Regional Council/Environment Canterbury under the Resource Management Act 1991; or
- Any indigenous cushion or mat vegetation where the site has been oversown, and topdressed at least three times in the last 10 years prior to new clearance so that the site is dominated by clovers and/or exotic grasses.

Assessment

Only very small areas of cushion or mat vegetation observed within the site had more than 50% cover of indigenous vascular or non-vascular plant species, and only 20 indigenous vascular plant species were recorded across the whole site, including species from short tussock grassland and open shrubland habitats. There was much less than 10 ha of indigenous cushion and mat vegetation within the site, so clearance of this vegetation is a permitted activity under Rule 12.1.1.h.

9. CONCLUSION

Most of the site lies on an outwash plain which is an originally rare ecosystem, but there is relatively little indigenous vegetation remaining on this landform within the subject property. Thus clearance of the small areas of indigenous open shrubland, short tussock grassland, and cushion and mat vegetation within the site would be permitted activities for the Rural Zone of the Mackenzie Basin Subzone under the Mackenzie District Plan.

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VASCULAR PLANT SPECIES RECORDED AT THE SITE

Species	Common Name	Plant Type	Status	Abundance
<i>Acaena agnipila</i>	Australian sheep's bur	Dicot herb	Exotic	Occasional
<i>Acaena fissistipula</i>	Bidibidi	Dicot herb	Indigenous	Occasional
<i>Achillea millefolium</i>	Yarrow	Dicot herb	Exotic	Occasional
<i>Agrostis capillaris</i>	Browntop	Grass	Exotic	Frequent
<i>Anisotome aromatica</i>	Kopoti	Dicot herb	Indigenous	Rare
<i>Anthosachne solandri</i>		Grass	Indigenous	Rare
<i>Anthoxanthum odoratum</i>	Sweet vernal	Grass	Exotic	Occasional
<i>Bromus tectorum</i>	Cheatgrass	Grass	Exotic	Occasional
<i>Capsella bursa-pastoris</i>	Shepherds purse	Dicot herb	Exotic	Rare
<i>Carex breviculmis</i>		Sedge	Indigenous	Occasional
<i>Carex coriacea</i>	Rautahi	Sedge	Indigenous	Rare
<i>Carmichaelia petriei</i>	Desert broom	Shrub	Indigenous	Rare
<i>Cirsium vulgare</i>	Scotch thistle	Dicot herb	Exotic	Rare
<i>Cytisus scoparius</i>	Scotch broom	Shrub	Exotic	Rare
<i>Discaria toumatou</i>	Matagouri	Shrub	Indigenous	Rare
<i>Echium vulgare</i>	Vipers bugloss	Dicot herb	Exotic	Rare
<i>Erodium cicutarium</i>	Storksbill	Dicot herb	Exotic	Rare
<i>Festuca novae-zelandiae</i>	Hard tussock	Grass	Indigenous	Frequent
<i>Festuca rubra</i>	Red fescue	Grass	Exotic	Occasional
<i>Geranium brevicaule</i>	Short-flowered cranesbill	Dicot herb	Indigenous	Occasional
<i>Hypericum perforatum</i>	St Johns wort	Dicot herb	Exotic	Rare
<i>Hypochaeris radicata</i>	Catsear	Dicot herb	Exotic	Occasional
<i>Larix decidua</i>	Larch	Tree	Exotic	Occasional
<i>Leontodon taraxacoides</i>	Hawkbit	Dicot herb	Exotic	Rare
<i>Leucopogon fraseri</i>	Pātōtara	Shrub	Indigenous	Rare
<i>Marrubium vulgare</i>	Horehound	Dicot herb	Exotic	Rare
<i>Melicytus alpinus</i>	Porcupine shrub	Shrub	Indigenous	Occasional
<i>Muehlenbeckia axillaris</i>	Creeping pōhuehue	Vine	Indigenous	Occasional
<i>Olearia odorata</i>	Scented tree daisy	Shrub	Indigenous	Rare
<i>Oxalis magellanica</i>	White oxalis	Dicot herb	Indigenous	Rare
<i>Pilosella officinarum</i>	Mouse-ear hawkweed	Shrub	Exotic	Abundant
<i>Pimelea prostrata</i>	Pinātoro	Shrub	Indigenous	Rare
<i>Pinus nigra</i>	Black pine	Tree	Exotic	Occasional
<i>Pinus ponderosa</i>	Ponderosa pine	Tree	Exotic	Rare
<i>Plantago major</i>	Broad-leaved plantain	Dicot herb	Exotic	Rare
<i>Poa colensoi</i>	Blue tussock	Grass	Indigenous	Rare
<i>Poa maniototo</i>	Desert poa	Grass	Indigenous	Rare
<i>Populus deltoides</i>	Eastern cottonwood	Tree	Exotic	Occasional
<i>Potentilla argentea</i>	Hoary cinquefoil	Dicot herb	Exotic	Rare
<i>Raoulia australis</i>	Common mat daisy	Dicot herb	Indigenous	Rare
<i>Raoulia hookeri</i>	Scabweed	Dicot herb	Indigenous	Rare
<i>Rosa rubiginosa</i>	Sweet briar	Shrub	Exotic	Occasional
<i>Rumex acetosella</i>	Sheep's sorrel	Dicot herb	Exotic	Frequent
<i>Rytidosperma pumilum</i>	Danthonia	Grass	Indigenous	Occasional
<i>Salix fragilis</i>	Crack willow	Tree	Exotic	Rare
<i>Taraxacum officinale</i>	Dandelion	Dicot herb	Exotic	Rare
<i>Trifolium arvense</i>	Haresfoot trefoil	Dicot herb	Exotic	Occasional
<i>Trifolium repens</i>	White clover	Dicot herb	Exotic	Rare
<i>Verbascum thapsus</i>	Woolly mullein	Dicot herb	Exotic	Rare
<i>Veronica serpyllifolia</i>		Dicot herb	Exotic	Occasional
<i>Veronica verna</i>		Dicot herb	Exotic	Occasional



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