under the Climate Change Response Act. Finally, we have found there are some difficulties in respect of farm buildings and "retirement" subdivision.

[461] It appears to us that all these matters should have been addressed by the Mackenzie District Council because they all relate to or are "on" the subject of PC13 – the landscape of the Mackenzie Basin. However, the amended and/or additional policies and methods we have proposed in the evidence probably go beyond the submissions and do go further than the appeals on the plan change. Consequently those changes cannot be made without giving both the parties and other potentially interested persons an opportunity to be heard. Normally the court would recommend to a local authority that it fill any gaps not covered by a district plan, and then leave it to the Council to do so by plan change. However, that is both a time-consuming and uncertain process. We are concerned that there are particular circumstances applying to the Mackenzie Basin so that the Council has little time to act. Having such a small rating base it may not have the resources either.

8.3 The court's powers to amend district plans

[462] The Environment Court has powers to amend the subordinate legislation contained in a district plan. The justification for these powers appears to be in one of the very few exceptions to the cornerstone principle that legislation should be enacted by elected representatives[578]. Such exceptions acknowledge the roles of politicians (and their temptation to think short-term) in relation to the capital assets of society. The best known example is in the Reserve Bank of New Zealand Act 1989 in which Parliament has recognised that national politicians cannot trust themselves not to inflate (financial) capital. It dealt with the problem by entrusting the Reserve Bank to deliver "... stability in the general level of prices". There are some similarities in the RMA processes. In the statute which governs us, Parliament has recognised that, at a lower level, elected local (or regional) politicians can usually but not always be trusted to manage a district's (or region's) environmental capital so as to achieve sustainable management of natural and physical resources. For example, short term thinking may be encouraged by the fact that representatives seeking election gain no votes from future generations despite the latter having reasonably foreseeable needs[579] for natural and physical resources. As a safeguard the legislature has given the court the humbler oversight powers in the First Schedule to the RMA. Parliament has then managed the risk of judicial activism by appointing Environment Commissioners to the court, and by directing the court's powers to achieving sustainable management under section 5 of the Act, while subjecting it to the cost-benefit and risk assessment of[580] section 32 of the Act. It is also important to recognise that the Environment Court's role in ensuring the fundamental purpose of the Act – sustainable management – does not extend as far as planning people's welfare : the purpose of the Act is merely to enable people and communities to attain their own welfare.

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578 This is part of the constitutional principle of the separation of powers.
579 According to section 5(2)(a) of the RMA.
580 To which normal legislation from Parliament is not subject.

[463] The Environment Court's choices, like those of the local authority before it, while they involve a broad judgment, are not between competing but equally legitimate open-ended values. The court is bound by the values and their relative scale of importance[581] as fixed by Parliament in the principles set out in sections 6 to 8 of the RMA. As Lord Cooke stated for the Privy Council in *McGuire v Hastings District Council*[582] : "These are strong directions, to be borne in mind at every stage of the planning process". Briefly what has gone wrong in this case is that, while the Council had correctly identified the issues relating to the outstanding natural landscape of the Mackenzie Basin, it failed to follow the directions given by Parliament.

[464] That background is important when the court makes its decision on appeals about a plan or plan change. For, in addition to the powers to amend provisions requested by the parties, the court has a further jurisdiction.

*The section 293 jurisdiction*

[465] We refer to the Environment Court's powers under section 293 of the RMA. That states (relevantly):

> **293 Environment Court may order change to proposed policy statements and plans**
> (1) After hearing an appeal against, or an inquiry into, the provisions of any proposed policy statement or plan that is before the Environment Court, the court may direct the local authority to –
> (a) prepare changes to the proposed policy statement or plan to address any matters identified by the court:
> (b) consult the parties and other persons that the court directs about the changes:
> (c) submit the changes to the court for confirmation.
> (2) The court –
> (a) must state its reasons for giving a direction under section (1); and
> (b) may give directions under section (1) relating to a matter that it directs to be addressed.
> ...

[466] The section applies to a proposed plan change because of the definition[583] of "proposed plan" which includes a plan change. The rationale of an earlier form of section 293 was explained by the High Court in *Canterbury Regional Council v Apple Fields Limited*[584] ("*Apple Fields*") as being:

> Despite the best efforts of everyone involved in the process of preparing or changing a plan, the reality is that unforeseen issues or proposals beyond the scope of the [appeal] can arise and that

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581 Section 6 states that certain matters must be "... recognise[d] and provide[d] for"; section 7 that "... particular regard" must be had to other matters; and section 8 that the principles of the Treaty of Waitangi/Te Tiriti o Waitangi must be "... take[n] into account".

582 *McGuire v Hastings District Council* [2001] NZRMA 557 at [21]; [2002] 2 NZLR 577 (PC).

583 Section 43AAC of the RMA.

584 *Canterbury Regional Council v Apple Fields Limited* [2003] NZRMA 508 at para [37].

> in some cases it will be more appropriate for the matter to be resolved at the Environment Court level than by referring it back so that the territorial authority can initiate a variation.

In this case the issues were not unforeseen : they are all expressly identified in the operative district plan or in PC13(N). It is the failure of PC13 to deal with them which has lead to several pressing problems which need resolution.

[467] Section 293(1) was amended by the Resource Management Amendment Act 2005 and (in a minor way) by section 133 of the Resource Management (Simplifying and Streamlining) Act 2009. We consider *Apple Fields* is still applicable. Before 2005 section 293 required that "a reasonable case [had] been presented" for changing a provision in a proposed plan. That requirement has now gone, so the application of cases on the pre-2005 version of section 293 should be exercised with caution. However, the fundamental requirement that a Court of Record acts on the best evidence[585] is still implicit in the section 293 procedure in our view. The difference between the pre- and post-2005 provisions appears to be that now there is no need for a party to present a case for the use of section 293.

[468] Obviously not just "any matters identified by the court" should be the subject of directions under section 293(1). The pre-eminent qualification is that any further matter or issue must be relevant to the subject matter of the proceedings. Thus if a plan change is about one area of land then concerns about another area will not usually be a relevant subject for directions under section 293 : *Hamilton City Council v New Zealand Historic Places Trust*[586]. Similarly, a plan change about heritage provisions (raising section 6(f) matters) is unlikely to justify directions from the court about section 6(c) matters.

[469] Further, just because the court has power to give directions under section 293 does not mean it should : that is obviously a discretionary matter. The power should be used sparingly (*re Vivid Holdings*[587]) partly to save time and money and partly to defer, whenever possible, to local input into the scope of district plans.

[470] The new section 293 is also worryingly unspecific about the procedures to be used if the court does decide to exercise its powers. The former – pre-2005 – section 293 provided for a procedure whereby the court would:

- specify the persons who might make submissions;
- the way in which submissions could be made;
- require the local authority to give public notice of the change and of the opportunities to make submissions and be heard.


585 Subject to some relaxation under section 276 of the RMA.
586 *Hamilton City Council v New Zealand Historic Places Trust* [2005] NZRMA 145 (HC).
587 *re Vivid Holdings* (1995) 5 ELRNZ 264; [1999] NZRMA 467.

In contrast, the current form of section 293 merely states that the court "may give directions under [sub]section (1)". Obviously the obligations on the court to specify who might make submissions have gone. Any directions the court may give must come under its other powers. These include a general power to regulate its proceedings "... in such manner as it thinks fit"[588] except as "expressly provided" elsewhere in the Act. The fundamental principle is always that the court must act fairly both to parties and, if they are potentially affected, to persons not before the court. To deal with the latter situation, where the court is contemplating action under section 293 to amend a plan or plan change, the court may grant waivers[589] to persons who wish, belatedly, to be party to the proceedings[590] in order to be heard on the proposed amendments.

8.4 Can and should we exercise our powers under section 293?

[471] We consider we have jurisdiction to consider the issues raised but not dealt with by PC13(C) – as we have pointed out they all relate to the protection of the outstanding natural landscape which is the Mackenzie Basin from inappropriate subdivision, use and development.

*Discretionary factors*

[472] Should we exercise our discretion to give directions under section 293(1) of the Act? We have hesitated to do so, because it can be an expensive and time-consuming exercise. However, as we have made our findings and predictions on each issue we have been pushed towards considering that further action is needed now.

[473] We should consider the exercise of section 293 powers separately and cumulatively in relation to each of the following issues:

(1) the amended objective 3B and its implementing policies and rules;
(2) the natural hazards policy and its effect on farm bases;
(3) intensive farming activities;
(4) wildings.

[474] Against giving any directions under section 293 is that the Council does not wish us to. It wants finality both in the provisions of PC13 and in expenditure on the plan change[591]. We understand Meridian to have a similar view.

*Changes to objective 3B and implementing policies*

[475] In respect of the proposed amendments to objective 3B and its implementing policies, obviously it is relevant to the potential exercise of our section 293 power that, as here, a matter of national importance is involved. In such a case deferring to the local input – as represented here by PC13 as notified and, to some extent, by the

588 Section 269(1) of the RMA.
589 Under section 281 of the RMA.
590 Under section 274 of the RMA.
591 Oral submissions of counsel : Transcript pp 614-616.

Commissioners' Decision – may be inappropriate. That consideration is enhanced where, as here, issues identified in the operative district plan (the threat of wilding conifers) and/or in PC13(N) (the changes caused by irrigated, high intensity farming) are not in our judgment adequately dealt with (if at all) in the proposed policies and methods of implementation.

[476] Other matters to consider are the failure of the Commissioners' Decision to identify the outstanding natural landscape(s) within the Mackenzie Basin; and that it is important that the objectives, policies and rules are settled before any tenure review is completed so that the lessees in particular know where they stand. A factor that strengthens the latter consideration is that the many pastoral lessees in the Basin have fewer property rights than freeholders. It is the obligations under their pastoral leases rather than any rules in the operative district plan and PC13(C) which have kept the pace of change relatively slow in large parts of the Mackenzie Basin. So pastoral lessees should know before completion of tenure reviews that their land may be less valuable on standard financial measures (i.e. not counting environmental capital retained), because of the reduced range of farming options allowed under the Mackenzie Rural subzone restrictions .

[477] Another relevant matter is if objectives and/or policies have been changed by the court, and then the rules are found not to implement them.

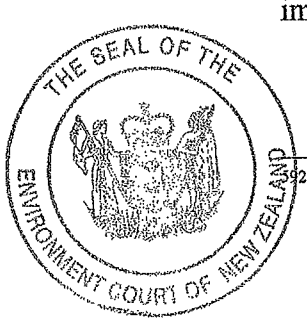
[478] We conclude that there are strong grounds for the court to exercise its jurisdiction in respect of the objectives and policies in respect of the landscape of the Mackenzie Basin.

*Hazards*

[479] It also encourages the use of section 293 that Meridian has raised hazards issues which we have held are likely to justify changes to the farm base areas. It defies common sense to approve farm bases in areas which are subject to appreciable hazards. But, in fairness, the opportunity should be given to landowners and occupiers to seek alternative farm bases.

*Pastoral intensification*

[480] We have added some clarifying policies and rules in respect of large buildings and pivot irrigators. We consider more express management of areas suitable for pastoral intensification (and indeed a re-definition of that term) is desirable. While the greening of the basin is expressly raised by PC13 itself as a new issue to be inserted[592] in the district plan it is not adequately dealt with in the policies or methods of implementation.




[592] PC13(N) at p. 4.

[481] We have become aware through unrelated appeals in the Waitaki District and through the media that the "greening" of the landscape has become topical right through the upper Waitaki catchment (i.e. including the Mackenzie, Ohau and Omarama basins) and that a "focus group" has been set up to deal with it. In the circumstances we are reluctant to give directions under section 293 which may cut across any consensus outcome from the local communities. We assume of course that such consensus will be reached under a fair process that commenced with a level playing field (e.g. we doubt that a right of veto should be given to any participant : see *Watercare Services Limited v Minhinnick*[593]) and it is undertaken with reference on its face to achieving the purpose and principles of the RMA. We trust, given the national importance of the Mackenzie Basin's landscape that (at least) some wider community involvement and agreement will be obtained. So, unless we are advised that our assumptions are wrong, we will exercise our discretion not to proceed under section 293 in respect of intensification of farming activities other than restrictions on intensification in landscape protection areas, Scenic Viewing Areas and (new) scenic grasslands.

[482] As a separate consideration : if the Council has taken no action in respect of rule (7)12.1.1.g, which should have been renewed[594] after 24 May 2007 then we should probably give directions under section 293 about that also. Further, our preliminary view is that this rule should apply to pastoral intensification generally and not just to land clearance. That would assist to find appropriate methods of implementation of objective 3B(3)(b) as provisionally determined by this decision.

*Wildings*

[483] PC13 is also largely silent in respect of policies and implementing methods to deal with the equally if not more pressing issue of wildings. There is a complex set of provisions to consider under the Climate Change Act, the Biodiversity Act, the Crown Pastoral Land Act and the Regional Pest Strategy. So, before we decide whether or not to give any directions under section 293 on the issue of wildings we wish to give the parties in these proceedings opportunity to make submissions on the law. We have attempted to set out our understanding of the law, but we may be wrong. But if we are right then we will be inclined to exercise our discretion in favour of action under section 293.

8.5 Outcome

[484] This decision in final in respect of our finding that the Mackenzie Basin as a whole (excluding Twizel and Tekapo townships, Mr Densem's landscape unit 54 west of Twizel, and the Dobson River catchment) is an outstanding natural landscape. All other determinations or judgements are interim. That is especially so the further down the chain from objectives to policies to methods of implementation we have gone. Our



593 *Watercare Services Limited v Minhinnick* [1998] NZRMA 289 (CA).
594 See the note under the heading to the rule : Mackenzie District Plan p. 7-76.

suggested rules in particular may need changes and certainly need checking by the planners (and counsel).

[485] We are strongly of the inclination to exercise our discretion to make orders under section 293 of the Act to give effect to provisional determinations in the earlier parts of this decision. However, in case there are jurisdictional or discretionary matters we have overlooked we will reserve leave for submissions on these issues.

[486] We cannot emphasise strongly enough that all our suggestions as to appropriate afforestation (and some pastoral intensification – potentially quite extensive on the lower Tekapo and Pukaki plains) are subject to consideration of the ecological constraints. We consider that in many cases ecological issues could be better resolved as matters of ownership in tenure review under the CPLA. That would be achieved by the Crown taking ownership of meaningful reserves[595] to protect the ecosystems that are hanging on in the lower parts of the Mackenzie Basin, and especially in the margins of wetlands, streams and rivers. However, as we have stated, because there is no certainty as to when (if) tenure review of individual pasture leases will take place, and because some properties are freehold, we will require some evidence that possible wilding afforestation and pastoral intensification will meet the purpose of the Act – especially the matters in section 6(a) and 6(c).

[487] Since the concept of approved exotic carbon forest areas proposed in this decision may impact on ecological values (and possibly for section 6(a) and (c) values) we will request that the Registrar send a copy of this decision to the Commissioner of Crown Lands, the Director-General of Conservation and to the Environmental Defence Society Incorporated ("the EDS") so that they can read this decision and consider whether they wish to apply to be involved at any later stage[596]. We have suggested the first two because LINZ and the Department of Conservation each "own" and administer land in and around the Mackenzie Basin. As for the EDS : it appears from media reports in 2010 that the EDS has been interested enough in the Mackenzie, Ohau and Omarama Basins to hold a seminar in Twizel on the future development of the area and its landscapes. Much as some residents of the district might like all decisions about the district's future to be made by locals, Parliament has given the Environment Court a decision-making role – subject to the tight constraints in Part 2 and section 32 of the RMA – and we must carry out our duties according to the law. There are wider communities to consider than those who reside permanently in the Mackenzie Basin, or the Mackenzie District, and the EDS might represent some of those if it chooses to apply to become a party.

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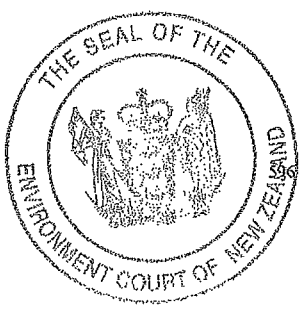
595 The Parliamentary Commissioner for the Environment's report "Change in the high country : Environmental stewardship and tenure review" (April 2009) has some very interesting and potentially useful things to say about this. The suggestion of across altitudinal (mountain to plains) reserves is particularly thought-provoking. A superficial inspection of what has taken place south of Lake Ruataniwha (within Waitaki District) suggests that there may have been inadequate protection of both ecological and landscape values there.

596 Probably as belated section 274 parties.



[488] This interim decision, regretfully, proposes an unusual level of interference with the normal rights of (freehold) farmers. It should not be read as a template that is applicable throughout New Zealand. That is primarily because the Mackenzie Basin landscape is unique and deserves, we judge, special protection (while allowing appropriate activities) under section 6(b) of the RMA when balanced or, more accurately, weighed with all other Part 2 considerations. That protection proposes policies and rules which impinge on the rights of landowners including the Crown as lessor of many pastoral leases to a considerable but still reasonable extent. The protection we have suggested may still be inadequate to protect ecological values (we do not know on the current state of evidence) and is likely to be the maximum extent of exotic forest we can approve as appropriate to recognise landscape values.

[489] If something like the proposals we have outlined cannot be made to work (and if anything we believe we may have erred on the side of too much afforestation and pastoral conversion because there was so little ecological evidence) then the onus will come on the tenure review process. That makes it of concern that, if the Parliamentary Commissioner's Report is to be believed (and we repeat that we make no finding either way), that process has been unsatisfactory in the past.

[490] Possibly in respect of ecological values, and certainly in respect of its landscape values, there is a danger that unless the people of the Mackenzie District and the wider community concentrate on applying the RMA properly, some of the outstanding qualities of the Mackenzie Basin will be lost, effectively for ever. We believe that the solutions in this decision are the most appropriate outcome on the evidence and submissions so far.

*The Waitaki Power Scheme*

[491] We have attempted to resolve (provisionally) as many of the issues raised by Meridian as we can. However, the changes to the objectives and policies we contemplate mean that much of the careful and detailed work by Meridian's planner, Mr Gimblett, has been rendered redundant. Special leave will be reserved for Meridian to come back on all the rules it seeks to protect the existing and (subject to the general objective and the wilding exotics policy) future operations of the nationally important Waitaki Power Scheme. We particularly seek Meridian's views on how the proposed wilding/exotic trees' policies and methods of implementation might affect its operations.

*Mapping*

[492] It will be seen from our discussion of provisional policies that some further mapping will be required, specifically of:

- scenic grasslands;

- areas of low visual vulnerability potentially suitable for development and/or forestry;
- areas of medium visual vulnerability;
- approved farm bases.

We consider this should be carried out by Mr Densem as soon as possible to aid the Council's consultation with the parties and other affected persons.

8.6 Afterwords

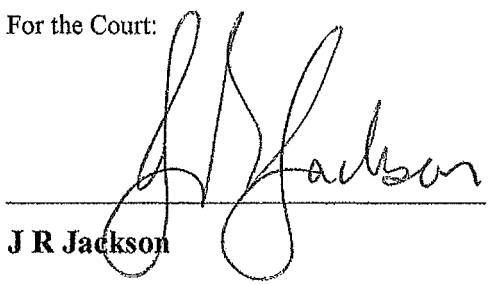
*The Pukaki Village subzone*

[493] This area to the east of the Pukaki Dam was to be the subject of these proceedings but the relevant appeal was withdrawn. We understand the site can be identified on the ground by a little stone cottage on the uphill side of the road. Its garden has been tactfully planted with native species. However, the Council should reflect on whether this little black spot in the middle of the Mackenzie subzone will necessarily all be developed so sympathetically.

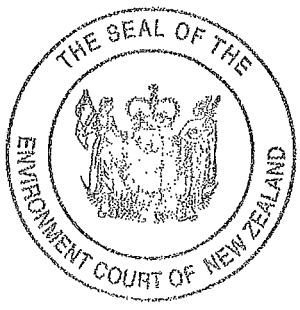
*The effects of the Canterbury earthquakes*

[494] A principal reason for the extended time it has taken us to issue this decision is the series of earthquakes that have hit Canterbury since September 2010. That has affected this division of the court's work, both directly and indirectly. First, the Environment Court has no one office in Christchurch – like other courts it is working out of several different venues with varying, sometimes very inadequate, facilities. Secondly, an indirect effect of the seismic activity is that the court, as a matter of public policy, gave preference to work on the small contribution it could make to recovery, especially to attempts to hear speedily the appeals on Change 1 to the Canterbury Regional Policy Statement. While we regret the delay in issuing this decision we hope that the people and communities of the Mackenzie Basin will understand the reasons.

For the Court:



**J R Jackson**
**Environment Judge**




Schedule A

Provisional changes to Section 7's landscape policies

# A : SCHEDULE OF POLICIES 3B1 TO 3B16

**Policy 3B1 Recognition of the Mackenzie Basin's distinctive characteristics**
To recognise that within the Mackenzie Basin's outstanding natural landscape there are:

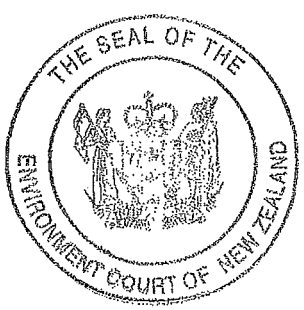
(a) some areas where different types of development and use (such as irrigated pastoral farming or carbon forestry under an Emissions Trading Scheme) and/or subdivision are appropriate, and to identify these areas; and
(b) many areas where use and development beyond pastoral activities on tussock grasslands is either generally inappropriate or should be avoided

– while encouraging a healthy productive economy, environment, and community within, and maintaining the identity of, the Mackenzie Country.

**Policy 3B2 – Adverse Impacts of Buildings and Earthworks**
To avoid adverse impacts on the outstanding natural landscape and features of the Mackenzie Basin, in particular from residential buildings, domestication, structures, earthworks, tracks and roads except in particular areas under policies below, and to remedy or mitigate the adverse effects of farm buildings and fences.

**Policy 3B3 – Adverse Effects of Sporadic Subdivision and Development**
To control buildings and subdivision in the Mackenzie Basin Subzone (outside of approved farm base areas and other than for activities provided for in [the Renewable Energy] Policy 3B9 and subject to lesser controls on buildings and subdivision in areas of lower visual vulnerability) to ensure adverse effects, including cumulative effects, on the environment of sporadic development and subdivision are avoided or mitigated and to sustain existing and likely future productive use of land.

**Policy 3B4 – Limits on subdivision and housing**
(1) Subject to (2) below, to enable residential or rural residential subdivision and housing development in the Mackenzie Basin Rural subzone only within identified farm base areas;
(2) To encourage new residential or rural residential subzones in areas of low or medium vulnerability provided:
    (a) objectives 1, 2, 4, 7, 8 and 11 of the Rural chapter are achieved; and
    (b) the new subzones satisfy policy 3B6 below;
(3) To strongly discourage residential units elsewhere in the Mackenzie Basin.



**Policy 3B5 Development in farm base areas**

(1) Subdivision and development of farm base areas which are in areas of high vulnerability to development shall maintain or enhance the significant and outstanding natural landscape and other natural values of the Mackenzie Basin by:

(a) confining development to areas where it is screened by topography or vegetation or otherwise visually inconspicuous, particularly from public viewpoints and from views of Lakes Tekapo, Pukaki and Benmore provided that there may be exceptions for development of existing farm bases at Braemar, Tasman Downs and for farm bases at the stations along Haldon Road

(b) integrating built form and earthworks so that it nestles within the landform and vegetation

(c) planting of local native species and/or non-wilding exotic species and management of wilding tree spread

(d) maintaining a sense of isolation from other development

(e) built development, earthworks and access having a low key rural character in terms of location, layout and development, with particular regard to construction style, materials and detailing

(f) mitigating, the adverse effects of light spill on the night sky

(g) avoiding adverse effects on the natural character and environmental values of waterbodies, groundwater and sites of natural significance

(h) installing sustainable systems for water supply, sewage treatment and disposal, stormwater services and access;

(2) Subdivision and development in farm base areas which are in areas of low or medium vulnerability to development shall:

(a) restrict planting to local native species and/or non-wilding exotic species

(b) manage exotic wilding tree spread

(c) maintain a sense of isolation from other development

(d) mitigate, the adverse effects of light spill on the night sky

(e) avoid adverse effects on the natural character and environmental values of waterbodies, groundwater and sites of natural significance

(f) install sustainable systems for water supply, sewage treatment and disposal, stormwater services and access;

**3B6 Potential residential and visitor accommodation activity subzones**

(1) To mitigate the effects of past subdivision on landscape and visual amenity values and to encourage appropriate rural residential activities in the Mackenzie Basin by identifying, where appropriate, alternative specialist zoning options (such as Rural-Residential) in areas of low or medium vulnerability to development where there are demonstrable advantages for the environment;

(2) where such subzones are located wholly or partly in areas of medium vulnerability then any development within shall maintain or enhance the significant and outstanding natural landscape and other natural values of the Mackenzie Basin by:

(1) confining development to areas where it is visually inconspicuous, particularly from public viewpoints and from views up Lakes Tekapo and Pukaki provided that there may be exceptions for development of existing farm bases at Braemar, Tasman Downs and for farm bases at the stations along Haldon Arm Road

(2) integrating built form and earthworks so that it nestles within the landform and vegetation

(3) planting of local native species and/or non-wilding exotic species and management of wilding tree spread

(4) maintaining a sense of isolation

(5) built development, earthworks and access having a low key rural character in terms of location, layout and development, with particular regard to construction style, materials and detailing
(6) mitigating, the adverse effects of light spill on the night sky
(7) avoiding adverse effects on the natural character and environmental values of waterbodies, groundwater and sites of natural significance
(8) installing sustainable systems for water supply, sewage treatment and disposal, stormwater services and access.

**Policy 3B7 – Lakeside protection areas**

(a) To recognise the special importance of the Mackenzie Basin's lakes, their margins, and their settings in achieving Objective 3B.
(b) Subject to (c), to avoid adverse impacts of buildings, structures and uses on the landscape values and character of the Mackenzie Basin lakes and their margins.
(c) To avoid, remedy or mitigate the adverse impacts of further buildings and structures required for the Waitaki Power Scheme on the landscape values and character of the Basin's lakes and their margins.

(Note : Policy (c) has different objectives to achieve dependent on whether Rural Objective (7)3B or Utilities objective (Section 15)3 is being implemented.)

**Policy 3B8 Views from State Highways and Tourist Roads**

(a) To avoid all buildings, other structures exotic trees and fences in the scenic grasslands listed in Appendix X and in the scenic viewing areas shown on the planning maps;
(b) To require buildings to be set back from roads, particularly state highways, and to manage the sensitive location of structures such as 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 all tussock grasslands adjacent to and within the foreground of views from State Highways and the tourist roads;
(d) To minimise the adverse effects of irrigation of pasture adjacent to the state highways or the tourism roads.

**Policy 3B9 – Renewable Energy**

To recognise and provide for the use and development of renewable energy generation and transmission infrastructure and operations within the footprint of current operations or on land owned by infrastructure operators as at 31 October 2011 while, as far as practicable, avoiding, remedying or mitigating significant adverse effects on the outstanding natural landscape and features of the Mackenzie Basin.

**Policy 3B10 – Reverse sensitivity**

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

**Policy 3B11 Hazards**

To avoid hazards caused by activities such as power generation; and water transport by canal and aqueduct on non-farm development and activities.

**Policy 3B12**

Traditional pastoral farming is encouraged so as to maintain tussock grasslands, subject to achievement of the other Rural objectives and to policy 3B8.

**Policy 3B13 Farm Buildings**

(1) Farm buildings should be avoided in lakeside areas, scenic viewing areas and scenic grasslands.

(2) Elsewhere in the Mackenzie Basin subzone farm buildings should be managed in respect of location, density of buildings, design, external appearance and size except in areas of low visual vulnerability where only density and size are relevant.

**Policy 3B14 Pastoral intensification**

(1) To ensure areas in the Mackenzie Basin which are proposed for pastoral intensification meet all the other relevant objectives and policies for the Mackenzie Basin subzone (including Rural Objectives 1, 2 and 4 and implementing policies);

(2) To link management of new areas of pastoral intensification with management of wilding exotic trees and other weeds;

(3) To avoid pastoral intensification in sites of natural significance, scenic viewing areas and scenic grasslands.

**3B15 Wilding trees**

To manage wilding tree spread by:

(a) confining it to areas of low or medium vulnerability as shown on Map [-];

(b) requiring landowners to remove wildings of identified tree species from their land (outside of areas identified in (a) before they seed.

**3B16 Landscape aspects of subdivision**

(1) In order to minimise its adverse effects, subdivision in the Mackenzie Basin Rural Subzone will not be encouraged except:

- in farm base areas;
- in areas of low visual and/or ecological vulnerability;

(2) there should be a minimum lot size of 200 hectares (except in farm bases);

(3) further subdivision of lakeside protection areas (except for existing farm bases), scenic viewing areas and scenic grasslands will not be allowed;

(4) all lots in a subdivision shall be linked by mutually enforceable covenants and conditions (also enforceable by the Council) to remove exotic wildings from each other lot unless the trees are in an approved forest area;

(5) All subdivision should have regard to topographical and ecological restraints.