

BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER OF

The Resource Management Act 1991

AND

IN THE MATTER OF

an application by **Classic Properties Limited**
filed under **CRC063106** for a water permit to
take and use surface water from Tekapo Canal
for spray irrigation of up to 416 hectares of
crops and pasture at Maryburn Station, Tekapo-
Pūkaki Road (East of SH8).

**REPORT AND DECISION OF HEARING COMMISSIONERS PAUL ROGERS, MICHAEL BOWDEN, DR
JAMES COOKE AND EDWARD ELLISON**

PART B – SITE SPECIFIC DECISION

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1 INTRODUCTION

- 1.1 This is a decision on an application by **Classic Properties Limited** (the applicant). It is one of many decisions we have made on 104 applications by various applicants for water permits and associated consents in the Upper Waitaki Catchment.
- 1.2 The decision should be read in combination with our Part A decision, which sets out our findings and approach to various catchment wide issues that are common to multiple applications. References to our Part A decision are made throughout this decision as appropriate.

2 THE PROPOSAL

- 2.1 The applicant has applied to take and use surface water from Tekapo Canal, at a maximum rate not exceeding 300 litres per second (L/s) and a volume not exceeding 103,680 cubic metres in any period of four consecutive days and 2,496,000 cubic metres per season. The water will be used for spray irrigation of up to 416 ha of crops and pasture for grazing stock, excluding milking dairy cows.
- 2.2 This application is for a new water take to apply to land that is currently not irrigated on the East side of State Highway 8 as shown in Figure 1. The proposed irrigation scheme will consist of spray irrigation using a series of centre pivot irrigators.

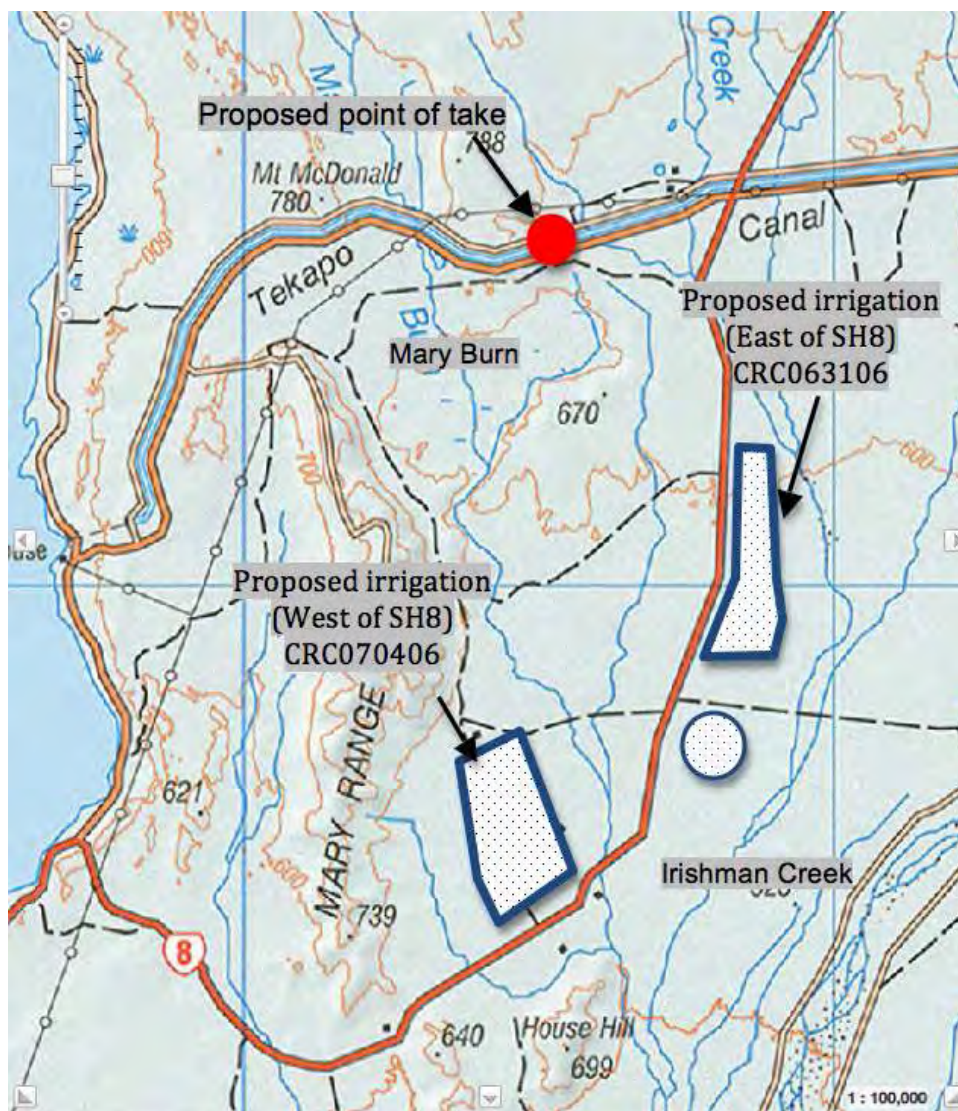


Figure 1. Map illustrating State Highway 8, the applicant's proposed points of take, approximate area of irrigation and Irishman Creek (adapted from the S42A report).

The application

- 2.3 The application is for a water permit to take and use surface water pursuant to section 14 of the RMA. Consent is required under the Waitaki Catchment Water Allocation Regional Plan (WCWARP), as discussed below.
- 2.4 The application (CRC063106) was lodged with the Canterbury Regional Council (the Council) on 7 March 2006 prior to the WCWARP becoming operative in July 2006. This application was publicly notified and there were a number of submissions that are referred to later in this decision. The application requested a consent duration to 30 April 2025.

Modifications after notification

- 2.5 The application originally proposed an annual volume of 2,650,000 cubic metres for irrigation of 416 hectares, specifying the location of take approximately 1 km downstream of the current proposed location. Subsequent to notification on 4 February 2009 the proposal was amended, shifting the location of take one kilometre upstream to its current location and reduced the annual volume to reflect the applicant's MIC shareholding.
- 2.6 A further amendment was made on 10 July 2009, revising the annual volume figure down to 2,371,200 cubic metres, equivalent to a reasonable use assessment agreed between the applicant and the Council. The applicant also advised that the scheme would be entirely piped from the intake, as consideration of an open race system had been dropped from the proposal. None of the above amendments were considered by the Council as a cause for re-notification of this application.
- 2.7 The general principle for modifications after notification is that amendments are allowed provided they do not increase the scale or intensity of the activity or significantly alter the character or effects of the proposal. The key consideration is prejudice to other parties by allowing the change. In this case, we are satisfied that the changes do not significantly alter the intensity or effects of the proposal and that no party would be adversely affected by allowing the changes.

Related consents and applications

- 2.8 In addition to the current application, the applicant has also applied for Water Permit CRC007406 to take and use water for irrigation of the applicant's property to the west of SH8. Details of that decision are included in a separate document.
- 2.9 It is noted that as the Tekapo Canal is an artificial watercourse, consent is not required under Section 13 of the RMA for the installation of the intake structure. However if the works installing the intake structure creates a discharge (sediment or construction products) then a discharge permit may be required. The applicant will also require consent and an easement from the Commissioner of Crown Lands to install the pipeline across pastoral lease land.

3 DESCRIPTION OF THE ENVIRONMENT

- 3.1 The Tekapo-Pūkaki Canal was established to take water from the Tekapo-A power station to the Tekapo-B power station, and is owned and operated by Meridian Energy Limited (MEL). The canal is 26.5 kilometres (km) long and carries peak flows of up to 130 cumecs. Salmonids inhabit the canal, including salmon, rainbow and brown trout and for this reason the canal is regularly used by recreational anglers. Didymo has been detected in the Tekapo-Pūkaki Canal.
- 3.2 According to Maria Bartlett's S42A report there are two other water users of the canal (in addition to MEL's power scheme), being Irishman Creek Station Limited, who have an intake approximately 4.5 km downstream of the proposed intake site (CRC991667) and The Wolds Station Limited who have an intake approximately 5.5 km upstream of the proposed intake site (CRC952547, CRC952550).
- 3.3 According to the applicant there is no flowing water within or neighbouring the proposed irrigation area. The applicant has also stated that the proposed pipelines will not cross any flowing waterways. Irishman Creek runs approximately parallel to the proposed irrigation area with a separation distance of 300 m to 1 km from the eastern perimeter as shown in Figure 1.
- 3.4 Ms Bartlett's S42A report stated there is a Council water quality monitoring site in Irishman Creek located at Windy Ridges approximately 2.5 km upstream of the proposed irrigation area. To date 23 sampling records from 2002 to present show typically low Total N (<0.08 mg/L) and

Total P (<0.008 mg/L) concentrations but some elevated E Coli counts in the summer months (up to 110 MPN/100 ml). Ms Bartlett's S42A report also identifies that Irishman Creek contains populations of brown and rainbow trout, as well as Canterbury galaxiid, common bully and upland bully.

- 3.5 In relation to site visits, we detailed our site visits in Part A and we do not repeat this information here. We did not go on to this property but viewed the general command area from SH8 and during our helicopter reconnaissance flight.

4 PLANNING INSTRUMENTS

- 4.1 As discussed in our Part A decision, there is a wide range of planning instruments that are relevant under the RMA. This includes national and regional policy documents, along with regional and district plans. The key planning instruments relevant to this application are as follows:

- (a) Waitaki Catchment Water Allocation Plan (WCWARP);
- (b) Natural Resources Regional Plan (NRRP);
- (c) Proposed and Operative Canterbury Regional Policy Statement (CRPS); and
- (d) Mackenzie District Plan (MDP)

- 4.2 The provisions of these planning instruments critically inform our overall assessment of the application under s104(1)(b) of the RMA, as discussed in Section 14 of this decision. In addition, the rules within the relevant planning instruments determine the status of the activity, as set out below.

Status of the activity

- 4.3 In our Part A decision we provide a detailed discussion of our approach to determining the status of activities. We now apply that approach to the current application.

- 4.4 The following rules from the WCWARP are applicable to this application:

- (a) Rule 3, clause (1) – The applicant proposes to adopt the minimum lake level for Lake Tekapo of 704.1 metres above mean sea level in the period October to March, and 701.8 metres above mean sea level in April.
- (b) Rule 6 – The applicant proposes an annual volume for this take is 1,190,100 cubic metres, which is within the annual allocation limit for agricultural and horticultural activities upstream of Waitaki Dam (275 million cubic metres), applicable in this case as the WCWARP specifies that the cap includes 'abstractions from canals leading from the glacial lakes'.
- (c) Rule 16 – Classifying rule, complies with Rule 2 and Rule 6.

- 4.5 Overall, the proposal is a **discretionary activity** under Rule 16 of the WCWARP and resource consent is required in accordance with section 14 of the RMA.

5 NOTIFICATION AND SUBMISSIONS

- 5.1 The application was publicly notified on 4 August 2007 and 22 submissions in total were received, including:

- (a) 3 in support;
- (b) 17 in opposition; and
- (c) 2 neither in support nor opposition.

- 5.2 Table 1 is based on the relevant s42A reports and summarises those submissions that directly referenced the application. In addition to those listed, there were other submitters that presented evidence at the hearing that was relevant to this application. The relevant evidence from submitters is discussed in more detail later in this decision. Please note that all submissions hold equal importance, even if not specifically listed below.

Table 1. Summary of submissions on application CRC063106

Submitter	Reasons	Position
Canterbury Aoraki Conservation Board	AEE deficient, WQ effects, natural character, indigenous species habitat, landscape changes, 35 yr duration too long	Oppose
Upper Waitaki Community Irrigation Scheme	Consistent with objectives of the WCWARP, recognises irrigation potential in the Mackenzie.	Support
Meridian Energy Limited	Need MIC shares & to comply with tranching arrangement; water quality effects; water metering; effect of take on Meridian infrastructure; effect of changing flow levels in Tekapo-Pūkaki canal resulting from maintenance or low lake levels	Oppose
Mark Urquhart (Grays Hill Station)	Utilising water from hydro canals is a positive step for the environment; protects instream values of the Mary Burn; irrigation will help prevent soil loss; employ best practice	Support
Department of Conservation	WQ effects on habitats, species & ecosystems; natural character, indigenous flora, fauna & threatened species; pest organism threat to freshwater habitats	Oppose
Waitaki First Incorporated	Spray or drip irrigation only; report soil moisture levels monthly; install aqua flex data logger; implement farm management plan	Oppose
David Scott	Spray of drip irrigation only; report soil moisture levels monthly; install aqua flex data logger, implement farm management plan	Support
Christopher John Marshall	Protect indigenous vegetation in alpine, subalpine and valley areas, require fencing of significant areas of indigenous vegetation	Oppose
Fish and Game New Zealand - Central South Island Region	General submission on takes from canals and lakes stated concerns regarding, flow regimes outside of policies in WCWARP, cumulative effects, efficient use, water quality, water metering, fish screening and adequacy of the AEEs.	Oppose
Te Runanga o Ngāi Tahu	General submission whose hearing evidence identified Classic Properties among a number of large scale consent applications having the potential to significantly degrade the Lower Tekapo River and Haldon Arm.	Oppose

- 5.3 Overall the key issues of concern to the submitters were water quality, landscape, indigenous vegetation and aquatic ecosystems.

6 THE SECTION 42A REPORTS

- 6.1 A section 42A report on the application and submissions was prepared by the Council's Consent Investigating Officer, Ms Maria Bartlett.
- 6.2 The primary report was supported by a number of specialist s42A reports prepared by Messrs Heller, Hanson, Glasson, McNae and Stewart, and Drs Clothier, Schallenberg, Meredith and Freeman. The key issues addressed by these reports were cumulative water quality effects, landscape effects, and environmental flow and level regimes.
- 6.3 All reports were pre-circulated in advance of the hearing. We have read and considered the content of the reports and refer to them as relevant throughout this decision. Specific points noted from the s42A report are summarised below.

- 6.4 Ms Bartlett concluded that she is not satisfied that the actual and potential effects of the proposed activity in its current form are minor. In particular, Ms Bartlett identified the following outstanding issues:
- (a) Ecosystems – Ms Bartlett considered that there were adverse effects on threatened indigenous flora and fauna within the proposed irrigation command area had not been addressed;
 - (b) Natural character and landscape – Ms Bartlett considered that there were adverse effects on natural character and landscape adjacent to the state highway had not been addressed;
- 6.5 Water quality – Ms Bartlett noted that cumulative and localised effects on water quality are anticipated as a result of the proposed activity, which had not been addressed by the applicant. Based on the above issues and the inconsistency of the proposal with the objectives and policies of the relevant planning instruments, Ms Bartlett was not able to recommend that the application be granted.

Mr Chris Glasson

- 6.6 Mr Glasson (S42A writer for landscape issues) placed this application within his Landscape Unit 2 Grays Hill/Maryburn.
- 6.7 He noted that this landscape is a very open and vast landscape with a well defined backdrop to the east and south with the Rollesby, Dalghety, and Grampian Ranges. To the north and west the limits of vision are the Southern Alps and the Ben Ohau Range although the lower range in between act as a boundary to this Landscape Unit, he said.
- 6.8 Mr Glasson described the landscape as extensive, a semi-arid outwash basin. He contended it is of high natural character, with high levels of openness, high visibility and landscape consistency, and it could be, he said, sensitive to change. He told us within this area one can appreciate the grandeur of the mountain landscape with its panoramic views to the high peaks. The importance of this location is, he said, that it acts as a foreground to these high peaks. He also noted when travelling from Fairlie, this is the primary entrance to the Upper Waitaki catchment. His phrasing “Upper Waitaki catchment” we took to mean the Mackenzie Basin.
- 6.9 He also noted the Scenic Viewing Areas (SVAs) 12, 13 and 14 as per the Mackenzie District Plan located at points along State Highway 8 between Tekapo and Simons Pass. He noted that shelter belts and large areas of pastoral farmland are modifications to the character of this area.
- 6.10 Mr Glasson noted that this particular proposal would be the most visible for views from State Highway 8. This being the case, he suggested the contrast that would be provided with the landform patterns, land cover texture, and colouration would be significant. He noted that the subject site formed part of important foregrounds to the high quality panoramic views of the high mountains.
- 6.11 Mr Glasson noted that landscape changes to this Landscape Unit could be widely visible due to unimpeded and expansive views from the roads, especially in areas where the highway and roads are more elevated. He noted there is a lack of discrete or screened areas in this Landscape Unit, but rather the landscape can be seen for vast distances. A high degree of visibility exists.
- 6.12 He also noted that this particular site would be visible from a slightly elevated position while travelling along State Highway 8 in a southerly direction and at a lower level travelling in a northerly direction.
- 6.13 He noted that the significance of this landscape is that it is the first view of the high country (Mackenzie Basin) and the Southern Alps as seen by travellers on State Highway 8 journeying to the lakes and mountains from Fairlie.
- 6.14 Mr Glasson provided a description of the applicant’s property and the sensitivity of the setting to irrigation development. He concluded that the adverse effects the applicant’s proposed irrigation would be significant. This assessment was based on the close proximity of the area to SH8, the potential modification to colour, texture and pattern of the site and the use of a centre pivot system.

- 6.15 In Mr Glasson's opinion, if there were other appropriate sites some considerable distance from SH8 and with a more appropriate irrigation pattern, they would have less adverse effects than the current proposed site.
- 6.16 In terms of cumulative effects, it was Mr Glasson's view that if the application sites within his Unit 2 were approved in the form as applied for, then there would be adverse cumulative effects for this Landscape Unit. However, he said if the mitigation measures that he recommended were adopted for this Unit, which included relocation of this particular proposal, then there would be no adverse cumulative landscape effects for this Landscape Unit.

7 THE APPLICANT'S CASE

- 7.1 Legal counsel for the applicant, Mr Ewan Chapman, presented opening submissions and called a number of witnesses.

Opening legal submissions

- 7.2 The applicants are part of the Upper Waitaki Applicant Group (UWAG), as described in our Part A decision. Mr Ewan Chapman presented comprehensive opening legal submissions on behalf of all UWAG applicants. He said that there may be matters of a specific legal nature relating to certain applications and those issues will be raised when the specifics of the applications were discussed in closing.
- 7.3 Mr Chapman told us that UWAG represents some 72% of all applicants for water takes. This equates to 31% of the total water volume applied for (excluding stock water and non-consumptive diverts) and 29% of the total irrigable area.
- 7.4 Mr Chapman emphasised that despite the collective approach adopted for these hearings, each application needs to be considered in isolation from others (allowing for priorities). However Mr Chapman noted that UWAG is not producing any other evidence to support its own assessments of cumulative effects and adopts the MWRL evidence to the extent that it defines nodal thresholds.
- 7.5 While raising some challenge to the outcomes of the mitigation measures proposed by MWRL resulting from the WQS study, Mr Chapman told us that the UWAG members were not presenting their case to say that they cannot or will not meet an area-based NDA threshold. To the contrary, he said that we would be shown that they have taken the model and applied it to all properties and will, with mitigation, meet the thresholds.
- 7.6 Mr Chapman then addressed us on the issue of allocation of assimilative capacity. He contended the approach taken by MWRL that essentially resulted in some farming units mitigating for the nutrient loss of other farming units, was inappropriate. He submitted a more appropriate method of allocation is on the basis of productive use of land. The productive use of the land he said represents the level of nutrient discharge of each farming unit and that should be used; and that the method of allocation based on dividing allocation on a per hectare basis should not be utilised.
- 7.7 He submitted that by assessing allocation of assimilative capacity on the basis of productive land use to reflect the NDA for each unit, these methods would be more representative and realistic of the nutrient discharge of each farming unit.
- 7.8 In terms of conditions concerning the nodal approach, he told us the essential issue lies with pinpointing who is exceeding their NDA if exceedances are detected at the nodal point. He told us the UWAG applicants' preference is for on-farm management of total nutrient discharge and annual auditing of individual FEMPs. He then referred us to a draft condition from the Rakaia Selwyn groundwater zone hearing, noting it was a very much site-specific condition.
- 7.9 He submitted that on-farm monitoring should be favoured over monitoring at nodal points. He said this did bring in the practicalities of the purpose of employing the FEMP with the result that if a breach of the FEMP occurs, the consent authority would have control to enforce the conditions of the consent against the individual applicant. It also reflects the reality that each farm will be different depending on the type of activity that is undertaken on that farm with their individual tailored farming management practices.
- 7.10 Mr Chapman also said that UWAG had not tabled a final set of conditions or final farm management plans. These matters would be worked through and provided to all parties as the

hearing progressed. UWAG was of the view that one suite of conditions was inappropriate. There were variables between sub-catchments, take points, and the "type" of consent applied for which would mean that individual conditions would need to be worked through.

Ms Keri Johnson

- 7.11 Ms Keri Johnson (Irricon Resource Solutions) noted that Maryburn Station has 8,375 ha of pastoral lease and 623 ha of freehold land. Within this area the applicant runs beef cattle and sheep and currently carries 5,000 breeding ewes, 725 wethers, 2,100 hoggets, 80 rams, 180 breeding cows, 50 rising 1 year old calves and 6 bulls.
- 7.12 Ms Johnston told us that as a result of the new minimum flow imposed on their permit to abstract water from the Mary Burn, Maryburn Station has had to buy in winter feed and grain, has de-stocked 1,500 stock units and overgrazed a lot of the hill and swampy areas. As an example the applicant stated that, prior to the new minimum flow, it did not have to feed out any winter saved supplements until June. Now, this feed can be fed as early as late January.
- 7.13 Ms Johnston also advised that Maryburn Station is in the Tenure Review process, which may result in over a third of the property going back into Crown ownership with the rest becoming freehold. The applicant stated that the Department of Conservation is aware of the applicant's intentions with regards to irrigation. The applicant believes that the tenure review has allowed the Department of Conservation to obtain the land that has the values they desire and that DoC has no interest in acquiring the remaining land (including the proposed irrigation area).
- 7.14 Ms Johnston provided an overview of the applicant's proposal, how it fitted into the relevant statutory considerations, an assessment of the environmental affects and details of the proposed mitigation methods. In summary the mitigation methods that applicant proposed to undertake include:
- (a) Restricting the rate of take and volume per week to what they have applied for.
 - (b) Abiding by the minimum lake levels as defined in the WCWARP
 - (c) Metering the take with an appropriate meter
 - (d) Incorporating a fish screen designed in accordance with recommended guidelines. The applicant noted that didymo has been detected in the Tekapo Canal and the presence of this organism may challenge the performance of any intake and fish screen if it establishes itself.
 - (e) Carrying out a full on farm risk assessment, proposing mitigation, environmental monitoring and auditing. These are summarised in a proposed Farm Environmental Management Plan (FEMP), which has been supplied to the Panel.
 - (f) Implementing the "Mandatory Good Agricultural Practices" set out within the FEMP.
 - (g) Ensuring that the NDA property thresholds of the WQS are not exceeded.

Mr Andrew Craig

- 7.15 The applicant contracted Andrew Craig (Andrew Craig Landscape Architect Limited) to undertake an assessment of the effects of the proposed irrigation on the surrounding landscape.
- 7.16 In his evidence Mr Craig outlined the applicant's property in relation to the wider landscape setting and noted that it is one of the most open landscape settings for any of the application sites subject to this consent process. Compounding this is the clean and uncluttered character of the landscape, which is generally void of trees and buildings and the general absence of ridges and hills also ensure unobstructed views. In Mr Craig's opinion the overall setting clearly conveys much of the landform and landscape character that defines the Mackenzie Country.
- 7.17 Mr Craig stated that the only publicly accessible vantage point is State Highway 8 (SH8) that is a very important scenic route that runs through the Mackenzie Basin, exposing travellers to every aspect of the landscape within. Thus, in Mr Craig's opinion, SH8 can be considered an important vantage point.

- 7.18 Mr Craig stated however that that this [defining Mackenzie Country] includes the farmed side of it, which in the vicinity of the application site displays relatively high, but variable levels of improvement. As viewed from SH8, much of this land is cultivated while some of it is currently irrigated. Mr Craig also noted that infrastructure is also evident within the overall landscape setting. This includes the highway, transmission lines running adjacent to SH8 and the proposed irrigation area, and the Tekapo canal.
- 7.19 In Mr Craig's view, farming is very much part and parcel of the Mackenzie Basin landscape and in many respects is responsible for the character and amenity that people now appreciate. Furthermore, Mr Craig stated that the apparatus for irrigation is mobile and essentially ephemeral.
- 7.20 Consequently, in Mr Craig's opinion the landscape of the application site is not going to be irrevocably changed, nor for that matter altered to any great extent. On this basis Mr Craig concluded that the effects on landscape from the proposed irrigation are going to be less than minor.
- 7.21 Mr Craig also noted that the application site land is zoned 'Rural' within the Mackenzie District Plan (MDP). Within this zone irrigation is a permitted activity, and so according to Mr Craig the landscape effects are anticipated by the MDP. The application site also partially lies within 'Scenic Viewing Area 13' (the Wolds and Maryburn) as defined in the MDP. In his evidence Mr Craig explained that the MDP forbids the erection of buildings within scenic viewing areas, but not pastoral intensification or the establishment of irrigation activity.

Mr Bob Batty, planner

- 7.22 Mr Batty addressed us in relation to planning issues. He set out his broad view as being:
- (a) whether or not granting any of the applications before us, including this application, would undermine the operational integrity of the WCWARP, regional plans and district plans;
 - (b) whether cumulative effects would arise from a grant;
 - (c) whether grants would promote reasonable efficiencies and sustainable management of the natural and physical resources concerned; and
 - (d) whether the grant of consent would derogate from any other consent.
- 7.23 He was critical of the section 42A officers' collective approach and suggested each application needs to be considered on its own merits. A move away from the generic approach of the reporting officers was required, he said, to enable a proper analysis of each application to occur.
- 7.24 He supported Mr Kyle's planning analysis on behalf of MWRL and he set out for us relevant policies and objectives in the district and regional plans. In conclusion, he was of the view that granting this consent and all other UWAG consents was appropriate.

Mr Andrew Macfarlane, farm management consultant

- 7.25 Mr Macfarlane is a farm management consultant with 29 years experience. He provided us evidence on behalf of all of the UWAG applicants.
- 7.26 He assessed the viability of the farm management plans and practicality and robustness of the mitigation measures and the ability to monitor progress.
- 7.27 He discussed a range of mitigation measures that had been examined and/or adopted by the UWAG farmers to deal with discharges from their properties consequent upon irrigation.
- 7.28 Mr Macfarlane also discussed with us the costing of various typical irrigation developments.
- 7.29 He considered on-farm monitoring, noting that on-farm monitoring had lifted in its intensity and in detail over the last 10 years, being driven by economic returns and a need to prove environmentally sustainable methods were being utilised. Overall, he held a high degree of confidence in progress concerning the ability to monitor and interpret interfaces between environmental science and management.

- 7.30 He raised with us the advantages of reliable availability of water and pointed out for us the benefits of irrigation, noting that while generally irrigation typically only represents a small part of the total farm area, but it does result in high productivity increases with a resultant favourable impact on economic viability of farming operations. He concluded with the correct planning, management and monitoring any negative environmental impact of intensification of a small area would lead to positive environmental outcomes on the balance of the property. It was his view a net positive balance was certainly possible.

8 SUBMITTERS

- 8.1 Set out below is the summary of the issues raised by submitters who appeared before us. We emphasise that we have read and considered all submissions made, both in support and in opposition to the application, as well as reviewing and carefully considering evidence advanced before us.

Mackenzie Guardians – Dr Susan Walker

- 8.2 Dr Susan Walker (Plant Ecologist, Landcare Research) was engaged by the Mackenzie Guardians to provide evidence at the hearing detailing the effects on terrestrial ecology from the proposed irrigation of an additional 25,000 ha. The majority of Dr Walker's evidence related to the proposed irrigation in all of the Upper Waitaki catchment. A summary of this evidence has been included in Part A of this decision.
- 8.3 In relation to individual applications, Dr Walker's Attachment 15 contained her more particularised reviews in respect of each site. Dr Walker assessed the applicant's property as being approximately 21% converted.
- 8.4 She identified that the irrigation area overlaps parts of a Recommended Area for Protection (RAPs) identified in the 1984 Protected Natural Areas Programme Survey. She also explained that the proposed irrigation site is a known habitat for several threatened plant species, and a key habitat conservation site for Lepidoptera (moths), which are all still known to be present. Dr Walker considered that the property makes a highly important contribution to intact ecological sequences in the north and east of the Basin and ranked the application as having the "greatest" potential effects of terrestrial biodiversity of all the applications before us.
- 8.5 Dr Walker suggested that a new survey of flora and fauna is needed on all proposed irrigation sites, which would require specialist expertise. Dr Walker noted that because native plant species are present at many sites affected by the various applications (including this one) they are unlikely to be exempt from rules that constrain indigenous vegetation clearance in the Mackenzie and Waitaki District Plans.
- 8.6 Dr Walker also provided an example on the applicant's property where, in her opinion, cultivated area is within an area of conservation land where rare *Myosurus* and *Leptinella* species were located (both are ranked Nationally Critical). Dr Walker notes she could find no evidence of a consent from LINZ to cultivate this area.

Mackenzie Guardians – Ms Anne Steven

- 8.7 Ms Steven provided a comprehensive brief of evidence on landscape for the Basin.
- 8.8 Ms Steven's evidence particularly addressed properties she described as Maryburn, Simons Hill, Simons Pass, and Killermont Stations. Maryburn Station is of course known as Classic Properties Limited.
- 8.9 Ms Steven's main conclusions were:
- (a) Large parts of the application site she considered as described above coincide with areas of significant landscape value, including ecological, geomorphic, and historic values;
 - (b) These values support the status of the Mackenzie Basin as an Outstanding Natural Landscape;
 - (c) There would be significant adverse effects on these values that would not be sustained under the proposed development;

- (d) There would be a shift in the actual and perceived naturalness of the landscape to a substantially lower degree of naturalness, outside of areas already cultivated and developed;
 - (e) There would be substantial loss of distinctive natural landscape that contribute in a major way to the Mackenzie Basin landscape;
 - (f) Opportunities to restore degraded natural landscapes of the Basin to more natural landscapes that would make an enhanced contribution to the natural character of the Basin would be irretrievably lost.
- 8.10 Ms Steven identifies that the subject site is zoned Rural in the Mackenzie District Plan. Relevant overlays that have been identified are the Scenic Viewing Area #13 and a Site of Natural Significance #50. She refers to her tenure review work on the subject site that she carried out for the Department of Conservation. She told us the areas being applied had been identified as having significant inherent values (SIVs) and protection of these areas was recommended in the tenure review reports for Maryburn.
- 8.11 She told us the application area includes most of the tussock grasslands in the immediate foreground of the views from State Highway 8.
- 8.12 She informed us the surface has a variable braided mound and hollow pattern, ancient, typical in characteristic of outwash surfaces formed by water and wind. The surface, she told us, has a relatively dense cover of modified short tussock cover, suffused with low matagouri. Typically the tussock is on the deeper soils and mat plants (lichens and mosses) occupy the thinner stony substrate of the hollows. She referred us to an ecological survey carried out by Jeff Walls in 2001.
- 8.13 She quoted from Mr Walls's report as follows:
- "The highest oldest terrace is clothed in a mosaic of fescue tussock of varying density, scattered native shrubs, matagouri, porcupine shrubs, tauhinu, common broom, shrub daisy, and exotic pasture plants. Hawkweed is very common. Native scabweeds and dwarf shrubs are common in places. ... Also present are some extremely rare native plants especially adapted to such open places where occasionally collects. They include NZ mousetail, which was first found in the flats in 1993 and was reconfirmed during the survey... Also found in the survey were leptineaa clutha, a little gray button daisy previously known only from Piza Flats in Otago and gallium clutha, a tiny green herb with creamy flowers previously only known from Piza Flat, the Maniatoto, and Kaitorete Spit".*
- 8.14 In Dr Walker's opinion the flats are an integral part of the highly natural landscape of the central Basin floor. Altogether, it appears as an extensive intact and visually cohesive landform surface with subtly varied topography and vegetation patterns dominated by indigenous species, she told us. There is a sense of vast scale, simplicity and homogeneity, and an openness and horizontal emptiness that is memorable. The absence of development, she told us, over such a large area is an impressive quality. It was her view that the degree of naturalness, intactness, and coherence is high to very high even though the short tussock grassland is in a degraded state.
- 8.15 She referred to the existence of State Highway 8 with the proposed irrigating area lying alongside the eastern margin of the highway. She told us the perceptual qualities she described are able to be fully enjoyed from the highway and there are long views across these plains to the eastern Basin ranges some 20 to 30 kilometres away. She told us she regarded the view east from the stretch of State Highway 8 between the Wolds and the boundary with Maryburn and the southern edge of the older outwash surface as one of the classic views in landscape experiences in the Basin. She told us this is echoed in the Scenic Viewing Area overlay adjacent to State Highway 8, which considers the first 400 metres or so of the tussock plain to be of value for scenic visual purposes, primarily as open and uncluttered space.
- 8.16 Dr Walker considered the outwash plain to be the most significant area on Maryburn due to the qualities that she described. She considered that this area contributed in a major way to the outstanding natural qualities of the Basin landscape and its strong sense of place. She disagreed with Mr Craig's assessment that the application site had been cultivated. She did note following her assessment some cultivation through the application area had occurred. It was her view there still remained large areas of healthy looking short tussock and she did not agree that most of the application site consists of exotic pasture.

- 8.17 When considering the effects of irrigation she considered that there would be a displacement of the open natural grassland landscape with patchy cultivated and irrigated paddocks, which would not be appropriate and would be significantly adverse. It was her view that development would significantly reduce the current degree of natural character as well as directly removing important dryland indigenous vegetation and habitat. She said this view is the best there is of expansive short tussock grassland uninterrupted by structures and she considered it to be a part of the Basin that is an Outstanding Natural Landscape. She could not support the irrigation activity.

Mackenzie Guardians – Ms Di Lucas

- 8.18 Ms Lucas identified this site in her brief of evidence as Site #5. She noted that the site includes two outwash terrace areas along State Highway 8 that exhibit the classic beloved aesthetic of the Mackenzie country. Within her scale of 1-5, she gave it a naturalness rating of 1, 2 and 3. She was of the view that the site is made up of relatively intact tussock grassland to cultivated drylands.
- 8.19 She noted the site is entirely in close view from State Highway 8. She noted that the site was an important contributor to the natural landscape experience of the Mackenzie and, in her view, the proposed irrigation would very significantly reduce the naturalness of this site and of the experience of the outstanding natural landscape of the Basin.
- 8.20 In her view, if consent were granted, then this proposal would significantly adversely affect the outstanding natural science, aesthetic and legibility values of what she called the Tekapo Basin landscape. She also contended that heritage and amenity values would be significantly adversely affected. She considered the attributes contributing importantly to the ONL would not be protected. She noted that her views were supported by Mr Glasson's views.

Department of Conservation

- 8.21 The Department of Conservation did not provide any specific evidence on this application. Their submission (combined with 6 other applicants for various consents in the Maryburn / Pūkaki flats area) raised concerns with, failure of the application to address adverse effects on ecosystems due to degraded water quality and instream works, term of consent applied for Part 2 of the RMA.

Waitaki First Inc

- 8.22 Waitaki First Incorporated (WFI) provided a specific submission opposing this application. WFI opposed the application unless it meets the provisions of the WCWARP including policies that require efficient use of water (i.e. spray irrigation and measuring soil moisture levels), water metering and completion of an appropriate FEMP.

Meridian

- 8.23 Mr Richard Turner (MEL) identified that there is discrepancies between the applicant's proposed consent conditions and those common consent conditions agreed with MEL prior to derogation approval being acquired. Mr Turner's evidence acknowledged that a number of applications from this hearing contain these discrepancies.
- 8.24 His brief of evidence dated 30 November 2009 identified this application as being an application of concern from a water quality perspective.
- 8.25 Mr Turner also commented on the issue of compliance with subcatchment nutrient thresholds. In particular, he voiced concern about the proposition put forward by Mr Chapman and Mr Batty for UWAG that monitoring at the subcatchment nodes should occur but that those nodes should not be used to assess compliance. Mr Chapman and Mr Batty put forward the suggestion that if the threshold limits at the subcatchment nodes are exceeded but individual consent holders are complying with their on-farm nutrient discharge allowances, then no remedial action should be required of the consent holders.
- 8.26 Meridian did not support this approach because Meridian was concerned with potential cumulative water quality effects in certain areas of the catchment. Mr Turner was concerned that if the approach outlined by Mr Chapman and Mr Batty was adopted and the threshold limits were exceeded at the subcatchment nodes, then cumulative effects could occur but no applicant would be held accountable to remedy the situation. Mr Turner was of the view that this was not

appropriate.

Ngāi Tahu

- 8.27 Te Runanga o Ngāi Tahu and the local Papatipu Runanga in their evidence made a general statement that they were most concerned to ensure that the conversion of up to 27,000 hectares to intensive agriculture does not in any way displace their relationship with the Mackenzie Basin (Te Manahuna). This concern was particularly focused on the applications for new and large scale intensification operations and their potential to have an irreversible effect on cultural values. Ngāi Tahu concluded that Classic Properties was among a number of properties that they considered had the potential to degrade the aquatic habitat of the Lower Tekapo River and Haldon Arm of Lake Benmore.
- 8.28 Mr Horgan (Environmental Advisor) told us that Ngāi Tahu had adopted two focal points against which they assessed the applications; the Haldon Arm was one of these as it would be one of the most acute receiving environments for the discharge of nutrients from the irrigation proposals in the catchment. He also told us that the Lower Tekapo River and Haldon Arm were locations where Ngāi Tahu propose to undertake mahinga kai restoration.
- 8.29 Ngāi Tahu made general comments on landscape impacts in the catchment, from the perspective of the interconnected nature of the mountains, ranges, land, lakes and waterways combining to represent a cultural landscape. A general point was made on the absence of a land use capability study on which to better identify land use options but no property specific evidence was presented in respect of the landscape values of Classic Properties.
- 8.30 Ngāi Tahu presented “visual evidence” at the hearing. The archaeological map contained in the visual evidence shows no “recorded” archaeological sites to be located on Classic Properties land.

Other submissions

- 8.31 General submissions in opposition to the application raised concerns regarding effects on: habitats; species and ecosystems; natural character; indigenous flora and fauna; and threatened species. Concerns were also raised regarding efficiency of water application, water metering, appropriate implementation of a farm management plan and the length of the requested term of consent.
- 8.32 Those in support of the application, including Mark Urquhart’s specific submission stated that; the applications were consistent with objectives of the WCWARP; the application recognises irrigation potential in the Mackenzie Basin; utilising water from hydro canals is a positive step for the environment as it protects in stream values of the Mary Burn; and irrigation will help prevent soil loss, as their reasons for support.

9 UPDATES TO THE SECTION 42A REPORTS

Terrestrial Ecosystems

- 9.1 In Mrs Bartlett’s S42A addendum she noted that the applicant had not provided any additional assessment on the effects on indigenous flora and fauna within the proposed irrigation command area. Ms Bartlett supported the suggestion made by Dr Walker that an additional survey of terrestrial values, prior to any cultivation or irrigation, would be appropriate. In Ms Bartlett’s opinion it is difficult to conclude that effects on species and habitat will be minor in the absence of an appropriate survey. Ms Bartlett noted however that the proposed area of irrigation represents only ~7 % of the Maryburn flats.

Water Quality

- 9.2 Dr Mike Freemans S42A addendum presented an audit of the draft FEMP and water quality assessments provided by the applicant. In regard to the applicant’s FEMP Mr Freeman considered that there are some uncertainties about potential adverse effects of the proposed activity on water quality, such that either more information or strict monitoring and response conditions were needed to address cumulative water quality effects.

Landscape

- 9.3 Mrs Bartlett’s addendum noted that Mr Glasson’s opinion on landscape issues remained unchanged and that the effects of the proposed irrigation would be significant.

10 APPLICANT'S RIGHT OF REPLY

- 10.1 As for his opening, Mr Chapman's right of reply was presented on behalf of all UWAG members. He did provide some specific comments on this application.
- 10.2 Mr Chapman re-categorised the UWAG applicants, which he did to direct our focus on the actual and potential effects on the environment and to recognise that in many of the circumstance there would either be no change or there would be an enhancement to the environment as a result of a conversion process for more efficient irrigation being undertaken.
- 10.3 Mr Chapman challenged Dr Freeman's Table 5, contained within Dr Freeman's first addendum report dated 12 January 2010. Mr Chapman contended the list was flawed because applications were placed in the red category solely by virtue of their location within catchments. Mr Chapman considered the correct approach for the ranking of applications was to determine where they sat in relation to the existing environment.
- 10.4 He noted that there had been much emphasis on nutrient management but he contended we should also be considering the sustainability of erosion prone fragile soils within the catchment. He also submitted we should take note that district plans encourage farming, including irrigation within these environments, and that the tenure review by the Crown encourages intensification of land use retained in freeholding ownership in order to release more vulnerable pastures to be set aside under the Crown ownership. Indeed, in respect of this particular proposal, he noted that tenure review had been completed and that the Department of Conservation had not submitted in respect of this proposal. This was not strictly correct, as the Department had submitted albeit in a general way.
- 10.5 Mr Chapman also contended that we should consider economic implications of the survival of UWAG farms given their investment in infrastructure as a factor. He also noted we should take into account managing the land in light of weed and pest problems and how irrigation assists in that regard.

Mr Andrew Craig

- 10.6 In Mr Craig's reply, Mr Craig reiterated Mr Glasson's concerns. He noted he could not agree with Mr Glasson's evaluation of the application site, particularly that the receiving environment displays a high level of natural character.
- 10.7 Mr Craig was of the view significant areas of land are irrigated along the stretch of State Highway 8. He noted the presence of farm buildings, fences and allied structures as detracting from the site's natural character. He also noted that the application site is currently cultivated and is quite green for extended periods over the course of the year. He referred to photographs in that regard.
- 10.8 He did accept that the site was highly visible and that the views are expansive. However, in his view, the views to the west were much more impressive than those to the east.
- 10.9 It was for these reasons he contended that the irrigation effects within the application site are not going to be out of keeping with the immediate and wider setting, particularly to the east.
- 10.10 He contended that it would more or less maintain existing land use patterns as there was no intention to break in new land.
- 10.11 Importantly, he pointed out to us that the existing strip of tussock land between State Highway 8 and the power poles will remain since the irrigation activity can only take place beyond. Essentially, there will be no great change to the land cover arising from irrigation although he conceded pivot irrigators would be introduced to a landscape that is to date devoid of them. Because they are set at least 130 metres away from the highway they should not, he said, appear too imposing as viewed by the travelling public.
- 10.12 It was his overall conclusion that the effects of irrigation for this particular application site are not going to be significant within the context of the receiving environment.
- 10.13 We note that in his materials in reply, he did not address us on the issue of cumulative effects arising in terms of the range of applications along State Highway 8 in close proximity to this proposal site.

11 STATUTORY CONTEXT

- 11.1 The relevant statutory context for a **discretionary** activity is set out in detail in our Part A decision. In accordance with those requirements, we have structured this evaluation section of our report as follows:
- (a) Evaluation of effects
 - (b) Evaluation of relevant planning instruments
 - (c) Evaluation of other relevant s104 matters
 - (d) Part 2 RMA
 - (e) Overall evaluation

12 EVALUATION OF EFFECTS

- 12.1 Drawing on our review of the application documents, the submissions, the Officers' Reports, the evidence presented at the hearing and our site inspection, we have concluded that the effects we should have regard to are:
- (a) Water quality
 - (b) Landscape effects
 - (c) Effects on terrestrial ecology
 - (d) Cultural effects

Water Quality

- 12.2 In relation to water quality, we must consider both local effects on water quality as well as cumulative effects. In Part A of this decision we rejected the MWRL proposition that all consents sought in this hearing could be granted (with conditions) and without causing cumulative effects. It is incumbent upon us, therefore, to decide whether granting this application, in combination with other water permits we grant, will lead to cumulative water quality effects.
- 12.3 In Part A of this decision we determined that irrigation could occur in the catchment of the Northern (Haldon) Arm of Lake Benmore without causing more than minor effects. A more than minor effect was defined in this case as not causing the TLI of the Northern Arm to be greater than 3.0. In other words the water shall remain oligotrophic at all times. This is possible in the Northern Arm because of the large inflows from the Ohau C canal and the consequently relatively short residence time.
- 12.4 In his addendum report Dr Freeman appeared to agree (by not placing it in a list of critical issues used to categorise consents) that irrigation within the surface water and groundwater catchments that includes Maryburn Station, would not lead to cumulative water quality effects in the Northern Arm of Lake Benmore or Lake Pūkaki. Nevertheless, Dr Freeman placed Maryburn in the amber category – i.e. on the basis of currently available information, there are significant uncertainties about potential adverse effects on cumulative water quality but that depending on additional considerations relating to issues other than cumulative water quality effects could be granted, provided that either more information is obtained to reduce the uncertainties or subject to strict comprehensive monitoring and response conditions that would enable a rapid and effective control response that would adequately prevent the occurrence of significant adverse effects. We agree with Dr Freeman's assessment in this regard and also with his view that cumulative water quality effects in this instance relate to adverse effects on the Tekapo/Pūkaki Rivers and/or tributaries such as Irishman Creek.
- 12.5 In Part A of this decision, we rejected MWRL's proposition that irrigation on the scale proposed would not lead to nuisance growths of periphyton in streams and rivers. It is our firm view, based on the evidence presented, that the rivers and streams within the Upper Waitaki catchment are sensitive to nutrient additions. We also rejected the proposed MWRL threshold of a 25% increase above the calculated (from average stream nutrient concentrations) current periphyton biomass, favouring instead the MfE periphyton guidelines. Because the MWRL calculated NDA for Maryburn

Station was based upon a flawed assumption, that threshold is in our view too high and could result in significant increases in periphyton biomass; particularly where irrigation is close to stream margins. For this reason we have looked closely at proposed mitigation and in particular; setback distances from streams and rivers.

- 12.6 In this application Classic Properties Ltd stated there is no flowing water within or neighbouring the proposed irrigation area, and that there is 300m to 1 km separation between the eastern boundary and Irishman Creek, which runs parallel to that boundary. While this may be the case, it is clear from satellite imagery that the proposed irrigation area is located within old stream channels and that irrigation leachate would migrate in the direction of these channels toward their confluence with Irishman Creek.
- 12.7 As discussed in Part A, evidence presented by Adrian Meredith suggested leachate had reached a water body (Kelland's Pond) located ~500m away from a spray irrigated dairy pasture approximately 5 years after irrigation commenced. We visited Kelland's pond during our site visit and noted the occurrence of filamentous algae coincident with obvious groundwater incursion at the side of the pond nearest the irrigation field. While this does not constitute cause and effect, it did, in our minds illustrate the likely consequence of irrigation-induced shallow groundwater incursion into surface waters.
- 12.8 Clearly there are more likely to be effects on surface water where irrigation is close to that surface water but this is not to say that there will be no effects where the irrigation field is located at some distance from the surface water. Indeed this was the basis of the cumulative effects study, and as pointed out by experts on groundwater aspects of that study the travel time in some subcatchments could be of the order of 30-50 years. In this particular application, a defined groundwater flow path presents both a threat (to Irishman Creek) but also an opportunity; as monitoring bores should be able to provide early warning of a rise in DIN and DRP levels and allow corrective action if necessary. We are also of the view that if we were inclined to grant, consent conditions should include monitoring of Irishman Creek upstream and downstream of the likely convergence zone with the irrigation field.
- 12.9 We have audited the final FEMP for Classic Properties lodged with ECan on 22 November 2010. It is, in our view below the standard expected for such a document. The graphics are difficult to read and information is difficult to follow and cross-reference to either this application, or CRC070406 west of SH8. For example it state "the proposed irrigation area is approximately 680 metres west of Maryburn Stream", and "There are many small creek and water races within the proposed irrigation area". We assume that is in reference to CRC070406 but it is not explicitly stated. If that is the case there is no information on the local environmental context for this application. Irishman Creek is barely mentioned in the FEMP and then only in the context of limiting stock access in winter months.
- 12.10 Given that both Irishman Creek and the Mary Burn are classified as spring-fed upland creeks (see Section 13) we think there is a risk of significant environmental effects from the irrigation activity, particularly the proliferation of nuisance periphyton growths. There is nothing in the FEMP that gives us confidence that the applicant has sufficient mitigation to avoid such effects occurring. We acknowledge that we cannot be sure that they will, but there is simply insufficient information presented from which to make a reasoned assessment.

Landscape effects

- 12.11 The expert landscape architects representing the applicants, submitters and Environment Canterbury disagreed over whether the effects of the proposed irrigation would be more than minor and what mitigation (if any) was required.
- 12.12 In Mr Glasson's opinion the effects are more than minor, given the irrigation area is adjacent to Scenic Viewing Areas 12 and 13 combined with the use of pivots and likely change to colour and texture of landscape. Mr Glasson's view was strongly supported by the landscape experts, Ms Steven and Ms Lucas for Mackenzie Guardians.
- 12.13 Mr Craig for the applicant was of the view the site has already been modified with pastoral activities and buildings connected to the same present. He also considered the views to the west were preferable to those to the east.
- 12.14 The landscape experts either differed or were not completely clear about whether or not the Mackenzie Basin landscape is an Outstanding Natural Landscape in terms of Section 6(b) RMA. We took from the evidence of Ms Steven and Ms Lucas that they were very firmly of that view.

Mr Glasson also seemed to be of that view however he did suggest that there were certain parts of the landscape that were more natural than others. Mr Craig deferred to the findings of the raft of studies that have been undertaken in terms of the Upper Waitaki for determining whether or not the landscape was a truly outstanding natural landscape.

- 12.15 While all of the experts were determined to assess whether or not the effects of the proposed irrigation would be more than minor or minor on the landscape, we interpreted this approach to really be answering the core question as to whether or not within this landscape the activity as proposed was appropriate or inappropriate.
- 12.16 Mr Craig usefully pointed out to us that the word "irrigation" appears only once in the Mackenzie District Plan, Rural Section. He was of the view the Mackenzie District Plan clearly permits irrigation activity and therefore entertains its effects on the landscape. He formed the view that because irrigation is part of a normal farming activity, being a permitted activity, then he assumed that its effects will not offend the relevant landscape objectives and policies.
- 12.17 He noted, as we did, that controls become increasingly restrictive as levels of landscape protection are elevated, particularly around waterbodies and their margins, high country, significant natural areas, and any areas draped with an RMA Section 6(a) or Section 6(b) overlay. This might be seen to refer to the various Scenic Viewing Areas provided for in the Mackenzie District Plan.
- 12.18 In trying to understand the effects of this proposal overall we prefer the evidence of Mr Glasson, that of Ms Lucas, and that of Ms Steven in terms of their evaluation and overall outcome. We do acknowledge that the site of this proposal and its immediate surrounds are, to a level, modified by farming activities. However, the introduction of pivots close to State Highway 8 is, to our minds, a significant effect which we think will markedly detract from the outstanding natural character of this landscape.
- 12.19 Critically for us, the views from State Highway 8 and the high visibility of the subject site are compelling factors. We do not accept that the separation distance of 130 metres is sufficient. We do acknowledge that a separation distance of that sort, provided that vegetation establishes within that separation distance, would be helpful but we do not think that it alone is enough.
- 12.20 It is our assessment that this stretch of landscape between Tekapo and through to Twizel is a "true Mackenzie Basin landscape". As we have already said, we do not think that the mitigation measures proposed by the applicant, such as they are, tip the balance in favour of this proposal.
- 12.21 We have considered whether we should impose conditions, which may avoid, remedy or mitigate the impact on this outstanding natural landscape but given the dearth of evidence before us on the point we are most loathe to do so.
- 12.22 We do note that we have had the benefit of reading the recent Environment Court's decision of Judge Jackson, *High Country Rosehip Orchards v Mackenzie District Council* 2011 EnvC 387 on Plan Change 13 to the Mackenzie District Plan. We note at paragraph 105 the Court made its key finding that the large Mackenzie Basin is, despite all modifications to its endemic naturalness, one of the quintessential outstanding natural landscapes in New Zealand. The finding was clear that the Mackenzie Basin Subzone (excluding the Tekapo and Twizel townships; all of the Densem/Twizel character area; and the Dobson River catchment) is an Outstanding Natural Landscape.
- 12.23 We also note that the Court found in respect of Section 6(b) RMA that the "grandeur and openness of the general landscape of the Mackenzie Basin of all of the landscapes in New Zealand's high country make it an Outstanding Natural Landscape".
- 12.24 We accept that the finding as to an Outstanding Natural Landscape (ONL) is simply the first step. The next step is then to consider whether the form of development is appropriate or inappropriate.
- 12.25 The Court in its decision, in terms of the second step, noted the importance of the role of the state highways in carrying people through the Mackenzie Basin. It identified a range of tourist roads; among them was State Highway 8.
- 12.26 Picking that point up and applying it to the current circumstance we here have been troubled by the high level of visibility or visual vulnerability of the subject site from State Highway 8. We are

not satisfied that the means promoted by the applicant to avoid, remedy or mitigate that effect are appropriate.

- 12.27 The other point that troubles us with this application is the cumulative effect of the grant of consent to a range of the applications before us along State Highway 8. We are troubled by that point given our view that the road trip between Lake Tekapo and Twizel utilising State Highway 8 presents one of the prime views available of the Mackenzie Basin's Outstanding Natural Landscape. We discuss the issue of landscape further in our evaluation of the relevant planning instruments.

Effects on terrestrial ecology

- 12.28 We have before us evidence from Dr Susan Walker in relation to the existing biodiversity on the subject site. What was of interest to us was her view that the proposal overlaps significant inherent values identified recently in the tenure review and that on the subject site there are known habitats for several threatened species, including a key habitat conservation site for Lepidoptera (moths). She was of the view that the proposal site makes a highly important contribution to intact ecological sequences in the north and the east of the Basin.
- 12.29 We have assessed Dr Walker's evidence on the basis that if we did allow irrigation activity to occur that the irrigation activity would supplant and/or eradicate the biodiversity values that Dr Walker identified as being present on the subject site. This was a real cause of concern for us.
- 12.30 We note that the Mackenzie District Plan provides for this Section 6(c) RMA matter by identifying sites of natural significance. It utilises this tool to protect and provide for plant and animal communities and habitats that are representative, rare, or unique within the district or otherwise considered to be significant in terms of Section 6(c) RMA. In close proximity to both of the irrigation command areas for Classic Properties is located Site#50 being a site of natural significance. The Plan provides the name "Maryburn Flats" and describes the area as a representative sequence extending from shingle bed communities through dryland matagouri to fescue tussock grasslands characteristic of dry, well-drained soils. The plan also notes that the area encompasses a key habitat conservation site #4 for Lepidoptera (moths).
- 12.31 Also, as we read the Mackenzie District Plan, vegetation clearance shall be no more than 150 m from the boundaries of any existing site of natural significance. Our concern is that the irrigation command area would be within 150 m of the boundary of the site of natural significance. Whether the preparation of the irrigation command area for irrigation or oversowing would trigger the Rule we do not know. However, it appears to us to be an issue of concern.

Cultural effects

- 12.32 There were no specific property values identified by the applicant or Ngāi Tahu relating to this property or for the irrigation command area, however Ngāi Tahu informed us of their concern that applications of this scale could have an adverse impact on a range of cultural values and water sites in the receiving environment. The nutrient load from this proposed activity is likely to drain toward the Haldon Arm and potentially impact on the Maryburn, Lower Tekapo River and Haldon Arm as a consequence.
- 12.33 Ngāi Tahu identified as a high priority the protection of the Lower Tekapo and Haldon Arm from any deterioration in water quality and habitat values. Achieving this priority is reliant on maintaining water quality and health of the tributaries and ground water feeding the Lower Tekapo River and Haldon Arm.
- 12.34 The Ngāi Tahu mahinga kai restoration aspirations for the lower catchment will ultimately include the consumption of kai taken from the waters in the catchment and a physical interaction with the waterways such that confidence in the water quality being suitable for such activity is a significant issue to be satisfied.
- 12.35 A Statutory Acknowledgment over Te Ao Marama / Lake Benmore in favour of Ngāi Tahu exists and provides additional context to the traditional relationship of Ngāi Tahu to the waters and environs of the receiving environment for nutrients from the existing and proposed irrigation of Classic Properties.
- 12.36 In our assessment (above) of the potential impact the application might have on the receiving environment we concluded that, if granted, the irrigation may cause nuisance periphyton growths in Irishman Creek, and that mitigations proposed in the FEMP did not give us confidence that

such effects would be avoided. If nuisance periphyton growths did occur it would have follow-on effects in the food chain and potentially impact mahinga kai species.

Other effects

12.37 As is evident from the above discussion, we consider that there are some serious flaws with the proposal that will give rise to adverse effects on the environment that cannot be remedied, avoided or mitigated. Given this conclusion, we have not considered in detail other more minor effects of the proposal, such as the efficient use of water or environmental flows and levels. In the context of this proposal, we consider that these issues are relatively insignificant and would not have altered our final determination on this application.

Key conclusions on effects

12.38 In relation to the actual and potential effects of the proposal, our key conclusions are as follows.

12.39 While we are confident that granting this application along with other applications we grant would cause less than minor effects on water quality of the Haldon Arm of Lake Benmore, we are less confident with respect to localised effects on Irishman Creek; particularly nuisance growths of periphyton. The FEMP tabled by the applicant did not give us confidence that such effects would be avoided.

12.40 We have found that the landscape effects of granting this application with the mitigation measures proposed by the applicant would result, we think, in effects that could properly be described as significantly more than minor; thus supporting the conclusion that this development on this site is inappropriate in a Section 6(b) RMA sense against the finding that the Mackenzie Basin landscape is an Outstanding Natural Landscape.

12.41 It is our view that there are high terrestrial ecology values on the subject site and they would be irreparably impacted upon as a consequence of a grant of consent to irrigate.

12.42 The core focus on cultural effects is to do with impacts on water quality and we concluded that there may be unacceptable effects on Irishman Creek. We also form the view that there are other effects, particularly those on landscape and terrestrial ecology, which can properly be described as more than minor; thus supporting the conclusion that development of the sort here proposed on this site is inappropriate.

13 EVALUATION OF RELEVANT PLANNING INSTRUMENTS

13.1 Under s 104(1)(b) of the Act, we are required to have regard to the relevant provisions of a range of different planning instruments. Our Part A decision provides a broad assessment of those planning instruments and sets out the approach we have applied to identification and consideration of the relevant provisions. The following part of our decision should be read in combination with that Part A discussion.

13.2 In relation to the current application, we consider that the most relevant and helpful provisions are found in the regional plans, including in particular the WCWARP and the NRRP. In addition, the Proposed and Operative CRPS and the relevant District Plans are of assistance in relation to landscape issues that arise.

13.3 The following sections of this decision provide our evaluation of the key objectives and policies from these planning instruments. We have organised our discussion in accordance with the key issues arising for this application, which are water quality and landscape.

Water quality

WCWARP

13.4 In relation to the WCWARP, we consider that Objective 1 is the critical objective. In particular, Objective 1(b) seeks to safeguard life-supporting capacity of rivers, lakes, and Objective 1(d) seeks to safeguard the integrity, form, functioning and resilience of a braided river system.

13.5 We have determined that in granting these consents the load arising from this activity will not cause (in combination with other consents we grant in the Haldon Arm catchment) more than minor effects of the trophic status of the Haldon Arm of Lake Benmore.

- 13.6 However we are not satisfied that the activity, with mitigations, would not result in nuisance growths of periphyton in Irishman Creek and/or the Mary Burn. While this could be managed by way of conditions requiring the ratcheting back of irrigation in the event of thresholds being breached, our degree of uncertainty coupled with the lack of information provided by the applicant lead us to the situation that this is not an appropriate course of action in this instance.
- 13.7 Overall, we conclude that a grant of consent, with conditions, would be not consistent with Objective 1(b) and 1(d) WCWARP.
- 13.8 Objective 1(c) requires us to manage waterbodies in a way that maintains natural landscape and amenity characteristics and qualities that people appreciate and enjoy. Given our findings in terms of effects on water quality and periphyton growths, then our view is that granting consent would not be consistent with Objective 1(c).
- 13.9 We note that Objectives 2, 3, 4, and 5 are “in the round” deal with and provide for the allocation of water. The critical qualification is that water can be allocated provided that to do so is consistent with Objective 1. Given the findings we have made about Objective 1 we conclude that allocating water in terms of the balance objectives would not be consistent with the overall scheme of the WCWARP. We reach this view taking into account the national and local costs and benefits (environmental, social, cultural and economic) of the proposal, as required by Objective 3.
- 13.10 Policy 13 links the WCWARP to the PNRRP (as it existed at the time) by requiring us to have regard to how the exercise of the consent could result in water quality objectives of the PNRRP not being achieved. As we explained in our Part A decision, we have considered the objectives of the PNRRP and the now operative NRRP in relation to the current proposal. However we have generally given greater weight to the NRRP provisions on the basis that they represent the current approach for achieving the common goal of protecting water quality.

NRRP

- 13.11 Under the NRRP, Lake Benmore (including the Haldon Arm) is classified as an “Artificial On-River Lake” under the NRRP. Objective WQL1.2 of the NRRP seeks to ensure that the water quality of the lake is managed to at least achieve the outcomes specified in Table 6, including a maximum Trophic Level Index (“TLI”) of 3 (i.e. oligotrophic-mesotrophic boundary). For the reasons discussed above, we consider that granting consent to the proposal would be consistent with this objective and would not (in combination with others we grant) caused the TLI maximum to be breached.
- 13.12 Both Irishman Creek and the Mary Burn are classified as Spring-Fed Upland Rivers under the NRRP. Objective WQL1.1 of the NRRP seeks to ensure that the water quality of such rivers is managed to at least achieve the outcomes specified in Table 5. A key indicator for these applications is that maximum chlorophyll-a should be less than 50 mg /m² (periphyton guideline for safeguarding aquatic biodiversity and also recreation). Spring-fed Upland rivers also have associated water quality performance standards for DRP and DIN (Table WQL16) of 0.007 and 0.10 mg/L, respectively. We are not confident that if we granted consent, these standards could be maintained.

Conclusions on water quality provisions

- 13.13 Overall then having regard to the scheme of the WCWARP and the NRRP we reach a conclusion that granting consent in this case to the proposal (subject to conditions) would not be consistent with the key objectives and policies of both of these plans relating to water quality.

Landscape

- 13.14 We discussed the relevant objectives and policies for landscape in our Part A Decision. In summary these are primarily found in the Proposed and Operative CRPS and the NRRP. In broad terms these provisions seek the protection of outstanding natural landscapes from inappropriate use and development. In considering these provisions we are informed by the objectives and policies of the Mackenzie District Plan.
- 13.15 The objectives and policies contained within the Mackenzie District Plan broadly mimic those that are contained in the higher order policy documents. Objective 3A seeks 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. Reference is made to Section 6(b) RMA in the explanation and reasons.

- 13.16 Related policies seek the same or similar outcomes, namely recognising the Basin has a distinctive and highly valued landscape containing Outstanding Natural Landscapes through the Mackenzie Basin subzone within the rural zone and to protect the Basin from inappropriate subdivision use and development.
- 13.17 Objective 3B seeks to encourage a healthy productive economy, environment and community within, and maintain the identity of, the Mackenzie Country. Within the explanation and reasons supporting this Objective the Plan provides that sustainable management requires a balance to be found that provides for social, economic, and cultural wellbeing of the community while sustaining natural and physical resources and safeguarding the environment from adverse effects.
- 13.18 Objective 3C deals with landscape values and seeks the protection of natural character of the landscape and margins of lakes, rivers, and wetlands and for natural processes and elements that contribute to the District's overall character and amenity.
- 13.19 Landscape value protection as we read the District Plan appears to focus on the wider visual landscape considerations. This is supported through policies such as Rural Policy 3M, which deals with Scenic Viewing Areas (SVAs). That Policy seeks to limit structures and tall vegetation within SVAs to enable views of the landscape to be obtained within and from those areas.
- 13.20 The explanation and reasons to Objective 3 notes that SVAs have been identified by the Council as being significant because of the landscapes contained in these areas and the views obtained from these areas, and because of the high degree to which these areas are visited for the purpose of experiencing the Mackenzie Basin and the high country landscapes. The Policy seeks to protect both the viewing sites and the views from them. The environmental results anticipated are retention of view within and from SVAs.
- 13.21 The SVAs provided for in the Mackenzie District Plan about this particular application site. SVA#13 and SVA#12 run alongside both the east and west side of the state highway immediately opposite the irrigation command areas. SVA#14 is a short distance away from the command areas. The extent of SVAs that run along both sides of State Highway 8 adjacent the irrigation command areas for this proposal demonstrates how highly prized views from these SVAs are.
- 13.22 The Mackenzie District Plan at Appendix J sets out some limited descriptor of the purpose of the SVAs in terms of what is to be viewed from them. SVA#12, called "the Wolds", provides views to the north-west Irishmans Creek and the mountaintops in the distance. SVA#13 is called "the Wolds and Maryburn" and provides views to the south and north-east, which indicate the extent of the Basin. We note that SVA#13 is extensive. SVA#14 is described as "Maryburn" and provides a view to the south of Maryburn River with Haldon country in the background. These limited descriptors support the conclusion that the vistas from these viewpoints are very extensive and provides views of the expansive Basin.
- 13.23 Policy 3C seeks to avoid adverse impacts on outstanding natural landscape features of the Basin. For our purposes, in particular from structures. The explanation and reasons refer to structures associated with more intensive farming such as large irrigators or industrial style buildings. The Plan notes that when placed in the foreground of views these structures can reduce scenic values and the sense of openness valued within the Basin.
- 13.24 In the course of our deliberations we had occasion to read and consider the recent Environment Court decision by Judge Jackson (*High Country Rosehip Orchards Ltd and Others v Mackenzie District Council* 2011-NZ EnvC-387), in which the Court considered the objectives and policies in the Mackenzie District Plan as they related to landscape. We note that the decision is an interim decision in all respects with the exception that it is a final decision in respect of the 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 judgments are interim.
- 13.25 In our approach we have accepted that the Mackenzie Basin is an Outstanding Natural Landscape and from that point our focus has turned to the provisions of the Mackenzie District Plan. We have also, of course, closely considered Section 6(b) RMA. In terms of the policy base to the District Plan, the Environment Court has promoted suggestions for change.

13.26 Policy 3B(1) as per the Court's decision seeks to recognise within the Mackenzie Basin's ONL, which is all of the Basin, that there are some areas where different types of development and use (such as irrigated pastoral farming and other activities) are appropriate and to identify these areas. Equally, there are many areas according to Policy 3B(1) as amended where such use and development is inappropriate. We have been called upon to make a decision where development of the sort we are here interested in has been identified as appropriate.

13.27 Of particular interest we note that the Environment Court revised Objective 3B forming the interim conclusion that a more focused and more appropriate objective for landscape of the Mackenzie Basin seeks to protect and enhance the ONL. Among other matters, this objective seeks to achieve the following outcome:

to protect and enhance the outstanding natural landscape of the Mackenzie Basin subzone in particular the following characteristics and/or values:

- (a) the openness and vastness of the landscape;*
- (b) the tussock grasslands;*
- (c) the lack of houses and other structures;*
- (d) residential development limited to small areas in clusters;*
- (e) the form of the mountains; hills and moraines, encircling and/or located in, the Mackenzie Basin;*
- (f) undeveloped lakesides and State Highway 8 roadside;*

13.28 Subject to the above, objective 3B goes on to enable pastoral intensification and high intensity (irrigated) farming in appropriate areas south and east of State Highway 8 except adjacent to, and in the foreground of views from, State Highways and tourist roads.

13.29 As we saw it, the balance of the Environment Court's discussion around the policies focused primarily on views from state highways and tourist roads. Turning in detail to Policy 3B(8) as per the Environment Court's interim decision, the Court there reached an interim conclusion that location of structures such as large irrigators were to be avoided close to state highways or in such positions were they limited the screening of views of the ONL of the Mackenzie Basin. Also, outcomes sought were to minimise the adverse effects of irrigation on pasture adjacent to the state highways or tourist roads.

13.30 Given the importance of the role of state highways in carrying people in and through the Mackenzie Basin to provide views of the Outstanding Natural Landscape, we have reached the conclusion that even taking into account the mitigation measures here proposed we do not see a grant of consent would support these Policies.

13.31 It seems to us for a SVA to meet its purpose, which is to provide for views within and from the SVA, having pastoral intensification occur immediately alongside the SVA is not appropriate.

13.32 The Court considered the rules in the Mackenzie Basin Subzone, in particular Rule 3.1.1. Usefully for our purposes, the Court at paragraph 278 when considering pivot irrigators noted that:

"modern pivot irrigators are very impressive large pieces of equipment (especially if they are maintained in working order). However, they have undoubted effect on landscapes. Their industrial appearance and length undoubtedly reduces the naturalness of any area in which they are located as inspection of State Highway 80 between Twizel and Omarama reveals".

13.33 Finally, we observe that the Court did consider the Maryburn Station albeit in a different context within its decision at paragraph 369 and 370. Importantly, the Court had this to say about paragraph 370:

"There are important views east and south-east from State Highway 8 over the Tekapo River plains. They raise the question whether there should be Scenic Grassland on this property. The answer is particularly difficult because as another of Mr Densem's maps shows, Maryburn Station owners have applied for irrigation water rights over this part of their land. We consider that a reasonable compromise if such rights are granted is to create the Scenic Grasslands only over the areas within this property and on the eastern side of the state highway which are remnant tussock, i.e., have not been converted nearly fully to exotic pasture. However, this is one of the most troubling areas within the landscape of the Mackenzie Basin and we will need further evidence on this."

- 13.34 For all of the above reasons, even allowing for the buffer distance provided within this proposal we conclude that a grant of consent would be inconsistent with the relevant objectives and policies of the Mackenzie District Plan relating to landscape.

Tangata Whenua

- 13.35 Objective 1(a) of the WCWARP relates to the integrity of mauri and is closely linked to Objective 1(b). If we are satisfied that the health of a particular water body is being safeguarded then the mauri is being safeguarded also.
- 13.36 Objective WQN1 from Chapter 5 of the NRRP seeks to enable present and future generations to access the regions surface water and groundwater resources to gain cultural, social, recreational, economic and other benefits, while (c) safeguarding their value for providing mahinga kai for Ngāi Tahu and (d) protecting wāhi tapu and other wāhi taonga of value to Ngāi Tahu. This objective aligns with the Ngāi Tahu philosophy “Ki Uta, Ki Tai”, or recognising the interconnected nature of the Waitaki catchment and safeguarding the associated cultural values. In our assessment of effects for this application we consider that it is inconsistent with this objective.
- 13.37 Objective WTL1(a)&(d) from Chapter 7 of the NRRP seeks to achieve no overall reduction in the contribution of wetlands to the relationship of Ngāi Tahu and their culture and traditions with their ancestral lands, water, mahinga kai sites, wāhi tapu and wāhi taonga. The principal concern that Ngāi Tahu held with this proposal was the potential for adverse effects on the waterways and wetlands of the Lower Tekapo. We find that this application to be inconsistent with this objective because any effects on mahinga kai at this upper end of the catchment has the potential to cause flow-on effects to the Lower Tekapo..

Key conclusions on planning instruments

- 13.38 Our view is that granting these consents would not be consistent with water quality provisions of the WCWARP and NRRP particularly objectives aimed at protecting water quality of spring-fed upland streams. It follows that granting consent would also not be consistent with plan provisions safeguarding matters of concern to tangata whenua.
- 13.39 In addition, we consider that the proposal would also be contrary to the relevant objectives and policies relating to landscape within the Canterbury Regional Policy Statement and the Mackenzie District Plan, particularly taking into account the recent findings of the Environment Court on this issue.

14 EVALUATION OF OTHER RELEVANT S104 MATTERS

- 14.1 Under s104(1)(c), we are required to have regard to any other matter that we consider to be relevant and reasonably necessary to determine the application. In addition, s104(6) provides that:

“A consent authority may decline application for resource consent on the grounds that it has inadequate information to determine the application.”

- 14.2 We record here that we consider that we consider the applicant provided inadequate information to determine likely effects on stream water quality, and if had to decide whether or not to grant consent on this issue alone, we may well have invoked this provision.

15 PART 2 RMA

- 15.1 Section 104(1) states that the matters which we have discussed above are subject to Part 2, which covers section 5 through section 8 inclusive. These sections are set out in full in our Part A decision and are discussed below in the context of the current application.

Section 6 – Matters of National Importance

- 15.2 Section 6 identifies matters of national importance that we must “recognise and provide for” when making our decision, including in particular preserving the natural character of lakes and rivers (s6(a)), protecting outstanding natural features and landscapes (s6(b)) and the relationship of Maori with the environment (s6(e)).
- 15.3 In respect of s6(a) we recognise that preservation of the natural character of lakes and rivers is the imperative. We think that the proposal fails to achieve this goal because of the lack of

reliable information presented on water quality and the risk of nuisance periphyton growth in Irishman Creek/ Mary Burn.

- 15.4 In terms of s6(b), we have evaluated the natural features and landscape, primarily by reference to the relevant planning instruments. We reach the view that the grant of consent in this case is inappropriate because it will, in our view, diminish the features and values of the outstanding natural landscape in which it is proposed.
- 15.5 In terms of section 6(c), it is our view, taking into account the evidence received, that there are high terrestrial values on the subject site that would be irreparably impacted upon as a consequence of a grant of consent to irrigate.
- 15.6 In relation to section 6(e), Ngāi Tahu were particularly clear that they did not want the large scale proposals for irrigation foreclosing on the mahinga kai restoration potential in the Lower Tekapo River and Haldon Arm. Such activity in their view had the potential to harm the receiving waters and habitats in the receiving environment and have an adverse effect on the associated cultural relationship. Our view is that the activity with the proposed mitigation will be inconsistent with s6(e).
- 15.7 For the above reasons, we consider that granting consent to the proposal would fail to recognise and provide for s6 matters, as we are required to do under the RMA.

Section 7 – Other Matters

- 15.8 Section 7 lists “*other*” matters that we shall “*have particular regard to*”. We make the following observations in relation to each of those matters as they are relevant to this application, referring to the sub paragraph numbers of s7:
- 15.9 Sub-section (a) refers to kaitiakitangā. We have taken particular regard of the views of Ngāi Tahu in determining this decision, and recognise the kaitiaki role that Ngāi Tahu who are manawhenua in the Waitaki catchment duly exercise. The kaitiaki duty imposes on manawhenua a responsibility to be active in their advocacy for the recognition and protection of the cultural and spiritual values. We consider that this proposal will not satisfy the requirements of s7(a).
- 15.10 Sub-section (c) refers to the maintenance and enhancement of amenity values. Given the likely impacts on water quality and landscape values, we do not consider that the proposal will maintain or enhance the amenity values of the environment.
- 15.11 In terms of sub-section (d), we have had particular regard to the intrinsic values of ecosystems and consider that the grant of consent would not ensure that such values are safeguarded.
- 15.12 Sub-section (f) refers to the maintenance and enhancement of the quality of the environment. For the reasons discussed in this decision, the applicant has not satisfied that us that this objective is achieved.
- 15.13 Having particular regard to the above matters in the context of section 7, we conclude that the grant of consent could not be supported

Section 8 – Treaty of Waitangi

- 15.14 Finally, section 8 requires that we shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
- 15.15 The cultural values of tangata whenua are appropriately recognised in the relevant planning documents applicable to the Mackenzie Basin sufficient to alert applicants to the need to address such values. We are satisfied that the notification of the appropriate Runanga and tribal authority has been followed and that the applicant was a contributor to the general assessment of the impact of irrigation activities on cultural values.
- 15.16 We are satisfied that the consultation procedures provided Ngāi Tahu the opportunity to understand and respond to the proposed activity, albeit in conjunction with a large number of applications in the Mackenzie Basin.

Section 5 – Purpose of the RMA

- 15.17 Turning now to the overall purpose of the RMA, that is, “to promote the sustainable management of natural and physical resources
- 15.18 In our view the proposal for the reasons given earlier in this decision, the proposal will not promote the sustainable management of natural and physical resources. While it will allow the productive use of land it is clear that it has significant conservation value which will be affected by irrigation. The landscape and aesthetic values are also very high being adjacent to a major tourist route. In addition the proposal may cause unacceptable water quality effects on high value streams.

16 OVERALL EVALUATION

- 16.1 Under s104B of the RMA, we have a discretion as to whether or not to grant consent. This requires an overall judgment to achieve the purpose of the Act and is arrived at by:
- (a) Taking into account all the relevant matters identified under s 104;
 - (b) Avoiding consideration of any irrelevant matters;
 - (c) Giving different weight to the matters identified under s 104 — depending on our opinion as to how they are affected by the application of s 5(2)(a), (b), and (c) and ss 6-8 — to the particular facts of the case; and then in light of the above; and
 - (d) Allowing for comparison of conflicting considerations, the scale or degree of conflict, and their relative significance or proportion in the final outcome.
- 16.2 Following our finding in Part A that all consents in the Haldon could be granted without causing a more than minor effect on the trophic status of that waterbody, the major impediments to the granting of consent were
- (a) the water quality of Irishman Creek/Mary Burn;
 - (b) effects on terrestrial vegetation; and
 - (c) landscape effects.
- 16.3 We concluded that these effects were more than minor in the case of water quality and highly significant in the case of terrestrial vegetation and landscape. In addition, these effects resulted in the proposal being contrary to important objectives and policies of the relevant planning instruments.
- 16.4 We took into account the positive effects of the irrigation, both in economic terms and also in terms of stabilising land from the effects of wind erosion and assisting in the management of the invasive Hieracium and wilding pines. However these were not sufficient in our view to outweigh the negative effects outlined above.
- 16.5 Having reviewed the application documents, all the submissions, taking into account the evidence to the hearing and taking into account all relevant provisions of the RMA and other relevant statutory instruments we have concluded that the outcome which best achieves the purpose of the Act is to **decline** consent.

17 DECISION

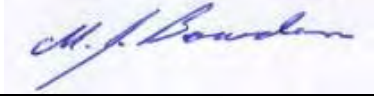
- 17.1 Pursuant to the powers delegated to us by the Canterbury Regional Council; and
- 17.2 For all of the above reasons and pursuant to sections 104 and 104B of the Resource Management Act 1991, we **DECLINE** application **CRC063106** by Classic Properties Limited to take and use surface water from Tekapo Canal for spray irrigation of up to 416 hectares of crops and pasture at Maryburn Station, Tekapo-Pūkaki Road (East of SH8).

DECISION DATED AT CHRISTCHURCH THIS 9TH DAY OF MARCH 2012

Signed by:

Paul Rogers 

Dr James Cooke 

Michael Bowden 

Edward Ellison 
