

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

Decision No. [2019] NZEnvC 25

IN THE MATTER of the Resource Management Act 1991
AND of appeals under clause 14(1) of the First
Schedule to the Act
BETWEEN THE WOLDS STATION LIMITED
(ENV-2009-CHC-187)
... (continued on the last page)
Appellants
AND MACKENZIE DISTRICT COUNCIL
Respondent

Before: Environment Judge J R Jackson
Hearing: In Chambers at Christchurch
Date of Decision: 15 February 2019
Date of Issue: 15 February 2019

ERRATUM

A: Under rule 11.10 of the District Court Rules 2014, the Environment Court orders that paragraph [1] of decision [2018] NZEnvC 240 is corrected, as follows (additions underlined and deletions in strikethrough):

The purpose of Plan Change 13 is to insert provisions into the District Plan ~~to protect the Mackenzie Basin's outstanding natural landscapes and ecology~~ to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, development and use.

B: Decision [2018] NZEnvC 240 otherwise remains unchanged.

REASONS

PC13 –Erratum



Introduction

[1] On 18 December 2018 the court issued a Final Decision ([2018] NZEnvC 240) concluding the proceedings concerning Plan Change 13 (“PC13”) of the Mackenzie District Plan.

[2] Paragraph 1 of the Final Decision describes the purpose of PC13 as being “to insert provisions into the District Plan to protect the Mackenzie Basin’s outstanding natural landscapes and ecology”.

[3] Ms Forward, for The Wolds Station Limited, seeks an Erratum on the basis that the purpose of the plan change was confined to landscape values¹.

The purpose of Plan Change 13

[4] Ms Forward refers to the Mackenzie District Council’s public notice of the plan change, where the purpose is confined to landscape values, as follows:

The primary purpose of this plan change is to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, development and use.

Ms Forward is correct in saying that the above statement has been quoted directly in Environment Court decisions previously². She also identified a passage in the court’s Eleventh Decision³, where we were careful to state that evidence on remaining ecosystems on the floor of the Mackenzie Basin was approached with caution, bearing in mind the proceedings were not primarily about the section 6(c) values of the areas and that the Council would be reviewing these in its forthcoming review of the District Plan.

[5] Ms Forward concludes by saying that, as matters of interpretation have been crucial throughout these proceedings, this final clarification is appropriate to safeguard the efforts of all involved⁴.

¹ Memorandum of counsel for the Wolds Station Limited, dated 29 January 2019, at [4].

² *Federated Farmers of New Zealand (Inc) Mackenzie Branch & Ors v Mackenzie District Council* [2017] NZEnvC 53 at [1]; [2013] NZEnvC 257 at [8] and [65]; *High Country Rosehip Orchards Limited v Mackenzie District Council* [2011] NZEnvC 387 at [4].

³ *Federated Farmers of New Zealand (Inc) Mackenzie Branch & Ors v Mackenzie District Council* [2017] NZEnvC 53 at [114].

⁴ Memorandum of counsel for The Wolds Station Limited, dated 29 January 2019, at [10].



[6] It is proposed that the court correct the error using rule 11.10 District Court Rules 2014, with Ms Forward presenting two options for the court to consider:

A: The purpose of Plan Change 13 is to insert provisions into the District Plan to protect the Mackenzie Basin's outstanding natural landscapes and ecology.

or

B: The purpose of Plan Change 13 is to insert provisions into the District Plan ~~to protect the Mackenzie Basin's outstanding natural landscapes and ecology~~ to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, development and use.

The court's power to correct errors

[7] Section 278 of the Resource Management Act 1991 provides that Environment Judges have the same powers that the District Court has in the exercise of its jurisdiction.

[8] Rule 11.10 District Court Rules 2014 specifies (relevantly) that a judgment may be corrected by the court if it contains a clerical mistake or an error arising from accidental slip or omission.

[9] The inclusion of the word "ecology" is capable of being regarded as a "slip" given it is minor in extent. Further, it is in an opening paragraph of the Final Decision, is not contained in the orders of the court, and the choice of wording is inaccurate in terms of the purpose (as publicly notified) of the plan change. The court understands counsel's concern that the use of the word "ecology" could (at least in theory) change how the provisions of the Plan are applied in practice. That outcome was certainly not intended.

[10] Of the two options presented by Ms Forward, Option B is preferred as being the most accurate summary of the purpose of PC13.

Outcome

[11] The error in paragraph [1] of decision [2018] NZEnvC 240 is a "slip" and able to be corrected using the court's powers under rule 11.10 District Court Rules 2014.



[12] Paragraph [1] of decision [2018] NZEnvC 240 is amended as per Option B sought by counsel for The Wolds Station Limited⁵.



J R Jackson
Environment Judge



⁵ Memorandum of counsel for the Wolds Station Limited, dated 29 January 2019, at [11].

List of appellants

| | |
|------------------|---|
| ENV-2009-CHC-193 | Federated Farmers of New Zealand (Inc) Mackenzie Branch |
| ENV-2009-CHC-181 | Mount Gerald Station Limited |
| ENV-2009-CHC-183 | Mackenzie Properties Limited |
| ENV-2009-CHC-184 | Meridian Energy Limited and Genesis Energy Limited |
| ENV-2009-CHC-190 | Fountainblue Limited and Others |
| ENV-2009-CHC-192 | Haldon Station |

