

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KŌTI TAIAO O AOTEAROA**

**AT CHRISTCHURCH
KI OTAUTAHI**

ENV-2018-CHC-000036

IN THE MATTER

of the Resource Management Act 1991

AND

of an appeal under clause 14 of the First Schedule
of the Act

BETWEEN

**Director-General of Conservation *Tumuaki*
*Ahurei***

Appellant

(ENV-2016-CHC-000036)

AND

Southland Regional Council

Respondent

**Topic B Tranche 3 – Topic B6 Infrastructure - Expert Evidence (Planning) of
Linda Elizabeth Kirk for Director-General of Conservation *Tumuaki Ahurei*,
as a s274 Party**

Dated 26 August 2022

Department of Conservation Te Papa Atawhai

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Introduction

1. My full name is Linda Elizabeth Kirk.
2. My qualifications and experience are set out in my Expert Statement of Evidence dated 15 February 2019 in relation to Topic A.
3. I have been involved in the appeal processes in relation to the proposed Southland Water and Land Plan (pSWLP) for both Topics A and B.
4. I have been asked by the Director-General of Conservation *Tumuaki Ahurei* (D-G, Director-General) to provide independent planning evidence in relation to her outstanding section 274 Party Topic B6 - Infrastructure matters on the proposed Southland Water and Land Plan (pSWLP).
5. In preparing this evidence, the additional information and documents I have read and considered since my Topic B Tranche 1 Supplementary Evidence as a s 274 Party, dated 20 May 2022, are the:
 - a. Statements of Evidence for Aratiatia Livestock Limited – Tranche 3 – Manapouri Hydro-Electric Generation Scheme (dated 29 July 2022):
 - Mr Paul David Marshall; and
 - Ms Claire Jordan.
 - b. Statements of Evidence for Meridian Energy Limited – Topic B6 Infrastructure (dated 29 July 2022):
 - Mr Andrew Bazel Conrad Feierabend;
 - Dr Kristy Lynn Hogsden;
 - Mr David Thomas Hunt;
 - Dr John (Jack) McConchie;
 - Dr Jennifer M Purdie; and
 - Ms Margaret Jane Whyte;
 - c. Statements of Evidence for Ngā Rūnanga – Tranche 3 (dated 1 August 2022):
 - Ms Ailsa Cain – Culture and policy;

- Dr Jane Catherine Kitson – Environmental science / Mātauranga Māori; and
 - Ms Treena Lee Davidson – Planning;
- d. Statement of Evidence for Royal Forest and Bird Protection Society of New Zealand Inc (dated 29 July 2022):
- Ms Natasha Sitarz - Planning.

Code of Conduct

6. I confirm that I have read the code of conduct for expert witnesses as contained in section 7.1 of the Environment Court's Practice Note 2014. I have complied with the practice note when preparing my evidence and will do so when I give oral evidence before the Court.
7. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.
8. Unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope

9. I have been asked by the Director-General to provide independent planning evidence in relation to her following outstanding s274 Party Topic B6, Tranche 3 matters on the pSWLP:
- a. Rule 52A - Manapōuri Hydro-electric Generation Scheme; and
 - b. Appendix E – Receiving Water Quality Standards.
10. This evidence is in relation only to the four Appellants who have filed evidence to the Tranche 3 hearing, that being Aratiatia Livestock Limited (Aratiatia), Meridian Energy Limited (Meridian), Ngā Rūnanga and Royal Forest and Bird Protection Society of New Zealand Inc (RF&B). It is noted that the Director-General is not a s274 Party to RF&B's appeal on Rule 52A.

Executive Summary

11. In preparing this Evidence, I reiterate that the proposed relief sought is confined to the matters on Rule 52A and Appendix E as sought in the Director-General's section 274 Party notices.
12. In relation to Rule 52A, my preference is Ms Jordan's Option 3 for the activity status to be a discretionary activity.
13. If a restricted discretionary status is preferred by the Court for Rule 52A, I support Ms Jordan's Option 4 and Ms Sitarz's Option 3 with the addition of the Fiordland FMU in condition 4.
14. In relation to Appendix E, I support the revised exception for ancillary activities associated with the maintenance of the Manapōuri hydro-electric generation scheme.

Section 274 Interests of Director-General of Conservation

15. The Director-General is a section 274 party to the following parts of the Appellants' appeals as shown in the following Table.

Provision	Appellant	D-G position
Rule 52A	Aratiatia Livestock Limited Opposes controlled activity status.	Supports
	Meridian Sought to include the Monowai scheme in the Rule, retain the controlled activity status, and amend the matters over which Council reserved its control.	Opposes
	Ngā Rūnanga Seeks restricted discretionary activity status with matters of restricted consideration to include: "adverse effects on mahinga kai, taonga species and the spiritual and cultural values and beliefs on the tangata whenua."	Supports

Appendix E	Ngā Rūnanga Seeks deletion of the following statement from Appendix E “due to the effects of the operation of the Manapōuri hydro-electric generation scheme that alters natural flows, that parameter cannot be applied”.	Supports
Appendix E	Aratiatia Livestock Limited Seeks deletion for exclusion of Manapōuri hydro-electric generation scheme.	Supports.

Regulatory Context

16. I agree with Ms Jordan¹ that the key documents of the regulatory context for Tranche 3 matters are:
- a. Manapouri Te Anau Development Act 1963 (MTADA)
 - b. Ngāi Tahu Settlement Claims Act 1998 (NTSCA)
 - c. “*Te Tangi a Tauira – the Cry of the People*”, Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan, 2008 (Te Tangi)
 - d. New Zealand Coastal Policy Statement 2010 (NZCPS)
 - e. National Policy Statement for Renewable Electricity Generation 2011 (NPSREG)
 - f. National Policy Statement for Freshwater Management 2020 (NPSFM 2020)
 - g. Southland Regional Policy Statement 2017 (RPS)
 - h. Proposed Southland Water and Land Plan – Decisions Version – Operative in Part, Consolidated Plan as at 3 August 2022 as provided in Tranche 2 hearing (pSWLP).
17. I note that I have also included the NZCPS as a relevant key document for the regulatory context for Tranche 3 matters which was not included by Ms Jordan but was included by Ms Sitarz².

¹ Statement of Evidence of Claire Jordan, dated 29 July 2022, para 46

² Statement of Evidence of Natasha Sitarz, dated 29 July 2022, paras 24-25

Manapouri Te Anau Development Act 1963 (MTADA)

18. I agree with Ms Jordan's³ conclusion that "*MTADA neither avoids the need to obtain consents for the Manapōuri Hydro-electric generation Scheme, nor provides any mitigation of adverse effects of the Scheme on the Lower Waiau River*" for the reasons that Ms Jordan provides at her paragraphs 47-52.

Ngāi Tahu Settlement Claims Act 1998 (NTSCA)

19. I agree with both Ms Jordan⁴ and Ms Davidson⁵ that the NTSCA is a relevant consideration for the Manapōuri Hydro-electric Generation Scheme, ki uta ki tai, with the clarification that the Statutory Acknowledgement for Te Mimi o Tū Te Rakiwhānoa (Fiordland Coastal Marine Area) (Schedule 102 of the NTSCA) applying to the "coastal acknowledgements at mouth and where the river has been diverted to through Doubtful Sound" that Ms Davidson lists at her paragraph 15(f).

Te Tangi a Taurira

20. I agree with Ms Cain⁶ and Ms Davidson⁷ that Te Tangi a Taurira "*policies do not discourage hydro-electric generation, but provide strong direction on what needs to be taken into account.*"

New Zealand Coastal Policy Statement 2010 (NZCPS)

21. I consider that the NZCPS is also a relevant document for consideration in the regulatory context of Tranche 3 matters. In particular, but not limited to, the following NZCPS Policies should be considered in any future resource consent process for the Manapōuri Hydro-electric Generation Scheme (also referred to as the Manapōuri Power Scheme (MPS)):
- a. Policy 3 Precautionary approach
 - Policy 3(1) *Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.*
 - b. Policy 4 Integration

³ Statement of Evidence of Claire Jordan, dated 29 July 2022, para 53

⁴ Statement of Evidence of Claire Jordan, dated 29 July 2022, para 54

⁵ Statement of Evidence of Treena Davidson, dated 1 August 2022, paras 14-15

⁶ Statement of Evidence of Ailsa Cain, dated 1 August 2022, para 54

⁷ Statement of Evidence of Treena Davidson, dated 1 August 2022, para 23

c. Policy 7 Strategic planning

- *Policy 7(2) Identify in region policy statements, and plans, coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects. Include provisions in plans to manage these effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided.*

d. Policy 13 Preservation of natural character

e. Policy 14 Restoration of natural character

- *Promote restoration or rehabilitation of the natural character of the coastal environment, including by: ...*

(c)(vi) reducing or eliminating discharges of contaminants; or...

f. Policy 15 Natural features and natural landscapes

g. Policy 21 Enhancement of water quality

h. Policy 22 Sedimentation

- *Policy 22(1) Assess and monitor sedimentation levels and impacts on the coastal environment*

i. Policy 23 Discharge of contaminants

- *Policy 23(1) In managing discharges to water in the coastal environment, have particular regard to:*

(a) the sensitivity of the receiving environment;

(b) the nature of the contaminants to be discharged, the particular concentration of contaminants needed to achieve the required water quality in the receiving environment, and the risks if that concentration of contaminants is exceeded; and

(c) the capacity of the receiving environment to assimilate the contaminants; and

(d) avoid significant adverse effects on ecosystems and habitats after reasonable mixing;

- (e) *use the smallest mixing zone necessary to achieve the required water quality in the receiving environment; and*
- (f) *minimise adverse effects on the life-supporting capacity of water within a mixing zone.*

22. I agree with Ms Sitarz⁸ that the NZCPS is a relevant document for consideration “with respect to the discharges associated with the Manapōuri Power Scheme (MPS) at Deep Cove and as a receiving environment of upstream activities and effects on the Waiau River”.
23. I consider that the evidence provided suggests there is uncertainty around the potential cumulative effects and impact in the receiving coastal environment and there is a need to consider such effects in the coastal environment.
24. For example, the evidence of Mr Marshall⁹ raises concerns in relation to the potential lag effects of the Manapōuri Hydro-electric Generation Scheme at Bluecliffs and on Te Waewae Lagoon, which highlights the uncertainty in effects of activities on the coastal environment.
25. Dr Kitson¹⁰ also acknowledges that “a ki uta ki tai approach will also include consideration of the artificial discharge to Deep Cove from the Manapouri Power Scheme”.
26. Therefore, potential effects in the coastal environment are matters that should be considered in any resource consent process and assessed appropriately through that mechanism.

National Policy Statement for Renewable Electricity Generation 2011 (NPSREG)

27. I agree with Ms Davidson¹¹ and Ms Jordan¹² with respect to the NPSREG. I agree with Ms Jordan¹³ that the NPSREG “*makes it explicit that the benefits of renewable energy generation must be considered alongside other relevant matters when resource consent applications are being determined. The NPS-REG is not a mechanism to determine the allocation or prioritisation of freshwater*” and “*suggests a greater degree of regulatory support for renewable generation activities*”¹⁴.

⁸ Statement of Evidence of Natasha Sitarz, dated 29 July 2022, para 25

⁹ Statement of Evidence of Paul Marshall, dated 29 July 2022, paras 21-23 and 56-59

¹⁰ Statement of Evidence of Dr Jane Kitson, dated 1 August 2022, para 11

¹¹ Statement of Evidence of Treena Davidson, dated 1 August 2022, para 22

¹² Statement of Evidence of Claire Jordan, dated 29 July 2022, paras 57-73

¹³ Statement of Evidence of Claire Jordan, dated 29 July 2022, para 73

¹⁴ Statement of Evidence of Claire Jordan, dated 29 July 2022, para 60-61

National Policy Statement for Freshwater Management 2020 (NPSFM 2020)

28. I agree with the NPSFM 2020 analysis of Ms Jordan¹⁵ and the relevant matters of the NPSFM 2020 as identified by Ms Davidson¹⁶.
29. I agree with Ms Jordan¹⁷ that Clause 1.5 of the NPSFM 2020 is explicit that the application of the NPSFM 2020 “*applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments (which may include estuaries and the wider coastal marine area)*”.
30. Clause 1.3 of the NPSFM 2020 is explicit in the fundamental concept of Te Mana o te Wai and its hierarchy of obligations (as stated in 2.1 Objective) and its relevance to all freshwater management:

1.3 Fundamental concept – Te Mana o te Wai

Concept

(1) Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

(2) Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in this National Policy Statement.

31. I agree with Ms Jordan¹⁸ that in achieving the NPSFM 2020 Objective requires an integrated approach to managing water quality and water quantity.
32. I agree with Ms Davidson’s¹⁹ summary of Clause 3.31:

“Clause 3.31 allows a target attribute state to be set below the national bottom line, but only if an FMU (or part of an FMU) is adversely affected by an “existing structure” As defined in subclause (5), “existing structure” means a structure that was operational on or before 1 August 2019 and

¹⁵ Statement of Evidence of Claire Jordan, dated 29 July 2022, paras 75-83

¹⁶ Statement of Evidence of Treena Davidson, dated 1 August 2022, paras 17-21

¹⁷ Statement of Evidence of Claire Jordan, dated 29 July 2022, para 76

¹⁸ Statement of Evidence of Claire Jordan, dated 29 July 2022, para 78

¹⁹ Statement of Evidence of Treena Davidson, dated 1 August 2022, para 20

includes any structure that replaces it, provided the effects of the replacement are the same or similar in character intensity and scale, or have a lesser impact [my emphasis].”

33. I consider that subclause 3.31(2) of the NPSFM 2020 is clear that the importance of the hydro-electric generation scheme matters to be considered are to be interpreted under subclause 3.31(4):

“(4) When this subclause applies, the regional council:

(a) may set a target attribute state that is below the national bottom line for the attribute, despite clause 3.11(4); but

(b) must still, as required by clause 3.11(2) and (3), set the target attribute state to achieve an improved attribute state to the extent practicable without having a significant adverse effect on the Scheme having regard to the matters in subclause (2) of this clause.

34. I understand this to mean that if an improved attribute state can be made without negatively affecting the Scheme’s benefits, the regional council must manage for that improvement.
35. My interpretation of subclause 3.31(4)(b) is that the setting of improved attributes states is important to consider further and how this can be done in a phased approach as sought by Policy 11 of the NPSFM 2020 if over-allocation of the Waiau River is occurring. Clause 3.15(b) seeks action plans set out a phased approach to achieving environmental outcomes. I understand that such actions will be considered in Plan Change Tuatahi.
36. My concern is how to appropriately provide for future FMU processes in Tranche 3 provisions, in particular, the activity status for Rule 52A. I consider that Rule 52A needs to be able to allow for a reduction in allocation of water if the future FMU processes require may that.

Southland Regional Policy Statement 2017 (RPS)

37. I agree with the RPS provisions identified by Ms Jordan²⁰ and Ms Davidson²¹, with the addition of provisions from Chapter 7: Coast (Objectives COAST.1, COAST.3, COAST.4; Policies COAST.3, COAST.5, COAST.6; and Methods COAST.1, COAST.2) and Chapter 15: Infrastructure/Transport (Objective INF.1; Policies INF.1,

²⁰ Statement of Evidence of Claire Jordan, dated 29 July 2022, paras 84-96

²¹ Statement of Evidence of Treena Davidson, dated 1 August 2022, para 24

INF.2; INF.5; and Method INF.1). These are shown in Appendix 1 for ease of reference.

Proposed Southland Water and Land Plan (pSWLP)

38. For clarity, I have nothing further to add to the pSWLP provisions identified by Ms Jordan²², Ms Davidson²³, Ms Sitarz²⁴ and Ms Whyte.

Rule 52A – Manapōuri Hydro-electric Generation Scheme

39. The outstanding matter of the Tranche 3 evidence appears to be focused on the appropriate activity status of Rule 52A so it is from this basis that I place my focus.
40. Ms Jordan has provided 4 options with respect to the activity status for Rule 52A and I agree with her analyses of these. Ms Sitarz provides three options and I agree with her analyses of these.
41. I support that Rule 52A has a discretionary activity status for the MPS both pre and post FMU processes. This would enable all potential adverse effects and all relevant RMA matters to be taken into account, including those matters of uncertainty in relation to potential cumulative effects and lag effects on the coastal environment, Te Mana o te Wai and ki uta ki tai. A discretionary activity status would also support the Murihiku iwi management plan which provides strong direction on what needs to be taken into account²⁵. Therefore, I consider a discretionary activity status would give effect to the higher order regulatory framework.
42. In my opinion, I consider it inappropriate that the pSWLP should provide a restricted discretionary status (RDA) for post-FMU applications. An RDA without matters of restriction on effects in the coastal environment as well as water quality and water quantity matters, would be inconsistent with Policy 11 and subclause 3.16(2)(b) of the NPSFM 2020, which allows for a phased approach to reduce over-allocation for example, and not give effect to the NZCPS 2010, nor the RPS.

²² Statement of Evidence of Claire Jordan, dated 29 July 2022, paras 97-105

²³ Statement of Evidence of Treena Davidson, dated 1 August 2022, paras 25-27

²⁴ Statement of Evidence of Natasha Sitarz, dated 29 July 2022, Appendix 1

²⁵ Statement of Evidence of Ailsa Cain, dated 1 August 2022, para 54

43. However, I agree with Ms Jordan²⁶ and Ms Sitarz²⁷ that if a restricted discretionary activity status is preferred by the Court, then I support the wording as provided in Ms Jordan's Option 4²⁸ and Ms Sitarz's²⁹ Option 3 as this incorporates matters of concern in relation to effects in the coastal environment (amongst other matters) which would then enable NZCPS 2010 matters to be considered that I have raised above.
44. My only addition to Ms Jordan's Option 4 and Ms Sitarz's Option 3 (RDA Option) is to include the Fiordland FMU alongside the Waiau FMU under condition (4), as the discharges of the MPS are into the Fiordland FMU as well as the Waiau FMU. My further amendment to the RDA Option is shown in **blue text** as follows:

“(4) The application complies with relevant environmental flows and levels and/or take limit regimes that have been established through an FMU process for the Waiau FMU and the Fiordland FMU under the NPSFM 2020; and”

45. I agree with Ms Sitarz that *“the benefit of having a restricted discretionary status is that listing matters of discretion provides greater certainty to applicants, council and interested parties on matters that can be anticipated to be considered in decision making.”* Therefore, if the Court considers that there is benefit in having a restricted discretionary status, I can support this status provided that the matters of discretion are wide enough to ensure that all relevant objectives and policies in the pSWLP and provisions of higher order documents, can be appropriately considered (*after* Sitarz³⁰).

Appendix E – Receiving Water Quality Standards

46. I understand that the version of Appendix E which refines its exception to an “ancillary activity associated with the maintenance of the Manapōuri hydro-electric generation scheme” is supported by Meridian, Ngā Rūnanga and Aratiatia. This understanding is based on the “intention of the exemption is to address works carried out to maintain elements of the Scheme which may compromise water

²⁶ Statement of Evidence of Claire Jordan, dated 29 July 2022, para 163

²⁷ Statement of Evidence of Natasha Sitarz, dated 29 July 2022, paras 78-81

²⁸ Statement of Evidence of Claire Jordan, dated 29 July 2022, para 163

²⁹ Statement of Evidence of Natasha Sitarz, dated 29 July 2022, page 4 of Appendix 3

³⁰ Statement of Evidence of Natasha Sitarz, dated 29 July 2022, paras 79

quality for a limited period of time but not to discount effects on water quality that arise from the water take” (*after* Jordan, para 171).

47. I am unclear as to exactly what is an “ancillary activity associated with the maintenance of the Manapōuri hydro-electric generation scheme”. Mr Feierabend³¹ provides examples of the types of instream works (including channel realignment and channel conveyance) and maintenance and it would be useful to have clarity if these are what are to be inferred as an “ancillary activity associated with the maintenance of the Manapōuri hydro-electric generation scheme”, and I suggest that a definition in the Plan may be useful to provide clarity on the matters where the exemption applies.
48. However, I am comfortable that the intent of the exception to Appendix E, as Ms Whyte³² succinctly states, is that “*the exemption does not exempt any maintenance activities associated with the MPS from addressing water quality matters*”.

Conclusion

49. In relation to Rule 52A, my preference is Ms Jordan’s Option 3 for the activity status to be a discretionary activity.
50. If a restricted discretionary status is preferred by the Court for Rule 52A, I support Ms Jordan’s Option 4 and Ms Sitarz’s Option 3 with the addition in **blue text** as follows:

Rule 52A – Manapōuri Hydro-electric Generation Scheme

(a) Despite any other rules in this Plan, any activity that is part of the Manapōuri hydro-electric generation scheme, for which consent is held and which is the subject of an application for a new consent for the same activity and is:

(i) the taking or use of water; or

(ii) the discharge of water into water or onto or into land; or

(iii) the discharge of contaminants into water or onto or into land; or

(iv) the damming or diversion of water;

³¹ Statement of Evidence of Andrew Feierabend, dated 29 July 2022, at paras 30-31

³² Statement of Evidence of Margaret Jane Whyte, dated 29 July 2022, at para 160

is a ~~controlled~~ **restricted discretionary** activity provided the following conditions are met:

- (1) the application is for the replacement of an expiring resource consent pursuant to section 124 of the Act;
- (2) where the replacement consent is for the taking or use of water, the rate of take and volume is not increasing, and the use of water is not changing; and
- (3) the application is lodged after a take limit regime has been established through a FMU process for the Waiau FMU under the NPSFM 2020;
- ~~(3) where the replacement consent is for the taking or use of water, the rate of take and volume complies with any relevant flow and level regimes set out in this Plan.~~
- (4) the application complies with relevant environmental flows and levels and/or take limit regimes that have been established through an FMU process for the Waiau FMU [and the Fiordland FMU](#) under the NPSFM 2020; and
- (5) the applicant has requested that the application be publicly notified.

The Southland Regional Council will reserve its control restrict its discretion to the following matters:

1. the volume and rate of water taken, used, diverted or discharged and the timing of any take, diversion or discharge, including how this relates to generation output;
2. any effects on river flows, wetland and lake water levels, coastal waters, coastal processes, estuaries, aquatic ecosystems, and water quality, and natural character;
3. mitigation or remediation measures to address adverse effects and any seasonal effects on: the customary use of mahinga kai and nohoanga; taonga species; and the spiritual and cultural values and beliefs of tangata whenua; and
4. avoidance, mitigation or remediation measures to address adverse effects on the environment other than those identified in clause 3 above; and

5. the collection, recording, monitoring, reporting and provision of information concerning the exercise of consent; and
6. lapse period, duration of consent and consent review requirements; and
7. the benefits of renewable electricity generation.

An application for resource consent under Rule 52A(a) will be publicly notified.

(b) *Despite any other rules in this Plan, any activity that is part of the Manapōuri hydro-electric generation scheme for which consent is held and which is the subject of an application for a new consent for the same activity and is:*

- (i) *the taking or use of water; or*
- (ii) *the discharge of water into water or onto or into land; or*
- (iii) *the discharge of contaminants into water or onto or into land; or*
- (iv) *the damming or diversion of water;*

~~that is not a permitted, controlled or restricted discretionary activity under any other rules in this Plan, or is not a restricted discretionary or non-complying activity in Rule 52A in (c) does not meet one or more of the conditions of Rule 52A(a) is a noncomplying activity~~ **is a discretionary activity.**

(c) *Despite any other rules in this Plan, any activity that is for the taking of water for the generation of electricity from Manapōuri hydro-electric generation scheme which:*

- (i) *prior to a take limit regime being established through a FMU process for the Waiau FMU under the NPSFM 2020] seeks a quantity of water greater than that currently consented or*
- (ii) *once a take limit regime has been established through a FMU process for the Waiau FMU seeks a quantity of water greater than provided within the take limit regime*

is a non-complying activity.

51. In relation to Appendix E, I support the following exception:

Appendix E – Receiving Water Quality Standards

These standards apply to the effects of discharges following reasonable mixing with the receiving waters, unless otherwise stated. They do not apply to waters within artificial storage ponds such as effluent storage ponds or stock water reservoirs or to temporarily ponded rainfall.

The standard for a given parameter will not apply in a lake, river, artificial watercourse or modified watercourse or natural wetland where:

- (a) due to natural causes, that parameter cannot meet the standard; or*
- (b) ~~due to the effects of the operation~~ an ancillary activity associated with the maintenance of the Manapouri hydro-electric generation scheme that alters natural flows is proposed. This exception only applies where the activity requires a resource consent pursuant to a rule in this plan and will not result in a permanent change in the state of the water., that parameter cannot meet the standard. Nothing in this exception precludes consideration of the effects of the proposed activity on water quality through a resource consent process.*



Linda Elizabeth Kirk

Dated: 26 August 2022

Appendix 1: Additional Relevant Southland Regional Policy Statement 2017 Provisions

Chapter 7: Coast

Objective COAST.1 – Direction on activities within the coastal environment

Provide clear direction on appropriate and inappropriate subdivision, use and development activities, the cumulative effect of an activity, and precedent effects of a decision, within the region's coastal environment.

Objective COAST.3 – Coastal water quality and ecosystems

Coastal water quality and ecosystems are maintained or enhanced.

Objective COAST.4 – Natural character

The natural character of the coastal environment is restored, rehabilitated or preserved.

Policy COAST.3 – Protection of the coastal environment

Ensure that subdivision, use and development activities:

- (a) avoid adverse effects on areas of outstanding natural features and landscapes, and/or outstanding natural character;
- (b) avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects on other natural features and landscapes and/or natural character in the coastal environment;
- (c) protect and provide for nationally significant, regionally significant, and critical infrastructure, including ports and energy projects for the region, including by:
 - (i) recognising that new development of the National Grid should seek to avoid adverse effects on the values of outstanding natural features and landscapes, and/or areas of outstanding or high natural character located within rural coastal environments. In the coastal environment, in some circumstances, adverse effects on those areas must be avoided.

Policy COAST.5 – Management of effects on coastal water quality and

ecosystems Avoid, remedy or mitigate adverse effects of land-based and marine activities on coastal water quality and its ecosystems.

Policy COAST.6 – Natural character

In regional and district plans:

- (a) assess the natural character of the coastal environment by identifying areas of high and outstanding natural character using the attributes outlined in Policy 13(2) of the NZCPS;
- (b) identify areas where preserving natural character requires objectives, policies and rules and include those provisions;
- (c) identify areas and opportunities for restoration and rehabilitation of natural character; and
- (d) provide policies, rules and other methods directed at restoration or rehabilitation of the natural character of the coastal environment.

Method COAST.1 – Regional Coastal Plan

Implement plan reviews or changes to enable the inclusion in the Regional Coastal Plan of provisions that:

- (a) provide clear direction as to:
 - (i) the areas within the coastal marine area that are appropriate for use and development (including infrastructure, port facilities, aquaculture, mineral extraction activities, renewable energy and non-renewable energy projects); and
 - (ii) the areas where use and development is inappropriate; and
 - (iii) the areas where use and development may be inappropriate without consideration of effects through a resource consent application, notice of requirement for designation or Schedule 1 of the Act process;
 - (iv) the areas of outstanding and high natural character in the coastal environment that require preservation through objectives, policies and rules;
 - (v) the areas and opportunities for restoration and rehabilitation of natural character in the coastal environment and the ways to provide for them.
- (b) identify:
 - (i) the coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects;
 - (ii) the areas where water quality has deteriorated from its natural state with significant adverse effects on ecosystems and habitats, recreational use or existing uses;
 - (iii) the values of the coastal environment for which coastal water quality is to be managed;
- (c) set water quality standards appropriate to the values identified in Method COAST.1(b)(ii).

- (d) manage land use activities and discharges of contaminants to meet water quality standards set by Method COAST.1(c).

Method COAST.2 – Resource consents

Require marine effects assessments and natural hazard assessments to be included as part of resource consent applications for activities that may significantly affect the coastal marine area or would potentially be affected by coastal hazards, sea level rise and climate change.

Chapter 15: Infrastructure/Transport

Objective INF.1 – Southland’s infrastructure

Southland’s regionally significant, nationally significant and critical infrastructure is secure, operates efficiently, and is appropriately integrated with land use activities and the environment.

Policy INF.1 – Regional, national and critical infrastructure

Recognise the benefits to be derived from, and make provision for, the development, maintenance, upgrade and ongoing operation of regionally significant, nationally significant and critical infrastructure and associated activities.

Policy INF.2 – Infrastructure and the environment

Where practicable, avoid, remedy or mitigate the adverse effects of infrastructure on the environment. In determining the practicability of avoiding, remedying, or mitigating adverse effects on the environment, the following matters should be taken into account:

- (a) any functional, operational or technical constraints that require the physical infrastructure of regional or national significance to be located or designed in the manner proposed;
- (b) whether there are any reasonably practical alternative designs or locations;
- (c) whether good practice approaches in design and construction are being adopted;
- (d) where appropriate, and such measures are volunteered by a resource user, whether any significant residual adverse effects can be offset or compensated for; and
- (e) the need to give effect to the NPSET (2008) including that planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

Policy INF.5 – Development, subdivision and land use

Management of development, subdivision and land use shall ensure:

- (a) development does not result in adverse effects on the efficient operation, use, maintenance and development of infrastructure;
- (b) the nature, timing and sequencing of new development is coordinated with the development, funding, implementation and operation of infrastructure, as appropriate for the type of development being undertaken;
- (c) the efficient and effective functioning of infrastructure, including the ability to develop, maintain, remove, decommission and upgrade infrastructure, is retained;
- (d) a coordinated and integrated approach across regional and district boundaries, and between agencies.

Method INF.1 – Regional plans

Include objectives, policies and methods in regional plans that will:

- (a) enable the development, use, maintenance and upgrading of infrastructure, whilst ensuring the management of any associated adverse effects;
- (b) help ensure that the nature, timing and sequencing of new development is coordinated with the development, funding, implementation and operation of infrastructure, as appropriate for the type of development being undertaken;
- (c) ensure that adverse effects, including reverse sensitivity effects, of development and land use on existing and/or planned regionally and nationally significant infrastructure are avoided, remedied or mitigated by identifying:
 - (i) what activities and development may be incompatible with this infrastructure;
 - and
 - (ii) how this infrastructure should be protected from such activities;
- (d) promote the efficient and effective use of infrastructure;
- (e) take into account the potential adverse effects of natural hazards and climate change on infrastructure;
- (f) facilitate long-term planning for investment in infrastructure and its integration with land uses.