

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

UNDER The Resource Management Act 1991
(RMA)

IN THE MATTER Appeals under clause 14(1) of the First
Schedule of the Act in relation to the
Proposed Southland Water and Land Plan

BETWEEN **MERIDIAN ENERGY LIMITED**
Appellants

AND **SOUTHLAND REGIONAL COUNCIL**
Respondent

STATEMENT OF EVIDENCE OF ANDREW BAZEL CONRAD FEIERABEND

FOR

MERIDIAN ENERGY LIMITED

19 August 2022

Topic B6 Infrastructure – Section 274 Response

Judicial Officer: Judge Borthwick

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FONTERRA CO-OPERATIVE LTD
(ENV-2018-CHC-27)

HORTICULTURE NEW ZEALAND
(ENV-2018-CHC-28)

ARATIATIA LIVESTOCK LTD
(ENV-2018-CHC-29)

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(ENV-2018-CHC-30)

GORE AND SOUTHLAND DISTRICT COUNCILS, INVERCARGILL CITY COUNCIL
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BEEF + LAMB NEW ZEALAND
(ENV-2018-CHC-34 AND 35)

DIRECTOR-GENERAL OF CONSERVATION
(ENV-2018-CHC-36)

SOUTHLAND FISH & GAME COUNCIL
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SOUTHWOOD EXPORT LTD, SOUTHLAND PLANTATION FOREST COMPANY OF NZ
(ENV-2018-CHC-46)

TE RŪNANGA O NGĀI TAHU, HOKONUI RŪNAKA, WAIHŌPAI RŪNAKA, TE RŪNANGA O AWARUA AND TE RŪNANGA O ŌRAKA APARIMA
(ENV-2018-CHC-47)

PETER CHARTRES
(ENV-2018-CHC-48)

RAYONIER NEW ZEALAND LTD
(ENV-2018-CHC-49)

ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NZ INC
(ENV-2018-CHC-50)

Appellants

AND SOUTHLAND REGIONAL COUNCIL

Respondent

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QUALIFICATIONS AND EXPERIENCE

- 1 My name is Andrew Bazel Conrad Feierabend.
- 2 I am employed by Meridian Energy Limited (Meridian). My qualifications and position within Meridian are described in my primary statement of evidence dated 19 February 2019¹.
- 3 As part of my role within Meridian I have been responsible for preparing and overseeing Meridian's submissions, appeals and section 274 notices on the Proposed Southland Water and Plan (pSWLP). The purpose of this work is to ensure Meridian's interests are captured through such processes.
- 4 This statement is both factual and observational in nature but is not an expression of expert opinion.

BACKGROUND AND SCOPE OF THIS EVIDENCE

- 5 As part of the hearings on the pSWLP the Court has sought to ensure that where changes are proposed to the decisions version of the pSWLP provisions, there is scope for those changes to be made.
- 6 Counsel for the Respondent provided a memorandum to the Court for the Tranche 1 hearings setting out the law as agreed between the parties in relation to scope to pursue relief on an appeal². This memorandum is relevant in the context of the Tranche 3 hearing process.
- 7 As part of this hearing process Meridian has previously indicated that there are potential scope issues arising from the relief being requested through the Aratiatia Livestock Limited appeal on Policy 26. My

¹ Statement of Evidence in Chief of Andrew Bazel Conrad Feierabend dated 19 February 2019 for Topic A hearing

² Legal Submissions of Counsel for Southland Regional Council – Tranche 1 – Disputed Hearing – Scope 12 July 2022

understanding is that the amendments promoted to this policy via the evidence of Ms Jordan for Aratiatia Livestock Limited and in Ms Sitarz's expert planning evidence on behalf of Forest and Bird rely on the Aratiatia Livestock Limited appeal on Policy 26 for scope.

- 8 To assist the Court if scope is an issue, counsel for Meridian has requested that I set out in this evidence the relief requested by each of the appellant parties on Policy 26 for each stage of the plan making process.
- 9 Ms Whyte in her section 274 planning evidence addresses the merits of the relief requested by each of the other appellant parties on Policy 26. In deciding this matter the Court will want to be satisfied that the construction of Policy 26 it considers most appropriate properly falls within scope of the relief requested by the parties.
- 10 This evidence also addresses a number of propositions put forward by Ms Jordan with respect to Plan Change Tuatahi and the Regional Forum's recommendations.

PARTIES TO POLICY 26 AS APPELLANTS

- 11 Four parties to the pSWLP appealed the provisions of Policy 26: Aratiatia Livestock Ltd, Federated Farmers of New Zealand (Southland Province), Te Rūnanga o Ngāi Tahu and others, and Meridian.
- 12 For each of these parties I have set out below the relief requested at each stage of the plan making process. That is the relief requested at the time of lodging submissions on the notified version of the pSWLP, and the relief requested in the notice of appeal. I also set out the relief now being promoted through the respective parties' evidence.

Aratiatia Livestock Ltd – pSWLP relief requested by the submitter on Policy 26 as notified

Support/Oppose	Support
Submission ID	SWLP-291
Provision No.	Policy 26
Provision Name	Renewable energy
Decision sought	We would like Councils policy to include: (3) subject avoid remedying or mitigating any adverse effects on the mauri of the river system.
Reasons	We are not opposed to the continued operation of the Manapouri Hydro Scheme. We do however consider that the a significant amount of the damage which the operation of the Scheme has caused within the catchment of the lower Waiau could be reversed by modifying the minimum flow provisions at the Mararoa Weir, specified in Meridian's resource consent.

Aratiatia Livestock Ltd – relief requested on Policy 26 within the submitter's appeal

136 Aratiatia's appeal seeks the following wording:

Policy 26 – Renewable energy

Recognise and provide for the national and regional significance of renewable electricity generation activities (including the existing Manapōuri hydro-electric generation scheme in the Waiau catchment), ~~and the national, regional and local benefits of renewable electricity generation activities, the need to locate the generation activity where the renewable energy resource is available, and the practical constraints associated with its development, operation, maintenance and upgrading,~~ when:

1. allocating surface water for abstraction, damming, diversion and use; and

2. considering all resource consent applications for surface water abstractions, damming, diversion and use

Whilst, in the context of the Manapouri hydro-electric scheme, having regard to:

3. The potential to avoid, remedy or mitigate any adverse effects on the mauri of the Waiau River system; and

4. The opportunity to reverse or reduce the damage which the operation of the scheme has caused within the catchment

By increasing the minimum flow requirements at the Mararoa Weir as specified in consents relating to the scheme.

Aratiatia Livestock Ltd – relief requested on Policy 26 as promoted by Ms Jordan in evidence

Policy 26 – Renewable energy

Recognise and provide for:

1. the national and regional significance of renewable electricity generation activities including the practical constraints associated with its development, operation, maintenance and upgrading and the benefits of renewable electricity generation activities; and

2. the national and regional significance and the benefits of renewable electricity generation activities (including the existing Manapōuri hydro-electric generation scheme in the Waiau catchment), the national, regional and local benefits of renewable

~~electricity generation activities, the need to locate the generation activity where the renewable energy resource is available, and including the practical constraints associated with its development, operation, maintenance and upgrading, when:~~

~~a. allocating surface water for abstraction, damming, diversion and use; and~~

~~b. considering all resource consent applications for surface water abstractions, damming, diversion and use; and~~

~~while:~~

~~(1) safeguarding the mauri and providing for the ecosystem health of the Waiau River, and;~~

~~(2) reversing or reducing degradation of the Waiau River as a result of the Manapōuri hydro-electric generation scheme.~~

Federated Farmers New Zealand (Southland Province) – pSWLP relief requested on Policy 26 as notified

Policy 26 – Renewable energy	Oppose	The NPS for the Generation of Renewable Energy expresses a preference for the use of renewable energy over non-renewable sources. The objective and policies seek to direct councils to consider these benefits when developing provisions to manage the effects on the environment of the infrastructure associated with renewable energy generation. Neither it nor the NPS-FM expresses a preference for the allocation of water resources for energy generation over other uses.	Delete Policy 26.
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Federated Farmers New Zealand (Southland Province) – relief requested on Policy 26 within the submitter’s appeal

Relief Sought

Federated Farmers seeks the following relief:

(a) That policy 26 is reworded to say:

Recognise and provide for the national and regional significance of renewable electricity generation activities (including the existing Manapōuri hydro-electric generation scheme in the Waiau catchment), the national, regional and local benefits of renewable electricity generation activities, the need to locate the generation activity where the renewable energy resource is available, and the practical constraints associated with its development, operation, maintenance and upgrading, when:

1. *allocating surface water for abstraction, damming, diversion and use; and*
2. *considering all resource consent applications for surface water abstractions, damming, diversion and use*

While having particular regard to:

- (a) *The potential to avoid, remedy or mitigate any adverse effects on the Waiau River and downstream users by increasing minimum flow provisions.*

- 13 Federated Farmers has not presented evidence on this matter and has indicated it will abide by the Court’s decision³.

Te Rūnanga o Ngāi Tahu – pSWLP relief requested on Policy 26 as notified by way of further submission

Meridian Energy-562.6 Policy 26-Do not agree with the proposed amendment as concerned it may lead to the placement of hydro- schemes in water bodies of importance to Ngāi Tahu as they are considered to be where a “renewable energy resource is available”. Consider the policy as proposed sufficient guidance when processing a resource consent for renewable energy. Oppose in part.

³ Memorandum of Counsel to the Court on behalf of Federated Farmers in respect of Tranche 3 – 22 July 2022

Te Rūnanga o Ngāi Tahu – relief requested on Policy 26 within the submitter’s appeal

21	Policy 26	Delete the text “the need to locate the generation activity where the renewable energy resource is available, and the practical constraints associated with its development, operation, maintenance and upgrading”.	The additional wording gives a preference to new generation activities where the policy was originally intended to apply to existing renewable resources.
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Te Rūnanga o Ngāi Tahu – relief requested on Policy 26 as promoted by Ms Davidson in evidence

“Policy 26 Renewable energy”

Recognise and provide for:

1. → the national and regional significance of renewable electricity generation activities including the practical constraints associated with its development, operation, maintenance and upgrading and the benefits of renewable electricity generation activities; and
2. → the national and regional significance and the benefits of renewable electricity generation activities (including the existing Manapōuri hydro-electric generation scheme in the Waiau catchment), the national, regional and local benefits of renewable electricity generation activities, the need to locate the generation activity where the renewable energy resource is available, and including the practical constraints associated with its development, operation, maintenance and upgrading, when:
 - a. → allocating surface water for abstraction, damming, diversion and use; and
 - b. → considering all resource consent applications for surface water abstractions, damming, diversion and use; uses of land, use of the beds of lakes and rivers and new or increased discharge of contaminants or water to water or land that may affect the operation of the Manapōuri hydro-electric generation scheme.”

Meridian – pSWLP relief requested on Policy 26 as notified

<p>Policy 26 Renewable Energy</p>	<p>Oppose in part</p> <p>Policy 26 which recognises and provides for the national and regional significance of renewable electricity generation activities is supported. The recognition of Manapouri Power Scheme and its facilities are supported and this provisions implements Objective 10.</p> <p>While the policy addresses matters relevant to Section 14 of the Resource Management Act it does not include matters relating to discharges which are important to the continued operation of the Manapouri Hydroelectric facilities.</p> <p>Further, the plan also contains land use rules which are relevant to renewable electricity generation activities other than the Manapouri Power Scheme. As currently drafted the policy does not adequately recognise discharges and land use.</p> <p>The changes sought to the policy will ensure that relevant matters necessary to give effect to the Regional Policy Statement provisions relating to renewable electricity generation and the NPSREG are addressed.</p>	<p>Amend Policy 26 to read: Policy 26– Renewable energy Recognise and provide for the national and regional significance of renewable electricity generation activities (including the existing Manapouri hydro-electric facilities in the Waiau catchment), and the national, regional and local benefits relevant to renewable electricity generation activities, <u>the need to locate the activity where the renewable energy resource is available and the practical constraints associated with its development, operation, maintenance and upgrading</u>, when: 1) allocating surface water for abstraction, damming, diversion and use; and 2) considering all resource consent applications for surface water abstractions, damming, diversion and use <u>and</u> 3) <u>Considering uses of land, use of the beds of lakes and rivers and discharge of contaminants or water to water or land for, or which may impact on, renewable electricity generation activities.</u></p>
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Meridian – relief requested on Policy 26 within the submitter’s appeal*Policy 26 – Renewable energy*

Recognise and provide for the national and regional significance of renewable electricity generation activities (including the existing Manapouri hydro-electric generation scheme in the Waiau catchment), the national, regional and local benefits of renewable electricity generation activities, the need to locate the

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generation activity where the renewable energy resource is available, and the practical constraints associated with its development, operation, maintenance and upgrading, when:

- 1. allocating surface water for abstraction, damming, diversion and use; and*
- 2. considering all resource consent applications for surface water abstractions, damming, diversion and use; and*
- 3. considering uses of land, use of the beds of lakes and rivers and discharge of contaminants or water to water or land for, or which may impact on, renewable electricity generation activities.*

Meridian – relief requested on Policy 26 as promoted by Ms Whyte in evidence

• ~~“Policy 26 Renewable energy”~~

Recognise and provide for: ¶

1. → ~~the national and regional significance of renewable electricity generation activities including the practical constraints associated with its development, operation, maintenance and upgrading and the benefits of renewable electricity generation activities; and ¶~~
2. → ~~the national and regional significance and the benefits of renewable electricity generation activities (including the existing Manapōuri hydro-electric generation scheme in the Waiau catchment), the national, regional and local benefits of renewable electricity generation activities, the need to locate the generation activity where the renewable energy resource is available, and including the practical constraints associated with its development, operation, maintenance and upgrading, when: ¶~~
 - a. → ~~allocating surface water for abstraction, damming, diversion and use; and ¶~~
 - b. → ~~considering all resource consent applications for surface water abstractions, damming, diversion and use; uses of land, use of the beds of lakes and rivers and new or increased discharge of contaminants or water to water or land that may affect the operation of the Manapōuri hydro-electric generation scheme.” ¶~~

PLAN CHANGE TUATAHI AND THE REGIONAL FORUM

14 Ms Jordan in her evidence establishes a proposition that there is “significant uncertainty”⁴ associated with giving effect to the outcomes of the Regional Forum process for the Waiau Freshwater Management Unit as part of Plan Change Tuatahi. Ms Jordan uses this proposition as reason to retain control over all matters associated with the reconsenting of the Manapōuri Power Scheme (MPS)⁵ with a focus on the flow and level regime.

⁴ Paragraph 127 Evidence in Chief Claire Jordan for Aratiatia Livestock Ltd

⁵ Paragraphs 124–128 Evidence in Chief Claire Jordan for Aratiatia Livestock Ltd

- 15 This proposition is primarily based on a recommendation from the Regional Forum⁶ to the Regional Council and Te Ao Mārama Inc (TAMI), to initiate a science programme to inform the setting of a flow regime for the Waiau River. The Regional Forum is a consultative group that the Regional Council formed to advise it and TAMI on how to achieve the community's values and objectives for freshwater.
- 16 The Waiau Freshwater Management Unit and particularly the Waiau River's water quality and water quantity are well understood. This has been informed in part through consenting processes associated with the operation of the MPS and successive compliance reporting associated with the same consents. In addition, the Council collects its own data through the Council's SOE work programme on the Waiau River.
- 17 There have not been any unforeseen adverse effects associated with the operation of the MPS, other than have been caused by the introduction of didymo into the catchment. Didymo has been addressed through the setting of flushing flow requirements.
- 18 What has changed in the catchment is the effects of land use change and its impacts on water quality. These matters are drawn out in Dr McConchie's and Dr Hogsden's evidence. I also understand Environment Southland has commissioned various workstreams to further understand the impacts of land use changes on water quality and quantity in the Waiau Catchment.
- 19 In addition to this work Meridian has contributed both directly and indirectly over the past seven years to various work and research programmes with Environment Southland to gather sufficient baseline information for it to meet its requirements to implement the National Policy Statement for Freshwater 2020.
- 20 I understand the Regional Council is working on a deliberate programme to prepare Plan Change Tuatahi on this basis. The intent is that Council has or will have sufficient baseline information to meet its statutory requirement to implement the national objectives framework in the Waiau catchment. I have confidence in the Council in this regard.

⁶ Regional Forum Recommendations Report to Environment Southland and Te Ao Mārama Inc Board – June 2022

CONCLUSION

- 21 This evidence provides the Court information to assist it on any issues arising on matters relating to scope.
- 22 It further provides information relevant to the science needs required to prepare Plan Change Tuatahi.



Andrew Feierabend

Statutory and Compliance Strategy Manager, Meridian Energy

19 August 2022