

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

UNDER the Resource Management Act 1991

IN THE MATTER of appeals under Clause 14 of the First Schedule of the Act

BETWEEN

TRANSPower NEW ZEALAND LIMITED
(ENV-2018-CHC-26)

FONterra CO-OPERATIVE GROUP
(ENV-2018-CHC-27)

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

(Continued next page)

**EVIDENCE IN CHIEF OF MATTHEW MCCALLUM-CLARK ON BEHALF OF
SOUTHLAND REGIONAL COUNCIL**

**TOPIC B6 - INFRASTRUCTURE - TRANCHE 3 - WAI AU - PLANNING
07 SEPTEMBER 2022**

Judicial Officer: Judge Borthwick

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

WILKINS FARMING CO
(ENV-2018-CHC-30)

**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT
COUNCIL & INVERCARGILL CITY COUNCIL**
(ENV-2018-CHC-31)

DAIRYNZ LIMITED
(ENV-2018-CHC-32)

H W RICHARDSON GROUP
(ENV-2018-CHC-33)

BEEF + LAMB NEW ZEALAND
(ENV-2018-CHC-34 & 35)

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

SOUTHLAND FISH AND GAME COUNCIL
(ENV-2018-CHC-37)

MERIDIAN ENERGY LIMITED
(ENV-2018-CHC-38)

ALLIANCE GROUP LIMITED
(ENV-2018-CHC-39)

FEDERATED FARMERS OF NEW ZEALAND
(ENV-2018-CHC-40)

HERITAGE NEW ZEALAND POUHERE TAONGA
(ENV-2018-CHC-41)

STONEY CREEK STATION LIMITED
(ENV-2018-CHC-42)

THE TERRACES LIMITED
(ENV-2018-CHC-43)

CAMPBELL'S BLOCK LIMITED
(ENV-2018-CHC-44)

ROBERT GRANT
(ENV-2018-CHC-45)

**SOUTHWOOD EXPORT LIMITED, KODANSHA
TREEFARM NEW ZEALAND LIMITED, SOUTHLAND
PLANTATION FOREST COMPANY OF NEW ZEALAND**
(ENV-2018-CHC-46)

**TE RUNANGA O NGAI TAHU, HOKONUI RUNAKA,
WAIHOPAI RUNAKA, TE RUNANGA O AWARUA & TE
RUNANGA O ORAKA APARIMA**
(ENV-2018-CHC-47)

PETER CHARTRES
(ENV-2018-CHC-48)

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

**ROYAL FOREST AND BIRD PROTECTION SOCIETY
OF NEW ZEALAND**
(ENV-2018-CHC-50)

Appellants

AND

SOUTHLAND REGIONAL COUNCIL

Respondent

Introduction, qualifications and experience

- 1 My name is Matthew Eaton Arthur McCallum-Clark. My qualifications and experience are set out in full in my statement of evidence dated 22 October 2021.
- 2 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.
- 3 I have been asked by the Southland Regional Council (the **Council**) to provide independent planning evidence on appeals in relation to Topic B6 - Infrastructure matters on the pSWLP. A proportion of appeal points, which do not relate to the Waiau River, were resolved through Court facilitated mediation and are subject to consent orders. The remaining matters that do relate to the Waiau River were not resolved and are subject to this hearing.

Executive Summary

- 4 In this evidence I have focussed on the issues remaining in dispute and the wording of Policy 26, Rule 52A and the beginning of Appendix E. As the higher-order policy position and context for the catchment is well set out in the evidence of other planning and technical experts, I have focussed on how the provisions sought will be implemented, and in some respects the relevance of the Freshwater Planning Process to come for the Waiau Freshwater Management Unit.
- 5 I recommend a version of Policy 26 that has only minor modifications to that recommended by Ms Whyte and Ms Davidson. Similarly, my recommended wording of the beginning of Appendix E has only minor differences in wording to that of other planners.
- 6 For Rule 52A, I have focussed on certainty and implementation issues, rather than the activity status and closely related matters, in accordance with Council's 21 December 2018 memorandum advising that it would abide the decision of the Court on the activity status of Rule 52A.

Code of Conduct

- 7 I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court's Practice Note 2014. I have complied with the Practice Note when preparing my written statement of

evidence and will do so when I give oral evidence before the Environment Court.

8 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.

9 Unless I state otherwise, this evidence is within my knowledge and sphere of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of this Evidence

10 My evidence addresses the following matters:

- a. The appeals in relation to Policy 26, addressing renewable electricity generation.
- b. The appeals in relation to water takes in Rule 52A, addressing the Manapōuri Power Scheme (**MPS**).
- c. The appeal in relation to the exclusions at the beginning of Appendix E, addressing activities associated with the MPS.

11 In preparing my evidence I have considered the National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**) and the National Policy Statement for Freshwater Management 2020 (**NPSFM**), the New Zealand Coastal Policy Statement 2010, the Southland Regional Policy Statement (**SRPS**), the operative objectives in the pSWLP (including the interpretation statement) and the Interim Decisions of this Court, particularly in relation to Te Mana o te Wai and ki uta ki tai.

12 In preparing this evidence, I have read all of the briefs of evidence provided by the appellants and s274 parties, with a particular emphasis on the briefs within my area of expertise.

13 On 21 December 2018 the Council filed a memorandum with the Court advising that the Council would abide the decision of the Court on the activity status of Rule 52A, and make the Council's s42A reporting officer (myself) available for questioning. In this evidence, I focus on how the provisions sought will be implemented, and in some respects the relevance of the Freshwater Planning Process to come for the Waiau Freshwater Management Unit (**FMU**).

- 14 In relation to the higher-order objective and policy framework set out in paragraph 11 above, several planners, such as Ms Whyte, Ms Sitarz, Ms Jordan and Mr Farrell, have set out the relevant provisions in detail. Aside from some differences in the emphasis to be applied across those policy documents, there does not appear to be significant differences of opinion as to the relevant higher-order policy directions. Therefore, I have not set out those provisions or considered it necessary to set out my own assessment.
- 15 To aid my consideration of the provisions advanced, and to assist the Court, should it find it useful, I have extracted the recommendations of each planner in relation to Policy 26, Rule 52A and Appendix E and appended this comparative assessment to this evidence as **Appendix 1**. This includes my recommended provisions. However, as addressed in paragraph 13 above, my recommendations on Rule 52A only apply where I consider there is an implementation issue to be resolved, rather than expressing an opinion on the full content of the various versions and the associated activity status.

Catchment context

- 16 I have read and considered the evidence of Dr McConchie, where from paragraph 50 there is a description of the Waiau River catchment, an outline of the operation of the MPS and the hydrology of the River. The evidence of Dr Hogsden gives an overview of water quality and ecology from paragraph 18. Ms Cain's evidence explains the mauri and mana of the Waiau from paragraph 24. I acknowledge that there are several other briefs of evidence that provide context on the catchment and values.
- 17 As I understand it, there are four appeals lodged on Policy 26, from Aratiatia Livestock Limited, Meridian Energy Limited, Federated Farmers of New Zealand, and Te Runanga o Ngai Tahu & others. There are five appeals lodged on Rule 52A, being the appellants on Policy 26 and the Royal Forest and Bird Protection Society of New Zealand Incorporated. I understand Federated Farmers are not taking part in this hearing process and have not lodged evidence.
- 18 Further there are four appeals on the content of Appendix E. I understand the appeals of Aratiatia Livestock Limited, and Te Runanga

o Ngai Tahu & others relate to the part of Appendix E subject to this hearing.

19 For each of the above appeals there are a range of s274 parties.

Provisions sought and the Waiau FMU process to come

20 The parties have benefited from the exchange of preferred provisions prior to mediation in 2021, some discussion during mediation, and more recently direct negotiation and sharing of revised provisions. In my opinion, it is apparent that there is a considerable focus on establishing the policy and rule framework that will apply both immediately, and after the NPSFM compliant FMU planning process is complete.¹ The evidence of all planners contains a set of preferred provisions, and those of Ms Whyte, Ms Jordan, Ms Davidson and Ms Sitarz have a considerable level of detail in the rules to apply once the FMU processes are complete.

21 Ms Whyte's evidence identifies, at paragraphs 110 to 136, the considerable process to be undertaken to establish targets and limits in terms of water quality, and allocation and take limits in terms of water quantity, through the NPSFM and National Objectives Framework process. I agree that these are substantial processes, and I also note that progress has been underway on this for some time. I also understand that the control of the process, and largely the decisions, transfers to the Freshwater Planning Commission following notification of these essential elements of Plan Change Tuatahi. I also expect that there will be a range of parties involved and submissions lodged which the Freshwater Planning Commission will need to take into account. Indeed, it may be that some matters come to light through the FMU process, or through other parties that become involved, which may lead to a slightly different outcome than that anticipated now.

22 Overall, I do not have a strong opinion on whether the provisions to be included in future planning processes should be agreed at this stage. I do consider that the utility of doing so relies on some strong assumptions about those provisions being maintained without change through the Freshwater Planning Process.

¹ Also known as "Plan Change Tuatahi".

Policy 26

- 23 I have read and considered the evidence of the planners on Policy 26. There appear to be some generally agreed changes suggested in terms of structure of the Policy and the separation of provisions specific to the MPS. For the reasons expressed by Ms Whyte at paragraphs 36 to 39 and Ms Jordan at paragraph 132, I agree with those changes.
- 24 There appear to be two areas of ongoing disagreement between some of the planners, first, the extent of ‘reverse sensitivity’² protection to be included in the Policy, and second, whether to include policy direction on flows in the Waiau river.
- 25 In respect of reverse sensitivity protection, I agree at a general level with Ms Whyte that reverse sensitivity protection is helpful and appropriate to signal in the Policy.
- 26 I note the proposal to include reverse sensitivity from “uses of land” within the Policy wording supported by Ms Whyte. I have read and considered the evidence of Ms Whyte and Mr Feierabend. In reviewing that evidence, it appears that the concern arises not from “uses of land” per se, but from increases in the ancillary discharges that may result from some land uses. From an implementation perspective, it is not clear to me what the expectations are on the Council when it is considering land use activities, particularly of the farming nature described by Mr Feierabend in his paragraph 14. It would appear that Mr Feierabend is concerned about intensification of farming activities. Other “uses of land” are wide ranging, but their reverse sensitivity potential on the MPS is not at all clear.
- 27 In relation to farming activities, the Topic A and Topic B5 hearings heard that farming activities tend to lead to a small level of discharge on an individual basis, but cumulatively can have significant adverse effects. Therefore, it is not clear to me how Council would usefully consider reverse sensitivity effects on Meridian or whether Meridian would consider that its written approval was required to resource consents for individual farming activities. On this basis, the Policy wording suggested by Ms Whyte is, in my opinion, unhelpful for Council’s administration of

² While this phrase is not used in the Policy, I agree with the description of the concept of ‘reverse sensitivity’ as set out in paragraph 141 of Ms Jordan’s evidence.

its plan, as it is vague as to expectations or any threshold of unacceptability.

- 28 Further, the wording preferred by Ms Whyte appears to have been developed prior to the latest planning joint witness conferencing process and final hearings on Topic B5, at which Meridian was not significantly involved. That conferencing and hearing process considered Policy 16 which applies to farming activities, and its implementation of the Objectives of the pSWLP. It is my understanding that all parties to the Policy 16 appeals have agreed an outcome where the kinds of effects that Mr Feierabend is concerned about in relation to Policy 26 are simply not anticipated to occur.³ In particular, I refer to the two requirements agreed for all farming activities:
- a. that losses of nitrogen, phosphorus, sediment and microbial contaminants do not increase; and
 - b. the effects on water quality in Schedule X catchments are reduced (noting that the much of the farmed area of the Waiau catchment may be in Schedule X per the maps of both Dr Snelder and Dr Depree for at least some attributes).
- 29 Therefore, I do not support the inclusion of “uses of land” in Policy 26. Should some other land use activities of concern be identified that are more directly related to effects on the MPS, then there could be a further useful refinement of this part of the Policy.
- 30 In relation to the final part of the Policy recommended to be added, in various forms, by Ms Jordan, Ms Sitarz and Mr Farrell, I am of the view that these are complex issues, significantly affected by the MPS and very much the focus of the upcoming FMU planning process, as outlined in detail by Ms Whyte. In particular, the second part of the addition recommended, “reversing or reducing degradation of the Waiau River as a result of the Manapōuri hydro-electric generation scheme” raises a significant expectation, particularly the “reversing” element. While I am not opposed to direction being added through this process, I question the merits of this when it will be examined in more detail in the coming year. By way of further detail, I have included the draft Visions for Southland in **Appendix 2**, which includes a Vision for the Waiau FMU.

³ Noting that a decision on this matter is yet to be made by the Court.

These draft Visions have been developed jointly by Council and the paptipu rūnanga of the region, with community input, pursuant to clause 3.3 of the NPSFM. These Visions are currently subject to a First Schedule consultation process, with a view to notifying their inclusion in the SRPS when that consultation process is complete. Visions then need to be achieved through the further steps of the NPSFM, including the flows and levels to be established through Cluses 3.16 and 3.17.

- 31 Given the nature of the FMU process to come, on balance, I do not support the additional final elements of the Policy recommended by Ms Jordan, Ms Sitarz and Mr Farrell.

Rule 52A

- 32 As stated in the introduction to this evidence, I am not providing evidence on the activity status of this Rule. I acknowledge that controlled activity status is not advanced by any of the planners.
- 33 In my opinion, the rule frameworks put forward by the planners are, in the main, implementable by the Council. There are three elements of concern that I wish to expand on.
- 34 The first is in relation to certainty about the FMU process to come, as identified in conditions (3) and (4) of Rule 52A(a) and in Rule 52A(c). The wording suggested by several planners uses the expression “established” in relation to these FMU processes. In my opinion that is uncertain, as it is not a phrase used in the Resource Management Act 1991 (**RMA**) to describe any particular stage of the planning process. I prefer rewording, based around use of the word “operative” to remove any doubt about what is intended.
- 35 While it is not of particular concern, I note Ms Kirk’s suggested inclusion of the “Fiordland FMU” in condition (4). It is my understanding that the discharge of water from the MPS in Fiordland is to the coastal marine area, and therefore would not be subject to “*environmental flows and levels and/or take limit regimes*” established for the Fiordland FMU.
- 36 The second element of concern relates to the Ms Whyte’s suggested express limitation on the consent process:

In exercising its discretion to address adverse effects on the environment the Southland Regional Council may not require:

- (i) take limits, environmental flows and level limits that are more limiting for the consent holder than those set in the Plan for the Waiau FMU in accordance with the NPSFM 2020; and
- (ii) water quality standards or limits that are more limiting for the consent holder than those specified in the Plan for the Waiau FMU.

37 Ms Whyte, in her evidence acknowledges the risk that the FMU process may not fully address every issue. That is a risk I agree with, and is my primary concern with the limitation set out above. I consider it quite possible that information will arise in the FMU process that may not be able to be dealt with fully in the flow and allocation regime. It is my experience in helping develop flow and allocation regimes elsewhere in the country that those regimes often address effects at a level of generality, and often specifically reserve assessment of fine-grained detail to a resource consent process, typically through use of discretionary or restricted discretionary activity status. Ms Whyte has suggested a possible revision of this wording at her paragraph 147. While agreeing with the intent, I consider the wording advanced is uncertain and could be open to interpretation.

38 In my opinion it would be more useful to accept that the limitation suggested by Ms Whyte would only be appropriate to include as a part of the FMU process, when it could be assured that the FMU process was setting out a flow, allocation and quality regime from which no deviation was contemplated. Alternatively, and less preferred, the limitation could recognise that some uncertainty could arise in the process to come, through wording such as:⁴

In exercising its discretion to address adverse effects on the environment the Southland Regional Council may not require take limits, environmental flow and level limits, or water quality standards or limits that are more limiting for the consent holder than those set in the Plan for the Waiau FMU in accordance with the NPSFM 2020, unless expressly stated in the Plan.

39 While comparatively unimportant, I also record that the restrictions on discretion advanced by several planners include matters expressly

⁴ The structure is also revised here, to remove duplication and unnecessary differences in the wording of the two sub-clauses suggested by Ms Whyte.

addressed by Rule 3 of the pSWLP,⁵ and therefore the following matters of discretion need not be included in Rule 52A:

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

40 The final element of concern relates to the options advanced for the drafting of Rule 52A(b). The option advanced by Ms Whyte and Ms Davidson both expands the ambit of Rule 52A and potentially creates a circularity in the rule.

41 As I understood it, Rule 52A was intended to create a bespoke rule for the discrete set of existing resource consents consistently described in the chapeaux of each clause:

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;*

42 The wording advanced by Ms Whyte and Ms Davidson would appear to suggest that other rules in the pSWLP could be used to seek replacement consents for the types of consents described in the chapeaux. That may be what is intended by Ms Whyte and Ms Davidson. If that is intended, then the current wording of Rule 52A would appear to prevent that, through the initial phrase in the Rule “*Despite any other rules in this Plan...*”. As I understand it, that phrasing

⁵

Rule 3:

(a) *When considering applications for controlled activities or restricted discretionary activities, in addition to the matters over which:*

- (i) control is reserved; or*
- (ii) exercise of discretion is restricted;*

the decision-maker may also consider the lapse period sought, the duration of the resource consent sought, the review of the conditions of a resource consent, the need for a bond and the collection, recording, monitoring and provision of information concerning the exercise of a resource consent.

of the rule means that Rule 52A, and only Rule 52A, applies to the discrete set of existing resource consents described in the rule.

- 43 Therefore, at this time, I do not support the wording preferred by Ms Whyte and Ms Davidson.

Appendix E Exclusion

- 44 The change to Appendix E appears to have been substantially agreed between all parties, and Council has been involved in some of those discussions. I agree with the change, as it is a helpful refinement and narrowing of when the Appendix E standards do not apply.
- 45 In terms of implementation of this provision, I only have one suggestion for improving certainty. While a relatively minor issue, I consider that “temporary” is more commonly understood, in terms of the RMA and is used considerably more often in planning documents than the phrase “will not result in a permanent change”. I note that in section 3 of the RMA, recording the definition of “effect”, “temporary” is used as the antonym of “permanent”. Further, in relation to discharges, section 107 contains restrictions on the granting of discharge consents, with one of the exclusions being clause (2)(b), which states “(b) that the discharge is of a temporary nature”.
- 46 Therefore, it is my opinion that “temporary” is more commonly understood by planners and applicants, and is better aligned with section 107 of the RMA. Therefore, the wording I support is (changes shown bolded):

*~~(b) — due to the effects of the operation an ancillary activity associated with the maintenance of the Manapōuri 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 **only not** result in a **temporary 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.~~*

A handwritten signature in green ink, appearing to read 'mccallum', is positioned above a horizontal dotted line.

Matthew McCallum-Clark

07 September 2022

Appendix 1 – Consolidated provisions of planners

Consolidated changes sought to Waiau provisions

07 Sept 2022

Key/Guide

1. The base document is the “Appeals Version” of the pSWLP (being the Decisions Version, with appeals noted by way of shading).
2. The recommended provision of each planner has been added in black underline and strikeout within boxes. Where planners have recommended different provisions, this is usually shown as an alternative within the box.
3. The relevant planners which support the particular wording are noted in each box. In order to more clearly identify differences, bold is selectively used where this may be helpful to highlight minor differences.
4. Where there is a provision with multiple sub-clauses, the relief sought is shown for each sub-clause, as many planners only seek reasonably small differences. For example, for Policy 52A all changes to sub-clause (a) are set out before sub-clause (b).
5. Numbering of clauses has not been adjusted, even where there are clear discrepancies, so that references to those clauses in evidence are not disrupted.

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), 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.

Davidson (Ngā Rūnanga), Whyte (Meridian), Jordan (Aratiatia), Sitarz (Forest and Bird), Farrell (Fish and Game), McCallum-Clark (Southland Regional Council):

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

Davidson (Ngā Rūnanga), Whyte (Meridian), Jordan (Aratiatia), Sitarz (Forest and Bird), McCallum-Clark equal preference (Southland Regional Council):

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

Farrell (Fish and Game), McCallum-Clark equal preference (Southland Regional Council):

...

2. ~~the national and regional significance~~ **and including** ~~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

Davidson (Ngā Rūnanga) and Whyte (Meridian):

- 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 Manapouri hydro-electric generation scheme.

McCallum-Clark (Southland Regional Council):

- 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 Manapouri hydro-electric generation scheme.

Jordan (Aratiatia) and Sitarz (Forest and Bird):

- 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.

Farrell (Fish and Game):

...

- b. considering all resource consent applications for surface water abstractions, damming, diversion and use;
- c. *[insert a specific reverse sensitivity policy in relation to the MPS that identifies (i) what activities and development may be incompatible with the MPS and (ii) how this infrastructure should be protected from such activities].*

while;

- d. ~~Safeguarding the mauri and~~ providing for the ecosystem health of the Waiau River, and;
- e. reversing or reducing degradation of the Waiau River as a result of the Manapōuri hydro-electric generation scheme.

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;

is a controlled 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) 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.

The Southland Regional Council will reserve its control 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, aquatic ecosystems and water quality;
- 3. mitigation or remediation measures to address adverse effects on the environment; and
- 4. 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 does not meet one or more of the conditions of Rule 52A(a) is a non-complying activity.

Whyte (Meridian), Davidson (Ngā Rūnanga), Sitarz (Forest and Bird), Jordan secondary option (Aratiatia), and Kirk secondary option (Director-General of Conservation):

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;

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

McCallum-Clark (Southland Regional Council):

- (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, **has been made operative;**

~~(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 under the NPSFM 2020; and

McCallum-Clark (Southland Regional Council):

- (4) the application complies with relevant environmental flows and levels and/or take limit regimes **made operative following that have been established through** an FMU process for the Waiau FMU under the NPSFM 2020; and;

Kirk (Director-General of Conservation):

- (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.

Whyte (Meridian) and Davidson (Ngā Rūnanga)

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, aquatic ecosystems and water quality;~~
1. 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
- ~~3.2.~~ mitigation or remediation measures to address adverse effects on the environment other than those identified in clause 1; and
3. the collection, recording, monitoring, reporting and provision of information concerning the exercise of consent; and
4. lapse period, duration of consent and consent review requirements; and
- ~~4.5.~~ the benefits of renewable electricity generation.

In exercising its discretion to address adverse effects on the environment the Southland Regional Council may not require:

- (i) take limits, environmental flows and level limits that are more limiting for the consent holder than those set in the Plan for the Waiau FMU in accordance with the NPSFM 2020; and
- (ii) water quality standards or limits that are more limiting for the consent holder than those specified in the Plan for the Waiau FMU.

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

Sitarz (Forest and Bird), Jordan secondary option (Aratiatia) and Kirk secondary option (Director-General of Conservation):

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 ka 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.

Sitarz (Forest and Bird):

~~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;

Whyte (Meridian), Davidson (Ngā Rūnanga):

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 non-complying activity-is a discretionary activity-

Sitarz (Forest and Bird), McCallum-Clark (Southland Regional Council), Jordan secondary option (Aratiatia) and Kirk secondary option (Director-General of Conservation):

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 non-complying 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 the 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.

McCallum-Clark (Southland Regional Council):

- (c) Despite any other rules in this Plan, any activity that is for the taking of water for the generation of electricity from the 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 **being made operative**, 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 under the NPSFM 2020 being made operative**, seeks a quantity of water greater than provided within the take limit regime
is a non-complying activity.

Farrell (Fish and Game), Jordan preferred option (Aratiatia) and Kirk preferred option (Director-General of Conservation):

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;

is a ~~controlled~~ discretionary activity.

(b) Despite any other rules in this Plan, any activity that is for the taking of water for the generation of electricity from the Manapōuri hydro-electric generation scheme which seeks a quantity of water greater than that currently consented is a non-complying activity.

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 of the Manapōuri hydro-electric generation scheme that alters natural flows, that parameter cannot meet the standard.

Whyte (Meridian), Sitarz (Forest and Bird), Davidson (Ngā Rūnanga), Kirk (Director-General of Conservation), Farrell (Fish and Game), and Jordan equally supported option (Aratiatia):

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 Manapōuri 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.

Jordan equally supported option (Aratiatia):

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 of the Manapōuri hydro-electric generation scheme that alters natural flows, that parameter cannot meet the standard....~~

McCallum-Clark (Southland Regional Council):

- ~~(b) due to the effects of the operation~~ an ancillary activity associated with the maintenance of the Manapōuri 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 **only not** result in a **temporary 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.

Appendix 2 – Consultation version of Visions

Te Mana o te Wai Objective

To protect and restore, where degraded, the mauri of the waterbodies in the Southland Region, by:

- (1) recognising the interconnectedness of land, fresh water and coastal waters and applying a ki uta ki tai, integrated management approach;
- (2) working in partnership with Ngāi Tahu ki Murihiku and engaging with communities and other stakeholders,
- (3) recognising and reflecting the principles of mātauranga, mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship, care and respect; and
- (4) applying the hierarchy of obligations that gives effect to Te Mana o te Wai as follows:
 - a. prioritising first the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao;
 - b. affording second priority to the health and well-being needs of people, te hauora o te tangata, interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing); and
 - c. thirdly prioritising the ability of people and communities to provide for their social, economic, and cultural well-being, now and into the future.

Freshwater Visions

Freshwater vision for Southland

Every freshwater management unit, including all lakes, rivers and streams, groundwater, springs and wetlands, nohoanga and mātaītai will achieve healthy resilience and a state of hauora within a generation (by 2045), and all waterbodies currently in a state of hauora shall be maintained for the benefit of current and future generations.

Fiordland and the Islands FMU

The waters of Fiordland Te Rua o te Moko and the offshore islands Ngā Moutere o Murihiku, lands, and coastal waters, will be maintained in a state of hauora and healthy resilience, to the fullest extent possible whilst acknowledging the operation of the Manapōuri Hydro-electric Generation Scheme. Any degraded areas will be identified and restored to a state of hauora, healthy resilience before 2040, for the benefit of current and future generations.

Waiau FMU

The waters of the Waiau catchment, Te Waewae Lagoon and coastal waters, will be restored to a state of hauora and healthy resilience, by 2045, to the fullest extent possible, for the benefit of current and future generations, whilst acknowledging the operation of Manapōuri Hydro-electric Generation Scheme.

The waters of the coastal catchment, both east and west of Te Waewae Lagoon, will be restored to a state of hauora and healthy resilience, by 2045, to the fullest extent possible, for the benefit of current and future generations.

Aparima FMU

The waters of Aparima catchment, Pourakino, waters flowing from Takitimu, Taramea Peninsula spring fed waterbodies, Jacobs River Estuary and coastal waters, will be restored to a state of hauora and healthy resilience, by 2045, to the fullest extent possible, for the benefit of current and future generations, whilst recognising the existing scale of degradation within Jacobs River Estuary.

The waters of the coastal catchment west of Jacobs River Estuary, including Lake George Ōruwera, Ōrepuki, and coastal waters, will be restored to a state of hauora and healthy resilience, by 2045, for the benefit of current and future generations.

The waters of Waimatuku and Taunamau catchments including the neighbouring Ōreti Beach mātaītai and coastal waters, will be restored to a state of hauora and healthy resilience, by 2045, for the benefit of current and future generations.

Ōreti FMU

The waters of Ōreti catchment, its eastern tributaries, New River Estuary and coastal waters, will be restored to a state of hauora and healthy resilience by 2045, to the fullest extent possible for the benefit of current and future generations, whilst recognising the existing scale of degradation within New River Estuary.

The waters of Awarua, including Awarua wetland complex, Awarua Bay and Bluff Harbour, estuaries and coastal waters, will be restored to a state of hauora and healthy resilience by 2045, for the benefit of current and future generations.

Mataura FMU

The waters of the Matāura catchment, including Fortrose Toetoes Estuary and coastal waters, will be restored to a state of hauora and healthy resilience by 2045, for the benefit of current and future generations.

The waters of the coastal catchment north of Fortrose Toetoes Estuary, including Tokanui, the Catlins, Waikawa, Tumu Toka, and coastal waters, will be restored to a state of hauora and healthy resilience, by 2045, for the benefit of current and future generations.

Waituna FMU

The waters of Waituna catchment, Waituna Lagoon Waipārera and connected coastal waters, will be restored to a state of hauora and healthy resilience by 2045, for the benefit of current and future generations.