

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

**ENV-2018-CHC-000029
ENV-2018-CHC-000038
ENV-2018-CHC-000047**

IN THE MATTER of the Resource
Management Act 1991

AND of appeals under Clause 14 of the First Schedule
of the Act

BETWEEN **WAIHOPAI RŪNAKA, HOKONUI RŪNAKA, TE
RŪNANGA O AWARUA, TE RŪNANGA O
ORAKA APARIMA, AND TE RŪNANGA O NGĀI
TAHU (collectively NGĀI TAHU)**
Appellant

BETWEEN **ARATIATIA LIVESTOCK LTD**
Appellant

BETWEEN **MERIDIAN ENERGY LTD**
Appellant

AND **SOUTHLAND REGIONAL COUNCIL**
Respondent

**STATEMENT OF EVIDENCE OF BEN FARRELL ON BEHALF OF THE
SOUTHLAND FISH AND GAME COUNCIL AND THE ROYAL FOREST AND
BIRD PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED**

Dated: 1 March 2019

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INTRODUCTION

QUALIFICATIONS AND EXPERIENCE

- 1 My full name is Ben Farrell. I am an Independent Planning Consultant based in Queenstown. I am owner and director of Cue Environmental Limited, a company I recently established to provide independent planning services across New Zealand. My qualifications and experience are set out in my Evidence in Chief dated 17 February 2019.

CODE OF CONDUCT

- 2 I have read the Environment Court's Code of Conduct for Expert Witnesses 2014, and I agree to comply with it. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I have specified where my opinion is based on limited or partial information and identified any assumptions I have made in forming my opinions.
- 3 In preparing my evidence I have reviewed the Evidence in Chief prepared in support of Environment Southland dated 14 December 2018 (McCallum-Clarke, Robertson, Snelder, Rodway, Lloyd, Hodson, Ward); and Evidence in Chief in support of other parties dated 15 February (Ms Whyte, Ms Davidson, Ms Jordan, Mr Waipara, Mr Feierabend, Mr Skerrett, Mr Marshall, Mr Sycamore, Mr Kyle, Ms Kirk).

SCOPE OF EVIDENCE

- 4 My evidence deals with Objectives 9, 9A, 9B and 10 of the pSWLP. My evidence follows on from my EiC dated 17 February 2019.
- 5 My evidence on Objectives 9, 9A and 9B is on behalf of Forest & Bird. My evidence on Objective 10 is on behalf of Fish & Game.

OBJECTIVES 9, 9A, 9B

- 6 My EiC¹ deals with Objectives 9, 9A and 9B, recommending that Objectives 9 and 9A should be remerged and the Objective(s) should have specific reference to "recreation values" and "margins". My evidence below recommends additional amendments to Objectives 9, 9A and 9B.

¹ EiC [at 97-105]

7 Mr McCallum-Clarke² clarified that Objective 9B was not part of the pSWLP as notified and that it was introduced in response to a number of submitters that identified that there were no objectives or policies in the pSWLP that recognised the importance of critical or regionally significant infrastructure. Nga Runanga has sought that Objective 9B be deleted.

8 Forest and Bird sought that the notified wording of Objective 9A should be retained and that Objective 9B should be amended as follows:

The effective development, operation, maintenance and upgrading of Southland's regionally significant, nationally significant and critical infrastructure is ~~enabled~~ sustainably managed.

9 Ms Davidson,³ providing evidence on behalf of Ngai Tahu, does not support the amendments sought by Forest and Bird and upon consideration supports the notified version of Objective 9:

I do not consider that applying the term "sustainably managed" or "supports the reasonable needs of people and communities" achieves the same outcome or the correct priority set by the NPSFW with respect to Te Mana o te Wai. As noted above, these words imply a balance between the needs to the waterbody and the needs for its use. The separation into two objectives creates unnecessary doubt as to the relative weighting that should be applied to the two objectives. In my opinion, retention of Objective 9 as notified is more appropriate at giving effect to higher order directions and documents than the decisions version.

10 Ms Davidson⁴ provides evidence recommending that Objectives 9 and 9A be amended to reflect the notified version, and that Objective 9B be amended as follows:

Objective 9

(a) The quantity of water in surface waterbodies is managed so that aquatic ecosystem health, life-supporting capacity, outstanding natural features and landscapes, recreational values, natural character, and historic heritage values of surface waterbodies and their margins are safeguarded; and

(b) Provided (a) is met, water is available both instream and out-of-stream to support the reasonable needs of people and communities to provide for their social, economic and cultural wellbeing.

Objective 9B

The effective development, operation, maintenance and upgrading of Southland's regionally significant, nationally significant and critical infrastructure is enabled while managing adverse effects on the environment.

² McCallum-Clarke EIC [at 96]

³ Davidson EIC [at 81]

⁴ Davidson EIC [at 77-81 and 82-92]

- 11 Ms Davidson’s rationale for amending Objective 9B is to ensure the Objective provides clear direction that enabling infrastructure must be undertaken with consideration of the negative impacts this may have on the environment⁵.
- 12 Meridian has sought an amendment to Objective 9B (“*Recognise and make provision for the national significance of renewable electricity generation activities*”). This wording is very similar to Policy INF.1 of the RPS. Ms Whyte⁶ has recommended that the amendment sought by Meridian is not required if Objective 9B is retained as per the notified version.
- 13 In my opinion it is appropriate for the pSWLP to have an Objective which recognises the importance of, and seeks to make provision for, significant infrastructure (including critical infrastructure, nationally significant infrastructure, and regionally significant infrastructure). This is appropriate given the direction in the NPSET, NPSREG, and more particularly RPS Policy INF.1. However, Objective 9B, as worded in the pSWLP, is more enabling of infrastructure than the direction provided in the NPSREG, NPSET and RPS (identified by Mr Sycamore)⁷ and does not acknowledge the directives in NPSFM Objective B5 and Policy B8 to “*enable communities to provide for their economic well-being, including productive economic opportunities, in sustainably managing fresh water quantity, **within limits.***” (*my emphasis*).
- 14 In my opinion it is appropriate for Objective 9B to refer to “sustainably managed” as sought by Forest and Bird rather than “enabled”, because it better reflects the directions in the higher order policy instruments to “make provision for” significant infrastructure “within limits”. To clarify this, and for the reasons identified in Ms Davidson and Mr Sycamore’s, evidence I consider it would be appropriate for Objective 9B to be amended as follows:

The effective development, operation, maintenance and upgrading of Southland’s regionally significant, nationally significant and critical infrastructure is ~~enabled~~ sustainably managed to ensure its benefits are provided for while managing adverse effects within limits.

⁵ Davidson EIC [at 91]

⁶ Whyte EIC [at 79]

⁷ Sycamore EIC [at 13-26]

OBJECTIVE 10

- 15 Objective 10 applies to existing hydro schemes in across the Region (not just in the Waiau catchment). This is very different to Objective 10 as notified⁸ which only applied to the Manapouri Power Scheme (“**MPS**”). There appears to be no discussion in the Decisions Report⁹ explaining why the Objective now applies across the Region and it appears to me this amendment could have been unintentional.
- 16 I am of the opinion that Objective 10 should not apply to other existing electricity schemes. This is because other existing electricity generation activities in the Region are recognised and provided for in Objective 9B (as discussed above).
- 17 Upon reviewing the EiC of experts¹⁰ I consider it is appropriate for the MPS to be recognised and provided for in a bespoke Objective. In summary this is because [as a point of difference from other electricity generation activities in Southland] of its level of contribution of electricity supply and because of its specific recognition in the RPS.
- 18 The RPS directs the following in relation to the MPS:
- 18.1 Objective WQUAN.2 seeks to ensure that the allocation and use of Southland’s water resources is efficient across the region and “*recognises and makes provision for the Monowai and nationally significant Manapōuri hydroelectric generation schemes in the Waiau catchment and the resultant modified flows and levels*”.
- 18.2 Policy WQUAN.3 provides explicit direction for regional plans to “*Recognise the finite nature of water resources and catchments and identify management regimes in accordance with the National Policy Statement for Freshwater Management 2014 that: (h) recognise the need for availability of water to enable the Monowai and nationally significant Manapouri hydro-electricity power generation activities in the Waiau catchment to continue, and be enhanced where over-allocation will not occur*”.
- 19 It has been established in evidence¹¹ that the MPS (both its structures and water take) has resulted in significant historic and ongoing adverse environmental effects, but that these effects could be reduced in the future¹².

⁸ McCallum-Clarke EiC [117-138]

⁹ Report and Recommendations of the Hearing Commissioners

¹⁰ Dr Kitson EiC [at 143-144], Mr Marshall EiC [at 26-51]

¹¹ Mr Marshall EiC [at 26-51]

¹² Ms Jordan EiC [at 24c], Mr Marshall EiC [at 50]

- 20 Given the significance of the issues at stake (namely the benefits associated with providing such a large amount of renewable electricity generation versus the significant adverse effects), coupled with the directions in the higher order policy instruments to enable the Scheme to continue and to be enhanced “within limits” (as discussed above) and “where over-allocation will not occur”¹³, I consider it would be inappropriate for Objective 10 to provide an outcome that pre-determines or signals that the Manapouri Hydro Scheme should be enhanced, even if environmental effects are managed (as recommended by Ms Whyte). I agree with the discussion [and what appears to be an implied suggestion] by Mr McCallum-Clarke¹⁴ that the Council’s limit setting process under the NPS-FM is the more appropriate process for determining whether or not the pSWLP should explicitly support any future enhancement of the MPS.
- 21 If there is any confusion in understanding what the Manapouri Power Scheme is (as addressed by Ms Whyte¹⁵), I consider it would be more appropriate for the pSWLP to include a definition of the Manapouri Power Scheme (in the Glossary) rather than amending the Objective. In this regard the Objective should be focused on identifying an outcome with matters of interpretation located elsewhere in the Plan (namely the Glossary).
- 22 For the above reasons I consider the notified version of Objective 10 is more appropriate than the decisions version and other options recommended in the evidence of Ms Whyte and Mr Sycamore.

CONCLUSION

- 23 I conclude Objective 9,9A, 9b and 10 should be amended as recommended in my evidence above.

Ben Farrell

DATED this 1st day of March 2019

¹³ RPS Policy WQUAN.3

¹⁴ McCallum-Clarke EIC [at 131]

¹⁵ Whyte EIC [at 59 and 62]