

Before a hearing held by Environment Southland

Under the Resource Management Act and the Proposed Southland Water and Land Plan

in the matter of

An application by Meridian Energy to excavate a channel in the bed of the Waiau Arm of Lake Manapouri/Lower Waiau River. Application AP 20233670.

**Notes for Meridian Hearing Sept 17-18**

1. My name is Maurice Rodway and I am the current chair of the Waiau Working Party (WWP). With me today are Dr Sue Bennett, Claire Jordan and Roger Hodson who have assisted with the preparation of our evidence and can answer questions you may have on our evidence. Dr Bennett has provided separate evidence and will speak to that, however I wish make it clear that the WWP supports Dr Bennett's evidence fully.
2. The WWP wants to emphasise that, overall, we do support this application.
3. Notwithstanding this support we think that some amendments to the conditions that the Applicant has proposed are needed to comply with the relevant legislation, national standards and the proposed Southland Water and Land Plan (pWALP). These amendments are relatively small changes that should be no great inconveniences to the Applicant, but would considerably enhance the Waiau River environment and ensure that it is not further degraded in the longer term.
4. We believe that there is good cause for doing everything that is reasonably practicable to improve the state of the Waiau River because it is currently degraded. This consent if granted will continue to cement in place a water abstraction system that continues to contribute to this degradation, so these

works need to be viewed as part of the larger system. Environment Southland has recently published state of the environment reports for all rivers in Southland mainly to assist landowners with their development of farm plans. However they are an excellent resource for all users. Here is a link to the Waiau River resource. [https://maps.es.govt.nz/apps/catchment-context/Catchment\\_Context\\_Waiiau.pdf](https://maps.es.govt.nz/apps/catchment-context/Catchment_Context_Waiiau.pdf) The report confirms that the main cause of the degradation in the Waiau Catchment has been the applicant's Manapouri Power Scheme and the diversion of most of the water out of the catchment. Therefore, amending the Applicant's proposed conditions in favour of the WWP's counter proposals would enhance the Waiau River environment considerably.

5. The WWP has modified its requests made in its submission following two pre hearing meetings. Whilst I, personally, was not able to attend those pre- hearing meetings in full, the WWP was represented at those meetings.
6. Between 8-20 August I exchanged emails with Meridian staff in an attempt to work through the issues to see if we could come to agreement on the points that were in contention, however these attempts were unsuccessful.
7. Now there are six issues that remain outstanding. These are listed in para. 20 of these notes.
8. Unfortunately, the record of the second meeting did not include all the matters the WWP mentioned at the meeting despite us asking that they be recorded. We have addressed this issue in our evidence. During the second pre-hearing meeting the matter of providing an area of elevated land adjacent to the new channel for nesting and feeding habitat for black billed gulls and other endangered species was discussed. The record of the meeting notes that experts were in agreement that no nesting area was needed or justified. We note that the experts, Dr Leigh Bull for the applicant and Dr Mike Thorsen for Environment Southland do not have specialist knowledge of the needs of Black Billed gulls in the Waiau Catchment. The minutes from this second pre-hearing meeting note that the applicant's rationale for not providing an island has

nothing to do with bird habitat needs but due to the operational needs of the applicant and a reluctance to assume responsibility for its maintenance. Dr Thorsen states this too in his s42A report saying “there is considerable time and expense required to design such a suitable habitat for the local conditions and that ongoing maintenance, particularly to keep it clear of vegetation, would be required.” We have set out ways an island could be provided and maintained in our evidence. This would be straight forward and no great inconvenience given the scale of the works to create the new channel. In fact there is an area of land of about 1600m<sup>2</sup> higher than 180masl and exactly where the island could be located. So the works required would be minimal in the overall scheme of the project. An email received on 10 Sept from Hamish Cuthbert advised that *“We have not applied for consent to deposit material on or disturb the bed of the Waiau Arm other than for the purposes of constructing the new channel. Accordingly, constructing a new bird island is an activity that is not contemplated by the consent application. It is probably worth noting that the berm between the current main channel and the new channel will remain in situ following project delivery, and with contouring it may prove suitable bird habitat.”* We appreciate the opportunity that Hamish provides and we note at paragraph 5.1 of the AEE it states “The final design and works will be in general accordance with variations to the information provided in the appended Damwatch Report, however, minor variations to the methodology and design can be anticipated.” (My underline) This appears to give scope in the consent to provide an area of land that would be suitable for bird nesting and habitat in the way we have requested. Because the reasons given for not providing an island are rather subjective and not related to RMA matters, especially the protection of indigenous biodiversity, which must be provided for when applying for a non-complying consent, we ask that you seek further expert advice on this if Meridian are still unwilling to modify the land that is there to make nesting and roosting habitat for these endangered native birds. Dr Rachel McClellan is a person could assist with this. Dr McClellan completed her PhD to studying these gulls in the Waiau and other Southland rivers. She can be contacted at [mcclellan.ecological@gmail.com](mailto:mcclellan.ecological@gmail.com) (I have discussed this matter with her recently and she is happy for you to contact her). We note that the memo

provided by NIWA on this matter refers to two surveys of birds in this area and Dr McClellan's work is not included. A link to it is provided in our evidence.

9. Unfortunately the WWP is unable to call Dr McClellan as an expert witness on our behalf. We are a small voluntary group of very limited financial means whereas Meridian has large financial resources at its disposal.
10. What Meridian doesn't have, however is a deep and long standing knowledge of this area where we live. We, the members of the WWP, have a deep emotional and spiritual connection to the Waiau River and Lake Manapouri backed by conventional science. We acknowledge that this application has a large amount of complex information in it. However our membership includes a considerable range and depth of expertise and we are familiar with the technical detail of these issues as we have been involved in matters related to the MPS and the Waiau River for up to 40 years.
11. Meridian has employed consultants to help with this application. These people also have their expertise but they, with the exception of Dr Cathy Kilroy, have little understanding of the area where these works are to be undertaken. They may have visited the site for a day or two but this cannot be compared with the knowledge we have of this area. We note the s42A author Bianca Sullivan and the ES consultant Mike Thornton visited the site with Meridian on one day in May and June respectively. In addition to a one day visit offering no insight to the different states of the environment from season to season and year to year I am concerned to learn that Meridian staff were there with them. I don't see how the ES experts can provide independent, unbiased opinions based on a single visit with the applicant and a lack of wider knowledge of the area. They should have visited without Meridian representatives present to remove this potential bias. Dr Burrell also provided a technical report for ES. He advises he visited the site in May but there is no mention of Meridian being present, and if this was the case this is the appropriate way for an independent advisor to look over the site. However as mentioned a one day visit does not compare with 40 years of knowledge about the site and multiple visits that we have had. That said, Dr Burrell's report is more thorough. We agree with several points he

makes, such as at paras 22 and 23. We agree that measuring the effectiveness of the new channel in maintaining a low level of periphyton and fine sediment accumulation in the Lower Waiau River should be undertaken.

12. We are particularly concerned with the proposals that Meridian have offered to monitor phytoplankton in the Waiau Arm. These are completely unsatisfactory in this context and our rationale for an improved programme is explained fully in our evidence, and Dr Bennett addresses this matter in her evidence.

13. The Waiau Arm is directly connected to and is considered part of the iconic Lake Manapouri. Lake Manapouri is in a pristine state, representing a high quality glacial lake. The potential for ingress of “dirty” water from the Mararoa carrying nutrients such as phosphate and nitrate as well as fine sediment that has the potential to contribute to phytoplankton blooms must be prevented.

14. The treatment of the “lacustrine channels” which are wetlands is also of concern to us. These will be significantly modified – reduced in size and some are proposed to be partly cut off from the main channels after the works are completed. The applicant and its consultants have referred to these as channels and wetlands at various points in the application documents and appendices, perhaps reflecting some confusion on their part. To be fair it depends when one visits these wetlands as to whether they appear as wetlands or not. At times they are dry or nearly so and at others they are flooded, as at present. At lake levels above 177masl there is water in them and they do support wetland plants and animals. That community is ephemeral but ephemeral wetlands are still considered wetlands unless it’s a puddle in a paddock that occurs after heavy rain. A recent Environment Southland report explores this matter in some detail. (*Wetland mapping and wetland loss analysis across the Southland Region May 2024 by Dr Darin Sutherland*) We are sure they are wetlands and must be protected in the manner set out in our evidence.

15. The term of consent is an important point. Other submitters have asked for a specific time. We leave it up to the panel to decide the merits of this. Our

suggested conditions relating to this include a regular review over the term of the consent and the specific ability to review this consent following re-consenting of the broader Power Scheme is 2031. It is important to enable this consent to be brought in line with the consents issued in 2031, if that is necessary.

16. Ongoing maintenance of the channel must be conducted in a way that does not cause adverse effects downstream and we have suggested ways to mitigate this.

17. We therefore trust the hearing panel will recognise our local knowledge, offset by our limited financial resourcing abilities - vs those of Meridian - and weigh our evidence in this light in the course of deliberating on this matter.

18. We also note that Meridian has relied on the Manapouri Te Anau Development Act 1963 (MTADA) to give it authority to undertake works in this area. But they have "on a precautionary basis applied for consents for modifications to wetlands". Wetlands are important habitats and landscape features that do need to be protected.

19. We are concerned that Meridian is using this 61 year old legislation to support this application. MTADA is narrowly focused and it is questionable that it applies to this situation. We ask the panel to examine this claim because it may have consequences for future consent applications.

20. That concludes my presentation to you, there are now six issues for the WWP that remain outstanding.

- a. The need for a robust, ongoing phytoplankton and water quality monitoring programme in the Waiau Arm to ensure we don't get an algal bloom in these relatively pristine waters.
- b. The need to leave an area that is suitable for the nesting of black billed gulls and as habitat for other threatened wildlife to assist such species that are threatened, or at risk-declining.
- c. The need to ensure that the final design of the area when the works are completed will restore it to a state that is as natural as possible, especially the

“lacustrine wetlands” that will be adversely affected during the construction period.

- d. Agreement on the term of consent and review conditions which Claire Jordan has elaborated on.
- e. A condition such as the one suggested by Dr Burrell to ensure that the design and purpose of the new channel is achieved in terms of lowered periphyton biomass throughout the Lower Waiau River (as currently measured).
- f. A deposited fine sediment condition that complies with the NPS-FW fine sediment guidelines in the lower Waiau River between the MLC and the confluence of Excelsior Creek.

21. All of these six issues are addressed fully in our evidence. We know you will have read that document and clearly understand what we are asking for. Accordingly I will not read it out in full unless you want me to. In the meantime, if there is anything that is not clear to you we are happy to provide clarification.

22. We have set out our preferred conditions relating to the matters Meridian has not agreed to in our evidence and we ask that these be conditions of the consent.

23. I note that Real Journeys will relocate their temporary slipway to a position partway along the new channel. This does not appear to adversely affect our interests. It is farther away from the lacustrine wetlands that we want to be protected so I don't envisage any conflicts with that and I cannot imagine any conflicts with the other issues we are concerned with.

24. Te Ao Marama evidence. We are very supportive of the Te Ao Marama evidence. It supports many of the submissions we make about protecting, and enhancing where possible, wetlands, biodiversity and water quality.

25. Ulrike Sirch's evidence addresses matters in relation to the Waiau Mouth, which we have not submitted on. We do support her plea to listen to local people, who live by the river and see it every day in all its “moods”. I note the recent review of the floods at Wairoa recommended that the views of local people

should be considered. At page 14 of the Bush report\* it says *“Local and indigenous knowledge must be harnessed in the development of the Plan and practical delegations and standard operating procedures (SOP) must be agreed”*. We support the use of this knowledge as well as conventional science for river management matters in a carefully planned way. However Ulrike does ask that the consent not be granted and we do not agree with this.

26. The WWP evidence has been largely written by myself but reviewed and modified by WWP members. Any errors of fact or omission are entirely mine.

Maurice Rodway  
September 17 2024.

*\* Review of the Management of the Wairoa River Bar by Hawke’s Bay Regional Council 30 August 2024 for the Ministry for the Environment. Bush International Consulting*