

**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 MARGARET JANE WHYTE

FOR

MERIDIAN ENERGY LIMITED

29 July 2022

Topic B6 Infrastructure

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Appellants

AND SOUTHLAND REGIONAL COUNCIL

Respondent

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QUALIFICATIONS AND EXPERIENCE

- 1 My name is Margaret Jane Whyte.
- 2 I hold the qualifications of the degrees of Bachelor of Arts and Master of Regional and Resource Planning from Otago University. I am a full member of the New Zealand Planning Institute.
- 3 I am a Director of ResponsePlanning Consultants Limited. I have over 29 years planning and resource management experience.
- 4 I have undertaken planning work on behalf of Meridian Energy Limited (Meridian Energy) within the Southland Region. I have regularly visited Southland and am familiar with the Region.
- 5 I was involved in preparing the original submissions and further submissions on the Proposed Southland Water and Land Plan (pSWLP). I presented evidence at the Southland Regional Council hearing on the Proposed Southland Water and Land Plan. I presented evidence to the Environment Court on the first stage of hearings on the Water and Land Regional Plan, when the objectives were determined and provided evidence on a limited range of matters to the hearings on Topics B2 discharges and B4 wetlands.
- 6 In preparing this evidence I have also read the evidence prepared on behalf of Meridian for this hearing by Mr Hunt, Dr Purdie, Dr McConchie, Dr Hogsden and Mr Feierabend.

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 2014¹. 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.
- 10 I provide the following declaration of conflict of interest. My husband is an employee of Meridian Energy. This relationship has not had any influence on my evidence and my opinion as an independent expert.

SCOPE OF THIS EVIDENCE

- 11 My evidence addresses the following matters:
 - (a) The appeal of Meridian in relation to Policy 26 addressing renewable electricity generation.
 - (b) The appeal of Meridian in relation to Rule 52A addressing the Manapouri Power Scheme (MPS).
 - (c) The appeal of Meridian in relation to Appendix E as it applies to activities associated with the Manapouri Power Scheme.
- 12 The Appendix E matter was originally identified to be addressed in Topic B2 – Discharges, but Meridian's appeal point is solely related to the MPS. At the Planning Conferencing for Topic B2 and as recorded in that Planning JWS² it was agreed that this point of appeal is better addressed as part of Topic B6 alongside other provisions relating to the MPS.
- 13 In preparing this evidence I have considered the preferred relief of Environment Southland addressing Policy 26 Dated 11 November 2021.

¹ <https://environmentcourt.govt.nz/assets/Documents/Publications/Practice-Note-2014.pdf>

² Joint Witness Statement Planners 10 December 2021

- 14 In preparing this evidence I have considered the outcome of the discussions that Meridian has held with Ngā Rūnanga on the three provisions that I address in my evidence. My understanding is that there is alignment between Meridian and Ngā Rūnanga that the proposed drafting of the provisions will provide for the points of interest of both parties. I have met with Ms Davidson (Ngā Rūnanga's planning consultant) and discussed both the intent and detail of the proposed wording I have included within my evidence.
- 15 While there is alignment between Meridian and Ngā Rūnanga on the appropriate wording of these provisions I have considered the provisions as an independent professional planner, and have considered the appropriateness of the wording in light of the matters that are to be considered and addressed when considering provisions within Regional Plans.
- 16 In preparing my evidence I have considered the relevant statutory considerations. This includes:
- (a) As relevant the key objectives, policies and provisions in the National Policy Statement for Renewable Electricity Generation 2011 (NPSREG) and the National Policy Statement for Freshwater Management 2020 (NPSFM)
 - (b) As relevant the key objectives and policies in the Southland Regional Policy Statement (SRPS)
 - (c) The operative objectives in the pSWLP, including the interpretation statement, and the operative and other policies and rules in the pSWLP.
 - (d) Key provisions in the Resource Management Act relating to the preparation and contents of Regional Plans, including Sections 74, 75, 76, 32(1)(b) and Section 32AA.
- 17 I have also considered the decisions of this Court on the objectives in relation to the paradigm shift in planning approach within the pSWLP and the key understandings of Te Mana o te Wai and ki uta ki tai.
- 18 In my evidence I refer to "FMU process" as shorthand to describe the regional planning process Environment Southland (ES) is required to complete to implement the national objectives framework contained in the

NPSFM in each of the region's freshwater management units, including the Waiau. ES describes this as Plan Change Tuatahi.

- 19 In Appendix 1 I have attached a copy of the provisions I have addressed in this brief of evidence. The wording in Appendix 1 represents the wording I support.

EXECUTIVE SUMMARY

- 20 The matters addressed in my evidence are:

- (a) The wording of Policy 26 addressing renewable electricity generation including the MPS; and
- (b) The wording and activity status provided in Rule 52A which addresses the key consents that would provide for the ongoing operation of the MPS upon expiry of the existing consents; and
- (c) The provision of an exception in Appendix E Water Quality Standards for activities associated with the MPS.

- 21 The main body of my evidence contains my overall evaluation and conclusions. Appendix 2 contains the supporting Section 32AA evaluation in relation to the changes to provisions I have addressed. This evaluation has informed and supports the evaluation outlined in the main body of my evidence.

- 22 My key conclusions are:

- (a) The MPS is a nationally significant renewable electricity generation scheme.
- (b) It is appropriate to provide for both renewable electricity generation and the MPS within Policy 26 in a way that is enabling. The drafting of the policy can be improved by separating MPS specific matters within a separate clause of the policy.
- (c) Policy 26 should be amended to ensure that the impacts of other activities on the operation of the MPS is a matter able to be considered through a resource consent process. The policy does not specify what outcome must be achieved. This will be determined by the consent authority depending on the particular facts and circumstances and in light of the relevant policies and objectives, including Policy 26. The change to Policy 26 provides a clear signal that effects of activities on

the MPS is a matter that must be part of any consideration. No other policy in the pSWLP can be relied upon for this purpose.

- (d) Consideration of matters of reverse sensitivity gives effect to the policy direction provided in the SRPS for infrastructure and energy (Policy INF.3 and Method INF.1, Policy ENG.2 and Method ENG.1) and the NPSREG Policy D.
- (e) Rule 52A addresses the re consenting of the MPS. The current consents for the major MPS water takes, uses and discharges expire in 2031 so applications for new consents in the life of this Regional plan are practically certain. There are different activity statuses available for this activity prior to and post the FMU process being completed for the Waiau FMU. This is appropriate, and reflects the fact that until the FMU process has been completed environmental flows and limits and the allocation (take) limits within the current pSWLP are interim and have not been able to implement the NPSFM and appropriately address the relationship between the NPSFM and the NPSREG in an integrated manner. Once the Waiau FMU process has been completed relevant matters in the NPSFM will have been given effect to through following the National Objectives Framework and the environmental flows and levels, take limits and attribute limits set in the Regional Plan can be relied upon to express how the fundamental concept of Te Mana o Te Wai is to be addressed in the Waiau FMU, including as they relate to the future operation of the MPS and the consenting of the same.
- (f) I support the provision of an exception to Appendix E for ancillary activities that are associated with the maintenance of the MPS. Appendix E is an interim method carried over from the current operative Plan and has shortcomings that will not be addressed until the completion of any change that may occur to the operative Regional Plan as a consequence of Plan Change Tuatahi, including the Waiau FMU process.
- (g) The exception that applies to ancillary activities associated with the maintenance of MPS will appropriately overcome the known deficiencies in Appendix E given its interim application. Importantly the exception does not remove the consideration of water quality matters or provide an outright exception for all MPS related activities.

Rather, it enables water quality matters to be considered on a case-by-case basis through a resource consent process. I have completed an evaluation of these three provisions in accordance with Section 32AA. This evaluation shows that the provisions are appropriate and effective to achieve the objectives.

POLICY 26

Background

23 Policy 26 is a policy that addresses renewable electricity generation. It also includes matters specific to the MPS.

24 Policy 26 as notified in the pSWLP read:

Policy 26—Renewable energy

Recognise and provide for the national and regional significance of renewable electricity generation activities (including the existing Manapōuri hydro-electric facilities in the Waiau catchment), and the national, regional and local benefits relevant to renewable electricity generation activities, 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.*

25 Meridian lodged a submission generally supporting Policy 26, particularly the recognition provided for the MPS. The submission on Policy 26 sought some changes to the policy wording. Specific recognition was sought in the policy of the need to locate renewable electricity generation activities where the renewable energy resources are available and recognition of the practical constraints associated with its development, operation, maintenance and upgrading. Changes to the wording were sought to ensure that the policy applied to activities wider than Section 14 matters and that also enabled potential effects of activities that may impact on renewable electricity generation activities to be considered.

26 The recommendation of the Commissioners at the Council hearing was to amend Policy 26 to partly address the submission of Meridian. Policy 26 in the pSWLP decision version is:

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.*

27 The pSWLP decision version Objective 26 recognised the need for renewable electricity generation activities to locate where the natural resource is and the practical constraints on the development, operation, maintenance and upgrading. However, it did not recognise the potential for other activities to impact on existing renewable electricity generation activities.

28 Meridian’s appeal on Policy 26 seeks that the decision version of the policy be reworded include a new clause addressing the implications of other activities on renewable electricity generation. The wording sought in the appeal is:

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 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.

Evaluation

- 29 Mr Hunt has acknowledged the evidence provided by Mr Waipara at the Topic A hearing relating to the pSWLP Objectives. In his evidence Mr Waipara³ addressed the importance of the MPS in meeting the electricity needs of Southland and how it is a large and critical component of the New Zealand electricity system and national transmission network. Mr Hunt states that on average the MPS produces around 4,900 GWh of 100% renewable electricity each year, approximately 12% of New Zealand's total electricity generation⁴.
- 30 At the Topic A hearing on the objectives Mr Feierabend described the key elements of the MPS. I described this in paragraph 24 of my evidence in chief for that hearing and continue to rely on that for an understanding of the MPS.
- 31 Both the original evidence to the objectives of Mr Waipara and the current evidence of Mr Hunt address the role and contribution of the MPS to New Zealand's renewable electricity generation. I consider that the MPS is of national and regional significance.
- 32 Policy 26 addresses matters relating to renewable electricity generation and matters specific to the MPS. I consider that is appropriate. Policy 26 has a direct link to Objective 9B addressing infrastructure and Objective 10 addressing the MPS.
- 33 When implementing the pSWLP Policy 26 will be considered along with the other policies and objectives in the Plan. I have addressed the relationship of Policy 26 with all of the objectives in the pSWLP in the section 32AA evaluation.
- 34 There are two specific matters in the drafting of Policy 26 I address further. The first is relates to restructuring the policy to assist in its readability. The second concerns the inclusion in the Policy of reverse sensitivity matters relating to the MPS.

³ Evidence of Mr Waipara to Objectives Paragraphs 41 and 46

⁴ Evidence of Mr Hunt Paragraph 62

35 I address each of these matters below. To provide context for my evaluation the wording I support for Policy 26 is:

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.

Structure of Policy 26

36 I consider that the structure of Policy 26 is improved by including MPS specific matters within a separate clause of the policy, rather than interspersed with matters addressing other renewable electricity generation activities. This improves readability by clearly stating which parts of the policy are directly relevant to the existing MPS.

37 The decisions version of the Policy introduced the changes sought in the submission by Meridian by adding recognition of 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 upgrading⁵.

38 These are both important matters relating to renewable electricity generation activities, including the MPS. At the Council hearing I supported the inclusion of these matters within Policy 26.

⁵ These relate to matters in Policy C1(a) and (b) in the NPSREG

- 39 If the words “including the practical constraints associated with its development, operation, maintenance and upgrading” are retained it is not necessary to include reference to “the need to locate the generation activity where the renewable energy resource is available.” This is because the need to locate the generation activity where the resource is will be a practical constraint that would need to be considered in association with the development, operation, maintenance and upgrading of any renewable energy activity. Therefore my view is that it does not need to be included as a separate matter in the Policy.
- 40 I have proposed slightly different wording in the MPS specific clause. I have suggested that the word “development” be removed as the MPS is existing.
- 41 In my understanding the change in drafting I have put forward also responds to a matter in the appeal of Ngā Rūnanga in respect of the wording of Policy 26⁶.

Consideration of Effects of Other Activities on the MPS

- 42 The second matter I address in Policy 26 concerns recognition of the ability to consider effects of other activities on the MPS.
- 43 Meridian’s appeal sought that reverse sensitivity matters be addressed within the Policy. Mr Feierabend in his evidence has addressed real examples of the type of activities for which consent may be sought and that could have adverse effects on the ongoing operation of the MPS.
- 44 I have not identified any other policy in the pSWLP that addresses reverse sensitivity matters, or that seeks to manage the effects of activities on significant infrastructure. On that basis, and on the basis that reverse sensitivity is an issue for the MPS, the appropriate place to address this matter in is Policy 26 clause 2 of the restructured policy.
- 45 In my opinion the higher order documents direct that this is a matter that must be addressed. In the SRPS Chapter 15 Infrastructure Policy INF.3 addressing infrastructure is:

⁶ Appeal Point 21 to Policy 26 in appeal of Ngā Rūnanga

Protect regionally significant, nationally significant and critical infrastructure, particularly from new incompatible land uses and activities under, over or adjacent to the infrastructure

- 46 SRPS Method INF.1 – Regional Plans provides direction for regional plans. Clause (c) is “ensure that adverse effects, including reverse sensitivity effects, of development and land use on existing and/or planned regionally and nationally significant infrastructure are avoided, remedied or mitigated by identifying:

(i) *what activities and development may be incompatible with this infrastructure; and*

(ii) *how this infrastructure should be protected from such activities;”*

- 47 Chapter 16 Policy ENG.2 of the pSWLP addresses the benefits of renewable energy. The explanation and principal reasons for the policy recognises that “in recognising and providing for these benefits:

Consented and existing renewable electricity generation activities should, to a reasonably practicable extent, be protected against future reverse sensitivity issues by managing the effects of development and land use to avoid such issues;”⁷.

- 48 Method ENG.1- Regional Plans in (b) is: “Establish and maintain provisions in regional plans that recognise and provide for the local, regional and national benefits of a secure supply of electricity and electricity generated from renewable energy resources, including Monowai and the nationally significant Manapouri hydroelectric generation scheme activities.”

- 49 These provisions in the SRPS give effect to the Policy D of the NPSREG, recognising that those in the infrastructure chapter extend to matters beyond renewable electricity generation. I have also considered whether there is anything specific in the NPSFM that should be considered. Clause 3.31 of the NPSFM applies to large hydro schemes including the Manapōuri Scheme. Clause (2) applies when implementing any part of the NPSFM as it applies to an FMU or part of an FMU affected by a Scheme, which has yet to occur. However, this provision will apply within the Waiau FMU. Ensuring the effects of other activities on the MPS are able to be

⁷ Southland Regional Policy Statement 2017 Chapter 16 Page 189

considered is consistent with recognising the importance of the MPS in relation to the matters in clause 3.31(2)(a), (b) and (c).

50 Therefore I support the inclusion of the relief sought by Meridian within the Policy. This is because:

- (a) based on the evidence of Mr Feierabend there are real examples of other activities that may adversely affect the operation of the MPS,
- (b) there is direction in the SRPS to manage effects of other activities on infrastructure and renewable electricity infrastructure through Regional Plans,
- (c) there is direction in the NPSREG (Policy D) to manage activities to the extent reasonably possible to avoid reverse sensitivity effects on existing and consented renewable electricity generation activities, and
- (d) there is no current provision within the pSWLP that addresses this matter.

51 I have addressed this matter in Clause 2 of Policy 26, which is the MPS specific provision. This will enable the matters addressed in the evidence of Mr Feierabend to be considered. I recognise that reverse sensitivity may be an issue wider than the MPS and a similar clause could also be added to clause 1 of Policy 26.

52 The addition drafted does not seek to specify the outcome that should be achieved. Rather, it identifies that the matter of the effects of an activity on the MPS is a relevant matter that is to be considered. The appropriate outcome can only be determined based on the particular facts and circumstances, including the potential to affect the MPS. This is appropriately addressed through a resource consent process where determination will be made by the Regional Council as to the appropriateness of the activity having considered all relevant matters, including Policy 26.

53 In terms of the particular wording, I have used the preferred wording of the Southland Regional Council⁸ as the basis for this clause. I have sought to clarify that it is not the activities themselves that are the subject of the policy, but the issue being worked on is the extent to which those activities may affect the operation of the MPS. I have also included the words “new

⁸ 11 November 2021 Southland Regional Council preferred relief.

or increased” in relation to the discharge of contaminants to provide clarity that is additional, rather than current discharges that are of interest.

Conclusion Relating to Policy 26

54 I support the changes proposed to Policy 26 in that:

- (a) Amending the structure to address MPS specific matters in a separate clause does not alter the meaning of the policy but does improve its clarity.
- (b) Deleting the words “the need to locate the generation activity where the renewable energy resource is available” removes unnecessary words from the policy while still enabling relevant matters to be considered.
- (c) Enabling consideration of the effects other activities may have on the MPS is a valid matter to address, responds to a real concern, and gives effect to the direction in higher order documents.

55 I understand that the matters I have addressed relating to the restructuring of the policy, the removal of the reference to the location of the resources and inclusion of reverse sensitivity matters have formed part of the discussions that have occurred between Ngā Rūnanga and Meridian.

56 I also discussed the drafting of the policy with Ms Davidson. The focus of our discussion was on ensuring that the policy is appropriate in the context of the other pSWLP provisions, rather than the merits or otherwise of reverse sensitivity matters of concern to Meridian.

RULE 52A

Background

57 Rule 52A is specific to the MPS.

58 Rule 52A applies to resource consent applications for activities that are part of the MPS and for which consent is already held. In everyday language these can be described as replacement consents. As Mr Feierabend described in his Topic A evidence the existing consents authorising the operation of the MPS expire in 2031 and it is therefore certain that replacement consents will be applied for in the life of the pSWLP. The activities addressed in the rule are:

- (a) The taking or use of water;
- (b) The discharge of water into water and onto or into land;
- (c) The discharge of contaminants into water or onto or into land; and
- (d) The damming or diversion of water

59 For ease of reference copies of the various versions of this rule I refer to in this section of my evidence are reproduced in Appendix 3.

60 The notified version of the pSWLP did not contain rule 52A. It addressed all water abstraction, damming, diversion and use activities in the Waiau Catchment in Rule 52. This provided that any take, damming, diversion and use of water in the Waiau catchment is a discretionary activity subject to meeting one condition which was:

The application is for the replacement of an expiring water permit pursuant to Section 124 of the Act, and the rate of take and volume is not increasing and use of the water is not changing.

61 This rule reflects the pSWLP's recognition that the Waiau Catchment is fully allocated. If the condition was not met the activity was a non-complying activity.

62 In its primary submission Meridian sought inclusion of a new Rule 52A specific to the MPS. The rule sought was to provide for the replacement of existing consented activities forming part of the MPS as a controlled activity.

63 The decisions version of the pSWLP introduced Rule 52A as a separate rule addressing the MPS. It provided that replacement consent for the MPS could be considered as a controlled activity, where the activity related to:

- (a) The taking or use of water; or
- (b) The discharge of water into water and onto or into land; or
- (c) The discharge of contaminants into water or onto or into land; or
- (d) The damming or diversion of water.

- 64 To be a controlled activity there were three conditions that needed to be met. These are:
- (a) The application being for a replacement of an expiring consent pursuant to Section 124
 - (b) The rate of take and volume of water is not increasing, and the use of water is not changing
 - (c) Where the consent is for the taking and/or use of water, the rate of take and volume complies with any relevant flow and level regimes set out in the Plan.
- 65 The matters that control was reserved over were:
- (a) 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 (matter of control 1);
 - (b) any effects on river flows, wetland and lake water levels, aquatic ecosystems and water quality (matter of control 2);
 - (c) mitigation or remediation measures to address adverse effects on the environment (matter of control 3); and
 - (d) the benefits of renewable electricity generation (matter of control 4).
- 66 Where an application did not meet all three conditions for a controlled activity in Rule 52A it became a non-complying activity.
- 67 Meridian's appeal sought to amend the matters of control so that if applications were lodged following the completion of the required FMU process under the NPSFM (that must necessarily set flows and levels for the Waiau Catchment) and the applications lodged conformed to these then these flows and levels could not be revisited in the resource consent process.
- 68 Where the conditions for a controlled activity were not met Meridian's appeal sought that the activity status be a discretionary activity.
- 69 The wording of Rule 52A that Meridian now seeks, and which I support in this evidence, has been modified from the relief sought in its notice of appeal following discussions between Meridian and Ngā Rūnanga, and between myself and Ngā Rūnanga's planning consultant Ms Davidson.

The suggested wording also reflects some helpful without prejudice feedback from Environment Southland.

70 In discussions between Meridian and Ngā Rūnanga it was agreed Rule 52A needed to address the following matters:

- (a) The rule should only address the reconsenting of existing consented MPS activities. This rule does not address new or different activities that are not subject to renewal of consents under Section 124 of the RMA⁹.
- (b) A different consent status applies to the activities depending on whether consent applications are made before or after the completion of the Waiau FMU process.
- (c) The activity status prior to the Waiau FMU process is as a discretionary activity. This means there is no limitation on the matters that can be considered through the consent process. In particular it means that the important matter of flows in the Lower Waiau River to support the values of that river can be considered. This is because the required consideration of this matter via the FMU process will not yet have taken place.
- (d) Following the completion of the Waiau FMU process a restricted discretionary activity pathway is available. This is because it is through the FMU process that the National Objectives Framework will be implemented in accordance with the NPSFM's requirements and having due regard to the objectives and policies of the pSWLP. The FMU process will necessarily establish appropriate environmental flows and allocation limits to support the agreed outcomes for the various values that are established for the Waiau FMU (including the compulsory values and hydro-electric power generation). Where a subsequent resource consent application for the replacement of MPS consents meets those limits they should not need to be revisited as part of the consenting process and this is therefore a restriction on discretion within the rule.
- (e) The matters of discretion should explicitly include mitigation or remediation measures to address adverse effects relating to

⁹ Rule 52 would apply to abstraction, damming, diversion and use of water from the Waiau Catchment that is not addressed in Rule 52A

customary use of mahinga kai and Nohoanga, taonga species and the spiritual and cultural values and beliefs of tangata whenua separately from other adverse effects.

Evaluation

- 71 In proposing changes to the drafting of Rule 52A in this evidence I have taken into account the above matters in forming my own opinion about the most appropriate wording of the Rule.
- 72 I have also undertaken an evaluation in relation to Section 32AA of the RMA.
- 73 At the Council hearing on Rule 52A I provided evidence in support of the controlled activity status in the rule sought by Meridian. While my view remains that a controlled activity status would be an appropriate activity status for consenting the MPS given the nationally significant status of the MPS and its explicit recognition in higher order documents as well as Objective 10 of the pSWLP, I am also comfortable with restricted discretionary activity status.
- 74 In my evaluation of Section 32 at the Council hearing I considered that both a controlled activity and restricted discretionary activity could be appropriate, but that on balance a controlled activity was more effective and efficient as it provided greater regulatory certainty for both a consent applicant and consent authority. However, it was a fine balance between either a controlled or restricted discretionary activity status.
- 75 As Meridian is no longer seeking a controlled activity status, I have not considered this status further in this evidence, although the range of activity statuses are considered in the Section 32AA evaluation I have completed.
- 76 While my detailed evaluation of Rule 52A is set out below, at the outset I make the observation that providing for a different activity status that applies pre and post the implementation of the NOF via the Waiau FMU process is reasonable from a planning perspective. It reflects the difficulty in being able to give full effect to both the NPSFM and the NPSREG through this stage of the Plan process. A number of the provisions in the NPSFM can only be given effect to through going through the National Objectives Framework for the relevant FMU.

77 I support the view that in advance of completing the NOF process for the Waiau FMU discretionary activity status for reconstituting the MPS is appropriate. Once the NOF process for the Waiau FMU has been completed, appropriate environmental flows and levels and allocation limits will be established in the Regional Plan to support the environmental outcomes that are set for each value, including for all compulsory values, and in my opinion inevitably for hydro-electric power generation, as well as any other values that are established through the process. If a subsequent resource consent application for replacement consents for the MPS meets or conforms to these, I support the idea that these aspects should not be revisited as part of that subsequent process. For reconstituting an activity such as the MPS, having considered Objective 10 and Policy 26 and having gone through the NOF process in the NPSFM where the task of establishing values and environmental outcomes, and balancing potentially competing needs for water, has been undertaken, it is inefficient to revisit these.

78 I support the following wording for Rule 52A:

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*
- ~~(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*

(5) the applicant has requested that the application be publicly notified.

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

- ~~1. the volume and rate of water taken, used, diverted or discharged and the timing of any take, diversion or discharge, including how this relates to generation output;~~
- ~~2. any effects on river flows, wetland and lake water levels, 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~~
- ~~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~~
- ~~45. 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.

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

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

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

79 I provide the following detailed comments on my suggested wording of the rule.

Restricted Discretionary Activity Pathway

80 Rule 52A(a) is the part of rule 52A that provides a restricted discretionary pathway.

81 In order to be considered under this rule it is necessary for:

- (a) The application to be for an activity that is part of the MPS (clause (a))
- (b) The application to be for an activity for which consent is already held (clause (a)) and
- (c) The application to be for the taking of water, or the discharge of water into water or onto or into land; or the discharge of contaminants into water or onto or into land or the damming or diversion of water (clause (a)(i-iv)).

82 To be considered as a restricted discretionary pathway five conditions must be met.

83 Condition 1 requires that the application be for the replacement of an expiring resource consent pursuant to section 124 of the Act. This is a condition included in the decision version (controlled activity) rule and has been retained. This provides that the restricted discretionary pathway relates to existing activities associated with the MPS, not new activities. It is a duplication of the matters addressed in the introduction to the rule (addressed in my paragraph 81(b)).

84 Condition 2 requires that where the replacement consent is for the taking or use of water that the rate of take and volume is not increasing and the use of water is not changing. This is a condition included in the decision version (controlled activity) rule and has been retained. This condition ensures that any application for a new consent is made on a like for like (or less) basis to the consent being replaced.

- 85 Condition 3 is new and makes it clear that the restricted discretionary activity pathway is only available after the completion of the Waiau FMU process under the NPSFM 2020. As take limits must be established in accordance with Clause 3.17 of the NPSFM to meet environmental flows and limits, and environmental flows and limits must be set in accordance with clause 3.16 of the NPSFM, it will not be possible for this condition to be met in advance of the Waiau FMU process being completed.
- 86 Condition 4 requires that the application complies with any relevant environmental flow and level limit and/or allocation limit specified in the Plan for the Waiau FMU under the NPSFM 2020. This condition provides certainty that the restricted discretionary pathway is only available to an application for consent that meets the environmental flow and levels set in accordance with Clause 3.16 of the NPSFM and take limits set in accordance with Clause 3.17 of the NPSFM. Setting these flows, levels and limits are mandatory and they can only be set through following a NOF process.
- 87 Condition 5 requires that the application be publicly notified. The decision version of the controlled activity rule required any consent application that was a controlled activity to be publicly notified. While notification is available to a consent authority for a restricted discretionary activity this condition makes it clear that public notification will occur. This is appropriate in my view given the scale of the MPS.
- 88 The next part of the rule describes the matters over which discretion is reserved.
- 89 Matters 1 and 2 (strike-through) are deleted in my drafting of the rule, as they are not necessary based on the conditions that an activity under this rule must meet.
- 90 An application is not able to gain entry into this rule as a restricted discretionary activity unless the application is lodged after the establishment of a take limit through the Waiau FMU process (condition (3)) and the application must be made on the basis that the environmental flows and levels and/or take limit established through the Waiau FMU process under the NPSFM are complied with (condition 4).
- 91 I address the matters that must be addressed in establishing both environmental flows and levels limits and take limits in the NPSFM in

paragraphs 110–147 of this evidence. I consider that the matters included in the struck-through clause 1, being “the volume and rate of water taken, diverted or discharged and the timing of any take, diversion or discharge, including how this relates to generation output” and in clause 2 “any effects on river flows wetland and lake water levels, aquatic ecosystems and water quality” will have been addressed when setting the environmental flows and levels and take limits in the Plan through the NOF process for the Waiau FMU. To be a restricted discretionary activity compliance with the environmental flows and levels limits and take limits that are established through the FMU process is required. Therefore, as these matters will have been addressed by the time of application is made and compliance with the Plan regime is required to allow access to the restricted discretionary rule, it is inefficient and not appropriate to retain these deleted matters as matters of discretion.

- 92 Renumbered (new) Clauses 1 and 2 address mitigation or remediation measures to address adverse effects on the environment. Clause 2 was previously in the decision version of the controlled activity rule. The only change I have suggested to this clause is to improve its relationship with new Clause 1, to make it clear it addresses adverse effects other than those addressed in Clause 1.
- 93 New Clause 1 provides specific recognition of matters relating to adverse and seasonal effects on the customary use of mahinga kai and Nohoanga, taonga species and the spiritual and cultural values and beliefs of tangata whenua. I understand that this clause addresses concerns raised in the appeal of Ngā Rūnanga and ensures that visibility and recognition of these matters are not lost within clause 2.
- 94 Clause 3 addresses the collection, recording, monitoring, reporting and provision of information concerning the exercise of the consent, and clause 4 addresses lapse period, duration of consent and consent review requirements. These matters are a duplication of Rule 3, which applies to any controlled or restricted discretionary activity, but provide visibility within the rule that these matters are able to be considered.
- 95 Clause 5 recognises the benefits of renewable electricity generation. This clause is carried over from the decision version (controlled activity) rule. The benefits of renewable generation is an appropriate matter to consider, along with any adverse effects addressed in clauses 1 and 2. This is

consistent with Policy 26 and Objective 10. This means that both adverse effects and benefits of the proposal subject to the consent will be able to be considered.

96 In addressing restrictions on discretion this rule does limit the way the Southland Regional Council can address adverse effects on the environment. The rule identifies that in exercising its discretion to address adverse effects on the environment the Council may not require:

- (a) 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 and
- (b) Water quality standards or limits that are more limiting for the consent holder than those specified in the Plan for the Waiau FMU.

97 I consider that these limitations on the discretion of the consent authority are appropriate. Having gone through the FMU process and implemented the requirements of the NOF into the Regional Plan, which must include setting allocation limits, environmental flow and level limits, and target attribute states I consider it reasonable that where an applicant for consent complies with these requirements then they are not revisited and different standards potentially imposed as part of a consent process.

98 It is through the Waiau FMU process that the expression of Te Mana o te Wai will be addressed and implemented as appropriately determined through that plan process. The Waiau FMU process will, by virtue of the process that must be followed through the National Objectives Framework, mean that all of the objectives and policies in Part 2 of the NPSFM relevant to the Waiau FMU will be addressed. This will include Policy 1 which requires that freshwater is managed in a way that gives effect to Te Mana o te Wai, Policy 4 that requires freshwater to be managed as part of New Zealand's integrated response to climate change and Policy 5 that requires freshwater to be managed through the National Objectives Framework. The process will also have recognised the specific requirements of clause 3.31 of the NPSFM regarding the need to consider the important contributions of the MPS.

99 To reach the view that a restricted discretionary activity status post Waiau FMU is appropriate, with the reservations and restrictions on discretion as I have set out, I have considered both the process that must be followed

for the Waiau FMU and the content that is required to be included within a Regional Plan as part of the Waiau FMU process and set out my evaluation in the next section of my evidence (paragraphs 110–147).

- 100 Clauses (b) and (c) of Rule 52A address the activity status that applies to activities addressed in the rule that do not meet the entry conditions to be a restricted discretionary activity. As an example, should Meridian seek to reconsent the MPS in advance of the Waiau FMU process being completed it is not possible to meet the conditions for a restricted discretionary activity.
- 101 Clause (c) specifies the circumstances when an application relating to taking water for the generation of electricity from the MPS would be a non-complying activity.
- 102 Clause (c)(i) addresses circumstances prior to a take limit being established through the Waiau FMU process. This specifies that if Meridian seeks a greater quantity of water than that currently consented then such an application will be assessed as a non-complying activity. This reflects the situation that under the current operative plan and the pSWLP the Waiau Catchment is fully allocated and any further allocation of water for electricity generation at the MPS over and above that currently consented would exceed the current allocation.
- 103 Clause (c)(ii) addresses circumstances following a take limit regime being established through the Waiau FMU process. Once a take limit regime has been established any consent application seeking an allocation greater than the take limit set in the Plan would in my view be considered over allocation. Under Objective 7(b) any further over allocation is to be avoided.
- 104 A non-complying activity status sends the clear signal that taking water in excess of that allocated, either currently or post completion of the FMU process, is not envisaged.
- 105 Clause (b) provides an activity status as a discretionary activity. This rule would apply to an application for an activity that forms part of the existing MPS when the activity is not a permitted or restricted discretionary activity under any other rule in this Plan, or a restricted discretionary or non-complying activity under Rule 52A.
- 106 The key application of this part of the rule would be if Meridian sought to reconsent the MPS, on a like-for-like basis, prior to the completion of the

Waiau FMU. In such circumstance the conditions for the RDA rule would be unable to be met, as the Waiau FMU process would not be completed and conditions 3 and 4 could not be met. The non-complying activity rule would not be triggered as on a like-for like basis, pre-Waiau FMU, the amount of water sought would not be greater than is currently consented. In this situation the consents would be considered a discretionary activity with no limitations on the matters able to be considered through any consent process.

107 A discretionary activity status will allow consideration of the relevant objectives and policies of this Plan. It will also enable relevant matters in the higher order documents, which have yet to be given effect to in the pSWLP, to be considered to the extent possible¹⁰, through the consent process. This would include the ability to consider matters relevant to Te Mana o te wai and ki uta ki tai that have not been given effect to in this Plan. There is no limitation on the matters that can be considered in the context of a discretionary activity, including on flows required to mitigate effects on other values. Any consent for a discretionary activity can be approved or refused and conditions of consent imposed based on the merits or otherwise of the application.

108 In addition to addressing the relationship of clause (b) with other clauses in Rule 52A, the relationship of clause (b) and other rules in the PLWRP is also clarified. There are other rules in the PLWRP providing for a range of activities associated with the MPS as permitted and restricted discretionary activities¹¹. Many of these rules include minor water takes and discharges. The reference to “that is not a permitted, controlled or restricted discretionary activity under any other rules in this Plan” is intended to ensure that Rule 52A does not automatically mean every consent Meridian holds, associated with the MPS, if reconvented, is considered as a discretionary activity, when the activity, if it had no association with the MPS, would be permitted¹², controlled or restricted discretionary under other rules.

¹⁰ The extent possible in this context recognises many matters in the NPSFM cannot be fully implemented outside a Plan process.

¹¹ For illustration only minor discharges 8-20, minor water abstractions, including construction related activities Rule 49, minor diversions Rule 5, structures Rules 55A-68 and bed disturbance Rules 72-78

¹² It is acknowledged that it is unlikely that a permitted activity would be subject to reconventing, however it is addressed to ensure there is no confusion as to how other permitted activity rules relate to Rule 52A

109 I consider that the rule as drafted is reasonable and recognises that different considerations should apply depending on whether an application for replacement consents is made in advance of or following the completion of the Waiau FMU. I consider that the rule is an appropriate means of achieving the objectives and policies within this Plan in both the pre- and post-FMU scenarios. I have not identified any areas where the outcomes that can be achieved through implementing the rule would be inconsistent with the objectives and policies of this Plan.

NPSFM Considerations Relevant to Rule 52A

110 As addressed earlier in my evidence, to satisfy myself that the matters where discretion is restricted or limited are appropriate, I have considered the process that must be followed and the outcomes that are required for the Waiau FMU process. This section of evidence provides my evaluation of these matters. My focus is on the National Objectives Framework (NOF) process in the NPSFM. I have considered the matters that must be addressed in relation to the values, and of particular relevance to the drafting of Rule 52A, the NOF requirements for the setting of environmental flows and limits; the setting of allocation limits; and in relation to water quality the setting of target attribute states.

111 The National Objectives Framework is set out in Subpart 2 of the NPSFM. Clause 3.7(2) sets out the mandatory steps in the NOF process. I highlight key matters relevant to my consideration of the appropriateness of the rule I have drafted.

112 Clause 3.7(1)(b) requires that at each step of the NOF process every regional council must apply the hierarchy of obligations set out in clause 1.3(5), as required by Clause 3.2(2)(c). This is a link to the hierarchy of obligations in Te Mana o te Wai.

113 Clause 3.7(2) sets out a summary of the NOF process. Clause (b) requires values for each FMU to be identified. The detailed matters to be addressed in identifying values is contained clause 3.9. This requires:

- (a) addressing the compulsory values in Appendix 1A which apply to every FMU, and
- (b) a regional council may identify other values applying to an FMU or part of an FMU and must in every case consider whether the values listed in Appendix 1B apply.

114 This means that the compulsory values in Appendix 1A (ecosystem health, human contact, threatened species and mahinga kai) will be considered. In relation to Appendix 1B, a number of the values listed may be relevant in the Waiau FMU, but of particular relevance to this rule is matter 6 “hydro-electric power generation” as the MPS is located within the Waiau FMU.

115 Clause 3.31 of the NPSFM is also relevant. This addresses 5 large hydro electricity generation schemes, including in (1)(d) the Manapōuri Power Scheme. Clause (2) is that:

When implementing any part of this National Policy Statement as it applies to an FMU or part of an FMU affected by a Scheme, a regional council must have regard to the importance of the Scheme’s:

- (a) Contribution to meeting New Zealand’s greenhouse gas emission targets; and*
- (b) Contribution to maintaining the security of New Zealand’s electricity supply, and*
- (c) Generation capacity, storage, and operational flexibility.*

116 The combination of clause 3.31 and Appendix 1B means that I do not consider it a feasible outcome that Hydro-electric power generation will not be one of the identified values within the Waiau FMU.

117 Once matters are identified as values the NOF process requires that:

- (a) Environmental outcomes for each value are set and these are included as objectives in regional plans (clause 3.9)
- (b) Attributes for each value are identified and baseline states for those attributes are set (clause 3.10)
- (c) Target attribute states, environmental flows and levels and other criteria to support the achievement of environmental outcomes are set (clauses 3.11, 3.13, 3.16)
- (d) Limits be set as rules and preparation of action plans (as appropriate) occur to achieve environmental outcomes (clauses 3.12, 3.15, 3.17)

118 This means that for every value identified for the Waiau FMU, including at minimum the four compulsory values and hydro-electric power generation, the above four matters will be addressed.

119 I now focus in more detail on the matters relating to setting target attribute states (clause 3.11) environmental flows and levels (clause 3.16) and identifying take limits (clause 3.17).

120 Clause 3.11 relates to setting target attribute states. This is of particular relevance to the limitation of discretion (ii) that restricts the ability to impose water quality standards or limits that are more limiting for the consent holder than those specified in the Plan for the Waiau FMU.

121 Clause 3.11(1) of the NPSFM states:

In order to achieve the environmental outcomes included as objectives under clause 3.9, every regional council must:

- (a) set a target attribute state for every attribute identified for a value;*
- and*
- (b) identify the site or sites to which the target attribute state applies.*

122 This means setting target attribute states will form part of the Waiau FMU process.

123 Clauses (2)-(8) provide additional detail of matters that are to be included and addressed when setting target attribute states. This includes:

- (a) Clause (2) that the target attribute state for every value with attributes (except for human contact) must be set at or above the baseline for the attribute:
- (b) Clause (3) addressing human health
- (c) Clause (4) addressing the relationship of attribute states with the national bottom lines, including considering the exceptions in 3.31 (relevant to the MPS)
- (d) Clause (5) which details what every target attribute state must address
- (e) Clause (6) addressing timeframes, including circumstances where interim targets are set.
- (f) Clause (7) addressing the relationship of target attribute states being set to achieve the environmental outcomes for the relevant values and the relevant long-term vision.

(g) Clause (8) addressing other matters that every regional council must have regard to, use, or take into account when setting target attribute states.

124 Where the baseline state of an attribute is below the national bottom line for that attribute in an FMU adversely affected by an existing structure that forms part of a major hydro-electric scheme (including the MPS) clause 3.31(4) of the NPSFM is relevant and directs that the regional council *may* set a target attribute state that is below the relevant national bottom line and *must* still set a target attribute state to achieve an improvement in that attribute to the extent practicable without having a significant adverse effect on (in this case) the MPS, having regard to its important contributions.

125 Clause 3.16 relates to setting environment flows and levels. Clause (1) states:

Every regional council must include rules in its regional plan(s) that set environmental flows and levels for each FMU, and may set different flows and levels for different parts of the FMU.

126 Because “must” is a mandatory word, rules setting environmental flows and levels will form part of the Waiau FMU.

127 The environmental flows and levels in accordance with Clause (2):

(a) must be set at a level that achieves the environmental outcomes for the values relating to the FMU or relevant part of the FMU and all relevant long-term visions but

(b) may be set and adapted over time to take a phased approach to achieving those environmental outcomes and long-term visions.

128 This means that the environmental flows and levels must be set to achieve the environmental outcomes set for the values. This ensures that there is a clear link from the environmental flows and levels back to the environmental outcomes for the values, and in turn back to the long-term visions. Clause (b) also provides that the plan can set a phased approach within its rules. This reflects the reality that desired environmental outcomes may take time to be realised, and progress towards them may need to be staged.

129 Clause (3) identifies that environmental flows and levels must be expressed in terms of the water level and flow rate and may include variability of flow

(as appropriate to the water body). Clause (a) addresses flows and levels in rivers where any taking, damming, diversion or discharge of water meets the environmental outcomes for the river, any connected water body, and receiving environment. Clause (b) addresses levels of lakes¹³ where any taking, damming, diversion or discharge of water meets the environmental outcomes for the lake, any connected water body, and receiving environment. This means that environmental flows and levels expressed in terms of the water level and flow rate must be specified and flow variability may be included. In my opinion, where flow variability is required to achieve the outcomes set for values, it will need to be included within the environmental flows established through the NOF.

130 Clause (4) addresses other matters that every regional council must have regard to, use, or take into account when setting environmental flows and levels.

131 Clause 3.17 addresses the identification of take limits. Clause (1) provides a direct link between take limits and environmental flows and levels. Clause (1) is:

In order to meet environmental flows and levels, every regional council:

- (a) must identify take limits for each FMU; and*
- (b) must include the take limits as rules in its regional plan(s); and*
- (c) must state in its regional plan(s) whether (and if so, when and which) existing water permits will be reviewed to comply with environmental flows and levels; and*
- (d) may impose conditions on resource consents.*

132 This means that take limits must be set for each FMU to meet the environmental flows and levels and the take limits must be specified as rules in the Regional Plan(s).

133 Clause (2) specifies how take limits must be expressed and is:

Take limits must be expressed as a total volume, a total rate, or both a total volume and a total rate, at which water may be:

- (a) taken or diverted from an FMU or part of an FMU; or*
- (b) dammed in an FMU or part of an FMU.*

¹³ Recognising that the levels of lakes Manapouri and Te Anau are controlled by the Manapouri Te Anau Development Act.

134 This means that take limits expressed as a total volume, a total rate or both must be specified in the regional plan(s). This relates to takes, diversions and damming.

135 Clause (3) provides that where a regional plan or a resource consent allows the taking, damming, diversion or discharge of water the plan or resource consent must identify the flows and levels at which the taking, damming or diversion will be restricted or no longer allowed or that a discharge will be required.

136 Clause (4) identifies that take limits must be identified that:

- (a) provide for flow or level variability that meets the needs of the relevant water body and connected water bodies, and their associated ecosystems; and*
- (b) safeguard ecosystem health from the effects of the take limit on the frequency and duration of lowered flows or levels; and*
- (c) provide for the life cycle needs of aquatic life; and*
- (d) take into account the environmental outcomes applying to relevant water bodies and any connected water bodies (such as aquifers and downstream surface water bodies), whether in the same or another region.*

This means that take limits must also provide for all of the four matters identified in (a)–(d) above.

137 In summary:

- (a) Target attribute states must be set for every attribute identified for a value. This will address (at a minimum) the matters in Appendix 2A, and as relevant will enable consideration of Clause 3.31.
- (b) Both environmental flows and levels and take limits must be specified as rules in regional plan(s) for each FMU.
- (c) Environmental flows and levels must be set at a level that achieves the environmental outcomes for the values and all long-term visions.
- (d) The environmental flows and levels may be set and adapted over time to take a phased approach to their achievement.

- (e) Environmental flows and levels must be expressed in terms of the water level and flow rate, and may include variability of flow at which:
- for flows in rivers any taking, damming, diversion or discharge of water meets the environmental outcomes for the river, any connected water body, and receiving environments.
 - for levels in lakes any taking, damming, diversion or discharge of water meets the environmental outcomes for the lake, any connected water body, and receiving environments.
- (f) take limits must be expressed as a total volume, a total rate, or both a total volume and total rate.
- (g) take limits must provide for flow or level variability that meets the needs of the relevant water body and connected water bodies, and their associated ecosystems;
- (h) take limits must safeguard ecosystem health from the effects of the take limit on the frequency and duration of lowered flows or levels;
- (i) take limits must provide for the life cycle needs of aquatic life; and
- (j) take limits must take into account the environmental outcomes applying to the relevant waterbodies and any connected waterbodies.

138 The directive nature of the NPSFM provisions that apply to the implementation of the NOF means that confidence can be had that all relevant matters will have been addressed through the process of setting values, environmental outcomes, target attribute states, environmental flows and levels, and take limits such that it will not be necessary to set levels, states and limits more limiting than those specified in the Plan on a resource consent.

139 Because of how environmental flows, levels and take limits fit within the NOF process there can be a high level of confidence that the levels and limits that will be set in rules in the Plan for the Waiau FMU will achieve the objective and policies in the NPSFM and address the fundamental concept of Te Mana o te Wai.

140 By the time the NOF process has been followed, the Plan rules are required to be clear as to environmental flows and levels and the timelines that will apply to achieve the objectives set for the values identified for the FMU.

The Plan is also required to specify in rules the allocation limits that are to apply to meet the environmental flows and levels.

- 141 Therefore while for the Waiau FMU the actual target attribute states, environmental flows and levels and take limits are yet to be set, my evaluation shows the range of matters and values that setting these targets, flows, levels and limits must address. I consider there to be a high degree of confidence that meeting the environmental flow and levels and take limits specified in the regional plan(s) will ensure that the water able to be taken for an activity complying with these rules must be considered appropriate.
- 142 Where the environmental flows and levels and take limits specified in the Plan are met (as is required to gain entry into the restricted discretionary rule) I can identify no reason why environmental flows and levels or take limits different to those specified in rules in the regional plan would be imposed on a resource consent. I consider that to revisit these matters that are already specified within Plan rules would be inefficient, ineffective and create uncertainty from a plan provision and administration perspective.
- 143 Where water quality standards have been set by setting target attribute states and these are specified in the Plan, I consider it appropriate to restrict the matters of discretion so that conditions that would set a more limiting water quality outcome than that specified in the Plan cannot be imposed. I consider that to revisit this matter when these matters are already specified within the Plan to be inefficient and ineffective.
- 144 It is for these reasons I consider it appropriate to restrict the matters of discretion so that conditions that would set a different environmental flow and level regime, different take limits, or different water quality standards (attribute limits) than those specified in the Plan cannot be imposed.
- 145 I have considered whether there may be matters that would fall outside of the setting of environmental flows and levels and take limits that may need to be managed through conditions on individual consents for the MPS. The only possible matter I have identified relates to ramping rates. Ramping rates can be used to control the rate of change in flows through structures such as the Te Anau Control Gate and Manapōuri Lake Control Structure. I understand the primary reason for ramping rates relates to managing public safety downstream of structures by managing the rate of change of water released. In my view it is possible that this matter may not be

addressed in any environmental flows and levels or take limits because the NOF process does not consider it an important component of any value that is established for the FMU. If this is the case, then the matter of discretion drafted does not limit the ability for conditions on such matters to be imposed.

146 While I have not identified any other matter that would fall outside of those values and matters considered when setting environmental flows and levels and take limits the matter of discretion as drafted does not limit the ability to consider any matter not addressed when setting the environmental flows and levels and take limits.

147 The restriction on the matter of discretion relating to the environmental flows and levels and take limits is appropriate and identifies those matters where discretion is restricted. I consider the matter is clear as to when discretion is restricted or not. However, if there are any residual concerns that the restriction of discretion may mean matters not considered as part of the setting of environmental flows and levels or take limits are excluded from consideration additional wording as follows could be added.

“(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 for any matter that has been included as part of setting of take limits and environmental flows and level limits for the Waiau FMU; and”

Conclusion Relating to MPS

148 On the basis of the analysis presented above I support the rule proposed in relation to re consenting the Manapōuri Power Scheme, particularly that:

- (a) Prior to the completion of the Waiau FMU process that re consenting existing activities would be a discretionary activity
- (b) Upon completion of the Waiau FMU process that re consenting existing activities that meet the environmental flow and levels and take limits specified in rules in the Regional plan(s) is considered as a restricted discretionary activity and that discretion to impose environmental flow and levels, take limits and water quality limits more limiting than those specified in the Regional Plan(s) is constrained.

149 This approach will enable consideration of relevant matters within the NPSFM as relevant to the circumstances that apply either pre or post the Waiau FMU process.

150 The Section 32AA evaluation completed shows that, setting aside the option of a controlled activity, a discretionary activity applying prior to the Waiau FMU process in combination with a restricted discretionary activity applying once the Waiau FMU process is completed is the most appropriate method to achieve the objectives.

APPENDIX E

Background

151 Appendix E sets out water quality standards that are to be met. The content of Appendix E has largely been carried over from the previous water plan. I understand that Appendix E is intended to apply on an interim basis until more appropriate and contemporary water quality standards are set as part of each FMU process. This would occur through the process of setting target attribute states as part of the NOF process (Clauses 3.10-3.15 of the NPSFM).

152 In its submission on the pSWLP Meridian identified issues with the water quality standards set in Appendix E, including that some of the attributes and limits were not consistent with the National Bottom Lines and attributes specified in the then NPSFM- 2014. This remains the case with the NPSFM 2020. There are practical issues with the way Appendix E water quality standards were specified and how these would impact on activities associated with the MPS.

153 The commissioners at the local hearing acknowledged the issues within Appendix E and provided relief in the form of broad exception from complying with the specific standards in Appendix E for activities related to the MPS.

154 Meridian did not appeal the exception provided to Appendix E, however other parties did, including Ngā Rūnanga. Meridian is a Section 274 party to those other appeals, including that of Ngā Rūnanga.

155 Through the discussions that Meridian has had with Ngā Rūnanga I understand that there are amendments that can be made to the wording of the exception provided in the decision version of the pSWLP that would

provide a solution addressing the appeal of Ngā Rūnanga and still address the concerns of Meridian with the standards and how they impact on activities associated with the MPS.

156 While this is a 274 matter for Meridian, I understand that it may be helpful to other parties with an interest in this matter for the change acceptable to Meridian to be outlined in this evidence, rather than waiting for the preparation of Meridian's Section 274 evidence or evidence in reply.

157 In acknowledging that the standards set in Appendix E are interim I understand that Meridian considers that the nature of activities that the exception applies to can be narrowed from that provided in the decision version of the Plan.

158 The exception now supported by Meridian applies only to an activity in the following circumstances:

- (a) The activity must be an ancillary activity related to the maintenance of the MPS that requires a resource consent. This means that the exception would not apply if Meridian sought to re-consent its main operational activities as this would neither be an ancillary activity, nor associated with maintenance of the MPS.
- (b) Any activity that the exception applies to cannot result in any permanent change to the water quality. This reinforces that it is only maintenance activities that the exception applies to.
- (c) Any activity that the exception applies to must require a resource consent. This clarifies that even in circumstances where the exception applies relevant matters relating to water quality are able to be considered. This will be on a case by case basis and will respond to the particular facts and circumstances.
- (d) The exemption clearly identifies that the application of the exception does not preclude consideration of water quality matters through the resource consent process.

159 The wording of the exception supported by Meridian is:

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.*

Evaluation

160 The exception does not exempt any maintenance activities associated with the MPS from addressing water quality matters. It provides a practical solution to overcome the known issues with Appendix E as set out in paragraphs 25 and 26 of Mr Feierabend's evidence and paragraph 88 of Dr Hogsden's evidence regarding the application of the interim standards specified in Appendix E to ancillary activities associated with the MPS.

161 Mr Feierabend has provided examples of the type of activities Meridian undertakes as part of its maintenance activities that may fall outside the mixing zone and water quality standards of Appendix E.

Conclusion

162 Based on the narrow range of activities that the exception will apply to, and that Appendix E in its current form is intended to be interim until the FMU processes are completed I support the limited exception provided. Relevant water quality matters will be able to be considered as the exception only applies to activities that require resource consent. This means that the relevant objectives and policies in the pSWLP and the effects of the activity will be able to be considered through the consent process.

163 My understanding is that the wording proposed addresses the matter addressed in the appeal of Ngā Rūnanga, but this will be confirmed or otherwise in the evidence of Ms Davidson. I record that I have discussed the proposed wording I have included in this evidence with Ms Davidson.

SECTION 32AA

164 In Appendix 3 I have completed an evaluation of the changes proposed to Policy 26, Rule 52A and the exception to Appendix E.

165 My evaluation shows that the provisions I have addressed are the most appropriate way to achieve the objectives. In completing this evaluation I have identified other reasonably practicable options for achieving the objectives and assessed the efficiency and effectiveness of the provisions in achieving the objectives and summarised the reasons for deciding on the provisions.

CONCLUSIONS

166 In relation to Policy 26 I support:

- (a) Restructuring the Policy so that MPS related matters are addressed in a separate clause
- (b) Including recognition of potential effects other activities may have on the MPS as a matter to be addressed in the Policy.

167 In relation to Rule 52A prior to the completion of the Waiau FMU process I support:

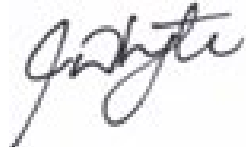
- (a) A discretionary activity status applying to consenting the MPS on a like for like basis
- (b) A non-complying activity status applying to any water take for water to generate electricity exceeding that already consented.

168 In relation to Rule 52A following the completion of the Waiau FMU process I support:

- (a) A restricted discretionary activity status applying to consenting the MPS on a like for like basis, the ability to require environmental flows and levels, take limits and water quality limits more restrictive than those specified in the Plan being limited.
- (b) A non-complying activity status applying to consenting the MPS that exceeds a specified take limit in the Plan

169 In relation to the Appendix E exception I support:

- (a) An exception that applies to an activity requiring a resource consent which is an ancillary activity associated with maintenance.

A handwritten signature in black ink, appearing to read 'Jane Whyte', written in a cursive style.

Jane Whyte

Director ResponsePlanning Consultants Limited

29 July 2022

Appendix 1

pSWLP Provisions Supported

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.

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
- ~~(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
- (5) the applicant has requested that the application be publicly notified.

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

1. ~~the volume and rate of water taken, used, diverted or discharged and the timing of any take, diversion or discharge, including how this relates to generation output;~~

- ~~2. any effects on river flows, wetland and lake water levels, 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.~~ 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.~~

- (b) Despite any other rules in this Plan, any activity that is part of the Manapōuri hydro-electric generation scheme for which consent is held and which is the subject of an application for a new consent for the same activity and is:
- (i) the taking or use of water; or
- (ii) the discharge of water into water or onto or into land; or
- (iii) the discharge of contaminants into water or onto or into land; or
- (iv) the damming or diversion of water;
- that is not a permitted, controlled or restricted discretionary activity under any other rules in this Plan, or is not a restricted discretionary or non-complying activity in Rule 52A in ~~(c)~~ does not meet one or more of the conditions of Rule 52A(a) is a 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 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.

Appendix E

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.

Appendix 2

Section 32AA Evaluation

Evaluation of the Appropriateness to Achieve the Purpose of the Act

The provisions evaluated in this appendix are:

- Policy 26 addition of consideration of effects of other activities on the MPS
- Rule 52A
- Appendix E – MPS Exception

The consideration of Policy 26 addressed in this Section 32AA evaluation is the addition of the clause that enables implications of other activities potentially affecting the MPS to be considered. Any consideration of alternative means is relative to the policy without the additional clause.

The evaluation does not include the restructuring of Policy 26 as proposed, and the removal of the words “the need to locate the generation activity where the renewable energy resource is available”. These changes do not alter the meaning of the policy from that addressed at the time of the decision version of Policy 26. As such a further evaluation of these changes is not necessary and has not been undertaken.

In relation to the evaluation of Rule 52A the alternative means to achieve the objectives considered are:

1. Rule 52A in the decision version of the pSWLP as a controlled activity. This is referred to in Table 2 as Alternative A.
2. Rule 52A as set out in this evidence, with discretionary activity pre-FMU and restricted discretionary activity post-FMU. This is referred to in Table 2 as Alternative B.
3. An alternative Rule 52A having only a discretionary activity status. This is referred to in Table 2 as Alternative C.

In considering the MPS Exception to Appendix E the matter considered is the narrower circumstances when the exception applies. The consideration of alternative means to achieve the objective considers the Appendix E exception addressed in this evidence comparative to the status quo exception in the decision version of the pSWLP.

In considering the efficiency of each option, regard is to be had to the benefits and costs of the effects that are anticipated from the implementation of that option.

The risk of acting/not acting has also been considered where there is uncertain or insufficient information.

The level of detail of this evaluation corresponds to the scale and significance of the changes.

At the outset I note that in this evaluation I have not considered possible alternative forms of a controlled activity rule other than that contained in the decision version¹⁴. This is because this specific outcome is not sought by any party.

¹⁴ A controlled activity rule could be drafted in a comparable manner as alternative b with different considerations of flows and levels applying pre and post FMU.

Table of Effectiveness

The objectives evaluated are those that are Operative in the Proposed Water and Land Regional Plan.

The interpretation statement assists in understanding the role of the objectives and how they are to be considered. This states:

Interpretation Statement

All persons exercising functions and powers under this Plan and all persons who use, develop or protect resources to which this Plan applies shall recognise that:

- (i) Objectives 1 and 2 are fundamental to this plan, providing an overarching statement on the management of water and land, and all objectives are to be read together and considered in that context; and*
- (ii) The plan embodies ki uta ki tai and upholds Te Mana o Te Wai and they are at the forefront of all discussions and decisions about water and land.*

This has been considered in the assessment to the objectives

Objective	Effectiveness
<p>Objective 1</p> <p>Land and water and associated ecosystems are managed as integrated natural resources, recognising the connectivity between surface water and groundwater, and between fresh water, land and the coast.</p>	<p>Policy 26</p> <p>Enabling consideration of activities that may affect the operation of the MPS through consent processes will provide for land and water being managed in an integrated way. The addition to the policy does not specify the outcome to be achieved for a particular activity, nor does the policy alter the consent status of any activity. It provides clarity that effects on the MPS is a consideration, where relevant.</p> <p>The change to the policy is considered more effective than the status quo.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable these matters to be considered as far as necessary.</p> <p>Flows and levels within a river is a matter of control. This is the case both pre and post FMU. While this will enable consideration of relevant matters, post FMU when environmental flows and levels and take limits have been established which will achieve this objective the matters of control will not give any specific recognition to these.</p> <p><u>Alternative B</u></p>

Objective	Effectiveness
	<p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as far as necessary.</p> <p>To be a restricted discretionary activity post FMU compliance with the established environmental flow and level and take limits is required. These will have been set to achieve this objective. Requiring compliance with these will be effective in achieving this objective.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as far as necessary</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All options have high effectiveness. However, alternative B requiring compliance with environmental flows levels and take limits specified in the Plan that will be established to achieve this objective is considered to be most effective.</p> <p>Effectiveness: High</p> <p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered. The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 2</p> <p>The mauri (inherent health) of water bodies provide for te hauora o te tangata (health of the people), te hauora o te taiao (health of the environment) and te hauora o te wai (health of the waterbody).</p>	<p>Policy 26</p> <p>As far as relevant both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable these matters to be considered as relevant.</p>

Objective	Effectiveness
	<p>Flows and levels within a river is a matter of control. This is the case both pre and post FMU. This will enable consideration to be given to the mauri of waterbodies and the three hauora matters within the context of any resource consent application.</p> <p>While this will enable consideration of relevant matters, once environmental flows and levels and take limits have been established which will achieve this objective via the FMU process, the matters of control will not give any specific recognition to these.</p> <p>The controlled activity matters of control will enable consideration of relevant effects, including effects on the waterbody, the environment, and people.</p> <p><u>Alternative B</u></p> <p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post-FMU compliance with the established environmental flow and level and take limits are required. The setting of these will have meant that the FMU process has been followed which must address the fundamental concept of Te Mana o te Wai, will have addressed Objective 2.1 of the NPSFM which expresses the first priority is the health and well-being of water bodies and freshwater ecosystems and Section 3.31 large hydro-electric generation schemes. The FMU process will have implemented the National Objectives Framework Process.</p> <p>Environmental flow and levels and take limits will have been set in a manner that achieves this objective. Requiring compliance with these in order to attract restricted discretionary activity status will be effective in achieving this objective.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p>This will enable consideration to be given to the mauri of waterbodies and the three hauora matters within the context of any resource consent application. However, post FMU there will be no direct link in the rule to the environmental flow and level regimes.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All options have high effectiveness.</p>

Objective	Effectiveness
	<p>However, alternative B post FMU requires compliance with environmental flows levels and take limits specified in the Plan. These will be established to achieve this objective. Therefore, requiring compliance with these in order to attract restricted discretionary activity status is considered to be most effective.</p> <p>Effectiveness: High Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 3</p> <p>Water and land are recognised as enablers of the economic, social and cultural wellbeing of the region</p>	<p>Policy 26</p> <p>Enabling consideration of activities that may affect the operation of the MPS through consent processes will recognise that water and land are enablers of economic, social and cultural wellbeing, but will also promote consideration of matters that may impact on the MPS which is an important part of the economic wellbeing of the region. The addition to the policy does not specify the outcome to be achieved for a particular activity, nor does the policy alter the consent status of any activity. It provides clarity that effects on the MPS is a consideration.</p> <p>The change to the policy is similar to the status quo but is more effective in relation to the role of the MPS to the economic wellbeing of the region.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The controlled activity rule provides for replacement consents under an activity status where consent must be granted. This recognises the national importance of the MPS and its role as an enabler of wellbeing within the region.</p> <p>As a controlled activity there is certainty that consent will be granted which will enable the MPS to continue within the Southland Region.</p> <p><u>Alternative B</u></p>

Objective	Effectiveness
	<p>The proposed discretionary activity status that applies pre-FMU does not provide any particular recognition of the national importance of the MPS and its role as an enabler of wellbeing within the region. Consent can either be granted or refused, which means uncertainty over the consent being granted remains.</p> <p>The proposed restricted discretionary activity status that is available post FMU provides some recognition of the national importance of the MPS and its role as an enabler of wellbeing within the region.</p> <p>Post FMU requiring compliance with the environmental flow and level regime and take limits in combination with curtailing the ability to impose a more limiting regime in relation to environmental flows and levels, take limits and water quality provides a high degree of certainty for the consent applicant of the parameters that the activity, if consent is granted, can operate under.</p> <p>However, consent can either be granted or refused, which means uncertainty over the consent being granted remains.</p> <p><u>Alternative C</u></p> <p>Discretionary activity</p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p>However, consent can either be granted or refused, which means uncertainty over the consent being granted remains.</p> <p>Due to the greater certainty in outcome, in a manner that can achieve the same environmental outcomes it is considered both alternative a and alternative b have a higher level of effectiveness than alternative c.</p> <p>Which is most effective is dependent on which is valued more:</p> <ul style="list-style-type: none"> • Certainty that consent will be granted as a controlled activity but with what environmental flows and levels and take limit that will be applied remaining uncertain or • Certainty as to the environmental flows and levels and take limits that will be applied, but uncertainty as to whether consent will be granted or refused. <p><u>Effectiveness of Rule Alternatives</u></p> <p>Alternative A: High</p> <p>Alternative B: High</p>

Objective	Effectiveness
	<p>Discretionary Activity: Moderate</p> <p>Most Effective: Alternative A or B depending on what is valued</p> <p>Exception to Appendix E</p> <p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>While both are effective it is considered that the version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 4</p> <p>Tangata whenua values and interests are identified and reflected in the management of fresh water and associated ecosystems.</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable consideration of tangata whenua values and interests as relevant.</p> <p>Flows and levels within a river, and adverse effects of the activity are matters of control and matters relevant to tangata whenua values and interests in the management of freshwater and associated ecosystems will be able to be considered. This is the case both pre and post FMU. This will enable consideration to be given to the tangata whenua values and interests within the context of any resource consent application.</p> <p><u>Alternative B</u></p> <p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post-FMU compliance with the established environmental flow and level and take limits are required. The setting of these will have meant that the FMU process has been followed which must address matters relevant to tangata whenua values and interests in the management of freshwater and associated ecosystems. The fundamental concept of Te Mana o te Wai, and the six principles that inform the NPSFM will have been addressed. It will also have addressed Objective 2 and the policies including Policy 2</p>

Objective	Effectiveness
	<p>requiring that Māori freshwater values be identified and provided for. The FMU process will have implemented the National Objectives Framework Process.</p> <p>Environmental flow and levels and take limits will have been set in a manner that achieves this objective. Requiring compliance with these in order to attract restricted discretionary activity status will be effective in achieving this objective.</p> <p>Further a specific matter that discretion is provided for is 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. This specific recognition of cultural values ensures these matters are able to be considered and addressed within the consent process.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>Alternative A: Moderate - High</p> <p>Alternative B: High</p> <p>Alternative C: Moderate - High</p> <p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered. The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 5</p> <p>Ngai Tahu have access to and sustainable customary use of, both commercial and non-commercial, Mahinga kai</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p>No alternative changes Ngai Tahu access to and customary use of Mahinga kai resources, nohoanga, mataitai and taiapure.</p>

Objective	Effectiveness
resources, nohoanga, mataitai and taiapure.	<p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable consideration of Mahinga kai resources, nohoanga, mataitai and taiapure as relevant to the consent.</p> <p><u>Alternative B</u></p> <p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant to the consent.</p> <p>A specific matter that discretion is provided for post-FMU is 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. The specific recognition of these values ensures these matters are able to be considered and addressed within the consent process.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>Moderate – High</p> <p>Exception to Appendix E</p> <p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered. The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 6</p> <p>Water quality in each freshwater body, coastal lagoon and estuary will be:</p> <p>(a) maintained where the water quality is not degraded; and</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>Water quality is a matter of control for controlled activities.</p> <p><u>Alternative B</u></p>

Objective	Effectiveness
(b) improved where the quality of water is degraded by human activities.	<p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post FMU the adverse effects of the activity on water quality is a matter that will be able to be addressed through the matter of discretion as reserved in clause 2. Post FMU there is a limitation on the reservation of discretion in that water quality standards that are more limiting than those set in the Plan cannot be imposed.</p> <p>However, the water quality standards will have been set as part of the FMU process.</p> <p>The FMU process will have implemented the National Objectives Framework Process, and in the case of degraded water quality in the Waiau FMU attribute states will be set to achieve improvement in water quality to the extent practicable without having a significant adverse effect on the MPS</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All options have high effectiveness.</p> <p>However, alternative B establishes that Post FMU there is a link with the water quality standards that will have been set through the Waiau FMU process which is considered to be marginally more effective than the other alternatives.</p> <p>Effectiveness: High</p> <p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 7</p> <p>Following the establishment of freshwater objectives, limits,</p>	<p>This objective is only relevant post Waiau FMU</p> <p>Policy 26</p>

Objective	Effectiveness
<p>and targets (water quality and quantity) in accordance with the Freshwater Management Unit processes:</p> <p>(a) where water quality objectives and limits are met, water quality shall be maintained or improved</p> <p>(b) any further over-allocation of freshwater is avoided; and</p> <p>(c) any existing over-allocation is phased out in accordance with freshwater objectives, targets, limits and timeframes.</p>	<p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable these matters to be considered as relevant.</p> <p>Flows and levels within a river is a matter of control that would apply post FMU.</p> <p><u>Alternative B</u></p> <p>This objective is not relevant pre-FMU.</p> <p>Post-FMU compliance with the established environmental flow and level and take limits is required to attract restricted discretionary status. This will have been set addressing allocation and where overallocation exists will identify the timeframe within which action is required.</p> <p>The FMU process will have implemented the National Objectives Framework Process.</p> <p>Environmental flow and levels and take limits will have been set in a manner that achieves this objective. Requiring compliance with these in order to attract restricted discretionary activity status will be effective in achieving this objective.</p> <p>The reservation of discretion enables adverse effects to be addressed, including on water quality. The limitation of discretion is that water quality limits that are more limiting than those established in the Plan cannot be imposed. As the water quality limits will have been set through the NOF process this objective will be achieved within the limits set.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post FMU there will be no direct link in the rule to the take limits, environmental flow and level regimes and water quality limits.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All options have high effectiveness.</p>

Objective	Effectiveness
	<p>However, alternative B Post FMU requires compliance with environmental flows levels and take limits specified in the Plan and contains a direct link to the water quality limits. These will be established to achieve this objective. Therefore, this alternative responds to outcomes in the Waiau FMU process and is more effective.</p> <p>Effectiveness: High</p> <p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>This objective is not relevant Pre-FMU. To the extent it is relevant the evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 8</p> <p>(a) The quality of groundwater that meets both Drinking-Water Standards for New Zealand 2005 (revised 2008) and any freshwater objectives, including for connected surface waterbodies, established under Freshwater Management Unit processes is maintained, and</p> <p>(b) The quality of groundwater that does not meet Objective 8(a) because of the effects of land use or discharge activities is</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p>This objective is not of particular relevance to the matters being addressed.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All alternatives would be of similar effectiveness</p> <p>Exception to Appendix E</p> <p>This is not of particular relevant to this objective.</p>

Objective	Effectiveness
<p>progressively improved so that:</p> <p>(1) groundwater (excluding aquifers where the ambient water quality is naturally less than the Drinking Water Standards for New Zealand 2005 (revised 2008)) meets the Drinking Water Standards for New Zealand 2005 (revised 2008); and</p> <p>(2) groundwater meets any freshwater objectives and freshwater quality limits established under Freshwater Management Unit processes.</p>	
<p>Objective 9 The quantity of water in surface water bodies is managed so that:</p> <p>(a) the life-supporting capacity and aquatic ecosystem health, the values of outstanding natural features and landscapes, the natural character and the historic heritage values</p>	<p>Policy 26 The change to the policy is similar to the status quo but is slightly more effective in relating to sustainable management of water, by enabling consideration of effects of other water takes may have on the MPS.</p> <p>Rule 52A <u>Alternative A</u> The consent process as a controlled activity with specified matters of control will enable these matters to be considered as relevant.</p>

Objective	Effectiveness
<p>of waterbodies and their margins are safeguarded.</p> <p>(b) there is integration with the freshwater quality objectives (including the safeguarding of human health for recreation); and</p> <p>(c) provided that (a) and (b) are met, surface water is sustainably managed in accordance with Appendix K to support the reasonable needs of people and communities to provide for their economic, social and cultural wellbeing.</p>	<p>Flows and levels within a river is a matter of control. This is the case both pre and post FMU. This will enable consideration to be given to the life supporting capacity, integration with freshwater objectives and sustainable management of water within the context of any resource consent application.</p> <p>While this will enable consideration of relevant matters, post FMU once environmental flows and levels and take limits have been established which will achieve this objective, the matters of control will not give any particular recognition to these.</p> <p>The controlled activity matters of control will enable consideration of relevant effects, including effects on the waterbody, the environment, and people.</p> <p><u>Alternative B</u></p> <p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post-FMU compliance with the established environmental flow and level and take limits is required to attract restricted discretionary activity status. The setting of these will have meant that the FMU process has been followed which will require the matters addressed in Objective 9 to have been considered and provided for as appropriate. The FMU process will have implemented the National Objectives Framework Process.</p> <p>Environmental flow and levels and take limits will have been set in a manner that achieves this objective. Requiring compliance with these in order to achieve restricted discretionary activity status will be effective in achieving this objective.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant. However, Post FMU there will be no direct link in the rule to the environmental flow and level regimes.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All options have high effectiveness.</p> <p>However, alternative B Post FMU requires compliance with environmental flows levels and take limits specified in the Plan. These will be established to achieve this objective. Therefore, requiring compliance with these is considered to be most effective.</p> <p>Effectiveness: High</p>

Objective	Effectiveness
	<p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 9B</p> <p>The importance of Southland’s regionally and nationally significant infrastructure is recognised and its sustainable and effective development, operation, maintenance and upgrading enabled.</p>	<p>Policy 26</p> <p>The MPS is regionally and nationally significant infrastructure. Part of recognising its importance and its sustainable and effective operation, maintenance and upgrading is recognising that other activities may adversely impact on it. The addition to the policy does not specify the outcome to be achieved for a particular activity, nor does the policy alter the activity status of any activity. It provides clarity that effects on the MPS is a consideration.</p> <p>The change to the policy is more effective than the status quo.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The controlled activity rule provides for replacement consents under an activity status where consent must be granted. This recognises the national importance of the MPS and its role as an enabler of wellbeing within the region.</p> <p>As a controlled activity there is certainty that consent will be granted which will enable the MPS to continue within the Southland Region.</p> <p><u>Alternative B</u></p> <p>The proposed discretionary activity status that applies pre-FMU does not provide any particular recognition of the national importance of the MPS and its role as an enabler of wellbeing within the region. Consent can either be granted or refused, which means uncertainty over the consent being granted remains.</p> <p>The proposed restricted discretionary activity status that is available post FMU provides some recognition of the national importance of the MPS and its importance as significant infrastructure.</p>

Objective	Effectiveness
	<p>Post FMU requiring compliance with the environmental flow and level regime and take limits in order to attract restricted discretionary activity status, in combination with limiting the ability to impose a more limiting regime in relation to environmental flows and levels, take limits and water quality provides a high degree of certainty for the consent applicant of the parameters that the activity, if consent is granted, can operate under.</p> <p>However, consent can either be granted or refused, which means uncertainty over the consent being granted remains.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant. However, consent can either be granted or refused, which means uncertainty over the consent being granted remains.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>Due to the greater certainty in outcome, in a manner that can achieve the same environmental outcomes it is considered both alternative A and alternative B have a higher level of effectiveness than alternative C.</p> <p>Which is most effective is dependent on which is valued more:</p> <ul style="list-style-type: none"> • Certainty that consent will be granted as a controlled activity but with what environmental flows and levels and take limit that will be applied remaining uncertain; or • Certainty as to the environmental flows and levels and take limits that will be applied post the FMU plan process, but uncertainty as to whether consent will be granted or refused. <p>Alternative A: High Alternative B: High Discretionary Activity: Moderate Most Effective: Alternative A or B depending on what is valued</p> <p>Exception to Appendix E</p>

Objective	Effectiveness
	<p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>Both are effective, but due to the wider range of circumstances that the decision version applies to it better gives effect to this objective.</p>
<p>Objective 10</p> <p>The national importance of the existing Manapouri Power Scheme in the Waiau catchment is provided for, and recognised in any resulting flow and level regime.</p>	<p>Policy 26</p> <p>The MPS is regionally and nationally significant infrastructure. Part of recognising its importance is recognising that other activities may adversely impact on the effective operation of the MPS. The addition to the policy does not specify the outcome to be achieved for a particular activity, nor does the policy alter the consent status of any activity. It provides clarity that effects on the MPS is a consideration.</p> <p>The change to the policy is more effective than the status quo.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The controlled activity rule provides for replacement consents under an activity status where consent must be granted. This recognises the national importance of the MPS and its role as an enabler of wellbeing within the region. Retaining control over flows and levels post-FMU does not recognise the national importance of the MPS in that it does not necessarily respect the flow and level regime that is established via the FMU process and that will have taken into account the national significance of the MPS</p> <p>As a controlled activity there is certainty that consent will be granted which will enable the MPS to continue within the Southland Region is provided.</p> <p><u>Alternative B</u></p> <p>The proposed discretionary activity status that applies pre-FMU does not provide any particular recognition of the national importance of the MPS and its role as an enabler of wellbeing within the region. Consent can either be granted or refused, which means uncertainty over the consent being granted remains.</p> <p>The proposed restricted discretionary activity status that is available post FMU provides some recognition of the national importance of the MPS and its importance as significant infrastructure.</p>

Objective	Effectiveness
	<p>Post FMU requiring compliance with the environmental flow and level regime and take limits in order to attract restricted discretionary activity status, in combination with curtailing the ability to impose a more limiting regime in relation to environmental flows and levels, take limits and water quality provides a high degree of certainty for the consent applicant of the parameters that the activity, if consent is granted, can operate under. In doing so it recognises the national significance of the MPS by respecting the flow and level regime established in the FMU process.</p> <p>However, consent can either be granted or refused, which means uncertainty over the consent being granted remains. Declining consent would not achieve the objective.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant. However, consent can either be granted or refused, which means uncertainty over the consent being granted remains. Declining consent would not achieve the objective.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>Due to the greater certainty in outcome, in a manner that can achieve the same environmental outcomes it is considered both alternative A and alternative B have a higher level of effectiveness than alternative C.</p> <p>Which is most effective is dependent on which is valued more:</p> <ul style="list-style-type: none"> • Certainty that consent will be granted as a controlled activity but with no certainty that the environmental flows and levels and take limit that will be applied will respect the outcome of the FMU process; or • Certainty as to the environmental flows and levels and take limits that will be applied, but uncertainty as to whether consent will be granted or refused. <p>Alternative A: High Alternative B: High or High to Moderate (with lesser effectiveness due to ability to decline consent) Discretionary Activity: Moderate Most Effective: Alternative A or B depending on what is valued</p> <p>Exception to Appendix E</p>

Objective	Effectiveness
	<p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>Both are effective, but due to the wider range of circumstances that the decision version applies to it better gives effect to this objective.</p>
<p>Objective 11</p> <p>The amount of water abstracted is shown to be reasonable for its intended use and water is allocated and used efficiently</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable these matters to be considered as relevant.</p> <p><u>Alternative B</u></p> <p>Pre-FMU any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post-FMU compliance with take limits is required to attract restricted discretionary activity status. This will have been set addressing allocation and in the context of the MPS which is a unique activity setting the allocation limit will have addressed matters such as the intended use and efficient and reasonable use of water.</p> <p>The FMU process will have implemented the National Objectives Framework Process.</p> <p>Take limits will have been set in a manner that achieves this objective. Requiring compliance with take limits will be effective in achieving this objective.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post FMU there will be no direct link in the rule to the take limits.</p> <p><u>Effectiveness of Rule Alternatives</u></p>

Objective	Effectiveness
	<p>All options have high effectiveness.</p> <p>However, alternative B post FMU requires compliance with take limits specified in the Plan. Therefore, this alternative which is responding to outcomes in the Waiau FMU process is more effective.</p> <p>Effectiveness: High</p> <p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>This is not relevant to this objective.</p>
<p>Objective 12</p> <p>Groundwater quantity is sustainably managed, including safeguarding the life-supporting capacity, ecosystem processes and indigenous species of surface water bodies where their flow is, at least in part, derived from groundwater.</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p>This objective is not of particular relevance to the matters being addressed.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All alternatives would be of similar effectiveness</p> <p>Exception to Appendix E</p> <p>This is not relevant to this objective.</p>
<p>Objective 13</p> <p>Provided that:</p> <p>(a) the quantity, quality and structure of soil resources are not irreversibly degraded through land use activities or discharges to land; and</p> <p>(b) the health of people and communities is</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p>This objective is not of particular relevance to the matters being addressed.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All alternatives would be of similar effectiveness</p> <p>Exception to Appendix E</p>

Objective	Effectiveness
<p>safeguarded from the adverse effects of discharges of contaminants to land and water; and</p> <p>(c) ecosystems (including indigenous biological diversity and integrity of habitats), are safeguarded, then land and soils may be used and developed to enable the economic, social and cultural wellbeing of the region.</p>	<p>To the extent that it is relevant the evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 14</p> <p>The range and diversity of indigenous ecosystems and habitats within rivers, estuaries, wetlands and lakes, including their margins, and their life-supporting capacity are maintained or enhanced.</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable these matters to be considered as relevant.</p> <p>Flows and levels within a river is a matter of control. This is the case both pre and post FMU. This will enable consideration to be given to the values within rivers and other waterbodies and their life-supporting capacity within the context of any resource consent application.</p> <p>While this will enable consideration of relevant matters, post FMU once environmental flows and levels and take limits have been established which will achieve this objective, the matters of control will not give any specific recognition to these.</p> <p>A controlled activity matters of control will enable consideration of relevant effects.</p> <p><u>Alternative B</u></p>

Objective	Effectiveness
	<p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post-FMU compliance with the established environmental flow and level and take limits is required in order to attract restricted discretionary activity status. The setting of these will have meant that the FMU process has been followed which must address the fundamental concept of Te Mana o te Wai, will have addressed Objective 2.1 which expresses the first priority is the health and well-being of water bodies and freshwater ecosystems and Section 3.31 large hydro-electric generation schemes. The FMU process will have implemented the National Objectives Framework Process. This will enable consideration to be given to the values within rivers and other waterbodies and their life-supporting capacity.</p> <p>Environmental flow and levels and take limits will have been set in a manner that achieves this objective. Requiring compliance with these to attract restricted discretionary activity status will be effective in achieving this objective.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p>This will enable consideration to be given to the values within rivers and other waterbodies and their life-supporting capacity within the context of any resource consent application. However, Post FMU there will be no direct link in the rule to the environmental flow and level regimes.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All options have high effectiveness.</p> <p>However, alternative B establishes that post FMU there is a requirement to meet the environmental flows levels and take limits specified in the Plan to attract restricted discretionary activity status. These will be established to achieve this objective. Therefore, requiring compliance with these is considered to be most effective.</p> <p>Effectiveness: High</p> <p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p>

Objective	Effectiveness
	<p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 15</p> <p>Taonga species, as set out in Appendix M, and related habitats, are recognised and provided for.</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable consideration of taonga species and related habitats as relevant.</p> <p>Flows and levels within a river, and adverse effects of the activity are matters of control and matters relevant to taonga species and habitats in the management of freshwater and associated ecosystems will be able to be considered. This is the case both pre and post FMU. This will enable consideration to be given to matters relevant to taonga species and habitats within the context of any resource consent application.</p> <p>While this rule will enable consideration of relevant matters, post FMU once environmental flows and levels and take limits have been established which will achieve this objective the matters of control will not give any specific recognition to these flows, levels and take limits.</p> <p><u>Alternative B</u></p> <p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post-FMU compliance with the established environmental flow and level and take limits is required to attract restricted discretionary activity status. The setting of these will have meant that the FMU process has been followed which must address matters relevant to taonga species and habitats in the management of freshwater and associated ecosystems. The fundamental concept of Te Mana o te Wai, and the six principles that inform the National Policy Statement Freshwater Management will have been addressed. It will also have addressed Objective 2 and the policies including Policy 2 requiring that Māori freshwater</p>

Objective	Effectiveness
	<p>values be identified and provided for. The FMU process will have implemented the National Objectives Framework Process.</p> <p>Environmental flow and levels and take limits will have been set in a manner that achieves this objective. Requiring compliance with these to attract restricted discretionary activity status will be effective in achieving this objective.</p> <p>Further a specific matter that discretion is provided for is 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. This specific recognition of cultural values ensures these matters are able to be considered and addressed within the consent process.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>Alternative A: Moderate - High</p> <p>Alternative B: High</p> <p>Alternative C: Moderate - High</p> <p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 16</p> <p>Public access to river and lake beds is maintained, except in circumstances where public health and safety are at risk.</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>This objective is not of particular relevance to the matters being addressed.</p> <p><u>Effectiveness of Rule Alternatives</u></p>

Objective	Effectiveness
[This objective is not operative]	<p>All alternatives would be of similar effectiveness.</p> <p>Exception to Appendix E</p> <p>This is not relevant to this objective</p>
<p>Objective 17</p> <p>Preserve the natural character values of wetlands, rivers and lakes and their margins, including channel and bed form, rapids, seasonably variable flows and natural habitats, and protect them from inappropriate use and development.</p>	<p>Policy 26</p> <p>As far as relevant both options are similar in their effectiveness</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable these matters to be considered as relevant.</p> <p>Flows and levels within a river is a matter of control. This is the case both pre and post FMU. This will enable consideration to be given to the natural character matters within the context of any resource consent application.</p> <p>While this will enable consideration of relevant matters, post FMU once environmental flows and levels and take limits have been established which will achieve this objective, the matters of control will not give any specific recognition to these.</p> <p>A controlled activity matters of control will enable consideration of relevant effects, including effects on the natural character.</p> <p><u>Alternative B</u></p> <p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post-FMU compliance with the established environmental flow and level and take limits is required to attract restricted discretionary activity status. The setting of these will have meant that the FMU process has been followed which must address the fundamental concept of Te Mana o te Wai. The FMU process will have implemented the National Objectives Framework Process. Natural form and character is a value that must be considered in Appendix 1B of the NPSFM.</p> <p><u>Alternative C</u></p>

Objective	Effectiveness
	<p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p>This will enable consideration to be given to the natural character within the context of any resource consent application. However, post FMU there will be no direct link in the rule to the environmental flow and level regimes.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All options have high effectiveness.</p> <p>However, alternative B post FMU requires compliance with environmental flows levels and take limits specified in the Plan to attract restricted discretionary activity status. These will be established to achieve this objective. Therefore, requiring compliance with these is considered to be most effective.</p> <p>Effectiveness: High</p> <p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>The evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 18</p> <p>All persons implement environmental practices that optimise efficient resource use, safeguard the life supporting capacity of the region's land and soils, and maintain or improve the quality and quantity of the region's water resources.</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable these matters to be considered as relevant.</p> <p>Flows and levels within a river is a matter of control. This is the case both pre and post FMU. This will enable consideration to be given to the matters relating to safeguarding life supporting capacity, maintaining</p>

Objective	Effectiveness
	<p>or improving the quality and quantity of the water resources and efficient resource use within the context of any resource consent application.</p> <p>While this will enable consideration of relevant matters, post FMU once environmental flows and levels and take limits have been established which will achieve this objective, the matters of control will not give any specific recognition to these.</p> <p>A controlled activity matters of control will enable consideration of relevant effects.</p> <p><u>Alternative B</u></p> <p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post-FMU compliance with the established environmental flow and level and take limits is required to attract restricted discretionary activity status. The setting of these will have meant that the FMU process has been followed which must address the fundamental concept of Te Mana o te Wai, will have addressed Objective 2.1 which expresses the first priority is the health and well-being of water bodies and freshwater ecosystems and Section 3.31 large hydro-electric generation schemes. The FMU process will have implemented the National Objectives Framework Process.</p> <p>Environmental flow and levels and take limits will have been set in a manner that achieves this objective. Requiring compliance that these be met to attract restricted discretionary activity status will be effective in achieving this objective.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p>This will enable consideration to be given to safeguarding life supporting capacity, maintaining or improving the quality and quantity of the water resources and efficient resource use within the context of any resource consent application. However, Post FMU there will be no direct link in the rule to the environmental flow and level regimes.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All options have high effectiveness.</p>

Objective	Effectiveness
	<p>However, alternative B post FMU requires compliance with the established environmental flows levels and take limits specified in the Plan to attract restricted discretionary activity status. These will be established to achieve this objective. Therefore, requiring compliance with these is considered to be most effective.</p> <p>Effectiveness: High</p> <p>Most Effective: Alternative B</p> <p>Exception to Appendix E</p> <p>To the extent relevant the evidence version of the exception applies in a narrower range of circumstances than the decision version. It only applies to activities requiring a resource consent meaning all relevant water quality matters can be considered.</p> <p>The version sought in evidence is more effective at achieving the objective.</p>
<p>Objective 19 – Fish passage (Clause 3.26 of NPSFM 2020)</p> <p>The passage of fish is maintained, or is improved, by instream structures, except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats.</p>	<p>Policy 26</p> <p>Both options are similar in their effectiveness.</p> <p>Rule 52A</p> <p><u>Alternative A</u></p> <p>The consent process as a controlled activity with specified matters of control will enable these matters to be considered as relevant.</p> <p><u>Alternative B</u></p> <p>The consent process pre-FMU as a discretionary activity will enable these matters to be considered as relevant.</p> <p>Post-FMU there is a matter of discretion relating to addressing adverse effects on the environment. There is no restriction to the ability to consider adverse effects relating to fish passage.</p> <p><u>Alternative C</u></p> <p>Any consent process as a discretionary activity will enable these matters to be considered as relevant.</p> <p><u>Effectiveness of Rule Alternatives</u></p> <p>All options have high effectiveness.</p>

Objective	Effectiveness
	<p>Exception to Appendix E</p> <p>Neither alternative is relevant to this matter.</p>
Overall Consideration	<p>Policy 26</p> <p>While both versions of Policy 26 are effective in achieving the objectives, the version of policy 26 addressed in this evidence enabling the consideration of the effects of other activities on the MPS is more effective in relation to achieving Objective 9 and 10. On this basis it is considered to be the most effective.</p> <p>Rule 52A</p> <p>All alternatives are capable of achieving the objectives.</p> <p>Due to the greater certainty in outcome for the MPS, in a manner that can achieve the same environmental outcomes, it is considered both alternative A and alternative B have a higher level of effectiveness than alternative C.</p> <p>Which is most effective is dependent on which is valued more:</p> <ul style="list-style-type: none"> • Certainty that consent will be granted as a controlled activity but with what environmental flows and levels and take limit that will be applied remaining uncertain or • Certainty as to the environmental flows and levels and take limits that will be applied, but uncertainty as to whether consent will be granted or refused. <p>On balance it is considered that alternative B is the most effective to achieve the objectives. Alternative A is slightly less effective in that there is no certainty the outcomes of the FMU process will be upheld in the consent process. Given the extent to which many of the objectives will be given effect to via the FMU process this is assessed as being less effective than Alternative B, even though a consent could theoretically be declined for the MPS under Alternative B.</p> <p>Exception to Appendix E</p> <p>While both versions can be effective in achieving the objectives, the narrower focus of the evidence version of the exception, is on balance, most effective to achieve the objectives.</p>

Consideration of Costs, Benefits and Risk of Acting or Not Acting

Table 1 – Policy 26

		Decision Version	Evidence Version
Environmental	Benefits	No particular matters identified relative to the other alternative	<p>The policy will provide clear direction to applicants of activities that may affect the operation of the MPS that these matters affecting the MPS must be considered.</p> <p>The policy will clearly signal the need to consider the effects any activity may have on the operation of the MPS which would include matters beneficial to the environment including:</p> <ul style="list-style-type: none"> • Contribution to meeting New Zealand's greenhouse gas emission targets • Contribution to maintaining the security of New Zealand's electricity supply and • Generation capacity, storage and operational flexibility • Contribution of MPS and hydro generation to ensuring flexibility in supply of electricity
	Costs	<p>Unintended or unexpected adverse effects on the operation of the MPS may result.</p> <p>Inappropriate activities may place operational limitations on the infrastructure.</p> <p>Any impediment to the operation of the MPS may affect its:</p> <ul style="list-style-type: none"> • Contribution to meeting New Zealand's greenhouse gas emission targets • Contribution to maintaining the security of New Zealand's electricity supply and • Generation capacity, storage and operational flexibility 	<p>Activities that may have an adverse impact on the operation of the MPS may be prevented or be required to change to avoid the adverse impact.</p>

		Decision Version	Evidence Version
		<ul style="list-style-type: none"> Contribution of MPS and hydro generation to ensuring flexibility in supply of electricity 	
Economic	Benefits	No particular matters identified relative to the other alternative	Provides the ability to manage the effects of any activity on the operation and functioning of the nationally and regionally significant MPS infrastructure. This is consistent with national direction to consider reverse sensitivity effects on existing or consented renewable electricity generation activities.
	Costs	<p>A clear signal is not provided in the Policy that potential effects of activities on the MPS should be considered. Where consent is sought as a discretionary or non-complying activity these matters would be able to be considered by a decision maker. An applicant is likely better positioned to address this if it is signaled early in the process.</p> <p>Unintended consequences for the operation of the MPS may result.</p> <p>Inappropriate activities may place operational limitations on the infrastructure.</p>	<p>Consent applicants may need to address the potential effects their activity may have on the MPS.</p> <p>This would be part of any existing consent process. The change to the policy does not result in any new consent requirements.</p>
Social	Benefits	No particular matters identified relative to the other alternative	Provides the ability to manage the effects of any activity on the nationally and regionally significant MPS infrastructure.
	Costs	A clear signal is not provided in the Policy that potential effects of activities on the MPS should be considered. Where consent is sought as a discretionary or non-complying activity these matters would be able to be considered by a decision maker.	No particular matters identified relative to the other alternative

		Decision Version	Evidence Version
		<p>An applicant is likely better positioned to address this if it is signaled early in the process.</p> <p>Unintended consequences for the operation of the MPS may result.</p>	
Cultural¹⁵	Benefits	No particular matters identified relative to the other alternative	No particular matters identified relative to the other alternative
	Costs	No particular matters identified relative to the other alternative	No particular matters identified relative to the other alternative
Overall Consideration of alternatives considering achievement of objectives and benefits and costs	<p>Overall, it is considered that the evidence version of Policy 26 is more efficient and effective than the alternative. This is because it provides a clear signal that where activities that may affect the MPS require consent, the implications for the MPS need to be considered.</p> <p>The addition to the policy does not introduce new consent requirements for any activity, it provides clarity that if the MPS could be affected that this is considered.</p> <p>The Policy is giving effect to the higher order instruments.</p>		
Uncertain or Insufficient Information	<p>It is not considered that there is uncertain or insufficient information. The MPS is a long-established activity. The direction given in the policy is consistent with the direction given in national and regional statutory documents when addressing significant infrastructure and existing or consented renewable electricity activities.</p>		

¹⁵ The consideration of costs and benefits relating to cultural matters is not an evaluation of the range of values that exist, their importance, or how they should be considered and the merits or otherwise of these matters. This is outside of the expertise and experience of the author. The evaluation is based on process aspects related to what and how the provisions enable consideration or otherwise of matters.

Table 2 – Rule 52A

		Alternative A	Alternative B	Alternative C
Environmental	Benefits	<p>Enables consideration of positive effects associated with MPS including:</p> <ul style="list-style-type: none"> • Contribution to meeting New Zealand’s greenhouse gas emission targets • Contribution to maintaining the security of New Zealand’s electricity supply • Generation capacity, storage and operational flexibility 	<p>Enables consideration of positive effects associated with MPS including:</p> <ul style="list-style-type: none"> • Contribution to meeting New Zealand’s greenhouse gas emission targets • Contribution to maintaining the security of New Zealand’s electricity supply • Generation capacity, storage and operational flexibility <p>Post FMU RDA status provides certainty that a proposal will accord with the environmental flow and level regime and take limits established in the Plan for the Waiau FMU. This will have addressed all relevant matters through the NOF process giving effect to the NPSFM.</p>	<p>Enables consideration of positive effects associated with MPS including:</p> <ul style="list-style-type: none"> • Contribution to meeting New Zealand’s greenhouse gas emission targets • Contribution to maintaining the security of New Zealand’s electricity supply • Generation capacity, storage and operational flexibility
	Costs	<p>As flows and levels remain a matter of control there remains uncertainty that a proposal would accord with the environmental flow and level regimes established in the Plan.</p> <p>As flows and levels remain a matter of control even post FMU there remains uncertainty as to the water that will be available for</p>	<p>Pre FMU evaluation same as for Alternative C.</p> <p>Post FMU Consent can either be granted or refused. Uncertainty as to any consent being refused means uncertainty as to the role of MPS contribution to meeting New Zealand’s greenhouse gas emission targets, contribution to maintaining the security of New Zealand’s</p>	<p>Consent can either be granted or refused. Uncertainty as to any consent being refused means uncertainty as to the MPS’s ongoing contribution to meeting New Zealand’s greenhouse gas emission targets, contribution to maintaining the security of New Zealand’s electricity supply and generation capacity, storage, and</p>

		Alternative A	Alternative B	Alternative C
		<p>generation from the MPS and the level of confidence of the ongoing contribution of the MPS to meeting New Zealand's greenhouse gas emission targets, contribution to maintaining the security of New Zealand's electricity supply and generation capacity, storage, and operational flexibility.</p> <p>No other environmental costs are identified as relevant environmental matters are able to be considered under the matters of control.</p>	<p>electricity supply and generation capacity, storage, and operational flexibility. This is a cost to the environment in that it creates uncertainty as to the role of the MPS as part of New Zealand's climate change response.</p> <p>The risk of declining consent is at odds with the national direction relating to renewable electricity generation and its role in responding to climate change.</p> <p>No other environmental costs are identified as relevant environmental matters, other than specifying a more limiting environmental flow and level regime and more limiting water quality limits are able to be considered.</p>	<p>operational flexibility. This is a cost to the environment in that it creates uncertainty in the role of the MPS as part of New Zealand's climate change response.</p> <p>The risk of declining consent is at odds with the national direction relating to renewable electricity generation and its role in responding to climate change.</p> <p>As flows and levels remain a matter of control there remains uncertainty that a proposal would accord with the environmental flow and level regimes established in the Plan.</p> <p>No other environmental costs are identified as relevant environmental matters are able to be considered.</p>
Economic	Benefits	<p>Provides greater certainty to MPS generator and the community about continuation of the MPS for renewable electricity generation as consent must be approved.</p>	<p>Pre FMU evaluation same as for Alternative C.</p> <p>Post FMU process provides greater certainty to MPS generator and the community about the water available for renewable electricity generation as take limit must be established.</p>	<p>Enables consideration of positive effects associated with MPS contribution to and role within the economy.</p>

		Alternative A	Alternative B	Alternative C
	Costs	<p>There remains uncertainty as to the flows and levels that will be established in a consent, both pre and post FMU. Any risk to the quantum of generation from the MPS will affect projected future electricity supply scenarios, as substantial growth in the supply of renewable electricity is predicted as being needed to provide for New Zealand's future energy needs in response to New Zealand's climate change commitments. While there is uncertainty as to what new renewable generation projects will be built and when, scenarios assume that hydro generation will not decrease.</p> <p>In the short term if the electricity output of the MPS was reduced (rather than stopping entirely) the replacement costs and emissions increases would adjust proportionally – so if the MPS was reduced by 50% the substitute costs and emissions in Table 1 would be multiplied by 0.5.</p>	<p>Pre FMU evaluation same as for Alternative C.</p> <p>Post FMU process ability for consent to be declined means uncertainty relating to the continuation of the MPS remains.</p> <p>Consent can either be granted or refused. Uncertainty as to any consent being refused means uncertainty as to the role of MPS contribution to meeting New Zealand's greenhouse gas emission targets, contribution to maintaining the security of New Zealand's electricity supply and generation capacity, storage, and operational flexibility. This is a cost to the economy in that it creates uncertainty as to the role of the MPS in New Zealand's climate change response and responding to the needs of carbon reduction in the economy.</p> <p>The risk of declining consent is at odds with the national direction relating to renewable electricity generation and its role in responding to climate change.</p> <p>If consent were declined even the cheapest option (gas-fired) would incur a cost of over \$440m per year.</p>	<p>Ability for consent to be declined means uncertainty relating to the continuation of the MPS remains.</p> <p>Consent can either be granted or refused. Uncertainty as to any consent being refused means uncertainty as to the role of MPS contribution to meeting New Zealand's greenhouse gas emission targets, contribution to maintaining the security of New Zealand's electricity supply and generation capacity, storage, and operational flexibility. This is a cost to the environment in that it creates uncertainty in the role of MPS in New Zealand's climate change response.</p> <p>The risk of declining consent is at odds with the national direction relating to renewable electricity generation and its role in responding to climate change.</p> <p>Any risk to the quantum of generation from the MPS will affect projected future electricity supply scenarios, as substantial growth in the supply of renewable electricity is predicted as being needed to provide for New Zealand's future energy needs in response to New Zealand's climate change</p>

		Alternative A	Alternative B	Alternative C
			<p>Using coal-fired generation instead would almost double the cost.</p> <p>In the short term if the electricity output of the MPS was reduced (rather than stopping entirely) the replacement costs and emissions increases would adjust proportionally – so if the MPS was reduced by 50% the substitute costs and emissions in Table 1 (below) would be multiplied by 0.5.</p> <p>In the long term if supply from the MPS was not available on an ongoing basis new generation sources would need to be developed as a replacement. The overall cost impacts shown in Table 2 range from approximately \$350 to \$430 million per year. These estimates are lower than the costs associated with replacing MPS output with thermal generation but are still very substantial in annual terms. They are even more significant when viewed over the likely lifetime of substitute energy sources such as solar or wind farms. In present value terms, the costs would range from approximately \$5.8 to \$7.1 billion</p>	<p>commitments. While there is uncertainty as to what new renewable generation projects will be built and when scenarios assume that hydro generation will not decrease.</p> <p>If consent were declined even the cheapest option (gas-fired) would incur a cost of over \$480m per year. Using coal-fired generation instead would almost double the cost.</p> <p>In the short term if the electricity output of the MPS was reduced (rather than stopping entirely) the replacement costs and emissions increases would adjust proportionally – so if the MPS was reduced by 50% the substitute costs and emissions in Table 1 would be multiplied by 0.5.</p> <p>In the long term if supply from the MPS was not available on an ongoing basis new generation sources would need to be developed as a replacement. The overall cost impacts shown in Table 2 range from approximately \$310 to \$390 million per year. These estimates are lower than the costs associated with replacing MPS output with thermal</p>

		Alternative A	Alternative B	Alternative C
				generation but are still very substantial in annual terms. They are even more significant when viewed over the likely lifetime of substitute energy sources such as solar or wind farms. In present value terms, the costs would range from approximately \$5.1 to \$6.4 billion
Social	Benefits	<p>It recognises the contribution that renewable electricity generation makes to the health and wellbeing of the nation and region.</p> <p>Reinforces confidence in the Plan by reinforcing consent will be granted for the MPS if conditions in the rule are met.</p> <p>Provides for public participation through specifying public notification.</p>	<p>Pre FMU evaluation same as for Alternative C.</p> <p>Recognises the national significance of the hydroelectricity generation assets of the MPS.</p> <p>Recognises the contribution that renewable electricity generation makes to the health and wellbeing of the nation and region through providing certainty regarding the take limit set in the Plan.</p> <p>Reinforces confidence in the Plan by the proposal for consenting the MPS meeting the environmental flow and level regime and take limit specified in the Plan.</p> <p>Provides for public participation through specifying public notification.</p>	<p>Retains ability to consider any matter through the consent process.</p> <p>Does not preclude public notification.</p>

		Alternative A	Alternative B	Alternative C
	Costs	Post FMU Retains uncertainty that where the Plan has set environmental flow and levels and take limits that the proposal would be upheld.	Uncertainty remains as to whether consent will be granted or not meaning social benefits associated with the MPS may not be realised.	Uncertainty remains as to whether consent will be granted or not meaning social benefits associated with the MPS may not be realised.
Cultural¹⁶	Benefits	Enables consideration of relevant matters through controlled activity consent matters of control. The relevant matter of control relates to addressing adverse effects rather than specifically recognising adverse effects that affect cultural values.	<p>Pre-FMU as for option C Post FMU enables consideration of relevant matters through restricted discretionary activity status requiring compliance with environmental flow and level and take limits that will have been set having considered any relevant cultural matters through the Waiau FMU NOF process.</p> <p>Setting the environmental flows and levels will have addressed the fundamental concept of Te Mana o te Wai, and the six principles that inform the National Policy Statement Freshwater Management will have been addressed. It will also have addressed Objective 2 and the policies including Policy 2 requiring that Māori freshwater values be identified and provided for.</p> <p>A specific matter that discretion is provided for is mitigation or remediation measures to address</p>	Enables consideration of any relevant matter.

¹⁶ The consideration of costs and benefits relating to cultural matters is not an evaluation of the range of values that exist, their importance, or how they should be considered and the merits or otherwise of these matters. This is outside of the expertise and experience of the author. The evaluation is based on process aspects related to what and how the provisions enable consideration or otherwise of matters.

		Alternative A	Alternative B	Alternative C
			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. This specific recognition of cultural values ensures these matters are not lost and are able to be considered and addressed within the consent process.	
	Costs	<p>Consideration of relevant matters is enabled through matters of control on the activity status. The matters of control enable addressing adverse effects generally rather than specifically recognising adverse effects that may affect cultural values.</p> <p>As control is reserved over the flows and levels that can be set there is no certainty that the environmental flows and levels established through the NOF process for the Waiau FMU will be adhered to.</p>	<p>Pre-FMU as for Alternative C</p> <p>Post FMU no cultural costs identified</p>	As matters are fully discretionary there is no certainty that the environmental flows and levels established through the NOF process for the Waiau FMU will be adhered to.
Overall Consideration of alternatives considering achievement of objectives	<p>While all alternatives can achieve the objectives, overall, both the decision version and the evidence version of Rule 52A are more efficient and effective than alternative C. This is because all alternatives enable consideration of matters relevant to the environment. However, alternatives A and B provide greater recognition of the MPS and therefore are more effective at achieving Objectives 9 and 10.</p> <p>Alternative B, because of the direct relationship that is established post FMU with requiring compliance with the environmental flows and levels and take limits is considered most effective in addressing the matters that will have been</p>			

	Alternative A	Alternative B	Alternative C
and benefits and costs	<p>addressed through the NPSFM FMU process and provides the greatest certainty in outcome with respect to the water that will be available for the generation of electricity associated with MPS. However, due to the restricted discretionary activity status, uncertainty remains to the MPS consentability because as a restricted discretionary activity consent can be declined.</p> <p>Alternative A provides greater certainty that consent will be granted for the MPS but retains uncertainty as to the allocation limit and environmental flow and level regimes, even after the Waiau FMU process which is intended to give effect to many of the Objectives.</p> <p>On this basis Alternative B is considered most effective.</p>		
Uncertain or Insufficient Information	<p>It is not considered that there is uncertain or insufficient information. The MPS is a long-established activity and both its adverse effects and benefits have been well documented over a number of years.</p> <p>There is a level of uncertainty as to what environmental flows and levels, take limits and target attribute states will be set through the Waiau FMU. However, there is no uncertainty as to the process that must be followed through the Waiau FMU process and no uncertainty as to matters that must be included. There is a high degree of certainty specified in the NPSFM:</p> <ul style="list-style-type: none"> • The NOF process that must be followed (NPSFM Clause 3.7) • That values that must be identified and considered, including setting compulsory values and other values that must be considered (NPSFM Clause 3.9) • That environmental outcomes must be set for each value and that these must be included as objectives in the regional plan (NPSFM Clause 3.9) • That attributes must be identified for each value and baseline states be set for those attributes (NPSFM Clause 3.10) • That target attribute states, environmental flows and levels and other criteria to support the achievement of environmental outcomes must be set (NPSFM Clauses 3.11, 3.13, 3.16) • That limits as rules be set and action plans be prepared (as appropriate) to achieve environmental outcomes (NPSFM Clauses 3.12, 3.15, 3.17) • That where an attribute is below the national bottom line in the Waiau FMU an improved target attribute state must be set to the extent that is practicable without having a significant adverse effect on the MPS (clause 3.31) <p>This ensures that any environmental flows and levels, take limits and water quality limits set through the Waiau FMU process will give effect to the NPSFM and that a high level of confidence must be able to be had that there is no need for</p>		

	Alternative A	Alternative B	Alternative C
	an additional level of flows and levels and takes (including water quality) be set through any individual consent process. This is especially the case for the MPS which is specifically recognised in the objectives and policies of the pSWLP.		

Table 1

Table 1: Short-term impact of MPS being unavailable

	Gas-fired substitute	Coal-fired substitute
Cost to replace lost energy (\$m/year)	\$440	\$880
Increase in emissions (tCO ₂ e/year)	1,898,000	4,720,000
Emissions equivalent (number of cars)	1,069,000	2,660,000

Source: Concept Consulting analysis

Table 2

Table 2: Long-term impact of MPS being unavailable

	Lower estimate	Higher estimate
Annual cost (\$m/year)	\$310	\$390
Total cost over 35 years (\$m)	\$5,100	\$6,400

Source: Concept Consulting analysis

Table 3 – Exception for MPS to Appendix E

		Decision Version	Evidence Version
Environmental	Benefits	<p>Enables ability to seek consents associated with the MPS without outdated water quality standards being applied.</p> <p>Where a consent is required for an activity, this would enable consideration of relevant water quality matters on a case-by-case basis, although this is not clearly identified in the exception.</p>	Enables consideration of relevant water quality matters on a case-by-case basis, by clearly stating that water quality is a matter to be considered on a consent.
	Costs	<p>While water quality would be able to be considered through a consent process the broad nature of the exception does not make this clear.</p> <p>This may create uncertainty as to the nature and circumstances when the exemption will apply.</p>	Any environmental costs are less than the decision version as the exception applies in reduced circumstances.
Economic	Benefits	Provides greater certainty to MPS generator that unnecessarily stringent water quality standards will not impede the ability to seek consent for important MPS related activities.	Provides certainty to MPS generator that unnecessarily stringent water quality standards will not impede the ability to seek consent for important MPS related maintenance activities.
	Costs	None identified	A narrower range of circumstances is provided for through the exception
Social	Benefits	It provides for a range of circumstances as to when the exception applies.	It provides greater certainty to the community as to the circumstances where the exception applies.
	Costs	<p>There is less certainty to the community as to the circumstances where the exception applies.</p> <p>While water quality would be able to be considered through a consent process the broad nature of the exception does not make this clear.</p>	Any social costs are less than the decision version as the exception applies in reduced circumstances.

		Decision Version	Evidence Version
Cultural¹⁷	Benefits	There is less certainty as to the circumstances where the exception applies. It provides clarity that water quality will be able to be considered as part of a consent process.	It provides greater certainty as to the circumstances where the exception applies and provides clarity that water quality will be able to be considered as part of a consent process.
	Costs	There is less certainty as to the circumstances where the exception applies. While water quality would be able to be considered through a consent process the broad nature of the exception does not make this clear.	Any social costs are less than the decision version as the exception applies in reduced circumstances.
Overall Consideration of alternatives considering achievement of objectives and benefits and costs	Overall, the Appendix E exception provides greater certainty as to the circumstances where the exception applies, and it ensures that water quality remains a matter able to be considered on a case-by-case basis when a consent is required.		
Uncertain or Insufficient Information	It is not considered that there is uncertain or insufficient information. The circumstances when the exception applies are clear and the ability to consider water quality for any activities that the exception applies to is also clear.		

¹⁷ The consideration of costs and benefits relating to cultural matters is not an evaluation of the range of values that exist, their importance, or how they should be considered and the merits or otherwise of these matters. This is outside of the expertise and experience of the author. The evaluation is based on process aspects related to what and how the provisions enable consideration or otherwise of matters.

Appendix 3

Rule 52A (52) Versions

Notified Version Rule 52

Rule 52 – Water abstraction, damming, diversion and use from the Waiau catchment

- (a) Except as provided in Rules 49(a), 49(b), 49(c), 51(a), 51(b) and 51(c) and the takes authorised by Section 14(3) of the Act, any take, damming, diversion and use of water from the Waiau catchment is a discretionary activity provided the following condition is met:
 - (i) the application is for the replacement of an expiring water permit pursuant to Section 124 of the Act, and the rate of take and volume is not increasing, and use of the water is not changing.
- (b) Except as provided in Rules 49(a), 49(b), 49(c), 51(a), 51(b) and 51(c) and the takes authorised by Section 14(3) of the Act, any take, damming, diversion and use of water from the Waiau catchment that does not meet the condition of Rule 52(a) is a non-complying activity.

Meridian Submission Version Rule 52A

Rule 52A

Any take, damming, diversion and use of water and the discharge of contaminants or water into water or contaminant onto or into land in circumstances which may result in that contaminant entering water which is an activity that is part of the Manapouri Power Scheme, for which consent is held and is the subject of an application for a new consent of the same activity and:

- (a) the use of water is for the generation of electricity from the Manapouri Power Scheme and includes the taking, damming, diverting or discharge of water; or
- (b) the taking, diverting or discharge of water into the tailraces; or
- (c) the taking, damming, diverting or discharge is to protect the structural integrity of control gates, tailraces and appurtenant structures or
- (d) the discharge is of generation and spill water for generation and control structures is a controlled activity provided the following conditions are met:
 - (i) in relation to any water permits the application is for the replacement of an expiring water permit pursuant to section 124 of the Act; and
 - (ii) the rate of take and volume, and use of the water is the same as the maximum or minimum levels or flow or rate of use as set out in any relevant operative rules of this regional plan; and
 - (iii) in relation to any discharge permits the discharge does not cause the relevant water quality standards to be exceeded as set out in any relevant operative rules of this regional plan,

The matters over which control is reserved are:

- (a) any mitigation measures to address adverse effects, except for changes or alterations to
 - (i) maximum or minimum levels or flow or rate of use as set out in any relevant operative rules of this regional plan
 - (ii) the water quality standards as set out in any relevant operative rules of this regional plan
- (b) Collection, recording, monitoring and provision of information concerning the exercise of consent, and
- (c) Lapse period, duration of consent and review requirements.
- (d) Measures necessary to ensure any discharge is not the cause of any water quality standards being exceeded than otherwise provided for in the relevant operative regional plan.

Any application made under Rule 52A will be publicly notified.

Rule 52B

Any take, damming, diversion, use of water and the discharge of contaminants or water onto or into land in circumstances where contaminants may enter water, or into surface water, which is an activity that is part of the Manapouri Power Scheme, for which a consent is held and is the subject of an application for a new consent for the same activity that does not meet the condition of Rule 52A is a discretionary activity.

Decision Version Rule 52A

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.

Meridian Appeal Version Rule 52A

Rule 52A – Manapōuri and Monowai Hydro-electric Generation Scheme

- (a) Despite any other rules in this Plan, any activity that is part of the Manapouri or Monowai hydro-electric generation schemes, 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; and
- (2) the applicant has requested that the application be publicly notified; 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 the exercise of its control to the following matters over which control is reserved are:

(1a) 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 except for changes or alterations to the volume and rate of water taken and used when this is in accordance with any relevant surface or groundwater allocation volumes and rates of take and discharge set by this Plan and

(2) any effects on river flows, wetland and lake water levels, aquatic ecosystems and water quality;

(3b) mitigation or remediation measures to address adverse effects on the environment., except for changes or alterations to:

(i) relevant surface or groundwater allocation volumes and maximum or minimum rates of flow set by this Plan;

(ii) relevant water quality standards or limits set by this Plan; and

(c) the collection, recording, monitoring, reporting and provision of information concerning the exercise of consent, and

(d) lapse period, duration of consent and consent review requirements; and

(e) mitigation or remediation measures necessary to ensure that any discharge is not the cause of any water quality standards or limits set by this Plan being exceeded.

4. the benefits of renewable electricity generation.

Any application made under Rule 52A(a) will be publicly notified.

(b) Despite any other rules in this Plan, any activity that is part of the Manapouri 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 noncomplying activity.

Rule 52B

Any take, damming, diversion, use of water and the discharge of contaminants or water onto or into land in circumstances where contaminants may enter water, or into surface water, which is an activity that is part of the Manapouri Power Scheme, for which a consent is held and is the subject of an application for a new consent for the same activity that does not meet the conditions of Rule 52A is a discretionary activity.

Evidence Version Rule 52A

(See Appendix 1)