

In the Environment Court of New Zealand
Christchurch Registry

Under the Resource Management Act 1991 (**RMA**)

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

Between **Aratiatia Livestock Limited** (ENV-2018-CHC-29)

Meridian Energy Limited (ENV-2018-CHC-38)

Federated Farmers of New Zealand (ENV-2018-CHC-40)

Te Runanga o Ngai Tahu and Ors (ENV-2018-CHC-47)

Royal Forest & Bird Protection Society (ENV-2018-CHC-50)

Appellants

And **Southland Regional Council**

Respondent

**Memorandum of Counsel for Meridian Energy Limited on Section 274 Notices by
Waiou Rivercare Group and Waiou River Liaison Committee**

7 September 2018

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May it please the Court

Introduction

- 1 These submissions are made on behalf of Meridian Energy Limited (**Meridian**). Meridian is an appellant (ENV-2018-CHC-38) and section 274 party in relation to other appeals on the Proposed Southland Water and Land Plan (**pSWLP**).
- 2 The section 274 notices filed by Waiau Rivercare Group (**WRG**) and Waiau River Liaison Committee (**WRLC**) express an interest in provisions of the pSWLP that relate directly to the Manapouri Power Scheme (**MPS**)¹. The MPS is owned and operated by Meridian. It is the largest single renewable electricity generation scheme in New Zealand. The operation of the MPS is managed under resource consents issued by the Respondent under the RMA, and Guidelines relating to the levels of Lakes Manapouri and Te Anau issued by the Minister of Energy pursuant to section 4A of the Manapouri-Te Anau Development Act 1963 (**Guidelines**).
- 3 The resource consents for the operation of the MPS expire in 2031 and an application for replacement consents will need to be made prior to the expiry of the current consents in order to ensure the continued lawful operation of the MPS under the RMA, and so that Meridian can continue to comply with the Guidelines.
- 4 Along with the relevant provisions of various other national and regional planning instruments, the provisions of the pSWLP in which WRG and WRLC express an interest will be relevant to the consideration of the replacement consent applications for the MPS, and will also be relevant in the context of the FMU process for the Waiau catchment².
- 5 As will be developed later in these submissions, Meridian's position is that even if WRG and WRLC are able to demonstrate that they have a sufficient interest in the provisions that is different from and specific compared to the general public, they have not demonstrated on the evidence that they stand to suffer a sufficient disadvantage from the resolution of the appeals on the relevant provisions of the pSWLP.
- 6 It is submitted that the pSWLP provisions in which WRG and WRLC express an interest, and the concerns that they raise in relation to those provisions³ are

¹ Objective 10, Policy 26, Rules 52 and 52A, and Appendix E

² See Policies 44-47 of the pSWLP

³ Noting that some of the concerns appear to be founded on a misunderstanding of the provisions under appeal and the relief sought by Meridian – see paragraphs 23-35 below

'on the table' by virtue of the participation of other parties to the appeals. There is therefore no sense in which non-participation in the appeals by WRG and WRLC will mean that the issues of relevance to them will fail to be considered.

Relevant Law

- 7 The relevant case law that develops what is meant by 'an interest in proceedings that is greater than the interest that the general public has' as it is found in section 274(1)(d) and (da) of the RMA is identified in the submissions already before the Court and I do not repeat it.
- 8 In summary I submit that in order to qualify to join as parties to the pSWLP appeals on the provisions of interest WRG and WRLC must each demonstrate that they:
 - (a) Have a specific identifiable interest that is greater than that of the general public; and
 - (b) Stand to suffer an identifiable disadvantage (or advantage) as a consequence of the proceedings.
- 9 Section 274(3) requires a party claiming an interest greater than the general public's interest to include the grounds upon which such a claim is made in their notice to join. In this case additional submissions and evidence have been filed by both WRG and WRLC to support their claim. I submit that the Court can now determine whether WRG and WRLC qualify to join the proceedings on the papers. Meridian does not seek a hearing in relation to these matters and does not seek to cross examine either of the deponents. Meridian's position is that if the Court is satisfied on the evidence before it that WRG and WRLC meet the test under section 274 to become parties to the appeals, then they should be given party status. If the Court is not satisfied on the evidence that has been provided that the test is met, WRG and WRLC should not be admitted as parties.

Waiau Rivercare Group

An interest in the proceedings greater than the interest that the general public has

- 10 The precise membership of WRG is not in evidence. WRG members or supporters presumably include residents of Tuatapere Township and others

from the catchment of the Lower Waiau River extending along its entire length from the coast all the way up to the Manapouri Lake Control structure⁴. This is not a specific stretch of the Waiau River as counsel for WRG asserts⁵. It is the entire length of the river from Lake Manapouri to the sea.⁶

- 11 WRG is an informal group without a constitution⁷. The evidence however is that the primary focus of the WRG is to improve the health of the Lower Waiau River⁸.
- 12 Mr Marshall, a member and one of the Co-Chairs of WRG (and the deponent of the affidavit dated 31 August 2018 in support of WRG's claim for party status) notes that his family has farmed on the banks of the Waiau River since 1966, and notes that if the appeals against the pSWLP are unsuccessful his ability to support his family will be impacted⁹. Mr Marshall appears to want to abstract water from the Lower Waiau River for irrigation¹⁰ and is concerned that water quality limits may be placed on the levels of nutrients in the river with the consequence that his farming business will be impacted¹¹. These concerns do not directly relate to the health of the Waiau River which is expressed to be the WRG's main interest. Rather they appear to relate to questions of allocation of water for irrigation and nutrient limits that may be imposed on farming activities.
- 13 Questions of allocation and the setting of receiving water quality limits are matters that are to be dealt with in the next stage of regional planning when Freshwater Management Units (**FMUs**) are considered for the purpose of giving effect to the NPSFM and the FMU policies of the pSWLP.
- 14 In any event, Mr Marshall is already participating in the proceedings through Aratiatia Livestock Limited, an appellant and section 274 party. Aratiatia Livestock Limited is 100% owned by Mr Marshall and his wife, and they are the

⁴ Affidavit of Paul Marshall, paragraph 7

⁵ Waiau Rivercare Group Section 274 Submissions dated 31 August, paragraph 30

⁶ The Upper Waiau River flows from Lake Te Anau to Lake Manapouri. It is separated from the Lower Waiau River by Lake Manapouri, and is in all relevant respects an entirely separate waterbody

⁷ Ibid, para 6

⁸ idem

⁹ Ibid, para 17

¹⁰ Ibid, para 18

¹¹ Ibid, para 19

two directors of the company¹². His personal interest and involvement in the pSWLP proceedings cannot underpin the interest of WRG.

- 15 The evidence does not otherwise describe the nature of the interest that is shared by the wide geographically-spread members of the WRG and which is greater than the interest of the general public, other than to assert a range of generic impacts of the operation of the MPS¹³ – which impacts would presumably be experienced generally by the community or public, rather than by WRG’s members in particular. Indeed the evidence of Mr Marshall is that the impacts are suffered by the Community rather than by WRG¹⁴.
- 16 WRG’s section 274 notice states that WRG is ‘the catchment group for the Lower Waiau River’ and that it ‘comprises a cross-section of our community (urban and rural)’. The notice also refers to letters of support from two couples who are ‘members of our community’. In my submission there is nothing in the notice that suggests WRG is other than broadly representative of some interested members of the community at large.
- 17 It is also asserted in the evidence¹⁵ and in submissions for WRG¹⁶ that the special interest of WRG is founded upon the general public’s lack of appreciation of the effects of the MPS on the Lower Waiau River. Given the statutory recognition of the MPS through the Manapouri-Te Anau Development Act 1963; the existence of the Guidelines which are designed to optimise electricity output from the MPS and to protect the vulnerable lake shores; the existence and statutory role of the Guardians of Lakes Manapouri, Monowai and Te Anau¹⁷; the existence of resource consents that clearly set out how water may be used for the purposes of power generation and the requirements to maintain flows and undertake other mitigation measures in the Lower Waiau River (which consents were granted following public notification and extensive participation by interested parties); and the ongoing work of the Waiau Working Party to address issues relating to the Lower Waiau River¹⁸ it is submitted that there is no sound basis upon which to assert there is limited public

¹² New Zealand Companies Office online search, sourced 4 September 2018

¹³ Affidavit of Paul Marshall, para 11

¹⁴ *idem*

¹⁵ *Ibid*, paras 13 and 14

¹⁶ WRG Section 274 Submissions dated 31 August, paragraphs 10,

¹⁷ Section 6X Conservation Act 1987

¹⁸ Key interests represented on the Waiau Working Party include the Department of Conservation, iwi, Southland District Council, Forest & Bird, Southland Fish & Game Council, whitebaiters, New Zealand Jet Boat Association, Waiau Habitat and Fisheries Trust, Tuatapere Amenities Trust and the Guardians of Lakes Manapouri, Monowai and Te Anau

appreciation of the effects of the MPS.

- 18 I submit a better analysis of the position is that the general public that engage with the river in any meaningful way – whether as landowners in the catchment; residents; farmers; recreationalists; or in any other capacity; are able to readily understand the existence and nature of the MPS and its activities and effects should they choose to do so. The unknown members of WRG are merely a subset of the general public. They cannot represent a relevant aspect of the public interest. That function is reserved to the Attorney-General under section 274(1)(c) of the RMA.

Identifiable disadvantage

- 19 Assuming WRG has satisfied the Court that it has an interest that is greater than the interest the general public has, it is necessary to consider whether WRG stands to suffer an identifiable disadvantage as a result of the proceedings.
- 20 The nub of the argument is found at paragraph 12 of Mr Marshall's affidavit where he asserts that if the proceedings are unsuccessful adverse effects will not be meaningfully addressed when the MPS is reconsented and impacts on the Community will continue unabated. These concerns are repeated in the submissions of counsel for WRG at paragraphs 22-24¹⁹.
- 21 I submit that this concern does not bear scrutiny. I support this submission by reference to **Rule 52A** – the controlled activity rule – and **Objective 10**.
- 22 I set out in the Appendix to these submissions the decision version of Rule 52A and the version Meridian seeks in its notice of appeal.
- 23 The version of Rule 52A that Meridian seeks is similar to the decision version with two exceptions which I explain below. No party seeks a version of Rule 52A that is more enabling than the version sought by Meridian, and other appeals seek more restrictive rules, including Forest & Bird's appeal, which seeks the deletion of Rule 52A and amendment to Rule 52 with the effect that the reconsenting of the MPS would become a non-complying activity. The point is that the scope of the appeals is not unlimited, and the Court has no jurisdiction to go beyond the appeals and to make a rule that is more permissive or enabling than the rule sought by Meridian.
- 24 The features of the Rule in both the decision and Meridian versions that are relevant to the question of whether WRG stands to suffer a disadvantage

¹⁹ As an aside I note that Meridian disputes whether some of the matters described by WRG as effects of the MPS are in fact attributable to the operation of the MPS, but I accept that is not something that falls to be determined as part of this preliminary consideration of party status.

include:

- (a) Any application under the rule will be publicly notified;
- (b) Wide control is reserved to set conditions that require mitigation or remediation measures to be adopted to address adverse effects on the environment.

- 25 The two versions of the Rule differ in the way they address the topics of flow and allocation.
- 26 In the decision version, in order to qualify as a controlled activity the application must be for a replacement consent and where it is a consent to take or use water the rate and volume of water taken and used must not increase and must comply with any relevant flow and level regimes set out in the regional plan. The Council retains control over volume, rate and timing of any water taken as well as mitigation or remediation measures to address adverse effects on the environment.
- 27 In the Meridian appeal version to qualify as a controlled activity the application has to be for the replacement of an expiring consent. The Council retains control over the volume, rate and timing of water taken where the application does not conform to surface or groundwater allocations, volumes and rates of take and discharge set by the regional plan. The Council also retains control over mitigation and remediation measures to address adverse effects on the environment, but does not have the ability to impose conditions that effectively undermine surface or groundwater allocation volumes and rates of flow that have been set in the regional plan.
- 28 Meridian's version of Rule 52A also differs from the decision version in that applications that cannot meet the criteria for processing as a controlled activity default to a full discretionary activity²⁰ whereas in the decision version they default to a non-complying activity.
- 29 Meridian has also appealed the wording of Objective 10 of the pSWLP, and both the decision version and the version Meridian seeks in its notice of appeal are set out in the Appendix.
- 30 Other appellants²¹ seek changes to Objective 10 so that it only applies to the MPS and/or so that no reference is made in the Objective to the existing environment.
- 31 Of relevance to the interest of WRG, the physical structures of the MPS are

²⁰ Meridian Rule 52B

²¹ Including Aratiatia Livestock Limited and Te Runanga o Ngai Tahu and Others

authorised under the section 4 of the Manapouri-Te Anau Development Act 1963, and surface water activities associated with the ongoing operation, maintenance, enhancement, refurbishment or upgrading of any lawfully established energy generation facility are permitted under the Southland District Plan²².

32 The river flows and lake levels that result from the passing of water through the physical structures of the MPS and from the lawful operation of the MPS in accordance with the Guidelines and resource consents have resulted in a physical environment that is capable of description, and against which the likely impact of alternative arrangements can be assessed. The changes that Meridian seeks to Objective 10 are designed to clarify that when the effects of possible flows, levels and allocation regimes are considered, they are considered from a starting point (or existing environment) that acknowledges the physical environment as it lawfully exists today. Meridian does not want to face an argument from any party that the effects of the existing MPS regime, and of any alternative regimes, should be assessed against an imaginary and fanciful environment that assumes the MPS's physical structures are removed from the catchment and that flows and lake levels are somehow returned to their pre-MPS state. Such a position would not only be fanciful, it would also imply that Meridian had sought, obtained and exercised resource consents to remove the physical structures of the MPS. It would also imply that the Guidelines had been altered or cancelled. Finally, it would be asking Meridian to assess the effects of the replacement consents it applies for against a pre-MPS existing environment in respect to which adequate information does not exist to allow a sensible comparison of effects to be made. There is nothing novel in the approach sought by Meridian in this regard²³, and recognition of the status quo as comprising the existing environment does not constrain the FMU allocation and limit setting process as required by the policies of the pSWLP, nor the ability of the Respondent to set conditions on resource consents to address adverse effects on a re-consenting of the MPS.

33 I submit that when considered against the relevant existing provisions in the

²² Southland District Plan, Rule SWA.1(5)

²³ See for example Policy 4.51 of the Canterbury Land and Water Regional Plan which reads:

4.51 In recognition of their national benefits, existing hydro-electricity generation, and irrigation schemes and principal water supplier schemes and their associated water takes, use, damming, diverting and discharge of water are to be considered as part of the existing environment. On considering an application for a replacement consent for an existing scheme consideration will be given to the need for, and appropriateness of, improvements in the efficiency of water use and conveyance assessed over the life of the consent and reductions in any adverse effects on the environment. The benefits derived from the use of water for the generation of electricity from existing and new renewable energy sources are recognised and provided for in accordance with the National Policy Statement for Renewable Electricity Generation 2011 and the Regional Policy Statement.

decision version of the pSWLP and the changes sought by Meridian the disadvantage claimed by WRG – that if the appeals WRG supports are unsuccessful, consenting of the MPS will proceed without taking proper account of claimed adverse effects; that existing effects will necessarily be perpetuated; and that the community and members of WRG will ‘bear the brunt’ of limits imposed through catchment limit setting²⁴ misrepresents the position.

34 Rather, I submit the position is:

- (a) Through the FMU process for the Waiau FMU the Respondent will consider and is likely to establish flow, level and allocation regimes for the catchment in order to give effect to the requirements of the NPSFM and the policies of the pSWLP. This must include methods to phase out any over-allocation within a specified timeframe²⁵;
- (b) The FMU process will be a ‘normal’ First Schedule plan-making process in which WRG and any other interested parties will be able to participate.
- (c) Any subsequent application by Meridian for replacement consents for the MPS will be considered subject to whatever provisions result from the FMU process.
- (d) Any application for replacement consents made before the FMU process is completed²⁶ would be subject to the Respondent’s ability to set limits on the volume, rate and timing of water taken and discharged, but under Meridian’s preferred wording of Rule 52A, once those limits and allocations have been established in the Plan and provided Meridian’s application stays within those limits and allocations, the Respondent would not have the ability to set conditions that impose different limits.
- (e) The Respondent will retain control over and be able to set conditions relating to the mitigation or remediation of all adverse effects of the operation of the consents, subject only to the restriction noted above where allocations and flows have been set in the Plan.
- (f) Any application for replacement consents, whenever it is made, will be subject to public notification and WRG will have the opportunity to participate in the process.

35 In light of the above considerations I submit the claim of disadvantage is

²⁴ WRG section 274 submissions, para 22

²⁵ pSWLP Policy 47

²⁶ Noting that because the existing consents do not expire until 2031 it is unlikely replacement consents would be sought before the FMU process is complete

illusory. Even under the relevant pSWLP provisions as preferred by Meridian, WRG will have the ability to participate in the FMU limit setting process and in applications for replacement consents for the MPS. In both those processes WRG will have the ability to produce evidence and make submissions that address the health of the Waiau River.

Waiau River Liaison Committee

An interest in the proceedings greater than the interest that the general public has

- 36 Meridian relies upon the evidence and submissions before the Court in relation to WRLC.
- 37 I have considered the affidavit of Peter Horrell dated 31 August 2018 in support of the WRLC's section 274 notice, including the three documents attached to the affidavit comprising:
- (a) an agreement between ECNZ (now succeeded by Meridian as owner and operator of the MPS), Federated Farmers and the Respondent dated 8 November 1996
 - (b) A resolution of the Respondent dated 5 August 1998 establishing the Waiau Rating District by Special Order pursuant to the Rating Powers Act 1998
 - (c) The terms of reference for liaison committees of the Respondent dated 17 July 1991 (**TOR**).
- 38 There appears to be no dispute on the evidence before the Court that WRLC is a committee of the Respondent. The section 274 notice states that WRLC "is a Committee established by the Regional Council, comprised of rate payers adjacent to the Waiau River and its Tributaries." The TOR are annexed to Mr Horrell's affidavit and are dated 17 July 1991, a date preceding the establishment of WRLC in 1998. There is no evidence that WRLC was established under some other terms of reference that differ from the TOR.
- 39 It is irrelevant to the question of WRLC's functions and capacity that Mr Horrell only became aware of the TOR in August 2018.
- 40 WRLC did not exist at the time of, is not a party to, and cannot claim any entitlement by way of privity of contract or otherwise, under the 1996 agreement between ECNZ, Federated Farmers and the Respondent. In any

event, all obligations under the agreement were suspended when the Waiau Rating District was established²⁷. Liaison Committees established by the Respondent have no mandated function in relation to planning processes under the RMA, and have no power of general competence vested in them by the Respondent.

- 41 Further, paragraph 1.4 of the TOR directs that Liaison Committees are not to consider complaints or other matters pertaining to individual ratepayers. These matters are to be redirected to the Respondent. Meridian is a ratepayer in the Waiau Rating District and it is submitted that the matters WRLC expresses an interest in via the section 274 notice pertain to Meridian as owner and operator of the MPS, and therefore, at most, WRLC should direct its interest to the Respondent rather than the Court.

Identifiable disadvantage

- 42 I submit that as with WRG, WRLC appears to be under some misapprehension as to what the pSWLP currently provides, and how that will change if Meridian's appeal points are successful. I therefore repeat the comments made in relation to the relevant provisions in the context of WRG.
- 43 Mr Horrell indicates his understanding that if the activity status under Rule 52A was discretionary rather than controlled the Council could consider any adverse effects of the MPS and could impose conditions around erosion, fencing and weed control. Mr Horrell then states that in such a case "the Liaison Committee could meaningfully participate and potentially influence the outcome of the consent process"²⁸.
- 44 Mr Horrell overlooks the fact that the Plan requires an application under Rule 52A for a controlled activity to be publicly notified, and overlooks that in both the Decision and Meridian versions of the Rule, Council retains control over and can impose conditions in relation to the matters with which he expresses concern – erosion, fencing and weed control.
- 45 Mr Horrell's other contention is that if the current water take is considered as part of the existing environment then all existing effects will essentially be disregarded. As noted earlier in these submissions at paragraph 32, that is not the position.
- 46 It is perhaps telling that Mr Horrell was a submitter on the pSWLP in his own right and sought, amongst other things, the deletion of Objective 10. Mr Horrell neither appealed the decision of the Respondent, nor joined any of the appeals

²⁷ Clause 7.2 of the agreement dated 8 November 1996

²⁸ Ibid, paragraph 51

as a section 274 party.

- 47 If WRLC wishes to participate in its own right in a future resource consent process (or in the FMU limit setting process), that is a matter that will presumably need to be resolved with the Respondent in terms of its TOR as they apply to the WRLC. As counsel for the Respondent notes, WRLC's existing TOR do not give it a function of engagement in planning processes. On that basis, and on the basis that the WRLC will not suffer any disadvantage through non-participation in the current proceedings it is submitted that WRLC cannot be admitted as a party to the present appeals.

OWEN BUCKINGHAM

- 48 I note that there appear to have been no further submissions filed in relation to the Respondent's challenge by memorandum dated 29 June 2018 to Mr Buckingham's section 274 notice. It would therefore seem that a determination can now be made on that matter by the Court as intimated at paragraph [5] of the Minute of 9 July 2018.

Dated 7 September 2018



Stephen Christensen

Counsel for Meridian Energy Limited

Appendix

1. Rule 52A – Decision Version

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; and*
- (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 the exercise of 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;*
- 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.

2. Rule 52A - Meridian Appeal Version (changes from the decision version are tracked):

Rule 52A - Manapouri and Monowai Hydro-electric Generation Schemes

(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:

- (a) the taking or use of water; or*
- (b) the discharge of water into water or 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;*

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;

~~(3 b) 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 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.~~

3. Objective 10 – Decision Version

Objective 10

The national importance of existing hydro-electric generation schemes, including the Manapōuri hydro-electric generation scheme in the Waiau catchment, is provided for, recognised in any resulting flow and level regime, and their structures are considered as part of the existing environment.

4. Objective 10 – Meridian Appeal Version (changes from the decision version tracked)

Objective 10

~~The national importance of the existing hydro-electric generation schemes, including the Manapōuri hydro-electric generation scheme Power Scheme in the Waiau catchment, is provided for, recognised in any resulting flow and level regime, and their structures are considered as part of the existing environment and.~~

1. is recognised in any resulting flow and level regime, and
2. the Scheme and its components and activities is considered as part of the existing environment, including that water takes, use, diversions and discharges are an integral part of the scheme; and
3. allows for enhancement of the scheme where the effects of these can be appropriately managed.