

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

IN THE MATTER of the Resource Management Act 1991  
AND of appeals under Clause 14 of the First Schedule of  
the Act  
BETWEEN FEDERATED FARMERS OF NEW ZEALAND  
(SOUTHLAND PROVINCE)  
(ENV-2018-CHC-40)  
Appellant  
AND SOUTHLAND REGIONAL COUNCIL  
Respondent

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**MEMORANDUM OF COUNSEL RE AMENDMENT OF APPEAL  
(21 SEPTEMBER 2018)**

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Judicial Officers: Judge Hassan and Judge Borthwick

Solicitor for Appellant:  
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*Relief – Federated Farmers*

1. The relief Federated Farmers seeks in relation to Rule 52A in its Notice of Appeal is ambiguous<sup>1</sup>. The relief sought currently reads (bolding mine):
  - (a) That any replacement permits associated with the Manapōuri Hydro-electric Generation Scheme be considered as a **restricted** discretionary activity.
  - (b) Federated Farmers seeks that the relevant parts of Rule 52A read as follows:

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 **discretionary activity**.

2. Federated Farmers is seeking Rule 52A be a discretionary activity, contrary to the inclusion of the word “restricted” in (a) above.
3. Federated Farmers seeks to amend paragraph (a) by removing the word “restricted” so the relief sought would read:
  - (a) That any replacement permits associated with the Manapōuri Hydro-electric Generation Scheme be considered as a **restricted** discretionary activity.
  - (b) Federated Farmers seeks that the relevant parts of Rule 52A read as follows:

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 **discretionary activity**.

4. A track change version of the appeal accompanies this Memorandum.

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<sup>1</sup> Federated Farmers Notice of Appeal 17 May 2018, paragraph 23, pages 16 and 17.

*Clare Lenihan*

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**Clare Lenihan**  
Counsel for the Appellant  
21 September 2018