

**BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOTHI 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: WITHDRAWING PART OF APPEAL  
1 FEBRUARY 2019**

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Judicial Officers: Judge Hassan and Judge Borthwick

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## MAY IT PLEASE THE COURT

1. The Appellant wishes to advise the Court it is withdrawing part of its appeal relating to Objective 10<sup>1</sup> on the Proposed Southland Water and Land Plan (the **Proposed Plan**). The reasons are set out below.

### Background

2. The Appellant did not lodge an original submission on Objective 10 of the Proposed Plan, but lodged a further submission on the original submission of Meridian Energy Limited (**Meridian**). Meridian sought the following relief in its original submission<sup>2</sup>:

Amend Objective 10 to read: The national importance of the existing Manapouri Power Scheme in the Waiau catchment is provided for, and

1. is recognised in any resulting flow and level regime, and
2. the Manapouri Power Scheme including its associated water takes, use, damming, diverting and discharge of contaminants and water to water or onto and into land where this enters water is considered as part of the existing environment; and
3. allows for enhancement of the scheme where the effects of these can be appropriately managed.

3. In its further submission, the Appellant opposed the relief Meridian sought (as set out above), for the following reasons:

“Other water users need to be recognised in the Waiau Catchment. It is inappropriate to prioritise one use to the detriment of all others”.

### Withdraw relief

4. When drafting its appeal on the Proposed Plan, the Appellant, in error, included Meridian’s relief (as set out in paragraph 2 above), as its own appeal relief. Further, the relief the Appellant seeks (in error) on Objective 10 is contrary to the Appellant’s further submissions on this issue and contrary to its position as set out in the s274 notices the Appellant has lodged<sup>3</sup>.

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<sup>1</sup> **Objective 10** provides “The national importance of existing hydroelectric generation schemes, including the Manapouri 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.”

<sup>2</sup> The Appellant also lodged a further submission on the Director General of Conservation’s original submission (which opposed the relief Meridian sought), supporting this in part, for the reasons “Other water users also need to be recognised in the Waiau Catchment. It is inappropriate to prioritise some uses (power scheme, natural and fishery values) to the detriment of all other users”.

<sup>3</sup> Aratiatia Livestock Ltd v Southland Regional Council (EnvC -2018-CHC-29) and Meridian Energy Ltd v Southland Regional Council (EnvC -2018-CHC-38)

5. As a result, the Appellant wishes to withdraw that part of its appeal on the Proposed Plan relating to Objective 10 (as set out in its Appeal Notice at para 2, page 3).
6. The Appellant will remain a s274 party on the other appeals it joined relating to Objective 10 (the reasons set out in those notices are consistent with the Appellant's further submissions on Objective 10).

**Other Parties**

7. Meridian is a s274 party to the Appellant's appeal relating to Objective 10. In its s274 notice, Meridian supports the relief sought but stated it preferred its slightly different wording as set out in its appeal notice<sup>4</sup>.
8. Aratiatia is also a s274 party to the Appellant's appeal on Objective 10. Aratiatia stated it "supports all aspects of the [Federated Farmers] Appeal relief to the extent that it is not contrary to the relief sought in the Aratiatia Appeal". The relief sought by Federated Farmers on Objective 10 appears to be contrary to the relief sought by Aratiatia in its appeal.<sup>5</sup>



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**Clare Lenihan**  
Counsel for the Appellant  
1 February 2019

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<sup>4</sup> Refer to Meridian s274 notice on the Appellant's Appeal, paragraph 4b.  
<sup>5</sup> Refer to paragraph 7c of the Aratiatia Appeal Notice.