

Before the Environment Court
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

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

In the matter of an appeal under clause 14 of Schedule 1 of the RMA in
relation to decisions on the Proposed Southland Water and
Land Plan

Between **Transpower New Zealand Ltd**
(ENV-2018-CHC-26)

Fonterra Co-Operative Group
(ENV-2018-CHC-27)

Horticulture New Zealand
(ENV-2018-CHC-28)

Aratiatia Livestock Ltd
(ENV-2018-CHC-29)

(Continued next page)

Memorandum of Counsel for Southland Fish and Game Council

Topic B6

8 December 2022

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Between

Wilkins Farming Co
(ENV-2018-CHC-30)

**Gore District Council, Southland District Council and
Invercargill City Council**
(ENV-2018-CHC-31)

Dairy NZ Ltd
(ENV-2018-CHC-32)

HW Richardson Group
(ENV-2018-CHC-33)

Beef + Lamb New Zealand
(ENV-2018-CHC-33)

Director-General of Conservation
(ENV-2018-CHC-36)

Southland Fish and Game Council
(ENV-2018-CHC-37)

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

Alliance Group Ltd
(ENV-2018-CHC-39)

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

Heritage New Zealand Pouhere Taonga
(ENV-2018-CHC-41)

Stony Creek Station Ltd
(ENV-2018-CHC-42)

The Terraces Ltd
(ENV-2018-CHC-43)

Campbell's Block Ltd
(ENV-2018-CHC-44)

Robert Grant
(ENV-2018-CHC-45)

**Southwood Export Ltd, Kodansha Treefarm New
Zealand Ltd, Southland Plantation Forest Company of
New Zealand**

(ENV-2018-CHC-46)

**Te Rūnanga o Ngāi Tahu, Hokonue Rūnaka,
Waihopai Rūnaka, Te Rūnanga o Awarua and Te
Rūnanga o Oraka Aparima**

(ENV-2018-CHC-47)

Peter Chartres

(ENV-2018-CHC-48)

Rayonier New Zealand Ltd

(ENV-2018-CHC-49)

**Royal Forest and Bird Protection Society of New
Zealand Inc**

(ENV-2018-CHC-50)

Appellants

Southland Regional Council

Respondents

MAY IT PLEASE THE COURT

- 1 I refer to the Court's directions dated 22 November 2022.
- 2 Southland Fish and Game Council seeks the following relief (amendments shown as tracked changes):

Policy 26 – Renewable Energy

1. 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), including their 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 their ~~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.
2. In addition to 1 above, when considering resource consent applications in relation to the Manapōuri hydro-electric generation scheme for surface water abstractions, damming, diversion and use within the Waiau Catchment, decision makers shall have particular regard to:
 - a. Safeguarding the mauri and ecosystem health of the Waiau River, including reversing or reducing the degradation of the Waiau River; and
 - b. Providing for the customary use of mahinga kai and nohoanga; taonga species; and the spiritual and cultural values and beliefs of tangata whenua, including measures to avoid, remedy or mitigate adverse effects.

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~~ discretionary activity.

(b) 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 seeks a quantity of water greater than that currently consented is a **non-complying activity**.

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 only not result in a temporary 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.~~



Sally Gepp
Counsel for Southland Fish and Game Council