

In the Environment Court of New Zealand

Christchurch Registry

ENV-2018-CHC-000029

Under

the Resource Management Act 1991

In the matter of

on an appeal under clause 14 of
Schedule 1 of the Act in relation to
Decisions on the Proposed Southland
Water and Land Plan

Between

Aratiatia Livestock Limited

Appellant

And

Southland Regional Council

Respondent

**Notice of Southland Fish and Game Council's wish to be party to proceedings
pursuant to section 274 of the Resource Management Act 1991**

Dated this 22nd day of June 2018

To: The Registrar
Environment Court
Level 1, District Court Building
282 Durham Street
Christchurch 8013

Postal address: PO Box 2069
Christchurch 8013

1. Southland Fish and Game Council (**Fish and Game**) wish to be a party pursuant to section 274 of the Resource Management Act 1991 (**the RMA**) to the following proceedings:
 - a. the appeal against part of the decision of the Southland Regional Council (**the Council**) on the Proposed Southland Water and Land Plan (**the Proposed Plan**) by Aratiatia Livestock Limited (**the Appellant**), ENV-2018-CHC-000029.

2. Fish and Game made a submission and further submission on the Proposed Southland Water and Land Plan.¹

3. Fish and Game also has an interest in these proceedings greater than the general public in that:
 - a. It is the statutory manager of sports fish and game birds within the Southland Fish and Game region under Parts 5A and 5B of the Conservation Act 1987 and Part II of the Wildlife Act 1953 and their associated regulations and notices; and
 - b. Fish and Game Councils are statutory bodies with functions under s 26Q of the Conservation Act 1987 to manage, maintain, and enhance the sports fish and game resource in the recreational interests of anglers and hunters,² including in particular:
 - i. Assessing and monitoring sports fish and game populations;³
 - ii. Assessing and monitoring condition and trend of ecosystems as habitats for sports fish and game;⁴
 - iii. To maintain and improve the sports fish and game resource,⁵ including by:
 - Maintaining and improving access;⁶ and

¹ Submitter number 752.

² Section 26Q(1) of the Conservation Act 1987.

³ Section 26Q(1)(a)(i) of the Conservation Act 1987.

⁴ Section 26Q(1)(a)(iii) of the Conservation Act 1987.

⁵ Section 26Q(1)(b) of the Conservation Act 1987.

⁶ Section 26Q(1)(b)(i) of the Conservation Act 1987.

- Undertaking works to maintain and enhance the habitat of sports fish and game;⁷
 - iv. Promoting recreation based on sports fish and game;⁸ and
 - v. In relation to planning to:
 - To represent the interests and aspirations of anglers and hunters in the statutory planning process;⁹ and
 - To advocate the interests of the Fish and Game Council, including its interests in habitats.¹⁰
4. Fish and Game is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.
 5. Fish and Game is directly affected by an effect of the subject of the that appeal that:
 - a. Adversely affects the environment; and
 - b. Does not relate to trade competition or the effects of trade competition.
 6. Fish and Game is interested in all the proceedings.
 7. Without limiting the above, Fish and Game is interested in the following particular issues:
 - a. Objective 10;
 - b. Policy 26 . Renewable energy;
 - c. Rule 52A . Manapouri hydro-electric generation scheme; and
 - d. Appendix E . Receiving water quality standards.
 8. The particular issues and whether Fish and Game supports, opposes or conditionally opposes the relief sought are set out in the attached table . Attachment 1.
 9. Fish and Game agree to participate in mediation or other alternative dispute resolution of the proceedings.

⁷ Section 26Q(1)(b)(v) of the Conservation Act 1987.

⁸ Section 26Q(1)(c)(ii) of the Conservation Act 1987.

⁹ Section 26Q(1)(e)(i) of the Conservation Act 1987.

¹⁰ Section 26Q(1)(e)(vii) of the Conservation Act 1987.

Dated this 22nd day of June 2018



Signed: Zane Moss - Manager
Southland Fish and Game Council

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or
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Attachment 1

Provision of Proposed Southland Water and Land Plan appealed by Aratiatia Livestock Limited	Relief sought by Aratiatia Livestock Limited	Scope for s 274 – Southland Fish and Game Council submission point reference	Support / oppose	Reasons
Objective 10	Reinstatement of the notified version of Objective 10.	752.26 + further submissions on 210.31 and 562.1	Support	<p>The Manapouri Power Scheme (MPS) is operated by Meridian pursuant to resource consents that allow the diversion of the greater part of out flow from Lake Manapouri. Accordingly:</p> <ol style="list-style-type: none"> 1. The taking and use of water for the MPS is consumptive in terms of the Lower Waiau River; 2. Flow rates / flow variability in the Lower Waiau River are highly modified and severely comprised compared to historic levels. <p>As a consequence of the operation of the MPS the Waiau catchment is over allocated.</p>
Policy 26	Deletion of the text "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".	Further submissions on 24.5 and 237.14	Support	The additional wording gives a preference to new generation activities where the policy was originally intended to apply to existing renewable resources.
Rule 52A	Deletion of Rule 52A to the effect that any applications for consent for the taking or use of water, the discharge of contaminants and the damming or diversion of water in relation to the Manapouri Power Scheme that would	Submission on Rule 52 (752.145) + further submissions on Rule 52 (246.5, 279.98 and	Support	<p>Controlled activity status for activities associated with the MPS is inappropriate for the following reasons:</p> <ol style="list-style-type: none"> 1. As a consequence of the operation of the MPS the Waiau catchment is over allocated;

	<p>have been a controlled activity under Rule 52A require:</p> <ol style="list-style-type: none"> 1. Discretionary activity status if the proposal complies with all relevant conditions in Rule 52A(a) . Rule 52A(a); and 2. Non-complying activity status if the proposal does not comply with all relevant conditions in Rule 52A(a) . Rule 52A(b) . <p>Deletion of all references to Rule 52A elsewhere in the Proposed Plan</p>	<p>562.14)</p> <p>Further submission on Rule 52A (562.15)</p>		<ol style="list-style-type: none"> 2. As a controlled activity, Council must grant consent for resource consent applications associated with the MPS under Rule 52A(a). As a controlled activity: <ol style="list-style-type: none"> a. The Proposed Plan will be unable to give effect to the NPS-FWM, including Objectives A1- A4, Policies A1 . A3, A5 and A7, Objectives B1 . B5, Policies B1, B2 and B4 . B7, Objective C1 and Policy C1. The Proposed Plan will only give effect to the NPS-FWM if the renewal of water takes and use consents relating to the MPS requires assessment as a discretionary activity (if the proposal complies with all relevant standards) or a non-complying activity (if the proposal does not comply with all relevant standards); and b. Council will be significantly hindered in its ability to reduce the volume of take in future renewal consents irrespective of limit setting or allocations findings, including any finding that the Waiau catchment is over allocated with respect to water quantity and / or quality. As such, the existing highly modified flow regime in the Lower Waiau River as a result of the MPS may become entrenched, irrespective of its significant adverse effects; and 3. The Council did not give sufficient weight to its own evidence and recommendations on this matter. <p>It is appropriate to consider consent applications for the taking and use of water associated with the MPS by way of:</p> <ol style="list-style-type: none"> 1. Discretionary activity status under Rule 52A(a) if the proposal complies with all relevant conditions; and 2. Non-complying activity status under Rule 52A(b) if the proposal does not comply with all relevant conditions.
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				The use of the non-complying activity status for activities associated with the MPS that do not comply with the conditions of Rule 52A(a) is appropriate.
Appendix E	<p>Deletion of the following provision in Appendix E of the Proposed Plan:</p> <p><i>“the standard for a given parameter will not apply in a [waterbody] where . . . due to the effects of the operation of the Manapouri hydro-electric generation scheme that alters natural flows, that parameter cannot meet the standard”</i> and deletion of any other provisions in the Proposed Plan to similar effect.</p>	752.180 + further submission on 17.45, 189.47, 265.107, 279.116 and 355.15	Support	<p>The effect of changes made by the Hearing Panel to Appendix E in relation to the MPS is that it is excluded from complying with receiving water quality standards.</p> <p>As a result of the MPS:</p> <ol style="list-style-type: none"> 1. Any contaminants entering the Lower Waiau River, including from land use activities in the catchment, are present in much greater concentrations than would otherwise have been the case; and 2. There is little natural state water from Lakes Te Anau and Manapouri entering the Lower Waiau River. Conversely, prior to the MPS the majority of the flow in the Lower Waiau River was derived from out flow from Lakes Manapouri and Te Anau. As a consequence of the MPS the majority of flow in the Lower Waiau River is derived from the heavily sedimented Mararoa River. <p>The extent to which the MPS is having an adverse effect on water quality, including compliance with water quality standards in Appendix E, warrants consideration. Any consideration of the effects of the MPS should take account of water quality standards in Appendix E that the relevant receiving waterbodies would otherwise be expected to meet and the MPS is currently compromising.</p>