

**In the Environment Court of New Zealand**

**Christchurch Registry**

**ENV-2018-CHC-000038**

**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**

**Meridian Energy Limited**

Appellant

**And**

**Southland Regional Council**

Respondent

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**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**

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**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 Meridian Energy Limited (**the Appellant**), ENV-2018-CHC-000038.
  
2. Fish and Game made a submission and further submission on the Proposed Southland Water and Land Plan.<sup>1</sup>
  
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,<sup>2</sup> including in particular:
    - i. Assessing and monitoring sports fish and game populations;<sup>3</sup>
    - ii. Assessing and monitoring condition and trend of ecosystems as habitats for sports fish and game;<sup>4</sup>
    - iii. To maintain and improve the sports fish and game resource,<sup>5</sup> including by:
      - Maintaining and improving access;<sup>6</sup> and

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<sup>1</sup> Submitter number 752.

<sup>2</sup> Section 26Q(1) of the Conservation Act 1987.

<sup>3</sup> Section 26Q(1)(a)(i) of the Conservation Act 1987.

<sup>4</sup> Section 26Q(1)(a)(iii) of the Conservation Act 1987.

<sup>5</sup> Section 26Q(1)(b) of the Conservation Act 1987.

<sup>6</sup> Section 26Q(1)(b)(i) of the Conservation Act 1987.

- Undertaking works to maintain and enhance the habitat of sports fish and game;<sup>7</sup>
    - iv. Promoting recreation based on sports fish and game;<sup>8</sup> and
    - v. In relation to planning to:
      - To represent the interests and aspirations of anglers and hunters in the statutory planning process;<sup>9</sup> and
      - To advocate the interests of the Fish and Game Council, including its interests in habitats.<sup>10</sup>
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. New Objective X;
    - c. Policy 26 . Renewable energy; and
    - d. Rule 52A . Manapouri hydro-electric generation scheme.
  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.

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<sup>7</sup> Section 26Q(1)(b)(v) of the Conservation Act 1987.

<sup>8</sup> Section 26Q(1)(c)(ii) of the Conservation Act 1987.

<sup>9</sup> Section 26Q(1)(e)(i) of the Conservation Act 1987.

<sup>10</sup> Section 26Q(1)(e)(vii) of the Conservation Act 1987.

Dated this 22nd day of June 2018



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Signed: Zane Moss - Manager  
Southland Fish and Game Council

**Address for service for Southland Fish and Game Council:**

Contact: Ben Farrell  
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Queenstown, 9300  
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**Contact persons at 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 Meridian Energy	Relief sought by Meridian Energy	Scope for s 274 – Southland Fish and Game Council submission point reference	Support / oppose	Reasons
Objective 10	<p>Amendment of Objective 10 in relation to the Manpouri Power Scheme (MPS) to include:</p> <ol style="list-style-type: none"> <li>1. Recognition in any resulting flow and level regime;</li> <li>2. Consideration of the scheme, its components and activities as part of the existing environment, including that water takes, use, diversion and discharges are an integral part of the scheme; and</li> <li>3. Allowance for enhancement of the scheme where the effects of these can be appropriately managed.</li> </ol>	752.26 + further submissions on 210.31 and 562.1	Oppose	<p>The MPS is operated by Meridian pursuant to resource consents that allow the diversion of the greater part of the out flow from Lake Manapouri. The taking and use of water for the MPS is consumptive in terms of the Lower Waiau River. Accordingly:</p> <ol style="list-style-type: none"> <li>1. Flow rates / flow variability in the Lower Waiau River are highly modified and severely comprised compared to historic levels; and</li> <li>2. The highly modified flow regime is largely ineffective in flushing the bed of the Lower Waiau River and removing nuisance periphyton.</li> </ol> <p>As a consequence of the operation of the MPS the Waiau catchment is over allocated. The existing components and activities of the MPS, including the water takes, use, diversion and discharges, should not be considered part of the existing environment as proposed in Objective 10(2), particularly where there are significant adverse environmental effects associated with these activities.</p> <p>Proposed language in Objective 10(3) is vague. It is unclear whether reference to the appropriate management of effects gives effect to the principle of sustainable manage in Part 2 of the RMA, including the requirement to avoid, remedy, or mitigate any adverse effects of activities on the environment.</p>
New Objective X relating to recognition and provision for the national significance of renewable electricity	Insertion of a new Objective X recognizing and making provision for the national significance of renewable electricity generation activities	Clarification is required as to what new objective Meridian is referring to in	Oppose	Other provisions of the Proposed Plan, including Objective 10 as notified, adequately addresses the matters referred to by Meridian Energy. Further, it does not follow that all renewable electricity generation activities in Southland, such as the Monowai hydro-electric scheme and the White Hill wind farm located near Mossburn, are of

generation activities		its Notice of Appeal  Fish and Game submitted (752.26) + further submitted (210.31 and 562.1) on Objective 10		national significance.
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 24.45 and 437.14	Oppose	The additional wording gives a preference to new generation activities where the policy was originally intended to apply to existing renewable resources.
Rule 52A	Amendment 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 are either:  1. Controlled activity status if the proposal complies with all relevant conditions . Rule 52A(a); or  2. Discretionary activity status if the proposal does not comply with all relevant conditions in Rule 52A(a) . Rule 52A(b).	Submission on Rule 52 (752.145) + further submissions on 246.5, 279.98 and 562.14  Further submission on Rule 52A (562.15)	Oppose	Controlled activity status for activities associated with the MPS is inappropriate for the following reasons:  1. As a consequence of the operation of the MPS the Waiau catchment is over allocated;  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:  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

				<p>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</p> <p>3. The Council did not give sufficient weight to its own evidence and recommendations on this matter.</p> <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"> <li>1. Discretionary activity status under Rule 52A(a) if the proposal complies with all relevant conditions; and</li> <li>2. Non-complying activity status under Rule 52A(b) if the proposal does not comply with all relevant conditions.</li> </ol> <p>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.</p>
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