

**BEFORE THE ENVIRONMENT COURT**

**I MUA I TE KOOTI TAIAO O AOTEAROA**

**IN THE MATTER OF** the Resource Management Act 1991  
**AND**  
**IN THE MATTER** of appeals under clause 14 of the First  
Schedule to the Act  
**BETWEEN** **ARATIATIA LIVESTOCK LIMITED**  
(ENV-2018-CHC-29)  
  
**AND** **MERIDIAN ENERGY LIMITED**  
(ENV-2018-CHC-38)  
**WAIHOPAI RŪNAKA, HOKONUI RŪNAKA, TE**  
**RŪNANGA O AWARUA, TE RŪNANGA O ORAKA**  
**APARIMA, and TE RŪNANGA O NGĀI TAHU**  
**(collectively NGĀI TAHU)**  
(ENV-2018-CHC-47)  
  
**AND** **ROYAL FOREST & BIRD PROTECTION SOCIETY OF**  
**NEW ZEALAND INCORPORATED**  
(ENV-2018-CHC-50)  
*Appellants*  
  
**AND** **SOUTHLAND REGIONAL COUNCIL**  
*Respondent*

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**MEMORANDUM ON BEHALF OF THE ROYAL FOREST  
AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INC**

**8 December 2022**

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## MAY IT PLEASE THE COURT

1. This memorandum of counsel is filed on behalf of the Royal Forest & Bird Protection Society of New Zealand Incorporated in response to the Court's direction dated 22 November 2022, which directed parties advise the activity status they seek for Rule 52A and to attach the final wording of the provisions they seek.
2. The policy provisions sought by Forest & Bird are set out below<sup>1</sup>.

### **Policy 26 – Renewable energy**

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), the benefits of renewable electricity generation activities and the practical constraints associated with its development, operation, maintenance and upgrading:

When:

- a. allocating surface water for abstraction, damming, diversion and use;
- b. considering all resource consent applications for surface water abstractions, damming, diversion and use;
- c. managing the following activities to avoid, remedy or mitigate reverse sensitivity adverse effects on renewable electricity generation activities (including the Manapōuri hydro-electric generation scheme). ~~In relation to the Manapōuri hydro-electric generation scheme manage reverse sensitivity effects of the following activities:~~
  1. taking of surface water or hydrologically connected groundwater that exceeds an allocation regime, take limit or limit on resource use;
  2. use of the beds of lakes and rivers or any activity that may affect the stability or functioning of any structures associated with the existing Manapōuri hydro-electric generation scheme;

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<sup>1</sup> The tracked changes are based on the Policy 26 Combined Version, JWS of Ms Whyte and Ms Davidson 30 November 2022

3. use of the beds of lakes and rivers or new or increased discharge of contaminants exceeding a limit on resource use, that outside of zone of reasonable mixing, may affect the quality of the water available for the generation of electricity above the Manapōuri Lake Control structure or within the Mararoa River; and
- ~~4. use of the beds of lakes and rivers or new or increased discharge of contaminants exceeding a limit on resource use, occurring below the Manapōuri Lake Control structure that could affect the ability of Meridian to meet its consent obligations for the existing Manapōuri hydro-electric generation scheme.~~

While:

d. In relation to the Manapōuri hydro-electric generation scheme:

- 1) safeguarding the mauri and providing for the ecosystem health of the Waiau River, and;
- 2) reversing or reducing degradation of the Waiau River as a result of the Manapōuri hydro-electric generation scheme.

3. Forest & Bird seeks discretionary and non-complying activity status for Rule 52A as set out below.<sup>2</sup>

**Rule 52A**

- (a) Despite any other rules in this Plan, an application for a new consent that is part of the Manapōuri hydro-electricity generation scheme and is replacing one or more of the following consents
  - (i) 96020 Water Permit
  - (ii) 96021 Discharge Permit
  - (iii) 96022 Water Permit
  - (iv) 96023 Discharge Permit
  - (v) 96024 Water Permit
  - (vi) 206156 Water Permit
  - (vii) 206157 Water Permit

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<sup>2</sup> The tracked changes are based on Alternative Discretionary Only rule option from the JWS of Ms Whyte and Ms Davidson 30 November 2022

That does not seek a ~~total~~ volume, ~~total~~ rate or both a ~~total~~ volume and ~~total~~ rate of water greater than that currently consented is a discretionary activity.

(b) Despite any other rules in this Plan, an application for a new consent that is part of the Manapōuri hydro-electricity generation scheme and is replacing one or more of the following consents

- (i) 96020 Water Permit
- (ii) 96021 Discharge Permit
- (iii) 96022 Water Permit
- (iv) 96023 Discharge Permit
- (v) 96024 Water Permit
- (vi) 206156 Water Permit
- (vii) 206157 Water Permit

that seeks a ~~total~~ volume, ~~total~~ rate or both a ~~total~~ volume and ~~total~~ rate of water greater than that currently consented is a non-complying activity.

Dated 8 December 2022



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M Downing / P Anderson  
Counsel for Royal Forest & Bird Protection Society Inc