

In the Environment Court of New Zealand  
Christchurch Registry

**ENV-2018-CHC-47**

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Under the Resource Management Act 1991

In the matter of An appeal under clause 14(1) of the First Schedule of the Act in relation to the Proposed Southland Water and Land Plan

Between **Te Runanga o Ngai Tahu and others**

Appellant

And **Southland Regional Council**

Respondent

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**Notice of wish to be a party to proceedings on behalf of Meridian Energy Limited**

22 June 2018

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**Counsel:**

Stephen Christensen

Project Barrister

PO Box 1251, Dunedin Metro 9054

P 027 448 2325

stephen@projectbarrister.nz

**NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS**  
*Section 274, Resource Management Act 1991*

**TO:** The Registrar  
Environment Court  
Christchurch

- 1 Meridian Energy Limited (**Meridian**) wishes to be a party to appeal ENV-2018-CHC-47 filed by Te Runanga o Ngai Tahu and others (**Appellant**) against parts of a decision of Southland Regional Council (**Respondent**) on the Proposed Southland Water and Land Plan (**pSWLP**).
- 2 Meridian made submissions and/or further submissions on the subject matter of the proceedings and/or has an interest in the proceedings that is greater than the interest that the general public has, as an operator and owner of renewable electricity generation assets in Southland including the Manapouri hydro-electric generation scheme (**MPS**) and White Hill wind farm near Mossburn.
- 3 Meridian is not a trade competitor for the purposes of section 308C or 308CA of the Act.
- 4 The parts of the proceeding Meridian is interested in, and Meridian's position in relation to the relief the Appellant seeks is as follows:
  - (a) **General – appeal point 1**

The Appellant seeks that baseline water quality for the purposes of the pSWLP be set at the level that was in existence at the time the Regional Water Plan for Southland became operative in January 2010.

Meridian's position

Meridian opposes the relief sought. There is incomplete information on all relevant aspects of water quality in Southland as at January 2010. Further, until FMUs are established it is unclear exactly what water quality parameters need to be considered, and where they should be measured.
  - (b) **General – appeal point 3**

The Appellant seeks the deletion of the text “excluding ephemeral waters” wherever it occurs in the pSWLP.

Meridian's position

Meridian supports the relief sought and agrees with the Appellant that effects on ephemeral water bodies should be managed.
  - (c) **Objective 6**

The Appellant seeks the deletion of reference to “overall” water quality in the Objective.

Meridian's position

Meridian opposes the relief sought and supports the decision version of this Objective. Objective A2 of the National Policy Statement for Freshwater Management 2014 (**NPSFM**) refers to the overall quality of freshwater within a FMU and reference to 'overall' water quality in Objective 6 is consistent with the NPSFM. Making no provision for localised water quality impacts while still maintaining overall water quality is impractical and does not enable people and communities to provide for their economic well-being in sustainably managing freshwater quality within limits (NPSFM Objective A4).

(d) **Objective 9A**

The Appellant seeks changes to the wording of Objective 9A related to the priority accorded to the management of surface waterbodies for the needs of ecosystem health and other values, compared with the needs of people and communities.

Meridian's position

Meridian is generally supportive of the decision version of Objective 9A and its relationship to Objective 9, and therefore opposes the relief sought by the Appellant. Meridian considers the decision wording achieves a fair balance between potentially competing interests in water. This Objective cannot be read in isolation from those objectives and policies in the Plan seeking to protect the cultural values of Ngai Tahu and does not seek to prioritise one over the other.

(e) **Objective 9B**

The Appellant seeks the deletion of this new Objective which concerns the enablement of regionally significant, nationally significant and critical infrastructure.

Meridian's position

Enabling the effective development, operation, maintenance and upgrading of regionally significant, nationally significant and critical infrastructure is important and warrants an Objective such as is contained in the decision version of the pSWLP. Meridian opposes the deletion of this Objective and supports the decision version. This Objective cannot be read in isolation from those objectives and policies in the Plan seeking to protect the cultural values of Ngai Tahu. Proposals relating to infrastructure development will need to take these into account at the time of development.

(f) **Objective 10**

The Appellant seeks that not all hydro-electric generation schemes in Southland are recognised as being nationally important and that the existing structures associated with hydro-electric generation schemes should not be considered part of the existing environment.

Meridian's position

Meridian opposes the relief the Appellant seeks and supports the version of Objective 10 as set out in Meridian's Notice of Appeal. The need to develop, operate, maintain and upgrade renewable electricity generation activities (including hydro-electric generation activities) throughout New Zealand (including Southland) is a matter of national significance. The benefits of renewable electricity generation, including hydro-electric electricity generation, are also matters of national significance. These matters are recognised in the National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**). The structures associated with the Manapouri hydro-electric generation scheme are permitted and are physically embedded in the environment and must be taken into account as part of the existing environment when decisions about the future sustainable management of resources are being considered. The importance and recognition of this infrastructure and the recognition of the existing environment is nationally significant given the government's commitment to meet a 100% target for renewable energy by 2035.

(g) **Objectives 13, 13A and 13B**

Objectives 13A and 13B are new in the decisions version of the pSWLP and Objective 13 has been amended. The Appellant seeks the rejection of changes which create three separate Objectives.

Meridian's position

Meridian supports the decision version and considers that the three Objectives working together create a defensible and reasonable policy position. These Objectives cannot be read in isolation from those objectives and policies in the Plan seeking to protect the cultural values of Ngai Tahu. Proposals relating to development will need to take these into account at the time of development. Meridian opposes the relief the Appellant seeks.

(h) **Policy 13**

The Appellant seeks that this Policy revert to the notified version.

Meridian's position

Meridian supports in part the relief the Appellant seeks. Meridian supports the decision version of Policy 13(1) as it provides an appropriate resource management context for the management of land use activities and discharges. Meridian supports the reinstatement of the notified wording of Policy 13(2) as it is clear and emphasises the protection of important values.

(i) **Policies 15, 15A, 15B and 15C, and Appendix E – appeal points 15 and 39**

The decision deleted notified Policy 15 and added new Policies 15A, 15B, and 15C. The Appellant seeks the reinstatement of Policy 15 in the form recommended in the section 42A report, and seeks that Policies 15A, 15B and 15C be deleted. The Appellant also seeks that Appendix E be amended by deleting the recognition that standards for given parameters will not apply in waterbodies where those standards cannot be met because of the operation of the MPS that alters natural flows.

Meridian's position

Meridian considers that Policies 15A, 15B and 15C in the decision version are appropriate when read alongside the recognition in Appendix E that alteration to natural flows in some waterbodies because of the operation of the MPS means that in those waterbodies some water quality parameters cannot be applied.

Meridian notes however that the Appellant seeks the deletion of this reference in Appendix E. On the basis that Appendix E does not change Meridian opposes the relief the Appellant seeks in relation to Policies 15, 15A, 15B and 15C.

If Appendix E changes as requested by the Appellant Meridian seeks changes to Policies 15, 15A, 15B and/or 15C to ensure that those Policies do not constrain the operation of the MPS.

(j) **Policy 26**

The Appellant seeks to amend Policy 26 by deleting the words that were added to the Policy as a result of a submission by Meridian. The words the Appellant wants to have deleted require that the locational and practical constraints on the development, operation, maintenance and upgrading of renewable electricity generation activities are recognised and provided for.

Meridian's position

Meridian opposes the relief sought and supports the decision version of Policy 26. The need to develop, operate, maintain and upgrade renewable electricity generation activities throughout New Zealand, including in Southland, and including the MPS, is a matter of national significance and is provided for in the NPSREG.

(k) **Policy 26A**

The Appellant seeks the deletion of this Policy.

Meridian's position

Meridian opposes the deletion of this Policy and supports the decision version. Recognising and providing for the effective development, operation, maintenance and upgrading of regionally significant, nationally significant and critical infrastructure is an important matter that warrants such a Policy.

(l) **Policy 29**

The Appellant seeks a change to the Policy to require that river-based gravel extraction does not restore aquatic and riparian habitat once extraction has ceased, and instead maintains or enhances it.

Meridian's position

Meridian opposes the relief sought and supports the decision version of Policy 29(1). By its nature in-river gravel extraction can sometimes unavoidably affect aquatic and riparian habitats such that their maintenance is impractical. While on occasions it may be possible to restore enhanced habitat values after extraction is complete, that may not always be practicable or necessary.

(m) **Rule 52A**

The Appellant seeks changes to the decision version of new Rule 52A so that replacement consents for the MPS (and Monowai hydro-electric generation scheme) are categorised as restricted discretionary and not controlled activity consents, and that adverse effects on values that are important to the Appellant be matters over which discretion is retained.

Meridian's position

Meridian opposes the relief sought by the Appellant and seeks an amended form of controlled activity Rule 52A as set out in Meridian's notice of appeal at paragraph 39.

(n) **Rule 74**

The Appellant seeks a change to Rule 74 by adding a new provision making the draining of any natural wetland a prohibited activity.

Meridian's position

Meridian opposes the addition sought by the Appellant. It is unclear what is meant by 'draining' a natural wetland. The alteration (reduction) of flows in the Waiau River through the operation of the MPS affects water levels in some natural wetlands that are hydraulically connected to the river.

Meridian opposes any change to Rule 74 that would impact on the efficient operation and enhancement of the MPS.

- 5 Meridian agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Dated 22 June 2018



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Stephen Christensen  
Counsel for Meridian Energy Limited