

**BEFORE THE SOUTHLAND REGIONAL COUNCIL**

**APP-20191150 and APP-20191703**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of applications for resource consents for the  
Lake Te Anau to Manapouri multi use trail

**BY** **THE FIORDLAND TRAILS TRUST**  
Applicant

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**MEMORANDUM OF COUNSEL FOR THE APPLICANT IN ANTICIPATION  
OF 30 MARCH 2020 HEARING**

**17 March 2020**

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**MAY IT PLEASE THE COMMISSIONER:**

1. This memorandum addresses certain matters relating to the hearing set down for 30 March 2020. Its primary purpose is to set out how the Applicant intends on running its case, given there have been two applications made.

**Background**

2. A hearing was set down for September 2019 to hear APP-20191150 (the “Retrospective Consent”). Evidence was briefed and a s 42A report prepared. No submitters filed expert evidence.
3. At the request of the Applicant that application was put on hold. This Counsel’s memorandum of 6 September 2019 explained that further resource consents were required.
4. The necessary application was made in October 2019 and given the identifier APP-20191703 (the “Third Culvert Consent”). The Applicant requested that the two applications be heard together.
5. Evidence in support of the Third Culvert Consent was briefed and filed on 16 March 2020.

**Approach to the evidence**

6. The two applications are inter-connected, and the Third Culvert Consent cannot proceed without the Retrospective Consent being granted. The Applicant’s intention is therefore that all the evidence filed will be read together.
7. In summary the evidence filed is:
  - a. Mr Boniface has prepared one brief of evidence on behalf of the Applicant and it applies to both applications.
  - b. Mr Beale, an ecologist, has produced evidence for both applications, which has been collapsed into a single brief. Appendix 1 to his evidence is a marked up version of his evidence identifying additions since the September hearing. The September evidence has therefore been superseded.

- c. Mr Hamilton, a hydrologist, has prepared one brief of evidence. It addresses the hydrology of the wetland and the design of the third culvert.
  - d. Mr McSoriley, a planner, has separate briefs of evidence for the two applications. There is cross over between the two, particularly in respect of the policy analysis.
8. It is Counsel's intention to call the witnesses as part of a single case and have them present their evidence on both applications simultaneously as if you were considering a single application because that is, in effect, what you will be hearing.
9. Counsel would be happy for evidence to be taken as read and for the witnesses to prepare brief oral summary presentations before taking questions if that is your preference/practice.

**Other Matters**

10. Counsel uses this opportunity to signal two matters that appear to have been overlooked in the Section 42A Report.
11. Firstly, the submission of Mr Rodway in opposition to the Third Culvert Consent, filed in January this year, appears to stray into areas that relate to the Retrospective Consent application. It will be submitted that Mr Rodway's submission should only be taken into account to the extent it submits on the Third Culvert Consent.
12. The Report has not referred to the effected party consent from the Department of Conservation provided to the Council in November 2019. Attached as Appendix 1 is a copy of that consent.



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CP Thomsen  
Counsel for the Applicant  
17 March 2020

## Appendix 1

### Department of Conservation Effected Party Consent



Our Ref: RC 000460

14 November 2019

Luke McSoriley  
Opus International Consultants Ltd  
PO Box 647  
Invercargill

[luke.mcsoriley@wsp.com](mailto:luke.mcsoriley@wsp.com)

Dear Luke,

**Request For Approval: S95e Resource Management Act 1991 To Install A Third Culvert And Approve The Installation Of The First Two Culverts.**

I have considered your request for approval in terms of s95E of the RMA and am pleased to advise that I grant my approval as an affected party.

My approval is granted on the basis that the proposal is as described, is for the purposes described, and will have the effects on the Department of Conservation (Department)'s interests as described in the application, hydrology report and indicated on the maps received by the Department on 8 October 2019.

This approval is limited to the likely adverse effects of the proposal on the Department's interests and should not be construed as approval to effects on the environment generally.

This approval is specific to the above application and is for the purposes of s95E of the RMA only. It is not indicative of any associated concession or other statutory approval which may be required from the Department regarding this proposal.

This approval will be rendered null and void if the proposal to which it refers is changed between the date of this approval and its consideration by the consent authority without referral back to me for my further assessment.

Please be advised that the original of this letter has been sent to the consent authority for their records.

If you have any questions regarding this approval, please contact Anna Derks on 027 241 1878 or at [aderks@doc.govt.nz](mailto:aderks@doc.govt.nz).

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Nedra Burns".

Nedra Burns  
Operations Manager  
Te Anau District Office  
Pursuant to delegated authority.

cc. Manager Consents, Environment Southland, Private Bag 90116, Invercargill, 9840

**Department of Conservation Te Papa Atawhai**  
Te Anau District Office  
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