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*in the matter:* of a submission on Plan Change 19

*to:* Mackenzie District Council

*submitter:* Meridian Energy Limited

Brief of evidence of **Jane Whyte**

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Dated: 20 November 2018

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## **BRIEF OF EVIDENCE OF JANE WHYTE**

### **QUALIFICATIONS AND EXPERIENCE**

- 1 My full name is **Margaret Jane Whyte**
- 2 I hold the degrees of Bachelor of Arts and Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute.
- 3 I am a Director of ResponsePlanning Consultants Limited, a consultancy specialising in planning and resource management. I have been a Director of this company since 2004. Prior to this I was the Environmental Services Manager at Banks Peninsula District Council. I have over twenty six years planning and resource management experience working as both a local government planner and as a consultant.
- 4 I have worked throughout New Zealand. Since 1997 I have been based in Christchurch and much of my work has been within the Canterbury Region. I have regularly worked and visited the Mackenzie District. I am familiar with the District and its environment.
- 5 A core area of my planning and resource management practice is policy development and the evaluation of statutory planning documents prepared under the Resource Management Act. I have written, and been involved in the preparation of district plans, plan changes and variations (including privately requested plan changes). I have also evaluated a number of Regional Policy Statements, Regional Plans and District Plans. I have prepared submissions, further submissions and evidence on these. I am engaged for this work by private clients, local authorities and Crown agencies. Some examples of projects I have worked on are:
  - 5.1 Evaluating and preparing submissions on the Proposed Canterbury Regional Policy Statement, the Proposed Waikato Regional Policy Statement, the Proposed Southland Regional Policy Statement, the Proposed Southland District Plan and the Proposed Hurunui District Plan.
  - 5.2 Preparing submissions, further submissions and presenting evidence for nine of the Canterbury local authorities on the Proposed Canterbury Natural Resources Regional Plan, and the Proposed Canterbury Land and Water Regional Plan. Preparing submissions and presenting evidence on a number of Plan Changes to the Canterbury Land and Water Regional Plan and the Proposed Canterbury Regional Air Plan.
  - 5.3 Preparing submissions, further submissions and presenting evidence for the Crown on the Christchurch Replacement District Plan. Assisting the Crown on the Preparation of the Lyttelton Port Recovery Plan approved by the Minister for Canterbury Earthquake Recovery.
- 6 Another area of my practice is the preparation and evaluation of assessments of effects and resource consent applications. This has provided me with the

experience of implementing statutory planning documents, including Regional Policy Statements, Regional Plans and City and District Plans. I have worked on a range of projects and have sought and obtained land use consents, subdivision consents, water permits and discharge consents. I have experience with renewable electricity generation projects. I have provided advice and have worked on projects involving both hydro and wind generation activities.

- 7 I am a certified hearings commissioner the holding a Chair endorsement. I have acted as a Commissioner on Resource Consent and Plan Change applications.
- 8 I assisted Meridian in the preparation of it submissions Proposed Plan Change 19. I have also provided assistance to Meridian in a number of projects related to the Waitaki Power Scheme. I am familiar with the Waitaki Power Scheme and its operation, including those parts located within the Mackenzie District.
- 9 I have read the Code of Conduct for Expert Witnesses and agree to comply with it. I confirm that I have complied with it in the preparation of this statement of evidence.
- 10 I provide the following declaration of conflict of interest. My husband is an employee of Meridian Energy. This relationship has not had any influence on my evidence and my opinion as an Independent Expert.
- 11 In preparing my evidence I have reviewed:
  - 11.1 Proposed Plan Change 19 to the Mackenzie District Plan (PC19);
  - 11.2 The Section 32 evaluation notified with PC19;
  - 11.3 The Summary of Decisions Requested;
  - 11.4 The submissions and further submissions prepared by a number of submitters to PC19, including those of Meridian Energy Limited;
  - 11.5 The Section 42A report including the supporting evaluations;
  - 11.6 The National Policy Statement on Electricity Transmission 2008 (NPSET) and the National Policy Statement on Renewable Electricity Generation 2011 (NPSREG).
  - 11.7 The Canterbury Regional Policy Statement (CRPS);
  - 11.8 The Mackenzie District Plan; and
  - 11.9 The evidence prepared for Meridian Energy Limited (Meridian) by Mr Feierabend.
  - 11.10 The memorandum prepared for Meridian by John Maassen (attached as Appendix 1 to the evidence of Mr Feierabend).

## **SCOPE OF EVIDENCE**

- 12 I have been asked by Meridian to prepare this statement of evidence. I address the submissions of Meridian in relation to the following matters:
- 12.1 The scope and extent of the application of PC19 and its implications for the Waitaki Power Scheme (WPS) including:
- (a) recognition and provision for the national significance of the WPS and
  - (b) the integration of PC19 and provisions relating to the WPS within the Mackenzie District Plan.
- 12.2 Ensuring provisions of PC19 give effect to the NPSREG and the CRPS for generation activities associated with the WPS.
- 12.3 Specific changes to provisions necessary to address the matters set out above.
- 13 In Appendix 1 I detail the specific changes to the provisions I have supported in my evidence. In Appendix 2 I have undertaken an evaluation with respect to 32 of the Act in relation to the changes sought by Meridian to the provisions, including the objective, policies and rules, this should be considered alongside the matters and reasons for provisions I have provided in my evidence. Appendix 3 contains the key provisions of the NPSREG and the CRPS most relevant to my evaluation.

## **GENERAL MATTERS**

- 14 In preparing my evidence I have considered the statutory context within the Resource Management Act (RMA) that influences the development of a District Plan. This includes Sections 72-76, Sections 31, 32 and the overarching Sections 5, 6, 7 and 8 (Part 2).
- 15 In my evidence I address some specific changes to provisions that I support and would address many of the concerns raised in the submission by Meridian. The changes I support are relatively simple. However, before addressing the specific changes I do want to address a number of general matters that have driven the submission lodged by Meridian. While the solutions I have proffered are straightforward, I want to reinforce that the potential issues they address are significant and important matters. It is for this reason that I have addressed these general matters in my evidence, rather than solely focussing on the changes sought to particular provisions.

### Scope and Extent of Application of PC 19 and Implications for the WPS

- 16 Meridian has lodged a number of submissions that seek to ensure that the important activities associated with the effective operation of the nationally significant WPS can continue and are not unduly constrained by the provisions introduced in PC 19.

- 17 The submission of Meridian raised concerns that there was a lack of clarity and integration within the provisions. This has resulted in it being challenging to determine what outcomes PC19 is seeking and what activities it is intended to enable and control. In particular, concerns were raised in the submission that linkage and integration between the objectives, policies and rules are poor.
- 18 I agree with the points raised in the Meridian submission relating to the lack of clarity and resulting integration issues. When I read PC 19 as notified the linkages between the objectives, the policies and the rules were not clear.
- 19 To illustrate this lack of clarity the only objective notified as part of PC 19 is Objective 8. As notified the only activity that the objective addressed were recreational activities being undertaken on or within the District waterways and riverbeds. The policies (which in accordance with section 75 of the Resource Management Act are to implement the objectives) and the rules (which in accordance with section 75 of the Resource Management Act are to implement the policies) address a range of activities that go significantly wider than recreation. Activities managed include commercial motorised and non-motorised activities and/or craft and non-commercial motorised and non-motorised activities and/or craft. I note that a number of these terms used in PC19 are not defined and therefore I understand their common meaning would apply.
- 20 The categories of activities used in PC19 include:
- 20.1 commercial motorised activities
  - 20.2 non-commercial motorised activities
  - 20.3 commercial non-motorised activities and
  - 20.4 non-commercial non-motorised activities
- 21 The activities listed above are not specific to boats or craft. Given this I cannot think of any activity occurring on or within waterbodies that would not fit into at least one of those categories. This would include any activities and structures associated with the WPS occurring in a lake or river managed through PC19. Mr Feierabend in his evidence lists the types of everyday activities associated with the WPS that this change will capture.
- 22 If implementing the proposed notified objective, then only recreational activities would have been addressed. However, if the objective was set aside then the policies and rules address matters much wider than the notified Objective 8. The consequence of the generic terms and lack of integration between provisions is that it was difficult to understand to what extent Plan Change 19 actually applied to any activities undertaken by Meridian in relation to the WPS.
- 23 This lack clarity as to the extent of PC19 is reinforced when reading explanations to the objective and policies as well as the Section 32 evaluation undertaken. The Section 32 analysis supporting PC19 did not acknowledge or

address the activities or structures associated with the nationally significant Waitaki Power Scheme. As identified within Mr Feierabend's evidence this scheme is a significant feature within a number of the water bodies addressed by PC 19, including Lake Pukaki, Lake Ruataniwha, and Lake Benmore. Given the importance of this scheme and the lack of consideration of it within the Section 32 this could have implied that the provisions were not intended to apply to activities associated with the WPS. However, irrespective of the lack of evaluation, in their notified and current form the provisions do apply to activities associated with the WPS.

- 24 The proposed provisions of PC19 reflect a significant change in direction from the current provisions in the Mackenzie District Plan. In particular for Lake Pukaki it introduces provisions which require avoidance of activities and have rules which result in a number of activities becoming non-complying and even more stringent prohibited activities.
- 25 This includes avoiding motorised activities on Lake Pukaki other than for essential activities (of which activities associated with the WPS are not). Both commercial and non-commercial motorised activities were prohibited activities in accordance with Rule 7A.2.3. This rule would render a number of activities that are essential to the operation of the WPS, including the use of any boat, prohibited activities. In my experience of over 26 years of planning I have come across very few activities that have merited a prohibited activity status. I would expect the section 32 evaluation justifying a prohibited activity status to be comprehensive and consider all of the relevant costs and benefits, particularly when any provisions impact a nationally significant renewable electricity generation scheme.
- 26 Given the inconsistencies in the provisions and the potential implications of them if they did apply to the WPS – Meridian lodged its submission on the basis that PC19 did not only apply to recreation activities as the Objective identified but potentially applied to a wide range of activities undertaken by Meridian in relation to the WPS.
- 27 The extent of the notified scope of PC19 is addressed in the memo prepared for Meridian by John Maassen, Barrister and dated the 15 November 2018. This is attached as Appendix 1 to the evidence of Mr Feierabend.
- 28 The above paragraphs describe the context within which the submission of Meridian was prepared identifies the importance of Plan Change 19 appropriately recognising and enabling the WPS.
- 29 As a planner I found notified PC19 and its resulting Section 32 challenging to determine exactly what the scope and application of PC19 was and as a consequence what the implications of PC19 on the WPS were. My consideration is that while potentially not intended the implications of PC19 on the safe and efficient operation of the WPS are very significant, particularly in relation of activities in and around Lake Pukaki. As notified the rules applying to a range of activities, particularly on Lake Pukaki mean activities associated with the Waitaki Power Scheme are rendered a prohibited activity. The Section 32

contains no justification for such an approach and I consider it would not give effect to the NPSREG or the CRPS.

- 30 I understand from reading the Section 42A report that the intent of PC19 as notified was not to create barriers to the continued operation of the WPS. I accept this was not the intent. However, with any Plan the important matter is not what the intent was, but rather what do the provisions say and how will they be interpreted and applied. It is important that the provisions of PC19 are clear so that irrespective of who is reading or interpreting they are clear in what they require.
- 31 Mr Feierabend has outlined the role and importance of the WPS with respect to generation capacity within New Zealand. The WPS is of national importance consistent with the NPSREG. The continued efficient and effective operation of the WPS is also important to give effect to the objectives and policies of the CRPS relating to electricity generation activities. The relevant provisions of both of these documents are outlined in Appendix 3.
- 32 Given the uncertainty, the potential wide application of PC19 and the implications of PC19 for the WPS, the submissions lodged were extensive and sought to provide for a range of activities associated with the WPS. In addressing these submissions of Meridian the Section 42A report identifies that
- The wider issues relating to how hydro generation activities within the Mackenzie District are provided for in the District Plan are best addressed as part of the full review of the District Plan rather than being dealt with in a piecemeal way. This review would include consideration of whether a special purpose zone should be created, whether the controls should fall within the utilities chapter or whether the controls should be in the Rural zone. On this basis I do not consider it is appropriate to include the requested new policy (item1) or proposed definitions (items 2-5).*
- 33 At a principle level I agree with the Section 42A report author that the wider issues relating to how hydro generation activities are provided for in the District Plan are best addressed as part of a full review of the District Plan rather than being dealt with in a piecemeal way.
- 34 However, the way Mackenzie District Council has chosen to initiate a number of Plan Changes which include provisions that impact on the Waitaki Power Scheme mean that waiting for integrated solution is simply not available to Meridian. So far there have been three Plan Changes notified that have implications for the WPS being PC 13 (landscape matters), PC 18 (indigenous biodiversity) and PC 19 (the current plan change). Plan Changes 18 and 19 are identified as being Stage 1 of the Review of the Mackenzie District Plan.
- 35 Therefore while a wider review may be the best approach to address provisions relating to the WPS until such time as this occurs submitters have no option but to address the provisions put before them in the form of each Plan Change notified..

- 36 I am not aware that there is clarity yet as to how the Mackenzie District Council intends to address the WPS in the District Plan Review, the timing of this, and how the integration of current and future plan provisions will occur. In particular, it is not known whether there will be a specific zone or set of provisions that will provide for activities associated with the WPS or whether provisions within individual chapters will apply. Either way it is uncertain as to what provisions may be "open for submission" with any future plan change.
- 37 On this basis I consider there is no option but to address any provisions within Plan Changes that are notified as if they will apply unless they say otherwise. I consider there is no option available to Meridian, other than to address each plan change as it is notified, and seek that it contains an appropriate suite of provisions relating to the WPS.
- 38 Given the above while I am supportive of some of the recommendations in the Section 42A report. I consider that additional changes are required to ensure that the provisions are clear and as far as they relate to the WPS, they give effect to the Section 7 of the Act the NPSREG and the CRPS. I address these specific provisions in the next section of my evidence.

### **SPECIFIC PROVISIONS**

- 39 While the potential implications of PC19 on the operation of the WPS are significant, I consider that the solution to address the concerns in an appropriate matter is relatively straightforward. I address these below:

#### Objective 8

- 40 Meridian in its submission sought Rural Objective 8 be amended so that is addressed not only recreational activities as notified but was also enabling for the WPS and recognised the potential impacts on other activities on the WPS.

- 41 The provisions sought in the submission are to amend Objective 8 to read:

#### *Rural Objective 8 – Activities on or within Waterbodies*

#### *In relation to activities being undertaken on or within water bodies to ensure that:*

*(a) Recreational activities being undertaken on or within the District waterways and riverbeds in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, the nationally significant Waitaki Power Scheme, recreational values, takata whenua values and general amenity values.*

*(b) The special characteristics and significance of the Waitaki Power Scheme is recognised and provided for.*

- 42 The Section 42A recommends some changes be made to the objective. The changes move the focus of the objective away from solely recreation activities, which is broader than sought by Meridian. The Section 42A report recommends



that the WPS be introduced as a value that could be impacted on. The recommended objective is as follows:

*Rural Objective 8 – Surface of Waterways Activities on or within Waterbodies.*

*Recreational Activities being undertaken on or within the District waterways and riverbeds in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, the Waitaki Power Scheme, recreational values, takata whenua values and general amenity values.*

- 43 While I am supportive of the recommendation to include recognition of the Waitaki Power Scheme as a value that could be impacted on, I consider that objective and explanation should be reworded further. Currently the objective is solely a controlling objective. Given that the provisions of PC 19 are both enabling and controlling I consider both aspects should be incorporated into this objective. Currently the objective does not have an enabling focus.
- 44 I consider that the change in wording I suggest will provide clearer links between the objectives, policies and rules within PC19, which are both enabling and controlling. A relatively minor change could be made to the recommended Section 42A wording which will provide for the enabling activities, but does not focus solely on the enablement the WPS.
- 45 Further while the Section 42A report is recommending changes to the objective broadening the focus from recreation to a wider range of activities and no change is recommended to the explanations. The explanation is therefore not consistent with the recommended changed objective.
- 46 The wording changes I consider to be appropriate to both the objective and the explanation are set out below. The additions I support are in red and bold text.

***Rural Objective 8 –Activities on or within Waterbodies.***

*Recreational Activities being undertaken on or within the District waterways and riverbeds **are enabled** in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, the Waitaki Power Scheme, recreational values, takata whenua values and general amenity values.*

#### **Reasons**

- **There are a range of activities to do, and need to, occur on or within the waterways and riverbeds of the District. These include activities and infrastructure associated with recreation, navigation, public safety and hydro electricity generation activities.**
- **It is appropriate to enable a range of activities in appropriate locations throughout the District in a manner maintains the values associated with the waterbodies and manages adverse effects of activities.**

- There is potential for recreational activities and associated vehicle use to have a number of adverse effects on waterways and riverbeds including:
  - noise
  - reduction in navigational safety
  - conflict with other recreationalists
  - degradation of river, lake and adjoining wildlife habitats
  - increased bank erosion caused by wave action or activity on the banks
  - water contamination from turbidity, exhaust fumes and human effluent
  - litter and other wastes in the area
  - disturbance to wading birds and other wildlife, especially during the breeding season (August to January inclusive)
- It is appropriate in providing for recreation throughout the District that these adverse effects are minimised to enable environmental and recreational quality to be maintained.

#### Policy 8A

- 47 Meridian in its submission did not seek specific changes to Policy 8A. However, it did seek the inclusion of a new policy to recognise and provide for the WPS. The new policy sought was:

*To recognise and provide for the nationally significant renewable energy generation and transmission activities of the Waitaki Power Scheme and the special features of that activity including:*

- a. the need to locate the activity where the renewable energy resource is available;*
- b. logistical or technical practicalities associated with developing, upgrading, operating or maintaining the activity;*
- c. the location of existing structures and infrastructure and provide for its development, operation, maintenance and upgrading.*

- 48 The Section 42A report does not recommend the introduction of a new policy that specifically recognises and provides for the WPS. Rather, there are a number of changes recommended to existing provisions within PC19 in order to recognise activities associated with the WPS, recognise that that electricity generation is a value within waterbodies; and rules providing for some activities associated with the WPS. One such change is recommended to the explanation to Policy 8A.
- 49 The submission of Meridian sought the relief set out, relief of similar effect or alternative relief that addresses the matters of concern. I consider that making amendments to the existing Policy 8A explanation is an alternative means of addressing Meridian's concern that the WPS is not recognised and provided for. I consider that the amendment recommended to the explanation makes it clear that the hydro power production is a value identified within Policy 8A.

- 50 I support the recommendation in the Section 42A report to retain Policy 8A and amend the explanation as follows:

*Rural Policy 8A – Values of Waterbodies*

*To acknowledge the range of values associated with waterbodies within the District and to maintain or enhance those values through management of activities on or within waterbodies*

Amend Explanation to Policy 8A as follows:

- *The District contains nine major rivers, seven notable lakes and numerous other waterbodies many of which are valued for takata whenua values, recreation, habitat, conservation, general amenity and **hydro power production**. The sensitivity of these waterbodies to impacts from recreational use varies considerably and needs to be managed to avoid loss of important natural and cultural values.*

Policy 8B

- 51 Meridian in its submission sought amendments to Policy 8B to recognise the existence of the WPS within Lake Pukaki.
- 52 The submission sought the following amendments to Policy 8B and its explanation:

*Rural Policy 8B – Lake Pukaki*

*To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki and its function in relation to the Waitaki Power scheme by avoiding motorised activities on the Lake other than for essential activities or those associated with the Waitaki Power Scheme.*

*Explanation and Reasons*

- *As for Objective 8*
- *The unique natural and cultural values of Lake Pukaki and its prominent position at the foot of Aoraki are highly valued locally, nationally and internationally. It is very important that these values, which include natural quiet and tranquillity, remoteness, grandeur and wildness, and the experience of these values, are not compromised by motorised boating on the Lake Pukaki.*
- *Lake Pukaki is an essential part of the nationally significant Waitaki Power Scheme. The Lake is actively managed as part of this scheme and there is a range of infrastructure and activities associated with the Waitaki Power Scheme that take place in, on and around Lake Pukaki.*

- 53 The Section 42A report does not recommend any specific changes to Policy 8B in response to the submission of Meridian. The Section 42A report does identify that boating activities associated with the WPS could be provided for by including it within consideration of "essential activities". The Section 42A report considers recognition of the WPS is not necessary in Policy 8B as this policy "*is to do with protecting the experienced natural values of the lake to the extent that they may be compromised by activities on the Lake*" (Section 42A report page 13).
- 54 My concern with Policy 8B as notified is that it sought to avoid all motorised activities on Lake Pukaki (commercial and non-commercial), which in my view equates to "all motorised activities". I note the reference in the policy as notified relates to motorised activities, not craft or boats. However, the focus of the explanation to the policy was on motorised boats. This is another example of the integration problems in provisions in PC19. Given the lack of definition of a motorised activity, I am not confident that it does not cover any activities undertaken on Lake Pukaki that in any way is motorised, this could include hydro generation stations, but it would certainly include boats or barges associated with the WPS. The policy is an 'avoid' policy. This is very strong and clear in its intent. I do not consider the policy as notified gives effect to the CRPS nor the NPSREG with respect to the WPS. The Section 32 provided with PC19 did not contain any justification for such a provision impacting on the WPS activities on or in Lake Pukaki.
- 55 I understand in the Section 42A report that there was concern regarding a commercial hovercraft operation proposed on Lake Pukaki and then wider concerns raised from some parties with respect to other activities that may occur, such as increased boating. In my view I consider that the response in PC19 is significant and disproportionate to any resource management issue identified. The level of consideration and justification provided does not in my view meet a sufficient standard to support an 'avoid' policy and a 'prohibited activity' status. In particular I note that in the Section 42A report it is identified that "*at the time of considering the most appropriate form of management of Lake Pukaki the Council did not have information about the recreational use of the Lake by locals or people from outside the immediate area. It is now clear from the submissions that greater recreational use is made of the Lake than was originally assumed*". I consider this is concerning, even more concerning was that there was no consideration of the type of activities Meridian undertakes on Lake Pukaki.
- 56 The Section 42A report recommends the policy be changed to:

*Rural Policy 8B – Lake Pukaki*

*To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding commercial motorised activities on the Lake ~~other than for essential activities~~ and by restricting non-commercial motorised activities, other than essential activities, to the north and eastern areas of the Lake.*

- 57 While this changes the avoidance focus of the Policy to commercial motorised activities, I remain concerned with the implications of an “avoid” policy should any activities associated with the WPS fall within consideration of a commercial activity.
- 58 In addition to have two further concerns with the policy as recommended.
- 59 The first is that when reading the policy and the values of Lake Pukaki you would have no indication that Lake Pukaki is the largest hydro-storage lake in New Zealand, nor that it is actively managed including raising and lowering to generate electricity, you also would not be aware that there were two hydro stations and a range of other infrastructure within Lake Pukaki. The way it reads is that it is a natural lake which is beautiful and tranquil and not an active part of the largest electricity generation scheme in New Zealand. I do not consider this policy as worded presents an accurate description of Lake Pukaki nor does it adequately respond to the needs or activities of the WPS,
- 60 The second matter I remain concerned with how the policy may be interpreted in the future with respect to activities (non-commercial motorised activities) that are restricted to the north and eastern areas of the Lake. While perhaps unintended, I do not have confidence that this policy will not result or have an unreasonable influence on future activities associated with the WPS that might require a resource consent and consequently require an evaluation of relevant objectives and policies of the District Plan. I am concerned that without the context of the information supporting this Plan Change, including the Section 42A report, and the evidence provided, that non-commercial motorised activities associated with the WPS, if a resource consent is required, will be found inappropriate in the vicinity of much of the key WPS infrastructure (at the southern part of the lake).
- 61 I note that the landscape evaluation forming part of the Section 42A has focussed on recreational boating activities. It does not consider the operational requirements of the WPS in any detail. The Appendix 1 Map in the key shown in blue is reference as “part of lake where motorised surface water craft activities are permitted (prohibited all other areas)”. It is this map that the locational restrictions in Policy 8B appear to be derived from. As I read this reference it is apparent that the landscape assessment is based on motorised surface water craft activities being prohibited everywhere other than the shown blue area. While not evaluated or considered this restriction includes locations key to the operation of the WPS.
- 62 The conclusion in the landscape evaluation is “It would be detrimental to this vista that is enjoyed by many at a local, national and international level if the sublime simplicity of lake and mountain was interrupted by even one motorised surface water craft crossing the lake and diminishing this grandeur. However, in my view there is scope for limited motorised surface water craft use on the lake, but it needs to be very carefully considered and controlled”.
- 63 This conclusion, which has not included any consideration of the operational needs of activities such as the WPS, does not reduce any concern I have with

how Policy 8B may be interpreted going forward and what activities PC19 is intended to apply to.

- 64 I consider that additional changes should be made to Policy 8B and the explanation to that policy to specifically recognise the WPS given its importance within Lake Pukaki. I consider it important that neither 'avoidance' requirements, nor "locational limitations" apply to activities associated with the WPS. The identified change to the policy will also provide a stronger link between Objective 8 and the rules relating to the WPS associated activities.
- 65 I consider appropriate wording to be:

***Rural Policy 8B – Lake Pukaki***

*To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding commercial motorised activities on the Lake ~~other than for essential activities~~ and by restricting non-commercial motorised activities, other than essential activities, to the north and eastern areas of the Lake, **while ensuring that the importance of Lake Pukaki to the Waitaki Power Scheme is recognised and provided for.***

**Explanation and Reasons**

- As for Objective 8
- The unique natural and cultural values of Lake Pukaki and its prominent position at the foot of Aoraki are highly valued locally, nationally and internationally. It is very important that these values, which include natural quiet and tranquillity, remoteness, grandeur and wildness, and the experience of these values, are not compromised by motorised boating on the Lake.
- **Any limitations on activities on Lake Pukaki under Policy 8B do not apply to activities associated with the Waitaki Power Scheme. The policy is clear in that limitations on activities are to be applied in a manner that is consistent with providing for the maintenance, operation, upgrading and development of the Waitaki Power Scheme.**

Policy 8C

- 66 Meridian in its submission sought amendments to Policy 8C relating to commercial activities.
- 67 The submission sought the following amendments to Policy 8C and its explanation:

*Rural Policy 8C – Commercial Activities*

*To avoid, remedy or mitigate the adverse effects of commercial activities, other than any activities associated with the activities of the Waitaki Power Scheme, through assessment by way of resource consent.*

*Explanation and Reasons*

- *As for Objective 8*
- *The potential for greater frequency and intensity of use associated with commercial activities, as compared to non-commercial activities, justifies these activities requiring resource consent. This process enables the Council to assess the impacts (including cumulative impacts) of any proposal on the waterbodies and adjoining land and recognises that it is not possible to anticipate the form and effects of future commercial activities.*
- *A number of the lakes and rivers in the District are an essential part of the nationally significant Waitaki Power Scheme. The waterbodies are actively managed as part of this scheme and there is a range of infrastructure and activities associated with the Waitaki Power Scheme that take place in, on and around these lakes and rivers. Commercial activities associated with the Waitaki Power Scheme are not managed through this policy.*
- *It is considered unreasonable and impractical to subject non-commercial activities to control except where special values of a waterbody and its surrounds justify control or prohibition.*

- 68 The concern raised in the submission relates to what are commercial activities. Given the broad definition of commercial activities and the policy implications and activity status that results from being a commercial activity the application of the definition is critical. The activities associated with the WPS undertaken by Meridian may not be considered as commercial by the reporting officer. I am not confident that the definition is clear enough to ensure that activities associated with the WPS undertaken by Meridian or its consultants and sub-contractors are not commercial activities.
- 69 Meridian is a commercial electricity generator. It sells the electricity it generates from the WPS. While it may not be intended to apply to activities of the WPS given the "avoid" policy and the "prohibited activity status" applying to commercial motorised activities it is important that it is certain that activities associated with the WPS are not captured. In addition to the activities undertaken by Meridian directly there are a number of activities undertaken on in Lake Pukaki sub-contractors and consultants. These activities may also be considered commercial. These parties are providing a commercial service to Meridian, in undertaking their work they are offering a paid service, and these activities may occur on Lake Pukaki. As such these activities would be inadvertently captured by the Policy and subsequent rule. The policy requires commercial activities to be managed by way of resource consent which would not enable any of these activities to be considered as permitted activities.
- 70 The Section 42A report has identified that the author considers "that it is unlikely that people would equate the operation of a major hydro power scheme within the Mackenzie District to be a commercial activity. On this basis it is considered unnecessary to alter this policy as requested".
- 71 As addressed in the general section of my evidence, it is not what is intended in the Plan provisions that are important; rather it is how the provisions are written and interpreted that is key.

- 72 Policy 8C as recommended to be changed in the Section 42A report, is in my view more stringent for commercial activities on Lake Pukaki than the notified version. The recommended Policy 8C is:

*To avoid, remedy or mitigate the adverse effects of commercial activities through assessment by way of resource consent, except for commercial activities on Lake Pukaki which are prohibited.*

- 73 This policy makes it clear that commercial activities on Lake Pukaki are prohibited. This is a very strong policy approach and means that any activity that is commercial cannot take place in any circumstances. Therefore wherever there is any single part of the activities undertaken associated with the WPS either by Meridian or its subcontractors that would fit into the definition of a commercial activity the activity would be prohibited by virtue of this policy. While it may be unlikely that activities of Meridian and/or its sub-contractors are commercial activities that were intended to be captured by PC19, given the prohibited activity status, I consider the risk of being wrong in this interpretation is too great.
- 74 If the intention is not to control activities associated with the WPS as a commercial activity then given the significance of the policy direction, the most appropriate approach is to be clear that Policy 8C does not apply to activities associated with the WPS. This makes it explicit and provides no opportunity to the intent of the provisions to be misapplied and misinterpreted. I consider the consequences of providing clarity would give effect to the NPSREG and the CRPS.
- 75 I consider that additional changes should be made to Objective 8C and the explanation to that policy to specifically exclude any activities associated with the WPS.
- 76 I consider appropriate wording to be:

***Rural Policy 8C – Commercial Activities***

To avoid, remedy or mitigate the adverse effects of commercial activities through assessment by way of resource consent, except for commercial activities on Lake Pukaki which are prohibited. **This Policy does not apply to activities associated with the Waitaki Power Scheme**

Explanation and Reasons

- As for Objective 8
- The potential for greater frequency and intensity of use associated with commercial activities, as compared to non-commercial activities, justifies these activities requiring resource consent. This process enables the Council to assess the impacts (including cumulative impacts) of any proposal on the waterbodies and adjoining land and recognises that it is not possible to anticipate the form and effects of future commercial activities.
- **A number of the lakes and rivers in the District are an essential part of the nationally significant Waitaki Power Scheme. The waterbodies are**



**actively managed as part of this scheme and there is a range of infrastructure and activities associated with the Waitaki Power Scheme that take place in, on and around these lakes and rivers. Commercial activities associated with the Waitaki Power Scheme are not managed through this policy.**

- It is considered unreasonable and impractical to subject non-commercial activities to control except where special values of a waterbody and its surrounds justify control or prohibition.

Policy Navigation

- 77 Meridian lodged a number of submissions addressing Policy 8G Regulations and Rules 7A.1, 7A 1.2, 7A 1.3, 7A 2.1 and 7A.2.2. The submissions sought additional provisions relating to navigational safety matters be included within the provisions of PC19.
- 78 The Section 42A report author has addressed these submissions in Section 11 of the report. The recommendation is that the submission be rejected as the matters relating to navigational safety are the responsibility of the Regional Council.
- 79 I concur with the Section 42A report that the references to the existing regulations and bylaws are sufficient. I consider that Policy 8G is effectively and advocacy policy to the Regional Council. I do not consider changes sought in the submissions to the policy and insertion of new rules relating to managing navigational safety matters are necessary. I have not identified any changes to Policy 8G and Rules 7A.1, 7A 1.2, 7A 1.3, 7A 2.1 and 7A.2.2 in relation to navigational safety matters.

Rules

- 80 Meridian lodged a number of submissions addressing rules within PC19 and also seeking additional rules which would provide for a range of activities associated with the WPS. Linked with this was a submission seeking Policy 8F relating to structures be deleted.
- 81 These submissions seek that the use of motorised and non-motorised craft relating to the operation, maintenance, upgrading and development of the Waitaki Power Scheme be provided for as permitted activities on and within Lake Pukaki (Rule 7A.2.1) and within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers (Rule 7A1.1). In addition it sought consequential changes so that activities that were not permitted activities not be classified as prohibited activities. The submissions also sought changes to the provisions relating to structures to provide for activities associated with the WPS within the Waitaki Power Scheme Management Area.
- 82 The range of submissions on the rules and relating to structures sought to avoid the situation where provisions in PC19 rendered activities associated with the WPS a prohibited activity, or controlled activities that were not intended to be controlled under these provisions.

- 83 The Section 42A report has recommended that changes be made to some of the rules to provide for motorised and non-motorised craft associated with the WPS as permitted activities. I do support these changes. However, the Section 42A report as addressed earlier in my evidence has considered that other provisions addressing wider activities associated with the WPS should be addressed as part of the District Plan review and not associated with PC19 and has not recommended any changes with respect to these wider activities.
- 84 I do agree that PC19 is not the best place to address the wider activities associated with the WPS. However, as identified earlier unfortunately, due to the nature of the provisions notified there is the risk that the provisions in PC19 have more significant implications on the activities associated with the WPS than were likely intended. On this basis I remain of the view that more changes are needed than are recommended in the Section 42A report.
- 85 As the Section 42A report author has identified currently the key provisions managing activities associated with the WPS are contained in Schedule A to Section 7 – Rural Zone. The rules in Schedule A of the Plan currently apply in addition to any rules in PC19. As with any situation with rules it is those rules that are the most stringent that is determinant of activity status for any proposal.
- 86 It is understood that at some future time the provisions in Schedule A will likely be reviewed. What is unknown is when this will occur and what approach will be applied to activities associated with the WPS. Given this uncertainty I do not consider it is appropriate to effectively set aside any provisions in PC19 as not being relevant or not applying to any activities associated with the WPS. The objectives, policies and rules that are part of PC19 may not be 'opened up' again for submission when any provisions relating to the WPS are notified. This view is reinforced in Mr Maassen's memo previously referenced.
- 87 In my view the most appropriate approach to take at this time is for PC19 to effectively be neutral to activities associated with the WPS, for example not requiring new resource consents for any activities not already controlled by other provisions in the Plan.
- 88 If this occurs, then at the time any other provisions relating to the WPS (such as Schedule A) are reviewed and publicly notified if it is determined that some of the rules now included as part of PC19 require amendment (as they relate to the WPS) these rules could be included within scope of any public notification. Undertaking the review in this way provides an appropriate level of security for Meridian that the status quo effectively remains relating to the WPS, but ensures that PC19 does not result in an inappropriate level of control relating to activities in or on waterbodies should any future review not introduce WPS specific provisions, but rely on other provisions.
- 89 I consider that there is a simple change that can be made to the rules that will achieve this outcome. The changes recommended are to change the reference in Rules 7A.1.1d and 7A.2.1.d as recommended in the Section 42A report from "craft" to "activities". If these provisions are changed then I do not consider it

is necessary to delete Policy 8f and the related rules, nor is it necessary to introduce other rules into the provisions. The provisions I support are:

*Section 7 - Rural Zone Rules new Clause 7A - Activities on or Within Waterbodies*

**7A ACTIVITIES ON OR WITHIN WATERBODIES**

**7A.1 Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers**

**7A.1.1 Permitted Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers**

**7A.1.1.a Use of motorised and non-motorised craft for search and rescue, defence, civil emergency, scientific research and monitoring and pest control purposes where the activity is an enactment of a statutory responsibility.**

**7A.1.1.b Non-commercial motorised and non-motorised activities**

**7A.1.1.c Craft on the surface of waterways used for accommodation where all effluent is contained on board the craft.**

**7A.1.1.d ~~Use of~~ motorised and non-motorised **craft activities** related to the operation, maintenance, upgrading and development of the Waitaki Power Scheme**

**7A.2 Activities on or within Lake Pukaki**

**7A.2.1 Permitted Activities on or within Lake Pukaki**

**7A.2.1.a Use of motorised and non-motorised craft for search and rescue, defence, civil emergency, scientific research and monitoring and pest control purposes where the activity is an enactment of a statutory responsibility.**

**7A.2.1.b Non-commercial non-motorised activities**

**7A.2.1.c Non-commercial motorised activities within the area identified as "Non-commercial motorised activity area" on the Planning Maps**

**7A.2.1.d Motorised and non-motorised **craft activities** related to the operation, maintenance, upgrading and development of the Waitaki Power Scheme.**

**CONCLUSIONS**

90 Overall it is my conclusion that the PC19 provisions should be changed to:

90.1 Amend Objective 8, Policies 8B, 8C and the subsequent explanation be changed to ensure that appropriate recognition is provided to renewable electricity generation activities associated with the WPS, so that the

NPSREG and CRPS are given effect to. In particular the changes I recommend:

- (a) Incorporate recognition that the WPS exists within the environment, particularly Lake Pukaki and that the WPS be appropriately recognised and provided for.
- (b) ensure that activities associated with the WPS are not subject to any policies that seek to "avoid" activities.
- (c) Provide clear links between the objective, policies and rules.

90.2 The explanation to Policy 8A should be changed to recognise the WPS.

90.3 Amend the rules to provide for activities associated with the WPS as permitted activities with respect to the range of activities controlled by PC19.

90.4 The evaluation in my evidence shows how the changes to provisions I am supporting give effect to the NPSREG, and CRPS as they relate to renewable electricity generation activities. I note that the CRPS does not include provisions relating to the activities on the surface of water (as this is a District Council function). Therefore there is nothing of particular relevance in the CRPS relating to controlling or managing activities in or on water bodies.

90.5 I consider that the change I support to the objective is the most appropriate way to achieve the purpose of the Act. I consider the changes I support to the policies, rules and other provisions are the most appropriate way to achieve the objectives.

Dated: 20 November 2018



Jane Whyte

## APPENDIX 1 – PROVISIONS SOUGHT TO BE FURTHER AMENDED

Changes recommended in my evidence are set out below shown in red text and bold and underlined. The provisions amended are those in the Section 42A report – Appendix G rather than PC19 as notified.

### **Rural Objective 8 – Activities on or within Waterbodies.**

*Recreational Activities being undertaken on or within the District waterways and riverbeds **are enabled** in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, the Waitaki Power Scheme, recreational values, takata whenua values and general amenity values.*

#### **Reasons**

- **There are a range of activities to do, and need to, occur on or within the waterways and riverbeds of the District. These include activities and infrastructure associated with recreation, navigation, public safety and hydro electricity generation activities.**
- **It is appropriate to enable a range of activities in appropriate locations throughout the District in a manner maintains the values associated with the waterbodies and manages adverse effects of activities.**
- There is potential for recreational activities and associated vehicle use to have a number of adverse effects on waterways and riverbeds including:
  - noise
  - reduction in navigational safety
  - conflict with other recreationalists
  - degradation of river, lake and adjoining wildlife habitats
  - increased bank erosion caused by wave action or activity on the banks
  - water contamination from turbidity, exhaust fumes and human effluent
  - litter and other wastes in the area
  - disturbance to wading birds and other wildlife, especially during the breeding season (August to January inclusive)
- It is appropriate in providing for recreation throughout the District that these adverse effects are minimised to enable environmental and recreational quality to be maintained.

### **Rural Policy 8A – Values of Waterbodies**

*To acknowledge the range of values associated with waterbodies within the District and to maintain or enhance those values through management of activities on or within waterbodies*

Explanation to Policy 8A:

- *The District contains nine major rivers, seven notable lakes and numerous other waterbodies many of which are valued for takata whenua values, recreation, habitat, conservation, general amenity and **hydro power production**. The sensitivity of these waterbodies to impacts from recreational use varies*

considerably and needs to be managed to avoid loss of important natural and cultural values.

### **Rural Policy 8B – Lake Pukaki**

~~To~~ protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding commercial motorised activities on the Lake other than for essential activities and by restricting non-commercial motorised activities, other than essential activities, to the north and eastern areas of the Lake, **while ensuring that the importance of Lake Pukaki to the Waitaki Power Scheme is recognised and provided for.**

#### **Explanation and Reasons**

- As for Objective 8
- The unique natural and cultural values of Lake Pukaki and its prominent position at the foot of Aoraki are highly valued locally, nationally and internationally. It is very important that these values, which include natural quiet and tranquillity, remoteness, grandeur and wildness, and the experience of these values, are not compromised by motorised boating on the Lake.
- **Any limitations on activities on Lake Pukaki under Policy 8B do not apply to activities associated with the Waitaki Power Scheme. The policy is clear in that limitations on activities are to be applied in a manner that is consistent with providing for the maintenance, operation, upgrading and development of the Waitaki Power Scheme.**

### **Rural Policy 8C – Commercial Activities**

To avoid, remedy or mitigate the adverse effects of commercial activities through assessment by way of resource consent, except for commercial activities on Lake Pukaki which are prohibited. **This Policy does not apply to activities associated with the Waitaki Power Scheme**

#### **Explanation and Reasons**

- As for Objective 8
- The potential for greater frequency and intensity of use associated with commercial activities, as compared to non-commercial activities, justifies these activities requiring resource consent. This process enables the Council to assess the impacts (including cumulative impacts) of any proposal on the waterbodies and adjoining land and recognises that it is not possible to anticipate the form and effects of future commercial activities.
- **A number of the lakes and rivers in the District are an essential part of the nationally significant Waitaki Power Scheme. The waterbodies are actively managed as part of this scheme and there is a range of infrastructure and activities associated with the Waitaki Power Scheme that take place in, on and around these lakes and rivers. Commercial activities associated with the Waitaki Power Scheme are not managed through this policy.**

- It is considered unreasonable and impractical to subject non-commercial activities to control except where special values of a waterbody and its surrounds justify control or prohibition.

## **Section 7 - Rural Zone Rules new Clause 7A - Activities on or Within Waterbodies**

### **7A ACTIVITIES ON OR WITHIN WATERBODIES**

#### **7A.1 Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers**

##### **7A.1.1 Permitted Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers**

7A.1.1.a Use of motorised and non-motorised craft for search and rescue, defence, civil emergency, scientific research and monitoring and pest control purposes where the activity is an enactment of a statutory responsibility.

7A.1.1.b Non-commercial motorised and non-motorised activities

7A.1.1.c Craft on the surface of waterways used for accommodation where all effluent is contained on board the craft.

7A.1.1.d ~~Use of~~ motorised and non-motorised **craft activities** related to the operation, maintenance, upgrading and development of the Waitaki Power Scheme

#### **7A.2 Activities on or within Lake Pukaki**

##### **7A.2.1 Permitted Activities on or within Lake Pukaki**

7A.2.1.a Use of motorised and non-motorised craft for search and rescue, defence, civil emergency, scientific research and monitoring and pest control purposes where the activity is an enactment of a statutory responsibility.

7A.2.1.b Non-commercial non-motorised activities

7A.2.1.c Non-commercial motorised activities within the area identified as "Non-commercial motorised activity area" on the Planning Maps

7A.2.1.d Motorised and non-motorised **craft activities** related to the operation, maintenance, upgrading and development of the Waitaki Power Scheme.

## **APPENDIX 2 – SECTION 32 CONSIDERATION**

The provisions evaluated in this appendix are:

1. Objective 8 and Policies 8B and 8C
  - a. wording proposed in evidence of Meridian
  - b. wording in Proposed PC 19.
2. Activity Status for activities associated with WPS
  - a. Activity Status in evidence of Meridian.
  - b. Activity Status in Proposed Plan.

For Objective 8 the evaluation examines the extent to which the objective being evaluated is the most appropriate way to achieve the purpose of the Resource Management Act.

I have considered both the enabling and controlling aspects of the Purpose of the Act. Controlling aspects considered relate to the matters contained in Section 5(2)(a), Section 5(2)(b) and Section 5(2)(c) of the Resource Management Act. I have considered enabling matters to be those addressing social, economic and cultural wellbeing and health and safety.

I recognise that the Section 32 evaluation I have provided is not comprehensive in that it does not consider the provisions of PC19 in the context of the entire Plan. For example I have not evaluated the provisions relative to every objective within the existing District Plan. My consideration within this Appendix focuses on the provisions where I support amendments in my evidence. In preparing my evidence I have considered the current objectives in the Mackenzie District Plan.

For the policies and rules the evaluation addresses the notified provisions and the provisions I have supported in my evidence. I have considered and examined whether having regard their effectiveness and efficiency which is the most appropriate method for achieving the Mackenzie District Plan objectives.

In considering the efficiency of each option, regard is had to the benefits and costs of the effects that are anticipated from the implementation of that option.

The risk of acting/not activity has also been considered where there is uncertain or insufficient information.

The level of detail of this evaluation corresponds to the scale and significance of the changes.

The evaluation provided should be considered in addition to, and in conjunction with, the reasons for provisions I have provided in my evidence.



## Objective 8 Evaluation

	Objective 8 as Notified	Objective 8 - Meridian
Objective Wording	<i>Recreational Activities being undertaken on or within the District waterways and riverbeds in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, recreational values, takata whenua values and general amenity values.</i>	<i>Recreational Activities being undertaken on or within the District waterways and riverbeds <b>are enabled</b> in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, <u>the Waitaki Power Scheme</u>, recreational values, takata whenua values and general amenity values.</i>
Controlling Aspects of the Purpose of the Act	<p>The objective focusses on recreation activities. It does seek to allow for recreational activities using the natural and physical resources of the District waterways and riverbeds while managing the effects of recreational activities. In doing this it is seeking to provide access to those resources for future generations. The objective seeks to manage effects on some of the identified values that exist within the District waterways and riverbeds.</p> <p>It has not been identified that recreation activities negatively impact on life-supporting capacity.</p> <p>The objective focuses on avoiding, remedying or mitigating adverse effects of activities on the environment.</p>	<p>The objective has a focus wider than recreational activities. It seeks to focus on sustaining the potential of natural and physical resources of waterways and riverbeds to meet the reasonably foreseeable needs of future generations. The recognition of future generations includes consideration of the natural resources within the environment, but also the physical resources of the Waitaki Power Scheme which is important in providing for electricity requirements for current and future generations.</p> <p>It has not been identified that the activities addressed in this objective negatively impact on life-supporting capacity.</p> <p>The objective focuses on avoiding, remedying or mitigating adverse effects of activities on the environment, including the nationally significant Waitaki Power Scheme.</p>

<p>Enabling Aspects of the Purpose of the Act</p>	<p>The objective focusses on the controlling aspects relating to recreational activities.</p> <p>It is recognised that recreational activities can contribute to social wellbeing. In addition seeking to manage effects on the values identified does seek to provide for social wellbeing through maintaining the amenity characteristics and qualities of the water bodies that people appreciate and enjoy.</p> <p>The objective through its focus on recreational activities does not focus significantly on economic wellbeing.</p> <p>The objective recognises takata whenua values, and as such provides some consideration for matters relevant to cultural wellbeing.</p> <p>Public health and safety is identified as a matter within the objective.</p>	<p>The objective seeks to enable a range of activities that can occur in a manner that does seek to provide for social wellbeing through maintaining the amenity characteristics and qualities of the water bodies that people appreciate and enjoy.</p> <p>The objective through recognising the Waitaki Hydro Power Station does seek provide for economic wellbeing. The continued maintenance and operation of the Waitaki Hydro Power Station is important to providing for the economic wellbeing of New Zealand.</p> <p>The objective recognises takata whenua values, and as such provides some consideration for matters relevant to cultural wellbeing.</p> <p>Public health and safety is identified as a matter within the objective.</p>
<p>Conclusion</p>	<p>Based on the matters considered the objective does not recognise the full range of values associated with waterways and riverbeds given its focus on recreation activities and the lack of recognition for the Waitaki Power Scheme which is a key feature on and within many of the waterways riverbeds within the Mackenzie District.</p>	<p>Based on the matters considered the objective sought by Meridian is considered to be the most appropriate way to achieve the purpose of the Act.</p> <p>It focusses on a wider range of values than recreational activities.</p>

## Policies and Rules Evaluation

### Table of Effectiveness

The objectives evaluated are those as notified in the PC19 and recommended in the evidence of Meridian.

<b>Objective</b>	<b>Efficiency and Effectiveness</b>
<p><i>Notified Objective</i></p> <p><i>Recreational Activities being undertaken on or within the District waterways and riverbeds in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, recreational values, takata whenua values and general amenity values.</i></p>	<p>The provisions of Plan Change 19 address a range of activities, other than recreational activities.</p> <p>The activities that the rules address include commercial motorised and non-commercial motorised activities. They also provide for emergency related activities, such as search and rescue and similar activities. These are broader than the recreational matters addressed by the objective. The policies and rules, particularly as they relate to Lake Pukaki introduce a highly regulated environment for these activities. As notified Commercial and non-commercial motorised activities are to be “avoided” in accordance with the policy framework and are subject to a prohibited activity status in the rules.</p> <p>The activity status of activities on other waterbodies is less stringent that applies to Lake Pukaki.</p> <p>Effectiveness: Low (due to policies and rules addressing wider range of provisions than the objective)</p>
<p><i>Recreational Activities being undertaken on or within the District</i></p>	<p>The range of activities managed in the policies and rules are consistent</p>

waterways and riverbeds **are enabled** in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, the Waitaki Power Scheme, recreational values, takata whenua values and general amenity values.

with the objective which enables a range of activities.

The activities that the rules address include commercial motorised and non-commercial motorised activities and specifically address activities associated with the operation of the Waitaki Power Scheme. They also provide for emergency related activities, such as search and rescue and similar activities.

The activities addressed in the rules do address the activities addressed in the Objective.

The policies and rules recognise the Waitaki Power Scheme is an important activity occurring on and in the waterbodies of the District, including the lakes and rivers. The provisions seek to ensure that an inappropriate level of control is not exerted on activities associated with the Waitaki Power Scheme, resulting in any activities not being able to continue through the existence of an "avoid" policy or prohibited activity status. The activity status provided by activities associated with the Waitaki Power Scheme is permitted. This means that the provisions of PC19 do not result in any additional resource consent requirements over the current Mackenzie District Plan.

Apart from how they relate to the activities of the Waitaki Power Scheme the policies and rules, particularly as they relate to Lake Pukaki introduce a highly regulated environment for these activities. As notified Commercial and non-commercial motorised activities are to be "avoided" in accordance with the policy framework and are subject to a prohibited activity status in the rules. It is not identified that the focus in the rules on prohibited activities, and non-complying activities are

	<p>needed to provide for the range of values identified in the Policy</p> <p>The activity status of activities on other waterbodies is less stringent that applies to Lake Pukaki, but still imposes greater controls than are within the current plan.</p> <p>Effectiveness: Moderate to Low (Moderate in relation to the WPS provisions).</p>
<b>Overall Consideration</b>	<p>The overall consideration is that the provisions sought by Meridian provide some recognition of the national importance of the Waitaki Power Scheme and its role as an enabler of wellbeing with the District. As such it is considered that this option has a higher level of effectiveness and efficiency to achieve the objective.</p>

### Benefits and Costs

Determining the most efficient option means to determine the option resulting in the greatest benefit with the least cost. The costs and benefits for both options are considered below.

		<b>Notified Provisions</b>	<b>Meridian Provisions</b>
Environmental	Benefits		
	Costs	Prohibited activities would include boating	Activities necessary for the operation of adjacent

		<p>activities that would include undertaking evaluations of dam safety matters and lakeshore and infrastructure monitoring and implementing control measures.</p> <p>Activities necessary for the operation of adjacent activities, such as farming, weed control on the lake may be restricted.</p>	<p>activities, such as farming, weed control on the lake may be restricted.</p>
Economic	Benefits	<p>There is no certainty to any party about the Waitaki Power Scheme continuation.</p>	<p>Provides greater certainty to hydroelectricity generators and the community about continuation of the Waitaki Power Scheme for energy generation.</p>
	Costs	<p>Activities associated with the continuation of the Waitaki Power Scheme could be a prohibited activity. This provides significant uncertainty to the continued operation of the nationally significant Waitaki Power Scheme.</p> <p>Limits the opportunities for commercial activities to occur on or in Lake Pukaki.</p>	<p>Limits the opportunities for commercial activities to occur on or in Lake Pukaki.</p>
Social	Benefits	<p>Restricts boating activities, particularly on Lake Pukaki. Potentially provides some benefit to people who do not support boating activities.</p>	<p>Restricts boating activities, particularly on Lake Pukaki. Potentially provides some benefit to people who do not support boating activities.</p> <p>Recognises the national significance of the hydro-electricity generation assets of the WPS.</p>

			It recognises the contribution that renewable electricity generation makes to the health and wellbeing of the nation and region.
	Costs	Undermines confidence in the continuation of the safe and efficient electricity generation associated with the Waitaki Power Scheme.	Restricts boating activities, particularly on Lake Pukaki. Limits the opportunity for current and future generations in relation to undertaking a range of activities on all of the Districts waterbodies, particularly Lake Pukaki.
Cultural	Benefits	No difference identified	No difference identified
	Costs	No difference identified	No difference identified
Overall Consideration	It is considered that the provisions as notified impose a significant level of social and economic costs without resulting benefits.		

### **Uncertain or Insufficient Information**

It is not considered that there is uncertain or insufficient information with respect to the Waitaki Power Scheme. It is a long established activity and both its effects and benefits have been well document over a number of years.

### **Conclusion**

On the basis of the evaluation undertaken, it is considered that the provisions sought by Meridian will be the most efficient and effective in achieving the relevant objective in the Mackenzie District Plan.

### APPENDIX 3 – PROVISIONS OF RELEVANCE IN RELATION TO WPS

This appendix provides the text of the provisions of the NPSREG and CRPS referred to in this evidence.

- 1 The NPSREG - Objective which is:

*To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation.*

- 2 NPSREG Policy B. Acknowledging the practical implications of achieving New Zealand's target for electricity generation from renewable resources which is:

*POLICY B Decision-makers shall have particular regard to the following matters:*

- a) maintenance of the generation output of existing renewable electricity generation activities can require protection of the assets, operational capacity and continued availability of the renewable energy resource; and*
- b) even minor reductions in the generation output of existing renewable electricity generation activities can cumulatively have significant adverse effects on national, regional and local renewable electricity generation output; and*
- c) meeting or exceeding the New Zealand Government's national target for the generation of electricity from renewable resources will require the significant development of renewable electricity generation activities.*

- 3 NPSREG Policy C. Acknowledging the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities Policy C1 which is:

*Decision-makers shall have particular regard to the following matters:*

- a) the need to locate the renewable electricity generation activity where the renewable energy resource is available;*
- b) logistical or technical practicalities associated with developing, upgrading, operating or maintaining the renewable electricity generation activity;*
- c) the location of existing structures and infrastructure including, but not limited to, roads, navigation and telecommunication structures and facilities, the distribution network and the national grid in relation to the renewable electricity generation activity, and the need to connect renewable electricity generation activity to the national grid; National Policy Statement for Renewable Electricity Generation 2011 6*
- d) designing measures which allow operational requirements to complement and provide for mitigation opportunities; and*
- e) adaptive management measures.*

- 4 NPSREG Policy D. Managing reverse sensitivity effects on renewable electricity generation activities. Policy D is:

Decision-makers shall, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities.



- 5 NPSREG Policy E. Incorporating provision for renewable electricity generation activities into regional policy statements and regional and district plans. Policy E2 Hydro-electricity resources which is:

*POLICY E2 Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities to the extent applicable to the region or district*

- 6 NPSREG Policy G. Enabling identification of renewable electricity generation possibilities. Policy G is:

*Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation by existing and prospective generators.*

- 7 CRPS Objective 16.2.1 Efficient use of energy which is:

*Development is located and designed to enable the efficient use of energy, including:*

1. *maintaining an urban form that shortens trip distances*
2. *planning for efficient transport, including freight*
3. *encouraging energy-efficient urban design principles*
4. *reduction of energy waste*
5. *avoiding impacts on the ability to operate energy infrastructure efficiently.*

- 8 CRPS Objective 16.2.2 Promote a diverse and secure supply of energy

*Reliable and resilient generation and supply of energy for the region, and wider contributions beyond Canterbury, with a particular emphasis on renewable energy, which:*

1. *provides for the appropriate use of the region's renewable resources to generate energy;*
2. *reduces dependency on fossil fuels;*
3. *improves the efficient end-use of energy;*
4. *minimises transmission losses;*
5. *is diverse in the location, type and scale of renewable energy development;*
6. *recognises the locational constraints in the development of renewable electricity generation activities; and*
  - (a) *avoids any adverse effects on significant natural and physical resources and cultural values or where this is not practicable, remedies or mitigates; and*
  - (b) *appropriately controls other adverse effects on the environment*

- 9 CRPS Policy 16.3.3 Benefits of renewable energy generation facilities which is:

*To recognise and provide for the local, regional and national benefits when considering proposed or existing renewable energy generation facilities, having particular regard to the following:*

1. *maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;*
2. *maintaining or increasing the security of supply at local and regional levels, and also wider contributions beyond Canterbury; by diversifying the type and/or location of electricity generation;*
3. *using renewable natural resources rather than finite resources;*
4. *the reversibility of the adverse effects on the environment of some renewable electricity generation facilities;*
5. *avoiding reliance on imported fuels for the purposes of generating electricity; and*
6. *assisting in meeting international climate obligations.*

- 10 CRPS Policy 16.3.5 Efficient, reliable and resilient electricity generation within Canterbury which is:

*To recognise and provide for efficient, reliable and resilient electricity generation within Canterbury by:*

1. *avoiding subdivision, use and development which limits the generation capacity from existing or consented electricity generation infrastructure to be used, upgraded or maintained;*
2. *enabling the upgrade of existing, or development of new electricity generation infrastructure, with a particular emphasis on encouraging the operation, maintenance and upgrade of renewable electricity generation activities and associated infrastructure:*
  - (a) *having particular regard to the locational, functional, operational or technical constraints that result in renewable electricity generation activities being located or designed in the manner proposed;*
  - (b) *provided that, as a result of site, design and method selection:*
    - (i) *the adverse effects on significant natural and physical resources or cultural values are avoided, or where this is not practicable remedied, mitigated or offset; and*
    - (ii) *other adverse effects on the environment are appropriately controlled.*
3. *providing for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation;*
4. *maintaining the generation output and enabling the maximum electricity supply benefit to be obtained from the existing electricity generation facilities within Canterbury, where this can be achieved without resulting in additional significant adverse effects on the environment which are not fully offset or compensated.*