IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF applications by **TrustPower Limited** to the Westland District Council and West Coast Regional Council for resource consents to operate and maintain the Kaniere Forks Hydro-Electric Power Scheme, and enhance, construct, operate and maintain the McKays Creek Hydro-Electric Power Scheme

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Statement of Evidence of Matthew William Bonis

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Contents

INTRODUCTION

1. My full name is Matthew William Bonis. I am an Associate of Planit Associates, a town planning consultancy based in Christchurch. I hold a Bachelor of Resource and Environmental Planning Degree with Honours from Massey University. I am a Full Member of the New Zealand Planning Institute, and a Ministry for the Environment Accredited Resource Management Act Commissioner.

2. I have been employed in the planning and resource management sector for 16 years both in New Zealand and the UK. During this time I have been involved in a number of energy and infrastructure projects, including the following:

    - Energy sector applications, including renewable energy developments (Highbank – Rakaia, and Arnold – Greymouth);
    - Infrastructure projects (AMI Stadium Christchurch, Inland Distribution Hub Lyttelton Port Company); and
    - Drafting planning documents, including Energy Sector provisions (Canterbury Regional Council – Proposed Regional Policy Statement, Chapter 16 Energy).

3. I have visited the existing HEPS infrastructure, Kaniere River water race, Lake Kaniere and the surrounding area to which this evidence relates several times.

4. Although this is a local authority hearing, I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

5. I have been involved in the proposals for re-consenting of the Kaniere Forks Hydro-Electric Power Scheme ('**HEPS**') and McKays Creek HEPS (and enhancement) since 2009. The application and the associated Assessment of Environmental Effects ('**AEE**') for the Scheme were subsequently lodged with the Westland District Council ('**WDC**') and West Coast Regional Council ('**WCRC**') in November 2010.

6. In preparing this statement I have reviewed:

    - the application documents, including responses to further information requests;
    - the applicant's evidence;

- the regional and district plans that have a bearing on the Consent Authorities decision;
- submissions made on the applications; and
- the joint section 42A Officer's Report ('**s42A Report**').

7. In preparing my evidence I have read and rely on the evidence of TrustPower witnesses.

SCOPE OF EVIDENCE

8. My evidence covers the following matters:

Planning Summary – Key conclusions/summary of planning assessment;

Part A – Resource consents required and activity status;

Part B – Statutory context and analysis;

- s.104D Assessment of a non-complying activity;
- s.104 Consideration of applications;
  - s.104(1)(a) Consideration of effects;
  - s.104(1)(b) Relevant planning documents;
  - s.104(1)(c) Other relevant matters;
- s.104(2A) Value of Existing Investment
- s.105 and s.107
- Part 2 matters.

Part C – Submissions;

Part D – The s42A Report;

Part E - Conditions; and

Part F – Conclusions.

SUMMARY – KEY CONCLUSIONS/SUMMARY OF PLANNING ASSESSMENT

9. As part of the re-consenting process, TrustPower wishes to enhance for efficiency purposes, the McKays Creek HEPS for which consent is sought from the WCRC and WDC. Consent is also sought from the WCRC with regard to the continued operation and maintenance of the Kaniere Forks HEPS. Collectively, I will refer to both schemes as the '(**Scheme**)' or '(**HEPS**)'.

10. Mr Shelton has provided a comprehensive project description, which includes the following key changes:

- An increased take from Lake Kaniere of up to 8 cumecs;
- Existing abstraction to the Kaniere race maintained at 1 cumec;
- Abstraction for the McKays Race (at McKays weir) is to be increased from 5 cumecs to 8 cumecs, which also involves modifications to the Lake Kaniere outlet to increase overall water levels in the Kaniere River, with an additional 2 cumecs able to be released to the Kaniere River for use in the McKays Creek HEPS;
- The combined take for Kaniere and McKays not exceeding 8 cumecs;
- Improvements to the McKays race through deepening, heightening and widening, including seeking consent for the option of providing for a 9 cumec McKays tunnel deviation;
- Increase the McKay Creek Power station capacity from 6 cumecs to 9 cumecs (inclusive of the 1 cumec diverted from Blue Bottle Creek).

11. In summary, I conclude that:

- The McKays Creek HEPS application is to be assessed as a **non-complying** activity under the Westland District Plan ('**WDP**'). The proposal is consistent the effects anticipated within the Rural policy unit, and also with more specific policy relating to natural resources. I am of the view that the Scheme is 'not contrary' to this '*relevant plan*' pursuant to s104D, and the consent authority has the jurisdiction to consider the applications under s.104.
- The various land use and discharge applications for the Scheme (that is the McKays Creek and Kaniere Forks HEPS's respectively) are to be assessed as

discretionary activities (restricted and unrestricted) under the respective West Coast Regional Plans.

- There is no basis for declining consent having regard to the relevant provisions of the National Environment Standards ('**NES**') for Air Quality (2004), Sources of Human Drinking Water (2007) and Electricity Transmission Activities.
- The Scheme is considered to be consistent to the National Policy Statement ('**NPS**') for Freshwater Management (2011), and furthers the respective provisions contained within the NPS for Renewable Electricity Generation ('**NPSREG**' 2011). The NPSREG seeks to recognise the national significance of renewable electricity generation activities. Specific provisions (C1(a) – (c)) require particular regard be had to the need for generation to locate where the resource is available. Lastly, no regard has been had to the Proposed NPS on Indigenous Biodiversity as it is yet to be approved and issued pursuant to s.52 of the Resource Management Act ('**RMA**').
- Of the effects that will occur as result of development of the Scheme:
  - There will be slight gains in renewable electricity generation, being an 8.25 GWh increase in output. The total scale of operation at 2.83MW and 20GWh would be sufficient to power 2,500 households: This is of importance in promoting renewable electricity supply to meet the demands of the district.
  - There will be visual changes to natural character and landscape: The enhanced Scheme will have localised adverse effects on natural character associated with the lower lake levels at Lake Kaniere and the McKays tunnel deviation which will be no more than minor. Overall the natural character and visual amenity values will be maintained.
  - The McKays Creek Tunnel deviation option would impact on significant flora and fauna and the adverse effects arising on this ecosystem is accounted for by off-site mitigation (offsetting).
  - There will be circumstances where the aquatic values of the Kaniere River will be adversely affected as a consequence of changes to water quality and quantity: Minimum flow requirements and modifications to in-situ infrastructure will ensure that adverse effects on aquatic ecology are no more than minor. In some instances, in-stream habitat will be enhanced in comparison to the existing environment.

- There will be adverse effects on recreational values of Lake Kaniere: As a result, TrustPower has proposed a seasonal operating regime to help mitigate the effects of lower lake levels; a number of additional improvements to the facilities associated with Lake Kaniere have been also been recommended by Mr Greenaway including changes to the Hans Bay and Sunny Bight boat ramps.
- There are a number of modest positive effects associated with the Scheme: in particular, increased employment opportunities associated with construction activities, and a reduced risk of electricity supply disruption to the district.
- A comprehensive package of mitigation measures is proposed via conditions which adequately address adverse effects of the environment.
- Overall, the Scheme does not create adverse effects which are more than minor, the Scheme is consistent with the relevant provisions of the WDP, the Regional Policy Statement (RPS), and Regional Plans.

12. I conclude that the Scheme is appropriate given:

- It expands upon the existing HEPS infrastructure, providing for commensurate increases in the efficiency of generation;
- It is located in a working environment. The Kaniere Water race was constructed in 1875; the McKays HEPS being constructed in 1931. Electricity generation from the Kaniere race commenced in 1909.
- The existing consented environment for the Scheme incorporates a minimum staff gauge level of -0.2m at Lake Kaniere, and a minimum residual flow into the Kaniere River of 200 litres per second;
- It is located some distance from sensitive neighbouring activities; and
- The ability to mitigate effects.

13. Finally, on weighing the various aspects of the proposal, I conclude that the proposal meets the requirements of the Resource Management Act 1991 (**the Act**) in promoting the sustainable management of resources, whilst ensuring any adverse effects are appropriately avoided, remedied or mitigated.

PART A – RESOURCE CONSENTS REQUIRED AND ACTIVITY STATUS

The Scheme

14. The Scheme, and key features of the environment within which it is located, are fully outlined in the AEE and evidence presented by TrustPower's other witnesses.

15. For ease of reference '**The Scheme**' relates to both the re-consenting of the Kaniere Forks HEPS ('**Kaniere HEPS**') and the McKays Creek HEPS, together with enhancements to the McKays Creek HEPS ('**McKays HEPS**').

16. As noted in the s42A Report, the full list of consents required for the Scheme has been discussed and agreed with both WDC and WCRC. This list is provided as Appendix 2 to the s42A report.

17. The key elements for re-consenting the Kaniere Forks HEPS include:

    - Re-consenting the existing $1m^3$ take from Lake Kaniere to the Kaniere race; and
    - Constructing fish passages and screens at the lake intake structure.

18. Key aspects of the McKays HEPS re-consent and enhancement requiring consent include:

    - Modifications to the Lake Kaniere outlet to increase overall water levels in the Kaniere River, with an additional 2 cumecs able to be released to the Kaniere River for use in the McKays Creek HEPS;
    - Increasing the McKays Creek HEPS take from the Kaniere River to McKays race (at the McKays weir) from $5m^3$ to $8m^3$;
    - Modifying most of the existing weir and installing a new weir to better control and measure flows;
    - Maintaining minimum residual flows in the Kaniere River at $0.3m^3$ downstream of the McKays weir intake and $0.5m^3$ downstream of the Kaniere Forks power station at the McKays weir;
    - Replacing the Coal Creek Flume with a new two (or three) pipe bridge;
    - Increasing the McKays race capacity and constructing a deviation to the south of the existing McKays tunnel or enlarging the existing tunnel to provide for a $9m^3$

capacity (which includes the $1m^3$ take from Blue Bottle Creek);

- Constructing a new headpond, penstock, and power station adjacent to the existing facilities, and increasing the McKays Creek power station capacity from $6m^3$ to $9m^3$; and
- Increasing the discharge to the Kaniere River from McKays Creek power station from $6m^3$ to $9m^3$.

Regional and District Planning Framework

19. The regional and district planning documents of relevance to the Scheme are:

    - The West Coast Regional Policy Statement (RPS);
    - The West Coast Proposed Regional Land and Riverbed Plan (Land and Riverbed Plan);
    - The West Coast Proposed Discharge to Land Plan (Discharge Plan);
    - The West Coast Regional Air Quality Plan (Air Plan);
    - The West Coast Proposed Regional Land and Water Plan (Land and Water Plan); and
    - The Operative Westland District Plan.

20. The Scheme requires a number of consents from the West Coast Regional Council under the Plans identified above. The activity status for the applications is in my view correctly identified in the joint s42A (Section 4.1). However, in my opinion it is not appropriate to bundle district and regional consent applications, and as such overall, the Kaniere and McKays Creek HEPS are to be assessed as being a **discretionary** activities in terms of consents sought from the West Coast Regional Council.

21. As acknowledged by Ms Clark, (at Section 4.3.1, 6.1.2 of the joint s42A report) the West Coast Proposed Regional Land and Water Plan provides for the ongoing use of Hydro Electric Power Stations as controlled activities (pursuant to Rule 51 of the Proposed Regional Land and Water Plan) subject to being identified in Schedule 11, of which both the Kaniere Forks HEPS and McKays Creek HEPS are notated. A similar provision is included in the Transitional Water Plan (Rule 12.6.1 and Schedule 7). The

intent is to provide for the ongoing operation of such Schemes where these are not modified, and provide for the ability to adjust conditions to ensure the management of effects. Ms Clark and I have discussed this matter, and we agree with regard to the Kaniere Forks HEPS, a cautionary approach has been administered which classes the WCRC Kaniere Creek HEPS consents as discretionary, on the basis that amendments to the intake with regard to fish return channels and screens represent works over and the above the status quo. I note that were the fish return channel and screen elements removed from the Kaniere Forks re-consenting option, the status would be controlled. We both consider the fish return channel and screens to be beneficial.

22. The Westland District Plan does not specifically provide for the infrastructure associated with the generation of electricity. The activity then must be assessed generally against the respective provisions of the Plan. The proposed re-consenting of the Kaniere Forks HEPS will be undertaken in compliance with the rules and standards of this Plan.

23. With regard to the McKays Creek HEPS enhancement, the fish return channel for the McKays weir, the Coal Creek replacement flume pipes, and the fish return channel for the McKays tailrace (as considered a '*structure, or part structure*' pursuant to the definition of *"Building"* from Part 9 of the Westland District Plan), will intrude the 10m riparian setback required pursuant to Table 5.7 of the district plan. The McKays Creek HEPS is therefore deemed a **non-complying** in accordance with Rule 5.6.2.1.

Other Matters

24. TrustPower has sought, or is in the process of seeking private agreements with land owners for both access, and also construction activities undertaken on such properties. The particulars of these agreements are outside of the ambit of the consent process.

PART B – STATUTORY CONTEXT AND ANALYSIS

25. As discretionary activities under the relevant WCRC plans, the relevant criteria for the Committee's consideration of TrustPower's consent applications are those in sections 104, 104B, 105 and 107[1]. In addition to those provisions, section 104D is also relevant in terms of overall non-complying activities with the WDP for the McKays Creek HEPS enhancements. I will consider this initial jurisdictional threshold first, before addressing the other relevant statutory criteria.

Section 104D - Assessment of non-complying activity

26. The McKays Creek HEPS enhancement requires resource consent as a discretionary activity from the WCRC, and as a non-complying activity from the WDC; those being the most stringent activity status for which consent is required in each jurisdiction.

27. In accordance with section 104D, consent for a non-complying activity (as is required for the McKays Creek HEPS from the WDC) can only be granted if one of two tests is satisfied: either that the adverse effects of the activity on the environment will be minor, or the activity will not be contrary to the objectives and policies of the relevant plans.

28. Once an application passes through either of the section 104D(1) tests, it is to be considered against the relevant section 104 criteria no differently than a discretionary or restricted discretionary activity. As outlined in legal submissions, the Act simply does not distinguish between discretionary and non-complying activities in terms of section 104(1).

Section 104D(1)(a) and (b)

29. Section 104D(1)(a) requires a determination as to whether the effects on the environment will be minor. It is considered based on the evidence from the experts I have referred to (paragraph 7) that the effects of the Scheme will be no more than minor. This conclusion is consistent with the view expressed by the Council's experts at Section 5.4 of the joint s42A report.

[1] TrustPower's applications were lodged on 26 November 2010, and must therefore be assessed in accordance with the provisions of the RMA as amended by the Resource Management (Simplifying and Streamlining Amendment) Act 2009, and all previous amendments.

30. Particular care has been taken (and is provided for in conditions) to minimise the impact on natural character, recreational values, aquatic ecology and terrestrial ecology as associated with the proposed enhancements of the McKays HEPS. It is also noted that the wider landscape has been modified as a consequence of human endeavour.

31. Overall, I consider that the proposal passes the first threshold test as set out in s.104D(1)(a).

32. The Westland District Plan is *'the relevant plan'* to be considered in terms of the second threshold test set out in s.104D(1)(b). I understand that for a proposal to be considered *'contrary'* to policies and objectives of a relevant plan, a judgement is required that the proposal is opposed in nature, different to, or repugnant to the policies and objectives of the relevant plan as considered in a broad and encompassing manner.

33. The relevant Objectives and Policies of the Westland District Plan are multifaceted and very broadly set especially at the Objective level. Typically the provisions seek to acknowledge a given value or attribute (Natural Environment: **Objective 3.7.1**, Water Resources: **Objective 3.11.2**) and outline, typically through deference to the phrases in Part II of the Act, the avoidance, remediation or mitigation of the adverse effects of the development of such.

34. The respective provisions for infrastructure (**Objective 3.4.1** and **Policy 4.6A**) seek to ensure the management of effects for infrastructure 'servicing activities' through referencing s.5(2)(c), as well as encouraging the efficient provision and development of infrastructure.

35. Landscape provisions (**Objectives 3.10.1, 3.10.2, 3.10.3** and respective policies at Section 4.6) seek to ensure that development does not impinge on landscapes, and that regard is to be had to the natural landscapes in which development is sought to be located.

36. Ms Buckland has stated that the proposed works at the outlet of Lake Kaniere will not impinge of the integrity of landscapes in Westland[2]. Changes to the McKays HEPS will not affect the integrity or wholeness of the Westland landscape.

37. The Scheme design has also paid genuine attention to the ability to reduce its impact

[2] Ms M Buckland. Evidence – paragraph 83, 94.

on the natural landscape, through the placement of the McKays HEPS tunnel deviation, headpond, and penstocks. Therefore, it is considered that the proposal has had 'appropriate *regard to the natural landscape in which it is located*' (**Objective 3.10.3**), acknowledging that the proposed works need to be located in the riverine environment.

38. In light of the discussion under the heading 's.104(1)(b) Relevant planning documents', it is considered that the McKays HEPS is not contrary to the applicable objectives and policies of *the relevant plan*. In many instances, there is a high degree of consistency with most relevant provisions, such as **Policy 4.6A** which seeks to encourage the efficient provision of infrastructure.

39. I am of the view that the consent authority has the jurisdiction to consider the applications pursuant to the broader matters within s.104.

Section 104 – Consideration of applications

40. Subject to Part 2 matters, the consent authority must assess and determine the applications having regard to the matters specified in section 104(1). This section of my evidence accordingly addresses those matters identified in section 104(1) for both the WCRC and WDC consents, being:

- the Scheme's effects on the environment;
- the relevant policy framework; and
- other relevant and reasonably necessary considerations.

<u>Section 104(1)(a) – Assessment of effects</u>

41. A consideration of any actual or potential effect on the environment of allowing the Scheme (as required by section 104(1)(a)), firstly requires a determination of the relevant "environment" against which effects must be assessed.

42. I understand, as has been noted by Mr Welsh in legal submissions, that defining the environment requires consideration of the existing environment together with the opportunity to apply the more familiar permitted baseline assessment. I consider that

the approach that I have applied below is somewhat different to that expressed within the joint s42A report (refer Section 5.1); I have set out to distinguish between the existing environment, and the permitted baseline assessment for a non-fanciful development. Whereas my reading of the s42A report is that the approach has been to 'unbundle' aspects of the proposed Scheme against specific provisions. I will leave this matter to legal submissions, but conclude that the approach taken by the officers in Section 5.1 does not appear to materially impact on their overall conclusions, which as shared with my view concludes that "*no … permitted baseline considerations are relevant*".

Existing environment

43. As outlined in legal submissions, the environment as it exists now includes the existing Kaniere and McKays HEPS. For the purposes of section 104(1)(a), the *"environment"* has accordingly been modified over the last 100 years through the physical infrastructure associated with, and the operation of, the Kaniere Forks HEPS and McKays Creek HEPS (including the current residual flow in the Kaniere River of 0.2 cumecs). The implications of much of the physical infrastructure associated with the existing HEPS in this environment is irreversible, and in some instances this infrastructure now possesses heritage values in their own right.

44. It is acknowledged that the current lake levels are artificially raised by half a metre in 1916, and subsequent alterations have raised the height of the spill crest at the lake outlet to 1.01 above local datum.

45. The Kaniere Forks and McKays Creek Hydro Electric Schemes are located within the Kaniere River Valley, much of which is public conservation land administered by DoC.

46. Lake Kaniere is situated approximately 19km inland from Hokitika on the West Coast. The Lake is surrounded by the Lake Kaniere Scenic Reserve. The Kaniere River provides an outlet for the Lake, draining from the north-western corner of the Lake to the Hokitika River.

47. The water intake for the Kaniere Forks HEPS (up to $1m^3$) is also located at the north-western corner of Lake Kaniere, and the intake for the McKays Creek HEPS (up to $5m^3$) is located at McKays Weir on the Kaniere River. There is some local tributary take for the Kaniere Forks HEPS, and from flow diverted from Blue Bottle Creek (up

to $1m^3$) for the McKays Creek HEPS.

48. Mt Graham and Tuhua provide an alpine backdrop for Lake Kaniere. The surrounding environment includes a variety of vegetative habitats, including grasslands and indigenous forests.

49. The lake level is normally lower in winter, coinciding with lower inflows and higher managed flow release. The range for the lake is generally between 1.4m and 0.2m LD. The maximum recorded lake level was 1.71m LD in January 2002, with the lowest recorded level of -0.13m LD on 30 April to 1 May 2003. Fluctuations in the water levels of Lake Kaniere are largely a factor of low and high rain fall events.

50. The Kaniere River valley landscape includes unmodified kahikatea and totara forests in the south and increasingly modified farmland areas to the north. The Lake and River support a diverse range of aquatic and terrestrial flora and fauna. Water quality associated with the River is high, although temperatures can be elevated in summer months in a manner that is not unusual in the West Coast region.

51. The vegetation communities within the existing Kaniere Forks HEPS include primary / kamahi – *Quintinia* forest, manuka scrub, cleared scrubland and secondary forest. The bird species recorded at Lake Kaniere and in the river valley comprise of avifauna that is typical of this habitat type in Westland.

52. Identified historic heritage associated with the Kaniere Valley is associated with European gold mining and industry, and includes the Kaniere water race, stacked stone walls, bridges and other associated structures. The Lake and the River are recognised as a historic transportation route between the east and west coast via Browning Pass by tangata whenua.

53. Lake Kaniere Village, which contains a modest number of dwellings many of which are holiday homes, is located at the northern end of Lake Kaniere at the outlet of the Kaniere River. Apart from these dwellings, there are no residential, or otherwise sensitive, uses within 500m of the existing Scheme (or proposed construction corridor). Kaniere settlement is located some 5km to the west of the McKays Creek Power Station, and Hokitika is approximately 9km to the north-west.

54. Lake Kaniere and the Kaniere River have regional recreation values associated with boating, angling, camping, water sports and picnicking. Recreational facilities are provided at the lake and include formed boat launching ramps and jetties at Hans

Bay and Sunny Bight. The Kaniere Valley is also valued for recreation activities including walking and cycling on the Kaniere Water Race Track.

55. Domestic water take for Hokitika is supplied from an intake at Lake Kaniere.

Permitted baseline

56. The relevant regional and district planning documents provide for a range of permitted activities that can be undertaken on the application site, and which would generate certain adverse effects. The permitted baseline concept permits the decision maker to exclude such effects from its consideration, given they have already been effectively "consented to".

57. However, in this instance it is not possible to identify any one large scale activity on the site that is not fanciful, and which would provide a useful comparison for the purposes of the present applications. On this basis, I consider the permitted baseline is of limited assistance or relevance to the committee's determinations. As such, the decision maker may (and should) consider the full range of the Scheme's effects, without allowance for the permitted baseline. This is the basis on which all TrustPower's expert assessments have been undertaken.

Positive Effects

58. The proposed Scheme will result in a number of positive effects. I have summarised these positive effects as follows:

- Utilisation of a renewable energy source to generate electricity: The use of a natural resource to generate power avoids the costs and environmental consequences of alternative means of electricity generation, including those that otherwise generation greenhouse gas emissions. The Scheme will also contribute towards meeting the New Zealand targets for sustainable electricity generation;
- Utilisation of existing infrastructure: The proposal seeks to continue to utilise significant portions of the existing generation infrastructure and transmission lines, thereby creating resource efficiencies;
- Increased generation capacity: The proposed Scheme will increase the existing

generation capacity from 1.53MW to 2.83MW and increase the expected generation per year from 11.75GWh to 20.0GWh. The existing Kaniere and McKays HEPS currently accounts for 9% of installed generation capacity on the West Coast, the Scheme will increase this to 21% of capacity. While the level of increased generation is modest, it provides an increase in locally generated electricity[3].

- Increased security of electricity supply on the West Coast: The West Coast is a net importer of electricity from the national grid. As a result, electricity is supplied from the closest available source, resulting in transmission losses, higher electricity prices and greater exposure to breaks of supply resulting from faults. The proposed increased generation capacity will alleviate some of these issues by increasing the security of electricity supply and reducing the district's dependence on the national grid;

- Increased expenditure: Capital costs are estimated at $12.5million, with some $9.3million of this to be spent on civil engineering, creating a demand for contractors in engineering, construction and electrical trades and contribute to incomes earned in the region. This could further stimulate a further $4.7million to $14million of indirect spending in the region; and

- Increased employment opportunities: TrustPower estimate that the construction of the Scheme will generate between nine (9) full time equivalent (FTE) jobs during that period.

Adverse Effects

59. As outlined by other experts and in the AEE, in preparing the applications for the Scheme, TrustPower has had a particular focus on avoiding adverse effects where practicable. The Scheme design and operation has then been refined to further reduce its potential environmental effects, based on input from technical experts and consultation with affected parties. Specific measures to avoid adverse effects adopted to date include:

    - Imposing winter and summer operating level restrictions for Lake Kaniere as outlined by Mr Palmer. This revised operating regime will result in the lake level

[3] Evidence Mr P Clough – paragraph 31, 34.

being below 0.3m for less than 16% of the time, with the lake level below 0.1m for less than 1% of the time over the summer months. Lake levels are expected to be full (at spill) for 18% of the time over the summer months (November to March). Managed ramping rates are also proposed (RC10001/36).

- With regard to aquatic ecology, measures include: adopting a residual flow regime in the Kaniere River of 0.3 – 0.5 cumecs, as now incorporated in Condition RC10001/5 (Kaniere) and RC10001/22 (McKays); flushing flows to be released down the Kaniere River if water quality parameters deteriorate to certain levels; and the provision of fish screens and passes.
- Confining any fill associated with the proposed McKays Creek HEPS enhancement tunnel deviation to areas of modified vegetation and habitats.
- Undertaking pre-construction bat monitoring (WDC Condition #28), to ensure roosting bats can be avoided when trees are being felled should the McKays Tunnel deviation option be undertaken.
- Using best practice guidelines to prevent weed importation, spread and establishment, and undertaking post construction weed monitoring and control.
- In the event of undertaking the McKays Creek HEPS enhancement tunnel deviation, providing for the permanent protection of a 3.5Ha conservation area, which consists of rimu-miro/kamahi-*Quintinia* forest and kahikatea forest.
- The extension and / or repair of the boat ramps at Hans Bay and Sunny Bight, and options to be developed with the community for a steeped boarding platform or floating pontoon at Hans Bay and swimming platforms at Hans Bay and Sunny Bight (RC10001/36)

a) Archaeological/Heritage effects

- As identified at 5.3.8 of the s42A report, no part of the McKays HEPS is listed in the Schedule of Historic Places and Trees (Appendix A) in the Westland District Plan. Dr R Clough has in his evidence outlined the impacts on historic heritage as associated with the Scheme, and has concluded that there were no archaeological or other heritage sites indentified in the area of proposed enhancements. The Westland District Council conditions provide for a Heritage

Management Plan to be prepared which will ensure the minimisation of disturbance of any sites, excluding Coal Creek Flume, and the process for accidental discovery. The extent of effects on Heritage is considered to be less than minor. Additional Conditions to those provided (and attached as Appendix 2 to the s42A report) are provided in Part E of this statement.

b) Recreation effects

60. The recreational effects of the Scheme on fishing amenity, lake access and use, and passive recreation including walking and mountain biking has been assessed by Mr Greenaway. In summary, Mr Greenaway concludes that:

- The revised seasonal operating regime removes many of the potential adverse effects on the recreational amenity of Lake Kaniere that were likely to result from the proposal as originally lodged[4]. In particular, as a result of the summer seasonal operating regime (which coincides with the higher frequency lake usage), lake levels will be maintained above 0.2m during summer months (November to March) for the majority of the time (94%) and for a similar duration as the existing situation (where lake levels are 0.2m or higher for more than 98% of the time).
- The mitigation proposed for recreation/amenity effects is extensive, and includes a stepped boarding platform or pontoon at Hans Bay Jetty, the extension of the boat ramps at Hans Bay and Sunny Bight, and a process for installing one or two swimming platforms.
- Considered against a backdrop of the consented regulated Lake Kaniere lake levels, Mr Greenaway is of the view that adverse recreational effects from the proposal are no more than minor, now that the lake is subject to the seasonal operating regime as introduced in response to submitter's concerns, and the recreational infrastructure identified above.
- There will be little effect on recreational use of the Kaniere River, with the proposed ramping rate (RC10001/36) representing an improvement.

[4] Evidence Mr R Greenaway – paragraph 26.

c) Landscape and natural character effects

61. A detailed assessment of the landscape and natural character effects are provided in Ms Buckland's evidence. In summary:

- The proposed Scheme will have very little effect on the scenic and amenity values associated with the Lake. This is due to the predominant existing fluctuations in Lake levels as associated with periods of low or high rain fall events. Whilst levels will be lower for slightly longer periods, changes in Lake levels as associated with the Scheme will be largely masked within the current range fluctuations.

- Impacts on the Kaniere River from the proposed increase in water flows as a consequence of the Scheme between Lake Kaniere and the McKays weir will be apparent in terms of deeper water across the width of the river. These effects, which are considered to be positive in terms of landscape, visual and natural character of this section of the river, are attributable to the additional 2 cumecs being released to the Kaniere River for use in the McKays Creek HEPS[5].

- Below the McKays Weir, the landscape and visual effects of the operation of the HEPS will remain unchanged from the existing environment.

- Ms Buckland concludes that the effects on natural character and landscape from the enhancements to the existing McKays water race, and the replacement of infrastructure associated the McKays Power Station, will be no more than minor. Improved amenity and landscape qualities are attributed to works associated with the repairs and improvements associated with the McKays Weir and canal, including the Coal Creek Flume. Adverse impacts from the McKays Tunnel enhancement options are considered by Ms Buckland to be acceptable subject to landscape rehabilitation[6].

d) Hydrological/groundwater effects

62. Mr Palmer has provided a comprehensive assessment of the existing and proposed hydrological conditions associated with the Scheme. In summary, Mr Palmer concludes

[5] Evidence of Ms Buckland. Paragraph 41.
[6] Evidence of Ms Buckland. Paragraph 55.

that based on a hydrological model to simulate the existing and enhanced HEPS operations:

- Under the enhanced McKays Scheme operation within the modified seasonal operating regime, there will be no change to the consented operating range of Lake Kaniere, which is -0.20 to 1m; however the amount of time that the lake is at levels within this range will change, and will also vary on a seasonal basis. The minimum operating level at -0.20m will be retained.

- The Summer range has a 20% allowance for Lake levels to be below 0.30m (equivalent to a maximum of 30.2 days over this November to March period), which also includes a 10% allowance (15.1 days) for levels to below 0.10m. Likewise for the winter months a 20% allowance for Lake levels to be below 0.10m is equivalent to 42.8 days over this seven month period)[7].

- In years of particularly low summer inflow, it is anticipated that the Lake level may be below 0.3m for up to 29 days, and below 0.1m for up to 5 days[8].

63. Dr Single has provided a detailed assessment of the hydrological effects of the Scheme on the physical shoreline processes. In summary:

- Although lower levels will be experienced for longer periods than presently the case, Dr Single has provided evidence on the effect of the operating regime upon the lakeshore and concludes the lakeshore will adjust.

e) Terrestrial ecology effects

64. A detailed assessment of the terrestrial ecology values and effects of the proposed Scheme is provided in the evidence of Mr Hooson. In summary:

- The potential adverse effects on the wetlands around Lake Kaniere of the proposed seasonal operating regime will be limited, given the existing and long term fluctuations of the lake and the adaptability of the species in these areas. Baseline and on-going monitoring has been proffered.

- The proposed McKays Creek HEPS enhancement will result in the removal of up

[7] Evidence of Mr Palmer – Paragraph 63.7(f)
[8] Evidence of Mr Palmer – Paragraph 7.7

to 1.1ha of significant habitat[9]. The secondary / *Quintinia* forest associated with the McKays Creek HEPS tunnel deviation is significant due to its role in connecting the Kaniere Forks Scenic Reserve with the large area of protected forest to the south. With regard to the vegetation clearance, it is acknowledged that without the 3.5 ha primary kahikatea forest off-site mitigation ('**Kaniere Farms Mitigation Area**') the impact of the vegetation clearance would otherwise be considered more than minor.

- The felling of large trees for the McKays deviation works will result in the loss of important habitat for terrestrial fauna. As a result, further shaping during the construction design process is proposed to avoid these trees as far as practicable.

- The potential effects associated with the construction of the Scheme can be managed through a number of consent conditions, including weed monitoring and control, and bat surveys.

f) Aquatic ecology effects

65. Dr Ryder's evidence provides a detailed assessment of the effects of the Scheme structures and flows on the in-stream habitat, and stocks and health of aquatic ecology. In summary:

- The effects on aquatic plant communities in the Lake Kaniere littoral zone will be no more than minor[10], with variations in the lake level taking place over a period of weeks, rather than daily fluctuations.

- Fish passage and connectivity in Lake Kaniere and the Kaniere River is proposed to be improved through removing pinch points which under the existing environment restrict connectivity at the McKays and Blue Bottle Creek Weir, and installing fish passages and 20mm screens.

- Kaniere River flow and temperature is to monitored and maintained within suitable parameters as outlined in conditions of consent[11].

- The potential effects associated with the construction of the Scheme can be managed to ensure that they are short-term and reversible once construction is

[9] Evidence of Mr Hooson – Paragraphs 109, 110.
[10] Evidence of Mr Ryder – Paragraph 76
[11] Evidence of Mr Ryder – Paragraph 94, 95

completed, as detailed in the Environmental Management Plan.

g) Noise effects

66. Marshall Day Acoustics Ltd prepared an assessment of construction noise effects which was included in the August 2011 response to a request for further information. A Construction Noise Management Plan is required to be prepared and lodged with council and Condition 20 requires that "*Construction activities shall be conducted in accordance with the requirements of NZS 6803:1999 "Acoustics – Construction Noise" and comply with the limits given in Table 2 of that Standard*".

Mitigation of effects

67. Where relevant, I have addressed proposed mitigation measures in the context of considering relevant effects above. I therefore only wish to make the following brief comments regarding off-site mitigation.

68. Off-site mitigation, also referred to as 'offsetting', is proposed to deal with the effects on terrestrial biodiversity values arising from the Scheme.

69. The offsets primarily relate to a loss of approximately 1.1 ha of secondary kamahi /*Quintinia forest* associated with the proposed canal deviation to the south of the existing McKays tunnel as part of the McKays Creek HEPS enhancement.

70. I understand[12] that the concept of offsetting seeks to secure an equivalent (or better) measurable outcome or gain, and is focused on mitigating the effects of a proposal, in this case terrestrial ecology. As such, the ecological offsetting proposed constitutes direct mitigation, albeit off site, and should be accounted as such.

71. With respect to the Scheme, a terrestrial ecology offset have been negotiated with the private landowner should the McKays tunnel deviation become necessary. The specific offset propose is the protection and fencing of 3.5ha of kahikatea forest and rimu-miro / kamahi-*Quintinia* forest as shown in Appendix B of Mr Hooson's evidence.

[12] Draft Decision and Report of the Board of Inquiry into the New Zealand Transport Agency Transmission Gully Plan Change Request, August 2011.

Overall Conclusions - Effects

72. Overall, and with regard to the opinion of the respective experts assisting TrustPower, I am of the opinion that adverse effects of the enhanced Scheme on the receiving environment will be no more than minor.

Section 104(1)(b) – Relevant planning documents

73. Section 104(1)(b) specifies the matters the consent authority must have regard to (subject to Part 2) when considering an application for a resource consent and any submissions. These include relevant provisions of:

(i). "A national environmental standard;

(ii). Other regulations;

(iii). A national policy statement;…

(v). A regional policy statement or proposed regional policy statement;

(vi). A plan or proposed plan."

74. For completeness, I note the New Zealand Coastal Policy Statement (section 104(1)(b)(vi)) is not relevant to this application.

National Environment Standards

75. National Environmental Standards ('**NES**') are regulations issued under sections 43 and 44 which apply nationally. This means that every regional, city or district council must enforce the same standard. In some instances, councils can impose stricter standards. There are currently three relevant NES to consider with respect to the Scheme, these are as follows.

a) NES for Air Quality

76. Introduced in October 2004, the NES for Air Quality[13] contains five standards for Ambient Air Quality. The only standard relevant to the Scheme is that for PM_{10}, which

[13] Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (formerly called the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Regulations 2004).

relates to dust nuisance from spoil storage and extraction areas. This standard allows a maximum of one exceedance per year of a PM_{10} concentration of 50µg/m^3 (24 hour average).

77. Regional councils have until 2013 to meet the ambient air quality standards within their region. Councils must not give consent for discharges of PM_{10} if the discharge is likely to cause an 'air shed' to exceed the standard.

78. WCRC has gazetted one air shed for the West Coast region at Reefton and the Scheme is located outside of that air shed. PM_{10} discharges from the earthworks are expected to be localised such that they will not result in the ambient concentration of PM_{10} exceeding the NES.

79. Accordingly, there is no basis for declining consent having regard to this NES. TrustPower has in any event proffered a consent condition requiring compliance with the provisions of the Construction Environmental Management Plan and Earthworks and Sediment Control Plan so as to avoid any nuisance effects from dust.

b) NES for Sources of Human Drinking Water

80. The NES for Sources of Human Drinking Water came into effect on 20 June 2008.[14] It requires regional councils to ensure that effects on drinking water sources are considered in decisions on resource consents and regional plans. Specifically, councils are required to: decline discharge or water permits that are likely to result in community drinking water becoming unsafe for human consumption following existing treatment; and place conditions on relevant resource consents requiring notification of drinking water suppliers if significant unintended events occur (i.e., spills) that may adversely impact on sources of human drinking water.

81. No drinking water sources[15] will be directly affected by the Scheme footprint. Lake Kaniere provides domestic supply for Hokitika domestic and commercial supplies, and in 2011 WDC obtained consent to increase its domestic take (Consent No. RC11033/1). As outlined by Dr Ryder, the biological conditions of the Lake will not be altered as a consequence of any increased take associated with either the Scheme, or the cumulative nature of the Scheme and the domestic water supply take.

[14] Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007.
[15] As being determined as a drinking-water supply that is recorded in the drinking-water register maintained by the chief executive of the Ministry of Health (the Director-General) under section 69J of the Health Act 1956 to which the NES applies.

Accordingly, there is no basis for declining consent having regard to this NES.

c) NES for Electricity Transmission Activities

82. The NES for Electricity Transmission Activities came into effect on 14 January 2010.[16] This NES sets out the national framework of permissions and requirements for activities on existing electricity transmission lines. Importantly, the NES only applies to existing high voltage electricity transmission lines. It does not apply to the construction of new transmission lines. The NES also does not apply to electricity distribution lines, being those lines that carry electricity from regional substations to electricity users. Accordingly, this NES is not applicable to the Scheme.

Other Regulations

a) Resource Management (Measurement and Reporting of Water Takes) Regulations

83. The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 require significant water takes to be measured and reported to provide more accurate information about water demand and supply.

84. Recommended Conditions as identified in Part E of this statement in relation to respective flow and monitoring conditions are consistent with the application of these Regulations.

National Policy Statements

85. National Policy Statements ('**NPS**') are instruments available under the RMA to help local government decide how competing national benefits and local costs should be balanced. There are currently two relevant NPSs to consider with respect to the Scheme, these are as follows.

a) NPS for Freshwater Management

86. The NPS for Freshwater Management (NPSFM) 2011 was gazetted on 12 May 2011 and took effect from 1 July 2011. The main method of implementing the NPS is through the WCRC undertaking amendments to its planning instruments, with Part E of the NPS identifying that the progressive implementation programme is to be fully implemented by 2030.

[16] Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.

87. The NPSFM contains two objectives and four supporting policies in regard to water quality, and four objectives and seven policies in regard to water quantity.

88. Objective A1 seeks *"to safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water, in sustainably managing the use and development of land, and of discharges of contaminants."*

89. Subject to appropriate conditions during construction the proposal will not result in adverse effects on the water quality.

90. Objective A2 seeks that the overall quality of fresh water within a region is maintained or improved while *"protecting the quality of outstanding freshwater bodies"* (Objective A2(a)). Dr Ryder has established that the aquatic habitat of Lake Kaniere and Kaniere River is not particularly unique in a West Coast context and has not been identified in any District or Regional Plans as being 'outstanding'. I note that Objective A2 matters (b) and Objective B4 as it relates to water quality and quantity respectively in relation to the 'significant value of wetlands' are not considered to be impacted by the proposal[17]. Objective A2 (c) over-allocation is not considered relevant.

91. The supporting policies (A1-A4) are focussed on the need for Regional Councils to establish regional plan provisions to ensure freshwater quality limits are established, that over-allocation is avoided, that degraded water bodies are improved, and that the best practicable method of managing the environmental effects of discharges is adopted.

92. Given that the proposal's primary potential impact on the freshwater environment is through the aquatic habitat change resulting from the change to the water take, rather than through discharges, Objective B1 relating to water quantity is of more direct relevance. This objective aims *'to safeguard the life-supporting capacity, ecosystem processes, and indigenous species including their associated ecosystems of fresh water, in sustainably managing the taking, using and damming or diverting of fresh water".*

93. The objective appears to be focussed primarily on maintaining adequate downstream freshwater quantity, in order to sustain the associated aquatic ecosystem. As noted above, a number of mitigation measures are proposed including improved connectivity

[17] Evidence of S Hooson paragraph 87 - 94

and the installation of fish passages and screens. It is considered that the proposal sits comfortably with the objective to maintain freshwater ecosystems.

94. Objective B2 relating to over allocation is not considered to be relevant to the proposal. Objective B3 seeks *"to improve and maximise the efficient allocation and efficient use of water"*. The current use of the Lake includes TrustPower's existing water take and the municipal water take for the Hokitika township. The proposal will result in the water resource continuing to be used to generate economic return, without impacting negatively on the municipal water take or the recreational use of the Lake.

95. Objective C1 aims *"to improve integrated management of fresh water and the use and development of land in whole catchments, including the interactions between fresh water, land and associated ecosystems and the coastal environment"*. The proposed minimum flow regime, as set through the proposed conditions, will ensure that the aquatic ecosystems are maintained.

96. Objective D seeks *"to provide for the involvement of iwi and hapu, and to ensure that tangata whenua interests are identified and reflected in the management of fresh water, including associated ecosystems, and decision-making regarding freshwater planning"*. As outlined by Mr Piddington, TrustPower has undertaken consultation with Ngati Waewae regarding the Scheme, including issues associated with native fish passage. As noted above, a number of mitigation measures related to the maintenance of the aquatic ecosystem have been proposed as part of the Scheme. Given that no submissions have been received from Tangata Whenua, it is considered that TrustPower has met its obligations in accordance with this objective.

97. Overall, I consider that the Scheme is consistent with the Objectives and Policies of this NPS. The Scheme has specifically been designed to ensure that, with the imposition of appropriate conditions (as currently proposed), the life supporting capacity of freshwater will be sustainably managed and overall freshwater quality and quantity maintained at acceptable levels. While the overall lake levels will be lower for longer periods, and more frequently, Mr Hooson has concluded that the proposed operating regime will not result in adverse effects on the significant wetlands associated with Lake Kaniere.

b) NPS for Renewable Electricity Generation

98. The NPS for Renewable Electricity Generation (NPSREG) 2011 took effect from 13 May 2011. The NPSREG provides for two matters of national significance, namely the development, operation, maintenance and upgrading of new and existing renewable energy infrastructure, and the benefits of such renewable generation. The preamble to the NPSREG outlines New Zealand's ongoing need for electricity generation, the need to respond to the risks of climate change, and the need for secure, affordable energy whilst *"treating the environment responsibly"*. The NPSREG reaffirms the Government's strategic goal of achieving 90% of electricity generation from renewable resources by 2025.

99. The preamble also acknowledges that benefits of renewable electricity generation can compete with matters of national importance as set out in section 6 of the Act, and with matters to which decision-makers are required to have particular regard under section 7.

100. The NPSREG has a single objective, which is to be achieved through eight policy sections (A-H). The Objectives seeks *"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"*. Policy A requires decision makers to recognise and provide for the national significance of electricity generation activities, including:

- maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;
- maintaining or increasing security of electricity supply at local, regional, national levels, by diversifying the type and / or location of electricity generation;
- using renewable energy resources rather than finite sources;
- the reversibility of the adverse effects on the environment of some renewable electricity generation technologies; and
- avoiding reliance on imported fuels for the purposes of electricity generation.

101. Policy B, parts (a) and (b) relate to the protection of existing generation, whilst part (c) requires decision makers to have particular regard to the fact that *"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"*.

102. Policy C1(a-c) requires decision makers to have particular regard to the need for generation to locate where the resource is available, the practicalities involved with establishing new infrastructure and the location of existing network infrastructure. Policy C2 requires decision makers to have regard to any offsetting measures or environmental compensation where 'residual' environmental effects cannot be otherwise avoided, remedied or mitigated.

103. As the Scheme footprint traverses some Section 6 matters, all efforts have been undertaken to firstly avoid and subsequently mitigate the extent of impacts. Accordingly, and as consistent with Policy C2, an appropriate terrestrial offset as outlined by Mr Hooson has been proffered to address the terrestrial habitat removal as associated with the McKays tunnel deviation.

104. The NPSREG elevates the provision of renewable energy to a matter of national significance. I acknowledge that the importance of this is a matter largely for legal submissions, but as I understand it there is nothing in the language or provisions that create a presumption that the matters of national significance in the NPSREG are to be given greater weight than those in section 6. The NPSREG outlines a very clear policy direction at a national level that renewable energy is to be provided for. Given the status of the NPSREG and its position in the hierarchy of the planning documents, I consider this a very significant policy direction, to which weight should be given. This is reinforced by the mandatory requirement in Policy A that *"decision makers shall recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities"*.

105. I do not consider Policy D – H are of particular relevance in determining this case. However, I note the RPS requires the territorial authorities to incorporate provisions for renewable into their planning documents. Policy E2 requires authorities to amend their plans so as to provide for hydro-electricity. Regional Councils have 24 months (Policy H1) from the NPS taking effect to make such changes, with District Councils

then having a further 12 months (Policy H2 b) to amend their Plans to give effect to the amended regional planning documents.

106. Both the West Coast Regional Council and the Westland District Council have yet to undertake such changes. Both Regional and District Plans do not currently reflect the explicit outcomes sought in the NPSREG and are generally silent on objectives, policies and methods recognising the benefits and obstacles to the development of renewable electricity generation. In any case, the proposal is consistent with the direction of the NPSREG, and will assist in achieving the outcomes sought at a local and regional level.

c) Proposed NPS on Indigenous Biodiversity

107. The proposed NPS on Indigenous Biodiversity is still in its proposed form. Therefore, I am of the view that no regard should be had to the Proposed NPS on Indigenous Biodiversity as it is yet to be approved and issued pursuant to s.52 of the Resource Management Act ('**RMA**').

Overall Conclusions – Other Regulations

108. The provisions of the National Policy Statements together with the other statutory documents guide decision-makers when making value choices.

109. In forming an overall view as to the consistency of the proposal against the at times conflicting objectives of the various gazetted and proposed NPSs, I consider it necessary to balance the remaining adverse effects on landscape and natural character (once remediation, mitigation and off-setting are taken into account), against the benefits and requirements of providing for renewable energy, efficiency and security of supply.

110. By definition, and as acknowledged by Policy C1 within the NPS on renewable electricity generation, a hydro generation scheme would be anticipated to impact on a river environment and its associated natural character.

111. Overall, I am of the view that the Scheme is substantially consistent with the national direction set out in the various NPSs. I reiterate my conclusion that no regard should be afforded to the Proposed NPS on Indigenous Biodiversity.

Relevant plans and proposed plans

112. I have reviewed Section 6 of the s42A report which traverses the relevant objectives and policies of the Plans and Regional Policy Statement. I consider the approach comprehensive and concur with the assessment.

113. The principal regional planning documents of most relevance are the operative West Coast Regional Policy Statement ('RPS') and the proposed Regional Land and Water Plan ('the Land and Water Plan'). The Land and Water Plan was notified on 17 September 2010, however it is in essence a reformatting of three existing Regional Plans into a single document (the Proposed Land and Riverbed Management Plan, Proposed Water Management Plan, and Regional Plan for Discharges to Land) rather than setting a markedly different policy direction. Whilst the three older plans have not been withdrawn, I consider it more efficient to focus in evidence on the single proposed Land and Water Plan as this Plan effectively synthesises the policy outcomes sought by the other documents.

114. The RPS and the various proposed Regional Plans and the District Plan address issues relating to landscape, ecology, culture and heritage, recreation, and energy and utilities. The following discussion identifies and summarises the key objectives and policies in relation to these issues.

a) West Coast Regional Policy Statement and the Regional Land and Water Plan

Landscapes and Natural Features

115. The relevant RPS provisions on habitats and landscapes are interconnected and are contained within Chapter 9. In summary, these provisions collectively seek to protect outstanding natural features and landscapes from inappropriate subdivision, use and development (**Objective 9.2, Policy 9.1**); and to preserve the natural character of rivers and their margins (**Objective 9.3, Policy 9.1**).

116. The RPS policy direction is closely aligned with the wording and outcomes sought through Part 2 of the Act. In providing useful direction at a regional level, the RPS sets out criteria for establishing whether habitats and landscapes are significant (**Policy 9.2**), or outstanding (**Policy 9.1**) respectively, and also sets out criteria for assessing whether use or development is 'inappropriate' in a Regional context (**Policy 9.1**). The criteria on 'inappropriateness' also apply to assessing proposals that potentially affect the natural character of rivers and margins.

117. Ms Buckland has identified that Lake Kaniere and Kaniere River are not classified as outstanding landscapes, or recognised as an outstanding natural feature in either the Regional or District Plan[18]. She then identifies that regardless, the landscape and natural character effects on Lake Kaniere will be no more than minor.[19]

118. In terms of whether the proposal is 'inappropriate' in terms of the above provisions, I have considered the proposal against various policy criteria contained in RPS Policy 9.1. I do not consider the proposal 'inappropriate' in relation to those criteria, and note that: the proposal is the continued use and enhancement of existing infrastructure that will not be replicated and, could not to my mind, be considered sporadic; that the proposal is inextricably linked to its need to locate on the lake and river area, particularly given the extent of the existing scheme infrastructure; and lastly the proposal represents a *public development* with benefits of providing a secure and sustainable energy supply for Hokitika and the West Coast.

119. Section 6 and 7 of the Land and Water Plan provide policy direction for the protection of landscape and natural character. **Objective 6.2.2** and associated **Policies 6.3.1, 6.3.3** and **6.3.6** seek to maintain and enhance the natural character and amenity of outstanding natural features and landscapes (**Policy 6.2.2(1)(e)**) and wetlands, lakes and rivers (**Policy 6.2.2(1)(d)**). Similarly, **Objective 7.2.1** and associated **Policy 7.3.3** seek to maintain the instream values or natural character of the source water body.

120. As noted above, Lake Kaniere is not identified in the plans as an outstanding natural feature. The proposed Scheme will result in the lake level being lower for slightly longer periods, however given that lake level variations already occur it is considered that the proposed lake level variations will be in keeping with the existing character and landscape qualities of the lake.

121. The proposed increased water take at McKays weir will increase the minimum flows but decrease the median flow in the Kaniere River, for that section of River between the McKays weir and tailrace. In terms of considering the adverse effects of the proposal on the natural character of Lake Kaniere and the Kaniere River system (**Policy 6.3.6** and **Policy 7.3.3** of the Land and Water Plan), it is noted that the proposal will result in: changes to the form of the lakeshore, although Dr Single's

[18] Evidence of Ms Buckland – Paragraph 15, 62
[19] Evidence of Ms Buckland – Paragraph 102

opinion is the lakeshore will adjust and retain its present character; that the proposal will result in an altered flow regime of the Kaniere River, however the minimum flow regime will ensure that the natural characteristics will be maintained; and lastly, the water extracted from the Lake and River and discharged back into the River will be within acceptable physical and chemical limits, ensuring that the water quality, clarity and colour are maintained.

122. Overall, I consider that the proposed Scheme is not contrary to the RPS criteria and associated policy direction.

Indigenous Flora and Fauna

123. Chapter 9 of the RPS provides policy direction for the protection of indigenous flora and fauna. **Objective 9.1** and **Policy 9.2** collectively seeking to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna. IN relation to the criteria in Policy 9.2, I consider that:

- In terms of the vegetation proposed to be removed as part of the McKays HEPS tunnel deviation, only the vegetation within the Kaniere Farms Conservation area is significant. The remaining vegetation along the construction footprint does not meet such a standard, primarily given its highly modified state. The area of land identified for off-setting the effects of removing the vegetation within the Kaniere Farms Conservation area meets the protection standards that makes the area desirable for protection. As Mr Hooson has identified, the land will be protected through a covenant (i.e. a QEII or similar covenant) and fenced from cattle and deer.

- A number of threatened species are present within the Scheme footprint, including the inanga and loaro ("declining"), giant kokpu ("partial decline"), grey duck ("nationally critical"), and South Island fernbird ("declining"), although there is no evidence that the population is declining within the Kaniere catchment. It is considered that the proposed mitigation, including shaping of the Scheme during construction works will ensure that any adverse effects on these populations are adequately mitigated. In some cases through installation of fish passes and screens, and the exclusion of stock from the Kaniere Farms mitigation area, such values will be enhanced.

- Given the historic and continued use of the area for hydro-electric generation, farming and mining, there are a number of areas throughout the Scheme that have been modified from a natural state. The proposed Scheme seeks to make additional modifications to this environment that will require additional vegetation clearance. However, the proposed Construction Environmental Management Plan will provide for the re-vegetation of significant portions of the Scheme.

124. **Policy 9.3** of the RPS seeks to have particular regard to the protection of the habitat of trout and salmon. The Kaniere River system is not a significant fishery and I consider that the proposed mitigation measures will ensure that trout habitat will be maintained. In that respect, Fish and Game has recently advised that it concerns have been addressed by TrustPower.

125. Section 3 and 4 of the Land and Water Plan provides policy direction for indigenous flora and fauna. **Objective 4.2.1** and associated **Policy 4.3.2** seeks to manage the effects of lake and riverbed activities on indigenous biodiversity and ecological values. Similarly, **Policy 3.3.1** seeks to manage land use activities on the natural character and aquatic ecosystems.

126. As I have noted above, a number of mitigation measures have been proposed as part of the Scheme to ensure that the indigenous biodiversity of the Kaniere River will be maintained. The construction phase of the Scheme will include the disturbance of the riverbed, a number of mitigation measures are proposed in the Construction Management Plan, including relevant sediment control measures for this period.

Culture and Heritage

127. RPS **Objective 5.1** and **5.2** and **Policies 5.1.1** and **5.2.1**, and **Objective 6.2.3** and **Policy 6.3.1** of the Land and Water Plan seek to recognise and provide for the protection of sites of significance to Tangata Whenua, to recognise the role of kaitiakitanga, and the relationship of local iwi in the management of natural and physical resources. As discussed above, TrustPower has consulted with local iwi regarding the proposal and no submissions have been received regarding the Scheme. Therefore, I consider that TrustPower has met its obligations under these provisions.

128. **Objective 6** and **Policy 6.1** of the RPS seek to manage potential effects on heritage

values and to identify and protect sites of heritage values to the West Coast region. The re-consenting of the Kaniere Forks HEPS will result in the continued use of the Kaniere water race, resulting in no change from the current use of the race. Conditions are proposed by TrustPower for the McKays enhancements relating to the provision of a Historic Heritage Management Plan (WDC Condition 16 and 17), and an advice note with regard to adherence to an Accidental Discovery Protocol. Overall I consider the proposal to be consistent with the RPS direction regarding historic heritage.

Water Quality and Quantity

129. Chapter 7 and 8 of the RPS provides policy direction for water quality and quantity. **Objective 7.2, Objective 8.2.1 and Policies 8.2.1 – 8.2.4** seek to maintain and enhance water quality through managing water flows, erosion and contamination from adjoining land use; and **Objective 8.1.1 and Policies 8.1.1 and 8.1.2** seek to manage water quantity so as to meet the needs of a range of uses, the reasonably foreseeable needs of future generations, and safeguard the life-supporting capacity of water and related ecosystems.

130. The proposed Scheme has been designed to avoid and where necessary, mitigate adverse environmental effects with regard to the take and use of water. The Scheme includes managed release flows throughout the year to ensure that effects on the water quality and instream values of the waterbodies are maintained. The water taken into the Scheme and discharged back into the Kaniere River will be within acceptable physical and chemical limits, ensuring the water quality of the river downstream of the discharge is maintained.

131. Water quantities for the Hokitika domestic water supply will be maintained through maintaining the minimum lake level which is 100mm above the WDC domestic water supply operating structure.

132. The Land and Water Plan provides extensive policy framework for the protection of water quality and quantity. **Objective 3.2.1** and associated **Policies 3.3.1** and **3.3.3** seek to manage the disturbance of land, vegetation and riparian margins to reduce adverse effects on the region's water resource. Further, **Objective 4.2.1** and associated **Policy 4.3.2** seeks to manage lake and riverbed activities on water quality.

133. The main activity resulting in the disturbance of land is the earthworks required for

the construction of the McKays tunnel deviation if it proceeds. These earthworks will be carried out in accordance with the sediment control plans in the Construction Environmental Management Plan to ensure that the quality of water is maintained.

134. Overall, I consider that the proposal is consistent with the policy framework for maintaining the quality and quantity of water in Lake Kaniere and the Kaniere River system.

Recreation

135. The RPS does not contain any specific objectives or policies on recreation. There are however, a number of provisions that seek to maintain and enhance access to riparian areas and the margins of lakes, rivers and the coast (**Objective 9.4, Policy 9.7 and Policy 10.1.4**). Additionally, **Policies 3.3.1** and **3.3.3** of the Land and Water Plan seek to manage the disturbance of land, vegetation and riparian margins to maintain public access to rivers, lakes and their margins.

136. The needs of recreational users are also acknowledged in several provisions relating to water quality and the need to consider potential effects on recreational users from water take proposals (**Policy 8.1.1(e)(i)** and **Objective 8.2.1(b)**). As discussed above, the Scheme will provide additional recreational facilities at Lake Kaniere, including the extension of the boat ramps at Hans Bay and Sunny Bight, and a process for installing one or two swimming platforms.

Energy and Infrastructure

137. RPS Chapters 14 (Energy) and 15 (Utilities) are closely interrelated and contain a number of similar provisions. **Objective 14** seeks to "promote the sustainable management of energy resources" and **Objective 15** seeks to "enable the functioning of network utilities and transport systems, while avoiding, remedying or mitigating adverse environmental effects". **Policies 14.1 and 15.1** both seek to recognise the importance of an adequate supply of energy resources, network facilities and transport systems for the needs of people and communities, provided such provision is "*not inconsistent with other policies in this RPS"*. **Policies 14.2 and 15.2** both seek to promote the sustainable management and efficient use of energy, network utilities,

and transport systems within the region. **Policy 9.4** in the chapter on habitats and landscapes is also of relevance where it seeks to *"enable the continued development, use and maintenance of network utilities in or near habitats and landscapes".*

138. The provisions in the Land and Water Plan that are of relevance to the proposal seek to take into account the benefits from the use and development of renewable energy, including the social and economic benefits (**Policy 6.3.2**). These provisions also seek to provide for the water needs of the West Coast's industries, network utility operators, and community water supplies (**Objective 7.2.2**).

139. The RPS and the Land and Water Plan therefore promote the use and development of renewable energy and associated network utilities. Such development is however qualified with the need for individual proposals to be "not inconsistent" with the remainder of the RPS. As noted, neither the RPS nor Regional Plans have yet been developed to take into account the NPSREG.

140. One of the key benefits of the proposed Scheme is that it will assist the Hokitika District community to become more self-sufficient in power generation to a modest degree, and increase the level of security of supply and will meet increasing commercial and domestic electricity demand. The proposal will also allow more efficient generation from existing infrastructure and using a renewable resource.

Natural Hazards

141. **Objective 11** and **Policy 11.2** of the RPS and **Objective 6.2.4** and associated **Policy 6.3.1** of the Land and Water Plan seek to manage the risks associated with any natural hazards through remedying or mitigating adverse effects which cause or exacerbate flooding, erosion, land instability, sedimentation or property damage.

142. The proposed Scheme will not result in the exacerbation of natural hazards.

143. Overall, and again taking a broad view of the outcomes sought in the RPS, I consider that the proposal is generally consistent with the relevant objectives and policies of the RPS and the associated Regional Plans.

b) Westland District Plan

144. I now consider the proposal against the various objectives and policies of the WDP in order to determine whether it is "contrary to" those objectives and policies when considered 'in the round'. In doing so, I also examine consistency with those various objectives and policies as relevant to the broader s.104(1)(b)(vi) considerations.

Landscape and Natural Features

145. Part 3.10 and Part 4.8 of the WDP provides a number of objectives and policies that have some relevance to the proposal, with these provisions relating to the protection of the landscape and natural features, and indigenous vegetation.

146. I note that Ms Buckland identifies the relevant objectives to the proposal as Objectives **3.10.1, 3.10.2 and 3.10.3**. Of relevance to the current assessment, it is noted that Ms Buckland states in her evidence (paragraph 94) that *"Overall the development will not impinge on the integrity of the landscape of Westland because the Lake levels vary now and should the canal option be pursued in place of the McKays tunnel it will not affect the integrity of wholeness of the Westland landscape. The proposal will maintain and protect the diverse character of Westland, and the proposed development has had regard to the natural landscape in which it is proposed to be located".*

147. The enhanced Scheme will result changes to variations in the lake level. However, given that lake levels fluctuates considerably under the current regime, I consider the proposed variations are in keeping with the existing amenity and landscape values. The proposal will also result in an increase in the width and volume of the Kaniere River below Lake Kaniere and McKays weir which is likely to be a positive impact on natural character; and altered flows will occur below McKays weir, however it is considered that this will not detract from the amenity values of the river.

148. The construction of the tunnel deviation for the proposed McKays Creek HEPS enhancements will require vegetation clearance of approximately 1.1ha of indigenous vegetation, resulting in a change to the landscape and natural character of the area. A number of mitigation measures are proposed to address the effects of these changes including the off-site mitigation package, and confining and modifying the construction envelope.

149. Therefore, I consider the proposal to be not contrary with the policy objective and policy framework when considered in a broad and holistic manner.

Indigenous Flora and Fauna

150. The WDP contains a number of provisions relating to ecology and indigenous habitats. **Objective 3.7.1** seeks to *"recognise and provide for the unique values and importance of natural environments and ecosystems in Westland"*. Similarly, Objective 3.7.3 seeks *"to protect the integrity, functioning and health of indigenous ecosystems and maintain the current diversity of indigenous flora and fauna"*. These objectives are supported by **Policy 4.9a** that seeks to avoid, remedy or mitigate adverse effects on the integrity, functioning and health of natural habitats, ecosystems and indigenous species.

151. As discussed, the McKays tunnel deviation option, if exercised would result in an 'off set' package that provides sufficient mitigation for the adverse effects associated this impact. The area that would be protected represents a 'like for like or better' scenario, provides higher ecological values than that associated with the tunnel deviation, and is located in close proximity and is within the same ecological district as the vegetation that is proposed to be cleared.

152. An extensive mitigation package has been proposed to protect the integrity, functioning and health of the indigenous aquatic ecosystem of the Kaniere River, including maintaining a higher minimum flow at Ward Road and installing fish passages and screens.

153. Overall, I consider that the proposed mitigation measures will ensure that the proposal is not contrary to the objectives and policies for indigenous flora and fauna.

Cultural and Heritage Values

154. **Objective 3.5.2** seeks to *"recognise and provide for the relationship, culture and traditions of tangata whenua with their ancestral lands, water, waahi tapu and other taonga"*. The associated **Policy 4.5D** reinforces this through encouraging the protection of waahi tapu, taonga and urupa in the District. As discussed above, TrustPower has consulted with local iwi regarding the potential effects of the proposal on water, taonga and sites of significance to tangata whenua and how these effects might best be managed. Iwi have deemed that a cultural impact statement was not

necessary with respect to the Scheme. Furthermore, a number of matters such as improving connectivity and maintaining fishery habitats, flushing flows, establishing minimum flows that protect in-stream values, and maintaining water quality are considered to be consistent with Te Runanga o Ngäi Tahu Freshwater Policy (1999) as these relate to the principles of mauri and mahinga kai. Accordingly, I consider that the proposal is consistent with the WDC provisions in this respect.

155. In terms of European historic heritage, **Policy 4.5A** seeks to ensure that *"buildings, places and items of significant historic, cultural or scientific interest and their relationship with places in Westland District should be preserved and maintained"*. The Kaniere water race is associated with pre-1900 human activity and as such, whilst not identified in the District Plan as an historic place, qualifies as an archaeological site. As noted above, the proposal seeks to continue to maintain and utilise the race. Therefore, it is considered that the proposal is consistent with the heritage provisions of the Plan.

Water Quality and Quantity

156. **Objective 3.11.1** seeks *"to control landuse and subdivision activities that may have adverse effects on the quality, instream values and availability of water resources and recognise the importance of water to the environment".* This objective is complemented by **Objective 3.11.2** that seeks *"to avoid, remedy and / or mitigate the adverse effects of activities which utilise surface waters"*. These objectives are to be implemented through **Policy 4.11A**.

157. As has been discussed, the proposed Scheme has been designed to avoid and where necessary, mitigate adverse environmental effects with regard to the take and use of water. The proposed managed release flows will ensure that water quality will be maintained.

158. Water quantities for the Hokitika domestic water supply will be maintained through adherence to the existing requirement to maintain staff level gauge in Lake Kaniere of -0.2m RL, being 100mm above the minimum domestic supply operating level.

Energy Provision and Development

159. The WDP contains broad objective and policy provisions on energy provision and development, including **Policy 4.6A** that seeks *"the efficient provision and development of all future services and infrastructure within the District shall be encouraged".* However, it is noted that the Methods only provide for existing service and infrastructure facilities and that no specific provisions are provided in the Plan to 'encourage' the future provision of services and infrastructure.

160. At present the Plan provisions do not explicitly promote renewable energy projects in the manner put forward in the NPSREG.

Natural Hazards

161. **Objective 3.13.1** and associated **Policy 4.14A** seek to ensure that the built resource and infrastructure of the District avoid areas of natural hazards.

Conclusion

162. Overall, I consider the proposal is consistent with the key objectives and policies.

Section 104(1)(c) – Any other relevant matters

Other Relevant Documents

163. Te Runanga O Ngai Tahu Freshwater Policy (1999) is relevant to the proposed Scheme. This iwi management plan and its application to the Scheme is discussed above.

164. The New Zealand Energy Strategy (NZES) targets the proportion of electricity generation obtained from renewable resources to 90% by 2025, from around 65% at present. The NZES provides a national context for the consideration of the proposed Scheme, by providing a strong case for the development of renewable electricity generation. I consider that the proposed Scheme is consistent with the key objectives of the NZES.

165. The New Zealand Energy Efficiency and Conservation Strategy (NZEECS) provides an action plan for New Zealanders to increase their uptake of energy efficiency and

conservation measures and renewable energy. The Strategy identifies the importance of high investment in a variety of renewable energy resources and the lower utilisation and possible decommissioning of existing thermal plants. I consider that the proposed Scheme is consistent with the objectives of the NZEECS in seeking to utilise a renewable energy source to generate electricity.

166. The West Coast *Tai Poutini* Conservation Management Strategy 2010 (WCCMS) provides objectives for the integrated management of natural and historic resources in the West Coast Conservancy. The WCCMS seeks the identification, conservation, protection and restoration of natural, historical and cultural heritage values, as well as the provision of appropriate recreation, use and enjoyment of public conservation lands. I consider that the proposed mitigation measures for landscape rehabilitation and recreation will ensure that the proposal is not inconsistent with the objectives of the WCCMS.

Section 104(2A) – value of existing investment

167. As the present applications involve re-consenting of existing infrastructure, accordingly section 104 (2A) to requires the consent authority to " … *have regard to the value of the investment of the existing consent holder*". Messrs Watson and Piddington have outlined that the existing Scheme and its associated footprint on the environment have been developed over some 100 years in the case of the Kaniere Forks HEPS, the last 12½ of which have involved investment by TrustPower.

Sections 105 and 107 – restrictions on discharge permits

168. Sections 105 and 107 specify circumstances in which a consent authority shall not grant a discharge permit. The operation and maintenance of the Scheme will not result in any of the instances listed. In terms of section 107, specific conditions have been proffered that explicitly avoid those matters identified in section 107(1)(ba).

Part 2 Matters

169. Section104(1) is subject to Part 2 of the Act, and in particular the overall purpose of

the Act as set out in s.5. Further, in this case the proposal touches in varying degrees on s.6(a) – (f) matters, s.7(b) – (d), (f) and (h) – (j) matters, and s.8, which are discussed in more detail below.

170. I understand that the application of s.5 involves a broad overall judgement. Such an approach allows for comparison of conflicting effects and considers the scale and degree of such effects and their relative significance or proportion in the final outcome.

171. In meeting the broad purpose of the RMA, recognition of the matters of national importance under s.6 must be considered, particular regard must be had to the issues under s.7 and account must be taken of the principles of the Treaty of Waitangi under s.8. I have dealt with these in turn below.

Section 6

172. My understanding is that the matters under s.6 while nationally important are not to be interpreted as though they are veto provisions. Nevertheless, I accept that in some cases they may be of such significance as to prevail in arriving at an overall judgement in the circumstances that accord with the single purpose of the RMA under s.5.

173. In my opinion all components of s.6 except (g) *the protection of protected customary rights* require consideration in relation to this proposal.

Section 6(a)

174. Section 6(a) provides for the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development.

175. Lake Kaniere and the Kaniere River catchment as a whole portray a high level of natural character, with some human modification. It is noted that the existing scheme has resulted in the extensive modification of parts of the area surrounding the Kaniere River, and as identified by Ms Buckland (paragraph 63) "*as Lake Kaniere has been subjected to a hydro scheme for the past 100 years, the continuation and enhancement of the HEPS is consistent with existing environment and is not*

inconsistent."

176. In relation to the Kaniere Forks Scheme there will be little to no material change to natural character.

177. With the McKays Creek Scheme enhancements will have either non-existent effects on natural character or will be minor and well screened. As also noted by Ms Buckland (paragraph 74) these works will be located within Area C (refer Plan 1 Landscape Supplement), which is already largely modified by pastoral farming, bush clearance, forestry and roads. Accordingly, the proposal is not considered to be inappropriate with regard to Section 6(a).

Section 6(b)

178. Section 6(b) provides for the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development. As noted, neither the Westland District Plan, nor the West Coast Regional Plans identify Lake Kaniere as an outstanding natural feature or landscape.

179. I accept the evidence of Ms Buckland that whilst a detailed assessment of the Lake has not been undertaken that "*Lake Kaniere and its setting have high scenic, amenity and landscape values"*[20]*.* I consider given the extent of the enhancements in conjunction with the seasonal operating range, that there would not be significant effects on the features of the Lake, such that even if s.6(b) were a relevant matter, the proposal would not be inappropriate

Section 6(c)

180. Section 6(c) provides for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

181. The margins of Lake Kaniere and Kaniere River constitute areas of significant indigenous vegetation and significant habitat of indigenous fauna. Mitigation measures are proposed to address the effects of the tunnel deviation that may impact on that habitat.

182. In terms of aquatic vegetation and fauna, Dr Ryder considers that it is possible to

[20] Evidence of Ms Buckland – paragraph 77

generate hydroelectricity as well as maintain freshwater biodiversity values to maintain viable populations of species and habitat.

183. An extensive mitigation package has been proposed to protect the integrity, functioning and health of the indigenous aquatic ecosystem of the Kaniere River.

184. Overall, therefore, despite the loss of some indigenous flora and fauna referred to above, I consider the proposal, due to the off-site mitigation package, is not inappropriate in terms of 6(c).

Section 6(d)

185. Section 6(d) provides for the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers. It is considered that the proposed extension of boat ramps, and a community process with regard to identifying the provision of swimming platforms will result in an overall enhancement of public access to Lake Kaniere and Kaniere River. Therefore, I consider that the proposal aligns with s.6(d).

Section 6(e)

186. Section 6(e) provides for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

187. As I have noted previously, TrustPower has consulted with the local iwi throughout the development of the project. No submissions have been received by Ngati Waewae or Ngai Tahu, and an accidental discovery protocol has been pro-offered by the applicant which provides for Section 6(e) matters in the event of the discovery of cultural artefacts or sites during construction works.

Section 6(f)

188. Section 6(f) provides for the protection of historic heritage from inappropriate subdivision, use and development, and the conditions associated with the McKays enhancements respond appropriately to that provision.

<u>Section 7</u>

189. In relation to s.7(b) and (ba), I consider that the proposal will amount to an efficient

use and development of natural and physical resources and will lead to efficiency in the end use of energy due to an increased security of electricity supply and commensurate reduction in the West Coast's dependence on the national grid.

190. I accept that the proposal will lead to some adverse impacts on amenity values (s.(7)(c)). However, it is also my opinion that the main impacts on amenity values will be in relation to construction activities, and will dealt with by conditions and the application of the Environmental Management Plan. Impacts on the quality of the environment (s.7(f)), are considered to be negligible within the broader context of the existing Scheme footprint, which has been a feature of this environment for some 100 years.

191. In terms of s.7(h), the protection of the habitat of trout, the evidence of Dr Ryder notes that fish passage in Lake Kaniere and the Kaniere River is proposed to be improved through the installation of fish passages and screens. I also note that Fish and Game New Zealand – West Coast Region has withdrawn its opposition.

192. The proposal derives benefits in terms of reducing climate changes effects (s.7(i)) and using a renewable source of energy (s.7(j)).

Section 8

193. Section 8 of the Act states that the principles of the Treaty of Waitangi shall be taken into account. The principles can be summarised as recognising the relationship of tangata whenua with natural and physical resources and seeking active participation of, and consultation with, tangata whenua.

194. In terms of s.8, TrustPower has undertaken consultation with local iwi and proffered conditions on accidental discovery protocol and Ngati Waewae have not filed a submission.

Overall Conclusions – Section 5

195. In exercising the broad overall judgement required in terms of s.5 of the Act, my conclusion is that the proposal, based on evidence I have reviewed, promotes the sustainable management of natural and physical resources. The proposal generates

several positive effects, and adopts appropriate mitigation measures for those adverse effects that cannot be avoided. Those mitigation measures respond appropriately to the scale and degree of effect. In terms of the objective and policy framework of both the regional and district plans which I have earlier identified, I have concluded the proposal is not contrary to the overall policy framework.

196. *A*pplying the respective considerations pursuant to s.104, and the threshold test under s.104D, I consider the crucial aspects are:

- adverse effects are able to mitigated by an extensive package of measures offered. This is particularly the case for indigenous habitats and recreation. Accordingly, any residual adverse effects from the proposal will be no more than minor;
- the proposal is not considered to be inconsistent with the objectives and policies of the respective District and Regional Plans. In forming this view, it is noted that these plans are yet to be revised to give effect to the National Policy Statement on Renewable Energy, and therefore the objective and policy package is 'light' on providing a framework that properly acknowledges and supports the current national direction on renewable electricity generation.

PART C – SUBMISSIONS

197. 159 submissions were received on the Scheme, all but ten of which were in opposition. To the extent these raise matters in relation to the relevant planning and policy documents, and statutory assessment, they have already been addressed in the body of my evidence above. Given this, and the response to submissions provided by other experts, I do not propose to address individual submissions further. I consider that the Scheme design, proposed mitigation measures and off-setting will address the issues raised regarding landscape and natural character, indigenous biodiversity, recreation and heritage. There is however one point I wish to specifically address regarding the economics of the Scheme.

198. A number of the submissions received outlined concerns that the proposed increase in generation capacity and any economic benefit are insignificant when compared to the adverse effects to recreation and amenity. I consider that the scale of a Scheme is unimportant within the context of statutory support provided by both the NPSREG,

particularly in that explicit policy is provided in support of local security of supply increases (**Policy A(b)**), the cumulative nature of renewable generation to assist in meeting or exceeding the national target for renewable generation (**Policy B(b) and (c)**). **Policy F** which identifies that territorial authorities should be proactive in terms of the provision of small and community scale renewable generation. Lastly, in terms of 'effects', **Policy B(a)** identifies that Decision Makers should have particular regard to the *maintenance of the generation output of existing renewable electricity generation activities*, which in terms of the Scheme advances the proposition that the effects from the enhancements are to be considered within the extent of environmental effects that have been, and would continue to be incurred by the existing Scheme.

PART D – THE S42A REPORT

199. I consider that the report provided by Ms Clark and Mr Kennedy is extremely comprehensive, and I agree with its conclusions, with the exception of:

- The Executive Summary, which suggests that the regional and district council consents should be bundled. I do not consider bundling across jurisdictions to be a valid approach. Instead, I agree with the body of the report that concludes the WCRC applications are overall discretionary, and the WDC applications are overall non-complying.

- The application of the permitted baseline assessment provided in Section 5.1, which I have addressed in paragraph 42 above; and

- Direction as to the need to outline criteria for 'practicability' with regard to rejecting the McKays tunnel refurbishment in favor of the tunnel deviation option (paragraph 5.3.5, 6.2). I have concluded, as have the Council Officers, that the tunnel deviation in combination with Kaniere Farms Mitigation Area (WDC Condition 33) would not fail the s104D threshold tests, nor consideration against the broader criteria in s104. Accordingly, I can see no resource management purpose for outlining the decision making process that will be used to decide whether the tunnel is practicable.

- Lastly, there are a number of references to the preparation of a Landscape Rehabilitation Plan should consent be granted. The necessity for this plan has

been largely removed as a consequence of placing the Kaniere enhancement consents on hold. The relevant criteria have however been retained in consent conditions.

PART E – CONDITIONS

200. In its section 92 response of 5 August 2011, TrustPower proposed a comprehensive set of conditions, aimed at ensuring the Scheme's effects are appropriately avoided, remedied or mitigated where required. An updated set of proposed conditions, addressing matters that have arisen since then is attached to the Officers' Report.

201. Since filing its proffered conditions, which are annexed to the Officer's Report, TrustPower's experts have recommended several amendments as **bolded and underlined**. These are:

Kaniere HEPS – WCRC: RC10001/5 (Take, use and divert)

1. The rate of diversion from Lake Kaniere via the intake for the Kaniere Race at the Lake Kaniere outlet shall not exceed $1m^3s^{-1}$.
2. **The consent holder shall within six months of the commencement of this consent:**
    a. **Install a water level measuring device at or immediately below the intake for the Kaniere Race that determines the continuous rate of flow and volume of water taken within an accuracy +/- 10 percent.**
    b. **The measuring device shall, as far as is practicable, be installed at a site that retains a stable relationship between flow and water level. The measuring device shall be installed in accordance with the manufacturer's instructions.**
    c. **The flow at the measuring site shall be gauged at least every 12 months whilst the consent is being exercised, and at any other time when required as determined by a site inspection. Site inspections are to be carried out by the consent holder at least once every month.**
    d. **Gauging and site inspections shall be carried out in accordance with best practice.**
    e. **The level of water in the race shall be recorded by tamper proof (as**

much as is practicable) electronic recording system which shall measure the flow at least once every 15minutes, and a record shall be kept either on site or via telemetry of the total volume passing through the Kaniere Race in time increments not exceeding 60minutes.

f. **The measuring and recording devices described in (a) and (e) above shall be available at all times for inspection by the Consent Authority.**

g. **All data from the recording device described in (e) above, and the corresponding relationship between the water level and flow, shall be provided to the West Coast Regional Council upon request.**

h. **Within six months of the commencement of this consent, and at two yearly intervals thereafter, and at any other time when requested by the Consent Authority, the consent holder shall calibrate the measuring device in clause (a) and recording device in clause (e), and provide to the Consent Authority a certificate signed by a suitably qualified person certifying the accuracy of the measuring and recording devices.**

i. **A report covering the period from July 1 to June 30 identifying the monitoring records from clause (e), shall be forwarded to the Consent Authority, on or about July 31 each year.**

Water level

3. ~~2.~~ The consent holder shall undertake continuous 15minute…

McKays HEPS – WCRC: RC10001/22 (Take, use and divert)

1. The rate of diversion from the Kaniere River at the McKays Weir intake shall not exceed $8m^3s^{-1}$.
2. **The consent holder shall within six months of the commencement of this consent:**

    a. **Install a water level measuring device both at or immediately below the intake for the McKays Race, and at or immediately below the intake at Blue Bottle Creek determines the continuous rate of flow and volume of water being taken to within an accuracy of +/- 10**

percent.

b. The measuring device shall, as far as is practicable… [as above]

…

e. The level of water in the race shall be recorded by tamper proof (as much as is practicable) electronic recording system which shall measure the flow at least once every 15minutes, and a record shall be kept either on site or via telemetry of the total volume passing through the McKays Race at both the McKays and Blue Bottle intake in time increments not exceeding 60minutes.

…

i. A report covering the period from July 1 to June 30 identifying the monitoring records from clause (e), shall be forwarded to the Consent Authority, on or about July 31 each year.

Water level

3. ~~2.~~ The consent holder shall undertake continuous 15minute…

McKays HEPS – WDC: 16 Heritage Management Plan

The Heritage Management Plan shall be prepared in consultation with the Department of Conservation and the New Zealand Historic Places Trust and shall provide for the following objectives:

a) Avoidance of known….

c) Establishment of Information panels relating to the structure, history and use of the Kaniere Water Race and raceman's track, McKays HEPS and the ecology of the race environment in a suitable location at the Lake Kaniere Intake. The form and content of the interpretation panels would be finalised in consultation with DOC and NZHPT, shall consist of no less than two panels each measuring 900mm x 1600mm, and shall where practicable, contain salvageable materials from the Coal Creek Flume.

McKays HEPS – WCRC: RC10001/22 (Take, use and divert)

4. ~~3.~~The Consent Holder shall undertake continuous 15-minute telemetered water temperature monitoring of the Kaniere River at a minimum of two sites for the term of consent for the HEPS:

(a) One site immediately downstream of McKays weir intake (Site 1).

(b) One site **at McKays Ford** ~~immediately upstream of the McKays Creek power station discharge~~ (Site 2).

202. A final set of collated conditions will be provided to the Committee in closing.

PART F – CONCLUSIONS

203. TrustPower proposes to continue operation of both the Kaniere Forks and McKays Creek HEPS, with some process optimisation at McKays Creek in order to increase generation by utilising the infrastructure and existing investment more efficiently, and assist security of supply for the West Coast (particularly Hokitika).

204. Significant national policy support for the Scheme is found in the NPS for Renewable Electricity Generation and the NZES, and at the regional and local level through the RPS (Objective 14 and Policy 14.1), the TRWMP (Objectives 5.3.2 and 6.3.2, and Policy 5.4.1(1)), PRLWP (Objectives 6.2.1 and 7.2.2, and Policy 6.3.2),[21] and WDP (Objective 3.4.1 and Policy 4.6A).

205. From the outset, TrustPower has sought to avoid adverse environmental effects arising as a result of the Scheme wherever this has been feasible. It has also proposed a number of mitigation measures for those effects that cannot be avoided, including seasonal lake level operating restrictions, the installation of fish screens, temperature monitoring and improvements to Lake Kaniere recreational infrastructure.

206. For terrestrial habitat loss that cannot be mitigated on site, TrustPower is proposing an area of off-site mitigation planting (3.5ha as associated with the McKays Creek HEPS

[21] These repeat similar objectives and policies in the TRWMP.

enhancement). Such an approach is consistent with the guidance given in Policy C2 of the NPS for Renewable Electricity Generation. It is also the same process that TrustPower utilised for its Arnold Scheme enhancements, albeit on a larger scale of loss and off-set.

207. I consider that the proposal is consistent with the objectives and policies of the relevant planning documents.

208. Lastly, comprehensive and robust conditions have been proposed, designed to ensure that the Scheme's effects are appropriately managed in a commercially practical and workable manner. These conditions also incorporate matters raised in submissions, the s42A Report, and further recommendations from TrustPower's technical experts.

209. In light of the above, I consider those parts of the Scheme requiring consent as non-complying activities pass both the threshold tests in section 104D. I further consider that overall the Scheme is consistent with the purpose of the RMA.

Matt Bonis
June 2012

Attachment A – Relevant Objectives and Policies

The West Coast Regional Policy Statement

Chapter 5 – Matters of Significance to Poutini Ngai Tahu

Objective 5.1

To take into account the principles of the Treaty of Waitangi in the exercise of functions and powers under the Resource Management Act.

Objective 5.2

a) Recognise and provide for the relationship of Poutini Ngai Tahu and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga within the West Coast Region.
b) To have particular regard to kaitiakitanga in the management of the use, development and protection of natural and physical resources in the West Coast Region.

Policy 5.1.1

The principles of the Treaty of Waitangi will be taken into account in the sustainable management of natural and physical resources in the West Coast Region.

Policy 5.2.1

Provide for the protection of ancestral land, waahi tapu
water, sites and other taonga in consultation with Poutini Ngai Tahu**.**

Chapter 6 - Heritage

Objective 6

To avoid, remedy or mitigate actual or potential adverse effects of resource use, development or protection on heritage and archaeological sites and values that contribute to the West Coast's distinctive character and sense of identity

Policy 6.1

Promote the identification and protection of heritage values of the region, which include the following:

a) Archaeological sites;
b) Places or areas of special historical, cultural or architectural interest or significance;
c) Places or areas of intrinsic, recreational or amenity value or of visual appeal.

Matters to be considered when assessing heritage places or sites include:

a) The extent to which the place reflects important or representative aspects of New Zealand history;
b) The level of association of the place with events, persons, or ideas of importance in the history of the (district/region);
c) The importance of the place to Poutini Ngai Tahu;
d) The level of community association with, or public esteem for, the place;
e) The potential of the place for public education;
f) The level of technical accomplishment or value, or design of the place including the rarity of technical accomplishment or design;
g) The symbolic or commemorative value of the place;
h) Whether it is an historic place known to date from early periods of the district's settlement i.e., such items are likely to be included in the schedule;
i) The rarity of the type of historic place; and
j) The extent to which the place forms a key part of a wider historical and cultural complex or historical and cultural landscape

Chapter 7 – Soils and Rivers

Objective 7.2

To avoid, remedy or mitigate degradation of water resources and aquatic ecosystems resulting from the instability, or use or development, of the beds and banks of rivers.

Chapter 8 – Water

Objective 8.1.1

To manage the quantity of the Region's water resources so as to:

a) Meet the needs of a range of uses, including the reasonably foreseeable needs of future generations; and
b) Safeguard the life-supporting capacity of water and related ecosystems.

Objective 8.2.1

To maintain, and where water quality is degraded, enhance the quality of the region's surface, ground and coastal water resources by:

a) Recognising and providing for the relationship of Poutini Ngai Tahu and their culture and tradition with their ancestral water;

b) Ensuring that land and water resources are used and managed so that their life supporting capacity, intrinsic, amenity, recreational and cultural values are maintained or enhanced by :
   (i) Sufficient flow or levels in natural water bodies to achieve desired water quality; and
   (ii) Avoid, remedy or mitigate the adverse effects of soil loss, erosion and the contamination of water bodies with chemicals, sediment, bacteria or nutrients.

Policy 8.1.1

When making decisions over water levels or river flows, or allocating water, the Regional Council will consider the following matters:

a) The natural availability of the water resource or natural range of levels and/or flows;
b) The existing and reasonably foreseeable future demands on water resources;
c) Conservation of water and its efficient allocation and use;
d) The relationship of Poutini Ngai Tahu and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;
e) The potential demand for water resources which could have an effect the following:
   (i) Recreational, amenity and intrinsic ecological values,
   (ii) Ecological and aquatic values,
   (iii) Indigenous flora and fauna.
f) Habitats of trout and salmon;
g) When allocating surface water resources, residual flows are sufficient to maintain or enhance the life supporting capacity of aquatic habitats and provide for aquatic, amenity and habitat values;
h) Existing allocations to resource users and reliance on these for their continued operations;
i) Cumulative effects of water extraction; and
j) The relationship between water quantity and water quality and the effects that water abstraction may have on the ability of a water body to assimilate waste.

Policy 8.1.2

Where insufficient water exists to meet existing and potential demands, priority be given for firefighting, domestic use and stock water**.**

Policy 8.2.1

Avoid, remedy or mitigate the adverse effects of discharges into surface, coastal and ground water particularly where these cause or are likely to cause:

a) Risks to human health;
b) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
c) Any conspicuous change in the colour or visual clarity;
d) Any emission of objectionable odours;
e) The rendering of fresh water unsuitable for consumption by farm animals;
f) Any significant adverse effects on aquatic life;
g) Loss of ecological, cultural, aesthetic, fishery, amenity and recreational values; and
h) The relationship of Poutini Ngai Tahu and their culture and traditions with ancestral water and other taonga to be compromised

Policy 8.2.2

To maintain, enhance or restore water quality in surface, coastal and ground water, taking into account:

a) The public uses of water resources;
b) The sensitivity of the receiving waters to adverse effects;
c) The current state of technical knowledge and treatment and disposal options for discharges;
d) Existing lawful discharges;
e) The relationship of Poutini Ngai Tahu and their culture and traditions with ancestral water; and
f) The setting of progressively higher water quality standards water bodies that are unacceptably degraded.

Policy 8.2.3

To promote, where appropriate, well-vegetated riparian margins while considering the need to reduce threats caused by flooding and erosion.

Policy 8.2.4

To manage land use practices in order to avoid, remedy or mitigate the entry of soil, silt and other contaminants into the region's water bodies.

Chapter 9 – Habitats and Landscapes

Objective 9.2

To protect the outstanding natural features and landscapes of the West Coast from inappropriate subdivision, use and development.

Objective 9.3

To preserve the natural character of the wetlands, lakes and rivers.

Objective 9.4

To maintain and enhance public access to the coastal marine area, rivers, lakes and their margins.

Policy 9.1

Preserve the natural character of the West Coast's wetlands, lakes and rivers and their margins and protect them, and outstanding natural features and landscapes, from inappropriate subdivision, use and development.

In deciding whether subdivision, use and development are inappropriate matters to be considered will include the following:

a) The degree to which the adverse effects of the discharge of contaminants can be avoided, remedied or mitigated, through provision of adequate services, particularly the disposal of wastes;
b) The extent of sporadic development and its effects on natural character;
c) The degree and significance of actual, potential and cumulative effects on natural character that arise;
d) The extent to which the subdivision, use and development recognises and provides for the relationship of Poutini Ngai Tahu and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;
e) The practicality of locating any subdivision, use or development away from the areas of significant indigenous vegetation and significant habitats of indigenous fauna (policy 9.2), the coastal environment, wetlands, lakes, and rivers and their margins, where adverse effects on natural character can be avoided, remedied or mitigated to a greater degree or extent;
f) The extent to which any subdivision, use or development provides a public benefit;
g) The degree to which the subdivision, use or development will be threatened by, or contribute to, the occurrence of natural hazards; and
h) Where rehabilitation plantings are required, the practicality of using indigenous species, preferably of locally derived stock.

In deciding whether a natural feature or landscape is outstanding matters to be considered will include the following:

(a) Its use, value or degree of representativeness of/for scenic, amenity, recreational, heritage, intrinsic and scientific purposes;
(b) Its association with areas of significant indigenous vegetation and significant habitats of indigenous fauna (see policy 9.2);
(c) The significance of its association with the coastal environment, wetlands, lakes and rivers and their margins; wetlands, lakes and rivers and their margins;
(d) The relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga; and
(e) The inclusion or exclusion of a water body from a water conservation order.

Policy 9.2

Recognise and provide for the protection of significant indigenous vegetation and significant habitats of indigenous fauna.

Matters to be considered as a guide for decision making include those that follow, any one of which may determine whether areas of indigenous vegetation and/or habitats of indigenous fauna are "significant".

a) The desirability for their protection by statute or covenant;
b) Protection status, including reserves created under the West Coast Accord;
c) The degree to which the area is representative of an association of species or an ecosystem that is typical of the region;
d) The likelihood of the area retaining its viability, quality and integrity of processes over a long time period;
e) The presence or absence of an indigenous species or community of indigenous species that is rare or threatened regionally or nationally;
f) The degree to which the area is distinctive in terms of indigenous species that are unusual, endemic, or that reach a distribution limit in the region;
g) The extent to which the area has been modified from a natural state or affected by weeds or pest species;
h) Its connection with other areas of significant indigenous vegetation or significant habitats of indigenous fauna;
i) Its contribution to the avoidance or mitigation of natural hazards;

j) Its use or value on a local, regional or national scale for public access, recreation, amenity and heritage purposes;
k) The relationship of Poutini Ngai Tahu and their culture and traditions with their ancestral lands, water, sites, waahi tapu, mahinga kai and other taonga;
l) The contribution of the area or habitat to maintenance and enhancement of ecological and reproductive processes water quality, water flow and soil conservation;
m) The relationship of the area or habitat to any water body included in a water conservation order;
n) Whether they occur near wetlands and estuaries;
o) The importance to migratory species, including whitebait; and
p) The relevance of ecological districts in relation to matters (c), (e) and (f).

Policy 9.3

Have particular regard to the protection of the habitat of trout and salmon.

Policy 9.4
Enable the continued development, use and maintenance of network utilities in or near habitats and landscapes.

Policy 9.7

Facilitate the maintenance and enhancement of public access to and along the margins of lakes and rivers, except where restrictions are necessary to:

a) Protect or maintain areas of significant vegetation and significant habitats of indigenous fauna;
b) Protect the cultural and spiritual values of Poutini Ngai Tahu including mahinga kai;
c) Protect public health and safety;
d) Ensure a level of security consistent with the purpose for a resource consent; and
e) In other exceptional circumstances sufficient to justify the restriction, notwithstanding the national importance of maintaining that access.

Chapter 10 – The Coastal Environment

Policy 10.1.4

Facilitate the maintenance and enhancement of public access to and along the coastal environment except where restrictions are necessary to:

a) Maintain or facilitate port development and operations;
b) Protect or maintain areas of significant conservation value;
c) Protect the cultural and spiritual values of Poutini Ngai Tahu, including mahinga kai;

d) Protect public health and safety;
e) Ensure a level of security consistent with the purpose for a resource consent;
f) In other exceptional circumstances sufficient to justify the restriction, notwithstanding the national importance of maintaining that access.

Chapter 11 – Natural Hazards

Objective 11

The protection of human life and the avoidance or mitigation of damage to property and environmental values resulting from natural hazards.

POLICY 11.1

Promote appropriate responses when a natural hazard is possible, likely to occur or imminent including:

a) Timely warning and advice;
b) Evacuation of people and stock from high risk areas;
c) Mobilisation of rescue and welfare groups; and
d) Identification of at risk areas.

Chapter 14 - Energy

Objective 14

To promote the sustainable management of energy resources.

Policy 14.1

Recognise the importance of an adequate supply of energy resources for the needs of people and communities on the West Coast, provided that this is not inconsistent with other policies in this RPS.

Policy 14.2

Promote the sustainable management and efficient use of energy within the region.

Chapter 15 – Network Utilities and Transport Systems

Objective 15

Enable the functioning of network utilities and transport systems, while avoiding, remedying or mitigating adverse environmental effects.

Policy 15.1

Recognise the importance of network utilities and transport systems for the needs of people and communities, provided that this is not inconsistent with other policies in this RPS.

Policy 15.2

Promote the sustainable management and efficient use of network utilities and transport systems within the region.

The West Coast Regional Land and Water Plan

Section 3 – Land Management

Objective 3.2.1

To avoid or reduce adverse effects from land disturbance so that the region's water and soil resources are sustainably managed.

Policy 3.3.1

To manage the disturbance of land and vegetation in order to avoid remedy or mitigate any adverse effects on:

(a) The stability of land (eg. slumping, subsidence, or erosion), river banks, and riverbeds and coastal margins;
(b) Water quality, including clarity, turbidity, and temperature changes, and instream values;
(c) Changes in water level including water table;
(d) Public access to rivers, lakes, and their margins and the coast;
(e) Natural character, and aquatic ecosystems;
(f) Soil depth and soil fertility;
(g) The integrity of property or structures;
(h) Cultural and recreational values; and
(i) Significant indigenous vegetation and significant habitats of indigenous fauna.

Policy 3.3.3

To manage the disturbance of riparian margins to:

(a) Maintain or enhance water quality (including clarity, turbidity, and temperature), and in-stream values, (including aquatic ecosystems).
(b) Promote soil conservation.
(c) Ensure that existing public access to water bodies is maintained or enhanced.

(d) Protect the natural character of the coastal environment, wetlands, and lakes and rivers and their margins, from inappropriate use and development.

Section 4 – Land and Riverbed Management

Objective 4.2.1

To avoid, remedy, or mitigate the adverse effects of lake and riverbed activities on:

(a) The stability of beds, banks, and structures;

(b) The flood carrying capacity of rivers;

(c) The natural character of wetlands, lakes and rivers and their margins;

(d) Indigenous biodiversity and ecological values, including fish passage;

(e) Amenity, heritage, and cultural values;

(f) Sports fish habitat values;

(g) Water quality;

(h) Navigation.

Policy 4.3.2

To manage bed disturbance, reclamation, deposition and the use, erection, extension, reconstruction, maintenance, alteration, demolition, or removal of structures in, on, under, or over the bed of any lake or river, so that the activity does not cause or contribute to significant adverse effects on:

(a) The stability of beds and banks;

(b) The capacity of rivers to carry flood flow;

(c) Heritage, amenity or cultural values;

(d) Water quality;

(e) Existing structures or existing uses;

(f) Navigational safety;

(g) Aquatic ecosystem values (including habitat values and fish passage);

(h) The natural character of the coastal environment, wetlands, rivers and lakes and their margins;

(i) Significant indigenous vegetation and significant habitats of indigenous fauna.

Section 6 – Natural and Human Use Values of Water

Objective 6.2.2

To protect water bodies from inappropriate use and development by maintaining and where appropriate enhancing their natural and amenity values including natural character and the life supporting capacity of aquatic ecosystems.

Objective 6.2.3

To maintain or where appropriate enhance the spiritual and cultural values and uses of significance to Poutini Ngäi Tahu.

Objective 6.2.4

To avoid the exacerbation of any natural hazard or the creation of a hazard associated with the West Coast's water bodies.

Policies 6.3.1

In the management of any activity involving water to give priority to avoiding, in preference to remedying or mitigating:

(1) Adverse effects on:
    (a) The habitats of threatened species identified in Schedule 5A;
    (b) Water supply values identified in Schedule 5B;
    (c) Spiritual and cultural values and uses of significance to Poutini Ngäi Tahu identified in Schedule 5C;
    (d) The significant natural character of wetlands, and lakes and rivers and their margins;
    (e) Outstanding natural features and landscapes;
    (f) Significant indigenous vegetation and significant habitat of indigenous fauna assessed in accordance with Policy 9.2 of the West Coast Regional Policy Statement;
    (g) Existing public access to and along lakes and rivers;
    (h) Significant historic heritage.
(2) Adverse effects which cause or exacerbate flooding, erosion, land instability, sedimentation or property damage.
(3) Adverse effects on existing lawful uses

Policy 6.3.2

To take into account the benefits from the use and development of renewable energy, including the social and economic benefits.

Policy 6.3.3

In the management of any activity involving water, to avoid, remedy, or mitigate adverse effects on:

(a) water quality;
(b) amenity values;
(c) indigenous biological diversity;
(d) intrinsic values of ecosystems;
(e) the natural character of wetlands, and lakes and rivers and their margins, not described in 6.3.1(1)(d);
(f) historic heritage not described in 6.3.1(1)(h).

Policy 6.3.6

To recognise and provide for the following features of water bodies when considering adverse effects on their natural character:

(a) The topography, including the setting and bed form;
(b) The natural flow characteristics;
(c) The natural water level and its fluctuation;
(d) The natural water colour and clarity;
(e) The ecology; and
(f) The extent of use or development within the catchment, including the extent to which that use and development has influenced (a) to (e).

Section 7 – Surface Water Quantity

Objective 7.2.1

To retain flows and water levels in water bodies sufficient to maintain their instream values, natural character, and life supporting capacity.

Objective 7.2.2

To provide for the water needs of the West Coast's industries, network utility operators, and community water supplies.

Policy 7.3.3

To consider granting an application for a resource consent to take water from a river, subject to a minimum flow lower than that specified in Policy 7.3.2, on a case-by-case basis, provided:

(a) Any adverse effects on instream values or natural character of the source water body or any other connected water body are avoided, remedied or mitigated; and
(b) Any adverse effects on lawfully existing takes of water are no more than minor;
(c) The application if granted, together with the cumulative effect of other existing lawful takes, avoids, remedies or mitigates adverse effects on the life supporting capacity of any waterbody.

The Westland District Plan

Natural Environment

Objective 3.7.1

To recognise and provide for the unique values and importance of natural environments and ecosystems in Westland.

Policy 4.9a

Adverse effects on the integrity, functioning and health of natural habitats and ecosystems and indigenous species shall be avoided, or where avoidance is not practical, remedied or mitigated.

Maori Perspective

Objective 3.5.2

To recognise and provide for the relationship, culture and traditions of tangata whenua with their ancestral lands, water, sites, waahi tapu and other taonga.

Policy 4.5A

Buildings, places and items of significant historic, cultural or scientific interest and their relationship with places in Westland District should be preserved and maintained.

Policy 4.5D

The protection of waahi tapu, taonga and urupa within Westland District shall be encouraged.

Landscape

Objective 3.10.1

To ensure development does not impinge on the integrity of landscapes in Westland.

Objective 3.10.2

To maintain and protect the existing scenic and open and diverse character of Westland District, dominated by natural dynamic processes.

Objective 3.10.3

To ensure that land uses, buildings and development have regard to the natural landscapes in which they are located or seek to be located.

Policies 4.8

A. The continuity of the mountains to sea landscape in Westland particularly in the south of the District and significant landscape elements shall be protected by ensuring development takes into account the landscape setting.

B. The contribution of indigenous vegetation to the landscape character of the district shall be recognised and its clearance controlled.

C. Council will protect significant landscape areas, including natural features, in the District. All significant landscape areas shall meet the following criteria:

1. Intactness (naturalness)
2. Scientific or other Cultural value
3. Distinctiveness

   Representativeness

   Protected Status

   Buffering

   Visual Sensitivity

   Visual Coherence

Water Resources

Objective 3.11.1

To control landuse and subdivision activities that may have adverse effects on the quality, instream values and availability of water resources and recognise the importance of water to the environment.

Objective 3.11.2

To avoid, remedy and/or mitigate the adverse effects of activities which utilise surface waters.

Policy 4.11a

Land based activities shall avoid, remedy or mitigate adverse effect on the water quality of rivers, lakes and streams.

Infrastructure and Servicing

Objective 3.4.1

To ensure that all servicing activities are carried out in a manner, and in locations, which avoid, remedy or mitigate adverse environmental effects

Policy 4.6A

The efficient provision and development of all future services and infrastructure within the District shall be encouraged.

Natural Hazards

Objective 3.13.1

Rules for the avoidance and mitigation of natural hazards have been incorporated in the District Plan given that severe hazards pose a significant threat to the built resource and infrastructure of the District and people and communities.

Policy 4.14a

Further subdivision and development shall not be permitted in areas of severe known natural hazard risk where the risk to buildings, infrastructure, people and communities cannot be avoided or adequately mitigated.