

ROYAL FOREST & BIRD PROTECTION SOCIETY OF NEW ZEALAND INC

From West Coast Branch
Chair Kathy Gilbert
Phone 03 755 4250
Email kgilbert@farmside.co.nz



12 September 2018

Director-General
West Coast Tai Poutini Conservancy
Department of Conservation
Private Bag 701
Hokitika

Email: Permissionhokitika@doc.govt.nz

Further Submission on Application for a lease, licence and easement from No 8 Limited

Thank you for the material supplied on this matter. We do not have the technical expertise to give a full analysis of the material. However there would seem to be many outstanding points which have not been resolved by the applicant.

1. Hydrological Information. We question the validity of the correlations with Poerua and Hokitika Gorge for determining MALF - both on catchment, local environment and distance from McCulloghs Creek.

3.2 of the further information request by DOC asks for hydrological data on the abstraction reach, by simultaneous measurements of flow at the intake site as well as the longer term site at the power house. However the updated report only **estimates** the MALF at the intake, it's not measured at all.

2. Freshwater. DOC asks for more survey work to be done to assess the effects on aquatic values. However the Ecology NZ report just refers to desktop studies, and in the case of specific fish species states that additional surveys will be done. The relationship between koaro and trout is explained and it is stated that essentially more information is needed about the trout to determine where the koaro are most likely to be and the effect on them. Again the surveys that DOC requested have not been done.

Likewise macroinvertebrates have not been further investigated – only a comparison from other sites. The Ecology NZ report itself states that an increased survey effort is needed to understand and establish species diversity.

Again 3.3 of DOC further information request states that more detailed assessment need to be done but no further information has been given; it just states that additional surveys will be done – so the data is still deficient.

3. **Birds, bats and lizards.** 4.1 further information request asks for surveys of birds and bats in the area, these have not been done.

Lizards. The ecology report notes a site-specific survey is required to determine possible effects on lizards.

4. **Conclusion.** The Ecology NZ report which is meant to answer the questions from DOC is based on desktop studies. At the end it states:

“Further investigations have been recommended within this report to validate expected impacts and where necessary refine assessment and conclusions.”

So the information is still deficient. The questions posed by DOC have not been answered.

Clearly if the applicant doesn't know the impacts, they can't know how much water they can take, and so they don't know if the scheme is even viable.

West Coast branch of Forest and Bird **oppose this application being granted on the basis of insufficient information has been supplied to DOC, and therefore the effects of the proposed scheme cannot be properly assessed.**

We think our submission is clear and so do not wish to be heard at the hearing for this concession.

Kathy Gilbert

Chair West Coast Forest and Bird.



Judi Brennan
Department of Conservation
Hokitika.

10 September 2018.

Dear Judi,

No 8 Limited's application for a lease, licence, and easement concession for a hydro scheme in McCulloughs Creek, West Coast

We wish to be heard in support of our submission.

Introduction

Federated Mountain Clubs (FMC) was founded in 1931 and advocates for New Zealand's backcountry and outdoor recreation on behalf of over 20,000 members in more than 80 clubs. We have an interest in McCulloughs Creek for the recreational opportunities it offers and in terms of its status under the Conservation Act 1987 and the Reserves Act 1977.

Purpose for which the land at McCulloughs Creek is held

The proposed project would take place on lands with scenic reserve, marginal strip, and stewardship classifications.

Under the Reserves Act 1977, land is held for the preservation and management of its natural values (s3).

Marginal strips are held for conservation purposes, public access, and for public recreational use (Conservation Act s24C).

The purpose for which stewardship land is held is conservation, which s2 of the Conservation Act describes as *the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.*

On the basis that the purposes for which the lands are held are preservation and conservation, it would be questionable to approve the application.

Stewardship

The Parliamentary Commissioner for the Environment noted in her 2013 report, Stewardship Land, that when the Conservation Act 1987 was enacted,

A large proportion of the land put under DOC management was denoted stewardship land. These mostly forested lands had not been protected previously, but were to be protected until their value had been assessed. After assessment, they were to be reclassified into appropriate categories of conservation land or turned over to commercial production.

Given that without appropriate classification the lands enjoy low legal protection status only, she went on to recommend that:

The Minister of Conservation instruct the Department of Conservation to identify areas of stewardship land that are clearly of significant conservation value, and reclassify them in accordance with that value.

The triggers for her report were significant tests of the protection of high value stewardship land that were enabled by the absence of appropriate classifications. It would be unacceptable, given the red flags raised by the report, and, indeed, the challenges that prompted it, for any more such challenges to bear fruit or even distract DOC significantly.

The values of the stewardship component of the land at McCulloughs Creek are, despite some recent study, yet to be fully assessed, and are therefore not properly understood.

Lack of information about the values of the area in question should not enable a short circuit to the compromise of those values before they can be understood. This would be abrasive to the Act - with respect to this case, and, more broadly, as a precedent.

FMC believes that, were assessment to take place, the stewardship land affected by No 8 Limited's application could be considered worthy of high or very high classification such as conservation park or Westland Tai Poutini National Park addition. Perversely, if the application were approved, the associated infrastructure's presence could have a negative impact on the land's potential for such reclassification. Consideration of No 8 Limited's case - or any similar - should take place only after full assessment and appropriate classification.

Because of the relevant statutory demands of preservation and protection, and the precautionary approach which is appropriate when dealing with unassessed stewardship land, it would be inappropriate to approve the application.

No 8 Limited's case and tests laid down under Part 3B of the Conservation Act 1987

Statutory requirements relating to concessions

Specific tests laid down by Part 3B of the Act are that:

- * the applicant supply reasons and sufficient information to satisfy the Minister that granting the application is *lawful and appropriate* (s17S(g)(ii)).
- * an application not be granted *if the proposed activity is contrary to the provisions of this Act or the purposes for which the land concerned is held* (s17U(3)).
- * an application not be granted if *the activity- could reasonably use an existing structure or facility or the existing structure or facility without the addition* (s17U(4)(b)).

Concessions-related statutory requirements: No 8 Limited's application in national and regional contexts

A 2015 comprehensive report, Proposed Waitaha Hydro Scheme: Assessment of Reasons, Financial Viability, and Alternative Locations (Baldwin) comprehensively examined electricity supply and demand in national and Westland contexts. Findings included that:

- * Westland was well-served by the recently-upgraded national grid.
- * at the date of publication, national power availability exceeded demand.
- * nationwide, 20 power plants had consent and were awaiting construction, with more planned.
- * surplus in the national grid would increase substantially if Tiwai Point aluminium smelter, whose future is uncertain, were to close.

In Westland alone, several other hydro schemes have been commissioned or approved recently, and more are being considered. They include:

- * Amethyst Hydro Scheme, operating since 2014.
- * Inchbonnie Hydro, operating since January 2016 (after the publication of the report mentioned above).
- * a Stockton Plateau hydro scheme, approved but not yet built.

* Griffin Creek Hydro, proposed.

Tests set by Part 3B not met

FMC is of the view that tests posed under s3B are not met:

- * It is clear that the activity could take place in alternative locations (s17U(4)(b)).
- * The proposed activity is, based on the previous point, contrary to the provisions of the Act and the purposes for which the land is held (s17U(3)).
- * Based on the two previous points, it is unlikely that information provided will be sufficient to satisfy the Minister that it would be appropriate or lawful to grant the lease, licence and easement concession applied for (s17S(g)(ii)).

The application's lawfulness is questionable as it does not meet tests set by Part 3B of the Conservation Act 1987.

General - quality of application

The executive summary of the application's environmental assessment makes numerous arguments that FMC believes are in tension with the relevant statutory environment. These include cases made for additions to existing sufficient power generation capacity, and for development of unassessed stewardship land (recent further study fails to complete necessary assessment).

A further inapposite stance concerns economic benefit; the relevant Acts contain no economic mandates.

The application shows faulty understanding of the purposes of the relevant statutes, putting a question mark over its appropriateness in a general sense.

Recommendation

FMC recommends that the application be declined because:

- * it is not in accordance with the purposes for which the lands are held under the Conservation Act 1987 and the Reserves Act 1977.***
- * potential for harm to presently unknown values within the stewardship portion of the land means it is not in accordance with the purposes of the Conservation Act 1987.***

** it fails tests under Part 3B of the Conservation Act 1987 as noted above.*

** its flawed appreciation of the relevant statutory environment casts doubt on its appropriateness generally.*

Yours sincerely,

J R Finlayson,
Federated Mountain Clubs vice-president and freshwater spokesperson.

FMC – FEDERATED MOUNTAIN CLUBS

www.fmc.org.nz | President: Peter Wilson (021) 1513486 | Vice-President: Jan Finlayson (021) 502297
Executive Officer: Danilo Hegg eo@fmc.org.nz Ph 027 339 2688
Federated Mountain Clubs | P O Box 1604 | Wellington 6104 | New Zealand/Aotearoa

