

**Before a panel appointed under the  
Fast-Track Approvals Act 2024**

**FTAA-2510-1120**

**UNDER:** the Fast-track Approvals Act 2024 (**Act**)

**IN THE MATTER:** an application for approvals for the Lake Pūkaki Hydro Storage  
and Dam Resilience Works

**BY:** **MERIDIAN ENERGY LIMITED**  
**Applicant**

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**STATEMENT OF EVIDENCE OF BRENT LAYTON ON BEHALF OF MERIDIAN  
ENERGY LIMITED**

**RESPONSE TO COMMENTS BY THE MINISTER FOR ENERGY**

Dated: 4 June 2026

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## **INTRODUCTION**

1. My full name is Thomas Brent Layton.
2. I am a self-employed economic consultant.
3. I have been asked by Meridian to provide a response to the matters contained in the recent written comments on the application it has received from the Minister for Energy dated 27 May 2026.
4. My previous positions most relevant to this project and qualifications were included in the response on other comments on the application I provided on 15 April 2026. I will not repeat them here.

## **CODE OF CONDUCT**

5. I repeat the confirmation in my 15 April 2026 evidence that I have read the Code of Conduct for Expert Witnesses as contained in section 9 of the Environment Court Practice Note (2023), and have complied with it in preparing this evidence. I confirm the issues addressed in this evidence are within my area of expertise, and I have not omitted material facts known to me that might alter or detract from my evidence.

## **RESPONSE TO MINISTER'S COMMENTS**

6. The Minister's letter to the Panel provides three reasons for him commenting:
  - a. The importance of Meridian's application;
  - b. To bring to the attention of the Panel, "new information of relevance to this proposal", which is discussed in Mr Christensen's submissions; and
  - c. To "provide broader context which may be useful for the Panel in considering the respective perspectives of the Electricity Authority and Transpower."

## **IMPORTANCE OF PROPOSAL**

7. I agree with the Minister on the importance of Meridian's application. Events in the Gulf region in the last few months have highlighted the importance of energy security, reliability, and economic efficiency to the well-being of New Zealanders. They have also highlighted the importance of New Zealand

industries reducing further their consumption of gas. The electrification of many heat processes will be an important part of that.

8. It is unlikely that economic events as adverse as happened in the electricity sector in 2024 will be repeated in the near term. As the Minister notes in his letter, “we have a significant pipeline of renewable generation being delivered at pace”. Moreover, as discussed in legal submissions, contractual arrangements to ensure the availability of Huntly’s Rankine units over the next 10 years have been put in place between the four major generator-retailers and authorised by the Commerce Commission.
9. However, should there be a dry year in the next three years and, as a result, a material impact by raising contract prices, the transition of industrial users away from gas will be slowed and the confidence in the electricity industry will be adversely impacted.
10. Meridian’s application for eased access to water in Lake Pūkaki is aimed at materially reducing dry year risks for the system over the next three years.

#### **THE BROADER CONTEXT**

11. The Minister notes the differing views of the Electricity Authority and the System Operator. On this conflict of views, I make the following comments to assist the Panel.
12. Firstly, as the Panel has been made aware via Meridian’s earlier evidence and the separate advice the Panel has received from the Electricity Authority, Transpower is not, in its role of System Operator (SO), a regulator of the electricity industry. It is a state-owned enterprise required to “operate as a successful business and, to this end, to be as profitable and efficient as comparable businesses that are not owned by the Crown.”<sup>1</sup>
13. As the Electricity Authority explained in its main submission to the Panel:

“The roles of the SO are set out in section 8 of the [Electricity Industry] Act, and Part 7 of the Electricity Industry Participation Code 2010 (the Code). The System Operator role most relevant to this submission relates to forecasting security of supply and managing security of supply emergencies”.

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<sup>1</sup> State-Owned Enterprises Act 1986, s. 4 (1) (a).

14. The Electricity Authority in its letter to the Panel of 22 May 2026, noted the role of the System Operator is made clear in the current Government Policy Statement to the Electricity Authority, issued in October 2024 by the Minister for Energy, which says:

“23. In accordance with market rules and arrangements, the System Operator is –

  - a) Not responsible for ensuring the adequacy of offers to meet demand, but rather –
  - b) To efficiently coordinate the utilisation of electricity generation and demand-side offers that have been made available in the wholesale market by market participants in response to spot price signals”
15. Secondly, when the Electricity Commission was set up in 2003 as the “regulator” of the electricity industry it was created as a Crown Agent and required to give effect to directions from the Minister. The Minister was able to appoint and replace Commissioners as he or she saw fit. In the 2000’s New Zealand experienced a number of dry year events and public conservation campaigns were required in some of them. Confidence in the industry was reduced to the point where the common perception among the public was that New Zealand had an unreliable electricity system.
16. The new Government initiated a review of the governance and operation of the industry in 2009. The Brownlee Review came up with 29 recommendations, all of which were accepted by the Government and implemented.
17. One of the recommendations was that the regulator of the industry should be an Independent Crown Entity (ICE), with similar status and independence to the Commerce Commission, and that it should be delegated the power to determine the Code. ICE are only required to have regard to Government Policy Statements. The key reason for the recommendations was the Review’s finding that having direct Ministerial involvement in security of supply issues had been counter-productive; Ministers’ involvement had increased dry year risk problems, not reduced them.
18. Parliament adopted the recommendations and established the Electricity Authority as an ICE and went further by delegating to it tertiary legislative powers. It also gave the Authority a main statutory objective that requires it

to consider in all its decisions, the broader context the Minister for Energy suggests is important in the current situation. The Authority is required in all it does to “promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.”<sup>2</sup>

19. Another recommendation of the Brownlee Review was to clarify the respective responsibilities of Transpower, as System Operator, and the Electricity Authority, as regulator, in relation to security of supply. The arrangement adopted in the Code to achieve this has been described above in the quotes from the submissions of the Electricity Authority.
20. Given the independence and statutory role of the Electricity Authority, the different role of Transpower as SO, and the way regulation of the industry is structured to ensure decisions around security of supply are removed from the political realm to the extent they can be, my advice to the Panel is that it should prefer the view of the Electricity Authority as to the national benefits and risks of Meridian’s proposal.
21. I believe this choice is made easier by the fact that the Panel’s decision could be effectively nullified or suspended by the Authority. Should future circumstances change and lead the Authority to conclude that it would be inappropriate (having regard to the objectives of its Act) for Meridian to use some or all of the contingent reserves made available to it as a result of the Panel’s decision, then the Authority could effectively over-ride the consent.
22. The Electricity Authority has power to make urgent Code changes if it “considers that it is necessary or desirable in the public interest that the proposed amendment be made urgently.”<sup>3</sup> These Code changes expire after 9 months unless the Authority goes through the prescribed process for making Code changes.<sup>4</sup>
23. An example may help with understanding this point. Let us assume the Panel grants Meridian’s application and in 2027 a dry year develops such that Meridian starts to draw down Lake Pūkaki towards 518 mRL. Assume further, that as the Lake Pūkaki level approaches 519 mRL, a major outage at unit 5 in Huntly develops. How long this outage will last is initially uncertain. The Authority could, in these circumstances, decide to issue urgent Code

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<sup>2</sup> Electricity Industry Act 2010, s. 15 (1)

<sup>3</sup> Electricity Industry Act 2010 s. 40(1).

<sup>4</sup> Electricity Industry Act 2010 s. 40(2)(b).

that told Meridian and the market that until things are clarified, Meridian cannot drawdown on Lake Pūkaki below, say, 517 mRL. A couple of weeks later, unit 5 is up and running again because the fault turned out to have a relatively quick fix, and the Authority uses its powers to withdraw the urgent Code change.<sup>5</sup>

24. If the Panel decides not to grant Meridian's application, then this type of flexibility to get the country through the next three years without a dry year issue would not be possible.
25. Furthermore, in dealing with security and reliability of supply issues the Authority is able to and does draw on advice from an independent group of persons who "have between them appropriate knowledge and experience of the electricity industry" to provide such advice. Under section 20 of the Electricity Industry Act 2010 the Authority must appoint a Security and Reliability Council (SRC) with these characteristics and the Council must meet at least once every six months and may meet as it, or the Authority, think appropriate.
26. The SRC's function is "to provide independent advice to the Authority on -  
(a) the performance of the electricity system and the system operator; and  
(b) reliability of supply issues."<sup>6</sup>
27. The SRC has its own secretariat and considerable independence in its operation from the Authority, and Transpower. It is well placed to support the Authority in its statutory requirement to consider all of its actions that have a potential bearing on the industry, including security of supply, in a broader context.

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<sup>5</sup> Section 40A of the Electricity Industry Act 2010 permits the Authority to withdraw an urgent Code change if circumstances that gave rise to it have changed.

<sup>6</sup> Electricity Industry Act 2010, Section 20(2).

28. In this context the Authority is, intentionally by design the best-informed and best-positioned party to make the policy decisions regarding security of the electricity system.

**Dated: 4 June 2026**



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**Thomas Brent Layton**