

Lake Pūkaki Hydro Storage and Dam Resilience Project (FTAA-2510-1120)

Schedule 1

Panel Convener’s Conference – Matters to be considered

Applicant’s Response

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<p>Approvals</p> <p>[1] The number and range of approvals sought.</p>	<p>The following approvals are sought:</p> <ol style="list-style-type: none"> 1. Resource consents that would otherwise be applied for under the RMA comprising: <ol style="list-style-type: none"> a. Section 14 water permit to operate Lake Pūkaki below 518 m RL b. Section 15 consent to discharge contaminants to land and water arising from land disturbance associated with dam protection/resilience works including excavation, deposition and stockpiling of material in and around the dam, and disturbance of the bed of Lake Pūkaki immediately below the dam c. Section 15 consent to discharge contaminants to air associated with the dam protection/resilience works 2. A wildlife approval that would otherwise be applied for under the Wildlife Act.
<p>[2] Complexity</p>	<p>The application is for approvals:</p>

The level of complexity will have a bearing on the appropriate frame for decision making and may include:

- (a) Legal Complexity: novel or difficult legal issues -
 - (i) involve untested law or interpretation of statute;
 - (ii) involve application for multiple approvals;
 - (iii) interface with two or more statutes; and
 - (iv) engage constitutional law and public law.
- (b) Evidentiary Complexity: stemming from the volume, type, or technical nature of evidence -
 - (i) include challenges like managing expert reports or dealing with conflicting factual or opinion evidence; and
 - (ii) often involve technical or scientific analysis.
- (c) Factual Complexity: arises from the volume and nature of evidence -
 - (i) requires careful management of extensive information or reports, including expert opinion in specialised fields; and
 - (ii) necessitates analysis if technical, scientific, or highly specialised subject matter are involved.

- to temporarily (for three years) remove the existing limitations on the circumstances when Lake Pūkaki is able to be operated below 518 m RL for electricity generation purposes; and
- to enable the lower upstream faces of the Pūkaki Dam structure to be armoured with rock to improve resilience when lake levels are low.

Relevant factors:

Legal complexity – the application is not legally complex. Existing authorisation is in place to enable Lake Pūkaki to be operated below 518 m RL and this application seeks to temporarily remove the limitations that apply to when the authorisation may be exercised. Like all applications in the early days of the implementation of FTAA, it engages untested law and interpretation of a new statute. In addition to resource consents a simple wildlife approval has also been applied for.

Evidentiary and factual complexity - the application raises no issues that would be considered factually complex. The independent technical reports accompanying the application are detailed, but are as to be expected given the need to explain the nature of the environment, the expected impacts of the proposal, and the way impacts are to be managed.

<p>Issues</p> <p>[3] Issues identified by the applicant and other participants:</p> <ul style="list-style-type: none"> (a) during consultation; and (b) any disputed fact or opinion, or legal issue, that is or is likely to be of consequence to the determination of the application. 	<p>Through its consultation the applicant is aware of some technical matters that are not agreed as between experts advising the applicant and those advising Environment Canterbury, including in relation to assessments for air quality and groundwater impacts at the Tasman Delta. The applicant is not aware of any disagreements between it and Environment Canterbury that are unable to be resolved through the setting of appropriate conditions on the approvals, or that are likely to be of consequence to the decisions the panel convener needs to make regarding panel composition and timeframe for a decision.</p> <p>In relation to the wildlife approval the Department of Conservation may seek amendments to some conditions concerning lizard management. The applicant anticipates the panel will be able to readily determine any matters of disagreement between the parties.</p> <p>There is some complexity involved in describing and quantifying the national energy-related benefits of the proposal, and different analysts approach this in different ways. Regardless of the way the analysis is conducted, the applicant says the national benefits are significant and any residual adverse impacts of the proposal are not sufficiently significant to be out of proportion to the project's national benefits (i.e., the proportionality test in section 85(3) of the Act is not engaged).</p> <p>Genesis Energy Limited (Genesis) owns fee simple land within the bed of Lake Pūkaki upon which the Tekapo B power station and related infrastructure is located and land adjacent to the riverbed. This land ownership was not identified in Meridian's</p>
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	<p>referral application. In Meridian’s substantive application it was incorrectly stated that Meridian’s operating easement for Lake Pūkaki included this land. This error has been noted by Meridian via email to the EPA Project Lead. Genesis has also written to the EPA and Panel Convener noting their landownership.</p> <p>Meridian does not agree with Genesis that Genesis is an owner of land to which the application relates or adjacent land for the purpose of the panel’s invitation to comment on the application under section 53(2)(h) of the Act. Genesis considers, and has advised Meridian that it reserves all its rights in relation to its position, that it qualifies as a mandatory invitee under section 53(2)(h) and must be invited to comment by the panel. However, Meridian agrees with Genesis that the lowering of the level of Lake Pūkaki below 518 m RL (whether in accordance with the existing authorisations in place or in accordance with the approvals being sought in this application), will impact Tekapo B infrastructure and accordingly has identified Genesis as an “affected party” in the Substantive Application. Meridian will request that the panel exercise its discretion under section 53(3) of the Act to invite Genesis Energy Limited to comment on the application.</p>
<p>Panel membership</p> <p>[4] Consider:</p>	<p>The application seeks an approval enabling better access to stored water in Lake Pūkaki for electricity generation at times of national water shortage and stress in the electricity system. As such, the applicant considers it would be helpful for the panel to include a member with knowledge of the electricity system, and can provide assistance to the panel convener to help identify</p>

<p>(a) the knowledge, skills and expertise required to decide the application under clause 7(1) of Schedule 3.</p> <p>(b) whether there are factors that warrant the appointment of more than four panel members, such as:</p> <ul style="list-style-type: none"> (i) the circumstances unique to a particular district or region; or (ii) the number of applications that have to be considered in that particular district or region; or (iii) the nature and scale of the application under consideration; or (iv) matters unique to any relevant iwi participation legislation. 	<p>potential panel members with suitable knowledge if this was of assistance.</p> <p>There are no factors that warrant the appointment of more than four panel members.</p>
<p>Tikanga</p> <p>[5] Iwi authorities and Treaty settlement entities are invited to advise:</p> <ul style="list-style-type: none"> (a) whether tikanga is relevant to any aspect of the applications for approval. (b) how the panel might receive assistance on those matters. (c) the time required to adequately respond. 	

<p>Procedural requirements</p> <p>[6] Consider and prepare to indicate:</p> <ul style="list-style-type: none"> (a) willingness to engage directly with the panel as necessary to advance progress of the application efficiently (briefings, meetings, conferencing). (b) likelihood of any form of hearing process being required and, if so, time that should be allowed for such process in the time frame allocated by the panel convener. Forms of hearing include: <ul style="list-style-type: none"> (i) Disputed fact or opinion or (ii) Selected topics or issues which the panel seeks clarification (whether disputed or not). (iii) Proposed conditions. (iv) Legal issues. 	<p>The applicant will willingly engage directly with the panel as necessary to progress the application. In the first instance, the applicant would look to brief the panel on the project at the earliest opportunity if the panel considers that would be helpful. A site visit can also be arranged.</p> <p>The applicant considers it unlikely that any hearing process will be required. In the event the panel requires additional information or assistance to determine conditions, this should be readily achievable outside of a hearing process via requests for further information or workshopping with the panel.</p>
<p>Anything else?</p> <p>[7] Is there any other information needed to decide time frames or panel composition?</p>	<p>The applicant considers the section 79(1)(b) default timeframe for the panel to issue decision documents of 30 working days after the date specified for receiving comments under section 53 should apply.</p> <p>The applicant would wish to know that it has the ability to access water below 518 m RL, if required, ahead of winter 2026.</p>

