

Under the **FAST-TRACK APPROVALS ACT 2024**

In the matter of an application for replacement resource consents in relation
to the Tekapo Power Scheme

By **GENESIS ENERGY LIMITED**

Applicant

**GENESIS ENERGY LIMITED RESPONSE TO MINUTE 6 AND REVIEW OF THE
INDIGENOUS BIODIVERSITY ENHANCEMENT PROGRAMME BY MS ROBB**

29 September 2025

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MAY IT PLEASE THE PANEL:

1. This memorandum of counsel for Genesis Energy Limited (**Genesis**) responds to Minute 6 and Ms Christina Robb's review of the Indigenous Biodiversity Enhancement Programme (**IBEP**) and Kahu Ora (the strategic plan). The panel has requested that Genesis confirm whether it is willing to offer any changes to the proffered consent conditions to address the matters raised in Ms Robb's memorandum dated 25 September 2025.¹
2. Genesis is willing to offer some changes (as shown in **Appendix 1**) to the proffered IBEP consent conditions. Genesis' reasons for its position are set out below.

Genesis' proposed changes

3. In response to Ms Robb's proposed changes at paragraph 19 of her memorandum, Genesis has made changes to strengthen the concept of outcomes. Genesis agrees with Ms Robb that the concept is already included in Kahu Ora. Kahu Ora already identifies outcomes for each zone and monitoring of those outcomes. However, this can be (and now has been) specifically provided for in the conditions and gives the panel confidence that the objective will be "complimented by a suite of outcomes that are more tangible".²
4. Genesis has spoken to Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki, the Department of Conservation (**DOC**) and Meridian regarding its proposed changes. The wording that Genesis has proposed is set out in **Appendix 1**. In summary, Genesis has:
 - (a) added "outcomes and" to condition 29(d);
 - (b) added "and progress towards outcomes" to condition 29(e); and
 - (c) added a new paragraph (e) to condition 31 which states "Identify progress towards the outcomes identified in the Strategic Plan."

Changes that Genesis considers to be unnecessary

5. Genesis acknowledges the matters raised by Ms Robb's proposed changes to conditions 30 and 33 in relation to seeking and responding to feedback from "other parties" but considers that they are unnecessary in the case of the IBEP.

¹ Minute 6 at [4].

² Ms Christina Robb's memorandum dated 25 September 2025 at [12].

Genesis does not proffer any changes to the IBEP conditions in relation to these matters, which are currently addressed at an operational level, managed by DOC, and that is how it should stay.

6. Genesis' reasons for this position are:

(a) **DOC administration:** As the panel is aware the IBEP is to be administered by DOC (a continuation of the administration of PRR by DOC since 1991). Kahu Ora builds upon that legacy and DOC's extensive history administering the programme. Genesis' position is that imposing obligations on DOC is inappropriate and, in Fast-track Approval Act 2024 (**FTAA**) language, would be "more onerous than necessary" as:

(i) DOC's administration of PRR has worked well since 1991 and is, and has been, collaborative (addressed in more detail below). As Ms Robb states:³

[PRR] staff clearly work with other agencies involved in biodiversity work in the catchment and have adjusted their annual work to better complement or avoid overlaps with other agencies.

Given DOC's role that is unsurprising.

(ii) There is no justification (nor legal ability) to direct DOC's administration of the IBEP and create more complex and burdensome administrative processes. Kahu Ora aligns with DOC's strategic goals by embedding biodiversity protection, cultural partnership, and adaptive management at its foundation. Having DOC (on behalf of the Crown) as the entity administering the programme aligns with DOC's statutory functions⁴ and DOC has the right staff in the local community already.

(iii) In Genesis' opinion there is no reason, given the evidence before the panel and experience to date, for the panel not to have confidence in DOC as the administering entity.

(b) **Certainty:** The proposed drafting is vague and uncertain:

(i) Who are the "other parties"? These could be numerous and have very different opinions (especially given the scope addressed

³ Ms Christina Robb's memorandum dated 25 September 2025 at [5].

⁴ Conservation Act 1987, s 6.

below). The Canterbury Regional Council (**CRC**) will ultimately be left to determine that but, without clarity as to how, the approach is unlawful. Further, projects need to be able to efficiently deliver outcomes, not have administration and bureaucracy wasting precious time and money. As above, there is no issue that PRR has not been a success. The panel should not now try and hinder that. Other parties know about PRR (and the IBEP) given its scale and success and work with it already.

- (ii) Why be so broad as "working to enhance biodiversity in the Waitaki catchment" when the scope of the IBEP is much narrower? Again, CRC will have to determine that and as proposed it is unlawful (it is beyond the effects of the project). Further, this will waste large amounts of time arguing over, but ultimately declining due to scope, inclusion of pet projects or interests from a wide range of "other parties". That sours, not enhances, relationships. For example, many "other parties" would like IBEP money to be spent on wilding pines and other landscape matters. While significant issues in the area they are not within the scope of the IBEP which relates, rightly (and lawfully), to the effects of hydrogeneration projects. Further, the more broadly money is dissipated the less 'bang for buck' is delivered. The panel risks undermining what has been a very successful project.
- (iii) Stipulating the need to "respond to" views, beyond what is already occurring (see above and below), does not of itself deliver better outcomes. Often it can achieve the opposite and result in technical and principled arguments. What does a "response" require? CRC will be brought in to determine that but as there is no clarity to guide it the provision is unlawful. For example, Genesis agrees with Ms Robb that the holistic approach of the IBEP is appropriate. But many "other parties" have specific interests, or single taxa/species/habitats, which they, quite reasonably, promote. The words "where appropriate" do not assist in these circumstances as the "other parties" have expectations and will place pressure on the IBEP. The panel risks losing the holistic benefits of the IBEP as, to avoid ongoing confrontation and debate, each 'rabbit hole' is explored.

(iv) How will compliance be achieved? What, given the proposed drafting, is CRC going to do other than receive a lot of information, review it and then somehow determine (as there are no criteria) if the response is "appropriate"? Setting aside the illegality of such a discretion, this process will not deliver any beneficial environmental outcomes beyond what is already occurring through the IBEP. It will however lead to ongoing argument, and the use of consultants and lawyers, to navigate the conditioned pathway and CRC's involvement.

(c) **Role of CRC:** The Biodiversity Strategy for the Canterbury Region stipulates that CRC has the lead role to:⁵

Establish a regional agency network as a means of better aligning and coordinating annual work programmes and resources, and for the sharing of knowledge and best practice.

Given CRC's stated role it is unnecessary to condition the IBEP as proposed, nor is there any concern of the IBEP delivering poor outcomes due to a perceived lack of inclusion of others. Setting aside DOC's collaborative practice to date, CRC already has the lead role in ensuring coordination occurs.

7. As above, DOC has engaged with various parties active in delivering conservation outcomes that overlap with PRR throughout its extensive history of successfully administering PRR. Genesis recognises that the panel could, outside of the proffered IBEP conditions, require Genesis to seek feedback separately. But that will interfere with, and undermine the whole foundation of the IBEP; that it is administered by DOC. It will unravel, and impede, the great biodiversity outcomes being achieved. The appropriate way for engagement to occur in respect of Kahu Ora is through DOC as the administrator for the programme. No party has raised issues about engagement that has occurred throughout the life of PRR, despite no conditions requiring it.

8. Further, already and without needing a condition, one of the key principles for Kahu Ora is collaboration:⁶

Kahu Ora will **regularly liaise with agencies delivering similar work within the catchment for the purpose of aligning actions and delivering them efficiently**. Kahu Ora will regularly monitor and integrate the latest advancements in tools, technologies,

⁵ [Canterbury Biodiversity Strategy | Environment Canterbury](#) (please download the PDF), Action 8.3 at 68.

⁶ [Amended Appendix-E-Consent-Condition-Plans-Tekapo-PS-Reconsenting-29-May-2025.pdf](#) at 4.3. Emphasis added.

and techniques developed by others, and adopt and adapt these advancements to enhance the delivery of its actions to ensure it achieves optimal outcomes and value for money. Kahu Ora will keep local communities informed about work plans and progress, **consult with them when appropriate**, and actively strive to involve the community in its initiatives.

9. As identified by Ms Robb in her memorandum,⁷ in respect of delivery in the context of other work in the catchment, Kahu Ora states it will:⁸

... take note of other parties that are delivering conservation, enhancement and management within the catchment to consider alignment across complementary work programmes. Kahu Ora project work will occur in addition to, not in replacement of, that work.

10. But this does not need to be stipulated through conditions. Genesis acknowledges that under the RMA there is a culture of everything being conditioned. But under the FTAA it must be "no more onerous than necessary", and even under the RMA Genesis does not consider, for the reasons above, that these conditions will deliver "sustainable management" and are unjustified, under the RMA.
11. Genesis also acknowledges the argument that if it is already happening then why not just 'simply' condition it? But the PRR/IBEP is happening in an *operational* manner that is agreed to be *successfully* delivering *beneficial* biodiversity outcomes. For the reasons above, Genesis considers conditioning feedback, and responses, will lead to worse environmental outcomes as money and time is ineffectively used. As above, in Genesis' opinion there is no reason, given the evidence before the panel and experience to date, for the panel not to have confidence in DOC as the administering entity.
12. Finally, Genesis acknowledges that when something is successful "other parties" want to be involved. But PRR, and the IBEP, is successful because it is simply constructed and well managed by DOC. That gives it room to focus on what it does best; deliver successful biodiversity outcomes. That success does not need conditions; in fact, in this case the opposite has been proven to apply.

Other comments

13. Ms Robb's findings support Genesis' position regarding the IBEP and Kahu Ora. To provide further comfort to the panel, Genesis notes that the

⁷ At [16].

⁸ [Amended Appendix-E-Consent-Condition-Plans-Tekapo-PS-Reconsenting-29-May-2025.pdf](#) at 4.4.

Canterbury Biodiversity Strategy refers to Project River Recovery as a successful example of co-ordination and integration leading to more efficient and effective biodiversity outcomes.⁹

14. For completeness of the record, Genesis notes that:

- (a) At paragraph 1, Ms Robb sets out the scope of the review sought by the panel. The panel must issue consents for a 35-year term.¹⁰
- (b) At paragraph 3, Ms Robb refers to "Planning advice from Environment Canterbury which includes advice from Tim Davie". Genesis assumes there is a typo, and it should refer to "advice to Tim Davie" as Genesis has not seen any advice from Tim Davie. If such advice does exist, could it please be provided.

Dated this 29th day of September 2025



David Allen / Chelsea Easter
Counsel for the Applicant

⁹ [Canterbury Biodiversity Strategy | Environment Canterbury](#) (please download the PDF) at 40.

¹⁰ In respect of the term of the consent, there was reference to "assuming 35 year duration". See RMA, sch 12 cls 52(1)(b) and (3) and Genesis' response to comments at [48].

APPENDIX 1 – PROPOSED CHANGES TO THE IBEP CONDITIONS

Changes are shown in red.

ENVIRONMENTAL COMPENSATION

24. The consent holder must ensure an integrated Indigenous Biodiversity Enhancement Programme (“**IBEP**”) is undertaken from the commencement of resource consents replacing existing Combined Waitaki Power Scheme resource consents. The objective of the IBEP is to improve the:

- Condition;
- Resilience;
- Indigenous biodiversity;
- Ecological processes; and
- Other values

of

- The braided rivers including their braid plains and margins;
- Lake margins and deltas; and
- Wetland and springs associated with lakes and braided rivers

within the Waitaki Catchment.

Advice note: the IBEP may be undertaken in conjunction with any other generator within the Combined Waitaki Power Scheme.

Advice note: nothing in the IBEP may require the consent holder to alter the existing operation of the Tekapo Power Scheme.

25. The consent holder's contribution to the IBEP must have a minimum annual value of \$287,500, CPI (all groups) adjusted from 1 July 2025.

26. In accordance with the objective of the IBEP as set out in condition 24 the IBEP will:

- a) Focus work primarily, but not exclusively, on those waterbodies directly affected by the Waitaki or Tekapo power schemes;
- b) Incorporate the values, interests and aspirations as expressed by the Waitaki Rūnanga; and
- c) Foster increased understanding of such areas and their biodiversity through research and development.

IMPLEMENTATION OF THE INDIGENOUS BIODIVERSITY ENHANCEMENT PROGRAMME

27. At all times there must be a strategic plan that sets out how conditions 24 and 26 are to be achieved (“**Strategic Plan**”) over a 10-year planning horizon (“**Strategic Plan Period**”). The initial Strategic Plan will cover intended actions to implement the IBEP over the first 10 year period of this consent and must be prepared and a copy supplied to the Canterbury Regional Council within 6 months of the commencement date of this consent.
28. The Strategic Plan must be reviewed and confirmed or replaced, and a copy provided to the Canterbury Regional Council not more than ten years following preparation of the initial Strategic Plan and not more than every ten years thereafter. All reviews of the Strategic Plan must be provided to the Canterbury Regional Council prior to the commencement of the period to which the Strategic Plan relates.
29. The Strategic Plan must:
 - a) Be prepared by one or more suitably qualified experts; and
 - b) Be prepared in consultation with Te Rūnanga o Arowhenua, Te Rūnanga o Moeraki, Te Rūnanga o Waihao and the Department of Conservation; and
 - c) Identify the priorities for achieving the objective of the IBEP over the Strategic Plan Period; and
 - d) Identify the **outcomes and** key implementation milestones to be achieved over the Strategic Plan Period in accordance with the priorities; and
 - e) Identify the monitoring that will be used to demonstrate the achievement of the milestones **and progress towards outcomes** that are set out in the Strategic Plan over the Strategic Plan Period; and
 - f) Identify the governance, management, and delivery arrangements for the IBEP over the Strategic Plan Period.
30. For each Strategic Plan prepared, prior to its finalisation, the consent holder must:
 - a. Provide a copy of a draft Strategic Plan to the Chief Executive (or delegated nominee) Canterbury Regional Council; and
 - b. Provide an opportunity, not less than 10 working days from receiving the Draft Strategic Plan, for the Chief Executive (or delegated nominee) Canterbury Regional Council to provide comments to the consent holder on the content of the Draft Strategic Plan.

31. A report must be provided to the Chief Executive (or delegated nominee) Canterbury Regional Council within six months of the completion of each Strategic Plan implementation period. The report must:
- a) Be prepared by one or more suitably qualified experts; and
 - b) Identify whether the key milestones set out in the Strategic Plan were achieved; and
 - c) Identify whether the monitoring undertaken was appropriate for demonstrating whether the milestones in the Strategic Plan were achieved; and
 - d) Identify if any milestones were not achieved, and if so, the causes of non-achievement and any matters that should be revised in the next Strategic Plan; and
 - e) Identify progress towards the outcomes identified in the Strategic Plan.
32. The initial Strategic Plan must include (without limitation) a focus on the following:
- a) Takapō Catchment:
 - i) Restoration of key representative sites on the river, other waterbodies and connected environs within the braid plain;
 - ii) Wetland enhancement;
 - iii) Island creation;
 - iv) Management of the pressures on connected environs within the braid plain (e.g. animal pests and weeds); and
 - v) Restoration of two bay areas on Lake Takapō;
 - b) Pūkaki, Upper and Lower Ōhau River catchments: Representative sites with animal pests and weed management in lower river reaches focused on threatened species hotspots and areas of terrestrial braid plain; and
 - c) Lower Waitaki River Catchment: Restoration of braid plains and side streams, wetland enhancement, island creation, management of the pressures on connected environs within the braid plain (i.e. animal pests and weeds); and
 - d) Identification and prioritisation of research to address identified knowledge gaps.
33. To implement the Strategic Plan an Annual Plan must be developed and implemented. The Annual Plan is to:
- a) Be prepared by one or more suitably qualified experts; and
 - b) Identify the specific actions and outputs that are to be the focus for the forthcoming year covered by the Plan, consistent with the strategic plan.

34. A copy of each Annual Plan must be provided to the Canterbury Regional Council prior to the implementation period for that Annual Plan.
35. A report must be provided to the Chief Executive (or delegated nominee) Canterbury Regional Council within three months of the end of each Annual Plan implementation period. The report must:
 - a. Be prepared by one or more suitably qualified experts; and
 - b. Identify the actions and outcomes that were undertaken over the previous Annual Plan period, and
 - i. If any actions and outcomes were not achieved, identify the causes of non-achievement, and
 - ii. If similar actions and outcomes are to be undertaken in future, identify what matters should be revised, and
 - c. Identify progress towards achievement of the Strategic Plan.
36. A copy of each Strategic Plan (condition 27), report on each Strategic Plan (condition 31), Annual Plan (condition 33) and report on the Annual Plan (condition 35) must be provided to Te Rūnanga o Arowhenua, Te Rūnanga o Moeraki, Te Rūnanga o Waihao, the Canterbury Regional Council and the Department of Conservation.