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Dear Daya,

Canterbury Regional Council (CRC) comments on draft conditions

Thank you for the opportunity to provide comment on the draft conditions released by the Panel determining the Tekapo Power Scheme application lodged by Genesis Energy Limited (**Genesis**) under the Fast-track Approvals Act 2024.

As directed by Minute 7, please find attached 'CRC Comments on Appendix 2: Consent Conditions' where comments have been included at relevant sections. CRC does not have any substantive comments and has made some minor suggestions and comments for the Panel's consideration. CRC confirms that resource consent numbers CRC254907 (water permit) and CRC254908 (discharge permit) have been generated for this proposal within its database.

CRC notes that the draft decision asks¹ for CRC's comments in relation to proffered condition (4) on the water permit. Consideration of this matter is provided below.

Comments on water permit, condition (4)

CRC understands through discussions with both Genesis and Meridian Energy Limited (**Meridian**) the purpose of this condition is to provide other consent holders/resource users in the Waitaki Catchment with confidence that the proposal seeks the water allocation as provided for in Table 5 of the Waitaki Catchment Water Allocation Regional Plan (**WCWARP**).

For further 'context', in relation to the catchment above Waitaki Dam and annual allocation (Table 5 WCWARP), the High Court decision *Aoraki Water Trust and Others v Meridian Energy Limited* [2005] 2 NZLR 268 (HC) determined that any new resource consent application to take water, was potentially taken water destined for use through the WPS and so applicants have had to seek approval from Genesis and/or Meridan to derogate from their consents. This is referred to as 'derogation approval'.

¹ Paragraph 420.4 of the draft decision
Our ref:
Your ref:
Contact:

There is a footnote to Table 5 in the WCWARP which explains while the resource consents to operate the Combined Waitaki Power Scheme remain in force, the Upper Catchment is already fully allocated to the holder of those resource consents and other consent holders. Noting that those resource consents are subject to this application (and separate applications made by Meridian to CRC under the Resource Management Act 1991), Genesis acknowledge that there is now an operative WCWARP to be consider which sets annual allocations to activities as discussed above.

As such, CRC understands Genesis proposes condition (4) to ensure Genesis only take 'all other inflows' and therefore Genesis consider approval to derogate from their resource consents would no longer be required provided 'new' resource consents seek to take water within the allocation limits set by the WCWARP. This condition provides visibility to other consent holders and/or applicants in the Upper Waitaki catchment regarding the provision to annual allocation to activities.

CRC shares the Panel's concerns that this condition would be particularly cumbersome to enforce as can see potential as written, for Compliance Officers to consider that all detailed calculations and demonstration of allocation may be necessary to demonstrate compliance with the condition. CRC suggests that the condition may not be required at all, as consideration of annual allocation is made by the CRC for each resource consent application it determines. Upon further consideration, CRC suggests an advice note such as below, could be used to provide guidance to anyone reading the consent document.

Advice note: the consent holder may take all water in excess to that allocated at any point in time to each of the activities in the attached table. Determination of existing allocation to activities can be provided by Canterbury Regional Council: Consents Section upon request.

Yours sincerely



Tim Davie
Acting Director Operations

Encl: CRC comments on "Attachment 2 – TPS draft conditions of consent"