

**BEFORE AN EXPERT PANEL
LAKE PŪKAKI HYDRO STORAGE
AND DAM RESILIENCE WORKS**

FTAA-2510-1120

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

In the matter of an application for resource consents for the Lake Pūkaki Hydro Storage and Dam Resilience Works

By **MERIDIAN ENERGY LIMITED**

Applicant

**GENESIS ENERGY LIMITED RESPONSE TO REQUEST FOR
INFORMATION 1.C – TEKAPO TAILRACE ISSUES**

15 May 2026

BUDDLE FINDLAY

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MAY IT PLEASE THE PANEL:

1. This memorandum is filed on behalf of Genesis Energy Limited (**Genesis**) in response to the Panel's request for information 1.C – Tekapo Tailrace Issues on 4 May 2026.

QUESTION 10(A)

Regardless of which approach to risk is preferred, does the Applicant have sufficient legal rights to access the tailrace structure for repair or reinstatement without agreement from Genesis?

2. No. Meridian has no legal rights, including no access rights, over the Tekapo B Power Station temporary tailrace and weir (**Temporary Structure**). Genesis' agreement is required.
3. Meridian's planner, Ms O'Callaghan, acknowledged this fact in her evidence, stating that: "the land and chute are owned by Genesis and work would only be able to be undertaken with their agreement."¹

If no rights exist, how would a condition requiring either repair or reinstatement be legally effective?

4. Dr Mitchell's proposed conditions include conditions precedent requiring a repair strategy and associated works programme, and implementation of that programme, before any lowering. As set out in Genesis' comments, a condition precedent is lawful.² Further, it is possible for a condition binding a third party to be valid in some circumstances.³
5. Implicit in the conditions proposed by Genesis is that Genesis would allow access for the works to be undertaken. It is in Genesis' benefit to allow Meridian access to undertake the works proposed in Genesis' proposed conditions. If the conditions it seeks are imposed, Genesis confirms it would grant Meridian access to undertake the works subject to:
 - (a) prior notice to Genesis is required before entering any land owned by Genesis;
 - (b) compliance with Genesis' policies and procedures (provided in advance to Meridian);
 - (c) compliance with all statutory and regulatory requirements, including any necessary health and safety requirements and oversight;⁴
 - (d) consultation with Genesis on staging and scheduling any investigation or works to minimise the impact on the operation of the Tekapo Power Scheme;
 - (e) provisions being in place to allow emergency operation should it be required;
 - (f) all data and material/information, in any form, collected from any investigations must be copied to Genesis within 2 working days following collection; and

¹ At [26].

² See Appendix One at [57].

³ See *Jones v Taupō District Council* [2025] NZEnvC 388 at [33]–[35], [40] and [42].

⁴ For example, in February Genesis granted physical access to Meridian divers subject to conditions.

- (g) any reports, updates, correspondence whatsoever arising from the data and/or investigations must be provided to Genesis within 2 working days and:
 - (i) any feedback from Genesis must be accepted; or
 - (ii) if not, reasons provided and the reasons for not accepting included within those reports, updates, correspondence.
- 6. Genesis is open to a condition including the above matters being imposed if the Panel considers that is required (and if required Genesis could comment on such a condition through the next part of the process).
- 7. Relying on its expert advice from WSP, and the nationally significant consequences of any damage to, or failure of the Temporary Structure, Genesis does not agree with Meridian's proposed conditions 10 and 11. Proposed condition 10 would require Genesis to grant access and Genesis would grant such access under the same terms as above. Genesis assumes that compliance with Condition 11 would occur on Meridian's own land so would not require Genesis' approval. Meridian's conditions do not include any requirement to prepare or undertake remediation works on the Temporary Structure. In the event of failure of the Temporary Structure, and catastrophic consequences for the system:
 - (a) Genesis would have available to it, at its cost, the emergency works provisions under the RMA; and
 - (b) until repaired, the only backup for the electricity system would be the 44-year old thermal generation units at Huntly Power Station.

QUESTION 10(B)

What obligations arise under the Building Act 2004 for recommissioning of the weir and discharge channel structure, including either the repair or reinstatement options?

- 8. This question only relates to Genesis' proposed conditions. Unlike Meridian's proposed condition for the gabion rock wall on SH80,⁵ Meridian's conditions do not propose any works to the Temporary Structure if it is damaged or fails. Meridian's approach is that if an issue arises with the Temporary Structure due to the exercise of its consent, it is Genesis', and the electricity market's, problem to address. Not its.
- 9. Ultimately, the applicability of the Building Act rests with the Territorial Authority, being Mackenzie District Council (**MDC**). In coming to a position, the following matters are relevant:
 - (a) Temporary structures are exempt from the building consent requirements. However, "temporary structures" is not defined in the Building Act 2004 (**Building Act**), nor is there any guidance from case law as to what it means. In this case it is complicated by the Temporary Structure:
 - (i) being brought back into use after nearly 50 years; and

⁵ Proposed condition 9.

- (ii) being subject to, under Meridian's proposed conditions, unconstrained and potential extensive and prolonged future use.
 - (b) Spillways and similar water-conveyance structures are often treated as civil infrastructure rather than "buildings".
 - (c) However, based on the proposed scope of works, repair and recommissioning, building consent may be required by MDC, given:
 - (i) structural elements are repaired or replaced;
 - (ii) durability or structural performance is affected;
 - (iii) a deteriorated structure is being returned to operational service; and/or
 - (iv) a 'temporary' structure is to be used beyond its original intended service life.
10. If the Building Act is considered by MDC to apply, works would typically be assessed as an alteration to an existing structure under section 112 which sets out requirements for alterations to existing buildings. Section 112 also contains provisions for works on existing buildings that do not comply with the Building Code. As the existing structures were designed and built prior to the Building Act and the Building Code (Schedule 1 of the Building Regulations 1992), these provisions will be relevant if MDC determines the works to be subject to the Building Act, and if building consent is required.
11. Prior to any works taking place, consultation will be required with MDC to confirm as to whether the proposed repair and recommissioning works are subject to the Building Act.

How do the parties consider those obligations can be met in either scenario?

12. Genesis' approach (as set out in Dr Mitchell's proposed conditions) is that Meridian must undertake necessary remediation works **before** it may lower the lake below 518 mRL.
13. Building Consent obligations, if any, would need to be complied with in the normal manner; resource consents do not, and cannot, relate to other statutory processes. It is common for projects and developments to require multiple separate legislative approvals. Obtaining a building consent would require detailed engineering input (which is already present in this case; although further investigations would need to occur first). As the experts agree that more investigations are required,⁶ there is simply insufficient information to provide any definitive answer at this stage.

Dated: 15 May 2026



David Allen / Chelsea Easter
Counsel for Genesis Energy Limited

⁶ Tekapo B Power Station Submerged Weir – Damwatch Document Reviews dated 26 March 2026, attached to the [evidence of Mark Groves](#); and [evidence of Dr Grant Webby](#) at [59].