

**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 – a
referred project

BY **MERIDIAN ENERGY LIMITED**
Applicant

**APPLICANT'S RESPONSE TO COMMENTS:
SUBMISSIONS OF COUNSEL FOR MERIDIAN ENERGY LIMITED**

15 April 2026

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MAY IT PLEASE THE PANEL

INTRODUCTION

1. These submissions are made on behalf of Meridian Energy Limited (**Meridian**). They form part of Meridian's response to comments on the application received from parties from whom the Panel invited comment pursuant to section 53 of the Act. As well as responding to comments made by parties invited under section 53. Meridian's response also includes comments responding to matters raised in the report provided to the EPA by the Director-General of Conservation pursuant to section 51(2)(c) of the Act in relation to the wildlife approval being applied for, and comments arising from matters discussed at the Panel's project overview conference on 1 April 2026 (together the **Response**).

LEGAL SUBMISSIONS OVERVIEW

2. In these submissions I address the following matters:
 - a. The purpose of the application.
 - b. Scope of the application – legal challenge by Genesis Energy Ltd (**Genesis**).
 - c. Electricity system impacts (including a discussion on why the Electricity Authority is best placed to speak authoritatively on the topic) and trade competition effects.
 - d. Potential impacts on Genesis infrastructure.
 - e. Setting a charge (fee) for water use.
 - f. Prohibited activity status.
 - g. Rule 3(3) of the Waitaki Catchment Water Allocation Regional Plan.
 - h. Managing lake levels and associated impacts above 518mRL.
 - i. Spill.

THE PURPOSE OF THE APPLICATION

3. It is noteworthy that while the Panel has received detailed comments from several parties in relation to the electricity system impacts of the proposal, the application has not raised interest from adjacent landowners in relation to amenity (dust and visual) impacts. In my submission that is a reflection of the reality that people who live in the area understand the role of Lake Pūkaki as the country's largest working hydro storage lake, and understand that with that comes a range of impacts that are expected and accepted. It is also noteworthy that matters with Kā Rūnaka (Te Rūnanga o Arowhenua, Te Rūnanga o Waihao, and Te Rūnanga o Moeraki) are resolved by consent condition; and that matters with Environment Canterbury and the Department of Conservation are limited to matters of conditions. This is not a proposal where the Panel is confronted with having to balance a national benefit with a local cost. While the proposal does raise some ecological matters that need to be considered, and these are addressed in detail by the Department of Conservation, those impacts are modest, in my submission. The issues of contention raised by comments fall mostly within the electricity system realm.
4. Having made that observation it is worth restating what the application to allow eased access to water stored in Lake Pūkaki is about, and what it is not about.
5. An affordable and secure supply of electricity is essential for New Zealand's economic and societal wellbeing.
6. New Zealand has a fixed amount of fuel that can be used to generate electricity at any point in time. That fuel comes in a variety of forms – water (hydro), solar radiation, wind, geothermal, natural gas, coal and diesel. Meridian's eased access proposal does not change the overall amount of fuel that New Zealand will have to generate electricity at any point in the future by even the slightest amount. There is no "loss" of storage if generation using water stored below 518mRL occurs. The proposal seeks to temporarily remove an artificial constraint on the way the electricity market operates. That constraint takes the form of 'triggers' that must be

met before water stored in Lake Pūkaki below 518mRL can be used to generate renewable electricity to meet demand. The way the triggers work in practice means that historically they have never been met, they are subject to ongoing redefinition (and therefore inherent uncertainty), and the result is that the stored water effectively forms no part of future generation planning and is for all intents and purposes out of bounds. As a consequence, demand always ends up being met from other sources, regardless of whether those sources are renewable or not, and regardless of the price that ends up being paid to use those other resources. That is inherently inefficient.

7. The generation of electricity to meet most of New Zealand's needs occurs through a national market system. That market system operates to meet electricity demand at the lowest cost to consumers. Generators compete over the ways they participate in the market at any point in time, and they offer to supply an amount of electricity into the system. The System Operator then matches supply offers that enter the Grid at different locations to match the expected demand across the system over a period, by selecting offers to supply electricity, from the cheapest to the most expensive, to ensure sufficient electricity is provided across the whole system to meet demand in that period. The price all generators receive for the electricity supplied into the system in a time period is set by the highest offer the System Operator accepted for that time period. This approach incentivises generators to make available their generation to meet immediate market needs but also to build new generation to ensure the system has adequate capacity to meet demand over the longer term. Such an approach is widely considered to be the best means of achieving the desired outcome of ensuring electricity at the lowest cost. Dr Layton provides evidence that there has never been an outage due to a failure in the market system.
8. The current triggers that apply to the use of water below 518mRL in Lake Pūkaki operate as constraints on what Meridian might otherwise elect to do with water stored below 518mRL as well as water stored above that level.

The triggers are therefore correctly categorised as constraints on the way the market system operates.

9. The way the constraints operate means that Lake Pūkaki storage below 518mRL is effectively unavailable, and the order that different generation types are used to meet demand as conditions get drier (or demand increases) and generation becomes more expensive is artificially manipulated, preferring all other fuel over Lake Pūkaki storage.
10. The justification that some parties make for the current constraints is that if Lake Pūkaki storage below 518mRL is not able to be used as part of the normal electricity generation fuel inventory now, then it forms a type of insurance, and will be available to use later if all other sources become exhausted. In other words, it is seen by those parties as a fuel of last resort.
11. The consequence is that the cost of generation increases more than it needs to, because the generators supplying electricity to the National Grid don't have to compete against offers to supply electricity from the Waitaki Power Scheme using water stored below 518mRL, and an operational/compliance buffer above that level.
12. The end result of the current proposal is therefore that across the whole system, the amount of fuel available to generate electricity remains the same, but the market is less constrained because generation from the full storage volume of Lake Pūkaki is able to be considered alongside other generation and demand curtailment options.
13. All the electricity models agree that, on average, Meridian's proposal will result in a reduction in the cost of electricity – most obviously in the wholesale price of electricity in dry periods.
14. Why then is there disagreement between different agencies and market participants as to the wisdom of the proposal? In my submission the reasons are:
 - a. There appears to be some confusion with regard to responsibilities for security of supply under New Zealand's regulatory framework. To be

clear, it is the responsibility of market participants to build, maintain and make available generation (and demand response) such that demand can be met both in the short and the long term. Market participants do this in response to wholesale price signals and according to the regulatory framework established under the Electricity Industry Participation Code 2010 (the Code) (which is determined by the Electricity Authority according to its statutory objective). It is not the role of the System Operator (SO) to ensure that supply meets demand over the medium to longer term. This is made clear by the Government Policy Statement on Electricity (GPS) and is described further in the evidence of Mr Rory Blundell. The GPS makes clear that this market-based approach is the best way to deliver the level of reliability that consumers want at the lowest possible cost to consumers.

- b. New Zealand certainly does not have a national strategy or policy that says that as a nation we should preferentially use thermal versus renewable (or *vice versa*) in times of fuel shortage. New Zealand does not have a fuel of last resort. It is not written anywhere in the Code or the Electricity Industry Act. As Mr Blundell explains in his evidence, neither Parliament nor the Electricity Authority have to date considered the establishment of such a mechanism to be in the best interests of New Zealand electricity consumers.
- c. And yet the current constraints that apply to the use of water stored below 518mRL in Lake Pūkaki operate as if decisions around the 'right' national balance between optimisation and resilience, and around which fuels should be used preferentially and which should be held in reserve, have been made and carefully costed out in a regulatory process. They have not.
- d. Transpower, the Parliamentary Commissioner for the Environment (PCE) and Genesis have each commented on the application from their perspective. However, the Electricity Authority is, in my submission, the relevant commenter on these matters. As noted in the evidence of Mr Blundell, the Electricity Authority has a broader remit than the other

commenters. This is summarised by its statutory objective to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers. The Authority's simultaneous focus on competition, reliability and efficiency means it is best placed to take a more balanced and holistic view on the matter of contingent storage. Further, it is the statutorily appointed independent regulator. The Authority's submission in support of Meridian's application should therefore be accorded greater weight.

15. It is Meridian's position that over the next three years the current constraints on access to Lake Pūkaki storage are not helpful, will result in unnecessarily high electricity costs, and that the market will operate with better outcomes over that period if the application is approved.
16. This includes managing risk associated with so-called 'black swan' events. In this regard I note that Meridian and the other generators are not insulated market participants. As Mr Telfar and Dr Layton explain in their evidence, generators are highly incentivised both individually and collectively to ensure there is sufficient supply to meet demand in all scenarios. And acting responsibly means taking a sensible view of risk. As Mr Telfar in particular explains, sensible management of risk is not the same thing as imagining implausible scenarios and then demanding that Meridian retain storage in Lake Pūkaki as insurance against those implausible scenarios becoming a reality.

SCOPE OF THE APPLICATION

17. Genesis in its comments on the application¹ submits that Meridian's substantive application is out of scope in that it seeks eased access below 518mRL for three years whereas Genesis submits any approvals can only relate to the winters of 2026, 2027 and 2028.

¹ Legal submissions on behalf of Genesis Energy Ltd dated 8 April 2026 paras 13–17; 45–46

18. Genesis makes this submission because the project as described in the section 28 notice² refers to the project as seeking resource consents for water takes from Lake Pūkaki “to occur over three consecutive winters from winter 2026...”.
19. Upon receipt of a substantive application under the Act, the EPA is required to determine whether it complies with section 46(2). That subsection requires that the EPA be satisfied, *inter alia*, that “the application relates solely to a listed project or a referred project”.³ Any application that seeks approvals for something different or additional to that approved in a decision to refer an application under section 21 (and which is subsequently notified under section 28), is out of scope and must be returned to the applicant.⁴
20. The EPA made its statutory decision as to scope on 26 November 2025 and confirmed that the application is within scope and therefore that it relates solely to a (in this case) referred project.⁵ The decision is supported by a memorandum that specifically concludes that the substantive application is within scope of the Notice of Decision from the Minister.⁶
21. The EPA decision on scope has not been challenged and is not open for reconsideration by the Panel. The position can be contrasted with the position in *Ngāti Kuku Hapū Trust v Environmental Protection Agency*⁷ where a challenge to a decision on the scope of a substantive application was correctly (and in that case successfully) made by way of a judicial review application in the High Court.
22. The Panel has no jurisdiction to make a substantive determination that an application is out of scope in the face of a valid and contrary statutory decision on exactly that matter by the EPA. Section 81(1) requires a Panel

² https://www.fasttrack.govt.nz/_data/assets/pdf_file/0023/15872/Notice-of-Decision-Lake-Pukaki-Hydro-Storage-and-Dam-Resilience-Works-002-.pdf

³ Section 46(2)(b)

⁴ Section 46(4)

⁵ https://www.fasttrack.govt.nz/_data/assets/pdf_file/0026/16199/FTAA-2510-1120_Record-of-Decision_on_Compliance_with_s46.pdf

⁶ https://www.fasttrack.govt.nz/_data/assets/pdf_file/0020/16670/Pukaki-Hydro-Dam-Memos-46-assessment.pdf at paras 8–11 and Checklist A

⁷ [2025] NZHC 2453

to either grant an approval sought (subject to any conditions) or to decline the approval. The limited circumstances where an approval must or may be declined are set out in section 85. None of the circumstances that could result in a mandatory or discretionary decision to decline an approval relate to a circumstance where a Panel disagrees with the EPA as to the scope of the application.

23. Notwithstanding the above comments, I note that while the section 28 notice refers to “three consecutive winters from winter 2026” as set out in the Genesis legal submissions, it also refers to the significant national and regional benefits the project is expected to deliver including lowering wholesale electricity prices by approximately 7%, which will lower costs to consumers by approximately \$518 million p.a. or \$1.5 billion over the project’s three-year lifespan. These benefit figures are taken from the modelling provided with the referral application and are based on three years of model output not three, three-month long winters.⁸ This can be clearly seen in the 25 June 2025 letter provided by Meridian⁹ in response to the Minister for Infrastructure’s request for further information.¹⁰
24. Genesis’s submission that the application for eased access to stored water is out of scope because it is not limited to winter months is both misdirected (in the sense that the decision regarding the scope of the substantive application was made by the EPA, has not been challenged, and is not a matter within the Panel’s jurisdiction), and is factually incorrect.

⁸ See the Meridian Pūkaki Lake Management Memo – Attachment B to the referral application, and the Sapere Research Group peer review “Modelling outcomes with and without access to contingent storage at Lake Pūkaki” – Attachment A to the referral application which begins with the statement “in making the case for more ready access to contingent storage at Lake Pūkaki Meridian has modelled two scenarios of future outcomes for a range of hydrological situations. The outcomes of these scenarios cover the immediate 36 months i.e. the next three winter periods including 2025. https://www.fasttrack.govt.nz/_data/assets/pdf_file/0011/11333/02-Meridian-Referral-Application.pdf. I also note that in the substantive application these figures were revised, but that is not relevant for the purpose of the question on scope

⁹ https://www.fasttrack.govt.nz/_data/assets/pdf_file/0013/11344/13-Further-Info-Meridian-Pukaki-FT_additional-economic-information_June-2025.pdf

¹⁰ https://www.fasttrack.govt.nz/_data/assets/pdf_file/0011/11342/Lake-Pukaki-Request-further-information-from-applicant.pdf

ELECTRICITY SYSTEM IMPACTS AND TRADE COMPETITION EFFECTS

Electricity Authority v Transpower

25. Comments from invited parties that address electricity system impacts are discussed in the reply evidence of Mr Telfar, Dr Layton and Mr Blundell and I do not wish to repeat the points they make.
26. I do however want to offer some submissions on how the Panel might make some sense of the strongly divergent and at face value perplexing views of the different commenters on this topic, and in particular the views expressed by Transpower on one hand and the Electricity Authority on the other. I have earlier stated (at paragraph 14(d)) why the Electricity Authority's view is to be given greater weight than that of Transpower, and I offer some further submissions on that matter. Mr Blundell's evidence addresses this in greater detail.
27. The perplexing nature of the divergent comments is underscored when one considers that one of the PCE's recommendations is that the Panel should hear from both Transpower and the Electricity Authority.
28. The Electricity Authority is supportive of Meridian's proposal.
29. Transpower, in its comments on the referral application,¹¹ supported the proposal being referred under the Act and noted "The issues in relation to accessing contingent and emergency storage are complex...Despite this complexity, we consider that there is merit in Meridian having greater flexibility to access some of the contingent storage, leaving sufficient water in Lake Pūkaki for it to continue to be the fuel of last resort in the electricity system for security of supply purposes." Transpower has reversed its position in its section 53 comments and now opposes any change to access below 518mRL. Transpower is also now critical of the use of the Act to advance eased access to storage, a position entirely inconsistent with the

¹¹ https://www.fasttrack.govt.nz/_data/assets/pdf_file/0012/11343/Combined-Comments.pdf

advice it gave the Minister for Infrastructure when it commented on Meridian’s referral application.

30. The Electricity Authority’s comments on the application offer insight into how it could be that these two bodies – the Electricity Authority (an independent Crown entity and the specialist Electricity Industry regulator) and Transpower as the System Operator (a State-Owned Enterprise) – have such divergent views on the proposal. The Electricity Authority notes:

- a. Both Meridian and Transpower modelling agree on the benefits and costs of the proposal¹².
- b. The Electricity Authority’s role is set out in the Electricity Industry Act 2010 (**EIA**) with section 15(1) providing that “The main objective of the Authority is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.”¹³ It is a broad policy and regulatory role.
- c. By contrast Transpower as the System Operator has a different and narrower role as provided in section 8 of the EIA and Part 7 of the Code. The Electricity Authority states that in relation to Meridian’s proposal “The System Operator role most relevant to this submission relates to forecasting security of supply and managing security of supply emergencies”.¹⁴
- d. The Electricity Authority sums up the position in this way¹⁵:

In summary, the EA is focused on competition, and on the efficiency and reliability of the system as a whole. The EA’s role covers reliability at a system-wide level and also in relation to key policy issues, like dry year risk and contingent storage settings. The SO is more focused on forecasting security of supply and managing supply emergencies.

¹² Electricity Authority section 53 comments at paragraphs 5–8

¹³ Ibid, paragraph 10

¹⁴ Ibid, paragraph 12

¹⁵ Ibid, paragraph 13

31. In my submission the Panel should consider the respective roles of these two agencies when determining the weight to be put on their comments. Indeed, there is an argument that in the context of Meridian's application Transpower is straying beyond its proper function. At a minimum, it is clear that Transpower has a much narrower perspective on this matter than the Authority.
32. Transpower's comments at paragraph 23.2 appear to suggest that the benefits of Meridian's proposal for the purposes of the FTAA may not be the same as the benefits that are assessed by the Electricity Authority in the exercise of its statutory function. I submit that is not correct. I defer to electricity system and economic experts regarding the proposal's economic benefits (and costs). However, I note that no authority is offered to support Transpower's suggestion that somehow the Panel should be undertaking a different consideration of the electricity system costs and benefits of a proposal than the Electricity Authority currently applies when it considers whether the proposal promotes competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.

Genesis Energy Limited

33. Genesis also expresses strong views in opposition to the proposal in its comments. I have already addressed Genesis's comments on the scope of the application.
34. Given Genesis's previous approach to access to water stored below 518mRL in Lake Pūkaki the approach to the present proposal to temporarily ease access is curious. Attached and marked "A" is the letter Genesis wrote to Meridian dated 9 May 2012 in relation to Plan Change 1 to the Waitaki Catchment Water Allocation Regional Plan (**WAP**). That letter records that Genesis considered that lowering the lake minimum from 518mRL to 513mRL to generate emergency electricity would be unlikely to physically affect its operations.

35. Then in 2018 when Meridian sought resource consent to operate down to 515mRL in a Security of Supply Alert (SSA) situation Genesis again wrote to Meridian, this time noting that reduced lake levels could result in additional maintenance requirements in relation to the Tekapo B weir and requesting an agreement from Meridian that if the lake was operated below 518mRL Meridian would monitor the weir and associated 'ramp' and pay for any required remediation if erosion occurred as a result of the lake operating below 518mRL. Genesis's letter recording this dated 14 May 2018 is attached and marked "B". Meridian agreed to this request – see Meridian's letter dated 22 May 2018 – attachment "C". On the basis of that agreement (which is still in place) Genesis wrote again to Meridian on 8 June 2018 confirming that it did not oppose the application – attachment "D".
36. Given that historical context it is with surprise that Meridian confronts an assertion from Genesis in the current process that, based on the market impact advice of Mr Weaver, a failure of the Tekapo B weir and rock chute could cost up to \$2.5 billion. I return to this extraordinary number later.
37. Dr Webby and Mr Lal address Genesis's comments and evidence in relation to the condition of the Tekapo B weir and rock chute and the risk of damage from a lower lake level. The credible risk is small and readily capable of remediation if it materialises.
38. As the Panel will appreciate, the possibility of lake levels reducing below 518mRL already exists as a result of PC1 to the WAP and a subsequent resource consent process. The potential for lake lowering to cause damage to Genesis's weir and rock chute has previously been considered and addressed by Meridian and Genesis, including in an agreement that is still in place regarding monitoring and remediation costs in the event that damage occurs from lake lowering down to 515mRL in an SSA event as described in the correspondence referred to above.
39. The current proposal marginally increases the likelihood and duration, but not extent, of lake level incursions below 518mRL and at issue is any

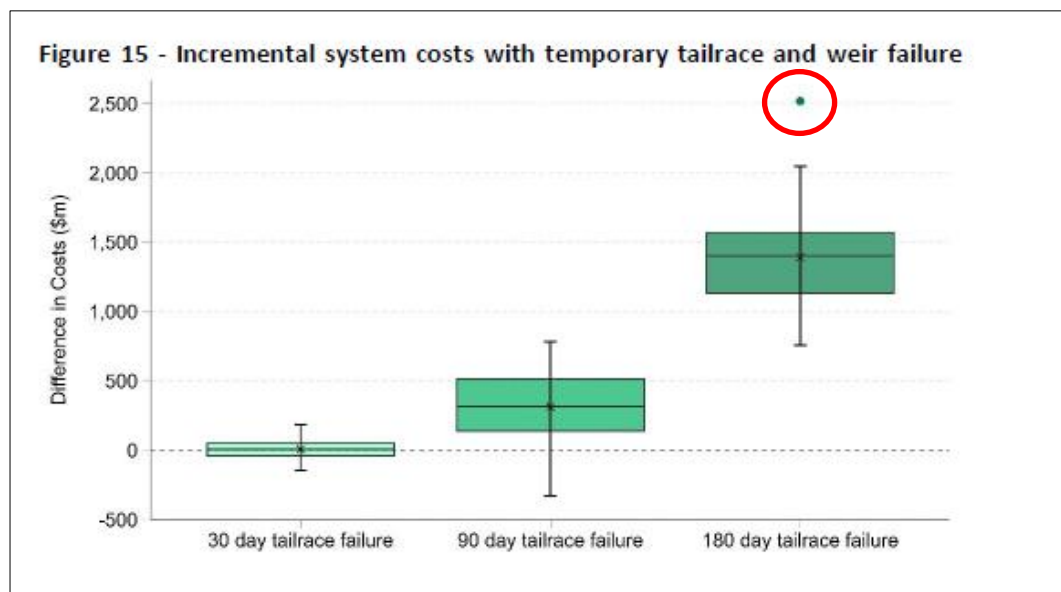
additional risk of damage that increase presents for Genesis's infrastructure.

40. Meridian has been, and continues to be in, discussion with Genesis around the terms on which the philosophy of the existing agreement might be extended by way of an indemnity to address any additional risk of damage to Genesis's Tekapo B weir and rock chute, and any consequential revenue effects to Genesis that would arise because of such damage.
41. Dr Webby's expert engineering opinion is that drawing down Lake Pūkaki below 518mRL is unlikely to give rise to damage to the Tekapo B weir and rock chute and as such no pre-emptive works to the structures are required. Despite this, Meridian has offered Genesis an indemnity that would make Genesis whole in the event Meridian operates Lake Pūkaki below 518m using the Fast-track consent (if granted), and such operation causes damage to the Tekapo B weir and rock chute. That is, in principle, if such damage arises from Fast-track operation, Meridian will indemnify Genesis for the cost of works to repair such damage and any lost revenue from Tekapo A and B as a result of such damage. A copy of Meridian's offer¹⁶ (subject to final documentation, reviews and approvals) is attached and marked "E".
42. In relation to the potential scale of any losses Genesis might suffer as a consequence of the exercise of an approval granted under the current process Meridian regards the \$2.5 billion referenced by Mr Weaver as entirely fanciful. Meridian's view is borne out by the fact that Meridian continues to offer Genesis an indemnity as described above.
43. Genesis has not provided evidence on the likelihood of the weir or rock chute failing as a consequence of the exercise of the approval Meridian seeks. Were there to be a failure Genesis says it cannot estimate the extent of any associated outage while repairs are made.¹⁷

¹⁶ Meridian has proposed two alternative forms of indemnity together with a revenue indemnity

¹⁷ Evidence of Andrew Balme, para 18

44. When the weir and rock chute were operated previously (in 1977-78 prior to the lake level being raised resulting in inundation of the infrastructure) and repairs were needed, these were able to be made without difficulty and within 8 hours.¹⁸ For reasons unknown Mr Weaver has modelled an outage scenario of 180 days. In the absence of a compelling engineering justification (which Genesis does not provide) I am advised that such a prolonged outage is fanciful. The \$2.5 billion referred to by Mr Weaver is attached to this fanciful and unsupported outage assertion. This can be graphically seen in Mr Weaver's Figure 15 which I reproduce below. This is a box and whisker plot which shows the \$2.5 billion figure as a statistical outlier (above the 75th percentile whisker) attached to the 180-day outage scenario. In my submission that carries no probative value that would assist the Panel and no weight should be placed on that as an impact that arises from the proposal.



45. If and when discussions with Genesis reach a conclusion in relation to the offered indemnity Meridian will provide an update to the Panel.

46. Genesis also provides extensive comments on the wider electricity system impacts (benefits and costs) of the proposal. In this regard it is important

¹⁸ Evidence of Dr Grant Webby, para 62

that the Panel recognise that Genesis and Meridian are trade competitors in the generation of electricity, with both companies being active participants in the electricity market and owning significant Grid-connected generation assets.

47. Pursuant to clause 17(1)(b) of Schedule 5 of the Act the Panel is required to take into account the provisions of, *inter alia*, Part 6 of the Resource Management Act 1991 that direct decision-making on a resource consent application.

48. Section 104 RMA is in Part 6 of the RMA. It directs the matters to be considered and not considered when making a decision on a resource consent.

49. Section 104(3) provides:

A consent authority must not,—

(a) when considering an application, have regard to—

(i) trade competition or the effects of trade competition; ...

50. As a trade competitor Genesis has a commercial interest in the retention of the existing arrangement that sees water stored in Lake Pūkaki below 518mRL as the 'fuel of last resort'. At its most simple, the existing arrangement means that generation controlled by Genesis is able to be offered into the market to meet demand when generation from Lake Pūkaki storage below 518mRL is not able to be offered. This gives Genesis a competitive opportunity that will be reduced over the three year term of the proposed consent (if granted).

51. Part 11A of the RMA (which provides restrictions on trade competitor participation in RMA consent processes and penalty provisions where the restriction is not observed) is not imported into the Act and the Act contains no equivalent provision.

52. In my submission there is no statutory prohibition on the making of comments on an application under the Act by a trade competitor that raise

issues of trade competition. I submit however that the Panel is able to dismiss or give those comments little weight where it forms the view the comments are motivated by Genesis's commercial interests as a trade competitor.

53. To be clear, Meridian takes no issue with responsible comments in relation to the potential for its proposal to have physical impacts on Genesis's Tekapo B tailrace infrastructure, and any consequential losses Genesis might suffer. Meridian does take issue with unsubstantiated comments designed to preserve the *status quo* or frustrate the effectiveness of the application on the basis that constraints on the use of water stored in Lake Pūkaki below 518mRL provides Genesis with a competitive advantage, and it is in Genesis's interest for that position to be maintained.

SETTING A CHARGE (FEE) FOR THE USE OF WATER

54. The Parliamentary Commissioner for the Environment's comments include a suggestion that the Panel impose a condition that requires Meridian to pay a fee to access stored water below 518mRL as a way of placing a value on system resilience. A requirement to pay money is a type of financial contribution.¹⁹
55. The Parliamentary Commissioner for the Environment notes that the Panel would need to satisfy itself that there was a lawful basis for such a fee to be imposed.
56. In my submission there is no lawful basis for such a condition. I submit that the normal considerations that apply to the setting of conditions on consents under the RMA apply equally in the context of the Act.²⁰ Conditions must be reasonable, proportionate²¹, and relate to an effect of the activity. Where a financial contribution is proposed, it must conform to the requirements of section 108(10) RMA.

¹⁹ Section 108(9) RMA

²⁰ Clause 18, Schedule 5

²¹ Section 83

57. I also note Dr Layton's evidence that trying to set such a fee would be difficult, what is the desired incentive and response, and what is the right level of charge to get the desired incentive and response? I also note that the addition of cost is the opposite of what the application is aimed to achieve which is to bring forward, on a level footing, cheaper clean hydro energy to lower wholesale prices.
58. In this case the Parliamentary Commissioner for the Environment's suggestion is that a fee could be imposed and the revenue then used locally to compensate for negative amenity and environmental impacts of a lowered lake level, and targeted at controlling predators and weeds, such as rabbits and wilding pines.
59. There is, respectfully, some muddled thinking here. I respond briefly:
- a. A compensation payment would ordinarily have to be offered or agreed to by an applicant. For the avoidance of doubt Meridian does not offer or agree to such a payment.
 - b. It is unclear to whom such a payment would be made and what would then happen to the money. The Panel cannot set a condition that imposes obligations on a third party.
 - c. There is no provision in the WAP that provides for a financial contribution such as this.
 - d. The proposal will have very little to no impact on rabbits and wilding pines.
 - e. The amenity and environmental effects of the project relate principally to the dam resilience works and not the ability to access water for generation purposes.
 - f. There are no comments on the proposal from local ratepayers raising any amenity or environmental concerns.

60. I submit that the Parliamentary Commissioner for the Environment's suggestion regarding payment of a fee to access stored water should be rejected.

PROHIBITED ACTIVITY STATUS

61. In my submissions presented at the project overview briefing on 1 April 2026 I addressed the fact that the proposal to secure approval to allow the level of the lake to be lowered below 518mRL in the absence of a SSA or OCC was classified as a prohibited activity in the WAP. I explained that this was one of the reasons why Meridian applied to the Minister for Infrastructure for the project to be referred under the Act.²²
62. At paragraph 37 of the legal submissions for Genesis the comment is made that “[Prohibited activity status] is not an activity status that is lightly applied under the RMA. While the Panel may still grant approvals for prohibited activities under the FTAA, it reinforces the need for rigorous scrutiny and a cautious approach to be adopted.”
63. Ms Callaghan discusses the background to the prohibited activity status in WAP rule 12 in her planning evidence and notes that the accompanying analysis does not appear to support that status. She also notes that the effects of lowering the lake are essentially the same, whether there is an OCC (in which case the activity is permitted), an SSA (in which case the activity is discretionary) or neither of these events (in which case the activity is prohibited).
64. The use of prohibited activity status in this context is somewhat unusual in my submission, and is certainly not in a category of activity where it could be said that the WAP has been deliberate in setting out that the effects of the activity, in a strict RMA sense, must always be unacceptable such that the activity is beyond contemplation. I would submit that in this case it is clear that the WAP does contemplate and provide for the effects of lowering

²² Legal submissions on behalf of Meridian Energy Limited dated 1 April 2026, para 18–20

the lake below 518mRL, with the only difference between what is permitted and what is prohibited being the likelihood of occurrence.

65. In these circumstances I submit that care needs to be taken in making too much of the prohibited activity status. While counsel for Genesis correctly note that the Panel may grant an approval for a prohibited activity under the Act, to go on to say that the prohibited activity status reinforces the need for rigorous scrutiny and a cautious approach rather overstates things when the nature of the effects are considered relative to what the WAP provides for.
66. Ultimately, regardless of the activity status under the RMA, the Panel's obligation is to consider the benefits of what is being proposed, and any adverse impacts, and it is only if those adverse impacts are sufficiently significant to be out of proportion to the benefits that a discretion to decline approvals arises, and even then the Panel would need to determine that there are no conditions that could be imposed or modifications to the project that could be made, such that the adverse impacts are no longer out of proportion to the benefits.²³

RULE 3(3) OF THE WAITAKI CATCHMENT WATER ALLOCATION REGIONAL PLAN

67. Genesis raises rule 3(3) of the WAP in its comments²⁴.
68. I discussed this rule in legal submissions as part of the Panel overview meeting on 1 April 2026 and now provide additional submissions to ensure the Panel understands Meridian's position clearly.
69. Rule 3(3) of the WAP provides:

A temporary reduction in lake level below the minimum lake level specified in Table 4 for the purposes of maintenance or rehabilitation of electricity generation infrastructure is exempt from the minimum lake levels specified.

²³ Section 85(3)

²⁴ Legal submissions for Genesis Energy Limited dated 8 April 2026, para 12

70. Table 4 includes minimum lake levels for Lake Pūkaki comprising the normal operating minimum (518mRL) as well as the SSA and OCC minima (515mRL and 513mRL respectively).
71. The effect of Rule 3(3) is that the lowering of Lake Pūkaki below the respective minima is not prohibited under Rule 12 of the WAP when the lowering is for the purpose of maintaining or rehabilitating electricity generation infrastructure.
72. While that provision is helpful, it does not provide for the activities Meridian seeks consent for in the application before the Panel.
73. As Mr Eldred explained to the Panel at the project overview meeting on 1 April 2026, Meridian seeks approval to place rock rip-rap over the curtain on the lake bed below the Pūkaki Dam, as well as on the face of the dam itself. The planning and legal advice Meridian has received is that Rule 3(3) cannot be relied on in relation to activities on the bed of the lake below the dam structure.
74. To be clear, the primary purpose of the application is to enable eased access to water stored below 518mRL for electricity generation in the national interest over the next three years. The ability to undertake work on the dam structure during those periods, if they even arise, is circumstance dependent. Meridian is not seeking approvals to lower the lake level below 518, and thereby utilise valuable stored water, to undertake dam resilience work at times when that is not an efficient use of that water in the wholesale electricity market.

ALTERED LAKE LEVELS ABOVE 518MRL

75. At the project overview briefing on 1 April 2026 Dr Crawford-Flett asked whether the modelled average level of Lake Pūkaki above 518mRL (being approximately 2m lower than the status quo average lake level) over the three-year term of the eased access consent was an effect that needed to be considered as part of the application.

76. I indicated that in my opinion it was not an effect that needs to concern the Panel. I support that position in the following paragraphs.
77. Under the eased access scenario Meridian's modelling indicates that on average lake levels above 518mRL over the three year period would be expected to be somewhat lower (~2m) than if the current triggers on accessing contingent storage remain, because Meridian will be able to use water stored above 518mRL without having to regard 518mRL as an effective 'bottom line' above which the lake level must always be managed.
78. Meridian currently manages water in the normal operating range of Lake Pūkaki (i.e. above 518mRL) under the authority of a water permit issued by Environment Canterbury.²⁵ That water permit has expired but remains in force under section 124 RMA. Under the terms of that permit there are no restrictions on how Meridian manages the level of the lake within the operating range down to 518mRL²⁶ but there are controls on the rate at which water can be diverted from the lake for generation purposes.²⁷
79. Over the 35 years of the current (expired) permit, lake levels have been managed in different ways as the electricity system and the role of Lake Pūkaki within the system have evolved.
80. Meridian has applied for a new 35-year consent to replace the expired water permit. The application is classified as a controlled activity which means that consent must be granted. The application was considered in conjunction with the reconsenting of the entire Waitaki Power Scheme by way of a direct referral to the Environment Court, and Meridian has been informally advised a decision from the Court may be released by the end of April 2026.
81. In order to be classified as a controlled activity the application for a new consent in relation to Lake Pūkaki had to be on a like-for-like basis. That is, the application sought consent to continue to manage lake levels on an

²⁵ CRC905321.7

²⁶ There are controls that kick in when the lake is full to ensure that spills are managed safely. These are not relevant in the context of the application being considered by the Panel

²⁷ Changes in lake level are represented by the difference between inflows and outflows. If inflows exceed outflows the level will rise. If outflows exceed inflows the level will fall

unconstrained basis within the same normal operating range, down to 518mRL.

82. So that the technical experts could undertake assessments of the ongoing effects of the management of lake levels as part of the application process, Meridian undertook an exercise in trying to anticipate the extent to which lake level management over the next 35-year period might be the same or different from that which occurred over the previous consent period.
83. As the Panel would appreciate, that is not an easy task as it involves making assumptions about inflows (which are sensitive to natural seasonal and inter-annual variability, variability over time in response to climate change, and operational decisions made by Genesis as the operator of the upstream Tekapo Power Scheme) as well as electricity system demands (which are sensitive to changes in the system over time on both supply and demand sides).
84. The many assumptions that need to be made inevitably means that predictions of the future become increasingly uncertain over time. Meridian's overall assessment was that over the next 35 years (which includes the initial three-year period over which the consent sought in the application before the Panel would operate), the overall management of Lake Pūkaki levels will be much the same as has been experienced to date. At a more fine-grained level the increasing importance of the flexibility of the Waitaki Power Scheme's hydro generation capability means that over the next consent period more of the lake's operating range is likely to be used more of the time in response to:
 - a. the retirement of other flexible thermal generation;
 - b. increasingly large amounts of intermittent (inflexible) renewable generation (wind and solar) coming on stream; and
 - c. significant changes and increases in intra-day and overall demand as the population and economy grow, and as New Zealand transitions to a low carbon economy.

85. Meridian therefore instructed its experts to assess the effects of future management of Lake Pūkaki levels on the basis that the full normal range will be used, as will contingent storage below 518mRL, over the 35-year consent period. The reconsenting application did not specifically consider the prospect of the present fast-track proposal as the Act was not in existence at the time the application was prepared back in July 2023.
86. On that basis I submit the Panel can be confident that the prospect of lake levels being on average ~2m lower than the long term average lake level (but still within the normal range) for a short 3 year period over the next 35-year consent period is well within the range of lake levels upon which effects have been assessed in the context of the reconsenting of the Waitaki Power Scheme.
87. I therefore submit the Panel does not need to consider this matter further.

SPILL

88. CRC discusses spills from Lake Pūkaki into the Pūkaki River in the context of Meridian's proposal at paragraphs 75–78 of its section 53 comments.
89. As CRC notes there are two types of spill from Lake Pūkaki – operational spills and inflow driven spills.
90. The proposal will not change operational spills as these are generally scheduled gate testing and related events that Meridian manages in accordance with its Dam Safety Assurance Programme. Meridian also has existing consent obligations to provide a number of recreational flows in the Pūkaki River for kayaking/jet boating. These can also be regarded as operational flows and will not be impacted by the proposal,
91. Inflow driven spills occur when the lake is full and inflows greater than the volume that is able to be used for generation need to be spilled into the Pūkaki River to maintain the lake within its maximum level and to ensure the safety of the dam and associated structures.

92. The incidence and extent of inflow driven spills is a function of inflow and lake level, and is highly variable and unpredictable. To the extent that the lake level at any point in time over the term of the proposal is lower than it would otherwise be the ability of the lake to absorb inflows before an inflow driven spill occurs will be somewhat increased.
93. Meridian's existing operating consents do not require it to manage lake levels so as to cause or avoid inflow driven spills. Rather, these spills are accepted as a consequence of the management of the lake for generation purposes.
94. The CRC comments (at paragraph 78) imply that any reduction in inflow driven spills as a consequence of the lake level being somewhat lower during the term of the current proposal is an adverse impact to be weighed against the project's benefits.
95. I submit that is not the right way to look at inflow driven spills. These spills have both positive and adverse impacts on the downstream environment – and these impacts will continue over the three year term of the current proposal.
96. Increased capture of inflows that would have been spilled is incrementally additional energy available to the electricity system – a benefit.
97. Damaging flood flows through the Waitaki system are caused by high inflows in the headwaters. When those high inflows arrive at a time when Lake Pūkaki is at a relatively low level the lake's ability to absorb some or all of that water can be seen as providing a benefit for downstream adjacent landowners that might otherwise suffer loss.
98. At the same time, periodic flood flows are important for river forming and geomorphological processes – they remove vegetation and move river gravels allowing the river systems to reset and evolve.
99. The proposal does not change the range within which the lake lawfully operates, and the use of the full lake range was considered as part of the present reconsenting of the Waitaki Power Scheme.

100. The incidence of inflow driven spills (their duration and extent) may alter slightly as a result of the current proposal but will remain within the assessed incidence of spills considered as part of Meridian's main operating consent application process.
101. In my submission, as with any change in lake levels, this is not a matter that the Panel needs to consider in detail as part of this proposal.

Dated 15 April 2026

A handwritten signature in blue ink, appearing to read 'S Christensen', written in a cursive style.

Stephen Christensen
Counsel for Meridian Energy Limited

Attachments A–D: Letters between Meridian Energy and Genesis in relation to PC1 and the 2018 Resource Consent Application.



9 May 2012

Meridian Energy
PO Box 2454
CHRISTCHURCH 8140

Attn: Sheila Watson
Manager Natural Resources

Genesis Energy
Level 1, 116 Wrights Road
PO Box 9056
Addington
Christchurch 8024
New Zealand

Genesis Power Limited
trading as Genesis Energy

Telephone: 03-338-9320

Mobile: [REDACTED]

Email: [REDACTED]

Dear Sheila,

RE: LAKE PUKAKI PRIVATE PLAN CHANGE

Genesis Energy understands that Meridian Energy has made a request to the Canterbury Regional Council for a private plan change to introduce an amended minimum water level (from 518 MSL to 513 MSL) for Lake Pukaki. Genesis Energy only received your proposal yesterday but understands that it will permit additional water from Lake Pukaki to be used to generate emergency electricity for New Zealand or the South Island when an official electricity conservation campaign is declared by the System Operator for the New Zealand electricity system.

This is to formally advise you that based on its understanding of the proposal, Genesis Energy does not intend to lodge a submission under the Resource Management Act opposing the plan change as it considers that the environmental effects arising from the proposal are unlikely to adversely physically affect its operations. Genesis Energy may, however, lodge a neutral submission on the plan change to maintain an interest in the effects of the proposal generally.

Yours sincerely

A handwritten signature in black ink, appearing to be "RL", with a long horizontal flourish extending to the right.

Rebecca Larking
Environmental Manager – South Island
GENESIS ENERGY



Genesis Energy Limited
Ground Floor
The Genesis Building
660 Great South Road
PO Box 17-188
Greenlane
Auckland 1546
New Zealand

14 May 2018

Meridian Energy Limited

By email: [REDACTED]

Dear Lynley,

RE. Application under the Resource Management Act 1991 to manage Lake Pukaki between 518m and 515m at times of "Security of Supply Alert (breach of 4% hydro risk curve)"

I write in respect to your request for consideration of Meridian's proposal seeking a resource consent variation to authorise the operation of Lake Pukaki between 518 - 515 masl at times when the System Operator determines the risk of an extended energy shortage to have a status of "Security of Supply Alert", that is that the 4% Hydro Risk Curve is breached.

Genesis has reviewed the information supplied by Meridian and does not oppose the application on the basis that Meridian state that the current 4% and 10% Hydro Risk Curves will, at all times of the year, be breached before Meridian are able to manage Lake Pukaki level to and below the minimum lake level of 518 masl.

If in future the Electricity system contingent storage is accounted for differently, and this consequently results in a change in the assessment of the 10% Hydro Risk Curve, Genesis understands from Meridian that there is the possibility that Meridian could abstract water from Lake Pukaki to below a lake level of 518 masl before the 10% hydro risk curve is breached, but not before the current 4% hydro risk curve is breached.

On this basis, Genesis has concerns that the level of Lake Pukaki could operate lower than the current Minimum Control Level (518 masl) more often, this could lead to the following issues being exacerbated:

1. Tekapo B runner performance

If Meridian operates Lake Pukaki lower than the current minimum control level, the vibration issues that Tekapo B Power Station experiences could be exacerbated, meaning Genesis may be required to de-rate Tekapo B more regularly, resulting in compromised generation output. Genesis is working to resolve the vibration matter by replacing the Tekapo B runners. It is expected that this issue will be resolved once the new runners are installed, a project proposed to occur within the next three years.

2. **Tekapo B weir**

The current operational levels of Lake Pukaki mean the Tekapo B weir is always inundated. If Lake Pukaki levels are reduced to a point where spill over the weir occurs, then the rate of erosion / wear and tear will increase resulting in additional maintenance requirements. In addition, once Lake Pukaki is operated below the level of the weir, erosion of the lake edges adjacent to the weir's abutments becomes a concern.

To address these matters, Genesis seeks the following assurances from Meridian:

1. Confirmation that Meridian will not operate the level of Lake Pukaki below the minimum control level (518 masl) until the current 10% HRC has been breached (i.e. Meridian's current permitted operations), until the new runners on Tekapo B have been replaced. Genesis will advise Meridian once the runner replacement project has been completed.
2. Confirmation that Meridian will not operate the level of Lake Pukaki below the minimum control level until the 4% and 10% HRC's have been breached (i.e. Meridian's current permitted operations). If Meridian wish to operate below the minimum control level of 518 masl before the 10% HRC has been breached, Genesis seeks that Meridian agrees to monitor the weir and intake and outflow ramp during these times, to Genesis' satisfaction. Genesis also seeks that Meridian pay for any required remediation if erosion occurs as a result of the operation of Lake Pukaki under this scenario.

Please do not hesitate to contact me if you would like to discuss this further.

Sincerely,



Rebecca Larking
Operations, Trading and Environmental Manager



meridian

22 May 2018

Rebecca Larking
Operations, Trading and Environmental Manager
Genesis Energy Limited
PO Box 17-188
AUCKLAND 1546

Dear Rebecca

Application under the Resource Management Act 1991 to manage Lake Pukaki between 518m and 515m at times of "Security of Supply Alert"

Thank you for your letter dated 14 May 2018 outlining Genesis' view on our proposal to apply for resource consent to authorise the management of Lake Pukaki within the range of 518m to 515m at times when Transpower, as System Operator, determines the risk of an extended energy shortage to have a status of "Security of Supply Alert".

We have considered your requests in relation to the resource management issues raised relating to the operation of Lake Pukaki below the minimum control level (MinCL being 518 masl). In response to those issues, we confirm:

1. In the circumstance that the 4% HRC is breached but the 10% HRC is not when operating the lake below MinCL, Meridian will monitor the weir and intake and outflow ramp during these times, to Genesis' reasonable satisfaction. Meridian agrees to meet the reasonable costs for remediation if erosion to these structures occurs as a direct result of the operation of Lake Pukaki under this scenario.
2. Unless the current 10% HRC is breached, before operating the lake below MinCL Meridian undertakes to cause the Water Management Committee to meet (see Schedule 4, Clause 3(b) of the Water Management Agreement) to determine a process and methodology to identify the adverse environmental effects on Genesis from vibration directly arising from that operation with the existing runners and the appropriate response. Meridian confirms it will reasonably remedy and mitigate those effects.

On this basis and as noted above, could you please re-issue your letter to Meridian dated 14 May 2018, with only the first two paragraphs retained.

Thanks for your assistance with this.

Yours sincerely

Guy Waipara
General Manager – Generation and Natural Resources





Genesis Energy Limited
Ground Floor
The Genesis Building
660 Great South Road
PO Box 17-188
Greenlane
Auckland 1546
New Zealand

8 June 2018

Meridian Energy Limited

By email: [REDACTED]

Dear Guy,

RE. Application under the Resource Management Act 1991 to manage Lake Pukaki between 518m and 515m at times of "Security of Supply Alert"

I write in respect to your request for Genesis' response to Meridian's proposal to seek a resource consent variation to authorise the operation of Lake Pukaki between 518 - 515 masl at times when the System Operator determines the risk of an extended energy shortage to have a status of "Security of Supply Alert".

Genesis has reviewed the information supplied by Meridian to date and does not oppose the application on the basis that Meridian state that the current 4% and 10% Hydro Risk Curve's will, at all times of the year, be breached before Meridian are able to manage Lake Pukaki level to and below the minimum lake level of 518m.

Please do not hesitate to contact me if you would like to discuss this further.

Sincerely,

A handwritten signature in black ink, appearing to be "Rebecca Larking", written in a cursive style.

Rebecca Larking
General Manager – Operations, Trading and Environment
Genesis Energy

Attachment E: Draft proposed indemnity

Deed of Indemnity - Lake Pūkaki

PARTIES

Meridian Energy Limited
("Meridian")

Genesis Energy Limited
("Genesis")

DEED dated [●] 2026

PARTIES

Meridian Energy Limited

("Meridian")

Genesis Energy Limited

("Genesis")

INTRODUCTION

- A. Meridian has applied for a consent ("**Fast-track Consent**") under the Fast-track Approvals Act 2024 to operate Lake Pūkaki below the Minimum Level for a three year period, in addition to the Existing Rights, and to undertake civil works at Pūkaki Dam to improve the structure's resilience to wave action at lower operational lake levels ("**Consent Application**"). Meridian's objective is to improve security of energy supply during a forecast three-year dry period.
- B. Genesis owns and operates Tekapo B, which is situated in Lake Pūkaki, and Tekapo A, which is situated downstream of the generation outlet of Lake Tekapo. Genesis has raised concerns that if Meridian were to operate Lake Pūkaki below the Minimum Level in reliance on the Fast-track Consent, there may be physical damage to the Tailrace.
- C. Meridian disagrees with Genesis on the level of risk of physical damage to the Tailrace, and considers the level of such risk to be low.
- D. In any event, Meridian has agreed to indemnify Genesis if Genesis suffers certain agreed types of loss in the event of physical damage to the Tailrace as a result of the lake level of Lake Pūkaki being held below the Minimum Level in reliance on the Fast-track Consent.
- E. This deed sets out the terms on which Meridian will indemnify Genesis in relation to those matters.

COVENANTS

1. INTERPRETATION

- 1.1 In this deed, unless the context otherwise requires:
 - (a) "**Business Day**" means any day other than a Saturday, Sunday or statutory public holiday in Auckland or Wellington, New Zealand.
 - (b) "**Consent Application**" has the meaning given to it in the Introduction to this Deed.
 - (c) "**Complete Failure**" means Tailrace Damage which causes the tailwater level at Tekapo B to fall below the Minimum Level and which prevents Genesis from being able to generate electricity from Tekapo A and Tekapo B.
 - (d) "**Existing Rights**" means Meridian's existing rights to lower the lake level of Lake Pūkaki below the Minimum Level in accordance with the Waitaki Catchment Water

Allocation Regional Plan, or by resource consent CRC185833 (and any replacement or amendment of such resource consent, including CRC240441).

- (e) **"Fast-track Consent"** has the meaning given to it in the Introduction to this Deed.
- (f) **"Fast-track Operation"** means Meridian drawing down the lake level of Lake Pūkaki below the Minimum Level in reliance on the Fast-track Consent.
- (g) **"Fast-track Operation Period"** means any period of Fast-track Operation, but excluding any period in which Meridian would have been entitled to rely on its Existing Rights.
- (h) **"Good Electricity Industry Practice"** means the exercise of that degree of skill, care, diligence, prudence, methods, practices, processes, workmanship and use of materials and equipment that would be reasonably expected from a skilled and experienced person who is engaged in carrying on the same type of activity under the same or equivalent circumstances and in the New Zealand electricity sector.
- (i) **"Grid Injection Point"** means [●].
- (j) **"Independent Expert"** means [●].
- (k) **"Minimum Level"** means 518.0 m above mean sea level.
- (l) **"Original Design Intent"** means, in relation to the Tailrace, the design intent that the Tailrace will maintain the tailwater level at Tekapo B at or above the Minimum Level.
- (m) **"Reasonable and Prudent Operator"** means a generation business ("**Generation Business**") whose standard of performance and operation (including as to safety) is equal to or better than that generally recognised by businesses operating elsewhere in the world as best practice for Generation Businesses comparable to Tekapo A and Tekapo B.
- (n) **"Revenue Indemnity"** has the meaning set out in clause 4.
- (o) **"Tailrace"** means the tailrace weir, concrete ribs and rock lined spillway chute downstream of the Tekapo B Power Station.
- (p) **"Tailrace Damage"** means physical damage to the Tailrace (including any progressive deterioration or damage) that is determined by the Independent Expert to have been caused by Fast-track Operation.
- (q) **"Tekapo A"** means Genesis' 30MW power station located downstream of the generation outlet from Lake Tekapo.
- (r) **"Tekapo B"** means Genesis' 160MW power station located within Lake Pūkaki.

1.2 **Interpretation:** In this deed unless the context otherwise requires:

- (a) headings are inserted for convenience only and shall be ignored in construing this deed;
- (b) the singular includes the plural and vice versa;

- (c) references to individuals include companies and other corporations and vice versa; and
- (d) a reference to any legislation or to any provision of any legislation (including regulations and orders) includes that legislation or provision as from time to time amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under any such legislation or provision.

2. MONITORING AND PREVENTATIVE WORKS

2.1 **Notice of reliance on Fast-track Consent:** If Meridian is proposing to commence Fast-track Operation, it must notify the electricity market of that proposal no later than [●] ("**Reliance Notice**"). The Reliance Notice must specify the period in which Meridian expects the Fast-track Operation to continue.

2.2 **Monitoring:** During the Fast-track Operation Period, Genesis and Meridian will complete three visual inspections of the Tailrace each day ("**Monitoring**"). The visual inspections must:

- (a) be to a standard that a Reasonable and Prudent Operator applying Good Electricity Industry Practice would apply; and
- (b) include the observation of the water flow over the weir and down the chute of the Tailrace to check for any signs of erosion of the riprap lining, unusual turbulence, asymmetric flow behaviour, bypassing of the formed channel or any other abnormal conditions.

2.3 **Costs of Monitoring:** Meridian agrees to reimburse Genesis for its reasonable costs incurred in conducting the Monitoring during the Fast-track Operation Period as determined by the Independent Expert.

2.4 **Indemnity for Preventative Works:** If:

- (a) the Monitoring identifies that Tailrace Damage has occurred; and
- (b) the Tailrace Damage is more probable than not to result in Complete Failure,

Meridian agrees that it shall indemnify and hold harmless Genesis for and against the cost of the reasonable, appropriate, cost-efficient, and expedient works that a Reasonable and Prudent Operator applying Good Electricity Industry Practice would undertake to reduce the risk of Complete Failure to acceptable tolerance levels, as determined by the Independent Expert ("**Preventative Works**").

2.5 Meridian's indemnity in clause 2.4 does not extend to any other losses suffered by Genesis as a result of the Tailrace Damage, including any loss of revenue which may arise if the Preventative Works would require Genesis to cease generation for a period in order to implement, which the parties acknowledge is being separately addressed through the Revenue Indemnity.

2.6 **Genesis obligations:**

- (a) Genesis will take all reasonable steps to reduce the risk of Complete Failure (as defined in clause 3) to the same acceptable tolerance levels as referred to in clause 2.4. For the avoidance of doubt:
 - (i) it will remain in Genesis's unfettered discretion what works are undertaken; and
 - (ii) the indemnity in clause 2.4 shall not apply in the event where Meridian proposes a further instance of Fast-track Operation and the prior Tail Race Damage has not been rectified by Genesis.
- (b) At all times during the continuation of this deed Genesis warrants and agrees that the equipment used to measure the tailwater level at Tekapo B is installed and maintained in accordance with Good Electricity Industry Practice.

3. COMPLETE FAILURE COSTS

3.1 **Complete Failure Indemnity:** If Complete Failure has occurred, Meridian agrees that it shall indemnify and hold harmless Genesis for and against Complete Failure Costs.

3.2 **Definitions:** For the purposes of the indemnity in clause **Error! Reference source not found.:**

- (a) **"Complete Failure Costs"** means the cost of the Prudent Works, as determined by the Independent Expert.
- (b) **"Prudent Works"** means the works that a Reasonable and Prudent Operator applying Good Electricity Industry Practice would undertake to achieve the Scope, as determined by the Independent Expert.
- (c) **"Scope"** means, where Complete Failure has occurred, the reasonable, appropriate, cost-efficient, and expedient remediation of the underlying Tailrace Damage in a manner that:
 - (i) achieves the Original Design Intent; and
 - (ii) minimises the period for which Tekapo A and Tekapo B are not able to generate electricity as a result of the underlying Tailrace Damage,

as determined by the Independent Expert.

3.3 **Principles:** The following principles shall apply in determining the amount of any the Complete Failure Costs:

- (a) Tailrace Damage and Complete Failure is limited to physical damage to the Tailrace which occurs as a direct consequence of Meridian allowing the lake level of Lake Pūkaki to be held below the Minimum Level in reliance on the Fast-track Consent. It does not include any physical damage to the Tailrace which occurs for any other reason, including physical damage that occurs as a consequence of Meridian allowing the lake level of Lake Pūkaki to be held below the Minimum Level in reliance on the Existing Rights.

- (b) Tailrace Damage and Complete Failure is limited to physical damage to the Tailrace itself, and does not extend to any physical damage to any other part of Tekapo B.
- (c) Tailrace Damage and Complete Failure does not include any physical damage to the Tailrace which would not have occurred if Genesis had:
 - (i) complied with its obligations under clause 2; and
 - (ii) maintained the Tailrace at a standard which achieved the Original Design Intent in accordance with Good Electricity Industry Practice.
- (d) Complete Failure Costs does not extend to any other losses suffered by Genesis as a result of Complete Failure, including any loss of revenue which the parties acknowledge is being separately addressed through the Revenue Indemnity.

3.4 If a Complete Failure occurs Genesis will take all reasonable steps to get Tekapo A and Tekapo B back to full generation as soon as possible. For the avoidance of doubt:

- (a) it will remain in Genesis's unfettered discretion what works are undertaken; and
- (b) the indemnity in clause 3.1 shall not apply in the event where Meridian proposes a further instance of Fast-track Operation and the prior Tail Race Damage has not been rectified by Genesis.

4. REVENUE INDEMNITY

4.1 **[Refer to the draft revenue indemnity confirmation.]**

5. NOTICE OF CLAIM

5.1 If any Tailrace Damage (including Complete Failure) occurs which may result in Genesis seeking to have recourse to the indemnities in this deed, Genesis shall notify Meridian and the Independent Expert in writing of the existence and scope of the Tailrace Damage (including Complete Failure) as soon as practicable after Genesis becomes aware of it.

6. INDEPENDENT EXPERT

6.1 **Appointment and replacement:** The parties agree to appoint the Independent Expert to perform the functions allocated to the Independent Expert under this deed. If for any reason the Independent Expert is not available to perform those functions in relation to a particular claim under this deed the parties will agree on a replacement Independent Expert ("**Replacement**"). If the parties do not agree on the Replacement within five (5) Business Days after it is confirmed that the Independent Expert is not available, the Replacement may be appointed at the request of either party by the President of the Resolution Institute (or his or her nominee).

6.2 **Determinations:** The following shall apply in respect of the determinations required to be made by the Independent Expert under this deed:

- (a) the Independent Expert shall be instructed to apply the principles described in this deed (including following the same approach in relation to any inconsistency);

- (b) the parties shall instruct the Expert to determine the relevant matters and finish its determination and provide it to the parties in writing no later than [●] Business Days after [●] (or such other period agreed by the parties in writing having regard to the relevant matters to be determined);
- (c) the Independent Expert shall act as an expert and not as an arbitrator (and the Arbitration Act 1996 shall not apply to the determination);
- (d) each of the parties shall promptly supply the Independent Expert with any information, assistance and co-operation requested in writing by the Independent Expert in connection with its determination. All correspondence between the Independent Expert and the respective parties shall be copied to the other;
- (e) the costs of a determination by the Independent Expert shall be borne by Meridian;
- (f) the Independent Expert will make the relevant determinations and deliver to each party a written decision; and
- (g) the Independent Expert's decision will be final and binding on the parties except:
 - (i) in the absence of manifest error (in which case the determination shall be referred back to the Independent Expert for correction); or
 - (ii) where the decision requires a party to pay a sum to the other party in excess of **[\$10,000,000]**.

7. DISPUTES

7.1 **[To be inserted if required]**

8. GOVERNING LAW

8.1 This deed is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this deed.

9. COUNTERPARTS AND ELECTRONIC EXECUTION

9.1 For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this deed will be delivered by each party, immediately on the earlier of:

- (a) physical delivery of an original of this deed (or a counterpart of it), executed by that party, into the custody of any of the other parties or any solicitor acting for any of the other parties; and
- (b) transmission by that party or its solicitors (or any other person authorised in writing by that party) of a facsimile or scanned copy of an original of this deed (or a counterpart of it), executed by that party, to any of the other parties or any solicitor acting for any of the other parties.

- 9.2 This deed may be signed in any number of counterparts, all of which will together constitute one and the same instrument. The parties may execute this deed by signing any such counterpart.
- 9.3 By signing this deed, each party consents to this deed (or any counterpart of it) being executed in electronic form, being electronically signed (and, where witnessing of a signature is required, the witness's signature being electronically signed), and being delivered in electronic form by means of an electronic communication, all in accordance with sections 222 to 227 of the Contract and Commercial Law Act 2017.

EXECUTED AS A DEED

[Execution blocks to be inserted]

Deed of Indemnity - Lake Pūkaki

PARTIES

Meridian Energy Limited
("Meridian")

Genesis Energy Limited
("Genesis")

DEED dated [●] 2026

PARTIES

Meridian Energy Limited

("Meridian")

Genesis Energy Limited

("Genesis")

INTRODUCTION

- A. Meridian has applied for a consent ("**Fast-track Consent**") under the Fast-track Approvals Act 2024 to operate Lake Pūkaki below the Minimum Level for a three year period, in addition to the Existing Rights, and to undertake civil works at Pūkaki Dam to improve the structure's resilience to wave action at lower operational lake levels ("**Consent Application**"). Meridian's objective is to improve security of energy supply during a forecast three-year dry period.
- B. Genesis owns and operates Tekapo B, which is situated in Lake Pūkaki, and Tekapo A, which is situated downstream of the generation outlet of Lake Tekapo. Genesis has raised concerns that if Meridian were to operate Lake Pūkaki below the Minimum Level in reliance on the Fast-track Consent, there is a risk of physical damage to the Tailrace. If the Tailrace is damaged or fails, there may be partial or total loss of generation from Tekapo A and/or Tekapo B. Genesis' objective is to ensure that it is fully indemnified for the risks that may arise from the Fast-track Operation, including all costs and losses caused by Damage, Failure, and/or the need to carry out Monitoring and/or Preventative Works.
- C. Meridian disagrees with Genesis on the level of risk of physical damage to the Tailrace, and considers the level of such risk to be low.
- D. In any event, Meridian has agreed to indemnify Genesis if Genesis suffers certain agreed types of loss in the event of physical damage to the Tailrace and loss of revenue as a result of the lake level of Lake Pūkaki being held below the Minimum Level in reliance on the Fast-track Consent.
- E. This deed sets out the terms on which Meridian will indemnify Genesis in relation to those matters. It is contemplated that the parties will enter into a separate agreement providing for an indemnity for loss of revenue that will supersede the Revenue Indemnity if and when executed.

COVENANTS

1. INTERPRETATION

- 1.1 In this deed, unless the context otherwise requires:
- (a) "**Business Day**" means any day other than a Saturday, Sunday or statutory public holiday in Auckland or Wellington, New Zealand.
 - (b) "**Consent Application**" has the meaning given to it in the Introduction to this deed.
 - (c) "**Damage**" means physical damage to the Tailrace that has been caused by Fast-track Operation.
 - (d) "**Design Intent**" means, in relation to the Tailrace, the design intent that the Tailrace will maintain its structural integrity to maintain the tailwater level at Tekapo

B at or above the Minimum Level for the duration of the Term and any period of Fast-track Operation.

- (e) **"Existing Rights"** means Meridian's existing rights to lower the lake level of Lake Pūkaki below the Minimum Level in accordance with the Waitaki Catchment Water Allocation Regional Plan, or by resource consent CRC185833 (and any replacement or amendment of such resource consent, including CRC240441).
- (f) **"Failure"** means any Damage which prevents or limits Genesis' ability to generate electricity from Tekapo A and/or Tekapo B (including a partial failure).
- (g) **"Fast-track Consent"** has the meaning given to it in the Introduction to this Deed.
- (h) **"Fast-track Operation"** means Meridian drawing down the lake level of Lake Pūkaki below the Minimum Level in reliance on the Fast-track Consent.
- (i) **"Fast-track Operation Period"** means any period of Fast-track Operation, but excluding any period in which Meridian would have been entitled to rely on its Existing Rights.
- (j) **"Independent Expert"** means the independent expert appointed under clause 7.1.
- (k) **"Minimum Level"** means 518.0 m above mean sea level.
- (l) **"Notice of Claim"** means a notice under clause 5.2.
- (m) **"Revenue Indemnity"** has the meaning set out in clause 4.
- (n) **"Tailrace"** means the tailrace weir, concrete ribs and rock lined spillway chute downstream of the Tekapo B Power Station and within the bed of Lake Pūkaki owned by Genesis.
- (o) **"Tekapo A"** means Genesis' 30MW power station located downstream of the generation outlet from Lake Tekapo.
- (p) **"Tekapo B"** means Genesis' 160MW power station located within Lake Pūkaki.
- (q) **"Term"** means the term of this deed as provided for in clause 9.

1.2 **Interpretation:** In this deed unless the context otherwise requires:

- (a) headings are inserted for convenience only and shall be ignored in construing this deed;
- (b) the singular includes the plural and vice versa;
- (c) the word "including" and other similar words do not imply any limitation;
- (d) references to individuals include companies and other corporations and vice versa; and
- (e) a reference to any legislation or to any provision of any legislation (including regulations and orders) includes that legislation or provision as from time to time amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under any such legislation or provision.

2. MONITORING AND PREVENTATIVE WORKS

- 2.1 **Notice of reliance on Fast-track Consent:** If Meridian is proposing to commence Fast-track Operation, it must notify Genesis and the electricity market of that proposal no later than eight days in advance ("**Reliance Notice**"). The Reliance Notice must specify the period in which Meridian expects the Fast-track Operation to continue but will not be binding on Meridian and the parties acknowledge that it may take Meridian longer than eight days to commence Fast-track Operation (and / or Fast-track Operation may not commence at all) and Fast-track Operations may continue for more or less than the period specified in the Reliance Notice.
- 2.2 **Monitoring:** During the Fast-track Operation Period, Genesis (or its contractor) with Meridian observing will complete three visual inspections of the Tailrace each day ("**Monitoring**") as considered reasonably appropriate by Genesis provided that such Monitoring must include the observation of the water flow over the weir and down the chute of the Tailrace to check for any signs of erosion of the riprap lining, unusual turbulence, asymmetric flow behaviour, bypassing of the formed channel or any other abnormal conditions. Genesis will share the results of Monitoring with Meridian on a daily basis.
- 2.3 **Costs of Monitoring:** Meridian will reimburse Genesis for its actual and reasonable costs incurred in conducting the Monitoring within 20 Business Days of receiving an invoice from Genesis for those costs.
- 2.4 **Indemnity for Preventative Works:** Meridian shall indemnify and hold harmless Genesis for and against the liabilities and costs incurred by Genesis for the reasonable, appropriate and, to the extent reasonably practicable, expedient works undertaken to repair Damage as determined by Genesis acting reasonably ("**Preventative Works**"). To avoid doubt, Genesis does not need to obtain any prior approval or determination from Meridian or an Independent Expert prior to undertaking any such Preventative Works and the undertaking of any Preventative Works will not impact or limit Genesis' rights to be indemnified under this deed.
- 2.5 The indemnity in clause 2.4:
- (a) includes costs reasonably incurred by Genesis in relation to preparing for and undertaking Preventative Works such as, for example, the costs of any surveying, any resource consents, and planning and preparation for the Preventative Works; but
 - (b) does not extend to any other losses (including any loss of revenue) suffered by Genesis as a result of the Damage or Failure, including any loss of revenue which may arise if the Preventative Works would require Genesis to cease generation for a period, which the parties acknowledge is addressed through the Revenue Indemnity.
- 2.6 **Genesis obligations:**
- (a) Without limiting Genesis' rights under this deed, if Genesis (acting reasonably) considers that Damage has occurred, Genesis will take all reasonable steps to reduce the risk of Failure to acceptable tolerance levels 2.4. For the avoidance of doubt:
 - (i) costs for the reasonable steps under sub-clause (a) above will be within the scope of the indemnity in clause 2.4; and
 - (ii) Genesis will use reasonable endeavours to ensure that Damage is rectified by Genesis as soon as reasonably practicable. However, it will remain in Genesis's unfettered discretion what works are undertaken and when, and Genesis will have no liability to Meridian in relation to such works or the consequences of them.

3. FAILURE COSTS

- 3.1 **Failure Indemnity:** If Failure has occurred (whether or not Preventative Works have been carried out), Meridian shall indemnify and hold harmless Genesis for and against Failure Costs. To avoid doubt, Genesis does not need to obtain any approval or determination from Meridian or an Independent Expert prior to undertaking any Prudent Works and the undertaking of any Prudent Works will not impact or limit Genesis' rights to be indemnified under this deed.
- 3.2 **Definitions:** For the purposes of the indemnity in clause **Error! Reference source not found.:**
- (a) **"Failure Costs"** means the costs of any Prudent Works, as determined in accordance with the principles in clause 3.3 of this deed.
 - (b) **"Prudent Works"** means, where Failure has occurred, the reasonable, appropriate, and, to the extent reasonably practicable, expedient repair and/or remediation of the underlying Damage in a manner that:
 - (i) achieves the Design Intent for the Term; and
 - (ii) uses reasonable endeavours to minimise the period for which Tekapo A and/or Tekapo B are, in whole or in part, not able to generate electricity as a result of any Damage.
- 3.3 **Principles:** The following principles shall apply in determining the amount of any Failure Costs:
- (a) Failure is limited to physical damage to the Tailrace as a direct consequence of Meridian allowing the lake level of Lake Pūkaki to be held below the Minimum Level in reliance on the Fast-track Consent. It does not include any physical damage to the Tailrace which occurs for any other reason, including physical damage that occurs as a consequence of Meridian allowing the lake level of Lake Pūkaki to be held below the Minimum Level in reliance on the Existing Rights other than to the extent Meridian's ability to rely on those Existing Rights has been expanded as a result of Failure.
 - (b) Failure is limited to physical damage to the Tailrace itself, and does not extend to any physical damage to Tekapo A or any other part of Tekapo B.
 - (c) In addition to the costs relating to physical damage under sub-clause (a) above, Failure Costs includes costs reasonably incurred by Genesis in relation to preparing for and undertaking Prudent Works (such as the costs of any surveying, resource consents, and planning and preparation for the Prudent Works) which shall, for the avoidance of doubt, be losses recoverable as Failure Costs.
 - (d) Damage and Failure do not include any physical damage to the Tailrace, Tekapo A or Tekapo B to the extent the damage would not have occurred if Genesis had complied with its obligations under clause 2.
 - (e) Failure Costs do not extend to any losses which are covered under the Revenue Indemnity.
- 3.4 **Mitigation:** If a Failure occurs Genesis will take reasonable steps to get Tekapo A and/or Tekapo B (as applicable) back to full generation capability as soon as reasonably practicable. For the avoidance of doubt it will remain in Genesis's unfettered discretion what works are undertaken and when, and Genesis will have no liability to Meridian in relation to such works or the consequences of them.

4. REVENUE INDEMNITY

- 4.1 If Damage or Failure occurs, and/or Preventative Works are carried out, Meridian will indemnify Genesis for lost revenue from reduced generation at Tekapo A and Tekapo B that is directly caused by the Damage or Failure, or the carrying out of Preventative Works ("**Revenue Indemnity**"). When calculating Genesis' lost revenue from reduced generation for the purposes of this clause an adjustment shall be made to reflect the value of the additional storage that is available to Genesis as a consequence of not generating electricity at Tekapo A and/or Tekapo B during the period of Failure and/or Preventative Works.
- 4.2 The Revenue Indemnity does not cover loss of revenue to the extent that it arises from:
- (a) other causes (for example, for unavailability due to business-as-usual plant maintenance); or
 - (b) Genesis not complying with its obligations under clause 2.6.
- 4.3 The Revenue Indemnity is binding on the parties unless and until the parties agree a more detailed mechanism for indemnity.
- 4.4 The parties will use reasonable endeavours to negotiate and agree the more detailed mechanism.

5. NOTICE OF CLAIM

- 5.1 Genesis shall notify Meridian in writing of the existence and scope (insofar as it can reasonably be identified at the time) of any Damage, Failure, and/or intention to carry out Preventative Works as soon as reasonably practicable. For the avoidance of doubt, failure to issue a timely notice shall not disentitle Genesis from any indemnity under this deed.
- 5.2 Once Genesis has carried out and incurred costs for Preventative Works, or incurred Failure Costs, Genesis may make written demand for indemnification of those costs under clause 2.4 or 3.1 as applicable ("**Notice of Claim**"), with such notice to include reasonable details of the amounts claimed and the basis for those claims. For the avoidance of doubt, Genesis is entitled to issue multiple Notices of Claim in relation to the same Damage, Failure, or Preventative Works as costs and liabilities are incurred.
- 5.3 Meridian must pay any amounts specified in a Notice of Claim within 20 Business Days, other than amounts relating to a claim under the Revenue Indemnity which is the subject of a bona fide dispute which shall not become payable until that dispute has been resolved in accordance with the process set out in clause 6. Late payment will attract interest at the rate of 5% per annum above the prevailing official cash rate in New Zealand, calculated from the due date until payment.
- 5.4 Payments made by Meridian under clause 5.3 are without prejudice to its rights to dispute the amounts properly payable under clause 6 of this deed.

6. DISPUTES

- 6.1 **Dispute notice:** If there is a dispute between the parties in relation to this deed, either party may give the other party notice of the nature and details of the dispute.
- 6.2 **Negotiation:** Within 5 Business Days after receiving a notice of dispute (or such later time as the parties agree in writing), senior officers of each party with authority to resolve the dispute must meet and use reasonable endeavours to resolve the dispute.
- 6.3 **Independent Expert:** If the relevant senior officers are unable to resolve the dispute within 5 Business Days of the meeting conducted pursuant to clause 6.2, and the dispute relates to

the reasonableness of costs of Preventative Works or Failure Costs, then either party may refer the dispute to an Independent Expert in accordance with clause 7, by giving written notice to the other party.

- 6.4 **Arbitration:** If the dispute relates to any other matters, and is not resolved within the earlier of 5 Business Days of the meeting conducted pursuant to clause 6.2 or 20 Business Days of receipt of the notice of the dispute, either party can refer the dispute to arbitration. If the dispute is referred to arbitration, the arbitration will be conducted in Auckland by a single arbitrator under the Arbitration Act 1996 (excluding clauses 4 and 5 of the Second Schedule to that Act). If the parties do not agree on an arbitrator within five Business Days of the referral to arbitration, the arbitrator will be appointed by the President of the New Zealand Law Society (or their nominee) at the request of either party. The decision of the arbitrator will be final and binding. The costs of the arbitrator will (subject to any award by the arbitrator) be borne equally by the parties to the dispute.
- 6.5 **Urgent relief:** Nothing in this deed will prevent a party from seeking urgent interlocutory relief before a court.

7. INDEPENDENT EXPERT

- 7.1 **Appointment:** The parties agree to appoint an Independent Expert to resolve any disputed matter referred to an Independent Expert under clause 6.3 ("**Relevant Matter**"). The Independent Expert must be a suitably qualified expert in relation to the Relevant Matter, and to avoid doubt there may be different Independent Experts appointed depending on the nature of the Relevant Matter. The Independent Expert for a Relevant Matter will be appointed by agreement of the parties. If the parties cannot agree on the Independent Expert within 10 Business Days of receipt of the notice under 6.3, the Independent Expert will be appointed by the President of the New Zealand Law Society (or his or her nominee) on application by either party.
- 7.2 **Determinations:** The following shall apply in respect of the determination required to be made by an Independent Expert under this deed:
- (a) the Independent Expert shall be instructed to and must apply the principles described in this deed as applicable (including following the same approach in relation to any inconsistency);
 - (b) the parties shall instruct the Independent Expert to determine or certify the Relevant Matter (as applicable) and provide that determination or certification to the parties in writing no later than 40 Business Days after appointment of that Independent Expert in relation to the Relevant Matter (or such other period agreed by the parties in writing having regard to the Relevant Matters to be determined or certified);
 - (c) the Independent Expert shall act as an expert and not as an arbitrator (and the Arbitration Act 1996 shall not apply to the determination);
 - (d) each of the parties shall promptly supply the Independent Expert with any information, assistance, submissions, and co-operation requested in writing by the Independent Expert in connection with its determination or certification. Genesis must ensure that the Independent Expert is provided with the details of all Monitoring undertaken under clause 2.2. All correspondence between the Independent Expert and the respective parties shall be copied to the other;
 - (e) any costs of the Independent Expert shall be borne by Meridian;
 - (f) the Independent Expert will make the relevant determination and deliver to each party (as applicable) a written decision. Any Independent Expert's decision will

include detail regarding the basis on which the relevant determinations were formed; and

- (g) the Independent Expert's determination or certification (as applicable) will be final and binding subject to notice of arbitration being given under clause 6.4 within 20 Business Days of receipt of the decision (in which case the parties are bound to arbitrate the Relevant Matter).

8. GOVERNING LAW

8.1 This deed is governed by the laws of New Zealand and the parties submit to the exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this deed.

- (a)

9. TERM

9.1 **Duration:** This deed will commence on the date on which it has been executed by both parties and, unless otherwise agreed by the parties in writing, expire on the date on which the Fast-track Consent expires ("**Term**").

9.2 Expiry of this deed is without prejudice to and will not affect any rights, remedies, powers or obligations of a party that have accrued before expiry or limit either party's rights to recover damages from the other party under this deed or pursue any additional or alternative remedies provided by law.

10. COUNTERPARTS AND ELECTRONIC EXECUTION

10.1 For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this deed will be delivered by each party, immediately on the earlier of:

- (a) physical delivery of an original of this deed (or a counterpart of it), executed by that party, into the custody of any of the other parties or any solicitor acting for any of the other parties; and
- (b) transmission by that party or its solicitors (or any other person authorised in writing by that party) of a facsimile or scanned copy of an original of this deed (or a counterpart of it), executed by that party, to any of the other parties or any solicitor acting for any of the other parties.

10.2 This deed may be signed in any number of counterparts, all of which will together constitute one and the same instrument. The parties may execute this deed by signing any such counterpart.

10.3 By signing this deed, each party consents to this deed (or any counterpart of it) being executed in electronic form, being electronically signed (and, where witnessing of a signature is required, the witness's signature being electronically signed), and being delivered in electronic form by means of an electronic communication, all in accordance with sections 222 to 227 of the Contract and Commercial Law Act 2017.

EXECUTED AS A DEED

For and on behalf of **Meridian Energy Limited**

Director

Director

Print Name

Print Name

For and on behalf of **Genesis Energy Limited**

Director

Director

Print Name

Print Name

CONFIRMATION – ELECTRICITY SWAPTION

To:	Meridian Energy Limited (Meridian)
Address:	
From:	Genesis Energy Limited (Genesis)
Meridian reference:	
Date:	[•] 2026

1. General

- 1.1 This Confirmation supplements, forms part of, and is subject to, the ISDA Master Agreement dated [19 November 1999] as amended and supplemented from time to time ("**Agreement**"), between the parties. All provisions contained in the Agreement govern this Confirmation except as expressly modified below. A reference to "**Party A**" in this Confirmation is a reference to Meridian and a reference to "**Party B**" is a reference to Genesis.
- 1.2 The purpose of this document is to confirm the terms and conditions of the transaction entered into between the parties on the Trade Date specified below. This document constitutes a "**Confirmation**" as referred to in the Agreement and relates to a Swaption in respect of the Underlying Transactions described below.
- 1.3 The Trade Date for this Confirmation is **[•] 2026**.

2. Definitions

[Defined terms and concepts etc will need to be consistent with those used in the Deed of Indemnity.]

- 2.1 Unless the context otherwise requires, words and expressions defined in the Deed of Indemnity have the same meanings when used in this Confirmation.
- 2.2 In addition, in this Confirmation:

"**Deed of Indemnity**" means the deed made on or about the date of this Confirmation between Party A and Party B entitled "Deed of Indemnity – Lake Pūkaki".

"**Fast-track Consent Period**" means [the period for which the Fast-track Consent applies]

"**Restoration Time**" means[, in relation to the occurrence of Tailrace Damage, the time at which the Tailrace Damage is treated as having been rectified in accordance with the Deed of Indemnity.]

"Trading Period" means a period of 30 minutes ending on each hour or 30 minutes past each hour, with each Trading Period in each day being numbered from 1 to 48 (as adjusted for daylight savings changes) with trading Period 1 in a day commencing at 00:01 hours and the remaining Trading Periods in the day being numbered sequentially thereafter.

"Station" means Tekapo A or Tekapo B.

3. **Option Terms**

3.1 **Option:** The particular Transaction to which this Confirmation relates is an Option, the terms of which are as follows:

3.2 **Option style:** American

3.3 **Option type:** Swaption

3.4 **Term:** The Term of the Option is from the Effective Date of 00:00 hours on [the first day of the Fast-track Consent Period to the Termination Date of 23:59 hours on the last day of the Fast-track Consent Period].

3.5 **Seller:** Party A

3.6 **Buyer:** Party B

3.7 **Physical/Contract Settlement:** Applies

3.8 **Cash Settlement:** Does not apply

4. **Premium**

4.1 **Total Premium:** Nil

5. **Knock-in**

5.1 **Knock-in provisions:** Applicable. For the avoidance of doubt, the Option is not able to be exercised unless a Knock-in Event has occurred.

5.2 **Knock-in Event:** A Knock-in Event occurs if [Tailrace Damage has occurred and:

- (a) Genesis [reasonably considers/determines in accordance with the Deed of Indemnity] works to the Tailrace are required in order to remediate the Tailrace Damage; or
- (b) the Tailrace Damage has caused the generation capacity at the Stations to be reduced, compared to if the Tailrace Damage had not occurred.]

6. **Procedure for Exercise**

6.1 **Exercise Period:** Each day during the Term

6.2 **Automatic exercise:** Not applicable

- 6.3 **Multiple Exercise:** Party B may exercise the Option on more than one occasion following the occurrence of a Knock-in Event provided the Restoration Time has not occurred in respect of the Tailrace Damage at the time of the exercise of the Option.
- 6.4 **Notice of exercise:** Party B may exercise the Option by giving notice ("**Option Notice**") to Party A in the form set out in Schedule 1. Party B shall use reasonable endeavours to ensure the Option Notice is received by Party A before the first Calculation Period specified in the Option Notice commences. An Option Notice, once given, is irrevocable.
- 6.5 **Generation Schedule:**
- (a) Party B shall deliver to Party A [on a daily basis] a schedule ("**Generation Schedule**") which specifies, for each Underlying Transaction that becomes effective on exercise of the Option, the Notional Quantity for each Calculation Period for successive periods during the Term of 48 Trading Periods.
 - (b) The specification of the Notional Quantity for a Calculation Period for an Underlying Transaction must reflect Party B's determination of the quantity of electricity (expressed in MWh) that Party B would otherwise have chosen to generate at the relevant Station in the Calculation Period if the Physical Damage had not occurred. Party B's determination shall:
 - (i) reflect the MW capacity at the Station as calculated in accordance with standard industry practice;
 - (ii) not include any quantity of electricity (expressed in MWh) that Party B would not have been able to generate at the relevant Station in the Calculation Period for any reason other than the Tailrace Damage; and
 - (iii) avoid double-counting of available capacity by not including any quantity of electricity (expressed in MWh) that Party B had already included in a previous Generation Schedule.
 - (c) The first Generation Notice shall be delivered [at the same time as the Option Notice is delivered to Party A and each successive Generation Notice shall be delivered at the same time of the day on each successive day of the Term.]

[Meridian should have the right to require comfort that nominated Notional Quantity is in accordance with paragraph (b) above – e.g. through the independent expert. This could be included in this document or the Deed of Indemnity.]

Underlying Transactions

7. **The Underlying Transactions:** The Option is able to be exercised in relation to two separate Underlying Transactions, referred to in this Confirmation as "Transaction TKA" and Transaction TKB"). The terms of the Underlying Transactions to which the Option relates are as follows:
- 7.1 **Grid Reference Point:**
- (a) Transaction TKA: TKA0331; and

- (b) Transaction TKB: TKB2201
- 7.2 **Effective Date:** The Effective Date of each Underlying Transaction that becomes effective on exercise of the Option is the beginning of the first Calculation Period specified as such in the first Generation Schedule given in accordance with paragraph 6.5.
- 7.3 **Termination Date:** The Termination Date of each Underlying Transaction that becomes effective on exercise of the Option is the end of the last Calculation Period immediately before the Restoration Time.
- 7.4 **Notional Quantity:** In relation to each Underlying Transaction, the Notional Quantity for each Calculation Period during the Term is equal to the Notional Quantity specified for the Calculation Period in the related Generation Schedule.
- 7.5 For the purposes of each Underlying Transaction:
- (a) Party A is Floating Price Payer; and
- (b) Party B is the Fixed Price Payer.
- 7.6 **Fixed Price:** For each Underlying Transaction, [•] for each Calculation Period. **[Value of water not used to generate to be recognised. Meridian proposes average of the last [5] trading days of ASX pricing at Benmore for the next whole month after the settlement date]**
- 7.7 **Calculation Agent:** Party A

Cash Settlement Terms

- 7.8 **Cash Settlement:** Applicable.
- 7.9 **Settlement:**
- (a) Settlement Date means, in respect of a Settlement Period, the 20th day of the Month following that Settlement Period, subject to adjustment in accordance with the Following Business Day Convention.
- (b) Settlement Period means each Month during the Term.

Miscellaneous

8. **Account Details:** The parties' account details are as set out below:
- | | |
|----------------------|------------------------------------------------------------------|
| Payments to Party A: | Bank: Westpac New Zealand Limited
Account: 03-0502-0233680-00 |
| Payments to Party B: | Bank Name: [•]
Account Number: [•] |
9. **GST:** All amounts payable under this Confirmation exclude GST (if any).

SIGNED

Meridian Energy Limited	Genesis Energy Limited
Signature	Signature
Name	Name
Position	Position

SCHEDULE 1

FORM OF OPTION NOTICE

To: wlg.trader@meridianenergy.co.nz

From: [■]

Sent: [Date of Notice inserted automatically]

Subject: [■] Notification –Option Notice

We, Genesis Energy Limited, refer to the confirmation dated [trade date] between you and us (the “Confirmation”). This email and its attachments constitute an “Option Notice” referred to in the Confirmation. Terms defined in the Confirmation have the same meanings in this Option Notice. We hereby exercise the Option granted to us by you under the Confirmation in accordance with the details below:

Underlying Transaction(s): [specify]

First Calculation Period: [Date and Trading Period]

For and on behalf of Genesis Energy Limited

Followed by phone call from Party B to Party A at:

[■]; or

[■] (back up)