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## MINUTE 2 OF THE EXPERT PANEL

Invitation to comment and recording on-line briefing  
Tekapo Power Scheme [FTAA- 2503-1035]

28 July 2025

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[1] This minute records the on-line project overview conference held in relation to this application, and addresses invitations to comment on the application under section 53 of the Fast-track Approvals Act 2025 (the “**FTAA**”).

### On-line briefing

[2] The Panel records that an on-line project overview conference occurred on 24 July 2025. The participants included were:

- (a) Genesis Energy Limited (“**Applicant**”)
  - (i) David Allen and Chelsea Easter (counsel)
  - (ii) Ellie Watson (Environmental Manager)
  - (iii) Richard Matthews (Consultant Planner)
- (b) Canterbury Regional Council
  - (i) Lucy de Latour (counsel)
  - (ii) Susannah Black (Principal Planner)
- (c) Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki (together “**Waitaki Rūnanga**”)
  - (i) Ben Williams and Rachel Roubilliard (counsel)
- (d) Aoraki Environmental Consultancy Limited (“**Aoraki**”)
  - (i) Treena Davidson
- (e) Ministry for the Environment (observing)
  - (i) Sarah McDaniel (analyst)
- (f) Mackenzie District Council

- (i) Julie Shanks (Planning Manager, left meeting after confirming not required)

[3] Prior to the briefing the Applicant provided a PowerPoint presentation that they intended to use at the briefing, together with legal submissions and a number of appendices. These documents will be made available on the website shortly.

[4] At the conference the Applicant:

- (a) Provided an overview of the existing scheme.
- (b) Addressed the national and regional benefits of the scheme and project.
- (c) Provided an overview of the application.
- (d) Described the proposed conditions of consent, including their development, content and structure.
- (e) Addressed the Panel on the legal tests, decision-making process under the FTAA, and remaining issues in contention with existing statutory participants.
- (f) Gave submissions in relation to the Panel's obligation to invite written comments, and the extent to which it should exercise its discretion under s53(3) of the FTAA.

[5] During the Applicant's presentation, the Panel had the opportunity to ask questions of clarification and to seek input where appropriate from other attendees including Canterbury Regional Council and the Waitaki Rūnanga. The Panel records its gratitude to the Applicant for its comprehensive presentation and to other attendees of the briefing for their input and guidance in relation to matters relevant to them.

### **Invitation to comment**

[6] In accordance with section 53(2) FTAA, the Panel must invite comments from persons listed in sections 53(2) (a) to (n), where relevant. **Appendix 1**

provides the list of prescribed persons relevant to this project.

[7] Section 53(2)(h) and (i) state that the owners and occupiers of the land adjacent to the land the application relates must be invited to comment. The application included an appendix (*Appendix C: Adjacent Landowners*) that identified the names and addresses of owners and occupiers of the site and the land adjacent to the site. The EPA has also provided its advice to the Panel based on the Guidance Note entitled: *FTA GUIDANCE MATERIAL Identifying Adjacent Land*.

[8] After considering the information from the Applicant and the advice from the EPA the Panel has determined that those persons listed in **Appendix 1** of the application should be invited to comment. **Appendix 3** includes a map of the adjacent land and **Appendix 2** lists the owners and occupiers of that land.

[9] The Panel has considered section 53(3) and has determined that the following persons should also be invited to comment:

- (a) Aoraki.
- (b) Royal Forest and Bird Protection Society Incorporated (“**Forest and Bird**”).

### ***Aoraki***

[10] The Treaty settlements and other obligations (Section 18) Report dated 5 June 2025 identified two groups with relevant interests pursuant to section 18(2)(k) of the FTAA. Those groups were Aoraki and Aukaha (1997) Limited. Based on advice from counsel for the Waitaki Rūnanga, the Panel understands that it is appropriate to invite Aoraki to comment, but that Aukaha (1997) Limited does not have the necessary interest, involvement or mandate to participate in the process and therefore should not receive such an invitation. We accept the advice given on behalf of the Waitaki Rūnanga in relation to this issue.

### ***Forest and Bird***

[11] The Panel notes that both the Panel Convener and the Panel itself has received unsolicited correspondence from Forest and Bird seeking to be involved in the application, this included:

- (a) A letter to the Panel Convener dated 3 June 2025 seeking to participate in the convener's conference.
- (b) An undated letter to the Panel received on 15 July 2025 requesting that it be invited to comment on the project under section 53(3) of the FTAA.
- (c) An email to the EPA, for the attention of the Panel, on 23 July 2025, seeking to attend the on-line briefing held on 24 July 2025. This email was identified by the EPA and brought to the attention of the Panel Chair after the on-line briefing had taken place.

[12] The Panel records that it was actively considering the appropriateness of inviting comment from Forest and Bird prior to it becoming aware of the correspondence to the Panel Convener identified in (a) above, and prior to receiving the correspondence referred to in (b) and (c) above.

[13] The Panel is aware that Forest and Bird is a section 274 party in relation to the application by Meridian Energy Limited ("**Meridian**"), directly referred to the Environment Court, for consenting of the Waitaki Power Scheme. Forest and Bird has filed evidence and is raising legal issues with that application, in particular it challenges the approach taken to the "existing environment" in the application and supporting reports. The approach taken by Meridian to that issue is the same as that taken by the Applicant in relation to this application.

[14] The panel acknowledges that Forest and Bird's involvement as a section 274 party in a different consenting application, made by a different applicant and considered under a different statutory regime, does not render it a directly affected party or mean that it has an interest in this application greater than any other

member of the public.

[15] In deciding whether to exercise its discretion to invite comment from Forest and Bird, the Panel has focussed on whether that would be appropriate in terms of section 53(3), and would assist its consideration of the application, in the context of the FTAA. The Panel has considered the following matters, in coming to its decision:

- (a) The purpose of the Act and the procedural principles set out in section 10;
- (b) Any relevant aspect of the public or community interest that requires consideration;
- (c) The comprehensiveness and quality of the applicant's technical information and how the applicant has addressed the issue of consultation;
- (d) The likely extent of local authority participation in the application process;
- (e) Whether the activity would otherwise be prohibited under relevant legislation;
- (f) Whether the application is for a project that has been previously declined under another statutory process; and
- (g) Whether the application is likely to involve novel or contentious legal or disputed factual issues.

[16] The Panel does not consider that inviting Forest and Bird to comment on the application would be inconsistent with the purpose or procedural principles of the FTAA. Receiving comments from Forest and Bird should not create any delay in the Panel's consideration and determination of the application, the timeframes for which have been set by the Panel Convener. Arguably, and without predetermining what steps the Panel may choose to take, the provision of information from Forest and Bird may reduce the need for, or scope of, legal or technical advice that the Panel may seek in relation to the application.

[17] Forest and Bird is a conservation organisation with a long history of involvement in planning and consenting processes in New Zealand, including in relation to this and other hydroelectric power schemes across the South Island. The Panel considers that Forest and Bird represents a relevant aspect of the public interest that requires consideration.

[18] The technical information supporting the application is comprehensive and of high quality. However, its assessment of the effects assumes a conceptualisation of the existing environment put forward by the Applicant. Genesis has (appropriately) reached a high level of agreement with the other statutory participants in the application process. Canterbury Regional Council and the Waitaki Rūnanga have indicated that they do not intend to contradict the Applicant on that point. Forest and Bird has indicated it intends to provide professionally prepared expert evidence in support of its position, if invited to comment. The Panel considers that provision of such information by Forest and Bird would enable this fundamental issue to be tested, which may assist the Panel's understanding and the robustness of its decision-making.

[19] While the need to consider the “existing environment” in relation to any application for resource consent perhaps could not be characterised as “novel or contentious”, the Panel perceives that the way in which the concept is formulated and applied in relation to reconsenting large hydroelectric power schemes such as the present project remains somewhat contentious.

[20] The various other considerations set out in paragraph [15] above either do not apply in the case of the present application, or did not factor heavily in the Panel's consideration of this issue.

### **Specificity of invitation**

[21] Given its reasons for seeking comment from Forest and Bird, the Panel considers it appropriate to identify particular matters that it would like to have comment on from Forest and Bird. These are contained in **Appendix 4**. While

the Applicant will likely already anticipate such comments, the Panel considers it appropriate that the Applicant is aware of its expectations well in advance of the date for comments and the date when the Applicant will be required to respond to those comments.

[22] The invitation to comment is dated 28 July 2025 and the date for comments is 20 working days from this date (section 54 FTAA), namely, 25 August 2025.

[23] Comments must be made to the EPA:

- (a) by email to [substantive@fasttrack.govt.nz](mailto:substantive@fasttrack.govt.nz);
- (b) by post to Private Bag 63002, Wellington 6140  
New Zealand; or
- (c) in person to Stewart Dawson's Corner, 366 Lambton Quay,  
Wellington 6011



Daniel Sadlier  
Expert Panel Chair

## Appendix 1 – Parties invited to Comment under section 53(2) of the Act

Section of Act	Description from Act	Party identified
53(2)(a)	the relevant local authorities	<ul style="list-style-type: none"> <li>• Mackenzie District Council</li> <li>• Canterbury Regional Council</li> </ul>
53(2)(b)	the relevant iwi authorities	<ul style="list-style-type: none"> <li>• Te Rūnanga o Ngāi Tahu</li> </ul>
53(2)(c)	any relevant Treaty settlement entities, including, to avoid doubt,— (i) an entity that has an interest under a Treaty settlement within the area to which the substantive application relates; and (ii) an entity operating in a collective arrangement, provided for under a Treaty settlement, that relates to that area	<ul style="list-style-type: none"> <li>• Te Rūnanga o Ngāi Tahu</li> <li>• Te Rūnanga o Arowhenua</li> <li>• Te Rūnanga o Waihao</li> <li>• Te Rūnanga o Moeraki</li> </ul>
53(2)(d)	any protected customary rights groups and customary marine title groups whose protected customary rights area or customary marine title is within the area to which the substantive application relates	N/A
53(2)(e)	any applicant group under the Marine and Coastal Area (Takutai Moana) Act 2011 that is identified in the report prepared under section 18 or 49 and seeks recognition of customary marine title or protected customary rights within the area to which the substantive application relates	N/A
53(2)(f)	ngā hapū o Ngāti Porou if the area to which the substantive application relates is within or adjacent to, or the activities to which it relates would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou	N/A
53(2)(g)	the tangata whenua of any area within the area to which the substantive application relates that is a taiāpure-local fishery, a mātaihai reserve, or an area that is subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996	N/A
53(2)(h)	owners of the land to which the substantive application relates and the land adjacent to the	See <b>Appendix 2</b>



53(2)(i)	occupiers of the land to which the substantive application relates unless, after reasonable inquiry, an occupier cannot be identified	See <b>Appendix 2</b>
53(2)(j)	the Minister for the Environment and other relevant portfolio Ministers	<ul style="list-style-type: none"> <li>• Minister for RMA Reform</li> <li>• Minister for Arts, Culture and Heritage</li> <li>• Minister for Treaty of Waitangi Negotiations</li> <li>• Minister of Conservation</li> <li>• Minister for Māori Crown Relations</li> <li>• Minister for Energy</li> <li>• Minister for Climate Change</li> <li>• Minister of Local Government</li> <li>• Minister for Land Information</li> <li>• Minister for the Environment</li> <li>• Minister for the South Island</li> <li>• Minister for Regional Development</li> <li>• Minister for Rural Communities</li> </ul>
53(2)(k)	relevant administering agencies	<ul style="list-style-type: none"> <li>• Ministry for the Environment</li> <li>• Mackenzie District Council</li> <li>• Canterbury Regional Council</li> </ul>
53(2)(l)	any requiring authority that has a designation on land to which the substantive application relates or on land adjacent to that land	<ul style="list-style-type: none"> <li>• New Zealand Transport Agency Waka Kotahi</li> <li>• Transpower New Zealand Limited</li> </ul>

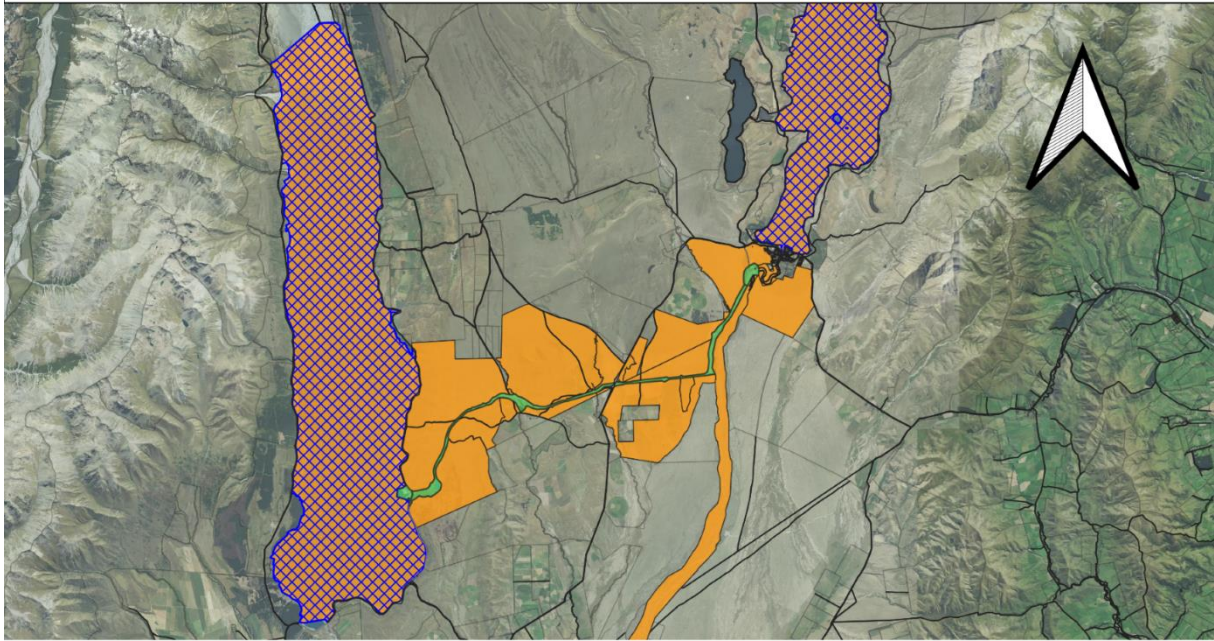
53(2)(m)	<p>if the approvals sought in the substantive application include—</p> <p>(i) an approval described in section 42(4)(a) or (d) (resource consent or designation), the persons and groups listed in clause 13 of Schedule 5:</p> <p>(ii) an approval described in section 42(4)(e) (concession), the persons listed in clause 5 of Schedule 6:</p> <p>(iii) an approval described in section 42(4)(g) (conservation covenant), the persons listed in clause 44 of Schedule 6:</p> <p>(iv) an approval described in section 42(4)(h) (wildlife approval), the persons listed in clause 4 of Schedule 7:</p> <p>(v) an approval described in section 42(4)(k) (marine consent), the persons listed in clause 5 of Schedule 10:</p> <p>(vi) an approval described in section 42(4)(l) or (m) (access arrangement), the persons listed in clause 5 of Schedule 11</p> <p>(vii) an approval described in section 42(4)(n) (mining permit), the person listed in clause 18 of Schedule 11.</p>	<ul style="list-style-type: none"> <li>• Director-General of Conservation</li> </ul>
53(2)(n)	any persons or groups specified by the Minister under section 27(3)(b)(iii).	N/A

## Appendix 2 – Land parcels whose owners and/or occupiers are invited to comment

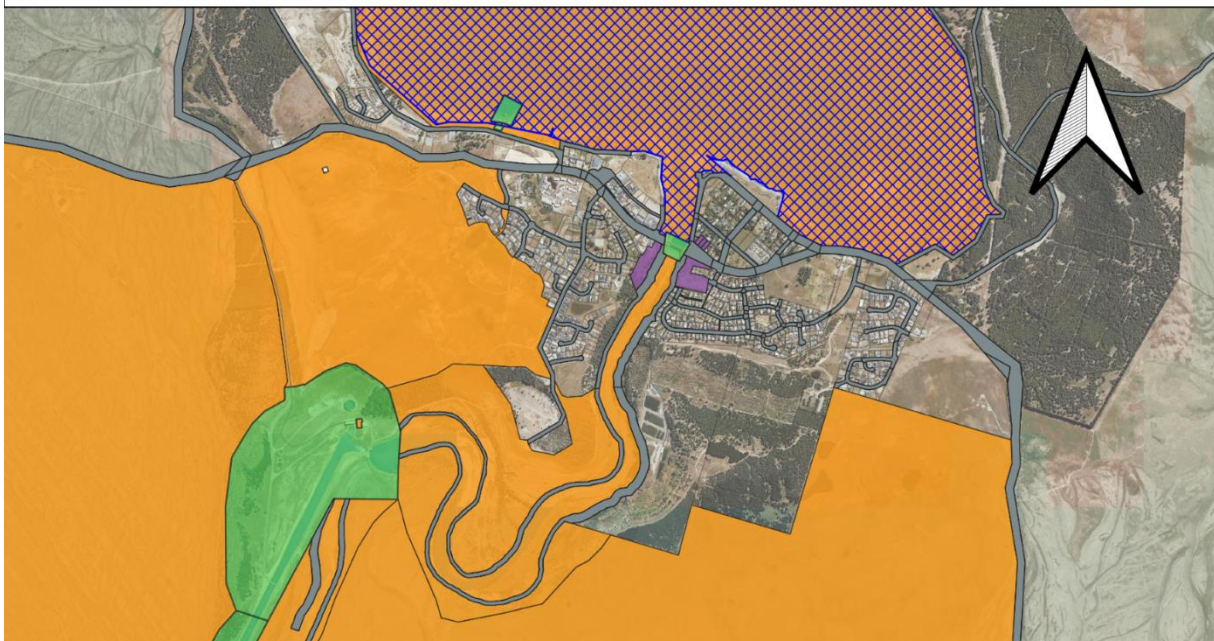
Legal appellations are used where no address is known
Part CL SO 15314
397 Braemar Road
Part RES 3864
14 Greig Street
8 Alexandra Terrace
6 Alexandra Terrace
5 Alexandra Terrace
Section 7 SO 455486
253 Tekapo-Twizel Road
85 D'Archiac Drive
Lake Tekapo
1855 State Highway 8
1415 State Highway 8
RS 41890
Lakeside Drive
Part RES 181
Section 28 SO 499024
Section 29 SO 499024
Section 31 SO 499024
Section 34 SO 499024
Section 2 SO 15864
Section 13 SO 20262
Section 13 SO 302553

## Appendix 3 - Map

**Map 1: Land to which the substantive application relates and adjacent land for consideration**



**Map 1.1: Closer view of north-east area to which the substantive application relates and adjacent land for consideration**



### Legend

<span style="color: green;">■</span> Application land	<span style="color: purple;">■</span> Close enough to be considered adjacent	<span style="color: grey;">■</span> Road parcels
<span style="color: orange;">■</span> Shares boundary and within context	<span style="color: blue;">■</span> Lakes	<span style="border: 1px solid black;"> </span> Property titles

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**Appendix 4 – Matters Forest and Bird are asked to consider**

Without limiting Forest and Bird’s ability to comment, the Panel requests that it consider addressing the following matters in its comment, which may include the provision of technical reports, legal advice, submissions, statements or other correspondence:

- Whether there is disagreement in terms of the way in which the legal principles relating to the “existing environment” are expressed by the Applicant; and/or
- Whether and to what extent there is disagreement in terms of the way in which the Applicant has applied those legal principles;
- What if any other conceptualisation of the existing environment Forest and Bird considers is more appropriate; and
- The implications of that different conceptualisation in terms of the positive and adverse effects of the application and the conditions that the panel can and should impose in the context of this application under the FTAA.