

FTA#154: Application for listed project under the Fast-track Approvals Bill – Tekapō Power Scheme – Applications for Replacement Resource Consents Project for Schedule 2A

Date submitted to secretariat:	29 May 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for Tekapō Power Scheme – Applications for Replacement Resource Consents Project
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Applicant	Sector	Region	Identified in a priority/strategy?
Genesis Energy Limited (Genesis)	Hydro	Canterbury	No

Ministry for the Environment contacts

Position	Name	Mobile	1 st contact
Principal Authors	Stephanie McNicholl, Anna Galvin		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Ilana Miller	s 9(2)(a)	

Project location




Key messages

1. The Tekapō Power Scheme – Applications for Replacement Resource Consents project is to continue the use, operations and maintenance of the power scheme situated between Lake Tekapō (at a higher elevation) to the northeast near Tekapō and Lake Pūkaki (as a lower elevation) to the southwest near Twizel. The scheme runs through a canal system with Tekapō A Power Station and substation nearest Tekapō and Tekapō B Power Station and substation nearest Twizel. The canal system continues through several other canals and channels which feeds into the Waitaki Power Scheme. The scheme will maintain the existing connection and supply of electricity to the national grid. The scheme will maintain an approximate peak output of 190 Megawatts.
2. The project will comprise renewal of the suite of resource consents (due to expire on 30 April 2025).
3. The project will require resource consents under the Resource Management Act 1991 (RMA).
4. The project area covers multiple parcels of land. The applicant owns the land on which the Tekapō A power station, Tekapō B power station and Tekapō Canal are located and has operating easements with respect to Crown land adjacent to and affected by the Tekapō Power Scheme, being Lake Tekapō/Takapō and the Takapō/Tekapō River. The applicant has written approval from the Commissioner of Crown Lands (LINZ) with respect to the consent applications.

5. We have undertaken an initial (Stage 1) analysis of the application and this is provided in Table A.
6. We consider the applicant **has** provided sufficient information to consider the project for inclusion on Schedule 2A (although we note it could still be included on Schedule 2B based on the information provided).
7. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
8. Advice on PSGE development priorities and Māori development is provided in Table A. Table A also includes the relevant PSGEs or Māori groups and the settlement mechanisms, that will/may be impacted by the project and whether the project is low, medium or high impact on Treaty settlement/s and other relevant arrangements. Appendix 1 provides further detail on how this advice should be considered and our approach to analysis.

Signature

A handwritten signature in black ink, appearing to read 'S. Frame', is centered within a white rectangular box. The signature is fluid and cursive.

Stephanie Frame
Manager – Listed Projects

Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice¹

Project details	Project description	Approvals sought	Consultation undertaken	Does the project trigger the ineligibility criteria [clause 18]?				Eligibility [clause 17]		
				Treaty settlement land, Māori customary land, customary marine title, customary rights, aquaculture settlement area, or prevented by RMA clauses [clauses 18(a-e, g)]	Access arrangement under CMA where a permit can't be granted, or is listed in items 1-11, 14 [clauses 18(f,h)]	Activity on a national reserve under Reserves Act which requires approval under that Act [clause 18(i)]	Prohibited activity under EEZA or regulations under that Act, decommissioning-related activities, offshore renewable energy progressing ahead of permitting legislation [clause 18(j-l)]	Discretionary ground to decline [clause 21(2)]	Is the project eligible [clause 17(2)]	Would the project have significant regional or national benefits [clause 17(3)]
High level summary			Y	N	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Tekapō Power Scheme – Applications for Replacement Resource Consents</p> <p>Applicants Genesis Energy Limited (Genesis)</p> <p>Company Director/s</p> <ul style="list-style-type: none"> Barbara Joan Chapman Catherine Margaret Drayton Warwick Ean Hunt Timothy Marshall Miles James Moulder Hinerangi Raumati Paul Alan Zealand <p>Location Tekapō A Power Station, 167 Tekapō Powerhouse Road, Tekapō.</p>	<p>The Tekapō Power Scheme – Applications for Replacement Resource Consents project is to continue the use, operations and maintenance of the power scheme situated between Lake Tekapō and Lake Pūkaki. The scheme runs through a canal system with Tekapō A Power Station and substation nearest Tekapō and Tekapō B Power Station and substation nearest Twizel. The canal system continues through several other canals and channels which feeds into the Waitaki Power Scheme. The scheme will maintain the existing connection and supply of electricity to the national grid. The scheme will maintain an approximate peak output of 190 Megawatts.</p> <p>The project will comprise renewal of the suite of resource consents (due to expire on 30 April</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991 <p>The Department of Conservation advice approval may be required under the:</p> <ul style="list-style-type: none"> Conservation Act 1987 – regarding a potential marginal strip at Fork Stream Wildlife Act 1953 – if applicable to reconsenting. 	<p>The application identifies the following as persons affected:</p> <ul style="list-style-type: none"> Canterbury Regional Council Mackenzie District Council Department of Conservation – confirms agreement reached supporting the replacement resource consents applications Fish and Game Whitewater NZ Canoe Slalom NZ Tekapō Whitewater Trust / Whitewater New Zealand Mount Cook Alpine Salmon Other Interested Parties 	No.	No.	No.	No.	<p>The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement.</p> <p>No – The application (supported by a Treaty impact assessment prepared on behalf of Te Rūnanga o Moeraki, Te Rūnanga o Waihao and Te Rūnanga o Arowhenua) and Treaty advice below has not identified any inconsistency grounds.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No – Although the application identifies that approvals will be required under the RMA, we consider the project could be assessed by an expert panel with the benefit of a full application, in a post-enactment context.</p> <p>The project may have significant adverse effects on the environment.</p>	<p>Whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes.</p> <p>Yes - The applicant has lodged reconsenting applications with Canterbury Regional Council, and requested public notification but has noted issues around processing timing and hearing procedures under the RMA with appeals to the Environment Court or higher courts possible. The applicant notes the applications are for controlled activities and therefore must be granted approval under the RMA. Although the applicant has undertaken engagement with the Council prior to lodgement of the applications, they have noted receipt of a substantial 16-page request for further information.</p>	<p>The project has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list.</p> <p>No – The applicant refers to the National Policy Statement for Renewable Energy Generation. While this document promotes renewable energy, it does not specifically identify this application.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – The project will maintain nationally significant infrastructure delivering 190MW of renewable energy to meet the demands of approximately 222,000 Canterbury households that will be supplied directly to the national grid.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>No.</p>

¹ **Disclaimer:** Given time and scope constraints, the initial assessment is solely based on information provided by applicants. There may be additional relevant information which has not been provided to MfE.

<p>The scheme is sited between Lake Takapō and Lake Pūkaki.</p> <p>Land ownership</p> <p>The applicant notes the registered owner as:</p> <p>Genesis Energy Limited</p> <p>The Crown (LINZ)</p> <p>Land Status</p> <p>The project area covers multiple parcels of land. The applicant owns the land on which the Tekapō A power station, Tekapō B power station and Tekapō Canal are located and has operating easements with respect to Crown land adjacent to and affected by the Tekapō Power Scheme, being Lake Tekapō/Takapō and the Takapō/Tekapō River. The applicant has written approval from the Commissioner of Crown Lands (LINZ) with respect to the consent applications.</p>	<p>2025).</p>		<ul style="list-style-type: none"> • Mana whenua - agreement has been reached with Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki, Te Rūnanga o Ngāi Tahu. <p>The application is supported by a consultation summary document outlining engagement undertaken with the identified parties.</p>					<p>No – The application includes a full assessment of environmental effects relating to positive effects, cultural effects, landscape natural character and visual amenity, hydrology, freshwater ecology and water quality, shoreline morphology, native fish, terrestrial invertebrate, herpetofauna, avifauna, vegetation and recreation.</p> <p>We consider that the appropriate management of adverse effects, including remediation and mitigation could be assessed by an expert panel with the benefit of a full application, in a post-enactment context.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>No.</p> <p>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes.</p> <p>No.</p> <p>The project includes an activity that is a prohibited activity under the RMA.</p> <p>No.</p>	<p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>The applicant notes that as a replacement consenting process to “maintain the status quo”, there are no unusual adverse effects, and the application is likely to be relatively straightforward to process.</p> <p>We note this request is supported by a comprehensive application package including a full AEE.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>We consider the applicant has provided sufficient information to consider it for listing in Schedule 2A.</p>	<p>The project will deliver significant economic benefits.</p> <p>Yes – Nationally by continuing to provide renewable generation to the energy sector. If the scheme were to cease to operate, a replacement generation method would need to be established at considerable cost and loss of continuous electricity generation in the interim.</p> <p>The project will support primary industries, including aquaculture.</p> <p>No.</p> <p>The project will support development of natural resources, including minerals and petroleum.</p> <p>No.</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>Yes - The project will continue to have significant climate change mitigation benefits, including the reduction of greenhouse gas emissions. The project will continue to substitute fossil fuel energy with renewable energy. and therefore will contribute to reductions in the country’s greenhouse gas inventory.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – The project will aid the resilience and recovery from natural hazards. The applicant identifies that the operation of the Tekapō Power Scheme involves mitigation of some adverse flood effects in the Takapō / Waitaki River catchments by enabling retention of water in Lake Takapō and management of flood flows through the power scheme facilities.</p>
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										<p>The project will address significant environmental issues.</p> <p>Yes – The project will contribute to addressing New Zealand’s response to climate change by providing renewable electricity.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – The project is consistent with the local (both the Operative and the Proposed Mackenzie District Plans) and regional planning documents (Waitaki Catchment Water Allocation Regional Plan and Canterbury Land and Water Regional Plan), where adverse effects on the receiving environment are able to be appropriately managed and mitigated.</p> <p>On the basis that the potential adverse effects of the project on the surrounding environment are able to be appropriately managed, the project will be consistent with the local and regional planning documents.</p>
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PSGE Settlement Priorities and Māori Development assessment –

Note - given the time and scope constraints of this advice, some assumptions have been made and engagement has only been undertaken in limited circumstances. Given this, the advice may not be comprehensive and is not intended to reflect the views of relevant Post Settlement Governance Entities or other groups (unless specifically noted). In limited circumstances where engagement has been able to occur, it has most likely not been comprehensive due to the timeframes available.

Advice on Māori development and PSGE settlement priorities includes information relating to:

- where projects align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents.
- where projects contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or are being led by or in partnership with a Māori entity or business;

to relevant provisions in Treaty settlements, Joint Management Agreements outside of settlement; Mana Whakahono ā Rohe; Iwi Environment Management plans; implications for groups yet to settle their historical Treaty of Waitangi claims; and implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)	This project does not appear to be ineligible according to the information provided in the application.
Affected Māori group/s	The applicant has identified Ngāi Tahu and Papatipu Rūnanga of Arowhenua, Moeraki and Waihao as the groups with interests in the area. Information from Te Kāhui Māngai confirms the project area as being within the area of interest for Ngāi Tahu as provided in the Ngāi Tahu Claims Settlement Act 1998, and the Papatipu Rūnanga of Ngāti Waewae and Makaawhio as identified in Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001 .
Has the applicant consulted with those Māori groups?	Yes, the applicant states that they have consulted and engaged with Ngāi Tahu and Papatipu Rūnanga of Arowhenua, Moeraki and Waihao (collectively referred to as Waitaki Rūnaka). The applicant states that they have worked collaboratively with Te Rūnanga o Arowhenua, Te Rūnanga o Waihao and Te Rūnanga o Moeraki prior to lodging the application and will continue to do so throughout the application process. The applicant states that the Waitaki Rūnaka have provided letters of support. Copies of these letters have not been provided in the application.
Impact/s of the project on Māori development and PSGE settlement priorities and related matters	<u>Impacts on PSGE settlement priorities and Māori development</u>

The applicant states that Waitaki Rūnaka have provided letters of support. The applicant states that in these letters of support, Waitaki Rūnaka recognised the significance of the waters of the Waitaki alongside the significance of hydro electricity generation to the nation and adopted an intergenerational approach to protecting the health and well-being of the Waitaki Catchment. According to the application Waitaki Rūnaka have therefore worked collaboratively with the applicant to develop a package that includes:

- Conditions that are to be attached to the resource consents;
- A mitigation package for the duration of the consents;
- An enhanced relationship agreement between Genesis/Meridian and Waitaki Rūnaka; and
- A suite of measures (including financial) that further provide for the management of adverse effects on Waitaki Rūnaka with this Ngāi Tahu taonga.

The four components of this package recognise that restoration of the Waitaki Catchment requires time, capacity, commitment, collaboration and importantly, resourcing. This approach recognises Waitaki Rūnaka rangatiratanga over the Waitaki Catchment and its taonga, including wai māori, and enables greater economic, spiritual and cultural connections for mana whenua.

Impact on Treaty settlements and other relevant arrangements

Ngāi Tahu Claims Settlement Act 1998

The applicant has identified, and officials have verified, the statutory acknowledgements for Waitaki River (schedule 72), Lake Ōhau (Schedule 32), Lake Pūkaki (Schedule 34), Mahi Tikumu (Lake Aviemore) (Schedule 37), Lake Tekapō (Schedule 57) and Te Ao Mārama (Lake Benmore) (schedule 59).

If the project activity is within or adjacent to, or directly affects, the area of the statutory acknowledgement, the following text applies. Generally, a statutory acknowledgement by the Crown of a 'statement of association' between the iwi and an identified area. A council must have regard to the statutory acknowledgement when deciding whether the iwi is an 'affected person' for the purposes of notification decisions under the Resource Management Act 1991 (the RMA). The same applies to the Environment Court when considering participation in hearings under s274 of the RMA. A council must send summaries of applications for resource consents to the iwi. The PSGE (or any member of the iwi) may, as evidence of the association with a statutory area, cite the statutory acknowledgement in submissions that are made to a consent authority, the Environment Court or the Environmental Protection Authority.

An impact of listing this project under Schedule 2 part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. There is a requirement on the expert panel to invite comment from the PSGE on the application (noting this is an automatic right to participate, which is currently discretionary under the statutory acknowledgement).

Listing this project, and the fast-track process generally, will not provide equivalent weight to the statutory acknowledgements, which may limit the influence of the iwi compared to the usual consenting regime. For example, under the RMA process, if a PSGE is notified due to the statutory acknowledgement, the PSGE has the right to make a submission, attend a hearing, appeal to the Environment Court, and appeal to the High Court and higher courts. The fast-track process does not provide exactly the same rights to the PSGE (particularly the potential right to make a submission and then participate in a hearing and de novo appeal), but as noted above there are some other enhanced rights of participation.

Iwi Environment Management plans

In the time available, we have identified the following relevant plans and documents:

Ngāi Tahu Resource Management Strategy for the Canterbury Region

This document outlines the key issues and aspirations for Ngāi Tahu in the Canterbury region with regards to natural resource management. Of relevance to this proposal are the following policies:

- That Ngāi Tahu retain the right to be involved in and contribute to, the resource allocation and management decisions which impact on Tribal resources; and
- That the Canterbury Regional Council should encourage landowners or occupiers to plant vegetation on riparian strips to prevent contaminated run-off into any wetland, waterway or lake.

Ngāi Tahu 2025

- Ngāi Tahu's document, Ngāi Tahu 2025 states the aspiration is that "Te Rūnanga o Ngāi Tahu fully participates in the decision-making processes of resource management agencies."

Waitaki Iwi Management Plan 2019

The Waitaki Iwi Management Plan 2019 sets forward the aspirations for Te Runanga o Arowhenua, Te Runanga o Waihao and Te Runanga o Moeraki (Ka Papatipu Rūnanga). It constitutes their expression of rakatirataka in fulfilment of their kaitiaki responsibilities in the Waitaki Catchment.

Of relevance to this proposal, the plan outlines the following strategic objectives:

- Mana whenua have a co-governance and co-management role over the Aoraki; and
- Wahi tupuna are protected and the relationship mana whenua have with these landscapes is enhanced.

It is not possible to confirm from those documents that the project does or does not align with the strategic priorities of those iwi or Māori groups.

A full analysis of the plans would need to be undertaken in conjunction with the relevant iwi before any firm conclusions can be reached. That is a matter to be considered in more detail in subsequent stages if this progresses through the fast-track processes.

Relevant information from application

The applicant states that they have received letters of support from Waitaki Rūnaka and have worked collaboratively with the applicant to develop the package listed above.

Other matters

	In the time available, officials have not identified any other impacts for Treaty settlements, Mana Whakahono ā Rohe agreements, the Marine and Coastal Area (Takutai Moana) Act 2011 (noting the project area is outside the common marine and coastal area), groups yet-to-settle their historical claims (noting that Treaty settlements have been completed over the Ngāi Tahu takiwā including this area) or other relevant matters.
Is the project considered low, medium or high impact (based on assessment criteria above)	<p>Officials consider the application to be medium impact based on the criteria outlined above including:</p> <ul style="list-style-type: none"> • The potential effect of listing the project on the statutory acknowledgement over Waitaki River, Lake Ōhau, Lake Pūkaki, Mahi Tikumu, Lake Tekapō and Te Ao Mārama (Lake Benmore). • Although the applicant has stated there are letters of support from Waikati Rūnaka, these have not been provided with the application. Furthermore, the Treaty Impact Assessment provided by the applicant is from over 10 months ago. Therefore, it is unclear whether Waitaki Rūnaka are aware the project is being processed through the Fast Track Approvals process and whether this would have a bearing on their support. • An additional impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. For Part A projects, there is a requirement on the expert panel to invite comment from the PSGE on the application.
Has the Ministry for the Environment undertaken engagement?	Officials consider engagement would be beneficial to confirm whether Waitaki Rūnaka are aware the project is being processed through the Fast Track Approvals process and whether this would have a bearing on their support but were unable to undertake engagement this in the time available.
Additional comments/context	N/A

Appendix One: Approach and considerations for Treaty settlement advice on listed project applications advice in Table A

1. Ministers have advised the Advisory Group should receive advice from officials on “Māori development and PSGE settlement priorities” relevant to each application. Note this differs from section 13 requirements of the current Fast Track Consenting Bill that ‘Ministers must consider Treaty settlements and other obligations report’ as these reports will not be in existence at the time, although matters identified in section 13 (2)(a)-(j) will be considered as part of official's analysis.
2. We have interpreted “Māori development” and “PSGE priorities” to mean primarily projects that:
 - a. align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents; and/or
 - b. contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or
 - c. the project is being led by or in partnership with a Māori entity or business.
3. Given the time constraints and limited engagement this advice cannot be considered as comprehensive and does not intend to reflect their views, and should not be read as such.
4. Engagement with PSGEs and other relevant groups has been considered based on potential high-risk factors including, but not limited to, if:
 - a. a project will take place on or effect any taonga or areas of significance that are protected by Treaty settlement arrangements.
 - b. a project will have a substantive and/or ongoing environment impact on any taonga or areas of significance.
 - c. a project will include a consenting arrangement that will require a significant take, or be ongoing for an extended period, in relation to a taonga or area of significance, or in regions where PSGEs have specific planning mechanisms in place.
 - d. PSGEs or other Māori entities have previously strongly contested the project or a similar type of project, particularly where court action has been taken.
 - e. The project is clearly in conflict with or undermines PSGE priorities.
 - f. Engagement would be required to maintain and uphold the Te Tiriti Crown relationship.
5. In limited circumstances where engagement occurs, it has been brief. Where engagement has been undertaken it is reflected in our analysis but should not be taken to mean that our Treaty Partners endorse our advice.