

**IN THE MATTER
AND
IN THE MATTER**

of the Resource Management Act 1991

of the Proposed Plan Change 3 to the
Waitaki Catchment Water Allocation
Regional Plan

**SUBMISSIONS ON BEHALF OF GENESIS ENERGY ON CONTROLLED
ACTIVITY MATTER**

(30 SEPTEMBER 2015)



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MAY IT PLEASE THE COMMISSIONERS:

1. These submissions are lodged on behalf of Genesis Energy¹ in response to Minute 9 dated 21 September 2015.
2. Genesis Energy owns and operates the Tekapo Power Scheme, a nationally significant renewable energy resource, which is part of the broader Waitaki Power Scheme.²
3. The recent High Court decision³ resolved the jurisdictional issue, confirming that controlled activity status is lawful in respect of the taking and use of water for hydro-electricity generation and regionally significant infrastructure.
4. In preparing this submission, Genesis Energy has had the benefit of reviewing the legal submission for Meridian on this matter.
5. Genesis Energy supports the new controlled activity Rule 15A for the Waitaki Power Scheme set out in the Meridian legal submission in respect of the taking, damming, diversion and use of water for hydro-electricity generation and to protect assets directly associated with electricity generation.
6. Genesis Energy also provided legal submissions and evidence on this matter at the hearings of June 2015, which remain relevant.
7. During the June 2015 hearing, there was discussion on identifying the core resource consents that would be subject to any controlled activity rule. The new proposed wording clarifies that only core s14 RMA consents are intended to be covered by the controlled activity Rule 15A.
8. Genesis Energy has prepared a table identifying the current core s14 RMA consents that should be covered by Rule 15A. For completeness, a second table setting out non-operating consents is also attached, but these consents are not to be covered by Rule 15A.
9. Genesis Energy agrees with the submission of Meridian that the consents should not be listed by consent number as additional s14 RMA consents which should fall under Rule 15A may be obtained

¹ The trading entity for Genesis Energy Limited.

² The Waitaki Power Scheme comprises the powerhouses, dams, canals and related infrastructure owned by Meridian and Genesis Energy Limited between (and including) Lake Tekapo and Waitaki Dam.

³ (CIV-2014-409-62; CIV-2014-409-76; CIV-2014-409-61; [2015] NZHC 21740)

in the future and promulgating a plan change to include these consents in Rule 15A would be unduly onerous.

10. Genesis Energy addressed the merits of the controlled activity rule in its legal submissions of 25 June 2015, and associated evidence, which remain relevant and are relied on for the purposes of this submission.
11. In summary, it is submitted the proposed Rule 15A strikes the right balance between public participation and other resource management values and would be the most appropriate means of exercising the rule making function having regard to the purpose of the RMA and the relevant policy instruments.



T L Hovell

Counsel for Genesis Energy
(30 September 2015)

Consent Tables

The two tables below summarise the resource consents held by Genesis Energy relating to the Tekapo Power Scheme. Table 1 sets out Genesis Energy's key operating consents. Table 2 sets out a series of ancillary consents Genesis Energy holds to maintain the Tekapo Power Scheme.

Genesis Energy Operating Consents

Genesis Energy's operating consents are set out in Table 1. Within this Table the "Purpose" statement is organised as follows:

- "Generation" denotes those consents that provide water to be used for generation output and hence water being available for generation capacity
- "Safety" denotes those consents that provide for the management of water to protect those assets directly associated with "generation". These assets include the canals, dams and powerhouses.
- "Operation" denotes those consents that support the operation of the Waitaki Power Scheme but are not directly associated with generation output.

It is only a subset of consents within Table 1 that Genesis Energy considers require controlled activity status (Rule 15A) in terms of the Waitaki Catchment Water Allocation Regional Plan, being the "Generation" and "Safety (dam)". This is because, at the time of considering replacement consents for "Operation" activities, those activities may change in nature, or no longer be needed.

Table 1: Genesis Energy's Operating Consents

Compliance Group	Consent number	Consent Description	Purpose	Date granted	Expiry Date	Date Transferred from Meridian Energy	Proposed WAP rule
Tekapo/Operating Consent	CRC905301.4	WATER PERMIT. To dam Tekapo River to control and operate Lake Tekapo between the levels of 701.80 and 710.90 metres (msl) at or about map reference NZMS 260 I37:080-860 (Late Tekapo Control Structure).	To dam surface water for hydro-electricity generation.	1/02/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905302.3	WATER PERMIT. To take up to 130 cubic metres of water per second from LAKE TEKAPO, at or about map reference NZMS 260 I37:080-866 for the purpose of POWER GENERATION (Tekapo A Power Station).	Hydro-electricity generation	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
One-off or stand-alone maintenance.	CRC905303.2	WATER PERMIT. To take up to 386 cubic metres of water per day at a maximum rate of 4.5 litres per second from a SPRING, at or about map reference I37:064-850 for the purpose of DOMESTIC SUPPLY (Tekapo A Power Station)	Domestic water supply.	31/01/1993	30/04/2025	1/06/2011	Rule 15 - Discretionary activity.
Tekapo/Operating Consent	CRC905304.3	DISCHARGE PERMIT. To discharge water up to a maximum rate of 850 cubic metres per second into TEKAPO RIVER via Lake Tekapo Control Structure at or about map reference I37:080-860.	To maintain the Tekapo River's base flow.	31/01/1993	30/04/2025	1/06/2011	Not relevant - s15 RMA Land and Water Regional Plan.

Compliance Group	Consent number	Consent Description	Purpose	Date granted	Expiry Date	Date Transferred from Meridian Energy	Proposed WAP rule
Tekapo/Operating Consent	CRC905305.2	WATER PERMIT. To use water up to a maximum rate of 130 cubic metres per second for POWER GENERATION at or about map reference I37:064-850.	Hydro-electricity generation	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905306.3	WATER PERMIT. To DAM TEKAPO RIVER to a level of 684.05 metres (msl) at or about map reference NZMS 260 I37:065-849 (Lake George Scott Control Weir).	Hydro-electricity generation. Creates Lake George Scott	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905307.2	WATER PERMIT. To divert water up to a maximum rate of 130 cubic metres per second from TEKAPO RIVER at or about map reference I37:065-849 into TEKAPO-PUKAKI CANAL through Gate 17.	To maintain water flow through the Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905308.2	WATER PERMIT. To take water up to a maximum rate of 130 cubic metres per second from TEKAPO RIVER, at or about map reference I37:065-849 into the TEKAPO-PUKAKI CANAL.	To maintain water flow through the Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905309.4	DISCHARGE PERMIT. To discharge water up to a maximum rate of 600 cubic metres per second into TEKAPO-RIVER, at or about map reference I37:065-850 via Lake George Scott Control Weir to CONTROL LAKE STORAGE LEVELS.	Hydro-electricity generation	31/01/1993	30/04/2025	1/06/2011	Not relevant - s15 RMA Land and Water Regional Plan.

Compliance Group	Consent number	Consent Description	Purpose	Date granted	Expiry Date	Date Transferred from Meridian Energy	Proposed WAP rule
Tekapo/Operating Consent	CRC905310.2	WATER PERMIT. To divert the natural flow of FORK STREAM through a culvert under the Tekapo-Pukaki Canal at or about map reference I37:051-825.	Canal safety - passes natural flows under canal. To maintain the natural flow of unnamed stream after interruption by Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905311.2	WATER PERMIT. To divert the natural flow of IRISHMAN'S CREEK through a culvert under the Tekapo-Pukaki Canal at or about map reference I37:975-782.	Canal safety - passes natural flows under canal. To maintain the natural flow of Irishman's Creek after interruption by Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905312.2	WATER PERMIT. To divert the natural flow of an unnamed stream through a culvert under the Tekapo-Pukaki Canal at or about map reference I38:023-789.	Canal safety - passes natural flows under canal. To maintain the natural flow of unnamed stream after interruption by Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905313.2	WATER PERMIT. To divert the natural flow of an unnamed stream through a culvert under the Tekapo-Pukaki Canal at or about map reference I38:023-789.	Canal safety - passes natural flows under canal. To maintain the natural flow of unnamed stream after interruption by Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.

Compliance Group	Consent number	Consent Description	Purpose	Date granted	Expiry Date	Date Transferred from Meridian Energy	Proposed WAP rule
Tekapo/Operating Consent	CRC905314.2	WATER PERMIT. To divert the natural flow of an unnamed stream through a culvert under the Tekapo-Pukaki Canal at or about map reference I38:989-786.	Canal safety - passes natural flows under canal. To maintain the natural flow of unnamed stream after interruption by Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905315.2	WATER PERMIT. To divert the natural flow of an unnamed stream through a culvert under the Tekapo-Pukaki Canal at or about map reference I38:959-777	Canal safety - passes natural flows under canal. To maintain the natural flow of unnamed stream after interruption by Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905316.2	WATER PERMIT. To divert the natural flow of an unnamed stream through a culvert under the Tekapo-Pukaki Canal at or about map reference I38:949-773.	Canal safety - passes natural flows under canal. To maintain the natural flow of unnamed stream after interruption by Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905317.2	WATER PERMIT. To divert the natural flow of an unnamed stream through a culvert under the Tekapo-Pukaki Canal at or about map reference I38:911-774.	Canal safety - passes natural flows under canal. To maintain the natural flow of unnamed stream after interruption by Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.

Compliance Group	Consent number	Consent Description	Purpose	Date granted	Expiry Date	Date Transferred from Meridian Energy	Proposed WAP rule
Tekapo/Operating Consent	CRC905318.2	WATER PERMIT. To divert the natural flow of an unnamed stream through a culvert under the Tekapo-Pukaki Canal at or about map reference I38:903-771.	Canal safety - passes natural flows under canal. To maintain the natural flow of unnamed stream after interruption by Tekapo-Pukaki Canal.	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905319.2	WATER PERMIT. To use water up to a maximum rate of 130 cubic metres per second at or about map reference H38:869-724 (Tekapo B Power Station).	Hydro-electricity generation	31/01/1993	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC905320.2	DISCHARGE PERMIT. To discharge water up to a maximum rate of 130 cubic metres per second into LAKE PUKAKI at or about map reference H38:869-724 via Tekapo B Power Station Tailrace.	Water discharge subsequent to power generation.	31/01/1993	30/04/2025	1/06/2011	Not relevant - s15 RMA Land and Water Regional Plan.
Tekapo/Operating Consent	CRC950298.2	DISCHARGE PERMIT. To discharge water containing contaminants from the Tekapo B power station into Lake Pukaki at or about map reference H38:868-724.	Water discharge subsequent to power generation. Management of petroleum hydrocarbons in the discharge of this water.	4/10/1995	4/10/2030	1/06/2011	Not relevant - s15 RMA Land and Water Regional Plan.

Compliance Group	Consent number	Consent Description	Purpose	Date granted	Expiry Date	Date Transferred from Meridian Energy	Proposed WAP rule
Tekapo/Operating Consent	CRC950297.2	DISCHARGE PERMIT. To discharge water containing contaminants from Tekapo A power station into the Tekapo Canal at or about map reference I37:064-850.	Discharge of water via an oil interceptor into the Tekapo Canal. Management of petroleum hydrocarbons in the discharge of this water.	1/10/1997	4/10/2030	1/06/2011	Not relevant - s15 RMA Land and Water Regional Plan.
Tekapo/Operating Consent	CRC083496.1	WATER PERMIT. To divert water from Tekapo Canal embankment to an unnamed tributary of Irishman's Creek.	To divert water away from the canal embankment.	18/04/2008	30/04/2025	1/06/2011	Rule 15A - Controlled activity.
Tekapo/Operating Consent	CRC111767	WATER PERMIT. Temporarily (more than once) dam and divert and take the water of watercourses. Fork Stream, Irishman Creek, Mary Burn Lakes.	Canal safety - passes natural flows under canal.	6/10/2005	13/10/2038	1/06/2011	Rule 15A - Controlled activity.

Ancillary consents

Genesis Energy holds a number of resource consents from Environment Canterbury and other consent authorities and agencies that are ancillary to the operating consents.

By ancillary, Genesis Energy means they relate to activities that are necessary, but not directly related, to day-to-day electricity generation. The resource consents provide for a range of activities which include:

- engineering construction, maintenance, mitigation and monitoring works
- communication infrastructure, and
- water measurement.

None of these consents are proposed to be the subject to **Rule 15A – Controlled Activity** under the Waitaki Catchment Water Allocation Regional Plan. As such they are set out to provide a full picture of Genesis Energy's resource consents.

Table 2: Ancillary consents – Environment Canterbury

Compliance Group	Consent number	Consent Description	Purpose	Date granted	Expiry Date	Date Transferred from Meridian Energy	Proposed WAP rule
One-off or stand-alone maintenance.	CRC111740	To use, erect, reconstruct, place, alter, extend remove or demolish a permanent structure or part of a permanent structure in, on or over the bed of a water course (Fork Stream, Irishman Creek, Mary Burn Lakes).	Erection, maintenance and decommissioning of structures.	6/10/2005	13/10/2038	1/06/2011	Not relevant - Rule 15 (24) Land and Water Regional Plan
One-off or stand-alone maintenance.	CRC951545.2	WATER PERMIT. To take water from the Tekapo-Pukaki Canal at or about map reference NZMS 260 I38:0265-7905 for stock water and irrigation of up to 100 hectares.	Water extraction for stock and irrigation	31/10/1995	24/05/2030	1/06/2011	Rule 15 - Discretionary activity.
One-off or stand-alone maintenance.	CRC111762	DISCHARGE PERMIT. To temporarily discharge water containing contaminants to land. Fork Stream, Irishman Creek, Mary Burn Lakes.	Discharge of water containing suspended sediments and fine debris.	6/10/2005	13/10/2038	1/06/2011	Not relevant - s15 RMA Land and Water Regional Plan.
One-off or stand-alone maintenance.	CRC111768	DISCHARGE PERMIT. To temporarily (more than once) discharge water and water containing contaminants to land. Fork Stream, Irishman Creek, Mary Burn Lakes.	Tekapo-Pukaki canal remediation	6/10/2005	13/10/2038	1/06/2011	Not relevant - s15 RMA Land and Water Regional Plan.

Compliance Group	Consent number	Consent Description	Purpose	Date granted	Expiry Date	Date Transferred from Meridian Energy	Proposed WAP rule
One-off or stand-alone maintenance.	CRC157369	DISCHARGE PERMIT. To discharge (water tracer) contaminants into water. Tekapo Canal.	Remediation works on the Tekapo-Pukaki Canal.	12/06/2015	30/04/2025		Not relevant - s15 RMA Land and Water Regional Plan.

Mackenzie District Council

	Consent number	Consent Description	Purpose	Date granted	Expiry date	Date transferred	Planning framework
Operational Consents							
District	RM080071	A LAND USE PERMIT. Water tank and pump station – Tekapo A Power Station.	Water storage for pumping station.	19/09/2008 (until project completion)	n/a		District Plan
Maintenance Consents							
District	RM010034	EARTHWORKS/EXCAVATION. The removal and burning of stumps, dead trees and septic tank and associated earthworks, disturbance of material within the bed of Lake Tekapo.		21/09/2001 (until project completion)	n/a	n/a	District Plan
District	RM030034	EARTHWORKS/EXCAVATION. Culvert alteration, repair, replacement and maintenance works – Tekapo and Pukaki hydro-electric power scheme canals.		8/09/2003 (until project completion)	n/a	n/a	District Plan
District	RM080098	Building works, excavation works and gravel extraction, Tekapo Canal.	Earthworks and structures associated with repairing the Tekapo hydro canal.	1/12/2008 (until project completion)	n/a		District Plan