

**SUBMISSION ON
THE FRESHWATER PLANNING INSTRUMENT PARTS OF
THE PROPOSED OTAGO REGIONAL POLICY STATEMENT 2021
UNDER THE FIRST SCHEDULE TO THE RESOURCE MANAGEMENT ACT 1991**

To: Otago Regional Council
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Meridian Energy Limited (**Meridian**) makes the general and specific submissions on the Freshwater Planning Instrument Parts of the Proposed Otago Regional Policy Statement 2021 (**pORPS-FW**) that are set out in the attached document.

Meridian confirms that its submission does not relate to trade competition or the effects of trade competition. Meridian could not gain an advantage in trade competition through this submission.

Meridian would like to be heard in support of its submissions.

If other persons make a similar submission, then Meridian would consider presenting joint evidence at the time of the hearing.



Andrew Feierabend
For and on behalf of Meridian Energy Limited

Dated this 29th of November 2022

STRUCTURE OF SUBMISSION

1. This submission is structured as follows:
 - Part One: About the submitter
 - Part Two: Context for Meridian's submissions
 - Part Three: Relief sought
2. All of Parts 1 to 3 of this submission are to be read together, and together they form Meridian's submissions on the pORPS-FW.

PART ONE: ABOUT THE SUBMITTER

3. Meridian is a limited liability company listed on the New Zealand Stock Exchange, with 51% of the company owned by the New Zealand Government. It is one of the three companies formed from the split of the Electricity Corporation of New Zealand on the 1st of April 1999. Meridian's core business is the generation, marketing, trading and retailing of electricity and the management of associated assets and ancillary structures in New Zealand. As well as being New Zealand's largest generator of electricity, Meridian is also the country's largest generator of renewable electricity.
4. While Meridian does not currently undertake electricity generation activities in the Otago region, it is interested in the potential to advance renewable electricity generation across New Zealand, thereby contributing to reducing emissions of greenhouse gases and to the resilience of New Zealand's communities and businesses. Meridian also has a direct interest in the catchment of the Waitaki River, which lies within both the Otago and Canterbury regions and is therefore addressed by the regional policy statements and plans of both the Canterbury Regional Council and Otago Regional Council.

PART TWO: CONTEXT FOR MERIDIAN'S SUBMISSIONS

5. Meridian's overarching concern with the pORPS-FW is that it does not give effect to the National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**) and Policy 4 of the National Policy Statement for Freshwater Management 2020 (**NPSFM**); and it does not give particular regard to section 7(i) and (j) of the Act, i.e., the effects of climate change and the benefits to be derived from the use and development of renewable energy.
6. A key means to address climate change is the global reduction of greenhouse gas emissions. In 2011, New Zealand recognised the vital role that renewable electricity generation plays in reducing greenhouse gas emissions, and the growing demand for renewable electricity generation in New Zealand. In response, the NPSREG was Gazetted, with the objective of recognising "*the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation*".
7. In 2016 New Zealand ratified the Paris Agreement with the long-term goal of keeping the increase in the global average temperature to below 2°C above pre-industrial levels and to pursue efforts to limit the increase to 1.5 °C. In 2019 New Zealand's Climate Change Response (Zero Carbon) Amendment Act 2019 was passed and set into law a domestic target

of net zero emissions of long-lived greenhouse gases (other than biogenic methane) by 2050. In the same year, the Climate Change Commission was established to provide independent, evidence-based advice to the Government to help the transition to a climate-resilient and low emissions future. Amongst the current Government's targets is the goal of phasing out the use of coal in electricity generation and to achieve 100% of electricity generated from renewable resources in 2030.

8. Section 62(3) of the Resource Management Act 1991 (**the Act**) requires that all regional policy statements "*must give effect to a national policy statement*". Accordingly, the pORPS-FW must give effect to the NPSREG and the NPSFM (amongst others).
9. As discussed previously, the objective of the NPSREG is to recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, so that the proportion of New Zealand's electricity generated from renewable energy sources increases to meet or exceed the New Zealand Government's national target for the same.
10. The preamble of the NPSREG recognises "*The contribution of renewable electricity generation, regardless of scale, towards addressing the effects of climate change plays a vital role in the wellbeing of New Zealand, its people and the environment*". Consistent with this, Policy A of the NPSREG recognises the national significance of "*maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions*" and Policy 4 of the NPSFM requires that "*Freshwater is managed as part of New Zealand's integrated response to climate change*".
11. Accordingly, to give effect to the NPSREG and the NPSFM, the pORPS-FW must provide for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities. At the same time, decision makers must have particular regard to protecting the assets and operational capacity of existing renewable electricity generation activities, protecting the continued availability of the renewable energy resource, and the need for significant development of new renewable electricity generation activities.
12. The NPSREG also requires that decision makers have particular regard to the need to locate the renewable electricity generation activity where the renewable energy resource is available; the logistical or technical practicalities associated with developing, upgrading, operating or maintaining the renewable electricity generation activity; and the need to connect renewable electricity generation to the national grid (amongst other matters).
13. Currently New Zealand's key source of renewable electricity is hydro-electricity. On this basis and given the national policy direction set in the NPSFM and the NPSREG, any objectives and policies in the pORPS-FW must give full effect to the NPSFM and NPSREG and have particular regard to s7(i) and (j) of the Act. Meridian maintains that the pORPS-FW does not achieve this.

PART THREE: RELIEF SOUGHT

14. Based on the preceding context, Table 1 of this submission sets out Meridian's concerns with specific provisions in the pORPS-FW, and the relief sought to address these concerns. With this, Meridian accepts that consequential amendments to pORPS-FW may be needed to give full effect to their submissions and seeks that such amendments are made where necessary.

TABLE 1: SPECIFIC SUBMISSIONS

PROVISION OF pOPRS21	SUPPORT OR OPPOSE	REASONS	RELIEF SOUGHT
<p>Definitions of:</p> <ul style="list-style-type: none"> • Drinking water • National Objectives Framework • Natural hazards works • Other infrastructure • Over-allocation • Specified infrastructure • Specific rivers and lakes • Wetland utility structure 	<p>Support</p>	<p>Meridian supports adoption of these definitions because they adopt, verbatim, the corresponding definition from the following higher order documents:</p> <ul style="list-style-type: none"> • National Planning Standards 2019 • National Policy Statement for Freshwater Management 2020 • National Environmental Standards for Freshwater 2020 • The Resource Management Act 1991 	<p>Retain the notified definitions of:</p> <ul style="list-style-type: none"> • Drinking water • National Objectives Framework • Natural hazards works • Other infrastructure • Over-allocation • Specified infrastructure • Specific rivers and lakes • Wetland utility structure
<p>SRMR-15 – Freshwater demand exceeds capacity in some places</p>	<p>Oppose in part</p>	<p>In giving effect to the NPSREG and the NPSFM, Meridian considers that the <i>Context</i> to this issue should recognise the importance of the Clutha hydro-electricity scheme and renewable electricity generation, and the key policy direction within the NPSREG and NPSFM.</p>	<p>Amend <i>SRMR-15, Context</i> by adding the following paragraph (or words of similar effect):</p> <p><i>The Clutha hydro-electricity generation scheme, which is located in the Otago region, is one of New Zealand’s largest renewable electricity generators. Renewable electricity generation is</i></p>

			<p>key to meeting New Zealand’s greenhouse gas emission targets and thereby mitigating climate change, and to maintaining the security of New Zealand’s electricity supply. The National Policy Statement for Renewable Electricity Generation 2011 and the National Policy Statement for Freshwater Management 2020 set policy direction on the management of freshwater as part of New Zealand’s integrated response to climate change. This includes (amongst other requirements) recognising and providing for the national significance of renewable electricity generation by maintaining or increasing electricity generation capacity and having particular regard to the need to protect the related assets, operational capacity and continued availability of the renewable energy resource.</p>
<p>LF-WAI-O1 Te Mana o te Wai</p>	<p>Oppose in part</p>	<p>Given the national direction on renewable electricity generation activities in the NPSREG and NPSFM, Meridian considers that the list of matters that “the management of land and water recognises and reflects” should include “Freshwater is managed as part of New Zealand’s integrated response to climate change” (i.e., Policy 4 of the NPSFM).</p>	<p>Amend LF-WAI-O1 by adding the following bullet:</p> <p>(6) <i>Freshwater management and hydro-electricity generation is part of New Zealand’s integrated response to climate change</i></p>
<p>LF-WAI-P1 Prioritisation</p>	<p>Oppose in part</p>	<p>When giving effect to the objective of the NPSFM, Policy 4 of the NPSFM directs that “Freshwater is managed as part of New Zealand’s integrated response to climate change”. Further to this, it is not enough to only give effect to the NPSFM, rather the pORPS-FW must also give effect to the objective of the NPSREG. This</p>	<p>Amend LF-WAI-P1 as follows:</p> <p>In all management of Manage fresh water in Otago <u>by:</u></p> <p><u>(1) prioritise prioritising:</u></p>

	<p>objective requires that the national significance of renewable electricity generation activities is recognised and that the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities is provided for. Given that the current predominance of New Zealand’s renewable electricity generation is hydro-electricity, regional policies addressing priorities to be applied in the management of freshwater must recognise and provide for the management of freshwater as part of New Zealand’s integrated response to climate change.</p> <p>In addition, Section 1.3(5) of the NPSFM states that:</p> <p><i>“There is a hierarchy of obligations in Te Mana o te Wai that prioritises:</i></p> <p><i>(a) first, the health and well-being of water bodies and freshwater ecosystems</i></p> <p><i>(b) second, the health needs of people (such as drinking water)</i></p> <p><i>(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.”</i></p> <p>LF-WAI-P1 elevates the “well-being needs of people” to the same priority as the health needs of people. This is a broad term and can include many different uses of water, such as economic and recreation uses. Meridian understands that the hierarchy of obligations in Te Mana o te Wai places the health needs of people above the broader well-being needs of people; and seeks that LF-WAI-P1 be amended to achieve this.</p>	<p>(1a) <i>first, the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao, and the exercise of mana whenua to uphold these,</i></p> <p>(2b) <i>second, the health and well-being needs of people, te hauora o te tangata, interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and</i></p> <p>(3c) <i>third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future, and</i></p> <p><u>(2) recognising and providing for freshwater management and hydro-electricity generation as part of New Zealand’s integrated response to climate change.</u></p>
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LF-WAI-PR1	Oppose in part	<p>Meridian considers that the principal reason provided is limited to giving effect to Te Mana o te Wai and it fails to acknowledge that at the same as giving effect to Te Mana o te Wai:</p> <ul style="list-style-type: none"> • the NPSFM also requires councils to manage freshwater as part of New Zealand’s integrated response to climate change; and • the NPSREG requires that the national significance of renewable electricity generation activities be recognised and provided for. 	<p>Amend LW-WAI-PR1 by adding the following paragraph:</p> <p><i>At the same time as implementing a Te Mana of te Wai framework, councils are required to manage freshwater as part of New Zealand’s integrated response to climate change and to recognise and provide for the national significance of renewable electricity generation activities,</i></p>
LF-VM-O3 North Otago FMU vision	Oppose in part	<p>Given the national significance of the Waitaki hydro-electricity generation scheme that is established in the NPSFM and the NPSREG, Meridian considers that matters (1) and (4) of LF-VM-O3 need amending to reflect the functional needs of renewable electricity generation activities (i.e., the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment) and Policies C1 and C2 of the NPSREG.</p>	<p>Amend LF-VM-O3 (4) as follows:</p> <p>(1) <i>fresh water is managed in accordance with the LF-WAI objectives and policies, while recognising <u>the national significance of the Waitaki hydro-electricity generation scheme and</u> that the Waitaki River is influenced in part by catchment areas within the Canterbury region</i></p> <p>(4) <i><u>migration of</u> indigenous species can migrate easily and as naturally as possible to and from the coastal environment <u>is maintained and where practicable is enhanced</u></i></p>
LF-FW-O8 Freshwater	Oppose in part	<p>LF-FW-O8 sets out the objectives for freshwater in Otago. Amongst these is “(2) <i>water flow is continuous throughout the whole system</i>”. Meridian considers that this objective is unclear, and that the outcome sought</p>	<p>Amend LF-FW-O8 as follows:</p> <p><i>In Otago’s <u>freshwater</u> water bodies and their catchments:</i></p>

	<p>by (2) is better addressed and reflected in (1), (3), (4) and (5) of LF-FW-O8.</p> <p>LF-FW-O8 (5) is “<i>the significant and outstanding values of Otago’s outstanding water bodies are identified and protected</i>”. While APP1 of the pORPS-FM identifies “<i>values</i>” that need to be present for a water body to be identified as “<i>outstanding</i>”, there is no definition or appendix that sets out what criteria must be met for a value to be “<i>significant</i>”.</p> <p>Further to this, Policy 8 of the NPSFM requires that “<i>The significant values of outstanding water bodies are protected</i>”. The definition of an “<i>outstanding water body</i>” in the same national policy statement is “<i>outstanding water body means a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values</i>”. While significant values and outstanding values are referred to in the policy and the definition respectively, it is Meridian’s opinion that they are not different values, otherwise the significant values would be protected by Policy 8 while the outstanding values would not.</p> <p>Meridian also notes that LF-FW-E3 states that “<i>The significant values of outstanding water bodies are to be identified and protected from adverse effects</i>”.</p> <p>On this basis, Meridian seeks that LF-FW-O8 adopt the same wording as Policy 8 of the NPSFM.</p> <p>Meridian also considers that Objective 8 should reflect Policy 4 of the NPSFM with respect to managing</p>	<p>(1) <i>the health of the wai supports the health of the people and thriving mahika kai,</i></p> <p>(2) <i>water flow is continuous throughout the whole system,</i></p> <p>(3) <i>the interconnection of fresh water (including groundwater) and coastal waters is recognised,</i></p> <p>(4) <i>native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected, and</i></p> <p>(5) <i>the significant and outstanding values of Otago’s outstanding water bodies are identified and protected, <u>and</u></i></p> <p>(6) <i>freshwater is managed as part of New Zealand’s integrated response to climate change and renewable electricity generation activities are provided for.</i></p>
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		freshwater as part of New Zealand’s integrated response to climate change.	
LF-FW-P7 Fresh water	Oppose in part	LF-FW-P7 lists what “ <i>Environmental outcomes, attribute states (including target attribute states) and limits</i> ” are to achieve. This includes (amongst others) that “ <i>the habitats of indigenous species associated with water bodies are protected, including by providing for fish passage</i> ”. Meridian is concerned that this outcome is too absolute and would mean that the environmental outcomes, attribute states and limits must protect any habitat of a single (or multiple) indigenous plant or animal that is associated with a water body, whether in it or near it. This is significantly more limiting than section 6(c) of the Act, and Meridian considers that it is unnecessarily restrictive and should be amended to refer to the habitats of significance indigenous species.	Amend LF-FW-P7 as follows: “ <i>Environmental outcomes, attribute states (including target attribute states) and limits ensure that:</i> (1) <i>the health and well-being of water bodies is maintained or, if degraded, improved,</i> (2) <i>the habitats of <u>significant</u> indigenous species associated with water bodies are protected, including by providing for fish passage,</i> (3) <i>specified rivers and lakes are suitable for primary contact within the following timeframes:</i> <i>(a) by 2030, 90% of rivers and 98% of lakes, and</i> <i>(b) by 2040, 95% of rivers and 100% of lakes, and 130</i> (4) <i>mahika kai and drinking water are safe for human consumption,</i> (5) <i>existing over-allocation is phased out and future over-allocation is avoided, and</i> (6) <i>fresh water is allocated within environmental limits and used efficiently”</i>
LF-FW-P9 (1)(a)	Oppose in part	While Meridian supports the inclusion of LF-FW-P9 (1)(vi), Meridian considers that this policy should refer	Amend LF-FW-P9 (1)(a)(vi) as follows:

Protecting natural wetlands		to “ <i>specified infrastructure</i> ” and not “ <i>specific infrastructure</i> ”. The former is defined in the pORPS, while the latter is not.	“(vi) <i>the maintenance of or operation of specific specified infrastructure, or other infrastructure,”</i>
LF-FW-P9 (1)(b) Protecting natural wetlands	Support	Meridian supports the matters set out in LF-FW-P9 (1)(b) as they recognise the regional and national importance of specified infrastructure.	Retain LF-FW-P9 (1)(b) as notified.
LF-FW-P10 Restoring natural wetlands	Oppose in part	<p>Meridian supports the improvements listed in LF-FW-P10 but recognises that while they may be possible to achieve, they may not always be practicable to achieve.</p> <p>The plain meaning of possible suggests that if something is technically feasible it is possible. Given the national significance of renewable electricity generation activities and the national policy direction to provide for such activities, there may be times when it is not appropriate (in terms of giving effect to the NPSFM or NPSREG) to require the matters set out in LF-FW-P10 (1) to (3) even though they are possible. Further to this, as notified, LF-FW-P10 does not reflect a reasonable relationship between the cost of requiring (1) to (3) versus the scale of benefit (i.e., the relationship of diminishing returns on investment).</p> <p>On this basis, Meridian considers that <i>where practicable</i> is more consistent with the NPSREG and NPSFM.</p>	<p>Amend LF-FW-P10 as follows:</p> <p><i>Improve the ecosystem health, hydrological functioning, water quality and extent of natural wetlands that have been degraded or lost by:</i></p> <p><u>(1)</u> <i>requiring, where possible practicable:</i></p> <p>(1a) <i>an increase in the extent and quality of habitat for indigenous species,</i></p> <p>(2b) <i>the restoration of hydrological processes,</i></p> <p>(3c) <i>control of pest species and vegetation clearance, and</i></p> <p>(42) <i>excluding the exclusion of stock from natural wetlands.</i></p>
LF-FW-M6 (4) Regional plans	Oppose in part	Meridian notes that at the same as giving effect to Te Mana o te Wai the NPSFM also requires councils to manage freshwater as part of New Zealand’s integrated response to climate change and the NPSREG requires	<p>Amend LF-FW-M6 (4) by adding the following:</p> <p><u>(g)</u> <i>renewable electricity generation from freshwater.</i></p>

		<p>that the national significance of renewable electricity generation activities be recognised and provided for.</p> <p>On this basis, Meridian considers that the matters listed in LF-FW-M6 (4) should also provide for renewable electricity generation from freshwater.</p>	
<p>LF-FW-M6 (6) Regional plans</p>	<p>Support</p>	<p>Subsection (6) of LF-FW-M6 requires that Otago’s Land and Water Regional Plan must:</p> <p><i>“provide for the off-stream storage of surface water where storage will:</i></p> <p>(a) <i>support Te Mana o te Wai,</i></p> <p>(b) <i>give effect to the objectives and policies of the LF chapter of this RPS, and</i></p> <p>(c) <i>not prevent a surface water body from achieving identified environmental outcomes and remaining within any limits on resource use”.</i></p> <p>Meridian notes that there is no policy in the pORPS-FW that provides for off-stream storage of surface water. Meridian considers that a policy addressing this matter is needed.</p> <p>Further to this, Meridian considers that (a) and (c) of LF-FW-M6 are not needed as they are part of (b).</p>	<p>Amend LF-FW-M6 (6) as follows:</p> <p><i>provide for the off-stream storage of surface water where storage will:</i></p> <p>(a) — support Te Mana o te Wai,</p> <p>(b) — give effect to the objectives and policies of the LF chapter of this RPS, and</p> <p>(c) — not prevent a surface water body from achieving identified environmental outcomes and remaining within any limits on resource use, and</p>
<p>New LF-FW Policy</p>		<p>For the reasons given above concerning LF-FW-M6 (6), Meridian seeks insertion of a new LF-FW policy.</p>	<p>Insert a new LF-FW policy as follows:</p> <p><i>provide for the off-stream storage of surface water where storage will give effect to the objectives and policies of this RPS</i></p>

<p>LF-FW-M7 District plans (page 134)</p>	<p>Oppose in part</p>	<p>For the same reasons given for changes sought to LF-FW-O8, Meridian seeks that LF-FW-M7 adopt the same wording as Policy 8 of the NPSFM.</p>	<p>Amend LF-FW-M7 as follows:</p> <p><i>“Territorial authorities must prepare or amend and maintain their district plans no later than 31 December 2026 to:</i></p> <ol style="list-style-type: none"> <i>(1) map outstanding water bodies and identify their outstanding and significant values using the information gathered by Otago Regional Council in LF-FW-M5, and</i> <i>(2) include provisions to avoid the adverse effects of activities on the significant and-outstanding values of outstanding water bodies,</i> <i>(3) require, wherever practicable, the adoption of water sensitive urban design techniques when managing the subdivision, use or development of land, and</i> <i>(4) reduce the adverse effects of stormwater discharges by managing the subdivision, use and development of land to:</i> <ol style="list-style-type: none"> <i>(a) minimise the peak volume of stormwater needing off-site disposal and the load of contaminants carried by it,</i> <i>(b) minimise adverse effects on fresh water and coastal water as the ultimate receiving environments, and the capacity of the stormwater network,</i> <i>(c) encourage on-site storage of rainfall to detain peak stormwater flows, and</i> <i>(d) promote the use of permeable surfaces.”</i>
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LF-FW-PR3	Oppose in part	<p>Meridian notes that at the same time as giving effect to Te Mana o te Wai the NPSFM also requires councils to manage freshwater as part of New Zealand’s integrated response to climate change and the NPSREG requires that the national significance of renewable electricity generation activities be recognised and provided for.</p> <p>Consistent with the relief sought on other provisions in this submission table, Meridian requests that the <i>Principal Reason</i> LF-FW-PR3 be amended to give effect to this national policy direction.</p>	<p>Amend the second paragraph as follows:</p> <p><i>This section of the LF chapter contains more specific direction on managing fresh water to give effect to Te Mana o te Wai and contributes to achieving the long-term freshwater visions for each FMU and rohe. It also reflects key direction in the NPSFM for managing the health and well-being of fresh water, including wetlands and rivers in particular. <u>At the same time, this section of the LF chapter recognises and provides for the national significance of renewable electricity generation activities</u>, and matters of national importance under section 6 of the RMA 1991. The provisions in this section will underpin the development of the Council’s regional plans and provide a foundation for implementing the requirements of the NPSFM, including the development of environmental outcomes, attribute states, target attribute states and limits.</i></p>
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