

IN THE ENVIRONMENT COURT OF NEW ZEALAND
I MUA I TE KŌTI TAIAO O AOTEAROA

ENV-2024-CHC-36

IN THE MATTER of the Resource Management Act
1991 (“Act”)

AND

IN THE MATTER of an appeal under clause 14 Schedule
1 of the Act concerning the **Proposed
Otago Regional Policy Statement
2021**

BETWEEN

**TE RŪNANGA O MOERAKI,
KĀTI HUIRAPA RŪNAKA KI
PUKETERAKI,
TE RŪNANGA O ŌTĀKOU,
HOKONUI RŪNANGA,
TE AO MARAMA,
INCORPORATED,
TE RŪNANGA O ŌRAKA
APARIMA,
TE RŪNANGA O AWARUA and
TE RŪNANGA O NGĀI TAHU**

Appellants

AND

OTAGO REGIONAL COUNCIL

Respondent

RMA, S 274 NOTICE BY MERIDIAN ENERGY LIMITED

DATED 7 JUNE 2024

Instructing counsel:

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To The Registrar
Environment Court
Christchurch

I, **Meridian Energy Limited**, wish to be a party to the following proceeding:

- (a) The Environment Court appeal reference ENV-2024-CHC-36 concerning an appeal against Otago Regional Council decisions on the Proposed Otago Regional Policy Statement.

I am—

- (a) A person who made a submission about the subject matter of the proceeding, and
- (b) A person with an interest greater than the public generally. Meridian undertakes renewable electricity generation activities across the country and has a special interest in how the national direction under the NPS-REG is implemented.

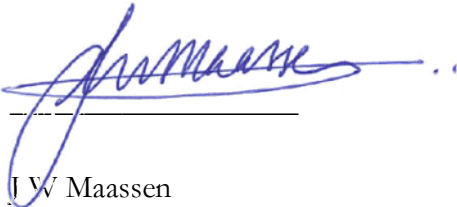
I am not a trade competitor for the purposes of [section 308C](#) or [308CA](#) of the Resource Management Act 1991.

I am directly affected by an effect of the subject of the appeal that—

- (a) Adversely affects the environment and
- (b) Does not relate to trade competition or the effects of trade competition.

I am interested in those parts of the proceeding identified in **Attachment 1** concerning the issues identified in Attachment 1, and I seek the relief in Attachment 1 and any ancillary relief to that identified in Attachment 1.

I agree to participate in mediation or other alternative dispute resolution of the proceedings.



J W Maassen
Counsel authorised to sign on behalf of Meridian Energy Limited

Date 7 June 2024

Address for service of person wishing to be a party:
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Contact person: Eleanor Taffs, In-house counsel

ATTACHMENT 1: SPECIFIC PROVISIONS OF KĀI TAHU APPEAL IN WHICH MERIDIAN HAS AN INTEREST

Provision in which Meridian has a s274 interest	Relief sought by the appellant	Meridian supports or opposes the appellant's relief sought	Reason for Meridian's support or opposition
<p>IM-O3 Sustainable impact</p>	<p>- Amend IM-O3 as follows: Otago's communities provide for their social, economic, and cultural well-being in ways that support or restore environmental integrity, form, functioning, and resilience, so that the life-supporting capacities of air, water, soil, and ecosystems are sustainably managed, <u>safeguarded</u> for future generations.</p>	<p>Oppose</p>	<p>Meridian considers that the term "sustainably managed" is more consistent with Part 2 of the RMA, and considers that inclusion of "restoring environmental integrity, form functioning, and resilience, so that the life-supporting capacities of air, water, soil and ecosystems are sustainably managed" (as per the decisions version of IM-O3) is comprehensive. Replacing "sustainably managed" with "safeguarded" implies a degree of protection that is not consistent with Part 2 of the RMA when read as a whole or with the National Policy Statement for Renewable Electricity Generation 2011 (NPSREG) or other national policy instruments including the National Policy Statement for Indigenous Biodiversity (NPSIB) when read as a whole.</p>
<p>IM-P1 Integrated approach decision-making</p>	<p>- Delete IM-P1 and replace with the policy recommended in the ORC reply version as follows: <u>Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions that cannot be resolved by the application of higher order documents, prioritise:</u> <u>(1) the life-supporting capacity and mauri of air, water, soil, and ecosystems, and then</u></p>	<p>Support in part Oppose in part</p>	<p>Meridian supports deletion of the decisions version of IM-P1. Meridian considers that the relationship between the provisions in the pORPS should be clear within the provisions themselves. Meridian opposes insertion of the ORC's reply version of IM-P1 on the basis that it is not consistent with Part 2 of the RMA or the NPSREG and NPSIB.</p>

	<u>(2) the health and safety of people and communities, and their ability to provide for their social, economic, and cultural well-being, now and in the future.</u>		
IM-P2	Paragraphs 11(b) and 27 of Kāi Tahu’s appeal notice refers to appealing IM-P2, but the appeal notice does not advise what the specific relief sought is.	Oppose	Paragraphs 11(b) and 27 of Kāi Tahu’s appeal notice refers to appealing IM-P2, but the appeal notice does not advise what the specific relief sought is. On this basis the relief sought is too vague to determine the implications for Meridian’s interests.
IM-P6 - Managing uncertainties	Amend IM-P6 to ensure adaptive management is only used in appropriate circumstances.	Oppose in part	The Appellant has not provided specific amendments to the words in IM-P6 and on this basis the relief sought is too vague to determine the implications for Meridian’s interests.
IM-P10 - Climate change adaptation and climate change mitigation	Amend IM-P10 as follows: Identify and implement climate change adaptation and climate change mitigation methods for Otago that: (1) minimise <u>manage</u> the effects of climate change to <u>on</u> existing activities and the wider environment, ...	Support	Meridian considers that “minimise” is unnecessarily constraining and not consistent with Part 2 of the RMA and the NPSREG. Meridian considers that “manage” is a more appropriate approach for addressing the effects of climate change on activities and the environment.
IM-P12 - Contravening limits for climate change mitigation	Amend IM-P12 as follows: IM-P12 – Contravening limits for climate change mitigation and climate change adaptation If a proposed activity provides or will provide enduring regionally or nationally significant climate change mitigation or climate change adaptation with commensurate benefits for the well-being of people and communities and the wider environment, decision makers may allow non-compliance with limits set in, or resulting from, any policy or method of this RPS if they are satisfied that:	Oppose in part	Meridian considers that the Appellant’s new (2) is not appropriate since there may be situations where allowing a non-compliance within the Otago Region would assist achievement of the objectives in the pORPS while at the same time the activity may not be consistent and coordinated with other regional and national climate change mitigation activities. An inconsistent or uncoordinated approach may not necessarily cut across achievement of other regional and national climate change mitigation activities.

	<p><u>(2) the activity is consistent and coordinated with other regional and national climate change mitigation activities,</u></p> <p>(3) adverse effects on the environment are avoided, remedied, or mitigated so that they are minimised to the extent reasonably practicable, and any <u>significant more than minor</u> residual adverse effects are offset, or compensated for, and</p> <p><u>(4) the activity will not impede the achievement of the objectives of this RPS, and</u></p> <p>(5) the activity will not contravene a national policy statement or national environmental standard.</p>		<p>Meridian considers that deleting “significant” and replacing it with “more than minor” is not consistent with the NPSREG, NPSIB or with Part 2 of the RMA.</p> <p>Meridian considers that the Appellant’s new (4) is not necessary since the application of policies in decision making is not able to impede achievement of objectives in the regional policy statement.</p>
IM-P14 - Sustaining resource potential	<p>Amend IM-P14 as follows:</p> <p>When preparing regional plans and district plans, <u>sustainably manage safeguard</u> opportunities for future generations ...</p>	Oppose	<p>Meridian considers that the term “sustainably manage” is more consistent with Part 2 of the RMA. Replacing “sustainably manage” with “safeguard” implies a degree of protection that is not consistent with Part 2 of the RMA or with NPSREG.</p>
Coastal Environment policies	<p>Paragraph 11(a) and 27 of Kāi Tahu’s appeal notice refers to appealing “the Coastal Environment policies”.</p> <p>The relief sought includes amending CE-P3, CE-P11, CE-P12, inserting a new policy addressing discharges to the coastal environment.</p> <p>No relief is provided for other Coastal Environment policies.</p>	Oppose in part	<p>Should amendments be sought to Coastal Environment policies beyond the specific relief sought for CE-P3, CE-P11, CE-P12, Meridian opposes such relief on the basis that it is not possible to determine the implications of such potential changes for Meridian’s interests.</p>
EIT-INF-P12 - Upgrades and development	<p>Amend EIT-INF-P12 by adding a new clause as follows:</p> <p>Provide for upgrades to existing, and development of new infrastructure, while ensuring that:</p> <p>...</p>	Oppose in part	<p>Meridian considers that if the Appellant’s relief to EIT-INF-P12, regarding ensuring resilience to the effects of climate change, was to be adopted, then it should read “it is, <u>as far as practicable</u>, resilient to...”. This is consistent with matters (1) and (2) in the decisions version of EIT-INF-P12 and better gives effect to the NPSREG and section 7(i) of the RMA.</p>

	<p><u>(1A) it is resilient to the current and future effects of sea level rise and climate change.</u></p> <p>Amend EIT-INF-P12 by adding a new clause as follows:</p> <p>When considering proposals to develop or upgrade infrastructure:</p> <p>...</p> <p><u>(1A) require consideration of the current and future effects of sea level rise and climate change; and ...</u></p>		<p>Meridian understands that the Appellant’s relief seeking insertion of “require consideration of the current and future effects of sea level rise and climate change; and” wrongly refers to EIT-INF-P12, and that it is likely that the Appellant meant for these words to be inserted into EIT-INF-P14.</p> <p>Meridian considers that if these words were inserted into EIT-INF-P14, they should read “require, <u>as far as practicable</u>, consideration of...”.</p>
<p>EIT-INF-P13A - Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment</p>	<p>Amend EIT-INF-P13A as follows:</p> <p>When managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment:</p> <p><u>(1) the provisions of the CE – Coastal environment chapter apply; and</u></p> <p><u>(2) in relation to wāhi tūpuna, HCV-WT-P2 applies.</u></p>	Oppose in part	<p>Consistent with Meridian’s appeal on the decisions version of EIT-EN-P6, which seeks a tailored approach to managing the effects of renewable electricity generation activities that gives effect to Policy C2 of the NPSREG, Meridian opposes the application of HCV-WT-P2 to infrastructure associated with renewable electricity generation activities.</p> <p>Policy C2 of the NPSREG states that: “When considering any residual environmental effects of renewable electricity generation activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected.” Application of HCV-WT-P2 to renewable electricity generation activities is not consistent with Policy C2 of the NPSREG.</p>
<p>EIT-INF-P14 - Decision making considerations</p>	<p>Paragraphs 36 and 37 of Kāi Tahu’s appeal notice refer to amending EIT-INF-P12 and EIT-INF-P14 “to better reflect the current and future effects of sea level rise and climate change.”</p>	Oppose	<p>No specific amendments to EIT-INF-P14 are provided in the appeal notice. On this basis, Meridian opposes amendments to EIT-INF-P14 on the basis that it is not possible to determine the implications for Meridian’s interests.</p>

	While the relief sought addresses specific amendments to EIT-INF-P12, no specific amendments to EIT-INF-P14 are provided in the appeal notice.		
EIT-EN-P6 - Managing effects	Amend EIT-EN-P6 as follows: Manage the adverse effects of renewable electricity generation activities by: ... (3) having regard to the extent and magnitude of adverse effects on the environment and the degree to which unavoidable adverse effects can be remedied or mitigated, or significant <u>more than minor</u> residual adverse effects are offset or compensated for; and...	Oppose	Meridian considers that deleting “significant” and replacing it with “more than minor” is not consistent with the NPSREG (when read as a whole) or with Part 2 of the RMA (when read as a whole). Further to this, Meridian notes that the National Policy Statement for Indigenous Biodiversity (that is referenced by the Appellant on this matter) explicitly states that the provisions of the National Policy Statement for Indigenous Biodiversity do not apply to renewable electricity generation activities.
New policy concerning coastal discharges	Ngāi Tahu seek a policy to ensure the appropriate management of discharges into the coastal environment, ki uta ki tai, consistent with policies LF-FW-P15 and LF-FW-P16.	Oppose in part	No specific wording of the new policy is provided. For this reason, it is not possible to determine the implications for Meridian’s interests.