

Crown Pastoral Land Tenure Review

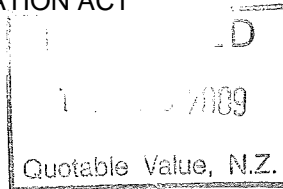
Lease name: BRAEMAR

Lease number: PT 121

Public Submissions - Part 2

These submissions were received as a result of the public advertising of the Preliminary Proposal for Tenure Review.

August 09



107004



11 February 2009

Quotable Value Limited
Broadway Building
Level 1
62 Riccarton Road
Riccarton
Christchurch 8011

FROM: Stephanie Muller
DIRECT: +64 3 353 0345
MOBILE: +64 27 215 6552
FAX: +64 3 365 4587
EMAIL: stephanie.muller@chapmantripp.com
PARTNER: Andrew Woods
REF: 032309132/227725.1

Attention: *Carolyn Latham*

**SUBMISSION BY MERIDIAN ENERGY LIMITED
ON NOTICE OF PRELIMINARY PROPOSAL FOR BRAEMAR TENURE REVIEW**

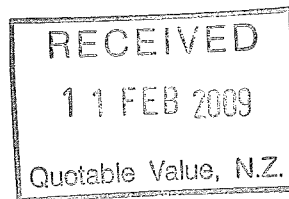
Please find **enclosed** submission on behalf of Meridian Energy Limited.

Yours faithfully

A handwritten signature in black ink that reads "Stephanie Muller".

Stephanie Muller
SENIOR SOLICITOR

DIRECT: +64 3 353 0345
EMAIL: stephanie.muller@chapmantripp.com



Memorandum

Date: 11 February 2009

To: Commissioner of Crown Lands,
C/- Quotable Value Limited

Copy to: Braemar Station Limited,
and Department of Conservation

FROM: Stephanie Muller
DIRECT: +64 3 353 0345
MOBILE: +64 27 215 6552
FAX: +64 3 365 4587
EMAIL: stephanie.muller@chapmantripp.com
PARTNER: Andrew Woods
REF: 032309132/227610.1

SUBMISSION BY MERIDIAN ENERGY LIMITED ON NOTICE OF PRELIMINARY PROPOSAL FOR BRAEMAR TENURE REVIEW

Introduction

- 1 This submission is made on behalf of Meridian Energy Limited (*Meridian*).
- 2 Meridian can be contacted as follows:

25 Sir William Pickering Drive
PO Box 2454
Christchurch 8140
p: 64 3 357 9792, f: 64 3 357 9821

Attention: Roseanne Hohepa, Land and Property Advisor

Background

Holder of mining permit 41 868 and grantee of access arrangements – Crown Minerals Act 1991

- 3 Meridian is the holder of mining permit 41 868 under the Crown Minerals Act 1991 (the *Crown Minerals Act*) (the *Mining Permit*). A copy of the Mining Permit is attached to this submission and marked "A".
- 4 The Mining Permit gives Meridian the exclusive rights for 10 years commencing on 7 March 2005 (the *Mining Period*) to mine for greywacke and sandstone as defined in the Minerals Programme 1996 in the land described in the First Schedule to the Mining Permit and shown on the plan attached to the Mining Permit. This land is part of the Braemar pastoral lease land.
- 5 Meridian has negotiated two access arrangements (within the meaning of section 2(1) of the Crown Minerals Act) for the purposes of the Mining Permit, as follows.

- 5.1 Braemar Station Limited (*BSL*) has granted an access arrangement as land occupier to Meridian for mining purposes for the Mining Period (the *BSL Access Arrangement*). A copy of the *BSL Access Arrangement* is attached to this submission and marked "**B1**".

Meridian is lodging for registration via *Landonline* a notice under section 83 of the Crown Minerals Act giving notice of the *BSL Access Arrangement*. A copy of the section 83 notice for the *BSL Access Arrangement* is attached to this submission and marked "**B2**".

Upon completion of registration (which Meridian expects to take place within 2 to 4 weeks), a memorial recording the section 83 notice for the *BSL Access Arrangement* will be entered by *Landonline* against computer interest register CB7B/480 (being the computer interest register for the Braemar pastoral lease – the leasehold interest).

- 5.2 Her Majesty the Queen in right of New Zealand acting by and through the Minister for Land Information (the *Crown*) has granted an access arrangement as land owner to Meridian for mining purposes for the Mining Period (the *Crown Access Arrangement*). A copy of the *Crown Access Arrangement* is attached to this submission and marked "**C1**".

Meridian is lodging for registration via *Landonline* a notice under section 83 of the Crown Minerals Act giving notice of the *Crown Access Arrangement*. A copy of the section 83 notice for the *Crown Access Arrangement* is attached to this submission and marked "**C2**".

Upon completion of registration (again expected to take place within 2 to 4 weeks), a memorial recording the section 83 notice for the *Crown Access Arrangement* will be entered by *Landonline* against computer interest register 462407 (being a pre-allocated number for a new computer interest register to be created to record access arrangements in respect of the freehold interest in the Braemar pastoral lease land – the freehold interest).

- 6 Meridian holds resource consents from Mackenzie District Council and Environment Canterbury (Canterbury Regional Council) for the rock extraction and associated activities. Copies of the resource consents are attached to this submission and marked "**D**".

Braemar rock extraction site a valuable resource

- 7 Rock extracted from the Braemar rock extraction site is used by Meridian for shoreline protection works on Lake Pukaki to prevent erosion and protect infrastructure (including roads).
- 8 It is critical that ongoing access to the Braemar pastoral lease land is available to Meridian following the completion of the Braemar tenure review.

Summary of submission

9 Meridian's submission is as follows.

- 9.1 The issue of freehold title to BSL should be made subject to memorials recording the section 83 notices for the BSL Access Arrangement and the Crown Access Arrangement.
- 9.2 Clause 3.1.9 of the conservation covenant for the purposes of protecting the lakeside and landscape values of the areas CC1a (lakeside) and CC1b (landscape) (the *Conservation Covenant*) restricts "any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land" unless agreed in writing by the Minister of Conservation and the land owner.

Meridian seeks an exception for the agreed and consented mining activities during the Mining Period as new clause 1.5 of Schedule 2 to the Conservation Covenant, as follows.

Exercise of the rights and performance of the obligations under mining permit 41 868, in relation to access in accordance with the terms of any relevant access arrangement within the meaning of section 2(1) of the Crown Minerals Act 1991, and under any relevant resource consents, and any associated activities, is permitted.

Submission*Issue of title subject to access arrangements*

- 10 Land to be disposed of by freehold disposal to a specified person (such as BSL) is, in accordance with section 69 of the Crown Pastoral Land Act 1998 (the *CPLA*), disposed of under the Land Act 1948 (the *Land Act*).
- 11 Section 116 of the Land Act relates to the issue of title, including for land disposed of under the CPLA. Section 116 states that the provisions of sections 14 and 15 of the Land Transfer Act 1952 (*LTA*) will apply with all necessary modifications. Section 15 of the LTA then provides for the issue of title to be made subject to "all encumbrances, estates, and interests appearing on the provisional register as affecting the land at the date of the issue of the certificate [of title]".
- 12 The bringing down of interests is also provided for by the Crown Minerals Act. Section 56 of the Crown Minerals Act provides that "where an owner or occupier has entered into an access arrangement, the arrangement shall be binding on the owner or occupier and, subject to the requirements of section 83 having been met, on all successors in title to the owner and occupier". Section 83 provides for the notation of access rights on land titles. Section 83 notices for Braemar Station will shortly be lodged for registration as set out above, and notation is imminent.
- 13 The implications of the tenure review in relation to the two access arrangements will therefore be as follows.
- 13.1 The BSL Access Arrangement (for the leasehold interest) will, on surrender of the pastoral lease as part of the tenure review, apply as it relates to BSL's

existing freehold titles (CB20A/1362, CB9F/1083 and CB632/55) and as it relates to BSL or its successors as occupier of the former pastoral lease land.

- 13.2 The Crown Access Arrangement (for the freehold interest) will be binding on BSL as successor in title to the Crown as owner at the time of entry into the arrangement.
- 14 The issue of freehold title to BSL should be made subject to memorials recording the section 83 notices for the BSL Access Arrangement and the Crown Access Arrangement.
- Conservation covenant requires exception for mining activities during the Mining Period*
- 15 The mining activities under the Mining Permit and the associated activities were agreed to by the Department of Conservation when the Department gave its written approval to those activities for the issue of the relevant resource consents.
- 16 Clause 3.1.9 of the Conservation Covenant restricts “*any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land*” unless agreed in writing by the Minister of Conservation and the land owner.
- 17 In relation to conservation covenants generally, section 77 of the Reserves Act 1977 provides that “*notwithstanding any rule of law or equity to the contrary, every conservation covenant shall run with and bind the land which is subject to the burden of the covenant, and shall be deemed an interest in land for the purposes of the Land Transfer Act 1952*”.
- 18 Section 302 of the Property Law Act 2007 (the PLA) sets out the general principles of construction for the burdens of covenants relating to land, as follows.
- (1) This section applies to a covenant burdening land of the covenantor, whether expressed in an instrument or implied by this Act or any other enactment in an instrument, and whether a positive covenant or a restrictive covenant.
 - (2) Unless a contrary intention appears in the instrument, the covenant binds—
 - (a) the covenantor; and
 - (b) the covenantor's successors in title; and
 - (c) persons claiming through the covenantor or the covenantor's successors in title.
 - (3) For the purposes of this section,—
 - (a) the covenantor's successors in title include an occupier for the time being of the burdened land;
 - (b) a restrictive covenant may relate to a subject matter not in existence when the covenant is made.
- 19 During the tenure review process, conservation covenants are created immediately following the issue of freehold title for the land designated to be disposed of (although signed by the Commissioner of Crown Lands pursuant to section 80 of the CPLA, which deems the Commissioner to be the owner of the land for such purpose).
- 20 At the time of creation of the Conservation Covenant, BSL as owner of the freehold title would therefore be the covenantor for the purpose of section 302 of the PLA. Meridian's access rights for the freehold interest would have been derived under the

Crown Access Arrangement granted by the Crown as BSL's predecessor in title. Meridian would not fall within any of the categories in section 302(2). Therefore, Meridian would not be bound by the Conservation Covenant.

- 21 However, for clarification, Meridian seeks an exception for mining activities during the Mining Period as new clause 1.5 of Schedule 2 to the Conservation Covenant, as follows.

Exercise of the rights and performance of the obligations under mining permit 41 868, in relation to access in accordance with the terms of any relevant access arrangement within the meaning of section 2(1) of the Crown Minerals Act 1991, and under any relevant resource consents, and any associated activities, is permitted.

- 22 Meridian notes that mitigation of any effects of such activities on the conservation values of the land is already required by the relevant resource consents, in relation to which the Department of Conservation provided a section 94 approval under the Resource Management Act 1991.

Conclusion

- 23 Meridian welcomes consideration of this submission and is available to discuss the matter if required.

Signed for and on behalf of
Meridian Energy Limited by its
solicitors and duly authorised agents
Chapman Tripp Sheffield Young per:



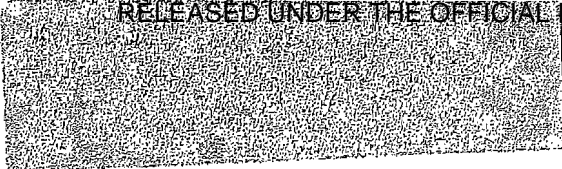
Stephanie Muller
SENIOR SOLICITOR

DIRECT: +64 3 353 0345

EMAIL: stephanie.muller@chapmantripp.com

"A"

107004



**MINING PERMIT 41 868
CROWN MINERALS ACT 1991**

PERMIT HOLDER: Meridian Energy Limited
15 Allen Street
WELLINGTON

NOW THEREFORE: I, ROBERT SMILLIE, Manager Exploration and Mining Services Unit, Crown Minerals acting under delegated authority of 2 February 2004, do

HEREBY GRANT to the Permit Holder a mining permit for the duration of 10 years commencing on the date hereof

WHICH HEREBY gives the exclusive rights to mine for greywacke and sandstone as defined in the Minerals Programme 1996, in the land described in the First Schedule and delineated on the plan attached hereto

UPON THE CONDITIONS specified in the Second Schedule hereto and subject to the Crown Minerals Act 1991 and any regulations made thereunder.

DATED AT Wellington this 7th day of March 2005

SIGNED BY Robert Smillie
Manager Exploration and Mining Services Unit, Crown Minerals

FIRST SCHEDULE

Mining Permit 41 868

AREA : 123.8447 hectares

LAND DISTRICT : Canterbury

LOCAL AUTHORITY : Mackenzie District

LEGAL DESCRIPTION OF PERMIT AREA : Part of Run 331

INSTRUMENT OF TITLE REFERENCES

<u>Legal Description</u>	<u>Instrument of Title</u>	<u>Ownership of Non-Statute minerals under report</u>
Run 331 [part included]	CIR CB7B/480	Crown

SECOND SCHEDULE CONDITIONS OF MINING PERMIT 41 868

(Terms used in this Schedule shall have the same meaning as in the Minerals Programme for Minerals other than coal and petroleum (1 October 1996) unless the context indicates otherwise.)

WORK PROGRAMME

1. The permit holder shall make all reasonable efforts to undertake the activities authorised by the permit in general accordance with the following work programme:
 - (a) stripping of vegetation and topsoil and stockpiling, backfilling or other disposal as appropriate using earthmoving machinery as necessary;
 - (b) unless otherwise approved in writing by the Chief Executive of the Ministry of Economic Development (the Chief Executive) quarrying of gravel by opencut methods as required using earthmoving machinery as necessary; and
 - (c) rehabilitation as appropriate.

GOOD EXPLORATION OR MINING PRACTICE

2. The permit holder shall undertake all quarrying operations in accordance with good exploration or mining practice.

ANNUAL WORK REPORT TO BE SUBMITTED

3. The permit holder shall report in accordance with prescribed regulations. Specifically the permit holder is required to submit to the Chief Executive, within 60 days of the anniversary of the date of grant of this permit in each year, a brief report which details quarrying activities under the permit during the preceding year.

TECHNICAL REPORTS

4. The permit holder shall report in accordance with prescribed regulations.

MARKING OUT

5. If required by the Chief Executive the permit holder shall clearly mark the boundaries of the permit or areas defined in the approved work statement of this permit by pegs, coloured tape or other approved means.

ROYALTIES

6. (a) Subject to condition 6(b) the permit holder is required to calculate and is liable to pay royalties to the Crown for any period for which a royalty return must be provided, in respect of all gravel taken from the land comprised in the permit that is:
- i sold; or
 - ii gifted or exchanged or bartered or removed from the permit area without sale; or
 - iii used in the production process (as a substitute for otherwise having to purchase gravel for this purpose); or
 - iv unsold on the surrender, expiry or revocation of the permit, that is, inventory or unsold stocks of any gravel. (This does not include where gravel has been extracted but returned to the land and thus its ownership is retained by the Crown).
- (b) The permit holder is not liable to pay a royalty when:
- i The net sales revenues from the permit are less than \$100,000 for a reporting period, except where the permit is part of a production unit; or
 - ii The net sales revenues from the permit average less than \$8,333 per month if the reporting period is less than 12 months, except where the permit is part of a production unit; or
 - iii The permit is part of a production unit and the combined net sales revenues of all permits and licences in the production unit are less than \$100,000 for a reporting period; or average less than \$8,333 per month, if the reporting period is less than 12 months.

Rate of Royalty

- (c) Subject to condition 6(b), condition 6(d) and condition 6(e), the royalty payable in each reporting period, and that must be calculated, is the higher of either a one percent (1%) ad valorem royalty on net sales revenues or a five percent (5%) accounting profits royalty on accounting profits.
- (d) Subject to condition 6(b) and condition 6(e), where net sales revenues for the permit or the production unit are \$1,000,000 (one million dollars) or less for a reporting period, the permit holder is required to calculate, and is liable to pay the 1% ad valorem royalty only, and does not have to calculate and is not liable to pay the accounting profits royalty.
- (e) Where net sales revenues for the permit or the production unit exceed \$1,000,000 (one million dollars) for a reporting period, and in the preceding reporting periods net sales revenues were \$1,000,000 or less and greater than \$100,000, the permit holder is required to calculate the provisional accounting profits royalty for that reporting period and previous reporting periods (excluding any period for which a royalty was not payable in accordance with condition 6(b), starting from either the commencement of the permit or the previous time the accounting profits royalty was calculated.

- (f) Where the permit holder is required to calculate the accounting profits royalty, then until all restoration costs are determined in respect of the permit, the permit holder is liable to pay the higher of a 1% ad valorem royalty on net sales revenues or a 5% provisional accounting profits royalty on provisional accounting profits. In the royalty return for the final reporting period, the permit holder is required to take into account all unclaimed restoration costs, and any proceeds or gains from hire, rent, lease or disposal of land or fixed assets which have not previously been deducted, and then to calculate any liability to pay the accounting profits royalty in all reporting periods where net sales revenues for the permit or the production unit exceeded \$1,000,000 (or averaged \$83,333 per month if the reporting period was less than 12 months).
- (g) The net sales revenues, ad valorem royalty, the provisional accounting profits royalty and the accounting profits royalty must be calculated in accordance with the provisions of paragraphs 15.9 to 15.47 of the Minerals Programme for Minerals other than coal and petroleum (1 October 1996).

Point of Valuation

- (h) For the purpose of calculating net sales revenues, the point of valuation for the gravel recovered under this permit is at the place where the gravel is first transported across the permit boundary.

Reporting Period

- (i) The annual reporting period for this permit is 1 July to 30 June in the following year.

Royalty Return

- (j) The permit holder is required to provide to the Chief Executive a royalty return for every reporting period within the duration of the permit regardless of whether or not a royalty is payable in accordance with conditions 6(a) or 6(b). The royalty return is required to be provided within five months of the end of the reporting period. The royalty return must be in the form prescribed, from time to time, in relevant regulations. If no relevant regulations have been made the royalty return must be in a form that sets out information as presented in paragraphs 15.54 to 15.57 of the Minerals Programme for Minerals other than coal and petroleum (1 October 1996).
- (k) The declaration in the royalty return filed for the permit must be signed by the permit holder.
- (l) If the net sales revenues are \$1,000,000 or less for a reporting period (or average \$83,333 or less per month, if the reporting period is less than 12 months) and the permit holder employs or engages the services of an accountant (in public practice) the accountant must also sign the declaration in the royalty return filed for the permit.
- (m) If the net sales revenues are over \$1,000,000 in a reporting period (or average more than \$83,333 per month if the reporting period is less than 12 months), the royalty return filed for the permit must also be accompanied by a written statement signed by either an accountant or an auditor. If the permit holder engages the services of an auditor to review financial statements or financial information as part of meeting the statutory requirements of the Companies Act 1993 or the Financial

Reporting Act 1993, then the auditor must sign the written statement. The statement must be in the form prescribed in the relevant regulations. The statement is required to be paid for by the permit holder.

Royalty Payments

- (n) Subject to condition 6(o), where net sales revenues for any half year (six months) in a reporting period average \$8,333 or more per month, the permit holder is liable to make an interim royalty payment of 1% of the net sales revenues for that six month period. The interim royalty payment must be received by the Chief Executive within 30 calendar days after the end of that six month period.
- (o) Where a reporting period is less than 12 months, the permit holder is liable to make one interim royalty payment to the Chief Executive of 1% of the net sales revenues for the reporting period, where net sales revenues for the reporting period average \$8,333 or more per month. The interim royalty payment must be received by the Chief Executive within 30 calendar days of the end of the reporting period.
- (p) The permit holder must pay to the Chief Executive any royalty that he or she is liable to pay within five months of the end of each reporting period. If the permit holder has made any interim payments of royalty and upon completion of the royalty return, the amount of royalty that he or she is liable to pay exceeds the total amount of interim payments made, the permit holder is required to pay the difference.

Keeping of Records

- (q) The permit holder must, for the purposes of supporting the royalty return, keep for seven years or until the acceptance of the final royalty return for which the permit holder is responsible, whichever occurs first, proper books of account and records, which may include the books and records listed in paragraph 15.62 of the Minerals Programme for Minerals other than coal and petroleum (1 October 1996) maintained in accordance with accepted business practice and which explain or provide details of any aspect of the matters listed in paragraph 15.61 of the Minerals Programme for Minerals other than coal and petroleum (1 October 1996).
- (r) The permit holder must supply additional information or a detailed explanation of the basis of the royalty return to the Chief Executive within 30 days of receipt of a request by the Chief Executive for such information or explanation (refer paragraph 15.57 of the Minerals Programme for Minerals other than coal and petroleum (1 October 1996)).

Reports of Production

- (s) The permit holder is required to provide to the Chief Executive an accurate report of gravel production for the preceding six-month period within 30 calendar days following 30 June and 31 December each year. This report may be made as part of an interim royalty statement accompanying any interim royalty payment or the royalty return or by means of a separate production report. A report of production is required to be forwarded irrespective of whether there has been any production during the relevant six-month period.

Amendment of Royalty Conditions

- (t) Where the Minister of Energy (the Minister) considers that the amount of net sales revenues specified in condition 6(d), at which and below which the permit holder is required to calculate and is liable to pay the 1% ad valorem royalty only, should be increased, the Minister may amend that condition and conditions 6(e), 6(l) and 6(m) to increase that amount by giving the permit holder one month's notice in writing.

Books to be Available for Inspection

- (u) All books, accounts and other records of the permit holder in relation to the permit shall be available at all reasonable times for inspection, for the purpose of verifying the royalty returns, by the Chief Executive or any person legally authorised in writing for that purpose.

FEEES

- 7. The permit holder shall pay any prescribed fees that apply to this permit.

THE CROWN MINERALS ACT 1991

MINING PERMIT No. 41 868

Manager Exploration and Mining Services
Unit, Crown Minerals

TO

Meridian Energy Limited

Area: 123.84 hectares

MEMORIALS

Meridian Energy Limited (Meridian) and Braemar Station Limited (Lessee), being parties to an access arrangement (within the meaning of section 2(1) of the Crown Minerals Act 1991) dated 7 March 2005 (Access Arrangement):

- 1 acknowledge the Access Arrangement contemplates Her Majesty the Queen as a party;
- 2 acknowledge Her Majesty the Queen in right of New Zealand acting by and through the Minister for Land Information is separately granting an access arrangement as land owner to Meridian for mining purposes;
- 3 acknowledge and agree that the Access Arrangement is in full force and effect, and Meridian and the Lessee each have all the rights and powers and are subject to all the obligations as set out in the Access Arrangement, although not entered into by Her Majesty the Queen, but with all necessary modifications.

Braemar Station Limited as Lessee by:

Meridian Energy Limited by its attorneys:

Director

Attorney *Harish Liddell* *Christchurch*

Director

Ka Sule

Attorney *Kuneh Akumar Suresh*

in the presence of:

Roseanne Maree Hohepa

Name:

Occupation:

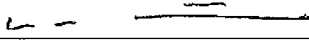
Address:

<p>Roseanne Maree Hohepa Land & Property Advisor Christchurch</p>

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Hamish Liddell Cuthbert, Senior Legal Counsel (RMA), of Christchurch, certify that:

- 1 By power of attorney dated 3 June 2008 (*Power of Attorney*), Meridian Energy Limited appointed each of the persons from time to time holding the office of Chief Executive, General Counsel, Assistant General Counsel, Senior Legal Counsel (RMA), Enterprise Services Director and Growth and Development Director, or such other office with the Company howsoever designated as may from time to time replace or succeed any such office (each being an *Attorney*) to be its attorneys to act jointly with at least one other attorney of Meridian Energy Limited (whether or not appointed under the *Power of Attorney*) on the terms and subject to the conditions set out in the *Power of Attorney*.
- 2 The *Power of Attorney* has been deposited with the Land Registry Office under number 7842142.1.
- 3 I am the Senior Legal Counsel (RMA) of Meridian Energy Limited.
- 4 At the date of this certificate I have not received any notice or information of the revocation of the appointment by the dissolution (however occurring) of Meridian Energy Limited or otherwise.
- 5 The annexed document will, on execution, comply with all conditions and restrictions set out in the *Power of Attorney* and I am authorised by the *Power of Attorney* to execute the annexed document.



Hamish Liddell Cuthbert
Senior Legal Counsel (RMA)

Date: 4 February 2009.

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Kenneth Alexander Smales, Growth and Development Director, of Christchurch, certify that:

- 1 By power of attorney dated 3 June 2008 (*Power of Attorney*), Meridian Energy Limited appointed each of the persons from time to time holding the office of Chief Executive, General Counsel, Assistant General Counsel, Senior Legal Counsel (RMA), Enterprise Services Director and Growth and Development Director, or such other office with the Company howsoever designated as may from time to time replace or succeed any such office (each being an *Attorney*) to be its attorneys to act jointly with at least one other attorney of Meridian Energy Limited (whether or not appointed under the *Power of Attorney*) on the terms and subject to the conditions set out in the *Power of Attorney*.
- 2 The *Power of Attorney* has been deposited with the Land Registry Office under number 7842142.1.
- 3 I am the Growth and Development Director of Meridian Energy Limited.
- 4 At the date of this certificate I have not received any notice or information of the revocation of the appointment by the dissolution (however occurring) of Meridian Energy Limited or otherwise.
- 5 The annexed document will, on execution, comply with all conditions and restrictions set out in the *Power of Attorney* and I am authorised by the *Power of Attorney* to execute the annexed document.



Kenneth Alexander Smales
Growth and Development Director

Date: 9/02/09

Date:

PARTIES

Her Majesty the Queen (*Land Owner*)

Braemar Station Limited (*Lessee*)

Meridian Energy Limited (*Meridian*)

BACKGROUND

- A The Land Owner is the owner of the Land. The Lessee is the lessee of the Land under Pastoral Lease P121 for which Computer Interest Register CB7B/480 has been issued.
- B The Lessee owns the Access Land.
- C Meridian intends to obtain a mining permit pursuant to the Act in relation to all or part of the Potential Borrow Site on the Land.
- D The Act requires the holder of a mining permit to enter into access arrangements with the owner and any occupier of the land in relation to which the mining permit is granted prior to accessing and conducting any mining operations on that land.
- E The Lessee is the sole Occupier of the Land and the Access Land.
- F The Land Owner and the Lessee have agreed to allow Meridian access to the Land and the Access Land. The parties enter into this Agreement to set out the terms on which Meridian may access the Land and the Access Land.

TERMS OF THIS AGREEMENT

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, unless a contrary intention appears:

Access Arrangement means an arrangement with the Land Owner and/or any Occupier of all or any part of the Land or the Access Land entered into by way of agreement in accordance with the Act to provide access to all or any part of the Land or the Access Land;

Access Land means the land described as such in Schedule 1;

Access Payment means any access payment payable by Meridian in accordance with clause 7 of this Agreement;

Act means the Crown Minerals Act 1991;

Authority means the government, any department or agency of the government, any statutory or regulatory agency or authority, and any local government entity having jurisdiction or authority over or in respect of the Permit Area and the Land and the Access Land or the use or occupation of the Permit Area and the Land and the Access Land;

Borrow Material means the material extracted and removed, or to be extracted and removed, from the Permit Area by the Operations;

Consent means any approval, consent, licence, permit or other authority relating to any of the matters provided for or contemplated by this Agreement, including the Operations;

Improvement means any building or other structure, road, track, access way, culvert, bridge, irrigation work, water race, fence, or gate, on the Land or the Access Land;

Land means the land described as such in Schedule 1;

Land Owner means Her Majesty the Queen together with her successors, and unless the context otherwise requires includes employees, contractors and agents of the Land Owner;

Lessee means Braemar Station Limited together with its executors, administrators, successors and assigns, and unless the context otherwise requires includes the employees, contractors and agents of the Lessee;

Meridian means Meridian Energy Limited together with its successors and permitted assigns, and unless the context otherwise requires includes the employees, contractors, agents and invitees of Meridian;

Mining and Mining Operations have the same meanings as defined in the Act;

Mining Period means the period determined in accordance with clause 2.2;

Mining Period Commencement Date means the first anniversary of the day that Meridian gives the Land Owner and the Lessee notice that Meridian wishes to exercise its rights under a Mining Permit and commence Mining Operations within a Permit Area;

Mining Period Termination Date means the date that Meridian advises the Land Owner and the Lessee that Meridian has ceased to carry out Mining Operations on the Potential Borrow Site and has completed the Site Restoration;

Mining Permit means any mining permit issued to Meridian pursuant to the Act in respect of all or any part of the Potential Borrow Site;

Occupier has the meaning as defined in the Act;

Operations means any actions of Meridian provided for or contemplated by this Agreement including operations undertaken by Meridian pursuant to or in relation to the actions provided for or required under a Mining Permit and any Resource Consents;

Permit Area means all the land within the Potential Borrow Site;

Potential Borrow Site means the area of the Land outlined in green on the plan annexed to this Agreement as Annexure 1;

Resource Consents means any consents required by Meridian to conduct Operations on the Land or the Access Land pursuant to the Resource Management Act 1991 and any relevant district or regional plan;

Site Restoration means any restoration works necessary to comply with clause 18 of Schedule 2;

Term means the period commencing on the date this Agreement is signed by all parties and ending on the date that this Agreement terminates or is determined in accordance with clause 8; and

Working Day means a day, other than a Saturday or Sunday, a national statutory holiday, any anniversary day observed in the area where the Land is situated and any day in the period commencing on 24 December in one year and ending on 5 January in the following year.

1.2 In this Agreement:

Clauses, schedules – references to clauses and schedules are to clauses and schedules of this Agreement;

Headings – headings appear as a matter of convenience and do not affect the construction of this Agreement;

Negative obligations – a reference to a prohibition against doing any thing includes a reference to not permitting, suffering or causing that thing to be done;

No contra proferentem construction – the rule of construction known as the contra proferentem rule does not apply to this Agreement;

Person – a reference to a person includes a legal entity and also a body of persons, whether corporate or unincorporate; and

Singular, plural and gender – the singular includes the plural and vice versa, and words importing one gender include the other gender and the neuter.

2 GRANT OF ACCESS FOR MINING

- 2.1 The Land Owner and the Lessee grant Meridian access to the Land and the Access Land (as applicable) during the Mining Period for the purpose of conducting Operations, including Mining on the Potential Borrow Site but not on the Access Land, on the terms set out in this Agreement.
- 2.2 The Mining Period shall be for the period commencing on the Mining Period Commencement Date and ending on the Mining Period Termination Date unless determined earlier in accordance with clauses 8.2 and 8.3.
- 2.3 Meridian will undertake Mining between late January and the end of April each year. It is Meridian's intention to stockpile sufficient material during this period to meet the needs of a comprehensive shoreline protection programme. In the event of an emergency or unusual event Meridian may elect to access the Land and the Access Land to secure additional material and undertake Mining on the Potential Borrow Site to augment existing stockpiles. In such circumstances, Meridian will liaise with the Lessee prior to accessing the Land to undertake Mining on the Access Land.
- 2.4 Meridian will prior to 15 December in each year provide to the Lessee Meridian's assessment of the likely timetable and nature of activities for the Mining and other works to be undertaken under this Agreement in the following calendar year. Meridian shall use all reasonable endeavours to keep the Lessee advised of changes to that proposed timetable and intended nature of activities for the Mining and other works to be undertaken under this Agreement made from time to time in order to assist the Lessee to plan its farming and other activities undertaken now or in the future. The parties agree that the timetable, description of nature of activities, and advice of changes, are indicative only and do not limit or otherwise affect the rights and obligations of the parties under this Agreement.

3 RIGHTS OF ACCESS NEED NOT BE EXERCISED

The Land Owner and the Lessee acknowledge that the grants of access under clause 2 shall not oblige Meridian to undertake any of the actions permitted by that clause or otherwise exercise all or any of its rights under that clause.

4 ACCESS ARRANGEMENTS

- 4.1 Meridian will provide to the Land Owner and the Lessee a copy of the relevant Mining Permit before Meridian commences any Mining.
- 4.2 Meridian will notify in writing the Land Owner and the Lessee of the areas of the Potential Borrow Site of which Meridian requires exclusive possession for the purposes of conducting Operations from time to time. The areas so notified will include any areas on which Meridian is conducting Mining or on which Meridian has conducted Mining but has not yet completed Site Restoration. Meridian's notice will describe the locations of the areas of which Meridian has exclusive possession and the size of those areas at the time of each notice. Meridian will have exclusive possession of the areas so nominated.
- 4.3 The Land Owner and the Lessee will have a right of access to any part of the Potential Borrow Site of which Meridian has exclusive possession to inspect the Operations to determine compliance by Meridian with the terms of this Agreement. The Land Owner and the Lessee will exercise this right of access under the supervision of Meridian and strictly in accordance with all directions given by Meridian for the purposes of preserving health and safety, to minimise disruption to the Operations, or to otherwise ensure compliance with the relevant Mining Permit or Resource Consents or any applicable law. The Land Owner and the Lessee will be entitled to exercise their right of inspection using, or accompanied by, the Land Owner's or the Lessee's nominated employees, agents or contractors.
- 4.4 Meridian will have a right of access over any part of the Land and the Access Land, including for the passage of persons, vehicles, plant, machinery, equipment, fuel and Borrow Material, or to undertake any action provided for or contemplated in this Agreement. Meridian may effect Improvements on the Land and the Access Land to facilitate such access including the construction of roads, tracks, access ways, culverts, fords, bridges or conveyors for the carriage of material.
- 4.5 Meridian acknowledges that it has no right to undertake any Mining on the Access Land and agrees that it will not undertake any Mining on the Access Land.

5 MERIDIAN'S OBLIGATIONS

Meridian will:

- (a) comply with the Mining Permit and all Resource Consents;
- (b) comply with the terms and conditions of operation set out in Schedules 2 and 3;

- (c) observe and comply with the provisions of all licences, requisitions and notices, statutes, ordinances, regulations and by-laws governing the actions taken or provided for under this Agreement;
- (d) prior to commencing any operations identify in consultation with the Lessee any conservation feature rock formations and ensure at all times that no detriment or damage is caused to such formation during the term and during any site restoration period referred to in this Agreement;
- (e) not make any additions or alterations to any of the Land Owner's or the Lessee's buildings or Improvements on the Land or the Access Land without the prior written consent of the Land Owner or the Lessee (as applicable) which shall not be unreasonably withheld and which may be given subject to reasonable conditions; and
- (f) not call upon the Land Owner or the Lessee to contribute towards the cost of the erection, maintenance or repair of any fences that Meridian is obliged, or determines, to erect.

6 INDEMNITY

6.1 Meridian will keep the Land Owner and the Lessee indemnified against all claims, actions, losses and expenses of any nature which the Land Owner or the Lessee may suffer or incur or for which the Land Owner or the Lessee may become liable in respect of or arising out of or in connection with:

- (a) any accident or damage to property or persons arising from any occurrence on the Land or the Access Land caused by any act or omission by Meridian; and
- (b) a breach by Meridian of any legislation governing Meridian's actions on the Land or the Access Land including, without limitation, the Act, the Resource Management Act 1991, the Building Act 1991, the Forest and Rural Fires Act 1977 and the Health and Safety in Employment Act 1992;

to the extent that the Land Owner or the Lessee (as the case may be) has not caused or contributed to that event.

6.2 The provisions of this clause 6 shall survive the termination of this Agreement. Meridian acknowledges that provisions of this clause 6 (by reason of clause 1.1 and the definition of "Meridian") bind any successors or assigns of Meridian.

7 LAND OWNER'S AND LESSEE'S COVENANTS

7.1 The Land Owner and the Lessee each acknowledge that they have separately agreed the terms of compensation for exercise of the rights set out in this Agreement and they otherwise agree that the terms and conditions of this Agreement is in full satisfaction and substitution of any claims to compensation the Land Owner and the Lessee may be entitled to make against Meridian under section 76 of the Act.

7.2 The Land Owner and Lessee each warrant and undertake to Meridian that:

- (a) no person other than Meridian holds any rights to conduct Mining on or under the Potential Borrow Site, and the Land Owner and the Lessee will not negotiate or grant any such rights during the Term of this Agreement;
- (b) no other Access Arrangement has been negotiated or entered into by the Land Owner or the Lessee (as applicable) under the Act in respect of all or any part of the Land or the Access Land, and none will be negotiated or entered into except subject to the terms of this Agreement and with the prior written consent of Meridian which (without limiting clause 7.2(c)) shall not be withheld if that person enters into an Access Arrangement with Meridian on terms that give effect to this Agreement and permit Meridian to exercise its rights under this Agreement without any obligations or payment of money other than as provided for in this Agreement;
- (c) no other Access Arrangement will be entered into by the Land Owner or the Lessee under which rock may be removed from the Land;
- (d) the Lessee is the sole Occupier of the Land and the Access Land and there is no other Occupier of all or any part of the Land or the Access Land; and
- (e) the Land Owner and the Lessee will not permit any person to occupy all or any part of the Land or the Access Land (as applicable) except subject to the terms of this Agreement and with the prior written consent of Meridian which shall not be withheld if that person enters into an Access Arrangement with Meridian on terms that give effect to this Agreement and permit Meridian to exercise its rights under this Agreement without any obligations or payment of money other than as provided for in this Agreement.

7.3 The Land Owner and the Lessee will not, either directly or indirectly:

- (a) object to the granting of any Consent sought by Meridian; or

- (b) fund, facilitate, assist or promote any other person to take any action that would be in breach of this Agreement if done by the Land Owner or the Lessee.

- 7.4 The Land Owner and the Lessee waive any non-compliance by Meridian with any of the provisions of section 59 of the Act.
- 7.5 The Land Owner and the Lessee acknowledge the effect of sections 56 and 83 of the Act (that this Agreement runs with the Land and the Access Land upon registration or notation).

8 **TERM**

- 8.1 This Agreement shall be for a term of 10 years unless it is terminated earlier in accordance with clauses 8.2 to 8.3.
- 8.2 The Land Owner and the Lessee acting together may immediately terminate this Agreement upon notice in writing to Meridian if Meridian passes a resolution for liquidation, or is the subject of a liquidation application, or has a receiver appointed, or enters into any compromise with its creditors (other than in the normal course of business).
- 8.3 Meridian may at any time terminate this Agreement by one month's notice in writing to the Land Owner and the Lessee.
- 8.4 On termination of this Agreement the rights and obligations of the parties under this Agreement and any Mining Permit will, except as expressly provided for in this Agreement, cease as at the date of termination provided that neither party will be released from any liability in respect of any obligations incurred or breaches of this Agreement up to and including the date of termination.

9 **ACTION ON TERMINATION OF AGREEMENT**

- 9.1 Meridian will prior to the expiry of the Term in accordance with clauses 8.1, 8.2 or 8.3:
 - (a) discontinue Mining Operations;
 - (b) remove from the Land and the Access Land all buildings, structures, Improvements (subject in the case of roads or tracks to clause 18 of Schedule 2), consumables, additions or alterations of Meridian, all consumables, plant and equipment owned by Meridian, and make good damage to the Land or the Access Land caused by such removal;

- (c) complete any restoration works necessary to comply with all Resource Consents and lawful requirements of any Authority to the satisfaction of that Authority; and
- (d) complete all Site Restoration and other required works in accordance with Schedule 2.

9.2 If this Agreement is terminated in accordance with clause 8.2, Meridian is obliged to complete the above actions as soon as practicable after such termination.

9.3 All Improvements, additions, alterations made to the Land or the Access Land by Meridian and any fixtures, consumables, plant and equipment owned by Meridian which are on the Land or the Access Land after 120 Working Days from the expiry of the Term will vest in the Land Owner (in the case of the Land) or the Lessee (in the case of the Access Land) without right of payment or compensation to Meridian by the Land Owner. The vesting of such items in the Land Owner or the Lessee is without prejudice to the right of the Land Owner or the Lessee (as applicable) to recover costs incurred by the Land Owner or the Lessee (as applicable) in removing and/or disposing of such items.

10 ASSIGNMENT

10.1 Meridian may assign, novate or otherwise transfer its interest in this Agreement to any purchaser of Meridian's assets in the Waitaki Scheme if Meridian indemnifies the Land Owner and the Lessee for any breach of this Agreement by that purchaser.

11 NOTICE TO AUTHORITIES

Meridian will, at its costs in all respects, arrange for notice of this Agreement to be lodged with Land Information New Zealand and ensure that this Agreement and the Mining Permit and any related documents shall be recorded in the register held by the Ministry for Economic Development. The Land Owner and the Lessee will each execute any necessary documents including consents necessary to enable Meridian to effect to such lodgements required.

12 COSTS

12.1 Meridian will pay the Land Owner's and the Lessee's reasonable legal costs up to a maximum of \$800 plus GST in assisting Meridian to lodge this Agreement with the appropriate authorities, and upon the expiry of the Term of this Agreement to notify such authorities.

12.2 Meridian shall reimburse the reasonable legal, valuation and farm advisory costs of the Lessee incurred in relation to preparing, considering and entering into this Agreement up to a maximum total combined amount of \$2,000. Meridian shall reimburse those costs on presentation of a valid tax invoice for the same addressed to Meridian. All such legal, valuation and farm advisory information shall be the property of the Lessee for the Lessee to use as it wishes.

13 **WAIVER**

13.1 No waiver by either party of any of the provisions of this Agreement, nor any consent by either party to any departure from this Agreement, will be effective unless the same is in writing, and then such waiver or consent will be effective only in the specific instance and for the specific purpose of which it is given.

13.2 No failure, delay or indulgence by either party in exercising any of its powers or rights under this Agreement will operate as a waiver of such power or right and nor shall a single exercise or partial exercise of any such power or right preclude further exercises of that power or right, or the exercise of any other power or right under this Agreement.

14 **NOTICES**

14.1 Any notice or other communication given under this Agreement must be in writing delivered to the address or sent to the facsimile number in New Zealand from time to time notified by either party in writing to the other party. Until any other address or facsimile number of either party is notified, they shall be as set out below.

Land Owner

Land Information New Zealand
Torrens House
195 Hereford Street
Private Bag 4721
Christchurch
Fax 03 365 9715

Lessee

Braemar Station
PO Box 62
Lake Tekapo
Fax 03 680 6854

Meridian

Attention: General Counsel
322 Manchester Street
PO Box 2454
Christchurch
Fax 03 357 9701

- 14.2 A notice delivered by hand shall be deemed to have been received at the time of delivery. A notice sent by facsimile shall be deemed to have been received at the time of transmission. A notice sent by post shall be deemed to have been received three days after posting.

15 DISPUTE RESOLUTION

- 15.1 The parties agree that any dispute or difference arising out of this Agreement including any breach by Meridian of its obligations under this Agreement be dealt with by negotiations in good faith with a view to amicably resolving the dispute or difference.
- 15.2 Where a dispute or difference cannot be resolved by negotiations in good faith within 10 Working Days, then, if the parties so agree, the dispute or difference may be referred to mediation, with such mediation to be conducted on such basis as the parties may agree.
- 15.3 In the event of the dispute or difference not being resolved by mediation, then it will be determined by a single arbitrator. The parties will have 21 Working Days to appoint an arbitrator by agreement between them or failing agreement, an arbitrator will be appointed by the President or his her nominee for the time being of the Canterbury District Law Society or any successor organisation. Clause 1 of the Second Schedule to the Arbitration Act 1996 will not apply and the arbitrator must make a formal decision within 21 Working Days of being appointed, but otherwise the arbitration shall be conducted in accordance with the Arbitration Act 1996.

16 CONDITION

This Agreement is conditional upon all registered mortgagees of the Land and the Access Land consenting to the Lessee entering into this Agreement and this Agreement being given effect on terms acceptable to the Lessee by 5.00pm on the 15th Working Day after the date this Agreement is entered into. The Lessee shall use all reasonable endeavours to obtain such consents and shall not unreasonably or arbitrarily withhold its approval.



EXECUTION

Signed by **Her Majesty the Queen** as
the Land Owner acting by and through
the Minister of Lands by:

in the presence of:

Name:

Occupation:

Address:

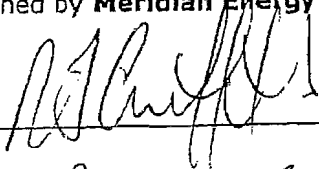
Signed by **Braemar Station Limited** as
Lessee by:

R. Mackenzie
Director

J. Mackenzie
Director

Witnessed by
Pine Todhunter
45 Brabant Drive
Ruby Bay
Mapua 4005.

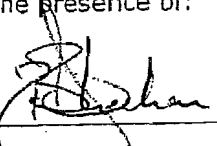
Signed by Meridian Energy Limited by:



Name: RICHARD GRIFFITHS

Position: ASSET MANAGER

In the presence of:



Name: BRENDAN SHEEHAN

Occupation: CIVIL ENGINEER

Address: MERIDIAN ENERGY LTD

PO Box 2454

CHRISTCHURCH



SCHEDULE 1 - DESCRIPTION OF LAND AND ACCESS LAND

Land

15,216.1801 hectares being Run 331 being comprised in Computer Interest Register CB7B/480.

Access Land

That part of Rural Section 33277, Part Rural Section 33298, Rural Section 33355, Part Rural Section 33297, Part Rural Section 33306, Part Rural Section 33307 and Part Rural Section 33308 comprised in Computer Freehold Registers CB20A/1362, CB9F/1083 and CB632/55 within 50 metres either side of the dashed blue line marked "Proposed Haul Road Route" on the plan annexed to this Agreement as Annexure 2.

SCHEDULE 2 - TERMS AND CONDITIONS OF OPERATIONS

Environmental

1 Meridian will:

- (a) adopt best practise to avoid, remedy or mitigate any adverse effect on the Permit Area arising from Operations;
- (b) use all reasonable measures to ensure the land within the Permit Area remains stable and free from erosion; and
- (c) adopt best practise to avoid where practical any adverse effect on any part of the Land not comprised in the Permit Area or the Access Land.

2 Meridian will take all reasonable precautions to prevent the unauthorised discharge of any "contaminant" (as defined in the Resource Management Act 1991) onto or into any land or water body.

3 Meridian will remove all its personal rubbish from the Land and the Access Land.

4 Meridian will provide portable toilets on site whenever Operations are carried out at a single location.

5 Meridian will take all reasonable precautions to reduce the risk of the Operations causing the introduction of noxious weeds to the Land (including, but not limited to, the steam cleaning of all machinery before entering the Permit Area). Meridian will spray the Permit Area at the conclusion of Mining Operations in each year that it undertakes Mining Operations with a suitable weedkiller.

Precautions

6 Meridian will:

- 6.1 take all reasonable precautions to ensure no fire hazard arises from its Operations; and
- 6.2 not light any fire on the Land or the Access Land except by permit issued by the relevant Authority.

Roads

7 In constructing any haul roads, Meridian will:

- 7.1 provide adequate notice (being a minimum of 2 months) to the Lessee prior to commencing work;

- 7.2 strip off all topsoil;
 - 7.3 utilise local subbase and top course materials to prepare a suitable road foundation and surface, respectively;
 - 7.4 install adequate drainage in identified wet spots; and
 - 7.5 construct drainage channels alongside haul roads, where required to control surface runoff.
- 8 The road will be maintained by Meridian at the conclusion of each Mining season defined in clause 2.3 of the Agreement to a state which is satisfactory to Meridian and the Lessee (acting reasonably) (provided that Meridian is not required to undertake the obligations under this clause if it did not undertake mining during the relevant Mining season).
- 9 Meridian's representative and the Lessee will confirm that the obligations in clause 8 have been satisfactorily completed by Meridian prior to the removal of Meridian's contractor's machinery from the site of the road at the end of each relevant Mining season.
- 10 Meridian will erect temporary electric fencing along sections of the road, if reasonably required by the Lessee, during each Mining season.

Stream and waterway management

- 11 Meridian will:
- 11.1 not alter the physical, hydrological and ecological characteristics of watercourses without first having obtained all required resource consents from the relevant District and Regional Councils;
 - 11.2 where practical avoid and minimise vehicle use across any stream and only cross the watercourse at limited designated points; and
 - 11.3 comply with District Council and Regional Council environmental guidelines.

Restrictions on Mining Operations in advance of Site Restoration

- 12 Meridian will separately strip and stockpile:
- 12.1 topsoil (including organic debris, duff and/or litter layers) and subsoil layers;
 - 12.2 substrate overburden; and
 - 12.3 Borrow Material,

In preparation for Site Restoration.

- 13 Meridian will not remove from the Permit Area any material referred to in sub-clause 12.1 of this Schedule.
- 14 Meridian will track roll all Mining sites on the completion of each Mining season's work programme to minimise soil loss.
- 15 Meridian will store and put back all waste rock of less than 0.4 metres in size/dimension into areas from where extraction is made, and smooth over the surface to create a clean look as is practicably possible in the circumstances.
- 16 Meridian will, as Mining progresses, substantially complete Site Restoration requirements (in accordance with clause 18 of this Schedule). For the purposes of this determination areas on which Site Restoration is being undertaken shall not constitute areas on which Mining is taking place.

Contribution to costs of Improvements

- 17 Meridian will contribute towards the maintenance of Improvements on the Land and the Access Land, and in particular roads, culverts and bridges, in proportion to Meridian's use of such Improvements during the Term. Notwithstanding the foregoing, Meridian will promptly and at its own cost make good and repair any damage to Improvements outside the Permit Area caused by the Meridian's Operations.

Site Restoration

- 18 Upon completion of Mining Operations and before the termination of the Agreement under clauses 8.1, 8.2 or 8.3 of the Agreement, Meridian will:
 - 18.1 complete the road removal and track reconstruction work provided for in clauses 19 and 20 below;
 - 18.2 complete the site restoration requirements set out in clause 21 below; and
 - 18.3 complete any site restoration requirements required by any regulatory authority.

If this Agreement is terminated in accordance with clause 8.2, Meridian shall be obliged to complete the above actions as soon as practical after such termination.

19 Meridian will in accordance with clause 18 above, decommission such tracks or roads constructed on the Land and/or Access Land by Meridian which the Land Owner and the Lessee require to be decommissioned, by:

19.1 closing entrances;

19.2 stabilising batters (by vegetation if necessary);

19.3 controlling surface run-off;

19.4 removing crossings;

19.5 ripping road lines;

19.6 filling cuts;

19.7 stabilising slashes;

19.8 spreading topsoil, levelling and sowing pasture grass; and

19.9 where such areas are part of any area of grazing pasture they shall be re-established in pasture in accordance with clauses 21.4-21.8 of this Schedule.

20 Where Meridian has removed existing tracks or roads on the Land then Meridian will in accordance with clause 18 above reconstruct such tracks or roads which the Land Owner and the Lessee require to be reconstructed and replace all culverts and road drainage works as reasonably directed by the Land Owner and the Lessee.

21 Meridian will ensure Site Restoration of any area on which Mining has taken place is undertaken in accordance with the following provisions:

21.1 Meridian will mix together and spread and redeposit into its final re-contoured position all substrate overburden. Re-contouring will be undertaken to:

(a) assist the free drainage of the land;

(b) limit the likelihood of erosion;

(c) where consistent with the above to leave the pasture and finishes level and even; and

(d) where it does not materially increase the cost of re-contouring or time taken to complete re-contouring, as otherwise reasonably directed by the Land Owner or the Lessee.

- 21.2 Meridian will evenly spread the stockpiled topsoil (including organic debris, duff and/or litter layers) over the area leaving it smooth but not excessively compacted.
- 21.3 Meridian will ensure all natural and man made drains on the Land are free of any obstructions.
- 21.4 In preparation for the re-sowing of any pasture Meridian will apply to the area to be re-sown sufficient fertiliser (including lime) to enable the successful re-establishment of pasture.
- 21.5 Upon the completion of the works described above Meridian will re-establish grazing pasture on the area using a pasture grass or mix of a type commonly used in the area and otherwise in accordance with the reasonable directions of the Land Owner or the Lessee.
- 21.6 The Lessee will advise Meridian in writing of the quality, cost and types of seed and fertiliser required under clauses 21.4 and 21.5.
- 21.7 The Land Owner and the Lessee acknowledge that planting to re-establish pasture may be delayed until weather conditions are suitable, but that, weather permitting, grasses will be sown before the end of November of the applicable year.
- 21.8 The Land Owner and the Lessee acknowledge that to manage the re-establishment of any pasture Meridian may retain exclusive possession of an area for a period, determined by Meridian, of up to one year after new pasture is sown. Meridian will be entitled to erect temporary electric fencing to fence off new re-sown areas to allow the new grass to be established. Meridian may request the Land Owner or the Lessee to graze that area for limited periods during that period where such grazing may be beneficial to the re-establishment of the pasture. The Land Owner and the Lessee agree that where it is practical for the Land Owner or the Lessee to do so, the Land Owner or the Lessee will graze that area in accordance with Meridian's directions.
- 21.9 Meridian shall meet the additional cost of any fertiliser (including lime) required for an area on which new pasture has been established for one year after Meridian ceases to have exclusive possession of that area. For the purposes of this clause the additional cost is the cost in excess of that which would have been incurred by the Land Owner or the Lessee to maintain the fertility of the soil and health of the pasture if the pasture had been established and was not new pasture.

21.10 Meridian is responsible for weed control along the access road on the Land and the Access Land and on any disturbed land within the Permit Area during the Term of this Agreement. At the end of the Term of this Agreement, Meridian will continue to monitor and carry out weed control for a further 3 years. An alternative option is to provide a one-off payment to the Lessee to manage the cost of on-going weed control during the 3 year period. Meridian and the Lessee will discuss this option at the end of the Term.

21.11 Meridian acknowledges, without limiting any other provision of this Agreement, that Site Restoration shall not be considered to be completed until the pasture areas of any relevant area have been re-established with pasture.

22 The above works shall be completed in accordance with good farming practice in the area. The Land Owner and the Lessee agree that Meridian shall be entitled to complete the above works without being required to adhere to any particular approach to farming practice including, without limitation, organic farming.

23 All arrangements regarding site restoration work will be agreed to by Meridian's representative and the Lessee (each acting reasonably) prior to any of the work being undertaken.

Fencing

24 Meridian will prior to undertaking Mining on the Potential Borrow Site install permanent deer fencing, of a construction and using materials usually used for permanent deer fencing in the area, in the locations shown on the plan annexed to this Agreement as Annexure 2.

Use of Permit Area

25 Meridian will not allow any person apart from the Lessee to graze stock on the Permit Area.

26 The Lessee will from time to time identify gates that must be kept shut at all times and fences which must be kept stockproof and Meridian will comply with the Lessee's reasonable directions regarding these gates and fences.

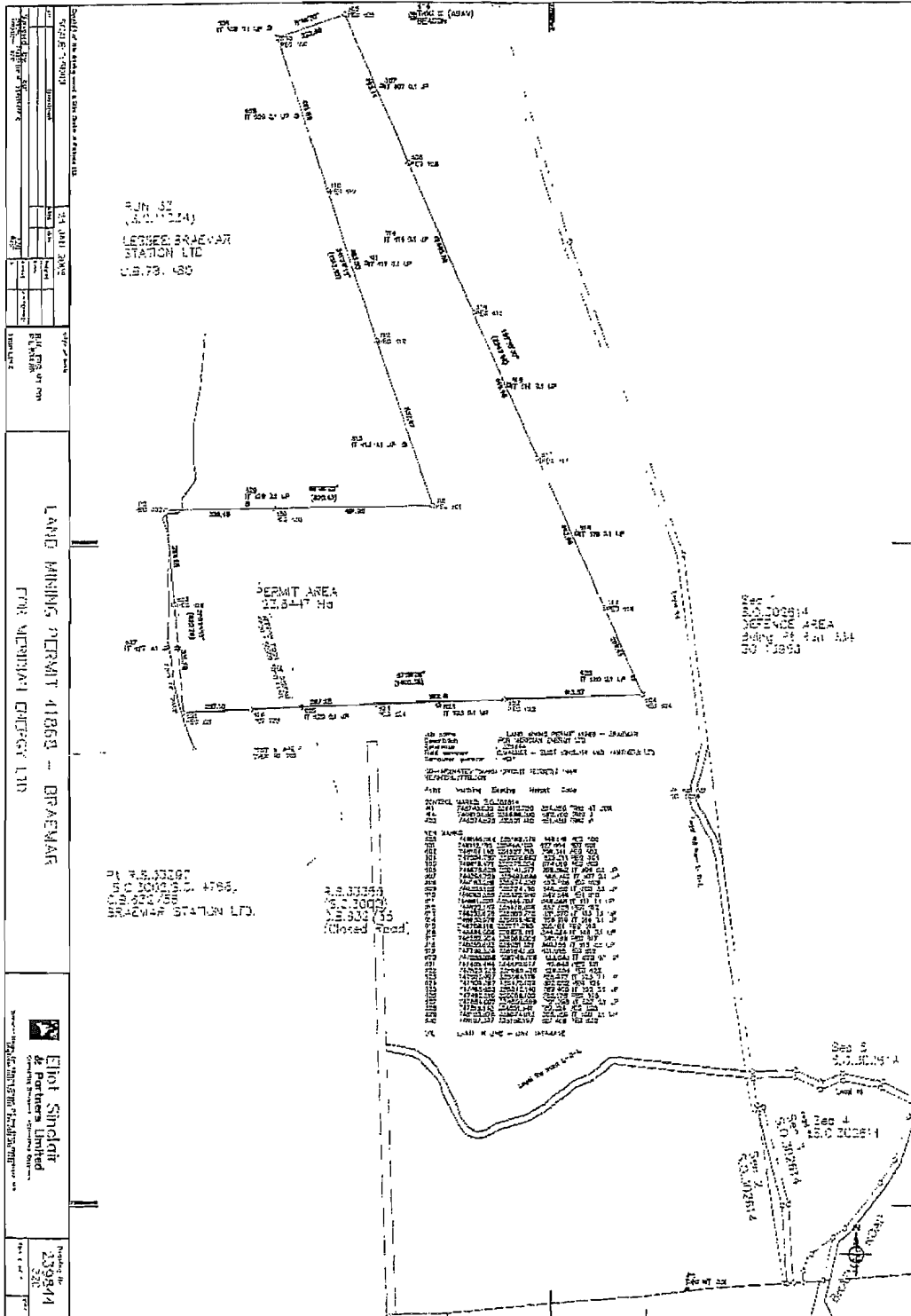
Removal of rock

27 Meridian shall at all times remain obliged to remove all rock extracted by Mining and left on the Land or Access Land, or on or at the lakeshore on or adjoining the Land, at its cost if any Authority or Court at any time requires such rock to be removed. This provision shall survive the termination of this Agreement. Meridian acknowledges that this provision (by reason of clause 1.1 and the definition of "Meridian") binds any successors or assigns of Meridian.

SCHEDULE 3 - ACCESS RIGHTS AND OBLIGATIONS

- 1 The Land Owner and the Lessee grant Meridian the right to access the Land, and the Lessee grants Meridian the right to access the Access Land, for the purpose set out in clause 2.1 of the Agreement.
- 2 Meridian may bring on to the Land and the Access Land any materials, equipment, vehicles and personnel.
- 3 When exercising its rights under this Schedule, Meridian will use all reasonable efforts to:
 - (a) cause as little interference as practical to the Land Owner and the Lessee, any other occupier of the Land, any crops or livestock and the farming operations on the Land; and
 - (b) promptly repair, or restore, in a proper and professional manner any damage caused to the Land (including any pasture) or the Access Land or any Improvements on the Land or the Access Land by Meridian.
- 4 Meridian may use its nominated employees, agents or contractors to perform any of its rights or obligations arising under the Agreement.
- 5 Meridian shall be responsible for obtaining any Consent. The Land Owner and the Lessee consent to Meridian making applications for any such Consent. The Land Owner and the Lessee authorise Meridian to notify any person considering or determining any application for such Consent that the Land Owner and the Lessee have consented to Meridian applying for the Consent and undertaking the work for which the Consent is applied for.
- 6 Meridian shall ensure that the operations are undertaken in accordance with all relevant health and safety legislation. Meridian shall erect temporary fencing where necessary to meet its obligations under this clause. Any such fencing shall enclose only the minimum practical area required and shall be removed by Meridian when it is no longer necessary. Meridian indemnifies the Land Owner and the Lessee for any costs incurred by the Land Owner and the Lessee because Meridian fails to meet its obligations under this clause.

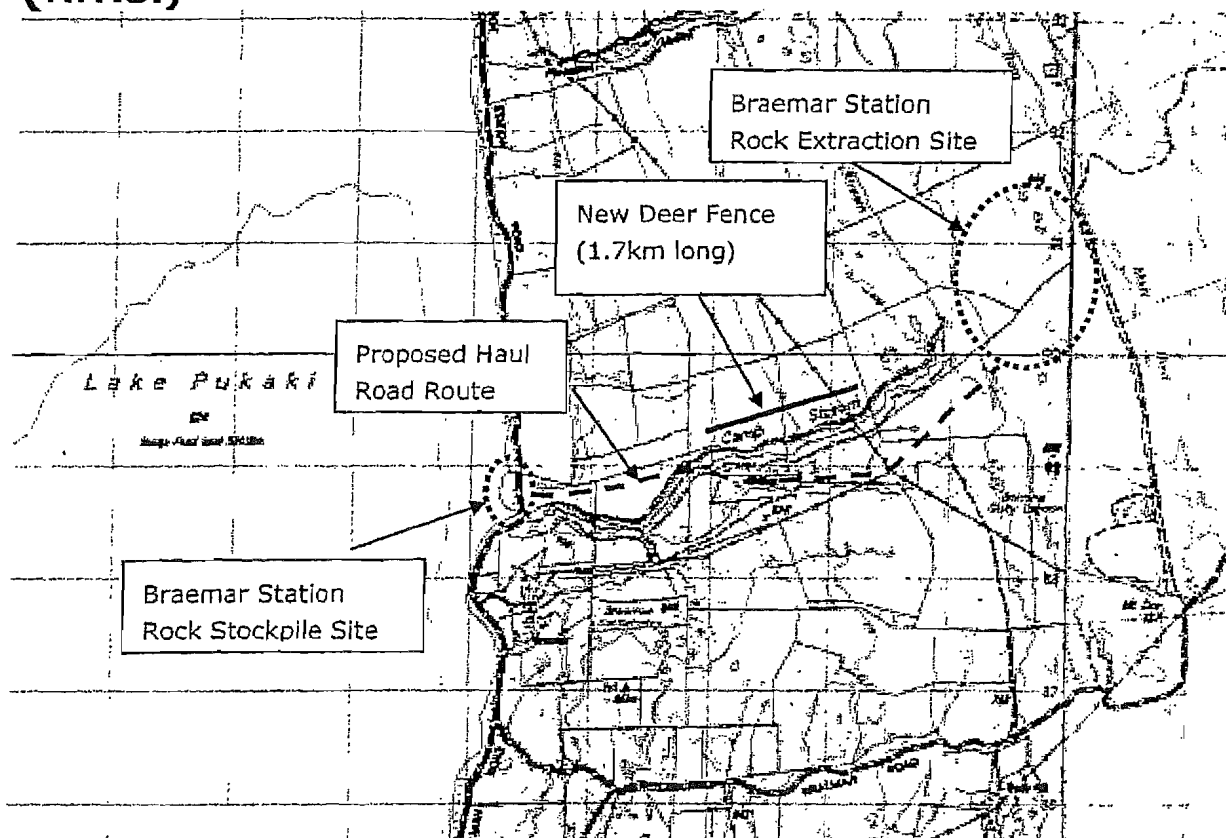
ANNEXURE 1 - PLAN OF LAND SHOWING POTENTIAL BORROW SITE





**ANNEXURE 2 - PLAN OF LAND SHOWING ACCESS LAND AND LOCATION OF
DEER FENCING TO BE CONSTRUCTED**

**Locality Plan
(N.T.S.)**



**Notice to Registrar-General of Land of access arrangement
for purposes of section 83(1) of Crown Minerals Act**

To the Registrar-General of Land

Meridian Energy Limited of 25 Sir William Pickering Drive, Christchurch, being the holder of **permit 41 868**, gives notice under section 83 of the Crown Minerals Act 1991 of an access arrangement (within the meaning of section 2(1) of that Act) with the following.

Land owner: Note: Her Majesty the Queen in right of New Zealand acting by and through the Minister for Land Information is separately granting an access arrangement as land owner to Meridian Energy Limited for mining purposes.

And

Land occupier: **Braemar Station Limited**

Description of land:

- 15,216.1801 hectares being Run 331 being comprised in Computer Interest Register CB7B/480; and
- That part of Rural Section 33277, Part Rural Section 33298, Rural Section 33355, Part Rural Section 33297, Part Rural Section 33306, Part Rural Section 33307 and Part Rural Section 33308 comprised in Computer Freehold Registers CB20A/1362, CB9F/1083 and CB632/55 within 50 metres either side of the dashed blue line marked "Proposed Haul Road Route" on the plan annexed to the access arrangement as Annexure 2.

Details of arrangement

Date access arrangement commenced: 7 March 2005

Duration of access arrangement: 10 years

Permit duration: 10 years commencing on 7 March 2005


Authorised signature

We being the persons authorised to sign on behalf of the permit holder declare that the information given in this notice is true and correct.

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Hamish Liddell Cuthbert, Senior Legal Counsel (RMA), of Christchurch, certify that:

- 1 By power of attorney dated 3 June 2008 (*Power of Attorney*), Meridian Energy Limited appointed each of the persons from time to time holding the office of Chief Executive, General Counsel, Assistant General Counsel, Senior Legal Counsel (RMA), Enterprise Services Director and Growth and Development Director, or such other office with the Company howsoever designated as may from time to time replace or succeed any such office (each being an *Attorney*) to be its attorneys to act jointly with at least one other attorney of Meridian Energy Limited (whether or not appointed under the Power of Attorney) on the terms and subject to the conditions set out in the Power of Attorney.
- 2 The Power of Attorney has been deposited with the Land Registry Office under number 7842142.1.
- 3 I am the Senior Legal Counsel (RMA) of Meridian Energy Limited.
- 4 At the date of this certificate I have not received any notice or information of the revocation of the appointment by the dissolution (however occurring) of Meridian Energy Limited or otherwise.
- 5 The annexed document will, on execution, comply with all conditions and restrictions set out in the Power of Attorney and I am authorised by the Power of Attorney to execute the annexed document.



Hamish Liddell Cuthbert
Senior Legal Counsel (RMA)

Date: 4 February 2009.

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Kenneth Alexander Smales, Growth and Development Director, of Christchurch, certify that:

- 1 By power of attorney dated 3 June 2008 (*Power of Attorney*), Meridian Energy Limited appointed each of the persons from time to time holding the office of Chief Executive, General Counsel, Assistant General Counsel, Senior Legal Counsel (RMA), Enterprise Services Director and Growth and Development Director, or such other office with the Company howsoever designated as may from time to time replace or succeed any such office (each being an *Attorney*) to be its attorneys to act jointly with at least one other attorney of Meridian Energy Limited (whether or not appointed under the *Power of Attorney*) on the terms and subject to the conditions set out in the *Power of Attorney*.
- 2 The *Power of Attorney* has been deposited with the Land Registry Office under number 7842142.1.
- 3 I am the Growth and Development Director of Meridian Energy Limited.
- 4 At the date of this certificate I have not received any notice or information of the revocation of the appointment by the dissolution (however occurring) of Meridian Energy Limited or otherwise.
- 5 The annexed document will, on execution, comply with all conditions and restrictions set out in the *Power of Attorney* and I am authorised by the *Power of Attorney* to execute the annexed document.



Kenneth Alexander Smales
Growth and Development Director

Date: 9/01/09