

Under the **FAST-TRACK APPROVALS ACT 2024**
In the matter of an application for resource consents for the Foxton Solar Farm
By **GENESIS ENERGY LIMITED**
Applicant

**MEMORANDUM OF COUNSEL FOR GENESIS ENERGY LIMITED IN
RESPONSE TO MINUTE 8 AND ACOUSTIC PEER REVIEW**

Dated: 7 July 2026

BUDDLE FINDLAY

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MAY IT PLEASE THE PANEL:

1. This memorandum of counsel is filed on behalf of Genesis Energy Limited (**Genesis**).
2. On 2 July 2026 the Panel issued Minute 8 which:
 - (a) addressed (and attached) a peer review of Genesis' acoustic assessment undertaken by Darran Humpheson of Tonkin + Taylor dated 1 July 2026 (**Peer Review**); and
 - (b) confirmed the Panel did not consider a hearing in relation to the Genesis' application to be necessary, with regard to s56 of the Fast-track Approvals Act 2024 (**FTAA**).
3. As directed at paragraph 3 of Minute 8, this memorandum provides Genesis' response to the Peer Review, including confirmation as to whether Genesis agrees or disagrees with Mr Humpheson's conclusions and recommended amendments to consent conditions.

Response to conclusions in Peer Review

4. Genesis is grateful for the thoughtful approach taken by Mr Humpheson in the Peer Review and for the time taken to consider the proposed consent conditions. As reflected in section 5 (Conclusion) of the Peer Review, Mr Humpheson generally endorses the approach taken by Genesis, noting:

Overall, we consider that the SLR assessment adopts a generally appropriate and suitably conservative methodology for assessing operational noise from the solar farm, BESS and associated electrical infrastructure. The assumptions that all major plant may operate simultaneously, including during the night-time period, provide an appropriate worst-case basis for assessment.

(...)

Subject to the recommended amendments to the proposed consent conditions, including requirements for a detailed design acoustic assessment, construction noise management, and post-commissioning verification, we consider that noise and vibration effects from the proposal can be appropriately managed and will be acceptable.

5. Genesis agrees with the conclusions reached by Mr Humpheson in section 5 of the Peer Review, subject to one minor point raised in relation to uncertainty around the presence of tonality at receiver locations. Genesis

has sought comment from one of its expert acoustic and vibration specialists, Peter Runcie of SLR, who has provided the following response:

A minor uncertainty was raised regarding potential tonality associated with the final plant selection. In our experience tonality is not likely. However, as the review notes, a review of the design prior to construction provides certainty on this matter and confidence to the panel and surrounding receivers that the outcome matches the assessment – and compliance with the limits set out in the conditions.

Response to recommended amendments to consent conditions

6. Genesis is comfortable with most of the recommended amendments to consent conditions, noting many of them appear largely to be refinements to the existing conditions as opposed to substantive changes.
7. However, Mr Humpheson's proposed condition **B10(a)** introduces an assessment element to the Construction Noise Management Plan (**CNMP**), which was intended as an instruction manual or plan for the contractor.
8. The inclusion of (a) is not supported by Genesis, and it is noted that Mr Humpheson did not consider this to be a necessary requirement for the CNMP. If the Panel is minded to include (a), Genesis asks that more specificity around which properties (a) is intended to apply to is included.
9. Genesis also notes that the proposed amalgamation of conditions **B19** and **B20** loses some of the intent of the two conditions, which allowed for separate acoustic modelling for the Battery Energy Storage System (**BESS**) if that were to be installed at a different time to the solar farm.
10. To address this, Genesis proposes the inclusion of the following wording at the end of condition **B19**, to allow for construction of a BESS as a second phase of the project:

If a BESS is installed at a different time to the rest of the solar farm, an acoustic report including the installed equipment and the BESS must be provided prior to construction of the BESS.

11. Otherwise, subject to minor consistency and consequential amendments, Genesis accepts Mr Humpheson's proposed amendments to the conditions. An updated version of the conditions is attached as **Appendix One**.

12. The changes proposed by Mr Humpheson are shown in blue underline or strike-through text, with additional changes proposed by Genesis shown in tracked change, accompanied by explanatory comment bubbles.

DATED 7 July 2026

A handwritten signature in blue ink, appearing to read 'D G Allen / E L Bennett / C A Easter', is positioned above a horizontal line.

D G Allen / E L Bennett / C A Easter
Counsel for Genesis Energy Limited

Appendix One: Foxton Solar Farm: Proposed conditions of consent

Response to Acoustic Peer Review

7 July 2026

Recommendations of the Peer Reviewer shown in blue underline and strikethrough. Amendments sought by the Application shown as [red] track change.

3. Abbreviations and definitions

The following abbreviations and definitions are relevant to all consent conditions.

Table 3: Abbreviations and definitions

Term	Definition
AMP	Avifauna Management Plan
Application	The information contained in the report prepared by SLR Consulting New Zealand, titled 'Fast Track Approvals Act Application Foxton Solar Farm', dated 13 February 2026, and the technical assessments and supporting reports submitted by the Consent Holder to the Environmental Protection Authority in support of its application for resource consents for the Project under the Fast-track Approvals Act 2024
ADP	Accidental discovery protocol
BESS	Battery Energy Storage System
CEMP	Construction Environmental Management Plan
Consent Holder	Means Genesis Energy Limited, its successor, or any person(s) acting under the prior written approval of Genesis Energy Limited or its successor
Construction	Refers to works associated with the development of the Project excluding Enabling Works and commissioning works
Completion of Construction	When construction of the Project (or the relevant part of the Project) is complete and available for use or commissioning.
CNMP	Construction Noise Management Plan
CSMP	Contaminated Soil Management Plan
CTMP	Construction Traffic Management Plan
Enabling Works	Works that may be undertaken prior to construction including geotechnical investigations, piling tests, site surveys or testing, site establishment (such as construction and/or upgrade of accesses, construction of laydown areas, establishment of site accommodation)
ESCP	Erosion and Sediment Control Plan
ERP	Emergency Response Plan
HDC	Horowhenua District Council
HDC's Engineering Standards	Horowhenua District Council Subdivision and Development Principles and Requirements 2014
HNZPT	Heritage New Zealand Pouhere Taonga
Identified Area	Area of land shown in Appendix B to these conditions where there may have been an old sheep dip.
LMP	Landscape Mitigation Plan
Māori Trustee	Has the meaning given in the Māori Trustee Act 1953
MWRC	Manawatū-Whanganui Regional Council

Commented [A1]: Consequential amendment

NZEC34:2001	New Zealand Electrical Code of Practice for Electrical Safe Distances 2001
NZTA	NZ Transport Agency Waka Kotahi
Operation/Operational	Means the period after which the Project is connected to the National Grid, fully commissioned, and generating power
Permanent Cessation	Means the point at which the solar farm has ceased exporting electricity to the distribution or transmission network and the Consent Holder does not intend to recommence operation, repower, repair, replace, or otherwise return the solar farm to operational use.
Project	The construction, operation, maintenance, and potential decommissioning of the Foxton Solar Farm
RMA	Resource Management Act 1991
Site	Means land within the site boundary as depicted on the General Layout plan shown in Appendix A to these conditions at approximate map reference NZTopo50 BM33 9831 2030 . For the avoidance of doubt, new lots created through the subdivision consent are considered to be internal to the site for the purposes of any condition relating to noise or dust emissions.
SSESC	Site Specific Erosion and Sediment Control Plan
SQEP	Suitably Qualified and Experienced Practitioner
Transpower	Transpower New Zealand Limited
Works area	In relation to detection of a native lizard(s) means a part of the Site that is, at the time, subject to land disturbing activities

4. Proposed conditions on consent

Part A – General conditions common to all consents

Management Plan Conditions

- A17. The Consent Holder must prepare the management plans set out in Table 4 for certification in writing by the relevant council in a technical certification capacity. The Consent Holder must prepare the management plans in accordance with the requirements of the relevant conditions and in general accordance with the Application.
- A18. The certification process must be limited to confirming that the management plan adequately gives effect to the relevant condition(s) and is generally consistent with the Application .

Table 4: Management plans

Management Plan	Regulatory Authority or 'Council'	Condition Reference	Documents to Council for Certification – Minimum Timeframe
Construction Environmental Management Plan (CEMP)	HDC & MWRC	A24	At least 20 working days before Construction or any land disturbing activities commence
Construction Traffic Management Plan (CTMP)	HDC	Error! Reference source not found.	At least 20 working days before Construction commences

Contaminated Soils Management Plan (CSMP)	HDC (for information) & MWRC (for certification)	Error! Reference source not found.	At least 20 working days before any land disturbing activities in the Identified Area and within 20 working days after any unexpected discovery of potentially contaminated soils
<u>Construction Noise Management Plan (CNMP)</u>	<u>HDC</u>	B10	<u>At least 20 working days before Construction commences</u>
Landscape Mitigation Plan (LMP)	HDC	Error! Reference source not found.	At least 20 working days before Construction commences
Erosion and Sediment Control Plan (ESCP)	MWRC	Error! Reference source not found.	At least 20 working days before any land disturbing activities commence
Emergency Response Plan (ERP)	HDC	Error! Reference source not found.	20 working days prior to the solar farm becoming operational
Avifauna Management Plan (AMP)	MWRC and HDC	Error! Reference source not found.	For information, within 6 weeks of exceeding a threshold trigger in Condition Error! Reference source not found.
Decommissioning Plan	HDC	Error! Reference source not found.	Within 6 months of Permanent Cessation

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A19. If the relevant council's response is that it cannot certify a management plan, the Consent Holder must consider any reasons provided by the relevant council for that position and any associated recommendations of the relevant council and must resubmit an amended management plan for certification.

A20. Construction activities must not commence until the CEMP, CNMP and CTMP have been certified. Soil disturbing activities must not commence until the CEMP and ESCP, and if relevant the CSMP, have been certified.

Commented [A3]: Consequential amendment

A21. Any changes proposed to a management plan must be confirmed in writing by the Consent Holder and certified in writing by the relevant council acting in a technical certification capacity, prior to the implementation of any changes proposed. Any such amendment must be in accordance with the requirements of the relevant conditions and in general accordance with the application documents as detailed in Condition **Error! Reference source not found.**

A22. All activities must be undertaken in accordance with all relevant certified management plans.

A23. All certified management plans listed in Table 4, including any updates, must be provided to Ngā Hapū o Himatangi.

Construction Environmental Management Plan

A24. At least **twenty (20) working days** prior to commencing activities authorised by this resource consent (excluding any Enabling Works), the Consent Holder must provide HDC and MWRC's Consents Monitoring Team with a CEMP for technical certification.

A25. The purpose of the CEMP is to develop measures and processes to manage and minimise the adverse effects of Construction. The CEMP must include but not be limited to:

- a. a final construction methodology including stages, duration, and overall project timeline;
- b. identification of key personnel and contact details;
- c. hours of operation;
- d. proposed construction lighting;
- e. a complaints management procedure in compliance with Conditions **Error! Reference source not found.** and **Error! Reference source not found.**;
- f. a methodology to achieve compliance with Conditions B8 to B10;
- g. A Spill Management Plan including but not limited to the following information:
 - i. Contact details of the person(s) responsible for responding to any spills;
 - ii. Potential sources of contaminants from the site and the proposed works; and
 - iii. The proposed response/remedial procedures and related timeframes;
- h. emergency response controls and incident management specific to the construction phase of the project;
- i. a copy of the CTMP required by Condition **Error! Reference source not found.**;
- ~~j.~~ a copy of the CNMP required by Condition B10;
- ~~j.~~ k. a copy of the ESCP required by Condition **Error! Reference source not found.**;
- ~~k.~~ l. a copy of the ADP for the Project;
- ~~l.~~ m. management controls to manage dust;
- ~~m.~~ n. machinery wash-down protocols to ensure machinery is cleaned prior to entering the site to avoid spreading invasive species; and
- ~~n.~~ o. detail of cultural awareness and cultural induction requirements for all contractors and project personnel working on the site.

Commented [A4]: This is now captured by the CNMP

Commented [A5]: Consequential amendment

A26. In addition to the matters listed in Condition A25, for any works within the National Grid corridor the CEMP must:

- a. demonstrate (using construction drawings/plans and descriptions of procedures, methods and measures) that all construction activities undertaken on the site will meet the safe distances within the NZECP34: 2001 or any subsequent revision of the code; including (but not limited to) those relating to:
 - i. excavation and Construction near Towers (Section 2 NZECP34:2001);
 - ii. building to conductor clearances (Section 3 NZECP34:2001);
 - iii. ground to conductor clearances (Section 4 NZECP34:2001);
 - iv. mobile Plant to conductor clearances (Section 5 NZECP34:2001); and
 - v. people to conductor clearances (Section 9 NZECP34:2001);
- b. include details of any areas that may be "out of bounds" during construction and/or areas within which additional management measures are required, such as fencing off, entry

and exit hurdles, maximum height limits, or where a safety observer may be required (a safety observer will be at the Consent Holder's cost);

- c. demonstrate (using either construction drawings/plans and/or descriptions of procedures, methods and measures) how the existing transmission lines and support structures will remain accessible during and after construction activities;
- d. demonstrate how the effects of dust (including any other material potentially resulting from construction activities able to cause material damage beyond normal wear and tear) on the transmission lines will be managed;
- e. demonstrate how changes to the drainage patterns, runoff characteristics and stormwater will avoid adverse effects on the foundations of any support structure;
- f. demonstrate how construction activities that could result in ground vibrations and/or ground instability will be managed to avoid causing damage to the transmission lines, including support structures; and
- g. provide details of proposed contractor training for those working near the transmission lines.

A27. The CEMP must be provided to Transpower for comment in respect of the National Grid at least **ten (10) working days** prior to submission to HDC. The CEMP must be provided to Transpower via Patai Form 5 'Submit a Management Plan' – <https://transpower.patai.co.nz>. Any comments received within **ten (10) working days** must be documented along with a clear explanation of where any comments have not been incorporated and the reasons why.

A28. The CEMP may be amended without the need for certification where the amendment is administrative, including changes to nominated personnel.

Part B – District Council Consent Conditions (construction and operation)

Construction noise and vibration

B8. [Noise from construction activities must be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise. Construction activities must be managed to achieve the construction noise limits in Table 5 as far as practicable. Where those limits cannot practicably be achieved, construction noise effects must be managed in accordance with thea certified Construction Noise Management PlanCNMP. Noise arising from construction activities must as far as practicable comply with, and be measured and assessed under, New Zealand Standard NZS 6803: 1999 "Acoustics – Construction Noise":](#)

Table 5: [Construction noise limits adopted for this project, based on Table 2 of NZS 6803:1999 Summary of Construction Noise Limits \(Table 2 of New Zealand Standard NZS 6803: 1999 "Acoustics – Construction Noise"\)](#)

Timeframe		Noise Limit at neighbouring dwellings	
		L _{Aeq}	L _{AFMax}
Weekday	6.30 am to 7.30 am	55dB	75dB
	7.30 am to 6.00 pm	70dB	85dB
	6.00 pm to 8.00 pm	65dB	80dB
	8.00 pm to 6.30 am	45dB	75dB
Saturdays	6.30 am to 7.30 am	45dB	75dB
	7.30 am to 6.00 pm	70dB	85dB
	6.00 pm to 8.00 pm	45dB	75dB
	8.00 pm to 6.30 am	45dB	75dB
Sundays and public holidays: No construction works to be undertaken			

Commented [A6]: Consistency

B9. Impact piling must be undertaken only between 7:30am and 6:00pm, Monday to Friday. only occur on Monday to Friday between 7.30am and 6.00pm.

B10. At least twenty (20) working days prior to commencing activities authorised by this resource consent (excluding any Enabling Works), the Consent Holder must provide HDC with a CNMP prepared by a SQEP, for technical certification. any construction commencing on site, a Construction Noise Management Plan (CNMP) shall be prepared by a suitably qualified and experienced acoustic consultant and submitted to Council for certification that it satisfies this condition and addresses. The purpose of the CNMP is to develop measures and processes to manage and minimise the adverse effects of construction noise. The CNMP must address, as a minimum, the measures identified in Annex E of NZS 6803:1999. The CNMP shall additionally and must include but not be limited to:

- predicted noise levels 1 metre from the façade of occupied dwellings for each phase of construction, based on the plant and methodology proposed;
- the proposed piling rig model and either measured sound levels from installation of piles of a similar size, or manufacturer's sound power level data;
- details of mitigation measures to be applied where predicted levels exceed the applicable limits of Condition B8; and
- written communication with the occupiers of all dwellings within 150 metres of proposed piling works, at least 10 working days prior to those works commencing, setting out a brief overview of the works, the working hours and expected duration, the mitigation measures to be implemented, and the procedure for recording and responding to noise complaints

The CEMP will include measures that can be utilised if required to reduce noise levels at sensitive receivers in line with New Zealand Standard NZS 6803:1999 "Acoustics – Construction Noise" so that compliance with this standard is achieved. The CEMP shall provide practical noise management and mitigation measures that can be implemented where required to address construction noise at sensitive receivers within 150m of the site boundary.

B11. Vibration from construction activities must at all times comply with the vibration limits set out in German Standard DIN 4150-3:2016-12 "Vibrations in buildings - Part 3: Effects on structures". DIN 4150-3:1999 "Structural vibration – Part 3: Effects of vibration on structures".

Operational noise

B18. The noise rating level generated by the operation of the solar farm must comply with the following noise limits when measured and assessed at or within the property boundary of surrounding properties:

Table 6: Operational noise limits

Period	Location	Noise level
Daytime: 7.00am – 7.00pm	Boundary of any adjoining site	55 dB L _{Aeq} (15min)
Evening: 7.00 pm – 10.00pm	Boundary of any adjoining site	50 dB L _{Aeq} (15min)
Nighttime: 10.00pm – 7.00am	Boundary of 449 Wall Road	45 dB L _{Aeq} (15min) 65 dB L _{Amax}
	Boundary of any other adjoining site	40 dB L _{Aeq} (15min) 65 dB L _{Amax}

Commented [A7]: Amendments for consistency with other management plan conditions

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Commented [A8]: B10 a) introduces an assessment element into the CNMP, which is meant to act as a plan for the contractor (which the other proposed parts of B10 do). This requirement is also not stated as necessary by the reviewer as the review comments that the modelling done is conservative. If this is to be included, it should specify which dwellings must be considered (eg dwellings within 150m of works)

Advice note: Noise levels must be measured and assessed following NZS 6801:2008 "Acoustics – Measurement of Environmental Sound" and NZS 6802:2008 "Acoustics – Environmental Noise" (or any subsequent replacement standard).

- B19. ~~No later than~~ At least six (6) weeks prior to commencing activities authorised by this resource consent (excluding any Enabling Works) the commencement of construction of the solar farm and BESS, where applicable, the Consent Holder must provide Council HDC with an acoustic assessment prepared by a suitably qualified and experienced acoustic consultant SQEP. The acoustic assessment must demonstrate that the final selected plant and final layout of the solar farm and BESS, where applicable, will comply with the noise limits in Condition B18, including any adjustment for special audible characteristics required under NZS 6802:2008 "Acoustics – Environmental Noise".

The assessment must include, as relevant:

- a. the sound power levels and frequency spectra of all significant electro-mechanical plant, including inverters, BESS units and the substation transformer;
- b. the cumulative operational noise level from all relevant electro-mechanical plant;
- c. confirmation of any equipment selection, layout, orientation, screening, operating controls or other mitigation measures to be incorporated into the design or operation of the activity; and
- d. if a BESS is to be installed, confirmation that either:
 - i. an acoustic barrier or earth bund with a minimum height of 3 m above BESS ground level will be constructed on the northern side of the BESS, generally in accordance with Figure 3 of the Acoustics Assessment lodged with the Application; or
 - ii. alternative acoustic mitigation, or no acoustic barrier, is appropriate because the acoustic assessment demonstrates that the noise limits in Condition B18 will be complied with.

The activity must be constructed and operated in accordance with the mitigation measures confirmed in the acoustic assessment.

If a BESS is installed at a different time to the rest of the solar farm, an acoustic report including the installed equipment and the BESS must be provided prior to construction of the BESS.

~~Prior to the operation of the solar farm, including if any central inverters or transformers are to be located closer than 150m to any adjoining site boundary, an acoustic assessment of the equipment must be undertaken by a SQEP to confirm compliance with the noise standards in Condition B18. A copy of this acoustic assessment must be provided to HDC upon request.~~

~~**Advice note:** The 150m setback does not apply to string inverters or Smart Transformer Stations; however, the noise levels in Condition B18 must still be met.~~

- B20. ~~If a BESS is installed on Site, then prior to operation of that BESS the Consent Holder must either:~~

- a. ~~construct an acoustic barrier with a minimum height of 3m above BESS ground level between the BESS and substation as shown in Figure 3 of the Acoustics Assessment lodged with the Application, or~~
- b. ~~undertake an acoustic assessment to demonstrate that the noise standards in Condition B18 can be met without constructing the acoustic barrier or with an amended acoustic mitigation measures. A copy of this acoustic assessment must be provided to HDC upon request.~~

Commented [A9]: Amendments for consistency with other management plan conditions

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Commented [A10]: To allow for construction of a BESS as a second phase of the project

B21. Within the first period of October to March following completion of commissioning of the solar farm, the Consent Holder must engage a SQEP to monitor noise emissions from the Site to assess compliance under Condition B18. Compliance measurements must occur for a continuous monitoring period of no less than one (1) month. The measurements must be performed:

- a. subject to the approval of HDC, on Wall Road and within a 100 m radius of the location marked "45" on Appendix C-1 "*Predicted Highest Operational Noise Level Scenario 1 – All Noise Sources*" to Appendix R: Acoustic Assessment; and
- b. at two (2) other representative locations at the site boundary.

B22. A report detailing the monitoring outcome under Condition B21 must be provided to HDC within **twenty (20) working days** of the monitoring period being completed. The report must:

- a. present measured noise levels and demonstrate compliance with the limits in Condition B18;
- b. assess whether any special audible characteristics (SACs) are present in accordance with NZS 6801:2008 and NZS 6802:2008;
- c. where SACs are identified, apply the appropriate adjustments to derive Rating Levels; and
- d. confirm compliance with the relevant noise limits, taking into account any applicable SAC adjustments.

B23. If the BESS is installed after the noise compliance monitoring required under Condition B21, the requirements of Condition B21 must be repeated during the period of October to March following the installation of the BESS.

[NEW] If the noise limits in Condition B18 are not achieved following the post commissioning verification required by Condition B21, the Consent Holder must notify ~~Council~~HDC and implement mitigation measures to achieve compliance with Condition B18. The mitigation measures must be implemented as soon as practicable and no later than **eight (8) weeks** after the non-compliance is identified, unless otherwise agreed in writing with ~~Council~~HDC. Following completion of the mitigation measures, the compliance measurements required by Conditions B21 and B22 must be repeated and an updated report provided to ~~Council~~HDC.

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