

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 PROVIDING
APPLICANT'S RESPONSE TO COMMENTS ON THE DRAFT CONDITIONS**

7 August 2026

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MAY IT PLEASE THE PANEL:

1. This memorandum of counsel on behalf of Genesis Energy Limited (**Genesis**) is filed in response to the eight comments made on the draft conditions.
2. Genesis acknowledges all the comments on the draft conditions and the time taken by those who provided comments. In reviewing the comments Genesis has been mindful that there is no statutory right for any party to comment on the draft decision itself.¹
3. Genesis' responses to comments on the draft conditions from the following parties are set out in a summary table in **Appendix One** to this memorandum:
 - (a) Manawatū-Whanganui Regional Council (**Horizons**);
 - (b) Heritage New Zealand Pouhere Taonga (**HNZPT**);
 - (c) the Department of Conservation (**DOC**);
 - (d) Te Tumu Paeroa Office of the Māori Trustee (**Te Tumu Paeroa**); and
 - (e) Kerry Sketcher.
4. The New Zealand Transport Agency and Ngā Hapū o Himatangi confirmed they have no comments on or suggested changes to conditions.
5. Lewis Shailer reiterated his opposition to the Project and raised concerns with the draft decision but did not make any specific condition suggestions. Genesis does not provide any specific response to these comments. However, Genesis acknowledges Mr Shailer's engagement with the Project.
6. Genesis would like to acknowledge the efforts made by the Panel and the assistance of the Environmental Protection Authority in getting to this stage of the process.

Dated this 7th day of August 2026



David Allen / Esther Bennett / Chelsea Easter
Counsel for Genesis Energy Limited

¹ See for example the Panel's comments in the decision on the [Waitaha Hydro Scheme](#) at [113]–[123] (acknowledging that the Panel has discretion under s 81(6) and sch 3 cl 10(1) to consider late information).

APPENDIX ONE: GENESIS' RESPONSE TO COMMENTS ON DRAFT CONDITIONS

Condition(s)	Summary of comment(s)	Genesis' response
Horizons²		
Various ³	Correction of cross-references and typos.	Support subject to footnote 2 below.
Various ⁴	Clarification, consistency and/or simplification.	Support.
Tables 1 and 2	Addition of wording to capture land use consent required for fencing, planting and cabling near the Flood and Drainage Control drain in resource consent RC2.	Support.
Table 3 definition of 'Enabling Works' and C18 and C19	Either an amendment to the definition of Enabling Works or amendments to conditions so that land disturbance, vegetation clearance and deposition of cleanfill that may otherwise fall under the current definition of Enabling Works	Support with amendment. Genesis considers that the simplest solution would be to add the following to the definition of Enabling Works: <i><u>For the purposes of the conditions in Part C, Enabling Works does not include any site establishment works that require land disturbance, vegetation clearance or the discharge of cleanfill to land.</u></i>

² Horizons' comments on the conditions have mistakenly deleted the numbers from what are conditions A29 and C3. **From condition A29 to the end of Part A and condition C3 to the end of Part C Horizons' numbering is one less than the Panel. The numbering from the Panel's draft conditions has been used in this table.**

³ Including conditions A1.B, A16 and Table 4.

⁴ Including Table 2, Part C; and conditions A6, A7, A15(g), A16, A20, A23A, A25(l), A28, A30, A31(c), A33, B15, B25, B27, B27A, B28, C2, C8, C9 and C16.

Condition(s)	Summary of comment(s)	Genesis' response
	are not excluded from the Part C conditions.	If the change to definition is made, the changes to the introduction of Part C and conditions C17 and C18 are not required (but other changes from "soil disturbance" to "land disturbance, vegetation clearance or discharge of cleanfill" in the Part A conditions should still be made to align with the consents sought).
A14	Inclusion of a timeframe to enable certainty in assessment compliance against the condition.	Support with amendment. Agree with the intent (to enable certainty in assessing compliance); however, requiring notification within 10 working days of the website being established causes potential interpretation challenges. Genesis already has a Project website and the information required by condition A12 will be added over time as it becomes available. As an alternative, Genesis suggests linking to commencement of construction: <i>The Consent Holder must notify adjoining landowners, the Māori Trustee, Ngā Hapū o Himatangi, HDC and MWRC as soon as reasonably practicable <u>but at least no more than 10 working days prior to commencing construction activities</u>, once the website, or equivalent virtual information source has been established.</i>
Table 4 at A17 (ESCP and SDESCP) and C1	Inclusions of a timeframe for provision of any SDESCP to ensure certainty on when this needs to be provided.	Support with amendment. The conditions should provide a timeframe for provision of an SDESCP. As an SDESCP may apply to an area of works or a stage of works (and therefore an SDESCP may apply to land that is already disturbed), Genesis considers that more appropriate wording would be:

Condition(s)	Summary of comment(s)	Genesis' response
		<i>At least 20 working days before any land disturbing activities commence <u>for ESCP and at least 10 working days prior to commencing relevant land disturbance in a specified area for SSESCP</u></i>
A23A	Increase from five to ten working days to enable sufficient time for review and comment.	Support with amendment. Genesis is comfortable with Horizons having 10 working days to provide comments, consistent with the time allowed for other parties in Condition B15. The other amendment requiring Horizons to provide comments is ultra vires. An alternative would be to use the same drafting as Condition B15: <u><i>A draft of the LMP must be provided to MWRC for comment in respect of wetland planting at least ten (10) working days prior to the LMP being submitted to HDC for written certification or recertification.</i></u> Alternatively, as noted against condition B15 below, conditions A23A-A23D could be incorporated into B15, which may assist with workability during implementation. Possible drafting is provided below.
A25(b) and (c) and 'construction'	Query whether use of the word "construction" in (b) and (c) could inadvertently exclude Enabling Works.	Oppose. Conditions A25(b) and (c) do not need to be read as being restricted to the defined (and capitalised) term. Alternatively, the word construction could be deleted in the three locations without changing the meaning of the condition.
B15(p)	Require the LMP to include a summary of comments received on the LMP from MWRC and responses to comments in	Support with amendment.

Condition(s)	Summary of comment(s)	Genesis' response
	accordance with Conditions A23A-A23D.	The primary purpose of the wetland planting is to assist the Project to integrate into the surrounding area therefore there is no need to specifically reference wetland planting. Agree that the LMP should include a register of comments and responses from Horizons but proposed B15(o) duplicates A23B, A23C and A23D. As an alternative, incorporating conditions A23A-A23D into B15 may assist with workability during implementation: <i>B15. 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 LMP for written technical certification. The purpose of the LMP is to assist the Project to integrate into the surrounding area and to screen surrounding properties and roads from glint or glare and to provide for wetland planting. A draft of the LMP must be provided to neighbouring landowners, including those affiliated with the owners of 187 Motuiti Road, and the Māori Trustee and Transpower in respect of the National Grid, for comment in relation to planting along their relevant property boundary(s) at least ten (10) working days prior to the LMP being submitted to HDC. <u>A draft of the LMP must be also provided to MWRC for comment in respect of wetland planting at least ten (10) working days prior to the LMP being submitted to HDC.</u> The LMP must be in accordance with on the Proposed Mitigation & Enhancement plan included as Appendix G2 of the Substantive Application except that:</i> ... <i>o. a register of any comments received on the LMP within ten (10) working days of its provision under Condition B15 from neighbouring landowners, including those affiliated with 187 Motuiti Road, the Māori Trustee or Transpower <u>and from MWRC in respect of wetland planting</u> along with a clear explanation of where any comments have not been incorporated and the reasons why; and...</i>

Condition(s)	Summary of comment(s)	Genesis' response
		<u>B16B.</u> <u>A copy of the certified LMP must be provided to MWRC for their information.</u>
C1(h)	Suggested wording change to ensure that dust nuisance monitoring is considered for all stages of the project that may produce dust.	Oppose. Consent only applies to construction.
C1, including (j) and (l)(ii)	Various additions and changes.	Support. However, in the body of condition C1 Genesis seeks the amendment below to correct a typo and reflect that an SSESCP may apply to a new stage of works in an area where works have already occurred: <u>Any SSECPs SSESCPs must be prepared and</u> submitted for written technical certification <u>10 working days prior to commencing works in that area or stage.</u>
HNZPT		
A10	Distinguish 'Site' (as defined in Table 3) from 'suspected archaeological site' / 'suspected site' to remove ambiguity.	Support.
DOC		
Various ⁵	Additional or different requirements.	Oppose on the basis that: DOC could have sought that amendment in its s 53 comments but did not;

⁵ Including Table 4 at A17 (AMP), A33, B24, B25, B26, B27, B28, B29. For condition B24, Genesis has sought changes as set out in its comments on the draft conditions on 4 August 2026.

Condition(s)	Summary of comment(s)	Genesis' response
		• there is no technical evidence supporting the amendment sought; • the Panel has made its decision on the matter; • it is more onerous than necessary; and/or • the condition is certain and/or clear enough already.
C6(c)	Addition of "avoidance of" for clarity.	Support.
Te Tumu Paeroa		
N/A	Seeks that the Panel reconsider adopting the consent conditions on stormwater and flood risk that Te Tumu Paeroa proposed in its s 53 comment. ⁶	Oppose on the basis that the Panel has made its decision on this matter. ⁷ There is no legal basis to revisit that decision at this point in the process. ⁸
Kerry Sketcher		
B9A(a)	Replace 150m with 180m on the basis that it is unclear if her dwelling/property will fall within 150 metres of proposed piling.	Oppose on the basis that Genesis maintains its position as set out in its comments on the draft conditions that conditions B9A and B9B should be deleted. ⁹ However, if condition B9A(a) is retained by the Panel, Genesis does not oppose replacing 150m with 180m.

⁶ [Section 53 comment from Te Tumu Paeroa](#) at Appendix B.

⁷ Draft decision at [397]–[398]. The Panel did not impose the stormwater and flood risk conditions sought by Te Tumu Paeroa.

⁸ If the Panel were to disagree, Genesis maintains its position (as set out in its response to comments) that there is no resource management justification for including conditions around stormwater and flood risk management. See [Genesis Energy Limited response to comments](#) at [26(b)].

⁹ [Genesis Energy Limited comments on the draft conditions](#) at [12]–[14].

Condition(s)	Summary of comment(s)	Genesis' response
B10(a) and (d)	Replace 150m with 180m on the basis that it is unclear if her dwelling/property will fall within 150 metres of proposed piling.	Support. Condition B10(a) and (d) were added in Genesis' response to comments and by the Panel. Therefore, Kerry Sketcher did not have the opportunity to comment on those provisions in her s 53 comment.