

Appendix 1: Proposed Conditions

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Attachment 4: Draft conditions

~~Revised as per Expert Evidence~~ Tracked changes to version appended to evidence of Ms Kelly dated 9 February 2023

Dated: ~~9th~~ 27 February 2023.

General

1. That the proposed activities shall proceed in general accordance with the information and plans submitted with the application, except where otherwise stated in the conditions of this consent, including the following documents and plans:
 - 1.1 *'Brookside Solar Array, Application for Resource Consent and Assessment of Environmental Effects'*, prepared for KeaX Limited, dated 9th March 2022 (as amended 12 August 2022), by Boffa Miskell Limited
 - 1.2 *'Brookside Solar Farm'*, (Report Number: AC22245-01-R1), prepared by acoustic engineering services, dated 12 August 2022.
 - 1.3 *'Brookside Solar Farm Landscape and Visual Effects Assessment'*, prepared by Boffa Miskell Limited, dated 9 March 2022.
 - 1.4 *'Appendix 2 Brookside Solar Farm Graphic Supplement'*, prepared by Boffa Miskell Limited, dated February 2022.
 - 1.5 *'Brookside Solar Array - Ecological Impact Assessment Memo'*, prepared by Boffa Miskell Ltd, dated 14 December 2021.
 - 1.6 *'Brookside Solar Farm' Site Plan*, prepared by Boffa Miskell Ltd, dated August 2022. Revision 3.
 - 1.7 *'Proposed Solar Farm Selwyn' Geotechnical Report*, prepared by Tonkin and Taylor for KeaX Ltd, dated December 2021.
 - 1.8 *'Solar Photovoltaic Glint and Glare Study'*, prepared by Pager Power, dated August 2022.
 - 1.9 *Letter from Boffa Miskell to Selwyn District Council, Response to request for further information, dated 10 May 2022.*
 - ~~1.8~~ 1.10 *Letter from Boffa Miskell to Selwyn District Council, Response to request for further information, dated 12 August 2022.*

Review

2. The SDC may, under sections 128 and 129 of the Resource Management Act 1991 (Act), initiate a review of any or all conditions of this resource consent on the first, second and third anniversary of the commencement of the consent and every three years after that, for the duration of the resource consents. Any such review of conditions shall be for the purposes of:
 - 2.1 responding to any adverse effect on the environment which may arise from the exercise of the consent and which it is most appropriate to deal with at a later stage; or

- 2.2 dealing with any unanticipated adverse effects on the environment which may arise from the exercise of the consent, which it is appropriate to deal with at a later stage; or
- 2.3 ensuring that the conditions are effective and appropriate in managing the effects of the activities authorised by these consents.

Management Plans

3. The Consent Holder shall prepare the following management plans for certification by ~~by~~ SDC. The Consent Holder shall prepare the management plans in accordance with the requirements of the relevant conditions and in general accordance with the application documents:
- 3.1 Construction Management Plan;
 - 3.2 Construction Traffic Management Plan;
 - 3.3 Construction Noise and Vibration Management Plan;
 - 3.4 Sediment Control Plan (which will incorporate Dust Management Plan);
 - 3.5 Landscaping Management Plan;
 - 3.6 Operational Management Plan;
 - 3.7 Health and Safety Management Plan;
- ~~3.8~~ _____

4. The Consent Holder shall provide SDC with a copy of the Fire Response Plan prepared under the Fire and Emergency New Zealand Act 2017.

- ~~4.5~~ The Consent Holder shall ensure that all management plans are prepared by a suitably qualified and experienced person (SQEP).
- ~~5.6~~ The Consent Holder must comply with all certified management plans.

Management Plan Certification

- ~~6.7~~ The Consent Holder shall submit the above management plans to SDC in accordance with the timeframe specified in [TBC]. All relevant works must not commence until the relevant management plan(s) are certified.

- ~~7.8~~ The certification process shall be limited to confirming that the Management Plan has been prepared in accordance with the relevant conditions(s) and will achieve the objectives of the Management Plan.

- ~~8.9~~ If the Consent Holder has not received a response from SDC within twenty (20) working days of the lodgment of any management plan, the relevant management plan shall be deemed to be certified.

- ~~9.10~~ If the SDC response is that they are not able to certify the management plan, the Consent Holder shall consider any reasons or recommendations provided by SDC and resubmit an amended Management Plan for certification.

Commented [CK1]: This should be a Fire Response Plan prepared under different legislation and provided to FENZ. Happy to provide to SDC but not for certification.

~~40.11.~~ If the Consent Holder has not received a response from SDC within ten (10) working days of the date of resubmission under Condition 9 above, the management plan will be deemed to be certified.

Amendments to Management Plans

~~44.12.~~ The Consent Holder may make amendments to the above Management Plans that are consistent with the objectives and performance requirements of the management plan and relevant consent conditions. The Amended Management Plan shall be submitted to SDC for certification in accordance with Conditions 6-10, and all relevant works must not begin until the plan is certified.

~~42.13.~~ If the SDC response is that they are not able to certify the Management Plan, the Consent Holder shall consider any reasons or recommendations provided by SDC and resubmit an amended Management Plan for certification.

Landscape Management

~~14.~~ At least 30 working days prior to the commencement of ~~landscaping the~~landscaping, the Consent Holder shall submit to SDC for certification a Landscape Management Plan (LMP). The objective of the LMP is to direct the details of planting around the external boundaries of the site such that, once established, the boundary planting:

14.1 is four (4) metres in height and three (3) metres in width;

14.2 screens the solar array when viewed externally to the site; and

14.3 prevents any glare from the solar array from escaping onto neighbouring properties or roads.

~~43.15.~~ The LMP shall include (but not be limited to):

~~43.4~~15.1 Identification of planting zones in accordance with the approved Site Plan (Dated August 2022), Figure 3 of the Landscape and Visual Assessment Graphic Supplement dated February 2022 and the recommendations in the Visual and Landscape Assessment (dated XXXX) and to address Conditions ~~44, 16, 17, 18 and 19~~16 - 26 below];

~~43.2~~15.2 For each planting zone, details of species, spacing, size and planting;

~~43.3~~15.3 Timeline for planting works;

~~43.4~~15.4 Details of site preparation and maintenance required for plant establishment;

~~43.5~~15.5 The location and design of fencing of the Site;

15.6 Details of ongoing maintenance including weed control management and monitoring;

15.7 Details of the method and frequency of monitoring the health of the plants to ensure their health and survival.

~~43.6~~

~~44.16.~~ _____

All landscaping shall be implemented and maintained in accordance with the certified management plan required under Condition 13.

~~46.17.~~ _____ The Consent Holder shall take all reasonable measures to ensure that existing heritage trees identified in AEE set out in Condition 1 as being recommended for retention, are protected from damage during construction.

~~47.18.~~ _____ The Consent Holder shall retain all existing Site boundary shelterbelts and vegetation, with the exception of:

- (a) ~~the shared Site boundary with 180 Grahams Road, where the exotic shelterbelt shall be removed and replaced with a 3m wide indigenous buffer planting (as part of the Stage 1 works). The clearance shall occur outside of the main bird breeding season (September – January) to avoid any risk of impacts to nesting indigenous birds.~~

the planting along Branch Drain Road, where the existing vegetation will be removed once the new indigenous planting has achieved a height of 2m.

Commented [CK2]: TBC with the owner of 180 Grahams Road.

~~19.~~ The Consent Holder shall plant an additional rows of:

~~19.1 evergreen, exotic species along the boundary with 324 Branch Drain Road (Lot 1 DP 81783), set back 10 metres from the water race; and~~

~~19.2 3m wide indigenous buffer planting works along with boundary with 180 Grahams Road (RS9933); prior to the Stage 1 construction works commencing.~~

(b) _____

~~48.20.~~ _____ The Consent Holder shall ensure that all shelterbelt planting is 2 metres in height and 3 metres in width:

~~20.1 along Buckleys Road (the northern boundaries boundary of Lot 2 DP 54392, Lot 1 DP 7545, RS 8955 and Lot 2 DP 387576));~~

~~20.2 adjacent to or within 10m of Branch Drain Road.~~

~~-Prior to Stage 1 construction works commencing.~~

~~44.2 along Buckleys Road (the northern boundaries of Lot 1 DP 7545, RS 8955 and Lot 2 DP 387576) prior to Stage 2 construction works commencing.~~

~~44.3 adjacent to or within 10m of Branch Drain Road prior to Stage 1 construction works commencing.~~

~~21.~~ The planting along the boundary with Branch Drain Road, and along the boundary with Lot 1 DP 37121 and Lot 1 DP 21302, must be setback 10 metres and retained to a height of 4 metres.

Commented [CK3]: To be confirmed.

~~49.22.~~ _____ The Consent Holder shall advise the Council when the plantings required under conditions 18 to

21 above have been established.

20-23. The Consent Holder shall take all reasonable measures to ensure that existing heritage trees on Hanmer Road identified on the Site Plan and in the AEE, are retained and protected from damage during construction.

21-24. The Consent Holder shall utilise locally appropriate indigenous species that are sourced in this corresponding order: firstly, where practicably obtainable from within the Low Plains Ecological District, and secondly from the wider Canterbury Plains Ecological Region.

22-25. The perimeter security fencing shall be located internally and screened from outside views by the existing and proposed planting.

26. In the first planting season following the grant of this consent, and prior to the construction of Stage 1, the Consent Holder shall implement the ~~Landscape Management Plan required under Condition X~~ above LMP.

27. The consent holder shall advise the Council when all plantings required under the LMP have been established on the site.

23-28. All plantings as referred to in the application and LMP above shall be nurtured and maintained to ensure their long-term survival. Any plants that fail to thrive, become diseased or die shall be replanted in the subsequent planting season (April – September) following their loss.

Ecology

24-29. The Consent Holder shall not clear any internal shelterbelts between of 1 September and 31 January (inclusive) of each year.

25-30. The Consent Holder shall undertake the construction of solar panel arrays outside of the main bird breeding season (September – January). Alternatively, a pre-construction survey of the solar farm site shall be carried out by a suitably qualified ecologist / ornithologist with over five years of experience conducting bird surveys (SQE), in order to:

a-30.1 Determine whether the South Island pied oystercatcher ((or other bird species observed during the survey deemed of conservation concern by an SQE) are breeding within the solar farm footprint.

Subsequently;

i-30.1.1 If breeding SIPO (or other species of conservation concern in the opinion of the SQE) are absent, works could proceed within the breeding season; or

ii-30.1.2 If breeding SIPO (or other species of conservation concern in the opinion of the SQE) are present within the solar farm footprint, works shall proceed subject to setbacks from nests or other similar measures to avoid or otherwise manage impacts to breeding

birds, as advised by an SQE.

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Monitoring

~~26-31.~~ The Consent Holder shall undertake monitoring for bird strike to include:

- a. recording information about any bird species found dead at the Site that appears to have suffered trauma injuries, including species, number, and suspected cause of death. Input from an SQE or veterinarian may be required.

Note: Due to Wildlife Act 1953 requirements the handling of injured indigenous birds or the storage of dead indigenous birds would likely require approval from the Department of Conservation.

- b. Provide this information on an annual basis to Selwyn District Council and / or the Department of Conservation, in order to increase the understanding of possible bird strike issues with solar arrays.

Erosion and Sediment Control

~~27-32.~~ The Consent Holder shall operate under the Erosion and Sediment Control Plan required by Condition 9 of CRC223908 and certified by Canterbury Regional Council.

Construction Management Plan

~~28-33.~~ The Consent Holder shall, at least 30 working days prior to the commencement of construction, the Consent Holder shall submit to the SDC for certification a Construction Management Plan. The plan shall include, but not be limited to:

- ~~a-33.1~~ Confirmation of the construction works program, including staging of work, construction methodology;
- ~~b-33.2~~ Identification of the key personnel and contact person(s);
- ~~c-33.3~~ Methods and systems to inform and train all persons working on the site of potential environmental issues and how to avoid, remedy or mitigate potential adverse effects;
- ~~d-33.4~~ Measures to ensure compliance with the protection of the wāhi taonga site in accordance with condition [TBC];
- ~~e-33.5~~ Inclusion of the Accidental Discovery Protocols and a list of contact names and numbers relevant to accidental discovery.

The Construction Management Plan shall include the following management plans:

- a) Construction Traffic Management Plan
- b) Construction Noise and Vibration Management Plan.

~~29-34.~~ The Consent Holder shall, at least 30 working days prior to the commencement of construction, the

Consent Holder shall submit to the SDC for certification a Construction Traffic Management Plan. The plan shall include, but not be limited to:

~~a-34.1~~ Roles, responsibilities and contact details, including for public enquiries.

~~b-34.2~~ Construction staging and proposed activities;

~~c-34.3~~ Expected number of vehicle movements, particularly heavy vehicle numbers during each phase of construction;

~~d-34.4~~ Hours of work;

~~e-34.5~~ Points of site access;

~~f-34.6~~ Construction traffic routes;

~~g-34.7~~ Nature and duration of any temporary traffic management proposed;

~~h-34.8~~ Any vehicle crossing upgrades proposed.

~~i-34.9~~ Location of on-site parking and loading areas for deliveries;

~~j-34.10~~ Measures to prevent, monitor and remedy tracking of debris onto public roads and dust onto sealed sections;

~~k-34.11~~ Measures for regulation communication with residents located within the vicinity of the site.

~~30-35.~~ All construction work must be undertaken within a period totalling four months in each calendar year for each stage. The total construction period must be no more than 12 months.

Commented [JA4]: The change to this condition appears to conflict with the construction timeframes clarified in [4.15] of the planning evidence and suggest it is amended accordingly.

Vehicle crossing upgrade

~~34-36.~~ The Consent Holder is to upgrade the existing vehicle crossing in the site at Buckley's Road (as shown on plan [TBC]) to comply with Appendix E10.C1 to the Operative Selwyn District Plan.

~~32-37.~~ Prior to the commencement of the vehicle upgrade described in condition [TBC] above, the Consent Holder must contact the SDC Biodiversity Officer.

Wāhi Taonga Management Site

~~33-38.~~ No earthworks shall take place within 50 metres of the Wāhi Taonga Management Site – C59, as identified on plan [TBC].

Noise

~~34-39.~~ At least 30 working days prior to any construction occurring on site, a Construction Noise and Vibration Management Plan (which will form part of the CMP) be prepared and submitted to SDC for certification that addresses, as a minimum, the measures identified in Annex E3 of NZS 6803: 1999 "Acoustics – Construction Noise". The report must specify measures to mitigate any adverse effects of construction activities on 324 Branch Drain Road during the construction of Stage 1 (as described in the AEE).

Commented [CK5]: To align with the CMP, which the CNVMP will be part of.

~~35-40.~~ The consent holder shall ensure that all activities on the site measured in accordance with

NZS6801:2008 Acoustics - Measurement of environmental sound, and assessed in accordance with the provisions of NZS6802:2008 Acoustics - Environmental noise, shall not exceed the following noise limits at any point within the notional boundary of any residential dwelling, during the following timeframes:

~~a-40.1~~ 0730 to 2000 hours: 50 dB L_{Aeq}

~~b-40.2~~ 2000 to 0730 hours: 40 dB L_{Aeq} and 75 dB L_{Amax}

~~36-41.~~ Within 6 weeks of commissioning of Stage 1 as described in the AEE described in Condition 1, a suitably qualified and experienced acoustic consultant shall perform measurements to confirm compliance with both the daytime and night-time noise limits in Condition ~~[TBC]~~ 40. The assessment shall include an objective analysis of any special audible characteristics during the day and at night in accordance with Appendix B4 of NZS 6802:2008 Acoustics - Environmental Noise.

~~37-42.~~ Construction activities must be conducted in accordance with NZS 6803: 1999 "Acoustics – Construction Noise" and must comply with the "typical duration" noise limits contained within Table 2 of that Standard as far as practicable.

Commented [CK6]: Mr Reeve has advised that because he has outlined an exceedance at 324 Branch Drain Rd in the assessment (for a couple of days), need to address this in the conditions.

Dust

Solar panels

~~38-43.~~ Solar Panels shall be a maximum of 3.02m above ground level.

~~44.~~ Solar Farm Infrastructure within the Site (including, but not limited to panels; inverters; transformers and switchgear) shall only be cleaned with water or a biodegradable cleaner.

~~39.~~ Use of site for land-based primary production

~~45.~~ The site must continue to be used for land-based primary production, as defined in the National Policy Statement for Highly Productive Land 2022, throughout the operation of the solar array.

Operational Site Management

~~40-46.~~ The Consent Holder shall submit to ~~Council~~ the SDC for certification an Operational Site Management Plan (OSMP). The purpose of the OSMP is to ensure that the solar farm is operated in a manner that avoids, remedies or mitigates adverse effects on the environment. This must include, but not be limited to:

~~a-46.1~~ A Noise Management Plan containing the requirements set out in conditions ~~[TBC]~~ Measures to ensure compliance with the noise limits in Condition 39.

~~b-46.2~~ Measures to ensure that food scraps and rubbish are appropriately disposed of;

~~c-46.3~~ Measures for the management of health and safety;

~~d-46.4~~ Measures for the scheduled maintenance and off-site monitoring of equipment.;

Commented [CK7]: As per comment above, is a separate NMP actually necessary? Could this just say measures to ensure compliance with the relevant noise limits

Contaminated Land

~~44.47.~~ The Consent Holder shall retain any disturbed soil in the vicinity of the shed on 821 Hanmer Road to that area and stabilised to an erosion resistant state within one month.

~~42.48.~~ The Consent Holder shall ensure that soil disturbed during earthworks in the shed area on 821 Hanmer Road shall not be deposited elsewhere on the wider site.

End of life

~~49.~~ The Consent Holder shall, within 12 months of the expiry of this resource consent or the solar array reaching the end of its economic or operational life (not including periods when the solar array may not operate because of technical issues or maintenance/improvement works including the replacement of panels and other infrastructure), clear the site of all panels, buildings/structures and cabling, and the land shall be returned to ~~to~~ a state that enables it to continue to be used for land-based primary production.

50. The Consent Holder shall advise the SDC within three months of the solar array reaching the end of its economic or operational life of the timeframe for:

50.1 clearing the site of all panels, buildings/structures and cabling; and

~~43-50.2~~ reinstatement of the site to a state that enables it to continue to be used for land-based primary production.

Accidental discovery

~~44.51.~~ If bone material is discovered that could potentially be of human origin, the following protocols shall be adopted:

~~a-51.1~~ Earthworks works should cease in the immediate vicinity while an Archaeologist establishes whether the bone is human

~~b-51.2~~ The site will be secured in a way that protects the kōiwi as far as possible from further damage

~~e-51.3~~ If it is not clear whether the bone is human, work shall cease in the immediate vicinity until a specialist can be consulted and a definite identification made

~~d-51.4~~ If bone is confirmed as human (kōiwi), the Archaeologist will immediately contact Iwi representatives (if not present), Heritage New Zealand Pouhere Taonga and the New Zealand Police.

~~e-51.5~~ Consultation will be undertaken with Iwi representatives from Te Taumutu Rūnanga, Ngāi Tahu, the Heritage New Zealand Pouhere Taonga Regional Archaeologist and the Consent Holder to determine and advise the most appropriate course of action. No further action will be taken until responses have been received from all parties, and the kōiwi will not be removed until advised by Heritage New Zealand Pouhere Taonga

~~f-51.6~~ The Iwi representatives will advise on appropriate tikanga and be given the opportunity to conduct

any cultural ceremonies that are appropriate

~~g-51.7~~ If the Iwi representatives are in agreement and so request, the bones may be further analysed by a skilled bio-anthropological specialist prior to reburial, in line with the Heritage New Zealand Pouhere Taonga Guidelines Kōiwi Tangata Human Remains (2014)

~~h-51.8~~ Activity in that place can recommence as soon the bones have been reinterred or removed and authorisation has been obtained from Heritage New Zealand Pouhere Taonga.

~~45-52.~~ If taonga are discovered, the following protocols shall be adopted:

~~a-52.1~~ The area containing the taonga will be secured in a way that protects the taonga as far as possible from further damage

~~b-52.2~~ Consultation will be undertaken with Te Taumutu Rūnanga, who will advise on appropriate tikanga and be given the opportunities to conduct any cultural ceremonies that they consider to be appropriate

~~c-52.3~~ An archaeologist will examine the taonga and advise Heritage New Zealand Pouhere Taonga

~~d-52.4~~ These actions will be carried out within an agreed stand down period and work may resume at the end of this period or when otherwise advised by Heritage New Zealand Pouhere Taonga.

~~e-52.5~~ The Archaeologist will notify the Ministry for Culture and Heritage of the find within 28 days as required under the Protected Objects Act 1975.

~~f-52.6~~ The Ministry for Culture and Heritage, in consultation with Iwi representatives from Te Taumutu Rūnanga and Ngāi Tahu, will decide on custodianship of the taonga.

Complaints Mechanism

~~46-53.~~ The Consent Holder shall maintain a register of any complaints received regarding the construction and operation activities authorised by this resource consent. As a minimum, the register shall include:

~~a-53.1~~ the name and contact details (if supplied) of the complainant;

~~b-53.2~~ the nature and details of the complaint

~~c-53.3~~ the location, date and time of the complaint and the alleged event giving rise to the complaint

~~d-53.4~~ weather conditions at the time of the complaint, where relevant to the complaint

~~e-53.5~~ other activities at the area that may have contributed to the complaint

~~f-53.6~~ the outcome of the Consent Holder's investigation into the complaint

~~g-53.7~~ a description of any measures taken to respond to the complaint

~~47-54.~~ The consent holder shall notify the SDC of any complaint received that relates to the activities authorised by this resource consent as soon as reasonably practicable and no later than two working days after receiving the complaint.

~~48-55.~~ The Consent Holder shall respond to any complainant as soon as reasonably practicable and, within seven working days, advise the SDC and the complainant of the outcome of the Consent Holder's

investigation and any measures taken, or proposed to be taken, to respond to the complaint.

Attachments

Development Contributions (Land Use)

Development contributions are not conditions of this resource consent and there is no right of objection or appeal under the Resource Management Act 1991. Objections and applications for reconsideration can be made under the Local Government Act 2002.

No development contributions would be applicable for this application should resource consent be granted. This is on the basis that the carpark does not generate demand. The development contributions for transportation associated with the town centre that may use the proposed carparks will be charged at the time of building consent for the Town Centre Buildings are consented.

Notes to the Consent Holder

Lapse Period

- a) Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse five years after the date of this decision unless a longer period is specified by the Council upon application under section 125 of the Act.

Monitoring

- b) In accordance with section 36 of the Resource Management Act 1991, the Council's standard monitoring fee has been charged.
- c) If the conditions of this consent require any reports or information to be submitted to the Council, additional monitoring fees for the review and certification of reports or information will be charged on a time and cost basis. This may include consultant fees if the Council does not employ staff with the expertise to review the reports or information.
- d) Where the conditions of this consent require any reports or information to be submitted to the Council, please forward to the Council's Compliance and Monitoring Team, compliance@selwyn.govt.nz
- e) Any resource consent that requires additional monitoring due to non-compliance with the conditions of the resource consent will be charged additional monitoring fees on a time and cost basis.

Vehicle Crossings

- f) Any new or upgraded vehicle crossing requires a vehicle crossing application from Council's Assets Department prior to installation. For any questions regarding this process please contact transportation@selwyn.govt.nz. You can use the following link for a vehicle crossing information pack and to apply online: <http://www.selwyn.govt.nz/services/roading/application-to-form-a-vehicle-crossing-entranceway>

Building Act

- g) This consent is not an authority to build or to change the use of a building under the Building Act. Building consent will be required before construction begins or the use of the building changes.

Accessible Carparking Space

- h) The District Plan and the Building Code have different requirements for accessible carparking. Therefore, the consent holder shall ensure that the accessible carpark dimensions also meet the requirements of NZ Building Code clause D1. Early engagement with the building consent team is recommended to ensure all requirements can be met.

Regional Consents

- i) This activity may require resource consent from Environment Canterbury. It is the consent holder's responsibility to ensure that all necessary resource consents are obtained prior to the commencement of the activity.

Impact on Council Assets

- j) Any damage to fixtures or features within the Council road reserve that is caused as a result of construction or demolition on the site shall be repaired or reinstated and the expense of the consent holder.

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