

Under the **FAST-TRACK APPROVALS ACT 2024**

In the matter of an application for approvals in relation to the Waitaha Hydro Scheme

Between **WESTPOWER LIMITED**

Applicant

**EXPERT PANEL: WESTPOWER LTD MEMORANDUM #14
MEMORANDUM OF COUNSEL ON THE CONCESSION ACTIVITY FEE**

Dated: 23 February 2026

BUDDLE FINDLAY
Barristers and Solicitors

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MAY IT PLEASE THE PANEL:

1. This memorandum is filed on behalf of the applicant, Westpower Limited (**Westpower**) and updates the Panel on the outcome of negotiations with the Department of Conservation on the long-term concession fee.
2. This memorandum contains confidential and commercially sensitive information that is identified in bolded red brackets and red text. A redacted version will be provided for public disclosure.

Long-term concession fee

3. As explained in Memorandum #11, Westpower and the Department's valuers have discussed their respective reasoning for their valuation figures for the long-term concession. The valuers have not reached agreement on what the long-term concession fee should be.
4. For clarity, the short-term concession fee has been agreed and the figure is included in the short-term lease/licence concession conditions.
5. For the reasons set out in Memorandums 1, 7 and 11, Westpower considers that it is the Panel's role to set the long-term concession fee and that is not an appropriate condition to be imposed by the Minister through section 78 of the FTAA. The reasons for that position are explained in detail in Memorandum #7.¹
6. Mr Griffith's has appended to his **Attachment – Concession fee** statement a memorandum from the valuer appointed by Westpower, Mr Mike Penrose, explaining the:
 - (a) process followed in determining his valuation,
 - (b) process followed with the Department's valuer,
 - (c) key points of difference; and
 - (d) issues with the Department's valuation methodology.
7. Mr Penrose has determined an appropriate long-term concession fee percentage and that is set out in his valuation report. While it is the Department's decision on whether / when to provide the Department's valuation to the Panel, in the interests of time, Mr Penrose has responded to

¹ See paragraphs 2.20 to 2.30 of Memorandum #7.

the Department's valuation, and expresses the view that there are issues with the methodology in that valuation and that the Department's concession fee percentage is too high.

8. It will be apparent to the Panel, from the statements of Mr Penrose and Mr Griffiths, that the project is to be constructed in a complex and uncertain construction environment. As Mr Griffiths states, it is important to emphasise that the level of the concession fee could have a very real impact on whether the project will be constructed. This is a large-scale construction project in a complex environment which makes it costly to build. Each additional percentage point in the concession fee increases the economic challenges in constructing this project, and for the reasons given in Mr Griffith's statement, Westpower would accept a [] fee (which itself is a high percentage given the scale of this project), but any increases beyond that escalate the chances of the project not being built (and therefore that would defeat the purpose the FTAA).
9. Westpower there respectfully requests that:
 - (a) the Panel sets the long-term concession fee in the conditions; and
 - (b) that fee does not exceed the [] figure expressed in Mr Griffith's statement.

Confidential nature of the information

10. As the Panel will be aware, the valuation report and figures are commercially sensitive.
11. Westpower provides the valuation report to the Panel on the basis that it is confidential and commercially sensitive.
12. Westpower respectfully requests that the Panel makes an order under section 58(4) of the FTAA prohibiting the publication or any other form of communication of the redacted information in the valuer's memorandum (**Appendix 2**) and valuation report (**Appendix 4**). That is on the basis that, in terms of section 54(5) of the FTAA, there exist good reasons to withhold that information under the Local Government Official Information and Meetings Act 1987 (**LGOIMA**). Those grounds include commercial sensitivity (section 7(2)(b) of LGOIMA); and to protect information supplied under an obligation of confidence (section 7(2)(c) of LGOIMA).

13. Westpower understands that the Department's standard practice is to withhold the concession fee information and percentages for concessions granted by the Minister, for similar reasons. Therefore, this is not an unorthodox approach.
14. Consequently, Westpower also requests that the Panel keeps the final concession fee percentage confidential and makes an order under section 58(4) of the FTAA to that effect.

Dated: 23 February 2026



Paul Beverley / David Allen / Rachael Balasingam

Counsel for Westpower Limited