

Concession Number: [to add]

27-November-2025 21-January-2026: Draft Short-Term (Construction) Lease/Licence

Concession Document (Lease and Licence)

Concession Number: [to add]

THIS CONCESSION is made this day of

PARTIES:

Minister of Conservation (the Minister)

Westpower Limited or **Waitaha Hydro Limited** (the Concessionaire)

Name (the Guarantor) delete if not required

BACKGROUND

- A. The Department of Conservation (**Department**) Te Papa Atawhai is responsible for managing and promoting conservation of the natural and historic heritage of New Zealand on behalf of, and for the benefit of, present and future New Zealanders.
- B. The Department is under the control of the Minister.
- C. The carrying out of these functions may result in the Minister granting concessions to carry out activities on public conservation land.
- D. The Minister administers public conservation lands described in Schedule 1 as the Land.
- E. Westpower has proposed to construct, operate and maintain the Waitaha Hydro Scheme (**Scheme**).
- F. Westpower has applied for concessions under the Fast-track Approvals Act 2024 in relation to the Scheme.
- G. A concession granted under the Fast-track Approvals Act 2024 has the same force and effect for its duration, and according to its terms and conditions, as it if were granted under the Conservation Act 1987, except that section 17A of the Conservation Act 1987 does not apply.
- H. This concession under the Fast-track Approvals Act 2024 in relation to the Scheme gives **effects** to the decision to grant, including the conditions, by an Expert Panel on [add date].
- I. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Concession.
- J. The parties wish to record the terms and conditions of this Concession.

OPERATIVE PARTS

- K. The Minister grants, and Westpower accepts, a **LEASE** over the Lease Land, and a **LICENCE** over the Licence Land, to carry out the Concession Activity, subject to the terms and conditions contained in this Concession, including its Schedules.

Commented [WP1]: This has been included to reflect that Waitaha Hydro Ltd may operating the scheme under this concession (and hence the provision relating the Waitaha Hydro Ltd has been removed from the 'assignment' clause).

Commented [W2]: Westpower has accepted the Department's suggested change (fixing typo).

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<p>_____ SIGNED on behalf of the Minister of Conservation by [insert name and title of delegate] acting under delegated authority</p> <p>in the presence of:</p> <p>_____ Witness Signature</p> <p>Witness Name: Witness Occupation: Witness Address:</p> <p>OR</p> <p>If decision maker is signing by way of electronic signature, use this option</p> <p>[INSERT DIGITAL SIGNATURE]</p> <p>_____ SIGNED on behalf of the Minister of Conservation by [insert name and title of delegate] acting under delegated authority</p> <p>in the presence of:</p> <p>[INSERT DIGITAL SIGNATURE]</p> <p>_____ Witness Signature</p>	<p>_____ SIGNED for [insert name of Company] Limited by: Director Name</p> <p>AND</p> <p>_____ SIGNED for [insert name of Company] Limited by: Director Name</p>
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~~If there is a Guarantor select one only of the following execution clauses and delete the other four - if no Guarantor delete the whole box~~

~~Guarantor~~

~~1. Individual~~

~~_____~~
~~SIGNED by [insert name of Concessionaire if an individual]~~

~~in the presence of:~~

~~_____~~
~~Witness Signature~~

~~Witness Name: _____~~

~~Witness Occupation: _____~~

~~Witness Address: _____~~

SCHEDULE 1

<p>1.</p>	<p>Land (clause 1)</p>	<p><u>Lease Land</u></p> <p>As outlined on Maps 1[x]– [x]5 and the table in Schedule 4 being:</p> <p>Physical Description/Common Name: Conservation Area – Waitaha Forest</p> <p>Land Status: Stewardship Land</p> <p>Area: [TBC]</p> <p>Legal Description: Part of the land described as Part Reserve 1672 (as shown on SO Plan 11209 and including and Section 1 Survey Office Plan 12094, as generally identified on [insert reference to plan]).</p> <p>Map Reference: [TBC]</p> <p><u>Licence Land</u></p> <p>As outlined on Maps [x]1 – [x]5 and the table in Schedule 4 being:</p> <p>Physical Description/Common Name: Conservation Area – Waitaha Forest</p> <p>Land Status: Stewardship Land</p> <p>Area: [TBC]</p> <p>Legal Description: Part of the land described as Part Reserve 1672 (as shown on SO Plan 11209 and including and Section 1 Survey Office Plan 12094, as generally identified on [insert reference to plan]); and the land required for construction and initial use of the access road and transmission line, including:</p> <ul style="list-style-type: none"> • <u>any marginal strip extending along and abutting the landward margin of either side of Allen Creek (including any changes to that marginal strip as a result of alterations to the course of Allen Creek affecting the existing marginal strip), within records of title 306023 and WS5D/1294 as generally identified on [insert reference to plan]</u> • <u>any marginal strip extending along and abutting the landward margin of the true right bank of Macgregor Creek (including any changes to that marginal strip as a result of alterations to the course of Macgregor Creek affecting the existing marginal strip), within record of title 306023 as generally identified on [insert reference to plan]</u> • <u>any marginal strip extending along and abutting the landward margin of the true right bank of the Waitaha River (including</u>
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		any changes to the moveable parts of that marginal strip as a result of alterations to the course of the Waitaha River affecting the existing marginal strip), within records of title WS5D/1294 and 306023 as generally identified on [insert reference to plan].
2.	Concession Activity (clause 2)	Construction of the Waitaha Hydro Scheme, including: <ul style="list-style-type: none"> access for construction purposes, including laydown areas, commissioning, and preparation for commencement of generation; all activities set out in Schedule 4; and all activities authorised or proposed to be undertaken by the Concessionaire in relation to the construction of the Waitaha Hydro Scheme as set out in the Application documentation.
3.	Term (clause 4)	15 years commencing on execution of this concession document by both parties The lapse period for this concession is 10 years from the date of the execution of this concession document by both parties.
4.	Renewal(s) (clause 4)	Nil
5.	Final Expiry Date (clause 4)	15 years from the date of granting or upon the earlier termination by Westpower following the commencement of generation under the long-term concession and the completion of all required actions under this concession.
6.	Concession Fee (clause 5)	[TBC]
7.	Environmental Monitoring Contribution (clause 10)	Not required
8.	Community Services Contribution (clause 7)	Not required
9.	Total payments to be made per annum (clause 5)	[TBC]
10.	Total payment instalment(s) (clause 5)	[TBC]

Commented [WP3]: Deletion proposed by the Department has not been adopted - important to ensure that all activities described in the application are authorised.

Commented [W4]: Changes suggested by the Department (commencing at date of granting and 2 year lapse) have not been made. Westpower's position on Term is explained in Memorandum #7.

Commented [WP5]: Changes suggested by the Department (deleting these words) have not been adopted - this signals the earlier termination by Westpower if construction is complete.

Commented [W6]: Westpower's position is set out in Memorandum #7.

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11.	Concession Fee Payment Date(s) (clause 5)	[TBC]
12.	Penalty Interest Rate (clause 5)	Double the current Official Cash Rate (OCR). See Reserve Bank of New Zealand website
13.	Concession Fee Review Date(s) (clause 6)	Three (3) yearly on the anniversary (and for the duration) of this Concession.
14.	Insurance (To be obtained by Concessionaire) (clause 13 12)	Public Liability Insurance for general indemnity for an amount no less than [\$TBC]; \$5,000,000 Subject to review on each Concession Fee Review.
15.	Health and Safety (clause 14 13)	Audited Safety Plan: Not required
16.	Concessionaire Identification (clause 32)	Not Required
17.	Addresses for Notices (clause 25)	The Minister's address is: Physical address: Department of Conservation 265 Princes Street Dunedin 9016 [Permissions team email address] Postal address: Department of Conservation Att: National Transaction Centre PO Box 5244 Dunedin 9054 Phone: (03) 477 0677 Email: transactioncentre@doc.govt.nz NB: Use street address Permissions team email address XXX Permissions Team Office address

Commented [W7]: Westpower has accepted the Department's suggested change.

Commented [W8]: Westpower has accepted the Department's suggested change.

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		The Concessionaire's address is: 146 Tainui Street PO Box 375 Greymouth Phone: 03 768 9300 [add] Email: info@Westpower.co.nz [add]
18.	Guarantee (clause 30)	Required / Not required (delete as appropriate) Guarantor Name The Guarantor's address is: NB: Use street address Guarantor address Phone: Email:
19.	Special Conditions (clause 35)	See Schedule 3
20.	Processing Fee (clause 5)	[TBC as this process is under the Fast-track Approvals Act 2024].
21.	Bond (clause 30)	TBC

Commented [W9]: Changes made by Westpower as the Department has accepted the deletion of clause 30.

Note: the clause references are to the clauses in Schedule 2.

SCHEDULE 2 – STANDARD TERMS AND CONDITIONS OF LEASE AND LICENCE

1. Interpretation

1.1 In this Document, unless the context otherwise requires:

<u>Acronym/Term</u>	<u>Definition</u>
AMP	<u>Avifauna Management Plan</u>
Application	<u>The document titled “Westpower Limited Waitaha Hydro Project: An Application made under the Fast-track Approvals Act (2024)” dated 8 August 2025, including all technical assessments and supporting reports.</u>
BMP	<u>Bat Management Plan</u>
Bulk Earthworks	<u>Large scale soil / rock disturbances associated with any Project Construction Works.</u>
CEMP	<u>Construction Environmental Management Plan</u>
Commencement of Construction	<u>The time when any Project Construction Work Component first starts (excluding any Pre-Construction activities that are authorised by separate concessions granted prior).</u>
Completion of Construction	<u>The time when the Waitaha Hydro Project has been built and commissioned and is available to generate electricity for customer supply.</u>
Commencement of Generation	<u>The date when the Project first transmits electricity onto the local network for customer supply.</u>
Consents	<u>Any resource consents granted under the Fast-track Approvals Act 2024 that would otherwise be granted under the RMA.</u>
Concessionaire	<u>Westpower Limited or Waitaha Hydro Limited and any person acting with the permission (including implied permission) of Westpower Limited or Waitaha Hydro Limited as if the concession had been granted to that person as well as to Westpower or Waitaha Hydro Limited.</u>
Concessions	<u>Any Concessions granted under the Fast-track Approvals Act 2024 that would otherwise be granted under the Conservation Act.</u>
Concession Activity	<u>Any activity associated with the construction of the Waitaha Hydro Project requiring a Concession</u>
Concession Area	<u>Area of the Project located on land administered by the Department of Conservation.</u>
Construction	<u>All Project construction activities occurring on Department of Conservation land excluding any Pre-Construction activities that are authorised by separate concessions granted prior.</u>
CNMP	<u>Construction Noise Management Plan.</u>
Consent Authorities	<u>Westland District Council, in respect of land use consents administered by Westland District Council; or West Coast Regional Council, in respect of resource consents administered by West Coast Regional Council.</u>
Construction Staging Areas	<u>Areas developed prior to or during Construction and used for plant and equipment laydown, construction contractor and staff offices and amenities, staff parking, helicopter landings and take-offs and other general construction-related activities. Construction Staging Areas within the Project Construction Site include:</u>

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	<ul style="list-style-type: none"> • <u>Construction Staging Area 1 (Headworks); and</u> • <u>Construction Staging Area 2 (Power Station Site)</u>
CTMP	<u>Construction Traffic Management Plan</u>
DMP	<u>Dust Management Plan</u>
DOC	<u>Department of Conservation</u>
DOC Liaison Officer	<u>The designated Department of Conservation employee or external contractor who will act as a liaison contact between the Concessionaire and the Department of Conservation's local Area Office during Construction.</u>
ESCP	<u>Erosion and Sediment Control Plan</u>
Expert Panel	<u>The panel appointed to make the concession decision under the Fast-track Approvals Act 2024.</u>
FEMP	<u>Freshwater Ecology Management Plan</u>
FMP	<u>Flight Management Plan</u>
FTAA	<u>Fast-track Approvals Act 2024</u>
Headworks	<u>The physical structures within the Scheme situated above Morgan Gorge comprising a low-profile weir and intake structure together with an access tunnel portal and access road.</u>
Land	<u>Together the Lease Land and Licence Land</u>
Lease Land	<u>The Land described as Lease Land in Item 1 of Schedule 1</u>
Licence Land	<u>The Land described as Licence Land in Item 1 of Schedule 1.</u>
LizMP	<u>Lizard Management Plan</u>
LMP	<u>Landscape Management Plan</u>
Power Station	<p><u>The physical structures within the Scheme situated immediately adjacent to, and in the vicinity of, the Waitaha River and the lower end of the Tunnels generally comprising the:</u></p> <ul style="list-style-type: none"> • <u>Power Station;</u> • <u>Tailbay;</u> • <u>Tailrace;</u> • <u>Switchyard; and</u> • <u>and all ancillary structures.</u>
Power Station Site	<u>The area comprising the Power Station</u>
Power Station Access Road	<u>The vehicle access road between the southern end of the Waitaha Road Reserve and the Power Station Site.</u>
Pre-Construction activities	<u>Any activity associated with investigative drilling or geophysical investigations.</u>
Project	<u>Includes all physical resources and activities associated with constructing, operating and maintaining the Scheme and all ancillary structures and activities.</u>
Project Construction Site	<u>All Department of Conservation land required to be used for the construction of the Project.</u>
Project Construction Work Component	<p><u>Specified components or phases associated with constructing the Project (including all associated activities). Project Construction Work Components include:</u></p> <ul style="list-style-type: none"> • <u>Construction of temporary access road and bridge to and over Granite Creek;</u> • <u>Construction of new access road and transmission lines across and south</u>

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	<p><u>of Macgregor Creek and associated structures:</u></p> <ul style="list-style-type: none"> • <u>Streamworks;</u> • <u>Power Station Site and/or Tunnels including Construction Staging Area 2;</u> • <u>Headworks including Construction Staging Area 1; and</u> • <u>Rehabilitation works.</u>
RPAS	<u>Remotely Piloted Aircraft System</u>
Scheme	<u>The Waitaha Hydro Scheme.</u>
Streamworks	<u>All physical works undertaken within, and involving the disturbance of, any stream or riverbed excluding riverbed gravel extraction.</u>
Tunnels	<u>All physical structures associated with the water tunnel and the access tunnel included in the Scheme.</u>
Transmission Line	<u>The physical structures comprising the electricity transmission infrastructure between the Power Station Site and the existing Westpower Transmission Network on State Highway 6.</u>
VMP	<u>Vegetation Management Plan</u>
Waitaha Hydro Scheme	<u>The run-of-river hydro-electricity generation scheme along the Waitaha River, generally including headworks at the top of Morgan Gorge (comprising low weir and intake structure), tunnels and turbines, and a tailrace discharging into the Waitaha mainstream in the vicinity of the confluence of Alpha Creek, as well as an access road and transmission line, and any related or ancillary structures, to be constructed by the Concessionaire in accordance with the Application documents.</u>
WCRC	<u>West Coast Regional Council</u>
WDC	<u>Westland District Council</u>
Wildlife Permits	<u>Any Wildlife Permits granted under the Fast-track Approvals Act 2024 that would otherwise be granted under the Wildlife Act.</u>
WWNZ	<u>Whitewater NZ Incorporated</u>

Commented [W10]: Westpower has accepted the Department's suggested change.

Application documentation means the substantive application submitted by Westpower Limited on 8 August 2025 under the Fast-track Approvals Act 2024 (FTAA) including as amended through the FTAA or any subsequent statutory process:

Concessionaire includes a reference to a person acting under this concession with the permission (including implied permission) of the concessionaire as if the concession has been granted to that person as well as the concessionaire:

Expert Panel means the panel appointed to make the concession decision under the Fast-track Approvals Act 2024.

Land means together the Lease Land and Licence Land:

Lease Land means the Land described as Lease Land in Item 1 of Schedule 1:

Licence Land means the Land described as Licence Land in Item 1 of Schedule 1:

Waitaha Hydro Scheme means a run-of-river hydro-electricity generation scheme along the Waitaha River, generally including headworks at the top of Morgan Gorge (comprising low weir and intake structure), tunnels and turbines, and a tailrace discharging into the Waitaha mainstream in the vicinity of the confluence of Alpha Creek, as well as an access road and transmission line, and any related or

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~~ancillary structures, to be constructed by the Concessionaire in accordance with the Application documents:~~

- 1.2 The Concessionaire is responsible for the acts and omissions of its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Land). The Concessionaire is liable under this Concession for any breach of the terms of the Concession by its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Land), as if the breach had been committed by the Concessionaire.
- 1.3 Where this Concession requires the Minister to exercise a discretion or give any approval or provides for any other actions by the Minister, then the Minister must act reasonably and within a reasonable time. When a consent is required under this Concession such consent must not be unreasonably withheld.
- 1.4 Where this Concession provides for approvals, directions, reports and consents to be given by one party to the other, those approvals, directions, reports and consents must be given by notice in writing and clause 25 is to apply.
- 1.5 The covenants and powers contained in Part 2 of Schedule 3 of the Property Law Act 2007 are not to be implied in this Concession and are expressly negated.

2. What is being authorised?

- 2.1 The Concessionaire is only allowed to use the Land for the Concession Activity.
- 2.2 The Concessionaire must exercise reasonable skill, care and diligence in carrying out the Concession Activity, in accordance with standards of skill, care and diligence normally practised by suitably qualified and experienced people in carrying out such activities.
- 2.3 The Concessionaire must provide the Minister with evidence of the competency and qualifications of its employees and contractors if the Minister so requests.
- 2.4 The Concessionaire must not commence the Concession Activity until the Concessionaire has signed the Concession Document and returned one copy of this Document to the Minister, as if it were a notice to be given under this Concession.

3. What about quiet enjoyment?

- 3.1 The Concessionaire, while paying the Concession Fee and performing and observing the terms and conditions of this Concession, is entitled peaceably to hold and enjoy the Land and any structures and facilities of the Minister without hindrance or interruption by Minister or by any person or persons claiming under the Minister until the expiration or earlier termination of this Concession.
- 3.2 Provided reasonable notice has been given to the Concessionaire, the Minister, their employees and contractors may enter the Lease Land and Licence Land to inspect the Land and facilities, to carry out repairs and to monitor compliance with this Concession.

~~3.1~~

Commented [WP11]: Westpower has accepted the Department's suggested change.

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4. How long is the Concession for - the Term?

4.1 This Concession commences on the date set out in Item 3 of Schedule 1 and ends on the Final Expiry Date specified in Item 5 of Schedule 1.

5. What are the fees and when are they to be paid?

5.1 The Concessionaire must pay the Processing Fee (Item 20 of Schedule 1) to the Minister in the manner directed by the Minister. Except where the Minister's written consent has been given, the Concessionaire cannot commence the Concession Activity until the Processing Fee has been paid.

5.2 The Concessionaire must pay to the Minister in the manner directed by the Minister the Concession Fee and any other payment comprised in the Total Payment specified in Item 9 of Schedule 1 in the instalments and on the Concession Fee Payment Date specified in Items 10, and 11 of Schedule 1.

5.3 If the Concessionaire fails to make payment within 14 days of the Concession Fee Payment Date then the Concessionaire is to pay interest on the unpaid Concession Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 12 of Schedule 1.

6. When can the fee be reviewed?

6.1 The Minister is to review the Concession Fee on the Concession Fee Review Dates in the following manner:

- (a) The Minister must commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving notice to the Concessionaire.
- (b) Subject to clause 6.1(e) the notice must specify the Concession Fee which the Minister considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987.
- (c) If, within 28 days of receipt of the Minister's notice, the Concessionaire gives notice to the Minister that the Concessionaire disputes the proposed new Concession Fee, the new Concession Fee is to be determined in accordance with clause 6.2(a) or (b).
- (d) If the Concessionaire does not give notice to the Minister under clause 6.1(c) the Concessionaire is to be deemed to have accepted the Concession Fee specified in the Minister's notice.
- (e) Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee specified in the Minister's notice. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Minister or by the Concessionaire, whichever is applicable.

6.2 Immediately the Concessionaire gives notice to the Minister under clause 6.1(c) the parties are to endeavour to agree on a new Concession Fee. If the parties are unable to reach agreement within 28 days the new Concession Fee is to be determined either:

- (a) By one party giving notice to the other requiring the new Concession Fee to be determined by the Disputes clause (clause 23) or, if the parties agree,

Commented [W12]: Additional clauses suggested by the Department in relation to a right of renew has not been adopted - there is no right of renewal in the conditions and hence the condition is unnecessary.

Commented [W13]: As per Westpower's memorandum in response, the s 78 condition wording has not been incorporated to this version.

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- (b) by registered valuers acting as experts and not as arbitrators as follows:
- (i) Each party must appoint a valuer and give notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.
 - (ii) If the party receiving a notice does not appoint a valuer within the 14 day period the valuer appointed by the other party is to determine the new Concession Fee and that valuer's determination is to be binding on both parties.
 - (iii) Before commencing their determination the respective valuers must appoint an umpire who need not be a registered valuer.
 - (iv) The valuers are to determine the new Concession Fee which they consider to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987. If they fail to agree the Concession Fee is to be determined by the umpire.
 - (v) In determining the Concession Fee the valuers or umpire are to disregard the annual cost to the Concessionaire to maintain or provide access to the Land.
 - (vi) Each party is to be given the opportunity to make written or oral representations or submissions to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the umpire may prescribe.
 - (vii) The valuers or the umpire must have regard to any such representations but are not bound by them.
- (c) The valuers or umpire must give written notice to the parties once they have determined the new Concession Fee. The notice is to be binding on the parties and is to provide how the costs of the determination are to be borne.
- (d) If a Concession Fee Review Date is postponed because of a moratorium imposed by law the Concession Fee Review is to take place at the date the moratorium is lifted or so soon afterwards as is practicable; and
- (i) the Concession Fee Review is to establish the market value for the Concession Activity as at that date instead of the date fixed under clause 6.1 having regard to the matters specified in section 17Y(2) of the Conservation Act 1987; and
 - (ii) each subsequent Concession Fee Review is to take place in accordance with the procedure fixed in clause 6.1.

7. Are there any other charges?

- 7.1 The Concessionaire must pay all levies, rates, and other charges, including utility charges payable in respect of the Land or for the services provided to the Land that relate to the Concessionaire's use of the Land or the carrying on of the Concession Activity.
- 7.2 The Minister is not liable for any cost incurred in reestablishing the supply of any utilities to the Land in the event it becomes unavailable for any reason.
- 7.3 Where the Minister pays any such levies, rates, or other charges, the Concessionaire must on receipt of

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an invoice from the Minister pay such sum to the Minister within 14 days of receiving the invoice. If payment is not made within the 14 days, then the Concessionaire is to pay interest on the unpaid sum from the date payment was due until the date of payment at a penalty interest rate of 15%.

8. When can the Concession be assigned?

- 8.1 The Concessionaire must not transfer, sub licence, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Concession or any part of it (which includes the Concessionaire entering into a contract or any other arrangement whatsoever whereby the Concession Activity would be carried out by a person (called the assignee) other than the Concessionaire) without the prior written consent of the Minister.
- 8.2 The Minister may in the Minister's discretion grant or decline any application for consent under clause 8.1.
- 8.3 Sections 17P, 17S, 17T, 17U, 17W, 17X, 17ZB and 17ZC of the Conservation Act 1987 apply to applications for consent under this clause unless the Minister, in the Minister's discretion, decides otherwise.
- 8.4 If the Minister gives consent under this clause then the Concessionaire remains liable to observe and perform the terms and conditions of this Concession throughout the Term and is to procure from the Assignee a covenant to be bound by the terms and conditions of this Concession.
- 8.5 The Concessionaire must pay the costs reasonably incurred by the Minister incidental to any application for consent, whether or not such consent is granted.
- 8.6 If the Concessionaire is not a publicly listed company then any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire is to be deemed to be an assignment and requires the consent of the Minister.
- 8.7 ~~Notwithstanding the provisions of this clause 8, the Concessionaire may transfer or assign its interest in this Concession to Waitaha Hydro Limited without the consent of the Minister, but will provide the Minister with at least [5] working days' prior notice of such transfer or assignment. [to avoid doubt, Waitaha Hydro Limited is named as a Concessionaire under this Concession and this clause 8 does not apply to the role of Waitaha Hydro Limited as Concessionaire under this Concession.~~

Commented [W14]: Change suggested by the Department has not been made. Amended instead to reflect that Waitaha Hydro is named as a concessionaire.

9. What are the obligations to protect the environment?

- 9.1 The Concessionaire must not cut down or damage any vegetation; or damage any natural feature or historic resource on the Land (unless authorised by this Concession); or light any fire on the Land without the prior consent of the Minister.
- 9.2 The Concessionaire must make adequate provision for suitable sanitary facilities for the Land if directed by the Minister and for the disposal of all refuse material and is to comply with the reasonable directions of the Minister in regard to these matters.
- 9.3 The Concessionaire must not bury:
- (a) any toilet waste within 50 metres of a water source on the Land; or
 - (b) any animal or fish or any part thereof within 50 metres of any water body, water source or public road or track.

Commented [W15]: The Department's additional clauses not adopted as the concession provides for these matters.

10. What about structures, Building Act, and restoration?

New structures and land alterations

- 10.1 The Concessionaire must not erect, alter, or bring onto the Land any structure, or alter the land in any way that is not specifically authorised by this Concession, without the prior approval of the Minister, and may be given subject to any reasonable terms and conditions, as the Minister considers appropriate in the Minister's sole discretion under this clause.
- 10.2 To avoid doubt, the Minister has already approved, and the Concessionaire may carry out, the Concession Activity, being all activities required for construction of the Waitaha Hydro Scheme, as permitted by this Concession and set out in the Application ~~documentation~~, without requiring further consent from the Minister.
- 10.3 Unless already permitted under clause 10.1 or 10.2~~10.2~~, the Concessionaire must, on request of the Minister, submit written engineering or building plans and details to the Minister for approval before:
- Erecting a new structure on the Land.
 - Altering the Land in any way.

Commented [W16]: Change suggested by the Department (addition of Environmental Monitoring clause) not made.

Commented [W17]: Change suggested by the Department (deletion) not made. The Department consider this to be an inherent right in the concession itself. Westpower would prefer to retain this clause to avoid doubt.

Commented [W18]: Change suggested by the Department (deletion) not made (not required for authorised activities).

Removal of structures or other improvements

- 10.4 The parties acknowledge and agree that once the Concessionaire commences generation from the Land, the Concessionaire will be operating under the long-term concession(s). Accordingly, on expiry of this Concession, the Concessionaire will not be required to remove any structures or other improvements, whether under clause 10.5-10.8 or otherwise. If this Concession is terminated prior to expiry, and no replacement concession is granted, then clauses 10.5-10.8 will apply.

Commented [W19]: Westpower has accepted the Department's suggested change.

10.5 On expiry or termination of this Concession either as to all or part of the Land, the Concessionaire may with the Minister's written consent, or must if the Minister gives at least 12 months written notice, remove any specified structures and other improvements on the Land. To avoid doubt, the Concessionaire is not required to remove the:

- tunnels;
- weir;
- any power station structures below ground or any other structures below ground;
- the drift deck at Macgregor Creek;
- the river training at Alpha Creek; and
- Granite Creek bridge piers].

~~10.5~~

- 10.6 Removal under this clause must occur within a time specified by the Minister.
- 10.7 The Concessionaire is to make good any damage done as part of the removal and must leave the Land and any other public conservation land affected by the removal in the same condition as it was at the beginning of the Term.
- 10.8 The Concessionaire is not entitled to compensation from the Minister for any structures or other improvements placed or carried out by the Concessionaire on the Land.

Building Act compliance

- 10.9 Where a building warrant of fitness under the Building Act 2004 is required, the Concessionaire must display a copy of the relevant certificate showing the location of the compliance schedule in each building on the Land, in a place to which users of the building have ready access.
- 10.10 The Concessionaire must keep and maintain all building systems and any structures on the Land in accordance with the requirements of any compliance schedule.
- 10.11 The Concessionaire must retain and make available to any territorial authority and any other person with a right to inspect any structures on the Land under the Building Act 2004 a copy of the compliance schedule, together with the written reports relating to compliance with the compliance schedule over the previous two-year period.

Rehabilitation and closure plan

- 10.12 As recorded in clause 10.4, the parties acknowledge and agree that once the Concessionaire commences generation from the Land, the Concessionaire will be operating under long-term concession(s). Accordingly, on expiry of this Concession, the Concessionaire will not be required to prepare or implement a Rehabilitation and Closure plan under clause 10.13-10.16. If this Concession is terminated prior to expiry, and no replacement concession is granted, then clauses 10.13-10.16 will apply.
- 10.13 The Concessionaire must prepare, implement, and comply with a Rehabilitation and Closure Plan approved by the Minister.
- 10.14 The Rehabilitation and Closure Plan must:
- (a) Be prepared by suitably qualified persons and in consultation with the Minister.
 - (b) Integrate with any other plans required under this Concession.
 - (c) Describe how the Concessionaire will manage rehabilitation on the Land during the Term.
 - (d) Be approved by the Minister prior to the commencement of the Concession.
- 10.15 As a minimum, the Rehabilitation and Closure Plan must address the following:
- (a) Areas of the Land requiring rehabilitation (being all disturbed areas, accessways and overburden/vegetation storage areas).
 - (b) Rehabilitation objectives, timeframes, and methods.
 - (c) Contouring, maximum slope angles, and stability of all final engineered landforms.
 - (d) Biosecurity responses (e.g. pest plant and animal control).
 - (e) Protection of slope stability, water, and soils from the effects of erosion.
 - (f) Water quality limits for discharges from the Land following removal of active water treatment.
 - (g) Removal of buildings, structures, tracks, and equipment from the Land.
- 10.16 The Minister may request a review of the Rehabilitation and Closure Plan and may require the Concessionaire to amend the plan at any time. The Concessionaire will implement and comply with any amendments to the plan approved by the Minister. The Minister may, at the cost of the Concessionaire, seek advice from an appropriate expert as part of any such approval.

Property of the Minister

10.17 The Concessionaire must take reasonable and proper care not to damage any property of the Minister and must promptly repair any such damage.

11. What about advertising?

11.1 The Concessionaire must not erect or display any advertising on the Land without the prior approval of the Minister. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.

11.2 If directed by the Minister, the Concessionaire must ensure that all its advertising and promotional material specifies that it is carrying out the Concession Activity under a Concession granted by the Minister on land administered by the Department.

11.3 If directed by the Minister, the Concessionaire must include information in its advertising and promotional material which assists its clients to understand the features and values of the natural and historic resources of the Land and the surrounding area.

11.4 The Concessionaire is encouraged to obtain information from and have regard to the views of tangata whenua.

12. What are the liabilities and who insures?

Liabilities

12.1 The Concessionaire agrees to use the Land at the Concessionaire's own risk and releases to the full extent permitted by law the Minister and the Minister's employees and agents from all claims and demands of any kind and from all liability that may arise in respect of any accident, damage, or injury occurring to any person or property on or about the Land.

12.2 The Concessionaire indemnifies the Minister against all claims, actions, losses, and expenses of any nature that the Minister may suffer or incur or for which the Minister may become liable arising from any breach by the Concessionaire of this Concession. Where the Concessionaire is found to be liable in accordance with this clause, the total extent of the Concessionaire's liability in respect of each event of damage, is limited to \$1,000,000.

12.3 This indemnity continues after the expiry or termination of this Concession in respect of any acts or omissions occurring or arising before its expiry or termination

12.4 The Concessionaire is responsible for the acts and omissions of its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Land).

12.5 The Minister is not liable and does not accept any responsibility for damage to or interference with the Land, the Concession Activity, or to any structures, equipment, or facilities on the Land or any other indirect or consequential damage or loss due to any natural disaster, vandalism, sabotage, fire, or exposure to the elements except where such damage or interference is caused by any wilful or negligent act or omission of the Minister, the Minister's employees, agents, or contractors.

12.6 Where the Minister is found to be liable in accordance with this clause, the total extent of the Minister's liability in respect of each event of damage, is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment, and facilities.

Commented [W20]: Change suggested by the Department not made.

Commented [W21]: The Department's suggestion to include 'signs' is not adopted as there will be health and safety and other signs required.

Commented [W22]: The Department's proposed deletions are not adopted: Westpower should only be liable for breaches of the concession.

Commented [WP23]: This is to reflect the limitation on the Minister's liability as set out below.

Commented [W24]: Change suggested by the Department (deletion) not made.

Commented [W25]: Change suggested by the Department (deletion) not made. It is not appropriate for that to be a global cap.

Concession Number: [to add]

12.7 Despite anything else in this clause, neither the Minister nor the Concessionaire are liable for any indirect or consequential damage or loss howsoever caused.

Insurance

12.8 Without prejudice to or in any way limiting its liability under this Concession, the Concessionaire at the Concessionaire's expense must take out and keep current policies for insurance with a substantial and reputable insurer in the types and amounts determined in accordance with this clause.

12.9 The Minister will set the initial types and amounts of insurance required following an independent assessment using a methodology set by the Minister.

12.10 After every three year period of the Term the Minister may, on giving 10 working days' notice to the Concessionaire, alter the types and amounts of insurance required-, following an independent assessment using a methodology set by the Minister. On receiving such notice, the Concessionaire must within 10 working days take out and keep current policies for insurance and for the amounts not less than the sums specified in that notice.

12.11 The Concessionaire must provide to the Minister within 5 working days of the Minister so requesting:

- (a) Details of any insurance policies required to be obtained under this Concession, including any renewal policies if such renewal occurs during the Term.
- (b) A copy of the current certificate of such policies.

13. What about Health and Safety?

Health and safety plan

13.1 The Concessionaire must exercise the rights granted by this Concession in a safe and reliable manner and must comply with the Health and Safety at Work Act 2015 and its regulations and all other provisions or requirements of any competent authority relating to the exercise of this Concession.

13.2 The Concessionaire must create a comprehensive and suitable health and safety management plan (**Safety Plan**) to address all aspects of the Concession Activity and must provide a copy of it to the Minister prior to commencing the Concession Activity.

13.3 Prior to any Concession Activity taking place, the Concessionaire must:

- (a) Have its Safety Plan audited by a suitably qualified person approved by the Minister and forward to the Minister a certificate from the auditor certifying that the plan is suitable for the Concession Activity.
- (b) Obtain from the auditor details as to when the Safety Plan is to be re-audited. The Concessionaire must comply with any such requirement to re-audit and forward a copy of the re-audit certificate to the Minister within 5 working days of the certificate being issued.

13.4 If the Concessionaire amends or replaces the audited Safety Plan then, before the amendment or replacement Safety Plan takes effect, the Concessionaire must comply with the audit requirements of this clause.

13.5 The Minister may request the Concessionaire to provide the Minister with a copy of the current Safety Plan at any time, in which case the Concessionaire must provide the copy within 10 working days of receiving the request.

Concession Number: [to add]

13.6 The Minister's receipt of a Safety Plan does not in any way limit the obligations of the Concessionaire related to health and safety or otherwise and is not to be construed as implying any responsibility or liability on the part of the Minister.

13.7 The Concessionaire must comply with the Safety Plan and with any safety directions of the Minister.

Commented [WP26]: The Department's suggested wording has been adopted.

Health and safety obligations

13.8 The Concessionaire must:

- (a) Notify the Minister of any natural events or activities on the Land or the surrounding area that may endanger the public or the environment.
- (b) Take all reasonably practicable steps to protect the safety of all persons present on the Land affected by the Concession Activity.
- (c) Where necessary, erect signposts warning the public of any dangers they may encounter because of the Concessionaire's operations.
- (d) Take all reasonably practicable steps to eliminate any dangers to the public arising from the Concession Activity and clearly and permanently mark any that remain and of which the Concessionaire is aware.
- (e) Report to the Minister all accidents involving a notifiable event reportable to WorkSafe in accordance with the Safety Plan and applicable legislation, within 24 hours of their occurrence, and must forward an investigation report to the Minister within 3 days of the event occurring.
- (f) Provide to the Minister a complete copy of the internal investigation report resulting from notifiable health or safety events within 60 days of the event's occurrence.
- (g) Provide to the Minister, at the Minister's request, any weekly or monthly reports generated by the Concessionaire and derived from the Concessionaire's accident reporting database.
- (h) Ensure that all contracts between the Concessionaire and any contractors contain, at a minimum, the same health and safety requirements as this Concession.
- (i) Not bring onto the Land or any land administered by the Department of Conservation any dangerous or hazardous material or equipment that is not required for purposes of the Concession Activity; and if such material or equipment is required and approved as part of the Concession Activity, the Concessionaire must take all practicable steps to ensure that the material or equipment is treated with due and proper care.

13.9 While the licence area is to remain accessible to the public, the Concessionaire may temporarily restrict access to certain areas during construction if that is necessary for health and safety reasons. In that event the Concessionaire will notify the DOC's area office in advance of that temporary restriction.

14. What are the compliance obligations of the Concessionaire?

14.1 The Concessionaire must comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan under the Conservation Act 1987 or Part IIA of the Reserves Act 1977, or any general policy statement made under the Conservation Act 1987, Reserves Act 1977, National Parks Act 1980,

Concession Number: [to add]

or Wildlife Act 1953, or management plan under section 45 of the National Parks Act 1980, whichever is appropriate to the Land, together with any amendment or review of any policy, strategy or plan whether approved before, on, or after the date on which this Concession takes effect; and

- (b) with the Conservation Act 1987, the Reserves Act 1977, the National Parks Act 1980, Wildlife Act 1953 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Land or affecting or relating to the Concession Activity, including any regulations made under the Conservation Act 1987 and Wildlife Act 1953 or bylaws made under the Reserves Act 1977 or the National Parks Act 1980; and
- (c) with all notices and requisitions of any competent authority affecting or relating to the Land or affecting or relating to the conduct of the Concession Activity; and
- (d) with all Department signs and notices placed on or affecting the Land; and
- (e) with all reasonable notices and directions of the Minister concerning the Concession Activity on the Land.

14.2 The Concessionaire must comply with this **Concession**.

15. What are the Minister's rights to remedy defaults?

- 15.1 The Minister may at any time elect to remedy any default by the Concessionaire under this Concession.
- 15.2 Before electing to remedy any default in accordance with this clause, the Minister must, if practicable, first give the Concessionaire notice of the default and a reasonable opportunity to remedy the default.
- 15.3 The Concessionaire must pay to the Minister immediately on demand all reasonable costs and expenses incurred by the Minister, including legal costs and expenses as between solicitor and client, in remedying such default. The Concessionaire is to pay interest on such costs and expenses if payment is not made within 14 days of the Minister's demand, from the date of the demand until the date of payment, at a penalty interest rate of 15%.

16. Compensation for unauthorised disturbance

- 16.1 The Minister may require the Concessionaire to pay additional compensation for any breaches of this Concession that cause the Minister loss or damage, in respect of proximate land administered by the Department of Conservation. Such additional compensation will reflect the cost incurred by the Minister in respect of such loss or damage and must be paid by the Concessionaire immediately on demand.

17. When can the Concession be **suspended?**

- 17.1 If in the Minister's reasonable opinion:
 - (a) there is an immediate, temporary and significant risk to public safety arising from natural events such as earthquake, land slip, volcanic activity, or flood; and
 - (b) the temporary suspension of all or part of the Concession Activity is necessary to address that risk,

Commented [W27]: The Department's proposed clauses 16.3 to 16.6 have not been adopted - those proposed clauses are far too uncertain (particularly given how out of date those documents are).

Commented [W28]: The Department's proposed replacement wording has not been adopted. That wording creates too much uncertainty in terms of the ability for the Minister to suspend the operation of the project. The Westpower wording of this condition has been retained.

then the Minister may temporarily suspend such parts of the Concession Activity, for no longer than is strictly necessary to remove or mitigate the risk to public safety provided the Minister has first:

(a) provided the Concessionaire with not less than 10 Working Days' notice; and

(b) taken all other practical steps and explored all other practical options to mitigate such risk (including suspending public access to any area, including to other concession holders).

- 17.2 During any period of temporary suspension, the Concession Fee payable by the Concessionaire is to abate in fair proportion to the reduction of the Concession Activity for the Concessionaire.
- 17.3 The Minister is not liable to the Concessionaire for any loss sustained by the Concessionaire because of the reasonable and lawful suspension of the Concession under this clause, including loss of profits.
- 17.4 The Concessionaire may refer any temporary suspension to the dispute resolution process set out in clause 23.

18. When can the Concession be terminated?

18.1 The Minister may, as a last resort, terminate this Concession (in whole or in part) by notice in writing to the Concessionaire (a **Termination Notice**), stating the date of termination of the Concession (**Termination Date**), in any of the following circumstances:

- (a) **Non-payment:** if the Concession Fee or any other money payable to the Minister under this Concession is not paid within 60 Working Days of the Concessionaire receiving from the Minister a notice in writing specifying the amount due, the due date for payment and noting the Minister's right to serve a Termination Notice if non-payment is not remedied.

Where clause 18.1(a) applies, the Termination Date shall be no earlier than 30 Working Days after the date of the expiry of the 60 Working Day period referred to above;

- (b) **insolvency:** if there is an event of insolvency, bankruptcy, statutory management, voluntary administration, receivership or liquidation of the Concessionaire (an **Insolvency Event**), and the Concessionaire has not assigned or novated its interest under this Concession to a solvent third party within a reasonable period of the Insolvency Event occurring (such period being no less than twelve months).

Where clause 18.1(b) applies, the Termination Date shall be no earlier than 60 Working Days after the date of the Termination Notice.

- (c) **Material breach:** If:

- (i) the Minister issues a notice in writing to the Concessionaire setting out, in reasonable detail, an alleged material default or breach by the Concessionaire in the performance or observance of any of a material provision of this Concession which has led to a significant impact on the Land (**Default Notice**); and
- (ii) the Concessionaire has not remedied such alleged default or breach within six months of the date of the Default Notice

provided that the Minister may not give a Termination Notice where:

Commented [W29]: The Department's suggestion to delete this wording has not been adopted. This Westpower wording has been retained in order to reiterate the significantly adverse impact of terminating of a concession for a ~\$200m infrastructure project: that should be a very last resort.

Concession Number: [to add]

- (iii) remedying such default will take longer than six months, and the Concessionaire has begun (and is thereafter diligently carrying out) the necessary steps to remedy the breach or default; and/or
- (iv) the Concessionaire disputes the alleged default or breach (including a dispute in relation to the timeframe required to remedy such breach or default), unless and until the parties have completed the dispute resolution process in clause 23 of this Concession, and it has been agreed and/or determined that the Concessionaire is in breach. In this event, the date of such agreement and/or determination shall be deemed to be the date of the Default Notice under this clause.

Commented [W30]: The Department's additional wording has not been adopted: that creates too much uncertainty for the exercise of this power.

Where this ~~clause 18.12-1(c)~~(c) applies, the Termination Date shall be no earlier than 60 Working Days after the date of the Termination Notice,

- 18.2 The Minister may exercise the Minister's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to act by the Minister or any indulgence granted by the Minister for any matter or default.
- 18.3 Termination of the Concession does not prejudice or affect the accrued rights or claims and liabilities of the parties.
- 18.4 The Concessionaire may refer any proposed termination under this clause to the dispute resolution process set out in clause 23.

19. What happens on termination or expiry of the Concession?

- 19.1 If the Minister permits the Concessionaire to remain in occupation of the Land after the expiry or earlier termination of the Term, (which permission may be oral or in writing), the occupation is to be on the basis:
 - (a) of a monthly tenancy only, terminable by 1 month's notice by either party; and
 - (b) at the Concession Fee then payable; and
 - (c) otherwise on the same terms and conditions, as they would apply to a monthly tenancy, as expressed or implied in this Concession.
- 19.2 On expiry or termination of this Concession, either as to all or part of the Land, the Concessionaire is not entitled to compensation for any structures or other improvements placed or carried out by the Concessionaire on the Land.
- 19.3 The Concessionaire may, with the Minister's written consent, remove any specified structures and other improvements on the Land. Removal under this clause must occur within a reasonable time specified by the Minister and the Concessionaire is to make good any damage and leave the Land and other public conservation land affected by the removal in a clean and tidy condition.

20. Monitoring

- 20.1 The Minister, its employees, and contractors may enter the Land to inspect the Land and facilities on or within the Land and to monitor compliance with this Concession. Monitoring may include the taking of samples and photographs. The Minister may only access the Lease Land

Concession Number: [to add]

(a) ~~to do any work that is necessary for the exercise of the Minister's functions and powers in relation to the Land;~~

~~(b)~~ after providing the Concessionaire with at least 5 working days' prior written notice, and while being accompanied by a representative of the Concessionaire;

~~(c)~~ as far as practicable, in a manner likely to cause the least possible interference with the Concessionaire's operations;

~~(d)~~ in accordance with the Concessionaire's reasonable requirements and directions (including pursuant to the Health and Safety at Work Act 2015, and any Concessionaire operational requirements);

~~(e)~~ in accordance with the Concessionaire's health and safety policies and procedures as advised to Minister from time to time; and

~~(f)~~ in compliance with all relevant laws and regulations.

Commented [WP31]: The Department's suggested wording has been adopted.

21. When is the Minister's consent required?

21.1 Where the Minister's consent or approval is expressly required under this Concession then the Concessionaire must seek that approval or consent for each separate time it is required even though the Minister may have given approval or consent for a like purpose on a prior occasion. Any such consent or approval may be made on such conditions as the Minister considers appropriate and is subject to clause 1.3.

Commented [W32]: Westpower has added this text to align with the wording in the long-term concession.

22. What about other concessions?

22.1 Nothing expressed or implied in this Concession is to be construed as preventing the Minister from granting other concessions, whether similar or not, to other persons provided that the Minister must not grant another concession:

(a) over the Lease Land; or

(b) over the Licence Land that would derogate in any way from the Concessionaire's ability to carry out the Concession Activity on the Licence Land.

23. How will disputes be resolved?

23.1 If a dispute arises between the parties in connection with this Concession the parties must, without prejudice to any other rights or entitlements they may have, attempt to resolve the dispute by agreement using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any other alternative dispute resolution technique. The rules governing any such technique adopted are to be agreed between the parties.

23.2 If the dispute cannot be resolved by agreement within 30 working days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation, where relevant, or to arbitration, which arbitration is to be carried out in accordance with the provisions of the Arbitration Act 1996.

23.3 If the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the New Zealand Law Society is to appoint the

Concession Number: [to add]

arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

23.4 The arbitrator must include in the arbitration award reasons for the determination.

23.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

24. What about prosecution for offences?

24.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Resource Management Act 1991, the Conservation Act 1987, or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Minister under this Concession is to preclude the Minister from prosecuting the Concessionaire; and
- (b) no failure by the Minister to prosecute the Concessionaire is to preclude the Minister from exercising the Minister's remedies under this Concession; and
- (c) any action of the Minister in prosecuting the Concessionaire is not to preclude the Minister from exercising the Minister's remedies under this Concession.

25. How are notices sent and when are they received?

25.1 Any notice to be given under this Concession is to be in writing and made by personal delivery, by pre paid post or email to the receiving party at the address or email address specified in Item 17 or 18 of Schedule 1. Any such notice is to be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of post, on the 3rd working day after posting;
- (c) in the case of email,
 - (i) if sent between the hours of 9am and 5pm on a working day, at the time of transmission; or
 - (ii) if subclause (i) does not apply, at 9am on the working day most immediately after the time of sending.

Provided that an email is not deemed received unless (if receipt is disputed) the party giving notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given notice.

25.2 If any party's details specified in Item 17 or 18 of Schedule 1 change then the party whose details change must within 5 working days of such change provide the other party with the changed details.

26. What is the scope of the Concession?

26.1 Except as provided by legislation, this Concession and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Concession and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Concession.

Concession Number: [to add]

The parties may refer to the decision of the Expert Panel to assist in the interpretation of this Concession Document.

27. Can provisions be severed?

27.1 Any illegality, or invalidity or unenforceability of any provision in this Concession is not to affect the legality, validity or enforceability of any other provisions.

28. What about the payment of costs?

28.1 The Concessionaire must pay the Minister's legal costs and expenses of and incidental to preparing and signing this Concession or any extension or variation of it, other than those costs already recovered by the Minister under the Fast-track Approvals Act 2024.

28.2 The Concessionaire must pay to the Minister all costs associated with applications for approvals under this Concession determined at the standard rates then applying in the Department of Conservation for cost recovery.

28.3 The Concessionaire must pay in full immediately and on demand all costs and fees (including solicitor's costs and fees of debt collecting agencies engaged by the Minister) arising out of and associated with steps taken by the Minister to enforce or attempt to enforce the Minister's rights and powers under this Concession including the right to recover outstanding money owed to the Minister. [\[The Concessionaire may similarly recover all costs and fees in relation to the enforcement of the Concessionaire's rights under this Concession.\]](#)

Commented [W33]: Addition by Westpower.

29. What is the relationship of the parties?

29.1 Nothing expressed or implied in this Concession is to be construed as:

- (a) constituting the parties as partners or joint venturers;
- (b) conferring on the Concessionaire any right of exclusive occupation or use of the Licence Land; or
- (c) granting any exclusive estate or interest in the Licence Land to the Concessionaire.

Commented [W34]: Change suggested by the Department (the addition of "affecting the rights of the Minister and the public to have access across the Licence Land") not made. (the rights of the public will be affected by eg the lease).

30. Bond

30.1 Before commencing the Concession Activity, the Concessionaire must, as security for the performance of the Concessionaire's obligations under the Concession, provide a bond, in the form of (at the Concessionaire's option):

- (a) a cash bond [for the amount set out in Schedule 1]; or
- (b) a performance bond under which a trading bank, insurance company or bond guarantor undertakes unconditionally to pay the Minister a sum [up to the amount specified in Schedule 1].

Commented [W35]: This bond clause is the subject of a s78 condition: Westpower and the Department will update the panel on whether the s 78 condition wording needs to replace this wording.

30.2 Notwithstanding any variation (including as to term), expiry, surrender, or termination of the Concession, the bond is to remain in full force and effect until returned or released in accordance with clause 30.4.

Concession Number: [to add]

30.3 If the Concessionaire breaches or fails to carry out any condition of the Concession which causes the Minister loss or damage, and fails to begin (and thereafter diligently carry out) the necessary steps to remedy such breach within a reasonable time of receiving a notice of the breach (being no less than 8 weeks, the Minister may (as is relevant):

(a) deduct from the cash bond an amount to satisfy the outstanding obligation and to make good any loss or damage sustained by the Minister as a result of the default (the **relevant amount**); or

(b) call upon the performance bond for the relevant amount,

and must apply the relevant amount in satisfaction of the outstanding obligation of the Concessionaire and toward making good any loss or damage sustained by the Minister as a result of the default (as is relevant). The Minister must provide the Concessionaire with details of the Minister's expenditure incurred in remedying the default (including, where relevant, copies of invoices and receipts for the amounts expended).

30.4 The Minister must promptly on the expiry of this Concession (or any period of holding over):

(a) return the cash bond; or

(b) notify the provider of the performance bond to release the performance bond,

(as is relevant). If the Minister has converted the performance bond to cash, the Minister must, promptly following the later of 30.4(a) or (b) to occur, return to the Concessionaire the balance of any cash proceeds to which the Minister is not entitled.

30.5 If it is subsequently determined that the Minister has improperly accessed the cash bond or called on the performance bond, in circumstances other than those referred to in clause 30.3, the Minister must pay or repay to the Concessionaire the amount of such excess or the full amount drawn in contravention of clause 30.3 together with interest on such amount from the date of the improper access or call on the bond until the date of repayment at the Penalty Interest Rate specified in Item 12 of Schedule 1.

31. **What about registering the Concession?**

31.1 The Minister is not required to do any act or thing to enable this Concession to be registered and the Concessionaire must not register a caveat in respect of the Concessionaire's interest under this Concession.

31.2 Nevertheless, if the Concessionaire wishes to register this Concession under the Land Transfer Act 1952, the Minister must take all such steps as are necessary to enable a certificate of title to issue in respect of the land against which this Concession may be registered subject to the Concessionaire being responsible for and bearing all costs of and incidental to any survey necessary to enable such issue of title and all costs incurred by the Minister in enabling such an issue of title and in having this Lease re-executed by the parties in a form suitable for registration.

32. **Heritage**

32.1 The Concessionaire must take reasonable care to comply with the Heritage New Zealand Pouhere Taonga Act 2014.

Commented [W36]: Change suggested by the Department (insertion of co-siting clause) not made. Co-siting is not appropriate in a concession of this scale, but can be requested on a case-by-case basis.

Concession Number: [to add]

33. Supply of services

33.1 Nothing contained or implied in this Concession requires the Minister or the Concessionaire to supply services on or under the Land or entitles the Concessionaire to interfere with the services of any other user of the Land.

34. Which clauses survive termination?

34.1 Clauses ~~13-12~~ and ~~25-25~~ survive the termination of this Concession.

35. Are there any Special Conditions?

35.1 Special conditions are specified in Schedule 3.

36. The Law

36.1 This Concession is to be governed by, and interpreted in accordance with the laws of New Zealand.

Commented [W37]: Change suggested by the Department (insertion of variation clause) not made.

Westpower does not agree with the clause proposed by DOC (the Minister can make unilateral variations to the concession conditions).

Concession Number: [to add]

SCHEDULE 3: SPECIAL CONDITIONS FOR SHORT-TERM CONCESSIONS

Acronym/Term	Definition
AMP	Avifauna Management Plan
Application	The document titled "Westpower Limited Waitaha Hydro Project: An Application made under the Fast-track Approvals Act (2024)" dated 8 August 2025, including all technical assessments and supporting reports.
BMP	Bat Management Plan
Bulk Earthworks	Large scale soil / rock disturbances associated with any Project Construction Works.
CEMP	Construction Environmental Management Plan
Commencement of Construction	The time when any Project Construction Work Component first starts (excluding any Pre-Construction activities that are authorised by separate concessions granted prior).
Completion of Construction	The time when the Waitaha Hydro Project has been built and commissioned and is available to generate electricity for customer supply.
Commencement of Generation	The date when the Project first transmits electricity onto the local network for customer supply.
Consents	Any resource consents granted under the Fast-track Approvals Act 2024 that would otherwise be granted under the RMA.
Concessionaire	Westpower Limited or Waitaha Hydro Limited and any person acting with the permission (including implied permission) of Westpower Limited or Waitaha Hydro Limited as if the concession had been granted to that person as well as to Westpower or Waitaha Hydro Limited.
Concessions	Any Concessions granted under the Fast-track Approvals Act 2024 that would otherwise be granted under the Conservation Act.
Concession Activity	Any activity associated with the construction of the Waitaha Hydro Project requiring a Concession
Concession Area	Area of the Project located on land administered by the Department of Conservation.
Construction	All Project construction activities occurring on Department of Conservation land excluding any Pre-Construction activities that are authorised by separate concessions granted prior.
GNMP	Construction Noise Management Plan.
Consent Authorities	Westland District Council, in respect of land use consents administered by Westland District Council; or West Coast Regional Council, in respect of resource consents administered by West Coast Regional Council.
Construction Staging Areas	Areas developed prior to or during Construction and used for plant and equipment laydown, construction contractor and staff offices and amenities, staff parking, helicopter landings and take-offs and other general construction-related activities. Construction Staging Areas within the Project Construction Site include: <ul style="list-style-type: none"> ● Construction Staging Area 1 (Headworks); and ● Construction Staging Area 2 (Power Station Site)
CTMP	Construction Traffic Management Plan

Commented [W38]: Moved to Schedule 2 to ensure consistent terminology throughout the concession document.

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DMP	Dust Management Plan
DOC	Department of Conservation
DOC Liaison Officer	The designated Department of Conservation employee or external contractor who will act as a liaison contact between the Concessionaire and the Department of Conservation's local Area Office during Construction.
ESCP	Erosion and Sediment Control Plan
FEMP	Freshwater Ecology Management Plan
FMP	Flight Management Plan
FTAA	Fast-track Approvals Act 2024
Headworks	The physical structures within the Scheme situated above Morgan Gorge comprising a low-profile weir and intake structure together with an access tunnel portal and access road.
LizMP	Lizard Management Plan
LMP	Landscape Management Plan
Power Station	The physical structures within the Scheme situated immediately adjacent to, and in the vicinity of, the Waitaha River and the lower end of the Tunnels generally comprising the: <ul style="list-style-type: none"> ● Power Station; ● Tailbay; ● Tailrace; ● Switchyard; and ● and all ancillary structures.
Power Station Site	The area comprising the Power Station
Power Station Access Road	The vehicle access road between the southern end of the Waitaha Road Reserve and the Power Station Site.
Pre-Construction activities	Any activity associated with investigative drilling or geophysical investigations.
Project	Includes all physical resources and activities associated with constructing, operating and maintaining the Scheme and all ancillary structures and activities.
Project Construction Site	All Department of Conservation land required to be used for the construction of the Project.
Project Construction Work Component	Specified components or phases associated with constructing the Project (including all associated activities). Project Construction Work Components include: <ul style="list-style-type: none"> ● Construction of temporary access road and bridge to and over Granite Creek; ● Construction of new access road and transmission lines across and south of Macgregor Creek and associated structures; ● Streamworks; ● Power Station Site and/or Tunnels including Construction Staging Area 2; ● Headworks including Construction Staging Area 1; and ● Rehabilitation works.
RPAS	Remotely Piloted Aircraft System
Scheme	The Waitaha Hydro Scheme.
Streamworks	All physical works undertaken within, and involving the disturbance of, any stream or riverbed excluding riverbed gravel extraction.
Tunnels	All physical structures associated with the water tunnel and the access tunnel

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	included in the Scheme.
Transmission Line	The physical structures comprising the electricity transmission infrastructure between the Power Station Site and the existing Westpower Transmission Network on State Highway 6.
VMP	Vegetation Management Plan
WCRC	West Coast Regional Council
WDC	Westland District Council
Wildlife Permits	Any Wildlife Permits granted under the Fast-track Approvals Act 2024 that would otherwise be granted under the Wildlife Act.
WWNZ	Whitewater NZ Incorporated

1. All construction activities must be undertaken in general accordance with the Application and within the Concession Area maps provided in Schedule 4 of this Concession.
2. Where there is any inconsistency between the Application and:
 - (a) these conditions, these conditions will prevail; and
 - (b) the requirements of any Management Plan referred to in these conditions, the Management Plan will prevail.

DOC Liaison Officer

3. The Concessionaire must fund the agreed and reasonable costs of a DOC employee or external contractor who will act as a liaison contact between the Concessionaire and DOC's local Area Office during the term of construction of the Scheme. The exact role, brief of service and level of remuneration of the DOC Liaison Officer will be agreed between the Concessionaire and DOC.
4. The role of the DOC Liaison Officer includes:
 - (a) meeting with the Concessionaire, including the primary contractor as required but at least 10 working days prior to Commencement of Construction.
 - (b) meeting with the Concessionaire at appropriate intervals, and not less than every 6 months following Commencement of Construction.
 - (c) reviewing annual Work Plans and other documentation submitted to DOC under this Concession or otherwise associated with the Concessionaire's activities and operations under this Concession, and making appropriate recommendations to DOC based on those documents;
 - (d) monitoring compliance by the Concessionaire with Management Plans **required** pursuant to this Concession and any other requirements of DOC; and
 - (e) more specifically, monitoring compliance with rehabilitation plan requirements set out in the VMP, monitoring and liaising over the success or otherwise of ongoing rehabilitation works and making recommendations to DOC regarding successful progressive and long term restoration and rehabilitation of the Concession Area.
5. The appointment of the DOC Liaison Officer will be by DOC following consultation with the Concessionaire, and the DOC Liaison Officer will report to a DOC local Area Office staff member nominated by DOC.
6. **The DOC Liaison Officer will be a senior position, requiring a range of professional skills necessary for**

Commented [W39]: Change suggested by the Department (adding "and conditions") not made.

liaising effectively and autonomously with the Concessionaire, DOC local Area Office, the WCRC and WDC and other external consultants and interested persons. The DOC Liaison Officer must have a strong proven performance in relationship management for large-scale developments in environmentally sensitive areas.

7. The DOC Liaison Officer must be appointed prior to the Commencement of Construction. Pending such appointment DOC may, if considered necessary, appoint an interim DOC Liaison Officer at any time between the date of execution of this Concession and the commencement of this Concession and such interim DOC Liaison Officer will carry out the role of the DOC Liaison Officer as envisaged by Condition 4.

Commented [W40]: Change suggested by the Department (deletion) not made. This guidance is appropriate in the condition.

Management Plans

8. Prior to commencing each of the Project Construction Work Components occurring on, over or under land administered by DOC (identified in Table 1), the Concessionaire must supply a draft copy of each corresponding Management Plan to the DOC Liaison Officer and invite them to provide feedback.
9. When submitting any Management Plan identified in Table 1 to the relevant Consent Authority for certification, in accordance with the conditions of the Consents, the Concessionaire must provide feedback from the DOC Liaison Officer as to whether the Management Plan meets the purpose and requirements set out in the relevant conditions for that Management Plan. In the event the DOC Liaison Officer's feedback confirms they do not consider the Management Plan meets its relevant purpose and requirements, the Concessionaire must also provide the relevant Consent Authority with:
 - (a) The DOC Liaison Officer's specific concerns about the Management Plan and/or the reasons why they consider the Management Plan does not meet its relevant purpose and requirements; and
 - (b) The Concessionaire's reasons why they have not actioned or addressed the DOC Liaison Officer's concerns.
 - (b) The Concessionaire must meet all of DOC's actual and reasonable costs associated with reviewing and providing feedback on management plans.

Commented [W41]: General comment: Westpower does not agree that the Department needs to certify the management plans: the DOC liaison officer will be closely involved in the process as set out in the conditions as explained in Memorandum #7.

Commented [W42]: Change suggested by the Department (requiring approval not feedback) not made, for the general comment above regarding management plans.

Commented [W43]: Change suggested by the Department (approval, not certification) not made. Certification is the correct term as it is a technical matter.

10. In the event the DOC Liaison Officer does not provide a response within 20 working days of receiving a draft Management Plan, the Concessionaire is entitled to submit the draft Management Plan to WCRC and/or WDC for certification in accordance with the conditions for the Consents.

Commented [W44]: Change made as requested in the Department's s 53 comments.

Commented [W45]: Change suggested by the Department (deletion) not made for the reasons set out in Memorandum #7 and Mr Jackson's attachment.

Table 1: Pre Construction Management Plans

Project Construction Work Components Occurring in Concession Areas shown in Schedule 4	Management Plan Requirements
Construction of new access road and transmission lines across and south of the true left bank of Macgregor Creek	Construction Environmental Management Plan Erosion and Sediment Control Plan Dust Management Plan Construction Traffic Management Plan

Project Construction Work Components Occurring in Concession Areas shown in Schedule 4	Management Plan Requirements
	Construction Noise Management Plan
Streamworks	Construction Environmental Management Plan Flight Management Plan (if helicopters are used) Erosion and Sediment Control Plan Construction Noise Management Plan
Headworks including Construction Staging Area 1	Construction Environmental Management Plan Erosion and Sediment Control Plan Dust Management Plan Construction Traffic Management Plan
Power Station Site and/or Tunnels including Construction Staging Area 2	Flight Management Plan (if helicopters are used) Construction Noise Management Plan

Advice Note: The rationale for the table above provides for different Project Construction Work Components to proceed independently of each other in recognition of the relatively long construction phase duration for the Project. This framework also enables the scope of each Management Plan to match a particular phase of construction work rather than cover, at the outset, what is a very large scope of Construction Works.

11. When undertaking the Project Construction Work Component listed in the Table 2, the Concessionaire must, in accordance with the conditions of this Concession, implement the corresponding Management Plans (being the FINAL Management Plans included with the Application and approved via the Panel's decision).

Table 2: Approved Management Plans

Project Construction Work Components Occurring in Concession Areas shown in Schedule 4	Management Plan Requirements
Streamworks	Freshwater Ecology Management Plan
Construction of new access road and transmission lines across and south of the true left bank of Macgregor Creek	Freshwater Ecology Management Plan Vegetation Management Plan Avifauna Management Plan
Headworks including Construction Staging Area 1	Bat Management Plan Lizard Management Plan

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Project Construction Work Components Occurring in Concession Areas shown in Schedule 4	Management Plan Requirements
Power Station Site and/or Tunnels including Construction Staging Area 2	Landscape Management Plan
Rehabilitation Works	Vegetation Management Plan Landscape Management Plan

Advice Note: Management Plans listed in this condition (that were included with the Application and approved via the Panel's decision), do not require certification.

12. Prior to the Commencement of Generation, the Concessionaire must supply a draft copy of the Management Plans identified in Table 3 to the DOC Liaison Officer and invite them to provide feedback.
13. When submitting any Management Plan identified in Table 3 to the relevant Consent Authority for certification, in accordance with the conditions of the Consents, the Concessionaire must provide feedback from the DOC Liaison Officer as to whether the Management Plan meets the purpose and requirements set out in the relevant conditions for that Management Plan. In the event the DOC Liaison Officer's feedback confirms they do not consider the Management Plan meets its relevant purpose and requirements, the Concessionaire must also provide the relevant Consent Authority with:
 - (a) The DOC Liaison Officer's specific concerns about the Management Plan and/or the reasons why they consider the Management Plan does not meet its relevant purpose and requirements; and
 - (b) The Concessionaire's reasons why they have not actioned or addressed the DOC Liaison Officer's concerns

(b) The Concessionaire must meet all of DOC's actual and reasonable costs associated with reviewing and providing feedback on relevant management plans.
14. In the event the DOC Liaison Officer does not provide a response within 20 working days of receiving a draft Management Plan, the Concessionaire is entitled to submit the draft Management Plan to WCRC and/or WDC for certification in accordance with the conditions for the Consents.

Table 3: Other Operational Management Plans

Operations Phase Management Plans
Site Operations and Maintenance Plan
Stormwater Management Plan

15. The preparation of each Management Plan referred to in Tables 1 and 3 must be prepared by a suitably qualified and experienced person and the qualifications detailed as part of the Management Plan.
16. The Concessionaire must undertake all activities authorised by this Concession in accordance with the relevant certified Management Plans referred to in Tables 1 and 3, the relevant approved Management Plans in Table 2, and any certified amendments to a Management Plan.
17. The Concessionaire must not commence the activities listed in Tables 1 and 3 until certification of the

Commented [W46]: Change suggested by the Department (approval, not certification) not made, for the reason set out above.

Commented [W47]: Change suggested by the Department (approval, not certification) not made, for the reason set out above.

Commented [W48]: Change made as requested in the Department's s 53 comments.

Commented [W49]: Change suggested by the Department (deletion) not made for the reasons set out in Memorandum #7 and Mr Jackson's attachment.

Commented [W50]: Change suggested by the Department (approval, not certification) not made, for the reason set out above.

relevant Management Plan or Plans listed in those tables has been obtained.

Amendment to management plans

18. The Concessionaire may seek amendment to any Management Plan referred to in Tables 1, 2 or 3 at any time. The Concessionaire must supply a draft copy of any proposed amendment to the DOC Liaison Officer and invite them to provide feedback. The Concessionaire must provide feedback from the DOC Liaison Officer as to whether the Management Plan meets the purpose and requirements set out in the relevant conditions for that Management Plan. In the event the DOC Liaison Officer's feedback confirms they do not consider the Management Plan meets its relevant purpose and requirements, the Concessionaire must also provide the Consent Authority with:
 - (a) The DOC Liaison Officer's specific concerns about the Management Plan and/or the reasons why they consider the Management Plan does not meet its relevant purpose and requirements; and
 - (b) The Concessionaire's reasons why they have not actioned or addressed the DOC Liaison Officer's concerns.
 - (b) ~~The Concessionaire must meet all of DOC's actual and reasonable costs associated with reviewing and providing feedback on relevant management plans.~~
19. In the event the DOC Liaison Officer does not provide a response within 20 working days of receiving the draft Management Plan amendment, the Concessionaire is entitled to submit the draft Management Plan amendment to WCRC and/or WDC for certification in accordance with the conditions for the Consents.
20. Until Completion of Construction, copies of all Management Plans referred to in Tables 1 and 2 must be kept at Construction Staging Area 3 at all times.

Commented [W51]: Change made as requested in the Department's s 53 comments.

Commented [W52]: Changes suggested by the Department (approval, not certification, and deemed certification) not made for the reasons set out above.

Pre-commencement meeting – Project Construction Work Components

21. Not less than 10 days prior to the anticipated commencement of any Project Construction Work Component, the Concessionaire must schedule and attend a pre-construction meeting on the Project Site with the DOC Liaison Officer and the contractor(s) who will manage or undertake the works associated with the relevant Project Construction Work Component.
22. The purpose of this meeting is to ensure all parties in attendance are aware of the scale and scope of works to be undertaken and are familiar with relevant Concession conditions and Management Plan requirements that apply.
23. The following information must be made available at the pre-construction meeting by the Concessionaire:
 - (a) Scheduling and staging of the works, including the proposed start date;
 - (b) Relevant Concession conditions;
 - (c) Contact details for all relevant parties;
 - (d) Site visit / inspection requirements;
 - (e) A copy of the Final CEMP;
 - (f) A copy of the Final ESCPs relevant to the Project Construction Work Component; and

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- (g) Copies of any other Management Plans required for the Project Construction Work Component or Components as set out in Tables 1 and 2 of these conditions.

Hours of Construction

24. The Concessionaire must limit hours of construction for specific activities in accordance with the following table:

Construction Activity	Hours of Construction
Underground tunnel construction and associated activities	Any time
Construction of tunnel portals and the Headworks	Any time, provided that works undertaken between 7 PM and 7 AM are avoided whenever practicable
All other construction activities	Between the hours of 7 AM and 7 PM Monday to Sunday inclusive

Construction Environmental Management Plan (CEMP)

25. The purpose of the CEMP required by Table 1 of these conditions is to set out the management procedures and construction methods to be undertaken by the Concessionaire to avoid, remedy or mitigate any potential adverse effects associated with Construction ~~w~~Works and to ensure that Construction works remain within the limits and standards specified in the related conditions of this Concession.
26. The CEMP must also include (as appendices or attachments) copies of any other Management Plans applicable to the scope of Project Construction Work Component(s) being covered by the CEMP.
27. To achieve its objective, the CEMP must be prepared by a suitably qualified and experienced person, be of a similar form and content to the DRAFT CEMP provided in the Application, and include the following information:
- (a) Regarding overall project management:
- (i) The roles and responsibilities of staff and contractors including their contact details (phone and email address);
 - (ii) A summary description of the existing site(s) to be used for construction;
 - (iii) A detailed description of the scope of construction activities, including a list of all Project Construction Work Components and all land to be used;
 - (iv) Construction Work programmes and any staging details;
 - (v) Hours of construction work in accordance with condition 24 of this Concession;
 - (vi) Construction Site layout details including Construction Staging Areas, locations of refuelling activities and construction lighting;
 - (vii) Measures and actions to respond to warnings of heavy rain;
 - [\(viii\)](#) Methods for providing for the health and safety of the general public during construction;
 - [\(viii\)\(ix\)](#) Methods for ensuring the public are informed of general construction activities and

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[construction programme, including the general potential for temporary recreation track closures, and for complying with the requirements regarding track closures:](#)

~~(ix)~~(x) Procedures, including spill prevention and response measures, for the refuelling and maintenance of plant and equipment to avoid discharges of fuels or lubricants to watercourses;

~~(x)~~(xi) Methods for managing sewage, solid wastes and refuse generated from Construction Works;

~~(xi)~~(xii) Procedures for incident management including natural hazard events;

~~(xii)~~(xiii) Procedures for responding to complaints about Construction Works;

~~(xiii)~~(xiv) Methods for amending and updating the CEMP as required;

(b) Methods and processes associated with the following other construction activities and control of any related discharges or effects, including but not necessarily limited to:

(i) Road and transmission line construction activities;

(ii) Streamworks; and

(iii) Construction water take operation and monitoring.

28. To enable sequencing of the Project Construction Works Components, the CEMP may be reviewed and amended over time in accordance with Condition 18 of these conditions.

Commented [W53]: Change suggested by the Department (new condition 28) not made for the reasons stated earlier about management plans.

Construction Disturbance Area

29. The total land area disturbed or used during construction activities authorised by this Concession must not exceed the following:

Project Construction Site	Maximum Area (ha)
Headworks	1.2
Power Station Site and access road / transmission line south of Macgregor Creek	6.2
Overall Total	7.4

Indigenous Vegetation Disturbance Area

30. The total area of indigenous vegetation permanently removed as a result of the construction activities authorised by this Concession must not exceed the following:

Project Site Areas	Maximum Area (ha)
Headworks	0.13 1.01
Power Station Site and access road / transmission line south of Macgregor Creek including tailrace	0.67 5.58
Access Road / transmission line south of Macgregor Creek	3.46
Overall Total	4.26 6.59

Commented [W54]: Updated to reflect Table 5 of the AEE.

Accidental discovery protocols

31. If, at any time during any earthworks or Streamworks authorised by this **Concession**, any archaeological features (including human remains, archaeology and artefacts) are uncovered, works in the immediate area must cease and Poutini Ngāi Tahu, the DOC Liaison Officer, Heritage New Zealand Pouhere Taonga (09 307 9920) notified immediately.
32. If any human remains are uncovered, the New Zealand Police, must be notified immediately.
33. In all cases, the following protocols must be followed:

Wait for and enable inspection of the site

- (a) Stop work and wait for the site to be inspected by the relevant authority or agency:
 - (i) The New Zealand Police are required to investigate the human remains to determine whether they are those of a missing person or are a crime scene. The remainder of this process will not apply until the New Zealand Police confirm that they have no further interest in the discover.
 - (ii) A site inspection for the purpose of initial assessment and response will be arranged by the DOC Liaison Officer in consultation with Heritage New Zealand Pouhere Taonga and appropriate Poutini Ngāi Tahu representatives.
- (b) Following site inspection and consultation with all relevant parties (including the Concessionaire), the DOC Liaison Officer will determine the area within which work must cease, until the requirements of this condition have been satisfied.

Recommencement of work

- (c) Work within the area determined by the DOC Liaison Officer must not recommence until all of the following requirements, so far as relevant to the discovery, have been met:
 - (i) Heritage New Zealand has confirmed that an archaeological authority has been approved for the work or that none is required;
 - (ii) Any required notification under section 11(3) of the Protected Objects Act 1975;
 - (iii) Any material of scientific or educational importance has been recorded and if appropriate recovered and preserved; and
 - (d) Where the site is of Māori origin and an authority from Heritage New Zealand Pouhere Taonga is not required, the DOC Liaison Officer will confirm, in consultation with Poutini Ngāi Tahu, that:
 - (i) Any kōiwi have either been retained where discovered or removed in accordance with the appropriate tikanga; and
 - (ii) Any agreed revisions to the planned works to be/have been made to address adverse effects on Māori cultural values.
34. If, at any time during any earthworks or Streamworks authorised by this Concession, any pounamu (greenstone) is discovered, the Concessionaire must follow the Pounamu Accidental Discovery Protocol set out in Schedule 10 of the Operative West Coast Regional Land and Water Plan.

Commented [W55]: Westpower has accepted the Department's suggested change.

Notification of fuel spill

35. The Concessionaire must inform the DOC Liaison Officer immediately after becoming aware of any fuel spillage in excess of 20 litres that occurs onto the land surface or into water.

Hazardous substances

36. The Concessionaire must comply with all Hazardous Substances and New Zealand Organisms Act 1996 (HSNO) regulations and requirements for storage of hazardous substances (including fuel).

Didymo

37. To prevent the spread of Didymo or any other aquatic pest, the Concessionaire must ensure that activities authorised by ~~the this~~ Concessions are undertaken in accordance with the Biosecurity New Zealand's hygiene procedures.

Advice note: You can access the most current version of these procedures from the Biosecurity New Zealand website <http://www.biosecurity.govt.nz>

Commented [W56]: Westpower has accepted the Department's suggested change.

Air discharges from emergency diesel fired generator

38. The Concessionaire must maintain and test the emergency generator at the Power Station Site in accordance with the manufacturer's instructions. Records of the tests within the last two years must be retained and provided to the DOC Liaison Officer on request.

Erosion and Sediment Controls

39. The Erosion and Sediment Control Plan (ESCP) required by Table 1 must be prepared by a suitably qualified and experienced person. The purpose of the ESCP is to ensure erosion and sediment discharges from construction work areas are appropriately minimised and managed.
40. The ESCP must be of a similar form and content to the DRAFT ESCP provided in the Application, and contain as a minimum details and methods for:
- Minimising erosion and mobilisation of sediment during all earthwork activities, and in particular, specific sediment discharge protection measures for the "Stable Trib", in accordance with conditions 43 and 44 of this Concession;
 - Controlling mobilised sediment during construction related earthworks including locations, dimensions and capacities of all controls to achieve the discharge quality standard set out in condition 46(a) of this Concession;
 - Minimising mobilisation of sediment and release of cementitious contaminants to water during all Streamwork activities;
 - Monitoring and treating any high-pH water generated during the application of shotcrete in tunnels to achieve the discharge quality standard set out in condition 46(b) of this Concession; and
 - Erosion and sediment control device monitoring and maintenance or replacement requirements including maintaining levels of accumulated sediment within any sediment retention pond of no more than 20% of the pond's volume.

Commented [W57]: Change suggested by the Department (new condition 42) not made for the reasons stated earlier about management plans.

Sediment losses

41. The Concessionaire must ensure that sediment losses to natural water associated with the

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construction activities authorised by this Concession is avoided or otherwise minimised.

Pre-commencement Notification

42. The DOC Liaison Officer must be notified at least five (5) working days prior to Bulk Earthwork and Vegetation Clearance activities commencing on the Project Site.

Prior to Earthworks

43. Prior to the finalising the road alignment between Macgregor Creek and the Power Station, the Concessionaire must accurately mark out the location of the 'Stable Trib' via a ground survey.
44. The Concessionaire must ensure all parts of the access road between Macgregor Creek and the Power Station are set-back more than 20 metres from any part of the Stable Trib.

During Earthworks

45. The Project Site must be progressively stabilised against erosion at all stages of the earthwork activity and must be sequenced to minimise the discharge of contaminants to groundwater and/or surface water in accordance with any certified ESCP.
46. Any discharge to surface water from any construction phase water treatment device must comply with the following quality standards:
 - (a) Clarity of no less than 100mm; and
 - (b) pH of between 6.7 and 8.2.
47. The erosion and sediment control measures must be maintained throughout the duration of the earthwork activity at that site, or until the site is permanently stabilised against erosion. A record of any maintenance work to the erosion and sediment control measures must be kept by the Concessionaire and be supplied to the DOC Liaison Officer on request.
48. All earthworks must be managed to ensure that they do not lead to any instability or collapse either adversely affecting the site, neighbouring properties or water courses. If such collapse or instability does occur and results in one or more of these adverse effects, it must be reported to the DOC Liaison Officer immediately following the Concessionaire becoming aware of the instability or collapse and must be repaired by the Concessionaire as soon as practicable.
49. All imported fill used within the Project Site must:
 - (a) comply with the definition for 'cleanfill material' in the Operative Regional Land and Water Plan;
 - (b) be solid material of a stable, inert nature; and
 - (c) not contain hazardous substances or contaminants above recorded natural background levels of the receiving site.
50. All machinery must be maintained and operated in a way which ensures that risks of spillages of hazardous substances such as fuel, oil, grout, concrete products and any other contaminants are avoided or otherwise minimised.

Dust Management Plan

51. The ~~purpose-objective~~ of the Dust Management Plan (DMP) required Table 1 is to set out the practices and procedures to be adopted to ensure dust emissions from construction activities are minimised

Commented [W58]: Change suggested by the Department (approval, not certification) not made for the reason set out above.

Commented [W59]: Westpower has accepted the Department's suggested change.

and managed and do not cause an objectionable or offensive effect beyond the boundary of the Project Site.

52. The DMP must, as a minimum, include:

- (a) Confirmation of the parties responsible for dust management during Construction;
- (b) Identification of sensitive receivers to potential dust effects and specific works methodologies for undertaking works in proximity to these parties;
- (c) Proposed dust control methods including confirmation of an adequate water supply with sufficient capacity to ensure damp ground conditions can be maintained within the site during high dust risk periods; and

(d) Protocols for responding to and addressing any complaints received.

~~(d)~~ 53. All construction activities must be undertaken so that there is no discharge of particulate matter that causes an objectional effect beyond the Site.

Commented [W60]: Change suggested by the Department (new condition 55) not made for the reasons stated earlier about management plans.

Construction traffic management

~~53:~~ 54. The CTMP, required by Table 1 must be prepared in accordance with the Consent Authority's requirements for traffic management plans or CTMPs (as applicable) and the New Zealand Guide to Temporary Traffic Management (NZGTTM).

~~54:~~ 55. The ~~purpose-objective~~ of the CTMP is to set out how the Concessionaire will manage road traffic to and from the Project Site to appropriately protect public safety, minimise delays to road users and address any road pavement damage caused by the consented construction activities.

~~55:~~ 56. The CTMP must be prepared by a suitably qualified Traffic Engineer and it must include, as a minimum, the following information:

- (a) Construction dates and hours of operation including any specific non-working hours for traffic;
- (b) Diagrams of all truck routes to be used within the Project Construction Site;
- (c) Driver protocols and speed restrictions; and
- (d) Communication protocols with the DOC Liaison Officer.

~~56:~~ 57. Construction activity in relation to any Project Construction Work Component requiring a CTMP must not commence until the CTMP has been certified by the Consent Authority and all construction traffic must be managed at all times in accordance with the approved CTMP.

Commented [W61]: Change suggested by the Department (approval, not certification) not made for the reason set out above.

Construction noise management

~~57:~~ 58. The ~~purpose-objective~~ of the CNMP required by Table 1 are to:

- (a) Set out details of how the limits in condition 61 will be achieved;
- (b) Set out details of general noise management and mitigation procedures and communication and complaint procedures to be undertaken during the Scheme's construction; and
- (c) Provide a framework for the development of particular noise control practices in order to reduce the impact on the environment and achieve the noise limits set out in ~~these~~ this Concessions.

~~58:~~ 59. The CNMP must be prepared by a suitably qualified and experienced acoustic engineer engaged by

Commented [W62]: Westpower has accepted the Department's suggested change.

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the Concessionaire, be of a form and include content consistent with the DRAFT CNMP submitted with the Application and include, but not be limited to:

- (a) Brief descriptions of construction work;
- (b) Noise criteria to apply to general construction activities, blasting and helicopter movements as set out in conditions 61, 62 and 63 of this concession;
- (c) Details of general noise management measures to be implemented during general construction activities, helicopter movements and blasting;
- (d) Specific details on noise management measures to minimise noise effects on local residents, recreational users, wildlife and livestock including methods for achieving compliance with condition 60 of this ~~consent~~Concession;
- (e) Contingency measures;
- (f) Construction worker training; and
- (g) Noise complaint review, and if required, corrective action procedures.

Commented [W63]: Westpower has accepted the Department's suggested change.

~~59-60~~ Prior to a period of work involving open-air blasting, the Concessionaire must:

- (a) notify residents within five kilometres of the proposed blast site or sites of the activity no less than 48 hours prior to blasting commencing;
- (b) temporarily close public access to any part of a walking track located within 500 metres from a blasting site or sites; and
- (c) must make arrangements to ensure any livestock are no closer than 500 metres from a blasting site or sites.

Commented [W64]: Change suggested by the Department (new condition 63) not made for the reasons stated earlier about management plans.

Noise limits

~~60-61~~ The Concessionaire must ensure that any construction noise (excluding blasting and helicopter movements within the site) will be controlled to achieve the following limits set out in Table 2 of NZS 6803:1999 at the notional boundary of any rural dwelling:

Time of week	Time period	Long-term duration (dBA)	
		L _{eq}	L _{max}
Weekdays	0630-0730	55	75
	0730-1800	70	85
	1800-2000	65	80
	2000-0630	45	75
Saturdays	0630-0730	45	75
	0730-1800	70	85
	1800-2000	45	75
	2000-0630	45	75
Sundays and public holidays	0630-0730	45	75
	0730-1800	55	85
	1800-2000	45	75
	2000-0630	45	75

61-62. The Concessionaire must ensure that any construction blasting will be controlled to achieve the following limits set out in Australian Standard AS 2187.2-2006 "Explosives-Storage and use, Part 2: Use of explosives" (specifically Appendix J) when measured at the notional boundary of any rural dwelling:

- (a) A maximum air blast overpressure of 115 dB L_{peak} ; and
- (b) The level of 115 dB L_{peak} may be exceeded on up to 5% of the total number of blasts over a period of 12 months, however, the level should not exceed 120 dB L_{peak} at any time.

62-63. The Concessionaire must ensure that helicopter noise during construction within the site does not exceed the following limit as determined in accordance with NZS6807:1994 "Noise management and land use planning for helicopter landing areas": 50 dB Ldn (day-night average) and 70 dB LAFmax (between 10 pm and 7 am) at the notional boundary of any rural dwelling.

63-64. The Concessionaire must ensure helicopters are flown in accordance with noise abatement techniques provided in The Helicopter Association International's 'I Fly Neighborly' programme.

64-65. The Concessionaire must use all reasonable endeavours to determine when the Kiwi Flat Hut is occupied overnight during construction at the Headworks, and in these instances, must ensure that all construction activities undertaken at the Headworks are managed in accordance with night-time noise limits (i.e. the relevant limits for the time period between 2000-0630) within NZS 6803:1999 (Acoustics - Construction Noise) such that the noise limits contained in that Standard are complied with when measured at the Kiwi Flat Hut.

Commented [W65]: Change suggested by the Department not made. The condition has been amended to ensure Westpower uses all reasonable endeavours to determine when the Kiwi Flat Hut is occupied overnight during construction at the Headworks.

Helicopter flight management

65-66. The purpose of the Flight Management Plan (FMP) required by Table 1 is to:

- (a) Confirm helipad locations, flight paths and helipad use protocols for all pilots during construction and operations;
- (b) Inform pilots flying to and from the Project Site of the relevant requirements of this Concession; and
- (c) Raise the awareness of pilots flying to and from the Project Site of the proximity of high value ecological areas supporting wildlife that can be adversely affected by helicopter noise.

66-67. The FMP must include:

- (a) Pilot briefing notes including:
 - (i) The maximum number of helicopter flights as set out in Condition 70 of this Concession;
 - (ii) Relevant information that alerts pilots of high value ecological areas near the Site that support wildlife that can be adversely affected by helicopter noise; and
 - (iii) Any other helicopter operator instructions required by the Concessionaire including pre-flight communications to ensure Concession requirements, on-site health and safety or operational procedures or requirements are met;
- (b) Protocols to manage noise impacts on local residents when flying helicopters to and from the Project Site and when flying within the Project Site;
- (c) Protocols to ensure that all new operators are informed of the certified FMP, including

Commented [W66]: Westpower has accepted the Department's suggested change.

Commented [W67]: Change suggested by the Department (replacing certified with approved) not made for the reasons stated earlier about management plans.

information on relevant **Concession consent** conditions, approved helipad locations, flight paths, flight exclusion areas and protocols; and

(d) FMP review procedures.

67-68. The certified FMP is to be implemented and maintained on a continuing basis by the Concessionaire for all movements to/from the site during Construction and the Concessionaire must issue annual reminder notices to all helicopter operators to reiterate compliant, safe and courteous flying practices.

68-69. During Construction, helipads authorised for use by this Concession are limited to one helipad each at the following locations:

(a) Within Construction Staging Area 1 (Headworks); and

(b) Within Construction Staging Area 2 (Power Station Site).

69-70. There must be no more than 30 helicopter movements during any one day during Construction.

Advice note: For the avoidance of doubt, a helicopter movement comprises a take-off from any helipad on the Project Site and a landing at any helipad on the Project Site. i.e. One helicopter taking off and landing within the Project Site constitutes one helicopter movement.

70-71. There must be no helicopter movements at night, other than in emergency situations.

Advice note: The Civil Aviation Authority defines "night" as the time between the end of evening civil twilight and the beginning of morning civil twilight.

71-72. The Concessionaire must maintain a complete and accurate log of all helicopter movements to and from the site during Construction. The Concessionaire is to keep the following information in this log:

- (a) The date and time of each movement;
- (b) Records of the helicopter owner, operator or helicopter transit company undertaking the helicopter flight; and
- (c) The helicopter model type or Civil Aviation Authority registration number.

The log must be made available to the DOC Liaison Officer within ten working days upon request.

72-73. To minimise impacts on who, the Concessionaire must take all practicable steps to ensure flight paths for all helicopter trips during construction and operations remain landward of the true right bank of the Waitaha River and minimise flying up-valley of Construction Staging Area 1.

Advice Note: The Concessionaire will not be in breach of this condition if it is not practicable for a helicopter to remain landward of the true right bank of the Waitaha River in order to deliver equipment or materials to a specific location within the Project.

73-74. No aircraft is authorised to sit and idle on the ground for longer than 10 minutes, except for the periods required for construction and operational purposes immediately prior to take off and after landing.

74-75. Helipads are not to be used for engine testing unless required for safety or emergency reasons.

Fish passage

75-76. Prior to commencing the construction or installation of any structures in or on the bed of any river or stream, the Concessionaire must engage a suitably qualified and experienced person to undertake a

Commented [W68]: Westpower has accepted the Department's suggested change.

Commented [W69]: Change suggested by the Department (new condition 71) not made for the reasons stated earlier about management plans.

Commented [W70]: Change suggested by the Department (replacing certified with approved) not made for the reasons stated earlier about management plans.

Commented [W71]: Change suggested by the Department (adding the weather station monitoring areas) not made. Appendix 3 to the application confirms that no helipad is required during operation of the Scheme: [Appendix 3 project overview report part 1](#)

fish survey of the surface waterways within the site to identify the fish species present or expected to be present.

~~76:~~77. The design for all culvert and culverted ford structures must be informed by the most recent version of the New Zealand Fish Passage Guidelines, and must reflect the local waterway conditions and fish species present or expected to be present as identified in the survey required under condition 76 of this concession.

~~77:~~78. The Headworks diversion weir must be operated and maintained to maintain existing natural fish passage at this location, including the continued provision for upstream and downstream passage of kōaro and the continued exclusion of upstream salmonid passage.

~~78:~~79. During temporary diversions of the Waitaha River above the Headworks, the Concessionaire must ensure natural fish passage at this location is maintained including the continued provision for upstream and downstream passage of kōaro and the continued exclusion of upstream salmonid passage.

~~79:~~80. Except for temporary diversions of the Waitaha River above the Headworks (which are separately addressed in condition 79 of this concessionConcession), during all other temporary diversions, fish passage must be maintained at all times except where pumping over or around culvert structures locations is required for construction purposes and undertaken in accordance with Condition condition 84 of this concessionConcession.

~~80:~~81. Any diversion pumping activities must be undertaken using a fish screen with a mesh aperture size no greater than 3 mm (or no greater than 5 mm if combined with the pump head being submerged in a ballast-filled well pit or ballast-filled permeable vessel) must be installed and maintained on the diversion pump intake to minimise fish passing through the intake or being trapped against the screen.

Commented [W72]: Westpower has accepted the Department's suggested changes.

Streamworks

~~81:~~82. Streamworks associated with the construction of structures authorised by this Concession must be undertaken in accordance with relevant requirements set out in the CEMP, ESCP and FEMP.

~~82:~~83. Streamworks associated with the maintenance of structures authorised by this Concession must be undertaken in accordance with the SOMP.

~~83:~~84. Any diversion pumping activities during construction must be undertaken under supervision of an appropriately qualified and experienced ecologist.

~~84:~~85. The Concessionaire must ensure that any diversion does not reduce the natural surface water flow except in the location the works are taking place, or exacerbate flooding of another person's property, erosion, land instability, sedimentation or property damage.

Commented [W73]: Westpower has accepted the Department's suggested change.

~~85:~~86. The Concessionaire must ensure that no wet concrete is placed in any flowing water of any river or waterway.

~~86:~~87. All machinery must be cleaned prior to its arrival on site to ensure it is free of weeds, seeds and plant material and upon request, provide proof to the DOC Liaison Officer that this has occurred. No cleaning of any machinery or vehicles may occur within 20 metres of a waterbody or natural wetland.

~~87:~~88. The Concessionaire must not leave machinery unattended on the bed of a waterway at any time during the exercise of this Concession.

Advice Note: For the avoidance of doubt, the intent of this condition is to avoid machinery being exposed to flood events and becoming washed downstream. To this extent, “unattended” in the context of this condition excludes periods of time a worker might leave an item of machinery as part of their normal work.

Freshwater Ecology Management Plan

~~88:~~89. The Concessionaire must engage an appropriately qualified and experienced ecologist (Project Ecologist - Freshwater) to advise upon, supervise and coordinate the implementation of the Freshwater Ecology Management Plan (FEMP) referred to in Table 2.

~~89:~~90. The purpose of the FEMP is to specify the construction and operational procedures to be applied for the management of potential adverse impacts on aquatic habitat and aquatic ecology from the Scheme.

~~90:~~91. The FEMP must, as a minimum, include:

- (a) Results of surveys undertaken to identify all freshwater species present;
- (b) Methods for fish capture and relocation within flowing stream or riverbeds (e.g. for waterway crossings) prior to associated Steamworks;
- (c) Methodologies for monitoring and reporting kōaro recruitment into Kiwi Flat that follows a Before-After-Control-Impact (BACI) design including no less than two kōaro surveys prior to commencing construction of the diversion weir;
- (d) Methodologies for monitoring for any other fish species in Kiwi Flat waterways;
- (e) For the purpose of informing the Morgan Gorge Flushing Management Plan (FlushMP), abstraction reach periphyton monitoring and triggers for undertaking flushing flows to reduce growth build-up;
- (f) Design criteria and operational management methods for the weir and tailrace to minimise effects on fish, and in particular, maintain compliance with conditions 78, 79 and 80 of this concession; and
- (g) Reporting.

~~91:~~92. As part of the FEMP or the SOMP, the Concessionaire must include a monitoring and maintenance plan for all in-stream structures authorised by this Concession including information on activities to ensure ongoing compliance with conditions 78, 79 and 80 of this Concession. As a minimum, the monitoring and maintenance plans must include the following information:

- (a) What monitoring and maintenance will be done;
- (b) The frequency and/or duration of monitoring and maintenance that will be done;
- (c) The steps to be taken to ensure that the structure’s provision for the passage of kōaro required under condition 78 of this Concession does not reduce over its lifetime;
- (d) Any other steps taken to minimise any adverse effects on the passage of fish (including maintaining the exclusion of salmonids from Kiwi Flat).

~~92:~~93. The eConcessionaire must provide an updated version of the information required by Condition 92 of this ~~consent~~ Concession in an electronic format to the DOC Liaison Officer as follows:

Commented [W74]: Westpower has accepted the Department’s suggested change.

Commented [W75]: Change suggested by the Department (new condition 97) not made for the reasons stated earlier about management plans.

Commented [W76]: Westpower has accepted the Department’s suggested changes.

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- (a) Each time any maintenance is done that materially alters any structure; and
- (b) Each time a significant natural hazard affects the structural integrity of any structure to an extent requiring amendments to the monitoring and maintenance plans.

Weir and Intake Structures

~~93-94.~~ The Concessionaire must engage a suitably qualified and experienced engineer, a freshwater ecologist and an expert familiar with whio to provide advice on the design of the weir and intake structures (including the diversion weir) with the objective to appropriately manage adverse effects on river morphology, sediment transport and potential adverse effects on kōaro and whio.

~~94-95.~~ The Concessionaire must also consult with WWNZ prior to finalising the diversion weir design and any portage access structures.

~~95-96.~~ Prior to the commencement of any Streamworks associated with the Headworks, the Concessionaire must submit a Final Weir and Intake Structure Design Report to WCRC and/or WDC for certification that it meets the requirements of (a) to (f) of this condition. The Final Weir and Intake Structure Design Report must be in general accordance with preliminary plan drawing titled "Concept Design – Preferred Arrangement Headworks General Arrangement Channel and Intake" Revision E, and preliminary cross-section drawing titled "Preliminary Design – Headworks General Arrangement Section and Details" Revision D, provided in Appendix 42 of the Application and include:

- (a) Final detailed drawings of all Weir and Intake structures;
- (b) Final location details of the structures;
- (c) Details of consultation undertaken;
- (d) Confirmation of design features to:
 - (i) maintain the minimum residual flow required;
 - (ii) manage and pass bedload sediment;
 - (iii) maintain existing natural fish passage including the continued provision for upstream and downstream passage of kōaro and the continued exclusion of upstream salmonid passage;
 - (iv) if possible, without compromising the weir structure's ability to achieve part (d) (iii) of this condition, provide for the passage of whio;
 - (v) provide for safe downstream portage of recreational kayakers; and
 - (vi) minimise adverse landscape, natural character, visual and amenity impacts;
- (e) Erosion and scour protection features; and
- (f) Any proposed rehabilitation.

~~96-97.~~ In addition, prior to seeking certification of the Final Weir and Intake Structure Design Report, the Concessionaire must supply a draft copy Final Weir and Intake Structure Design Report to the DOC Liaison Officer and invite them to provide feedback.

~~97-98.~~ When submitting the Final Weir and Intake Structure Design Report for certification, in accordance with the conditions of the Consents, the Concessionaire must provide feedback from the DOC Liaison

Commented [W77]: Change suggested by the Department not made for the reasons stated earlier about management plans.

Officer as to whether the Final Weir and Intake Structure Design Report meets the requirements in (a) to (f) of this condition. In the event the DOC Liaison Officer's feedback confirms they do not consider the Final Weir and Intake Structure Design Report meets these requirements, the Concessionaire must also provide the Consent Authority with:

- (a) The DOC Liaison Officer's specific concerns about the Final Weir and Intake Structure Design Report and/or the reasons why they consider it does not meet the requirements in (a) to (f) of this condition; and
- (b) The Concessionaire's reasons why they have not actioned or addressed the DOC Liaison Officer's concerns.

~~98-99.~~ Once certified, the Concessionaire must construct the Weir and Intake structures in accordance with the certified Final Weir and Intake Structure Design Report.

~~99-100.~~ Prior to any changes to the design of the Weir and Intake, the Concessionaire must supply a draft copy of the Revised Weir and Intake Structure Design Report to the DOC Liaison Officer and invite them to provide feedback.

~~100-101.~~ When submitting the Revised Weir and Intake Structure Design Report to the relevant Consent Authority for certification, in accordance with the conditions of the Consents, the Concessionaire must provide feedback from the DOC Liaison Officer as to whether the Revised Weir and Intake Structure Design Report meets the requirements in Condition 96(d), 96(e) and 96(f) ~~68(d), (e) and (f)~~. In the event the DOC Liaison Officer's feedback confirms they do not consider the Revised Weir and Intake Structure Design Report meets these requirements, the Concessionaire must also provide the Consent Authority with:

- (a) The DOC Liaison Officer's specific concerns about the Revised Weir and Intake Structure Design Report and/or the reasons why they consider it does not meet the requirements in Condition 96(d), 96(e) and 96(f); and
- (b) The Concessionaire's reasons why they have not actioned or addressed the DOC Liaison Officer's concern.

~~101-102.~~ Once certified, the Concessionaire must alter the Weir and Intake structures in accordance with the certified Revised Weir and Intake Structure Design Report.

Kayaking and No-take days

~~102-103.~~ Prior to submitting the Weir and Intake Structure Design Report, the Concessionaire must consult with WWNZ on the provision of a portage across and around the weir to ensure the safe passage of kayakers and pay the reasonable and agreed costs of an expert to advise WWNZ in relation to the portage design.

Fish screen

~~103-104.~~ A fish screen with a mesh aperture size no greater than 3 mm (or no greater than 5 mm if combined with the pump head being submerged in a ballast-filled well pit or ballast-filled permeable vessel) must be installed and maintained on the intake structure to minimise fish passing through the intake or being trapped against the screen.

Commented [W78]: Changes suggested by the Department not made for the reasons stated earlier about management plans.

Vegetation Management Plan

~~104~~.105. The Concessionaire must engage an appropriately qualified and experienced ecologist (Project Ecologist - Vegetation) to advise upon, supervise and coordinate all indigenous tree removal associated with implementation of the Vegetation Management Plan (VMP) referred to in Table 2.

Commented [W79]: Westpower has accepted the Department's suggested changes.

~~105~~.106. The ~~purpose-objective~~ of the VMP is to specify relevant vegetation removal and rehabilitation methods that will be applied during, and immediately following, the Construction of the Scheme to avoid, remedy, mitigate or minimise adverse environmental effects on vegetation and associated habitats for flora and fauna and to comply with all relevant conditions regarding the management and protection of terrestrial flora.

~~106~~.107. The VMP must, as a minimum, include:

- (a) Confirmation of indigenous vegetation areas to be cleared;
- (b) Methods, procedures or protocols for:
 - (i) Inducting employees and contractors in vegetation removal activities;
 - (ii) Avoiding, minimising or mitigating adverse effects on vegetation and associated habitats for flora and fauna;
 - (iii) Sourcing West Coast indigenous plants for any new plantings required as part of Rehabilitation Works;
 - (iv) Avoiding works in delineated natural inland wetlands shown in Map 9 of Appendix I of the Vegetation Report provided as Appendix 20 of ~~the Application and the stable tributary shown in Schedule D+B Appendix A of this consent~~ Concession and avoiding, as far as practicable, removal of individual trees possessing significant ecological values; and
 - (v) Rehabilitating the temporary construction areas, including spoil disposal areas;
- (c) A monitoring framework designed to confirm that the requirements of Condition 30 of ~~these Consents~~ this Concession (maximum indigenous clearance areas during construction) has been adhered to;
- (d) A weed monitoring and control plan; and
- (e) Reporting of monitoring data, incidents and inspections.

Commented [W80]: Westpower has accepted the Department's suggested changes with amends.

Commented [W81]: Westpower has accepted the Department's suggested changes.

Commented [W82]: Change suggested by the Department (new condition 113) not made for the reasons stated earlier about management plans.

Commented [W83]: Westpower has accepted the Department's suggested changes.

Landscape Management Plan

~~107~~.108. The ~~purpose-objective~~ of the Landscape Management Plan (LMP) referred to in Table 2 is to document the landscape, natural character and amenity measures to be implemented and managed through construction, rehabilitation and establishment phases of the Waitaha Hydro Project to ensure relevant mitigation measures are effective.

~~108~~.109. The LMP must, as a minimum, include:

- (a) The key aims of the LMP;
- (b) Areas to be rehabilitated;
- (c) Landscape rehabilitation processes and/or options for the Headworks, Power Station Site, access road between the Power Station Site and Macgregor Creek;

(d) Contingency options for landscape management in the event of unforeseen events (e.g. slips); and

(e) The use of West Coast-sourced indigenous plants for any new plantings required as part of Rehabilitation Works.

~~110.~~ During all Rehabilitation Works, the Concessionaire must prioritise options other than the use of shotcrete as a landscape treatment method. If other more sensitive treatments methods are not practicable due to engineering, structural integrity or health and safety reasons then shotcrete may be used. Where the use of shotcrete is required, the Concessionaire must adopt all reasonable endeavours to use it sparingly.

Commented [W84]: Change suggested by the Department (new condition 116) not made for the reasons stated earlier about management plans.

Commented [W85]: New condition as per Mr Bentley's recommendations.

Headworks and Upper Access Tunnel Portal

111. The Headworks and upper access tunnel portal must be designed and built in general accordance with the conceptual Scheme design drawings provided in **Appendix 42** of the Application.

Commented [W86]: Change suggested by the Department (adding to Schedule 4) not made as it is duplicative.

112. During Construction, the Concessionaire must maintain a buffer of existing vegetation between Construction Area 1 and the Waitaha River in general accordance with Appendix B of this Concession.

Commented [W87]: New condition as per Mr Bentley's recommendations.

113. The permanent access track surface between the top of the access tunnel portal and the true right edge of the Waitaha River must be formed using gravel materials (i.e. not concrete or any other artificial paved or sealed surface) and the track surface must be no wider than 5m.

~~109.~~

Commented [W88]: New condition to align with Mr Bentley's recommendation in response to the Department's landscape peer reviewer comment on this matter.

Power Station Site and Buildings

114. The Power Station Site and associated buildings must be designed and built in general accordance with the conceptual Scheme design drawings provided in **Appendix 42** of the Application.

Commented [W89]: Change suggested by the Department (adding to Schedule 4) not made as it is duplicative.

115. During Construction, the Concessionaire must use all reasonable endeavours to retain a vegetative buffer within Construction Staging Area 2 between Power Station construction activities (excluding perimeter stormwater diversion bunding) and the true right side of Waitaha River at locations both upstream and downstream of the tailrace.

~~110.~~ 116. The Power Station exterior and roof must be one colour within the natural grey, green or brown hue range and must have a maximum light reflectance value (LRV) of 12%.

Commented [W90]: New conditions as per Mr Bentley's recommendations.

Avifauna Management Plan

~~111.~~ 117. The Concessionaire must engage an appropriately qualified and experienced ecologist (Project Ecologist - Avifauna) to advise upon, supervise and coordinate the implementation of the Avifauna Management Plan (AMP) referred to in Table 2.

~~112.~~ 118. The ~~purpose objective~~ of the AMP is to specify the methods that will be applied to avoid, remedy, minimise or mitigate potential adverse effects on avifauna (including whio) associated with the construction of the Scheme and to comply with all relevant conditions regarding the management and protection of native avifauna.

~~113.~~ 119. The AMP must, as a minimum, include:

(a) Methods, procedures or protocols for managing effects on indigenous avifauna including, to the extent practicable:

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- (i) undertaking Streamworks maintenance at the Headworks outside of the who breeding season (September – December);
 - (ii) minimising helicopter trips within the Site during the who breeding season; and
 - (iii) minimising construction activities and use of outdoor lighting between dusk and dawn.
- (b) Protocols during vegetation and other avifauna habitat removal;
- (c) Bird injury and mortality protocols;
- (d) Compensation details designed to address residual construction related effects on forest birds and who in accordance with conditions 1, 1 and 1 of this **c**Concession; and
- (e) Compliance monitoring and reporting processes.

Commented [W91]: Westpower has accepted the Department's suggested changes.

Commented [W92]: Change suggested by the Department (new condition 122) not made for the reasons stated earlier about management plans.

Bat Management Plan

114-120. The Concessionaire must engage an appropriately qualified and experienced ecologist (Project Ecologist - Bats) to advise upon, supervise and coordinate the implementation of the Bat Management Plan (BMP) referred to in Table 2.

Commented [W93]: Westpower has accepted the Department's suggested change.

115-121. The **purpose-objective** of the BMP is to specify the construction procedures to be applied for the management of potential adverse impacts on long-tailed bats (*Chalinolobus tuberculatus*) from the Scheme.

116-122. The BMP must, as a minimum, include:

- (a) Methods, procedures or protocols to avoid, remedy or mitigate effects on bats **with the first priority being to avoid adverse effects given their threat status;**
- (b) Protocols to be implemented prior to, during and after bat habitat removal;
- (c) Compensation details designed to address residual construction related effects in accordance with conditions 1,1 and 1 of this **c**Concession; and
- (d) Compliance monitoring and reporting processes.

Commented [W94]: Westpower has accepted the Department's suggested change.

Commented [W95]: Change suggested by the Department (new condition 126) not made for the reasons stated earlier about management plans.

Lighting

117-123. The Concessionaire must minimise light sources and light spill from any lighting used during construction (excluding within the tunnels) activities to the greatest extent practicable.

118-124. The Concessionaire must ensure any outside light sources used within the Project Site (excluding within the tunnels) has a colour temperature of no more than 2700K to minimise the emission of light with blue/ ultra-violet wavelengths.

Lizard Management Plan

119-125. The Concessionaire must engage an appropriately qualified and experienced ecologist (Project Ecologist - Lizards) to advise upon, supervise and coordinate the implementation of the Lizard Management Plan (LizMP) referred to Table 2.

Commented [W96]: Westpower has accepted the Department's suggested change.

120-126. The **purpose-objective** of the Lizard Management Plan is to specify the procedures to be applied for the management of potential adverse impacts on lizards associated with the construction of the Scheme.

121-127. The LizMP must, as a minimum, include:

- (a) A description of methodology for survey, trapping and relocation of lizards rescued including but not limited to:
 - (i) salvage methods including timeframes;
 - (ii) lizard handling and relocation protocols (including method used to identify suitable relocation site(s));
 - (iii) data collection;
 - (iv) habitat clearance/transfer protocols;
- (b) A description of the release site(s);
- (c) Compensation details designed to address residual construction related effects in accordance with condition 1 of this concession; and
- (d) Reporting.

Commented [W97]: Westpower has accepted the Department's suggested change.

Commented [W98]: Change suggested by the Department (new condition 132) not made for the reasons stated earlier about management plans.

Ecological Compensation

122. For ten years following the Commencement of Construction, and in consultation with the DOC Liaison Officer, the Concessionaire must make an annual payment of \$15,000 to an ecosystem programme in the region as a contribution to support the West Coast region's bat population. The first of the ten payments required by this condition must be made no later than two months following the Commencement of Construction. Subsequent annual payments must be made on the same month as the first annual payment.

123. For ten years following the Commencement of Construction, and in consultation with the DOC Liaison Officer, the Concessionaire must make an annual payment of \$35,000 to an ecosystem programme in the region as a contribution to support the West Coast region's whio population. The first of the ten payments required by this condition must be made no later than two months following the Commencement of Construction. Subsequent annual payments must be made on the same month as the first annual payment.

124. From and including the eleventh year following the Commencement of Construction, and then for the duration of the consents, and in consultation with the DOC Liaison Officer, the Concessionaire must make an annual payment of \$35,000 to an ecosystem programme in the region as a contribution to support the West Coast region's wider ecosystem or locally in the Waitaha Valley.

125. For any year during the construction of the Scheme where indigenous vegetation clearance is undertaken south of Macgregor Creek, in consultation with the DOC Liaison Officer, the Concessionaire must make a payment of \$10,000 to an ecosystem programme in the region as a contribution to support the West Coast region's wider ecosystem.

126. For any year during the construction of the Scheme where indigenous vegetation clearance is undertaken between 1 April and 30 September, the Concessionaire must make a payment of \$5,000 to an ecosystem programme in the region, in consultation with the DOC Liaison Officer, as a contribution to supporting lizard populations on the West Coast.

127. If the ecosystem programmes being funded in accordance with Conditions 122, 123 and 124 change or cease to exist within the period when payments are required, the Concessionaire must, following

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consultation with the DOC Liaison Officer, make the annual payments to an alternative entity undertaking pest management works in the West Coast region or locally in the Waitaha Valley (as the case may be):

Advice Note: For the avoidance of doubt, the compensation requirements are also required pursuant to the Concessionaire's Consents and Wildlife Approvals for the Scheme, and to this extent, any associated financial payment obligations on the Concessionaire are not duplicated by this Concession. These conditions are included in this Concession but the DOC Liaison Officer is not required to enforce compliance with these obligations including the payment obligations:

Commented [W99]: Westpower has accepted the Department's suggested change and has moved these to the Wildlife Approval.

Recreation compensation

128. During Construction the Concessionaire must:

- (a) implement and maintain a communication method, via a website, that provides the public with information on general construction activities and construction programme including the general potential for any temporary recreation track closures;
- (b) ensure that any walking track closures are limited to periods when construction activities will result in health and safety risks to the public and only when alternative methods to manage these risks are not practicable;
- (c) ensure that the initial one-off walking track closure to enable the initial Power Station access road construction does not exceed two days;
- (d) ensure that any walking track closures related to blasting activities are limited to no more than one closure per day and for a duration of no more than 2 hours; and
- (e) establish a reasonable method for track users to request an escort to safely guide them through any construction work areas at all other times during Construction (i.e. outside of any planned track closure times).

Commented [W100]: New condition in response to the Department's recreation peer review report and as set out by Mr Griffiths.

128-129. No more than 3 months after the Commencement of Construction, the Concessionaire must make a one-off financial payment of \$25,000 as a contribution towards public access to the Upper Waitaha Valley and/or the maintenance and upkeep of Waitaha Valley walking tracks and huts that existed at the time this consent was granted. The entity to receive this payment must be confirmed following the concessionaire's consultation with the DOC Liaison Officer (and may be, or include, the DOC Liaison Officer).

Advice Note: For the avoidance of doubt, this these recreation compensation requirements are-is also required pursuant to the Concessionaire's Consents for the Scheme, and to this extent, any associated financial payment obligations on the Concessionaire are not duplicated by this Concession. This condition is included in this Concession but the DOC Liaison Officer is not required to enforce compliance with these obligations including the payment obligations.

Commented [W101]: Changes suggested by the Department (increased compensation) not made for the reasons stated in the response memorandum.

Public access and safety

129-130. No less than 6 months prior to the Commencement of Generation, the Concessionaire must engage a suitably qualified and experienced person to prepare a Public River Safety Risk Report that identifies and recommends methods to address the public river safety risks that may arise from its exercise of this concession. As a minimum the Public River Safety Risk Report must address any potential hazards that may arise from rapid changes in water flows and levels, and the use of the by-

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pass valve, and the need for signage and audible sirens at the Powerhouse and Headworks. Public River Safety Risk Report must also consider and address the suggested public safety measures set out in the Public Safety Report provided as Appendix 32 to the Application. The Concessionaire must provide a copy of the Public Safety Risk Report to the DOC Liaison Officer on request.

~~130~~-131. The Concessionaire must implement the methods to address public river safety risks in accordance with the Public River Safety Risk Report, including the installation and maintenance of any required signs and/or sirens to warn the general public of any hazard.

~~131~~-132. The use of emergency sirens must be limited to near the Headworks and Power Station and each siren must be designed and directed in a way to ensure they are audible in areas where staff and recreational users need to be alerted of sudden river level changes, but no louder than necessary to limit potential noise exposure to wildlife under the advisement of an appropriately qualified and experience ecologist.

~~132~~-133. Subject to the agreement of the DOC Liaison Officer, the Concessionaire must provide alternative track access on the true right of the Waitaha River for recreational visitors to avoid the Power Station Site. This must be provided to meet the Tramping Track Standard described in the New Zealand Handbook Tracks and Outdoor Visitor Structures SNZ HB8630:2004 at the Concessionaire's expense for the duration of the concession.

Commented [W102]: The Department has noted that this has not been agreed upon. No change made by Westpower on the basis of the recommendations by its experts.

Remotely Piloted Aircraft Systems

~~133~~-134. Remotely Piloted Aircraft System (RPAS) includes any pilotless aircraft, Unoccupied Aerial Vehicle or drone.

~~134~~-135. The Concessionaire shall immediately cease the operation of the RPAS if there is any indication of wildlife disturbance.

~~135~~-136. The Concessionaire shall ensure that a fire extinguisher in good working order is carried at all times that the RPAS is in use, and that the Concessionaire and its staff (if applicable) are trained in the use of the fire extinguisher.

~~136~~-137. The Concessionaire is not authorised to operate the RPAS in areas that have a Fire Risk of High or above as published on the National Rural Fire Authority website <http://fireweather.nrfa.org.nz>

Commented [W103]: Westpower has accepted the Department's suggested change.

Hydro scheme commissioning

~~137~~-138. The Concessionaire must notify the DOC Liaison Officer in writing at least 1 week prior of the intention to start commissioning the Scheme.

Compliance with concession

~~138~~-139. The Concessionaire must supply a copy of these conditions to any agent or contractor undertaking any activities authorised by this eConcession.

~~139~~-140. The Concessionaire must, during eConstruction, keep a copy of this Concession document at Construction Staging Area 3, and present it to the DOC Liaison Officer upon request.

~~140~~-141. Unless otherwise stated in this eConcession, in the event of any breach of compliance with the conditions of this eConcession, the Concessionaire must notify the DOC Liaison Officer within 48 hours of becoming aware of the breach. Within 7 days of becoming aware of the breach, the Concessionaire must provide written notification to the DOC Liaison Officer, which explains the cause

Concession Number: [to add]

of the breach, and if the cause was within the control of the **DOC Liaison Officer Concessionaire**, steps which were taken to remedy the breach and steps which will be taken to prevent any further occurrence of the breach.

Commented [W104]: Westpower has accepted the Department's suggested changes.

Appendix A: Stable Trib.



Concession Number: [to add]

Appendix B: Construction Staging Area 1 Vegetation Buffer



SCHEDULE 4: PLAN OR MAP

Area(s) as shown in Maps 1–5	Activity ¹	Details
Lease Land (and general description of activities)		
1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 13, 17	Construction of in-stream works and ancillary activities	In-stream works
11, 12, 13, 20, 21, 22, 23, 25	Construction of intake, head works, Power Station, switchyard. Other general construction including Construction Staging Areas 1 and 2, implementation of management plans etc.	Includes sediment retention ponds, pH dosing, equipment, material, vegetation and spoil storage, amenities, accommodation, helicopter landing sites, hazardous substances storage, construction of rockfall and slope protection works. In-stream works and structures, includes kōaro/whio passage, kayak passage.
14, 18, 19	Construction of tunnels and ancillary activities.	Construction of portals, rockfall and slope protection works, requires water take, ventilation, electricity, ESCP, water and dust discharge, communications, refuge cabins; geotechnical bore holes and access to and use of for monitoring activities, communications equipment, HSE signage
Licence Land (and general description of activities)		
2, 3, 6, 7, 16, 20, 24	Construction and use of temporary and permanent accessways.	Includes construction of temporary and permanent crossings, culverts, bridges and in-stream works at Macgregor and Granite Creeks.
1, 4, 15	Construction of transmission line	
5, 8, 10, 17	Combined construction of temporary and permanent accessways, and construction of transmission line	Includes implementation of management plans and fish-passage protocols. Helicopter flights to and from Construction Staging Areas 1 and 2 and for transmission line construction. May include use of drones and vegetation clearance.

¹ This table is a summary only: the Concession authorises all activities within the definition of Concession Activity.