

10 December 2025

Appendix E: Complex freshwater fisheries activity approval report

Section 51(2)(e) complex freshwater fisheries activity approval report
for – FTAA-2505-1069 Waitaha Hydro Project



Department of
Conservation
Te Papa Atawhai

**Te Kāwanatanga
o Aotearoa**
New Zealand Government

Table of Contents

1.	Purpose of the report.....	2
2.	Overview of DOC's report	2
3.	Sources	3
4.	Complex freshwater fisheries activities	3
5.	Assessment	4
6.	Proposed conditions	5
7.	Treaty of Waitangi settlement considerations and obligations	5
	Appendix E1: Conditions	6

1. Purpose of the report

- 1.1 This report relates to the application by Westpower for complex freshwater fisheries activity approval for multiple in-stream structures associated with the Waitaha Hydro Project, including the diversion weir, Macgregor Creek crossing, culverts, Granite Creek bridge, and other in-stream works. It provides information on risks to assist the Panel in its consideration of the application by Westpower for an approval or dispensation for the Project.
- 1.2 In accordance with clause 4 of Schedule 9 of the Act, this report must address the following matters:
- the alignment of the proposed activity with best practice and the New Zealand Fish Passage Guidelines; and
 - the management of risks to freshwater values or habitat, including prevention of access to or spread of invasive species; and
 - the availability and quality of the habitat upstream and downstream from the proposed activity; and
 - the presence of threatened, data-deficient, or at-risk species under the New Zealand Threat Classification System in the vicinity of the proposed activity; and
 - the advantages and disadvantages of providing fish passage upstream or downstream of the proposed activity; and
 - any conditions that should be imposed in accordance with clause 6 of Schedule 9 or section 84 of the Act.

2. Overview of DOC's report

- 2.1 Overall, DOC has no concerns with the proposal and considers the application to meet the requirements for managing effects on freshwater fish.
- 2.2 In relation to the requirements for this report, as outlined in para 1.2 above, DOC has not included commentary on most matters as it concurs with the application material.
- 2.3 DOC notes that the application provides clear and comprehensive information on freshwater fish management, including a detailed assessment table and consideration of key criteria such as operational regime and water flows.
- 2.4 If the Panel is of a mind to grant the approval, DOC has suggested additional conditions (Appendix E1).

3. Sources

- 3.1 This report draws on information from the substantive application and provided post-lodgement, in particular:
- Waitaha Hydro substantive application document and assessment of environmental effects.
 - Appendix 25 freshwater ecology report.
 - Appendix 39 freshwater ecology management plan.
 - Appendix 48 proposed conditions complex freshwater fishery activities (17 November 2025).

4. Complex freshwater fisheries activities

4.1 Statutory context

- 4.1.1 Under the Act (clause 7 of Schedule 9), a complex freshwater fisheries activity approval is deemed to be issued under regulation 42 or 43 of the Freshwater Fisheries Regulations 1983 (FFR).
- 4.1.2 Regulation 43 of the FFR provides that a proposal to build a diversion structure requires notification to the D-G, who may then decide whether a ‘fish facility’ is required.
- 4.1.3 A fish facility is defined in the FFR as “any structure or device, including any fish pass or fish screen inserted in or by any water course or lake, to stop, permit, or control the passage of fish through, around, or past any dam or other structure impeding the natural movement of fish upstream or downstream”. The D-G may either (a) require a fish facility and impose conditions or (b) issue a dispensation from the requirement to provide a fish facility. Under the FTAA, a permanent diversion structure is “a complex freshwater fisheries activity” requiring complex freshwater fisheries activity approval.

4.2 The application

- 4.2.1 The proposed complex freshwater fisheries activity approval conditions, dated 17 November 2025, state that the applicant seeks approval for:
- *The Headworks diversion weir structure;*
 - *Box culvert structures in the beds of Alpha Creek, Allen Creek and an unnamed tributary of the Waitaha River;*
 - *The drift deck structure for the Macgregor Creek crossing; and*
 - *The Alpha Creek and Macgregor Creek flow training structures / bunds.*

- 4.2.2 The applicant proposes a diversion weir, culverts at intermittent and perennial tributaries, and a bridge crossing at Granite Creek. None of these structures will permanently block fish passage, however, the duration of instream works exceeds three months, engaging clause (c) of the definition of a complex freshwater fisheries activity. In addition, some works occur in tributaries that support fish passage and spawning, further reinforcing the need for approvals.
- 4.2.3 Additionally, the applicant has sought approval for works throughout the construction and maintenance phases that meet the following elements of the definition of a complex freshwater fisheries activity in the Act;

...require disturbance to a water body, including diversions, in-stream operations, and removal of gravel, that persists for more than 3 months;...

...require repeated disturbance to a water body and are temporary works for which there is a period of 6 months or less between each period of work.

5. Assessment

- 5.1 DOC notes that the application provides clear and comprehensive information on freshwater fish management, including a detailed assessment table and consideration of key criteria such as operational regime and water flows. DOC has no concerns with the proposal and considers the application to meet the requirements for managing effects on freshwater fish.
- 5.2 All instream structures will be designed and installed in general accordance with the New Zealand Fish Passage Guidelines (MfE 2024) and best practice. Structures will be inspected after significant floods to address potential scouring that may impede fish access. Where full passage is not practicable (e.g. ephemeral streams or highly mobile beds), passage for climbing species such as kōaro will be prioritised.
- 5.3 The following mitigation measures proposed by the applicant are supported:
- 5.3.1 Construction phase:
- Sediment and contaminant controls.
 - Timing works during low flows.
 - Minimising mortality of aquatic biota during dewatering.
- 5.3.2 Operational phase:
- Ramping procedures for flow changes.
 - Monitoring periphyton and sediment accumulation.
 - Maintaining fish passage at all structures.

Implementing Check-Clean-Dry protocols to prevent the spread of didymo and other invasive species.

6. Proposed conditions

6.1 Conditions in accordance with Schedule 9, clause 6 of the Act

- 6.1.1 The Panel may impose conditions under Schedule 9, clause 6 that it considers necessary to manage the effects of the activity on freshwater fish species, taking into account:
 - a. *Best practice standards; and*
 - b. *The New Zealand Fish Passage Guidelines.*
- 6.1.2 The applicant has proposed a set of conditions for the complex freshwater fisheries activity approval. If the Panel is of a mind to grant, DOC has recommended additional conditions including biosecurity measures, monitoring, and exclusionary conditions. These recommendations can be found in **Appendix E1**.
- 6.1.3 DOC has also suggested that references to the Grantor be changed to DOC for consistency purposes.

7. Treaty of Waitangi settlement considerations and obligations

7.1 Treaty of Waitangi settlement obligations

- 7.1.1 Under section 7 of the Act the Panel must act in a manner that is consistent with obligations arising under existing Treaty settlements.
- 7.1.2 The Ministry for the Environment (MfE) provided a report which sets out the section 18 matters it considered relevant to the application. DOC was not consulted by MfE on this report.
- 7.1.3 DOC has read the section 18 report and agrees that the primary matter for consideration by the Panel as relevant to the complex freshwater fisheries activity approval(s) sought is cooperation with Ngāi Tahu per the Ngāi Tahu Claims Settlement Act 1998. DOC notes that the affected freshwater species are not listed in Schedule 97 as taonga species, although they may still have significance to Ngāi Tahu.
- 7.1.4 Further Treaty considerations and obligations in relation to the Project can be found in the covering report.

Appendix E1: Complex freshwater fisheries activities proposed conditions – marked up with DOC's proposed changes

The applicant has proposed a set of complex freshwater fisheries activity approval conditions. The set copied below reflect the conditions lodged by the applicant on 17 November 2025. If the Panel is of a mind to grant, DOC has recommended additional conditions in red below including biosecurity measures, monitoring, and exclusionary conditions.

DOC has also suggested that references to the Grantor be changed to DOC for consistency purposes.

PART B: CONDITIONS

ACTIVITIES AUTHORISED	LOCATION	TERM	LAPSE
Placement, use, maintenance and removal of structures in, on or over the beds of rivers and streams.	Various Waitaha River and Waitaha River tributary locations within the Project Site.	35 years	10 years

1. This permit authorises the construction, use and maintenance (including all associated Streamworks) of:
 - a) The Headworks diversion weir structure;
 - b) Box culvert structures in the beds of Alpha Creek, Allen Creek and an unnamed tributary of the Waitaha River;
 - c) The drift deck structure for the Macgregor Creek crossing; and
 - d) The Alpha Creek and Macgregor Creek flow training structures / bunds.
2. All construction, use and maintenance of the structures authorised by this permit must be undertaken in general accordance with the document titled "Westpower Limited Waitaha Hydro Project: An Application made under the Fast-track Approvals Act (2024)" dated 31 July 2025, including all relevant technical assessments and supporting reports ("the Application").
3. Where there is any inconsistency between the Application and:
 - a) these conditions, the conditions will prevail; and
 - b) the requirements of any Management Plan referred to in these conditions, the Management Plan requirements will prevail.

Freshwater Ecology Management Plan

4. The permit holder 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 approved as part of the decision on the Application.

Diversion Weir Structure

5. The permit holder must engage a suitably qualified and experienced engineer and a freshwater ecologist 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 kōaro.
6. Prior to the commencement of any Streamworks associated with the Headworks, the ~~permit consent~~ holder must submit a FINAL Weir and Intake Structure Design Report to the Grantor DOC for certification. The FINAL Weir and Intake Structure Design Report must be in general accordance with the 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 E, provided in Appendix 42 of the Application and include:
 - a) Final detailed drawings of the weir;
 - b) Final location details of the weir;
 - c) Details of consultation undertaken; and
 - d) Confirmation of design features to maintain existing natural fish passage including the continued provision for upstream and downstream passage of kōaro and the continued exclusion of upstream salmonid passage.

Once certified, the permit holder must construct the Weir in accordance with the approved Weir and Intake Structure Design Report.

7. Prior to any changes to the design of the Weir, the permit holder must submit a Revised Weir and Intake Structure Design Report to the Grantor DOC for approval. Any Revised Weir and Intake Design Report must include:
 - a) The reasons for changing the design (e.g. monitoring results of kōaro recruitment into Kiwi Flat);
 - b) Revised detailed drawings of the weir;
 - c) Any revised location details of the weir;
 - d) Details of consultation undertaken; and
 - e) Reconfirmation of Condition 6 (d) matters.

Once approved, the permit holder must alter the Weir and Intake structures in accordance with the certified Revised Weir and Intake Structure Design Report.

Fish passage

8. Prior to commencing the construction or installation of any structures authorised by this permit, the ~~permit consent~~ holder must engage a suitably qualified and experienced person to undertake a fish survey of the surface waterways within the site to identify the fish species present or expected to be present.
9. 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 8 of this permit.

10. 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. For all other structures authorised by this permit, fish passage must be maintained at all times in accordance with condition 9 of this permit except where pumping over or around culvert structures locations is required for maintenance purposes and is undertaken in accordance with Condition 11 of this permit.
11. 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.

Streamworks

12. Streamworks associated with the construction of structures authorised by these Consents must be undertaken in accordance with relevant requirements set out in the CEMP, ESCP and FEMP.
13. Streamworks associated with the maintenance of structures authorised by these Consents must be undertaken in accordance with the SOMP.
14. Any diversion pumping activities during construction or maintenance must be undertaken under supervision of an appropriately qualified and experienced ecologist.

Exclusion Conditions

15. The permit holder will not undertake the following activities:
 - a) Instream works during peak spawning and migration times for the native fish species present in the waterways;
 - b) The utilisation of wet concrete in flowing water or in a location where it can enter flowing water.

Biosecurity Management

16. The permit holder will ensure that all equipment to be used close to or within any surface waterbodies for the establishment of the approved diversions is clean and dry prior to use.
17. The permit holder must comply with the Ministry for Primary Industry's "Check, Clean, Dry" cleaning method to prevent the spread of didymo (*Didymosphenia geminata*), gold clam (*Corbicula fluminea*) and other freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods can be found at the Ministry for Primary Industry's website. The permit holder must regularly check this website and update their precautions accordingly.
18. The permit holder will undertake biosecurity risk assessments of any species which are to be translocated throughout the establishment of the stream realignments.

Monitoring

19. Monitoring of fish passage success shall be undertaken following best practice methods and standards in section 8 of the New Zealand Fish Passage Guidelines. Monitoring results shall be provided to DOC annually by 30 June.