

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

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

Between **WESTPOWER LIMITED**

Applicant

**EXPERT PANEL: WESTPOWER LTD MEMORANDUM #12
MEMORANDUM OF COUNSEL FOLLOWING PANEL'S REQUESTS FOR
CLARIFICATION**

Dated: 17 February 2026

BUDDLE FINDLAY
Barristers and Solicitors

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MAY IT PLEASE THE PANEL:

1. This memorandum is filed on behalf of the Applicant, Westpower Limited (**Westpower**).
2. The Panel requested clarification on 13 February 2026 of:¹
 - (a) whether the alternative walking track is included in the construction disturbance, and indigenous vegetation clearance areas of the proposed conditions (resource consent and concession conditions);
 - (b) new proposed conditions following the empanelment hearing; and
 - (c) Mr Greenaway's seven-point and five-point effects scales.

Alternative walking track

3. The alternative walking track is proposed to mitigate effects on trampers arising from views of the power station from the existing route. The alternative walking track from the river (bypassing the construction of, and ongoing operation of, the power station site) will be to the existing track standard of a "tramping track" (which does not include a sophisticated, sealed track).² As such it involves minimal vegetation clearance.
4. This 'tramping track' will have orange markers, like the track near the swingbridge that the Panel viewed on its site visit (see Figure 1).

¹ During the empanelment hearing.

² [Backup 8690](#): New Zealand Handbook Tracks and Outdoor Visitor Structures SNZ HB8630:2004 describes walking track categories.



Figure 1: Existing marked walking track to Morgan Gorge swingbridge (note the orange mark)

5. *Conservative* 615m² construction disturbance and vegetation clearance figures were not included in the proposed resource consent or concession conditions (noting that these smaller areas are described as <1ha in the Application). Westpower includes in Appendices to this memorandum, updates to the proposed resource consent and concession conditions as required (noting this does not have much of an effect because of the small area, rounding, and the previous withdrawal of the geotechnical investigations (see Westpower, Memorandum #9 responding to RFI#4, 3 February 2026).

6. For context, the area (as described in the Application) is approximately the same as what has been removed on withdrawal of the geotechnical investigation activities being >1 ha).³
7. The *maximum* permanent indigenous vegetation clearance associated with the activity is also proposed to be 615m². This is a worst-case figure for several reasons, including:
 - (a) it assumes a 1m cleared wide path, as above, that is not what the existing track is, nor what a 'tramping track' requires (as clear in Figure 1 and there is no required width of a tramping track), the 'tramping track' will mostly weave around trees and involve trimming branches as opposed to felling whole shrubs or trees; and
 - (b) Westpower's vegetation expert, Mr Derks, confirmed there is an approximate 175m long section of the route that is currently grassland (that therefore does not require vegetation clearance).
8. **Appendix A** includes the requisite condition amendments:
 - (a) clarify the construction disturbance area figures include the alternative walking track; and
 - (b) include the 615m² indigenous vegetation clearance area.
9. **Appendix B** is an aerial photograph marking with a red dotted line the location of the alternative walking track.

Proposed resource consent condition updates

10. Mr Jackson discussed two amendments to the proposed resource consent conditions relating to additions to:
 - (a) Part C9 Condition 40 (Morgan Gorge Flushing Management Plan); and
 - (b) Part C9 Condition 51 (Public Safety) Excavation of intake channel.
11. The proposed additions to the consent conditions are also in **Appendix A**.

³ [Appendix 3 project overview report part1](#), pgs 51 and 60.

Proposed concession conditions updates

12. Applying the same conservative approach as adopted for the proposed resource consent conditions, **Appendices C, D and E** include updates to the proposed short term and long term lease / licence concession conditions relating to amendments to:

Concession conditions short term lease/licence

- (a) Schedule 3 Condition 37 (Construction Disturbance Area):
- (i) **Memorandum #11, Appendix C proposed short term concession conditions, 13 February 2026** accidentally decreased the headworks figure⁴ (see **Appendix C**) from 1.2 to 1.1 ha;
 - (ii) due to rounding it should have remained 1.2, which, again due to rounding, the alternative walking track does not change; and
 - (iii) the small change to the Power Station area is shown in **Appendix C**; and
- (b) Schedule 3 Condition 38 (Indigenous Vegetation Disturbance Area):
- (i) this differs from the permanent indigenous vegetation disturbance area in the proposed resource consent conditions because it records the full amount of vegetation removed without including the amount that will be revegetated, as shown in **Appendix C**.

Concession conditions long term lease/licence

13. In respect of the proposed long-term concession conditions, Schedule 3 Condition 33 was inadvertently brought over from the short term concession conditions and should be deleted (as shown in **Appendix D**).
14. The intention, as set out in the short term concession conditions, is that Westpower will provide the track and provide a one-off financial payment of \$25,000 as a contribution towards public access to the Upper Waitaha Valley and/or upkeep of Waitaha Valley walking tracks and huts. During operation it will be for DOC or others, such as Permolat (consistent with section of the existing track) to maintain.

⁴ Following the amendments in Memorandum #9.

Recreation report effects scale

15. During the empanelment the Panel asked for clarification for Mr Greenaway's seven point- and five -point effects scales. That has not yet been provided to the Panel and will be included in Mr Greenaway's statement to be filed with the Panel on Monday 23 February 2026.

Dated: 17 February 2026



Paul Beverley / David Allen / Rachael Balasingam

Counsel for Westpower Limited

Appendix A: Updates to proposed resource consent conditions⁵

Amend Part B: Condition 18, Construction Disturbance Area [see blue underlined text](#) ~~(delete red strikethrough)~~

The total land area disturbed or used during construction activities authorised by these Consents 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, alternative walking track	6.2 ⁶
McLean Farm including Construction Staging Area 3, Spoil Disposal Areas, access road, transmission lines and gravel screening	28
Overall Total	35.4

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Amend Part B: Condition 19, Indigenous Vegetation Area [see blue underlined text](#) ~~(delete red strikethrough)~~

The total area of indigenous vegetation permanently removed as a result of activities authorised by these Consents must be not exceed the following:

Project Construction Site / Project Site Areas	Maximum Area (ha)
Headworks	0.13
Power Station Site including tailrace and alternative walking track	0. 67 ⁷ 3 ⁷
Access Road / transmission line south of Macgregor Creek	3.46
McLean Farm including Construction Staging Area 3, Spoil Disposal Areas, access road, transmission lines and gravel screening	0.21
Overall Total	4.4⁸

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⁵ https://www.fasttrack.govt.nz/_data/assets/pdf_file/0012/20703/Attachment-11A-Proposed-Conditions-Resource-Consents-10.2.26.pdf

⁶ Memorandum #9 did not update the proposed consent conditions because rounding did not require it.

⁷ As explained in the memorandum, this is the change to add the 615m² of the alternative walking track area.

⁸ As explained in the memorandum, this table differs from Schedule 3, Condition 38 of the short term concession conditions intentionally.

5 yearly review of the Flush MP

Include after Part C9: Condition 40, Morgan Gorge Flushing Management Plan [see blue underlined text](#)

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The consent holder must implement the certified FlushMP for no less than five years at which time the consent holder may make a request in writing to the WCRC to cease the implementation of the FlushMP. Any cessation request must be accompanied by a report prepared by a suitably qualified and experienced person or persons that, as a minimum, includes all FlushMP monitoring results collected in accordance with the FlushMP and the rationale for ceasing FlushMP activities. Any cessation of the FlushMP must be approved by the WCRC. Notwithstanding, the WCRC can, for any resource management reason (e.g. the occurrence of a significant upstream landslide or other significant erosion events that likely creates significantly higher than normal sediment loads), later instruct the consent holder to reinstate the FlushMP.

[Unless the implementation of the FlushMP has ceased in accordance with condition 40, the consent holder must undertake a review of the FlushMP once for every 5 years it has been in place. Any updated FlushMP must be provided to WCRC for recertification in accordance with condition 11 of Part B of these consents.](#)

Requiring publicly available data regarding instream excavation of intake channel

Include after Part C9: Condition 51, Public Safety [see blue underlined text](#)

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[Following the Commencement of Generation, the consent holder must implement and maintain a communication method, via a website, that provides the public with information on times when the physical excavation of bed material is being undertaken above or adjacent to the Headworks.](#)

Appendix B: Figure 2 showing alternative walking track

Appendix C: Updates to proposed concession conditions short term⁹

Amend or include in proposed concession conditions short term lease/licence

Amend Schedule 3, Condition 37 Construction Disturbance Area [see blue underlined text](#) (~~delete red strikethrough~~)

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 ¹⁰
Power Station Site and access road / transmission line south of Macgregor Creek, alternative walking track	6.4 ¹¹
Overall Total	7.24

Amend Schedule 3, Condition 38 Indigenous Vegetation Disturbance Area [see blue underlined text](#) (~~delete red strikethrough~~)

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

Project Construction Site	Maximum Area (ha)
Headworks	0.97
Power Station Site and access road / transmission line south of Macgregor Creek, alternative walking track	5.763 ¹²
Overall Total	6.5460

⁹ As filed on 13 February 2026, Westpower Memorandum #11, Appendix C Short term Concession Conditions (noting amendments made in Memorandum #9 withdrawing the geotechnical investigations are incorporated in the latest 13 February 2026 set of the conditions).

¹⁰ As explained in the memorandum, this is corrected due to rounding.

¹¹ As explained in the memorandum, this is the change to add the 615m² of the alternative walking track area.

¹² As above, noting the change in Memorandum #9 removing the geotechnical investigation area and adding the 615m² alternative walking track area.

Amend **Schedule 4, Licence Land**, [see blue underlined text](#)

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	Includes implementation of management plans and fish-passage protocols.
5, 8b , 10, 17	Combined construction of temporary and permanent accessways, including the alternative tramping track from the Waitaha River to bypass the power station site and join the existing track , and construction of transmission line	Helicopter flights to and from Construction Staging Areas 1 and 2 and for transmission line construction. May include use of drones and vegetation clearance.

Appendix D: Updates to proposed concession conditions long term¹³

Amend in proposed concession conditions long term lease/licence

Delete Schedule 3, Condition 33 Construction Disturbance Area

~~Subject to the agreement of the DOC local office, 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.~~

¹³ As filed on 13 February 2026, Westpower Memorandum #11, Appendix D Short term Concession Conditions.

Appendix E: Updated Schedule 4 Map Waitaha 002

To replace Memorandum #4, Schedule 4 Map Waitaha 002 - alternative walking track now marked 8b.¹⁴

¹⁴ [Schedule-4-Waitaha-002-Power-Station71548153.1.pdf](#) – this is the map to replace.