

APPENDIX 3 – WESTPOWER'S RESPONSE TO THE DEPARTMENT'S COMMENTS ON THE CONCESSION AND WILDLIFE APPROVAL CONDITIONS

Table 1: Comments on draft conditions on lease and licence concession

Condition	Westpower response
Sch 1, Item 2 (Concession Activity)	<p>Westpower's position remains as set out in Memorandum #18 at [27]–[29] and [37]:¹</p> <ul style="list-style-type: none"> • The final bullet point can be clear on what is proposed by referring to Appendix C of the decision. • Schedule 4 as issued in the final decision should include Maps 1–5 in Schedule 4, including using the 17 February version of map 002. <p>The Panel has decided to not delete the final bullet point as sought by the Department in Appendices C3 and C4 of its s 51 report. The draft decision at [1152] does not support the Department's position that the bullet point be deleted. Westpower supports removing reference to the Application, as the Panel did, and instead referring to Appendix C of the decision.</p>
Sch 2, clause 12.3 (structures)	The s 78 condition must be imposed by the Panel.
Sch 2, new clause after 12.6 (structures)	Westpower supports the addition of new clause 12.7A.
Sch 2, clause 31.1 (relationship of the parties)	Westpower agrees with the Department's additions.
Sch 2, clause 37.1 (clauses that survive termination)	Westpower agrees with the Department's additions.
Sch 3, condition 9 ² (management plans)	Westpower maintains its position on management plan certification (that it is appropriate for the councils to certify them) as set out in Memorandum #7 at [2.34]. ³ The Department is seeking a certification role which is not what has been decided by the Panel (at [1174]–[1175] of the draft decision).
Sch 3, condition 10 ⁴ (management plans)	As above, Westpower maintains its position on management plan certification and does not agree with the Department's changes.
Sch 3, condition 11 ⁵ (management plans)	As above, Westpower maintains its position on management plan certification and does not agree with the Department's changes.

¹ [Memorandum-of-Counsel-18-for-the-applicant.pdf](#)

² Condition 10 in Schedule 3 of Westpower's Appendix 2a provided to the Panel on 27 March 2026

³ [Westpower-Memorandum-7,-Response-to-Comments-and-RFI-3,-21-January-2026_Redacted.pdf](#)

⁴ Condition 11 in in Schedule 3 of Westpower's Appendix 2a provided to the Panel on 27 March 2026

⁵ Condition 13 in in Schedule 3 of Westpower's Appendix 2a provided to the Panel on 27 March 2026

Condition	Westpower response
Sch 3, conditions 125–127 ⁶ (recreation compensation)	<p>Westpower maintains its position on recreation compensation as set out in Memorandum #7 at [2.6]–[2.7].⁷ Westpower's proposed wording is set out below and further details are provided in Memorandum #19:</p> <p style="padding-left: 40px;">Within no less than 3 months following the Commencement of Construction, the Concessionaire must make a one-off financial payment of \$25,000 (excl. GST) <u>to the Department of Conservation</u> as a contribution towards the maintenance and upkeep of Waitaha Valley walking tracks and huts that existed at the time this Concession was granted. <u>The Department must use the contribution for the above purpose with input from the DOC liaison officer</u></p> <p>The entity to receive this payment must be confirmed following the Concessionaire's consultation with the Department of Conservation.</p>
Sch 3, condition 128 ⁸ (recreation access track)	<p>Westpower maintains its position that no change should be made to (b). Westpower maintains its position on the recreation access track as set out in Memorandum #7 at [3.2(c)(i)] and [3.39(d)].⁹ Westpower has responded to condition RC11 in Appendix 2. The panel has recognised this in [732] of the draft decision. If the Department's proposed amendment was accepted, that would leave Westpower in the position that it has not assessed the effects of a such a track, which is not part of the listed project under the FTAA and for which it does not have a concession approval.</p>
Sch 3, condition 129 ¹⁰ (pre-commissioning notification)	<p>Westpower's proposed changes address the Department's concerns. Westpower's proposed Table 1 would incorporate resource consent condition CC31 wording, but replace the reference to:</p> <ul style="list-style-type: none"> • 'Consent Holder' with 'Concessionaire'; and • 'Consent Authority' with 'DOC local office'. <p>The Department of Conservation Hokitika Office would be informed.</p>
Sch 4 (maps)	<p>Westpower's position remains as set out in Memorandum #18 at [37].¹¹ Schedule 4 as issued in the final decision should include Maps 1–5 in Schedule 4, including using the 17 February version of map 002.</p> <p>Given Westpower's position, it disagrees that the Department should review the maps. The maps will be issued as part of the decision. If the Department had concerns with the maps (which were filed on 27 November 2025), that should have been addressed in its s 51 report.</p>

⁶ Conditions 31 and 32 in in Schedule 3 of Westpower's Appendix 2a provided to the Panel on 27 March 2026.

⁷ [Westpower-Memorandum-7,-Response-to-Comments-and-RFI-3,-21-January-2026_Redacted.pdf](#)

⁸ Condition RC11 in Westpower's Appendix 1 provided to the Panel on 27 March 2026 (incorporated by reference in Table 1 of Schedule 3 to Westpower's Appendix 2a).

⁹ [Westpower-Memorandum-7,-Response-to-Comments-and-RFI-3,-21-January-2026_Redacted.pdf](#)

¹⁰ Condition CC31 in Westpower's Appendix 1 provided to the Panel on 27 March 2026 (incorporated by reference in Table 1 of Schedule 3 to Westpower's Appendix 2a).

¹¹ [Memorandum-of-Counsel-18-for-the-applicant.pdf](#)

Table 2: Comments on draft conditions of easement concession

Condition	Westpower response
Sch 3, condition 2 (addition)	The condition proposed by the Department is unnecessary and duplicative. Westpower is bound by the Sch 3 conditions in the lease licence for the term of that concession which is the same term as the easement.
Sch 3, condition 3 (addition)	The Department should have raised this issue in its s 51 report. The Panel did not propose any changes to Schedule 5 so there is no scope for the Department to propose a new condition.
Sch 3, condition 4 (addition of resource consent condition RC20)	The Department should have raised this issue in its s 51 report. The easement land and licence land have minor overlap (previously the short-term licence would have covered some matters during construction, and then the easement would have covered them during operation). The change is not necessary. Westpower must comply with RC20 in the resource consent conditions and as imported to the lease licence conditions.
Sch 4 (maps)	Westpower's position remains as set out in Memorandum #18 at [37]. ¹² Schedule 4 as issued in the final decision should include Maps 1–5.

Table 3: Comments on draft conditions of wildlife approval

Condition	Westpower response
Sch 2, cl 4 (term) and sch 3, condition 11.1 (review of management plans)	The Panel has already made its decision on term (at [1199] of the draft decision). Westpower maintains its position that no re-certification of management plans is required after 10 years as set out in Memorandum #7 at [2.83(a)]. ¹³
Sch 3, condition 1.2 (management plans)	The Department is seeking a certification role which is not what has been decided by the Panel (at [1194] of the draft decision). Westpower maintains its position that it is appropriate for the councils to certify the management plans as set out in Memorandum #7 at [2.34]. ¹⁴
Sch 3, condition 10.1 (Bat Roost Protocols)	Westpower's position remains as set out in Memorandum #18 at [23]–[26]. ¹⁵

¹² [Memorandum-of-Counsel-18-for-the-applicant.pdf](#)

¹³ [Westpower-Memorandum-7,-Response-to-Comments-and-RFI-3,-21-January-2026_Redacted.pdf](#)

¹⁴ [Westpower-Memorandum-7,-Response-to-Comments-and-RFI-3,-21-January-2026_Redacted.pdf](#)

¹⁵ [Memorandum-of-Counsel-18-for-the-applicant.pdf](#)