

WAITAHA HYDRO SCHEME – FTAA-2505-1069

**DECISION MADE BY THE PANEL: WAITAHA HYDRO SCHEME  
TE WHAKATAUNGA A TE PAEWHIRI WHAKAWĀ WAITAHA HIKO-Ā-AWA**

**APPENDIX D.1: CONCESSIONS (LEASE AND LICENCE) | ĀPITI HANGA D.2:  
NGĀ WHAKAAETANGA (RĪHI ME TE RAIHANA)**

Draft 13 March 2026 | Hukihukii Te 13 o Māehe 2026

[Note to parties providing comment]

Reading notes

- These should be read alongside the Draft Decision, which provides an explanation for changes
- References to concession numbers, maps/plans, etc. will be updated and have been highlighted for ease of reference
- Condition references highlighted in grey
- The conditions have been updated so that the wording now aligns with the revised resource consent conditions. References to “consent holder” and “consent” have been changed where necessary
- Two new terms (“Concessionaire” and “water body”) have been added

Draft 13 March 2026 | Hukihukii Te 13 o Māehe 2026

## Concession Document (Lease and Licence)

Concession Number: [to add]

**THIS CONCESSION** is made this       day of

**PARTIES:**

**Minister of Conservation** (the Minister)

**Westpower Limited** (the Concessionaire)

**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. The Concessionaire has proposed to construct, operate and maintain the Waitaha Hydro Scheme (**Scheme**).
- F. The Concessionaire 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 effect 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.

<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><b>OR</b></p> <p><b>If decision maker is signing by way of electronic signature, use this option</b></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 Westpower Limited by: Director Name</p> <p>AND</p> <p>_____ SIGNED for Westpower Limited by: Director Name</p>
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**SCHEDULE 1**

<p>1.</p>	<p><b>Land</b>  (clause 1)</p>	<p><b><u>Lease Land</u></b></p> <p>As outlined on Maps 1 – 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>Legal Description: Part of the land described as Part Reserve 1672 (as shown on SO Plan 11209 and including Section 1 Survey Office Plan 12094).</p> <p><b><u>Licence Land</u></b></p> <p>As outlined on Maps 1 – 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>Legal Description: Part of the land described as Part Reserve 1672 (as shown on SO Plan 11209 and including Section 1 Survey Office Plan 12094); and the land required for construction and initial use of the access road and transmission line, including:</p> <ul style="list-style-type: none"> <li>• 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 [maps to be attached once confirmed]</li> <li>• 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 [maps to be attached once confirmed]</li> <li>• any marginal strip extending along and abutting the landward margin of the true right bank of the Waitaha River (including 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 [maps to be attached once confirmed].</li> </ul>
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2.	<b>Concession Activity</b> (clause 2)	Construction, operation and maintenance of the Waitaha Hydro Scheme, including: <ul style="list-style-type: none"> <li>all activities set out in Schedule 4 (including the use of the water within the Waitaha River);</li> <li>access for construction purposes, including laydown areas, commissioning, and preparation for commencement of generation; and</li> <li>all activities authorised or proposed to be undertaken by the Concessionaire in relation to the construction, operation and maintenance of the Waitaha Hydro Scheme as set out in Appendix C to the decision of the Expert Panel;</li> </ul>
3.	<b>Term</b> (clause 4)	49 years commencing on the date of commencement in accordance with Schedule 6, clause 12 of the Fast-track Approvals Act 2024.  The lapse period for this concession is 10 years from the date of commencement.
4.	<b>Renewal(s)</b>	Nil
5.	<b>Final Expiry Date</b> (clause 4)	49 years from the date of commencement in accordance with Schedule 6, clause 12 of the Fast-track Approvals Act 2024.
6.	<b>Concession Fee</b> (clause 6)	\$15,000 (excl. GST) per annum for the period of construction.  [the concession fee for operation is to be confirmed as per clause XX]
7.	<b>Environmental Monitoring Contribution</b>	Not required
8.	<b>Community Services Contribution</b>	Not required
9.	<b>Total payments to be made per annum</b> (clause 5)	[TBC]
10.	<b>Total payment instalment(s)</b> (clause 5)	[TBC]
11.	<b>Concession Fee Payment Date(s)</b> (clause 5)	[TBC]

**Commented [W2]:** Westpower suggests adding this text for clarity. By linking to Appendix C this confines the concession activity to those sought in Table 13 of the application, as amended through the FTAA process. That addresses the panel's concern at [1152] of the draft decision.

**Commented [W3]:** Please see Westpower's comments below on clauses 5 and 6 of schedule 2 in respect of when the concession fee is due. Further details are provided in Memorandum #18.

**Commented [W4]:** Currently covered in clause 5.2 which conflicts with clause 6.2.

12.	<b>Penalty Interest Rate</b> (clause 5)	Double the current Official Cash Rate (OCR). <a href="#">See Reserve Bank of New Zealand website</a>
13.	<b>Concession Fee Review Date(s)</b> (clause 7)	Three (3) yearly on the anniversary (and for the duration) of this Concession.
14.	<b>Insurance</b> (To be obtained by Concessionaire) (clause 14)	Public Liability Insurance for general indemnity for an amount no less than \$5,000,000.  Subject to review on each Concession Fee Review.
15.	<b>Health and Safety</b>	Audited Safety Plan: Not required
16.	<b>Concessionaire Identification</b>	Not Required
17.	<b>Addresses for Notices</b> (clause 27)	<p>The Minister's address is:</p> <p>Physical address: Department of Conservation 265 Princes Street Dunedin 9016 [Permissions team email address]</p> <p>Postal address: Department of Conservation Att: National Transaction Centre PO Box 5244 Dunedin 9054 Phone: (03) 477 0677 Email: transactioncentre@doc.govt.nz</p> <p>The Concessionaire's address is: 146 Tainui Street PO Box 375 Greymouth Phone: <a href="tel:037689300">03 768 9300</a> Email: <a href="mailto:info@Westpower.co.nz">info@Westpower.co.nz</a></p>

**Commented [W5]:** Currently covered in clauses 5.3 which conflicts with clause 6.3. Westpower notes that clauses 8.3 and 17.3 also refer to 15% rather than double the current OCR.

WAITAHA HYDRO SCHEME – FTAA-2505-1069

18.	<b>Guarantee</b>	Not required
19.	<b>Special Conditions</b> (clause 37)	See Schedule 3
20.	<b>Processing Fee</b>	Not required.
21.	<b>Bond</b> (clause 31)	[TBC // see condition XX]

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

**Commented [W7]:** Westpower has a statutory obligation under s 104 of the FTAA and the Fast-track Approvals (Cost Recovery) Regulations 2025 to pay the actual and reasonable costs incurred by DOC that are recoverable. Appendix D.2 also does not require this to be paid.

Draft 13 March 2026 | Hukihukii Te 13 o Māehe 2026

**SCHEDULE 2 – STANDARD TERMS AND CONDITIONS OF LEASE AND LICENCE**

**1. Interpretation**

1.1 In this Document, unless the context otherwise requires:

**Commented [W8]:** Westpower has added rows which appear to have been inadvertently omitted when merging the short term and long term schedule 2 conditions.

Acronym/Term	Definition
<b>AMP</b>	Avifauna Management Plan
<b>Application</b>	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, and as amended through the Fast-track Approvals Act 2024 or any subsequent statutory process.
<b>BMP</b>	Bat Management Plan
<b>Bulk Earthworks</b>	Large scale soil / rock disturbances associated with any Project Construction Works.
<b>CEMP</b>	Construction Environmental Management Plan
<b>Commencement of Construction</b>	The time when any Project Construction Work Component first starts (excluding any Pre-Construction activities that are authorised by separate concessions granted prior).
<b>Completion of Construction</b>	The time when the Waitaha Hydro Project has been built and commissioned and is available to generate electricity for customer supply.
<b>Commencement of Generation</b>	The date when the Project first transmits electricity onto the local network for customer supply.
<b>Consents</b>	Any resource consents granted under the Fast-track Approvals Act 2024 that would otherwise be granted under the RMA.
<b>Concessionaire</b>	Westpower Limited and any person acting with the permission (including implied permission) of Westpower Limited as if the concession had been granted to that person as well as to Westpower.
<b>Concessions</b>	Any Concessions granted under the Fast-track Approvals Act 2024 that would otherwise be granted under the Conservation Act.
<b>Concession Activity</b>	As described in Schedule 1, Item 2.
<b>Concession Area</b>	Area of the Project located on land administered by the Department of Conservation.
<b>Construction</b>	All Project construction activities occurring on Department of Conservation land excluding any Pre-Construction activities that are authorized by separate concessions granted prior.
<b>CNMP</b>	Construction Noise Management Plan.
<b>Consent Authorities</b>	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.
<b>Construction Staging Areas</b>	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

	<p>construction-related activities. Construction Staging Areas within the Project Construction Site include:</p> <ul style="list-style-type: none"> <li>• Construction Staging Area 1 (Headworks); and</li> <li>• Construction Staging Area 2 (Power Station Site)</li> </ul>
<b>CTMP</b>	Construction Traffic Management Plan
<b>DMP</b>	Dust Management Plan
<b>DOC</b>	Department of Conservation
<b>DOC Liaison Officer</b>	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.
<b>DOC local office</b>	The Department of Conservation Hokitika Office
<b>ESCP</b>	Erosion and Sediment Control Management Plan
<b>Expert Panel</b>	The panel appointed to make the concession decision under the Fast-track Approvals Act 2024.
<b>FEMP</b>	Freshwater Ecology Management Plan
<b>FMP</b>	Flight Management Plan
<b>FlushMP</b>	Morgan Gorge Flushing Management Plan
<b>FTAA</b>	Fast-track Approvals Act 2024
<b>Headworks</b>	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.
<b>Land</b>	Together the Lease Land and Licence Land
<b>Lease Land</b>	The Land described as Lease Land in Item 1 of Schedule 1
<b>Licence Land</b>	The Land described as Licence Land in Item 1 of Schedule 1.
<b>LizMP</b>	Lizard Management Plan
<b>LMP</b>	Landscape Management Plan
<b>Monitoring Plan</b>	The monitoring plan required under Condition RC126 of the Consents and included within the SOMP under Condition CC12 of the Consents.
<b>Power Station</b>	<p>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:</p> <ul style="list-style-type: none"> <li>• Power Station;</li> <li>• Tailbay;</li> <li>• Tailrace;</li> <li>• Switchyard; and</li> <li>• and all ancillary structures.</li> </ul>
<b>Power Station Site</b>	The area comprising the Power Station
<b>Power Station Access Road</b>	The vehicle access road between the southern end of the Waitaha Road Reserve and the Power Station Site.
<b>Pre-Construction activities</b>	Any activity associated with investigative drilling or geophysical investigations.
<b>Project</b>	Includes all physical resources and activities associated with constructing, operating and maintaining the Scheme and all ancillary structures and activities.
<b>Project Construction Site</b>	All Department of Conservation land required to be used for construction of the Project.
<b>Project Construction</b>	Specified components or phases associated with constructing the Project

WAITAHA HYDRO SCHEME – FTA-2505-1069

<b>Work Component</b>	(including all associated activities). Project Construction Work Components include: <ul style="list-style-type: none"> <li>• Construction of temporary access road and bridge to and over Granite Creek;</li> <li>• Construction of new access road and transmission lines across and south of Macgregor Creek and associated structures;</li> <li>• Streamworks;</li> <li>• Power Station Site and/or Tunnels including Construction Staging Area 2;</li> <li>• Headworks including Construction Staging Area 1; and</li> <li>• Rehabilitation works.</li> </ul>
<b>Relevant Management Plan</b>	For the operation and maintenance of the scheme, includes the AMP, LMP, VMP, FEMP, SMP, SOMP and FlushMP
<b>RPAS</b>	Remotely Piloted Aircraft System
<b>Scheme</b>	The Waitaha Hydro Scheme.
<b>SMP</b>	Stormwater Management Plan
<b>SOMP</b>	Site Operations and Maintenance Plan
<b>Streamworks</b>	All physical works undertaken within, and involving the disturbance of, any stream or riverbed excluding riverbed gravel extraction.
<b>Tunnels</b>	All physical structures associated with the water tunnel and the access tunnel included in the Scheme.
<b>Transmission Line</b>	The physical structures comprising the electricity transmission infrastructure between the Power Station Site and the existing Westpower Transmission Network on State Highway 6.
<b>VMP</b>	Vegetation Management Plan
<b>Waitaha Hydro Scheme</b>	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, which is to be constructed or has been constructed by the Concessionaire in accordance with the Application.
<b>Water body</b>	means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area (source: Resource Management Act s.2)
<b>WCRC</b>	West Coast Regional Council
<b>WDC</b>	Westland District Council
<b>WWNZ</b>	Whitewater NZ Incorporated

- 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 27 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.

**Commented [W10]:** Westpower suggests the cross-references are updated (these can be updated using F9 once any tracked changes have been accepted).

## 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.

## 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 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.
- 5.2 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.

**Commented [W12]:** This clause conflicts with clause 6.2.

**Commented [W13]:** This clause conflicts with clauses 6.3, 8.3 and 17.3.

## 6. Concession Fee

- 6.1 The fee for the Concession (Concession Fee), made up of any combination of rents, fees, and royalties, is to be set by the Minister after obtaining advice of a registered valuer appointed by the Minister. The registered valuer will determine the market value of the Concession Activity carried out on the Land having regard to the matters in section 17Y of the Conservation Act 1987.
- 6.2 The Concessionaire must pay the Concession Fee to the Minister, in the manner directed by the Minister, on or before the Concession Fee Payment Date, which is annually on the anniversary of the Term, with the first payment due at the start of the Term.
- 6.3 If the Concessionaire fails to pay 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 a penalty interest rate of 15%.
- 6.4 The Concession Fee excludes any payments required by the Minister in accordance with section 17ZH of the Conservation Act 1987, which are to be paid from time to time in accordance with the Minister's instructions.

## 7. Concession Fee review

- 7.1 The Minister will commence a review of the Concession Fee at intervals in accordance with section 17Y of the Conservation Act.
- 7.2 The new Concession Fee, made up of any combination of rents, fees, and royalties, will be determined by the Minister after obtaining advice of a registered valuer appointed by the Minister. The registered valuer must determine the market value of the Concession Activity carried out on the Land, having regard to the matters in section 17Y of the Conservation Act 1987.

## 8. Other charges

- 8.1 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.
- 8.2 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.
- 8.3 Where the Minister pays any such levies, rates, or other charges, the Concessionaire must on receipt of 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%.

## 9. Costs

- 9.1 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.

**Commented [W14]:** The concession fee for the operation of the Scheme is a percentage of revenue which can only be calculated following a period of generation (in other cases this is done at the end of each quarter). A period of time is required after the end of that generation period to confirm the revenue from that period and then calculate the percentage of revenue that is payable to the Department.

**Commented [W15R14]:** Further, the concession fee for construction is payable from commencement of construction which is not at the start of the term (noting the 10 year lapse date).

**WAITAHA HYDRO SCHEME – FTAA-2505-1069**

9.2 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.

9.3 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.

**10. When can the Concession be assigned?**

10.1 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.

10.2 The Minister may in the Minister's discretion grant or decline any application for consent under clause 10.1.

10.3 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.

10.4 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.

10.5 The Concessionaire must pay the costs reasonably incurred by the Minister incidental to any application for consent, whether or not such consent is granted.

10.6 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.

**11. What are the obligations to protect the environment?**

11.1 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.

11.2 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.

11.3 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.

**12. What about structures, Building Act, and restoration?**

*New structures and land alterations*

- 12.1 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.
- 12.2 The Concessionaire must, on request of the Minister, submit written engineering or building plans and details to the Minister for approval before:
- (a) Erecting a new structure on the Land.
  - (b) Altering the Land in any way.

*Removal of structures or other improvements*

- 12.3 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:
- (a) tunnels;
  - (b) weir;
  - (c) any power station structures below ground or any other structures below ground;
  - (d) the drift deck at Macgregor Creek;
  - (e) the river training at Alpha Creek; and
  - (f) Granite Creek bridge piers.
- 12.4 Removal under this clause must occur within a reasonable time, as specified by the Minister.
- 12.5 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.
- 12.6 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 at the end of the Term.

*Building Act compliance*

- 12.7 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.
- 12.8 The Concessionaire must keep and maintain all building systems and any structures on the Land in accordance with the requirements of any compliance schedule.
- 12.9 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

## WAITAHA HYDRO SCHEME – FTAA-2505-1069

schedule, together with the written reports relating to compliance with the compliance schedule over the previous two-year period.

### *Rehabilitation and closure plan*

12.10 The Concessionaire must prepare, implement, and comply with a Rehabilitation and Closure Plan approved by the Minister.

12.11 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.

12.12 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.

12.13 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*

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

## **13. What about advertising?**

13.1 Except as authorised by this concession, 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.

13.2 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.

## WAITAHA HYDRO SCHEME – FTAA-2505-1069

13.3 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.

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

### 14. What are the liabilities and who insures?

#### *Liabilities*

- 14.1 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.
- 14.2 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 the Concessionaire's performance of the Concession Activity.
- 14.3 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. 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).
- 14.4 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 Easement 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 willful act or omission of the Minister, the Minister's employees, agents, or contractors.
- 14.5 Where the Minister is found to be liable in accordance with this clause, the total extent of the Minister's liability, is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment, and facilities.
- 14.6 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*

- 14.7 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.
- 14.8 The Minister will set the initial types and amounts of insurance required following an independent assessment using a methodology set by the Minister.
- 14.9 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.

**Commented [W16]:** Should this link to item 14 of schedule 1?

14.10 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.

**15. What about Health and Safety?**

15.1 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.

15.2 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.

15.3 While the Licence area is to remain accessible to the public, the Concessionaire may temporarily restrict access to certain areas 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.

15.4 The Minister must consider the Concessionaire's reasonable requests in relation to health and safety on the Land.

**16. What are the compliance obligations of the Concessionaire?**

16.1 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, 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.

16.2 The Concessionaire must comply with this Concession.

**17. What are the Minister’s rights to remedy defaults?**

17.1 The Minister may at any time elect to remedy any default by the Concessionaire under this Concession.

17.2 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.

17.3 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%.

**18. Compensation for unauthorised disturbance**

18.1 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.

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

19.1 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,

then the Minister may temporarily suspend such parts of the Concession Activity.

- 19.2 During any period of temporary suspension, the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use of the Land by the Concessionaire.
- 19.3 The Minister is not liable to the Concessionaire for any loss sustained by the Concessionaire because of the suspension of the Concession under this clause, including loss of profits.

**20. When can the Concession be terminated?**

20.1 The Minister may 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 20.1(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 20.1(b) applies, the Termination Date shall be no earlier than 30 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 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:
  - (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 25 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.

Where this clause 20.1(c) applies, the Termination Date shall be no earlier than 60 Working Days after the date of the Termination Notice.

- 20.2 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.
- 20.3 Termination of the Concession does not prejudice or affect the accrued rights or claims and liabilities of the parties.
- 20.4 The Concessionaire may refer any proposed termination under this clause to the dispute resolution process set out in clause 25 and the proposed termination will be suspended and of no effect pending the outcome of that dispute resolution process.

## 21. What happens on termination or expiry of the Concession?

- 21.1 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.
- 21.2 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.
- 21.3 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.

## 22. Monitoring

- 22.1 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.
  - (a) to do any work that is necessary for the exercise of the Minister's functions and powers in relation to the Land;

**Commented [W18]:** Westpower has suggested this additional text to make it clear that the dispute resolution process must be worked through before any termination takes effect.

**WAITAHA HYDRO SCHEME – FTAA-2505-1069**

- (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 the Minister from time to time; and
- (f) in compliance with all relevant laws and regulations.

**23. When is the Minister's consent required?**

23.1 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.

**24. What about other concessions?**

24.1 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.

**25. How will disputes be resolved?**

25.1 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.

25.2 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.

25.3 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 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.

- 25.4 The arbitrator must include in the arbitration award reasons for the determination.
- 25.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

**26. What about prosecution for offences?**

- 26.1 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.

**27. How are notices sent and when are they received?**

- 27.1 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 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,
  - (d) if sent between the hours of 9am and 5pm on a working day, at the time of transmission; or
  - (e) if subclause (d) 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.

- 27.2 If any party's details specified in Item 17 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.

**28. What is the scope of the Concession?**

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

**29. Can provisions be severed?**

29.1 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.

**30. What is the relationship of the parties?**

30.1 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; or
- (d) affecting the rights of the Minister and the public to have access across the Licence Land except to the extent that access may be restricted where reasonably necessary for public safety or operational purposes.

**31. Bond**

- 31.1 Before commencing the Concession Activity, the Concessionaire must provide either in cash; or as a surety from a trading bank, insurance company or bond guarantor, a bond set in accordance with this clause.
- 31.2 If a surety is the Concessionaire's preferred option, the surety must execute in favour of, and on terms acceptable to, the Minister, a bond for performance by the Concessionaire to the obligations under the Concession.
- 31.3 The Minister will set the bond or surety amount following an independent risk assessment using a methodology set by the Minister.
- 31.4 The bond or surety amount may be reviewed at the discretion of the Minister at any time. Such review is to follow an independent risk assessment using a methodology set by the Minister.
- 31.5 The cost of any independent risk assessment or review must be paid by the Concessionaire within 10 working days of being given a notice by the Minister.
- 31.6 Notwithstanding the variation (including as to term), expiry, surrender, or termination of the Concession, the bond is to remain in full force and effect until such time as all the Concessionaire's obligations under the Concession have been complied with to the satisfaction of the Minister.
- 31.7 If the Concessionaire breaches or fails to carry out any condition of the Concession, or in carrying out the Concession Activity there arise adverse effects not authorised or reasonably foreseen in the Concession, the Minister may call on the bond under this Concession or any portion of it to ensure compliance with the conditions or to remedy or mitigate those adverse effects.

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

32.1 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.

**WAITAHA HYDRO SCHEME – FTAA-2505-1069**

32.2 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.

**33. Heritage**

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

**34. Supply of services**

34.1 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.

**35. Variations**

35.1 The Minister may, after first consulting with the Concessionaire, vary the conditions of this Concession only in the manner provided for under section 17ZC of the Conservation Act 1987.

**36. Which clauses survive termination?**

36.1 Clauses 14 and 27 survive the termination of this Concession.

**37. Are there any Special Conditions?**

37.1 Special conditions are specified in Schedule 3.

**38. The Law**

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

**SCHEDULE 3: SPECIAL CONDITIONS**

*NOTE: Any reference in the conditions in this Schedule to the West Coast District Council land use consent, the Westland Regional Council consent or to Schedule One: Conditions Common to the Westland District Council and West Coast Regional Council Resource Consents is a reference to the approvals as granted by the Fast-track Approvals Act 2024 expert panel on XX XXXX 2026. Any change to those approvals and/or conditions of those approvals will not constitute a change to the conditions of this concession, unless or until this concession is varied in accordance with requirements of the conditions of this concession and/or the Conservation Act 1987.*

1. All construction, operation and maintenance activities must be undertaken in general accordance with the Application, and within the Concession Area maps provided in Schedule 4 of this Concession.
2. The Concessionaire must undertake the Concession Activity in accordance with the relevant resource consent conditions as set out in Table 1 below, the management plans in conditions 10, 11 or 12 and the specific conditions in this Schedule.

**Commented [W20]:** In light of the panel’s comments at [1136] of the decision, Westpower has incorporated by reference the relevant conditions from the resource consents to avoid duplication and inconsistency. Westpower’s reasons for preferring this approach (over duplicating the conditions) are provided in memorandum #18.

**Commented [W21]:** It is not clear if the panel intended to refer to the ‘Application’ or to something else. If referring to the ‘Application’ a date is not required as that term is defined in schedule 2.

**Table 1: Relevant resource consent conditions**

Condition(s)	Matter	Amendments (if any)
CC4, CC5, CC6	Project website / virtual information source	CC4: references to 'consent holder' should be read as 'Concessionaire'  CC6: reference 'Consent Holder' should be read as 'Concessionaire', 'parties identified in Schedule Four' should be read as 'DOC Liaison Officer'
CC24	Hours of construction	Reference to 'Consent Holder' should be read as 'Concessionaire'
CC25	Construction disturbance area	Reference to 'these Consents' should be read as 'this Concession'  Exclude the row on McLean Farm
CC26	Permanent indigenous vegetation removal	Reference to 'these Consents' should be read as 'this Concession'  Exclude the row on McLean Farm
CC27	Permanent scheme footprint	Exclude the row on McLean Farm
CC28	Accidental discovery protocols	Exclude 'gravel extraction activities'  Reference to 'DOC' should be read as the 'DOC Liaison Officer' or 'DOC local office' depending on whether it is during construction or operation
CC29	Pounamu accidental discovery protocol	Reference to 'Consent Holder' should be read as 'Concessionaire'
CC30	Emergency sirens	

WAITAHA HYDRO SCHEME – FTAA-2505-1069

Condition(s)	Matter	Amendments (if any)
CC31	Pre-commissioning notification	Reference to 'Consent Holder' should be read as 'Concessionaire' Reference to 'Consent Authority' should be read as 'DOC local office'
RC9	Sediment losses	Reference to 'Consent Holder' should be read as 'Concessionaire'
RC10	Didymo	
RC11, DC66	Recreation	References to 'consent holder' or 'Consent Holder' should be read as 'Concessionaire'
RC12, RC13	Dust Management Plan	
RC14	Erosion and Sediment Control Management Plan	
RC15	Pre-commencement notification before bulk earthworks and vegetation clearance	Reference to 'Consent Authority' should be read as 'DOC Liaison Officer'
RC20	Access road between Macgregor Creek and Power Station	Reference to 'Consent Holder' should be read as 'Concessionaire'
RC21, RC22, RC23, RC24, RC25, RC26	During earthworks	RC23 and RC24: reference to 'Consent Holder' should be read as 'Concessionaire', 'WCRC' should be read as 'DOC Liaison Officer'
RC43	Fish screen for water take during construction	
RC67, RC68	Weir and intake structure design	
RC71 excluding (b)(iv), RC72	Final weir and intake structure design report	References to 'Consent Holder' should be read as 'Concessionaire'
RC74, RC75	Alterations to weir and intake structure	RC74: reference to 'Consent Holder' should be read as 'Concessionaire'
RC77, RC78, RC79, RC80, RC81, RC82	Fish passage	RC77 and RC80: reference to 'Consent Holder' should be read as 'Concessionaire'
RC83, RC84, RC85, RC86, RC87, RC88,	Streamworks	RC83: reference to 'these Consents' should be read as 'this Concession' RC88: reference to 'Consent Authority' should be

WAITAHA HYDRO SCHEME – FTAA-2505-1069

Condition(s)	Matter	Amendments (if any)
RC89, RC90		read as the 'DOC Liaison Officer' or 'DOC local office' depending on whether it is during construction or operation  RC90: reference to 'Consent Holder' should be read as 'Concessionaire', 'these Consents' should be read as 'this Concession'
RC92	Freshwater Ecology Management Plan	
RC93, RC94, RC95, RC96, RC97, RC98, RC99, RC100, RC101	Hydro Scheme diverted water management	RC96: reference to 'this consent' should be read as 'this Concession'  RC98: reference to 'Consent Holder' should be read as 'Concessionaire'  RC100: reference to 'consent holder' as proposed by Westpower should be read as 'Concessionaire'
RC102 (if not deleted as requested by Westpower), RC103	Ramping rate effects	References to 'Consent Holder' should be read as 'Concessionaire'
RC104	Ramping rate adaptive management report	References to 'Consent Holder' should be read as 'Concessionaire'
RC106, RC107	Hydro Scheme residual flow	
RC108, RC109	Site Operations Management Plan	RC108: reference to 'Consents' should be read as 'Concession', 'WDC' should be read as 'DOC Liaison Officer'  RC109: reference to 'Consent Holder' should be read as 'Concessionaire'
RC113, RC114, RC115	Morgan Gorge flushing for removing accumulated fine sediment	References to 'Consent Holder' should be read as 'Concessionaire'  RC114 and RC115: reference to 'WCRC' should be read as 'DOC local office'
RC116, RC117	Morgan Gorge Flushing Management Plan	RC117: reference to 'Consent Holder' should be read as 'Concessionaire'
RC118, RC119, RC120, RC121, RC122, RC123	Desander flushing	RC119 and RC121: reference to 'Consent Holder' should be read as 'Concessionaire'  RC121: reference to 'WCRC' should be read as

WAITAHA HYDRO SCHEME – FTAA-2505-1069

Condition(s)	Matter	Amendments (if any)
		'DOC local office'  RC122: reference to 'Consent Holder' should be read as 'Concessionaire', 'consent' should be 'Concession'
RC124, RC125,	Site Stormwater Management Plan	RC125: reference to 'Consent Holder' should be read as 'Concessionaire' RC128: reference to 'Consent Holder' should be read as 'Concessionaire', 'these Consents' should be 'this Concession'
RC126, RC128	Monitoring Plan	RC126: reference to 'Consent Holder' should be read as 'Concessionaire' RC128: reference to 'Consent Holder' should be read as 'Concessionaire', 'these Consents' should be 'this Concession'
RC130, RC135	Kayaking and no-take days	References to 'Consent Holder' should be read as 'Concessionaire'
RC136	Maintenance earthworks	
RC137	Air discharges from emergency diesel fired generator	Reference to 'Consent Holder' should be read as 'Concessionaire', 'Consent Authority' should be read as 'DOC Liaison Officer' or 'DOC local office' depending on whether it is during construction or operation
RC138	Public river safety risk report	Reference to 'Consent Holder' should be read as 'Concessionaire', reference to 'these Consents' should be read as 'this Concession', reference to 'DOC' should be read as 'DOC local office on request'
DC17	Construction Environmental Management Plan	Reference to 'Consent Holder' should be read as 'Concessionaire', 'these consents' should read 'this Concession', 'WDC' should read as 'DOC Liaison Officer'
DC18(a)	Construction Traffic Management Plan	Reference to 'Consent Holder' should be read as 'Concessionaire'
DC23	Power station parking and manoeuvring	
DC24, DC25 excluding "(c) Within Construction	Helicopter Flight Management Plan	DC25: reference to 'these Consents' should be read as 'this Concession'  DC28: reference to 'Consent Holder' should be read as 'Concessionaire', 'Council officers'

WAITAHA HYDRO SCHEME – FTAA-2505-1069

Condition(s)	Matter	Amendments (if any)
Staging Area 3 (McLeans Farm)" which is outside the Land, DC26, DC27, DC28, DC29, DC30, DC31, DC32		should be read as 'DOC Liaison Officer'
DC33	Construction Noise Management Plan	Reference to 'these Consents' should be read as 'this Concession'
DC34, DC35	Open air blasting	DC34: reference to 'Consent Holder' should be read as 'Concessionaire'
DC36, DC37, DC38 excluding operational helicopter noise	Construction noise limits	DC37: reference to 'Consent Holder' should be read as 'Concessionaire'
DC39	Operational noise limits	
DC40 excluding reference in (b)(ii) to "and the Spoil Disposal Areas"	Landscape Management Plan	
DC41	Shotcrete	Reference to 'Consent Holder' should be read as 'Concessionaire'
DC42, DC43, DC44, DC47, DC48	Headworks and upper access tunnel portal	DC42, DC43, DC47: reference to 'Consent Holder' should be read as 'Concessionaire'
DC49	Vegetation Management Plan	
DC53 excluding (b)(iv) on compensation details	Avifauna Management Plan	
DC54 excluding (b)(iii) on compensation details	Bat Management Plan	
DC55, DC56	Lighting	DC55: reference to 'Consent Holder' should be read as 'Concessionaire'

Condition(s)	Matter	Amendments (if any)
DC58 excluding (b)(iv) on compensation details	Lizard Management Plan	

3. 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 conditions will prevail.

**Compliance with concession**

4. The Concessionaire must supply a copy of these conditions to any agent or contractor undertaking any activities authorised by this Concession.
5. Unless otherwise stated in this Concession, in the event of any breach of compliance with the conditions of this Concession, the Concessionaire must notify the DOC Liaison Officer or DOC local office (as relevant) 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 or DOC local office (as relevant), which explains the cause of the breach, and if the cause was within the control of the Concessionaire, steps which were taken to remedy the breach and steps which will be taken to prevent any further occurrence of the breach.

**Commented [W22]:** Westpower has suggested the inclusion of “DOC local office” as that will be the appropriate contact point during operation.

**DOC Liaison Officer for duration of Construction**

6. 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.
7. 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.

8. 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.
9. 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 7.

**Management Plans**

10. Prior to commencing each of the Project Construction Work Components occurring on, over or under land administered by DOC (identified in Table 2), the Concessionaire must supply a draft copy of each corresponding Management Plan to the DOC Liaison Officer and invite them to provide feedback.

**Table 2: Project Construction Work Components and associated 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	<ul style="list-style-type: none"> <li>• Construction Environmental Management Plan</li> <li>• Erosion and Sediment Control Management Plan</li> <li>• Dust Management Plan</li> <li>• Construction Traffic Management Plan</li> <li>• Construction Noise Management Plan</li> <li>• Freshwater Ecology Management Plan</li> <li>• Vegetation Management Plan</li> <li>• Avifauna Management Plan</li> <li>• Bat Management Plan</li> <li>• Lizard Management Plan</li> <li>• Landscape Management Plan</li> </ul>
Streamworks	<ul style="list-style-type: none"> <li>• Construction Environmental Management Plan</li> <li>• Flight Management Plan (if helicopters are used)</li> <li>• Erosion and Sediment Control Management Plan</li> <li>• Construction Noise Management Plan</li> </ul>

**Commented [W23]:** Westpower has added the management plans which appear to have been inadvertently omitted in combining the short term and long term concessions.

	<ul style="list-style-type: none"> <li>• Freshwater Ecology Management Plan</li> </ul>
Headworks including Construction Staging Area 1	<ul style="list-style-type: none"> <li>• Construction Environmental Management Plan</li> <li>• Erosion and Sediment Control Management Plan</li> </ul>
Power Station Site and/or Tunnels including Construction Staging Area 2	<ul style="list-style-type: none"> <li>• Dust Management Plan</li> <li>• Construction Traffic Management Plan</li> <li>• Flight Management Plan (if helicopters are used)</li> <li>• Construction Noise Management Plan</li> <li>• Freshwater Ecology Management Plan</li> <li>• Vegetation Management Plan</li> <li>• Avifauna Management Plan</li> <li>• Bat Management Plan</li> <li>• Lizard Management Plan</li> <li>• Landscape Management Plan</li> </ul>
Rehabilitation Works	<ul style="list-style-type: none"> <li>• Vegetation Management Plan</li> <li>• Landscape Management Plan</li> </ul>

**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. Prior to the Commencement of Generation, the Concessionaire must supply a draft copy of the following Management Plans identified to the DOC Liaison Officer and invite them to provide feedback:
  - (a) Site Operations and Maintenance Plan
  - (b) Monitoring Plan
  - (c) Stormwater Management Plan
12. After developing the Morgan Gorge Flushing Management Plan following the Commencement of Generation, the Concessionaire must supply a draft copy to the DOC local office and invite it to provide feedback.
13. When submitting any Management Plan identified in conditions 10, 11 or 12 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.
  - (c) The Concessionaire must meet all of DOC's actual and reasonable costs associated with reviewing and providing feedback on 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.
  15. The Concessionaire must not commence the activities listed in conditions 10, 11 or 12 until certification of the relevant Management Plan or Plans listed in those conditions has been obtained.
  16. The Concessionaire must undertake all construction, operational and maintenance activities authorised by this Concession in accordance with the relevant Management Plan or Plans, and any certified amendments to a relevant Management Plan or Plans.
  17. Until Completion of Construction, copies of all Management Plans referred to in condition 10 must always be kept at Construction Staging Area 3 (McLean's Farm).
  18. From the Commencement of Generation, and to the extent of their respective tenures, copies of all the Relevant Management Plans must always be kept at the Power Station Site.

**Commented [W24]:** Westpower has suggested these changes as 'Relevant Management Plans' is a defined term and only relates to management plans relevant to the operation and maintenance of the scheme.

#### **Amendments to management plans**

19. The Concessionaire may seek amendment to any Management Plan referred to in conditions 10, 11 or 12 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 in accordance with conditions 13 and 14.

#### **Pre-commencement meeting**

20. Not less than ten (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.
21. 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.
22. 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; and

- (e) Copies of any Management Plans required for the Project Construction Work Component(s) as set out in Table 2 of this Concession.

**Indigenous Vegetation Disturbance Area**

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

**Table 4: Vegetation Disturbance Areas**

Project Site Areas	Maximum Area (ha)
Headworks	0.97
Power Station Site and access road / transmission line south of Macgregor Creek , alternative walking track	5.63
Overall Total	6.60

**Commented [W26]:** Westpower has updated these figures to reflect Memorandum #12.

**Notification of fuel spill**

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

**Commented [W27]:** As per earlier comment, both contacts are required as this concession now covers construction and operation. Resource consent condition RC7 is similar in wording but broader (also covers any breach of conditions) so this condition has been retained separately.

**Hazardous substances**

- 25. 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).

**Construction Traffic Management Plan**

- 26. Of relevance to this Concession, the CTMP must include (as a minimum):
  - (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 measures to meet speed restrictions; and
  - (d) Communication protocols with the DOC Liaison Officer.

**Remotely Piloted Aircraft Systems (RPAS)**

- 27. Remotely Piloted Aircraft System (RPAS) includes any pilotless aircraft, Unoccupied Aerial Vehicle or drone.
- 28. The Concessionaire shall immediately cease the operation of the RPAS if there is any indication of wildlife disturbance.
- 29. 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.
- 30. 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>

**Recreation compensation**

31. 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) as a contribution towards the maintenance and upkeep of Waitaha Valley walking tracks and huts that existed at the time this Concession was granted. The entity to receive this payment must be confirmed following the Concessionaire's consultation with the Department of Conservation.
32. The compensation amounts in Condition 31 must be adjusted at the start of each calendar year from the Commencement Date year by the annual Consumer Price Index (CPI) published by Statistics New Zealand. The adjusted rates must thereafter be used as the compensation amount required to be paid in accordance with Conditions 31.
- 33.

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**SCHEDULE 4: PLAN OR MAP**

Area(s) as shown in Maps 1 – 5	Activity <sup>1</sup>	Details
<b>Lease Land (and general description of activities)</b>		
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.  Signage for HSE
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, communications equipment, HSE signage.
9	In-stream structures at Alpha Creek	Box culvert and associated river training structures
12	Power station	Switchyard, Power Station, rockfall and slope protection works, tailrace  Water take for amenities, siren, stormwater management, bypass valve plume; water take for generation, sediment discharge, lighting, security and operation cameras, comms equipment, septic holding tank; hazardous substance storage
14, 18, 19	Tunnels	Access and pressurised water tunnels, portals, stormwater management from tunnels, services (electricity, ventilation, communications), sediment management, lighting, storage, rockfall and slope protection works.
22	Intake and headworks	Including kōaro and whio passage, kayak passage, siren, water take for generation, lighting, security and operation cameras, comms equipment, signage

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

Area(s) as shown in Maps 1 – 5	Activity <sup>1</sup>	Details
	Ancillary Activities	All ancillary activities including structures for weather and flow monitoring stations
<b>Licence Land (and general description of activities)</b>		
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. Signage for HSE
20, 23	Maintenance of intake – in-stream works	In-stream works - clearing area upstream of intake
	Ancillary Activities	All ancillary activities including helicopter and drone use and access for predator control, weed control, ecosystem monitoring eg eDNA, flushing trials, whio, fish, bats, kōaro etc  Signage for HSE, bypass valve plume

**Commented [W28]:** Westpower has made changes to reflect the amendments sought in Memorandum #12.

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