

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

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

Between **WESTPOWER LIMITED**

Applicant

EXPERT PANEL: WESTPOWER LTD MEMORANDUM 2

MEMORANDUM OF COUNSEL: PROJECT UPDATES

Dated: 17 November 2025

BUDDLE FINDLAY
Barristers and Solicitors

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MAY IT PLEASE THE PANEL:

1. This memorandum is filed on behalf of the Applicant, Westpower Limited (**Westpower**) and follows its Memorandum 1 to the expert panel filed on 7 November 2025.
2. Westpower informed the panel it would provide a package of updated information today, 17 November 2025, in advance of invitations for comment.

Updates to the Substantive Application

3. RMA approvals, updates to Part B, Assessment of Environmental Effects (**AEE**):
 - (a) **Attachment 1:**
 - (i) **Attachment 1A** at section 3.5.5, Table 4: Approximate Areas of Disturbance correcting subtotals and total rows;¹
 - (ii) **Attachment 1B** at Table 11 of the AEE following the proposed Te Tai o Poutini Plan rules coming into effect on 10 October 2025 (after lodgement of the Application);
 - (iii) **Attachment 1C** providing Te Tai o Poutini Plan (**TTPP – Decisions Version**) analysis replacing Tables 7 and 8 of Appendix 50;²
 - (b) sections 7.1.18 and 7.1.19 are now out of date because of the Resource Management (Consenting and Other System Changes) Amendment Act 2025 as addressed in Memorandum 1 and relating to:
 - (i) s 124B (default term of 35 years for renewable energy and long-lived infrastructure); and
 - (ii) s 125(1)(c) (default lapse period of ten years);
 - (c) **Attachment 2:** addendums to assessment of effects (to Appendices 27 and 29 of the AEE) to address assessment under the TTPP – Decisions Version:
 - (i) **Attachment 2A**, landscape memorandum;

¹ Memorandum 1 incorrectly referred to correcting Table 5 relating to indigenous vegetation clearance. There are **no** errors in Table 5 to correct.

² Section 86B, RMA.

- (ii) **Attachment 2B**, noise memorandum;
 - (d) **Attachment 3**, updated RMA conditions; and
 - (e) **Attachment 4**, two updated management plans following DOC feedback:
 - (i) **Attachment 4A** updated Avifauna Management Plan (Appendix 36³), there are only amendments to pages 7 and 10:
 - to incorporate directly that a wildlife approval is sought to disturb, catch and liberate whio; and
 - to clarify and direct that handling of whio (to catch and liberate) is only required to protect their safety, and only by a whio specialist or the Project Ecologist following instruction by a whio specialist.
 - (ii) **Attachment 4B** updated Lizard Management Plan (Appendix 38⁴), there are only amendments between pages 19 and 22:
 - to refer to condition 49 which now reflects the Lizard Management Plan content regarding indigenous vegetation clearance between April and September; and
 - to provide more detail on lizard capture methods and a contingency measure if vegetation cannot be cleared within a 72 hour timeframe (which is the maximum hold time for a salvaged native lizard).
4. Concession approvals:
- (a) **Attachment 5**, Part A, Application update:
 - (i) **Attachment 5A** to address the inclusion of additional marginal strips the Project may affect and clarify existing information in the Application, a clarified table of owners, administration entities and legal descriptions of land comprising the site (replacing both the AEE table at pg vi and Appendix 2: records of title); and
 - (ii) **Attachment 5B** updated figure "Transmission line and access road and on private, LINZ and DOC administrative parcels", pg vii

³ [Appendix-36-avifauna-management-plan.pdf](#).

⁴ [Lyttelton Port Reclamation](#) incorrect hyperlink title but document is the Westpower Lizard Management Plan).

of Part A, with the actual or potential marginal strips extending along or adjacent to Allen Creek shown and including the access road.

(b) Updates to Part B, AEE:

- (i) section 7.2.1.2 which includes activities on actual or potential marginal strips extending along and abutting the landward margin of Allen Creek to include (alongside the updated table of legal descriptions and figure in Attachments 5A and 5B):

Section 17V – Limitations on concessions and leases over marginal strips

The Scheme may affect marginal strips extending along and abutting the landward margin of:

- either side of Allen Creek;
- true right bank Macgregor Creek; and
- true right bank Waitaha River below the confluence with Macgregor Creek.

- (ii) section 4.2 addressing that the Department of Conservation administer and manage land classified as marginal strips pursuant to Part IVA Conservation Act 1987; and

- (iii) **Attachment 6** clarified Table 13 relating to a summary of activities that concession approvals are sought for, including:
- on actual or potential marginal strips extending along and abutting either side of the landward margin along the Allen Creek, true right bank of Macgregor Creek and true right bank of Waitaha River;⁵ and
 - helicopter take offs, landings and hovering for construction activities and some operational activities (the activities otherwise being listed in Part B, AEE);

- (c) **Attachment 7:** memorandum confirming why exceptional circumstances apply and warrant Westpower receiving a 49-year

⁵ Pg, 27 Part B, Application. Noting that the marginal strips remain within the Project Areas, including for the wildlife approvals, as shown in the Schedule 6 maps in Appendix 47.

operational term (and 15-year construction term) for the approvals, as explained in section 4.2.2 Terms and Expiry Date and section 7.2.1.2 of the AEE.⁶

5. Geotechnical investigative drilling approvals:

- (a) The AEE addresses the geotechnical investigative drilling approvals Westpower has sought with the Application. These include concession and RMA approvals and relate to investigative drilling activities relating to the key tunnelling component of the Project. As explained at section 3.5.1 of the AEE (Pre-Construction Activities):

Westpower has already submitted applications with DOC and with the Councils to undertake the above geotechnical drilling activities, however, these same activities are also included within the scope of this FTAA application in the event the latter process provides a faster outcome.

- (b) At this point, Westpower retains all geotechnical investigative drilling approvals (concession and RMA) in this Application. Westpower proposes to provide an update to the panel on the progress of discussions with DOC, WDC, and WCRC in its response to comments on 14 January 2026.
- (c) For context, for most of the relevant investigative geotechnical drilling activities, Westpower has received two sets of approvals from DOC and the Westland District Council, and a certificate of compliance from the West Coast Regional Council. However, Westpower is not yet able to have certainty that the terms are adequate to enable the entire pre-construction activity to be completed, and that a required ongoing activity can be included (ongoing borehole monitoring). The impact of the TTPP – Decisions Version on the required extension is also to be resolved.

6. For completeness, in Westpower's Memorandum 1 to the panel and at the project overview conference, Westpower emphasised the constructive and ongoing discussions with DOC. This includes continued engagement on, and improvement of, the three sets of concession conditions. Westpower is currently responding to DOC's comprehensive feedback on the conditions provided on 13 November 2025 sets to ensure that, to the extent possible, an

⁶ Pg 366, Part B, Application.

agreed set (with a confined set of unresolved matters) can be put before the panel as soon as possible. Westpower will remain in regular discussion with DOC and will keep the panel updated as to progress.

7. Wildlife approvals:

- (a) Update to the AEE to correct section 7.3.3, stating: "*There are no species subject to international conservation.*" The correction is to enable the panel to take into account applicable international conservation agreements and that the United National Convention on Biological Diversity and the International Union for Conservation of Nature (**IUCN**) Red List are relevant. Protected wildlife species known or predicted to be in the Project areas are listed in Table 15 in section 4.3.2 of the Application. The Project may affect species that hold an IUCN Red List status, being:
 - (i) Forest gecko: Vulnerable (decreasing);
 - (ii) Newman's speckled skink: Vulnerable (decreasing);
 - (iii) West Coast green gecko: Vulnerable (decreasing);
 - (iv) New Zealand Long-tailed bat: Critically endangered (decreasing);
and
 - (v) Whio: Endangered (decreasing).
- (b) **Attachment 8:** updated Wildlife conditions:
 - (i) Minor improvements to drafting to improve consistency with statutory language including clarifying that approvals are sought to "disturb, catch and liberate" whio (in limited circumstances).
 - (ii) For completeness, the Wildlife Conditions now acknowledge the ecological compensation proposed by Westpower in its RMA conditions which mitigate more than minor effects on whio. There are no residual more than minor residual effects on protected wildlife that the panel must offset or compensate for.⁷ Some compensation is offered for residual less than minor and negligible effects on bats and birds.

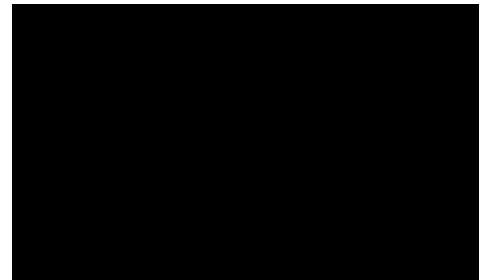
⁷ FTAA, Sch 7, cl 6(2)(b).

8. Freshwater Fisheries approvals

(a) **Attachment 9**, updated freshwater fisheries conditions:

- (i) In alignment with updates to the resource consent conditions:
- Westpower is required to construct the weir in accordance with the certified Final Weir and Intake Structure Design Report. Weir maintenance activities will be covered in the Site Operations and Maintenance Plan; and
 - Westpower has agreed to include a minimum pump intake screen aperture size condition on other water takes during construction. This can be extended to flow pumping when constructing culverts in any streams (i.e. excluding stormwater pathways).

Dated: 17 November 2025



Paul Beverley / David Allen / Rachael Balasingam

Counsel for Westpower Limited