

BEFORE THE EXPERT PANEL

IN THE MATTER of the Fast-track Approvals Act 2024 (**FTAA**)

AND

IN THE MATTER of an application by Westpower Limited under section 42
of the FTAA for the Waitaha Hydro Project

APPLICATION NO. FTAA-2505-1069

**MEMORANDUM FROM THE DIRECTOR-GENERAL OF CONSERVATION
RESPONDING TO MINUTE 7 OF THE PANEL**

30 January 2026

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| Barrister instructed: Jeremy Prebble Hawkestone Chambers Wellington Telephone: [REDACTED] [REDACTED] | Emma Fahey Permissions Advisor DOC Te Papa Atawhai PO Box 10420 Wellington 6140 Telephone: [REDACTED] [REDACTED] |
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1. This memorandum has been prepared on behalf of the Director-General of Conservation (**D-G**). It responds to Minute 7 of the Expert Panel dated 27 January 2026 in respect of the Waitaha Hydro substantive application (the “Minute”).
2. The Minute refers to a number of matters including proposed conferencing on freshwater ecology and whio. The request is outlined below. We respond to these points and then set out some additional points for the Panel’s consideration:
 - a) *whether there is any preference between an online conferencing session with the Panel present and able to ask questions or a more formal online joint empanelment (hot-tubbing) of witnesses as part of a discrete hearing convened solely for that purpose;*
 - b) *which of their respective experts they consider should attend any such conferencing/joint empanelling session;*
 - c) *the availability of those witnesses to attend an online session on Friday 13 February 2026 in the afternoon (this being the Panel’s preferred date and time slot given the peer reviewers’ and Panel’s respective availabilities);*
 - d) *whether legal counsel should be present and if so in what capacity (observer v active participant); and*
 - e) *whether a joint statement of issues can be produced by no later than 12pm on Thursday 12 February 2026.*

DOC’s preference for conferencing (addressing points a), d) and e))

3. DOC does not have a strong preference as to the exact nature of the conferencing. If we understand the Panel correctly, both options provide for an open questioning of the experts by the Panel (and potentially applicant, and DOC lawyers). What DOC does recommend is that the experts conference without lawyers and first agree a joint witness statement confirming the key issues and the experts’ position on those issues. Their positions could then be subject to questions put to them by the Panel, applicant, or other party lawyers.
4. Consistent with these points, DOC requests that if the Panel oversees conferencing (whether or not this is after the experts have prepared a joint witness statement), then counsel (including DOC legal counsel) should also be present and able to question experts. As set out above, DOC considers the ideal approach would be to enable the experts to first conference independent of the Panel and lawyers. Once a joint witness statement has

been prepared then the experts could be questioned in a conference style (formal or informal as noted above). For example, the questioning of experts could occur on Monday 16 February after the conferencing of experts on 13 February.

5. DOC understands the purpose of conferencing is issue identification and an ability to hear from the experts on those issues. Assuming that to be correct, DOC considers a list of issues could be produced (primarily by experts) in advance of discussion (without Panel involvement).
6. Finally, DOC respectfully asks the Panel to consider whether the scope of matters to be the subject of conferencing could be broader than freshwater ecology and whio. This is discussed further below.

DOC's view on expert attendance and availability (addressing points b) and c))

7. DOC's experts have been unable to fully review the independent reports of the Panel in the time between their release and this memo. In relation to the topics the Panel have identified, DOC would send two experts – one to discuss freshwater ecology and fish passage and one to discuss whio. These experts were involved in the drafting of DOC's section 51 reports, and their names and availability are set out in **Appendix 1**.
8. Availability of experts can be confirmed by **5 February 2025**. DOC apologises for the delay but at present the experts are not contactable.

Additional Points for the Panel's consideration

Request for additional conferencing

9. We note the Panel has proposed conferencing on hydraulic engineering and fluvial geomorphology. Whilst DOC does not have expertise to comment on these matters, the areas of disagreement/concern outlined in relation to them have implications for matters DOC has interest and expertise in (i.e. ecology, recreation and landscape matters).
10. DOC considers the following topics would benefit from expert conferencing:
 - a) Recreation

As outlined in its reports and comments, DOC considers that there will be significant residual effects on recreational opportunities and values. DOC considers that conferencing might assist to determine whether the effects can be further mitigated. For example, conferencing could:

- Confirm the final alignment of the Kiwi Flat access track, which could potentially minimise the visibility of headworks.
- Consider feasibility/merits of true left access and a new bridge to reduce contact with headworks and improve experience at the hot pools/gorge—subject to user consultation and CMS alignment.
- Suggest mapping and sightline analysis to demonstrate reduced user–infrastructure interaction.
- Define servicing protocols for monitoring stations (frequency, timing, flight paths) to keep upper valley effects low (outside maintenance windows).
- Consider additional information provided regarding compensation methodology. Require any contribution to be ring-fenced for Waitaha Valley access and facility maintenance, co-designed with user groups.

b) Landscape and natural character

As indicated in our section 53 commentary, DOC is prepared to provide an additional response to landscape and natural character given there have been further changes to the application (or at least clarification made by Westpower) after the review from Jeremy Head. DOC also notes that further information has been requested from the applicant on this topic (RFI from the Panel dated 19 November 2025, responded to on 10 December 2025; information request by DOC dated 17 November 2025, responded to on 5 January 2026). An issues conference on this topic would ensure the Panel has the most-up-to-date expert evidence and information to inform its decision.

DOC accepts that there has been substantial engagement on this matter between all parties, however, there has been no assessment of responses from the RFI nor the additional information provided to DOC on 5 January 2026. DOC expressly signalled this matter in its section 53 comments.

The expert reports published with the Panel’s minute (and in particular the geomorphological report) questioned whether the Applicant has underestimated the degree of intervention required to manage sediment load.

Resolution of this issue could have significant implications for landscape, natural character, and recreational values as well as river morphology and potentially the ecological values present. If instream works are to be substantially changed from what is currently proposed, then the nature of the project is likely to be more intrusive on the scheme area with broad implications for the effects of the project.

In light of the above points, DOC considers there would be benefit from expert conferencing on landscape and natural character issues, potentially combined with expertise on the geomorphology of the river and likely degree of works required to maintain the channel for the ongoing operation of the weir.

c) Conservation General Policy (CGP) and Conservation Management Strategy (CMS) arguments

The interpretation of CGP and CMS by the applicant fundamentally differs from DOC's. The approach taken by Westpower of balancing all policies against the purpose of those policies is inconsistent with how DOC applies them in practice. DOC can provide a management planning expert to assist in conferencing on these matters, if considered helpful for the Panel.

Correction to expert input into DOC's recreation report

11. DOC would like to correct an assumption made by the Panel's independent expert (and the Applicant's expert) in terms of the economic expertise of the author of DOC's recreational report. While Shelly Sidley wrote the peer review of the Applicant's recreational report, the economic expert views were prepared by Steven Kerr, a Principal Commercial and Revenue Advisor. Mr Kerr calculated and wrote the section on financial modelling within the overarching report. His credentials can be found in **Appendix 2**.
12. Compensation could be a topic that is subject to expert conferencing, however, DOC's view is that compensation is being addressed by ongoing communication between the Applicant and DOC.



Jeremy Prebble
Counsel for the Director-General of Conservation

Appendix 1

Department of Conservation experts to participate in expert conferencing

DOC will confirm by 5 February 2026 full availability.

| Topic | Name | Available to attend |
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| Whio | Jason Malham | Attendance for online conferencing to be confirmed by 5 February 2026. Credentials were included in DOC's s51 covering report. |
| Freshwater ecology and fish passage | Marine Richarson | Available for online conferencing in the morning only on 13 February 2026. Credentials were included in DOC's s51 covering report. |
| Management Planning – application of CMS/CGP | Katherine Hughes | Available to attend online conferencing if requested. Credentials are included in Appendix 2. |
| Landscape and Natural Character | Jeremy Head | Unavailable for conferencing on 13 February due to prior commitments. Other dates can be confirmed by 5 February 2026 if requested. Credentials were included in DOC's s51 covering report. |
| Recreation | Shelly Sidley | Available to attend online conferencing if requested. Credentials were included in DOC's s51 covering report. |
| Economic modelling | Steven Kerr | Available to attend online conferencing if requested. Credentials are included in Appendix 2. |

Appendix 2 – Additional expert credentials

Steven Kerr

I am a Principal Commercial and Revenue Advisor with the Department of Conservation (DOC), based in Wellington. I have worked for DOC since 2018. I hold a Bachelor of Business, Diploma in Economics and a Bachelor of Regional Planning, all from Massey University.

The last 15 years of my career have focused on economic and financial analysis for a range of projects and resource allocation decisions involving capital, operating cost, and calculating revenue streams, and value generation where revenue streams do not exist. These projects have included roading, bridges, marinas, small scale electricity generation, and recreation/tourism products/experiences such as hiking (e.g. DOC's Great Walks), and accommodation such as campsites, lodges and so forth. My work for DOC has also included pricing to calculate crown royalties for businesses operating on public conservation land (such as guiding, telecommunications, small scale hydro-generation, transport, accommodation, and aircraft landings). This work has involved non-market valuation techniques to estimate value and benefit streams, as the prices, or value in monetary terms, are not always observable in the market or where the market is not competitive as DOC can be the dominant supplier of its recreation/tourism experiences, or a monopoly supplier of locations for tourism/recreation businesses to operate, on public conservation land. In many cases it involves working in data limited environment.

Katherine Hughes

I, Katherine Anne Hughes, am a National Management Planning Team Advisor at the Department of Conservation (the Department). I have been employed in this position since 1 July 2019. Prior to that I was employed at the Department as a Resource Management Act Planner from 4 September 2000 to 30 May 2003 when I became a Management Planner. I hold a Master of Science (1st class honours) degree (1988) from Waikato University and a National Diploma in Environmental Health (1990) from Wellington Polytechnic.

In my role as a National Management Planning Team Advisor, I support my manager and members of the Management Planning Team to ensure a nationally consistent and strategic approach in the development and review of statutory management planning documents, processes and systems, including monitoring the team's functional outcomes. I am responsible for various tasks, including:

1. providing advice from a national context, including proposed legislative reform;
2. contributing to the implementation and achievement of our work priorities;
3. ensuring consistent interpretation of policy and legislation, and responses to significant issues;
4. contributing to Treaty settlement processes involving statutory planning redress;
5. connecting with other teams within the Department to raise the profile of statutory management planning and integrate related work across the Department;
6. regularly reporting to the New Zealand Conservation Authority (the NZCA) on statutory planning processes; and
7. coaching and mentoring members of my team.

During my time at the Department, I have been involved in numerous statutory management planning processes. Specifically, in relation to the West Coast *Te Tai o Poutini* Conservation Management Strategy 2010 (the CMS) I:

1. have provided advice on various concession applications and Department operational activities;
2. initiated an amendment to the CMS in accordance with section 171 of the Conservation Act 1987 (CA87); and
3. provided responses, and contributed to responses, to various enquiries, including Parliamentary questions, Official Information Act requests, letters to the Minister and other Minister's, and letters to the Department.