

Your comment on the Waitaha Hydro project draft conditions

Please include all the contact details listed below with your comments and indicate whether you can receive further communications from us by email to substantive@fasttrack.govt.nz.

1. Contact Details			
Please ensure that you have authority to comment on the application on behalf of those named on this form.			
Organisation name (if relevant)	West Coast Regional Council		
First name	[REDACTED]		
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X	I can receive emails and my email address is correct		I cannot receive emails and my postal address is correct
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Please provide your comments below, include additional pages as needed.

In conditions such a CC2 and CC4 there is inconsistent wording with shall used instead of must. Where appropriate, the WCRC would prefer must to be used as a stronger word.

In condition RC127(c), should it state in the table above?

RC130 have a requirement to notify WCRC at the same time.

WCRC would prefer that management plans are approved rather than certified.

The proposed conditions contain a significant amount of material that appears to regulate private arrangements between third parties, rather than matters within the Council's statutory functions. As such, a number of these conditions are not consistent with sections 108 and 108AA of the Resource Management Act 1991.

We reiterate that the overall condition set is unwieldy and would be costly and time-consuming to monitor for compliance, while offering limited scope for effective enforcement, particularly where no environmental effects arise from any breach.

We also note that many of the conditions do not relate to the avoidance, remedying, or mitigation of adverse effects on the environment. In such cases, there would be little to prevent a consent holder from successfully applying for the cancellation or variation of those conditions, given the absence of an effects-based justification.

It is critical that resource consent conditions are drafted carefully to ensure that:

- they are within statutory powers (intra vires);
- they are directly connected to the effects of the activity and achieve the outcomes anticipated by the decision-maker;
- they are clear and certain, so that the consent holder and other parties understand precisely what is required; and
- they are capable of being effectively monitored and enforced.

In this regard, conditions should meet the established D.I.C.E. principles — that they are defensible, intra vires, certain, and enforceable — and should only be imposed where:

- they are directly connected to an adverse effect of the activity on the environment; or
- they give effect to an applicable rule in a plan, national environmental standard, or relevant environmental performance requirement; or
- they relate to administrative matters necessary for the efficient implementation of the consent.

Of particular concern are:

- CC10
- CC33(e)
- RC69
- RC130 -135

Which will be particularly hard to enforce.

RMA 108(10)

A consent authority must not include a condition in a resource consent requiring a financial contribution unless—

- (a) the condition is imposed in accordance with the purposes specified in the plan or proposed plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect); and
- (b) the level of contribution is determined in the manner described in the plan or proposed plan.

RMA 108AA(1)

A consent authority must not include a condition in a resource consent for an activity unless—

- (a) the applicant for the resource consent agrees to the condition; or
- (b) the condition is directly connected to 1 or more of the following:
 - (i) an adverse effect of the activity on the environment;
 - (ii) an applicable district or regional rule, or a national environmental standard;
 - (iii) a wastewater environmental performance standard made under [section 138](#) of the Water Services Act 2021;
 - (iv) a stormwater environmental performance standard made under [section 139A](#) of the Water Services Act 2021;
 - (v) an infrastructure design solution; or
- (c) the condition relates to administrative matters that are essential for the efficient implementation of the relevant resource consent.

The WCRC Compliance staff have also reviewed the conditions and have the following comments to add:

CC10(f) - I agree, not something we can enforce and does not sit with us under RMA, only our own fees and charges.

CC16 - Agree - this should be reworded. It could say that minor amendments must be submitted to the relevant Council for approval, prior to implementation, or something to that effect.

Also, what constitutes minor or major amendments. What would be classed as a materially different outcome?

CC30 (a) - This is a H&S related condition.... regardless, how will people know what the siren means? Should there be signage associated with the sirens, maybe?

CC33 (e) & (f) - talks about compensation....not sure this is relevant to us or something we can enforce, that's third party arrangements we don't get involved with.

RC6 & RC7 - should have an advice note to say where to send this notification to - wrcrccompliance@wrcrc.govt.nz

RC13 - are there no requirements to monitor dust with gauges?? I think there should be.

RC18 - Gravel extraction - volume allowed is 100,000m³, but it does not give a timeframe, i.e. is that the total they can take over the life of the consent or per year, etc.

RC25(c) - delete the "above recorded natural background levels of the receiving site" - this will be difficult to determine and enforce. Just leave it as "not contain hazardous substances or contaminants."

RC28-RC30 - again, things missing around timeframes.

RC37 - The site should be tidied up immediately after the extraction operation, not 5 working days after.

RC40 - I have noted in newer gravel consents that returns are required 6 monthly, not annually. Should this consent align with the new consents?

RC41-43 - should there be conditions around measuring and monitoring their take?

RC46 - Should the diversion work be undertaken with a SQEP supervising?

RC54 - There should be no discharge of any contaminants..... (take out the word "direct")

RC57 - I think the condition should specify that the design plans must be done by a SQEP.

RC58 - I added the "use of on-tool extraction"

RC63 - I think it should read "spoil", not soil? I did tracked changes in the document.

RC68 - Should the fish passage be added here as a consideration? (See tracked changes)

RC69 - Agree - this is not our agreement to manage, should not be in the consent.

RC87 - Should be "No" concrete, not just wet concrete? I.e., we should not see any concrete dust or residue dry bags etc. in the waterways?

RC92 - The FEMP should include details of the SQEP who undertook the surveys.

RC93 - Should include requirement/conditions to install and maintain measuring devices installed which should be monitored.

RC100 - again - how will this flow rate be measured and monitored?

RC104 (ii)1) - should include that fish monitoring should be done by a SQEP.

RC105 - Do we want to restrict ourselves to 60 days? Doing the review itself might take a while? Could we say we can review at any time after receiving the RRAMR?

RC106 & RC107 - How is this measured?

RC109 - 5 years is too long, in my view, giving how much things will change over the course of the project. I think the SOMP should be reviewed annually.

RC111 (e) - why the number 15? Why not make it 12 as that would account for one event a month? 15 is a strange number to me? Goes back to the plan being reviewed on a 5 year basis (RC109 & RC112) - it's too long, they won't know there is an issue for 5 years???

RC114 - Instead of 1 week, make it 5 working days to be consistent with timeframe language in the rest of the consent?

RC115 - I might be missing something here, but the Report should also talk about how safe fish passage is maintained during these trials?

RC118 & RC119 & RC120 - How is this rate measured?

RC120 (f) - Should also have contingency plan for dealing with any change in water clarity?

RC121 - Change time frame to 5 working days, for consistency with rest of document. Also added "Control measures in (c).

RC124 - made addition in (vi) to also state where MSDS are stored on site.

RC125 - as per other management plans, I think 5 yearly reviews are too long, should be shortened to annually.

RC126 - A SQEP should have input into this monitoring plan.

RC127(c) - Agree, it refers to a table below, rather than above. What other issues did you have with this condition?

RC132 - I am happy with (a), but not (b)

RC133 - delete this condition.

RC134 - Agree, delete this.

RC139 - Again, can we take out the 60 days and leave it at any time?

I also have concerns with the wording to "certify" management plans. Compliance staff can approve management plans, but we would not be certifying them. (This is throughout the consent).

It also does not state who is to certify/approve these plans. I think it needs to be made clear as to where the management plans are to be sent and who is to approve them. (e.g. send to compliance team and approved by compliance team).

A track changes version of the conditions has also been supplied to assist the panel.

Thank you for your comments