

Your Comment on the Waitaha Hydro Project

Please include all the contact details listed below with your comments and indicate whether you can receive further communications from us by email at substantive@fastrack.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)	Department of Conservation		
First name	[REDACTED]		
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Postal address	PO Box 10420, Wellington 6140		
Home phone / Mobile phone		Work phone	[REDACTED]
Email	[REDACTED]		

<input checked="" type="checkbox"/>	I can receive emails and my email address is correct	<input type="checkbox"/>	I cannot receive emails and my postal address is correct
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Please provide your comments below, include additional pages as needed.

Please find comments attached



Directory Regulatory Systems Performance

Acting pursuant to delegated authority on behalf of the Director-General of Conservation.

Date: 27/03/2025

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

Comments on draft conditions for a fast-track consenting application

Fast-track Approvals Act 2024 section 70

To: The Expert Panel

From: Director-General of Conservation

Regarding fast-track project: Waitaha Hydro Project

Fast track Reference: FTAA – 2505 – 1069

These comments should be read in conjunction with DOC's legal memorandum on the draft conditions (**Appendix A**) and DOC's technical expert statement (**Appendix B**).

Comments on draft conditions of lease and licence concession

Condition #	Draft condition with track-changed suggestions	Comments and reasoning
Sch 1 Item 2 Concession Activity	<p>Construction, operation and maintenance of the Waitaha Hydro Scheme, including:</p> <ul style="list-style-type: none"> all activities set out in Schedule 4 (including the use of the water within the Waitaha River); access for construction purposes, including laydown areas, commissioning, and preparation for commencement of generation; and <p>all activities authorised or proposed to be undertaken by the</p>	<p>Schedule 4 cannot be interpreted as there are no maps included in the draft conditions.</p> <p>DOC's view is that the final bullet point, by allowing all activities "proposed to be undertaken", would have a similar effect to referencing the Application documentation itself as it is not clear what would constitute a "proposed" activity, or where an activity has been proposed if not in the Application documentation. It is noted that in their draft decision, the Panel agreed with DOC that it is more appropriate that the activities covered by the concession be clearly specified in the concession activity condition and that referencing the full Application seemed unnecessary.¹</p>

¹ Draft Decision, para 1152

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~~Concessionaire in relation to the construction, operation and maintenance of the Waitaha Hydro Scheme:~~

DOC further considers that specifying that all activities “authorised” can be undertaken is redundant, as the earlier bullet points already specify the activities that may be undertaken.

Sch 2 Clause 12.3 (to be replaced in full by imposed s78 condition)

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 Maegregor 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.~~

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 written notice, remove any specified structures and other improvements on the Land.

DOC’s position is that this condition needs to be replaced with a s78 condition that DOC is now imposing. This is to address the significant liability and risk associated with leaving structures on Public Conservation Land.

These draft conditions reflect the significant change in approach taken by the applicant to structure removal following the provision of DOC’s report and comments under s 51 and s 53. As a result, DOC has not had an earlier opportunity to comment on these conditions. DOC considers that including the list of exempted structures in draft Condition 12.3 is inappropriate from a Crown risk and liability perspective and unreasonably shifts the cost of decommissioning the structures onto the Crown.

In particular, leaving the weir in place and not under active maintenance would create an unacceptable burden on DOC and a significant ongoing health and safety risk.

For further explanation in relation to this condition, please refer to the legal memo (**Appendix A**).

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12.4 Removal under this clause must occur within a time 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.

Sch 2 New clause after 12.6	<u>12.7A If, before the expiry of the Term, the Concessionaire applies for a further concession in respect of the same Concession Activity on the Land, the Grantor cannot require removal and reinstatement of structures and improvements under conditions 12.3 and 12.4 until that concession application has been determined.</u>	This addition has been added to provide clarity around the removal of structures. DOC suggests that this is included. For further information around this addition please see the legal memo (Appendix A).
Sch 2 Clause 31.1	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 <u>temporarily</u> restricted where reasonably necessary for public safety or operational purposes <u>during construction</u> .	Regarding point d, Licence Land is defined in the Conservation Act 1987 as a grant that gives a non-exclusive interest in land. For this reason, the Applicant cannot restrict the Minister or members of the public from licence land for non-safety related reasons. Any aspects of general operation that would involve restricting the Minister or the public should be treated as a lease which allows for exclusive occupation.
Sch 2 Clause 37.1	Clauses <u>12, 14, Error! Reference source not found., and 27, Error! Reference source not found., and 32</u> survive the termination of this Concession.	Clause 12 requires the rehabilitation of the Land upon surrender, termination, or expiry of the Concession. DOC's view is that this Clause must survive termination to ensure the Land is restored to the state that it was in pre-construction.

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Clause 14 sets out the liabilities and insurance requirements of the Concession. DOC's view is that this Clause must survive termination to protect the Land.

Clause 27 sets out how notices are sent and when they are received. DOC's view is that this Clause should survive termination because it allows DOC to contact and serve notices to the Concessionaire in a fair and reasonable way.

Clause 32 sets out the bond clauses. DOC's view is this should remain after termination.

Sch 3 Condition 9	<p>Management Plans</p> <p>Prior to commencing each of the Project Construction Work Components occurring on, over or under land administered by DOC (identified in Table 1), the Concessionaire must supply a draft copy of each corresponding Management Plan to the DOC Liaison Officer and invite them to provide feedback <u>and to confirm that the Management Plan meets the objectives and requirements set out in the relevant conditions for that Management Plan.</u></p>	<p>DOC suggests instead that when the consent holder seeks certification of the MP from the consent authority for the underlined MPs, it must provide written confirmation from the DOC Liaison Officer that DOC is satisfied that the MP meets the objective and requirements set out in the conditions for that MP. Just engagement with DOC is not good enough as it does not require the consent holder to address any issues raised by DOC with the draft MP. Further rationale as to this approach can be found in DOC's legal memorandum (Appendix A).</p>
Sch 3 Condition 10	<p>1. 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 <u>and to confirm that the Management Plan meets the objectives and requirements set out in the relevant conditions for that Management Plan:</u></p> <p>(a) Site Operations and Maintenance Plan</p>	As Above

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(b) Stormwater Management Plan

Sch 3
Condition 11

When submitting any Management Plan identified in clause 5 and clause 6 to the relevant Consent Authority for certification, in accordance with the conditions of the Consents, the Concessionaire must provide the feedback received and written confirmation from the DOC Liaison Officer ~~as to whether that~~ 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:~~

~~1. 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~~

~~2. The Concessionaire's reasons why they have not actioned or addressed the DOC Liaison Officer's concerns.~~

The Concessionaire must meet all of DOC's actual and reasonable costs associated with reviewing and providing feedback on management plans.

As above.

Sch 3
Conditions
125 – 127

Recreation Compensation

Within no less than 3 months following the Commencement of Construction, the Concessionaire must make a one-off financial payment of ~~\$25,000~~ \$315,000 (excl. plus GST if applicable) to DOC. The payment is to be applied to land administered by DOC

Full rationale for suggested changes can be found in DOC's technical memo (**Appendix B**).

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~~for the purpose of offsetting effects of the scheme on recreational users of the Waitaha Valley 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.~~

Sch 3 Condition 128	<p>3. Recreation Access Track</p> <p>4. Prior to Construction, the Concessionaire must:</p> <ul style="list-style-type: none">(a) in consultation with <u>the</u> Department of Conservation, design the alternative track access in accordance with the Tramping Track Standard described in the New Zealand Handbook Tracks and Outdoor Visitor Structures SNZ HB8630:2004.(b) construct the alternative track access on the true right bank of the Waitaha River, in general accordance with the location shown in Appendix B. in a location, and with a design, approved by the Department of Conservation. <p>5.—Advice Note: The alternative access track is provided to minimize visitor views of the new access road, transmission line corridor and Power Station Site construction areas and activities.</p>	<p>DOC must approve the location of any alternative track. DOC does not support the proposed realignment of this section of track, as the current proposal would not deliver a meaningful improvement to the recreational experience. The Power Station would remain visible from the proposed alignment, meaning the realignment would not achieve any appreciable reduction in visual or experiential effects for walkers.</p> <p>Further, the presence of the access road and the bridge over Macgregor Creek is likely to attract trampers toward that route regardless of the track's alignment, resulting in visitors continuing to be drawn toward the Power Station area.</p> <p>While the applicant has committed to maintaining the newly constructed section of track for the duration of the Project, DOC considers that this effort and resourcing would be more effectively directed toward maintaining or enhancing an alternative section of the existing track network for the life of the Project. This approach would provide a clearer, more enduring benefit to recreation values. DOC recommends that the advice note is deleted as this alternative track is not necessarily DOC's preferred option.</p>
Sch 3 Condition 129	<p>6. The Concessionaire must notify the Consent Authority <u>Department of Conservation</u> in writing at least one (1) week prior to the start of Commissioning.</p>	<p>This condition is in the Concession so it should refer to notifying the Department of Conservation to ensure the Department is made aware of the commissioning commencing and can undertake any monitoring that may be appropriate.</p>

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Sch 4

Plan or Map

The Concessionaire must submit a final version of all plans or maps to the Department of Conservation for review at least one (1) week prior to commencement of the Concession.

DOC notes that the maps referenced in Schedule 4 were not provided as part of the draft decision. DOC operated on the assumption that the maps are the same as the ones previously submitted to the panel.

DOC should have the chance to review the final versions to ensure that the maps accurately identify the relevant parcels of public conservation land and the activities authorised over them.

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Comments on draft conditions of easement concession

Condition #	Draft condition with track-changed suggestions	Comments and reasoning
<u>Sch 3 Condition 2 (addition)</u>	<u>The construction of the Easement facilities is authorised by the associated Lease and Licence Concession and must be carried out in accordance with all relevant conditions and management plans described in that concession that relate to the Easement Land, including (but not limited to) the Construction Environmental Management Plan and the Vegetation Management Plan.</u>	With the change to a combined lease and licence concession for the construction and operational phases, and with that concession and this easement commencing on the same date, this condition clarifies that construction works relating to the easement facilities are subject to the comprehensive lease and licence conditions.
<u>Sch 3 Condition 3 (addition)</u>	<u>Once the initial construction and rehabilitation phase (as described in the Lease and Licence concession) has concluded, the Concessionaire must not undertake any maintenance or upgrade works that require earthworks without the prior written consent of the Grantor.</u>	Schedule 5 outlines the modified rights and powers implied in easements applicable to the Easement concession and are broad. This conditions ensures that any significant maintenance or upgrade to the easement facilities not foreseen by the initial construction requires prior DOC consent.
<u>Sch 3 Condition 4 (addition)</u>	<u>Physical disturbance of earth associated with maintenance of the access road between Macgregor Creek and the Power Station must not occur within twenty (20) metres of any part of the Stable Trib.</u>	Currently in Schedule 3, condition 172 of the Lease and Licence. This relates to maintenance of the Easement Land so should also be in the easement concession
Sch 4 Easement Area	Maps <u>The Concessionaire must submit a final version of all plans or maps to the Department of Conservation for review at least one (1) week prior to commencement of the concession.</u>	DOC's view is that final maps of the Easement Area should clearly identify public conservation land (including marginal strips) and include dimensions of the easement corridors so that the activity can be adequately monitored. DOC should have the chance to review the final versions to ensure that the maps accurately identify the relevant parcels of public conservation land and the activities authorised over them.

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Comments on draft conditions of Wildlife Act approval

Condition #	Draft condition with track-changed suggestions	Comments and reasoning
Schedule 2, clause 4	Commencing on [insert date of approval] and expiring on [insert date 15 years from date of approval]	<p>DOC notes that approvals of this type are generally only granted for a maximum term of 10 years.</p> <p>DOC would be comfortable with a 15-year term if 11.1 is accepted by the Panel.</p>
1.2	<p>All Activities authorised by this Approval must be undertaken in accordance with the relevant conditions of the Concessions and Consents listed in clause 1 and with the relevant management and monitoring plans:</p> <p>(e) — Avifauna Management Plan that has been certified under Condition XX of Appendix / Schedule XX: Conditions Common the West Coast Regional Council and Westland District Council Resource Consents.</p> <p>(e) — Bat Management Plan that has been certified under Condition XX of Appendix / Schedule XX: Conditions Common the West Coast Regional Council and Westland District Council Resource Consents.</p> <p>(e) — Lizard Management Plan that has been certified under Condition XX of Appendix / Schedule XX: Conditions Common the West Coast Regional Council and Westland District Council Resource Consents.</p> <p>NOTE: Any change to the Concessions, Consents and their conditions, and the relevant management and monitoring plans will not constitute a change to the conditions of this Approval, unless or until this Approval is varied in accordance with requirements of the conditions of this Approval and/or the Fast track Approvals Act 2024 as appropriate.</p> <p><u>(a) The Approval Holder shall prepare a Lizard Management Plan, Avifauna Management Plan, and Bat Management Plan (“Management Plans”) The purpose of the management plans is</u></p>	<p>DOC has major concerns with the current drafting that places certification of the management plan solely with the council with “opportunity for DOC input” via the Resource Consent.</p> <p>It is highly inappropriate for the Council to solely certify management plans for approvals that it is not the sole regulator of.</p> <p>DOC should hold a certification role alongside the council in relation to management plans utilised under approvals where DOC is the relevant regulator.</p> <p>This would ensure appropriate oversight and provide assurance that plans are consistent with best practice.</p> <p>This approach has been discussed and agreed with WDC.</p> <p>For a more in-depth explanation, refer to the legal memo attached (Appendix A).</p>

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to minimise adverse effects on protected wildlife within the project areas, and to support the creation and enhancement of habitats lost.

(b) The Management Plans shall be prepared and signed off by a Suitably Qualified and Experienced Person, follow best practice in terms of hygiene and animal welfare, and include:

(i) Identification of suitable habitats;

(ii) Survey and monitoring requirements for protected wildlife prior to, during and after completion of Project Works;

(iii) Translocation methods, including requirements to undertake salvage before and during vegetation clearance;

(iv) Protocols for:

1. Disease and pest management;

2. Incidental discovery;

3. Kill and harm minimisation; and

4. Incidental death associated with salvage.

(v) Measures for the creation and enhancement of habitat within the Release Area;

(vi) and Reporting requirements.

(c) At least 20 Working Days before starting Project Works, the Management Plans shall be provided to DOC for certification that they satisfy the requirements of 1.2(a) and (b).

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(d) The certified Management Plans shall be implemented and complied with for the duration of Project Works.

(e) The Approval Holder may update the Management Plans by submitting the amended Management Plans in writing to DOC for certification in accordance with 1.2(c).

Advice Note: the resource consents for the Project include a condition that requires the preparation and implementation of an LMP, AMP, and BMP. The Approval Holder may prepare one of each of these Management Plans that meets both the conditions of the resource consents and this Approval.

10.1

The Wildlife Approval Holder shall follow the Bat Roost Protocols, as attached at Schedule 7 of this Wildlife Approval when undertaking any vegetation clearance. ~~felling occupied bat roost trees during vegetation clearance.~~

DOC recommends that 10.1 is modified due to concerns that the current drafting does not clearly cover the full scope of the Bat Roost Protocols.

The Bat Roost Protocols explain, in detail, how trees should be checked for bats before any vegetation is removed. They are not only about what to do when a bat roost is found.

To ensure full process is followed and best practice is met, DOC considers that the condition should give clearer direction and reflect the full scope of the Bat Roost Protocols.

11.1

The Authority Holder must review the AMP, BMP, and LMP, and resubmit it to the Director-General for certification on or before the 10-year anniversary date of the Approval date. The objective of the review is to re-assess habitat conditions and characteristics and update the Management Plans to reflect current species knowledge, best practice management and mitigation techniques.

DOC recommends the addition of 11.1 due to the longer-term nature of the proposal, noting that wildlife approvals of this type are typically granted for no more than 10 years.

Wildlife approvals are limited to 10 years because, over this timeframe, best practice standards and onsite habitat can change significantly, potentially causing the original management plan to be outdated or ineffective.

Implementing a mandatory recertification at the 10-year mark ensures that the management plan remains aligned with current best practice, reflects any material changes in habitat, and is

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reviewed at an appropriate and responsible interval. This requirement will provide certainty to DOC as the relevant regulator that the Approval Holder is continuing to follow best practice.

Leaving the Approval Holder to amend the management plan via their own process provides no certainty that it will actually occur and relies on the goodwill of the Approval Holder.

This type of condition has also been accepted on all other Fast Track Approvals of this type with a term longer than 10 years except for Drury Quarry which had an approved term of 15 years for 2 species of lower threat status.

DOC considers a review condition is appropriate despite the 15-year term due to the approval governing a substantially larger number of species (39) with a higher threat status.

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Comments on draft conditions of Complex Freshwater Fisheries approval

Condition #	Draft condition with track-changed suggestions	Comments and reasoning
4	<p>Freshwater Ecology Monitoring Plan</p> <p>The permit holder must engage an appropriately qualified and experienced ecologist (Project Ecologist – Freshwater) to advise upon, supervise and coordinate the implementation of the Freshwater Ecology Management Plan.</p> <p><u>The Dispensation Holder shall prepare a Freshwater Ecology and Monitoring Plan (FEMP). The purpose of the FEMP is to manage and minimise effects on native freshwater fish prior to and during any required streamworks.</u></p> <p><u>(a) The FEMP shall include:</u></p> <p><u>(i) Methods for directing native fish and salvage and relocation, including site isolation procedure(s) and any site-specific requirements as appropriate;</u></p> <p><u>(ii) Timing of fish salvage and relocation, including management measures to take into account migration or spawning periods.</u></p> <p><u>(b) At least 20 Working Days before starting streamworks, the FEMP shall be submitted to DOC for certification that the FEMP satisfies the requirements of 4.1(a).</u></p> <p><u>(c) The Dispensation Holder shall not commence streamworks until the FEMP has been certified under 4.1(b).</u></p> <p><u>(d) The Dispensation Holder may update the FEMP by submitting the updated FEMP to DOC for certification in accordance with 4.1(b).</u></p> <p><u>(e) The FEMP shall be implemented for the duration of streamworks.</u></p> <p><u>Advice Note: the resource consents for the Project include a condition that requires the preparation and implementation of an</u></p>	<p>DOC has major concerns with the current drafting that places certification of the management plan solely with the council with “opportunity for DOC input” via the Resource Consent.</p> <p>Freshwater fisheries approvals deal with fish passage and structures that may impede the passage of fish. This is outside the usual role of councils, and they cannot be expected to have the expertise or knowledge to deal with all aspects of management plan certification for the freshwater fisheries approvals.</p> <p>DOC should hold a certification role alongside the council in relation to management plans utilised under approvals where DOC is the relevant regulator.</p> <p>This would ensure appropriate oversight and provide assurance that plans are consistent with best practice.</p> <p>For a more in-depth explanation, refer to the legal memo attached (Appendix A).</p>

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FEMP. The Dispensation Holder may prepare one FEMP that meets both the conditions of the resource consents and this Dispensation.

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Comments on draft conditions of resource consent

Condition #	Draft condition with track-changed suggestions	Comments and reasoning
CC7 new Advice Note	<p><u>Advice Note: The same Avifauna Management Plan, Bat Management Plan, and Lizard Management Plan will be submitted to the Department of Conservation for written certification under the requirements of Wildlife Authority [Add Wildlife Authority number]. The same Freshwater Ecology and Monitoring Plan will be submitted to the Department of Conservation for written certification under the requirements of the Complex Freshwater Fisheries Permit [Add Permit number].</u></p>	<p>In conjunction with the above recommendations that management plans associated with DOC approvals require certification from DOC, it is recommended that an Advice Note be added to Condition CC7 noting that these plans will also be submitted to DOC for certification.</p>
CC9	<p>All management plans must:</p> <ol style="list-style-type: none"> be prepared and implemented in accordance with the relevant management plan condition(s); be prepared by a SQEP having regard to the subject matter of the management plan; if relevant, include commentary in accordance with Condition CC10(e) where Department of Conservation consultation is required; include sufficient detail relating to the management of effects associated with the relevant activities and/or Project Construction Work Component to which it relates; and once certified, be uploaded to the Project website or equivalent virtual information source as required by Condition CC4 and CC5. 	<p>As explained below and in the legal memo (Appendix A).</p> <p>The whole CC10 is relevant to this condition, specifying only CC10(e) adds additional confusion.</p>
CC10	<ol style="list-style-type: none"> Prior to submitting the management plans for the following Project Construction Work Components for certification, the Consent Holder must invite the <u>DOC Liaison Officer Department of Conservation</u> to review the management plans and <u>provide written confirmation that they meet the requirements-comments, suggest amendments or additions to each plan</u> within 20 working days of the management plan being provided to the Department: 	<p>For consistency with DOC approvals, it is requested that the Consent Holder invite the DOC Liaison Officer to review the management plans and provide written confirmation that they meet requirements. For further information regarding this approach can be found in the DOC legal memo (Appendix A).</p>

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- i. Construction of a new access road and transmission lines across and south of the true left **bank** of Macgregor Creek
- ii. Streamworks
- iii. Headworks including Construction Staging Area 1
- iv. Power Station Site and/or Tunnels including Construction Staging Area 2
- b. The Consent Holder must take into account all comments and suggested amendments and additions to each plan received from the Department of Conservation.
- c. The Consent Holder must prepare a document (or documents) outlining what if any amendments or additions have been made to each plan in response to comments and suggestions made by the Department of Conservation and provide that document to the Westland District Council or West Coast Regional Council contemporaneously with each plan when it is submitted for certification or recertification.
- d. The document required under (c) must include an explanation of where any comment or suggestion made by the Department of Conservation has not been incorporated into the plan and the reasons why.
- e. A copy of each plan that is submitted for certification must be provided to the Department of Conservation for their information, together with the document required under Condition CC10(c).
- f. The Consent Holder must meet all of the Department of Conservation's actual and reasonable costs associated with reviewing and providing feedback on the management plans listed in Condition CC10(a).

Advice Note: *The management plans noted in this condition relate to works or activities on, over, or under land administered by the Department of Conservation.*

RC7

Unless otherwise stated in these Consents, in the event of any breach of compliance with the conditions of these Consents and in the event of any fuel spillage in excess of 20 litres that occurs onto

An amendment is recommended to ensure DOC are informed of any fuel spillage.

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the land surface or into water, the Consent Holder must notify the Consent Authority and the Department of Conservation immediately after becoming aware of the breach.

RC11

Prior to **Construction**, the consent holder must:

- (a) in consultation with Department of Conservation, design the alternative track access in accordance with the Tramping Track Standard described in the New Zealand Handbook Tracks and Outdoor Visitor Structures SNZ HB8630:2004.
- (b) construct the alternative track access ~~on the true right bank of the Waitaha River, in general accordance with the location shown in Appendix B: in a location, and with a design, approved by the Department of Conservation.~~

~~**Advice Note:** The alternative access track is provided to minimise visitor views of the new access road, transmission line corridor and Power Station Site construction areas and activities.~~

DOC must approve the location of any alternative track. DOC does not support the proposed realignment of this section of track, as the current proposal would not deliver a meaningful improvement to the recreational experience. The Power Station would remain visible from the proposed alignment, meaning the realignment would not achieve any appreciable reduction in visual or experiential effects for walkers.

Further, the presence of the access road and the bridge over Macgregor Creek is likely to attract trampers toward that route regardless of the track's alignment, resulting in visitors continuing to be drawn toward the Power Station area.

While the applicant has committed to maintaining the newly constructed section of track for the duration of the Project, DOC considers that this effort and resourcing would be more effectively directed toward maintaining or enhancing an alternative section of the existing track network for the life of the Project. This approach would provide a clearer, more enduring benefit to recreation values.

DOC recommends that the advice note is deleted as our view is that this alternative track is not necessarily the preferred option.

RC19A

Clearance of potential lizard habitat may only be undertaken outside of the approved lizard management season (October – April inclusive) in areas that have been subject to pre-clearance salvage effort during the March / April months that immediately precede and do not result in the detection of lizards. Any area that is found to contain resident lizards may not be subject to any winter habitat clearance activities.

Lizards are often spatially clustered. DOC therefore recommends the addition of Condition RC19A to minimise the potential unmitigated killing of lizards if winter works are to be undertaken in an area containing a lizard hotspot.

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RC110A

The Consent Holder must notify the Department of Conservation prior to undertaking any in-stream sediment excavation work above the Headworks.

DOC recommends the addition of new condition RC110A to ensure DOC are informed of any in-stream sediment excavation works above the Headworks.

RC111

- a. There must not be on average more than 15 in-stream maintenance works events using an excavator (in-stream excavation works) during any year of operation of the scheme and of no more than four hours duration per event.
- b. The Consent Holder must submit a report at the end of each year (by 31 December) detailing the number of occurrences of in-stream excavation works undertaken each year to enable the council to consider whether to initiate a review of the consent.
- c. If, for any consecutive five (5) year period following the **Commencement of Generation**, the average annual **frequency number** of in-stream sediment excavation work events undertaken above the Headworks exceeds fifteen (15) the Consent Holder must prepare an In-stream Works Review Report. The purpose of the In-stream Works Review Report is to identify practicable measures for minimising the frequency of in-stream sediment excavation work events.
- d. The In-stream Works Review Report must (as a minimum):

For full rationale regarding these changes please refer to legal memo (**Appendix A**).

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- i. Be prepared by a suitably qualified and experienced professional;
- ii. Include a detailed analysis of the likely ~~root~~ causes for all in-stream sediment excavation events recorded within the five (5) year period;
- iii. If the ~~root~~ causes are not considered "unique" to the preceding five (5) year period, include a detailed review of the Headworks operating procedures set out in the **SOMP** to identify potential operational and/or set-point changes that could reduce the average frequency of in-stream sediment excavation events;
- iv. Include a summary of other options considered to reduce the average frequency of in-stream sediment excavation events; and
- v. Identify any recommended changes to the operating procedures set out in the **SOMP** and/or any recommended physical changes to the headworks structure including any technical information to support any recommendations made.

RC112

If an In-stream Works Review Report is required to be prepared under Condition ~~CG111~~ RC111, the Consent Holder must provide the Report to WCRC and WDC for their information no later than

Typo correction, condition should refer to the condition above (RC111).

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three months following the end of the relevant five (5) year review period.

RC87A

No instream works shall be undertaken during peak spawning and migration times for the native fish species present in the waterbody as determined by the survey required in accordance with Condition RC77 (with the exception of instream works associated with the Headworks and intake weir, and water bodies that are ephemeral/intermittent and dry at or downstream of the works area at the time of the works).

DOC recommends this requirement also be included in the resource consent conditions, not just the Complex Freshwater Fisheries Approval conditions, as it also relates to the undertaking of activities authorised by the resource consent.

DC54

- (a) The objective of the **BMP** is to specify the procedures and methods to be applied during construction and operation of the **Scheme** ~~minimise~~ ~~manage~~ potential adverse effects on long-tailed bats (*Chalinolobus tuberculatus*).
- (b) To achieve this objective, the **BMP** must include (as a minimum):
 - (i) Methods, procedures or protocols to avoid, remedy or mitigate effects on bats with the first priority being to avoid adverse effects given their threat status;
 - (ii) the Protocols for minimising the risk of felling occupied bat roosts, Version 4: October 2024 (Bat Roost Protocols) and any other measures to be adopted prior to, during and after bat habitat removal;

As noted in the draft decision, effects on long-tailed bats are to be avoided, minimised and mitigated. DOC recommends the objective is amended to better reflect this.

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- (iii) Compensation details designed to address residual construction related effects in accordance with **Conditions DC59, DC61 and DC62;**
- (iv) Compliance monitoring and reporting processes; and
- (v) Clear roles, responsibilities, and minimum competency requirements for personnel implementing the **BMP**.

DC58

- (a) The objective of the **LizMP** is to specify the procedures to be applied ~~for the management of to minimise~~ potential adverse impacts on lizards associated with the construction of the **Scheme**.
- (b) To achieve this objective, the **LizMP** must include (as a minimum):
 - (i) A description of methodology for survey, trapping and relocation of lizards rescued including but not limited to:
 - (1) salvage methods including timeframes;
 - (2) lizard handling and relocation protocols (including method used to identify suitable relocation site(s));
 - (3) data collection; and
 - (4) habitat clearance/transfer protocols;

Due to the threat status of West Coast Green Gecko (Threatened – Nationally Vulnerable) are encountered on site, DOC recommends Condition DC58 be amended to require that the LizMP include a detailed contingency plan in the instance that they are found on site.

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- (ii) A detailed contingency plan for if green gecko are found on site;
- (iii) A description of the release site(s);
- (iv) Clear roles, responsibilities, and minimum competency requirements for personnel implementing the **LizMP**;
- (v) Compensation details designed to address residual construction related effects in accordance with **Conditions DC63** of this consent; and
- (vi) Compliance monitoring and reporting processes.

DC61

From and including the eleventh year following the **Commencement of Construction**, and then for the duration of the consents, and in consultation with the **DOC**, the Consent Holder must make an annual payment of \$35,000 to an ecosystem programme in the region nominated by DOC as a contribution to support the West Coast region's wider ecosystem or locally in the Waitaha Valley. The detail of the ecosystem programme will be set in consultation with DOC at the end of Year 10 and will be informed by the state of the environment at that time.

DOC supports the purpose of the compensation payable from Year 11 being flexibly worded as per draft Condition DC61. DOC considers that what the compensation is spent on should be informed by the state of the environment at the end of Year 10, and should factor in unanticipated but possible effects, for example weed incursion. DOC seeks that the condition be amended so that DOC has a stronger role in establishing the details of the ecosystem programme, and that the programme be nominated by DOC at the end of Year 10, based on the state of the environment at that time.

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