



received 24/5/2021
llw

Permission Decision Support Document

Application Details

Decision Maker	Mark Davies (Operations Director, Western South Island Region)
Applicant	Griffin Creek Hydro Limited (The Applicant)
Permission Number	WC-20844-OTH
Permission Type	Variation/s - (s17ZC(2) material change and s17ZC(1) minor and technical)

Key Dates

Application received	13/2/2020
Explore Task re notification completed	20/4/2020
Task Assignment assigned	1/5/2020
Context Meeting	7/5/2020
Check-In Meeting/s	28/7/2020, 15/9/2020, 19/4/21
Decision due	31/01/2021

Document Links

Application	DOC-6209935
Task Assignment	TA - DOC-6283978
Explore Task 199 and Notification Report (includes effects assessment)	Report DOC-6239215
Memo re. revisit of notification decision	DOC-6518377
Approved concession WC-20844-OTH	DOCDM-714032
First Determination Report Approved 2010	DOCDM-648635

Final Report Approved 2011	<u>DOCDM-679286</u>
2012 Variation and Construction and Operational Plan - approved by Memo	<u>DOC-6459922</u>
Hokitika District 2018 Site visit report	<u>DOC-5531639</u>
Section 17SE (1) Letter to NZ Canyoning Association	<u>DOC-6292194</u>
Section 17 SE(2) information and 3 rd Part Responses & Assessment Report	<u>DOC-6390918</u>
Applicant Response to 3 rd Party Responses	<u>DOC-6404891</u>
Iwi	<u>DOC-6487947</u>
West Coast <i>Tai Poutini</i> Conservation Board Comment (8July 2020)	<u>DOC-6393381</u>
Technical Report (Recreation Assessment, Ian Wightwick, Snr Visitor Advisor - revised 30/1/2021)	<u>DOC-6422436</u>
Email confirming agreed change to special condition	<u>DOC-6618256</u>
Technical Report (Review of District Ecological effects assessment, Cassie Mealey, Jane Marshall - Technical Advisors, Ecology - revised 22/1/2021)	<u>DOC-6551688</u>
Email re amendment to condition 1 ii)	<u>DOC-6623366</u>

PPL email request for additional information on construction methodology & response received. (Oct 2020) Request [DOC-6486533](#)
Response [DOC-6486536](#)

Applicant comments on draft DSD received 3 December 2020 [DOC-6520044](#)

Applicant comments received 16 March 2021 finalised draft DSD [DOC-6608084](#)

Resources

Permissions Advisor Julia Mackie (Hokitika)

District Office/s Nicole Kunzmann (Operations Manager, Hokitika), Tim Shaw (Senior Ranger Community)

Statutory Manager Joy Comrie (WSI)

Technical Specialists Ian Wightwick (Senior Visitor Advisor)
Cassie Mealey/Jane Marshall (Technical Advisors- Ecology)

Legal Advisor Aimee Patterson (Solicitor)

Cost Recovery

Approved cost estimate is linked at [DOC-6295362](#)

Function	Time (minutes)	Date complete
Capture	30	13/2/2020
Summary	15	30/4/2020
Assign	15	1/5/2020

*Up to four hours of pre-Application advice is provided free of charge – record all time in the table, but do not charge the Applicant for the first four hours.

1. Critical Issues & Task Register

Critical Issues identified by Team and Tasks as set by the Decision Maker:

No.	Critical Issues: Context Mtg 7/5/20 (45mins) Mark Davies, Joy Cornie, Nicole Kunzmann, Tim Shaw, Julia Mackie	Task description	Accountability	Timeframe (date due)	Date complete	Time taken to complete task (minutes)
1	How to ensure previous Iwi comments provided remain current	Update Francois with current Application details	Tim		12/05/20	90
2	How to ensure Conservation Board and key stakeholders are updated on Application and any potential conflicts managed	Draft & send letters to update Board & PMC & manage timing Explore task report useful resource.	Joy (with support from all)		18/5/20	
3	How to ensure interest group (NZ Canyoning Assn) s are updated and information sought under 17SE Cons Act	Draft & send letter to NZ Canyoning Assn (Dan Clearwater - President info@nzcanyoningassociation.org - update on process (clarifying 4 matters under Application - no increase to abstraction etc) & asking for information to assist decision (on those 4 aspects only in relation to canyoning activity) Explore task report useful resource	Julia (with support from all)		18/5/20	60

4	How to ensure Applicant is keep updated and informed re letter to NZ Canyoning	Draft & send email	Julia (with support from team)		20/5/20 (Judi and Julia had phone convo with Rhys)	30
5	How to ensure concession and resource consent conditions align	Cross check	Tim		9/11/20 Cross referenced 2017 RMA variation - no issues	15
6	How to ensure process timeframe is managed	Due date 29/5/20. Expect completion in next two months. Update: following intense 3 rd party interest following letters sent out (OIAs, Ministerials, Media queries etc) further extension required through to 30/8/20. Iwi consultation expected to be quick turnaround. Letters to be draft and sent out ASAP	Julia		26/5/20	10
Check in meeting #1 28/7/20 (45mins) - Mark D, Nicole, Tim, Julia, Joy C (following receipt of information from all parties)						
1	How to ensure relevance test assessment of info received from Canyoners, FMC, F & Bird & Cons Board is robust & clear.	Undertake initial relevance test assessment of information rec'd - Tim (Ecological), Julia (Rec & rest). Log Assyt Request for Tech Advice as appropriate (Rec - Ian Wightwick) Assessment of info needs to be clearly recorded in table similar to notified submissions with clear	Julia/Tim		13/9/20	480

		summary and recommendations & available in DSD Appendix.				
2	How to ensure Canyoners info received is shared with Applicant as per 17SE requirement.	Email to Applicant and include clear guidance on matters they need to address e.g. measures to avoid, remedy or mitigate. <i>Update: All information received from all parties shared with Applicant. Response received from Applicant</i>	Julia to draft with support from Judi	3/8/20	60	
3	How to ensure Applicant is clear on significance and relevance to this process of proposed increase to pipe diameter size in terms of scale & effect on downstream H2O values & rec values.	Tim & Julia to liaise re best approach on this. Tim updated Applicant. Applicant requested to withdraw C & O Plan.	Tim/Julia	See File note doc-64361285 June, 26 Aug & 30 Sept,	120	
4	How to ensure all 3 rd party responses have been acknowledged and thanked.	Ensure email responses have been sent to all.	Julia to liaise with Judi ASAP	NZCA 23/7/20 FMC 6/8/20 & 11/8/20 Forest & Bird 6/8/20 Whitewater NZ 17/6/20	30	
5	How to ensure processing timeframe continues to be well managed & communicated with	Apply for further timeframe extension potentially to late Nov/early Dec 2020 (TBC with Judi) & update Applicant on process steps	Julia/Judi	16/9/2020	10	

	Applicant to manage expectations. Current due date is 31 August 2020	Update: Extension approved to 15/12/20.				
Check in meeting 2 - 15/9/20 - Mark D, Nicole, Tim, Julia, Joy, Cassie M, Ian W. (following assessment of responses and receipt of draft tech specialist advice)						
1	How to ensure draft technical advice is finalised and signed off ready for inclusion in DSD.	Ian to circulate draft to team inviting comment prior to final completion. Cassie to finalise draft and send to team.	Ian/Cassie		Rec 16/11/20 Ecol 3/11/20 Total 32hrs Jane 7hrs site visit, 5 hrs report Cassie 7 hrs site visit, 13 hrs report.	360 1920
2	How to ensure conclusions, recommendations in technical advice are understood and complete. ? is any further info required?	No further info required by Ian/Cassie.	N/A			
3	How to ensure connection between COP submitted in Dec 2019 and DSD is understood. Can the detail in COP be discussed in DSD?	Clarification required. Agreed Decision Maker needs to understand full extent of activity and consideration needs to include detail of the 'how' aspects. Update: Following meeting 25/9/20 and further discussion (Mark, Aimee, Judi, Nicole was determined that : COP should formally be withdrawn if	Nicole/Tim Judi/Julia		2/10/20	60

	<p>not in finalised form and in view of variation process to avoid confusion and provide clarity to this process.</p> <p>If further detail required (re construction methods) this should come from request from Julia/Judi to Applicant.</p> <p>Nicole/Tim to discuss with Applicant.</p> <p><i>Update: COP withdrawn 30/9/20</i></p> <p>Judi/Julia to request additional construction detail from Applicant 2/10/20. Response received 14/10/20. (linked above)</p>				
<p>Check in meeting 3 - 19/4/21 - Mark D, Nicole, Tim, Julia, Ian W, Aimee P (as request of Decision Maker)</p> <p>Refer pg 72 of DSD.</p>					
	<p>Co-ordinate the processing of the Application - including (but not limited to) communicating with the Applicant, managing the Permissions Database record, and co-ordinating the completion of the Decision Support Document, undertake a statutory analysis of the Application, Share the decision with the team members on behalf of the Decision Maker</p>	<p>Permissions Advisor</p>	<p>14/12/2020</p>	<p>11/5/2021</p>	<p>2400</p>

2. Purpose

To make a decision on the Application.

3. Context

The background and history of concession WC-20844-OTH is detailed below as this is important to assist the Decision Maker's understanding and consideration of the Application.

Concession WC-20844-OTH- Easement

Griffin Creek Hydro Ltd hold an active Easement concession WC-20844-OTH (the concession) which was granted on 1 February 2011 for a term of 30 years. The expiry date is 31st January 2041. The concession authorises the construction, operation, maintenance and repair of a small 1.3MW run of the river hydro-electric power scheme at Griffin Creek. Griffin Creek is a tributary of the Taramakau River, located approximately 25km east of Kumara township between the Wainihinihi and Taipo Rivers, adjacent to State Highway 73. The proposed location lies within Conservation Area -Wanganui/Otira Catchments which is classified as Stewardship Land.

✓
understood

The consideration and decision-making process related to the WC-20844-OTH took place over a four-year period. A first determination report was prepared that analysed the potential adverse effects of the activity including landscape, flora and fauna, freshwater, noise, water flow and recreational aspects, resulting in a decision in principle to approve the concession subject to the outcome of public notification. Public submissions on the intended granting of the concession resulted in 3 submissions received. However, submitters did not wish to be heard and therefore no public hearing was required to be held. The concession was granted for 30 years with a range of special conditions imposed, including a risk assessment be undertaken and appropriate bond to be in place and more specifically:

Noted

Noted

"The Concessionaire must not undertake the concession activity unless or until the final Construction and Operational Plan is approved in writing by the Hokitika Area Manager. In considering the Construction and Operational Plan, the Grantor would check that it does not differ substantially in regard to location, scale or level of effect to the Application lodged by the Concessionaire and to the Concession Activity as described in the Department's First Determination Report. The Concessionaire must ensure that the Construction and Operational Plan is prepared by a suitably qualified person. The Grantor may require the plan to be audited by a suitably qualified person."

Noted

For clarification, the scheme has not been constructed apart from an access track that was commenced in 2012.

understood

2012 Variation and Approved Construction & Operational Plan (COP)

In 2012 the Department approved a variation to amend special conditions 23 and 24 in WC-20844-OTH and approved the draft COP submitted. Special Condition 23. was amended to allow a 'track' measuring 2.3 metres wide to be formed to accommodate access for machinery and the penstocks. The 2012 variation application is deemed to form part of the 2012 variation approval.

Noted

It is the Department's view that the 2012 COP is still in effect and binding on the Applicant and the Department. Given the recommendations for proposed operating conditions made in this Decision Support Document (DSD) relating to the 2020 variation application, it was initially recommended that the 2012 COP is revoked and a new Construction and Operational Plan is

Noted

understood

required to be submitted and approved by the Department.¹ Following receipt of and analysis of the Applicant's comments on the draft DSD, the Department's recommendation to revoke the 2012 COP was revised. This matter is discussed further on page 65 of the DSD.

Noted
The 2012 variation approval also 'waived' the requirement to comply with Condition 24 as the track standard referred to in the condition wording was not considered relevant to the construction of such a formation in such terrain.

Noted
The Applicant engaged a specialist consultant (NZ Energy, David Inch) who recommended a redesign of the original scheme in order to construct and operate the hydro power scheme in the most efficient manner whilst minimising the effects on the environment. As a result variation applications have been submitted to the Department for consideration.

Variation Application #1 (submitted 2017/2018)

Noted
The first variation was submitted in 2017/2018. Part of this variation application was to increase water abstraction. The Department determined that it would seek the views of the public via public notification in order to better understand the effects of the proposed changes to what had been originally agreed to. It was noted at this time, that three years after the Easement had been granted, Griffin Creek gorge had been discovered by canyoners and the effects of this activity (canyoning) were not well known and understood by the Department. The Applicant subsequently withdrew this variation application on 13 March 2019.

Construction and Operational Plan (COP) (submitted Oct 2019)

The Applicant then submitted a COP to the Operations Manager, Hokitika for consideration and approval as required by the original concession conditions (refer page 9 above). The COP contained a detailed description of the revised design of the scheme including construction and operational detail.

The Department identified there were four elements included in the COP submitted for approval that could not be considered at the discretion of the Operations Manager. These four elements form the variation application submitted in 2020 which is currently in process. The four elements are:

1. Easement location (location of penstock to be changed)
2. Authorised Easement area (increase in the total area from 0.50ha to 0.06ha for construction period only)
3. Water intake structures construction area of 55m² (a temporary increase in the area required to enable construction from 45m² to 100m², reducing to 45m² at construction completion for ongoing use and maintenance).²
4. Size of trees for removal (increase from a maximum 20cm diameter at breast height (DBH) to a maximum 50cm diameter at breast height (DBH))

Noted
The COP was formally withdrawn from consideration on 30 September 2020.

¹ See page 44 under heading - 'The Construction and Operational Plan'

² See explanation on page 12 under heading "Section 17ZC(1)(a) change - Intake Site"

Variation Application #2 (Feb 2020)

Noted
undesired
A new variation application was subsequently submitted to vary four elements (and related conditions) of the existing concession which, if approved, would allow for changes to the activity in preparation for subsequent COP approval of the proposed redesign. The new variation application did not include any proposed changes to the minimum approved water flow.

Variation Application #2 - Description of Activity

The four changes proposed by the Applicant are described below.

1. Easement area location

- Amendment of part of the easement area location due to relocation of the penstock and removal of the access track as shown in Figure 1 below. The penstock pipe would be buried and sidle across the hill (before the steep penstock section on private adjoining land). A separate access track for maintenance purposes would no longer be required as the penstock/pipeline would be buried within the same corridor.

2. Easement area footprint size

- Increase to the maximum footprint area from 0.50 hectares to 0.60 hectares for the construction period only, reducing to 0.50 hectares for ongoing operation and maintenance.
- The existing concession condition proposed for amendment is Schedule 1, Clause 1. Easement Land.

Noted 3. Water intake site footprint size

- Increase to the size of the area required to construct the intake structures, from 45m² to 100m² during construction phase, reducing back to 45m² for ongoing operation and maintenance.³ The area under Application is 55m² being the additional area not previously approved.
- The existing concession condition proposed for amendment is Schedule 3, Special condition 23).

4. Vegetation clearance - maximum size of DBH (diameter at breast height) of vegetation to be removed

- Increase to the maximum diameter at breast height (DBH) of the standing vegetation that may be removed, trimmed or cut down from a maximum of less than 20cm to a maximum of less than 50cm DBH.
- The existing concession condition proposed for amendment is Schedule 3, Special Condition 27.

³ See explanation on page 12 under heading "Section 17ZC(1)(a) change - Intake Site"

Figure one below from the Application shows the original scheme design layout compared to the proposed amended scheme design layout.

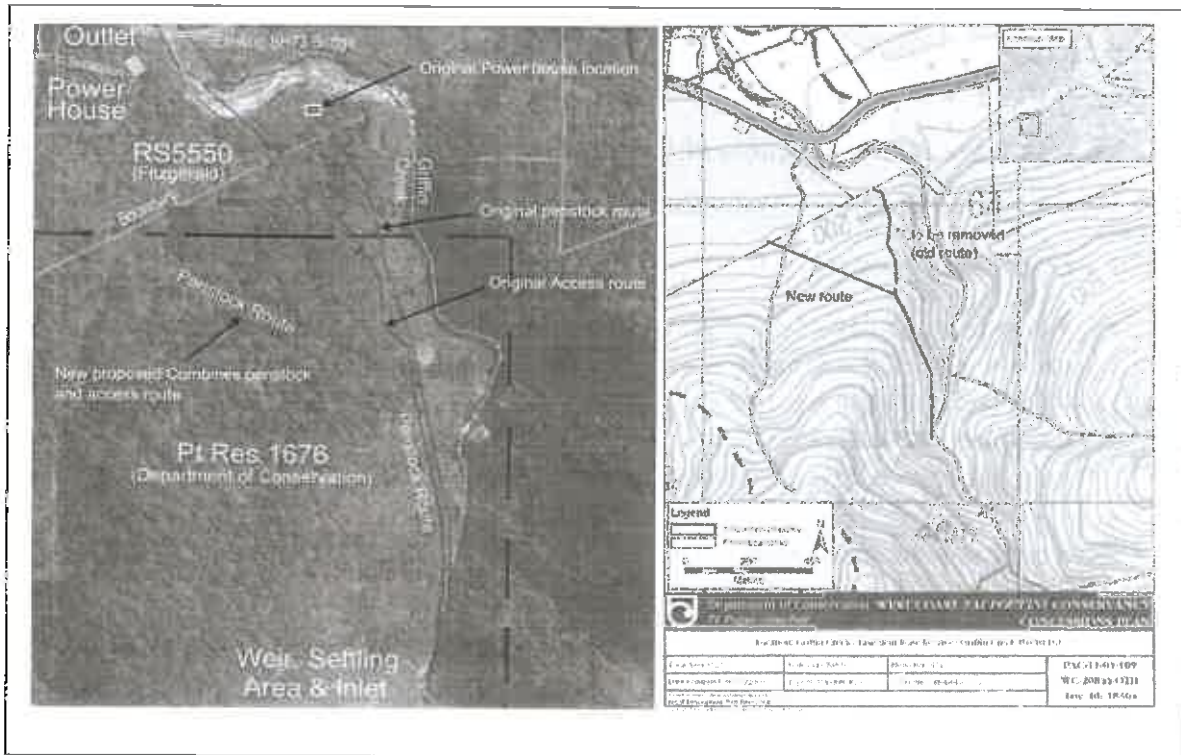


Figure 1 – Aerial and topo maps from the Application showing the location of the original penstock/pipeline with separate access route (bright red and blue lines in aerial image) and proposed amended penstock route (penstock and access combined).

Additional Context

- A red flag form was brought in to the understand team and an explore task was issued to ensure that the concession is still valid as the structure was never built and it has been nine years since the concession granted. The Department has confirmed that the concession remains valid. On the same day, the variation application was received.
- A task assignment was issued to Mark Davies, Operations Director, Western Sth Island Region, on 19th February 2020 to consider whether public notification of this concession Application is required. Mark Davies recommended that notification was required. However, the decision was made by Judi Brennan (Permissions and Land Manager, Hokitika) not to notify this Application- see report for the reasoning (DOC-6239215). After third party information was received, this decision was reconfirmed (DOC-6518377).⁴

Section 17ZC(1)(a) change – Intake Site

This aspect requires further explanation as the figures included in the original Application submitted were later acknowledged as being incorrect. The Applicant's ascertain is that a 'typo' error was made in the concession that has gone unnoticed.

⁴ See Section 8 Statutory Analysis pages 19-20 for further discussion on public notification.

✓ The Department has looked into this matter as part of this process and is now confident that the figure that was intended to be approved was not 12m³.

An explanation and supporting evidence follows.

✓ The figure in question relates to the area at the intake site within which the structures and the working area must be contained. The concession (Schedule 3, special condition 23) states this figure is 12m². There is no detail in the concession of the individual structures and dimensions that are deemed to form part of the intake area and therefore be contained with the 12m². Clarity on this detail is provided in the original Application and First Determination Report (FDR) which have been relied upon to provide evidence of what the Department's understanding was at the time the concession was processed and approved. One possible explanation for the exclusion of this level of detail in the concession may be that the finalised hydro scheme design detail would form part of the Construction and Operational Plan submitted prior to construction commencing.

- The Applicant maintains the 12m² figure was a 'typo' that has gone unnoticed. They state 12m² cannot be correct because the total of all the individual intake structures included in the original Application and described in the First Determination Report (FDR) totals 45m². The wording in the condition 23 reads, "...At the intake site, the structures on the Easement Land and the working area must be contained within a 12m area..."

✓ *Understand* The Department has undertaken a thorough assessment of the original Application and First Determination Report and has formed the view that it was the Department's intention to approve an area that would allow installation of all of the intake structures as they were described. It is agreed that it would not be possible to construct all of the structures within an area of 12m² as detailed in the concession. The Department's view is, as the Applicant maintains, that an error has occurred and that has gone unnoticed.

Notes The First Determination Report suggests that the intake structures would be spread over 20m of the riverbed. The intake structures which are given a size include a 10m² channel, 6m² intake structure, 15m of pipe, 8m² settling tank, and 3m² waterproof shed. There are a number of other small structures (overflow weir, surveillance cameras, river gauge, solar panels on pole, polythene sheets and sandbags) which are not give a size. This equates to at least 29m², plus 15m length of pipe (width unknown).

It is concluded that 45m² would be a reasonable size to accommodate all these structures.

Note: the intake structure area does not include the penstock/pipeline which conveys water from the exit point of the settling tank

Location/s

The activity has been applied for at the following location/s:

Conservation area	Description of location (if applicable)	Land status	District Office	Activity
Conservation Area - Wanganui/Otira Catchments (2805713)	Griffin Creek	Conservation Area (Stewardship)	Hokitika	Variation to Hydro Scheme

Relevant details about the Applicant

Credit check result	The Applicant is an existing customer.
Compliance with previous permission conditions	The Applicant has one compliance breach related to their existing concession conditions and this was resolved by the District Office.
Relevant convictions	No known relevant convictions.

4. Critical Issues

Refer to Task Register above on page 8

5. Consultation with Treaty Partners

District Office name – Tim Shaw Senior Ranger

SECTION A: Treaty Settlement implications

- If your Treaty Partners have settlement legislation in place already, are there any specific post-settlement implementation obligations that relate to the site or proposed activity? – No.

SECTION B: Marine and Coastal (Takutai Moana) Area Act 2011

- NA

SECTION C: Whānau, hapū, and iwi consulted

Griffin Creek is within the exclusive rohé of Te Rūnanga o Ngāti Waewae.

Part of the information provided by the Applicant for this variation was a copy of a 6 November 2018 email exchange between Francois Tumahai, the chair of Ngāti Waewae and GCH where he reconfirms Ngāti Waewae's support for the scheme. The timing of that letter is for the first variation process which sought the same and more changes than the current variation, including increased water take.

On 6 May 2020 Tim Shaw from the District Office called Francois and discussed this latest variation application. This was followed by an email on 12 May where the Departments analysis of the 4 changes was provided. On 14 May the full Application was provided (docCM 6295767).

On 10 June Phillipa Lynch replied on behalf of Francois / Te Rūnanga o Ngāti Waewae indicating continued support for the scheme (this email exchange is saved to docCM 6487947).

Noted - I have also been advised verbally by Francois Tumahai that ~~noted~~ and Ngāti Waewae support the proposed scheme.

Consultation Summary			
Treaty Partner consulted with	Te Rūnanga o Ngāti Waewae		
Date consultation was sent out	6 May - Conversation 12 May - Summary 14 May - Application Documents		
Consultation time frame end date	20 Working Days		
Consultation method (email, phone, face to face etc)	As above		
How many attempts made to consult?	3		
DOC-CM link to any consultation emails received	DOC-6487947		

SECTION D: Consultation with Te Rūnanga o Ngāti Waewae.

- Does this Application activate any agreed triggers for consultation with Treaty Partners?

There are no agreed triggers. Instead all concessions are provided to Iwi though a shared spreadsheet.
- Did the whānau, hapū, or iwi engage in consultation on this Application? YES.
- What is the interest of the whānau, hapū, or iwi in the site or activity? What are their views on the activity (taking place at the specified site)?
Te Rūnanga o Ngāti Waewae support this hydro scheme. This has been consistent throughout the DOC and RMA processes since 2011.
- What sort of adverse effects do the whānau, hapū, or iwi believe the activity will have on their interests (at the specified site)?
None specified
- Have the whānau, hapū, or iwi identified any methods to avoid, remedy, or mitigate these effects?
None specified
- Summarise any other information provided by the whānau, hapū, or iwi.
Te Rūnanga o Ngāti Waewae support this hydro scheme. This support has been consistent throughout the DOC and RMA processes since 2011.

6. Contributions

Hokitika District Office: Tim Shaw (Senior Ranger Community)

Consistency with Resource Consents

- Note*
- Resource consent conditions do not conflict with the conditions of the Easement granted by the Department or the current variations sought. The water take allowed by the Council and DOC authorities are difficult to compare as the measuring points are at different ends of the scheme.
 - Griffin Creek Hydro (GCH) was granted a land-use consent by the Westland District Council (WDC) to generate electricity and form a legal road in July 2011. This consent was extended in May 2017.
 - GCH was granted Resource Consent by the West Coast Regional Council (WCRC) for water take, diversion of water and disturbance of the bed of Griffin Creek in March 2011. This consent was varied in October 2017. This variation included an allowance for a greater take of water from a maximum take of 1200 to 2500 litres per second, and a minimum residual flow immediately below the intake point of 456 instead of 800 litres per second. This change was based on hydrological data collected between 2011 and 2017.
 - Specifications around water take in the DOC easement are confined to requiring extraction to cease when flow measured immediately upstream of the outlet falls below MAF, which at the time was agreed to be 0.8m³ (800litres per second). The increased take allowed for by the Resource Consent will allow GCH to take more water at high flow but does not affect the Departments residual flow requirement which is not part the variations sought.

Joy Comrie (Statutory Manager, WSI)

West Coast Tai Poutini Conservation Board

Background

The Department has kept the West Coast Tai Poutini Conservation Board (the Board) informed on the variation application since the previous variation application was lodged in 2018 and then withdrawn in 2019. The Board provided comment to the Department in December 2018. In regard to this current Application received in February 2020, the Department determined it was appropriate to provide the Board with an update on 18 May 2020. The Application was identical to that submitted previously apart from the removal of one aspect (water abstraction). On 19 May 2020, the Board requested a copy of the Application and “the opportunity to consider and provide comments and sufficient time to do so.” On 9 July 2020, the Board provided their comments to the Department.

The Board’s comment provided in a letter dated 8 July 2020 follows ([DOC-6393381](#)):

“The Board’s initial comments were around a lack of clarity and conflict in information between the Application and the advice from the Department and that this made it unclear what is being applied for or why. The focus was around the diameter of the pipeline; where the Application refers to a 1.2m buried pipeline but the Department’s advice was for the pipeline was the same as that originally applied for (30cm), yet they required a wider/6m track to allow for the pipeline to be changed in the future.”

The altered route, the additional width to be cleared, the larger trees to be cleared and the switch to a buried 1.2m diameter pipeline as described in the Application documents were identified as the issues that gave them particular cause for concern. They felt that these changes were likely to result in a variety of adverse effects on the forest and creek ecosystems which were not a "nil to minor" effect but were significant changes to the project.

Their concerns were explained in more detail under the headings of forest, pipeline, public notification and a number of concluding statements and recommendations.

Under forest; the Board was concerned that there was a greater number of trees being cleared in the larger size range (up to 50cm dbh) than that estimated in the assessment. They advised that there is potential for the area to be bat or native lizard habitat and that this should be picked up in a survey and included in an AEE. The Board also referred to the high likelihood that weeds would be introduced through pipe installation and construction.

In terms of the pipeline it was around the increase in the diameter of the pipeline, which was not discussed in the Application, but the Board was concerned that this meant an increase in water take and what that might mean for recreation and biodiversity values. They were also concerned about management of the spoil, the increased risk of slips with it being on steep slopes and that the route crossed the Alpine Fault.

There was considerable concern among Board members that the Application had not been publicly notified - as they considered that the variation is significant - it would materially increase the adverse effects to both conservation and recreation values and they felt it should be considered a new Application. For them public notification would allow greater public scrutiny and wider expert analysis.

They recommended a review of the decision not to publicly notify, a review of the process of decision making around that public notification, and that a comprehensive vegetation AEE be provided including a vegetation survey and that bats and lizards be considered; and that the Applicant provides measures to avoid, remedy or mitigate any adverse effects.

Should the proposal be approved then the Board recommended a number of conditions including weed management, that a large proportion of the trees and shrubs be removed with their root balls to be re-planted later, that side-casting be absolutely avoided and that suitable biodiversity and carbon offsetting be considered and that they apply equivalent conditions as that applied to the No. 8 hydro scheme - around construction and including employing a liaison officer to oversee the construction and compliance."

Permissions Advisor comment

The Board's comments are appreciated and have been taken into consideration as part of the Application assessment. The Department's assessment and analysis of the proposed variation addresses the issues raised by the Board. The process related matters raised by the Board are noted but are not something that forms part of the consideration on this Application.

It should be noted that as per the existing and recommended amended concession conditions (Special Condition 1, Schedule 3 in WC-20844-OTH), prior to commencement of the concession activity, the detail of the finalised hydro scheme design (including any proposed changes e.g. any changes to the proposed pipe/penstock diameter) is contained within the Construction and Operational Plan (COP).

I have had a range of discussions with Aislinn Board Chair Keith Morfit and recently with Aislinn Chair Ingo Pulken on the matter. I understand and note the Board's advice.

In regard to the 2012 COP⁵, the detail of the COP is required to be assessed to determine that, "...it does not differ substantially in regard to location, scale or level of effect to the Application (and subsequent variation application/s) lodged by the Concessionaire and to the Concession Activity as described in the Department's First Determination Report (and subsequent reports to the Decision Maker)...". It is considered this is a key measure that would act to ensure potential adverse effects (including those discussed by the Board) are appropriately addressed and managed.

7. Analysis of the Principles of the Treaty of Waitangi

Julia Mackie, Permissions Advisor

Section 4 of the Conservation Act 1987 states 'This Act shall be so interpreted and administered as to give effect to the principles of the Treaty of Waitangi'.

The key principles of the Treaty of Waitangi that apply to DOC's work are:

1. Partnership - mutual good faith and reasonableness: The Crown and Māori must act towards each other reasonably and in good faith;
2. Informed decision-making: Both the Crown and Māori need to be well informed of the other's interests and views;
3. Active protection: The Crown must actively protect Māori interests retained under the Treaty as part of the promises made in the Treaty for the right to govern;
4. Redress and reconciliation: The Treaty relationship should include processes to address differences of view between the Crown and Māori.

Discussion:

There is an agreed process for the Department to undertake consultation with the two West Coast *Tai Poutini* Runanga, Ngāti Waewae and Te Runanga o Makaawhio. A 'spreadsheet system' has been developed with both Runanga over the last three years. The spreadsheet can be accessed and worked on by all *Tai Poutini* community rangers and Iwi representatives. There are no agreed triggers - all new concession Applications are entered into the spreadsheet by Department District staff. Iwi view the spreadsheet and provide comment. This provides transparency and an opportunity for Iwi to assess and request further information. The agreed timeframe for Iwi to view the spreadsheet, provide comment or request further information is 20 working days. However, Iwi can request additional time if necessary, for example, to fit the timeframe around the scheduling of their komiti/committee meetings.

In addition to Iwi being notified via the agreed 'spreadsheet' system, the Department has also undertaken further engagement on three further occasions via emails and follow up phone calls.

The most recent comment Ngāti Waewae provided via email dated 11 June 2020 (linked at [DOC-6487947](#)) states,

"Te Rūnanga o Ngāti Waewae have reviewed the 4 proposed changes to the existing concession and still remain supportive of the proposal."

Iwi have not provided any specific detail related to potential effects on cultural values.

⁵ See page 9 Section 3 Context - 2012 Variation and Approved Construction and Operational Plan (COP)

It is considered the Department has given effect to the Section 4 Treaty principles 1. Partnership and 2. Informed decision-making. It is less clear in regard to principle 3. Active protection because no specific details were provided by Iwi in relation to cultural values at Griffin Creek.

8. Statutory Analysis

Statutory Analysis: Non-Notified Concession under Part 3B of the Conservation Act 1987 Julia Mackie, Permissions Advisor

S17S: Contents of Application

To be complete (s17S(1)), an Application for a concession must include:

- A description of the proposed activity;
- A description of the locations for the proposed activity;
- A description of the potential effects of the proposed activity and proposed action to avoid, remedy, or mitigate adverse effects;
- The proposed term and reasons for that term;
- Relevant information about the Application (as requested in the Application form).

Criteria for decision:

- Does the Application include all the required information as per s17S?

Yes

Permissions Advisor comment

Additional detail was requested from the Applicant on 2/10/2020 to confirm the proposed construction methodology related to the four variation elements. The email request sent 2/10/2020 is linked at [DOC-6486533](#) and the Applicant's response received on 14/10/2020 linked at [DOC-6486536](#).

Following receipt of this information the Applicant is considered to have supplied of the required information as per s17. In addition, the information requested from the NZ Canyoners Association has been received together with the unrequested information from Federated Mountain Clubs (FMC) and Forest and Bird New Zealand (Forest and Bird) .

S17T: Process for complete Application

The intention to grant a concession must be publicly notified if it meets any of the following criteria:

- The concession type is a lease - this is for exclusive use of public conservation land;
- The term of the concession exceeds ten years (unless it is an easement - an easement may be granted for a term exceeding ten years without public notification);
- The effects of the activity mean it is appropriate to do so.

Criteria for decision:

- Is public notification required?

No

Permissions Advisor comment

As noted previously, the Department's assessment and decision on public notification is detailed in the Explore Task Report linked at DOC-6239215. The decision was made not to publicly notify the variation application based on the outcome of the initial effects assessment that concluded the potential effects of the variation were assessed as nil to minor.

Water
The decision not to notify the Application was revisited following receipt and assessment of information from all third parties, Canyoning NZ Association, Federated Mountain Clubs, Forest and Bird and the West Coast Te Tai Poutini Conservation Board. The decision not to notify the Application remain unchanged. The memo recording this decision is linked at [DOC-6518377](#)

S17U(1) and (2): Analysis of effects

Briefly discuss the positive and adverse effects of the proposed activity, drawing on information from:

- The Application form, as provided by the Applicant;
- The contributions described in the context and check in meetings and outlined in this document.

Any adverse effects identified that are not managed by a standard condition for the activity may require a site/activity specific special condition to either avoid, remedy, or mitigate the adverse effect. Include the condition proposed and a description of how it avoids, remedies, or mitigates the adverse effect, and list the condition in the Proposed Operating Conditions section of this document.

Note that only information relevant to the activity on public conservation land can be considered - if information about effects of the activity is included in the above sources that is outside of this scope, note why it is not a relevant consideration under the Conservation Act (for example, economic benefits to an area).

Criteria for decision:

- Is the activity consistent with s17U(1) and (2) of the Conservation Act?

Yes

Permissions Advisor comment

17U(1) provides that, "... the Minister shall have regard to the following matters...(d) any information received by the Minister under sections 17S, 17SD and 17SE."

Section 17SE(1)(b) – The Minister may commission a report or advice

The Decision Maker opted to seek information from a key interested party, the NZ Canyoning Association (NZCA), under 17SE(1)(b) which under 17U(1) the 'Minister shall have regard to...'

17SE(1)(b) states that, "...The Minister may...obtain, from any source, any existing relevant information on the proposed activity (or structure) that is the subject of the Application."

NZ Canyoning Association (NZCA)

NZCA are an interest group who were identified as having a recreational interest in Griffin Creek as their members undertake canyoning activity at Griffin Creek. The Department made a decision to seek further information on canyoning activity at Griffin Creek (pursuant to s17SE(1)) to help inform the Department's assessment of effects and a decision on the Application.

During the process, other community and interest groups (Federated Mountain Clubs (FMC) and Forest and Bird New Zealand (Forest & Bird)) became engaged in the Application process and provided comment on the proposed changes and overall scheme.

The information received from these parties including the NZ Canyoning Association (NZCA) and the Department's relevance assessment is linked in the report at [DOC-6390918](#) and a summary is provided below.

The NZCA information relies on two documents from the FMC information - "Letter 22 June 2020 Deficiencies in an Application by Griffin Creek Hydro" and "Paper, June 2020, Griffin Creek Hydro Variation Application Assessment". These documents are therefore considered part of the NZCA information, which was sought under section 17SE(1)(b) of the Act. The Decision Maker has the power under section 17U(1)(d) to consider any information received under section 17SE.

FMC and Forest and Bird

The Department also received unrequested information from Forest and Bird and a further document from FMC ("Griffin Creek Hydro Variation vegetation survey"). These documents are not directly quoted in the NZCA information, and the Department did not ask for information from these groups (although the Department agreed it would consider the information received from FMC⁶). The matters that the Decision Maker is required to consider in section 17U of the Act do not include this kind of information. However section 17U is not a closed list, and it is the Department's view that if the information provided by these groups is relevant to any of the mandatory considerations in section 17U, then the Decision Maker has discretion to consider it, and should consider it. The Department has therefore read and assessed the information received from Forest and Bird and FMC, and where it is relevant to the variation application, drawn it to the Decision Maker's attention.

Additional information from the Applicant

As noted previously, the Department also requested clarification from the Applicant in regard to the proposed construction methodology. The Department's request is linked at [DOC-6486533](#) and the response received is linked at [DOC-6486536](#). The context of the response is discussed in the Assessment of Effects section below (refer Construction Methodology)

Section 17U(1) and (2)- Assessment of Effects cont.

The initial assessment of potential effects on conservation values for each of the four variation aspects is described and discussed in the Explore Task report linked at [DOC-6239215](#). The report provides a clear comparison describing the difference in potential adverse effects between what has already been assessed and approved (that being as part of the original concession and the subsequent variation in 2012), with what has been applied for as part of this current variation application. The relevant detail of that report is included below. A summary of the assessment is followed by the full assessment.

It should be noted that as an outcome of this initial assessment, the Department has undertaken further assessment specifically on effects on recreation values (the effects on canyoning activities known to occur at the site). The recreation assessment is detailed on page 26 of this report.

⁶ Email DOC to FMC 22 May 2020 re timeframe for comments - [DOC-6567923](#)

Further assessment in regard to ecological values has also been undertaken in the form of a review of by the Department's Technical Advisor, Terrestrial Ecology. That assessment is detailed on page 33.

It should also be noted that while the assessment is very relevant to the full consideration process, the initial effects assessment undertaken was primarily for the purpose of informing the decision on notification requirement. It was undertaken in the knowledge that a further effects assessment would be undertaken as part of the full consideration process of the Application.

Initial Effects Assessment

Note: In regard to point 3 'Size of the water intake site footprint' below on page 24. The figures noted in the assessment (12m and 72m) are those that were included in the original Application submitted by the Applicant and assessed by the Department in April 2020 and included in the Explore Task Report detailed below. The Department has since accepted that these figures should be read as 45m² and 100m² respectively (refer to full explanation at the beginning of this report on page 12. The reports prepared by the Department's Technical Specialists (Terrestrial Ecology and Recreation) give consideration to the agreed amended figure of the intake area (i.e. 45m² increasing temporarily to 100m² during construction).

"Summary of change of effects between what is currently approved, and the four changes proposed in this variation (From Explore Task Report DOC-6239215 3 April 2020) - Tim Shaw, Senior Ranger/Supervisor-Community, Hokitika District)

Effects on Visual Amenity

Minor during construction and nil following construction.

Effects on Ecological Values

Nil or minor.

*Effects on Recreation Values**

Nil or minor (see comment below).

**Recreation Values and Effects (Canyoning Experience)*

Since this concession was granted in 2011 the Griffin Creek gorge has been discovered by canyoning and is now highly valued by a proportion of the canyoning community. Because this occurred after the consideration and granting of the concession these values were not considered as part of the original public notification process and decision.

As part of this process, the Department initially assessed the effects on the canyoning experience attributable to the current variation application as likely to be nil to minor. This was primarily based on the knowledge that the variation application included no change to the quantity of water to be abstracted from the creek. This was considered a key matter in previous assessments of this activity. The Department has maintained the view that any proposal to increase the quantity of water abstracted (above that what is already approved in WC-20844-OTH) may result in adverse effects on the canyoning experience.

While the Department's assessment was that the effects on the canyoning experience were likely to be nil to minor due to their being no change to the quantity of water abstracted, and also most changes proposed occurred away from the gorge, as part of the full consideration process, it was important to ensure the recreational canyoning experience and potential effects of the Applicant's activity were fully understood. The Department sought relevant information from the NZ Canyoning Association

Noted

(NZCA) under 17SE(1) inviting comment on the Association's perspective on visitor and wilderness experience in relation to the four proposed changes. A response was received from NZCA. The Department's assessment of the response is discussed in the 'Technical Assessment on Effects on Recreation Values' on page 23 of this report.

Full assessment of potential adverse effects on conservation values for each of the four variation aspects

The Application provides a table that details what is currently approved under concession WC-20844-OTH and the proposed changes requested as part of the variation application. It compares the changes to what is already approved in the current concession, what is in the first determination report and what was in the original Application (when the original concession was granted). It includes some explanatory comments by the Applicant on why the requested changes are necessary in the context of the original concession approved. The Applicant maintains that the current concession does not capture what was intended in the report and Application at the time it was processed and granted in 2011.

The Department's consideration of effects of each of the four variations sought is provided below in terms of the differences in the effects on visual amenity, ecological value and recreational value between what is currently approved and what is proposed.

1. Size of Easement area

Approved	Requested
0.50ha of Stewardship Land, Wanganui/Otira Catchment Conservation Area.	0.60ha of Stewardship Land, Wanganui/Otira Catchment Conservation Area.

Explanation

Redesign of scheme - The single sidling penstock route and buried pipeline requires a wider construction footprint than anticipated. The current concession (Schedule 3 Condition 23) specifies a maximum width of 3m unless otherwise agreed by the Operations Manager.

The new design requires a maximum construction footprint width to 6m. Because the changed width can be agreed through the construction and operational plan, this is not being sought as a variation. However greater than 0.5ha is not at the discretion of the Operations Manager. The Applicant describes that the final footprint would be 0.34ha, less than the currently estimated 0.4ha. No distinction is made in the current concession between the construction and post construction footprint.

Effects

- **Visual Amenity** - The Application includes a Visual Amenity Assessment report by WSP Opus that specifically looks at the differences between the existing concession and what is currently sought.
- It concludes that visual amenity effect changes from the variation during construction would be low and following construction would be nil.
- The District Office walked both the proposed and approved route in 2018 and viewed both from several vantage points on the State Highway and the Taramakau Riverbed (District Office site visit report (5531639))
- It is agreed that the slight increase in construction footprint and slight reduction in final footprint respectively may have minor and will likely have nil difference in visual effect.

Noted

Noted

Noted
Noted

- **Ecological** - The District Office undertook a site visit to assess the relative ecological effects of the proposed vs approved alignment (docCM5531639). The overall conclusion was that there may be a slightly higher impact in the short to medium term due to the slightly increased construction footprint (and larger trees), however the effects on vegetation overall of both alignments is minor and much the same in the longer term.

- **Recreation** - The hill face forests through which the easement passes have low recreational use. None of the track of either the approved concession or proposed variation would be visible from the public access route to the upper Griffin Creek catchment (which at its closest point is over 500m / one steep gully to the west).

The only part visible to canyoners would be the terminal end of the track at the intake structure. Goats and deer are present however it is not widely used for hunting and probably sees very little use by hunters. Both the approved and proposed tracks would improve access to the mid part of the Gorge.

2. Location of the easement

Approved	Requested
Defined in schedule 1 clause 1 as that land shown on the Map provided in Schedule 4.	Revised map that realigns the position of the penstock and removes the separate access track.

Explanation

Redesign of scheme. The original concept was for a penstock pipe positioned on the surface of the ground and for it to maintain a consistent steep gradient downhill to the edge of PCL. An access track was part of the design as an entity separate to the pipeline route. The revised design is for the penstock pipe to be buried and sidle across the hill within PCL before a steep penstock section on private land. Because the route has a lower gradient and the pipe is buried, there is no longer a need for a separate access track.

Noted

Effects

- **Visual Amenity** - As per the Visual Amenity Assessment (WSP/OPUS) and DOC site visit, visual amenity effects from the change in location during construction are assessed as low and following construction are assessed as nil.
- **Ecological** - The vegetation type in the proposed location is the same as that in the approved location. This was confirmed in a site visit to the site by DOC in the June 2018 report. Changing the position of the penstock does not impact different value habitats, nor does it impact them in a significantly different way.
- **Recreation** - As described for size of easement area.

3. Size of the water intake site footprint⁷

Approved	Requested
At the intake site the structures on easement land and the working area must be contained	At the intake site the structures on easement land and the working area must be contained

⁷ See explanation on page 12 under heading "Section 172C(1)(a) change – intake site"

within a 12m² area.

within a total construction area of 100m² and an ongoing operational area approximately of 72m².

Explanation

The Application states that 12m² was never realistic or what was applied for. The intake has been redesigned to be more effective and to better fit with the existing rock formations.

Effects

- **Visual Amenity** - The intake structure remains at the same single location within a steep forested inaccessible gorge. It would continue to be visible only to those few who venture into the area canyoning and hunting. Those individuals would continue to be impacted by the 'industrial intrusion' of a limited amount of concrete, steel and tracking. There would be slightly more to see. The Applicant adds that although more area is required the new design is less obtrusive as it follows the bedrock.
- **Ecological** - At the intake site the river plunges into a pool at the base of a waterfall. There is a short section of rapids and then the next waterfall. The planned intake structure was from the edge of the plunge pool to the TLHS of the river through an area of bedrock, boulders and gravels. This remains to be the case but the size of the area being requested is more realistic. Most of the ground affected remains bedrock, boulders and gravels. There would possibly be a small increase to the minor amount of impact on moss and turf communities on rock and boulders and seral riparian vegetation. Overall this was and would be minor.
- **Recreation**. Griffin Creek Gorge at the intake point is a steep canyon carved out of rock that is out of view and highly inaccessible. Recreation is limited to canyoning by experienced canyoners. The amount of use is unknown. With the existing concession canyoners would see limited concrete and steel at one location occupying 12m². The variation would see this change to slightly more concrete at the same location occupying 72m².⁸ Overall, the effect remains one place in a day's journey in the wilderness where a minor amount of industrial intrusion is viewed.

Updated

4. Vegetation disturbance (size of trees to be cleared)

Approved	Requested
The concessionaire may remove, trim and cut down standing vegetation less than 20cm DBH.	The concessionaire may remove, trim and cut down standing vegetation less than 50cm DBH.

Explanation

Redesign of scheme. The single-sidling penstock route, buried pipeline and wider construction footprint would be less able to adjust its alignment to avoid larger trees.

Effects

- **Visual Amenity** - As per the Visual Amenity Assessment - visual amenity effects from the variation during construction are assessed as low and following construction are assessed as nil.
- **Ecological** - It is estimated by the Applicant that less than 50 trees in this size class would be affected.
 - The DOC site visit report states - 'Although large emergent podocarps (50 - 120cm DBH)

⁸ See explanation on page 12 under heading "Section 17ZC(1)(a) change - Intake Site

Noted

A appear numerous in an aerial view of Forest Type 1 (Photo 1) they are actually very rare along the alignment with only 1 large rimu and 2 large kaihikatea (DBH > 1m) recorded within sight of the alignment. It is entirely feasible to avoid these trees. The vast majority (>95%) of the larger stems that may be affected by the proposed alignment are kamahi. The balance (<5%) would be largely pigeonwood and quintinea. And... Although the new proposal identifies that larger trees will be impacted, and the construction footprint is double, the actual effects to vegetation remain minor in the short to medium term and are much the same in the longer term.

- **Recreation** - As for point 1. above - Size of easement."

Additional Assessment - Effects on Recreation Values (Canyoning Experience)

Recreation values were considered as part of the original concession. A low level of use described mainly by hunters and trampers due to the steep terrain, presence of waterfalls and ravines was noted in the First Determination Report. The activity applied for was assessed as likely to have a positive effect on recreational use by improving access.

Noted

However, since that time an additional 'new' recreation value has been identified at Griffin Creek. This value relates to canyoning activity which has not been considered or assessed previously. A key stakeholder group NZ Canyoning Association (NZCA), and others, have raised concerns with the Department about the potential adverse effects of the proposed hydro scheme on canyoning values at this location.

As previously noted, to assist the Department with understanding the canyoning activity that occurs at Griffin Creek, information was obtained from the NZCA under Section 17SE(1) of the Conservation Act 1987. NZCA were invited to comment on visitor and wilderness experience in relation to the four proposed changes. The response received is discussed below.

The Department has undertaken a thorough and robust assessment to gain a clear understanding of canyoning activity at this location and how the four variation aspects applied for could be adversely affected. Measures to avoid, remedy or mitigate any adverse effects are also considered and described below as part of the technical assessment.

Technical Assessment on Effects on Recreation Values (Canyoning) The full report is linked at [DOC-6422436](#) and included below for convenience.

Ian Wightwick, Senior Visitor Advisor, Visitor Advice Team

"Canyoning - NZ Canyoning Association under 17SE(1)(b)

On 18 May 2020 the Department sought information from the canyoning community on the effects of the variation to the already approved concession on canyoning. On 23 July 2020, the NZ Canyoning Association provided the following comment on the potential impacts specific to canyoning recreation values.

In summary concerns include:

- Safety
- Visual impact of fallen spoil, trees, debris
- Possible discolouration of crystal-clear waters by seepage from destabilised slopes.
- Presence of man-made structures (the intake and penstock corridor in an otherwise unmodified

environment

- Noise of construction and blasting, then vehicle accessing the scheme for maintenance.
- Decreased natural power of the water beneath the intake.
- Increased potential for didymo or other aquatic pests to flourish with the reduced water flows.

Conclusion

Griffin Creek is described as one of 14 canyons in the West Coast Region and one of 6 nationally significant ranked canyons in the Region.

The NZ Canyoning Association has not stated the number of people who are likely to use the Griffin Creek canyon each year however there are around 100 regular canyoningers in New Zealand. However, canyoning is described as rapidly gaining popularity, but there are still hundreds if not thousands of first descents to be had.⁹

The intake structure, settling tank, penstock and access track are located to the east of the current access track to Griffin Creek hut and beyond and the proposed hydro scheme will have little or no impact on trampers/hunters accessing this part of the Hokitika Backcountry-Remote zone.

Canyoningers descending Griffin Creek will encounter the proposed intake structures and access track approximately 5 hours into a 7 hour descent.

The final design of the intake structures are yet to be finalised; however, the Applicant has commented that it is clear from the Application and the first determination report that that an intake structure area of 45 mtr/sq was applied for and was considered appropriate.

An increase to the operational working area of 55 mtr/sq has been requested during the construction stage of the intake structure. This would result in a total construction area of 100 mtr/sq, which will reduce to an ongoing operational area of 45 mtr/sq.

The impact of the increase in size of the construction and final operational area on canyoning is minor.

There will be adverse effects of noise and disturbance during the construction phase of the scheme. The area around the intake and access track may need to be closed during periods of construction. To reduce the impact on canyoningers, construction activity could be minimised during the months of January to March and the NZ Canyoning Assoc notified of the schedule of closure periods.

I recommend that the Construction and Operational Plan describe how the construction work will minimise blast rock and spoil from entering Griffin Creek.

I recommend special condition 29 is amended to read any vegetation cleared from around the

⁹ Canyoning in New Zealand, Daniel Clearwater, KiwiCanyons.org 2015 page 22

intake structure and access track during construction or maintenance phases must be cut into small sections (no greater than 1m length) and wherever possible, removed from sight of the track and the from the bed of the creek.

Noted

Should the variation be approved I recommend that the proposed Construction and Operational Plan is shared with the NZ Canyoning association so they may provide comment the design and location of the intake structures to allows safe passage of Griffin Creek. If required, this should be audited by a suitably qualified person.

Concluding recommended measures to avoid, remedy or mitigate effects

- The area around the intake and access track may need to be closed during periods of construction. To reduce the impact on canyoners, construction activity could be minimised during the months of January to March and the NZ Canyoning Assoc notified of the schedule of closure periods.
- I recommend that the Construction and Operational Plan describe how the construction work will minimise blast rock and spoil from entering Griffin Creek.
- I recommend special condition 29 is amended to read any vegetation cleared from around the intake structure and access track during construction or maintenance phases must be cut into small sections (no greater than 1m length) and wherever possible, removed from sight of the track and the from the bed of the creek.
- Should the variation be approved I recommended that the proposed Construction and Operational Plan is shared with the NZ Canyoning association so they may provide comment the design and location of the intake structures to allows safe passage of Griffin Creek. If required, this should be audited by a suitably qualified person.

Safety Impacts

NZCA comment¹⁰, that overhead hazards; the granted scheme uses a 0.3 m diameter penstock pipe laid around trees beneath the canopy. The varied scheme would entail the construction with a 6m wide corridor, with bedrock bluffs blasted and trees felled to bury a 1.2m pipe. This construction would create a direct and unacceptable hazard to any person below. It would be impossible for anyone to recreate in the lower gorge during construction which means the Applicant would need to have exclusive use of the land during that process which is estimated at two years.

At first look, you could say that canyoners could still access the upper gorge during construction. In isolation this is true, but the nature of a canyoning trip is that due to terrain, it is a one-way only: once you begin descending waterfalls, it is virtually impossible to reverse your progress. The proposed intake location is on a significant bend in the creek, which marks a transition between steep slopes and very steep slopes (in particular the terrain to the north of the 48m label).

It would be entirely impractical for canyoners to try and exit the gorge upstream of the construction zone. This would mean canyoners would almost certainly avoid the upper canon when it was unsafe or prohibited to continue below the proposed intake.

Senior Visitor Advisor comment

Recommended measures to avoid, remedy or mitigate effects

¹⁰ Letter from NZ Canyoning Association dated 23 July 2020

- *Clause 12.1 of the Concession document states, The Concessionaire must exercise rights granted by this concession in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations and all other provisions or requirements of any competent authority relating to the exercise of this concession. The Concessionaire must comply with any safety directions of the Grantor.*
- *To manage the health and safety of recreation users of Griffin Creek, access to the Griffin Creek canyon/ and intake area may need to be restricted during construction for temporary periods. This will impact on canyoneers, however the NZ Canyoning Assoc have not described how many canyoneers use Griffin Creek and how often the canyon is used.*
- *To reduce the impact on canyoneers, construction activity could be minimised during the months of January to March and the NZ Canyoning Assoc notified of the schedule of closure periods.*
- *Noise of construction and blasting, then vehicle accessing to the scheme for maintenance will be temporary.*

Concerns about the impact of blasting, side casting of spoil and mature trees would destabilise the slopes creating an increased long-term hazard.

NZCA comment that should additional debris accumulate in the canyon, its presence may decrease safety for canyoneers. The presence of a large boulder or tree in the normal path of an abseil route through a waterfall could create new entrapment hazard, which may not be able to be avoided. In some circumstances a vertical obstacle is most safely descended by jumping into the pool below. If critical pools become filled with spoil of large boulders/trees as a result of construction, it may force canyoneers to abseil instead, this would increase the risk? Additional debris and spoil could also create additional strainer hazards to canyoneers. A strainer is where water can flow through the gaps in debris but a person cannot.

NZCA are concerned that the intake structure is situated immediately downstream of a particularly narrow (approximately 1.5 – 2.5m) wide bedrock section of the gorge. The narrowness of this section of gorge means that canyoneers have an even tighter restriction in where they can travel to avoid any hazards. The nature of the intake structure at the exit of the narrows, or immediately below may present a hazard for a canyoneer. Given the inescapable section of the gorge immediately above, high than average flows may cover any horizontal rock surfaces with water, meaning a person would be floating/swimming as they came down the gorge, and at the mercy of the flow.

The specific hazard could be a direct impact to the structure, entrapment or within the structure, or entrapment by a hydrological feature created by the structure. The Applicant has made no attempts to explain any safety mitigations in place around safe passage at any flow of the intake structure.

Senior Visitor Advisor comment

Recommended measures to avoid, remedy or mitigate effects

- *To minimise the impacts the impact of blasting, side casting of spoil entering the canyon the concession easement has the following special conditions;*
- *Condition 26 The Concessionaire must ensure that disturbance of riparian margins is minimised.*
- *Any vegetation cleared from around the intake structure and access track during construction or maintenance phases must be cut into small sections (no greater than 1m length) and wherever possible, removed from sight of the track. I recommend adding and from the bed of the creek.*
- *I recommend that the Construction and Operational Plan describe how the construction work will minimise blast rock and spoil from entering Griffin Creek.*
- *To minimise the presence of man-made structures (the intake and penstock corridor in an*

understand

Noted

otherwise unmodified environment the concession easement has Condition 31. The Concessionaire must ensure that all structures blend in with the surrounding environment.

- Should the variation be approved it is recommended that the proposed Construction and Operational Plan is shared with the NZ Canyoning association so they may provide comment the design and location of the intake structures to allow for safe passage of Griffin Creek.

Concerns about the presence of man-made structures in an otherwise unmodified environment

Canyoners descending Griffin Creek will encounter the intake structures and an access track in an unmodified environment free of structures. The Concession Application and the First Determination Report however described the nature of the intake structures and the activity was provided for in the Easement.

While the area/footprint of the intake structures has been disputed, the intake structures have been authorised.

Griffin Creek has subsequently been explored and is now used by a small number of canyoners. The intake structures cannot be avoided by people making the descent. The change in the footprint of these structures described in the variation is small compared to what was described in the Application and First Determination Report.

Burying the penstock will have a larger footprint outside of the bed of Griffin Creek. The variation is for a 6m wide constriction footprint with a 3m wide metallised access track.

The visual effects of the of the construction footprint will steadily decrease over time as taller tree cover re-establishes beyond the final formed 3 m wide maintained track. The²² associated access track will provide an exit route for canyoners should they wish to walk out at the location of the intake structures.

Concerns about the decreased natural power of the water beneath the intake/reduction of water flow **Senior Visitor Advisor comment**

The variation has not requested a change to the minimum flow. The special conditions in the concession state Extraction of water must cease whenever the flow recorded at the flow-monitoring site specified in Condition 8 falls below the mean annual low flow, which is agreed to be 0.8m³/s. Once two years of data under Condition 8 has been obtained, a new minimum residual flow based on a revised mean annual low flow may be used following agreement by the Grantor and the Concessionaire²².

Concerns about the increased potential for didymo or other aquatic pests to flourish with the reduced water flows.

Senior Visitor Advisor comment

Recommended measures to avoid, remedy or mitigate effects

- Minimising the potential of introducing didymo to Griffin Creek is the responsibility of the Applicant and recreation users.

²¹ Visual Amenity Assessment Report WSP OPUS Griffin Project and Proposal n Creek Hydro, Westland District for New Zealand Energy 29. 11 2018 page xiii.

²² Concession document Easement WC - 20844 OTH dated 7 February 2011 Schedule 3 Condition 9 DM 627640

- *The special conditions in the concession state” The Concessionaire must comply with all guidelines and notices put out by Biosecurity New Zealand regarding measures to avoid spreading the pest organism *Didymosphenia geminata* (refer to www.biosecurity.govt.nz/didymo). The Concessionaire must comply with the Didymo prevention and cleaning protocols as set out in Schedule 5 before and after contact (including people, equipment, clothing, footwear and other items) with any waterway¹³.*

The NZCA also describe how to plan ahead and stop the spread.

Senior Visitor Advisor Comment

Potential benefits of the hydro scheme

The NZ Canyoning Association has not commented on the potential benefits of an access track to the intake.

As noted, the Griffin Creek canyon is described as a long day out. For people who do not wish to undertake a full descent of the canyon, the access track to the intake will allow canyoning to safely exit the canon after an estimated 5 hours. For those who wish to undertake a shorter trip and access track will allow a 2 hour descent from the intake.”

Permissions Advisor comment

As noted in the technical assessment above the recreation effects described would largely be managed by adherence to the existing standard and special conditions included in WC-20844-OTH. In view of matters raised relating to the protection of public safety, this could be adequately managed by including additional detail and requirements into the wording of the existing conditions, particularly in regard to the detail that is required to be included in the Construction and Operational Plan.

In regard to the report’s recommendation that, “... *that the proposed Construction and Operational Plan is shared with the NZ Canyoning association so they may provide comment the design and location of the intake structures to allow for safe passage of Griffin Creek.*” The intention of this condition is to provide NZCA with an opportunity to comment on the design and location of the intake structures to ensure they adequately allow for safe passage within Griffin Creek. It is not a ‘request for approval’ of the intake design as this is the Department’s decision. Any comments provided by NZCA would need to be relevant to the intake design and location.

The safety aspects of the proposed intake structure design has been discussed with the Applicant (email record [DOC-6564641](#)) who provided assurance that the structures would be designed by a specialist qualified engineer. The engineer is understood to be well aware of the need to ensure such structures are designed with public safety in mind and allow for safe passage. The Applicant commented further that the intake structure design would ensure...”... *no one could get ‘sucked’ into the intake and safe passage would be provided for”.*

The finalised scheme design would form part of the COP submitted prior to commencement of construction which provides the Department with an opportunity to ensure this matter is adequately addressed by the Applicant. Further, the existing concession conditions allow the Grantor to have the

¹³ Concession document Easement WC - 20844 OTH dated 7 February 2011 Schedule 3 Condition 11 DM 627640

detail of the COP audited by a suitably qualified person which provides a further check on this matter.

This would ensure that, prior to commencement of construction work, the COP submitted by the Applicant under Special Condition 1, would be required to include an increased level of specific detail to ensure potential effects are well managed, including the effects on recreation values discussed above.

Existing WC-20844-OTH Schedule 3 special conditions – recommended amendments:

1. *The Concessionaire must not undertake the Concession Activity unless or until the final Construction and Operational Plan is approved in writing by the Grantor (Operations Manager, Hokitika). In considering the Construction and Operational Plan, the Grantor would check that it does not differ substantially in regard to location, scale or level of effect to the Application (and subsequent approved variation application/s) lodged by the Concessionaire and to the Concession Activity as described in the Department's First Determination Report (and subsequent approved reports to the Decision Maker). The Concessionaire must ensure that the Construction and Operational Plan is prepared by a suitably qualified person. The Grantor may require the plan to be audited by a suitably qualified person.*

The Construction and Operational Plan must include (but is not limited to) the following measures to manage potential adverse effects of the Concession Activity on the Land:

- i. *Measures to avoid or minimise rock blast material, side casting spoil and vegetation from entering Griffin Creek*
- ii. *Measures to ensure the timing of construction works avoids or minimises effects on recreational users during the months of January to March each year.*
- iii. *Measures to protect public safety including (but not limited to):*
 - a. *Ensuring the New Zealand Canyoning Association and the general public are notified of any construction closure periods.*
 - b. *Ensuring that a copy of the draft Construction and Operational Plan is shared with the New Zealand Canyoning Association requesting comment on the proposed location and final design of the intake structures.*

29. Any vegetation cleared from around the intake structure and access track during construction or maintenance phases must be cut into small sections (no greater than 1 m length) and wherever possible, removed from sight of the track and creek bed.

**Please note that this recommendation was updated in view of the Applicant's comments on this draft DSD. See Section 10, pages 55 – 72 for more information.*

Applicant response to information received from NZ Canyoning Association

The information received from the NZ Canyoning Association was sent to the Applicant as is required under Section SE(2) and a response invited. The Applicant's response follows.

The Applicant's full comments are available in the email linked at DOC-640489.

The concluding comment outlines their key concern and states, "NZCA were asked to provide their views on their visitor and wilderness experience with regard to the variances that could arise from the proposed changes to the Concession document. They were not asked to provide feedback on the Concession process, the Concession easement, the Concession Activity or the Construction and Operational Plan. Nor were they asked to provide feedback on the activity of Canyoning, nor the geology, or ecology of the area. The matter of constructing and operating a power scheme is managed through a process clearly defined in the Concession Easement document. This is a matter between the Department and the Concessionaire."

Permissions Advisor comment

The points noted in the Applicant's response are noted and will be taken into consideration by the Decision Maker.

Additional Assessment - Effects on Terrestrial Ecological Values

As noted previously, a review has been undertaken of the Department's initial assessment of effects on ecological values as a result of the four proposed variation changes. A review was undertaken by the Department's Terrestrial Ecology team and is detailed below. The full report is included below for convenience and linked at [DOC-6551688](#)

Cassie Mealey, Technical Advisor Ecology, Biodiversity, Terrestrial Science

Summary

- The Terrestrial Science Unit was asked to review the Hokitika District Office decision concerning four changes sought through a variation application by Griffin Creek Hydro to their existing Concession activities. Feedback provided by third parties were also reviewed.
- The District Office staff concluded that the effects of the Variation would make negligible difference to the magnitude or type of ecological effects of the approved Concession activities; this conclusion was reviewed in relation to terrestrial vegetation, and fauna habitat.
- The Terrestrial Science staff review concluded that the ecological effects resulting from the four changes noted in the Variation are unlikely to be substantially different from the ecological effects resulting from the original, approved concession (WC-20844) activities.
- Given the presence of bat roost habitat and potential for Threatened - Nationally Critical long-tailed bats to be utilising the work site, the results of a bat survey would provide greater certainty around the effects on bats and inform mitigation methods, should they be required.
- Lizard mitigation techniques could be employed to reduce the effect on lizards, such as felling during warmer months and leaving felled vegetation onsite for 1-2 weeks to allow animals to escape.

- A list of potential conditions are provided in Appendix A.

Conclusion on the Relative Effect of the Four Variations Proposed Compared to the Approved Activities

Variation point 1

1. An increase in size of trees disturbed from a maximum of 20cm DBH to 50cm DBH;

While the Variation proposes an increase in DBH which is more than double the original value, the effects of the larger tree DBH are considered to be relatively similar. The types of trees to be removed (locally common kamahi, broadleaf hinau, pigeon wood and tree ferns), the scale of the removal (0.6ha) and size and continuity of the surrounding forest renders the overall effect of the proposed increase in DHB to be similar to the original Application. It is noted that trees larger than 50cm DBH will be avoided by permitting a 30m 'buffer zone' in which the 6m penstock and access track construction pathway will be selected to avoid these trees. Further discussion on the effect of removing trees up to 50cm DBH is presented below.

It is noted third parties (Forest and Bird and FMC) raised issue around the number of trees that would be removed in the proposed Variation. Griffin Creek Hydro reported that "it is estimated that less than 50 mature trees will be affected of 50cm DBH or less." in the Variation's supporting information. Forest and Bird considered this a "gross underestimation" (letter, dated 3rd July 2020) and FMC estimated approximately 1,175 trees would be removed based on a field study comprising four plots (10m x 6m) along the penstock route (Vegetation Survey, 2020). It was unclear how FMC calculated this number and whether all trees (including those >50cm DBH) or only trees up to a maximum of 50cm DBH were included.

Using the results from FMC's four plots (measuring kamahi, rimu, miro and broadleaf of between 7cm and 50cm DBH), we calculated that for an area of 0.6ha, approximately 1,325 trees with a DBH up to and including 50cm would be removed. Using the same data it was calculated that the original concession with a maximum DBH of 20cm and 0.5ha footprint was likely to remove approximately 441 trees.

It is noted that approximately 13% of trees to be removed would have a DBH of less than 15cm. These trees are unlikely to significantly contribute to the forest ecosystem at the current stage. Trees are typically considered mature when they become sexually reproductive which for trees such as kamahi, broadleaf and miro might occur at DBH's less than 20cm and continue until they die. It is noted older trees are typically more valuable in the ecosystem as they may contribute to the canopy, provide habitat for fauna and other plant species such as perching plants or seedlings and sequester carbon. The large, intact forest adjacent the hydro area (area between Griffin Creek and the true left ridgeline and the intake site to the 200m contour line), comprises approximately 17.6 ha and circa 39,000 trees (≤50cm DBH). Comparatively, while some older and mature trees may be removed, the disturbance of circa 1,325 trees (≤50cm DBH) in 0.6ha is relatively small (~3%).

Given the types of trees to be removed, the scale of the removal (0.6ha), the maximum DBH proposed (50cm) and size and continuity of the surrounding forest, the change in effect of this tree removal compared to the original concession was considered negligible.

It is noted that a walk through of the site in October 2020 did not identify mature rata trees within the existing vehicle and foot track. Large rata trees were observed uphill and at a higher elevation to the intake site.

Avifauna

The disturbance of trees up to 50cm DBH has the potential to remove habitat and food sources for several native bird species. While several At Risk and Threatened avifauna are likely present within the area, the presence of larger trees locally and connectivity to large areas of similar hillside forest, avifauna are unlikely to rely upon individual trees within the concession and proposed variation areas. The general impact on avifauna in terms of lost food sources and nesting opportunity is not significantly different to the adverse effects resulting from the original Concession conditions.

Avifauna were assessed as part of the original concession. While the assessment did not recognise the presence of any rare or threatened species, they considered the effects on avifauna to be low. There was little explanation as to why the effects were considered low, however, in this instance, we would agree that the effect is likely low.

Lizards

The removal of vegetation, including trees (dead or alive) with bark, cracks and cavities has potential to affect lizards. Lizards (speckled skink (*Oligosoma infrapunctatum*; At Risk - Declining) and forest gecko (*Mokopirirakau granulatus*; Threatened - Nationally endangered)) may be present within the area. The removal of trees of any diameter has the potential to impact forest geckos and their habitat. The request to increase the maximum DBH and area (0.6ha) may increase the likelihood of affecting lizards based on a greater number of trees disturbed. However, given the low densities at which lizards are likely to be occupying this forest habitat, the presence of large intact forest adjacent the site, the likelihood of encountering lizards remains low. Therefore, the change in DBH proposed does not substantially alter the effect of on lizards from the original concession.

It is noted that the original concession Application (2009) did not assess the proposal's effects on lizard values or describe methods to avoid, remedy or mitigate adverse effects. In light of recent information which indicates that the Threatened - Nationally endangered forest gecko (*Mokopirirakau granulatus*) is likely to inhabit the area, it is recommended mitigation methods are employed to reduce the effects of the project on lizard values.

Mitigation actions may include, felling during warmer months (October to April) when lizards are active and are able to flee, and leaving felled vegetation onsite for 2-3 weeks to allow lizards caught in the vegetation to escape. There would be limited advantage to undertaking a lizard survey at the site given that a no detection result would not be enough to prove their absence given limited survey techniques and the likely low density of lizards.

Bats

It is noted that the DBH of a potential bat roost tree has reduced to ≥ 15 cm DBH since the original concession was granted. Thus, the removal of some trees (between 15 and 20cm DBH) within the original concession, while unknown at the time, had the potential to affect bats. The request to vary the maximum DBH from 20cm to 50cm DBH may increase the likelihood of encountering bats or bat roosts

based on a greater number of trees being encountered.

While more potential bat roost trees may be disturbed under the Variation, there remains a low likelihood that an active bat roost will be encountered. Potential bat roost trees are found immediately around the disturbance corridor and within the surrounding large, continuous native forest. The adverse effects to bats of the loss of large native trees likely to be removed in the increased footprint of the Variation remains low. Given the above, the effect of the Variation on bats is unlikely to be substantially different from the effect of the original concession.

It is noted that the original concession Application (2009) did not assess the proposal's effects on bat values or describe methods to avoid, remedy or mitigate adverse effects. The long-tailed bat (*Chalinolobus tuberculatus*) is classified as Nationally Critical with a qualifier of a very high ongoing or predicted decline. While the Variation does not substantially alter the potential adverse effects to bats, in light of new information, it is recommended that a survey for bat presence be undertaken.

A survey is important given the long-tailed bat has been recorded in the vicinity (refer to Appendix B) and the loss of a roost from felling would impact local and potentially regional populations. If bats are not detected with a standard 2 week acoustic survey, then no further action will be required. Should bat presence be detected, effective measures to avoid roosts and mitigate impacts can be employed. An appropriately qualified ecologist should be engaged to undertake the bat survey and to assist with avoidance and mitigation methods.

For further reasoning around conducting a bat survey, see Appendix C (refer appendices in the full report linked at [DOC-6380347](#))

Variation point 2

2. An increase in the construction disturbed area from 0.50ha to 0.60ha. This includes a Construction Zone of 0.288ha (consisting of a 6m wide combined penstock and access track with a 30m 'buffer zone') and burial of the penstock.

Vegetation clearance has the potential to impact avifauna, bats, lizards and invertebrates through removal and fragmentation of habitat and food sources. The increase in footprint size is only associated with construction and the final footprint of the scheme (0.3ha) will be less than what was originally approved (0.5ha). The small 0.1 ha increase to the construction area and the location of the increase, within the same kamahi/rata forest as the concession, are unlikely to significantly alter the magnitude or type of effects resulting from the original Concession activities on invertebrates, lizards, bats and avifauna. However, as noted below, clarification on the need to clear a larger area would aid to assess whether appropriate avoid, remedy and mitigate techniques have been applied.

As noted above, the increase in vegetation disturbance (0.1ha) may increase the likelihood of affecting lizards. However, given the low densities at which lizards are likely to be occupying this forest habitat, the presence of large intact forest adjacent the site, the likelihood of encountering lizards remains low. However, mitigation methods as mentioned above should be employed to reduce the effect on lizards.

Griffin Creek lies within the Whitcomb Ecological District, in which mixed broadleaf/podocarp forest is one of the most common forest types and does not appear to have been systematically logged. It is noted that Forest and Bird considered this podocarp forest type to be uncommon stating 3% remained.

While a reference this figure was not provided, it is assumed this value is of a national scale. Typically, the Ecological District (ED) is the best scale at which to assess vegetation as it recognises ecological variation across the country (Davis et al. 2016).

As the data on the Land Cover Database (LCDB) New Zealand does not distinguish between podocarp and non-podocarp indigenous forests, the proportion of podocarp forest in this ED cannot be easily calculated. However, the LCDB₄ reports that the Whitcomb ED has 40% of indigenous forest with 39% on Public Conservation Land and 2.8% of indigenous broadleaf hardwoods with 2.6% within Public Conservation Land. Given the above and local knowledge, the native rata/kamahahi forests on hillsides are well represented in public conservation land in the ED, and the loss of a further 0.1ha is a very small proportion of the local and regional area.

Several third party feedback letters raised concern around an increase in penstock size that may indicate an increase in water take. While the Variation and supporting documentation does not request an increase in penstock size, the Opus Visual Amenity Assessment Report (2018) mentioned that changes to the original concession would be required in the order of “increasing the size of the penstock pipe” (note singular pipe) to a diameter of 1.2m and “a variation to the residual flow and amount of water extracted from griffin creek” (page v). This report was written in 2018, thus it is possible that the Applicant has changed their mind, however this should be confirmed.

If the Applicant does intend to increase the size of the pipe, either now or in the future, it is recommended that this is applied for within this variation to enable a transparent process and appropriate assessment of effects. Applying for changes incrementally risks the project changing scope and cumulative environmental affects being underestimated.

It is understood from the last agreement (memo, dated 30th August) that three penstocks totalling a diameter of 1.2m are to be progressively laid alongside each other above ground. The construction track and benching would be kept within a 3m wide corridor as per the original concession.

The current Variation only refers to a single penstock, however, clarification on the size of the singular penstock was not provided. If the original, single penstock design is being implemented (0.3m diameter), it is not clear from the supplementary documentation why the construction area needs to be increased to 6m. Collecting this additional information would aid in understanding the need to remove larger trees and clear more vegetation. Further, this information would aid assessment of whether appropriate avoid, remedy and mitigation techniques have been applied.

There is a risk that if a subsequent variation to take more water is denied and this Variation approved (i.e. to clear a larger area) and a 1.2m single penstock buried under this Variation, then vegetation may be unwarrantedly cleared for an unnecessarily large penstock. Therefore, it is recommended that clarification is sort and all effects assessed together.

Variation point 3

3. An increase in the size of the construction disturbed area for the intake from 45m² to 100m² with an ongoing operational area of 45m².¹⁴

¹⁴ See explanation on page 12 under heading “Section 17ZC(1)(a) change – intake site

Through recent discussion between the Applicant (GCH) and the Department, it is understood the intake area listed on the easement concession of 12m² was an error and the correct ongoing operational area is 45m² (based on calculations from the FDR 2010; see ref from Julia). Henceforth, this report will refer to the original intake area and the ongoing operational area (as per the WC-20844-OTH Easement) as 45m².

The intake area is to be increased from 45m² to 100m² during construction. The Applicant confirmed there was no change to the intake structures apart from the settling tank being constructed of concrete rather than steel (email from Rhys Morgan, dated 14th October 2020). The email did not comment on the intake area construction methods and stated these would be provided in the Construction and Operational Plan. Information on the methods and the environmental management techniques to be utilised to construct the intake area would allow for an assessment of effects to be made. The equipment and methods for creating a usable space within 100m² of the rocky area may affect the adjacent freshwater ecosystem, particularly if unmanaged. Without more detailed information on the construction and management techniques it is impossible to comment further on potential changes to instream effects.

Whio, in reasonable numbers, are known to inhabit the head waters of Griffin Creek (Glen Newton, pers. comm. 28 January 2021), from circa 1.7km up Griffin Creek (as the crow flies) and neighbouring rivers. The proposed hydro station will not extend into known Whio habitat (ending circa 1km up the valley) and is located within unsuitable whio habitat, a gorge. Whio feed amongst fast flowing water and breed riverside. The location of the Griffin Creek hydro station within a gorge, while providing fast flowing water, does not provide stable stream banks, low suspended sediments or a wide diversity and abundance of aquatic invertebrates (Collier et al. 1993) necessary for quality whio habitat. Given this and the relatively small size of the affected gorge river area (100m² reducing to 45m² operationally) Whio are not considered to be significantly affected by the concession or Variation. It is noted that Whio were considered in the original Application and the effect on whio was considered to be minor.

Concern was raised in third party feedback (FMC) that the increase in intake area may have adverse effects on the gorge plant life. A reduced amount of spray reaching the walls of the gorge due to the presence of larger structures may reduce the humidity amongst the bryophyte community living on the gorge walls. Given the intake structures (email from Rhys Morgan, 14th October 2020) and water extraction rate are understood to remain as per the original concession, and the relatively small area (100m² reducing to 45m² operationally) compared to the larger gorge, this effect is not likely to be substantially different to the original concession. It is acknowledged that the impact of reduced spray on the bryophyte community in the gorge was not considered in the original Application.

Variation point 4

4. A different location of the pipe and track to across the hill instead of directly down the hill

The proposed alternate route for the access track and penstock route is approximately 400m west of the original route, at its furthest point. The proposed new route is within the same rata/kāmahī

forest and there are no additional Threatened or At-Risk flora or fauna species known to be present. Therefore, the terrestrial ecological effect of the proposed new location sought by the Variation is likely to result in a similar level of disturbance as that resulting from the original concession, with the exception of potential freshwater impacts.

Based on the maps presented in the Variation application, the new proposed access track and penstock route appears to cross a stream to the west of Griffin creek circa 200m above sea level. This is different to original concession and the Variation application has not considered potential effects on the freshwater values of the stream. Given the penstock is proposed to be buried, there will be at least a temporary effect on the stream. Further, the Variation did not specify how the access track would navigate the stream (i.e. through a bridge) nor methods to avoid, remedy and mitigate instream effects. It would be necessary to have this information to assess the effects of this Variation change.

There are records of At-Risk species of freshwater fish in Griffin Creek including koaro (Whitebait; Declining) and Torrent fish (Declining). This western stream may also contain Threatened or At-Risk freshwater species. In the absence of further details around the construction of the penstock and access track within the stream, the effects of this part of the variation cannot be assessed.

For further information on lizards, bats, and avifauna, see Appendix B. refer appendices in the full report linked at [DOC-6380347](#))

Conclusion

The Variation application seeks to alter four activities within the approved concession (WC-20844). These activities relate to altering the location of part of the penstock and access tracks and increasing the size of trees (20 to 50cm DBH) and construction area (0.5 to 0.6ha) to be disturbed and the intake area (45m² to 100m² with an ongoing operational area of 45m²).

Noted

The ecological effects resulting from the four changes noted in the Variation are unlikely to be substantially different from the ecological effects resulting from the original, approved concession (WC-20844) activities, with the exception of construction methodology on the freshwater ecosystem of Griffin Creek at the intake site and the stream west of Griffin Creek and intersected by the penstock and access track. It is noted that without further information, the latter two effects cannot be assessed. Furthermore, clarifying the size and number of penstock pipes to be installed may also address potential unnecessary increases in construction scope and therefore, vegetation clearance. See Appendix D for a list of additional information to enable a complete assessment of effects. (Refer appendices in the full report linked at [DOC-6380347](#))

While the Variation does not significantly change the effect on bats and lizards, given new information, it is recommended that mitigation measures are implemented to minimize effects. A bat survey should be undertaken to provide greater certainty around the effects (if any) on bats and inform mitigation methods, should they be required. Lizards mitigation measures should be employed when removing vegetation by felling during warmer months (October to April) when lizards are active and are able to flee and leaving felled vegetation onsite for 2-3 weeks to allow lizards caught in the vegetation to escape.

A list of suggested conditions have been included in Appendix A. (Appendix A suggested conditions listed below).

- Prior to the commencement of works, a bat survey will be completed by a qualified ecologist. Should bats be identified in the area, a qualified ecologist will be engaged to implement a bat management plan that avoids and minimizes effects on bats.
- To reduce the effect on lizards, vegetation will be felled during warmer months (October to April) when lizards are active and are able to flee, and felled vegetation will be left onsite for 1-2 weeks to allow lizards caught in the vegetation to escape.
- The penstock and access track construction zone shall be no greater than 6m in width on Public Conservation Land, and shall encompass the stockpiling of spoil and vegetation, where necessary.
- The 30m wide penstock and access track buffer zone is for scoping purposes only. The buffer zone is to be used to identify an appropriate route that avoids trees larger than 50cm DBH and reduces the need to remove trees greater than 15cm DBH. The 6m wide construction zone will be placed within the buffer zone.
- The access track is not to be hardened as per backcountry adventure track (SNZ HB 8630: 2004)
- Following completion of the works at the intake site, boulders that were moved for the purposes of construction will be placed back into position if possible or positioned around the structure to allow it to visually blend with the river bed.
- No side casting will be undertaken.
- Remaining spoil will be removed from Public Conservation Land.
- To assist with the regeneration of vegetation, additional planting may be undertaken for the construction corridor used to create the penstock and access track.
- A suitably skilled contractor will be appointed to undertake the works.
- An erosion and sediment management plan (or suitable section in Construction and Operations Plan (C&O Plan)) should outline actions to avoid and minimize erosion and sediment or rock blasting waste entering the river (particularly around steep sections)
- The C&O Plan shall include a section on weed management which includes actions to avoid introducing or spreading terrestrial and aquatic weeds, post works weed monitoring and maintenance until native cover is restored and woody vegetation is apparent in the terrestrial (soiled) construction zone. The C&O Plan shall also record weed actions accordance with special conditions 33 and 34 of the Easement Concession (2011).
- Annual flow meter calibrations and flow meters fault feedback information from the Griffin Creek hydro station will be made available to the Department at any time, upon request.
- An assessment of effects is to be undertaken for the freshwater stream which is intersected by the revised penstock and access track route and provided to the Department prior to works commencing. Methods to avoid, remedy and mitigate the adverse effects on the freshwater ecosystem, including fish passage, sedimentation and turbidity will be developed and provided to the Department.
- Appropriate permits to obtain, move and/or remove resources such as gravel from Public Conservation land will be sort prior to the works.

Noted
agreed

Permissions Advisor comment

As noted above, the Department's ecological review concluded that, "... the ecological effects resulting from the four changes noted in the Variation are unlikely to be substantially different from the ecological

effects resulting from the original, approved concession (WC-20844) activities.“

The report recommends additional measures are included in the concession if the variation is approved to manage potential adverse effects on bats and lizards should they be found to be present within the construction zone. Additional measures to protect freshwater values are also recommended for inclusion noting the presence of an unnamed creek along the proposed penstock route not previously identified.

The Ecological review also concluded that the effects of parts of the variation application cannot be determined, and therefore appropriate methods to avoid, remedy or mitigate any effects cannot be determined, because of lack of information. These are summarised below:

- (a) How the penstock and access track are going to be constructed to go over or through the (unnamed stream) stream west of Griffin Creek;
- (b) The equipment and methods for creating a usable space within the 100m² of rocky area;
- (c) Why a larger area needs to be cleared (0.6ha vs 0.5ha); and
- (d) Whether the Applicant intends to apply for an increase in the size of the pipe currently granted to them.

In relation to point (a), it is proposed to address the lack of information on this point in the new Construction and Operational Plan by making it a requirement that the COP address potential effects for the track and penstock going over or through the stream, including any adverse effects on the freshwater ecosystem, fish passage, sedimentation and turbidity; and appropriate avoid, remedy and mitigate techniques suggested. See the section titled “Freshwater Values” below. In relation to point (b), this recommendation is noted and will be revisited when the Applicant submits a COP.

Points (c) and (d) above are related. Dealing with point (c) first, the current concession allows a pipeline to be contained within a width of up to 3m, and the 2012 COP agrees that the pipe will actually be three pipes with a total width of 1.2m. The ecologist was under the impression that the pipe would be a single pipe of 0.3m diameter. It is understood that the larger area that needs to be cleared (0.6 vs 0.5ha) is to accommodate the 1.2m pipeline. However, it is unknown if the Applicant intends to apply for another variation to increase the size of the pipeline allowed. However, the Ecologist’s advice as to the cumulative effects of an increased pipe diameter is noted and will be revisited if a variation to the pipeline size is applied for by the Applicant.

The list of suggested conditions compiled in the report above has been reviewed and comment on the suggested conditions follows. In view of the threat classifications (bats - threatened/nationally, lizards - forest gecko - threatened/nationally endangered, speckled skink - at risk declining) appropriate measures should be included in the concession to ensure the potential effects on these fauna values are well managed.

Bats

It is recommended Special Condition 1 in Schedule 3 of WC-20844-OTH is amended to include a requirement as part of the Construction and Operational Plan, for the Applicant to arrange for a suitably qualified person to undertake a survey to assess the presence of long-tailed bats. Following completion of the survey, a report containing the survey results and measures to appropriate measures to avoid potential adverse effects on any bats that may be present in the area must be submitted to the Department for consideration.

Lizards

It is recommended Special Condition 1 in Schedule 3 of WC-20844-OTH is amended to include a requirement as part of the Construction and Operational Plan, to consider Lizard mitigation techniques for example, vegetation felling timing and techniques for consideration by the Department

In regard to Lizards (speckled skink (*Oligosoma infrapunctatum*)) and forest gecko (*Mokopirirakau granulatus*), it is noted that the suggested condition related to lizard protection, "To reduce the effect on lizards, vegetation will be felled during warmer months (October to April) when lizards are active and are able to flee, and felled vegetation will be left onsite for 1-2 weeks to allow lizards caught in the vegetation to escape" would require further assessment as part of the Construction and Operational Plan approval as it is noted that the peak bird nesting period is during these same months and therefore this might not be considered the optimal time for vegetation removal for this reason. This matter would be addressed as part of the COP consideration process.

Construction Zone, Overburden, Side Casting, Erosion Control, Weed Management, Qualified Contractor and other post-construction activities

In regard to the management of the construction and earthworks activities, it is considered the existing conditions relating to the COP, and elsewhere in Schedules 2 and 3 of the concession would adequately address and manage these matters to ensure any potential adverse effects are well managed (that is: penstock/pipeline/access track width, earthworks (including side-casting, erosion/sedimentation, spoil) revegetation, construction envelop, weed management). It is noted that the Applicant has commented that minimal side casting would be required and that most material would be 'end-hauled' off the site.

Some of the Ecologist's recommendations are relevant to the content of the new Construction and Operational Plan. While we do not think it is necessary to make these matters conditions of the concession, these recommendations are noted and will be revisited when the Applicant submits a new COP.

In regard to reference to the 'Access Track'. The Applicant's redesign no longer includes construction of a separate access track that would be located alongside the pipeline/penstock. The pipeline/penstock and access track have been combined and would be constructed within the same footprint.

Freshwater values

The report notes the presence of a stream along the penstock route that has not previously been assessed for aquatic values and that there is no mention in the Application of measures to manage effects from construction activity around this stream.

Regarding the data referred to in the report regarding the presence of kaoro, it is noted that the Department's records on kaoro at Griffin Creek were recorded downstream of the gorge area and therefore some distance away from the intake structure location. It is understood that the steepness of the gorge section inhibits the ability for kaoro to travel (climb) further upstream. The Applicant has verbally confirmed that the design of the intake structures proposed to be located within Griffin Creek would provide for fish passage. However, because this presence of kaoro and other significant aquatic species within Griffin Creek and the unnamed stream cannot be proven beyond doubt at this point in time, it is recommended this aspect should be addressed and mitigations included in any Construction and Operational Plan submitted.

In view of the terrestrial ecology advice received it is recommended the following amendments are made to the Schedule 3, Special Conditions.

The amended condition is as detailed below:

- 1. The Concessionaire must not undertake the Concession Activity unless or until the final Construction and Operational Plan is approved in writing by the Grantor (Operations Manager, Hokitika). In considering the Construction and Operational Plan, the Grantor would check that it does not differ substantially in regard to location, scale or level of effect to the Application (and subsequent approved variation application/s) lodged by the Concessionaire and to the Concession*

Activity as described in the Department's First Determination Report (and subsequent approved reports to the Decision Maker). The Concessionaire must ensure that the Construction and Operational Plan is prepared by a suitably qualified person. The Grantor may require the plan to be audited by a suitably qualified person.

The Construction and Operational Plan must include (but is not limited to) the following measures to manage potential adverse effects of the Concession Activity on the Land:

- i. Measures to avoid or minimise rock blast material, side casting spoil and vegetation from entering Griffin Creek
- ii. An assessment of effects for the track and the penstock going over or through the stream west of Griffin Creek (labelled 'Unnamed Stream' on the Concession Map) including any adverse effects on the freshwater ecosystem, including fish passage, sedimentation and turbidity; and appropriate avoid, remedy and mitigate techniques.
- iii. Measures to ensure the timing of construction works avoids or minimises effects on recreational users during the months of January to March each year.
- iv. Measures to protect public safety including (but not limited to):
 - a) Ensuring the New Zealand Canyoning Association and the general public are notified of any construction closure periods.
 - b) Ensuring that a copy of the draft Construction and Operational Plan is shared with the New Zealand Canyoning Association requesting comment on the proposed location and final design of the intake structures.
- v. Measures to avoid potential adverse effects on long-tailed bats (*Chalinolobus tuberculatus*) The Concessionaire must:
 - a) arrange for a suitably qualified person to undertake a survey to assess the presence of long-tailed bats on the Land. The survey must be undertaken following Department of Conservation bat survey protocols (<https://www.doc.govt.nz/our-work/biodiversity-inventory-and-monitoring/bats/>) results and a report must be submitted to the Grantor for consideration prior to the commencement of the activity on the Land. The Concessionaire must follow any directive from the Grantor in regard to protection of long-tailed bats on the Land.
- vi. Measures to avoid potential adverse effects on Lizards (speckled skink (*Oligosoma infrapunctatum*)) and forest gecko (*Mokopirirakau granulatus*) - The Concessionaire must follow any directive from the Grantor in regard to protection of lizards on the Land.

29. Any vegetation cleared from around the intake structure and access track during construction or maintenance phases must be cut into small section (no greater than 1 m length) and wherever possible, removed from sight of the track and creek bed.

*Please note that this recommendation was updated in view of the Applicant's comments on this draft DSD. See Section 10 pages 55 - 72 for more information.

Other Matters

Previous variations

As noted previously, the Department via internal memo dated 30 August 2012 approved two variations to the concession (see [DOC-6459922](#)). They were:

- 1) A variation of condition 23 to allow a track of 2.3 metres in width to be formed, which will accommodate access for machinery and penstocks; and

- 2) A waiver of the requirement of condition 24 for Griffin Creek Hydro to construct and maintain the access track to the Tramping Track standards contained in the Standards NZ - Tracks and Outdoor Visitor Structures, SNZ HB 8630.2004.

The Applicant was notified of this approval on 27 September 2012. However, the changes were never incorporated into the original concession document. For clarity and transparency it is recommended that these changes are incorporated into the variation document.

The Construction and Operational Plan (COP)

Condition 1 of Schedule 3 of the Concession requires that the Applicant submit, and the 'Hokitika Area Manager' approve, a Construction and Operational Plan before the Concession Activity can begin.

As noted above, the Department approved a Construction and Operational Plan from the Applicant via internal memo dated 30 August 2012, and notified the Applicant of our approval on 27 September 2012 (see DOC-6459922). The Concession does not put a time limit on the Construction and Operational Plan, nor does the 2012 COP itself include a time limit. It is the Department's view that the 2012 COP is still in effect and binding on the Applicant and the Department.

However, the 2012 COP will conflict with aspects of the variation application, if approved (see for example the statement that the existing access track will be upgraded - this will become redundant if the variation to move the track location is accepted). It is also proposed to amend Condition 1, Schedule 3 to list the issues that the COP must comment on, to manage the effects of the variation application. The 2012 COP does not address these issues.

It is considered that enough of the 2012 COP is made redundant by the variation application to require a new Construction and Operational Plan to be submitted and approved. It is therefore recommended that Condition 1, Schedule 3 is amended as part of the grant of the variation to make it clear that a new Construction and Operational Plan is required.

The condition would look like this (proposed additional wording in bold):

The Concessionaire must not undertake the Concession Activity unless or until the final Construction and Operational Plan is approved in writing by the Grantor (Operations Manager, Hokitika). In considering the Construction and Operational Plan, the Grantor would check that it does not differ substantially in regard to location, scale or level of effect to the Application (and subsequent approved variation application/s) lodged by the Concessionaire and to the Concession Activity as described in the Department's First Determination Report (and subsequent approved reports to the Decision Maker). The Concessionaire must ensure that the Construction and Operational Plan is prepared by a suitably qualified person. The Grantor may require the plan to be audited by a suitably qualified person.

Any Construction and Operational Plan in existence prior to 1 February 2021 is revoked.

*Please note that this recommendation was updated in view of the Applicant's comments on this draft DSD. See Section 10 pages 55 - 72 for more information.

Information provided by 3rd parties - FMC, Forest and Bird and New Zealand Canyoning Association

As noted earlier in this report, other community and interest groups (Federated Mountain Clubs (FMC) and NZ Forest & Bird)(Forest and Bird) have become engaged in the Application process. All parties provided comment on the proposed changes and the overall scheme, following release of the

It Needs to be done

Application information under the Official Information Act. The information was received following the Department's decision not to publicly notify the variation application.

The information received was collated and detailed in document DOC-6390918. Information is considered relevant if it relates to the potential adverse effects on conservation values associated with the four variation changes, that is, the 'new' effects that may result from the proposed changes. The responses received from the West Coast *Tai Poutini* Conservation Board and the NZ Canyoning Association have been included in the report to enable a simpler collation format of all responses received from 3rd Parties. The NZ Canyoning Association responses have been discussed as part of the assessment on recreation values above. The West Coast *Tai Poutini* Conservation Board comments are included and discussed separately in Section 3 Contributions on page 15 of the report.

Summary of key themes across all responses received:

- The Application is inadequate lacking detail. The activity applied for cannot be fully understood and effects cannot be fully assessed. The key information gaps and shortcomings are:
 - Safety (on recreationalists) as result of construction and operational activities
 - Technical reports substandard (Coastwide Ltd tree survey methodology is flawed, the number of large trees are under-reported; Opus Ltd visual effects report does not consider visual effects on recreationists and there is an absence of adequate Geotechnical Report (slope stability, erosion etc); the DOC Ecological Report is inadequate (no commentary on presence of bats, lizards and Whio)
 - Area of disturbance is under-estimated (no allowance for blasting, heavy machinery, excavation, side-casting activities etc)
 - No technical report is included on the recreation values/effects including loss of natural values/loss of access & experience
 - No explanation/justification of proposed increase in pipe size

Conclusions

- ✓ ● The information received from third parties has been assessed as partially relevant in terms of what the Decision Maker can take into account as part of the consideration of the potential adverse effects of the four variation aspects.
- ✓ ● Some information received has been assessed as out of scope as it primarily relates to the variation process steps rather than the activity applied for. Process related matters are not part of the consideration.
- ✓ ● The points raised in the information received in regard to the lack of information contained in the Application i.e. on safety aspects, 'sub-standard' technical reports (vegetation, visual effects assessment, geotechnical, and ecological) are noted.
- ✓ ● The Department considers the matters raised have all been addressed as are part of this process. Additional technical assessment of the recreation values has been undertaken (specifically canyoning experience). A review of the effects on ecological values has been undertaken by the Department's technical specialist. The Department maintains the visual effects assessment undertaken by Opus Ltd is adequate. Clarification has also been sought from the Applicant to confirm the intended construction methodology. The Applicant's response is discussed further

down on this page.

- It is important to note that most of the concerns raised by third parties relate to the detail that the Department would require to be addressed in the Construction and Operational Plan under the terms and conditions of the existing concession, if the variation is approved. Those matters were deemed to be out of the scope of the purpose of this report. Existing concession special conditions would also act to address many of the concerns raised, for example, seismic risk and Geotech considerations.
- This report recommends that the existing special conditions that relate specifically to the variation application are reviewed and amended to ensure effects identified and discussed in this report are appropriately managed. Of particular note is the proposed amended wording in Schedule 3, Special Condition 1 relating to the content that must be included in the Construction and Operational Plan.
- As noted earlier in this report, a Special Condition includes wording that requires the Grantor to check that the construction detail provided in the COP does not differ substantially in regard to location, scale or level of effect to the Application lodged and first determination report. If the Application is approved, the wording in this condition would be amended to ensure the content of the variation application and this report is captured.
- For clarity, if the Applicant submits a request to install a larger penstock/pipeline than what is already approved as part of the Construction and Operational Plan approval process, the Department will assess the request at that time having regard to the matters that are required to be considered under Special Condition 1, noting that the current concession sets a limit of 3m width for the pipeline to be contained within.

Recommendations/discussion points

- From the responses received it was recommended that the Decision Maker should consider if additional information is required from the Applicant to provide clarity and understanding of the construction methods proposed to undertake those activities related to the variation aspects e.g. increase to easement area, location, water intake area and size of trees to be removed. The detail of the Application suggests that the construction methodology and detail may differ from that which is described in the original first determination report and subsequent 2012 variation.

Permissions Advisor comment

The Department opted to seek further clarification from the Applicant in regard to the proposed construction methodology as this was an aspect that was unclear in the Application. The request and response is detailed below. The Applicant confirmed the proposed construction methodology would fall within what could be considered as part of the Construction and Operational Plan required for submission prior to commencement of the works.

Additional information provided by Applicant -Construction Methodology (received 14/10/2020) DOC-6486536

As noted above the clarification was sought from the Applicant in regard to the proposed construction methodology as detailed below to ensure that the Department's assessment of effects in relation to the four variation changes had taken this into consideration.

This was considered important as any approval of the variation will be subject to the terms and conditions of the existing concession and the activity as has been described in the original first

determination report. Therefore the conditions contained within the existing concession together with the variation must be fit for purpose when the variation aspects are taken into account.

The Department requested the following clarification:

1. Confirmation that the construction methods proposed for the variation aspects will be the same or different to those proposed for the original approved scheme design¹⁵.
2. If the construction methods proposed are different, please describe how they will be different from what was originally proposed, for each construction aspect e.g. water intake structures and penstock/pipeline.
3. If different, please provide proposed measures to avoid, remedy or mitigate any additional effects that might occur as a result of different construction methodology.

Applicant response:

1. Easement Area Location (a change to route of lower section of Penstock/Access Track).
The Applicant's response confirms that, *"A change to the route of the lower portion (415 metres) of the Penstock/Access Track is sort (sic). However the construction methods will not change."*
2. Easement area footprint size - (temporary change to area of easement during Construction from .5ha to .6ha). The Applicant's response confirmed that, *"This temporary change is sought to provide for an overall (including the 3.3 Metre wide Easement) 6 metre wide Construction Zone. This 2.7 metre wide temporary corridor will be allowed to revert back to bush once construction is completed. If needed to mitigate the removal of any growth of additional planting will be done to help the regeneration of the bush. It is noted that because of the high rainfall and reasonably warm climate on the West Coast that regeneration of the bush occurs amazingly quickly. This temporary change of area does not change the methodology of construction."*
3. Water intake footprint size -The Applicant's response stated that, *"There is no change to the structures apart from the settling tank which will likely be constructed from concrete rather than steel, so that the construction methods will be basically the same."*

Noted

The Applicant also reiterated a point made in the Application in regard to what they consider to be an error in Schedule 3 Condition 23 of the Concession Document regarding Intake Structure Area of 12m².¹⁶

Permissions Advisor comment

The content of the Applicant's response has been noted. No additional matters are identified in regard to the proposed construction methodology that would have any bearing on the outcome of the Department's effects assessment to this point. As explained earlier in this report, The Applicant has confirmed 45m² is the correct figure and the Department agrees the figure is correct.¹⁷ The amendment to this figure can be considered by the Decision Maker pursuant to Section 17ZC(1)(a) of the Conservation Act 1987 as a 'minor and technical variation' alongside the rest of the Application

¹⁵ 'Original approved scheme design' as described in original application and described in the First Determination Report and 2012 COP and variation.

¹⁶ See explanation on page 12 under heading "Section 17ZC(1)(a) change - Intake Site"

¹⁷ See explanation on page 12 under heading "Section 17ZC(1)(a) change - Intake Site"

being considered pursuant to Section 17ZC(2). For clarity and to avoid any further confusion on this matter in the future, it is recommended that the detail of the proposed intake structures is also included as part of the amendment to the wording in Condition 23.

*Please note that this recommendation was updated in view of the Applicant's comments on this draft DSD. See Section 10 pages 55 - 72 for more information.

Assessment of Effects - Conclusion and Recommendations

The Department has undertaken a thorough and robust assessment of the potential adverse effects resulting from the proposed four variation changes. The effects assessment has focussed on the difference between the effects of what has already been approved and the effects of the variation changes.

Assessment of the recreational values, particularly canyoning activity, has been undertaken. This has included consideration of information provided by the NZ Canyoning Association. The assessment concluded potential effects on canyoners could be adequately managed with amendments to the existing conditions to ensure the Applicant's construction activities are appropriately managed during the construction and operational phases. NZCA were particularly concerned about safety of canyoners. Recommended conditions are proposed for inclusion to address this concern. Conditions would require the Applicant to ensure NZCA is notified of any construction closure periods and also providing NZCA with an opportunity to provide comment on the finalised location and design of the intake structures within Griffin Creek.

The Department's assessment of the ecological values has been reviewed internally by Technical Advisor (Ecology). The conclusion was that...*"The ecological effects resulting from the four changes noted in the Variation are unlikely to be substantially different from the ecological effects resulting from the original, approved concession (WC-20844) activities..."*. The assessment also noted a lack of information on some topics.

The Department considers that the existing conditions would act to manage effects on ecological values, and other matters noted by the Ecologist are addressed either through amended conditions or will be revisited when the Department considers a Construction and Operational Plan required from the Applicant. It was recommended to include appropriate provisions to ensure the critically threatened long-tail bat and lizard species are protected if found to inhabit the area where the activity is proposed. Additional special conditions are recommended for inclusion to address this matter.

The conclusion is that the overall effects would likely be low and could be appropriately managed with adherence to the existing concession conditions and the recommended amended special conditions detailed in this report.

s17U(3): Purpose for which the land is held

A concession shall not be granted if the proposed activity is contrary to the purpose for which the land is held.

Criteria for decision:

- Is the activity consistent with s17U(3) of the Conservation Act? (That is, not contrary to the purpose

for which the land is held).

Yes

Discussion:

The land under Application is stewardship land, which is held under the Conservation Act for conservation purposes. The Minister may not grant a concession if the proposed activity is contrary to the purpose for which the land is held. Section 25 of the Conservation Act 1987 states the "Every stewardship area shall be so managed that its natural and historic resources are protected."

Conservation is defined under the Act as "the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations".

Protection is defined in the Conservation Act 1987; "protection" in relation to a resource, means its maintenance, so far as is practicable, in its current state; but includes - (a) its restoration to some former state; and (b) its augmentation, enhancement or expansion.

Permissions Advisor comment

The Minister must give consideration to the values that the Stewardship Land status seeks to protect and to question whether the granting of the Application, with or without conditions, would be consistent with the protection of those values.

The conservation values of the Wanganui/Otira Catchment Conservation Area in relation to the variation aspects applied for relates to recreation and ecological values and are identified and discussed in detail elsewhere in this report, specifically in the following sections - (Refer Section 8 Statutory Analysis - Assessment of Effects, page 20).

These discussions conclude that the effects of the variation aspects proposed by the Applicant could be adequately managed by the existing concession conditions and proposed amendments. It is considered that grant of the variation application, with conditions, would not undermine the protection of the natural and historic resources of the land, as such, the proposed activity is not contrary to the purpose for which the land is held.

s17U(4): Can a structure or facility be reasonably undertaken elsewhere?

A concession to build or extend a structure or facility shall not be granted if the activity could reasonably be undertaken in another location that is outside conservation land or in another conservation area where the potential adverse effects would be significantly less, or if the activity could reasonably be undertaken in an existing structure.

Criteria for decision:

- Is the activity consistent with s17U(4) of the Conservation Act? (That is, the activity cannot reasonably undertaken at another location or in an existing structure?)

Yes

Discussion:

The Applicant holds a concession authorising the construction of a small hydro scheme at Griffin Creek. These variations attach to that concession, so it is impractical for them to be granted at another location. However, it is noted that the first determination report commented that, "...the chosen location is a critical

understand

element of the proposal. While there may be other locations that could have been chosen for this activity, the majority of the land in the vicinity containing the potential to generate hydro- electricity is managed by the Department of Conservation and it is therefore unlikely that a suitable site could be found outside conservation land. As such, it is considered that the proposed activity and its associated structures could not reasonably be located elsewhere."

S17W: Relationship between concessions and conservation management strategies and plans

A concession shall not be granted unless the proposed activity is consistent with any established conservation management strategy, conservation management plan, and/or national park management plan.

Criteria for decision:

- Is the activity consistent with all relevant statutory planning documents?

Yes

Discussion:

The Department provided approval for the Applicant to construct a small hydro scheme at Griffin Creek in 2011 and a full statutory analysis was undertaken at the time that concluded the proposal was consistent with the statutory planning documents. This further statutory plan analysis only relates to the proposed variation, that is, the changes to the activity. The Application is a 17ZC(2) 'material change' variation requiring full assessment. However, it is noted there have been no changes to the planning documents since the time the previous assessment was undertaken in 2010/2011.

Conservation General Policy

The Conservation General Policy (CGP) is the first statement of general policy prepared under section 17C of the Conservation Act 1987. It provides guidance for the implementation of the Conservation Act and other conservation related legislation, including the Reserves Act 1977. Conservation management strategies and plans prepared under this legislation must be consistent with the CGP, although existing approved conservation management strategies and plans will continue to have effect until they are amended or reviewed, except where they clearly derogate from the CGP.

Specific policies covering the proposed activity are provided in Section 11 of the Conservation General Policy.

Policy 11 – Activities requiring specific authorisation

Policy 11 of the CGP deals with activities requiring specific authorisation, including concessions. It states that activities should avoid, remedy or mitigate any adverse effects (including cumulative effects) and maximise any positive effects (Policy 11.1(b)). Both the Department and concessionaires should monitor effects, including effects on public enjoyment, to inform future management decisions (Policy 11.1(c)). Concessionaires are to be responsible for the safe conduct of their operations (Policy 11.1(d)).

Utilities

Policy 11.3(a) of the CGP allows utilities to be provided where they cannot reasonably be located outside public conservation land. Any new or extended utilities are to be of a scale, design and colour that integrate with the landscape (Policy 11.3(b)). Public access to facilities may be denied where necessary for public safety or the security or competent operation of the activity concerned (Policy 11.3(c)).

Permissions Advisor comment

Policy 11.3(a) is discussed above on page 49. Policy 11.3(b) is addressed by existing special condition 31 (all structures must blend in with the surrounding environment). Policy 11.3(c) is addressed by existing

standard condition 12.1 (Health and Safety) and amended special condition 1 (Public notification and closure of the site). If the variation is granted, it is considered that compliance with the existing concession conditions and proposed amendments would ensure that the proposed activity is not inconsistent with the Conservation General Policy. The potential adverse effects of the variation have been assessed as low and can be adequately managed with the concession conditions.

West Coast Te Tai Poutini Conservation Management Strategy (2010-2020) (CMS)

The West Coast CMS is relevant to the variation application. Key relevant provisions of the CMS are summarised below.

Section 3.1.2.1 Treaty of Waitangi relationships –

Objectives and policies in this section requires that effect be given to the Treaty of Waitangi and that consultation with Te Runanga o Ngāti Waewae be undertaken for this proposal. Te Runanga o Ngāti Waewae have been consulted and have not raised any concerns with this proposal during the concession consultation process.

Section 3.5 Authorised Uses of Public Conservation Lands

Policies most relevant to the Application area:

Section 3.5 Policy 2 states *“When approving concessions or other authorisations, specific conditions may be applied as deemed appropriate.”* A range of conditions are recommended throughout this report if the proposed scheme is approved.

Section 3.5 Policy 5 states *“Consultation with Papatipu Rūnanga, Te Rūnanga o Ngāi Tahu and conservation boards on concessions, access arrangements and other authorisations for the use of public conservation lands will be early, ongoing, informed and effective.”*

Permissions Advisor comment

Consultation with Ngāti Waewae has been discussed in Section 5 Consultation with Treaty Partners on page 14. No concerns have been raised by Ngāti Waewae. A summary of the West Coast Tai Poutini Conservation Board consultation is recorded on pages 16 and 17 of this report. The issues raised by the Board are addressed or discussed throughout the report. It is considered if the proposed special and standard conditions are adhered to then the proposed hydro scheme would be consistent with the objectives and policies in section 3.5 of the CMS.

Section 3.7.2 Activities on or in Beds of Rivers or Lakes

Section 3.7.2 of the CMS provides guidance for all types of activities that occur on or in beds of rivers or lakes that are managed as public conservation land. The policies are:

1. *When assessing Applications for any activity on or in the bed of a river or lake, consideration should be given to (but not limited to) the following guidelines:*
 - a) *Adverse effects on freshwater and terrestrial species, habitats and ecosystems, historical and cultural heritage values, public access, recreation opportunities and amenity values should be avoided or otherwise minimised;*
 - b) *Riparian vegetation should be maintained or enhanced;*
 - c) *Activities should not damage riverbanks;*
 - d) *No pests, weeds or other unwanted organisms (e.g. Didymo) should be likely to be introduced*

to, or become established within, the area as a result of the activity; and
e) *The natural character within the setting of the activity should be maintained.*

2. *Biological communities, physical habitat, channel profiles and substrate may be monitored, in order to evaluate and manage the long-term impacts of activities occurring on or in the beds of rivers or lakes."*

Permissions Advisor comment

The Department considers that if the recommended conditions and existing concession conditions would act to ensure potential effects on freshwater, terrestrial species (e.g. at species - bats and lizards), ecological values, riparian margins and recreational opportunities (e.g. canyoning, tramping) would be adequately avoided, remedied or mitigated with adherence to the existing concession conditions and the recommended special conditions. Likewise for management of weed pests (*Didymo*).

Policy 2 provides for the monitoring of biological communities, physical habitat, channel profiles and substrate in order to evaluate and manage the long-term impacts. Existing concession conditions would act to ensure adequately manage the ongoing operational this aspect of the activity.

Section 3.7.11 Utilities

In addition to the 'utility' policies already discussed above in this report under CGP 11.3 (page 50), the following utility policy in the CMS also needs additional consideration. Policy 3 requires that "*The development, installation, maintenance and management of utilities on public conservation lands should be consistent with the desired outcome for the relevant place/s.*" (see Chapter 4.2). The outcome statements for the West Coast *Tai Poutini* Conservancy are considered under the CMS Sections below.

Permissions Advisor comment

The installation of a small hydro-electric power scheme at Griffin Creek was assessed and consistent with Policy 3 when it was approved in 2011. The four changes applied for as part of the variation application have been considered against this same CMS provisions and it is concluded that the activity (if approved) would remain consistent with the desired outcome for Hokitika Place as described in the CMS, subject to adherence with the existing concession conditions and the recommended special conditions.

It is not considered that the effects of this activity are such that a review of the strategy is appropriate.

9. Proposed Draft Operating Conditions

Conditions

Standard conditions applicable to the proposed activity:

Refer Schedule 2 in the existing concession linked at [DOCDM-714092](#)

Special conditions relevant to this Application:

Note: The draft special conditions listed below were sent to the Applicant for comment on 10/2/2021 together with the draft DSD as discussed below on page 55 in the Applicant Comments section.

Amendments were made to some conditions following receipt of the Applicant's response and further consideration by the Department.

Final amendments were made to two conditions after the finalised draft DSD was sent to the Decision Maker on 9/4/2021 following a check in meeting and consideration by with all team members in discussion with the

Decision Maker.

The finalised special conditions to be considered by the Decision Maker are listed in Appendix One attached.

Those special conditions proposed for amending are:

- To Schedule 1, Item 1
Easement Land – Area: 0.50 ha is amended to read 0.60 ha

- To Schedule 3, Special Conditions
Special Condition 1. is amended to read:

The Concessionaire must not undertake the Concession Activity unless or until the final Construction and Operational Plan is approved in writing by the Grantor (Operations Manager, Hokitika). In considering the Construction and Operational Plan, the Grantor would check that it does not differ substantially in regard to location, scale or level of effect to the Application (and subsequent approved variation application/s) lodged by the Concessionaire and to the Concession Activity as described in the Department's First Determination Report (and subsequent approved reports to the Decision Maker). The Concessionaire must ensure that the Construction and Operational Plan is prepared by a suitably qualified person. The Grantor may require the plan to be audited by a suitably qualified person.

Any Construction and Operational Plan in existence prior to 1 February 2021 is revoked.

The Construction and Operational Plan must include (but is not limited to) the following measures to manage potential adverse effects of the Concession Activity on the Land:

- i. *Measures to avoid or minimise rock blast material, side casting spoil and vegetation from entering Griffin Creek.*
- ii. *An assessment of effects for the track and the penstock going over or through the stream west of Griffin Creek (labelled 'Unnamed Stream' on the Concession Map) including any adverse effects on the freshwater ecosystem, including fish passage, sedimentation and turbidity; and appropriate avoid, remedy and mitigate techniques.*
- iii. *Measures to ensure the timing of construction works avoids or minimises effects on recreational users during the months of January to March each year.*
- iv. *Measures to protect public safety including (but not limited to):*
 - a) *Ensuring the New Zealand Canyoning Association and the general public are notified of any construction closure periods.*
 - b) *Ensuring that a copy of the draft Construction and Operational Plan is shared with the New Zealand Canyoning Association requesting comment on the proposed location and final design of the intake structures.*
- v. *Measures to avoid potential adverse effects on long-tailed bats (Chalinolobus tuberculatus) The Concessionaire must:*
 - a) *arrange for a suitably qualified person to undertake a survey to assess the presence of long-tailed bats on the Land. The survey must be undertaken following Department of Conservation bat survey protocols (<https://www.doc.govt.nz/our-work/biodiversity-inventory-and-monitoring/bats/>) results and a report must be submitted to the Grantor for consideration prior to the commencement of the activity on the Land. The Concessionaire must follow any directive from the Grantor in regard to protection of long-tailed bats on the Land.*

- vi. *Measures to avoid potential adverse effects on Lizards (speckled skink (*Oligosoma infrapunctatum*)) and forest gecko (*Mokopirirakau granulatus*) - The Concessionaire must follow any directive from the Grantor in regard to protection of lizards on the Land.*

- Special Condition 23 is amended to read:

The access track and pipeline must be contained within a width of 2.3m and 3m respectively, unless otherwise agreed with the Grantor (Operations Manager, Hokitika). At the intake site, the structures on the Easement Land and the working area must be contained within an area measuring a maximum of 100m² during construction, reducing to an area measuring a maximum of 45m² following completion. The Concessionaire must ensure that the boundaries of all areas to be disturbed are marked out with tape prior to work commencing and approved the Grantor (Operations Manager, Hokitika) or delegated representative. *For the avoidance of doubt, the intake structures on the Land are:*

- Channel 2m wide x 5m (10m²)
- Intake 3m wide x 3m long (9m²)
- Steel pipe 1m wide x 15m long (15m²)
- Settling tank 2m wide x 4m long (8m²)
- Shed 3m long x 1m wide (3m²)
- Monitoring equipment (surveillance cameras, 1 x 3m high pole with solar panels)

- Special Condition 24. is removed and struck through.

~~24. The Concessionaire must construct and maintain the foot access track to the tramping track standards contained in Standards NZ - Tracks and Outdoor Visitor Structures, SNZ HB 8630:2004, or subsequent amendments and updates.~~

- Special Condition 27 is amended to read:

Further to clause 8.1 of Schedule 2, the Concessionaire may remove, trim and cut down standing vegetation less than 50cm diameter at breast height on the Easement Land. All practical measures must be taken to minimise damage to surrounding vegetation.

- Special Condition 29 is amended to read:

Any vegetation cleared from around the intake structure and access track during construction or maintenance phases must be cut into small section (no greater than 1 m length) and wherever possible, removed from sight of the track and creek bed.

- Concession map is amended and replaced.

Monitoring

As provided for in the existing concession conditions.

Term

Not applicable. The existing term would apply to any variation (if approved).

Fees

Concession Activity and Management Fees – Not applicable as are set in existing conditions.

Concession Processing Fee – as per cost estimate prepared for Applicant

10. Applicant Comments

Comments received from Applicant

The Applicant was sent a copy of the relevant sections from the draft DSD (statutory analysis and recommendations) on the 19th November 2020 inviting comment within 10 working days. The Applicant's comments were received back on 3rd December 2020. The Applicant was then sent a copy of the finalised draft DSD on 10th February 2021 inviting further comment within 10 working days. This was considered appropriate in view of the number of amendments that have been made to the draft DSD since the previous draft sent to the Applicant in November 2020. The Applicant's comment below relate firstly to the 19th November 2020 version, followed by the 10th February 2021 version.

Applicant comments 19th November 2021 finalised draft DSD

The full comments on the draft DSD dated 19th November 2020 and related emails are linked at [DOC-6520044](#)

The key summary points are detailed below followed by the Department's response.

1. Application process - 17ZC (1) and 17ZC (2) -

- a. The Applicant maintains the view that they do not agree with the Department's decision to process the variation application (and previous variation applications) pursuant to section 17ZC (2) rather than 17ZC (1). They state the wording in the internal DOC wiki processing guidance is incorrect and requires amending and that, *"This error in the DOC Wiki Policy appears to be the reason the Department has considered GCH's Application under 17ZC(2), rather than as it should have done, under 17ZC(1)."*
- b. The Applicant maintains and that the Department assessed the potential adverse effects of the four proposed variation changes as nil to minor and therefore the Application should have been processed as a 'minor and technical' variation pursuant to 17ZC(1) and not a 'material change' variation pursuant to 17ZC(2). The Applicant refers to evidence of this assessment is detailed in the Department's site visit report; the Department's Explore Task Assignment Report and in the Department's letter sent to the NZ Canyoning Association.
- c. The Applicant also comments that the reason the Department, *"...needed to use 17ZC(2), was to enable it to consider the demand of NZ Canyoning, and FMC to stop the development of Griffin Creek..."*
- d. The Applicant comments that the Department made a decision that the Application did not meet the effects 'test' for public notification. *'The Department having determined that Public Notification was not deemed necessary, and then advise NZ Canyoning, FMC and the West Coast Conservation Board, that Application had been made, Public Notification by another name.'*

Department's response

The Applicant's comments 1. a - d. above are noted. The Department maintains that the Application has been processed and considered under the correct provisions of the Conservation Act 1987, that is, Section 17ZC(2). The Department has also followed statutory process in regard to the parties it has consulted. New Zealand Canyoning Association was approached under section 17SE(1)(b), while the Conservation Board's comments must be considered under Policy 3.5(5) of the West Coast CMS. The remaining comments from FMC and Forest and Bird were not requested, but the Decision Maker has discretion to have regard to them.

2. Draft Decision Support Document (DSD) -

- a. Recreation effects - The Applicant challenges whether the Department can legally consider the 'effects on recreation activities (Canyoning), when it is clearly stated that only the effects of that part of the activity that is 'new' can be considered, not those effects already considered relating to the part of the activity already approved in 2011. *'The activities have already been authorised, the time to consider the Effects on Recreation Activities (Canyoning) was before the Concession was issued in 2011, not after. The Department cannot legally, keep retrospectively considering any of the Activities. The only way for the Department to be able to legally change any of the Activities is for me, as Guarantor to agree to a change, I have not requested any change to the activity.'*

Department's response

The Applicant's comment is noted. The Department maintains the potential adverse effects of the variation application on recreation values at Griffin Creek can be assessed and considered under this process pursuant to Section 17ZC(2) of the Conservation Act 1987. The discussion and proposed conditions in this decision document relate to the effects of the variation application.

- b. Draft Special Conditions - The Applicant makes the following comments in regard to the recommended special conditions
 - (i) Schedule 1 Item 1 - agrees
 - (ii) Special condition 23 - disagrees. Intake structures measurement of area affected, proposed wording incorrect. The Applicant states following construction the ongoing operational area is 45m² not 72m² as detailed in the draft DSD.
 - (iii) Special condition 27 (vegetation removal maximum DBH change) . Agrees with proposed wording.
 - (iv) Schedule 4 - amended map . Agrees
 - (v) Applicant does not agree to any other proposed changes to the concession document (i.e. Schedule 3, Special conditions 1, 24 and 29).

Department's response

The Applicant's comment is noted and the Department responds as follows.

2. b. (ii) Special condition 23 wording. This matter is addressed on page 12.
2. b (v) Applicant does not agree to other condition changes. The Department maintains that the proposed changes to special conditions 1 and 29 are necessary to manage to the potential adverse effects of the activity on recreation values, in particular, canyoning and ecological values. The Application is being processed under 17ZC(2) and therefore 17S to 17ZB applies, including

section 17U. Section 17U (1) states ...the Minister shall have regard to the following matters...(b) the effects of the activity...(c) any measures that can reasonably and practicably be undertaken to avoid, remedy or mitigate any adverse effects of the activity. Measures that can be undertaken to avoid, remedy or mitigate adverse effects are enforced by way of conditions in a concession.

Further, Section 17X also applies. Section 17X states:

17X Power of Minister to impose and enforce conditions

In granting any concession, the Minister may impose such conditions as he or she considers appropriate for the activity, structure, or facility, including (but not limited to) conditions relating to or providing for—
the activity itself, the carrying out of the activity, and the places where it may be carried out:

No change is proposed to the recommended amendments to special conditions 1 and 29.

Special condition 24 – the variation approved in 2012 removed this condition as the track standards referred to in the wording did not exist and was therefore deemed no longer relevant. The recommendation to ‘strike out’ the wording in this condition is to reflect the 2012 variation and to make this clear in the concession document.

No change is proposed to the recommended amendments to special condition 24.

Applicant comments 16 March 2021 on finalised draft DSD

The Applicant’s full comments are linked at [DOC-6608084](#) and summarised below. The Department’s response follows each comment.

1. **All changes should be considered under section 17ZC(1)(a) (and one change should be considered under clause 23 of the concession)**

The Applicant maintains that all changes applied for should be considered under Section 17ZC(1)(a) because the Department has assessed the effects as nil to minor. In relation to the change of the size of the “intake site” from 45m² to 100m² for the period of construction only, they request that this change is considered pursuant to condition 23 of the concession.

Department response

This matter has been raised by the Applicant previously in their comments provided on 10th February 2021, and in other correspondence.

In regard to the first request that the Department consider the change in size of “intake site” from 45m² to 100m² for the period of construction only pursuant to condition 23 of the concession the Department’s position is that the Decision Maker does not have discretion to consider an increase in size of the “intake site” pursuant to condition 23 of the concession. That condition states:

The access track and pipeline must be contained within a width of 0.3m and 3m respectively, unless otherwise agreed with the Hokitika Area Manager. At the intake site, the structures on the Easement Land and the working area must be contained within a 12m² area. The Concessionaire must ensure that the boundaries of all areas to be disturbed are marked out with tape prior to work

commencing and approved by the Hokitika Area Manager or his delegated representative.

For clarity, the Department has agreed with the Applicant that the 12m² should read 45m². The Department has determined (although the Applicant has not agreed) what is meant by the "intake site" (see discussion on this in the Context section on pages 12 and 13).

The discretion of the Operations Manager, Hokitika (previously called Hokitika Area Manager), to consider increases in size is confined to the width of the access track and pipeline. There is no discretion to consider increases to the size of the "intake site". Therefore, the Applicant must go through the variation processes provided by the Act.

In regard to the Applicant's main point, that is their variation application in its entirety should be considered pursuant to section 17ZC(1)(a) of the Act. It is considered the Applicant's comment raises two points to consider:

- 1) whether the Department's decision to put the variation application through the section 17ZC(2) process was reasonable at the time it was made; and
- 2) whether that decision should be revisited now in light of the Department's technical advisors' conclusions on effects.

On the first issue, the Department considers that the decision to put the variation application through the section 17ZC(2) process was reasonable at the time it was made.

The Department made the decision to put the variation application through the section 17ZC(2) process soon after receiving the Application.¹⁸ As per the Department's usual process, the Statutory Process Team prepared a summary of the Application and presented it to a panel of Tier 3 staff at the weekly "Understand" meeting. This panel decided that the variation application fell within section 17ZC(2). There is a record of the decision in the Task Assignment that was drafted at the meeting which states: "*As this request potentially increases the adverse effects of the concession, it is considered a material change variation under section 17ZC(2) of the Conservation Act and therefore must be done by assessing the proposal in the same way that we assess a new Application.*"¹⁹

It appears that the primary reason for the Panel putting the Application through a section 17ZC(2) process was the potential increase in adverse effects of the concession. The Department's Hokitika District staff had identified that there was a new recreational value at the location (i.e. canyoning) and the need to confirm the extent of this value and how it may be impacted by the variation application was a major consideration for the Panel.

The second issue is whether that decision should be revisited now in light of the Department's technical advisors' conclusions on effects. The Applicant's argument is that, since the Department's technical advisors have now concluded that the adverse effects are either small, or in some cases, '*negligible*', their Application should be redirected through the section 17ZC(1)(a) process. In other words, the Applicant appears to want the Department to remake the decision described above. Consideration of this matter follows - whether the decision should be remade followed by a recommendation.

To come within section 17ZC(1)(a) of the Act, the variation application must meet the following tests:

¹⁸ The application was received on 7 February 2020. DOC-6239215 is an Explore Task Assignment, dated 3 April 2020, which records that the decision to process the application under section 17ZC(2) had already been made.

¹⁹ DOC-6283378.

- 1) It must be “of a minor and technical nature”; and
- 2) It must not “materially increase the adverse effects of the activity or the term of the activity or materially change the location of the activity.”

Based on the Department’s technical advisors’ conclusions, the Application appears to meet the second test (it does not materially increase the adverse effects of the activity). However, we do not consider that the Application meets the first test (minor and technical in nature).²⁰

Firstly, the Application is not “*minor*” in nature.

Three dictionaries define “*minor*” as “*having little importance, seriousness, or significance.*”²¹

The Department considers that the variation application does not meet the definition of “having little importance, seriousness, or significance.” The Applicant states in the Application²², “*In order to construct and operate the hydro power scheme in the most efficient manner whilst minimising the effects of the environment it is necessary that some conditions of the concession need to be reviewed and amended so that they align with the construction and operational methodology that will be deployed. These amendments are necessary due mainly to using a better construction methodology and equipment more suited for this type of work. Technological development plays a significant part as well with the cost of the pipeline reducing to a point that allows the pipeline to be buried...*”. In addition, at least three of the changes relate to an increase in size or scale of the operation. For example, under change 2, the “*intake site*” will more than double in size for the period of construction. The Department considers a “*minor*” change would need to be considerably smaller.

Secondly, the Application is not “*technical*” in nature. There are two possible definitions of “*technical*”. It is not necessary to decide which one to adopt because the Department considers that the variation application does not meet either definition.

The first definition is “*of or relating to a particular subject, art, or craft, or its techniques/requiring special knowledge to be understood.*”²³ This definition indicates that the changes need to be specialised to a particular subject area to be “*technical*”. The changes requested by the Applicant are not specialised – they are increases in size or scale, or a change in location, that do not require specialist knowledge to understand.

The second definition is something like a formality, or a matter of detail, as opposed to something of substance. The related word “*technicality*” is defined as “*a small formal detail specified within a set of rules.*”²⁴ On this definition, the Department’s position is that the changes asked for in the variation application are not matters of detail or formalities, they are changes to the substance of the Application – namely its size, scale and location.

²⁰ The Department pointed this out to the Applicant in correspondence: See email from Judi Brennan to Rhys Morgan dated 19 September 2020 “Follow up on issues raised regarding Griffin Creek Hydro Variation application”.

²¹ See the Concise Oxford English Dictionary; the Merriam Webster online dictionary (<https://www.merriam-webster.com/dictionary/minor>); and the Collins online dictionary (<https://www.collinsdictionary.com/dictionary/english/minor>).

²² Refer Application document ‘Griffin Creek Hydro: Supporting Information on changes sought to Concession Document WC-20844-OTH’

²³ The Concise Oxford English Dictionary.

²⁴ Concise Oxford English Dictionary

Further, the current Permissions guidance indicates what the Department has considered falls within section 17ZC(1) in the past (and therefore met the “*minor and technical in nature*” test):²⁵

- An activity period date changing
- A name change for the permission holder
- A reduction in the activity
- If A is conducting an activity on 25 tracks in one area of the Fiordland National Park and the concessionaire wishes to change the activity to include one more track located in the same area of Fiordland National park
- Extending a 7 year permit by a few weeks

These examples reinforce the Department’s view that the threshold for “minor and technical” should be high - the change must be minimal (like a date or name change) - to meet the test.

The Department’s position is that the variation application is not “minor and technical in nature”, and therefore does not meet the test in section 17ZC(1)(a). Therefore, it is recommended that the Decision Maker re-affirms the decision earlier made by the Department and keep the variation application in the section 17ZC(2) process.²⁶

For completeness, it is noted that the Applicant has separated each of the four changes out and suggested that they independently be assessed under section 17ZC(1)(a). In other words, each change should be considered without reference to the others. The Department rejects this approach because:

- 1) GCH has applied for the four changes together in one Application; and
- 2) “Effects” in the Conservation Act 1987 is defined by reference to section 3 of the Resource Management Act 1991, where “effect” includes “*any cumulative which arises over time or in combination with other effects.*” This is a direction to consider the effect of the change, in combination with other effects of the activity, when deciding whether the adverse effects have “materially increased”. Like the Resource Management Act, the Conservation Act does not want people to obtain greater rights over conservation land if they apply for them in incremental stages than if they applied for the same rights all at once.

2. Contravention of West Coast Regional Water Take consent, concession and Construction and Operational Plan, and other resource consent issues.

The Applicant states that if the Decision Maker approves the draft DSD in its current form, the conditions will directly contravene what is already legally authorised in the concession, Construction and Operational Plan, and approved West Coast Regional Council water take resource consent. The Applicant also argues that the resource consent must be taken into consideration when considering the effects on Canyoning, and notes that the Department gave Affected Party Approval for that consent.

Department response

The Applicant’s comments are noted.

²⁵ <https://docwiki/index.php?title=Variations>

²⁶ The Director of Operations has the delegated authority to make decisions under both sections 17ZC(1) and (2).

The Applicant's first comment is that the new conditions proposed as part of the grant of the variation application contravene what is already legally authorised by three documents: 1) the concession, 2) the Construction and Operational Plan, and 3) The West Coast Regional Council water take resource consent.

The Construction and Operational Plan (COP) is a document provided for in the concession, to deal with matters of detail. It is the Department's position that the COP must be consistent with the concession, not the other way around. It is therefore not possible for the concession to contravene the COP.

The Applicant has not identified which proposed new conditions will "directly contravene" the existing concession, and what conditions in the existing concession will be contravened. It is therefore not possible for the Department to comment on this matter. However, it is the Department's view that, having made a decision to process the Application via the Section 17ZC(2) process, Section 17X of the Act applies. That section enables the Minister (or her delegate), in granting the variation application, to impose such conditions as she considers appropriate. This may include amending existing conditions to manage the effects of the variation application.

It is correct that the Applicant has resource consents from the West Coast Regional Council for taking (RC10269/2), diverting (RC10269/3) and discharging water (RC-2017-0050-02). However, the taking, diverting and discharging of water is not the focus of the variation application.

The Applicant has not identified which proposed conditions of the grant of the variation application contravene the West Coast Regional Council Water Take Resource Consent. It is therefore not possible for the Department to comment on this matter.

At a general level, resource consents are issued under the Resource Management Act 1991. A resource consent must meet the statutory tests under the Act, which are directed towards the sustainable management of natural resources. Concessions are issued under the Conservation Act 1987 and must meet the different statutory tests in that Act, which are directed towards the conservation of natural and historic resources. While the regimes may overlap, consent under one does not guarantee consent under the other.

More specifically, the existence of the Applicant's West Coast Regional Water Take Resource Consent does not prevent the Department from imposing conditions, and possibly more restrictive conditions, on the same activity through a Concession.

The Applicant's second comment is that the West Coast Regional Council water take resource consent must be taken into account when considering the effects of the variation application on canyoning.

Section 17U of the Conservation Act 1987 does not require a Decision Maker to take into account any existing consents (such as resource consents) for the activity which is the subject of the concession Application. Section 17U is not a "closed list" (there may be other considerations that the Minister can consider that are not in the list). The Department has considered the above described resource consents and does not consider there is any overlap between the resource consent conditions and the effects of the variation application on canyoning.

The Applicant's third comment that the Department gave "affected party approval" for the West Coast Regional Council resource consents related to water take is correct.²⁷ However we note that the approval was provided prior to the Department's knowledge and further assessment of the recreation values at the location and therefore consideration and comment on these values did not form part of the RMA affected party approval at that time.

3. "Interference" in the variation process by third parties

The Applicant comments the Department has allowed 'interference' in the variation process by third parties including the NZ Canyoning Association (NZCA), Federation of Mountain Clubs (FMC), Forest and Bird (F&B), and the West Coast *Tai Poutini* Conservation Board.

- 1) The Department determined the Application did not require public notification based on the assessment of the effects being nil to minor. The Department then sought the views of the NZ Canyoning Assn to assist the understanding of recreation activities at the location. FMC, Forest and Bird and the West Coast *Tai Poutini* Conservation Board were also 'informed' that the Application had been received. 'Submissions'²⁸ from these parties has then been received by the Department. The Applicant considers this is public notification by another name.
- 2) The West Coast *Tai Poutini* Conservation Board's *'Submission must not, and cannot be considered by the Decision Maker, and must be removed from the DSD.'* The Applicant believes, *"... the Board does not have the Statutory Function or Power pursuant to the Act to make a submission to the Decision Maker, by doing so, the Board has acted outside its Statutory Authority, it has not complied with the requirements of the Act, therefore the Board has broken the law."*
- 3) The 'Submissions' received from FMC and Forest and Bird cannot and must not be considered by the Decision Maker as they were not 'sought' under Section 17SE (a) of the Conservation Act, and therefore must be deleted from the DSD.

Department response

The Applicant's comments are noted.

In response to 1), the Department disagrees. The basis on which the Department received and had regard to comment from the NZ Canyoning Association, FMC and Forest and Bird, is described on pages 20 and 21 of the DSD. The Department maintains that consideration of these comments, where relevant, is lawful.

In regard to 2), the involvement of the West Coast *Tai Poutini* Conservation Board in this process is discussed in Section 6 Contributions on page 16 and 17. The Board has the statutory power to advise on concession Applications, and variations, under section 6M(1)(d)(ii) of the Conservation Act 1987. The Department is obliged to consider that advice. Section 17A(b) of the Conservation Act 1987, which requires the Department to manage conservation areas in accordance with any relevant Conservation Management Strategy. In accordance with Policy 6 (page 113) of the West Coast *Te Tai O* Conservation Management Strategy, the Department and the Board have agreed guidance as to when the Board will be

²⁷ See Tim Shaw's comments on page 16 for more information.

²⁸ The word 'submission' is the Applicant's term.

consulted on concession Applications. This guidance directs that a concession Application should be provided to the Board for the comment when the Board so requests. As noted above, the Board requested to make comment on this Application. Once the Department receives the Board's comments, the Department must consider them because the West Coast *Te Tai Poutini* Conservation Management Strategy requires it (see for example Policy 5, page 112, of the West Coast Conservation Management Strategy where consultation with the Board on concessions will be "early, ongoing, informed and effective").

In regard to 3), the basis on which the Department received and had regard to comment from FMC and Forest and Bird is described on pages 20 and 21 of the DSD. The Department maintains that consideration of these comments, where relevant, is lawful.

4. Effects on recreation

The Applicant comments that the power scheme will not prevent canyoning use of Griffin Creek. The top two-thirds of the creek above the intake site will not be affected and the dewatered section below the intake will still be able to be accessed and used by canyoners. The access track would be available for any canyoners who do not wish to canyon the bottom section.

Department response

The Applicant's comments are noted. The Department's effects assessment on the recreation values on page 27 includes the following statement, "*Canyoners descending Griffin Creek will encounter the proposed intake structures and access track approximately 5 hours into a 7 hour descent.*" The statement is consistent with the Applicant's comment above, just expressed in a different way.

5. Applicant's response to FMC and Forest & Bird 'Submissions' and how the Department has addressed this in the DSD.

The Applicant comments on the following:

- (i) Safety concerns (including entrapment at the intake site). The Department has included a proposed special condition requiring a copy of the draft Construction and Operational COP is shared with the NZ Canyoning Association requesting comment on the location and final design, as a result of concerns NZCA has raised about canyoners becoming entrapped in the intake structure. The Applicant comments they already have an existing COP and any changes to that COP will be by agreement between the Department's Operations Manager, Hokitika and the Applicant. The existing concession conditions require the public to be excluded during construction to protect public safety. The canyoners would not be able to canyon the lower section of Griffin Creek when construction is being undertaken above it. In regard to the design of the intake structures, the final design of the intake structures will be done by an experienced Hydro Engineer, not the Applicant.
- (ii) Visual impacts (spoil, fallen trees, debris, discolouration of water by seepage from destabilised slopes) - Spoil, trees and debris would be removed from the track as required by the COP. The regrowth of West Coast bush would reduce the impact of vegetation removal over a few years. The Applicant comments that, "... *It has been estimated that in extreme weather events that the flow in Griffin Creek can exceed 80 cubic metres per second. The high flow in the creek during these*

events moves rock/large boulders and debris/large logs down the creek. This why the pools below the waterfalls do not fill up with rock. The action of the rocks moving down the creek also removes any algae and moss. It is the reason why the water is so clear."

- (iii) Presence of man-made structures (the intake and penstock corridor in an otherwise unmodified environment), noise (during construction/blasting and from vehicles for maintenance), decreased natural power of the water beneath the intake and increased potential for didymo and aquatic pests due to reduced water flows.
- a) Intake and penstock corridor – this is already approved under the existing concession
 - b) Noise – members of the public would be excluded during construction and therefore noise would not be an issue.
 - c) Decreased water below the intake – the resource consent permits a water take of up to 2.5 cumecs. The Department provided affected party approval for the consent.
 - d) Aquatic weed pests – the action of the creek in flood would remove any didymo or other weed pests.
- (iv) None of the 'Submissions' received from FMC, NZ Canyoning Assn, Forest and Bird or the West Coast *Tai Poutini* Conservation Board acknowledge the importance of the hydro scheme development to security of the West Coast power supply in the event of a major power outage.

Department response 5. (i),(ii), (iii), (iv)

The Applicant's comments and points of clarification are noted. The Department's response to the information provided by FMC and Forest & Bird is addressed elsewhere in the DSD (refer Assessment of Effects section pages 21-43)

For all comments, the Department's technical advisors considered the information provided by the NZCA where it was relevant to the variation application. Where the Department's technical advisors concluded that there were adverse effects on canyoning that could be mitigated, they have recommended proposed new operating conditions.

In relation to (i), and (iii)(a) and (b), in so far as the Applicant questions the ability of the Decision Maker to impose conditions on the Construction and Operational Plan, this is discussed at pages 61 and 66 (Minister's power to impose conditions under section 17X).

In relation to (i), further consideration of the condition relating to the intake site design is below at pages 69-70.

In relation to (iii) (c) and (d), the relevance of the West Coast Regional Council water take consent to the variation application is discussed at pages 61 and 62.

In relation to (iv) The Applicant disagrees to the lack of consideration of the benefit that the activity will provide to the West Coast in terms of secure power supply.

The Applicant does not suggest that the Decision Maker must consider the proposed benefit of the activity to the West Coast community in terms of security of power supply, rather he is aggrieved that third parties did not acknowledge it. For clarity, the Department's position is that secure power supply for

the West Coast is not a relevant consideration to the decision to grant a concession.

Secure power supply is a social and/or economic benefit. Social and/or economic benefits are not relevant considerations to the decision to grant a concession under the Act unless they can be connected to the Act's purpose of conservation of natural and historic resources. The Department considers there is no connection between the security of power supply for the West Coast and the conservation of natural and historic resources.

6. Revoking of existing 2012 Construction and Operational Plan (2012 COP)

The Applicant strongly disagrees with the proposed condition revoking the existing 2012 Construction and Operational Plan.

The Applicant states that the existing 2012 COP is a legally binding Agreement between the Minister of Conservation and the Concessionaire. The Concessionaire does not and will not agree to the revoking of the 2012 C&OP by the Minister. The Applicant demands that the proposed Condition, DSD page 53 revoking the 2012 Construction and Operational Plan, is rejected by the Decision Maker.

Department response

The Applicant's comments are noted. This matter is discussed in the DSD on pages 9 and 10. The Department has considered this matter further and makes the following comment.

For clarity, the Minister is not involved in the approval of the COP. It is currently (and will continue to be) the Operations Manager, Hokitika.

The Applicant's primary objection to this proposed condition appears to be his belief that his agreement is required to change the COP.

As noted elsewhere, the Minister has the power under section 17ZX of the Act to impose conditions she considers appropriate for the activity. If the Minister (or in this case her delegate) considers that it is appropriate to impose a condition revoking the 2012 Construction and Operational Plan and requiring a new one to be submitted, they have the ability to do so. The Applicant's agreement is not required.

The Applicant will have the ability to accept or reject the offer of the grant (if one is made), but the conditions of the offer of the grant are for the Minister or her delegate to determine.

The Applicant's secondary reason for objecting to this proposed condition appears to be that the COP simply requires some changes, rather than complete revocation and resubmission (and he disagrees with the proposed conditions requiring those changes).

As noted above, the Department recommended the revocation and resubmission of the 2012 Construction and Operational Plan for two reasons:

- 1) The new proposed operating conditions (if accepted by the Decision Maker) would require substantial changes to the COP, namely the inclusion of measures to address five issues (side casting and spoil, timing of construction works, public safety, protection of long-tailed bats and lizards).
- 2) Some of the COP will become redundant if the new proposed operating conditions are granted (it is noted that the Applicant disagreed with the example provided by the

Department).

The Department considered that enough of the COP will be impacted by these changes that it is reasonable to require a new COP. It was also considered a simpler and cleaner process to start from scratch. In addition, in the Department's view the description and detail included in the 2012 COP is substantially different to that included in the current variation application. The 2012 COP speaks to the Applicant's original proposal prior to the more recent scheme redesign.

However, the Applicant is correct that the COP can simply be amended to meet any new conditions imposed as part of the grant. As noted above on page 9 of the DSD, the 2012 Construction and Operational Plan was lawfully approved and is still in existence. We understand that parts of the COP still accurately represent the Applicant's plans for construction and operation (e.g. a collective pipe width of 1200m has been approved under the 2012 Construction and Operational Plan and the Applicant still plans to rely on this).

Advisors (Julia Mackie, Aimee Paterson, Tim Shaw and Nicole Kunzmann) met on 29 March 2021 and discussed the merits of each option. We concluded that, in fairness to the Applicant, the existing and lawful 2012 Construction and Operational Plan should be allowed to remain in place.

The Department proposes to therefore remove the recommended special condition 1 wording:

"Any Construction and Operational Plan in existence prior to 1 February 2021 is revoked."

Should the Decision Maker agree to grant the variation application on the terms proposed in this decision support document, we recommend pointing out to the Applicant in the decision letter that the grant will require changes to the Construction and Operational Plan, and that these must be approved by the Operations Manager, Hokitika, as per Schedule 3, clause 1.

7. Size of Easement Area is a temporary increase

The Applicant comments the Department has misunderstood that the increase in the size of the easement area from 0.50 ha to 0.60 ha is a permanent increase. The increase in size is temporary for the construction period only. The Applicant requests wording amended to include reference to the temporary increase in the DSD and Schedule 1 and 3 condition wording.

Department response

The Applicant's comments are noted. The Department agrees with the Applicant's request to add wording to clarify the increase is for the construction period only. Propose to amend Schedule 1. to read *"Easement Land - Area: 0.60 ha (reducing to 0.50 ha following construction completion)"*

8. Potential crossing of unnamed stream

Concession Map - location of 'unnamed stream' incorrect

The Applicant comments that the topographical map data used to generate the concession map is out of date and the location of the 'unnamed creek' is not as shown and that the proposed penstock route would not cross the creek. In an email dated 29 March 2021, the Applicant requests the map is amended using

current topo map data.

Department response

The Department has revisited this matter and agrees with the Applicant that the location of an unnamed stream at this location is not correct. Department staff have visited the site and walked the length of the section of the penstock route proposed for realignment and have no recollection of a stream at the location shown on the topo map. However, because the proposed route has not yet been finalised and won't be until such time as the COP is submitted to the Department for approval (if the variation application is approved), then it is important the measures are included in the concession conditions to ensure aquatic values in any permanent or ephemeral waterways within the construction area are adequately protected.

It is recommended the wording in the related special condition 1. Sub-clause ii. is amended to read,

“Measures to avoid, remedy or mitigate potential adverse effects on aquatic values in any permanent or ephemeral waterways affected by the Activity on the Land including (but not limited to) fish passage, sedimentation and turbidity.”

It is also proposed to amend the concession map and remove reference to the ‘unnamed stream’.

9. Intake structures – Inclusion of list of proposed structures and measurements of each proposed structure in Special condition 23.

The Applicant disagrees and requests deletion commenting that as this condition has been considered pursuant to 17ZC(1)(a) (a minor and technical variation) this condition can only be changed by agreement between parties – unlike conditions being considered pursuant to 17ZC(2) where the Department can without consultation and agreement add conditions to the concession.

The draft wording for special condition 23 is,

The access track and pipeline must be contained within a width of 2.3m and 3m respectively, unless otherwise agreed with the Grantor (Operations Manager, Hokitika). At the intake site, the structures on the Easement Land and the working area must be contained within an area measuring a maximum of 100m² during construction, reducing to an area measuring a maximum of 45m² following completion. The Concessionaire must ensure that the boundaries of all areas to be disturbed are marked out with tape prior to work commencing and approved the Grantor (Operations Manager, Hokitika) or delegated representative. *For the avoidance of doubt, the intake structures on the Land are:*

- Channel 2m wide x 5m (10m²)
- Intake 3m wide x 3m long (9m²)
- Steel pipe 1m wide x 15m long (15m²)
- Settling tank 2m wide x 4m long (8m²)
- Shed 3m long x 1m wide (3m²)
- Monitoring equipment (surveillance cameras, 1 x 3m high pole with solar panels)

Department response

The Department agrees with the Applicant in regard to the first part of the condition wording that details

the size of the intake area (i.e. the change from 12m² to 45m²). The Department also agrees that the finalised detail for each of the approved intake structure components is better placed in the COP to be submitted for consideration prior to commencement of construction noting that under the existing concession conditions (Schedule 3, Special Condition 1) the detail included in the COP cannot 'differ substantially in regard to location, scale or level of effect' to the activity as previously described and approved.

It is the proposed footprint of the intake area pre, post and during construction that is key and therefore this must be clear. With this in mind the Department considers use of the term 'intake site' should be further defined as it is not clear. This also has implications for the monitoring of the activity through all construction phases.

The Department proposes Special condition 23 is amended to read,

The access track and pipeline must be contained within a width of 2.3m and 3m respectively, unless otherwise agreed with the Grantor (Operations Manager, Hokitika). At the intake site, the structures on the Easement Land and the working area must be contained within an area measuring a maximum of 100m² during construction, reducing to an area measuring a maximum of 45m² following completion. The Concessionaire must ensure that the boundaries of all areas to be disturbed are marked out with tape prior to work commencing and approved the Grantor (Operations Manager, Hokitika) or delegated representative. *For the avoidance of doubt, the "structures" include everything constructed or brought onto the Land by the Concessionaire, whether on dry land or in the riverbed, except for the pipeline/penstock.* The Department considers that this change can be made under section 17ZC(2) of the Act.

10. List of requested changes to Schedule 3 Special Conditions in WC-20844-OTH

The Department makes a general comment that the Applicant appears to object to these conditions on the basis that the subject matter will be covered by the COP. However, the purpose of the proposed conditions are simply to make sure the subject matter is covered by the COP. The Applicant therefore does not seem to have any issue with the purpose of the condition. Rather, it appears they do not want it made explicit in the concession document.

The Applicant has requested the following changes are made to the proposed conditions:

- 10.1 Schedule 1 - Area: 0.6 ha (Applicant requests to add words 'Temporary for Construction period only').

Department response

The Department agrees as discussed above in point 6. page 66.

- 10.2 Schedule 3 - Special Condition 1. First paragraph (Applicant disagrees, requests deletion of the inclusion of additional reference to 'subsequent approved variation application/s lodged by the concessionaires and approved reports to the Decision Maker).

Department response

The Department disagrees. It is important to ensure the wording in Condition 1 is amended to

ensure all of the related documents are considered by the Grantor.

- 10.3 Schedule 3 – Special Condition 1. First paragraph (Applicant disagrees, requests deletion of sentence ‘Any Construction and Operational Plan in existence prior to 2021 is revoked).

Department response

The Department agrees as discussed above at page 65-66.

- 10.4 Schedule 3 – Special condition 1, sub-clause i.e., condition to manage effects of construction activities on Griffin Creek (Applicant disagrees, requests deletion commenting these measures will be appropriately covered in the COP).

Department response

The Department disagrees. Addressed above on pages 33-43 ‘Terrestrial Ecological Effects’. No further comment is required.

- 10.5 Schedule 3 – Special condition 1, sub-clause ii., condition to manage effects on aquatic values in ‘Unnamed Stream’ (Applicant comments penstock route will not go over this stream as discussed elsewhere).

Department response

The Department has recommended a change to address Applicant’s comments (refer page 67, no further comment required).

- 10.6 Schedule 3 – Special condition 1, sub-clause iii. – condition to manage timing of construction and effects on recreational users during months of January to March (Applicant disagrees and requests condition is deleted - commenting that, “... *construction works are a permitted activity and GCH has an existing C&OP, therefore the Department cannot legally require GCH not construction during the months of January to March each year. The effects of the Activity on recreation uses was considered at the time the Concession was approved. The Department cannot legally keep revisiting the effects on an approved Activity every time there is a new recreational user.*”

Department response

The Applicant’s comment is noted. However, the Department’s view is that this condition does not seek to legally prevent the Applicant from undertaking construction from January to March each year. The Department acknowledges it may not be possible for construction to occur outside of these months as this period may provide the most suitable weather conditions. Other considerations would also need to be taken into account e.g. nesting bats and presence of lizards. However, the intention is that the Applicant considers this matter and if possible, constructs outside of this period. This matter would be discussed and agreed at the time a COP is submitted.

No change is proposed to this condition.

- 10.7 Schedule 3 – Special condition 1, sub-clause iv. a) condition requiring NZ Canyoning Assn and the public are notified of any construction closure periods. (Applicant disagrees with inclusion

commenting these measures will be appropriately covered by the COP).

Department response

The Department agrees with the Applicant that these measures would be addressed as part of the COP consideration. However, it is also considered appropriate to include in the schedule 3 special conditions as the conditions have been recommended to manage additional effects on recreation values not previously considered. Notifying the public and canyoners is an important aspect of this.

No change is proposed to this condition.

10.8 Schedule 3 – Special condition 1, sub-clause iv. b) condition requiring the draft Construction and Operational Plan is shared with the NZ Canyoning Association requesting comment on the proposed location and final design of the intake structure. (Applicant disagrees commenting that, “...there is no provision, nor should there be, any provision for a third party i.e. NZ Canyoning to comment on the proposed location and final design of the intake structures.”

Department response

The Department has considered this condition further and makes the following points:

The primary purpose of the condition is to ensure the final design of the intake structures is safe for recreational users, specifically canyoners. As landowner, legally the Department is responsible for ensuring structures on public conservation land are designed and constructed so as to avoid or minimise risk to public safety.

Special condition 1 in Schedule 3 in the existing concession includes the requirement for any COP submitted prior to construction, and the Department considers this includes amendments to the COP, to be audited by a suitably qualified person. The Department expects that the COP would include detail of the finalised design of the intake structures and location within Griffin Creek.

The Department would hold the responsibility to ensure the suitably qualified person is a Chartered Engineer who specialises in small hydro-electric power scheme design and that adequate evidence is provided to satisfy the design of the intake structure allows for safe passage of recreational users, specifically canyoners.

It is agreed that this condition sub-clause iv b) should therefore be removed requiring the Applicant to share the finalised design and location of the intake structures with the NZ Canyoners Association, and an amendment made to Special condition 1 in Schedule 3 to better achieve the primary purpose of the condition.

The amended special condition will read (new text bolded):

“ The Grantor may require the plan to be audited by a suitably qualified person. Any audit to be undertaken by a suitably qualified person may include (but is not limited to) assessment of whether the finalised design of the intake structures allow for safe passage by canyoners.”

10.9 Schedule 3 – Special Condition 1, sub-clauses vi. condition managing effects on long-tailed bats and lizards. (Applicant disagrees, requests deletion with inclusion commenting these measures will be appropriately covered by the COP).

Department response

The Department maintains this condition is appropriate to include to ensure effects on conservation values identified during this process and not previously considered are well managed.

No change proposed.

- 10.10 Schedule 3, Special Condition 23. Condition detailing the maximum construction area of 100m² reducing to 45m² following completion and the itemised list of intake structures and dimensions. (Applicant disagrees, requests deletion of the list of structures and their sizes).

Department response

The Department disagrees but has recommended a change to address the Applicant's comments. The detail included in the condition is important to clarify the extent of the disturbance area during construction. See the discussion on pages 67 and 68.

- 10.11 Schedule 3, Special Condition 24. Striking through of condition requiring construction of foot access track to tramping track standard as the DOC standard referred to does not exist (Applicant agrees with proposed strike through).

- 10.12 Schedule 3, Special Condition 27 - Maximum diameter at breast height for vegetation removed, trimmed or cut down - less than 50cm. (Applicant agrees)

- 10.13 Schedule 3, Special Condition 29 - Addition of words 'and creek bed'. (Applicant disagrees, requests deletion - commenting they have not applied for a change to the condition 29 and these measures will be appropriately covered by the COP).

Department response

The Department disagrees. The amended condition wording is an important measure to manage effects on recreational users i.e., safety of canyons.

No change is proposed.

Check-in Meeting with Decision Maker 19/4/2021

A draft of this Decision Support Document (DSD) was provided to the Decision Maker on the 9th April 2021. The Decision Maker called a check-in meeting on 19 April 2021 with all team members present, including the recreational technical advisor, to ask for further information and discuss some concerns the Decision Maker had. We also received an email from the Applicant dated 12 April 2021 which was considered at the meeting. A record of that meeting is linked at [DOC-6662332](#)

Following the meeting, the team was tasked with investigating options for addressing the concerns raised. The advice to the Decision Maker on the matters raised is as follows.

1. Restoration of the site (Schedule 3, Special Condition 1 (vii))

It is important to distinguish between two aspects in regard to restoration of the site:

- 1) The land that the Griffin Creek Hydro Ltd (GCHL) already has the right to disturb (i.e 0.5 hectares which includes the 45m2 intake site, the 2.3m wide access track and the 3m wide pipeline area) - this is referred to as the "existing land"; and
- 2) The extra land the Applicant is requesting to disturb with their variation application (i.e. an extra 0.1ha, including 55m2 at the intake site) - referred to as "extra land."

It is considered that the rehabilitation of the two types of land (the existing and extra land) would occur at two different times - the "existing land" could only be restored once the concession has ended (i.e 2041) and the "extra land" could be restored at the same time, or sooner, immediately after construction had finished on the "extra land".

Any condition imposed as part of the variation process must be connected to the potential effects of the variation.

Schedule 2, clause 15.3 of the current concession actually does compel GCHL to do some restoration. It says:

The Concessionaire must, if the Grantor gives written notice, remove any specified structures and other improvements on the Easement Land. Removal under this clause must occur within the time specified by the Grantor and the Concessionaire is to make good any damage and leave the Easement Land and other public conservation land affected by the removal in a clean and tidy condition and replant the Easement Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term...

Schedule 3, clause 43 gives the "written notice" spoken of in clause 15.3, and therefore all that remains for the Department to do is at the time the concession ends, specify a timeframe for GCHL to remove all their structures.

To confirm, clause 15.3 requires that GCHL:

- Remove all their structures
- Make good any damage
- Leave the land affected by the removal in a clean and tidy condition
- Replant with indigenous vegetation.

In addition, should the variation application be approved, the "extra land" (0.1ha including 55m2 at intake site) would become part of the "Easement Land", and therefore this obligation would apply to the "extra land" as well.

In regard to the "extra land", it is considered important to ensure that restoration of the "extra land" required for the construction phase is undertaken as soon as its use as construction is completed. This aspect relates solely to the variation application effects and therefore, a special condition is recommended for inclusion. It is noted that the ecological technical advice recommended this aspect was addressed (refer page 40 of the DSD).

It is recommended that the proposed new condition wording below is added as sub-clause vii to Condition 1, Schedule 3 -

“...vii. Measures to mitigate potential adverse effects resulting from vegetation removal and disturbance of the Construction Land, including but not limited to, a Rehabilitation Plan for the Construction Land, commencing as soon as the Construction Land is no longer required for construction. All Rehabilitation activities to be undertaken on the Construction Land must be completed to the satisfaction of the Grantor (Operations Manager, Hokitika). The Construction Land is the additional 0.1ha required to enable construction of the pipeline/access track and the extra 55m2 required to construct the structures at the intake site.”

Restoration of the entire area would be achieved between existing schedule 2, clause 15.3 and this proposed new clause.

Decision Maker: Agree / ~~Disagree~~

Comment:

This new condition satisfies my concern.

2. Bond-related issues

Due to a combination of the effects of the variation application and the time that has passed since the granting of the original concession, the Decision Maker requested a review is undertaken of the current bond level (\$50k) and ensure it is set in line with current similar bond levels so it reflects the extent of disturbance resulting from varied activity (if approved).

It is confirmed that the Applicant has lodged an ANZ Bank Surety Bond on 5 April 2013 for \$50,000.000 for concession WC-20844-OTH. The bond document is linked at [DOCDM-1232705](#)

Bond Type

Clause 15, Schedule 3 of the concession requires one of three types of bond: a trading bank, insurance company or bond guarantor. If a different type of bond is required (e.g. a cash bond), this clause would need to be varied. [REDACTED]

[REDACTED] A change to this condition is therefore not recommended.

Bond Amount

Clause 17, Schedule 3 of the concession states that the bond amount can be reviewed at any time at the discretion of the Grantor. Clause 7.1 of the bond document conditions (below) notes the Minister's ability to require a variation to the Bond Sum by providing written notice to the Concessionaire and the Surety. If the Bond Sum is varied, a Replacement Bond 'replaces' the previous Bond Sum.

7. Variation of Bond

7.1 The parties acknowledge and agree that, pursuant to the Concession, the Minister may require a variation of the Bond Sum and in such event the Minister is to provide written notice of such requirement to the Concessionaire and the Surety.

The Bond Sum amount set at time was relevant to the proposed construction works and concession activity approved at the time. However, in view of the time that has passed and the proposed variation changes, it is appropriate for the Department review the bond sum.

In regard to the most appropriate time to initiate a review of the bond sum as the bond conditions allow, it is recommended any such review is deferred until the Construction and Operational Plan is submitted (should the variation be approved) because until this point the Department cannot be sure of: a) the total finalised design and extent of the disturbance and; b) an appropriate bond sum as it would be difficult to calculate a bond sum without the finalised detail in the COP.

It is recommended that the Department if unable to set the bond itself, engage the services of an external consultant to assist with any review and resetting of the Bond Sum.

No change to the conditions of the concession is therefore recommended.

Decision Maker: Agree / Disagree

Comment:

I agree that we need the Construction and Operational Plan to be submitted so we can fully assess the level of bond required. I agree that external advice may be required.

3. Necessity of removing trees of up to 50cm DBH (Schedule 3, conditions 23 and 27)

It was agreed to include additional detail to provide clarity on the current condition wording particularly around the avoidance of large trees along the proposed route. The current wording states..."all boundaries of all areas to be disturbed are marked out with tape prior to work commencing and approved by the Hokitika Area Manager". Additional wording is required to ensure all large trees are flagged and avoided where possible and that the final decision maker on all large trees is made by the Operations Manager prior to any clearance occurring.

The following amendment is proposed to Special Condition 27 -

"Further to clause 9.1 of Schedule 2, the Concessionaire may remove, trim and cut down standing vegetation less than 50cm diameter at breast height on the Easement Land, subject to the following. Prior to any work commencing on the Land, all standing vegetation measuring 20cm-50cm diameter at breast height proposed for removal, trimming or cutting down must be flagged with tape for inspection and approved by the Grantor (Operations Manager, Hokitika). After work has commenced, if the Concessionaire wishes to remove, trim or cut down any further standing vegetation measuring 20cm-50cm diameter at breast height not previously approved, the Concessionaire requires authorisation from the Grantor. All practical measures must be taken to minimise damage to surrounding vegetation."

Decision Maker: Agree / Disagree

Comment:

I want to have this onsite supervision and oversight by the District Monitoring Staff

4. Protecting recreational opportunities for canyoneers

At the meeting of 19 April 2021, the Decision Maker noted an absence of discussion in the DSD on how the Department might protect the recreational opportunity of canyoning in Griffin Creek. The Decision Maker shared an example of an arrangement in the Tongariro area between Genesis Energy and Whitewater New Zealand that provided for Genesis Energy to cease their water-take operations on a

handful of agreed days to allow recreationalists, largely white-water kayakers, to enjoy the water at its full flow. The Decision Maker noted how this arrangement had been very successful – Genesis Energy and Whitewater New Zealand had developed a good relationship and the river was able to be used and enjoyed by both parties. The Decision Maker requested that the team investigate whether something similar was possible for the proposed Griffin Creek Hydro Scheme – namely could the Applicant cease operating their hydro scheme for a specified number of days each year to allow canyoning to enjoy the descent of Griffin Creek in its “natural flows”.

The team considered this proposal and reported back to the Decision Maker on 4 May 2021. The recommendation was that a condition replicating the above arrangement should not be made a part of the grant of the variation application.

. The condition seeks to protect the recreational experience of canyoning by imposing restrictions on water take, an aspect that is not part of the variation application. Nor do the applied for variations have any effects on water flow.

The team expressed concern that neither the Applicant nor third-party stakeholders had been consulted on such a condition, and the Department would be authorising the condition in the absence of some important information (e.g. what is an optimal flow for canyoning in Griffin Creek). Finally, the team noted their concern about the practicality of such a condition when, as far as the Department is aware, the Applicant and the New Zealand Canyoning Association refuse to engage with each other.

The Decision Maker considered this advice and called a further meeting on 11 May 2021 with the Permissions Advisor and the legal advisor. The Decision Maker noted that while he accepted our advice of 4 May 2021, he outlined that his aim was not to impose a particular type of condition on the grant of variation. Rather, the Decision Maker was concerned about two things: firstly, whether the Department has adequately investigated and understood the recreational opportunity that Griffin Creek provides for canyoning and responded with appropriate protection, and secondly, that both the Applicant and third-party stakeholders are involved in this process. The Decision Maker requested that these concerns were considered and a response provided through the DSD.

The Department is aware that, after the grant of the concession was made on 1 February 2011 and a Construction and Operation Plan was approved on 30 August 2012, canyoning began recreating in Griffin Creek. There is concern amongst stakeholders about the impacts of both the granted concession, and the variation application, on recreation (primarily canyoning) in Griffin Creek. In their letter dated 22 June 2020, Federated Mountain Clubs express concern that the Department does not know enough about the effects of the variation application on the recreational value of Griffin Creek.²⁹ In their comment on the variation application dated 8 July 2020, the West Coast *Tai Poutini* Conservation Board also expressed concern their understanding of the effects on recreational values.³⁰ In their letter dated 23 July 2020, the New Zealand Canyoning Association identified a list of features which make Griffin Creek a unique opportunity for canyoning. However, it is the amount of water in Griffin Creek that is most important to the canyoning experience, and what the New Zealand Canyoning Association is most concerned about. They say the current flow of Griffin Creek provides a “peak experience” for canyoning. They say that the currently granted abstraction rate of 1200L/s with a residual acceptable flow of 800L/s “would certainly reduce the flow from a high-end challenge to very little challenge at all.”

²⁹ Doc-6427904 at pages 9-12. FMC refer to both canyoning and kayakers using Griffin Creek.

³⁰ DOC-6393381 at pages 2 and 3

The Department understands the primary concern for recreationalists in Griffin Creek is water flow. As noted above, the variation application does not seek any changes to previously granted water take conditions. Nor does the Department consider the changes applied for will have effects on water flow.

[REDACTED]. We therefore recommend that this issue is not addressed as part of the grant of the variation application.

However, the Department accepts there is an issue to be explored here. The concern noted by stakeholders above has been difficult to explore and address because of the state of the relationship between the Applicant and stakeholders. The Department considers that options for protecting the recreational value of Griffin Creek to the canyoners could be better explored if the parties could work together. The Senior Visitor Advisor's Report states, "If the Applicant and the NZ Canyoning Association were able to establish a working relationship, it may be possible for flow data to be shared with canyoners to provide localised information to canyoners to help them decide when it is safe and enjoyable to descend Griffin Creek."^[4]

The Department recommends you consider extending an offer to the New Zealand Canyoning Association, and any associated stakeholders they would like to bring, to meet with you to:

- (a) Note and explain your decision on this variation application; and
- (b) Listen to their concerns and identify any common ground on the recreational value of Griffin Creek and how it can be protected.

Depending on the outcome of the meeting, the Department could then offer to facilitate a meeting with the Applicant.



^[4] DOC-6422436 pg 17.

12. Decision Making

Recommendations		Decision
1.	Deem this Application to be complete in terms of s17S of the Conservation Act 1987	Agree / Disagree
2.	To Approve the correction of an error in WC-20844-OTH, Special Condition 23 Pursuant to Section 17ZC(1)(a) of the Conservation Act 1987 for a minor and technical variation. The error relates to the figure included in Special Condition 23 to describe the size of the intake area ³¹ .	Approve / Decline
	Decision Maker comment: <i>I understand this and accept the information supplied</i>	
3.	To Agree to include the two variations approved via internal memo dated 30 August 2012 in the variation document for clarity and transparency.	Agree / Disagree
	Decision Maker comment: <i>_____</i>	

³¹ See explanation on page 12 under heading "Section 17ZC(1)(a) change - Intake Site"

	Agree / Disagree
4.	<p>To Reaffirm the decision made by the Department in early 2020 that the variation application should be processed under section 17ZC(2) of the Act (excluding the minor and technical variation aspect detailed in Recommendation 2 above).³²</p> <p>Decision Maker comment:</p> <p style="text-align: center;">—</p>
5.	<p>To Note that additional information has been obtained from a key interest group, the NZ Canyoning Association, in relation to the recreation values identified at Griffin Creek. The Decision Maker 'shall have regard' to this information pursuant to s17U.</p> <p>Decision Maker comment:</p> <p style="text-align: center;"><i>I have read and understood this information</i></p>
6.	<p>To Note that information has also been received from other interested parties. The information from New Zealand Canyoning Association must be considered under section 17U(1)(d). The Conservation Board's comments must be considered under section 6M(1)(d)(ii) and 17A(b) of the Conservation Act 1987. The Decision Maker has the discretion and may choose to 'have regard' to the further information from Forest and Bird and Federated Mountain Clubs, as the matters listed in section 17U(4) are not an exhaustive list of considerations. It is recommended the Decision Maker has regard to this information where it is relevant (the Department's technical advisors' reports have considered this information and incorporated where it is relevant).</p>

³² See the explanation beginning on page 58.

	<p>Decision Maker comment:</p> <p>I have read and understand this and have taken this into account in my decision.</p>	
7.	<p>To Approve the Application subject to the proposed conditions in Appendix 1. The Application seeks to vary WC-20844-OTH to authorise changes to four aspects of a proposed hydro-electric power scheme at Griffin Creek. The Application has been processed pursuant to Section 17ZC(2) of the Conservation 1987, for a material change variation. Accordingly, the 'new' part of the activity described in the Application has been fully assessed and considered as if it were a new application.</p>	<p>Approve / Decline</p>
	<p>Decision Maker comment:</p> <p>The proposed conditions as set out in Appendix 1 will mitigate the effects of the proposed works.</p> <p>I note that this variation and proposed scheme has support from Ngāi Tahu as well as the mana whenua. I require the Hāhauka Operator. Managers will ensure all weathere been greater than 50cm > 1m are avoided.</p> <p>Refer to this at Page 26.</p>	

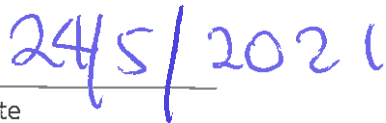
	Agree / Disagree
<p>8. To Agree that as a result of the Department removing the proposed addition to special condition 1 schedule 3 stating that "any Construction and Operational Plan in existence prior to 1 February 2021 is revoked," it is recommended that, if a decision is made to grant this variation application, it is outlined in the decision letter to the Applicant that the grant will require changes to the existing Construction and Operational Plan, and these must be approved by the Operations Manager, Hokitika, as per schedule 3, clause 1.</p>	<p>Decision Maker comment: <i>The COP needs to be updated in accordance with the variation and the additional condition.</i></p>
	<p>Noted ✓</p>
<p>9. To Note that any Construction and Operational Plan (COP) submitted by the concessionaire (as required by the concession conditions) must remain consistent with the terms and conditions of the original concession and if approved, and any subsequent approved variations to the concession. If a COP was submitted and it was determined that the detail contained in the COP "differed substantially in regard to location, scale or level of effect to the Application (and subsequent variation application/s) lodged..." the Applicant would be required to apply for a further variation for consideration.</p>	<p>Decision Maker comment: <i>This needs to be fully understood by the applicant</i></p>

10.	<p>Extend an offer to the New Zealand Canyoning Association, and any associated stakeholders they would like to bring, to meet with you to:</p> <p>(a) Note and explain your decision on this variation application; and (b) Listen to their concerns and identify any common ground on the recreational value of Griffin Creek and how it can be protected.</p>	<p>Agree / Disagree</p>
	<p>Decision Maker comment:</p> <p>The purpose of this offer would be to explore opportunities for the applicant and the stakeholders to work together.</p>	

Julia Mackie
Permissions Advisor, Hokitika
21 May April 2021



Signed by Mark Davies, Operations Director, Western South Island Region
Pursuant to the delegation dated 9 September 2015



Date

Decision Maker comments



SCHEDULE 1 – CLAUSE 1 – EASEMENT LAND

Area: 0.60ha (reducing to 0.50ha following construction completion)

SCHEDULE 3 – SPECIAL CONDITIONS

1. The Concessionaire must not undertake the Concession Activity unless or until the final Construction and Operational Plan is approved in writing by the Grantor (Operations Manager, Hokitika). In considering the Construction and Operational Plan, the Grantor would check that it does not differ substantially in regard to location, scale or level of effect to the Application (and subsequent approved variation application/s) lodged by the Concessionaire and to the Concession Activity as described in the Department's First Determination Report (and subsequent approved reports to the Decision Maker). The Concessionaire must ensure that the Construction and Operational Plan is prepared by a suitably qualified person. The Grantor may require the plan to be audited by a suitably qualified person. Any audit to be undertaken by a suitably qualified person may include (but is not limited to) assessment of whether the finalised design of the intake structures allow for safe passage by canyoners.

The Construction and Operational Plan must include (but is not limited to) the following measures to manage potential adverse effects of the Concession Activity on the Land:

- i. Measures to avoid or minimise rock blast material, side casting spoil and vegetation from entering Griffin Creek.
- ii. Measures to avoid, remedy or mitigate potential adverse effects on aquatic values in any permanent or ephemeral waterways affected by the Activity on the Land including (but not limited to) fish passage, sedimentation and turbidity.
- iii. Measures to ensure the timing of construction works avoids or minimises effects on recreational users during the months of January to March each year.
- iv. Measures to protect public safety including (but not limited to):
 - a) Ensuring the New Zealand Canyoning Association and the general public are notified of any construction closure periods.
- v. Measures to avoid potential adverse effects on long-tailed bats (*Chalinolobus tuberculatus*) The Concessionaire must:
 - a) arrange for a suitably qualified person to undertake a survey to assess the presence of long-tailed bats on the Land. The survey must be undertaken following Department of Conservation bat survey protocols (<https://www.doc.govt.nz/our-work/biodiversity-inventory-and-monitoring/bats/>) results and a report must be submitted to the Grantor for consideration prior to the commencement of the activity on the Land. The Concessionaire must follow any directive from the Grantor in regard to protection of long-tailed bats on the Land.
- vi. Measures to avoid potential adverse effects on Lizards (speckled skink (*Oligosoma infrapunctatum*)) and forest gecko (*Mokopirirakau granulatus*) – The Concessionaire must follow any directive from the Grantor in regard to protection of lizards on the Land.
- vii. Measures to mitigate potential adverse effects resulting from vegetation removal and disturbance of the Construction Land, including but not limited to, a

Rehabilitation Plan for the Construction Land, commencing as soon as the Construction Land is no longer required for construction. All Rehabilitation activities to be undertaken on the Construction Land must be completed to the satisfaction of the Grantor (Operations Manager, Hokitika). The Construction Land is the additional 0.1ha required to enable construction of the pipeline/access track and the extra 55m² required to construct the structures at the intake site.

23. The access track and pipeline must be contained within a width of 2.3m and 3m respectively, unless otherwise agreed with the Grantor (Operations Manager, Hokitika). At the intake site, the structures* on the Easement Land and the working area must be contained within an area measuring a maximum of 100m² during construction, reducing to an area measuring a maximum of 45m² following completion. The Concessionaire must ensure that the boundaries of all areas to be disturbed are marked out with tape prior to work commencing and approved the Grantor (Operations Manager, Hokitika) or delegated representative. *For the avoidance of doubt, the "structures" include everything constructed or brought onto the Land by the Concessionaire, whether on dry land or in the riverbed, except for the pipeline/penstock.

~~24. The Concessionaire must construct and maintain the foot access track to the tramping track standards contained in Standards NZ – Tracks and Outdoor Visitor Structures, SNZ HB 8630:2004, or subsequent amendments and updates.~~

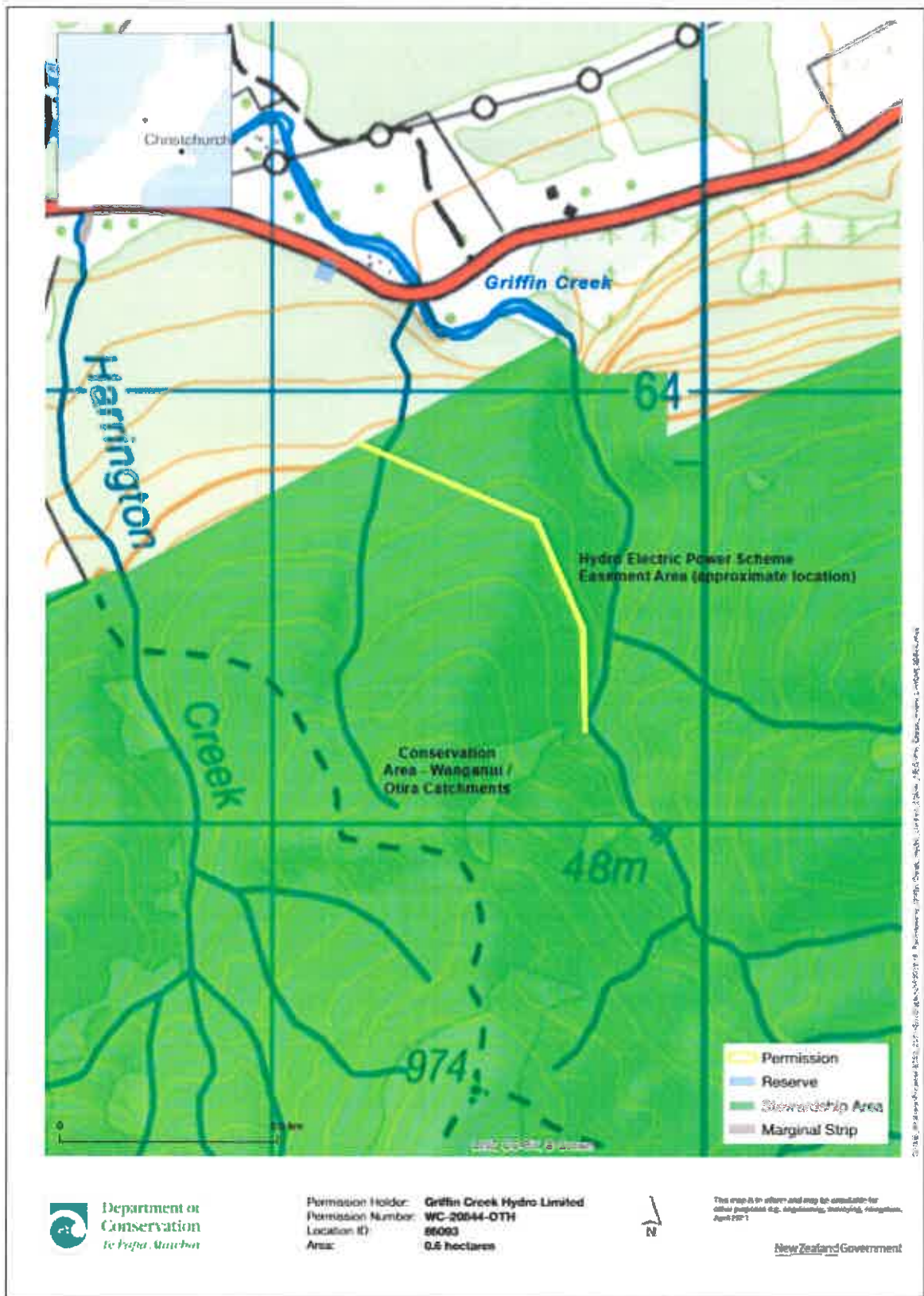
27. Further to clause 9.1 of Schedule 2, the Concessionaire may remove, trim and cut down standing vegetation less than 50cm diameter at breast height on the Easement Land, subject to the following. Prior to any work commencing on the Land, all standing vegetation measuring 20cm-50cm diameter at breast height proposed for removal, trimming or cutting down must be flagged with tape for inspection and approved by the Grantor (Operations Manager, Hokitika). After work has commenced, if the Concessionaire wishes to remove, trim or cut down any further standing vegetation measuring 20cm- 50cm diameter at breast height not previously approved, the Concessionaire requires authorisation from the Grantor. All practical measures must be taken to minimise damage to surrounding vegetation.

29. Any vegetation cleared from around the intake structure and access track during construction or maintenance phases must be cut into small section (no greater than 1 m length) and wherever possible, removed from sight of the track and creek bed.

CONCESSION MAP ATTACHED TO CONCESSION

Map amended and replaced

Concession Map



Permission Holder: Griffin Creek Hydro Limited
 Permission Number: WC-20844-OTH
 Location ID: 86093
 Area: 0.6 hectares



This map is in error and may be obsolete for other purposes e.g. engineering, mapping, navigation, April 2011

New Zealand Government

