

12. APPROVALS RELATING TO THE WILDLIFE ACT 1953

12.1 INFORMATION REQUIREMENTS FOR WILDLIFE PERMITS

The following section sets out the information requirements for wildlife approval in accordance with Schedule 7 (Clause 2) of the Act.

Specify the purpose of the proposed activity:⁴¹⁰

The Project is fully described in Section 2 of this report. Approvals are required under the Wildlife Act as follows:

- > To capture, handle, salvage, and relocate native lizards to enable the Project and ensure that potential adverse effects of the Project on native lizards are avoided / minimised; and
- > To capture, handle and relocate kororā from Project Areas to the Stage 1 Kororā Colony to ensure that the potential effects of the Project on kororā are avoided / minimised; and
- > To monitor kororā in nestboxes in the colonies and undertake tracking studies to determine foraging areas and diving behaviours; and
- > To mark kororā (using subcutaneous transponders and GPS dive loggers or satellite tracking devices), for the purposes of species management and research; and
- > To incidentally harm or kill wildlife if the harm or death where that is not directly intended but is unavoidable and foreseeable and all reasonable effort has been made to meet the conditions in the approval.

Bioresearches (2025a) and Kororā Ornithology (2025) provide further details on the Wildlife Act approval requirements (provided in **Part B** to these application documents).

The measures to capture and relocate these species are contained in the LMP, and KPMP provided in **Part G** to these application documents.

Identify the actions the applicant wishes to carry out involving protected wildlife and where they will be carried out (whether on or off public conservation land):⁴¹¹

As discussed in Sections 2 and 5 of this report, and in the Terrestrial Ecology Assessment and Kororā Assessment (**Part B**), WIAL is proposing activities that will affect habitat which

⁴¹⁰ Schedule 7, Clause 2(1)(a) of the Act.

⁴¹¹ Schedule 7, Clause 2(1)(b) of the Act.



supports, or potentially supports, a number of animals protected under the Wildlife Act. Actions which may involve protected wildlife include:

- > Vegetation clearance and establishment of the Stage 1 Kororā Colony;
- > Vegetation clearance and establishment of the Moa Point and MGC Yards;
- > Construction of the Southern Seawall;
- > Noise (and vibration) and disturbance from construction activities, including heavy vehicle and machinery movements, and the placement of rock and Cubipods.

While the Applicant proposes to undertake best practice approaches to avoid disturbance of protected species, a wildlife approval is sought to authorise the following activities:

- > To catch, handle, salvage, and relocate native lizards from the Moa Point Yard and MGC Yard to suitable adjacent habitats in accordance with LMP. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] ⁴¹²
- > To catch, handle and relocate kororā from the Southern Seawall to the Stage 1 Kororā Colony;
- > To mark kororā, for the purposes of species management and research, by way of subcutaneous transponders (PIT tag, microchip), and GPS dive loggers or satellite tracking devices.
- > To monitor kororā in nestboxes in the colonies and undertake tracking studies to determine foraging areas and diving behaviours;
- > To incidentally harm or kill wildlife if the harm or death is not directly intended but is unavoidable and foreseeable and all reasonable effort has been made to meet the conditions in the approval.

The activities will be carried out in the Southern Seawall and the wider Project Area, and in the two new kororā colonies. Section 3 of this report discusses these locations in further detail.

The activities will be carried out on land held by WIAL, WCC or the Crown, with no activities on public conservation land.

⁴¹² Section 3 of the LMP identifies the methods to capture native lizards and relocate into assessed habitats described in section 4 of the LMP.



Include an assessment of the activity and its impacts against the purpose of the Wildlife Act:⁴¹³

Section 2 of this report provides a description of the Project, Section 7 and the associated technical reports (**Part B**) present an assessment of the effects of the project on biodiversity (including wildlife), and Section 8 sets out the measures proposed by WIAL to manage the effects of the Project on native fauna.

The Wildlife Act protects native and introduced species of mammals, birds, reptiles, and amphibians, and regulates many human interactions with these species. It establishes a tiered system of protection for different species, with some species receiving absolute protection and others receiving partial protection.

As described throughout this report, WIAL is proposing to translocate native fauna from sites affected by vegetation / habitat clearance and relocate them to areas outside the Project Area.

To minimise the potential for mortality of native lizards, WIAL is proposing to capture any native lizards found within vegetation and habitats within the Project area and relocate them to areas of enhanced habitat, as shown in Figure 12.1 (below).

With respect to kororā, WIAL is proposing to establish two new kororā colonies. As discussed in Section 2, the Stage 1 Kororā Colony will be established before construction works commence and will be used as a release site for kororā captured and removed from the Southern Seawall and adjacent areas. The Stage 2 Kororā Colony will be established on the completion of the main construction works.

The two colonies being established as a result of the Project will provide an overall benefit for kororā. High quality nest sites will be established using carefully considered planting and siting of nest boxes, with fencing around the colonies minimising the risk of external threats such as dog attacks and disturbance by humans. Additionally, the elevation and location of colonies will reduce the risk of inundation through sea level rise or storm events, when compared to the existing nesting sites within the Southern Seawall and its surrounds.

The proposed monitoring and tracking of kororā within the colonies will also contribute to knowledge of kororā biology and kororā conservation.

Given these measures it is considered that the required translocation of fauna is consistent with the intent of the Wildlife Act.

⁴¹³ Schedule 7, Clause 2(1)(c) of the Act.



List protected wildlife species known or predicted to be in the area and, where possible, the numbers of wildlife present and numbers likely to be impacted:⁴¹⁴

This information is contained in the Kororā Ornithology (2025) Kororā Assessment and Bioresearches (2025a) Terrestrial Ecology Assessment (**Part B**), and is summarised below:

- > Confirmed present within the Project Area:
- > Northern Grass skink, *Oligosoma polychroma* < 200 individuals;
- > Raukawa gecko, *Mokopirirakau granulatus* < 80 individuals; and
- > Kororā / little blue penguin, *Eudyptula minor* ≤100 individuals.
- > Potential to be present (not recorded from survey):
- > Copper skink, *Oligosoma aeneum* < 10 individuals
- > Ornate skink, *Oligosoma ornatum* < 10 individuals
- > Glossy Brown skink, *Oligosoma zealandicum* < 10 individuals
- > Northern spotted skink, *Oligosoma kokowai* < 10 individuals
- > Minimac gecko, *Woodworthia Marlborough mini* < 10 individuals

Outline impacts on threatened, data deficient, and at-risk wildlife species (as defined in the New Zealand Threat Classification System):⁴¹⁵

Section 7 of this report contains an assessment of effects on native fauna / wildlife species subject to this wildlife approval application, based on the information contained in the Kororā Ornithology (2025) Kororā Assessment and Bioresearches (2025a) Terrestrial Ecology Assessment (**Part B**).

Kororā are classified as At Risk - Declining. In summary, impacts on kororā include:

- > Loss of habitat;
- > Disturbance associated with construction activities; and
- > Injury or mortality during construction.

No threatened or data deficient herpetofauna species are expected to occur within the Project area, noting that all those listed in the Terrestrial Ecology Assessment are either At Risk or Not Threatened, with only two non-threatened species being recorded on site. An

⁴¹⁴ Schedule 7, Clause 2(1)(d) of the Act.

⁴¹⁵ Schedule 7, Clause 2(1)(e) of the Act.



assessment of the activity and its impacts on native lizards is addressed in the Terrestrial Ecology Assessment. Bioresearches have assessed the level of effect of the Project on indigenous lizard species as very low.

State how the methods proposed to be used to carry out the actions the applicant described above will ensure that best practice standards are met:⁴¹⁶

Activities involving fauna are to occur in accordance with the relevant KPMP and LMP (**Part G**), which have been developed by technical experts in accordance with relevant best practice.

The methods proposed to avoid, remedy or mitigate effects, including minimising and avoiding disturbing, capturing or harming or killing any wildlife as far as possible can be found in:

- > Section 8 of the KPMP; and
- > Section 2 of the LMP.⁴¹⁷

Describe the methods to be used to safely, efficiently, and humanely catch, hold, or kill the animals and identify relevant animal ethics processes:⁴¹⁸

This information is contained in the KPMP and LMP (**Part G**):

- > Section 8.1 of the KPMP describes the persons who will be responsible for implementing the KPMP and the handling experience required. Section 8.15 of the KPMP outlines steps to be taken in the event of discovery, injury or mortality of a kororā,
- > Section 2 of the LMP outline steps to be taken to capture, salvage and transfer lizards. Best practice standards for managing New Zealand lizards are published in the Department of Conservation Lizard Technical Advisory Group document, 'Guidelines for producing management plans for New Zealand Lizards'. The recommended content of that document has been applied when developing the LMP. This includes details around the appropriate timing (September to April inclusive), duration (at least two weeks) and methods (the use of a multi-tool trap combination with minimum trap requirements) for lizard capture. Protocols for the frequency of trap checks (Section 3.2.3 of the LMP) and

⁴¹⁶ Schedule 7, Clause 2(1)(f) of the Act.

⁴¹⁷ Best practice standards for managing New Zealand lizards are published in the Department of Conservation documents, 'Guidelines and model for producing management plans for New Zealand Lizards, and 'Key principles for lizard salvage and transfer in New Zealand', the latter of which outlines nine principles for lizard salvage. These principles are addressed in Table 3 of the LMP.

⁴¹⁸ Schedule 7, Clause 2(1)(g) of the Act.



transfer (Section 3.2.5) are also detailed in the LMP. Similar to the KPMP, the LMP requires an experienced herpetologist to manage these processes.

State the location or locations in which the activity will be carried out, including a map (and GPS co-ordinates if available):⁴¹⁹

Construction activities impacting kororā will occur within the Southern Seawall and Moa Point Yard, as shown in Figure 3.42. As described in the KPMP, when kororā are found within the construction areas, they will be captured and relocated to the Stage 1 Kororā Colony, located approximately 1 km south of the Southern Seawall. Refer to Figures 2.9 and 2.10 of Section 2 of these application documents which illustrate the location and indicative configuration of the Stage 1 Kororā Colony.

Activities impacting lizards will occur in the Moa Point Yard, Southern Seawall, and MGC Yard as shown in Figure 12.1

[REDACTED]

[REDACTED]

⁴¹⁹ Schedule 7, Clause 2(1)(h) of the Act.



State whether authorisation is sought to temporarily hold or relocate wildlife:⁴²⁰

Yes – authorisation is sought to relocate lizards and kororā. There will not be any temporary holding of wildlife.

List all actual and potential wildlife effects (adverse or positive) of the proposed activity, including effects on the target species, other indigenous species, and the ecosystems at the site:⁴²¹

Sections 7.4 and 7.5 of this report contain a detailed description of the actual and potential effects of the project on wildlife (and their habitats). This is based on the information contained in the Kororā Assessment and Terrestrial Assessment (**Part B**).

Where adverse effects are identified, state what methods will be used to avoid and minimise those effects, and any offsetting or compensation proposed to address unmitigated adverse effects (including steps taken before the project begins, such as surveying, salvaging, and relocating protected wildlife):⁴²²

Section 7 and Section 8 of this report, as well as the proposed conditions contained in **Part D** to these application documents, detail how WIAL is proposing to manage the actual and potential effects of the Project on wildlife.

The methods proposed to avoid, remedy or mitigate effects, including minimising and avoiding disturbing, capturing or harming or killing any wildlife as far as possible can also be found in Section 8 of the KPMP and Section 2 of the LMP.

State whether the applicant or any company director, trustee, partner, or anyone else involved with the application has been convicted of any offence under the Wildlife Act:⁴²³

Neither the applicant nor any company director, trustee, partner, or anyone else involved with the application has been convicted of any offence under the Wildlife Act.

⁴²⁰ Schedule 7, Clause 2(1)(i) of the Act.

⁴²¹ Schedule 7, Clause 2(1)(j) of the Act.

⁴²² Schedule 7, Clause 2(1)(k) of the Act.

⁴²³ Schedule 7, Clause 2(1)(l) of the Act.



State whether the applicant or any of the company director, trustee, partner, or anyone else involved with the application has any current criminal charges under the Wildlife Act pending before a court:⁴²⁴

The applicant, (including the company director, trustees, partners, or anyone else involved with the application) does not have any current criminal charges pending under the Wildlife Act.

Provide proof and details of all consultation, including with hapū or iwi, on the application specific to wildlife impacts:⁴²⁵

Section 4 and 6 of this report contains details of the consultation undertaken in relation to the Project. In summary:

- > Taranaki Whānui and Ngāti Toa Rangatira have been actively engaged in the early development of the Project, ensuring it will be delivered in a culturally appropriate way. As noted in Section 4, [REDACTED], the Taranaki Whānui lead on all projects within Te Whanganui-a-Tara relating to kororā, has provided his ongoing support and input to the Project and WIAL's scheduled maintenance works since April 2025.
- > WIAL has provided WCC, GWRC and DOC with early project briefings and invitations to visit the site with WIAL and the Project Engineers (which have been taken up). WIAL has also provided copies of the draft technical assessments,⁴²⁶ management plans and conditions to WCC, GWRC and DoC for their comment and review (including as relevant to the wildlife permits, the draft Terrestrial Ecology and Kororā Assessments and the LMP and KPMP).
- > WIAL has reviewed and considered the feedback received from WCC, GWRC and DOC on the draft technical assessments and management plans and has updated the technical assessments, management plans and/or conditions as appropriate. Where their feedback has not been adopted, WIAL has provided rationale for this position in its subsequent correspondence with the relevant authority. Where feedback has been received late in the pre-lodgement phase (i.e. the week before lodgement), WIAL has signalled a willingness to consider this feedback and continue discussions following lodgement of the substantive application.

⁴²⁴ Schedule 7, Clause 2(1)(m) of the Act.

⁴²⁵ Schedule 7, Clause 2(1)(n) of the Act.

⁴²⁶ It is noted that both the Terrestrial Ecology Assessment and the Kororā Assessment both contain a specific "Wildlife Permit" chapter which expressly addresses the requirements of a wildlife permit. That information has been relied and built upon within this section.



Provide any additional written expert views, advice, or opinions the applicant has obtained concerning their proposal:⁴²⁷

WIAL has commissioned several expert reports to assess the effects of the Project and to set out measures to manage the effects on wildlife, including the Kororā Ornithology (2025) Kororā Assessment and Biosearches (2025a) Terrestrial Assessment (both of which are included in **Part B** of the application documents).

12.2 PURPOSE OF THE WILDLIFE ACT

Clause 5(b) of Schedule 7 of the FTAA requires the Panel to take into account the purpose of the Wildlife Act 1953 and the effects of the project on the protected wildlife that is to be covered by the approval.

The Wildlife Act does not contain a standalone purpose section. The long title states:

An Act to consolidate and amend the law relating to the protection and control of wild animals and birds, the regulation of game shooting seasons, and the constitution and powers of acclimatisation societies.

The Court of Appeal and Supreme Court have confirmed that the Wildlife Act has a protective purpose (although protection of wildlife is not the sole purpose of the Act).⁴²⁸

What types of activity fall within the 'protective purpose' of the Act for the purposes of section 53 will be fact and circumstance dependent.⁴²⁹ Protection is a part of the Wildlife Act's overarching purpose of regulating human interactions with wildlife. That protective purpose is not absolute; it requires consistency with protection at a species level, not solely at an individual animal level. Recent legislative amendments have clarified that a section 53 authority may, in certain circumstances, be granted for killing of wildlife that is incidental to carrying out an otherwise lawful activity. Those circumstances are where the overall effect of the authority would be consistent with the protection of populations of wildlife and individual wildlife. The focus is on protecting individual wildlife and the viability of populations of wildlife as far as practicable.⁴³⁰

As has been explained in earlier sections of this report, the Project has a functional and operational need to locate in this area, and as a result, will impact on the habitats of wildlife. Provided the resource consent and wildlife approval conditions put forward by WIAL are

⁴²⁷ Schedule 7, Clause 2(1)(o) of the Act.

⁴²⁸ *PauaMAC5 Inc v Director-General of Conservation* [2018] NZCA 348, [2019] 2 NZLR 1 at [42]–[43], [47], [52] and [58]; and *Shark Experience Ltd v PauaMAC5 Inc* [2019] NZSC 111, [2019] 1 NZLR 791 at [44] and [66].

⁴²⁹ *PauaMAC5 Inc v Director-General of Conservation* [2018] NZCA 348, [2019] 2 NZLR 1 at [52]–[53].

⁴³⁰ Wildlife Act, ss 53A–53C.



implemented, and activities are undertaken in accordance with the draft LMP and KPMP, the Project is unlikely to affect the viability of the population of protected wildlife.

Measures, including the relocation of wildlife to suitable habitat, are proposed to maintain population numbers and to avoid and minimise disturbance to wildlife during key seasons, such as breeding and moulting.

It is anticipated that, following the completion of works, lizards will recolonise the Moa Point Yard area, which is proposed to be rehabilitated with coastal indigenous planting.

With regard to kororā, existing kororā nest sites will increasingly be lost in future due to sea level rise and increased intensity of storms associated with climate change. The two new colonies will be the largest kororā areas on the Wellington city coastline that are fenced, not exposed to sea level rise, and provide high quality kororā nesting habitats. In coming decades, the two colonies could become the most significant safe kororā breeding areas on the Wellington city coastline.

The activities sought to be covered by the wildlife approvals are therefore consistent with the 'protective purpose' of the Wildlife Act, although individual acts of incidental harm or killing (if they were to occur) may not be consistent with, or occurring for the purpose of, protection. The management plans and conditions proposed will ensure the careful regulation of human interaction with the species protected under the Wildlife Act.

As discussed in Section 12.1 above, human interaction with wildlife will be carefully managed via resource consent and wildlife approval conditions, and a LMP and KPMP.

12.3 DECISION-MAKING CONSIDERATIONS FOR WILDLIFE PERMITS

Section 81 of the Act, and Clause 5 of Schedule 7, set out the matters for consideration by the panel in respect of a wildlife approval. These matters are summarised below:

- > A panel must, for each approval sought in a substantive application, decide whether to grant the approval (and set conditions) or decline the approval;⁴³¹
- > The panel must consider the substantive application, and any advice, report comment or other information received by the panel,⁴³² including advice from administering agencies, local authorities, iwi authorities, treaty settlement entities, DOC and HNZPT;

⁴³¹ Section 81 (1) of the Act.

⁴³² Section 81 (2) of the Act.



- > A panel may only decline the approval in accordance with section 85 of the Act, which set out where panels must decline approvals (not applicable in the case of this Project) and where panels may decline an approval – if the panel forms the view that:
- > There are 1 or more adverse impacts in relation to the approval sought; and⁴³³
- > Those adverse impacts are sufficiently significant to be out of proportion to the project’s regional or national benefits that the panel has considered, even after taking into account:⁴³⁴
 - > any conditions that the panel may set in relation to those adverse impacts; and⁴³⁵
 - > any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.⁴³⁶
- > A panel may not form the view that an adverse impact of a project is sufficiently significant to be out of proportion to the regional or national benefits solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider;
- > In its decision, the Panel must take into account, the following matters of relevance to the wildlife approval sought as part of the Project (giving greatest weight to the purpose of the Act);⁴³⁷
 - > The purpose of this Act; and
 - > The purpose of the Wildlife Act and the effects of the project on the protected wildlife that is to be covered by the approval; and
 - > Information and requirements relating to the protected wildlife that is to be covered by the approval (including, as the case may be, in the New Zealand Threat Classification System or any relevant international conservation agreement).

In respect to these matters:

- > Sections 1 and 7.2 of this report addresses how the Project demonstrably achieves the purpose of the Act;

⁴³³ Section 85 (3)(a) of the Act.

⁴³⁴ Section 85 (3)(b) of the Act.

⁴³⁵ Section 85 (3)(b)(i) of the Act.

⁴³⁶ Section 85 (3)(b)(ii) of the Act.

⁴³⁷ Clause 5, Schedule 7 of the Act.



- > The purpose of the Wildlife Act is addressed earlier in this report, in Section 12.2, and the effects of the Project on protected wildlife is addressed in Section 7 and the Kororā Ornithology (2025) Kororā Assessment and Bioresearches (2025a) Terrestrial Ecology Assessment (included in **Part B** of the application documents); and
- > The information and requirements relating to protected wildlife are addressed in Section 12.1 above, with reference to other sections of this report and the Kororā Ornithology (2025) Kororā Assessment and Bioresearches (2025a) Terrestrial Ecology Assessment (included in **Part B** of the application documents), and the associated management plans (included in **Part G** of the application documents).

12.4 SUMMARY

In summary, the information provided in the preceding sections satisfies the information requirements for approvals required under the Wildlife Act, in accordance with Schedule 7 (Clause 2) of the Act.

