

17 July 2026

Fast-track Approvals Act wildlife approval report

Section 51(2)(c) wildlife approval report for – FTAA 2603-1181
Mt Welcome, Pukerua Bay



Department of
Conservation
Te Papa Atawhai

**Te Kāwanatanga
o Aotearoa**
New Zealand Government

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1. Introduction

- 1.1. On 1 April 2026 Pukerua Property Group Limited Partnership lodged a substantive application with the Environmental Protection Authority (EPA) for Mt Welcome, Pukerua Bay, Porirua (the Project). On 2 July 2026 EPA determined that the application was complete and complied with section 46(2) of the Fast-track Approvals Act 2024 (FTAA/the Act).
- 1.2. Pukerua Property Group Limited Partnership has applied for capture, handling, relocation and incidental killing of native lizard species.
- 1.3. On 12 May 2026, in accordance with section 51(2)(c) of the Act, the Panel Convener directed the EPA to obtain a report prepared by the Director-General of Conservation in accordance with clause 3 of Schedule 7. This report is due on 17 July 2026.
- 1.4. The Project is to, in stages, develop 949 residential allotments, a commercial centre and associated infrastructure. This includes a water reservoir, wastewater storage facilities, roading and improved pedestrian and cycle trails to Pukerua Bay Village.

2. Purpose of the report

- 2.1. This report provides commentary to support the Panel's assessment of the application for a Wildlife Approval. The content of this report has been informed by DOC's technical experts and from information from Treaty partners where available.
- 2.2. In accordance with clause 3 of Schedule 7, this report must address the following matters:
 - 2.2.1. *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.*
 - 2.2.2. *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).*
 - 2.2.3. *Any conditions that should be imposed to manage the effects of the activity on protected wildlife.*
 - 2.2.4. *Any conditions that should be imposed to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.*
- 2.3. The Panel Convener has also requested a report pursuant to s 51(1) of the Act advising how the weighting of matters set out in Schedule 7, clause 3 of the Act should be approached, having regard to relevant senior court decisions (attached to this report at **Appendix C**).

3. Overview of DOC's report

- 3.1.** The Project will impact certain absolutely protected lizards present at the location.
- 3.2.** The Applicant proposes a lizard management programme, which is contained in a Lizard Management Plan (LMP). This includes salvage and relocation aimed at minimising and mitigating adverse effects on the lizards. Accordingly, the Applicant requests lawful authority to catch alive and liberate certain lizards.
- 3.3.** Lawful authority to incidentally kill lizards (notwithstanding best efforts to prevent mortality) is also sought.
- 3.4.** While it is acknowledged that there are other considerations for the Panel to balance, following discussions with the applicant, DOC raises the following residual matters that should be addressed to better align the proposal with the purpose of the Wildlife Act 1953:
- 3.4.1. The principal ecological conclusions remain unsupported. The affected terrestrial habitat is likely to be more than 3 ha rather than 3,484 m² as identified in the application documents. Copper skink should be assigned Very High value at the regional scale. Because the project removes almost all habitat associated with the only known population within the development site, the pre-mitigation magnitude is Very High and the resulting level of effect is Very High under the EIANZ framework.
- 3.4.2. The current management package does not demonstrate that this effect will be reduced to Low or that the project will produce a positive long-term outcome for copper skink. The species has not been demonstrated to occur at, or be absent from, the proposed terrestrial release sites; carrying capacity is unknown; the release-site configuration is fragmented; monitoring may not be triggered for copper skink; and domestic-cat and rat risks are not controlled for the life of the development. The application also has not demonstrated that avoidance has been reconsidered using the revised ecological information.
- 3.4.3. It is DOC's opinion that a revised effects assessment, definitive habitat mapping, a consolidated species-specific LMP and strengthened avoidance, receiving-site, predator-control, monitoring and contingency provisions are required before there can be confidence that the proposed Wildlife Act approval will appropriately protect and manage the affected lizards is required. Salvage and relocation may form part of that response but should not be treated as a substitute for avoidance of Very High effects or as evidence that the affected copper skink population will persist.
- 3.4.4. The applicant has provided three draft conditions for the Wildlife Approval, which can be found together with DOC's proposed conditions in Appendix B.
- 3.4.5. DOC is of the opinion that with the proposed lizard management, the Project will result in a residual significant effect on lizards. The National Policy Statement for Indigenous Biodiversity

requires that if the Project goes ahead then this significant residual adverse effect must be offset. DOC is not aware of the applicant providing for this offset in the Project description, mitigation package or resource consent conditions. DOC recommends that the Panel request further information on this matter from the applicant.

4. Sources

4.1. This report draws on information from the substantive application and provided by the applicant post-lodgement, in particular:

4.1.1. Mt Welcome Substantive Application Part 2 – Wildlife Approval.

4.1.2. BlueGreen Ecology: Ecological Assessment (2025) submitted as Appendix 15 of the substantive application.

4.1.3. Lizard Management Plan, Blueprint Ecology 2025, submitted as Appendix 16 of the substantive application.

4.1.4. Blueprint Ecology 2025: Wildlife Approval Assessment submitted as Appendix 17 of the substantive application.

4.1.5. Blueprint Ecology Memo: Mt Welcome Lizard Survey Results dated 5 May 2026.

4.1.6. Wildlands Ecological Review and Blue Green Response submitted as Appendix J of Updated document bundle provided to DOC on 2 July 2026.

4.1.7. Blueprint Ecology Memo: Assessment of Effects on Lizards dated 8 July 2026.

4.1.8. The assessment in this report is informed by advice from lizard expert Christopher Wedding, whose expertise is detailed in Expert Comments on Wildlife Approvals in **Appendix A**.

5. Context and background

5.1. Project Overview

5.1.1. The Mt Welcome project at 422 State Highway 59, Pukerua Bay, Porirua, involves construction of a staged residential subdivision. The project will create 949 residential allotments, a commercial centre, and associated infrastructure. This includes wastewater infrastructure and storage facilities, stormwater and water reticulation, roading, pedestrian and cycling trails, landscaping, earthworks, and a new intersection with State Highway 59.

5.1.2. Earthworks are required to establish finished surface levels for building platforms, roads, parks, and drainage. These works, together with vegetation clearance, have the potential to affect lizard habitat and may disturb, injure, or kill lizards present on the site.

5.1.3. A lizard survey recorded lizards and lizard sign indicating that permanent, self-sustaining lizard populations are present on the project site, and clearance associated with the proposed roundabout will affect about 1,400 m² of vegetation within a Significant Natural Area (SNA027) where high-value lizard species are also found.

5.2. Summary of wildlife approval sought

5.2.1. Wildlife approval is sought to authorise the capture, handling, temporary holding, and relocation of lizards that may be affected by vegetation clearance, earthworks, and associated construction works for the Mt Welcome development.

5.2.2. Wildlife approval is also sought to authorise the incidental killing of wildlife unable to be salvaged prior to works occurring.

5.3. Lizard presence and habitat

5.3.1. A pre-development lizard survey was undertaken to assess habitat quality and inform management of potential effects from the proposed works. The survey identified 20 areas of lizard habitat within the site, with a total area of approximately 0.83 ha. This includes 19 areas assessed as low-value habitat, totalling 0.65 ha, including rough pasture, vegetation margins, ornamental gardens and woody debris. However, this classification appears inconsistent with the LMP, which states that copper skink habitat would be considered of moderate value. The approximately 0.19 ha area of seral broadleaved forest in SNA027 expected to be cleared was assessed as moderate-value habitat.

5.3.2. A lizard survey of representative habitats was undertaken between 1 and 3 April 2026 using 110 artificial cover objects (ACOs). The survey recorded 14 northern grass skinks and four copper skinks using the ACOs. The number of lizards and lizard sign recorded to date indicates that permanent, self-sustaining lizard populations are present at the site. The moderate-value habitat within SNA027 was not surveyed due to safety considerations.

5.3.3. The species which might be present on the site are set out in Table 1, although the LMP notes it is most likely only northern grass skink and copper skink will be encountered

5.4. Table 1. Lizard species referenced in the LMP

Common Names	Species	Conservation Status
Northern grass skink	<i>Oligosoma polychroma</i>	Not Threatened
Copper skink	<i>Oligosoma aeneum</i>	At Risk – Declining
Ngāhere gecko	<i>Mokopirirakau</i> "southern North Island"	At Risk – Declining

Common Names	Species	Conservation Status
Barking gecko	<i>Naultinus punctatus</i>	At Risk – Declining
Ornate skink	<i>Oligosoma ornatum</i>	Threatened – Regionally Vulnerable
Glossy brown skink	<i>Oligosoma zelandicum</i>	At Risk – Declining
Raukawa gecko	<i>Woodworthia maculata</i>	Not threatened

5.5. Effects

5.5.1. The proposed works are expected to affect lizards through construction-related activities, particularly the vegetation clearance and earthworks stages which will likely result in disturbance, injury or mortality of resident lizards. The works will also result in the loss or modification of occupied lizard habitat within the project footprint.

5.5.2. Operational effects may also occur following completion of the project. In particular, the development of approximately 950 new dwellings may increase domestic cat numbers in the surrounding area, resulting in a potential long-term increase in predation pressure on forest-dwelling lizards.

5.6. Lizard management (pre-works vegetation management, salvage)

5.6.1. A Lizard Management Plan (LMP) has been prepared to manage effects on lizards before and during vegetation clearance, focusing on the 20 identified habitat areas.

5.6.2. Lizard salvage will use a combination of artificial cover objects, pitfall traps, spotlighting and supervised tree felling. Artificial cover objects will be installed in suitable habitat and left to bed in for at least five weeks before salvage. They will then be checked at least three times in suitable weather, with capture effort guided by catch rates or until at least two consecutive checks record no lizards.

5.6.3. Pitfall traps will be used to support the artificial cover object checks. These will be baited and designed to reduce stress on captured animals, with daily checks over at least three days. If mice are caught, pitfall trapping will stop immediately.

5.6.4. Where vegetation clearance is proposed in the seral forest, spotlight searches will be undertaken for arboreal geckos. Searches will occur on calm, mild nights and will be carried out by a suitably qualified herpetologist. If geckos are found, safe capture will be attempted. If capture is not possible, the tree will be marked and felled or limbed under herpetologist supervision, with branches and foliage searched. Tree felling in the seral forest will be carried

out by chainsaw under the supervision of a herpetologist, with larger trees, cavities and canopy habitat systematically checked.

5.7. Northern grass skinks release sites

5.7.1. Northern grass skinks are proposed to be released within the Mt Welcome Project area. The Mt Welcome project seeks to protect and enhance a 6,700 m² of grassland across five areas for northern grass skink and copper skink.

5.7.2. Five release sites within the Mt Welcome Project area (R1–R5) will be used for northern grass skink. These sites include north-facing pasture that will be retired from grazing, allowed to grow long, and enhanced with native planting to provide long-term lizard habitat. Each site will include at least two 5 × 5 m log stacks, made from mixed log sizes, to provide immediate shelter and refuge.

5.7.3. Additional log stacks surrounded by predator control will be provided on a sliding scale, with one extra log stack for every 10 lizards captured. Captured skinks will be spread evenly across the five release sites, with any numbers above 90 individuals allocated evenly to sites R1 and R5.

Release site	Size	Animals to be released	Enhancements required if lizards released
R1	2,330 m ²	First 20 captured	2x log stacks 6x predator control devices, 20% of area planted.
R2	300 m ²	Next 10 captured	1x log stack 4x predator control devices, 20% of area planted.
R3	1,155 m ²	Next 20 captured	2x log stacks 6x predator control devices, 20% of area planted.
R4	800 m ²	Next 10 captured	1x log stack 6x predator control devices, 20% of area planted.
R5	2,110 m ²	Next 20 captured	2x log stacks 6x predator control devices, 20% of area planted.

5.7.4. Predator control will be undertaken for over two years, and revegetated areas will be managed for 2 years.

5.8. Forest-dwelling species release sites

- 5.8.1. Forest-dwelling species, including barking gecko, ngāhere gecko, raukawa gecko, copper skink, ornate skink and glossy brown skink, will be released at Karehana Bay Scenic Reserve.
- 5.8.2. The reserve is about 17 ha and contains coastal valleys and hill country with remnants of tawa and kohekohe forest, emergent podocarps and pukatea, and kānuka–mānuka scrub. It is owned by Porirua City Council, provides high-quality habitat for forest-dwelling lizards and benefits from established predator control led by Pest Free Plimmerton and Greater Wellington Regional Council. Pre-release surveys recorded ngāhere gecko and no terrestrial skinks.
- 5.8.3. Ngāhere and raukawa geckos will be placed in artificial arboreal refugia on suitable trees, barking geckos will be released into kānuka foliage, and any skink species will be released into forest log stacks. The Applicant will undertake 1,880 m² of native forest planting around the adjacent QEII forest.
- 5.8.4. Pest Free Plimmerton have six DOC 200's (type of trap for rats, stoats and hedgehogs) at approximately 50 m spacings within and surrounding the proposed released site in the Karehana Reserve. The volunteers aim to check the trap lines at least once monthly and all traps are regularly checked and maintained.
- 5.8.5. The threshold for additional pest control is the detection of a single lizard species. Pukerua Property Group Limited Partnership will provide \$2,000 to Pest Free Plimmerton to support predator control and/or lizard habitat improvements. Pest control will include at least 15 rodent traps arranged in a 20 x 20 grid around the release area.

5.9. Pest control for feral cats

- 5.9.1. The application proposes a consent condition requiring all domestic cats within the development to be desexed and microchipped. This would help reduce the risk of stray or feral cat populations becoming established, support the identification of roaming cats, and minimise potential effects from increased predation by domestic cats.
- 5.9.2. The application also proposes a Pest Animal Control Plan targeting feral animals and domestic animals that stray into the QEII area. Cats, whether feral or domestic, would be captured using live cage traps. Feral cats would be managed as pest animals, while domestic cats would be released and their owners provided with educational material encouraging them to keep their cats out of the forest. This programme should be implemented for at least 10 years.

5.10. Monitoring and reporting

- 5.10.1. Post-release monitoring will only be required if more than 20 individuals of any one species are salvaged. Where this threshold is met, monitoring will be undertaken for three years after release. Monitoring will assess whether released lizards are still present at the release sites and whether the habitat enhancement and pest control measures are supporting lizard values.

5.10.2. Monitoring results will be reported after each monitoring round. Reports should include the number and species of lizards salvaged and released, release locations, habitat enhancement completed, predator control undertaken, monitoring methods, results, and any recommendations for further management. Reporting will also confirm whether any contingency measures are needed.

5.11. Contingency measures

- 5.11.1. Contingency measures will be scaled to the level of effect and the number of lizards salvaged. For northern grass skink release sites, additional log stacks and associated predator control will be installed if higher numbers of lizards are captured. This provides more refuge and reduces predation risk where release numbers are higher.
- 5.11.2. For forest lizards released at Karehana Bay Scenic Reserve, release methods will match each species' habitat use. If any lizards are released at the reserve, additional pest control will be triggered. This will include at least 15 rodent traps set in a grid around the release areas and integrated into the long-term Pest Free Plimmerton predator control programme.
- 5.11.3. If monitoring shows poor lizard detection, habitat damage, or increased pest pressure, the project herpetologist should review the results and recommend further actions. These may include increasing predator control, adding refuges, improving planting or ground cover, or adjusting monitoring effort.

6. Matters considered in relation to the criteria for a wildlife approval

6.1. Statutory context

- 6.1.1. Schedule 7 clause 1 defines "wildlife approval" as meaning a lawful authority for an act or omission that would otherwise be an offence under any sections 58(1), 63(1), 63A, 64, 65(1)(f), 70G(1), 70P, 70T(2) of the Wildlife Act 1953.
- 6.1.2. The incidental killing of wildlife, without lawful authority, is an offence under s 63 and s70G(1) of the Wildlife Act.
- 6.1.3. Relevantly, s 63 of the Wildlife Act provides that no person may "hunt or kill" (applying the extended definitions of those terms) protected wildlife without lawful authority, and that doing so is a strict liability offence. The defence provided in s 68AB will apply to accidental killing (killing that is not foreseeable, nor intended) where a person has taken all reasonable steps to avoid the killing of wildlife.
- 6.1.4. Section 65(1)(f) and s 70P Wildlife Act provide that it is an offence to do anything for which an authority is required under the Wildlife Act or any regulations under that Act, without that authority.
- 6.1.5. Section 56 Wildlife Act establishes that no person may liberate; or capture or attempt to capture or have in their possession for the purpose of liberating, wildlife without the prior written authority of the D-G.

6.1.6. The activities of capturing and killing protected wildlife can be considered for approval under the FTAA. A wildlife approval granted under the Act is treated as if it were granted under the Wildlife Act (Schedule 7, clause 7(1)).

6.2. Purpose of the Wildlife Act

6.2.1. The relevant purpose of the Wildlife Act is to protect wildlife.

6.2.2. Where removal of lizard habitat is undertaken, lizard salvage will protect, to some extent, lizards that would otherwise be harmed by works (e.g. vegetation clearance) associated with the Project. However, salvage comes with risks. Salvage only protects those animals that are captured. Despite best practice methods, it is unlikely all affected animals will be captured. For those that are captured, successful establishment and survival at the release site is not guaranteed.

6.2.3. In assessing the application against the purpose of the Wildlife Act, it is relevant to consider protection at both the individual level (e.g. minimising impacts, safe capture and handling) and population level (e.g. taking into account benefits offered by habitat enhancement etc).

6.2.4. DOC has developed key principles for lizard salvage and transfer in New Zealand, which are relevant to consider when assessing whether a lizard salvage proposal will adequately protect lizards. The key principles, discussed in this report, include:

- Principle 1: Lizard species' values and site significance must be assessed at both the impact (development) and receiving sites.
- Principle 2: Actual and potential development-related effects and their significance must be assessed.
- Principle 3: Alternatives to moving lizards must be considered.
- Principle 4: Threatened lizard species require more careful consideration than less-threatened species.
- Principle 5: Lizard salvage, transfer and release must use the best available methodology.
- Principle 6: Receiving sites and their carrying capacities must be suitable in the long term.
- Principle 7: Monitoring is required to evaluate the salvage operation.
- Principle 8: Reporting is required to communicate outcomes of salvage operations and facilitate process improvements.
- Principle 9: Contingency actions are required when lizard salvage and transfer activities fail.

6.2.5. This report must address the actions which the application wishes to carry out as per Section 2 clause (b) of Schedule 7 of the FTAA. These activities are set out as per paragraphs 5.4-5.5 and associated recommended conditions are provided in Appendix B

6.3. The Lizard Management Plan

- 6.3.1. Wildlife Act approvals for wildlife salvage typically include approval of a species management plan as part of the process. That is, an applicant provides a species management plan with their application, detailing proposed actions. The detail in the species management plan informs the assessment against the purpose of the Wildlife Act and, if the application is approved, the Wildlife Act authorisation is conditional on compliance with the approved plan.
- 6.3.2. The LMP sets out actions that are intended to protect lizard populations inhabiting the site via salvage, habitat enhancement and predator control, proposing that the compensation measures will achieve a no-net-loss in lizard values and an overall protective benefit to lizards.
- 6.3.3. DOC considers that the applicant's proposed LMP may reduce direct mortality to individuals but does not demonstrate that the effects on the affected population and its habitat will be avoided, adequately minimised, or offset to an acceptable ecological outcome. The LMP predates confirmation of copper skink and subsequently is based on underestimated habitat extent, low expected captures, and the assumption that no threatened species is affected.
- 6.3.4. The LMP does not demonstrate compliance with DOC's nine principles for lizard salvage and transfer.
- 6.3.5. The LMP does not demonstrate that alternatives to moving lizards have been assessed. It relies on the applicant's advice that avoidance has been maximised, without independently considering options to retain confirmed copper skink habitat after the 2026 survey.
- 6.3.6. The LMP includes some contingencies, but they do not adequately address key risks such as release-site failure, declining detections, unmet pest-control targets, greater habitat extent, or excess copper skink captures. Predetermined alternate release sites and clear decision thresholds are needed.

6.4. Species Values

- 6.4.1. The LMP sets out how the confirmed northern grass skink and copper skink populations will be managed and identifies Ngāhere gecko in the SNA and at Karehana Scenic Reserve, therefore those sites could be considered to have suitable habitat. The LMP does not provide sufficient evidence that Karehana Scenic reserve is a suitable site for barking gecko, ornate skink, glossy brown skink, or Raukawa gecko, therefore those species should not be listed in a wildlife approval.
- 6.4.2. Copper skink is nationally classified as At Risk – Declining and is classified as Threatened – Regionally Vulnerable on the Wellington mainland. On this basis, copper skink should be treated as having Very High ecological value for this assessment. The confirmed presence of copper skink is significant because the project may remove a substantial part of the habitat associated with the only known copper skink population within the development site.

6.5. Habitat Values

6.5.1. DOC considers the habitat assessment undertaken to be inadequate and likely to underestimate the extent and value of lizard habitat. The assessment wrongly treats small, mapped areas where lizards were detected, or where survey effort was focused, as the full extent of habitat. This approach is too narrow because the detections occur within larger, connected vegetation fragments that likely provide suitable habitat, particularly for copper skink.

6.5.2. The habitat assessment does not provide a reliable basis for assessing habitat loss, effects on copper skink, release-site requirements, or the adequacy of proposed mitigation. DOC recommends definitive habitat mapping and a revised assessment before effects on protected lizards can be properly evaluated.

6.6. Best practice methods

6.6.1. The proposed lizard management methods are generally consistent with accepted lizard salvage and transfer practice. However, the proposed level of survey and salvage effort may not be enough to provide confidence that most lizards will be captured before works begin.

6.6.2. In particular, three checks and two consecutive suitable days without captures are unlikely to provide a robust completion criterion where detection probability is unknown. Spotlighting should be undertaken over at least three suitable nights, and supervised clearance should continue for as long as needed to match the scale and timing of the works. The Lizard Management Plan should be updated to include clear species-specific methods, completion criteria and contingency actions.

6.7. Competencies

6.7.1. The project herpetologist is considered suitably experienced to prepare and implement the lizard management work.

6.8. Suitability of the release sites

6.8.1. There are concerns about the suitability of the proposed release sites. The five proposed on-site terrestrial release sites are small and appear to be patchily distributed. Some release areas are isolated from each other, which may limit dispersal, recolonisation and long-term population resilience. The proposal appears to replace a larger connected occupied habitat with several smaller and more fragmented receiving areas.

6.8.2. The receiving sites have not been surveyed to establish the presence and relative abundance of northern grass skink or copper skink, and their carrying capacity has not been quantified. The information provided does not demonstrate that those sites contain the ground cover, litter, woody debris, refuge availability, microclimate or connectivity needed to support copper skink. The effects of rats also remain insufficiently assessed.

6.8.3. There is also uncertainty about whether copper skink would be released into Karehana Bay Scenic Reserve or into enhanced on-site grassland areas. This inconsistency should be resolved in an updated Lizard Management Plan.

6.9. Habitat enhancement at release sites

6.9.1. The proposed habitat enhancement is not yet supported by enough site-specific detail. The Lizard Management Plan refers to planting, refugia, log stacks, stock exclusion, predator control and ground-cover improvement. However, the basis for providing about one log stack for every ten relocated lizards is not clear, and the proposed planting of about 20 percent of the terrestrial release areas has not been justified against measurable lizard habitat requirements.

6.9.2. Release sites should be designed to provide suitable refuge density, continuous ground cover, leaf litter, woody debris, basking areas, shrub cover and connectivity. Several receiving sites are currently grazed pasture and are unlikely to provide equivalent lizard habitat immediately after stock exclusion.

6.9.3. Release sites should be fully functional before salvage starts, and the project herpetologist should certify that agreed habitat-condition criteria have been met before any lizards are released.

6.10. Long-term protection of release sites

6.10.1. Long-term protection of release sites is a key issue. The project will introduce about 950 dwellings, which will create ongoing predation pressure from domestic cats and likely increased numbers of commensal rats. The proposed cat-management measures, including desexing, microchipping, education, and live capture and return to owners, may reduce some risks but will not prevent owned cats from entering lizard habitat and killing lizards.

6.10.2. The proposed cat-management programme is also limited to the QEII-protected forest and buffer, rather than applying to all retained lizard habitat and release areas.

6.10.3. A minimum 10-year term for predator control is unlikely to be sufficient because the residential land use and associated predator pressure will be permanent.

6.10.4. Stronger long-term measures should be considered, including physical barriers or fencing around sensitive habitats, lot-specific fencing, cat curfews or restrictions on cat ownership, education, signage, and enforceable ongoing management arrangements.

6.10.5. Rodent control is also not adequately addressed for the long term. The plan provides for time-limited rodent control at release sites but does not set long-term predator-control targets or performance standards. This is a concern because urban development is likely to increase rat numbers along the urban-natural habitat edge.

6.10.6. Ongoing pest management should be secured for the life of the development, with clear responsibilities, performance measures and reporting requirements. A residents' association or

similar management body could be used to maintain restoration planting, pest control, cat-management measures and compliance obligations.

6.11. Monitoring and reporting

- 6.11.1. Monitoring is currently triggered only if more than 20 individuals of a species are salvaged. This threshold is not appropriate for copper skink, as a regionally threatened population could be relocated without any post-release monitoring if fewer than 20 animals are captured. Monitoring should be required for all relocated copper skinks, regardless of the number salvaged.
- 6.11.2. The proposed three-year monitoring period is also unlikely to be sufficient to confirm population establishment. Monitoring should include clear performance measures, such as survival, occupancy, recruitment, habitat condition and predator-control outcomes, with adaptive management triggers if results are not achieved.
- 6.11.3. Reporting to DOC is appropriate in principle but should be expanded. Reports should include salvage results, release locations, numbers and species released, habitat enhancement completed, pest-control outcomes, monitoring results and any adaptive management actions taken.
- 6.11.4. Reporting should occur annually for the full monitoring period and should apply regardless of the number of lizards captured. Any changes to methods, release-site management or contingency actions should be recorded and provided to DOC.

6.12. Term

- 6.12.1. The applicant appears to have sought a 15-year term to reflect the proposed construction programme, with civil works stages intended to run consecutively throughout the year until completion, over an estimated period of 15 years.
- 6.12.2. DOC generally recommends a maximum Wildlife Authority term of 10 years because it provides a reasonable period for the staged works to proceed, while retaining an important review point before any further wildlife handling, salvage or relocation occurs beyond that period. This is appropriate given the uncertainty about survey effectiveness, salvage success, release-site protection and long-term predator management. A 10-year limit allows DOC to reassess the activity against actual monitoring results, updated site conditions and current best practice before any further authority is granted.

6.13. Incidental killing and overall wildlife protection

- 6.13.1. The LMP identifies mortality as a potential effect of vegetation clearance activities associated with the Project and proposes actions to minimise death or injury. DOC takes the view that while the proposed mitigations are likely to reduce the risk of incidental killing or injury to individual lizards, the LMP does not yet demonstrate that the affected copper skink population, or its habitat, will be adequately protected.

6.13.2. Salvage and relocation should not be treated as a substitute for avoiding very high effects where avoidance is practicable. The project may remove almost all habitat associated with the only known copper skink population within the development site. The information provided does not yet demonstrate that the receiving sites can support the relocated lizards, that habitat enhancement will offset or compensate for the habitat lost, or that predator risks will be managed for the life of the development.

6.14. Conditions to manage effects on protected wildlife

6.14.1. The applicant has suggested the following three conditions for the wildlife approval.

- Prior to vegetation clearance and earthworks commencing within the site, lizard salvage and relocation shall be undertaken by the project herpetologist in accordance with the Lizard Management Plan.
- Prior to vegetation clearance and earthworks commencing, the project herpetologist will have a toolbox meeting with contractors to describe the process outlined in the Lizard Management Plan if any lizards are accidentally encountered during construction.
- If any lizards are accidentally encountered during vegetation clearance and earthworks, works will cease immediately, and the project herpetologist will undertake the necessary lizard salvage and relocation in accordance with the Lizard Management Plan.

6.14.2. DOC has recommended a set of conditions aligned with best practice. Recommended conditions are in Appendix B.

7. Consultation

7.1. Pre-lodgement

7.1.1. The Applicant requested pre-lodgement engagement with the DOC on 20 August 2025.

7.1.2. Pre-lodgement consultation meetings took place on 9 September 2025 and 3 October 2025.

At that time, DOC staff set about establishing the key considerations of the Project, undertaking an assessment to establish what approvals the Applicant was seeking and pulling together a project team. DOC made a request for a copy of draft documents including the Assessment of Environmental Effects to help better understand the context of the Application and DOC's input into future processes. The applicant provided copies of draft documents on 25 October 2025.

7.1.3. In summary, DOC advised by a Summary of Consultation provided to the applicant on 3 November 2025, that:

- No survey effort of impacted habitats (including adjacent habitats, where high values species and populations may be present), or proposed release sites was provided. Although the Wildlife Approval Application did refer to an existing survey as being a site visit on 24 September 2025 to determine habitat quality and determine the likelihood of the presence or

absence of all potential lizard species. We understood this to be a site visit and not a formal survey of impacted habitats or proposed release sites, which is what is required.

- There was no assessment of the project on potential lizard values in adjacent environments (e.g. domestic cats from 949 new lots).
- There was no strong rationale for the numbers of lizards expected to be impacted at the impact or receptor sites.
- There was no consideration for triggers for unexpectedly high values as a result of the proposed management. i.e. to provide a greater scale of management e.g. longer term pest control (two years as proposed is very short), mouse control, or a larger area for lizard release: commensurate to a greater number of lizards or higher value lizards, should they be found.
- The Lizard Management Plan did not appear to address change in habitat value over this 15 year time scale of the stages.

7.2. Post-lodgement

7.2.1. A Lizard survey was provided on 26 May 2026, which DOC confirmed was satisfactory. The results of the lizard survey, however, were not consistent with the assumptions that the assessment of effects or Lizard Management Plan were based and DOC therefore suggested that the assessment of effects and LMP be updated to reflect the new information. A meeting with the applicant and DOC's respective lizard experts took place where these matters were discussed.

7.2.2. On 8 July the applicant provided a memo with additional detail on predator management with regard to forest lizards.

7.2.3. The May and July 2026 memoranda greatly improve the information available to DOC and the Panel.

8. Additional information

8.1. International Conservation Agreements

8.1.1. The table below outlines the international agreements that are relevant to the approval being sought.

Table 3: International conservation agreements

Relevant Agreement	Signatory date
United Nations Convention on Biological Diversity	1992
International Union for Conservation of Nature (IUCN) – Membership and Contributions for Nature Platform	New Zealand became a member in 1948

8.2. The United National Convention on Biological Diversity (CBD)

8.2.1. The United Nations Convention on Biological Diversity (CBD) is an international agreement that promotes the development of global targets, national strategies and action plans by countries for the protection, restoration and sustainable use of biodiversity.

8.2.2. As a party to the CBD, New Zealand is required to have a national biodiversity strategy and action plan. Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 sets out New Zealand's contribution to reversing the loss of biodiversity worldwide.

8.2.3. Key objectives of the strategy that are relevant to this application include:

- *Biodiversity protection is at the heart of economic activity.*
- *Natural resources are managed sustainably.*
- *Management ensures that biological threats and pressures are reduced through management.*
- *Ecosystems and species are protected, restored, resilient, and connected from mountain tops to ocean depths.*

8.2.4. The application from the Pukerua Property Group Limited Partnership seeks to develop modified land and proposes lizard salvage, relocation and habitat enhancement to mitigate effects on resident indigenous lizard populations. DOC acknowledges these measures may reduce injury or death to individual lizards during works. However, DOC considers the proposed methodology is not yet sufficient to ensure ongoing protection of affected lizard populations, particularly copper skink.

8.2.5. The Lizard Management Plan is based on an underestimated habitat footprint, unconfirmed release-site suitability and carrying capacity, and time-limited predator control, monitoring and site management. Further information and strengthened conditions are needed to provide confidence that lizard habitat and populations will be protected in the long term.

8.3. International Union for Conservation of Nature (IUCN)

8.3.1. The IUCN is a globally recognised conservation body and New Zealand's membership reflects its commitment to biodiversity and ecosystem protection. While the IUCN is not a treaty-level agreement, New Zealand's contributions to the IUCN's Contributions for Nature platform and its alignment with global biodiversity targets (e.g. the Kunming-Montreal Global Biodiversity Framework) reflect a strong public commitment to species recovery and habitat protection.

Table 4. IUCN Red List status of species named in application.

Common name	Scientific name	IUCN Red List status
Northern grass skink	<i>Oligosoma polychroma</i>	Least Concern (stable)
Copper skink	<i>Oligosoma aeneum</i>	Least Concern (stable)
Ngahere gecko	<i>Mokopirirakau</i> "southern North Island"	Not listed
Barking gecko (Wellington Green gecko)	<i>Naultinus punctatus</i>	Vulnerable (decreasing)
Raukawa gecko	<i>Woodworthia maculata</i>	Least Concern (stable)
Ornate skink	<i>Oligosoma ornatum</i>	Least Concern (decreasing)
Glossy brown skink	<i>Oligosoma zelandicum</i>	Least Concern (decreasing)

8.4. Consistency with statutory planning documents and policy

8.4.1. The following statutory planning documents and associated policies are relevant to the consideration of the wildlife approval sought for this Project.

8.5. Conservation General Policy 2005

8.5.1. The Conservation General Policy (CGP) provides guidance for the administration and management of lands and waters and natural and historic resources managed under conservation legislation including the Wildlife Act.

8.5.2. The CGP does not contain policies specific to the proposed wildlife activities. However, the following provisions are relevant:

8.5.3.11.1(a) Any application for a concession or other authorisation will comply with, or be consistent with, the objectives of the relevant Act, the statutory purposes for which the place is held, and any conservation management strategy or plan.

8.5.4.11.1(c) The Department and all concession and other authorisation holders should monitor the effects of authorised activities on natural resources, historical and cultural heritage, and the benefit and enjoyment of the public, including public access, to inform future management decisions.

8.5.5. The application is not inconsistent with these provisions, although the trigger for monitoring should be reduced based on the regionally threatened status of copper skink and monitoring duration should be extended.

8.6. Wellington Conservation Management Strategy 2019

8.6.1. The Wellington Conservation Management Strategy (CMS) describes the conservation values present in the Wellington Region and provides guidance for the Department's work through a vision, objectives, outcomes for Places, policies and milestones.

8.6.2. The application does not appear to directly conflict with the objectives, outcomes, or policies of the CMS or the regional general policies in Part One, section 4.1. However, the CMS provides relevant regional context. It supports the protection and restoration of indigenous biodiversity, the improvement of ecological corridors and connections for species, and the maintenance and restoration of natural values across the Wellington region.

8.6.3. DOC considers the application has some inconsistencies with the direction of the CMS. This is largely because the LMP does not yet demonstrate how effects on protected lizards, particularly the regionally threatened copper skink, will be adequately avoided, minimised, remedied, offset or compensated.

8.6.4. DOC has identified unresolved issues with habitat mapping, species valuation, receiving-site suitability, carrying capacity, long-term predator control, monitoring and contingency measures. These gaps mean there is not yet confidence that the activity will provide long-term protection for affected indigenous lizard populations.

8.6.5. The Mt Welcome Project is within the Wellington-Kāpiti Place addressed in Part Two, section 10 of the CMS. Policy 10.3.2.2 refers to identifying and advocating for management at sites, both on and off public conservation lands and waters, where ecological corridors and connections for species could be created.

8.6.6. Although the activity is on private land, the Wellington CMS supports the use of sound information for decision-making. It recognises that research, monitoring and increased knowledge will result in changes to management approaches. For the Wellington-Kāpiti Place, section 10.3.2 also recognises that research and data assist the management and monitoring of threatened and endangered species and habitats.

8.6.7. The Wellington CMS has a long-term conservation focus, including future protection of natural heritage, progressive restoration, and a 10-year-plus planning framework. The proposed cat and rodent control, monitoring and release-site management are time-limited and may not

address the permanent effects of residential development, including ongoing predator pressure and habitat fragmentation.

8.7. Commentary on information required for a wildlife approval

- 8.7.1. The Wellington Conservation Management Strategy (CMS) describes the conservation values present in the Wellington Region and provides guidance for the Department's work through a vision, objectives, outcomes for Places, policies and milestones.
- 8.7.2. The application does not appear to directly conflict with the objectives, outcomes, or policies of the CMS or the regional general policies in Part One, section 4.1. However, the CMS provides relevant regional context. It supports the protection and restoration of indigenous biodiversity, the improvement of ecological corridors and connections for species, and the maintenance and restoration of natural values across the Wellington region.
- 8.7.3. DOC considers the application has some inconsistencies with the direction of the CMS. This is largely because the LMP does not yet demonstrate how effects on protected lizards, particularly the regionally threatened copper skink, will be adequately avoided, minimised, remedied, offset or compensated.
- 8.7.4. DOC has identified unresolved issues with habitat mapping, species valuation, receiving-site suitability, carrying capacity, long-term predator control, monitoring and contingency measures. These gaps mean there is not yet confidence that the activity will provide long-term protection for affected indigenous lizard populations.
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8.8. Commentary on information required for a wildlife approval

- 8.8.1. DOC raised the concern that the substantive application lacked a formal lizard survey of impacted habitats and release sites in its feedback on completeness dated 13 April 2026.

8.8.2. This issue was partially addressed through the submission of a memo provided to DOC on 5 May 2026, which reported on a lizard survey undertaken by Blueprint Ecology on 1-3 April 2026. This survey found multiple species beyond the areas previously assumed to support lizards, supporting DOCs concern that the extent of habitat is likely underestimated.

8.8.3. DOC also recommended the following information be incorporated into the substantive application:

- Management triggers for unexpectedly high lizard values encountered during implementation of lizard management should be included in the Lizard Management Plan. This could include measures such as additional planting, extended pest control, and ongoing monitoring of management outcomes.
- Information on animal ethics approvals and requirements should be provided to support the proposed lizard management measures.
- Further information should be supplied to support the assessment of indirect effects, including the potential impacts of increased housing density on adjacent lizard habitat values.
- The application states that the proposal will result in an increase in protected lizard habitat of higher ecological value. Additional information should be provided to substantiate this claim, such as survey data quantifying habitat gains or an effects assessment demonstrating the anticipated improvement in habitat values.

8.8.4. Further information on the indirect effects including the potential impacts of increased housing density on adjacent lizard habitat values was provided via an assessment of effects on lizards memo submitted to DOC on 8 July 2026. This assessment recommends that operational cat management measures (a desexing/microchipping consent condition and development of a Pest Animal Control Plan) be adopted alongside the LMP to address the chronic operational predation effect on forest lizards.

9. Treaty of Waitangi settlement considerations and obligations

9.1. Treaty of Waitangi settlement obligations

9.1.1. Under section 7 of the Act the Panel must act in a manner that is consistent with obligations arising under existing Treaty Settlements.

9.1.2. Ministry for the Environment (MFE) provided a report which sets out the section 18 matters it considered relevant to the application. DOC was not consulted by MFE on this report.

9.1.3. DOC has read the report and agrees that the Treaty settlement relevant to this Project are the Ngāti Toa Settlement Act 2014 as the project is situated within Ngāti Toa's Area of Interest as outlined in the Deed of Settlement.

9.2. Treaty of Waitangi principles

9.2.1. DOC's work in preparing this report has been carried out in a manner that, as far as possible, gives effect to the principles of the Treaty of Waitangi (arising from the obligation on DOC from section 4 of the Conservation Act). The principles most applicable to DOC's role are:

- Partnership – mutual good faith and reasonableness.
- Informed decision-making - Both the Crown and Māori need to be well informed of the other's interests and views. Consultation is a means to achieve informed decision-making.
- Active protection - requires informed decision-making and judgement as to what is reasonable in the circumstances.
- Redress – requires recognition of existing rights and interests.

9.2.2. For this application, this has included:

- DOC engagement with Treaty partners on the application. We note this has occurred within the context of the fast-track process with prescribed timeframes, and where the applicant has an obligation to consult and Treaty partners have a right to be invited to comment. The scope of engagement also recognised DOC's role to provide reports and comments on the application, and not in its usual role as decision-maker.
- identifying for the Panel any relevant information from Protocols or relationship agreements prepared in accordance with Settlements (e.g. taonga species);
- ensuring that the information in this report is fully informed by any information from Treaty partners and the impact the activity would have on their interests.

9.2.3. DOC has not received any information from Treaty partners on this application although Ngāti Toa Rangatira have asked to be kept informed of any significant issues arising from the approval process.

10. Conditions

10.1. Should the Panel receive sufficient information and be inclined to grant this Wildlife Approval, the conditions would be required. The conditions proffered by the applicant are listed in Appendix B. DOC has proffered additional conditions in Appendix B for the Panel's consideration.

11. Appendices

Appendix A: Expert Comments on Wildlife Approvals

Appendix B: Draft Conditions

Appendix C: Weighting of relevant matters to be taken into account

Appendix A: Expert Comments on Wildlife Approvals

Appendix B: Draft Conditions

Applicant's Proposed Conditions

1. Prior to vegetation clearance and earthworks commencing within the site, lizard salvage and relocation shall be undertaken by the project herpetologist in accordance with the Lizard Management Plan.
2. Prior to vegetation clearance and earthworks commencing, the project herpetologist will have a toolbox meeting with contractors to describe the process outlined in the Lizard Management Plan if any lizards are accidentally encountered during construction.
3. If any lizards are accidentally encountered during vegetation clearance and earthworks, works will cease immediately, and the project herpetologist will undertake the necessary lizard salvage and relocation in accordance with the Lizard Management Plan.

DOC Proposed Conditions

Lizard Management Plan

1. Prior to the commencement of any vegetation clearance, earthworks, or other activities authorised by this Wildlife Authority within areas identified as potential lizard habitat, the Authority Holder must submit an updated Lizard Management Plan (LMP) to the Director-General for certification.
2. The updated LMP must:
 - a. Describe how it achieves the following objectives:
 - i. avoid the mortality of indigenous lizards and minimise other adverse effects on indigenous lizards within the Project Area,
 - ii. maintain or enhance the population of each species of native lizard present within the Project Area,
 - iii. ensure the availability of suitable release site(s) for the relocation of lizards that will support viable populations for all lizard species to be relocated; and have any necessary habitat enhancement work undertaken in accordance with the LMP prior to any release of lizards.
 - b. Include species-specific survey, detection, capture, handling, relocation and monitoring methodologies for all lizard species reasonably expected to occur within the Project Area.
 - c. Confirm whether copper skinks (*Oligosoma aeneum*) will be relocated to Karehana Bay Scenic Reserve or to enhanced on-site grassland habitat and provide evidence that the proposed receptor site(s) are suitable and secure for long-term occupancy.
 - d. Specify completion criteria for salvage operations that are appropriate to the species present, the extent of habitat affected, and the level of confidence required that lizards have been detected and removed prior to works commencing.

- e. Require pre-clearance spotlight surveys to be undertaken over a minimum of three suitable survey nights by a suitably qualified and experienced herpetologist.
 - f. Require supervised vegetation clearance and salvage activities to continue for as long as necessary, having regard to the scale, staging and timing of works, to maximise the likelihood of detecting and salvaging lizards present within affected habitat.
 - g. Require a post vegetation clearance search by the Project herpetologist for all areas subject to lizard management.
 - h. Include contingency measures to be implemented where lizards continue to be detected during salvage operations, where completion criteria have not been met, or where previously unidentified lizard habitat or species are encountered.
 - i. Include adaptive management measures that allow survey and salvage effort to be increased where monitoring results indicate the approved effort is insufficient to achieve the objectives of the LMP.
 - j. Identify any residual effects and specify how they will be offset on a like-for-like basis at a minimum ratio of 2:1 but informed by a quantitative loss / gain calculation that considers biodiversity type, population / abundance measures, habitat area and condition. If an appropriate offset cannot be secured, the activity giving rise to the residual effect must be avoided.
3. No works may commence within lizard habitat until the approved survey, salvage and clearance requirements have been completed in accordance with the approved LMP and the completion criteria specified in the LMP have been achieved.

Pest Control Plan

- 4. Before any lizard salvage, vegetation clearance, earthworks or habitat enhancement works begin, the Authority Holder must prepare and submit a Pest Control Plan to the Department of Conservation for certification. The Pest Control Plan must be prepared by a suitably qualified and experienced ecologist or herpetologist.
- 5. The purpose of the Pest Control Plan is to manage pest animal risks to protected indigenous lizards, including copper skink and northern grass skink, in all retained habitat, release sites, restored habitat, the QEII-protected forest and any buffer areas.
- 6. The Pest Control Plan must address, as a minimum:
 - a. domestic cats;
 - b. rats;
 - c. mice;
 - d. mustelids;
 - e. hedgehogs; and
 - f. any other pest animal identified as a risk to indigenous lizards.

7. The Pest Control Plan must include:
 - a. a map of all pest-control areas (including the Karehana Scenic Reserve release site and the project release site);
 - b. pest-control methods;
 - c. timing and frequency of pest control;
 - d. pest-monitoring methods;
 - e. measurable pest-control performance targets;
 - f. actions required if targets are not met;
 - g. responsibilities for implementation, funding and reporting; and
 - h. procedures for review and adaptive management.
8. Rodent control must account for the likely increase in urban-associated rats arising from residential development.
9. Pest control must be designed to support the long-term survival, recruitment and persistence of resident and relocated lizard populations, not only to reduce immediate post-release predation risk.
10. Pest control must begin at each lizard release site and retained habitat area at least 3 months before any lizards are released into that site, unless a shorter period is certified in writing by the Department of Conservation.
11. Lizards must not be released at any site until the project herpetologist confirms in writing that pest-control measures are operating and pest-control targets have been met.
12. If pest-control targets have not been met, lizard release must be delayed until the targets are achieved.
13. Cat control measures must include:
 - a. live cage trapping methods for cats;
 - b. procedures for identifying feral and domestic cats;
 - c. procedures for scanning cats for microchips;
 - d. procedures for managing feral cats as pest animals;
 - e. procedures for returning domestic cats to identified owners;
 - f. education material for owners of captured domestic cats;
 - g. animal welfare and health and safety procedures.
 - h. actions if required targets for cats (domestic and feral) are not met.
14. All captured cats must be scanned for a microchip as soon as practicable. Domestic cats must be returned to their owners, where the owner can be identified, and the owner must be given information

encouraging them to keep their cat out of the QEII area. Feral cats must be managed as pest animals in accordance with the certified Pest Animal Control Plan and all relevant animal welfare requirements. Cats with no identified owner after reasonable enquiries must either be rehomed through an appropriate animal welfare organisation.

Long-term Pest and Cat Management

15. The Authority Holder must seek a Resource Consent requirement that all domestic cats within the development be desexed and microchipped.
16. The Authority Holder must provide all residents with information about:
 - a. the wildlife values of the QEII and lizard management areas;
 - b. the risk domestic cats pose to indigenous wildlife;
 - c. the requirement for cats to be desexed and microchipped; and
 - d. the need to keep cats out of the QEII and lizard management areas.
 - e. opportunities to minimise wandering cats.
17. Before the first residential allotment is occupied, the Authority Holder must establish a long-term management body, such as a residents' association, incorporated society, management company or similar entity, to implement, fund and maintain pest control within the development. The management body must be responsible for domestic cat management, rodent control, control of mustelids, hedgehogs and other pest animals, pest monitoring, maintenance of pest-control infrastructure, enforcement of resident obligations, and reporting to the Department of Conservation.
18. Before any pest-control responsibility is transferred to the management body, the Authority Holder must provide the Department of Conservation with evidence that the body has enforceable rules, secure funding and clear responsibility for these pest-control functions.

Appendix C: Weighting of relevant matters to be taken into account

Introduction

1. This report responds to the Panel Convener's Minute dated 15 May 2026, directing the EPA to *"obtain advise from the DoC, HNZPT, and MHC on how the weighting of matters set out in the relevant scheduled should be approached, having regard to applicable provisions and relevant senior court decisions (s51(1))"*.
2. The Minute refers to the matters set out in Schedule 7, clause 3 of the FTAA (wildlife approval) which the FTAA directs must be addressed by the Director-General's s 51(2) reports.¹

Weighting generally

3. Generally, the weighting to be accorded to relevant considerations by a statutory decision maker is for that decision maker to determine,² however where a statute directs the weight to be given to a matter, that direction must be given effect to³.
4. The senior courts have recognised that apparently disproportionate, inadequate or undue weight attached to a relevant factor can lead to judicial consideration of whether the weighting applied was within the limits of reason, and hence, whether the ultimate decision was unreasonable in an administrative law sense. A court may set aside an administrative decision which has failed to give adequate weight to a relevant factor of great importance, or which has given excessive weight to a relevant factor of no great importance.⁴
5. Accordingly, mandatory relevant considerations must be given genuine consideration and weighting by statutory decision makers.

Weighting under the Fast-track Approvals Act 2024

6. The Schedules to the FTAA list mandatory considerations that decision-making Panels must take into account, when determining applications for the various approvals that can be granted under the Act.⁵
8. The only directive regarding weighting contained in the FTAA, is that the "greatest weight" is to be given to the purpose of the FTAA.⁶

¹ The schedule clauses referenced in the Minutes exclude consideration of the purpose of the FTAA from the ambit of the request. However, in order to respond to the Panel Convener's request in relation to consideration of weighting, it is necessary to refer to the purpose of the FTAA given the statutory directive that this consideration be given "the greatest weight" relative to other mandatory considerations (i.e. relative to the matters that must be addressed by the Director General's s 51 reports). This advice has therefore been prepared on that basis.

² See, for example *Huakina Development Trust v Waikato Valley Authority* [1987] 2 NZLR (HC) 188 at 223: The weight to be given to the evidence in the balancing exercise ... is a matter for the primary tribunal and the Planning Tribunal on appeal.

³ *Quarantine Waste (New Zealand) Ltd v Waste Resources Ltd* [1994] NZRMA 529 (HC) at 540: "Unless the statute otherwise directs, the weight to be given to particular relevant matters is one for the consent authority, not the Court, to determine."

⁴ See, for example *Thames Valley Electric Power Board v NZFP Pulp and Paper Ltd* [1994] LGHNZ 17 (CA).

⁵ See Schedule 7, clause 5 (wildlife approval)

⁶ This directive occurs multiple times in the FTAA, including at Schedule 7, clause 5 (wildlife approval).

9. While described in the FTAA as “criteria”,⁷ the mandatory matters to be taken into account can be described as “factors”, in the sense that they are matters to be assessed on the basis of their qualities, rather than quantities. They establish the foundation for assessment rather than the outcome of it.⁸ Accordingly, the criteria, or factors, are not tick-boxes to be crossed off a list but are matters that must be qualitatively assessed.
10. The FTAA does not direct how much relative weight should be given to, or between, relevant matters other than the purpose of the FTAA. Nor does the FTAA specify how much greater weight should be accorded to its purpose relative to other mandatory considerations. It may be the case that some of the factors listed in the relevant clauses may be found to have no relevance. Consequently, that factor will have no weight accorded to it in the balancing exercise.
11. While the purpose of the FTAA is to be given the greatest weight, the purpose of the FTAA does not automatically outweigh all other considerations. By listing other considerations besides the purpose of the FTAA, it is implicit that weight be attached to them, and that they should receive genuine consideration where relevant.⁹
12. Accordingly, while the greatest weight is to be accorded to the purpose of the FTAA, it does not follow that when qualitatively assessed, the regional or national benefits of a project must necessarily outweigh other considerations, in combination or in isolation, such as the adverse environmental effects of a project. The extent of regional or national benefits will vary between projects. Also, adverse effects will vary between projects in nature and severity. Each factor must be qualitatively assessed and those assessments weighed. Where they pull in different directions, they must be weighed against each other.
13. The issue of legislatively directed weighting was considered by the Court of Appeal in *Enterprise Miramar Peninsula Inc v Wellington City Council*,¹⁰ when considering the application of s 34 the Housing Accords and Special Housing Areas Act 2013 (HASHAA). Section 34 provides:

34 Consideration of applications

(1) An authorised agency, when considering an application for a resource consent under this Act and any submissions received on that application, must have regard to the following matters, giving weight to them (greater to lesser) in the order listed:

(a) the purpose of this Act:

(b) the matters in Part 2 of the Resource Management Act 1991:

(c) any relevant proposed plan:

⁷ This is the terminology used in the titles for each of the relevant clauses listed in fn 5.

⁸ *Western Bay of Plenty District Council v Bay of Plenty Regional Council* [2017] NZEnvC 147, at [117]-[118].

⁹ See also s 85(3)(b) of the FTAA which provides for the decline of a FTAA application if the adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the Panel has considered

¹⁰ *Enterprise Miramar Peninsula Inc v Wellington City Council* [2018] NZCA 541.

(d) *the other matters that would arise for consideration under—*

(i) *sections 104 to 104F of the Resource Management Act 1991, were the application being assessed under that Act:*

(ii) *any other relevant enactment (such as the Waitakere Ranges Heritage Area Act 2008):*

(e) *the key urban design qualities expressed in the Ministry for the Environment's New Zealand Urban Design Protocol (2005) and any subsequent editions of that document.*

14. The Court held that all the listed matters must first be individually assessed prior to the exercise of weighing them in accordance with the prescribed hierarchy (in that case, the listed matters in subsection (1)(b)–(e) could not properly be weighed alongside the purpose of HASHAA under subs (1)(a) if that purpose has first been used to effectively neutralise the matters listed in subs (1)(b)–(e)).¹¹

15. Applying that approach to the FTAA, the relevant matters should first be individually assessed, uninfluenced by the purpose of the FTAA, “before standing back and conducting an overall balancing” where the purpose of the FTAA is to be given greatest weight.¹² It would be an error of law to use the purpose of the FTAA to eliminate or reduce individual assessment of the other specified mandatory relevant considerations.¹³

¹¹ *Enterprise Miramar Peninsula Inc*, at [53].

¹² *Enterprise Miramar Peninsula Inc*, at [52]. Note that the FTAA does not take the same cascading hierarchy of “greater to lesser” weight, but only that the “greatest weight” be given to the purpose.

¹³ *Enterprise Miramar Peninsula Inc*, at [55]–[59].