

21 March 2025

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Dear Fast-track team

RYANS ROAD INDUSTRIAL DEVELOPMENT - SUBSTANTIVE APPLICATION UNDER THE FAST-TRACK APPROVALS ACT 2024

- 1 We act for Carter Group Limited (*Carter Group*).
- 2 Please find enclosed:
 - 2.1 A substantive application for the Ryans Road Industrial Development (*Application*) for approvals under sections 42(4)(a) and 42(4)(h) of the Fast-track Approvals Act 2024 (*Act/FTAA*);
 - 2.2 Checklist A (Resource consent, change to or cancellation of a resource consent);
 - 2.3 Checklist A1 (Subdivision or reclamation resource consent);
 - 2.4 Checklist E (Wildlife approval);
 - 2.5 Checklist J (Listed Project Information Requirements);
 - 2.6 An Assessment of Environmental Effects (*AEE*); and
 - 2.7 Appendices containing the reports referred to in the AEE.
- 3 The Ryans Road Industrial Development proposal is to subdivide and develop approximately 55.5 hectares of land at 104 Ryans Road and 20 Grays Road, Christchurch for industrial purposes (*Project*). The Project will facilitate the delivery of 126 freehold lots for industrial development.

Application requirements
- 4 The Application relates solely to a listed project in Schedule 2 of the Act. As the authorised person for the listed project, Carter Group is entitled to lodge a substantive application for the project under section 42 of the Act.¹
- 5 The Application is complete and within scope in terms section 46 because it:

¹ Fast-track Approvals Act 2024, s 42(1).



- 5.1 has been prepared in accordance with:
- (a) section 42; and
 - (b) sections 43 and 44;
- 5.2 relates solely to a listed project;
- 5.3 does not involve an ineligible activity; and
- 5.4 the relevant fees and levy in respect of the application will be paid once an invoice is received.²
- 6 An assessment of the Application against the requirements set out in section 43 is provided in **Attachment A** and **Attachment B** to this letter.
- 7 It is our position that the Application meets the threshold of completeness in accordance with sections 44 and 46 of the Act.
- Assessment an application under the Fast-track Approvals Act 2024**
- 8 The assessment of an application made under the Act must considered in light of the purpose of Act which is to "*facilitate the delivery of infrastructure and development projects with significant regional or national benefits*".³ Parliament has made it very clear that the Act was introduced to facilitate a more efficient and certain pathway for projects through establishing a streamlined decision-making process.
- 9 The "regional or national benefits" is the primary consideration a panel must consider in deciding whether to grant approval to a substantive application. Section 85(3) provides that a panel may only decline an approval if it forms the view that:
- (a) *There are 1 or more adverse impacts⁴ in relation to the approval sought; and*
 - (b) *those adverse impacts are **sufficiently significant** to be out of proportion to the project's regional or national benefits, even after taking into account-*
 - (i) *any conditions that the panel may set in relation to those adverse impacts; and*
 - (ii) *any conditions or modifications that the applicant may agree to or proposed to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.*

² In accordance with the advice received from Daya Thomson, Senior Advisor at Environmental Protection Agency (Fast-track) on 12 March 2025.

³ Fast-track Approvals Act 2024, s 3.

⁴ Defined by s 85(5) as meaning "*any matter considered by the panel in complying with s 81(2) that weighs against granting the approval.*"



- 10 The criteria for assessment of a resource consent application under the Fast-track Act is set out in Schedule 5, clause 17 of the Act. When considering an application for resource consent (including setting conditions in accordance with clauses 18 and 19) the panel must take into account:
- 10.1 the purpose of the Fast-track Act;
 - 10.2 Parts 2⁵, 3, 6 and 8 to 10 of the Resource Management Act 1991 (RMA) (excluding section 104D of that Act); and
 - 10.3 and any other legislation that directs decision making under the RMA.
- 11 In taking these matters into account, clause 17(1) specifies that the greatest weight is to be given purpose of the Act – *to facilitate the delivery of infrastructure and development projects with significant regional or national benefits*.
- 12 Significantly, that clause also states that s 104D of the RMA, which sets out the gateway test for the assessment of non-complying activities under the RMA, is not to be taken into account when determining a fast-track application. This means that when assessing a fast-track application for a non-complying activity it is not necessary to clear a jurisdictional hurdle of showing that the adverse effects of the activity on the environment 'will be minor' or that the activity will not be contrary to the objectives and policies of the relevant plan.
- 13 Therefore, in the context of this fast-track application for resource consent, the assessment will not depend on whether the effects are minor or consistency with relevant planning documents. Rather it will turn on whether those effects or impact are "sufficiently significant" to be out of proportion to the project's regional or national benefits. This is a very different framework for assessment than if the application had been made under the RMA.
- 14 Similarly, in terms of the framework for assessment for a wildlife approval, Schedule 7, clause 5 provide that when considering an application for wildlife approval (including conditions under clause 6), the panel must take into account:
- 14.1 the purpose of the Fast-track Act;
 - 14.2 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; and
 - 14.3 information and requirements relating to the protected wildlife that is to be covered by the approval.

⁵ Fast-track Approvals Act 2024, schedule 5, cl 17(2)(a) clarifies that Part 2 of the RMA must be read as a reference to sections 5, 6 and 7 of that Act. Section 8 of the RMA is therefore not a relevant consideration under the Fast-track Act.



- 15 In taking these matters into account clause 5 also specifies that the greatest weight is to be given purpose of the Fast-track Act, again highlighting that the purpose plays a crucial role in the assessment of applications under the Act.

Benefits of the Ryans Road Industrial Development

- 16 As detailed in the Application, the Ryans Road Industrial Development will deliver significant regional economic benefits including driving regional economic growth, creating employment opportunities and increasing commercial activity. The Project is expected to address shortfalls in industrial and logistics development capacity in the vicinity of Christchurch International Airport and Christchurch generally and is expected to:⁶

16.1 generate a one-off construction effect of \$574 million in GDP for the Christchurch economy, spread across multiple construction seasons; and

16.2 once fully occupied, the development will have a sustained operational impact, contributing \$330 million in GDP annually to the Christchurch and Canterbury economies. This ongoing economic activity will create and maintain employment opportunities across retail, commercial, and service sectors, supporting local businesses and strengthening regional economic resilience.

- 17 In addition to these significant regional benefits, the project is expected to generate positive national-level effects. The benefits are likely to be highly significant for industries that that operate nationally, and notable gains from the increased demand associated with the project is expected to be experienced by industries such as construction, logistics, and material supply.

No significant adverse impacts

- 18 For the purpose of s 85(3), there are no adverse impacts associated with the Project that cannot be appropriately avoided, remedied or mitigated.
- 19 Therefore, given that there are no significant adverse impacts the project easily answers the question of whether there are any adverse impacts which are sufficiently significant to be out of proportion to the benefits.

Proposed conditions

- 20 Conditions on an approval under the FTAA must only be imposed if they are proportionate (in terms of significance assessment) and where their benefits exceed their costs and section FTAA s 83 specifically restricts the imposition of conditions to being “no more onerous than necessary to address the reason for which it is set”.
- 21 During the readings of the Fast-track Approvals Bill, Parliament specifically discussed at length the issues with the RMA including the ability to impose “*overly punitive conditions*”⁷ that have rendered projects so uneconomic that they may never be

⁶ See Appendix 20 to the AEE (Economic Assessment, dated 11 March 2025).

⁷ (17 December 2024) 780 (Fast-track Approvals Bill – Third Reading, Hon Chris Bishop).



built.⁸ To address this issue the FTAA deliberately sets high threshold for when conditions can be set. As summarised by Hon Chris Bishop:⁹

the Government's view is that the status quo is unacceptable when it comes to speed, when it comes to condition setting, when it comes to environmental protections weighed against the economic interests. So we are disrupting that—we are quite explicit about that. We want more houses built more quickly, we want renewable energy built more quickly, we need more quarries, we need more mines, we need more infrastructure built. The status quo does not work; it fails New Zealand, and that is why we have fast track.

- 22 A set of proposed conditions has been provided as part of the Application (the *Proposed Conditions*). The conditions have been prepared with the assistance of expert consultants, take into account feedback received from Christchurch City Council and Canterbury Regional Council and are appropriate to address any adverse effects associated with the Ryans Road Industrial Development.

Completeness

- 23 Legal advice we gave to Novo Group on the 'completeness' of the Application is also provided as **Attachment C** to this letter. In summary, Parliament was clear in its chosen wording of section 44 to impose the same threshold for completeness under the FTAA as the RMA in terms of "*sufficient detail to satisfy the purpose for which it is required.*" i.e. the purpose for which it is required is for an applicant to make an application. Our advice is that applicants under the FTAA are not required to meet a threshold that imposes unrealistic information expectations, and such an approach would be contrary to the purpose for which the FTAA was implemented.

Conclusion

- 24 The Ryans Road Industrial Development will deliver significant economic benefits to the Canterbury region. The Project does not involve any adverse impacts that would meet the test of being 'sufficiently significant' to be considered out of proportion to those benefits. Therefore, taking into account the purpose of the Act as the primary consideration, there is no basis to decline the approvals sought in the Application.
- 25 While the test for conditions under the FTAA is different to the test under the RMA, the proposed condition set has been prepared in accordance with the RMA tests in mind to avoid, remedy or mitigate so at least meets, or more likely exceeds the requirements of the FTAA.
- 26 The Application is complete and within scope in terms section 46 of the Act.

⁸ See for example (10 December 2024) 780 (Fast-track Approvals Bill – In Committee, Hon Chris Bishop discussing renewable energy projects that have been consented but have ever been built).

⁹ (10 December 2024) 780 (Fast-track Approvals Bill – In Committee, Hon Chris Bishop).



27 We look forward to receiving the EPA's determination of completeness within the specified timeframe.¹⁰

Kind regards

Jo Appleyard

Partner

¹⁰ Fast-track Approvals Act 2024, s 46(1).



ATTACHMENT 1 – ASSESSMENT OF THE APPLICATION AGAINST SECTION 43 OF THE FAST-TRACK APPROVALS ACT 2024

- 1 The Substantive Application (*Application*) for the Ryans Road Industrial Development project (*Project*) complies with the requirements of s 43 of the Fast-track Approvals Act 2024 (FTAA). Specifically, the Application:
 - 1.1 is lodged in the form and manner approved by the Environmental Protection Authority (s 43(1)(a));
 - 1.2 explains why the Project is consistent with the purpose of the FTAA2024 to “*facilitate the delivery of infrastructure and development projects with significant regional or national benefits*”. The significant regional and national benefit of the Ryans Road Industrial Development project is detailed in **Appendix 20** to the AEE and is implicit in the government's decision to include the project as a listed project under Schedule 2 of the Act (s 43(1)(b)(i));
 - 1.3 does not involve any ineligible activities as defined in s 5 of the Act (s 43(1)(c));
 - 1.4 is not lodged by more than 1 authorised person (s 43(1)(d));
 - 1.5 is not subject to any information requirements specified by the Minister under s 27(3)(b)(ii) and complies with:
 - (a) the information requirements for an approval set out in clauses 5 to 8 of Schedule 5 (resource consent); and
 - (b) the information requirements for an approval set out in clause 3 if Schedule 7 (Wildlife approval);(s 43(1)(e));
 - 1.6 has not been subject to an application for determination under ss 23 or 23 (ss 43(1)(f) and 43(1)(g));
 - 1.7 does not relate to a priority project (s 43(1)(h));
 - 1.8 as a listed project, is not subject a deadline specified in a notice under s 38(3)(d) (s 43(1)(i));
 - 1.9 all fees, charges, or levies payable under regulations in respect of the application will be paid by the applicant (s 43(1)(j));¹¹ and

¹¹ In accordance with the advice received from Daya Thomson, Senior Advisor at Environmental Protection Agency (Fast-track) on 12 March 2025.



1.10 complies with the information required by s 43(2) (refer to **Attachment 2** to this letter).

2 The Application is therefore complete in terms of s 46 of the Act.



ATTACHMENT 2 – ASSESSMENT OF THE APPLICATION AGAINST THE RELEVANT SECTION 43(2) OF THE FAST-TRACK APPROVALS ACT

- 1 The Substantive Application (*Application*) for the Ryans Road Industrial Development project (*Project*) complies with s 43(2) of the Fast-track Approvals Act 2024 (*FTAA*) which states that if a substantive application is for a listed project, it must also contain the information required by section 13(4) (other than section 13(4)(b), (f)(ii) and (iii), and (g)), which applies—
 - (a) as if the reference in section 13(4)(k) to section 11 were a reference to section 29; and
 - (b) as if the reference in clause 2 of Schedule 11 to section 12(2) were a reference to section 29; and
 - (c) with any other necessary modifications.
- 2 The Application complies with s 43(2) because:
 - 2.1 it contains a description of the Project and the activities it involves (s 13(4)(a));
 - 2.2 it does not involve any ineligible activities as defined by s 5 (s 13(4)(c));
 - 2.3 it contains a description and maps of the whole project area that identifies the boundaries in sufficient detail to enable consideration of the Application (s 13(4)(d));
 - 2.4 it describes the anticipated commencement and completion dates for construction activities (s 13(4)(e));
 - 2.5 it outlines the nature and timing of proposed stages for development (s 13(4)(f)(i));
 - 2.6 it describes the anticipated and known adverse effects of the project on the environment (s 13(4)(h));
 - 2.7 it does not involve any activities involved in the project that are prohibited under the Resource Management Act 1991 (s 13(4)(i));
 - 2.8 it includes a list of the persons and groups the applicant likely considers affected by the project (s 13(4)(j));
 - 2.9 it includes a summary of the consultation undertaken for the purposes of s 29 and how the consultation has informed the Project (s 13(4)(k));
 - 2.10 there are no Treaty settlements that apply to the Project area (s 13(4)(l));



- 2.11 no processes have been undertaken under the Public Works Act 1981 in relation to the Project (s 13(4)(m));
- 2.12 the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is not relevant to the Application (s 13(4)(n));
- 2.13 it does not include parcels of Māori land, marae, and identified wāhi tapu within the project area (s 13(4)(o));
- 2.14 the applicant is not seeking a determination under s 23 of the FTAA (s 13(4)(p));
- 2.15 the applicant is not seeking a determination under s 24(2) of the FTAA (s 13(4)(q));
- 2.16 the applicant is not seeking a determination under s 24(4) of the FTAA (s 13(4)(r));
- 2.17 it contains a description of the applicant's legal interest in the land and contains a statement of how that affects the applicant's ability to undertake the work (s 13(4)(s));
- 2.18 no other consents, certificates, designations, and other legal authorisations (other than contractual authorisations or the proposed approvals) are needed to authorise the Project (including any that may be needed by someone other than the applicant) (s 13(4)(t));
- 2.19 no activities involved in the Project, or are substantially the same as those in the Project, have been the subject of an application or a decision under a specified Act (s 13(4)(u));
- 2.20 it contains a description of whether and how the projects will be affected by climate change and natural hazards (s 13(4)(v));
- 2.21 is not lodged by more than one authorised person (s 13(4)(w));
- 2.22 no compliance or enforcement actions have been taken against the applicant under a specified Act (s 13(4)(x)); and
- 2.23 it includes the information specified in cl 2 of Schedule 5 (resource consent information requirements) including assessment of the Project against:
 - (a) any relevant national policy statement; and
 - (b) any relevant national environmental standards.

The New Zealand Coastal Policy Statement is not relevant to the Application and Christchurch City Council and Canterbury Regional have both confirmed



that there are no existing resource consents of the kind referred to in section 30(3)(a) (s 13(4)(y)(i)).



ATTACHMENT 3 – LEGAL ADVICE ON COMPLETENESS UNDER SECTION 46

Memorandum

Date: 21 March 2025

To: Novo Group Limited

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ADVICE ON THE COMPLETENESS UNDER SECTION 46 OF THE FTAA

- 1 Novo Group Limited (*Novo Group*) is currently preparing an application for approval under the Fast-track Approvals Act 2024 (*FTAA*) (*Application*) on behalf of Carter Group Limited (*Carter Group*). The Application relates to the Ryans Road Industrial Development, which is a listed project in Schedule 2 of the FTAA.
- 2 We understand that the Environmental Protection Authority (*EPA*) has rejected a number of substantive applications under the FTAA via its assessment of completeness.
- 3 Novo Group have asked for our advice on the test for completeness under section 46 of the FTAA and whether the Application meets this threshold so that the Carter Group applicant reduces its risk of having its application rejected on the basis that it is not complete.

Executive summary

- 4 In summary, the Ryans Road Industrial Development Application for approvals under sections 42(4)(a) and 42(4)(h) meets the threshold of completeness in accordance with section 46 of the FTAA.
- 5 Any assessment of further reporting required to undertake a merits-based assessment of the Application is outside the EPA's scope of determination on completeness. Further information of this kind in terms of the Ryans Road Industrial Development can be provided to the panel under sections 51, 52, 53, 55, 58, 67, 69, 70 or 90 of the FTAA through the processing of the Application.
- 6 For the EPA to decide the Application is not complete would run counter to the provisions of the FTAA and the purpose for which the legislation was implemented, as substantiated in the most recent commentary provided by Minister Shane Jones.¹

¹ <https://businessdesk.co.nz/article/infrastructure/fast-track-early-birds-pass-first-hurdle-jones-warns-officials-against-hobbling-the-process>.



The FTAA and completeness under section 46

- 7 The FTAA commenced on 23 December 2024. The purpose of the Act is to facilitate the delivery of infrastructure and development projects with significant regional or national benefit.²
- 8 The FTAA was aimed at establishing a permanent fast-track regime that would make it easier and quicker to gain approvals for development and infrastructure projects that deliver regional and national benefits.³ Its provisions propose a system that combines the multiple resource consents, notices of requirements, and certificates of compliance and approvals which would have otherwise been required from the Resource Management Act 1991 (*RMA*) and several other Acts (including the Crown Minerals Act, Conservation Act, and the Fisheries Act).
- 9 Under section 46 of the FTAA, the EPA must, in consultation with the relevant administering agencies and relevant consent authorities, decide whether a substantive application is “complete and within scope” and complies with subsection 46(2) within 15 days after receiving it.
- 10 For a substantive application to comply with this subsection, it must comply with sections 42, 43, and 44. Information requirements for specified approvals are outlined in section 43 of the FTAA, with section 44 stating that:

“Information required by section 43 must be specified in sufficient detail to satisfy the purpose for which it is required.”

Section 88 of the Resource Management Act 1991

- 11 Section 44 of the FTAA mirrors clause 1 of Schedule 4 of the RMA in terms of information requirements for a resource consent application in alignment with section 88 of the RMA “Making an Application”. This means that case law decided under the RMA can guide us in preparing a complete application under the FTAA.
- 12 The Courts have commented on the content and substance requirements of section 88 of the RMA, and of note have stated:
 - 12.1 Applications need not necessarily be prepared with legal niceties; the substance and gist of the Application is what must count.⁴
 - 12.2 With a proposal of considerable scale and complexity, it is unavoidable that there will be tension between the applicant’s wish to avoid the cost of detailed design until it is known whether a resource consent will be granted, and the appellant’s wish to have full details so that any adverse effect on the environment can be identified and if possible quantified. The Court accepted the approach of determining a detailed framework or envelope of

² Fast-track Approvals Act 2024, s 3.

³ Ministry for the Environment (Fast-track Approvals Act); <https://environment.govt.nz/acts-and-regulations/acts/fast-track-approvals/>.

⁴ *Sutton v Moule* (1992) 2 NZRMA 41 (CA).



environmental standards and requirements followed by detailed final technical and engineering design once consent had been granted.⁵

- 12.3 The discretion to decide whether or not an application is complete is an administrative decision to be made in light of that particular application. It is not a merits-based consideration, which comes later in time and has no place in the section 88 consideration of completeness of the application.⁶ The High Court, referring to *New Zealand King Salmon Co Ltd v Marlborough District Council*,⁷ distinguished between the issue of completeness of an application for resource consent, which is determined under section 88 within 10 working days of the application being made, and the question of adequacy of information, which is relevant at the time of making the decision to refuse or grant the application.
- 13 Parliament was clear in its chosen wording of section 44 to impose the same threshold for completeness under the FTAA as the RMA in terms of "*sufficient detail to satisfy the purpose for which it is required.*" i.e. the purpose for which it is required is for an applicant to make an application. Applicants under the FTAA are not required to meet a threshold that imposes unrealistic information expectations, and such an approach would be contrary to the purpose for which the FTAA was implemented.
- 14 Completeness is often a lesser threshold than what is required when a decision maker later makes a merits-based assessment and has received more information which in this case will be what the Panel require when making a decision on approvals sought in a substantive application.⁸ An assessment of the **adequacy of information is outside the EPA's scope of determination on completeness** under section 46 of the FTAA. Where this is in question, the FTAA enables further information of this kind to be provided to the panel under sections 51, 52, 53, 55, 58, 67, 68, 69, 70, 72 or 90 of the FTAA through the processing of the Application.
- 15 Most importantly, where the applicant follows the often used mechanics of conditions which require subsequent actions to be taken in alignment with a detailed framework or envelope of environmental standards and requirements, this is also required to be considered in an assessment of information, i.e. a commonly used tool is for conditions to require the preparation of management plans for the purposes of providing information about the way in which the consent holder intends to comply with the more specific controls laid down by the conditions of consent.⁹

⁵ *Mahuta v Waikato* RC A091/98.

⁶ *Aspros v Wellington City Council* [2019] NZHC 1684 at [1]-[2], [18]-[33] and [52].

⁷ *New Zealand King Salmon Co Ltd v Marlborough District Council* [2018] NZHC 1357, (2018) 20 ELRNZ 722.

⁸ Fast track Approvals Act 2024, s 81.

⁹ *Wood v West Coast* RC [2000] NZRMA 193.



Ryans Road Industrial Development Substantive Application

- 16 For the Ryans Road Industrial Development, approvals are sought:
- 16.1 under section 42(4)(a) of the FTAA for resource consents that would have otherwise been applied for under the RMA; and
 - 16.2 under section 42(4)(h), a wildlife approval¹⁰ for an act or omission that would otherwise be an offence under any of sections 58(1), 63(1), 63A, 64, 65(1)(f), 70G(1), 70P and 70T(2) of the Wildlife Act 1953 (*Wildlife Act*).

Approvals relating to the Resource Management Act 1991

- 17 The information requirements for approvals described in section 42(4)(a) are outlined in clauses 5 to 8 of Schedule 5. These requirements are substantive and require an assessment of the effects in alignment with Schedule 4 of the RMA.
- 18 As the Application (inclusive of the Assessment of Environmental Effects (*AEE*) and its associated appendices) adheres to the information requirements outlined in clauses 5 to 8 of Schedule 5 and provides all the “*sufficient detail to satisfy the purpose for which it is required.*” As Novo Group has prepared the Application in a form that meets the threshold of complete in terms of section 88 of the RMA, it meets the threshold of complete in terms of section 46 of the FTAA.
- 19 We understand that the Application comprises a complete set of land use and subdivision consent conditions that address effects. Any issues surrounding the adequacy of information or deviation from standardised consent conditions or recommendations received through preliminary consultation are outside the EPA’s scope of determination on completeness.
- 20 The conditions submitted with the Application require management plans to be in place prior to the commencement of the works.¹¹ In practice, it is often also appropriate for conditions to require a management plan to be drafted later by a suitably qualified specialist in consultation with the relevant parties if specific circumstances arise. As stated by the Courts, a detailed final technical assessment and design can occur once consent has been granted.
- 21 For example, it is appropriate that the Ryans Road Industrial Development conditions of consent require that if birds are attracted to the stormwater basin - either when it is dry or after storm events - a management plan must be drafted by a suitably qualified avifauna ecologist with waterfowl experience, that guides how to discourage birds from using the basin. It is impractical to have Carter Group draft this management plan prior to the operation of the stormwater basin and prior to when bird usage monitoring can occur.

¹⁰ Defined under clause 1 of Schedule 7 of the Fast-track Approvals Act 2024 (*FTAA*).

¹¹ Fish Management Plan, Lizard Management Plan, Traffic Management Plan, Environmental Management Plan (inclusive of Construction Management Plan and Earthworks Management Plan), and Wildlife Hazard Management Plan.



Approvals relating to the Wildlife Act 1953

- 22 The information requirements for wildlife approvals are outlined in clause 2(1) of Schedule 7 of the FTAA.
- 23 Wildlife approvals granted under the FTAA would have otherwise been granted under section 53 of the Wildlife Act, which allows the Director-General to authorise taking or killing of wildlife for specific purposes. Any authority granted may contain such conditions as the Director-General may impose.
- 24 There are no specific statutory requirements for information to be included in an application under the Wildlife Act; however, we note that these are generally applied for through the Department of Conservation (DOC) as a Wildlife Act authority.
- 25 Although the Wildlife Act does not have a purpose, the Court in *Shark Experience Ltd v PauaMAC5 Inc*¹² determined that the Wildlife Act is the principle means by which wildlife in New Zealand, including many of its most endangered species, are protected. The Wildlife Act is the fall-back protection mechanism in cases not specifically provided for by other legislation.
- 26 The Application complies with clause 2(1) of Schedule 7 (addressed in Appendix 7 to the AEE), and conditions for the approval are proposed to manage any adverse effects that may arise. A Lizard Management Plan (*LMP*) has been prepared as part of the Application, even though no lizards have been identified on the Site, and outlines management intervention proposed to protect lizard populations inhabiting the site (if any).
- 27 Additionally, Carter Group is currently undertaking further baseline lizard surveys to be conducted at the Site. In terms of "*purpose for which it is required*", the further baseline surveys are not required in terms of the information requirements for completeness as the Application already meets the threshold under clause 2(1) of Schedule 7 of the FTAA, and where effects are in question these have been addressed through proffered conditions of the Applicant. The precautionary approach implemented by Carter Group in the Application aligns with the purpose of the Wildlife Act with any potential effects managed through the implementation of a robust LMP ensuring the protection of wildlife in New Zealand.

Jo Appleyard / Tallulah Parker

Partner / Senior Solicitor

¹² *Shark Experience Ltd v PauaMAC5 Inc* [2019] NZSC 111, [2019] 1 NZLR 791 at [45].