

23 March 2026

# Fast-track Approvals Act wildlife approval report

Section 51(2)(c) wildlife approval report for –  
FTAA-2510-1120 Lake Pūkaki Hydro Storage and Dam Resilience

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## 1.0 Introduction

- 1.1 On 5 November 2025, Meridian Energy Limited (the applicant / MEL) lodged a substantive application with the Environmental Protection Authority (EPA) for Lake Pūkaki Hydro Storage and Dam Resilience Works (the Project).
- 1.2 On 26 November 2025, the EPA determined that the application was complete and complied with section 46(2) of the Fast-track Approvals Act 2024 (FTAA / the Act).
- 1.3 The substantive application relates to taking additional water from Lake Pūkaki and installing rock armouring on the Pūkaki Dam.
- 1.4 As part of the application, Meridian Energy Limited is seeking a wildlife approval to manage the impacts of the Project on absolutely protected lizard species. The applicant requests lawful authority to kill certain protected lizards at the location that will be impacted by the Project. Compensation is proposed to address adverse effects.
- 1.5 The applicant has referred to the possibility of unspecified lizard relocation, although no evidence or clear methodology has been provided.

## 2.0 Purpose of the report

- 2.1 This report has been prepared by the Department of Conservation (DOC / the Department of Conservation) on behalf of the Director-General of Conservation. It 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 information from Treaty partners where available.
- 2.2 In accordance with clause 3 of Schedule 7, this report must address the following matters:
  - 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.
  - 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).
  - Any conditions that should be imposed to manage the effects of the activity on protected wildlife.
  - 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 the relevant schedules (Schedule 7, clause 3) of the Act should be approached, having regard to relevant senior court decisions (attached to this report at Appendix A).

## 3.0 Overview of DOC's report

- 3.1 The Project will inevitably involve the disturbance and killing of lizards which are absolutely protected under the Wildlife Act 1953. The applicant requests lawful authority to kill 3 species of skinks and 1 species of gecko by way of wildlife approval. The applicant's proposal relies heavily on financial compensation to address unmitigated effects of killing wildlife and to align with the purpose of the Wildlife Act. No avoidance, minimisation, remedial or offsetting measures are proposed.
- 3.2 The Applicant proposes to make a compensation payment to DOC, to be used for wilding pine management and lizard monitoring, which may benefit lizard habitat on public conservation land at a different site.
- 3.3 While it is acknowledged there are other considerations for the Panel to balance, DOC is concerned about the scale of impacts on protected wildlife over the term of the approval sought. The benefits of any wilding pine control that would be able to be achieved with the proposed sum is, on its own, unlikely to meaningfully address the scale of the impacts generated by the Project over the 35 years for which the approval is sought.
- 3.4 The 35-year term of the approval sought is a key concern for DOC for two reasons:
- The mismatch between the term and the duration of wilding pine control and monitoring that can be achieved with the compensation proposed; and
  - The potential for change in the conservation status of the impacted wildlife over the next 35 years.
- 3.5 The conservation status of lizards is reviewed approximately every five years and is captured using the New Zealand Threat Classification Series (NZTCS)<sup>1</sup>. The most recent 5-yearly review was published in 2025. Changes recorded in that publication demonstrate an ongoing trend in the decline of New Zealand lizard species, worsening threat status and ongoing loss of range, as well as increasing recognition of new taxa. These changes are primarily driven by pressures from introduced mammalian predators, ongoing habitat loss and climate related impacts. Over 35 years it is likely that there will be further significant changes as knowledge improves and the threat status for some species worsens in response to environmental pressures.
- 3.6 For the above reasons, should the Panel wish to grant the approval, DOC prefers a maximum 10-year term.
- 3.7 However, should the Panel decide to grant a 35-year term, DOC has proposed some changes to the applicant's suggested conditions that would allow for the approval (or lizard management plans to implement its conditions) to be reviewed and recertified by DOC every 5 years, to align with the 5-yearly reviews of the impacted species' threat classification.

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<sup>1</sup> [Conservation status of reptiles in Aotearoa New Zealand, 2025](#)

- 3.8 DOC has not proposed conditions for salvaging lizards as it is not clear how they could be effective in the context of the activities the applicant has sought approval for.
- 3.9 The applicant has rejected the possibility of salvaging lizards and has not included any necessary information within its Lizard Management Plan (LMP) which the panel could rely on to authorise salvage of lizards. While updates provided by the applicant in a memo dated 11 February indicate Mackenzie skink will be relocated if they are found in the rockpiles, no details are included, and it is not possible to conclude that such relocations would be successful. As the relocation activity and the methods (including receiving site preparation and suitability) are not described in the LMP it is unclear whether the proposed relocation would have any benefit.
- 3.10 In summary, the applicant has not sought wildlife approval to handle and relocate lizards and has provided insufficient information for DOC, or the Panel as decision-maker, to be satisfied that approval should be given for these activities, despite mentioning “relocation” as a possible activity they will undertake.
- 3.11 Overall, to achieve consistency with the purpose of the Wildlife Act and to adequately protect wildlife, DOC recommends that consideration be given to the following matters:
- The appropriateness of a compensation payment to DOC to address more than minor residual impacts without prior steps to avoid, minimise, remedy or offset impacts.
  - The appropriateness of a 35-year term, having regard to the duration of benefits from the compensation proposed and factoring in the potential for revisions of the species’ threat classifications.
  - Whether the information requirements in clause 2 of Schedule 7 have been sufficiently addressed in respect of the proposal to relocate Mackenzie skinks.

## 4.0 Sources

- 4.1 This report draws on information from the substantive application as amended and additional information the applicant has provided post-lodgement including:
- a. Ecological Impact Assessment dated October 2025
  - b. Draft Lizard Management Plan dated October 2025
  - c. Lizard Management Plan dated December 2025 (provided following lizard survey)
  - d. Post-lodgement Addendum dated 11 February 2026 (provided to DOC)
  - e. Wildlife Conditions provided by the applicant and dated 19 February 2026
- 4.2 All references in this report to the LMP are based on the updated Lizard Management Plan (dated December 2025) unless stated otherwise.

The assessment in this report is informed by expert advice from herpetologist, Mandy Tocher. Her assessment is provided in Appendix C.

## 5.0 Context and background

### Project overview

- 5.1 The Project is to undertake armouring works at the dam face of Lake Pūkaki with a view to improving the dam's resilience. The materials required for the armouring works are located in an area identified as lizard habitat. Surveys by the applicant confirm the presence of lizards in these areas. Total lizard habitat within the project footprint is approximately 7.3 ha and is identified in Appendix A of the LMP.

### Summary of wildlife approval sought

- The applicant seeks a wildlife approval for 35 years to kill protected lizards, incidentally, through works involving the removal of rock piles that are lizard habitat, so the rocks can be used for dam armouring.<sup>2</sup>
- 5.2 The applicant considers that salvaging lizards is impractical due to the scale, timing, and nature of the works, and as a result lizard salvage is not proposed (despite February updates from the applicant which mention potential relocation).<sup>3</sup> To compensate for impacts on lizards, the applicant proposes a payment to DOC to support ongoing lizard conservation work at a nearby site. The compensation proposal is set out in Table 1.

**Table 1: Proposed lizard compensation threshold table. Reproduced from LMP (Table 5.1).**

Pre-construction survey results	Proposed financial contribution (one-off payment)
No lizards recorded	<i>No financial contribution required</i>
Not Threatened species recorded	\$20,000
At Risk species recorded	\$30,000
Threatened species recorded**	\$40,000

**\*\*Note:** Threatened Mackenzie skink were detected within 50 metres of the north stockpile but not in the footprint itself.

- 5.3 As the applicant has now confirmed two species of lizard are present in the project footprint including species with a threat status of At Risk-Declining, it proposes a single payment of

<sup>2</sup> See Lizard Management Plan at page 4. Table 1.1

<sup>3</sup> See Lizard Management Plan at section 5.1

\$30,000. The applicant has also confirmed that a further two species, including Mackenzie skink, were detected within 50 metres of the site. Mackenzie skink have a threat status of Threatened – Nationally Vulnerable.

- 5.4 DOC cannot evaluate the effectiveness of the proposed compensation in order to assess the extent to which it is consistent with the purpose of the Wildlife Act, or the principles for biodiversity compensation in the National Policy Statement for Indigenous Biodiversity.<sup>[08]</sup> However, to maintain benefits to the lizard population at the proposed compensation site is likely to cost \$125,000 for the first year of removal of remaining live trees and dead tree material in the sites identified. In addition, follow up removal of regrowth would be required which is likely to cost between \$30,000 and \$40,000 annually, or at a minimum every two years.

Lizard presence

- 5.5 Lizard surveys were conducted between 27 and 31 October 2025. Two native species were detected across all footprint areas. These are listed below.

**Table 2: Species identified during lizard surveys**

Common name	Scientific Name	Threat Classification
McCann’s skink	<i>Oligosoma maccanni</i>	Not Threatened
Southern Alps gecko	<i>Woodworthia</i> "Southern Alps"	At Risk – Declining

- 5.6 The applicant advised that Southern grass skink (*Oligosoma polychroma* Clade 5; At Risk – Declining) and Mackenzie skink (*O. prasinum*; Threatened – Nationally Vulnerable) were recorded adjacent to the stockpiles.
- 5.7 DOC notes it is also possible that Lake’s skink (*O. aff. chloronoton* "West Otago"; Threatened – Nationally Vulnerable) may also be present nearby.

Effects

- 5.8 The applicant identified that potential impacts on lizards will occur in relation to access track construction across the rock slope and works at laydown areas and stockpiles drawn from for construction use within this footprint. The applicant identified that the impacts include disturbance, injury or mortality of lizards.

Lizard effects management<sup>4</sup>

<sup>4</sup> See Lake Pūkaki Fast Track Consent Substantive Application – Lizard Management Plan GHD Limited December 2025 at page 18, 5.2

- 5.9 This application principally seeks approval to kill specified protected wildlife, incidental to otherwise lawful activities. The applicant proposes addressing the impacts of its activities by way of financial compensation paid to DOC.<sup>5</sup>
- 5.10 The applicant has not proposed any avoidance, minimisation, remediation or offsetting measures. Specifically, no lizard salvage is planned. The applicant has proposed one measure - constructing a skink-proof fence around a certain stockpile to deter lizards from continuing to move into the rockpile - which may help to reduce the numbers of lizards re-colonising the area and being at risk of subsequent disturbance, injury or death.

## 6.0 Matters considered in relation to the criteria for a wildlife approval

### Statutory context

- 6.1 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.
- 6.2 Without a wildlife approval, the Project may otherwise give rise to an offence under 63(1)(a) of the Wildlife Act 1953<sup>6</sup>.
- 6.3 The protected lizards that may be adversely impacted by the Project are listed in Table 3.

**Table 3: Species identified as potentially present within the Project area**

Common name	Scientific Name	Threat Classification
McCann's skink	<i>Oligosoma maccanni</i>	Not Threatened
Southern grass skink	<i>Oligosoma chionochoescens</i>	At Risk - Declining
Southern Alps gecko	<i>Woodworthia</i> "Southern Alps"	At Risk – Declining
Mackenzie skink	<i>Oligosoma prasinum</i>	Threatened - Nationally Vulnerable

### Purpose of the Wildlife Act and the effects of the project on the protected wildlife that is to be covered by the approval

<sup>5</sup> Based on the LMP, Lizard Salvage is not proposed, albeit the applicant initially considered a one-off salvage.

<sup>6</sup> This provision relevantly provides that no person may, without lawful authority, ... hunt or kill any absolutely protected ... wildlife.

- 6.4 The relevant purpose of the Wildlife Act is to protect wildlife. It applies to both species and individuals.
- 6.5 The Wildlife Act creates a tiered system with different levels of protection required for different species. Most wildlife is absolutely protected – meaning that it cannot be lawfully hunted, killed, harassed or possessed without specific authorisation. The Wildlife Act also identifies wildlife that is not protected.
- 6.6 The lizards (individuals and species) that are the subject of Meridian Energy Limited’s application are absolutely protected wildlife.
- 6.7 In summary, DOC’s assessment of the proposal against the purpose of the Wildlife Act is:
- a. The applicant’s lizard survey covered only the areas directly affected by the proposed dam-armouring works at Lake Pūkaki, leaving periodically exposed habitats unassessed and creating uncertainty about the full impact on lizard populations.
  - b. Four native lizard species occur within the disturbance footprint and adjacent habitats. Despite this, only a single mitigation measure (a lizard exclusion fence around the northern stockpile) has been proposed. In the absence of any avoidance or rehabilitation measures, most actual and potential effects remain, and the application proposes compensation.
  - c. The applicant’s current compensation proposal does not meet the additionality principle of NPS-IB Appendix 4.<sup>7</sup>
  - d. DOC supports one component of the compensation proposal (in principle): targeted removal of wilding pines within Mackenzie skink habitat and nearby public conservation land. However, DOC’s view is that compensation should correspond with the duration of the approval. While the proposed action would contribute to long-term habitat protection, it does not, on its own, sufficiently address the scale of residual impacts generated by this project, particularly over the 35-year term sought.
  - e. Significant residual effects will remain even if the exclusion fence is installed and DOC undertakes wilding pine control.
- 6.8 Accordingly, when assessed against the purpose of the Wildlife Act, DOC is not satisfied that the proposal is consistent with the purpose of that Act. DOC considers that if additional mitigation measures are applied by way of an amended proposal and/or additional conditions, the Project’s impacts could be reduced, and it is likely the wildlife approvals sought could be granted in a manner that would be consistent with the purpose of the Wildlife Act.

### **The role of species management plans**

- 6.9 A species management typically plan provides a framework for ensuring lizard populations are appropriately managed and safeguarded during proposed activities that may adversely impact

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<sup>7</sup> This compensation proposal would not provide any additional benefit beyond

them. These plans typically bring together ecological knowledge and best practice methods, so that impacts on lizards can be avoided, minimised or remedied, or where necessary offset or compensated.

### Conditions to manage effects on protected wildlife

- 6.10 This recommendation includes consideration of section 83 of the Act – DOC considers that each condition would not be more onerous than necessary to address the reason for which it is set.
- 6.11 DOC recommends the conditions attached in Appendix B if the wildlife approval is granted.
- 6.12 The applicant proposed its own conditions. DOC comments as follows:
- a. *Compensation plan proposed:* There is a lack of detail and evidence to demonstrate the compensation will deliver additional measurable benefits in terms of the protection of wildlife.
  - b. *Salvage and survey conditions:* It is unclear why the applicant has proposed conditions (evidently based on typical DOC survey and salvage conditions), even though there is no firm proposal and no approval has been sought for such activities. No reasonable salvage proposal has been made and, in relation to the proposition that skinks may be relocated, no details are provided to identify a relocation site and assess its suitability.
  - c. *Lizard fence:* The condition fails to specify essential design requirements needed to ensure a suitable and effective skink-exclusion fence over the period of the proposed 35-year wildlife approval sought. This means the condition does not satisfy DOC that a fence will be designed so as to maximise lizard protection.
  - d. *Ongoing management:* The purpose of these conditions is unclear, so relevance or adequacy cannot be assessed. DOC has suggested amendments to direct 5-yearly re-certification of the LMP.
  - e. *Accidental discovery protocol:* DOC supports including an incidental discovery condition. However, as written, the proposed conditions lack clarity and it is unclear how the conditions would be followed in practice. Amendments have been suggested, however additional information will be required to support this process.
  - f. *Rehabilitation:* On its own the proposed compensation package is not proportionate to the residual effects of the project. Rehabilitation of disturbed areas within the project footprint is recommended in order to generate meaningful habitat gains for affected species.
  - g. DOC has proposed a number of additional conditions to enable the ongoing management of the approval.

## 7.0 Consultation

### Pre-lodgement

7.1 The applicant consulted with DOC prior to the lodgement of the substantive application between September and October 2025. DOC has reviewed and provided feedback on draft copies of management plans and conditions associated with the wildlife approval. DOC's initial advice was provided before lizard surveys had been undertaken and the scope of the application defined. A copy of that advice is included in the LMP as Appendix F.

### Post-lodgement

7.2 Post-lodgement of the substantive application, DOC and the applicant have engaged collaboratively to discuss outstanding matters relating to lizards and the conditions of the approval. This has contributed to updated information being provided to the Panel. The applicant provided these documents to the Panel on 8 December 2025 and 5 March 2026. As detailed in this report, there are several matters that remain outstanding.

## 8.0 Additional information

### International Conservation Agreements

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

**Table 4: International conservation agreements**

Common name	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

### The United National Convention on Biological Diversity (CBD)

8.2 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.

8.3 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.

8.4 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.*

8.5 The application from Meridian Energy Limited seeks to access natural resources in a way that impacts biodiversity and ecosystems. Compensation is proposed to address impacts.

#### **International Union for Conservation of Nature (IUCN)**

8.6 The International Union for Conservation of Nature (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 5. IUCN Red List status of species named in application**

<b>Common name</b>	<b>Scientific Name</b>	<b>IUCN Red List status</b>
McCann’s skink	<i>Oligosoma maccanni</i>	Least Concern - Stable
Southern grass skink	<i>Oligosoma chionochloescens</i>	Not Listed
Southern Alps gecko	<i>Woodworthia</i> "Southern Alps"	Not Listed
Mackenzie skink	<i>Oligosoma prasinum</i>	Endangered - Decreasing

#### **Consistency with statutory planning documents and policy**

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

#### **Conservation General Policy 2005**

8.8 The Conservation General Policy (CGP) includes the following policy:

*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.*

#### **Canterbury (Waitaha) Conservation Management Strategy 2016**

8.9 The Canterbury (Waitaha) Conservation Management Strategy 2016 (CMS) describes the conservation values present in the Canterbury region and provides objectives and policies for Conservation Management. The CMS includes the following objective:

- **Natural heritage:** Canterbury is a significant region for natural heritage. Objective 1.5.1.1 is that the diversity of New Zealand's natural heritage is maintained and restored with priority given to conserving threatened and at-risk species to ensure persistence with an emphasis on those listed in Appendix 5.

8.10 Mackenzie skink is listed in Appendix 5.

8.11 The CMS divides Canterbury into "places." The location of the Project falls within the High-Country Basins Place. An outcome sought for the High-Country Basins Place is that wilding trees are at zero density under sustained control, or there is community action working towards this.

## 9.0 Treaty of Waitangi settlement considerations and obligations

### Treaty of Waitangi settlement obligations

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

9.2 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.

9.3 DOC agrees that the Treaty settlement relevant to this application is the Ngāi Tahu Claims Settlement Act 1998. The report also acknowledges settlements provide for statutory acknowledgement and deed of recognition over Lake Pūkaki. DOC notes none of the species for which wildlife approval is sought are identified as taonga species, although they may still have significance to Māori.

9.4 DOC has not identified any additional specific conditions that should be imposed for the wildlife approval sought in accordance with section 84 to recognise or protect a relevant Treaty settlement.

### Treaty of Waitangi principles

9.5 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<sup>8</sup> (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.

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<sup>8</sup> [Principles of the Treaty of Waitangi and DOC: Apply for permits](#)

- **Active protection** - requires informed decision-making and judgement as to what is reasonable in the circumstances.
- **Redress** – requires recognition of existing rights and interests.

9.6 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.

9.7 DOC has notified the entities in Table 6 that the application is progressing through the FTAA. This notification included sharing relevant publicly available information and invitation for iwi to engage with DOC where they had concerns relevant to DOC's submission. DOC notes that affected Māori entities will be invited by the Panel to provide comments on the application.

**Table 6: Māori entities DOC sent Lake Pūkaki Hydro Storage and Dam Resilience application notification to**

Māori Entities
Te Rūnanga o Moeraki

## Appendices

## Appendix A: Weighting of relevant matters to be taken into account

### Introduction

1. This report responds to the Panel Convener's Minute dated 12 December 2025, directing the EPA to obtain advice from the Department of Conservation on "how the weighting of matters set out in the relevant schedules of the Fast-track Approvals Act 2024 should be approached, having regard to relevant senior court decisions".
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.<sup>9</sup>

### Weighting generally

3. Generally, the weighting to be accorded to relevant considerations by a statutory decision maker is for that decision maker to determine,<sup>10</sup> however where a statute directs the weight to be given to a matter, that direction must be given effect to.<sup>11</sup>
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.<sup>12</sup>
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.<sup>13</sup>
7. The only directive regarding weighting contained in the FTAA, is that the "greatest weight" is to be given to the purpose of the FTAA.<sup>14</sup>
8. While described in the FTAA as "criteria",<sup>15</sup> 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

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<sup>9</sup> 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.

<sup>10</sup> 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.

<sup>11</sup> *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."

<sup>12</sup> See, for example *Thames Valley Electric Power Board v NZFP Pulp and Paper Ltd* [1994] LGHNZ 17 (CA).

<sup>13</sup> See Schedule 7, clause 5 (wildlife approval).

<sup>14</sup> This directive occurs multiple times in the FTAA, including at Schedule 7, clause 5 (wildlife approval).

<sup>15</sup> This is the terminology used in the titles for each of the relevant clauses listed in fn 5.

of it.<sup>16</sup> Accordingly, the criteria, or factors, are not tick-boxes to be crossed off a list but are matters that must be qualitatively assessed.

- 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.
10. 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.<sup>17</sup>
  11. 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.
  12. The issue of legislatively directed weighting was considered by the Court of Appeal in *Enterprise Miramar Peninsula Inc v Wellington City Council*,<sup>18</sup> 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:
- (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.

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<sup>16</sup> *Western Bay of Plenty District Council v Bay of Plenty Regional Council* [2017] NZEnvC 147, at [117]-[118].

<sup>17</sup> 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

<sup>18</sup> *Enterprise Miramar Peninsula Inc v Wellington City Council* [2018] NZCA 541.

12. 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)).<sup>19</sup>
13. 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.<sup>20</sup> 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.<sup>21</sup>

## Conclusion

14. In the current application, the approach in *Enterprise Miramar* requires the Panel to assess the application for the Wildlife Authority against the purpose of the Wildlife Act. Matters relevant to that assessment include the protective purpose of the Wildlife Act. As noted above, DOC’s conclusion is that the proposal is not consistent with the protective purpose of the Wildlife Act:
  - a. the applicant seeks authorisation to kill absolutely protected species.
  - b. Compensation is proposed in the form of a one-off payment to DOC for wilding pine control on a different site. DOC has been unable to conclude that the compensation offered is consistent with the Principles for biodiversity compensation in the National Policy Statement for Indigenous Biodiversity.
15. The principles for biodiversity compensation include:
  - a. adherence to the effects management hierarchy, in which compensation should only be contemplated after steps to avoid, minimise, remedy and offset adverse effects are demonstrated to have been sequentially exhausted. It is not clear that options such as salvage have been exhausted.
  - b. The principle of additionality requires compensation to achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of compensation, such as gains that are additional to any minimisation and remediation or offsetting.
  - c. Principle 6 requires that compensation achieves long-term outcomes that last at least as long as the impacts, and preferably in perpetuity. The one-off payment proposed as a contribution to wilding pine control is inadequate to ensure the subject site can be kept free of wilding pines for the duration of a 35-year approval. .
  - d. Principle 10 is that financial contributions are only considered if there is no effective option available for delivering biodiversity gains on the ground and the financial contribution directly funds an intended biodiversity gain or benefit that complies with the rest of the principles.

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<sup>19</sup> *Enterprise Miramar Peninsula Inc*, at [53].

<sup>20</sup> *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.

<sup>21</sup> *Enterprise Miramar Peninsula Inc*, at [55]-[59]



## Appendix B: Conditions proposed by DOC

DOC has had some trouble interpreting the conditions proposed by the applicant as they refer to salvage, which is not an activity included in the application. As discussed in the report, if the applicant wishes to include salvage as an authorised activity, additional information will likely be required in the LMP and application documents to support this. If these updates are provided to the Panel, DOC would appreciate the opportunity to assess the proposal and provide further comments on the relevant conditions.

Table 1 below responds to the conditions provided by the applicant, and includes additional conditions recommended by DOC.

	Condition proposed by Meridian Energy Limited	Conditions proposed by DOC	DOC comments
<b>Schedule 1</b>			
1. <u>Authorised Activity</u>			
	Not specified within conditions	<u>The activities authorised are:</u> <u>To incidentally harm or kill:</u> <ul style="list-style-type: none"> <li>• <u>McCann's skink (<i>Oligosoma maccanni</i>)</u></li> <li>• <u>Southern grass skink (<i>Oligosoma chionochoescens</i>)</u></li> <li>• <u>Southern Alps gecko (<i>Woodworthia "Southern Alps"</i>)</u></li> <li>• <u>Mackenzie skink (<i>Oligosoma prasinum</i>)</u></li> </ul>	Meridian's conditions reference Schedule 1 multiple time, however this has not been included. DOC suggests the following sections are included.
2. <u>The Land</u>			
	Not identified within conditions	<u>Dam armouring access tracks and material laydown: 44°11'24.7"S 170°08'31.6"E</u> <u>South stockpile (6.3 ha): 44°11'37.0"S 170°08'39.4"E</u> <u>North stockpile (0.8 ha): 44°11'16.7"S 170°09'02.4"</u>	
3. <u>Term</u>			
	Not specified within conditions	<u>[date of approval] to [date 10 years from date of approval]</u>	

4. <a href="#">Wildlife Approval Holder's address for notices</a>			
	Not specified within conditions	<i>[Meridian to input]</i>	
5. <a href="#">Director-General's address for notices</a>			
		<a href="#">The Director-General's address for all correspondence is: Permissions Team Level 4 73 Rostrevor Street Hamilton 3204 Email: <a href="mailto:permissionshamilton@doc.govt.nz">permissionshamilton@doc.govt.nz</a></a>	
<b>Wildlife Approval</b>			
1.	This Authority applies to lizards that meet the threshold for protection under the Wildlife Act 1953 (including any subsequent amendments).	This Authority applies to lizard <a href="#">species listed in Schedule 1(1), s that meet the threshold for protection under the Wildlife Act 1953 (including any subsequent amendments)</a>	All lizards are absolutely protected under the Wildlife Act, protection is not related to threat status.
2.	If, in the course of any lizard survey or salvage activity, all reasonable effort has been made to meet all of the conditions expressed and implied in this authority; and wildlife is killed by the Authority Holder, then that will be permitted under this authority.	<del>If, in the course of any lizard survey or salvage activity, all reasonable effort has been made to meet all of the conditions expressed and implied in this authority; and wildlife is killed by the Authority Holder, then that will be permitted under this authority.</del>	This is addressed in the Authorised Activity above.
3.	The Grantor's Operations Manager(s) are to be contacted immediately for further advice if species of protected wildlife other than those listed in Schedule 1 (1) - (not just lizards) are located within the footprint of a planned activity. A separate application in relation to non-authorized species may be required.	<del>The Grantor's</del> DOC Operations Manager(s) are to be contacted immediately for further advice if species of protected wildlife other than those listed in Schedule 1 (1) - (not just lizards) are located within the footprint of a planned activity. A separate application <a href="#">to catch alive, liberate or kill</a> in relation to non-authorized species <del>will</del> may be required.	This function sits with DOC, who is not the Grantor of this approval.
4.	This Authorisation gives the Authority Holder the right to hold absolutely protected wildlife in accordance with the terms and conditions of the Authorisation, but the wildlife remains the property of the Crown. This includes any dead wildlife, live wildlife,	<del>This Authorisation gives the Authority Holder the right to hold absolutely protected wildlife in accordance with the terms and conditions of the Authorisation, but the</del> <a href="#">All</a> wildlife remains the property of the Crown. This includes any dead wildlife, live wildlife, any parts thereof, any eggs or	Approval has not been sought to hold protected wildlife.

	any parts thereof, any eggs or progeny of the wildlife, genetic material and any replicated genetic material.	progeny of the wildlife, genetic material and any replicated genetic material.	
5.	Unless expressly authorised by the Grantor in writing, the Authority Holder must not donate, sell or otherwise transfer to any third party any wildlife, material, including any genetic material, or any material propagated or cloned from such material, collected under this Authority. Note: The exception to this is the collection of eDNA which will be sent to a third party for genetic analysis to assess species presence.	Unless expressly authorised by the <del>Grantor</del> <u>Director-General</u> in writing, the Authority Holder must not donate, sell or otherwise transfer to any third party any wildlife, material, including any genetic material, or any material propagated or cloned from such material, collected under this Authority. Note: The exception to this is the collection of eDNA which will be sent to a third party for genetic analysis to assess species presence.	All instances of Grantor should be replaced with Director-General where the function relates to the functions of the Director-General under the Fast-track Approvals Act 2024 or the usual functions of the Director-General under the Wildlife Act 1953.
6.	Any lizard relocation activity must be undertaken in accordance with the approved Lizard Management Plan for the Project.	<del>Any lizard relocation activity must be undertaken in accordance with the approved Lizard Management Plan for the Project.</del>	Relocation activities have not been applied for or described within the Lizard Management Plan.
7.	Lizards must only be handled by Personnel Authorised to Undertake this Activity or under the direct supervision of the Authorised Personnel.	<del>Lizards must only be handled by Personnel Authorised to Undertake this Activity or under the direct supervision of the Authorised Personnel.</del>	This condition relates to lizard salvage and is not relevant within the current application.
8.	Lizard capture, handling and relocation should be undertaken at a suitable time of year when lizards are active. October to April inclusive is the usual duration, but this will vary by location and altitude.	<del>Lizard capture, handling and relocation should be undertaken at a suitable time of year when lizards are active. October to April inclusive is the usual duration, but this will vary by location and altitude.</del>	As above.
9.	Capture and handling of lizards must involve only techniques that minimise the risk of infection or injury to the animal.	<del>Capture and handling of lizards must involve only techniques that minimise the risk of infection or injury to the animal.</del>	As above.
10.	The Authority Holder is only permitted to release wildlife that are listed in Schedule 1(1) using methods described in the Lizard	<del>The Authority Holder is only permitted to release wildlife that are listed in Schedule 1(1) using methods described in the Lizard</del>	As above.

	Management Plan written for the particular lizard salvage operation.	<del>Management Plan written for the particular lizard salvage operation.</del>	
11.	Capture and handling methods shall follow those described in the Herpetofauna inventory and monitoring toolbox <a href="http://www.doc.govt.nz/our-work/biodiversity-inventoryandmonitoring/herpetofauna/">http://www.doc.govt.nz/our-work/biodiversity-inventoryandmonitoring/herpetofauna/</a> .	<del>Capture and handling methods shall follow those described in the Herpetofauna inventory and monitoring toolbox <a href="http://www.doc.govt.nz/our-work/biodiversity-inventoryandmonitoring/herpetofauna/">http://www.doc.govt.nz/our-work/biodiversity-inventoryandmonitoring/herpetofauna/</a>.</del>	As above.
12.	The Authority Holder must ensure all live capture traps are covered to protect lizards from exposure and minimise stress. Damp leaf litter or other material must be provided to reduce desiccation risk and the bottom of the pit-fall trap must be perforated to allow drainage of water. The Authority Holder must ensure that all live capture traps contain retreats to minimise risk of predation events within the trap.	<del>The Authority Holder must ensure all live capture traps are covered to protect lizards from exposure and minimise stress. Damp leaf litter or other material must be provided to reduce desiccation risk and the bottom of the pit-fall trap must be perforated to allow drainage of water. The Authority Holder must ensure that all live capture traps contain retreats to minimise risk of predation events within the trap.</del>	As above.
13.	If any mortality is detected, due consideration shall be made, and documented, that show measures have been taken to reduce mortality. Measures may include, but are not limited to, providing additional protection from weather, undertaking rodent suppression by trapping and/or poisoning at the site; not conducting live-trapping where mouse numbers have irrupted following grass seeding (where predation has been the cause of mortality); twice-daily trap checks, switching catching devices, or some combination of these measures.	<del>If any mortality is detected, due consideration shall be made, and documented, that show measures have been taken to reduce mortality. Measures may include, but are not limited to, providing additional protection from weather, undertaking rodent suppression by trapping and/or poisoning at the site; not conducting live-trapping where mouse numbers have irrupted following grass seeding (where predation has been the cause of mortality); twice-daily trap checks, switching catching devices, or some combination of these measures.</del>	Not relevant given the Authorised Activity.
14.	The Authority Holder must ensure all live capture traps, (e.g. pitfall traps), are checked at least every 24 hours.	<del>The Authority Holder must ensure all live capture traps, (e.g. pitfall traps), are checked at least every 24 hours.</del>	As above.

15.	The Authority Holder must sterilise any instruments that come in contact with the lizards and/or are used to collect or measure lizards between each location. A separate holding bag must be used for each animal. All gear should be thoroughly cleaned and dried between sites.	<del>The Authority Holder must sterilise any instruments that come in contact with the lizards and/or are used to collect or measure lizards between each location. A separate holding bag must be used for each animal. All gear should be thoroughly cleaned and dried between sites.</del>	As above.
16.	The Authority Holder must ensure lizards are temporarily held individually in a suitable container (e.g. breathable cloth bag) and held out of direct sunlight to minimise the risk of overheating, stress and death.	<del>The Authority Holder must ensure lizards are temporarily held individually in a suitable container (e.g. breathable cloth bag) and held out of direct sunlight to minimise the risk of overheating, stress and death.</del>	As above.
17.	If any lizards should die during the authorised activities of catch, transfer or liberate, the Authority Holder must: <ul style="list-style-type: none"> <li>a. inform the Grantor within 48 hours;</li> <li>b. If requested by the Grantor, chill the body if it can be delivered within 72 hours, or freeze the body if delivery will take longer than 72 hours;</li> <li>c. send the body to Massey University Wildlife Post-mortem Service for necropsy, along with details of the animal's history;</li> <li>d. pay for any costs incurred in investigation of the death of any lizard, if required to do so by the Grantor; and</li> <li>e. If required by the Grantor, cease the Authorised Activity for a period determined by the Grantor.</li> </ul>	<del>If any lizards should die during the authorised activities of catch, transfer or liberate, the Authority Holder must: <ul style="list-style-type: none"> <li>a. inform the Grantor within 48 hours;</li> <li>b. If requested by the Grantor, chill the body if it can be delivered within 72 hours, or freeze the body if delivery will take longer than 72 hours;</li> <li>c. send the body to Massey University Wildlife Post-mortem Service for necropsy, along with details of the animal's history;</li> <li>d. pay for any costs incurred in investigation of the death of any lizard, if required to do so by the Grantor; and</li> <li>e. If required by the Grantor, cease the Authorised Activity for a period determined by the Grantor.</li> </ul> </del>	Not relevant given Authorised activity.

18.	If any lizards are found injured as part of the Authorised Activity, the Authority Holder shall seek advice from the Authority holder on management of the lizard(s).	<del>If any lizards are found injured as part of the Authorised Activity, the Authority Holder shall seek advice from the Authority holder on management of the lizard(s).</del>	The purpose of this condition is unclear within the context of the Authorised Activity.
19.	The Authority Holder must not euthanise any wildlife unless: a. The Authority Holder obtains authority from the Grantor; or b. A veterinarian recommends euthanasia on animal welfare grounds; or c. The Authority Holder euthanises the wildlife under direction from the Grantor.	The Authority Holder must not euthanise any wildlife unless: d. The Authority Holder obtains authority from the <del>Grantor</del> <u>Director-General</u> ; or e. A veterinarian recommends euthanasia on animal welfare grounds; or f. The Authority Holder euthanises the wildlife under direction from the <del>Grantor</del> <u>Director-General</u> .	As above.
20.	The Authority Holder must provide an annual report or reports to the Grantor on any <b>additional</b> lizard surveys undertaken. These must be electronically forwarded to the Grantor at XXXXXXXXX@doc.govt.nz citing the Authority Number XXXXXXX. These reports must be submitted by 30 June each year.	The Authority Holder must provide an annual report or reports to the Grantor on any <b>additional</b> lizard surveys undertaken. These must be electronically forwarded to the <del>Grantor</del> <u>Director-General</u> at  XXXXXXXXX@doc.govt.nz citing the Authority Number XXXXXXX. These reports must be submitted by 30 June each year.	As above. Additional approval may be required to handle wildlife.
21.	For all salvage operations, A report on each salvage operation is to be submitted in writing to XXXXXXXXX@doc.govt.nz and to the DOC Operations Manager, at XXXXXXXXX@doc.govt.nz by 30 June each year for the life of this Authorisation, summarising outcomes in accordance with any specific Lizard Management Plan. Each report must include: a. The permission number; and b. the species and number of any animals collected and released; c. the GPS location (or a detailed map) of the collection point(s) and release point(s);	<del>For all salvage operations, A report on each salvage operation is to be submitted in writing to XXXXXXXXX@doc.govt.nz and to the DOC Operations Manager, at XXXXXXXXX@doc.govt.nz by 30 June each year for the life of this Authorisation, summarising outcomes in accordance with any specific Lizard Management Plan. Each report must include:- a. The permission number; and b. the species and number of any animals collected and released;-</del>	As above, salvage is not proposed.

	<p>d. results of all surveys, monitoring or research; and</p> <p>e. description of how the Lizard Management Plan was implemented including any difficulties encountered with capture and handling, how release sites were assessed, post release monitoring and what contingency actions were required.</p>	<p>c. <del>the GPS location (or a detailed map) of the collection point(s) and release point(s);</del></p> <p>d. <del>results of all surveys, monitoring or research; and</del></p> <p>e. <del>description of how the Lizard Management Plan was implemented including any difficulties encountered with capture and handling, how release sites were assessed, post release monitoring and what contingency actions were required.</del></p>	
22.	<p>For all survey and salvage operations undertaken, completed Amphibian and Reptile Distribution System (ARDS) cards for all herpetofauna sightings and captures <a href="http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/speciesinformation/herpetofauna-data-collection/ards-card/">http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/speciesinformation/herpetofauna-data-collection/ards-card/</a>, must be sent to Herpetofauna, Department of Conservation, National Office, PO Box 10420 Wellington 6143 or <a href="mailto:herpetofauna@doc.govt.nz">herpetofauna@doc.govt.nz</a>. For more information refer to: <a href="http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/reptiles-and-frogsdistribution-information/species-sightings-and-data-management/">http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/reptiles-and-frogsdistribution-information/species-sightings-and-data-management/</a>.</p>	<p>For all survey <del>and salvage</del> operations undertaken, completed Amphibian and Reptile Distribution System (ARDS) cards for all herpetofauna sightings and captures <a href="http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/speciesinformation/herpetofauna-data-collection/ards-card/">http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/speciesinformation/herpetofauna-data-collection/ards-card/</a>, must be sent to Herpetofauna, Department of Conservation, National Office, PO Box 10420 Wellington 6143 or <a href="mailto:herpetofauna@doc.govt.nz">herpetofauna@doc.govt.nz</a>. For more information refer to: <a href="http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/reptiles-and-frogsdistribution-information/species-sightings-and-data-management/">http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/reptiles-and-frogsdistribution-information/species-sightings-and-data-management/</a>.</p>	
23.	<p>All reports submitted under Conditions 20 and 21 above must contain any implications of the results for conservation management.</p>	<p>All reports submitted under Conditions [20] and [21] above must contain any implications of the results for conservation management.</p>	<p>Condition numbers subject to change given other recommendations.</p>
24.	<p>The Authority Holder acknowledges that the Grantor may provide copies of the reports referred-to in Conditions 20 and 21 above, to tangata whenua and the general public if requested.</p>	<p>The Authority Holder acknowledges that the <del>Grantor</del><u>Director-General</u> may provide copies of the reports referred-to in Conditions 20 and 21 above, to tangata whenua and the general public if requested.</p>	<p>As above.</p>

25.	Didymo biosecurity - The Authority Holder must comply with the Ministry for Primary Industries' MPI's Check, Clean, Dry cleaning methods to prevent the spread of didymo <i>Didymosphenia geminata</i> and other freshwater pests when moving between waterways. Check, Clean, Dry cleaning methods can be found at - <a href="http://www.biosecurity.govt.nz/cleaning">http://www.biosecurity.govt.nz/cleaning</a> .	Didymo biosecurity - The Authority Holder must comply with the Ministry for Primary Industries' MPI's Check, Clean, Dry cleaning methods to prevent the spread of didymo <i>Didymosphenia geminata</i> and other freshwater pests when moving between waterways. Check, Clean, Dry cleaning methods can be found at - <a href="http://www.biosecurity.govt.nz/cleaning">http://www.biosecurity.govt.nz/cleaning</a> .	
<b>Compensation Management Plan</b>			
26.	Prior to works commencing an updated Compensation Management Plan (CMP) shall be submitted to Grantor at XXXXXXXX@doc.govt.nz citing the Authority Number XXXXXXXX for approval.	Prior to works commencing an updated Compensation Management Plan (CMP) shall be submitted to the <del>Grantor</del> <u>Director-General</u> at XXXXXXXX@doc.govt.nz citing the Authority Number XXXXXXXX for approval.  <i>[Additional information from applicant about the details of the proposed compensation required]</i>	As discussed in the report, DOC supports (in principle) the targeted removal of wilding pines that would be enabled by this plan. However, on its own this condition is considered to be inadequate to enforce the compensation proposed by the applicant.  The information provided in the compensation management plan is not sufficient for DOC to develop an appropriate condition at this time, however, consideration be given to the following: DOC considers that any compensation plan should be consistent with NPS-IB Appendix 4 Biodiversity Compensation Principles. a) Compensation including a lizard- specific rehabilitation plan should demonstrate: delivery of additional habitat not otherwise required or occurring

			<ul style="list-style-type: none"> <li>b) clear, measurable habitat gains over the term of the approval</li> <li>c) ecological appropriateness and technical feasibility</li> <li>d) monitoring and adaptive management provision to ensure success</li> </ul> <p>It is recommended these elements be addressed within this condition.</p>
<b>Lizard Fence</b>			
27.	A lizard exclusion fence must be established to separate the known Mackenzie skink habitat areas and the North stockpile. The fence shall be established to exclude Mackenzie skink from entering the North stockpile.	A lizard exclusion fence must be established to separate the known Mackenzie skink habitat areas and the North stockpile. The fence shall be established to exclude Mackenzie skink from entering the North stockpile.	Consideration should be given to the management of Mackenzie skink that may be fenced into the area.
28.	The fence must be constructed so that it sits a minimum of 50 cm off the ground and be dug approximately 50-100 mm into the ground with a lip so that lizards cannot dig under the fence. Stakes must be established approximately 2 m apart to support the fence. A gate may form part of the fence to allow access to the rock material.	The fence must be constructed so that it sits a minimum of 50 cm off the ground and be dug approximately 50-100 mm into the ground with a lip so that lizards cannot dig under the fence. Stakes must be established approximately 2 m apart to support the fence. A gate may form part of the fence to allow access to the rock material.	
29.	The fence must be maintained until all rock material from the North stockpile has been utilised. Annual inspections are recommended to ensure the fence continues to function as intended.	The fence must be maintained until all rock material from the North stockpile has been utilised. Annual inspections are <del>recommended to be undertaken</del> to ensure the fence continues to function as intended. <i>[Applicant to include additional details about the nature of annual inspections and what actions will result]</i>	This condition does not provide assurance that the fence will function for the duration of the approval.
30.	The design of the lizard exclusion fence shall be consistent with standard specifications for lizard exclusion fences in New Zealand.	The design of the lizard exclusion fence shall be consistent with <del>standard specifications for lizard exclusion fences in New Zealand.</del> <i>[Additional information about design specification to be included]</i>	There is no standard fence design in New Zealand to support this condition. The condition lacks technical detail needed to ensure an effective and

			<p>enduring structure. Additional information is required from the applicant.</p> <p>Specifications should include polythene materials or the requirement for minimal seams to prevent climbing. In addition, silt-fence or geotextile fabrics should be excluded.</p>
Ongoing Management			
31.	On or prior to the 10th anniversary of this approval being issued and every 10 years thereafter, the consent holder shall undertake a lizard survey across the stockpile, laydown and temporary building areas to review and quantify any change to the lizard population on site.	On or prior to the <del>10</del> <sup>5</sup> th anniversary of this approval being issued and every 5 years thereafter, the consent holder <del>shall</del> <sup>must</sup> undertake a lizard survey across the stockpile, laydown and temporary building areas to review and quantify any change to the lizard population on site	DOC supports this condition alongside the re-certification process described elsewhere in this condition.
32.	Following the completion of the survey, the Lizard Management Plan shall be updated to include the results of the survey and any updated threat classifications. The updated Lizard Management Plan shall be submitted to the Grantor at XXXXXXXX@doc.govt.nz citing the Authority Number XXXXXXXX for confirmation that it meets the requirements of this authority.	Following the completion of the survey, the Lizard Management Plan shall be updated to include the results of the survey and any updated threat classifications. <del>The updated Lizard Management Plan shall be submitted to the Grantor Director-General at XXXXXXXX@doc.govt.nz citing the Authority Number XXXXXXXX for confirmation that it meets the requirements of this authority.</del>	It is recommended this process be addressed elsewhere in the condition.
<u>33 NEW</u>		<p><u>The Approval Holder must review the LMP and resubmit to the Directory-General for certification on or before the date that is 5 years from the Approval date, and every 5 years subsequently.</u></p> <p><u>The purpose of the certification process is to reassess habitat conditions and characteristics and update the LMP to reflect current species knowledge and habitat conditions.</u></p>	This condition is recommended to enable the approval to be considered against updated species knowledge. The timeframe reflects DOC's advice that the term should not exceed 10 years. Should the Panel be minded to grant a longer term, it is recommended that 5 yearly re-certification is maintained for the duration of the approval.

<u>34 NEW</u>		<u>Any proposed amendment must:</u> a) <u>a) be prepared by a suitably qualified and experienced person with expertise in lizards;</u> b) <u>include the results of the lizard survey of the stockpile, laydown and temporary building areas described in conditions [31] and [32].</u> c) <u>be submitted to the local Operations Manager of the Department of Conservation [insert contact info] for certification by the Director-General of Conservation;</u> d) <u>be for the purpose set out in Condition [*33 NEW].</u>	
<u>35 NEW</u>		<u>If the Director-General decides not to recertify the LMP, the approval will be considered to be no longer supported by an adequate management plan and may be revoked.</u>	
Accidental Discovery Protocol			
33.	All personnel working onsite shall be responsible for alerting the site manager and project herpetologist of the discovery of any Mackenzie skink in the stockpiles within 24 hrs of the discovery.	<del>All personnel working onsite shall be responsible for alerting the site manager and project herpetologist of the discovery of any Mackenzie skink in the stockpiles within 24 hrs of the discovery.—</del> <u>All rock removal from the northern rock stockpile must be supervised by a suitably qualified and experienced herpetologist.</u>	While DOC supports the inclusion of an incidental discovery condition for Mackenzie skink, it is not clear how the proposed relocation could be authorised within the current application. Without additional information or clarification about the scope of the approval it is not possible for DOC to prepare an appropriate condition.
34.	A lizard identification guide shall be provided for all personnel working on site. Adult individuals of Mackenzie skink (nationally 'Threatened' species) are larger than other lizard species on site and readily identified. Lizard boxes must also be provided in case Mackenzie skink are found on site.		

35.	<p>Following the identification of a potential Mackenzie skink:</p> <ol style="list-style-type: none"> <li>Photographs shall be taken of potential Threatened species and provided for review and identification by a suitably qualified herpetologist. This includes any live, injured, and/or dead individual.</li> <li>The project herpetologist shall provide advice on the management of the individual.</li> <li>If the animal is obviously injured, the project herpetologist, local DOC office (Te Manahuna / Twizel Office) or local vet (Vetlife Twizel) must be contacted for advice.</li> <li>Any live, healthy Mackenzie skink individuals must be placed 100 m away from the site in known Mackenzie skink habitat (approximately 44°11'18.5"S 170°09'07.5"E). The GPS coordinate of the relocated individual will be recorded.</li> </ol>	<p>Following the identification of a potential Mackenzie skink:</p> <ol style="list-style-type: none"> <li><u>Immediately cease works within 20 metres of the discovery location</u></li> <li><u>Notify the Department of Conservation as soon as practicable</u></li> <li>Photographs shall be taken of potential Threatened species and provided for review and identification by a suitably qualified herpetologist. This includes any live, injured, and/or dead individual.</li> <li>The project herpetologist shall provide advice on the management of the individual.</li> <li>If the animal is obviously injured, the project herpetologist, local DOC office (Te Manahuna / Twizel Office) or local vet (Vetlife Twizel) must be contacted for advice.</li> <li><del>Any live, healthy Mackenzie skink individuals must be placed 100 m away from the site in known Mackenzie skink habitat (approximately 44°11'18.5"S 170°09'07.5"E). The GPS coordinate of the relocated individual will be recorded.</del></li> </ol>	<p>The applicant has not sought approval to salvage lizards; it is unclear how the activities described within this condition can be facilitated within the context of the current approval and Lizard Management Plan.</p>
36.	<p>Any delay in rock material use could result in a missed opportunity to complete dam armouring works. Works will therefore continue, but any records of Mackenzie skink in the works area will trigger additional one-off compensation of \$10,000 to be used in accordance with the CMP.</p>	<p><del>Any delay in rock material use could result in a missed opportunity to complete dam armouring works. Works will therefore continue,</del> but any records of Mackenzie skink in the works area will trigger additional one-off compensation of \$10,000 to be used in accordance with the CMP.</p>	
37.	<p>The \$10,000 shall be used to control an additional 5 ha of dense infestations of wilding pine at the compensation site specified in the CMP.</p>		
38.	<p>All records are to be recorded in a database with an incident register and log of actions taken for each discovery.</p>		

<u>Rehabilitation of disturbed areas to provide lizard habitat</u>			
<u>39 NEW</u>		<u>The Approval Holder must rehabilitate all areas disturbed by the lawful activity including earth-worked areas, laydown areas, and rock storage areas.</u>	On its own the proposed compensation package is not proportionate to the residual effects of the project. Rehabilitation of disturbed areas within the project footprint is recommended in order to generate meaningful habitat gains for affected species.
<u>40 NEW</u>		<u>The Approval Holder must follow these rehabilitation design requirements and produce and implement a Rehabilitation Plan that includes the following:</u> a. <u>a description of plant species, planting densities and spatial arrangements to best restore suitable lizard habitat</u> b. <u>rock augmentation measures, including rock size, distribution and habitat configuration designed to support lizard occupancy</u> c. <u>a maintenance schedule, including weed control, to promote habitat quality indefinitely</u> d. <u>rehabilitation and predator control targets including methods for corrective action if targets are not met.</u>	
<u>41 NEW</u>		<u>The Rehabilitation Plan must include a predator control regime that:</u> a. <u>targets rodents and hedgehogs</u> b. <u>specifies control methods and duration</u> c. <u>includes ongoing monitoring of predator activity.</u>	
<u>Standard conditions</u>			
<u>42 NEW</u>		<u>Variations</u> <u>The Approval Holder may apply to the Director-General for variations to this Approval in</u>	The following are additional mechanical conditions

		<u>accordance with clause 7(2) of Schedule 7 of the Fast-track Approvals Act 2024.</u>	recommended to enable the ongoing management of the approval.
<u>43 NEW</u>		<p><b><u>Revocation</u></b>  <u>The Director-General may revoke this Approval in whole or in part at any time (pursuant to clause 7(4) of Schedule 7 of the Fast-track Approvals Act 2024) if:</u></p> <p style="padding-left: 40px;"><u>a. The Approval Holder breaches any of the conditions of this Approval.</u></p> <p style="padding-left: 80px;"><u>b. In the Director-General's opinion, the exercise of this Approval has caused, or is likely to cause, any unforeseen adverse effects on lizards.</u></p> <p><u>If the Director-General intends to revoke this Approval in whole or in part, the Director-General must give the Approval Holder such prior notice as is reasonable and necessary in the circumstances.</u></p>	
<u>44 NEW</u>		<p><b><u>Costs</u></b>  <u>The Approval Holder must pay the standard Department of Conservation charge-out rates for any staff time and mileage required to monitor compliance with this Approval and to investigate any alleged breaches of the terms and conditions of it.</u></p>	
<u>45 NEW</u>		<p><b><u>Liabilities</u></b>  <u>The Approval Holder agrees to exercise the Approval at it's own risk and releases, to the full extent permitted by law, the Director-General and the Director-General's employees and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage, or injury occurring to any person or property arising from Meridian Energy Limited's exercise of the Approval.</u></p>	

<p><u>46 NEW</u></p>		<p><b><u>Compliance with Legislation and Director-General's Notices and Directions</u></b>  <u>The Approval Holder must comply with all statutes, bylaws, and regulations, and all notices, directions, and requisitions of the Director-General and any competent authority relating to the exercise of the Approval.</u></p>	
<p><u>47 NEW</u></p>		<p><b><u>Employees, Contractors, or Agents</u></b>  <u>The Approval Holder is responsible for the acts and omissions of its employees, contractors, and agents.</u>  <u>The Approval Holder is liable under the Approval for any breach of its terms by employees, contractors, or agents, as if the breach were committed by the Approval Holder.</u>  <u>Where obligations bind more than one person, those obligations bind those persons jointly and separately.</u></p>	



## Appendix C: Advice note for wilding pine management

### Wilding pine control on PCL on the true left of the Pukaki River

Dean Nelson – Principal Ranger, Twizel

19 March 2026

#### Context

The predominant species of wilding pine growing in and around lizard habitat in PCL on the true left of the Pukaki River is lodgepole pine (*Pinus contorta*). *Pinus contorta* is considered to have the highest spread risk and 15,000 viable seeds/year are produced by a 12 year-old, 5 m tree. *P. contorta* typically begins to reach maturity and produce viable, wind-spread seeds (over many kilometres) at approximately **5 years of age**. However, in harsh, high-country environments like the Mackenzie Basin, trees often seed earlier, sometimes as young as three years old. Because of this fast maturity cycle, it is recommended to control these wilding pines as soon as they appear, before they reach this 3–5 year coning age. Consequently, following removal of all existing wilding pines, follow-up removal of all regeneration should be taken annually for at least 10 years.

The nearest seed source of *P. contorta* is on Meridian land, which is upwind during the prevailing northwest wind. There are mixed wilding pine species growing on this land but unfortunately, the old river terrace riser that has the ideal bouldery habitat for lizards (Figure 1), produces a low pressure area on the lee side during windy periods, making it very prone to seed drop.

#### Control

The PCL adjacent to the lizard habitat (Figure 1) can be split into distinct areas based on the age and style of growth of the wilding pines. Note that due to the factors outlined above, most of the wilding pines growing on PCL are *P. contorta*. The different areas are defined to enable contractors to estimate cost of control. The areas on the terrace riser are defined as either good lizard habitat (boulder and gravel fields, often with associated native berry producing shrubs) or otherwise. All areas with good habitat require pines to be cut and poisoned with all material (including any previously cut trees from past operations) removed to the base of the terrace. There are some areas of quite dense pine growth on the terrace riser to the south of the lizard monitoring sites that do not contain good lizard habitat that would be easier to aerially spray. There is also a large patch of fairly dense growth on the flat area adjacent to the road that could be cut and poisoned (Figure 2).

#### Costs

A contractor that DOC uses regularly for wilding pine control visited the site on Thursday 19<sup>th</sup> of March to assess the sites and estimate cost of control. His estimate is as follows.

First year removal of all remaining live trees and any dead tree material on good lizard habitat, including aerial spraying of dense stands on the terrace riser to the south of the

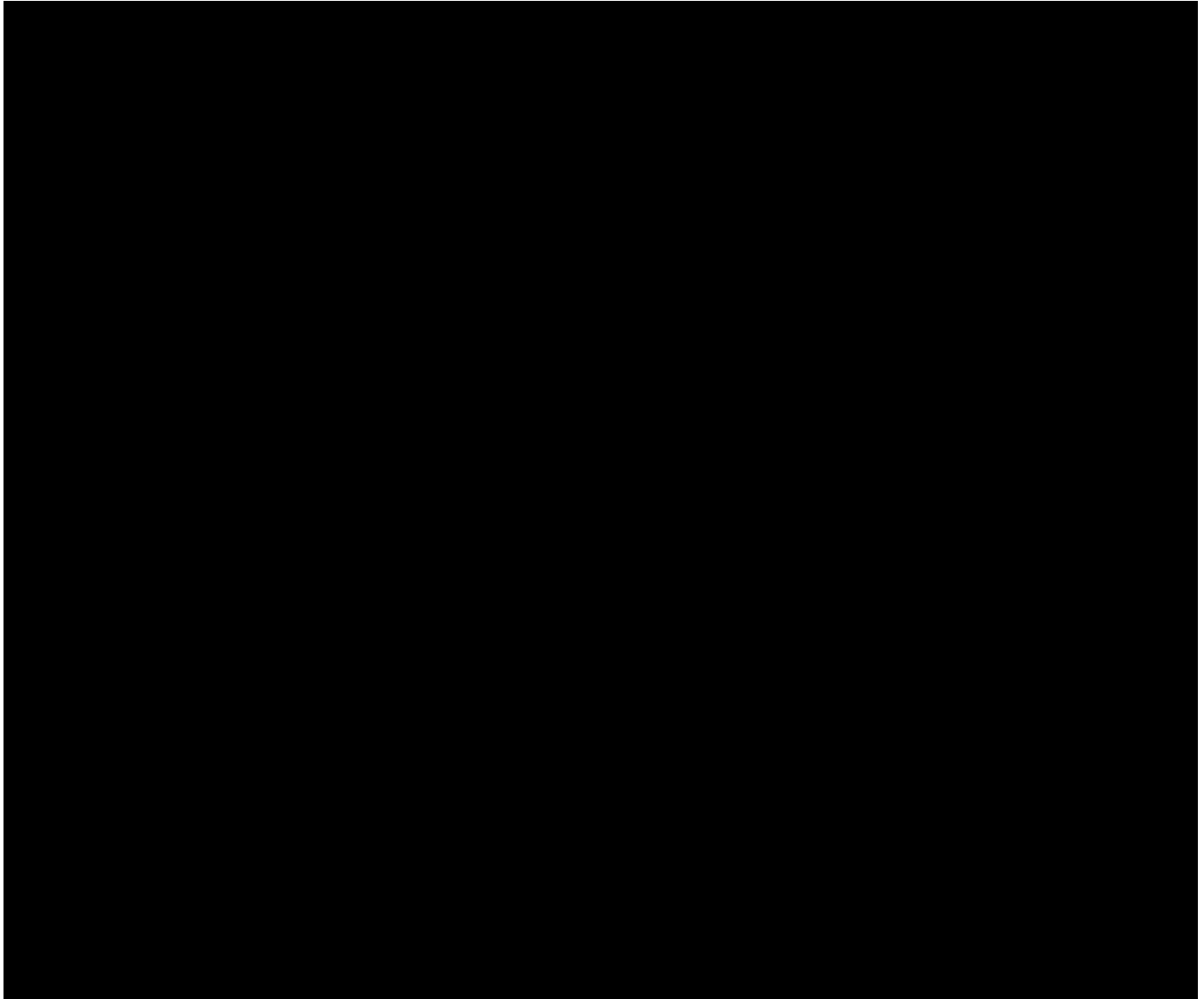


Figure 1. Pukaki River. PCL is light green, Meridian land (including their easement over the river fairway) bounded by orange line, and old river terrace riser with ideal lizard habitat in purple line.

lizard monitoring sites and cutting and poisoning the dense stands on the flat near the road, and all chemicals is \$125,000.

Annual follow up to remove all regrowth across all PCL adjacent to the lizard monitoring sites is \$30,000 - \$40,000. Possibly this could be done every second year but due to the factors outlined above, this should not be left any longer than every two years.



Figure 2. Blocks of dense *Pinus contorta* to the west and south of the lizard monitoring sites

**Appendix D: LMP review prepared by Mandy Tocher**



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18<sup>th</sup> March 2026

## LIZARD COMPENSATION FOR LAKE PŪKAKI HYDRO STORAGE & DAM RESILIENCE PROJECT

Dear Amelia,

Thank you for the opportunity to provide advice on the compensation offered by Meridian Energy Ltd on the Lake Pūkaki Hydro Storage and Dam Resilience project. Below I set out my findings with a focus on Compensation and provide recommendations on the scope of conditions that could be progressed with the panel.

### 1. Overview

Meridian Energy Ltd are seeking approval under the Fast Track Approvals Act (2024) for the “Lake Pūkaki Hydro Storage and Dam Resilience Project” (the Project). The application seeks a 35-year Wildlife Act (1953) approval for the incidental killing of wildlife. This relates primarily to installing rock armouring around the Lake Pūkaki dam to improve resilience to wave erosion at lower lake levels. However, operating the lake below typical minimum levels may also adversely affect wildlife.

Although this is not an Environment Court proceeding, I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2023 and that I have complied with it when preparing my assessment.



## 2. Reports Reviewed

- Draft Lizard Management Plan (LMP; October 2025)
- Revised LMP following a lizard survey (December 2025)
- Compensation Plan appended to the December 2025 LMP
- Ecological Impact Assessment (Ecla; October 2025)
- Lake Pūkaki Fast-track Consent Substantive Application post-lodgement ecological response to Department of Conservation feedback dated 11 February 2026.
- Wildlife Conditions dated 19 Feb 2026.

## 3. Lizard Values Assessment

A lizard survey was undertaken by RMA Ecology between 27–31 October 2025 within the disturbance footprint. Two species—McCann’s skink and Southern Alps gecko—were recorded within the footprint. Southern grass skink and Mackenzie skink were also detected in adjacent habitats.

The survey methods were appropriate for the terrestrial lizard species and habitats present. However, wetland habitats hydrologically connected to Lake Pūkaki, including the Tasman Delta, were not surveyed. These effects, if any, remain unknown.

Findings are summarised in Table 1, which also includes the residual effects assessment forming the basis for determining proportionate compensation.

## 4. Assessment of Effects

A list of project activities that will impact on lizards is provided in Section 1.3 of the LMP (December 2025), but no effects assessment is provided. Table 1.1. comes close and states “The project activity relating to dam armouring works may result in injury or mortality to native lizards.” This is reaffirmed in the post-lodgement ecological response to Department of Conservation feedback dated 11 February 2026 that states effects are “potential injury and mortality” (Section 2.1.2).

In my opinion, the raw effects identified in Table 1 are unlikely to be significant at either the local or national scale for Southern Alps gecko, southern grass skink, or McCann’s skink. However, potential



effects on Mackenzie skink may be significant at the local scale, although the available data are insufficient to determine this with certainty.

## 5. Application of Mitigation Hierarchy

A single mitigation measure is proposed: installation of a skink-proof fence around the northern stockpile to prevent further lizard ingress into the rockpile. No avoidance or rehabilitation measures have been offered, despite repeated requests to incorporate such actions to reduce residual effects (Table 1). For example, DOC recommended rehabilitating disturbed areas to provide suitable lizard habitat; however, this option was dismissed by the Applicant as they prefer not to encourage lizards onto their operational areas.

## 6. Residual Effects

Almost all actual and potential effects associated with the Lake Pūkaki Hydro Storage and Dam Resilience Project remain as residual effects and therefore require consideration within the compensation framework. These residual effects are substantial for all lizard species shown (Table 1), with the highest magnitude of impact anticipated for Southern Alps gecko due to its At Risk – Declining threat classification and the number of individuals likely to be affected by the proposed works.

### Best Practice Compensation

Current best practice for biodiversity compensation follows the principles set out in Appendix 4 of the NPS-IB, which the Applicant acknowledges in the EclA (Appendix F). For the Lake Pūkaki Hydro Storage and Dam Resilience Project, the additionality principle is a primary consideration. Notwithstanding the NPS-IB, compensation must be proportionate to the actual and potential residual effects (Table 1). The Applicant agrees with the need to ensure compensation is proportionate to the effects.



**Table 1: Residual Effects/Compensation Table for Lizard Values Affected or Potentially Affected by the Lake Pūkaki Hydro Storage and Dam Resilience project. \*Derived from December 2025 LMP Section 2.1.3. \*\* Derived from post-lodgement ecological response to Department of Conservation feedback dated 11 February 2026.**

Lizard Values	Threat Classification	Est. No's & Habitat affected over 35 years WLA permit sought*	Avoid, Minimise Remedy, Mitigate Actions	Significant Residual Effects?	Comments	Compensation Required?
McCann's skink & Southern grass skink and their habitats	Not Threatened/At Risk - Declining	3,650 individuals across both species over 7.3 ha of shared habitat	Nil	Yes	All effects are residual effects. Effects may be underestimated for southern grass skinks as wetlands & riparian habitats were not surveyed esp. Tasman Delta. These habitats are documented in the EclA as they form part of the project	Yes
Southern Alps gecko & its habitat	At Risk - Declining	365 individuals over 7.3 ha of shared habitat	Nil	Yes	All effects are residual effects	Yes
MacKenzie skink & its habitat	Threatened - Nationally Vulnerable	? individuals over northern rock stack (ca. 0.8 ha)	A skink-proof fence will be constructed around northern rock stack to deter new skinks from colonising**	Maybe	Found ≤50 m from northern rock stack so could be present but were not detected by survey, or could move into the rock stack at any time	Yes

## Compensation Offered by MEL

The Applicant's proposed compensation, as outlined in the Wildlife Conditions (19 February 2026) and the post-lodgement ecological response to DOC (11 February 2026), comprises funding for additional wilding pine control and lizard monitoring at a new site adjacent to the six existing monitoring sites within the Pūkaki–Tekapo River Confluence Dryland Recovery Conservation Area. The Applicant proposes that DOC would be responsible for implementing this compensation.

Although DOC supports ongoing wilding pine management within Mackenzie skink habitat, the Applicant's proposal does not satisfy the additionality principle. Six sites are already managed and monitored by DOC with support from Project River Recovery, and establishing a seventh site is neither necessary nor feasible given current monitoring capacity of DOC Twizel. Wilding pine control is also already occurring at these sites: DOC has undertaken ongoing management, and ECAN, in collaboration with the landowner, carried out aerial spraying of pines establishing in the habitat in 2019 (with potential subsequent treatments). As a result, the proposed compensation does not represent a meaningful or additional conservation gain.

## Wildling Pine – Threat to Mackenzie skinks (and other lizards)

Wildling pines, particularly *Pinus contorta* (lodgepole pine), pose a current and future threat to Mackenzie skinks and their habitats across the Mackenzie Basin (see Appendix 2). Seeds from *P. contorta* can disperse up to 40 km, and predicted climate change increases in wind speeds on the Pūkaki outwash plains are expected to exacerbate downwind invasion risk. These pines degrade skink habitat by increasing shade, altering the structure of low-stature foraging shrubs, reducing food plant availability, and clogging rock interstices with leaf litter (Figure 1). Wilding pine invasion also facilitates the presence of lizard predators in rock habitats where they would not otherwise occur.





*Figure 1: Example of clogged rock habitat within the Pūkaki–Tekapo River Confluence Dryland Recovery Conservation Area.*

## DOC Recommended Compensation

DOC supports targeted control of wilding conifers, particularly those located upwind of the six existing monitoring sites. Persistent reinvasion is occurring from upwind sources, including Meridian-owned land (Figure 2) and nearby LINZ land (Figure 3), despite volunteers currently maintaining these sites free of pines. Control—including follow-up seedling control—**over both areas in addition to the Mackenzie skink habitat** is the priority management action for Mackenzie skinks in the Pūkaki–Tekapo River Confluence Dryland Recovery Conservation Area (Dean Nelson, DOC Twizel pers. comm. February 2026). Additional monitoring of Mackenzie skinks is not required, as DOC already undertakes outcome monitoring.<sup>1</sup>

## Additionality Compensation Principle

During a recent TEAMS meeting with the Applicant and DOC (25<sup>th</sup> February 2025), the Applicant made DOC aware of an existing work programme to remove pines from their land including that depicted in Figure 2. This existing work programme is, therefore, unable to be included in the compensation proposal for the Lake Pūkaki Hydro Storage and Dam Resilience Project as it is not additional.

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<sup>1</sup> Begun in 2024/2025 using Project River Recovery funding from MEL that addresses other effects related to the operation of the Waitaki Hydro scheme not effects generated by the Lake Pūkaki Hydro Storage and Dam Resilience Project.

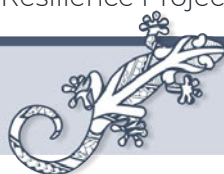


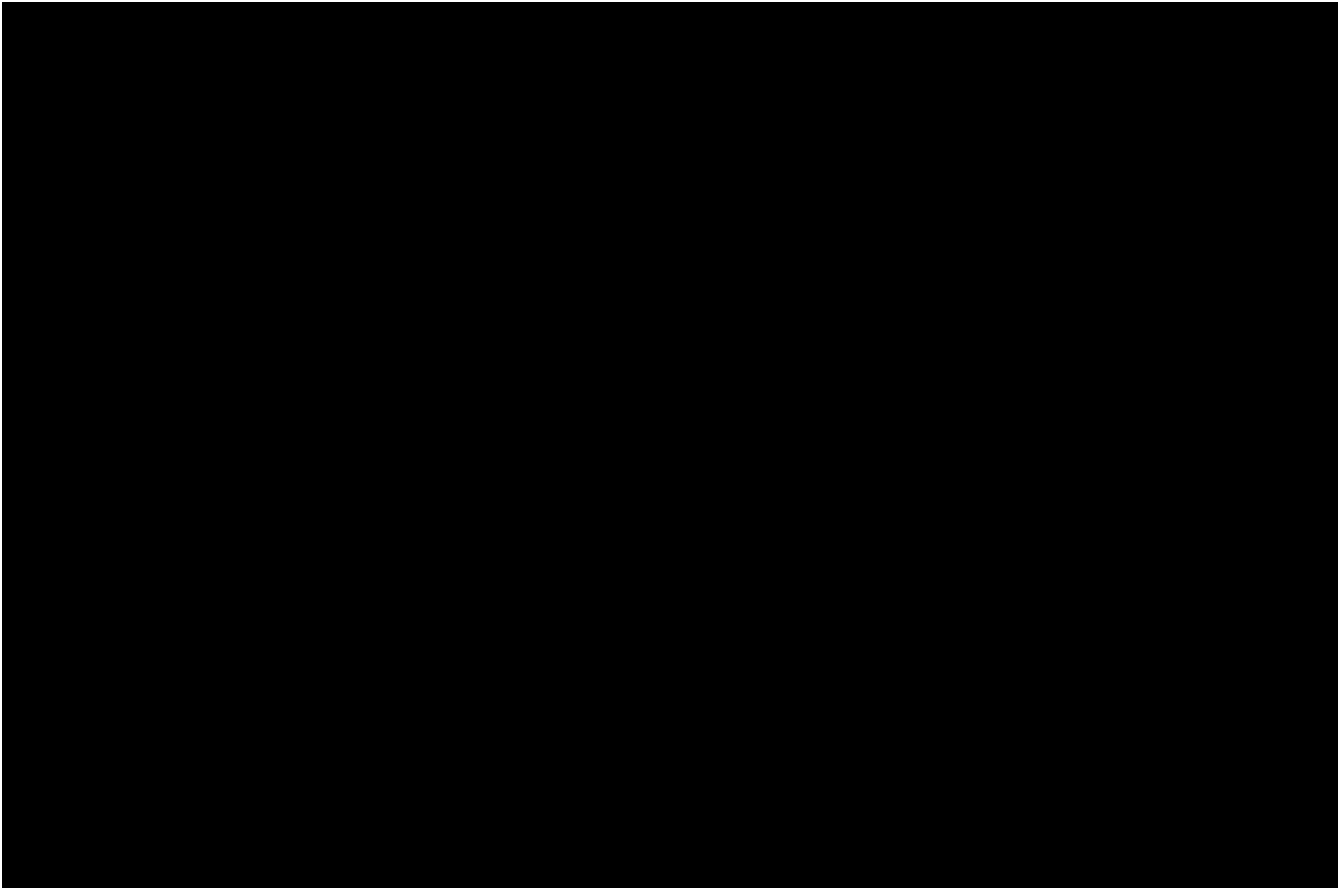


Figure 2: Large lodgepole pine infestations on Meridian operational land upwind of the six Mackenzie skink monitoring sites.

## 7. Wildlife Conditions (19 February 2026)

A suite of conditions is proposed covering the Compensation Plan, Salvage and Survey, the Lizard Fence, Ongoing Management, and the Accidental Discovery Protocol, with further detail provided in Appendix 3. However, the current provisions do not demonstrate how a best-practice Accidental Discovery Protocol could be achieved, and the lizard fence requires tweaking to be most effective at managing the risk for Mackenzie skinks (Appendix 3).





*Figure 3: Wilding pine (lodgepole pine) infestations on PCL/LINZ that require immediate management to protect Mackenzie skink habitat.*

## 8. Term of Wildlife Act Permit Sought

MEL seeks a 35-year Wildlife Act permit under the FTAA to authorise harm (non-incident) to protected wildlife arising from the Lake Pūkaki Hydro Storage and Dam Resilience Project. At the 25 February 2025 TEAMS meeting, I advised that the Department of Conservation does not ordinarily issue Wildlife Act authorities for terms exceeding 10 years.

The presence of At Risk and Threatened lizard species within, and contiguous to, the project footprint materially increases DOC's statutory risk exposure. Over a 35-year term, these taxa may be reclassified into higher threat categories, further constraining DOC's ability to lawfully issue or maintain such an approval. In addition, the Applicant has not provided a legally robust Accidental Discovery Protocol capable of managing the risk to Mackenzie skink (Appendix 3).



## Recent Declines in NZ Lizards, Hitchmough *et al.* 2026<sup>2</sup>

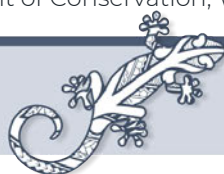
Recent assessments show that declines in New Zealand lizards remain severe and widespread, with 97.3 % of endemic taxa now classified as Threatened, At Risk, or Data Deficient. The New Zealand Threat Classification Status 2025 reassessment highlights that declines are driven primarily by introduced mammalian predators, ongoing habitat loss, and climate-related impacts, with 82 species (53.6 %) considered vulnerable to climate change. Although many changes in threat status between 2021 and 2025 reflect new information rather than biological recovery, some taxa show clear evidence of actual decline. The Data Deficient list has also expanded substantially, now including many newly discovered or poorly known taxa—several of which are likely to be highly threatened and potentially already in decline.

Across the lizard fauna, mainland populations continue to decline because effective long-term protection is largely limited to offshore islands and fenced sanctuaries, leaving most species exposed to predation and landscape-scale ecological pressures. Despite national “Predator-Free” ambitions, the Hitchmough *et al.* 2026 report notes no evidence that broadscale predator control benefits lizards and warns that meso-predator release of mice may worsen declines. While four species show genuine improvement due to intensive management (e.g., grand skink, Otago skink, Kapitia skink, Whitaker’s skink), these are exceptions occurring at a small number of intensively managed sites. To date, Mackenzie skink and Lake’s skink, relevant to this proposal, do not occur at intensively managed sites.

Overall, the 2025 assessment reinforces that declines remain the dominant trend, with worsening threat status, ongoing loss of range, and increasing recognition of cryptic, narrowly distributed taxa that further elevate the urgency for conservation intervention (Hitchmough *et al.* 2026).

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<sup>2</sup> Hitchmough *et al.* 2026. Conservation status of reptiles in Aotearoa New Zealand 2025. New Zealand Threat Classification Series 50. Department of Conservation, Wellington. 32 p.



## Recommendation for Wildlife authority duration

A 10-year Wildlife Act authority is appropriate and consistent with DOC practice, statutory risk management, and the conservation status of affected species.

## 9. Summary

The Applicant undertook a lizard survey across the area directly affected by dam-armouring works at Lake Pūkaki, identifying four native lizard species within the disturbance footprint and adjacent habitats. However, survey coverage did not include wetland and riparian habitats periodically exposed when lake levels fall below operational minima, leaving the full extent of potential effects uncertain.

Despite the presence of At Risk and Threatened taxa, the Applicant proposes only a single mitigation measure—a skink-proof fence around the northern stockpile. No avoidance or rehabilitation measures have been offered, and therefore the majority of actual and potential effects remain as residual effects requiring compensation.

The compensation measures proposed by the Applicant do not satisfy the additionality principle of best practice compensation. While DOC supports targeted wilding pine control within Mackenzie skink habitat, this action alone is not proportionate to the scale of residual effects generated by the Project, particularly given existing management activity and the lack of ecological gain inherent in the Applicant's proposal. Rehabilitation of disturbed areas within the Project footprint represents the most direct, effective, and proportionate response to address some of these residual effects.

The Applicant is also seeking a 35-year Wildlife Act authority. DOC does not ordinarily issue Wildlife Act permits exceeding 10 years, and the elevated statutory risk posed by At Risk and Threatened lizard species—combined with the likelihood of future threat-status changes—further constrains the Department's ability to lawfully grant or maintain a 35-year approval. The Applicant has not provided a legally robust Accidental Discovery Protocol capable of managing the risk to Mackenzie skink over such a long duration.



Recent national reassessments confirm severe and ongoing declines in New Zealand's lizard fauna, heightening the importance of a precautionary regulatory approach.

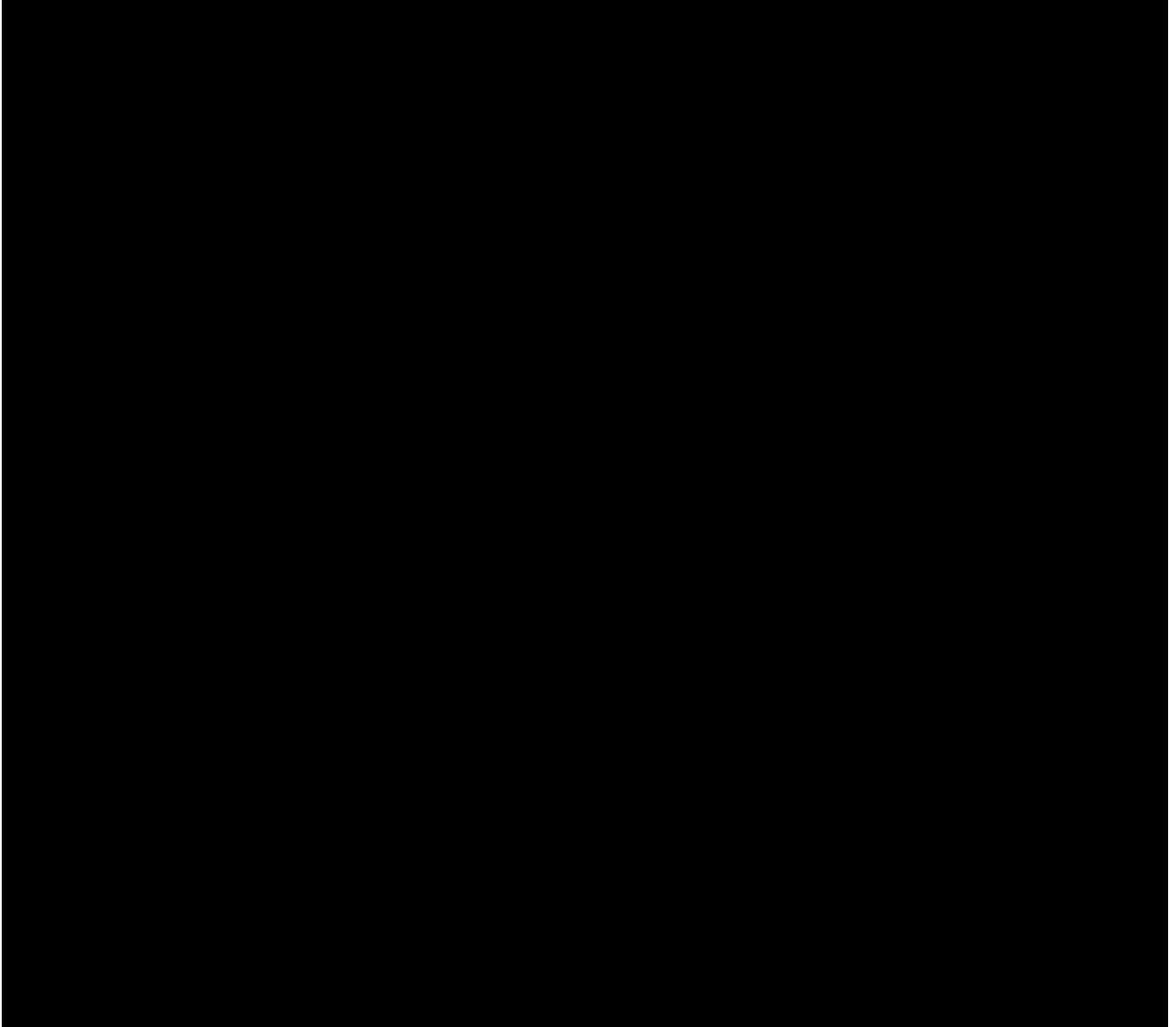
## 10. Conclusions

- Residual effects remain substantial for all lizard species identified, due to limited mitigation and the omission of avoidance and rehabilitation measures.
- The proposed compensation package does not meet best practice compensation principles, particularly Additionality.
- Targeted wilding pine control is supported but is insufficient on its own to address the Project's residual effects.
- Rehabilitation of disturbed areas within the Project footprint should be required to generate ecologically meaningful, additional habitat gains for affected lizard species.
- The Accidental Discovery Protocol is not fit-for-purpose and requires restructuring to adequately manage the risk to Mackenzie skink.
- A 35-year Wildlife Act authority is not appropriate given DOC practice, the presence of Threatened and At-Risk species, and the likelihood of future reclassification.
- A 10-year Wildlife Act authority is appropriate and defensible, enabling periodic reassessment of species status, project effects, and the adequacy of mitigation, management, and compensation measures.

Dr Mandy Tocher, LizardExpertNZ



Appendix 1: location of existing monitoring grids for Mackenzie skinks within the Pukaki River Tekapo River Confluence Dryland Recovery Conservation Area

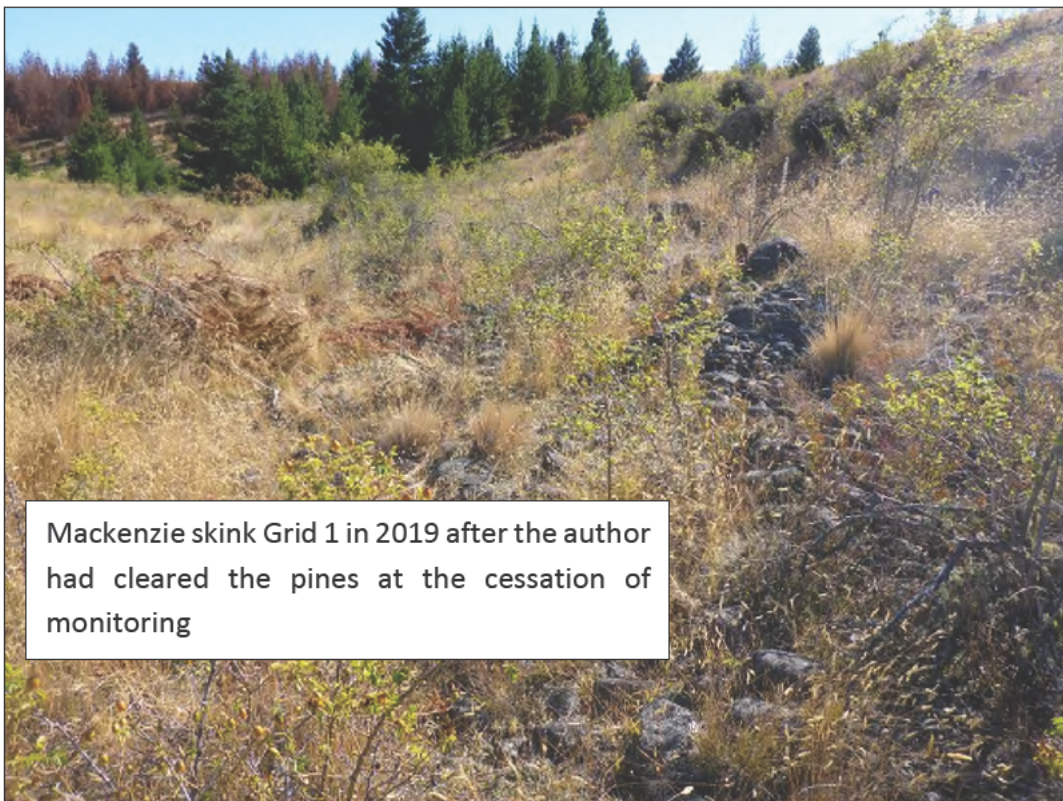


Appendix 2: Photographs of a selection of Mackenzie skink monitoring grids in 2019 head of DOC-led volunteer work to remove them.





Mackenzie skink Grid 4 in 2019



Mackenzie skink Grid 1 in 2019 after the author had cleared the pines at the cessation of monitoring



## Appendix 3: Comments of Wildlife Conditions.

### Compensation Plan

DOC supports the preparation of a comprehensive Compensation Plan consistent with the NPS-IB Appendix 4 Biodiversity Compensation Principles. However, the Applicant's current proposal does not meet these principles. The plan lacks sufficient detail, does not demonstrate how compensation will achieve additional, measurable gains, and therefore requires substantial revision before it can be considered adequate.

### Salvage and Survey

The offered conditions (1–25) are not appropriate for this application. These provisions replicate DOC's standard survey and salvage permit conditions, yet no survey or salvage activities are proposed. Survey and salvage activities maybe relevant to Accidental Discovery, yet the conditions conflate these with unrelated requirements, creating ambiguity and imposing avoidable administrative burden. These provisions require restructuring to ensure they are correctly and exclusively integrated within the Accidental Discovery Protocol.

### Lizard Fence

The proposed condition relating to the skink exclusion fence does not provide assurance that the fence will function as required for 35-years. While a fence is necessary to prevent Mackenzie skinks from entering the rock pile, the condition fails to prescribe critical design requirements. There is no standard fence design in New Zealand, yet the condition does not specify the need for polythene materials or the requirement for minimal seams to prevent climbing. It also omits an explicit exclusion of silt-fence or geotextile fabrics, which are unsuitable and would not achieve the intended function. Without these specifications, the condition lacks the technical detail needed to ensure an effective and enduring exclusion structure. Also, there is chance Mackenzie skinks will be fenced into the area, at least initially; some provision for this, e.g., passive monitoring with tracking cards, is required. A photograph of an effective lizard fence is provided in as Plate 1 below.





*Plate 1: Example of an effective lizard fence.*

### Ongoing Management

I am unsure of the purpose of these conditions (31 & 32), i.e., what effect they seek to manage. For this reason, I cannot comment further.

### Accidental Discovery Protocol

These conditions are ambiguous, particularly where the conditions describe processes for identifying a Mackenzie skink but simultaneously state that works will not stop. It is unclear how the protocol would operate in practice under these conflicting requirements. The conditions therefore lack clarity, are not proportionate to the actual risk pathways, and require substantial restructuring to function as an effective and practicable Accidental Discovery Protocol.

