

Your Comment on the Maitahi Village application

Please include all the contact details listed below with your comments and indicate whether you can receive further communications from us by email at substantive@fastrack.govt.nz

1. Contact Details			
Please ensure that you have authority to comment on the application on behalf of those named on this form.			
Organisation name (if relevant)	Department of Conservation		
First name	Gen		
Last name	Hewett		
Postal address	PO Box 10420, Wellington 6140		
Mobile phone		Work phone	
Email	Fast-track@doc.govt.nz ,		

2. We will email you draft conditions of consent for your comment			
<input checked="" type="checkbox"/>	I can receive emails and my email address is correct	<input type="checkbox"/>	I cannot receive emails and my postal address is correct

Please provide your comments below, include additional pages as needed.

Comments on a fast-track consenting application

Fast-track Approvals Act 2024 Section 53

To: The Expert Panel

From: Director-General of Conservation

Regarding fast-track project: Maitahi Village

Background

1. CCKV Maitahi Dev Co Limited Partnership (“the Applicant”) has applied for a resource consent approval under the Fast-track Approvals Act 2024 (“the Act”). The Maitahi Village application is to develop approximately 180 residential dwellings (50 to be Ngāti Koata iwi-led housing), a commercial centre, and a retirement village (approximately 194 townhouses, 36 in-care facility units, a clubhouse and a pavilion) at 7 Ralphine Way, Nelson (“the Project”).
2. The Director-General of Conservation (“the DG”) submitted on Private Plan Change 28 - Maitahi Bayview to the Nelson Resource Management Plan which sought rezoning of the land to which the current application relates. The submission focused on protecting indigenous biodiversity values present on site while enabling housing. The DG did not further submit on the Private Plan Change or attend the hearing.
3. The proposal is not on, or near, public conservation land.
4. The Department of Conservation (“the Department”) has not been engaged by, or been in discussions with, the Applicant for the Fast-track approval.

Department of Conservation advice

5. Overall, the DG has some concerns about the adequacy of the information provided on freshwater values and the need for other statutory approvals which have not been sought. The Applicant’s Assessment of Environmental Effects and Ecological Impact Assessment uses the Environmental Institute of Australia and New Zealand (EIANZ) Ecological Impact Assessment 2018 guidelines to assess what the impacts are, and whether the effects management proposed will lessen the residual impacts on the environment. The EIANZ guidelines are not endorsed by the Department of Conservation, the Ministry for the Environment, or the New Zealand Ecological Society. The DG does not consider that the conclusions on the residual impacts are accurate due to insufficient information.
6. The Applicant has not applied for a wildlife approval or a complex freshwater fisheries approval as part of their Fast-track application. The DG considers both approvals are required for the project.

A wildlife approval to capture, handle and relocate lizards; and a freshwater fisheries approval associated with work to divert the Kākā Stream will need to be applied for outside of the Fast-track process.

7. The DG's remaining concerns can be resolved by tightening the proposed conditions. The Ecological Impact Assessment makes recommendations to avoid, mitigate and remedy adverse effects on the environment that are not properly implemented in the volunteered conditions. The DG's concerns can be resolved through new conditions to ensure there are clear outcomes and objectives required to be achieved through reliance on management plans.

Assessment

Freshwater values

8. The DG disagrees with the conclusions drawn from the application of the EIANZ guidelines to the Project due to the lack of baseline information.
9. The information used to inform the freshwater assessment is varied in recency. Some information used is dated despite more recent information being easily accessible, and which would provide greater certainty about what values are present. For the bridge location, there was no freshwater fauna survey. Instead, evaluations of water quality and in-stream fine sediment, Rapid Habitat Assessment, and habitat availability for invertebrates and fish were used.
10. There is no information provided on the densities, biomass, or population structures which makes it difficult to evaluate the locations' representativeness, diversity and pattern, and ecological context. Community composition was only undertaken at the village site. Due to the lack of surveys undertaken on these values, there is insufficient information to correctly use the EIANZ guidelines.
11. There is further no clear conclusion from the final assessment on the freshwater values, instead ranging the level of effects from "Low to High". There are insufficient baseline survey results to understand the values present and what action is needed to address the effects and, for any residual effects, to achieve a net-gain or maintenance in indigenous biodiversity. The lack of baseline information means that the mitigation proposed could be insufficient or incorrect for the values present.
12. Without further information, there needs to be a precautionary approach applied to the Project and its resource consent conditions. While the DG does not endorse the EIANZ guidelines, assessment of the application against the EIANZ guidelines for consistency is that the level of effects would be 'High'. However, the DG acknowledges that with further baseline information from pre-construction surveys and then appropriate responses, the level of effects could achieve a Net gain in indigenous biodiversity values within the Project.

Wildlife approval

13. The Applicant has not applied for a wildlife approval under the Act. However, the Ecological Impact Assessment notes that there are seven different herpetofauna species present or potentially present on site. All seven species are absolutely protected under the Wildlife Act 1953.
14. The Applicant has stated that to avoid, remedy and mitigate adverse effects on lizards, they will implement 'lizard management'. The statement is vague; however, it is assumed that it will include handling, capturing and relocating lizards throughout construction.
15. It is an offence under the Wildlife Act 1953 to handle, capture, relocate, injure, or kill protected species without lawful authority. The Applicant will need to apply for an authority outside of the Fast-track process.
16. The Wildlife Act authority will need to be supported by a Lizard Management Plan prepared by a suitably qualified ecologist and will need to identify an appropriate site for relocation of salvaged lizards. Any surveys, salvage and translocation of lizards will need to occur between October and April. Accordingly, if the Applicant intends starting work on the ground later this year, it will need to apply for a Wildlife Act authority as soon as possible.

Complex freshwater fisheries approval

17. The Applicant has not applied for a complex freshwater fisheries approval.
18. The Panel asked the Applicant in Minute 5 why a complex freshwater fisheries approval was not applied for. We understand the Applicant's response was that it does not need a complex freshwater fisheries approval. The DG disagrees with the Applicant.
19. A complex freshwater fisheries activity is defined under the Act to be:

complex freshwater fisheries activity means an activity that includes construction of any of the following:

- (a) a culvert or ford that permanently blocks fish passage;
- (b) a permanent dam or diversion structure;
- (c) works—
 - i. that require disturbance to a water body, including diversions, in-stream operations, and removal of gravel, that persists for more than 3 months; or
 - ii. that are within 500 m of the coast and occur during the whitebaiting season; or
 - iii. that are in an area known to be used for trout, salmon, or native fish spawning and occur during the spawning season; or
 - iv. that require repeated disturbance to a water body and are temporary works for which there is a period of 6 months or less between each period of work

20. The proposed landscape maps show that the applicant seeks to permanently realign Kākā Stream from its current course. The DG's assessment is that permanent stream diversion is a complex freshwater fisheries activity because diversion of the stream will require construction of a permanent dam or diversion structure (clause (b) of the definition) to stop the stream following its current course. For the purposes of determining whether the activity is a complex or simple freshwater activity, it is not relevant that the diversion will realign the stream to its former channel.

However, it is acknowledged that the effects of realignment to restore the stream to its former channel may be relevant to the overall assessment of the effects of the proposal.

Resource consent conditions

21. The Panel is required, under the Act, to provide draft conditions and invite comments on them before they grant an approval. To assist the Panel, the DG has provided preliminary comments on the Applicant's proposed resource consent conditions that, if addressed, it considers will help ensure that the adverse effects on the environment are avoided, remedied, minimised, offset, or compensated.
22. The DG reserves the right to provide further comments on the proposed conditions when the Panel sends out invitations.
23. There are several management plans proposed in the volunteered conditions with different levels of scrutiny required. It is proposed that some management plans must be certified by the council before the Applicant can commence works while there is no such requirement for others. Independent, regulatory checks of the management plans are necessary to ensure they will achieve the outcomes intended and accord with the objectives of the consent and conditions before work commences. It is recommended that a certification process by council for all management plans is included.
24. There is a disjunct between the Ecological Impact Assessment and what the Applicant has volunteered as proposed resource consent conditions. The Ecological Impact Assessment states that to avoid, remedy, and mitigate adverse effects on indigenous biodiversity values, there would be several management plans developed. The management plans identified include a Stream Restoration Plan, a Lizard Management Plan, a Fish Salvage and Relocation Plan, Ecological Restoration Plan,¹ and a Wetland Restoration Plan.²
25. These plans are lightly referenced in the volunteered conditions.
 - a. There is a singular reference to an "LMP" in the land use consent for subdivision (Maitahi Village subdivision and development) in relation to ongoing management and maintenance on any lots via consent notice to give effect to the LMP. It is not clear whether this refers to a Landscape Management Plan or a Lizard Management Plan. The Ecological Report mentions that a Lizard Management Plan is needed but does not provide details. Without proper conditions, there is no guarantee that a Lizard Management Plan, for the purposes of a resource consent under the RMA, will be created and adhered to.
 - b. There is a reference to fish salvage and relocation, but no reference to a specific management plan.

¹ CCKV Maitai Dev Co LP "Fast Track Approvals Act 2024 Application for Resource Consent Maitahi Village at 7 Ralphine Way, Nelson" (February 2025) at pages 45-46.

² At page 60.

- c. There is no reference to a Stream Restoration Plan, an Ecological Restoration Plan, or a Wetland Restoration Plan.
26. Without the relevant management plans being appropriately referenced in the conditions, there is no mechanism to require the plans and their implementation and, accordingly, no assurance that adverse effects of the Project will be appropriately addressed.
27. To ensure that adverse effects on the environment are properly managed, especially with the lack of baseline data, there should be conditions that specify the outcomes or objectives required to be achieved through management plans, and conditions that require the plans to be developed, certified and implemented; as well as specify the matters that should be addressed in each plan. Conditions requiring management plans should:
- a. contain clear and effects-based objectives and performance standards, to ensure that environmental outcomes are understood from the outset, and that the management plans will lead to actions 'on the ground' to achieve those outcomes;
 - b. have ongoing effect, and require ongoing implementation during the life of the consent;
 - c. set intervention thresholds to allow review and intervention if objectives or performance standards are not being met;
 - d. require ongoing monitoring and reporting;
 - e. provide for adaptive management where appropriate; and
 - f. be enforceable.
28. The conditions relating to a Lizard Management Plan should include a requirement for an accidental discovery protocol in case Threatened or At-Risk – Declining species are discovered within the Project area.
29. Adding conditions relating to the four mentioned management plans above means that the council can adequately monitor the consents issued. The Applicant is reliant on the management plans to ensure there are less than minor residual adverse effects on the environment post-construction. Without appropriate conditions to ensure management plans are effective and complied with, including monitoring requirements, it would be significantly more difficult for council to understand the activities that have taken place to achieve the standards the Applicant has proposed will be achieved in the Project's Ecological Impact Assessment
30. The amendments proposed to conditions will further allow for pre-construction monitoring to provide baseline information that is missing from the application to inform what additional actions are needed to adequately address the adverse effects on the environment. The amendments therefore are not more onerous than necessary.

Conclusion

31. The DG has concerns about the lack of information on freshwater values present on the site. The use of the EIANZ assessment is inappropriate due to the insufficient baseline information provided

by the Applicant. The lack of information makes it difficult to ascertain whether the mitigation provided by the Applicant is sufficient and thus a precautionary approach should be applied to the application as a whole.

32. Understanding the impacts on freshwater values on site would require the Applicant to undertake further surveys prior to any works being undertaken. The surveys should inform the management plans and mitigation required to manage adverse effects on the environment. If the surveys are appropriately addressed by additional mitigation and enforceable management plans, then the DG considers that a Net gain in indigenous biodiversity values could be achieved.
33. The DG notes that the gap between the conditions and the recommendations in the Ecological Impact Assessment will need to be bridged. This could be achieved by the introduction of the certification process for the management plans, along with specific conditions outlining the requirements needed for the Stream Restoration Plan, the Lizard Management Plan, the Fish Salvage and Relocation Plan, Wetland Restoration Plan, and the Ecological Restoration Plan.
34. The Applicant will need to apply for a Wildlife Act approval and a complex freshwater fisheries approval outside of the Fast-track process.
35. Thank you for the opportunity to comment.



Jenni Fitzgerald
Fast-Track Applications Manager

Acting pursuant to delegated authority on behalf of the Director-General of Conservation.

Date: 25 June 2025

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011