

3 September 2025

Fast-track Approvals Act wildlife approval report

Section 51(2)(c) wildlife approval report for –
FTAA-2504-1055 Rangitooopuni



Department of
Conservation
Te Papa Atawhai

**Te Kāwanatanga
o Aotearoa**
New Zealand Government

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1. Introduction

- 1.1 On 9 May 2025, Rangitoopuni Developments Limited (Rangitoopuni/the applicant) lodged a substantive application for Rangitoopuni (the Project) with the Environmental Protection Authority (the EPA). On 30 May 2025 the EPA determined that the application was complete and complied with section 46(2) of the Fast-track Approvals Act 2024 (the FTAA). The application was deemed to not have any competing applications or existing resource consents under section 47 of the FTAA by the EPA on 13 June 2025.
- 1.2 The application is to construct a 210-lot countryside living subdivision, and a retirement village with 260 villas, 36 care units and associated amenities.
- 1.3 As part of the application, the applicant is seeking wildlife approval for the capture, handling and relocation of native lizards that are absolutely protected under the Wildlife Act 1953.
- 1.4 On 17 June 2025, the Panel Convener directed the EPA to obtain a report prepared by the Director-General of Conservation, in accordance with section 51(2)(c) of the Act. This report is due to the EPA on 3 September 2025.
- 1.5 This report provides information relating to proposed activities for which the applicant is seeking a wildlife approval.
- 1.6 In addition to the report under s 51(2)(c), the Panel Convener has requested that the Director-General of Conservation file a report pursuant to s 51(1) of the FTAA advising how the weighting of matters set out in Schedule 7, clause 3 of the FTAA should be approached, having regard to relevant senior court decisions. This report is attached at **Appendix D**.

2. Purpose of the report

- 2.1 This report has been prepared by the Department of Conservation (DOC) on behalf of the Director-General of Conservation and provides commentary to support the Panel's assessment of the application for a wildlife approval. The content of this report has been informed by information from DOC's technical experts and 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.

3. Overview of DOC's report

- 3.1 DOC generally supports the proposal to salvage lizards. However, DOC suggests some changes to the lizard management plan (LMP) to enable better protection of lizards at the individual and population level. As the applicant did not provide conditions for a wildlife approval in their substantive application, DOC has suggested some in line with best practice.
- 3.2 DOC and Rangitōopuni have engaged post-lodgement to discuss any concerns as encouraged by the Panel Convener. This resulted in a revised LMP provided to DOC via email correspondence on 29 July 2025. Following this email correspondence, DOC is satisfied that, if the proposed management plan is complied with, it would be appropriate to grant the wildlife approval.
- 3.3 Overall, the updated application contains sufficient detail to support the wildlife approval sought. While the applicant has only proposed conditions relating to the resource consent, DOC considers that the revised LMP and the conditions proposed by DOC are appropriate. If these conditions are accepted, DOC would be satisfied that they achieve consistency with the purpose of the Wildlife Act and provide for the protection of absolutely protected wildlife.

4. Sources

- 4.1 This report draws on information from the substantive application. Application documents specifically referenced in this report include:
- Appendix F - Ecological Impact Assessment – Section 5
 - Appendix S - Ecological Management Plan – Section 6
 - Appendix A - Proposed Conditions – Lizard Management Plan
 - Appendix F.1 - Wildlife Approvals Checklist
 - 67940-Rev1 - Rangitōopuni Lizard Management Plan (provided to DOC post-lodgement and attached to this report as **Appendix A.**)
- 4.2 The assessment in this report is informed by advice from one of DOC's fauna experts, whose expertise can be viewed in **Appendix C.**

5. Context and background

5.1 Project overview

- 5.1.1 The proposal is to construct a 210-lot countryside living subdivision on Lot 1, and a retirement village with 260 villas, 36 care units and associated amenities on Lot 2. Recreational walking tracks will be constructed in both lots.
- 5.1.2 The Project area is entirely clear-felled pine, including large areas beyond bulk earthworks that would be protected and revegetated, and which may also support indigenous lizards. Vegetation clearance is proposed to be undertaken as part of standard rotational harvest. However, it is anticipated that some stages across the Project area will have regenerated prior to proposed earthworks, and therefore some areas may have young (<6 years) regenerating weedy growth. Lizard management will need to be completed prior to each stage of earthworks.
- 5.1.3 The application seeks a resource consent and wildlife approval under the Fast-track Approvals Act 2024 (FTAA). This report relates to the application for wildlife approval.

5.2 Summary of wildlife approval sought

- 5.2.1 In Rangitōopuni's application, Appendix F.1 - Wildlife Approvals Checklist states that wildlife approval is sought for the following activities as part of the Project:
 - a. *"We propose to capture and relocate native skinks (e.g. copper skink, *Oligosoma aeneum*) from the proposed earthworks footprint to an adjacent area that will be subject to habitat enhancement, including pest management (LMP) and restoration/regeneration planting, and as detailed in the draft EMP and LMP;*
 - b. *The actions will involve pre-clearance trapping and systematic searches, followed by destructive searches during vegetation removal phase, to ensure all opportunities to relocate protected lizards are taken. These methods are detailed in Section 6.2 of the EMP;*
 - c. *The lizards will be released into pest managed and enhanced habitats, within the Project Area, with these areas to be detailed in the final EMP."*
- 5.2.2 Overall, the proposed lizard management actions are aligned with the purpose of the Wildlife Act, and it is considered that the protection of wildlife can be achieved. The small number of lizards expected to be present on site means that although some incidental deaths may occur, habitat creation and enhancement will result in a net benefit for lizard species on site. This plan, if implemented fully, will provide protection for lizards that will be impacted on the site.

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

6.1 Statutory context

- 6.1.1 Clause 1 of Schedule 7 of the FTAA defines "wildlife approval" as "a lawful authority for an act or omission that would otherwise be an offence under any of sections 58(1), 63(1), 63A, 64, 65(1)(f), 70G(1), 70P, and 70T(2) of the Wildlife Act 1953."
- 6.1.2 The incidental killing of wildlife, without lawful authority, is an offence under s 63. Relevantly, s 63 of the Wildlife Act provides that no person may "hunt or kill" (including the extended definitions of those terms) protected wildlife without lawful authority, and that doing so is a strict liability offence. The defence provided in s 68AB will apply to accidental killing (killing that is not foreseeable, nor intended) where a person has taken all reasonable steps to avoid the killing of wildlife.
- 6.1.3 The proposed capturing and killing activities can be considered for wildlife approval under the FTAA. A wildlife approval granted under the FTAA is treated as if it were granted under the Wildlife Act (Schedule 7, clause 7(1)).

6.2 Purpose of the Wildlife Act

- 6.2.1 The relevant purpose of the Wildlife Act is to protect wildlife.
- 6.2.2 The Wildlife Act creates a tiered system, with different levels of protection 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.
- 6.2.3 Rangitōopuni is seeking wildlife approval for activities relating to absolutely protected species. In this report, the application and the effects of the Project are considered against the purpose of the Wildlife Act.

6.3 The role of species management plans

- 6.3.1 Applications to catch and kill wildlife are typically considered under s 53 of the Wildlife Act. Authorisations under s 53 cover the incidental killing of wildlife. Compliance with a management plan is sometimes included as a condition of Wildlife Act authorisations. Where a management plan needs to be amended, a variation to the Wildlife Act authorisation is usually made, so that the relevant condition of the Wildlife Act authorisation is amended to refer to an updated version of the management plan.
- 6.3.2 In its application, Rangitōopuni produced an Ecological Management Plan that covers all expected wildlife on site. The Lizard Management Plan (LMP) is contained within chapter 6 of the Ecological Management Plan. DOC notes that there is reference to activities involving lizards in other chapters of the EMP.
- 6.3.3 DOC's preference was a separate LMP as an independent document outlining all methods and mitigation relevant to the wildlife approval.
- 6.3.4 Following email correspondence between DOC and the applicant where DOC expressed the above, Rangitōopuni provided the LMP as a stand-alone document. This report and all comments have been made based on the document provided post-lodgement.

- 6.3.5 Rangitootuni has proposed conditions surrounding the LMP and the need to certify it with Auckland Council (Council), before any salvage begins.
- 6.3.6 DOC has general concerns with this approach as DOC's role in relation to amendments to the management plan proposed in the application is unclear. It is crucial that DOC maintains a regulatory role in assessing and approving any changes to the LMP.
- 6.3.7 A wildlife approval granted under the FTAA has force and effect as a lawful authority as if it were granted under the Wildlife Act. Any changes to the LMP via certification by the Council would undermine DOC's ongoing management of the approval.

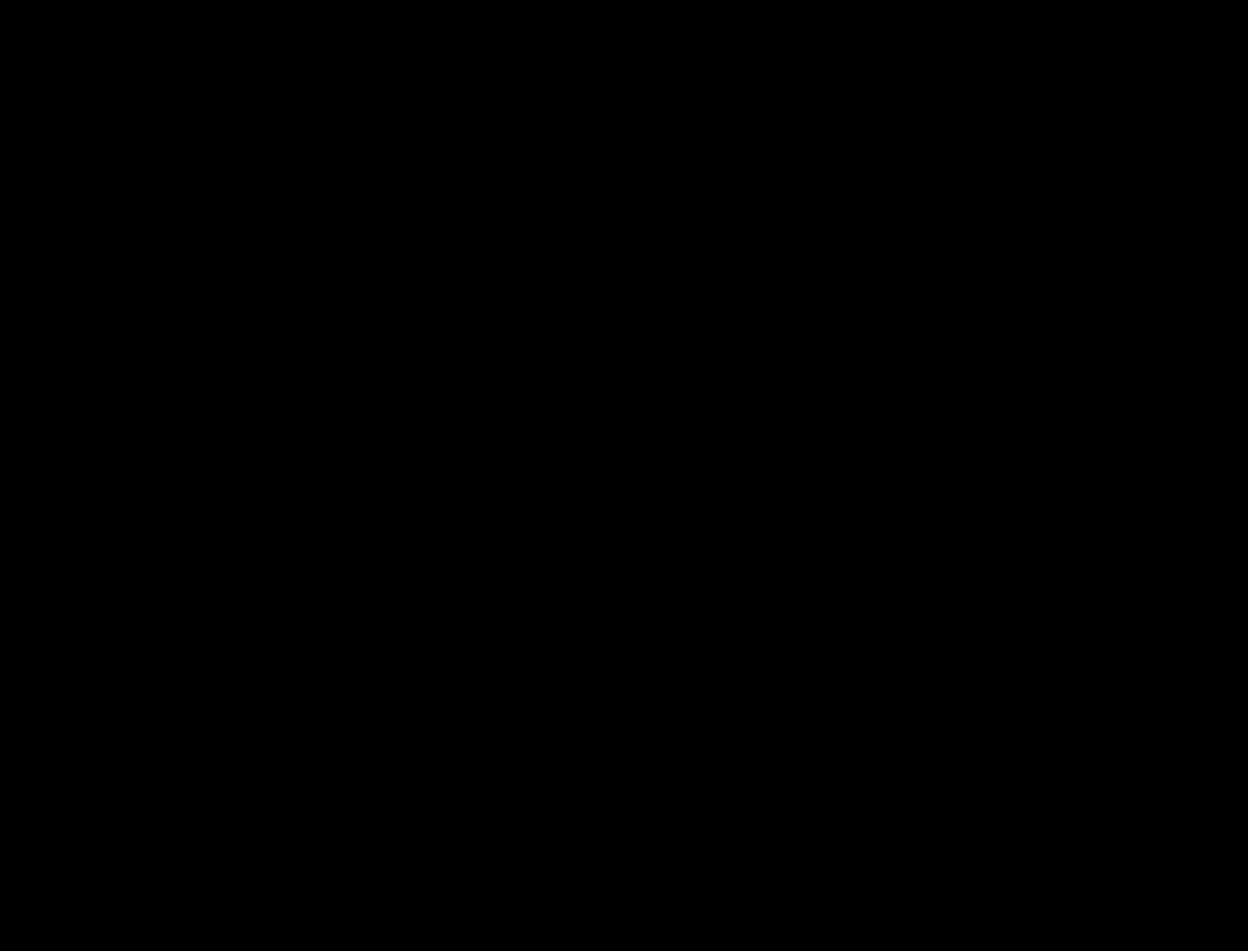
6.4 Application

- 6.4.1 No native lizards were recorded by the applicant within Rangitootuni-Riverhead Forest; however, a suite of six native lizard species is considered to have some potential to be present within and around potential habitats associated with mature and clear-felled pine environments. Three of these species have been recorded within 5 km of the Project, although two of these (Pacific gecko and forest gecko) have strong associations with indigenous forest habitats that are not present within the Project site. To mitigate effects of vegetation clearance on lizards, Rangitootuni has sought wildlife approval to salvage (capture and relocate) and incidentally kill lizards.
- 6.4.2 Rangitootuni is applying for wildlife approval in relation to the species of lizard listed in Table 1.

Table 1. Lizard species that Rangitootuni is seeking wildlife approval for. This list is based on Section 6.2.1 of the Ecological Management Plan provided in the Application.

Common name	Scientific name	Threat status (New Zealand Threat Classification System)
Elegant gecko	<i>Naultinus elegans</i>	At Risk – Declining
Forest gecko	<i>Mokopirirakau granulatus</i>	At Risk – Declining
Moko skink	<i>Oligosoma moco</i>	At Risk - Relict
Ornate skink	<i>Oligosoma ornatum</i>	At Risk - Declining
Copper skink	<i>Oligosoma aeneum</i>	At Risk - Declining
Pacific gecko	<i>Dactylocnemis pacificus</i>	Not Threatened

- 6.4.3 Assessments of lizard presence and habitat, and the potential impacts of the Project on lizards, are provided in application documents Appendix S – Ecological Management Plan, Section 6 (Bioresearches 2025) and 67940-Rev1-Rangitootuni Lizard Management Plan (Bioresearches). Effect assessments and proposed actions are summarised below.

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- 6.4.4 An LMP has been prepared for the Rangitoopuni development to address effects on native lizards prior to and during vegetation clearance. The Project area consists of clear-felled pine forest, with some regenerating weedy growth expected in certain stages. Lizard management will be completed before earthworks begin in each stage, including slash and young ground cover removal.
- 6.4.5 Six native lizard species are considered potentially present, with copper skinks assumed to be the most likely. No lizards were detected during surveys, and numbers are estimated to be fewer than 100 copper skinks and fewer than 20 individuals of other species across the site.
- 6.4.6 The LMP aims to capture and relocate any native lizards found within the construction footprint and enhance habitats at the release sites. All salvage and relocation activities will be carried out by a DOC-authorised herpetologist.
- 6.4.7 Salvage is sought to be undertaken between October and May, over a 2–6 week period per stage, in suitable weather conditions. Salvage during May is only to occur if approval is granted from Council, as it is outside of normal lizard salvage season. Vegetation clearance will not occur from June to September. Phase 1 involves systematic searches for lizards in all identified habitats at least two weeks before earthworks begin. Captured lizards will be processed and relocated.
- 6.4.8 Phase 2 begins once Phase 1 is complete and involves salvage during earthworks. Herpetologists will work with machine operators to search areas such as deep log piles using excavators fitted with toothed buckets or root-rake attachments. Felled trees will be stacked and left in place for at least one month to allow further searches.

- 6.4.9 All captured lizards will be held for no more than 24 hours before release. For each individual, species, sex, age, capture method and capture and release locations will be recorded.
- 6.4.10 Lizards will be released into adjacent revegetation areas beyond the earthworks footprint. These areas are expected to have low existing lizard numbers and will be enhanced through restoration planting, pest control, and a domestic cat ban. Specific criteria for selecting release sites include low disturbance history, indigenous regeneration, sufficient ground cover, spatial clustering, proximity to high-value habitat, and accessibility for monitoring.
- 6.4.11 Although considered highly unlikely, if a lizard species outside of the six listed in the plan is discovered, the herpetologist will notify DOC.
- 6.4.12 Monitoring will be triggered if 20 or more lizards are relocated in a single stage. In such cases, five annual monitoring surveys will be conducted using pit traps installed at least four weeks before the survey period. Surveys will occur in November–December or March–April.
- 6.4.13 Reporting will include detailed records of each salvaged lizard and, if monitoring is triggered, annual survey results and recommendations. Contingency actions are outlined for cases where salvage outcomes are inconclusive, with restoration and pest control expected to support long-term habitat improvement.

6.5 Information and requirements relating to protected wildlife

- 6.5.1 The threat status of species applied for are provided in Table 1. The species expected to be primarily affected is copper skink (At Risk – Declining). This species is generally widespread, particularly in the upper North Island, and has a large national population.
- 6.5.2 The Management Plan stated that lizards would be released within the development footprint however did not provide a specific location within the footprint for a release site, which raised concerns from DOC. Without a defined site, there is a risk that an unsuitable location could be chosen, potentially leading to mortality. Generally, release sites should be protected from development, have predator control measures in place, and offer adequate refugia and lizard-friendly habitat suitable for the affected species. After lodgement, the applicant updated the LMP to include criteria for selecting a release site during salvage operations. DOC has reviewed these requirements and is satisfied with the changes.
- 6.5.3 Indigenous lizards are considered taonga by some Māori. It is not uncommon for mana whenua to request to be involved in lizard-related work to ensure appropriate tikanga is followed.

6.6 Assessment against the purpose of the Wildlife Act

- 6.6.1 Where removal of lizard habitat is an unavoidable consequence of the Project, lizard salvage will protect, to some extent, lizards that would otherwise be adversely affected by works (e.g. vegetation clearance) associated with the Project.
- 6.6.2 However, salvage is a mitigation tool that comes with risks. Salvage only protects those animals salvaged from direct harm which, despite best practice methods, is not likely to capture all affected animals, and successful establishment at the release site is not guaranteed (evidence indicates that

only about 13-32% of lizard translocations result in stable or growing populations long-term¹). Additional actions are often required to offer overall protection to wildlife.

6.6.3 DOC's key principles for lizard salvage and transfer in New Zealand are relevant to assessing whether a lizard salvage proposal will adequately protect lizards.² The key principles, discussed in this report where applicable, include:

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

6.6.4 Contingency actions are required when lizard salvage and transfer activities fail.

6.6.5 Rangitoo-puni has assessed the proposed activity and its impacts against the purpose of the Wildlife Act and notes the following: *The Wildlife Act protects animals classed as wildlife and controls how people interact with wildlife. The application is relevant to the Wildlife Act because it proposes vegetation removal activities and earthworks on land which provides habitat to protected wildlife species, and these species may be killed during unmanaged activities. Section 6 of the EMP specifically proposes capture and relocation of native lizards from habitats to protected and enhanced habitats to minimise mortality where they may occur within vegetation and habitats of the Project area.*

Avoidance and site selection

6.6.6 As relocating lizards comes with risks, avoidance is preferred where possible. DOC has no concerns with the selected site and agrees with the applicant's assessment that lizards are likely to be present in low abundance. The LMP confirms that no native lizards were detected during surveys, and copper skinks are assumed to be present based on regional records and habitat suitability.

6.6.7 The Project area consists entirely of clear-felled pine forest, a highly disturbed environment with limited habitat value for lizards, particularly in the presence of a full suite of predators. The LMP estimates fewer than 100 copper skinks, and fewer than 20 individuals of other species may be present across the site. Given these conditions, the development site is considered to have low ecological value for lizards, and the proposed development avoids areas of higher habitat quality such as indigenous forest or intact riparian corridors.

Best practice methods and salvage effort

¹ <https://www.conservationevidencejournal.com/actions/3719>

² <https://www.doc.govt.nz/globalassets/documents/about-doc/concessions-and-permits/wildlife-research-permits/lizard-salvage-and-transfer-nz.pdf>

- 6.6.8 DOC considers the proposed salvage methodology to be appropriate and supports the staging of salvage, monitoring and reporting in alignment with the phased nature of the development.
- 6.6.9 The LMP outlines a two-phase salvage approach, beginning with systematic pre-clearance searches followed by salvage during earthworks, both conducted under suitable weather conditions within the recognised salvage season (October to May). The use of machine-assisted searches, supervised by a DOC-authorised herpetologist, ensures thorough coverage of difficult-to-access habitats such as deep log piles.
- 6.6.10 The LMP also includes detailed protocols for lizard handling, data recording and immediate release into enhanced adjacent habitats. Monitoring and reporting are triggered when 20 or more lizards are relocated in a stage, ensuring that salvage outcomes are tracked and adaptive management can be applied if needed. These measures reflect current best practice and are consistent with DOC's guidelines for lizard salvage and transfer. DOC has recommended further conditions for the wildlife approval in line with the protocols suggested in the LMP.

Competencies

- 6.6.11 The personnel proposed by Rangitōopuni to undertake activities under the wildlife authorisation have been assessed by one of DOC's fauna experts to be suitably qualified and experienced. The LMP identifies that all lizard capture and handling will be carried out by a DOC-authorised herpetologist, supported by qualified ecological staff where appropriate. The lead herpetologist for the Project holds over 18 years of experience in herpetological work. The plan also confirms that all salvage activities will follow best practice methods, including those outlined in DOC's Herpetofauna Inventory and Monitoring Toolbox.

Species list

- 6.6.12 Rangitōopuni is seeking wildlife authorisation for six native lizard species: copper skink, ornate skink, moko skink, forest gecko, elegant gecko, and pacific gecko, as listed in Table 4 of the LMP. Of these, copper skink is assumed to be present based on regional records and habitat associations, while the other five species are considered potentially present in low numbers. Only copper skink, forest gecko, and pacific gecko have been recorded within 5 km of the Project area. Although the likelihood of encountering species outside this list is very low, the applicant has committed to notifying DOC in the event of any incidental discoveries.
- 6.6.13 DOC agrees that copper skinks are the most likely species to be found on site and acknowledges the possibility of forest gecko and pacific gecko being present in small numbers. Ultimately, DOC has no concerns with the applicant being authorised for all six proposed species. A condition has been proposed to notify DOC in the event that a different species is discovered, in line with the LMP.

Release site

- 6.6.14 To maximise the likelihood of lizard survival and establishment, DOC requires that release sites meet key ecological criteria: they must be suitable for the salvaged species, offer long-term habitat security, provide protection from predators and be safeguarded from future human disturbance. While the application confirms that release sites will be located within the 21.98 ha Project footprint, the exact locations have not yet been identified. DOC initially raised concerns about habitat suitability, noting that some areas within the footprint may be unsuitable and could result in mortality if used for release.

- 6.6.15 Following discussions with DOC, the applicant has committed to selecting release sites based on a set of robust ecological criteria at the time of salvage. These include prioritising areas with low disturbance history, evidence of indigenous regeneration, sufficient ground cover and refugia, spatial clustering to support population establishment, proximity to higher-quality habitats and accessibility for monitoring. DOC is satisfied that these parameters provide a sound framework for site selection and accepts the need for a flexible, site-responsive approach as the Project progresses. Provided these criteria are implemented fully, DOC considers the plan sufficient to ensure protection of lizards impacted by the development.

Addressing residual effects

- 6.6.16 DOC agrees with the applicant's assessment that lizards are likely to be present only in low abundance across the site. However, DOC supports the proposed pest animal control and restoration planting at the release sites as appropriate mitigation for residual effects. These measures include ongoing control of rodents, mustelids, hedgehogs, possums and feral cats, as well as native revegetation planting in areas receiving salvaged lizards. The LMP outlines that these habitats will be permanently restored and protected from future disturbance, with a domestic cat ban in place for future residents. DOC also supports the staging of salvage, monitoring and reporting to align with the phased nature of the development, ensuring that mitigation efforts are responsive to site conditions and implemented consistently throughout the Project.

Incidental deaths and overall protection of wildlife

- 6.6.17 The applicant seeks approval for harm to wildlife that could arise from any of the activities associated with the Project. **This** could include incidental death of lizards that, despite best efforts, are not successfully salvaged.

6.7 Conditions to manage effects on protected wildlife

- 6.7.1 See [Appendix B](#) for the condition set with comments and tracked changes.
- 6.7.2 The applicant has proposed conditions relating to the drafting and certification of an LMP as part of the resource consent but has not proposed any conditions for a wildlife approval.
- 6.7.3 DOC is concerned that the proposed management plan conditions do not provide sufficiently objective standards for council officers to certify the plans. Certifying or amending management plans after consent is granted carries a risk of unlawful delegation. While conditions may allow officers to "certify" that a plan meets certain requirements, this must not amount to granting approval. Under the FTAA, only the Panel has the authority to make final decisions, not council officers.
- 6.7.4 DOC considers that, as currently drafted, the conditions would effectively delegate the responsibility for determining the appropriate mitigation of adverse effects—and the extent of effects deemed acceptable—to council officers. These determinations are fundamental to whether consent should be granted in the first place. The Department maintains that reliance on unenforceable, qualitative objectives within management plans is inappropriate. Any management plans forming part of the consent should be approved by the Panel.
- 6.7.5 DOC has recommended amendments aligned with best practice. The recommended conditions are included in [Appendix B](#).
- 6.7.6 The Wildlife Act does not prescribe a maximum duration for authorisations. Initially, the application did not specify a proposed term for the wildlife approval; this was later clarified via email

correspondence, with the applicant requesting a 10-year term. DOC believes this timeframe is appropriate given the nature of the Project and the likelihood that habitat conditions will change significantly over a decade. After this period, the methods outlined in the current LMP may no longer reflect best practice, as both habitat characteristics and mitigation techniques are expected to evolve.

7. Consultation

Pre-lodgement

7.1 The applicant engaged with DOC in April 2025. DOC provided a summary of pre-lodgement consultation to the applicant on 29 April 2025 (Appendix QQ – DoC and MfE Consultation provided by the applicant).

7.2 In summary, DOC advised that:

- The application for wildlife approval should follow the information requirements under the Act.
- Baseline assessments that estimate numbers and species of lizards present should be updated and expanded in the application to meet sufficiency requirements.
- We discussed the project details relevant to implementation and effectiveness of the lizard management activities, such as the intended timeline and staging of project works, the intended approach to excavations, and the identification and preparation of lizard relocation sites within the project area.

Post-lodgement

7.3 Post-lodgement of the substantive application, DOC and the applicant have engaged collaboratively to discuss outstanding issues with the LMP. A meeting held between DOC and the applicant on 22 July 2025 resulted in the provision of a revised LMP. The updated LMP was received on 29 July 2025 and is used as the basis of this report.

7.4 In contrast to the LMP initially submitted, the revised LMP includes:

- Additional information and clarification about the timing of lizard salvage,
- Additional information and clarification about lizard release site identification and selection,
- Updated lizard release site criteria to be followed, and
- An updated proposal around the project staging including salvage, monitoring and reporting to align with the stages of the project development.

8. Additional information

8.1 International conservation agreements

8.1.1 The table below outlines the international agreements that relate to the protected wildlife that is to be covered by the approval.

Table 1: International conservation agreements

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

The United Nations Convention on Biological Diversity

- 8.1.2 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.
- 8.1.3 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.
- 8.1.4 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.*
- 8.1.5 The application from Rangitooopuni seeks to access natural resources in a way that biodiversity and ecosystem impacts are minimised or mitigated. Potential residual effects are proposed to be offset, including by a pest management project and biodiversity plan.

International Union for Conservation of Nature (IUCN)

- 8.1.6 The IUCN is a globally recognised conservation body and New Zealand's membership reflects its commitment to biodiversity and ecosystem protection. While the IUCN is not a treaty-level agreement, New Zealand's contributions to the IUCN's Contributions for Nature platform and its alignment with global biodiversity targets (e.g. the Kunming-Montreal Global Biodiversity Framework) reflect a strong public commitment to species recovery and habitat protection.
- 8.1.7 The IUCN Red List status of species named in the application is provided in Table 2.

Table 2. IUCN Red List status of species named in application.

Common name	Scientific name	IUCN Red List status
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Pacific gecko	<i>Dactylocnemis pacificus</i>	Least Concern (stable)
Elegant gecko	<i>Naultinus elegans</i>	Vulnerable (decreasing)
Moko skink	<i>Oligosoma moco</i>	Least Concern (stable)
Forest gecko	<i>Mokopirakau granulatus</i>	Vulnerable (decreasing)
Ornate skink	<i>Oligosoma ornatum</i>	Least Concern (decreasing)
Copper skink	<i>Oligosoma aeneum</i>	Least Concern (stable)

8.2 Consistency with statutory planning documents and policy

- 8.2.1 The following statutory planning documents and associated policies are recommended to be considered alongside the wildlife approval sought by this Project.

Conservation General Policy 2005

- 8.2.2 The Conservation General Policy 2005 (CGP) provides guidance for the administration and management of lands and waters and natural and historic resources managed under conservation legislation including the Wildlife Act.
- 8.2.3 Policy 4.6(a) states that “Activities on public conservation lands and waters should be planned and managed in ways which avoid or otherwise minimise adverse effects on the quality of ecosystem services”.
- 8.2.4 The CGP does not contain policies specific to the proposed wildlife activities. The application is not inconsistent with the CGP.

Auckland Conservation Management Strategy 2014

- 8.2.5 The Auckland Conservation Management Strategy (CMS) provides a framework for the management of natural and historic resources in the Auckland region. Although the CMS is more relevant to public conservation land, it does apply also to wildlife located off conservation land.
- 8.2.6 The CMS advocates for the protection of the habitats of native species and lists the Pacific gecko and ornate skink as at-risk species. The CMS's focus on mitigating threats to biodiversity is directly relevant to managing the impacts of earthworks activities at the Project site. Measures such as restoration, pest management and careful handling and relocation of lizards are consistent with the CMS's guidelines for minimising human disturbance and protecting wildlife.
- 8.2.7 The CMS emphasises the importance of monitoring and reporting to track the effectiveness of conservation measures. The LMP includes reporting requirements at various stages of the Project. DOC supports the inclusion of reporting conditions. If the LMP and proposed conditions are adopted, the wildlife approval sought is consistent with the intent of the management plan.

9. Treaty of Waitangi settlement considerations and obligations

9.1 Treaty of Waitangi settlement obligations

- 9.1.1 Under section 7 of the FTAA the Panel must act in a manner that is consistent with obligations arising under existing Treaty settlements.
- 9.1.2 The Ministry for the Environment (MFE) provided a report which sets out the section 18 matters it considered relevant to the application. DOC was consulted by MFE on this report.
- 9.1.3 DOC has reviewed the section 18 report and agrees that the key consideration for the Panel, in relation to the wildlife approval, is engagement with the iwi authorities identified below, in accordance with the relevant Deeds of Settlement. While the affected lizard species are not classified as taonga, DOC acknowledges they may still hold significance for the iwi authorities listed below:
- **Ngāi Tai ki Tāmaki Trust** as per the Ngāi Tai ki Tāmaki conservation relationship agreement
 - **Ngāti Whātua o Kaipara** as per the Te Kawenata Taiao o Ngāti Whātua o Kaipara Conservation Charter
 - **Ngāti Tamaoho Settlement Trust** as per the Ngāti Tamaoho conservation relationship agreement
 - **Te Ākitai Waiohū Settlement Trust** as per the Te Ākitai Waiohū deed of settlement
 - **Ngāti Whātua Ōrākei Trust** as per the Ngāti Whātua Ōrākei conservation protocol.
- 9.1.4 MFE noted in their section 18 report that Te Kawerau ā Maki, being both the applicant and the holder of the statutory acknowledgement over Rangitopuni Stream, does not require separate engagement. Ngāti Pāoa Iwi Trust, while just outside the formal area of interest, was included in the applicant's consultation. DOC notes that iwi and hapū may have cultural associations with land, water, and taonga that extend beyond what is formally recognised in Treaty settlements or agreements. Local tangata whenua are best placed to advise on these matters.

9.2 Treaty of Waitangi principles

- 9.2.1 DOC's work in preparing this report has been carried out in a manner that, as far as possible, gives effect to the principles of the Treaty of Waitangi³ (arising from the obligation on DOC from section 4 of the Conservation Act). The principles most applicable to DOC's role are:
- **Partnership** – mutual good faith and reasonableness.
 - **Informed decision-making** - Both the Crown and Māori need to be well informed of the other's interests and views. Consultation is a means to achieve informed decision-making.
 - **Active protection** - requires informed decision-making and judgement as to what is reasonable in the circumstances.
 - **Redress** – requires recognition of existing rights and interests.
- 9.2.2 DOC has notified the entities in Table 3 that the application is progressing through the FTAA. This notification included sharing relevant publicly available information. DOC notes that affected Māori entities will be invited to provide comments to the Panel on the application as per s 53 of the FTAA.
- 9.2.3 Otherwise, DOC has not identified any additional specific conditions that should be imposed in accordance with section 84 to achieve consistency with Treaty principles.

³ [Principles of the Treaty of Waitangi and DOC: Apply for permits](#)

Table 3: Māori entities

Māori Entities
Te Kawerau ā Maki (in partnership on this development) Te Ākitai Waiohū
Te Runanga o Ngāti Whatua
Ngāti Whatua o Kaipara
Ngāti Te Ata
Ngāti Tamaterā
Ngāti Tamaoho
Ngāti Manuhiri

10. Appendices

Appendix A: Revised Lizard Management Plan provided by the applicant on 29 July 2025

Appendix B: Wildlife Approval Proposed Conditions – marked up with DOC's proposed changes and recommendations.

Appendix C: Technical expert credentials.

Appendix D: Weighting of relevant matters to be taken into account.

Appendix A: Revised Lizard Management Plan

Appendix B: Proposed Wildlife Approval Conditions

As the applicant has only proposed conditions relating to the resource consent, DOC has proposed conditions below in line with a typical wildlife approval of this type under the Wildlife Act. If these conditions are accepted, DOC would be satisfied that the approval would be in line with the purpose of the Wildlife Act and provide for the protection of absolutely protected wildlife.

The Director-General notes that “defined terms” used in these proposed conditions may need to be amended to align with other terms defined elsewhere in the relevant decision document of the Panel.

Given the revised Lizard Management Plan supplied by the applicant (**Appendix A** of DOC’s Section 51 Wildlife Report), the Director-General considers it would be appropriate for the Panel to condition the wildlife approval based on that management plan, rather than requiring further Director-General certification post-approval. We consider this option would most align with the procedural principles in section 10 of the FTAA.

Lizard Management Plan

1. Rangitootuni will comply with the Lizard Management Plan (LMP) that is annexed to this Approval, throughout the life of the Project (approximately ten years).
2. Any proposed amendment to the LMP must:
 - a. be prepared by a suitably qualified and experienced person with expertise in lizards;
 - b. meet the objective set out in condition 3;
 - c. include at a minimum the requirements set out in condition 4; and
 - d. must be submitted to the local Operations Manager (auckland@doc.govt.nz) of the Department of Conservation, on behalf of the Director-General of Conservation, for certification that condition 2(a)-(c) have been satisfied.
3. The objective of the LMP (including any amendment) is to ensure that actions regarding lizards are carried out in a manner that is appropriately managed, by avoiding, remediating and mitigating the effects of the activities authorised by the Approval on lizards.
4. The LMP must include the following, in a manner that will achieve the objective outlined in condition 3:
 - a. Credentials and contact details of the suitably qualified and experienced ecologist/herpetologist who will implement the plan;
 - b. Timing of the implementation of the LMP;
 - c. A description of methodology for survey, trapping and relocation of lizards rescued including but not limited to:
 - i. salvage protocols;
 - ii. relocation protocols (including method used to identify suitable relocation site(s));
 - iii. nocturnal and diurnal capture protocols;
 - iv. supervised habitat clearance/transfer protocols;
 - v. artificial cover object protocols; and
 - vi. opportunistic relocation protocols;
 - d. A description of the relocation site(s); including:
 - i. provision for additional refugia, if required e.g. depositing salvaged logs, wood or debris for newly released native skinks that have been rescued;
 - ii. any protection mechanisms (if required) to ensure the relocation site is maintained (e.g.) covenants, consent notices etc; and
 - iii. any weed and pest management to ensure the relocation site is maintained as appropriate habitat.

- e. Monitoring methods, including but not limited to:
 - i. baseline surveying within the site;
 - ii. baseline surveys outside the site to identify potential release sites for salvaged lizard populations and lizard monitoring sites;
 - iii. ongoing annual surveys to evaluate relocation success;
 - iv. pre and post – relocation surveys; and
 - v. monitoring of effectiveness of pest control and/or any potential adverse effects on lizards associated with pest control; and
- f. A post-vegetation clearance search for remaining lizards.

If, however, the Panel is minded to set a condition requiring Director-General certification of the LMP, we recommend the LMP condition is edited with the following replacing condition 1 of the above and adjusting cross-references accordingly.

1. Rangitōopuni, in conjunction with a suitably qualified and experienced person, will prepare a Lizard Management Plan (LMP) and submit it to the local Operations Manager of the Department of Conservation for certification on behalf of the Director-General.
2. Rangitōopuni will not start works unless the LMP has been certified and will comply with the LMP or any certified amendment throughout the Project.
3. The Director-General will certify the LMP if it meets the objective in condition [X] and the requirements in condition [Y].

Authorised Activity

1. Rangitōopuni is only allowed to exercise the approval as specified in [this Decision Document].
2. Any arrangements necessary for access over private land or leased land are the responsibility of Rangitōopuni.
3. This Approval is valid for 10 years from the date of approval.

The below conditions are recommended as they are standard conditions to minimise the chances of harm to lizards in line with best practice methods. The LMP proposes salvage during May with Auckland Council approval which has been implemented into condition 1.

Lizard capture and handling

1. Lizards must only be handled by the Project Ecologist, Chris Wedding, or under the direct supervision of Chris Wedding.
2. Lizard capture, handling and relocation must be undertaken between 1 October and 30 April when lizards are most active. Lizard capture, handling and relocation may be undertaken in May only with the prior authority of the Auckland Council.
3. Capture and handling methods must involve only techniques that minimise the risk of infection or injury to the animal and shall follow those described in the Herpetofauna inventory and monitoring toolbox <http://www.doc.govt.nz/our-work/biodiversity-inventory-and-monitoring/herpetofauna/>.

Additional condition recommended below. Standard lizard condition to ensure reporting and management of lizard deaths as a result of the approved activity.

Incidental Discovery

1. The Auckland DOC Operations Manager is to be contacted immediately (auckland@doc.govt.nz) for further advice if protected wildlife other than those covered by this Approval are located within the footprint of the development or within the release site.

Death of wildlife associated with salvage activities

2. If any lizards should die during the activities authorised by this Approval being carried out, the Approval Holder must:
 - inform the Auckland DOC Operations Manager (auckland@doc.govt.nz) within 48 hours, chill the body if it can be delivered within 72 hours, or freeze the body if delivery will take longer than 72 hours; and
 - send the body to Massey University Wildlife Post Mortem Service for necropsy OR as otherwise advised by the Auckland DOC Operations Manager, along with details of the animal's history; and
 - pay for any costs incurred in investigation of the death of any lizard; and
 - if required by the Auckland DOC Operations Manager, cease the Authorised Activity for a period determined by the DOC Operations Manager.

Additional condition recommended below, to enable euthanasia if necessary.

Euthanasia

1. If any lizards are found injured as part of the Authorised Activity, the Approval Holder shall contact the Project Ecologist to get advice on management of the lizard. The Approval Holder is authorised to euthanise injured lizard(s) on recommendation of the Project Ecologist or a veterinarian.

Reporting

If lizard salvage and relocation work is carried out under this Approval, a report summarising the salvage and relocation results must be prepared and submitted to the Department of Conservation (DOC) within 30 days of the completion of the work. This report must be certified by a suitably qualified and experienced ecologist/herpetologist (approved to oversee the implementation of the Lizard Management Plan (LMP)), confirming that all lizard-related works were carried out in accordance with the certified LMP.

1. Results of lizard salvage and relocation work. Should native lizards be found, then the following will also be included in the report:
 - a. Photos illustrating lizard salvage methods utilised.
 - b. Photos of lizards captured (including photos of the salvage and relocation areas),
 - c. A map showing the location of lizard upon capture and upon release,
 - d. The species and number of any lizards detected, captured, and released, and
 - e. The results of all surveys and monitoring;
2. Descriptions of how lizard management activities outlined in the LMP were followed, including conditions detailed in the wildlife approval and associated resource consent conditions;
3. An Amphibian and Reptile Distribution Scheme (ARDS) card detailing information relating to captured lizards (also to be provided to herpetofauna@doc.govt.nz); and,
4. A brief summary regarding the outcomes of the LMP, including any improvements/changes that should be implemented in future.

Additionally, the below mechanical clauses are recommended.

Variations

The Approval Holder may apply to the Director-General for variations to this Approval in accordance with clause 7(2) of Schedule 7 of the Fast-track Approvals Act 2024.

Revocation

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:

- a. The Approval Holder breaches any of the conditions of this Approval.
- 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.

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.

Costs

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.

Liabilities

Rangitōopuni agrees to exercise the Approval at Rangitōopuni'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 Rangitōopuni's exercise of the Approval.

Compliance with Legislation and Director-General's Notices and Directions

Rangitōopuni 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.

Employees, Contractors, or Agents

Rangitōopuni is responsible for the acts and omissions of its employees, contractors, and agents.

Rangitōopuni is liable under the Approval for any breach of its terms by employees, contractors, or agents, as if the breach were committed by Rangitōopuni.

Where obligations bind more than one person, those obligations bind those persons jointly and separately.

Appendix C: Technical expert credentials

DOC has relied on the advice of the technical expertise of Lynn Adams – Technical Advisor (fauna). Their credentials are set out below.

My full name is Lynn Karen Adams. I hold the degrees of BSc and MSc, in Biological Sciences. For the past 28 years, I have worked for the Department of Conservation (the Department) in a variety of roles focused on species conservation management. Since 2003 my roles have been to provide technical advice, support and delivery of terrestrial indigenous fauna conservation programmes (based in Twizel, West Coast and Wellington/Hawkes Bay and Nationally).

I have undertaken extensive monitoring and management programmes on native New Zealand fauna, including translocations, pest control and wide-scale restoration. Most of these studies have been designed to assist with conservation management for Threatened or At-Risk species.

I am the leader of the New Zealand Lizard Technical Advisory Group (for 14 years), a group of experts who provide advice on the conservation management of lizard species nationally. I also lead the Hiji Recovery Group and the tuatara Recovery Group.

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

Introduction

1. This report responds to the Panel Convener's Minute dated 4 June 2025, directing the Director-General to "file a report advising how weighting of matters set out in Schedule 7, clause 3 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.⁴

Weighting generally

3. Generally, the weighting to be accorded to relevant considerations by a statutory decision maker is for that decision maker to determine,⁵ however where a statute directs the weight to be given to a matter, that direction must be given effect to.⁶
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.⁷
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.⁸
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.⁹
8. While described in the FTAA as "criteria",¹⁰ the mandatory matters to be taken into account can be described as "factors", in the sense that they are matters to be assessed on the basis of their qualities, rather than quantities. They establish the foundation for assessment rather than the outcome of

⁴ The schedule clauses referenced in the Minute excludes 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.

⁵ 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.

⁶ *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."

⁷ See, for example *Thames Valley Electric Power Board v NZFP Pulp and Paper Ltd* [1994] LGHNZ 17 (CA).

⁸ See Schedule 7, clause 5 (wildlife approval).

⁹ This directive occurs multiple times in the FTAA, including at Schedule 7, clause 5 (wildlife approval).

¹⁰ This is the terminology used in the titles for each of the relevant clauses listed in fn 5.

it.¹¹ Accordingly, the criteria, or factors, are not tick-boxes to be crossed off a list but are matters that must be qualitatively assessed.

9. 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.¹²
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*,¹³ 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.

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

¹¹ *Western Bay of Plenty District Council v Bay of Plenty Regional Council* [2017] NZEnvC 147, at [117]-[118].

¹² 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.

¹³ *Enterprise Miramar Peninsula Inc v Wellington City Council* [2018] NZCA 541.

(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).¹⁴

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.¹⁵ 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.¹⁶

¹⁴ *Enterprise Miramar Peninsula Inc*, at [53].

¹⁵ *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.

¹⁶ *Enterprise Miramar Peninsula Inc*, at [55]–[59].