

PART J: AUTHORITIES THAT WOULD OTHERWISE BE APPLIED FOR UNDER THE WILDLIFE ACT

The restrictions in the Wildlife Act 1953

[1] Section 63 of the Wildlife Act creates offences that are committed by anyone who, “without lawful authority”:

- (a) Hunts or kills “any absolutely or protected or partially protected wildlife or any game”; and
- (b) Possesses “absolutely protected or partially protected wildlife or any game”.

“Hunt or kill” has a definition that extends to:

... the hunting, killing, taking, trapping, or capturing of any wildlife by any means; and also includes pursuing, disturbing, or molesting any wildlife

[2] Lawful authority to catch alive or kill or have in possession for the purpose of relocation absolutely or partially protected wildlife can be conferred by the Director-General of Conservation under s 53.

The FTAA

[3] Applications for approvals that would other be applied for under s 53 of the Wildlife Act can be made under the FTAA, see s 42(4)(h).

[4] The criteria for determining such applications are provided in clause 5 of Schedule 7 to the FTAA. This provides:

For the purposes of section 81, when considering an application for a wildlife approval, including conditions under clause 6, the panel must take into account, giving the greatest weight to paragraph (a),—

- (a) the purpose of this Act; and
- (b) the purpose of the Wildlife Act 1953 and the effects of the project on the protected wildlife that is to be covered by the approval; and

(c) 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).

[5] The purposes of the Wildlife Act include the protection of species and particular populations of wildlife that are at risk.

[6] Clause 5(c) of Schedule 7 refers to the NZ Threat Classification System. This is a national system that assesses the conservation status of species found in the wild in New Zealand.

The approvals sought by OGNZL

[7] OGNZL seeks approval:

- (a) to undertake monitoring of leiopelmatid frogs within the vibration impact area, Wharekirauponga Pest Management Area and a control area, all of which are located within the Coromandel Forest Park;
- (b) to undertake monitoring of leiopelmatid frogs in waterways within and outside the area potentially affected by the dewatering of the WUG, all of which are located within the Coromandel Forest Park;
- (c) to handle, salvage and relocate leiopelmatid frogs and lizards in order to enable vegetation clearance at TSF3, NRS, GOP and Willows SFA, all of which are located on OceanaGold owned land. and
- (d) to handle, salvage and relocate leiopelmatid frogs and lizards in order to enable vegetation clearance for drill sites and pumping test / ventilation shaft sites located within the Coromandel Forest Park..

As well, in the course of this process, OGNZL also sought approval:

To harm ... wildlife that could arise from any of its other activities.

As a result of comments from DOC (and perhaps from Forest and Bird), OGNZL has elected to proceed only in relation to the first four approvals sought.

[8] We will discuss the application under the headings of:

- Lizard salvage;
- Frog salvage; and
- Frog monitoring.

Lizard salvage

[9] OGNZL has identified that several species of native lizards are, or are likely to be, present across the WNP area, based on lizard surveys and previous records. OGNZL seeks wildlife approval to salvage (capture and relocate) lizards. This is to mitigate the effects of vegetation clearance.

[10] The species of lizards in issue are:

Common name	Scientific name	Threat status (NZ Threat Classification System)
Northern striped gecko	<i>Toropuku inexpectatus</i>	Threatened - Nationally Endangered
Elegant gecko	<i>Naultinus elegans</i>	At Risk - Declining
Forest gecko	<i>Mokopirirakau granulatus</i>	At Risk - Declining
Striped skink	<i>Oligosoma striatum</i>	At Risk - Declining
Ornate skink	<i>Oligosoma ornatum</i>	At Risk - Declining
Copper skink	<i>Oligosoma aeneum</i>	At Risk - Declining
Moko skink	<i>Oligosoma moco</i>	At Risk - Relict

Raukawa gecko / Common gecko	<i>Woodworthia maculata</i>	Not threatened
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Pacific gecko	<i>Dactylocnemis pacificus</i>	Not Threatened
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Common gecko	<i>Woodworthia maculata</i>	Not threatened
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[11] The species 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. The only relevant threatened species, northern striped gecko, is unlikely to be encountered and OGNZL is proposing to seek to avoid sites where it is detected.

[12] OGNZL has provided conditions in its resource consent and access arrangement applications as to drill site selection under which any lizards with a threat status higher than At Risk are captured. Such animals will be held temporarily and DOC will be consulted on actions to take.

[13] Annual monitoring of lizard populations, habitat condition and pest control effectiveness is proposed for the first five years, then every five years until mine closure.

[14] This is discussed in more detail in the Application at B.36 (Bioresarches 2025a) and B.37 (Boffa Miskell 2025a) and in the DOC s 51 Report, Appendix D. The relevant management plans are the ELMP-WUG and ELMP-Waihi.

[15] We see no issue with granting approval as sought ,but subject to conditions to optimise benefits and minimise risks.

Frog salvage

[16] Capture and relocation of frogs (primarily the Archey’s frog but also the Hochstetter’s frog) is proposed to prevent injury and mortality to them associated with the aboveground activities in Coromandel Forest Park of clearing of drill sites, vent shafts and portable rig sites. Both are classified as At Risk – Declining. OGNZL anticipates that approximately 40 frogs may be salvaged. This is a consequence of site selection criteria that reduce the chance that

drill sites will be established where a high density of frogs is likely. OGNZL proposes to release the frogs to one of two prepared release sites within the Wharekirauponga Animal Pest Management Area.

[17] This is discussed in more detail in the Application (B.36. Part B – Technical Reports: Bioreserches – Terrestrial Ecological Impact Assessment (Waihi Area) (Bioreserches 2025a) and B.37. Part B – Technical Reports: Boffa Miskell – Terrestrial Ecology Values and Effects of the WUG (Boffa Miskell 2025a). It is also reviewed at length in the DOC s 51 Report, Appendix D.

[18] If the new locations into which salvage frogs are moved have existing frog populations there are risks of some detrimental impacts on those populations (such as disease, shortage of space and competition for resources). We are, however, satisfied that such risks are limited and outweighed by the potential benefits (see OGNZL’s response to Doc’s s 51 and 53 comments, Appendix K. Katherine Muchna).

[19] Given the conclusion just expressed, we are satisfied that the possible benefits of frog salvage outweigh the risks and we grant the approval sought subject to conditions that we consider will optimise the likelihood of the frog salvage being successful.

Frog monitoring

[20] The proposal is to monitor leiopelmatid frogs in:

- (a) the vibration impact area, the Wharekirauponga Pest Management Area and a control area, which are in the Coromandel Forest Park; and
- (b) in waterways within and outside the area potentially affected by the dewatering of the WUG, all of which are located within the Coromandel Forest Park.

[21] The purpose is to monitor potential effects of the Wharekirauponga Underground Mine and the proposed pest animal management mitigation package on local populations of Archey’s and Hochstetter’s frogs. This is discussed in more detail in the Application (at B.58, Frog Monitoring Plan. Lloyd 2025) and in DOC’s s 51 Report at Appendix D.

[22] What is proposed involves some risks to frogs from repeated handling. So, in issue is whether the benefits of knowledge gained from such handling outweigh those risks. On the basis of the material supplied, including the DOC s 51 Report, we are satisfied that, providing best practice methods are followed (which is addressed in conditions), the benefits will outweigh the risks.

Decision

[23] The Wildlife Act Authority is set out in Appendix G of this Decision.