

Te Kowhai East Limited Partnership

Te Kowhai East Industrial Development

Substantive Application for Approvals

Volume C – Wildlife Act Approval

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Acronyms and Abbreviations

The glossary of acronyms and abbreviations in **Volumes A and B** of the Substantive Application also applies to this Volume and should be read together with the additional acronyms and abbreviations set out below.

Acronym/Abbreviation	Term
ACO	Artificial Cover Objects



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Appendices

Appendix A – Draft Lizard Management Plan

Appendix B – Proposed Wildlife Act Authority Conditions

Appendix C – Hamilton City Council Confirmation

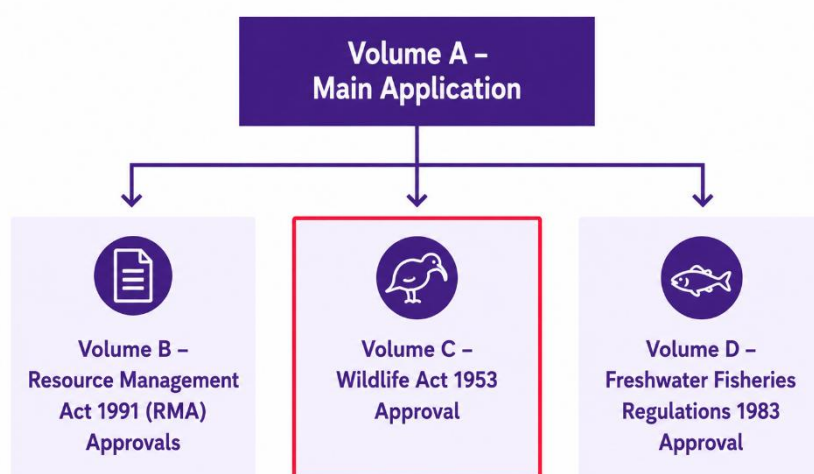


1. Wildlife Act 1953 – Wildlife Approval

1.1 Overview

Volume C of the Application has been prepared on behalf of the Te Kowhai East Limited Partnership (TKELP) in support of the Wildlife Approval sought under Schedule 6 of the Fast-track Approvals Act 2024 (FTAA) in relation to the Wildlife Act 1953 for the Te Kowhai East Project (TKE or the Project).

Volume C describes the Wildlife Approval sought, provides the assessment of herpetofauna effects, the proposed approach to lizard management and the relevant statutory and effects assessment for the application. It should be read in conjunction with **Volume A**, which is the main overarching report for the Application and contains general information relevant to all approvals. Further detail on the relevant resource management approvals, statutory assessment and effects of the Project is provided in **Volume B – Resource Management Act Approvals**.



1.2 Approval Sought

TKELP seeks a wildlife approval under section 42(4)(h) and Schedule 7 of the FTAA to authorise activities that may otherwise be restricted under the Wildlife Act 1953 in relation to protected native lizards affected by the Project.

The approval is sought to authorise the survey, capture, handling, temporary holding, transfer, relocation and release of copper skink (*Oligosoma aeneum*), together with any incidental injury or mortality that may occur despite the implementation of appropriate management measures. The approval is sought for a period of 10 years.

A Lizard Management Plan (LMP) is included in **Volume C – Appendix A**. TKELP seeks the Panel’s approval of the LMP as the framework for managing effects on native lizards and implementing the authorised activities.

This Volume should also be read in conjunction with the Ecological Impact Assessment (EcIA) in **Volume B – Appendix M** and the proposed Wildlife Approval conditions in **Volume C – Appendix B**.



1.3 Purpose of the proposed activity

The proposed activity is the implementation of a lizard effects management programme that enables native lizards to be removed from areas at risk from construction and relocated to a managed release site before habitat clearance occurs.

The purpose of the proposed activity is to enable the construction of the Project. The Project works will require vegetation clearance, earthworks and other land disturbance within areas that may provide habitat for native lizards.

The Wildlife Approval is required so that protected native lizards can be lawfully surveyed, captured, handled, temporarily held, transferred, relocated and released before and during works that may otherwise disturb, injure or kill protected wildlife. The approval is also sought to authorise any incidental injury or mortality that may occur despite the implementation of the approved management methods.

It is anticipated that construction of the Project will occur over an approximate 20-year period. Works will be completed progressively as the development is staged and may occur concurrently in different parts of the Project site. The timing of activities requiring lizard salvage and relocation will therefore depend on when each work area becomes available for construction. TKELP accordingly seeks a 10-year period within which the Wildlife Approval may first be exercised, with the works authorised by the approval able to commence progressively during that period in accordance with the final construction programme.

1.4 Actions in relation to protected wildlife

The actions intended to be carried out under the Wildlife Approval are those identified in Section 1.2.

The authorised salvage activities will be undertaken within the land parcels identified in Schedule 1 of the proposed Wildlife Act Authority in **Volume C – Appendix B**, with release occurring at Waiwhakareke Natural Heritage Park. The Project site and proposed development outcome are described in detail in **Volume A** and are shown in the Urban Design Plans (**Volume B – Appendix I**).

1.5 Assessment against the purpose of the Wildlife Act

The Wildlife Act 1953 protects native wildlife and regulates human interactions with protected species. Native lizards are protected wildlife under the Wildlife Act 1953, and activities involving their capture, handling, transfer or harm require appropriate authorisation.

Project works may place native lizards at risk during vegetation clearance, earthworks and other land disturbance. The purpose of the approval is therefore to enable a managed intervention that reduces the risk of harm to protected native lizards, rather than leaving those lizards in areas where habitat clearance and earthworks are to occur.

The proposed Wildlife Approval is consistent with the protective purpose of the Wildlife Act because it provides a lawful and structured framework for managing effects on native lizards. The approval will enable pre-clearance survey, salvage and relocation to be undertaken by suitably qualified and experienced herpetologists in accordance with the approved LMP and relevant best practice guidance.

1.6 Species and impacts

Potential lizard habitat within the Project site is associated with native bracken fernland, exotic scrub and vegetation, fencelines, existing farm buildings and sheds, organic and inorganic debris, shelterbelts and



hedgerows. These habitats are generally small, highly modified and fragmented. Grazed pasture is not considered suitable lizard habitat.

The EclA in **Volume B – Appendix M** identifies copper skink (*Oligosoma aeneum*) as the native lizard species most likely to occur within the Project site. Copper skinks are classified as *At Risk – Declining* and are expected, if present, to occur in low numbers given the extent of historic vegetation clearance, habitat modification and current farming activities. The EclA does not consider the Site to constitute important habitat for copper skink.

Manual searches of suitable lizard habitat undertaken as part of the EclA did not identify any indigenous lizards. However, this does not confirm their absence from the wider Project site given the cryptic nature of native lizards, the survey effort undertaken to date, and the limitations of available survey methods. Accordingly, there remains some uncertainty as to the number of copper skink that may be present within the Project site and whether another protected wildlife species may be unexpectedly encountered.

The number of copper skink likely to be impacted cannot be confirmed until pre-clearance survey and salvage have been undertaken. However, based on the modified and fragmented nature of suitable habitat within the Project site, copper skink are expected, if present, to occur at low densities within localised habitat patches.

The Wildlife Approval is sought for copper skink only. The LMP provides a precautionary framework for responding to uncertainty in the number of copper skink present. If the number of lizards captured materially exceeds that anticipated, the Project herpetologist will review the proposed management and release arrangements before further relocation occurs and any additional measures required will be implemented in accordance with the LMP and Wildlife Approval conditions.

If any protected wildlife other than copper skink is encountered within the Project footprint or release site, works involving that wildlife will be managed in accordance with the applicable Wildlife Act requirements and the conditions of the Wildlife Approval. That includes applying for further Wildlife Approvals in respect of different species, as necessary.

1.7 Application of best practice standards

The LMP has been developed having regard to the Department of Conservation's *Key Principles for Lizard Salvage and Transfer in New Zealand*.

The LMP requires lizard management to be undertaken by a suitably qualified and experienced herpetologist. It includes decision points and hold points to ensure that vegetation clearance and earthworks only proceed once the relevant salvage requirements have been completed or the Project herpetologist has confirmed that works may proceed.

The LMP also provides for the intensity of salvage to respond to the habitat type, survey results and capture rates. Areas where no native lizards are captured and where habitat is unsuitable may be cleared following confirmation by the Project herpetologist and subject to the incidental discovery protocol. Areas where native lizards are found, or where habitat cannot be adequately searched by hand, will be subject to further destructive hand searching or mechanically assisted destructive salvage before clearance proceeds.

The absence of captures from Artificial Cover Objects (ACOs) or manual searching will not, by itself, be treated as confirmation that native lizards are absent where suitable habitat remains. The Project herpetologist may require further destructive hand searching or mechanically assisted salvage where the habitat characteristics or other evidence indicate that lizards may remain present.



The proposed Approval also requires current best practice to be followed when undertaking the authorised activities and enables DOC to require improvements to techniques where necessary.

1.8 Survey, capture and holding methods

The LMP sets out a staged approach to the survey, capture and relocation of native lizards. Salvage will generally be undertaken within the lizard active season, between October and April, when lizards are more active and more likely to be detected and safely captured.

The proposed methods include:

- Identification of suitable lizard microhabitats before vegetation clearance or earthworks;
- Checking of traps and salvage devices by the Project herpetologist;
- Targeted destructive hand searching where required;
- ACO or retreats for salvaging skinks;
- Mechanically assisted destructive salvage where habitats cannot be effectively searched by hand;
- Incidental discovery protocols where lizards are found during works; and
- Safe transport and release of captured lizards to the approved release site.

Prior to undertaking any lizard salvage activities, the extent of vegetation clearance and earthworks will be clearly marked to ensure the Project herpetologist understands the full extent of the area of impact.

Lizard salvage will be undertaken by a suitably qualified and experienced herpetologist, supported by assistant ecologist(s) as required, through targeted search and salvage campaigns before and during vegetation clearance. The search and salvage campaigns will be undertaken in two phases:

- **Phase 1:** Pre-vegetation clearance systematic manual habitat searches, use of ACOs and a live capture and relocation programme.
- **Phase 2:** Within Phase 1 areas where native lizards are detected, or where the Project herpetologist determines that suitable habitat remains and further salvage is warranted, machine-assisted destructive searching during vegetation clearance.

Within Phase 1, systematic diurnal searches will include lifting debris and searching vegetation foliage, shrubs, rank grass and rock piles by hand or with the assistance of rakes. ACOs will also be used for the salvage of skinks. ACOs comprise approximately 475 mm × 500 mm sheets of corrugated Onduline laid in double or triple stacks with a 5–10 mm gap between sheets. ACOs will be installed in areas of potential habitat to be cleared where lizard encounters are considered possible. They will be installed for at least six weeks to allow colonisation by lizards, after which they will be checked over a minimum four-day trapping period before earthworks and vegetation clearance.

Phase 2 will incorporate destructive searching of potential habitat during vegetation removal, including with the assistance of an excavator fitted with a toothed bucket or rake. These searches will cover habitat where native lizards have been detected during Phase 1 and any other suitable habitat identified by the Project herpetologist as requiring destructive salvage, until the potential habitat has been sufficiently removed or degraded that lizards are unlikely to remain present.

Captured lizards will be held only for the minimum time necessary before release. They will be transported in secure, ventilated containers containing appropriate cover material to reduce stress and will be released on the same day as capture where practicable.



1.9 Location of activity and release site

The primary release site is Waiwhakareke Natural Heritage Park, an approximately 60 ha area of native forest, located south of the Project site. Waiwhakareke Natural Heritage Park is approximately 3.5 km from the Project site and is managed by Hamilton City Council (HCC) as a public reserve under the Reserves Act 1977. The release site is shown in **Figure 1** and is legally described as Lot 1 DP 425316 (RT 499857).

Figure No. 1: Lizard release site



HCC has advised that it is supportive of Waiwhakareke Natural Heritage Park being used as a release site for lizards salvaged from the Project. HCC's confirmation is provided in **Volume C – Appendix C**. A formal agreement is currently being developed to formalise this arrangement. No lizards will be transferred to the release site until the necessary landowner approval or other formal authority to use and manage the site has been secured.

The release site provides established and regenerating native vegetation and habitat suitable for copper skink. The suitability of the release site, together with any habitat enhancement, predator-control and



release requirements, will be managed in accordance with the LMP and the formal agreement with HCC. Before relocation occurs, the release arrangements will confirm that the site has capacity to accommodate the species and number of lizards proposed to be released and identify any additional habitat preparation or predator-control measures required.

Its proximity to the Project site will reduce lizard transfer time and associated stress and means salvaged lizards are likely to be relocated within the same local population context.

1.10 Actual and potential effects

The actual and potential effects on protected native lizards are described in the LMP and assessed in the EclA (**Volume B – Appendix M**). The principal effects are:

- Disturbance, injury or mortality of native lizards during vegetation clearance, earthworks and other land disturbance;
- Temporary stress associated with capture, handling, holding, transfer and release;
- Displacement of lizards from existing habitat;
- Loss and modification of existing lizard habitat; and
- Positive effects associated with the establishment of native revegetation and restoration planting within the Project site, which will increase the availability and quality of habitat for native fauna over time.

The Project site contains small and fragmented areas of low-quality potential lizard habitat. No indigenous lizards were detected during manual searches, although copper skink are considered likely to be present at low or undetectable densities. The EclA assesses the ecological value of lizards within the Project site as **moderate**.

Without effects management, vegetation clearance and earthworks within potential lizard habitat could result in disturbance, injury or mortality of native lizards. The EclA assesses this as a **moderate** level of effect prior to effects management. Implementation of the LMP, including pre-clearance survey, capture and relocation, reduces the residual effect on native lizards to **low**.

The loss of existing lizard habitat is assessed separately. Given the low quality, fragmented nature and limited extent of suitable habitat within the Project site, the EclA assesses the level of effect associated with habitat loss as **low** prior to effects management. Native revegetation and restoration planting associated with the Project will increase indigenous vegetation and habitat availability over time, resulting in a **very low to positive** residual effect on lizard habitat.

The proposed survey, salvage, relocation and release activities themselves may result in temporary stress or, despite appropriate handling methods, incidental injury or mortality. These risks will be minimised through implementation of the LMP by suitably qualified and experienced herpetologists.

Overall, following implementation of the LMP, the residual adverse effect on native lizards is assessed as Low. The loss of existing lizard habitat is also expected to be offset over time by the Project's native revegetation and restoration planting, resulting in a **very low to positive** residual effect on lizard habitat.

The Wildlife Approval is sought for copper skink. If another protected wildlife species is unexpectedly encountered, the DOC Waikato District Office Operations Manager will be contacted, and the relevant statutory requirements will be addressed before any activity requiring Wildlife Act approval is undertaken in relation to that species (as required).

A potential positive effect of the proposal is the ability to obtain further information regarding the numbers and locations of copper skink in the Project site.



1.11 Methods to avoid and minimise effects

Effects on protected native lizards will be avoided and minimised through implementation of the approved LMP and the proposed Wildlife Approval conditions.

The key methods include:

- Identifying and mapping potential lizard habitat before works commence;
- Undertaking salvage during the lizard active season, subject to suitable conditions;
- Sequencing vegetation clearance so that salvage can occur before habitat removal;
- Using ACOs, hand searching and mechanically assisted salvage as appropriate to the habitat type and level of risk;
- Applying an adaptive salvage approach where survey results, habitat characteristics or capture rates indicate that additional salvage effort is warranted;
- Stopping works and applying the incidental discovery protocol if native lizards are unexpectedly encountered;
- Transferring captured lizards to an approved release site as soon as practicable;
- Undertaking any release-site preparation, habitat enhancement and predator-control measures required by the LMP; and
- Reporting salvage and relocation outcomes to DOC in accordance with the LMP and Wildlife Approval conditions.

1.12 Application status

Neither TKELP nor any director, trustee, partner or other person involved in the Application has been convicted of an offence under the Wildlife Act 1953 or is currently facing charges for such an offence.

1.13 Consultation

Section 4 of **Volume A** of this SAR sets out the consultation undertaken in relation to the Project, including engagement relevant to wildlife effects. This has included engagement with mana whenua through the Tangata Whenua Working Group, comprising representatives from Ngāti Māhanga, Ngāti Hauā, Ngāti Tamainupō, Ngāti Wairere, Ngāti Reko (Waikeri Marae), Te Uri o Māhanga and Waikato-Tainui.

Engagement with mana whenua has included discussion of ecological values and effects associated with the Project, including effects on waterways and habitats, ecological enhancement and restoration opportunities, and biodiversity outcomes. A Cultural Impact Assessment has been prepared for the Project and supports ongoing involvement of mana whenua in ecological restoration and biodiversity enhancement associated with the Project.

TKELP has also undertaken pre-lodgement engagement with the Department of Conservation (DOC) in relation to the Wildlife Approval. Draft ecological documentation, including the EcIA and LMP, was provided to DOC for review. DOC has provided feedback on the proposed lizard survey and salvage methodology, uncertainty regarding the species and number of lizards that may be present, the proposed Waiwhakareke Natural Heritage Park release site, release-site habitat and predator management, and the proposed Wildlife Approval conditions. That feedback is contained in **Volume B – Appendix F**.

The LMP and proposed Wildlife Approval conditions have been informed by that engagement, including amendments made in response to DOC's feedback on survey uncertainty, salvage methodology and release-site management. Further engagement with DOC, mana whenua and HCC will be undertaken as required in relation to implementation of the LMP, including finalisation and management of the Waiwhakareke release site and any matters required by the Wildlife Approval conditions.



1.14 Expert inputs

Clause 2(1)(o) of Schedule 7 of the FTAA requires any additional written expert views, advice or opinions obtained concerning the proposal to be provided.

The principal expert material relied on for the Wildlife Approval is the EcIA prepared by Ecological Solutions in **Volume B – Appendix M**, and the LMP in **Volume C – Appendix A** that they also prepared.

DOC has also provided written pre-lodgement feedback on the proposed Wildlife Approval, including specialist advice on the proposed lizard survey and salvage methodology, the potential species and number of lizards that may be present, and the proposed Waiwhakareke Natural Heritage Park release site. That feedback has informed the preparation of the Application and will continue to be considered as the Wildlife Approval conditions are refined (where applicable).

1.15 Assessment criteria

Schedule 7, clause 5 of the FTAA sets out the matters the Panel must take into account when considering an application for a Wildlife Approval. Those matters are assessed in **Table 1.1** below.

Table No. 1.1: Assessment against Schedule 7 criteria

FTAA Requirement	Response
Purpose of the FTAA	• Granting the Wildlife Act Approval will support delivery of the Project, which is a referral project under the FTAA and has significant national and regional benefits as described in Volume A – Section 1.7. • The approval is required to enable the project works to proceed where they may affect protected wildlife.
Purpose of the Wildlife Act 1953 and effects on protected wildlife	• The Wildlife Act provides for the protection of wildlife. Project works may affect protected native lizards through vegetation clearance, earthworks and other land disturbance. These effects will be managed through implementation of the LMP, including pre-clearance survey, salvage and relocation where required, together with the proposed Wildlife Approval conditions.
Information and requirements relating to protected wildlife	• Section 1.6 identifies the protected native lizard species for which approval is sought, being copper skink. Sections 1.7–1.11 set out the proposed methods for survey, salvage, relocation and effects management.

Overall, the Wildlife Approval sought is consistent with the relevant Schedule 7 assessment criteria.

1.16 Proposed Conditions

The proposed Wildlife Act Authority, including the standard and special conditions, is included in **Volume C – Appendix B**.

The proposed Authority identifies the authorised activities, salvage locations, release location, authorised wildlife and term of the Authority. The Authority is sought for copper skink (*Oligosoma aeneum*) and for a period of 10 years.

The conditions require the authorised activities to be undertaken in accordance with the approved Application and LMP and in accordance with current best practice. They also provide for:



- Notification to the DOC Waikato District Office before authorised activities commence;
- Capture, handling and relocation during the specified active season;
- Appropriate hygiene, handling and temporary holding procedures;
- Management and, where necessary, euthanasia of injured protected wildlife on the advice of authorised personnel or a veterinarian;
- Immediate notification to DOC where wildlife not authorised by the Authority is encountered; and
- Reporting of salvage and relocation outcomes to DOC, including completion of Amphibian and Reptile Distribution System records.

The detailed survey and salvage methodology is contained in the approved LMP and is secured through the requirement that the authorised activities be undertaken in accordance with that plan.

1.17 Conclusion

In considering the Wildlife Approval, the Panel must give greatest weight to the purpose of the FTAA, before considering the purpose of the Wildlife Act 1953, the effects on protected wildlife and the proposed conditions. Those matters are addressed in Section 1.15 above.

TKELP seeks that the Panel:

- (a) Grants the Wildlife Approval under section 42(4)(h) and Schedule 7 of the FTAA to authorise the activities identified in Section 1.2;
- (b) Approves the LMP in **Volume C – Appendix A** as the framework for managing effects on protected native lizards and implementing the activities authorised by the Wildlife Approval; and
- (c) Imposes the proposed Wildlife Act Authority conditions in **Volume C – Appendix B**.

The Wildlife Approval is required to enable the lawful management of protected native lizards that may be affected by vegetation clearance, earthworks and other land disturbance associated with the Project. The EclA identifies copper skink as the native lizard species most likely to be encountered within the Project site. While no indigenous lizards were detected during the manual survey, some uncertainty remains as to whether copper skink are present and, if so, their number and distribution.

That uncertainty is addressed through a precautionary effects-management approach. The LMP provides for pre-clearance survey, salvage and relocation, destructive searching where required, incidental discovery procedures, appropriate release-site management and reporting. These measures are intended to avoid or minimise injury and mortality and ensure that any lizards encountered are appropriately managed before habitat clearance proceeds.

Following implementation of the LMP, the EclA assesses the residual adverse effect on native lizards as Low. The Project's native revegetation and restoration planting is also expected to progressively increase the availability and quality of lizard habitat, resulting in a **very low to positive** residual habitat effect over time.

Overall, the proposed Wildlife Approval provides a precautionary and structured framework for managing effects on protected native lizards while enabling the Project to proceed. Subject to implementation of the approved LMP and proposed conditions, the Wildlife Approval is considered appropriate and should be granted.

