

28 September 2026

Section 51(2)(c) Fast-track Approvals Act 2024 Report

Wildlife Approval Report

Ōhoka Residential Subdivision, FTAA-2606-1253

Contents

Introduction.....	2
Overview	2
Purpose of the report.....	2
The Project.....	3
Sources.....	3
Assessment	3
Statutory Context.....	3
Purpose of the Wildlife Act	4
Information and requirements relating to protected wildlife	5
The role of species management plans.....	5
Conditions to manage effects on protected wildlife	5
Notification and Consultation.....	6
Pre-lodgement	6
Post-lodgement.....	6
Additional Information.....	6
International Conservation Agreements.....	6
Consistency with statutory planning documents and policy.....	7
Commentary on information required for a wildlife approval.....	8
Treaty of Waitangi settlement considerations and obligations	8

Introduction

Overview

1. On 1 July 2026, Carter Group Limited (the Applicant) lodged a substantive application for the Ōhoka Residential Subdivision (the Project) with the Environmental Protection Agency (EPA). On 23 July 2026, the substantive application was deemed complete and compliant with section 46(2) of the FTAA. It was deemed to not have any competing applications or existing resource consents under section 47 of the FTAA on 6 August 2026.
2. As a part of the application, the Applicant has applied for a wildlife approval for the capture, handling, relocation and incidental killing of native lizard species. DOC is the administering agency for the Wildlife Act 1953 under the FTAA.
3. On 7 July 2026, the Panel Convener issued a Minute (Minute 01), directing 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 has been prepared by the Department of Conservation on behalf of the Director-General of Conservation.
4. This report is due on 28 September 2026.

Purpose of the report

5. This report responds to the specific directions in Minute 01 and provides DOC's assessment of the matters the Panel must take into account when considering a wildlife approval under clause 3 of Schedule 7 of the FTAA, namely:
 - *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.*
6. The Panel Convener has requested that DOC *respond to draft conditions, including any management plan attached to the application, recommending tracked changes (if any)*. DOC provides advice on the conditions in paragraphs 27–28 of this report. The conditions, showing DOC's tracked changes, are set out at **Appendix A**.
7. The Panel Convener has also requested a report advising how *the weighting of matters set out in Schedule 7, clause 3 of the Act should be approached, having regard to relevant senior court decisions*. That report is included as **Appendix C**.

The Project

8. This application relates to the subdivision and development of 154 hectares of land at Ōhoka, Waimakariri. The Project would provide approximately 879 residential dwellings, a local centre, a polo ground and associated facilities, and a retirement village. The wildlife approval sought relates to the activities described in *Appendix 24 – Lizard Management Plan* of the substantive application.
9. Preliminary site visits and desktop studies in late 2024 identified potential lizard habitat within the development site, with the initial habitat assessment indicating a moderate likelihood of lizards being present. Following that assessment, PDP herpetologists undertook baseline lizard surveys in March and April 2025. The memorandum in Appendix 24 sets out the survey methodology and results, which confirmed the presence of native lizards and the need for a wildlife approval.

Sources

10. This assessment is based on DOC's review of the following documents provided by the Applicant as part of the substantive application, including updates made post-lodgement:
 - Ōhoka Residential Subdivision AEE, dated 19 June 2026
 - Appendix 24 – Lizard Management Plan, dated 03 September 2026
 - Appendix 45 – Proposed Wildlife Approval conditions, no date
11. The assessment in this report is informed by expert advice from DOC Technical Advisor (fauna), Lynn Adams. Ms Adams's credentials are provided in **Appendix B**.

Assessment

12. Pursuant to clause 3 of Schedule 7 of the FTAA, DOC considers that the proposed activities are consistent with the purpose of the Wildlife Act, subject to the conditions recommended in **Appendix A**.

Statutory context

13. 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 sections 56(1), 58(1), 63(1), 63A, 64, 65(1)(f), 70G(1), 70P, 70T(2) of the Wildlife Act 1953*".
14. Indigenous lizards are absolutely protected under the Wildlife Act 1953. Catching, killing, and liberating protected wildlife without lawful authority are offences under the Wildlife Act 1953.
 - Sections 63(1) and 70G(1) make it an offence to "hunt or kill" (the definition of which includes related activities such as "taking", "capturing" and "disturbing") protected wildlife without lawful authority. This also includes killing that is incidental, being that which is not directly intended but is unavoidable and foreseeable as a consequence of carrying out an otherwise lawful activity (section 53A).

- Section 56(1)(ab) establishes that no person may liberate; or capture or attempt to capture or have in their possession for the purpose of liberating, wildlife without the prior written authority of the Director-General.
15. The salvage, relocation, and incidental killing proposed can be considered for wildlife approval under the FTAA. A wildlife approval granted under the Act is treated as if it were granted under the Wildlife Act (Schedule 7, clause 7(1)).

Purpose of the Wildlife Act

16. The relevant purpose of the Wildlife Act 1953 is to protect wildlife. In assessing an application for species management against the purpose of the Wildlife Act 1953, it is relevant to consider protection at both the individual level (e.g. minimising impacts, safe capture and handling) and population level (e.g., taking into account benefits offered by habitat enhancement etc).
17. Where removal of lizard habitat is undertaken, lizard salvage will protect, to some extent, lizards that would otherwise be harmed by works (e.g. vegetation clearance) associated with the Project. However, salvage comes with risks. Salvage only protects those animals that are captured. Despite best practice methods, it is unlikely all affected animals will be captured. For those that are captured, successful establishment and survival at the release site is not guaranteed.
18. DOC has developed key principles for lizard salvage and transfer in New Zealand, which are relevant to consider when assessing whether a lizard salvage proposal will adequately protect lizards. 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.
 - Contingency actions are required when lizard salvage and transfer activities fail.
19. The Lizard Management Plan (LMP) sets out actions that are intended to protect lizard populations inhabiting the site via salvage and habitat enhancement. In assessing the application against the purpose of the Wildlife Act 1953, it is relevant to consider protection at both the individual level (e.g. minimising impacts, safe capture and handling) and population level (e.g. taking into account benefits offered by habitat enhancement etc).
20. DOC was generally satisfied with the LMP provided with the application. The only matter DOC sought further clarity on was the timing and preparation of the lizard release site, including ensuring

that planting and habitat “ecostacks” would be established early enough to provide suitable habitat for lizards.

21. Following post-lodgement engagement with DOC and Waimakariri District Council, the Applicant provided an updated LMP on 10 September 2026, which is now published on the EPA website.
22. The updated LMP addresses DOC’s feedback by including Table 3 and Appendix D, which set out the timing for habitat planting and ecostack creation, being one year in advance and three months in advance of salvage commencing. DOC is satisfied that these measures provide appropriate assurance that the lizard release site will be prepared and suitable before lizard relocation occurs.
23. DOC has no outstanding concerns with the updated LMP. DOC is satisfied that the LMP provides appropriate protection for lizards and supports approval for a term of 10 years.

Information and requirements relating to protected wildlife

24. The application identifies two native lizard species for approval: Canterbury grass skink and McCann’s skink. Of these, only Canterbury grass skink was confirmed during field surveys; the other species are considered likely or possible based on nearby records and available habitat. Canterbury grass skink is classified At Risk – Declining, while McCann’s skink is Not Threatened. These species occupy a range of coastal, grassland, tussockland, rocky outcrop, scree, and forest-edge habitats, and are vulnerable to habitat removal and fragmentation, direct mortality during vegetation clearance and earthworks, and predation by introduced mammals.

The role of species management plans

25. Wildlife Act 1953 approvals for lizard management typically include approval of a species management plan. A species management plan sets out how effects on wildlife will be managed and informs DOC’s assessment against the purpose of the Wildlife Act 1953. If approval is granted, compliance with the approved plan is usually required as a condition of the authorisation, with any later changes managed through a variation process.
26. DOC’s standard and preferred approach is for species management plans to be finalised before a decision is made on an application.
27. In this case, the Applicant has provided an updated LMP and proposed conditions that align with DOC’s preferred approach. DOC is satisfied that the LMP will appropriately manage effects on lizards and achieve the protective purpose of the Wildlife Act 1953.

Conditions to manage effects on protected wildlife

28. The Applicant has provided proposed conditions that are generally consistent with a typical wildlife approval of this nature under the Wildlife Act 1953.
29. DOC has provided tracked changes to the conditions in **Appendix A**, in order to reflect the latest LMP, and to include four additional standard conditions. Subject to those changes being adopted

in the decision, DOC is satisfied that the proposed conditions are consistent with the purpose of the Wildlife Act 1953 and will provide for the protection of absolutely protected wildlife.

Notification and Consultation

Pre-lodgement

- 30. The Applicant engaged with DOC between January 2025 and August 2025. DOC provided a summary of pre-lodgement consultation to the Applicant on 7 April 2025, which is included as Appendix 5 of the substantive application lodged with the EPA.
- 31. The pre-lodgement engagement largely focused on Wildlife Approval information requirements and review of the draft LMP.

Post-lodgement

- 32. Following lodgement of the substantive application, DOC and the Applicant engaged collaboratively on the matters raised by DOC in relation to the LMP, primarily the timing and preparation of the lizard release site.
- 33. Following a meeting held between the Applicant, DOC and Waimakariri District Council on 26 August 2026, the Applicant provided a revised LMP on 10 September 2026 via the EPA website, which incorporated DOC’s feedback.

Additional information

International Conservation Agreements

- 34. The international agreements relevant to the approval sought are outlined at Table 1, as follows:

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 National Convention on Biological Diversity (CBD)

- 35. 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.

36. 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*” (Te Mana o te Taiao) sets out New Zealand’s contribution to reversing the loss of biodiversity worldwide.
37. Key objectives of the Te Mana o te Taiao 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.*
38. The application from Carter Group Limited seeks to develop modified land in a way that means impacts on resident indigenous species populations are mitigated. The proposal to salvage protected wildlife and enhance habitats at the relocation site via planting and pest control will contribute to protection of biodiversity.

International Union for Conservation of Nature (IUCN)

39. 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 11 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.
40. The IUCN Red List status of the McCann’s skink is ‘Least Concern (stable)’.

Consistency with statutory planning documents and policy

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

Conservation General Policy 2005

42. 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 1953.
43. The CGP does not contain policies specific to the proposed wildlife activities, however, the following policies are relevant:
- *11.1(a) Any application for a concession or other authorisation will comply with, or be consistent with, the objectives of the relevant Act, the statutory purposes for which the place is held, and any conservation management strategy or plan.*
 - *11.1(c) The Department and all concession and other authorisation holders should monitor the effects of authorised activities on natural resources, historical and cultural heritage, and the*

benefit and enjoyment of the public, including public access, to inform future management decisions.

44. The application is not inconsistent with these provisions.

Canterbury (Waitaha) Conservation Management Strategy 2016

45. The Canterbury (Waitaha) Conservation Management Strategy 2016 (CMS), approved by the New Zealand Conservation Authority, describes the conservation values present in the Canterbury region and provides guidance for the Department's work in the form of a vision, objectives, outcomes for places, policies and milestones.
46. The application is not inconsistent with the objectives, outcomes, or policies of the CMS, particularly the provisions relating to authorisations (general) in section 3.1 of the CMS.

Commentary on information required for a wildlife approval

47. DOC considers the information provided at lodgement was sufficient to meet the relevant information requirements in sections 42–44 of the FTAA for the purpose of assessing the wildlife approval.

Treaty of Waitangi settlement considerations and obligations

Treaty of Waitangi settlement obligations

48. Under section 7 of the Act, the Panel must act in a manner that is consistent with obligations arising under existing Treaty Settlements.
49. Ministry for Cities, Environment, Regions and Transport (MCERT) provided a report which sets out the section 18 matters it considered relevant to the application. DOC was not consulted by MCERT on this report.
50. DOC has read the section 18 report and agrees that the primary matter for consideration of the Panel, as relevant to the wildlife approval, is cooperation with Ngāi Tahu per the Ngāi Tahu Claims Settlement Act 1998. DOC notes that the affected lizard species are not listed in Schedule 97 as taonga species, although they may still have significance to Ngāi Tahu.

Treaty of Waitangi principles

51. 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 Waitangi¹ (arising from the obligation on DOC from section 4 of the Conservation Act 1987). The principles most applicable to DOC's role are:
- **Partnership** – mutual good faith and reasonableness.

¹ [Principles of the Treaty of Waitangi and DOC: Apply for permits](#)

- **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.

52. For this application, this has included:

- DOC engagement with Treaty partners on the application. We note this has occurred within the context of the fast-track process with prescribed timeframes, and where the Applicant has an obligation to consult and Treaty partners have a right to be invited to comment. The scope of engagement also recognised DOC's role to provide reports and comments on the application, and not in its usual role as decision-maker.
- identifying for the Panel any relevant information from Protocols or relationship agreements prepared in accordance with Settlements (e.g. taonga species);
- ensuring that the information in this report is fully informed by any information from Treaty partners and the impact the activity would have on their interests.

53. DOC has advised Te Ngāi Tūāhuriri Rūnanga, hapu of Ngāi Tahu, of the application, sharing relevant publicly available information. DOC notes that affected Māori entities will be invited by the Panel to provide comments on the application.

54. The Applicant has attached evidence of consultation with Te Rūnanga o Ngāi Tahu and Ngāi Tūāhuriri to the substantive application. Whitiara Centre Limited, which is mandated by Ngāi Tūāhuriri Rūnanga to act on its behalf in matters of environmental policy and planning, sent an email dated 14 May 2026 outlining that their preference was to undertake assessments and provide comments on the Project post-lodgement due to resourcing constraints.

55. DOC has not identified any additional specific conditions that should be imposed in accordance with section 84 to achieve consistency with Treaty principles.

Appendix A: Wildlife Approval Conditions

Wildlife Approval for wildlife located on private land

Schedule 1

1	Approved activity	<u>Activity:</u> a. To catch, handle and release the lizard species listed prior to, and during, vegetation clearance in areas that have either confirmed or expected presence of these species for the purpose of wildlife salvage and monitoring. b. To incidentally harm or kill the lizard species listed if the harm or death is not directly intended but is unavoidable and foreseeable and all reasonable effort has been made to meet the conditions in the Approval. <u>Species:</u> a. McCann's skink (<i>Oligosoma maccanni</i>) b. Canterbury grass skink (<i>Oligosoma</i> aff. <i>polychroma</i> 'Clade 4') <u>Method:</u> a. In accordance with the Lizard Management Plan (Version 4.0), prepared by PDP, dated 3 September 2026
2	The Land	The Ōhoka Residential Subdivision Project Site, Mill Road, Ōhoka, Waimakariri identified in Figure 5 of the LMP.
3	Personnel approved to undertake the Approved Activity	a. [to be confirmed]; and b. Additional personnel as may be approved in writing by the Department.
4	Term	[insert date of approval] to [insert date 10 years from date of approval]
5	Approval Holder's address for notices	The Approval Holder's address in New Zealand is: Carter Group Limited Level 7, The Crossing Car Park Building 166 Cashel Street Christchurch, 8011
6	Department of Conservation's (the Department) address for notices	Permissions Team Level 4, 73 Rostrevor Street Hamilton, 3200

	askpermissions@doc.govt.nz
--	--

Schedule 2

No.	Condition
Approved Activity	
WA1	All works relating to lizard fauna, including capture and relocation must occur in accordance with the Lizard Management Plan (Version 34.0) prepared by PDP dated 3 June 2026 3 September 2026.
WA2	The wildlife approval is for the capture, handling, and release of Canterbury grass skinks (<i>Oligosoma</i> aff. <i>polychroma</i> 'Clade 4') and McCann's skinks (<i>Oligosoma maccanni</i>).
WA3	The incidental killing of Canterbury grass skinks (<i>Oligosoma</i> aff. <i>polychroma</i> 'Clade 4') and McCann's skinks (<i>Oligosoma maccanni</i>) is authorised, provided that best efforts are taken to avoid incidental deaths in accordance with the Lizard Management Plan.
WA4	The Department of Conservation Operations Manager for Mahaanui is to be contacted immediately (mahaanui@doc.govt.nz) for further advice if wildlife other than southern grass skinks or McCann's skinks are located within the footprint of the development or within the release site.
WA5	All actions set out in the habitat enhancement section of the Lizard Management Plan must be implemented to ensure adequate mitigation of effects has been achieved.
WA6	This wildlife approval is valid for 10 years from the date of approval.
Lizard Capture and Handling	
WA7	Lizards must only be handled by the project ecologist or under the direct supervision of the project ecologist. The project ecologist must be a suitably qualified expert. For the purposes of this condition, suitably qualified expert means the Department of Conservation Operations Manager, Maahanui, has confirmed in writing that the person has appropriate experience and credentials in handling lizards and overseeing lizard salvage operations.
WA8	Lizard capture, handling and relocation must only be undertaken between 1 October and 30 April when lizards are most active.
WA9	Capture and handling of lizards must involve only techniques that minimise the risk of infection or injury to the animal.
WA10	Capture and handling methods must follow those described in the Herpetofauna inventory and monitoring toolbox http://www.doc.govt.nz/our-work/biodiversity-inventory-and-monitoring/herpetofauna/ .
WA11	All live capture traps must be covered to protect lizards from exposure and minimise stress. Damp leaf litter or other material must be provided to reduce desiccation risk, and the bottom of the pit-fall trap must be perforated to allow drainage of water.
WA12	All live capture traps, (e.g. pitfall traps and G-minnow traps), must be checked at least once a day.
WA13	Any instruments that come in contact with lizards and/or are used to collect or measure lizards between each location must be sterilised. A separate holding bag must be used for each animal. All gear should be thoroughly cleaned and dried between sites.

WA14	Any captured lizards must be held individually in a suitable container (e.g. breathable cloth bag) and held out of direct sunlight to minimise the risk of overheating, stress and death.
Death of wildlife associated with salvage activities	
WA15	If any lizards should die during the approved activities of catch, transfer or liberate, the approval holder must: - inform the Department of Conservation Operations Manager, Maahanui (mahaanui@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 - for unexplained deaths, send the body to Massey University Wildlife Postmortem Service for necropsy OR as otherwise directed by the Department of Conservation Operations Manager, Maahanui, 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 Department of Conservation Operations Manager, Maahanui, cease the Authorised Activity for a period determined by the manager.
WA16	If any lizards are found injured as part of the Authorised Activity, the approval holder must contact the project ecologist for advice on management of the lizard(s). The approval holder is authorised to euthanise injured lizard(s) on recommendation of the project ecologist or a veterinarian.
Reporting	
WA17	A report summarising the salvage and relocation results will be prepared and submitted to Waimakariri District Council, Canterbury Regional Council, Whitiara, Mahaanui Kurataiao and the Department of Conservation within 30 days from the completion date of the work (see the Lizard Management Plan attached at Appendix 1). Specifically, this report will include: - Results of lizard salvage and relocation work. Should native lizards be found, then the following will also be included in the report: - Photos of lizard salvage methods utilised; and - Photos of lizards captured, including photos of the salvage and relocation areas; and - A map showing the location of the lizard upon capture and upon release; and - The species and number of any lizards detected, captured, and released; and - The results of all surveys and monitoring. - Descriptions of how lizard management activities outlined in the Lizard Management Plan were followed, including the conditions of the permit and associated resource consent conditions; - An Amphibian and Reptile Distribution Scheme card detailing information relating to captured lizards (also to be provided to herpetofauna@doc.govt.nz); and - A brief summary regarding the outcomes of the Lizard Management Plan, including any improvements/changes that should be implemented in future.
WA18	In accordance with the Lizard Management Plan, annual reports on the following activities must be provided: - Pest plant removal; and - Photo record of lizard habitat development; and - Success of the lizard habitat planting, including but not limited to, numbers and species planted, annual survival of planting, number/species of plants replaced; and - Number, location, and size of eco-stacks (both rock and woody debris).
Variations	

WA19	Applications for variations to this approval (or the approved Lizard Management Plan (Version 34.0) prepared by PDP dated 3 June 2026 3 September 2026) may be made to the Director-General in accordance with clause 7(2) of Schedule 7 of the Fast-track Approvals Act 2024. Until any application for variation is considered and approved in writing by the Director-General, the most recent approved version of this approval and Lizard Management Plan shall remain binding on the approval holder and will continue to be complied with.
Revocation	
WA20	The Director-General may revoke this approval in whole or any part at any time (pursuant to clause 7(4) of Schedule 7 of the Fast-track Approvals Act 2024) if: a) There are any breaches 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 native lizards.
WA21	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	
WA22	The approval holder must pay the Department of Conservation's standard 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.
Compliance with Legislation and Director-General's Notices and Directions	
WA23	The Approval Holder must comply with all notices, directions, and requisitions of the Director-General and any competent authority relating to the exercise of the Approval.
Employees, Contractors, or Agents	
WA24	The Approval Holder is responsible for the acts and omissions of its employees, contractors, and agents.
WA25	The Approval Holder is liable under this Approval for any breach of its terms by employees, contractors, or agents, as if the breach were committed by the Approval Holder.
WA26	Where obligations bind more than one person, those obligations bind those persons jointly and separately.

Appendix B: 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 Hihi Recovery Group and the tuatara Recovery Group.

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

Introduction

1. This report responds to the Panel Convener's Minute dated 07 July 2026, directing DOC to advise *"how the weighting of matters ... should be approached, having regard to applicable statutory provisions and relevant senior court decisions."*
2. The Minute respectively refers to the matters set out in Schedule 7, Clause 3 of the FTAA (wildlife approval). The matters listed in the schedule are those which the FTAA directs must be addressed by the Director-General's s 51(2) report².

Weighting generally

3. Generally, the weighting to be accorded to relevant considerations by a statutory decision maker is for that decision maker to determine,³ however where a statute directs the weight to be given to a matter, that direction must be given effect to.⁴
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 importance⁵.
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.⁶

² The schedule clauses referenced in the Minutes exclude consideration of the purpose of the FTAA from the ambit of the request. However, in order to respond to the Panel Convener's request in relation to consideration of weighting, it is necessary to refer to the purpose of the FTAA given the statutory directive that this consideration be given "the greatest weight" relative to other mandatory considerations (i.e. relative to the matters that must be addressed by the Director General's s 51 reports). This advice has therefore been prepared on that basis.

³ 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.

⁴ *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."

⁵ See, for example *Thames Valley Electric Power Board v NZFP Pulp and Paper Ltd* [1994] LGHNZ 17 (CA).

⁶ See Schedule 7, Clause 5 (wildlife approval); Schedule 6, Clause 7 FTAA (concession); Schedule 9, clause 5 (complex freshwater fisheries activities approval); and Schedule 11, Clause 7 (access arrangement).

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.⁷
8. While described in the FTAA as “criteria”,⁸ 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 it.⁹ 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.¹⁰
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*,¹¹ 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:

⁷ This directive occurs multiple times in the FTAA, including at Schedule 6, Clause 7 (concessions); Schedule 7, Clause 5 (wild life approval); Schedule 9, Clause 5 (complex freshwater fisheries activities approval); and Schedule 11, Clause 7 (access arrangement).

⁸ This is the terminology used in the titles for each of the relevant clauses listed in fn 5.

⁹ *Western Bay of Plenty District Council v Bay of Plenty Regional Council* [2017] NZEnvC 147, at [117]-[118].

¹⁰ 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

¹¹ *Enterprise Miramar Peninsula Inc v Wellington City Council* [2018] NZCA 541.

- (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.

13. 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. The listed matters in subsection (1)(b)–(e) cannot 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).¹²
14. 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 weight¹³. 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.¹⁴

¹² *Enterprise Miramar Peninsula Inc*, at [53].

¹³ *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.

¹⁴ *Enterprise Miramar Peninsula Inc*, at [55]–[59].