

14 July 2026

Fast-track Approvals Act wildlife approval report

Section 51(2)(c) wildlife approval report for –
FTA-2601-1179 Auckland Prison Capacity Increase



Department of
Conservation
Te Papa Atawhai

**Te Kāwanatanga
o Aotearoa**
New Zealand Government

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1. Introduction

- 1.1 On 1 April 2026, the Department of Corrections (the Applicant) lodged a substantive application with the Environmental Protection Authority (EPA) for the Auckland Prison Capacity Increase (the Project). On 24 April 2026, EPA determined that the application was complete and complied with section 46(2) of the Fast-track Approvals Act 2024 (FTAA/the Act).
- 1.2 The Applicant has applied for salvage and relocation of native lizards. On 29 June 2026, in accordance with section 51(2)(c) of the Act, the Panel Convener directed the EPA to obtain a report prepared by the Director-General of Conservation in accordance with clause 3 of Schedule 7. This report is due on 14 July 2026.
- 1.3 The Project primarily comprises the alteration to Auckland Prison's designation to enable the current limit of prisoner numbers to increase from 681 to 1,200. The application site is Pāeremoremo Prison.

2. Purpose of the report

- 2.1 This report provides commentary to support the Panel's assessment of the application for a wildlife approval. The content of this report has been formed by information from our Treaty partners, where available.
- 2.2 In accordance with clause 3 of Schedule 7, this report must address the following matters:
- 2.3 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.
- 2.4 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).
- 2.5 Any conditions that should be imposed to manage the effects of the activity on protected wildlife.
- 2.6 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.
- 2.7 The Panel Convener has also requested a report pursuant to s 51(1) of the Act 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 (attached to this report at Appendix D).

3. Overview of DOC's report

- 3.1 Overall, the Department of Conservation's (DOC) assessment concludes that, subject to recommended conditions, the proposed activities are broadly consistent with the purpose of the Wildlife Act 1953.

3.2 The Lizard Management Plan (LMP) was reviewed and evaluated against the following criteria:

- 3.2.1 **Assessment of lizard values** - An initial desktop assessment of habitat within the proposed redevelopment Site was carried out using available satellite and aerial imagery which identified potential lizard habitat present within the Site. To validate the desktop mapping, a walkover assessment of the Site was carried out on 12 August 2025 by Boffa Miskell Partner and ecologist Dr Ian Boothroyd. The field survey considered that it is unlikely that any native species other than copper skink (*Oligosoma aeneum*) and ornate skink (*Oligosoma ornatum*) may be present. The pre-construction lizard survey is proposed to be undertaken in the lizard survey season immediately prior to construction to ensure the results of the survey are more representative and accurate of the situation at that point in time.
- 3.2.2 **Assessment of actual and potential effects on lizards** - The effects management outlined in the LMP are designed to minimise these potential effects with a less than minor overall effect on any lizards at a population level.
- 3.2.3 **Proposed strategy to avoid, minimize and mitigate impacts to lizards** - The proposed salvage methods and approach follow best practice methods outlined in DOC's herpetofauna inventory and monitoring toolbox (DOC, 2012). Any lizard salvage and vegetation clearance of lizard habitat will be undertaken only during periods when lizards are more active, between October and mid-April subject to approved conditions. The salvage will be undertaken by suitably qualified personnel under the supervision of Authorised personnel.
- 3.2.4 **Identification and justification of an appropriate lizard release site** - The proposed lizard habitat enhancements and pest animal management programme have been assessed to provide a greater net benefit to any lizards salvaged from habitats within the development areas. The Applicant has assessed the Site against Principle 6 of DOC's Lizard Salvage Guidelines (DOC, 2019). While the exact details of the release area are yet to be designed, the LMP provides for an appropriately located, sized, planted area which will include refuge areas, extensive pest management and stock exclusion.
- 3.2.5 **Discussion of post salvage monitoring** - post-release monitoring will only be triggered if enough lizards are captured that make monitoring feasible. The capture thresholds are proposed in the LMP for when a monitoring plan will be prepared following the salvage in conjunction with DOC. The outcomes of the lizard monitoring will be reported annually for the duration of the post release monitoring (the three-year period). The report will also report on the conditions of the lizard enhancements installed at the release site and for the on-site habitat enhancements.
- 3.2.6 **Identification of risk and contingencies** - Measures are included within the LMP and proposed Wildlife Approval to monitor, adapt and amend and cease development, should matters arise prior, during or after the approval is given effect to.
- 3.2.7 **Inclusion of additional activities to address any potential residual effects (i.e., offsets or compensation)** - No offset or compensation is proposed in the LMP but an

adaptive management approach in the LMP proposes '*Minor flexibility or adaptations to the current methods may be made at the discretion of the project herpetologist.*' DOC considers that any update to methods or any amendments to the LMP should be made by submitting the amended LMP in writing to DOC for certification in accordance with proposed conditions WAA13 and WAA14. DOC considers that any changes to a lizard management plan would be considered as a variation of the Wildlife Approval and so require certification so as to remain appropriate pursuant to the Wildlife Act.

- 3.2.8 DOC had an initial concern over the lengthy term of the Wildlife Approval sought being 25 years. The length of the approval was to accommodate the long-term nature of the prison expansion which will be dependent on future funding decisions. DOC's concerns were related to the uncertain nature of an approval so far into the future. A future, where a particular species might have a more threatened status than it currently does, or for whatever reason, different species may be present, or the wider physical environment (such as climate) might change considerably. Technologies and understanding of species may change over time.
- 3.2.9 However, this concern has been addressed by the inclusion of the Applicant's draft condition WAA13. The expectation of such a condition is to ensure the Applicant reviews the LMP and that it is resubmitted for approval by DOC, regardless of whether any changes are made requires the LMP is reviewed. This process will allow for DOC to determine whether the LMP is still fit for purpose, and for example, whether it appropriately incorporates any advances in lizard management tools/techniques and any changes to lizard threat status.

4. Sources

4.1 This report draws on information from the substantive application, in particular:

- 4.1.1 Wildlife Act Approvals Application. Provided with the application as Volume 3.
- 4.1.2 Proposed Wildlife Approval Conditions, Volume 6 Appendix 6C.
- 4.1.3 Lizard Management Plan. Provided with application as attachment Volume 4 appendix 4B.
- 4.1.4 Ecological Management Plan Final, Volume 3 Appendix 3K.
- 4.1.5 Pest Animal Management Plan Final, Volume 4 Appendix 4C.

4.2 The assessment in this report is informed by expert advice from Ms Jacqui Wairepo (herpetologist). Ms Wairepo credentials and relevant experience are included in Appendix A of this report.

5. Context and background

5.1 Project overview

- 5.1.1 The applicant seeks a wildlife approval under s42(4)(h) of the Act to handle wildlife (lizards) for salvage and release. This work may include incidental killing during construction work.

5.2 Summary of wildlife approval sought

- 5.2.1 The proposed development will include earthworks associated with the removal of vegetation, existing farm industry, buildings, prison facilities and associated hardstanding gravel roads and yards.
- 5.2.2 An initial desktop assessment of habitat within the proposed redevelopment site identified potential lizard presence at habitat features such as long grass, vegetation or surface cover objects. A field walkover assessment was also carried out to validate the desktop mapping of potential lizards' habitats as part of an overall ecological habitat assessment.
- 5.2.3 A LMP has been prepared as part of their suite of approvals under the FTAA to address the potential effects on lizards within the site that may be impacted by the construction of the prison redevelopment.
- 5.2.4 Desktop and field survey identified that it is unlikely that any native species other than copper skink (*Oligosoma aeneum*) and ornate skink (*Oligosoma ornatum*) may be present. The pre-construction lizard survey, to be undertaken in the lizard survey season (October to mid-April), prior to construction will aim to confirm this.
- 5.2.5 Both copper and ornate skinks are classified as At Risk – Declining and are considered in the LMP to have a “likely” likelihood of occurrence. Incidental Discovery Protocols are proposed in case other species are detected during pre-construction surveys.

5.3 Technical Assessment

- 5.3.1 The LMP is technically appropriate and fit for purpose for managing the potential effects of the proposed works on indigenous lizards.
- 5.3.2 The proposed establishment and preparation of an on-site Lizard Release Site (LRS), together with habitat enhancement, predator management, stock exclusion and longer-term ecological restoration, provides an appropriate framework for the salvage and relocation of any lizards encountered during the works. Section 6.3.2 of the LMP

identifies the methods of preparing the LRS, which include beginning the management of pest animals, six months prior to the release of captured lizards, with the pest management in both the LRS and the 2.5ha buffer area continuing for three years after the final lizard transfer.

- 5.3.3 Ecological enhancement measures within the surrounding landscape are supported and assessed to contribute to improved habitat quality and connectivity over time.
- 5.3.4 DOC's Technical Advisor notes that the LMP has not been informed by a baseline lizard survey to confirm species presence, distribution or relative abundance prior to its preparation. In this instance, however, the proposed approach is considered appropriate due to overall low risk to lizards. The proposed survey and salvage to be undertaken immediately prior to vegetation clearance is supported as it is likely to provide a more accurate representation of the lizard population requiring management.
- 5.3.5 The proposed timing of survey and salvage, with habitat preparation, exclusion measures, salvage methodology, release site management and post-construction habitat enhancement, was assessed to be consistent with good practice and provides a sufficient level of detail to guide implementation.
- 5.3.6 The herpetologists proposed to implement the lizard salvage were assessed to be qualified and experienced ecologists and/or specialised herpetologists.
- 5.3.7 DOC's Technical Advisor confirms there are no technical concerns with the proposed LMP, and it will provide an appropriate and robust framework to support the proposed works.

5.4 Lizard Management

Effects

- 5.4.1 Effects on lizards have been assessed at a local population scale (Project Site and connecting habitats), detailed in section 5 of the LMP. There is no opportunity to avoid vegetation clearance or disturbance to lizard habitat because of the constraints surrounding the extent of the proposed redevelopment requiring the complete removal of certain habitats.
- 5.4.2 Construction within areas containing suitable lizard habitat/refugia will permanently remove that lizard habitat/refugia. Other identified potential effects include habitat fragmentation, disturbance during construction. It is likely that some lizards may not be detected during salvage and could be incidentally and accidentally injured or killed as a result. Any lizards not killed during vegetation clearance or earthworks may cause displacement of these lizards. Without mitigation, construction activities could result in injury or mortality of lizards. The effects management outlined in the LMP are designed to minimise these potential effects with a less than minor overall effect on any lizards at a population level.

Survey

- 5.4.3 The LMP states only one pre-construction survey and salvage will be required as long as the area continues to be actively managed under intensive land-use practices, and those practices prevent new lizard habitat from developing. The Applicant must provide evidence of that ongoing management to the project herpetologist.
- 5.4.4 Potential lizard habitat present within the Site and the desktop assessment identified that it is unlikely that any native species other than copper skink (*Oligosoma aeneum*) and ornate skink (*Oligosoma ornatum*) may be present.
- 5.4.5 The project herpetologist shall ascertain whether a pre-construction survey is required to be completed prior to the commencement of any redevelopment construction subject to the likely proximity of earthworks and disturbance of any identified lizard habitat.
- 5.4.6 The survey, if required, shall be undertaken in accordance with an approved wildlife act authority permit. Survey methods may comprise visual and manual searching all potential lizard habitat, as well as ground artificial cover objects and/or pitfall trapping in native revegetation sites, spotlighting to search for geckos in appropriate habitats and will utilise tools and methods described in DOC's herpetofauna inventory and monitoring toolbox (DOC, 2012).
- 5.4.7 Lizard survey to occur immediately prior to construction to ensure the results of the survey are more representative and accurate of the situation at that point in time under suitable weather conditions from October to April.

Lizard Salvage Approach and Methods

- 5.4.8 Multiple salvage tools and methods will be used and deployed prior to construction including manual and visual searches, lizard trapping (in native revegetation sites) and any technique used to capture lizards will follow best practice methods outlined in DOC's herpetofauna inventory and monitoring toolbox (DOC, 2012).
- 5.4.9 A minimum salvage period of five days is proposed, given the low number of skinks/geckos predicted within the project Site and the relatively small area of habitat to be removed. If the daily lizard capture rate has not decreased by the end of any salvage period, manual searching and trapping will be extended an additional three days.
- 5.4.10 Captured lizards will be moved in their cloth bags to the on-site LRS and have biometric data collected next to the woody debris pile where lizards will be released. Biometric data collection on captured lizards shall be carried out by a suitably qualified and experienced ecologist. Handling lizards during the data collection process shall follow the lizard handling methods above, and the following data collection requirements.

- 5.4.11 Information collected will be collated in a report to be prepared for DOC following the completion of the salvage. Amphibian and Reptile Distribution Scheme (ARDS) cards will be completed and submitted to DOC.
- 5.4.12 Once salvaged lizards have had biometric data collected, each individual lizard shall be carefully released within two hours of salvage into the pre-constructed woody debris piles within the LRS by an approved ecologist.
- 5.4.13 The 'less likely' or minor potential risks identified with the proposed management plan are overheating, overcrowding/competition and displacement. Lizards will be placed in cloth bags individually within a hard container and stored in a cool place until they are released. It is not likely that overcrowding, or competition will be a risk as current populations at the release site are likely under predation pressure and below carrying capacity. Displacement is unlikely as release site is approximately 220m to the nearest lizard habitat on site and separated by highly grazed farmland and the manicured lawns and gardens within the prison fenced areas. Lizards will be captured by suitably qualified and experienced herpetologists and/or ecologists following best practice and hygiene protocols which will minimise the risk of injury, mortality or disease transmission.

Management and Release site

- 5.4.14 Management for protective benefit is to minimise potential harm to lizards and provide remedial enhancement for the proposed removal of lizard habitat within the redevelopment areas. The details of the total extent of habitat loss will depend on the design of the proposed new prison facilities which is not yet known.
- 5.4.15 Proposed management activity to reduce impacts on lizards is to salvage lizards to a nearby on-site release site. To provide suitable habitat for relocated skinks, habitat enhancements will be implemented to provide appropriate refugia and resources, with suitable existing (and proposed) habitat, stock exclusion fencing (along the southern boundary) and an intensive pest animal management programme.
- 5.4.16 The proposed lizard habitat enhancements and pest animal management programme will provide a greater net benefit to any lizards salvaged from habitats within the development areas. The Applicant has assessed the Site against Principle 6 of DOC's Lizard Salvage Guidelines (DOC, 2019).

Contingency Actions

- 5.4.17 The LMP includes contingency measures to address unexpected survey and salvage outcomes. Potential issues that could arise are detailed in section 9 of the LMP with the proposed contingency actions.

- 5.4.18 If a threatened or otherwise unexpected lizard species is encountered, all works must cease immediately, and DOC must be consulted before any works can recommence or an appropriate management response is implemented.
- 5.4.19 Incidental Discovery Protocols are also included to ensure unexpected lizard discoveries are managed safely, legally, and consistently, minimising the risk of injury or mortality to the animal.
- 5.4.20 The scenarios considered for Incidental Discovery Protocols in which a lizard is discovered during construction includes:
- Prior to Wildlife Approval in areas outside lizard habitat.
 - During construction of the redevelopment following implementation of the pre-construction lizard survey/salvage.
 - Any lizard injury or mortality requires the project herpetology to either notify or consult DOC for further advice.

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

6.1 Statutory context

- 6.1.1 Clause 1 of Schedule 7 defines "wildlife approval" as meaning a lawful authority for an act or omission that would otherwise be an offence under any sections 58(1), 63(1), 63A, 64, 65(1)(f), 70G(1), 70P, 70T(2) of the Wildlife Act 1953.
- 6.1.2 Catching alive, killing and liberating protected wildlife without lawful authority are offences under the Wildlife Act.
- 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, which is that which is not directly intended but is unavoidable and foreseeable as a consequence of carrying out an otherwise lawful activity (s53A).
 - Sections 65(1)(f) and 70P provide that it is an offence to do anything for which an authority is required under the Wildlife Act or any regulations under that Act.
 - 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.
 - The activities proposed (catch alive, handle, liberate, and incidentally kill wildlife) can be considered for wildlife approval under the Act. A wildlife approval granted

under the Act 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 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, construction) 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 given habitat complexity and the species' cryptic behaviour. For those that are captured, successful establishment and survival at the release site is not guaranteed.
- 6.2.3 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:
- 6.2.4 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.
- 6.2.5 The LMP sets out actions that are intended to protect lizard populations inhabiting the site via salvage and habitat enhancement.
- 6.2.6 In assessing the application against the purpose of the Wildlife Act, 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).

- 6.2.7 Key points relevant to this application are discussed below and associated recommended Special and Standard conditions are provided in Appendix B and C.

Species

- 6.2.8 DOC has no concerns or issues with the assessment undertaken and identification of potentially present species. Due to the nature of the proposed activity, avoiding lizards will not be possible as the proposal allows for the removal of all vegetation within the Project Site. Therefore, salvage is proposed as the primary mitigation method for the potential lizard habitats and species identified.
- 6.2.9 If any other unexpected or threatened lizard species other than copper or ornate skinks are detected, all works must cease immediately from when the discovery has been made. The LMP states any works can only commence until a variation to manage the species is granted or approval has been granted by DOC or an appropriate plan to manage the threatened species has been developed.

Best practice methods

- 6.2.10 In general, DOC considers that the methodologies proposed in the LMP for capture, handling, and release are appropriate. Standard Departmental conditions are recommended to ensure best practice capture and handling – e.g., seasonal timeframes (to ensure lizards aren't handled during months they are in torpor and are less likely to be found and salvaged); best practice methods are used for live trapping, handling and transport; and the relocation site is appropriately established and monitored.
- 6.2.11 Any changes to the lizard management or any changes to the Project footprint will require consultation with DOC and any other relevant authorities or stakeholders. DOC considers that any changes to a lizard management plan would be considered as a variation of the Wildlife Approval and so require certification so as to remain appropriate pursuant to the Wildlife Act. Please note DOC's related comment on proposed condition WA002.

Competencies

- 6.2.12 It is important that wildlife management is led by ecologists who are suitably experienced to ensure that management plans are implemented to the necessary standards and welfare is safely managed during capture, handling, transport and release.
- 6.2.13 The LMP states lizard salvage will be implemented by or under the supervision of Matt Turner (Herpetologist, Boffa Miskell) or Katherine Muchna (Senior Herpetologist, Boffa Miskell) with support from Boffa Miskell staff.
- 6.2.14 DOC's preference is that a project herpetologist and entomologist be named in conditions. Training requirements or standards do not exist for lizard or protected invertebrate

handling, so DOC usually assesses suitable people based on peer review and credentials supplied by the proposed project ecologist.

- 6.2.15 Matt Turner and Katherine Muchna have been assessed by DOC as being suitably experienced to safely handle lizards and oversee their management. DOC supports their inclusion as authorised personnel.
- 6.2.16 DOC requests the opportunity to review and certify the credentials of any additional supervising project ecologists.

Release site suitability and enhancement

- 6.2.17 The proposed release sites appear suitable for copper skink (*Oligosoma aeneum*) and ornate skink (*Oligosoma ornatum*).
- 6.2.18 Six months prior to the pre-construction lizard survey/salvage, the release site and buffer area will undergo implementation of intensive pest management, enhancement planting in the grass paddock sections, construction of natural wood debris piles and an investigation of boundary stock fencelines.
- 6.2.19 Once lizards are salvaged and released into the release site then the pest animal management activities shall be maintained ongoing for a further three years after the final lizard release, as well as stock fence inspections and any repairs.

Monitoring and reporting

- 6.2.20 The monitoring and reporting provisions of the LMP appear appropriate for copper skink and ornate skink.
- 6.2.21 The outcomes of the lizard monitoring will be reported annually for the duration of the post release monitoring (the three-year period). The report should also report on the condition of the lizard enhancements installed at the release site and for the on-site habitat enhancements

Term

- 6.2.22 The Applicant's conditions indicate that a term of 25 years is sought to carry out redevelopment in a staged process, with a review at the 10th year.
- 6.2.23 A term of 5-10 years is consistent with other wildlife approvals granted and consistent with standard Wildlife Act Authorities. As discussed in the Key Principles for Lizard Salvage and Transfer in New Zealand, lizard salvage is a developing practice, with DOC expecting improvements to be made to current methodologies. Re-assessment of the activity in a 5-10 year period time would allow for any improvements in methodology to be incorporated into subsequent authorities, as well as considering any updated information about the species, including any change in threat status.

- 6.2.24 The 25-year term in the very particular set of circumstances of this proposal, is accepted in this instance. The proposed condition WAA13 allows for review, to provide a check in that the mitigations proposed are still going to achieve the expectations of the Wildlife Act. However, it is the combination of this condition with the robust and detailed LMP; the existing site characteristics; expected low lizard numbers; and the proposed relocation characteristics including an enhanced release site, mean that such a long-term is acceptable in this instance.

Incidental killing and overall wildlife protection

- 6.2.25 The LMP identifies mortality as a potential effect of the Project and proposes actions to minimise death or injury.
- 6.2.26 DOC takes the view that, in general, the proposed management actions are aligned with the Wildlife Act's purpose of wildlife protection. Subject to recommended conditions being imposed and complied with, there may be a net benefit for the populations, even if there are some incidental deaths.

6.3 Information and requirements relating to protected wildlife

- 6.3.1 The threat status of species identified in the LMP that may be present in the area are provided below:
- copper skink (*Oligosoma aeneum*)- At Risk – Declining. Found throughout North Island, from around Kaitia through to Wellington. Preferred habitats are leaf litter, grasslands and forest.
 - ornate skink (*Oligosoma ornatum*)- At Risk – Declining. It is the most widespread skink species in the North Island, occurring from Manawatāwhi / the Three Kings Islands at the northern tip of the Aupōuri Peninsula through to Wellington. Preferred habitats are forest, scrub and complex grassland.

6.4 The role of species management plans

- 6.4.1 Wildlife Act approvals for wildlife salvage typically include approval of a species management plan as part of the process. That is, an applicant provides a lizard management plan with their application, detailing proposed actions. The detail in the lizard management plan informs the assessment against the purpose of the Wildlife Act and, if the application is approved, the Wildlife Act authorisation is conditional on compliance with the approved plan.
- 6.4.2 Wildlife Act approvals for wildlife salvage typically include approval of a species management plan as part of the process. That is, an applicant provides a species management plan with their application, detailing proposed actions. The detail in the species management plan informs the assessment against the purpose of the Wildlife Act

and, if the application is approved, the Wildlife Act authorisation is conditional on compliance with the approved plan.

6.4.3 Overall, this is a very detailed LMP for a relatively low-risk to lizards development.

6.5 Conditions to manage effects on protected wildlife

6.5.1 The Applicant has provided a set of conditions for the wildlife approval, it is presumed these for the 'Special Conditions' for the Wildlife Approval. DOC has recommended tracked changes and recommended conditions aligned with best practice in Appendix B.

6.5.2 DOC has also noted that Standard Conditions are also appropriate. This list of conditions is provided in Appendix C.

6.5.3 These are not provided as tracked changes, on the basis it may well have been the expectation of the Applicant, for DOC to provide these.

6.5.4 This recommendation includes consideration of section 83 of the Act – DOC considers that each condition would not be more onerous than necessary to address the reason for which it is set.

6.5.5 In the provision of comments on the Applicant's draft conditions, DOC have noted that there are some inconsistencies in assigning tasks to various DOC offices and separating out roles and responsibilities. DOC staff will undertake to provide clear and consistent commentary on any inconsistencies at s 70 stage. DOC welcomes the opportunity to work with the Applicant on this matter.

7 Engagement

7.1 Pre-lodgement

7.1.1 The Applicant first made contact with DOC in July 2025 to begin pre-lodgement engagement. Several meetings were held with the applicant over 2025 to discuss the proposal, particularly in relation to the wildlife approval required. DOC provided a pre-lodgement summary in December 2025 and again in April 2026.

7.1.2 The pre-lodgement summaries outlined to the Applicant, the matters of interest to DOC. These included the long term sought for the Wildlife Approval; the location of the lizard relocation site and the timing of restoration planting; the pest control approach; the applicability of the replacement culvert as compensation of a culvert and DOC's opinion that the activity of diverting a stream, constitutes a complex freshwater fisheries activity under the FTAA.

7.1.3 The Applicant responded to various matters DOC raised including providing more information on restoration of the lizard release site and results of a fish survey and further analysis on the role of existing instream structures. However, the proposed long term of the

Wildlife Approval; the matter of compensation of the culvert and the need for a complex freshwater fisheries approval were matters still unresolved at the pre-lodgement stage.

7.2 Post-lodgement

- 7.2.1 DOC and the Applicant have continued to engage post lodgement, and the engagement has been constructive, this report will identify where outstanding issues remain.

8 Additional information

8.1 International Conservation Agreements

- 8.1.1 The table below outlines the international agreements that are relevant to the approval being sought.

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

8.2 The United National Convention on Biological Diversity

- 8.2.1 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.
- 8.2.2 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 national contribution to reversing the loss of biodiversity worldwide.
- 8.2.3 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.

8.2.4 The application seeks to salvage and relocate resident lizards from the prison project site. The proposal to salvage lizards and enhance lizard habitats at the relocation sites should provide a level of biodiversity protection from the adverse effects of the development. Potential effects on lizards are anticipated to be less than minor and with the proposed mitigation measure, in the long term with the proposed pest management would provide a net benefit for native lizards.

8.2.5 Proposed mitigation measures should offset any potential residual effects, including by a pest management project.

8.3 International Union for Conservation of Nature

8.3.1 The International Union for Conservation of Nature (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.

8.3.2 The IUCN Red List status of species named in the application is provided in the table below.

Common name	Scientific name	IUCN Red List status
Copper skink	<i>Oligosoma aeneum</i>	Least Concern (stable)
Ornate skink	<i>Oligosoma ornatum</i>	Least concern

8.4 Consistency with statutory planning documents and policy

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

8.5 Conservation General Policy 2005

8.5.1 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.

- 8.5.2 Under policy 7 of the CGP, DOC should undertake statutory advocacy to protect natural resources, particularly when indigenous terrestrial species are threatened with loss or decline.
- 8.5.3 The CGP does not contain policies specific to the proposed wildlife activities. The application is not inconsistent with the CGP.

8.6 Auckland Conservation Management Strategy 2014-2024

- 8.6.1 The Auckland Conservation Management Strategy (CMS) describes the conservation values of Auckland. It provides guidance for DOC's work in the form of a vision, objectives, outcomes for Places, policies, and milestones.
- 8.6.2 This CMS describes the conservation values present in Auckland and provides guidance for the Department's work in the form of a vision, objectives, outcomes for places, policies and milestones, translating the Department's Strategic Outcomes to Auckland. The places described in Part Two of this CMS have been identified for the purposes of integrated conservation management and require some specific management direction.
- 8.6.3 Section one contains a vision, objectives and milestones that apply to all public conservation lands, waters and resources in Auckland. Section two addresses places in Auckland that have been identified for the purposes of integrated conservation management, and which require some specific management direction. Each place has a description, an outcome statement (outcome), policies and milestones.
- 8.6.4 The Project Site is not located within a place listed in Part Two. Locations not covered in the places section of the CMS require less detailed management direction. Conservation management will still be undertaken in these areas in line with the vision, objectives, policies milestones and related provisions in parts one, three and four of the CMS.
- 8.6.5 The CMS does not contain policies specific to the proposed wildlife activities. The application is not inconsistent with the CMS.

9 Treaty of Waitangi settlement considerations and obligations

9.1 Treaty of Waitangi settlement obligations

- 9.1.1 Under section 7 of the Act 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 not consulted by MFE on this report.

- 9.1.3 DOC has read the report and agrees with the Treaty settlements listed are relevant to this Project, however, in addition to these DOC notes the relevance of the legislated settlements of Ngāti Manuhiri and Ngāti Paoa.

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 Waitangi¹ (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 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.

- 9.2.3 DOC provided details of the Application, and commentary on DOC's role in providing comments to the Panel, to the representatives of 13 iwi entities including Ngāti Paoa, Ngāti Manuhiri, Ngāti Whātua Ōrakei, Ngāti Maru, Ngāti Tamaoho, Ngāti Tamatera, Ngāti Te Ata, Ngāti Whanaunga, Ngāti Whātua o Kaipara, Te Rununga o Ngāti Whātua, Te Ākitai

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

Waiohūa, Te Kawerau ā Maki and Ngāi Tai ki Tāmaki. The Tāmaki Collective also advised DOC that their members had received DOC's correspondence on the application.

9.2.4 DOC also provided the reporting dates and advised of the opportunities for commenting on the Application.

9.2.5 DOC did not receive any feedback from any of the thirteen iwi entities.

Appendices

Appendix A: Expert Credentials

Jacqui Wairepo

Jacqui Wairepo is an experienced herpetologist, having worked with indigenous lizards since 2010. Jacqui holds a BAppSci in Biodiversity Management and a MSc (1st class honours) in Conservation Biology. Jacqui has worked as a specialist consultant herpetologist since 2016 when she was employed by Wildland Consultants and was responsible for all aspects of lizard management and research throughout the North Island, including numerous South Island based projects. Jacqui has been a Northland-based independent wildlife and herpetological specialist since late 2021.

Jacqui is known to all members of DOC's national lizard TAG (Technical Advisory Group) and has been a named authority on numerous Wildlife Act Authority permits since 2016. Jacqui's experience with herpetofauna includes all aspects of survey, salvage, translocation and population management for a wide range of skink and gecko species throughout New Zealand. Jacqui has also led and been involved with numerous surveys for Hochstetter's frogs throughout Auckland and Northland. During her years as a Consultant Jacqui has worked on national infrastructure and large-scale development projects for roading, wind farms, solar farms, dams and rural developments. Jacqui has prepared and implemented Lizard Management Plans for projects throughout the country both small and large-scale, as well as preparing evidence for multiple hearings for nationally significant infrastructure projects. Jacqui has been a SRARNZ (Society for Research of Amphibians and Reptiles in New Zealand) member since 2013 and currently sits on the SRARNZ Council and serves as the SRARNZ Secretary. Jacqui is also a member of the New Zealand Ecological Society.

Appendix B - Applicant's marked up conditions

<u>Schedule 1</u>	
Wildlife Approval Number	TBC
Approval Holder	Department of Corrections
Determination Date	TBC
Lapse date	10 years from date approval commences. <u>Start date XXX and lapses on XXX.</u>
<u>Term Duration</u> <u>(Schedule 1, clause 1)</u>	<u>For lizard salvage and release: 25 years from date approval commences (under Schedule 7, clause 7 of the Fast Track Approvals Act 2024)</u> <u>25-year period, commencing on (date of approval)</u>
Authorised Personnel <u>(Schedule 1, clause 2)</u>	Katherine Muchna, Boffa Miskell (Project Herpetologist) and/or Matt Turner, Boffa Miskell (Project Herpetologist).
<u>Authorised Activity Proposal</u> <u>(Schedule 1, clause 3)</u>	1. To <u>catch alive</u> , handle <u>and liberate</u> wildlife (lizards) <u>listed below</u> . for salvage and release. 2. To incidentally kill the protected wildlife listed below provided all reasonable steps are taken in accordance with the Lizard Management Plan to avoid killing wildlife. This work may include incidental killing during construction works.
<u>Species</u> <u>(Schedule 1, clause 4)</u>	<u>Copper skink (<i>Oligosoma aeneum</i>)</u> <u>Ornate skink (<i>Oligosoma ornatum</i>)</u>
Location <u>(Schedule 1, clause 5)</u>	530 Paremoremo Road, Paremoremo (Lot 4 DP 24508, Sect 1 SO 476557, Sect 3 SO 476557, Sect 2 SO 476557 and 505 Paremoremo Road (Sec 1 SO 66966).

Definitions	
Lizard Habitat Area	The areas on the Auckland Prison site (within Areas A and B) that contain suitable lizard habitat and are indicated on the plans Appendix 4A to Volume 4 - Wildlife Approval Application for Auckland Prison Capacity Increase Proposal.

Lizard Release Site	The area shown as “Lizard Release Site” in Figure 3, of the Lizard Management Plan, prepared by Boffa Miskell, dated 26 March 2026” provided in Appendix 4B to Volume 4 - Wildlife Approval Application for Auckland Prison Capacity Increase Proposal.
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Schedule 3: Special conditions

	General	
WAA01	The Approval Holder is only authorised to salvage, release and incidentally kill wildlife that are listed in the Wildlife Approval Application (<i>Application</i>) using methods described in the application including the Lizard Management Plan for Auckland Prison Capacity Increase, prepared by Boffa Miskell and dated 26 March 2026 or subsequent updated and certified Lizard Management Plan in accordance with condition WAA02. This includes: a) Lizard capture, handling and release must be undertaken between 1 October and 30 April when lizards are most active. b) Pre-construction lizard survey to ascertain the absence/presence of lizard species through a thorough lizard survey of suitable lizard habitat immediately prior to commencement of earthworks that may disturb lizards, or lizard habitat removal. c) If lizards are detected, prior to disturbance to lizard habitat, the lizards shall be salvaged and released into the lizard release site. d) Land use practice continuation after lizard salvage (section 6.2.3 of the LMP) e) lizard fencing is installed and maintained where required (section 6.2.4 of the LMP). f) Lizard capture and handling must involve only techniques that minimise the risk of infection or injury to the animal including: (i) Lizards must only be handled by Authorised Personnel [being person named as the approved herpetologist], or under the direct supervision of the Authorised Personnel. (ii) Best practice methods and hygiene protocols as detailed in the Department of Conservation's herpetofauna inventory and monitoring methods toolbox https://www.doc.govt.nz/our-work/biodiversity-inventory-andmonitoring/herpetofauna/. (iii) Prior to release, lizards are temporarily held individually in a suitable container (e.g. breathable cloth bag), with one lizard per container / holding bag, and held out of direct sunlight to minimise the risk of overheating, stress and death. (iv) Covering live lizard capture traps to protect lizards from exposure and minimise stress.	

	(v) Checking all live lizard capture traps (e.g. pitfall traps and G-minnow traps), at least every 24 hours. <u>Advice Note:</u> Section 3.0 of the LMP notes that if earthworks are undertaken in areas outside of (but near to) identified areas of lizard habitat prior to the pre-construction lizard survey, a lizard proof fence must be installed between the earthworks areas and lizard habitat prior to works commencing (refer Condition WAA12).	
WAA02	If any amendments are proposed made to the certified Lizard Management Plan (beyond minor amendments the updated version shall be provided to the Director General for certification prior to implementation of the amended LMP (in accordance with WAA14) <u>The Authority Holder may propose to vary the LMP at any time. Any proposed variation must be prepared by a SQP and must be submitted to the Department of Conservation via permissions@doc.govt.nz for certification to ensure the LMP remains appropriate for achieving the purpose of LMP and that any proposed changes remain appropriate pursuant to the Wildlife Act.</u>	The LMP proposes section 11- <i>“Minor flexibility or adaptations to the current methods proposed in this LMP may be made at the discretion of the project herpetologist.”</i> DOC considers any changes the LMP are considered to be a variation. Any changes to methods proposed in the LMP could materially alter the management of effects on lizards, where that change may increase the risk of injury or mortality to Lizards, reduce the likelihood of successful relocation, or reduce the ability to comply with the conditions of this approval. If the Approval Holder proposes to update the LMP, they must provide the amended LMP in writing to DOC for certification in accordance with WAA13 and WAA14. This is to ensure any proposed changes to methods remain appropriate for achieving the purpose of reducing the injury and mortality of lizards during Construction Works and post-relocation monitoring. Any amendments/ adaptations may only be implemented once certification has been received.
WAA02A	<u>No proposed variation(s) to the LMP are valid unless certified by the Director- General of Conservation.</u>	The Department recommends a new condition to be clear that a proposed variation cannot be implemented without receiving

		certification from the Director - General of Conservation.
WAA03	At least one week prior to the pre-construction lizard salvage and release event, the Approval Holder will notify the Department of Conservation of: (a) The date when the lizard salvage and release activity will be undertaken. (b) The name(s) of the Authorised Personnel. (c) Confirmation from the Authorised Personnel that the Lizard Release Site is ready for the intake of lizards.	
WAA04	The Approval Holder must perform actions as set out in the contingencies/adaptive management sections of the certified Lizard Management Plan for Auckland Prison Capacity Increase to ensure adequate mitigation of effects has been achieved.	
	Lizard Release Site Design Plan Certification and Implementation	
Conditions WAA05-07 only apply if lizards are detected during the pre-construction lizard survey		The LMP describes in detail the preparation the Lizard Release Site and buffer area including the need to undertake extensive pest animal control for six months prior to the relocation of any lizards, and for three years after the final salvage. Therefore, giving sufficient time for pests to be eliminated and for lizards to establish. However, the Wildlife Approval document (see paras 33 and 34) specifies that the survey for lizards will be conducted immediately prior to construction. This heading to conditions WA05-07 seems to pick up on the 'immediately prior' survey and specifically excludes these conditions if lizards are not detected in the pre-construction lizard survey. This heading should be deleted as the Applicant must implement WAA 05-07, six months prior to the lizard salvage, this is not contingent on lizards being found. If there are no lizards found in the survey, the mitigations are then managed by WAA08 (i.e. the pest control does not need to continue for another three years). The

		heading creates a contradiction between the LMP and the conditions.
WAA05	<u>At least 6 months</u> P prior to the pre-construction salvage and release of lizards, the Approval Holder shall submit for certification, by the Department of Conservation, a design plan for the lizard release site. The design plan shall be prepared in consultation with authorised personnel.	As above, the LMP identifies that the preparation for the Lizard Release Site needs to happen prior to salvage.
WAA06	The lizard release site design plan certified under Condition WAA05, shall be implemented at least 6 months prior to the pre-construction salvage and release of lizards commencing.	
WAA07	The lizard release site design plan certified under Condition WAA05, shall be implemented at least 6 months prior to the pre-construction salvage and release of lizards commencing.	This is a duplicate to the condition above. Delete.
WAA08	At least 6 months prior to the pre-construction salvage and release of lizards, the lizard release site shall be subject to predator control measures, in accordance with the Pest Animal Management Plan prepared by Boffa Miskell, dated 26 March 2026, and if lizards are salvaged and released to the lizard release site, shall receive ongoing predator control for three years after the final lizard transfer. <u>If lizards are not salvaged and released into the Lizard Release Site then predator management may cease as per the PAMP.</u>	The suggested edit provides consistency with the Pest Animal Management Plan submitted with the substantive application.
Death of wildlife associated with salvage activities		
WAA09	If any lizards should die during the authorised activities of catch, transfer or liberate, the Approval Holder must: (a) inform the Director-General Auckland <u>Operations Manager</u> as soon as possible; and (b) chill the body if it can be delivered within 72 hours, or freeze the body if delivery will take longer than 72 hours; and (c) send the body to Massey University Wildlife Post Mortem Service for necropsy along with details of the animal's history; and the Auckland DOC office if requested by the <u>Operations Manager.</u>	The local Operations Manager is a more appropriate contact for the information.

	(d) pay for any costs incurred in investigation of the death of any lizard; and (e) if required by the Director-General <u>Auckland Operations Manager</u>, cease the Authorised Activity for a period determined by the Director-General.	
	Euthanasia	
WAA10	If any lizards are found injured as part of the Authorised Activity, the Approval Holder shall contact Authorised Personnel to get advice on management of the lizard. The Approval Holder is authorised to euthanise injured lizard(s) on recommendation of the Authorised Personnel or a veterinarian.	
	Lizard Salvage Reporting	
WAA11	By 30 June each year following a lizard salvage and release activity, a report is to be submitted in writing to the Director-General Operations Manager for Auckland (auckland@doc.govt.nz and permissionshamilton@doc.govt.nz), summarising outcomes in accordance with the certified Lizard Management Plan. Each report must include: (a) the Project name; and (b) the species and number of any lizards salvaged and released; and (c) the GPS location (or a detailed map) of the collection point(s) and release point(s); and (d) results of all surveys, monitoring or research; and (e) a description of how the Lizard Management Plan was implemented including any difficulties encountered with capture and handling, how release sites were assessed, post release monitoring and what contingency actions were required. Completed Amphibian and Reptile Distribution System (ARDS) cards for all herpetofauna sightings and captures (http://www.doc.govt.nz/conservation/native-animals/reptiles-andfrogs/species-information/herpetofauna-data-collection/ards-card/) must be sent to	

	Herpetofauna, Department of Conservation, National Office, PO Box 10420 Wellington 6143 or herpetofauna@doc.govt.nz. Advice note: 1. If the pre-construction lizard survey detects no lizards, and/or no salvage and release activities occur the preceding year(s), the reporting requirements do not apply.	
	Construction works outside of potential lizard habitat area	
WAA12	Prior to any physical construction works occurring in areas near but outside of lizard habitat area, lizard habitat areas shall be identified and a temporary fence setback 5 metres from lizard habitat areas shall be installed to clearly demarcate and protect lizard habitat areas. The fence will be made from sheer polythene fencing material and shall be erected following details in section 6.2.4 of the LMP and under advice or supervision from the Authorised Personnel.	
	Review and Certification of Lizard Management Plan (LMP)	
WAA13	The Approval Holder shall review the LMP and resubmit it to the Director-General for certification on or before each date that is 10 years from the Approval date, unless the pre-construction lizard survey and all salvage activities authorised by this WAA are completed before the 10-year review period, in which case the LMP review and resubmission is not necessary. The purpose of the review is to reassess habitat conditions, habitat extent and characteristics and update the LMP to reflect current species knowledge, best practice lizard management and mitigation techniques. Any proposed amendment to the LMP must: (a) be prepared by a suitably qualified and experienced person with expertise in lizards; (b) be for the purpose set out above. (c) meet the objectives of the LMP and the requirements set out in condition WAA14; (d) 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	This proposed condition is considered a good balance between DOC's preference for a maximum 5-10 year term Wildlife Approval and the Applicant's long term plan for redeveloping and expanding the prison, which for now, does not have funding or specific start date. As mentioned in this report, the site comprises a few pockets of isolated vegetation and is likely to have low numbers of the individual lizards, which will be relocated to a pre enhanced, higher quality habitat, within the Lizard Release Site.

	conditions WAA13 and WAA14 have been satisfied.	
WAA14	The Director-General will certify an amendment to the LMP if it includes processes for the following, in a manner that will achieve the LMP objective and the purpose of the review: (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 lizard release 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.	
	Procedural Advice Notes	
	<u>Compliance with Legislation and Director-General's Notices and Directions</u> The Approval Holder 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.	
	<u>Variation</u> 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.	See comments on WAA02, this advice note does correlate with DOCs comments on the proposed conditions.
	Department of Conservation Operations Manager(s) for Auckland auckland@doc.govt.nz are to be contacted immediately for further advice if wildlife other than lizards are located within the footprint of the development or within the lizard release site. A separate application to kill non-authorised species will be required.	

Appendix C – Schedule 2 – Standard Terms and Conditions of the Authority

SCHEDULE 2: STANDARD TERMS AND CONDITIONS OF THE AUTHORITY

Interpretation

1. The Approval Holder is responsible for the acts and omissions of its employees, contractors or agents. The Approval Holder is liable under this Authority for any breach of the terms of the Authority by its employees, contractors or agents as if the breach had been committed by the Approval Holder.
2. Where obligations bind more than one person, those obligations bind those persons jointly and separately.

What is being authorised?

3. The Approval Holder is only allowed to carry out the Authorised Activity in the Land described in Schedule 1, clause 5.
4. Any arrangements necessary for access over land that is controlled, owned, or managed by someone other than the Department of Conservation are the responsibility of the Approval Holder. In granting this authorisation the Grantor does not warrant that such access can be obtained.
5. The Approval Holder must immediately notify the Department of Conservation of any taxa found which are new to science. In addition, the Approval Holder must lodge holotype specimens and a voucher specimen of any new taxa with a recognised national collection.

Who is authorised?

6. Only the Authorised Personnel described in Schedule 1, clause 2 are authorised to carry out the Authorised Activity, unless otherwise agreed in writing by the Director-General for Conservation.

What are the liabilities?

7. The Approval Holder agrees to exercise the Authority at the Approval Holder's own risk and releases to the full extent permitted by law the Department of Conservation 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 the Approval Holder's exercise of the Authorised Activity.
8. The Approval Holder must indemnify the Director-General of Conservation against all claims, actions, losses and expenses of any nature which the Director-General of Conservation may suffer or incur or for which the Director-General of Conservation may become liable arising from the Approval Holder's exercise of the Authorised Activity.
9. This indemnity is to continue after the expiry or termination of this Authority in respect of any acts or omissions occurring or arising before its expiry or termination.

What about compliance with legislation and Director-General of Conservation's notices and directions?

10. The Approval Holder must comply with all statutes, bylaws and regulations, and all notices, directions and requisitions of the Director-General of Conservation and any competent Authority relating to the exercise of this Approval.

Revocation

11. The Director-General of Conservation may revoke this (Authority pursuant to clause 7(4) of Schedule 7 of the Fast-track Approvals Act 2024) at any time in respect of the whole or any part of Authorised Activity if:

- a. the Approval Holder breaches any of the conditions of this Approval; or
- b. in the Director-General's opinion, the carrying out of the Authorised Activity causes or is likely to cause any unforeseen or unacceptable effects.

12. If the Director-General of Conservation intends to revoke this Approval in whole or in part, the Director-General must give the Approval Holder such prior notice as appears reasonable and necessary in the circumstances.

What about the payment of costs?

13. 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.

What about Progress or final reports?

14. If the Director-General of Conservation so requests, the Approval Holder must keep the Director-General of Conservation and relevant Treaty partners informed on the progress of the Authorised Activities. Upon completion of the Activities and in accordance with any reasonable request from the Director-General, the Authority Holder must forward a copy of the research findings, reports and publications to the Director-General of Conservation. The Approval Holder acknowledges that the Director-General may provide copies of these findings to relevant Treaty partners.

Are there any Special Conditions?

15. Special conditions are specified in Schedule 3. If there is a conflict between this Schedule 2 and the Special Conditions in Schedule 3, the Special Conditions will prevail.

Can the Authority be varied?

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

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

Introduction

1. This report responds to the Panel Convener's Minute dated 14 April 2026, 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.²

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 to⁴.
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.⁵
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
8. 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

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)

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

9. 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.
- 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:*

(a) *the purpose of this Act:*

(b) *the matters in Part 2 of the Resource Management Act 1991:*

(c) *any relevant proposed plan:*

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.

- (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 (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)).¹²
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.¹³ 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]