



Wildlife Act

Recommendations and Decision Report

Applicant: WSP New Zealand Limited
Permission number: 107310-FAU
Application Type: Wildlife Act Authority

To: Leeann Ellis, Operations Manager, North Canterbury
From: Charlotte Grey, Permissions Advisor
Peer Reviewed by: Lynette Trewavas, Senior Permissions Advisor
Date sent: 29 January 2024

Executive Summary – Whakarāpopoto ā kaiwhakahaere

1. WSP New Zealand Limited (WSP) has applied to catch alive, kill, mark, and liberate native lizards for the salvage and relocation from the project site to a nearby release site. WSP has been engaged in a proposed limestone quarry development. Native skink habitat (rank grass) has been identified at the site, hence the need for a Wildlife Act Authority (the Application). Tail tipping has also been included as part of the “catch alive” part of the application.
2. The recommended term is ten years from date of authorisation as the project is long term, and is yet to be consented. The term will allow for any unforeseen delays, as well as post release monitoring.
3. The Technical Advisor initially had concerns regarding the quality of the survey, and the protective benefit that the LMP would provide. After a meeting with WSP, it was agreed to include a condition requiring WSP to get a conservation covenant if the project goes ahead. Upon seeing this condition, the Technical Advisor confirmed she was happy for it to proceed.
4. The Rangiora District Office carried out engagement with Ngāi Tūāhuriri, no responses were received.
5. The application is consistent with the Conservation General Policy 2005 and the relevant sections of the Wildlife Act 1953 and Wildlife Regulations 1955.
6. Based on the above, the recommendation is to approve this application for a term of 10 years. A more in-depth analysis can be found below.
7. Authorisation for approval ([DOC-7781608](#)).

I recommend that you..... (Ngā tohutohu)

		Decision
	Approve the Application under section 53 of the Wildlife Act.	Yes / No

Decision Maker Rational:

Space for Decision Maker to provide rationale

Time spent considering application and making a decision	1 hour
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Date: 2/2/25

Leeann Ellis, Operations Manager, North Canterbury

Pursuant to the Delegation dated 9 September 2015 and 17 November 2016

Purpose – Te aronga

8. The purpose of this report is to bring together the relevant information and recommendations to support you to make a statutory decision.

Context - Te horopaki

9. The Applicant has sought to catch alive, kill, mark, and liberate native lizards for the salvage and relocation from a project site to a nearby relocation site. The salvage is being conducted in advance of the development of a limestone quarry. This project is yet to receive a resource consent.

Common Name	Scientific Name	Threat Classification	Quantity/Sample
McCann's Skink	<i>Oligosoma maccani</i>	Not Threatened	<250
Canterbury Grass Skink	<i>Oligosoma</i> aff. <i>polychroma</i> Clade 4	At risk – Declining	<250
Southern Grass Skink	<i>Oligosoma</i> aff. <i>polychroma</i> Clade 5	At Risk – Declining	<250
Waitaha Gecko	<i>Woodworthia</i> cf. <i>brunnea</i>	At Risk - Declining	<50

10. The proposed methods are manual habitat searching, pit fall traps, gee minnow funnel traps, and destructive hand searching
11. The proposed locations are listed below:

Name	Land category/status
150, 174, and 176 Quarry Road, Loburn, North Canterbury	Land not managed by the Department

12. The Applicant is seeking a term of 10 years. This term is sought in case of any delays as a resource consent must be sought for the project before it begins, and the first hearing is in March 2025.
13. The Applicant has no outstanding or existing compliance issues.
14. A copy of the application can be found here ([DOC-7331415](#)).

Treaty Partner Relationships

15. The table below summarises our engagement with Treaty partners on this application:

Treaty partner	Summary of Treaty partner engagement	Mitigations proposed by Treaty partner
Ngāi Tūāhuriri	Sent e-mail with application 27 August. Nil response. Advised application may	None

	<p>be withdrawn, but conditions updated to satisfy TA.</p> <p>Sent e-mail reminder if they had any concerns 11 Nov.</p> <p>Nil response</p> <p><u>DOC-7821870</u></p> <p><u>DOC-7821872</u></p>	
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16. Links to full Treaty partner engagement summaries and correspondence can be found at Appendix 1.
17. Ngāi Tūāhuriri reached settlement as part of the Ngāi Tahu Claims Settlement Act. They are represented by Te Ngāi Tūāhuriri Rūnanga.

Section 4: Giving effect to the Principles of the Treaty of Waitangi Ngā mātapono Tiriti

18. Four principles have been identified as most relevant to the work of Te Papa Atawhai: Partnership, Informed Decision-Making, Active Protection, and Redress and Reconciliation.
19. The Rangiora District Office contacted Ngāi Tūāhuriri twice via email. No response was received either time. Given the large timeframe engagement took course over, the district did not see the need to engage again beyond this.
20. Despite receiving no response, the Department has acted in good faith to its Treaty Partners by attempting to engage. An attempt to contact was made twice over a 55-day consultation period. It is recommended that the Applicant is encouraged to attempt to build a relationship with iwi by sharing research reports if they are requested. See Schedule 3, clause 9.1.
21. It is recommended that that the Decision Maker consider the lack of response from iwi when assessing whether to grant the authority and whether further consultation should have been undertaken.

Contributions

Technical Advice

22. The Lizard Management Plan (LMP) initially provided little protection, and concern was expressed over the need for a conservation covenant. It was initially offered in the LMP, however, there was no guarantee that the conservation covenant would be implemented, hence the Technical Advisors desire for a special condition in the Authority.
23. Once in place, this conservation covenant is a legal agreement made between the landowner and the government to protect and preserve the natural, historical, or cultural values of a piece of land. This will act to protect the release site of the lizards.

24. Following a meeting with the Applicant, and the agreement to include a special condition obliging them to obtain a conservation covenant over the release site if the resource consent is approved, the Technical Advisor confirmed she was satisfied with the proposed LMP. Standard lizard salvage conditions were recommended alongside the condition regarding the conservation covenant.

Statutory Analysis

25. The species applied for have the status of absolutely protected (section 3) under the Wildlife Act 1953.
26. The Application has been considered under the below provisions.

Act Summary	Permissions Advisor Assessment
Is the Application consistent with the overall purpose of the Wildlife Act 1953?	Yes
Relevant Sections of the Wildlife Act 1953 for activities applied for:	
Section 53(1) of the Wildlife Act – catch alive Section 53(1) of the Wildlife Act – kill Section 53(2) of the Wildlife Act – liberate	
Is the Application consistent with the overall purpose of the Wildlife Regulations 1955?	Yes
Clause 38 of the Wildlife Regulations 1955 – mark wildlife	

Wildlife Act 1953 - Purpose

32. The Court of Appeal in *PauaMac5 Incorporated v Director-General of Conservation* [2018] NZCA 348 [4 September 2018] held that the person must intend to catch alive [or obtain alive] the wildlife and while authorisations can be granted “for any purpose”, the purpose for catching alive, must be one which is consistent with the wider purpose of the Act, which is protection of wildlife i.e. it must have protective benefits.

33. The Technical Advisor has confirmed that she is satisfied with the proposed LMP, and with the inclusion of the special condition about the conservation covenant, there is a protective benefit to the activity.

Wildlife Act 1953 – Catch Alive

34. This activity includes catching lizards from a designated impact site to relocate them. The Technical Advisor confirmed in her advice that the methods of capture follow best practices. There is no alternative to the impact site suggested. Overall, the

methods proposed are appropriate and should result in most impacted lizards being salvaged.

35. The applicant also wishes to tail tip lizards where abnormal morphological features are observed, to confirm species through the use of genetics. This will only be performed by a suitably qualified person with Competency Level 2 or 3. The methods will follow the "Tissue sampling for reptiles Standard Operating Procedure". The Technical Advisor raised no concerns with this.

Wildlife Act 1953 – Kill

36. Killing may occur where any lizards are missed at the time of salvage as they may be harmed during the earthworks stage. Salvage success (and chances of reduced killing) can be improved by ensuring that the methodology is appropriate and that personnel are suitably qualified. The Technical Advisor has confirmed that she is satisfied with the methodology and personnel and that if the activity is carried out in line with the LMP, it will have a protective benefit for the lizards overall.

Wildlife Act 1953 – Liberate

37. This activity includes liberating lizards into a designated release site. A conservation covenant will be obtained over the release site if the project is approved.
38. Liberating the wildlife has protective benefit as there is no rationale to hold the wildlife in possession and therefore for all intents and purposes must be released.
39. This application is consistent with the definitions and overall purpose of the Wildlife Act 1953.

Wildlife Regulations 1955 - Marking

32. The proposed marking with non-toxic paint is consistent with the definition of marking given in Clause 37. Under clause 38, written authority from the Director-General is required to mark wildlife protected under the Wildlife Act 1953.
33. No criteria exist for the Director-General to consider when authorising marking, so it is suggested that the general purpose of Clause 37 is used as a guide: "for the purpose of distinguishing any wildlife". The applicant is intending to mark the wildlife for the purpose of distinguishing wildlife throughout the salvage. This information will provide guidance on the number of lizards salvaged.
34. The Wildlife Regulations 1955 are made pursuant to the Wildlife Act 1953 s 72. Under the Wildlife Act 1953 s 72(1) the Governor-General may make such regulations considered necessary for, inter alia, the protection or control of wildlife. Marking the wildlife must therefore have an element of protection or control of the wildlife.
35. Marking is essential for the proposed lizard salvage, as it will provide valuable information on where the affected populations are located and gain insight into their home range and key habitat areas. Marking the population with non-toxic paint

marking is likely to lead to a better understanding of how many lizards are within the development site.

36. Marking is consistent with the legislation.

Consistency with statutory planning documents

37. Statutory planning documents assessed: **Conservation General Policy 2005**

Is the activity consistent with the relevant statutory planning documents including the Conservation General Policy? **Yes**

38. Section 2 requires that relationships be held with Tangata whenua and that they be consulted on applications that involve places or resources of spiritual or historical and cultural significance to them. The Rangiora District Office carried out their own engagement with relevant iwi in the area. No responses were received. The District Office confirmed that they were satisfied with the engagement that had occurred.

39. Section 4.6 is concerned with avoiding or otherwise minimising adverse effects on ecosystem services. The Conditions included in the authority serve to avoid or minimise any adverse effects on the quality of ecosystem services.

40. Section 11 requires that any application must be consistent with the relevant Act, the statutory purposes for which the place is held, and the relevant conservation management strategy (CMS) or plan. The Wildlife Act has been discussed above. This section also refers to potential adverse effects – the conditions included in the authority serve to avoid

Relevant Departmental operational policy

41. Departmental operational policy assessed: **Key Principles for Lizard Salvage and Transfer in New Zealand**

42. Is the activity consistent with relevant operational policy documents? **Yes**

43. The LMP was assessed against the Departments operational policy “Key principles for lizard salvage and transfer in New Zealand” in determining whether a protective benefit is applied to lizards. Following a meeting between the Permissions Advisor, Technical Advisor and team from WSP. Legal was consulted for a special condition regarding an obligation to obtain a conservation covenant over the release site. Once this was provided to the Technical Advisor, she confirmed that she was satisfied with the proposed LMP and activity going forward.

Recommended Operating Conditions

44.Special Conditions: Standard and special conditions as per Authority: ([DOC-7781608](#))

45. Processing Fee: \$800 plus GST

Released under the Official Information Act

Appendices

Appendix 1 – Contributions document register

Technical Advice: [DOC-7750888](#)

Request for Comments: [DOC-7767892](#)

Appendix 2 – Map

Sec 6(c)



Impact Site: Pink boundary

Release Site: Green boundary

Appendix 3 – Proposed Schedule 3 Special Conditions

1. Conservation Covenant

1.1. The Authority Holder must obtain all of the consents necessary or required to be obtained in connection with the Protranz International Limited Whiterock Lime Quarry and Landfill Project (“the Project”) from the Waimakiriri District Council before commencing any activity authorised in this permit.

1.2. If the authority holder undertakes any activity authorised in this permit, the Authority Holder must work with DOC to ensure that the release site detailed in the lizard management plan is protected in perpetuity by a registered conservation covenant under the Reserves Act 1977, on terms and conditions, and with boundaries that, in the Director-General’s reasonable opinion, are necessary for protection of lizards.

- 1.3. The conservation covenant referred in Special Condition 1.2 must be in place within 36 months of exercising works authorised in reliance on the resource consent, or within 36 months of commencing any work authorised in this permit, whichever is the earlier.
- 1.4. The Authority Holder is responsible for DOC's actual and reasonable costs of preparation and registration of the conservation covenant.
- 1.5. If the resource consent is not granted, the Authority Holder is not required to enter into the conservation covenant.

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Department of Conservation
Te Papa Atawhai

Technical assessment of “*Protranz International Limited. WHITEROCK LIME QUARRY AND LANDFILL LIZARD MANAGEMENT PLAN*”, under s 53 of the Wildlife Act 1953

Technical Advice provided by Lynn Adams	2 October, 2024;
Advice document reference	DOC-7750888
WAA permission number	WAA 107130-fau
Application (or LMP) DOCCM number	
B, H and V spreadsheet	

Following meeting with applicant and agreement of the inclusion of a special condition regarding a conservation covenant, TA confirmed to PA over email that she would be happy with allowing the application to process.



RE_ 107310-FAU
(WSP) LMP.msg

Background

1. For any application made under the Wildlife Act, it will be necessary for the decision-maker to consider the purpose of the Act, in short, the protection of wildlife.
2. *Authority under s 53 of the Wildlife Act can be granted for the purpose of protecting wildlife by ensuring, through reasonable conditions, an activity is undertaken in a way that maintains (or improves) the current viability of populations of affected wildlife and protects individual animals as far as practicable.*

Assessment of the wildlife present at the site and expected impacts of the proposed activity on wildlife

3. I continue to be concerned that Mark is operating without a Wildlife Act permit to handle lizards. Disturbance is caused when lizards are surveyed, even without handling, and in this case Mark was not able to definitively identify species which is critical for determining appropriate release locations. Given lizards were not handled, its difficult to determine whether the survey was adequate because its highly likely skinks escaped, where not detected, or moved so quickly that ID couldn't occur. Because of this, the species list is unreliable.
4. I have sought advice on the species present in the application, but I can only tentatively ID species due to the limited number of photos in the application, and the relatively poor quality of photos. The species present are likely Canterbury grass skink (*Oligosoma* aff. *polychroma* (clade 4)) and I don't think they are McCanns skink. I don't believe its DOCs role to ID species present. Identification of the species present is a fundamental requirement and while I acknowledge species identification can be difficult; the applicant has access to the same people that DOC has access to- they are not DOC staff so the applicant can not rely on DOC doing this work for them.

5. The set up of ACOs where grass was removed to bare earth, is unlikely to be attractive to skinks, and a single ACO will not attract geckos (they require multiple layers). The 6 weeks settling time is not best practice (requires 2 months)
6. Overall the assessment of lizards at the site was poor.
7. I RECOMMEND that we write a compliance letter to Mark outlining his requirements to hold a WAA for all lizard surveys, including the use of ACOs
8. I RECOMMEND that we add a condition that tail tip samples are taken from a samples of 6 skinks to confirm species identify, 3 samples from suspected grass skinks, and 3 samples from suspected McCanns skink, and that all costs of this genetic work be covered by the applicant.

Has avoidance and minimisation been considered (how could it be achieved)?

9. Avoidance and minimisation has not been considered. In fact a greater areas is proposed to be salvaged/impacted, because the applicant can not be confident other lay-down or parking areas will be impacted. Methods such as fencing to prevent unnecessary vehicle access would have been more appropriate.

".....is acknowledged that incidental impacts, such as heavy machinery or temporary storage of equipment may impact lizard habitat in the future. As such a precautionary approach is has been recommended, and agreed by Protranz, to salvage lizards from all highquality skink habitat on-site in a single salvage and transfer effort, allowing unrestricted operations...." (page 15)

Wildlife protection

10. The legal protection of the Significant Natural Area adjacent (which includes the salvage release site) is supported through the proposed covenant. I recommend that the Decision maker have confidence and a mechanism in place to ensure that the covenant will be in place before issuing the permits because this is the primary mechanism for protection of these wildlife (e.g. for Golland Quarry, the WAA was not issued until the covenant agreement was in place).
11. Without the covenant confirmed, this application provides little protection.

Recommendation

12. I highly recommend not issuing this permission until the covenant is in place, or a legal agreement gives us certainty that it will be put in place. Without the benefits of long term protection of the covenant it provides virtually not protection for wildlife, so the long-term legal protection of this habitat/population is important.
13. Note the recommendations above.

Other considerations

Note that the applicant has not accurately (definitively) identified the species present.

From: [Lynn Adams](#)
To: [Charlotte Grey](#)
Subject: RE: 107310-FAU (WSP) LMP
Date: Thursday, 5 December 2024 2:59:48 pm
Attachments: [image001.jpg](#)

Happy with the old LMP if the condition covers that covenant concern.

Out of curiosity, could I see the condition? Is it worth adding to the “special specials”?

From: Charlotte Grey <cgrey@doc.govt.nz>
Sent: Thursday, 5 December 2024 10:56 am
To: Lynn Adams <ladams@doc.govt.nz>
Subject: 107310-FAU (WSP) LMP

Hey Lynn,

Hope you're well and getting ready for holidays! I've got a special condition re the conservation covenant from legal (12-month timeframe once they get the resource consent) but just confirming if you need to see a new LMP with reference to the covenant removed? Or if you're happy for me to finish with the old LMP.

Ngā mihi,
Charlotte Grey

Permissions Advisor

Kirikiroa | Hamilton

M: Sec 9(2)(a)

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