



# Wildlife Act Authority (General)

## Application form 9

This application form is only for the following activities involving any animal protected under the Wildlife Act 1953 (which does not include marine mammals)

Catch, handle, release wildlife at one site

- Disturb or kill wildlife or their eggs
- Catch and/or hold wildlife for rehabilitation – up to 3 months
- Hold wildlife in permanent captivity, if already held in captivity

# Using this application form

## Completing the application



**Save** – You can save this application form to your digital device and edit or fill it in your own time.



**Fill** – You can fill this application digitally using Microsoft word.



**Print** – You can print this application form and fill it manually, or you can fill it digitally, then print it.



**Submit** – This application form can be submitted by email or by post.



**Email** – Email your application and all the required labelled attachments to:  
permissionshamilton@doc.govt.nz



**Post** – Post your application and all the required labelled attachments to:  
Permissions Team  
Private Bag 3072  
Hamilton 3240

## Navigation



**Hints** – Use the links through the hints column on the right hand side of the application form



**Scroll** – Simply use your mouse or keyboard arrows to scroll through the document page-by-page.

## Application checklist

- Have you included labelled attachments as required for your activities (including maps, testimonials, and consultations)?
- Have you read the section regarding liability of the applicant for payment of fees?
- Have you checked if your application requires a CITES permit or EPA application and included these as applicable?
- Have you signed your application (digitally or manually)?

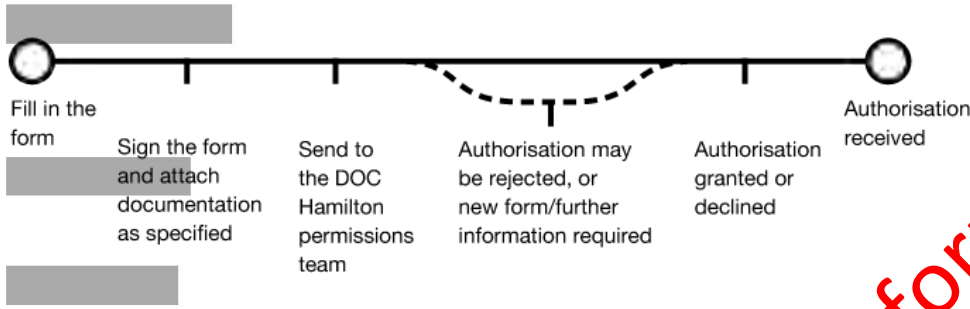


## Before you start

All efforts in putting together a detailed application are greatly appreciated and will allow the Department to effectively and efficiently process your application.

! Please take the timeframes below into consideration when submitting your application.

## Process



! An application is deemed complete when all information requested has been received.

! Any amendments requested after lodgement may require a Form 9a variation application to be completed resulting in a delay of processing of your application.

## Applications for proposals of activities are categorised as either standard or complex proposals:

- Standard proposals are those activities that are likely to have little or no significant effect on conservation values. These will normally be processed within fifteen working days of receiving the application, please also see the fee section below.
- Complex proposals are those activities likely to have more significant effects, and therefore require careful consideration and may take up to six weeks to process, please also see the fee section below.

! Please see also the [fees](#) section.

## Consultation:

- Consultation is required on most applications. In general iwi have 20 working days to respond to DOC once we make a formal request. If there are considerable iwi values to consider they may request a further 20 working days to respond. If no response is received from iwi within the specified period DOC will continue to process your application, as we may be able to locate relevant information about their interests from other sources.

! For more information please see the [iwi consultation section](#).

## Contact

Permissions Team +64 27 308 8958  
 Private Bag 3072 permissionshamilton@doc.govt.nz  
 Hamilton 3240

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# Section A | Applicant details

Full name (registered company, institute, organisation, or individual)

NZ Transport Agency

! Enter your details in the grey fields.

Legal status of applicant:

Individual  Trust  Registered company  
 Research institute Other (specify)

! Please attach a copy of Trust Deed

Registration number (if company, trust or incorporated society)

N/A

Trading name (if different from applicant name)

n/a

Any previous Authorisations held?  Yes  No

If yes, please provide Authority number

Postal address

Private Bag 106602  
Auckland City, Auckland, 1143, NZ

Street address (if different from postal)

Level 11, HSBC House, 1 Queen Street, Auckland

! You must provide a New Zealand address for service.

Registered office of company or incorporated society (if applicable)

Phone

s 9(2)(g)(ii)

Website

www.nzta.govt.nz

Contact person and role

s 9(2)(g)(ii)

Phone

Mobile

9(2)(a)

! Please fill these three fields for your company contact person or if you are applying as an individual.

Email

s 9(2)(g)(ii)

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## Section B | **Activities**

### 1. **Research/species management project description.**

If the activity is research or species management, then please specify the purpose of the research or management activity.

Please provide a brief summary paragraph (100 words or less) here:

The NZ Transport Agency aims to undertake safety improvements along a stretch of State Highway 1 (SH1) and adjoining roads, 8km south of Whangarei. Construction activities will require the removal of vegetation and potential lizard habitat. The purpose of this Wildlife Act Authority application is to enable the Transport Agency's contractors to capture and translocate of native lizards potentially impacted by vegetation clearance that will occur to enable road upgrades.

**!** Attach a copy of your research / management project proposal to this form and label it Attachment B1.

Please provide a more detailed summary of your proposal here:

Potential lizard habitat was identified within the project footprint of the SH1/ Loop Road upgrades during preliminary ecological assessments undertaken by AECOM NZ Ltd (AECOM) and Bioreserches in early 2017. Copper skink were observed during these assessments; however, ornate skinks are also likely to be present within impacted areas. It was also recognised that three native gecko species may occur in the development footprint.

Wildlife Authorisation is being sought to allow NZ Transport Agency's contractors to capture and salvage of native lizard species prior to and during construction to protect individuals from harm. Salvage would be undertaken between months September to May only. It is proposed that captured lizards will be placed immediately into containment boxes and held temporarily (< 1 day), before being released into an nearby Otaika Valley Wildlife Reserve.


All native lizards will be captured and handled by DOC-authorized herpetologists only. Salvage methods will include:

- Search and salvage prior to construction: manual searching through terrestrial debris, groundcover and tree bark and foliage.
- Destructive searching of areas with dense coverage: grass trimming, vegetation removal with hand tools and with large machines. These works would be supervised by a herpetologist/ ecologist.
- Supervised vegetation clearance during site prep/construction.

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The competent ecologist will remain on site until all vegetation has been cleared that could support native lizards.

More detail is provided in the site-specific Lizard Management Plan attached to this application (Attachment E2).

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## Section B (continued) | **Activities**



## 2. Species name and threat classification

Please list the common and scientific name/s and threat classification of all protected species for which the authorisation is sought.

Common name	Scientific name	NZ threat classification
1. Copper skink	1. <i>Oligosoma aeneum</i>	1. Not Threatened
2. Ornate skink	2. <i>Oligosoma ornatum</i>	2. At Risk - Declining
3. Forest gecko	3. <i>Mokopirirakau granulatus</i>	3. At Risk - Declining
4. Elegant gecko	4. <i>Naultinus elegans</i>	4. At Risk - Declining
5. Pacific gecko	5. <i>Dactylocnemis pacificus</i>	5. At Risk - Relict

**!** A New Zealand classification system guide can be found [here](#) on the DOC website.

## 3. Activities

### 3.1. Actions

Please select all the actions that are applicable to the activity you wish to carry out involving wildlife on and/or off public conservation land.

- Catch and handle wildlife on site
- Take samples from wildlife
- Take or destroy the eggs of wildlife
- Attach identification bands to wildlife
- Mark – tag or attach other scientific apparatus (except bands) to wildlife
- Catch and temporarily hold wildlife in captivity (less than 3 months)
- Transfer captive wildlife from one holding facility to another holding facility
- Kill wildlife
- Hunt, disturb, kill or catch alive protected wildlife that are causing damage

Other: Relocation of native lizards to proposed release site (refer to attachments B10.1)

There is the potential for incidental kill during works even though the methods proposed aim to avoid this.

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# Section B (continued) | **Activities**

### 3.2. Purpose

Please select or specify the purpose of the activity.

Traditional/cultural use

Education

Species management

Museum display/collection

Rehabilitation of sick/injured animals

Other: Protection of native lizard species during construction of SH1 safety improvements (Loop Rd, Whangarei)

Research

### 3.3. Is Animal Ethics approval required?

Yes

No

Don't know

**!** If yes, please attach evidence of Animal Ethics Approval

**!** If you apply for more than 10 years, processing may take longer as longer term impacts will need to be assessed and there may be additional legal requirements.

**!** See Authorisations and Special Conditions [for your information.](#)

### 4. Authorisation term and activity timeframes

#### 4.1. Authorisation term

Authorisations will be granted for a limited term. Please specify the start and end dates you would like your proposed authorisation to cover and explain why this term is sought. e.g. '10 years' or 'July 2015 – March 2015.'

Term: September 2018 - May 2021

Reason: Construction is expected to take 18-24 months. Reptile clearance and vegetation removal will be the first phase of works. Three years will accommodate the contractors schedule and any unforeseen delays in construction.

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## Section B (continued) | **Activities**

### 5. Number to be caught, held or killed

Where possible, please state:

The target number of individuals of each species of protected wildlife to be caught, held or killed and what proportion of the local and global species population you estimate would be affected by your activity.

Species	# of individuals	Proportion/population
1. Copper skink	< 20	< 1%
2. Ornate skink	< 20	< 1%
3. Forest gecko	< 10	< 1%
4. Elegant gecko	< 5	< 1%
5. Pacific gecko	< 10	< 1%

### 6. Method/s of capture

Please describe the methods to be used to safely, efficiently and humanely catch, hold or kill the animals and identify relevant animal ethics processes.

Pre-construction active searches in all priority habitats will occur the week prior to vegetation clearance; i.e. lifting terrestrial debris and searching thick leaf litter (skinks), peeling tree bark and searching foliage (arboreal geckos), during suitable weather.

Systematic destructive searches where habitat cannot be easily searched; i.e. clearing terrestrial substrate (e.g. raking) and dismantling the vegetation (e.g. pampas clumps/ foliage) by hand.

### 7. Samples to be collected

#### 7.1. Samples, amounts, methods

Please list exactly what samples are to be taken (e.g. blood, DNA, feathers, etc) and the methods/s to be used, including amounts to be taken (if known).

Sample	Method	Amount
1. n/a		
2.		
3.		

**!** If your application is not to catch, hold or kill a live animal (i.e. you are applying to hold specimens), please go to [Question 10](#).

**!** If no samples are to be collected, please go to [Question 8](#).



**7.2. Purpose**

Please state the purpose for which the samples would be taken (e.g. taxonomy, genetic modification, disease screening) and if they will be sent overseas.

Purpose. n/a

Sending overseas?

Yes  No

**!** If you answer **Yes** to sending samples overseas, please download and complete Form9f see [Application forms: Apply for permits](#)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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## Section B (continued) | **Activities**

### 7.3. Samples for genetic modification

If you will be taking samples for genetic modification, please attach your Environmental Risk Management Authority (ERMA) application and label it attachment B6.2.3.

### 8. Marking, banding, tagging

#### 8.1. Banding

Are you requesting to **band** wildlife?

Yes

No

#### 8.2. Other marking

If you are proposing to mark wildlife with any other mark than a band, please describe the type of marking and details of the method to be used to attach it to ensure the animals' health and safety.

Mark/tag to be fitted

Method

n/a

### 9. Access to Restricted Lands

**Special permission is required to enter some public conservation lands that have particularly high levels of protection. If you wish to enter land of any status listed below to carry out the proposed activity, please select the status and state the full name of the land to which permission for access is sought.**

Nature Reserve (s20 Reserves Act 1977)

Name of land to be accessed

n/a

Scientific Reserve (s21 Reserves Act 1977)

Name of land to be accessed

n/a

Government Purpose (s22 Reserves Act 1977)

Name of land to be accessed

Otaika Valley Government Purpose Wildlife Management Reserve (release site)

**!** **Wildlife Act**  
Authorisations apply to private land and public conservation land. If the location is private land, you will also need the consent of the land owner.

**!** Use [DOCgis](#) to view Conservation Land.



## Section B (continued) | **Activities**

Specially Protected Area in a National Park (s13 National Parks Act 1980)

**Name of land to be accessed**

n/a

State why?

n/a

Wildlife Sanctuary (s9 Wildlife Act 1953)

**Name of land to be accessed**

n/a

Wildlife Refuge (s14 Wildlife Act 1953)

**Name of land to be accessed**

n/a

### 10. Proposed activity site

#### 10.1. Wild

State the location/s in which the activity will be carried out and why this site is the best option. For specific sites, please include a map (and GPS co-ordinates if available). Attach map and label it attachment B10.1.

Within the proposed construction footprint of SH1/Loop Road, approximately 8km south of Whangarei (refer to Attachment B10.1).

Release site is located approximately 150m from the construction footprint (refer to Attachment B10.1) and consists of suitable lizard habitat: well-established vegetation, with a dense mix of native trees and shrubs; understorey/groundcover of dense rank grass, with flax and pampas.

#### 10.2. Captive

Please answer if the live animal/s; specimen/s; or sample/s is to be obtained from another authorised wildlife holder, who has an authorisation to hold the species in captivity or the specimen/sample. Fill in the following information of the person **from** whom the animal/specimen/sample will be obtained.

Name

n/a

Address

n/a

**!** If proposing to undertake your activity in a National Park, your activity must be essential for management, research, interpretation or educational purposes. Please state why?

**!** Use [DOCgis](#) to view Conservation Land.

**!** If you are intending to receive animals from another authorised holder, ensure they have an authorisation to transfer.



DOC authorisation number

n/a

Expiry Date (dd/mm/yyyy)

n/a

## Section B (continued) | **Activities**

### 10.3. Holding live animals

Please fill in this question if you currently hold animals in captivity and wish to continue doing so; or you wish to receive animals held in captivity at another facility; or you wish to hold animals for less than 3 months for rehabilitation.

### 10.4. Captive management programme

Are you part of a co-ordinated captive management programme for the species?  Yes  No

If yes, please state the name of the DOC captive co-ordinator and whether they support this application.

Co-ordinator's name

n/a

Supports application?  Yes  No

### 10.5. Holding site

Provide a detailed description of the holding facility/cage including dimensions.

Holding site address:

n/a

Description of facility/cage

n/a

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**!** Please attach written proof of their support and label it attachment B10.4

**!** The applicant must meet the requirements of the DOC Captive Management SOP (available [here](#)) and the facility must meet the requirements of the husbandry manual for the species, where one exists.





## Section B (continued) | **Activities**

### 11. Management of effects

Please list all actual and potential adverse (or positive) effects of the proposed activity at the site, including effects on the target species, other indigenous species and the ecosystems at the site. Where adverse effects are identified please state what methods will be used to manage those effects.

Effect	Management method
Injury/mortality of native lizards.	All vegetation clearance will be supervised by an experienced herpetologist to ensure it follows appropriate protocols.  All captured individuals will be handled by a DOC-approved herpetologist to avoid any undue stress or injury of the animal.
Loss of habitat.	Salvaged individuals will be released at an adjacent wildlife reserve which is appropriately size and provides a variety of habitat.  Recoverable woody debris and other potential habitat structures will be transferred to the release site for additional habitat provision.  Work areas and the roadside verge will be replanted with a variety of native plant species (grass/sedges and woody vegetation) which will provide habitat for animals to repopulate.
Habitat fragmentation	Roadside vegetation will be reinstated post works to provide a habitat mosaic of grassland and native forest species to encourage lizards and geckos to migrate along the road corridor.

**!** If you are applying to hold specimens or parts of them, or you are applying to hold wildlife already in captivity, you do not need to answer this question.

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# Section D | Applicant skills and experience

Please provide relevant information relating to your ability to carry out the proposed activity (e.g. details of previous authorisations, membership of professional organisations and relevant qualifications and experience). List full names of all individuals who will be involved in the activity.



Please attach details and label as Attachment D.

All individuals involved in activity

### Full Names

9(2)(a) (Project herpetologist, Bioresearches) - MSc, 12 years consulting experience, 50+ LMPs, including conservation & development-driven lizard relocations. Technical herpetological advisor to DOC & MPI

9(2)(a) (support personnel, AECOM) - MSc, three years experience including lizard salvage/monitoring operations.

9(2)(a) (support personnel, AECOM) - PGDipDc, one years ecological experience including lizards monitoring operations.

Has the applicant or any company directors, trustees, partners, or anyone involved with the application been convicted of any offence?

Yes

No

If yes please provide details:

n/a

Does the Applicant or any of the company directors, trustees, partners, or anyone involved with the Application have any current criminal charges pending before the court?

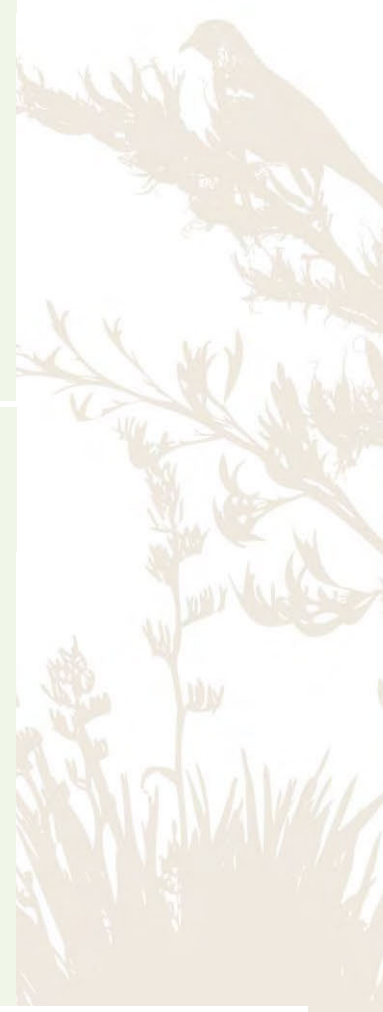
Yes

No

If yes please provide details:

n/a

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## Section E | Consultation

Many applications require consultation with Tāngata whenua (local Māori), and other interested parties. Please attach proof and details of all consultation, including with hapū or iwi, to this application and label as attachment E1

Please attach any additional written expert views, advice or opinions you have obtained concerning your proposal to support the application and label them attachment E2.

**!** If you are unsure of any consultation requirements for your proposal, please see the [iwi consultation section](#) or contact your [local DOC Partnerships office](#) to discuss what is required.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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# Section F | Fees

## Please note

This section only applies to applications with a commercial focus – which will include applications from registered companies. The Department does not charge fees for non-commercial Wildlife Act authorisations.

! If you are making an application for non-commercial activity, [proceed to declaration](#).

## Processing fees

Section 60B of the Conservation Act contains the statutory provisions regarding processing fees.

The Department recovers all direct and indirect costs to process an application from applicants regardless of whether the application is approved or declined. If at any stage an application is withdrawn, the Department will invoice the applicant for the costs incurred by the Department up to that point.

! Applicants are required to pay the processing fees within 28 days of receiving an invoice. The Director-General is entitled to recover any unpaid fees as a debt.

### Standard application fee

The estimated standard application fee is **\$400 +GST**.

This covers most applications. However if your application is likely to have significant effects, is novel, or spans multiple DOC regions, it will require more careful consideration and may take up to 6 weeks to process and cost approximately **\$800 +GST**.

Particularly complex applications may incur further costs – you will be sent an estimate of costs in this situation. We will contact you to advise if the fee is more than the estimated standard cost. Applicants are also entitled to request an estimate of costs at any point, but the Department may impose a charge for preparing such an estimate. Estimates are not binding.

## Paying fees

The Department will ordinarily invoice the applicant for processing fees after a decision has been made on the application, but in some cases interim invoices will be issued.

Please select your method of payment below.

! If you are applying from outside New Zealand we can process a credit card payment – please [contact us](#) to request this procedure.

- I have attached a cheque
- I have direct credited the DOC account

Please use the Applicant name and permission number (which the permissions team will give to you) as the references.

**Department of Conservation**  
**Westpac Bank**  
**Account number: 03 0049 0002808 00**

- I do not intend to pay the fees at the time of applying and/or I require an invoice for payment
- I have a purchase order/number from an organisation registered with DOC

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## Section F (continued) | Fees

### Fee waivers and reductions

The Director-General has discretion to reduce or waive processing fees. You may apply for a fee waiver or reduction if you can provide information to the permissions team about how your application meets at least one of the following criteria.

- The activity will make a direct contribution to management
- The activity will support or contribute to the Department's priority outcomes – stated in the Department's 2013 – 2017 Statement of Intent
- There will be other non-commercial public benefits from the activities covered by the authorisation (if approved)
- Activity covered by the authorisation (other than research, collection or educational activities) will make a contribution to the management of, or the public interest in, the lands that are covered by the authorisation

 View the Department's 2013 – 2017 Statement of Intent [here](#) for the priority outcomes.

The Department may obtain further information either from the applicant or from any other relevant source in order to process the application. The applicant will be advised of any information obtained from other sources. The cost of obtaining such information will be charged to and recovered from the applicant. The applicant will be informed as soon as practicable from receipt of the application if further information is required before this application form can be fully processed by the Department.

### Terms and conditions: Account with the Department of Conservation

Have you held an account with the Department before?  Yes  No

If **yes**, under what name?

### Terms and conditions: Account with the Department of Conservation

1. I/We agree that the Department of Conservation can provide my details to the Department's Credit Checking Agency to enable it to conduct a full credit check.
2. I/We agree that any change which affects the trading address, legal entity, structure of management or control of the applicant's company (as detailed in this application) will be notified in writing to the Department of Conservation within 7 days of that change becoming effective.
3. I/We agree to notify the Department of Conservation of any disputed charges within 14 days of the date of the invoice.
4. I/We agree to fully pay the Department of Conservation for any invoice received on or before the due date.
5. I/We agree to pay all costs incurred (including interest, legal costs and debt recovery fees) to recover any money owing on this account.
6. I/We agree that the credit account provided by the Department of Conservation may be withdrawn by the Department of Conservation, if any terms and conditions of the credit account are not met.
7. I/We agree that the Department of Conservation can provide my details to the Department's Debt Collection Agency in the event of non-payment of payable fees.





## Section F (continued) | Fees


### Reduction in fees for exceeding processing timeframe

If the Department fails to meet its own processing timeframes the estimate of fees will be reduced at a rate of 1% per day late, up to a maximum of 50% of the total processing fee. The reduction will not apply if the Applicant's actions have delayed the process.

### Additional Fees

You may also be required to pay additional fees. These may include:

- Annual management fee to cover administration time; and/or
- Monitoring fee to cover the cost of monitoring the effects of your activity.

 Please [contact the Permissions team](#) to discuss whether these fees apply.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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# Section G | Declaration

I certify that the information provided on this application form and all attached additional forms and information is to the best of my knowledge true and correct.

**!** An Authorisation may be varied or revoked if the information given in this application contains inaccuracies.

Signature (applicant) *on behalf of NZPA* 9(2)(a) Date (dd/mm/yyyy)  
[Redacted Signature] 27-11-2018

Full name (witness) 9(2)(a) Address (witness)  
[Redacted Name] 8 Mahuhu Crescent, Auckland  
1010

Signature (witness) 9(2)(a) Date (dd/mm/yyyy)  
[Redacted Signature] 30/11/2018

This application is made pursuant to Section/s 41(1)(g), 53; 54; 55; and/or 56 of the Wildlife Act 1953 [and (where applicable) Section/s 22; 49; 50; 51; 57; and/or 59 of the Reserves Act 1977; and/or Section/s 5; 13; 14(3) of the National Parks Act 1980; and/or 38 of the Conservation Act].

Applicants should familiarise themselves with the relevant provisions of the Wildlife Act 1953, the Conservation Act 1987, the Reserves Act 1977 and the National Parks Act 1980 relating to authorisations.

The purpose of collecting this information is to enable the Department to process your application. The Department will not use this information for any reason not related to that purpose.

Applicants should be aware that provisions of the Official Information Act may require that some or all information in this application be publicly released.

### For Departmental use

Credit check undertaken?  Yes  No

Comments  
[Redacted Comments]

Signature [Redacted Signature] Name [Redacted Name]

Approved [Redacted Signature] Name [Redacted Name]

**!** Approval is to be by a Tier 4 Manager or above.



To: s 9(2)(g)(ii)

From: s 9(2)(g)(ii)

Date: 30<sup>th</sup> August 2018

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Task Assignment: Process Application from Bioresearches Group Limited

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Wildlife Act Application to Salvage, Transfer and Incidentally Kill  
Wildlife

The Department has received an application to carry out lizard salvage as part of SH1 upgrades south of Whangarei.

Potential lizard habitat was identified within the project footprint of the SH1/ Loop Road upgrades during preliminary ecological assessments undertaken by AECOM NZ Ltd (AECOM) and Bioresearches in early 2017. Copper skinks were observed during these assessments; however, ornate skinks are also likely to be present within impacted areas. It was also recognised that three native gecko species may occur in the development footprint.

Wildlife Authorisation is being sought to allow the capture and salvage of native lizard species prior to and during construction to protect individuals from harm. Salvage would be undertaken between months September to May only.

It is proposed that captured lizards will be placed immediately into containment boxes and held temporarily (< 1 day), before being released into an nearby Otaika Valley Wildlife Reserve.

All native lizards will be captured and handled by DOC-authorized herpetologists only. Salvage methods will include: -Search and salvage prior to construction: manual searching through terrestrial debris, groundcover and tree bark and foliage. -Destructive searching of areas with dense coverage: grass trimming, vegetation removal with hand tools and with large machines.

These works would be supervised by a herpetologist/ ecologist. -Supervised vegetation clearance during site prep/construction.

A lizard management plan is also attached with the application.

Proposed species

Copper skink  
Ornate skink  
Forest gecko  
Elegant gecko  
Pacific gecko

Proposed location

Release site – Otaika Valley Government Purpose Reserve  
Source site – within the proposed construction site on SH1/Loop Road



Department of Conservation  
*Te Papa Atawhai*

Proposed term  
September 2018 - May 2021

### Consultation

If this activity cannot take place in your area an active decision must still be made to decline the application.

### Fees

The authority for agreeing fees sits with PPL Director to ensure a consistent approach across the country. Where the fee setting is consistent with the Price Book, place based decision makers can incorporate this into their decision.

### Purpose

To make a decision on the application.

### Quantity:

- A decision or other appropriate closure of the application
- Written rationale for decision
- Permissions processing complete (e.g. paperwork, database)

### Quality:

- Ensure appropriate engagement with iwi/hapu/whanau
- Ensure stakeholders are appropriately consulted
- Ensure a robust decision-making process following best practice
- Ensure appropriate interaction and communication with the applicant
- **Use team process and follow the defined 'Type 2' process steps**
- Utilise resources provided
- Request changes to resources if required
- Ensure final decision is appropriately shared
- Assess and escalate critical issues
- Learn how to shorten the cycle time
- Ensure standard lizard salvage conditions are used (see below and include conditions that apply)

*[This activity has very high impacts. Authorities should be issued for a maximum of 3 years. Please ensure BEFORE GRANTING that Operations rangers and whānau/hāpu/iwi fully understand what this authority does, which also includes killing lizards.— Killing lizards should be included as an activity on the permit, note that many applicants fail to identify this as an activity; they should be made aware of this. Ensure that all mitigation conditions are always included. Authorisations are for lizards and issued to people assessed as experienced Herpetologists only.]*

*Note: ONLY name people on the permit if they meet the following, other employees of the company should NOT be included. These generic multiple salvage permits should only be issued to "suitably experienced herpetologist". This will be assessed by the Lizard TAG based on the following criteria:*

- *Appropriate qualifications as an ecologist*
- *Suitable and relevant field skills from New Zealand and NZ lizard species*
- *Experienced in the conservation management and/or ecological requirements of most/all NZ Not Threatened and At Risk lizard species.*
- *Suitable experience with lizard salvage operations.*



Department of Conservation  
*Te Papa Atawhai*

- Suitable experience in writing Lizard Management Plans (LMP), and favourable peer review for at least 2 salvage related LMPs
- Have complied with all permit conditions of previous permits, including reporting.
- *Understanding and experience of the effort required for lizard survey and salvage, including favourable peer review of at least 2 salvage operations.*

When renewing salvage permits check that the standard conditions apply (they may have been modified since the past permit was issued. Before reissuing a renewal, ensure that all conditions have been met from the previous permit, including reporting. It is essential we have full reports of all salvage operations before reissuing these permits

Mitigation Conditions:

The Authority Holder is only permitted to release wildlife:

- a. that are classified as Not Threatened or At-Risk species under the current threat classification system;
- b. into release site(s) that are assessed by a qualified herpetologist [or other expert] as being of similar or better habitat than the source location, and capable of supporting that lizard species;
- c. into release site(s) that are within five hundred (500) metres of the development footprint (or with consultation and agreement with the relevant DOC Services Manager);
- d. into release site(s) where habitat for that species of wildlife has been enhanced and approved prior to relocation, using accepted techniques such as provision of extra refuges suitable for the species providing protection from predators (e.g. complex rock stack), or long-term predator control; and
- e. into release site(s) where the site has long-term security from development or modification (e.g. Council or DOC- managed Reserves, covenants or District Plan provisions).

Any salvage operation for wildlife shall be accompanied by a translocation proposal or Species Specific Management Plan that outlines, as a minimum, capture and handling techniques to be applied, the proposed relocation release site, management of the release site including provision for protection of relocated wildlife, provision of post-release monitoring, actions that will be followed in the event that Threatened lizard species are found within the development footprint and contingencies should establishment of salvaged wildlife fails. The translocation proposal or Species-Specific Management Plan shall be approved by the Grantor.

incidentally kill wildlife

The Authority Holder is permitted to kill wildlife provided reasonable efforts have been made to meet all of the terms and conditions expressed and implied in this Authority.

If any lizards are injured as part of the Authorised Activity, the Authority Holder shall contact a suitably qualified herpetologist to get advice on management of the lizard. The Authority Holder is authorised to euthanise injured animal(s) on recommendation of the qualified herpetologist





## Department of Conservation *Te Papa Atawhai*

### Salvage relocation and habitat enhancement

Where monitoring indicates that population establishment has failed, the Authority Holder must perform actions as set out in the contingencies/adaptive management sections of the Species Specific Management Plan(s) to ensure adequate mitigation of effects has been achieved.

DOC Operations Manager(s) are to be contacted immediately for further advice if wildlife species classified as Threatened are located within the footprint of the proposed development or within the proposed release site. Separate application to translocate Threatened species will be required.

During wildlife salvage operations or construction, if Threatened wildlife are found within the footprint of the site, the Authority Holder must contact the DOC Operations Manager(s). The Authority Holder must transfer the wildlife to an approved captive holding facility until a suitable release site is identified by DOC. A separate application to translocate Threatened species may be required. The costs of care and subsequent release are the responsibility of the Authority Holder.

This Authority only allows the salvage of up to twenty (20) individuals of any species. If a larger number is estimated at the salvage site, a separate application to translocate over twenty (20) individuals is required.

The Authority Holder must engage with the relevant tangata whenua prior to any relocation of wildlife taking place in their rohe. Advice on engagement with tangata whenua should be sought from the DOC Operations Manager(s).

Once a Species-Specific Management Plan has been prepared and approved by DOC, the Authority Holder may hold any of the salvaged wildlife in captivity for up to twelve (12) months.

Any offspring of the salvaged wildlife born in captivity must be released with the original salvaged wildlife, in accordance with the Species-Specific Management Plan.

Lizard capture, handling and relocation should be undertaken at a suitable time of year [*insert months*] when lizards are active, as advised by a suitably experienced herpetologist [*September – May is the usual duration, but this will vary by region and altitude. Check with local experts on the conditions /species to help define suitable times*].

#### Lizard Salvage Reporting

1. A report is to be submitted in writing to the DOC Operations Manager, [*insert office and address*], by 30 June each year for the life of this Authorisation, summarising outcomes in accordance with the Species-Specific Management Plan. Each report must include:

- the species and number of any animals collected and released;
- the GPS location (or a detailed map) of the collection point(s) and release point(s);
- copies of approved Species Specific Assessment of Environment Effects (lizards): Lizard Management Plans or similar; and
- results of all surveys, monitoring or research.



Department of Conservation  
*Te Papa Atawhai*

2. Completed Amphibian and Reptile Distribution System (ARDS) cards for all herpetofauna sightings and captures (<http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/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](mailto:herpetofauna@doc.govt.nz).

Resources

Permissions Advisor – s 9(2)(g)(ii)

Community Ranger – To be assigned by the Decision Maker

Technical Advisor – s 9(2)(g)(ii)

Link to Application: <https://doccm.doc.govt.nz:443/wcc/faces/wccdoc?dDocName=DOC-5560620>

Timeframe

Within 20 working days of acceptance of Task Assignment. In this instance, the 20 working days will commence from 3<sup>rd</sup> September.

Released under the Official Information Act



## Permission Decision Support Document

### Application Details

Decision Maker	s 9(2)(g)(ii) Whangarei Operations Manager
Applicant	Bioresearches Group Limited
Permission Number	69578-FAU
Permission Type	Wildlife Act authorisation

### Key Dates

Application received	24 August 2018
Task Assignment assigned	24 August 2018
Context Meeting	1 October 2018
Check-In Meeting	
Decision due	28 September 2018

### Document Links

Application	<a href="#">DOC-5560620</a>
Task Assignment	<a href="#">DOC-5560624</a>

### Resources

Permissions Advisor	s 9(2)(g)(ii)
District Office/s	s 9(2)(g)(ii)
Science and Policy	s 9(2)(g)(ii)

### Cost Recovery

Function	Time (minutes)	Date complete
Capture	25	
Summary	25	
Understand		
Assign	15	
Pre-application advice*		

Released under the Official Information Act

# 1. Task Register

Tasks as set by the Decision Maker:

No.	Task description	Accountability	Estimated time req'd to complete task (minutes)	Timeframe (date due)	Date complete	Time taken to complete task (minutes)
1	Co-ordinate the processing of the application including (but not limited to) communicating with the Applicant, managing the Permissions Database record, and co-ordinating the completion of the Decision Support Document	Permissions Advisor				660
2	Undertake a statutory analysis of the application	Permissions Advisor				
3	Share the decision with the team members on behalf of the Decision Maker	Permissions Advisor				
4	Share the decision with those consulted with (including Treaty Partners and the Conservation Board)	Community Manager/anyone who has consulted				
5	Give applicant heads up ask manager about standard messaging to applicant and timeline					30
6						
7						
8						

Released under the Official Information Act



## 2. Purpose

To make a decision on the application.

## 3. Context

### Wildlife Act Application to Salvage, Transfer and Incidentally Kill Wildlife

The Department has received an application to carry out lizard salvage as part of SH1 upgrades south of Whangarei.

Potential lizard habitat was identified within the project footprint of the SH1/ Loop Road upgrades during preliminary ecological assessments undertaken by AECOM NZ Ltd (AECOM) and Bioreserches in early 2017. Copper skink were observed during these assessments, however, ornate skinks are also likely to be present within impacted areas. It was also recognised that three native gecko species may occur in the development footprint.

Wildlife Authorisation is being sought to allow the capture and salvage of native lizard species prior to and during construction to protect individuals from harm. Salvage would be undertaken between months September to May only.

It is proposed that captured lizards will be placed immediately into containment boxes and held temporarily (< 1 day), before being released into a nearby Otaika Valley Wildlife Reserve.

All native lizards will be captured and handled by DOC-authorized herpetologists only. Salvage methods will include: -Search and salvage prior to construction: manual searching through terrestrial debris, groundcover and tree bark and foliage. -Destructive searching of areas with dense coverage: grass trimming, vegetation removal with hand tools and with large machines.

These works would be supervised by a herpetologist/ ecologist. -Supervised vegetation clearance during site prep/construction.

A lizard management plan is also attached with the application.

#### Proposed species

Copper skink

Ornate skink

Forest gecko

Elegant gecko

Pacific gecko

#### Proposed location

Release site Otaika Valley Government Purpose Wildlife Management Reserve

Source site within the proposed construction site on SH1/Loop Road

## Proposed term

September 2018 - May 2021

## Location

The activity has been applied for at the following location:

Conservation area	Land status	District Office	Activity
Otaika Valley Government Purpose Wildlife Management Reserve	Government Purpose Wildlife Management Reserve	Whangarei	Research

## Relevant details about the Applicant

Credit check result	Not required as existing customer.
Compliance with previous permission conditions	No record of any non-compliance.
Relevant convictions	No record of any convictions.

## 4. Critical Issues

- a) How to ensure S4 obligations are met.
- b) What if number of lizards is underestimated at development site no pre clearance survey and assessment done in winter. Proper assessment needed.
- c) Require pre-clearance survey
- d) What if not enough time to rescue lizards before vegetation removed allow 2 weeks or condition suitable qualified herp can delay ops for sufficient time for lizards to be removed. A. Contact them!!! Give them option go into LMP provide minimum time. Jen to help.
- e) What if release site not suitable no survey if not suitable than what's the backup site?
- f) More evidence required that its a suitable site for release-how many lizards already exist there.
- g) What if mammalian pest control programme not effective need someone to monitor 9(2)(a) involved in design of pest control programme, need to check it off . Action details of pest control programme- forward to Jen.
- h) How will monitoring show success/failure of salvage and predator control monitoring goes beyond predator control. Contingency compensation can ask the applicant - whether they will put it forward.

Further info request sent as follows on 18/10/2018:

- A pre-clearance survey of the development site. There is concern that the number of lizards identified at the site might be underestimated, especially as the survey carried out was carried out in winter when lizards are not as active.
- Lizard salvage always involves incidental kill. Did you mean to tick the “kill wildlife” box in the application form.
- More information / evidence that satisfies the Department that the release site is suitable, and how many lizards already exist there?
- Please provide details of the pest control programme.
- In regards to monitoring, please provide more details in the LMP about how monitoring will indicate success or failure of the salvage and predator control- will there be sufficient data to determine whether the project is a success or failure? (there needs to be pre-release monitoring and monitoring following release and then monitoring for 3 years after the predator control has been turned off). Please provide more details about how monitoring is going to be carried out?.
- Please provide the credentials of the other people named in the application- are they qualified herpetologists?.

s 9(2)(g)(ii) also asked the applicant about delaying operations or not to allow lizards to be rescued.

Response letter from applicant dated 31/10/2018 reflecting discussions with s 9(2)(g)(ii) and details of further information that will be provided as a result of these discussions see [DOC-5624283](#). A summary is below

- A pre-clearance survey is now not required as the one already done is considered sufficient.
- Confirmation that application includes incidental kill.
- No more information / evidence required as detailed survey required of release site's suitability
- A pest control programme in accordance with current best practice (outlined in the Lizard Management Plan) and within the DOC format will be provided.
- The Lizard Management Plan will be updated to provide further detail as to how the release site will be monitored to determine the success of the salvage and predator control, if the thresholds within the Plan were to be exceeded (if  $\geq 10$  'Not Threatened' species are found during salvage or  $\geq 1$  'At Risk' or 'threatened' species are salvaged).
- s 9(2)(a) is a qualified herpetologist and will be present / supervising all salvage works. s 9(2)(a) and s 9(2)(a) are at an early stage in their careers and are working towards becoming qualified herpetologist. This requires that they work on projects such as Loop Road, as an assistant, to gain experience and knowledge.

- The Lizard Management Plan will be updated to indicate that salvage works will commence one week in advance of works on site, so that if conditions were not suitable for salvage they would be delayed until conditions improve.

The applicant provided the further information referred to in their 31/10/18 letter on 30/11/2018 as follows:

- Application form updated Kill box has been ticked to take account of the potential for incidental kill
- Provision of a Pest Management Plan for the lizard release site.
- The Pest Management Plan (rather than updating the LMP as previously indicated) indicates how the lizard release site will be monitored post release, if thresholds are passed.
- [redacted] 9(2)(a) will be present on site for all salvage works but [redacted] 9(2)(a) and [redacted] 9(2)(a) will be working with him to gain experience of delivering lizard salvage projects. CVs for [redacted] 9(2)(a) and [redacted] 9(2)(a) have been provided.
- Application form updated (rather than updating the LMP as previously indicated) to indicate that salvage works will be programmed to occur one week before construction works commencing on site. It is estimated that the clearance works would take between 2-3 days to complete but these works need to be undertaken during suitable weather conditions, therefore, the application form indicates that sufficient time will be provided to ensure that salvage works are completed appropriately.
- Application Form updated so that NZ Transport Agency are now the holder of the permit once issued.

s 9(2)(g)(ii) requested changes to the proposed predator control and a response was provided by the applicant on 17 December 2018 as follows:

- Bait stations will be 25m x 25m apart (12 stations) rather than 50m x 50m apart (6 stations)
- NZ Transport Agency will provide iwi/local community with opportunities to learn how to deliver the pest control with a view that they may be able to continue it in the longer term (post three year period that the Transport Agency will pay for).
- The text in the Lizard Management Plan has been updated to provide further information/evidence as to why the receptor site selected is the most appropriate site for the lizards.
- An upper threshold has been stated. Therefore, if > 50 native lizards (irrespective of species) are captured during the salvage, a supplementary relocation site would be utilised. The location of this relocation site and respective management would be agreed upon with DOC and iwi prior to the release of the additional lizards.

s 9(2)(g)(ii) approved the above apart from requesting that there be monitoring of copper skinks if more than 20 are found/salvaged. The applicant revised the Lizard Management Plan to include this in an email dated 19 December 2018.

## 5. Consultation with Treaty Partners

### Whangarei – Community Ranger s 9(2)(g)(ii)

#### SECTION A: Treaty Settlement implications

If you have any questions about Treaty Settlement implications of an application, contact s 9(2)(g)(ii) Treaty Negotiations Team, and he will advise you who to talk to in the Treaty Negotiations Team.

- Is any site subject to the application due to be transferred to whānau, hapū, or iwi? If no, go to question 4. If yes, identify the site.

Not advised

- Has a Treaty settlement disclosure form been completed for the site? Were any existing encumbrances noted on that form?

Not advised

- Who is leading the negotiations process for DOC in the Policy Negotiations Team?

N/A

- If your Treaty Partners have settlement legislation in place already, are there any specific post-settlement implementation obligations that relate to the site or proposed activity?

#### SECTION B: Marine and Coastal (Takutai Moana) Area Act 2011

If you have any questions about the Marine and Coastal (Takutai Moana) Area Act or the consultation required by this Act, firstly check the Concessions Guidance Document, and secondly, contact s 9(2)(g)(ii)

- Is the location subject to any applications or approvals for customary marine title or protected marine rights under the Marine and Coastal (Takutai Moana) Act 2011? If yes, identify the Treaty Partners who have either applied for or had approved customary marine title or protected marine rights at the location.

No

- If yes, has the Applicant provided evidence of consultation with these Treaty Partners? *The Applicant has a requirement to consult with anyone who has an application under the Act that is additional to DOC's consultation with Treaty Partners. See the Concessions Guidance Document for more information).*

#### SECTION C: Whānau, hapū, and iwi consulted

Complete the Consultation Summary table – copy this table if more columns are required.

Consultation Summary			
Treaty Partner consulted with	Te Parawhau		
Date consultation was sent out	2/10/2018		
Consultation time frame end date	15/10/2018		
Consultation method (email, phone, face to face etc)	email		
How many attempts made to consult?	2		
DOC-CM link to any consultation emails received	<a href="#">DOC-5601029</a> <a href="#">DOC-5632842</a>		

**SECTION D: Consultation with Te Parawhau**

*Either complete a new section for each Treaty Partner you consult with, or incorporate the responses from each Treaty Partner into one section. These questions are prompts and have been developed to guide you as to what information the Decision Maker needs to make a decision that is fully informed of Treaty Partner views. You may not be able to answer all questions, but do not copy and paste email chains from conversations with Treaty Partners – these should be linked into section B above and the information provided in response to the questions in this section.*

- Does this application activate any agreed triggers for consultation with Treaty Partners? *[Delete answers that do not apply]*

Yes Answer remaining questions.

No Note that triggers are not met, provide a doc-CM link to the agreed triggers document. Do not complete the remaining questions unless consultation is undertaken.

There are no agreed triggers Answer remaining questions.

- Did the whānau, hapū, or iwi engage in consultation on this application? If not, ensure attempts to engage are detailed in Section C.

Yes

- What is the interest of the whānau, hapū, or iwi in the site or activity?

Not advised

- What are their views on the activity (taking place at the specified site)?

See email for detail

- What sort of adverse effects do the whānau, hapū, or iwi believe the activity will have on their interests (at the specified site)?

*“significant effects on their cultural values mainly their mana whenua values and their kaitiakitanga values “*

- Have the whānau, hapū, or iwi identified any methods to avoid, remedy, or mitigate these effects?

*“as mitigation measures, firstly that they perform karakia prior to any works being carried out and, secondly that Te Parawhau would relocate the indigenous species and, thirdly that the Species relocation management plan be undertaken in consultation with Te Parawhau”*

- Summarise any other information provided by the whānau, hapū, or iwi.

#### SECTION E: Consultation with [Name of Treaty Partner]

*If required, copy the questions from Section C and complete for additional Treaty Partners consulted with if required (you may prefer to incorporate a number of Treaty Partner responses into Section D).*

## 6. Contributions

### Technical Advisor - Fauna

Advice was that the proposal is acceptable from a technical point of view.

### Statutory Analysis: Authorisation under the Wildlife Act 1953

**s 9(2)(g)(ii)** Permissions Advisor

#### Consistency with conservation legislation

Conservation legislation assessed:

Section 53 of the Wildlife Act 1953

Criteria for decision:

- Is the activity consistent with the relevant conservation legislation?

Yes except for incidental kill.

Discussion:

The Department’s Technical Advisor Fauna states that the proposal is acceptable.



#### Catch Alive:

The Director General can authorise any specified person to catch alive absolutely protected wildlife for 'any purpose approved by the Director-General'

The Court of Appeal in *PauaMac5 Incorporated v Director- General of Conservation* [2018] BNZCA 348 [4 September 2018] held that while authorisation can be granted "for any purpose", the purpose must be one which is consistent with the purpose of the Act, which is protection of wildlife i.e. it must have protective benefits. The purpose of catching alive the wildlife to protect from development has protective benefits for the wildlife. Therefore, the catch alive aspect of this application is consistent with the legislation.

#### **Incidental Killing**

Unplanned killing which is an incidental effect as a result of the activity cannot be authorised. In *PauaMac5 Incorporated v Director- General of Conservation* [2018] BNZCA 348 [4 September 2018] at paragraph 52 of the judgement, the Court of Appeal said that authorisation envisages something inherently intentional. That is, the authorisation must, by definition, have the purpose of catching alive or killing. It cannot be for the purpose of facilitating an accidental or inadvertent action.

The delegate of the Director General of Conservation has no jurisdiction to authorise accidental killing. It is contrary to a Court of Appeal judgement and is inconsistent with the legislation and has been excluded from the draft Authority.

#### Purpose for which the land is held

##### Criteria for decision:

- Is the activity consistent with s17U(3) of the Conservation Act? (That is, not contrary to the purpose for which the land is held).

Yes

##### Discussion:

The release site is Otaika Valley Government Purpose Wildlife Management Reserve. The purpose of such reserves is for providing and retaining areas for such government purpose or purposes as are specified in any classification of the reserve (s22). The classification states that the reserve purpose is wildlife management.

As mentioned above the Department's Technical Advisor Fauna believes the release site is suitable and so the proposal will not be contrary to the purpose for which the land is held.

## 7. Proposed Operating Conditions

#### **Ownership of absolutely protected wildlife**

1. This Authorisation gives the Authority Holder the right to hold absolutely protected wildlife in accordance with the terms and conditions of the Authorisation, but the wildlife remains the property of the Crown. This includes any dead wildlife, live wildlife, any parts thereof, any eggs or progeny of the wildlife, genetic material and any replicated genetic material.

2. Unless expressly authorised by the Grantor in writing, the Authority Holder must not donate, sell or otherwise transfer to any third party any wildlife, material, including any genetic material, or any material propagated or cloned from such material, collected under this Authority.

#### **Death of wildlife associated with activities covered by the Authority**

3. If any Threatened, At Risk or Data Deficient species (see NZ Threat Classification System and Lists: <http://www.doc.govt.nz/about-us/science-publications/conservation-publications/nz-threat-classification-system/>) should die, the Authority Holder must:
  - a. inform the Grantor within 24 hours
  - b. chill the body if it can be delivered within 24 hours, or freeze the body if delivery will take longer than 24 hours;
  - c. send the body to Massey University Wildlife Post Mortem Service for necropsy along with details of the animal's history;
  - d. pay for any costs incurred in investigation of the death of any Threatened, At Risk or Data Deficient species; and
  - e. If required by the Grantor, cease the Authorised Activity for a period determined by the Grantor.

#### **Euthanasia**

4. The Authority Holder must not euthanise any wildlife unless:
  - a. the Authority Holder consults with the relevant Captive Co-ordinator (as applicable) and obtains authority from the Grantor; or
  - b. a veterinarian recommends euthanasia on animal welfare grounds; or
  - c. the Authority Holder euthanises the wildlife under direction from the Grantor.

#### **Track markers**

5. At the conclusion of the Authorised Activity the Authority Holder must remove all track markers, flagging tape or other material used while undertaking the Authorised Activity.

#### **Vegetation clearance, historic sites, non-target wildlife and Track markers**

6. Sites for the Authorised Activity shall be selected to avoid, or minimise, the need for cutting down or clearing vegetation, or causing any damage to any historic heritage site.
7. Sites for the Authorised Activity shall be selected to avoid, or minimise, the catching, or killing (as defined in the Wildlife Act 1953) of non-target species of wildlife.
8. The Authority Holder shall remove all track markers, flagging tape or other material used at the catching [and/or release] areas for the purposes of the Authorised Activity within one (1) month of the Authorised Activity being completed.

#### **Mitigation Conditions:**

9. The Authority Holder is only permitted to release wildlife:
  - a. that are classified as Not Threatened or At-Risk species under the current threat classification system;
  - b. into release site(s) that are assessed by a qualified herpetologist [or other expert] as being of similar or better habitat than the source location, and capable of supporting that lizard species;

- c. into release site(s) that are within five hundred (500) metres of the development footprint or further if agreed by the Whangarei Operations Manager;
- d. into release site(s) where habitat for that species of wildlife has been enhanced and approved prior to relocation, using accepted techniques such as provision of extra refuges suitable for the species providing protection from predators (e.g. complex rock stack), or long-term predator control; and
- e. into release site(s) where the site has long-term security from development or modification (e.g. Council or DOC- managed Reserves, covenants or District Plan provisions).

#### **Authorised Activity**

10. The salvage operation shall be in accordance with the following:
- “Wildlife Act Application from NZTA dated 27 November 2018”
  - “Lizard Management Plan: SH1 Loop Road to Smeatons Hill Improvements” prepared by Bioresearchers dated 13 December 2018.
  - “Pest Management Plan: Otaika Valley Government Purposed Wildlife Management Reserve” prepared by AECOM dated 17 December 2018.

#### **Salvage relocation and habitat enhancement**

11. Where monitoring indicates that population establishment has failed, the Authority Holder must perform actions as set out in the contingencies/adaptive management sections of the Lizard Management Plan to ensure adequate mitigation of effects has been achieved.
12. The Whangarei Operations Manager shall be contacted immediately for further advice if wildlife species classified as Threatened are located within the footprint of the proposed development or within the proposed release site.
13. During wildlife salvage operations or construction, if Threatened wildlife are found within the footprint of the site, the Authority Holder must contact the Whangarei Operations Manager. The Authority Holder must transfer the wildlife to an approved captive holding facility until a suitable release site is identified by DOC. A separate application to translocate Threatened species may be required. The costs of care and subsequent release are the responsibility of the Authority Holder.
14. This Authority only allows the salvage of up to twenty (20) individuals of any species. If a larger number is estimated at the salvage site, a separate application to translocate over twenty (20) individuals is required.
15. The Authority Holder must engage with the relevant tangata whenua prior to any relocation of wildlife taking place in their rohe. Advice on engagement with tangata whenua should be sought from the Whangarei Operations Manager.
16. Lizard capture, handling and relocation should be undertaken at a suitable time of year when lizards are active, as advised by a suitably experienced herpetologist.

#### **Lizard Salvage Reporting**

17. A report is to be submitted in writing to the Whangarei Operations Manager, Whangarei District Office, 2 South Ed Ave Raumanga, Whangarei 0110, by 30 June each year for the life of this Authorisation, summarising outcomes in accordance with the Lizard Management Plan. Each report must include:
- the species and number of any animals collected and released;

- the GPS location (or a detailed map) of the collection point(s) and release point(s);
- copies of approved Assessment of Environment Effects (lizards); Lizard Management Plans or similar; and
- results of all surveys, monitoring or research.

18. Completed Amphibian and Reptile Distribution System (ARDS) cards for all herpetofauna sightings and captures (<http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/species-information/herpetofauna-data-collection/ards-card/>) must be sent to Herpetofauna, Department of Conservation, National Office, PO Box 10420 Wellington 6149 or [herpetofauna@doc.govt.nz](mailto:herpetofauna@doc.govt.nz).

#### Didymo biosecurity

19. The Authority Holder must comply with the Ministry for Primary Industries (MPI)'s "Check, Clean, Dry" cleaning methods to prevent the spread of didymo (*Didymosphenia geminata*) and other freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods can be found at - <http://www.biosecurity.govt.nz/cleaning/>

#### Kauri Dieback Disease biosecurity

20. The Authority Holder must comply with all guidelines and notices issued by the Kauri Dieback Programme to prevent and avoid the spread of the pest organism Kauri Dieback Disease (*Phytophthora taxon agathis*) as specified on the website <http://www.kauridieback.co.nz/>. This includes ensuring that all vehicles, personal items and equipment are thoroughly cleaned of all visible soil and is sprayed with SteriGENE (formally known as Trigene) solution before entering and when moving between areas where there are kauri.

#### Myrtle Rust Biosecurity

21. The Authority Holder and members of their team shall know the plants that are affected by myrtle rust, and what the rust symptoms look like. This serious fungal disease only affects plants in the Myrtle (*Myrtaceae*) family which includes pohutukawa, manuka, kanuka, and ramarama. See <http://www.mpi.govt.nz/protection-and-response/responding/pests/myrtle-rust>.

- The Authority Holder and members of their team shall not park vehicles under myrtle species where vehicles can easily be contaminated while undertaking the Authorised Activity.
- The Authority Holder shall carry large black plastic bags and ties, 2% SteriGENE spray bottle and Isopropanol wipes while undertaking the Authorised Activity on Public Conservation Land where *Myrtaceae* are part of the flora.
- If the Authority Holder or any members of their team believe they have seen the symptoms of myrtle rust, they are not to touch the plant.
  - Call the MPI Exotic Pest and Disease Hotline immediately on 0800 80 99 66.
  - If possible, take clear photographs, including the whole plant, the whole infected leaf, and a close-up of the spores/affected area of the plant.
  - Do not touch or try to collect samples as this may increase the spread of the disease.

- If the Authority Holder or members of their team believe they are in an infected area, all team members must decontaminate with SteriGENE as per below:
  - Spray obviously contaminated clothing/hats and then place items in a large plastic bag;
  - Tie and spray the outside of the bag;
  - Mist spray other clothing being worn;
  - Clean and spray all footwear and equipment, including packs, phones, glasses, watches etc.;
  - Repeat decontamination steps again at 100m from the infected area and before entering a vehicle.
- The Authority Holder and their team members shall have a hot shower and clean their hair as soon as possible to remove any spores (which may be invisible). Clothing worn while undertaking the Authorised Activity must be washed in a hot wash with detergent.

#### Argentine Ant Biosecurity (Northland)

22. The Authority Holder shall not knowingly transport, distribute, sell or offer for sale any material or equipment that may contain or harbour Argentine ant without first undertaking suitable control measures to eliminate those ants.

#### Expectations of the public

23. The Authority Holder must use best endeavours to ensure that the Authorised Activity is not undertaken within sight of the public.
24. While undertaking the Authorised Activity the Authority Holder must not exclude or impede the public from accessing any sites, tracks or facilities.
25. If approached by members of the public while carrying out the Authorised Activity, the Authority Holder shall provide an explanation of why the Authorised Activity is taking place.

#### Tangata Whenua Involvement

26. The Authority Holder must notify Te Parawhau at least 5 working days prior to the lizard relocation date and invite them to perform a karakia prior to the relocation. Te Parawhau must also be invited to participate in aspects of the relocation of lizard species, where considered appropriate.

**Term: 3 Years**

## 8. Decision Making

#### Recommendations

Te Parawhau were consulted on the application. The iwi stated that the proposal had “significant effects on their cultural values mainly their mana whenua values and their kaitiakitanga values”. The iwi recommended that in order address these effects that they firstly, perform a karakia prior to any works being carried out and, secondly that they would

relocate the indigenous species and, thirdly that the Species relocation management plan be undertaken in consultation with Te Parawhau”.

Conditions are recommended requiring the Authority Holder to notify Te Parawhau at least 5 working days prior to the lizard relocation, to invite them to perform a karakia and to be involved in the relocation of the species, where considered appropriate. It is not known whether the applicant consulted Te Parawhau in preparing the lizard management plan but it is not a requirement that the applicant consult iwi in preparing applications, including lizard management plans.

The Department’s Technical Advisor Fauna believes the proposed salvage is acceptable

The application is in accordance with the statutory documents, except for incidental kill.

It is therefore recommended that the application be approved apart from incidental kill of lizard species.

#### Decision: Authorisation under the Wildlife Act 1953

1. Approve the granting of a Wildlife Authority to the New Zealand Transport Agency subject to the standard authorisation document and the special conditions listed below:

Approve / Decline

Special conditions to be included:

*Decision Maker to list the condition numbers to be included, as per section 7 (Proposed Operating Conditions) of this report.*

9(2)(a)



Signed by s 9(2)(g)(ii), Whangarei Operations Manager  
Pursuant to the delegation dated 9 September 2015

20 Dec 18 \_\_\_\_\_  
Date

#### Decision Maker comments

*Decision Maker to comment on the rationale behind their decision. If there is nothing contentious this can be brief, but if there are differing views between DOC staff and/or DOC and Treaty Partners, or there are multiple options available, or the decision made is different from what is recommended/requested, the rationale for the decision made must be clearly provided.*



*The Permissions Advisor will share the rationale for the decision with team members.*

In accordance with stator requirements, meets Treaty partners needs and acceptable to technical advisor.

Released under the Official Information Act



# Wildlife Act Authority for wildlife located on public conservation land and other land]

Authorisation Number: 69578-FAU

THIS AUTHORITY is made this 20 day of December 2018

**PARTIES:**

The Director-General of Conservation and where required the Minister of Conservation (the Grantor)

AND

New Zealand Transport Agency (the Authority Holder)

**BACKGROUND:**

- A. The Director-General of Conservation is empowered to issue authorisations under the Wildlife Act 1953.
- B. Where the authorisation applies to wildlife located on public conservation land a further authorisation is required, depending upon the legislation applying to the public conservation land, from either the Director-General of Conservation or the Minister of Conservation.
- C. The Authority Holder wishes to exercise the authorisation issued under the Wildlife Act 1953 and where applicable the authorisation issued under the relevant legislation applying to the public conservation land subject to the terms and conditions of this Authority.

**OPERATIVE PARTS:**

In exercise of the Grantor's powers the Grantor:

**AUTHORISES** the Authority Holder under Section(s) 53 (Taking or Killing of Wildlife for Certain Purposes); and:

**PERMITS** the Authority Holder pursuant to section 59A of the Reserves Act 1977

subject to the terms and conditions contained in this Authority and its Schedules.

9(2)(a)

SIGNED on behalf of the Grantor by s 9(2)(g)(ii) Whangarei Operations Manager acting under delegated authority

in the presence of:

9(2)(a)

Witness Signature

Witness Name: s 9(2)(g)(ii)

Witness Occupation: RANGER

Witness Address: s 9(2)(g)(ii)

A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-32 Manners Street, Wellington.

### SCHEDULE 1

1.	<b>Authorised activity (including the species, any approved quantities and collection methods)</b> (Schedule 2, clause 2)	<b>Authorised Activity:</b> Capture and salvage of native lizard species prior to and during vegetation clearance to protect individuals from harm while vegetation clearance takes place.  <b>Methodology:</b> Search and salvage prior to vegetation clearance: manual searching through terrestrial debris, ground cover and tree bark and foliage.  Destructive searching of areas with dense coverage supervised by a herpetologist/ecologist: grass trimming, vegetation removal with hand tools and large machines.  Supervised vegetation clearance during site preparation/construction.
2.	<b>The Land</b> (Schedule 2, clause 2)	Public Conservation Land: Otaika Valley Government Purpose Wildlife Management Reserve  Other land: State Highway and local road.
3.	<b>Personnel authorised to undertake the Authorised Activity</b> (Schedule 2, clause 3)	9(2)(a)  Others under the super vision of 9(2)(a)
4.	<b>Term</b> (Schedule 2, clause 4)	Commencing on and including 20 December 2018 and ending on and including 20 December 2021
5.	<b>Authority Holder's</b>	The Authority Holder's address in New Zealand is:

	<b>address for notices</b> (Schedule 2, clause 8)	Level 4, 68 Beach Road Auckland Central Auckland 1140 New Zealand Phone: 09 3799417
6.	<b>Grantor's address for notices</b>	The Grantor's address for all correspondence is:  Permissions Hamilton Level 3 73 Rostrevor Street Hamilton permissionshamilton@doc.govt.nz

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## **SCHEDULE 2**

### **STANDARD TERMS AND CONDITIONS OF THE AUTHORITY**

#### **1. Interpretation**

1.1 The Authority Holder is responsible for the acts and omissions of its employees, contractors or, agents. The Authority 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 Authority Holder.

1.2 Where obligations bind more than one person, those obligations bind those persons jointly and separately.

#### **2. What is being authorised?**

2.1 The Authority Holder is only allowed to carry out the Authorised Activity on the Land described in Schedule 1, Item 2.

2.2 Any arrangements necessary for access over private land or leased land are the responsibility of the Authority Holder. In granting this authorisation the Grantor does not warrant that such access can be obtained.

2.3 The Authority Holder must advise the Department of Conservation's local Operations Manager(s) prior to carrying out the Authorised Activity in the District (where possible, one week prior), when the Authority Holder intends to carry out the Authorised Activity.

2.4 The Authority Holder and Authorised Personnel must carry a copy of this Authority with them at all times while carrying out the Authorised Activity.

2.5 The Authority Holder must comply with any reasonable request from the Grantor for access to any wildlife.

2.6 The Authority Holder may publish authorised research results.

2.7 The Authority Holder must immediately notify the Grantor of any taxa found which are new to science. In addition, the Authority Holder must lodge holotype specimens and a voucher specimen of any new taxa with a recognised national collection.

#### **3. Who is authorised?**

3.1 Only the Authority Holder and the Authorised Personnel described in Schedule 1, Item 3 are authorised to carry out the Authorised Activity, unless otherwise agreed in writing by the Grantor.

#### **4. How long is the Authority for - the Term?**

4.1 This Authority commences and ends on the dates set out in Schedule 1, Item 4.

#### **5. What are the obligations to protect the environment?**

5.1 The Authority Holder must not cut down or damage any vegetation; or damage any natural feature or historic resource on any public conservation land being part of the

Land; or light any fire on such public conservation land; or erect any structure such public conservation land without the prior consent of the Grantor.

5.2 The Authority Holder must ensure that it adheres to the international "Leave No Trace" Principles at all times ([www.leavenotrace.org.nz](http://www.leavenotrace.org.nz)).

5.3 The Authority Holder must not bury:

- (a) any toilet waste within 50 metres of a water source on any public conservation land being part of the Land; or
- (b) any animal or fish or any part thereof within 50 metres of any water body, water source or public road or track.

## **6. What are the liabilities?**

6.1 The Authority Holder agrees to exercise the Authority at the Authority Holder's own risk and releases to the full extent permitted by law the Grantor and the Grantor's 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 Authority Holder's exercise of the Authorised Activity.

6.2 The Authority Holder must indemnify the Grantor against all claims, actions, losses and expenses of any nature which the Grantor may suffer or incur or for which the Grantor may become liable arising from the Authority Holder's exercise of the Authorised Activity.

6.3 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.

## **7. What about compliance with legislation and Grantor's notices and directions?**

7.1 The Authority Holder must comply with all statutes, bylaws and regulations, and all notices, directions and requisitions of the Grantor and any competent authority relating to the conduct of the Authorised Activity. Without limitation, this includes the Conservation Act 1987 and the Acts listed in the First Schedule of that Act and all applicable health and safety legislation and regulation.

## **8. Are there limitations on public access and closure?**

8.1 The Authority Holder acknowledges that the public conservation land being part of the Land is open to the public for access and that the Grantor may close public access to that public conservation land during periods of high fire hazard or for reasons of public safety or emergency.

## **9. When can the Authority be terminated?**

9.1 The Grantor may terminate this Authority at any time in respect of the whole or any part of the Land, and/or the whole or any part of the Authorised Activity if:

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



9.2 If the Grantor intends to terminate this Authority in whole or in part, the Grantor must give the Authority Holder such prior notice as, in the sole opinion of the Grantor, appears reasonable and necessary in the circumstances.

**10. How are notices sent and when are they received?**

10.1 Any notice to be given under this Authority by the Grantor is to be in writing and made by personal delivery, by pre paid post or email to the Authority Holder at the address, fax number or email address specified in Schedule 1, Item 5. Any such notice is to be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of post, on the 3rd working day after posting;
- (c) in the case of email, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.

10.2 If the Authority Holder's details specified in Schedule 1, Item 5 change then the Authority Holder must notify the Grantor within 5 working days of such change.

**11. What about the payment of costs?**

11.1 The Authority Holder must pay the standard Department of Conservation charge-out rates for any staff time and mileage required to monitor compliance with this Authority and to investigate any alleged breaches of the terms and conditions of it.

**12. Biosecurity**

12.1 The Authority Holder must take all precautions to ensure weeds and non-target species are not introduced to the Land; this includes ensuring that all tyres, footwear, gaiters, packs and equipment used by the Authority Holder, its staff and clients are cleaned and checked for pests before entering the Land.

**13. Are there any Special Conditions?**

13.1 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.

**14. Can the Authority be varied?**

14.1 The Authority Holder may apply to the Grantor for variations to this Authority.

## SCHEDULE 3

### SPECIAL CONDITIONS

#### Ownership of absolutely protected wildlife

1. This Authorisation gives the Authority Holder the right to hold absolutely protected wildlife in accordance with the terms and conditions of the Authorisation, but the wildlife remains the property of the Crown. This includes any dead wildlife, live wildlife, any parts thereof, any eggs or progeny of the wildlife, genetic material and any replicated genetic material.
2. Unless expressly authorised by the Grantor in writing, the Authority Holder must not donate, sell or otherwise transfer to any third party any wildlife, material including any genetic material, or any material propagated or cloned from such material, collected under this Authority.

#### Death of wildlife associated with activities covered by the Authority

3. If any Threatened, At Risk or Data Deficient species (see NZ Threat Classification System and Lists: <http://www.doc.govt.nz/about-us/science-publications/conservation-publications/nz-threat-classification-system/>) should die, the Authority Holder must:
  - a. inform the Grantor within 24 hours
  - b. chill the body if it can be delivered within 24 hours, or freeze the body if delivery will take longer than 24 hours;
  - c. send the body to Massey University Wildlife Post Mortem Service for necropsy along with details of the animal's history;
  - d. pay for any costs incurred in investigation of the death of any Threatened, At Risk or Data Deficient species; and
  - e. If required by the Grantor, cease the Authorised Activity for a period determined by the Grantor.

#### Euthanasia

4. The Authority Holder must not euthanise any wildlife unless:
  - the Authority Holder consults with the relevant Captive Co-ordinator (as applicable) and obtains authority from the Grantor; or
  - a veterinarian recommends euthanasia on animal welfare grounds; or
  - the Authority Holder euthanises the wildlife under direction from the Grantor.

#### Track markers

5. At the conclusion of the Authorised Activity the Authority Holder must remove all track markers, flagging tape or other material used while undertaking the Authorised Activity.

#### Vegetation clearance, historic sites, non-target wildlife and Track markers

6. Sites for the Authorised Activity shall be selected to avoid, or minimise, the need for cutting down or clearing vegetation, or causing any damage to any historic heritage site.
7. Sites for the Authorised Activity shall be selected to avoid, or minimise, the catching, or killing (as defined in the Wildlife Act 1953) of non-target species of wildlife.
8. The Authority Holder shall remove all track markers, flagging tape or other material used at the catching [and/or release] areas for the purposes of the Authorised Activity within one (1) month of the Authorised Activity being completed.

**Mitigation Conditions:**

9. The Authority Holder is only permitted to release wildlife:
  - a. that are classified as Not Threatened or At-Risk species under the current threat classification system;
  - b. into release site(s) that are assessed by a qualified herpetologist [or other expert] as being of similar or better habitat than the source location, and capable of supporting that lizard species;
  - c. into release site(s) that are within five hundred (500) metres of the development footprint or further if agreed by the Whangarei Operations Manager;
  - d. into release site(s) where habitat for that species of wildlife has been enhanced and approved prior to relocation, using accepted techniques such as provision of extra refuges suitable for the species providing protection from predators (e.g. complex rock stack), or long-term predator control; and
  - e. into release site(s) where the site has long-term security from development or modification (e.g. Council or DOC- managed Reserves, covenants or District Plan provisions).

**Authorised Activity**

10. The salvage operation shall be in accordance with the following:
  - “Wildlife Act Application from NZTA dated 27 November 2018”
  - “Lizard Management Plan: SH1 Loop Road to Sneatons Hill Improvements” prepared by Bioresarchers dated 13 December 2018.
  - “Pest Management Plan: Otaika Valley Government Purposed Wildlife Management Reserve” prepared by AECOM dated 17 December 2018.

**Salvage relocation and habitat enhancement**

11. Where monitoring indicates that population establishment has failed, the Authority Holder must perform actions as set out in the contingencies/adaptive management sections of the Lizard Management Plan to ensure adequate mitigation of effects has been achieved.
12. The Whangarei Operations Manager shall be contacted immediately for further advice if wildlife species classified as Threatened are located within the footprint of the proposed development or within the proposed release site.
13. During wildlife salvage operations or construction, if Threatened wildlife are found within the footprint of the site, the Authority Holder must contact the Whangarei Operations Manager. The Authority Holder must transfer the wildlife to an approved captive holding facility until a suitable release site is identified by DOC. A separate application to translocate Threatened species may be required. The costs of care and subsequent release are the responsibility of the Authority Holder.
14. This Authority only allows the salvage of up to twenty (20) individuals of any species. If a larger number is estimated at the salvage site, a separate application to translocate over twenty (20) individuals is required.
15. The Authority Holder must engage with the relevant tangata whenua prior to any relocation of wildlife taking place in their rohe. Advice on engagement with tangata whenua should be sought from the Whangarei Operations Manager.

16. Lizard capture, handling and relocation should be undertaken at a suitable time of year when lizards are active, as advised by a suitably experienced herpetologist.

### **Lizard Salvage Reporting**

17. A report is to be submitted in writing to the Whangarei Operations Manager, Whangarei District Office, 2 South Ed Ave Raumanga, Whangarei 0110, by 30 June each year for the life of this Authorisation, summarising outcomes in accordance with the Lizard Management Plan. Each report must include:
- the species and number of any animals collected and released;
  - the GPS location (or a detailed map) of the collection point(s) and release point(s);
  - copies of approved Assessment of Environment Effects (lizards); Lizard Management Plans or similar; and
  - results of all surveys, monitoring or research.
18. Completed Amphibian and Reptile Distribution System (ARDS) cards for all herpetofauna sightings and captures (<http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/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](mailto:herpetofauna@doc.govt.nz)

### **Didymo biosecurity**

19. The Authority Holder must comply with the Ministry for Primary Industries' (MPI)'s "Check, Clean, Dry" cleaning methods to prevent the spread of didymo (*Didymosphenia geminata*) and other freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods can be found at - <http://www.biosecurity.govt.nz/cleaning>.

### **Kauri Dieback Disease biosecurity**

20. The Authority Holder must comply with all guidelines and notices issued by the Kauri Dieback Programme to prevent and avoid the spread of the pest organism Kauri Dieback Disease (*Phytophthora taxon agathis*) as specified on the website <http://www.kauridieback.co.nz/>. This includes ensuring that all vehicles, personal items and equipment are thoroughly cleaned of all visible soil and is sprayed with SteriGENE (formally known as Frigene) solution before entering and when moving between areas where there are kauri.

### **Myrtle Rust biosecurity**

21. The Authority Holder and members of their team shall know the plants that are affected by myrtle rust, and what the rust symptoms look like. This serious fungal disease only affects plants in the Myrtle (*Myrtaceae*) family which includes pohutukawa, manuka, kanuka, and ramarama. See <http://www.mpi.govt.nz/protection-and-response/responding/alerts/myrtle-rust>.

- The Authority Holder and members of their team shall not park vehicles under myrtle species where vehicles can easily be contaminated while undertaking the Authorised Activity.

- The Authority Holder shall carry large black plastic bags and ties, 2% SteriGENE spray bottle and Isopropanol wipes while undertaking the Authorised Activity on Public Conservation Land where *Myrtaceae* are part of the flora.
- If the Authority Holder or any members of their team believe they have seen the symptoms of myrtle rust, they are not to touch the plant.
  - Call the MPI Exotic Pest and Disease Hotline immediately on 0800 80 99 66.
  - If possible, take clear photographs, including the whole plant, the whole infected leaf, and a close-up of the spores/affected area of the plant.
  - Do not touch or try to collect samples as this may increase the spread of the disease.
- If the Authority Holder or members of their team believe they are in an infected area, all team members must decontaminate with SteriGENE as per below:
  - Spray obviously contaminated clothing/hats and then place items in a large plastic bag;
  - Tie and spray the outside of the bag;
  - Mist spray other clothing being worn;
  - Clean and spray all footwear and equipment, including packs, phones, glasses, watches etc.;
  - Repeat decontamination steps again at room from the infected area and before entering a vehicle.
- The Authority Holder and their team members shall have a hot shower and clean their hair as soon as possible to remove any spores (which may be invisible). Clothing worn while undertaking the Authorised Activity must be washed in a hot wash with detergent.

**Argentine Ant Biosecurity (Northland)**

22. The Authority Holder shall not knowingly transport, distribute, sell or offer for sale any material or equipment that may contain or harbour Argentine ant without first undertaking suitable control measures to eliminate those ants.

**Expectations of the public**

23. The Authority Holder must use best endeavours to ensure that the Authorised Activity is not undertaken within sight of the public.

24. While undertaking the Authorised Activity the Authority Holder must not exclude or impede the public from accessing any sites, tracks or facilities.

25. If approached by members of the public while carrying out the Authorised Activity, the Authority Holder shall provide an explanation of why the Authorised Activity is taking place.

**Tangata Whenua Involvement**

26. The Authority Holder must notify Te Parawhau at least 5 working days prior to the lizard relocation date and invite them to perform a karakia prior to the relocation. Te Parawhau must also be invited to participate in aspects of the relocation of lizard species, where considered appropriate.

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Department of Conservation  
*Te Papa Atawhai*

File Ref: 69578-FAU

20/12/2018

Babbage Consultants Limited  
PO Box 2027  
Shortland Street  
Auckland 1140

For the attention of: [REDACTED] 9(2)(a)

Dear [REDACTED] 9(2)(a)

**Re: WILDLIFE ACT AUTHORITY APPLICATION 69578-FAU APPROVAL**

I am pleased to advise you that your application for a Wildlife Act Authority has been approved and I am now able to offer you an authority outlining the terms and conditions of this approval. Please find the authority enclosed.

This document contains all the terms and conditions of your authorisation to undertake the activity and represents the formal approval from the Department for Babbage Consultants Limited to carry out the activity.

Please read the terms carefully so that you clearly understand your obligations.

**Payment of Processing Fees**

The final cost incurred to process your application is being calculated and an invoice will be sent in due course.

Yours sincerely,  
[REDACTED] 9(2)(a)

[REDACTED] s 9(2)(g)(i)

Whangarei Operations Manager

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**From:** 9(2)(a)  
**To:** [permissions: Permissions Hamilton](#)  
**Subject:** NZTA SH1 Loop Road to Smeatons Hill Project & indigenous lizard management - WAA variation application  
**Date:** Monday, 17 August 2020 2:35:54 pm  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[Summary of Lizard Management activities\\_SH1 Loop Road Project \(WAA 69578-FAU\).pdf](#)  
[wildlife-act-authority-application-9a\\_SH1 Loop Rd\\_final.pdf](#)

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Kia Ora,

Please find our Wildlife Act Authority variation (9a) application attached pertaining to the **NZTA SH1 Loop Road to Smeatons Hill improvements project** (current WAA: 69578-FAU).

The NZTA SH1 Loop Road to Smeatons Hill improvements project and the associated lizard salvage and relocation programme are progressing well. A summary of the lizard management activities to date is attached above.

A recent redesign of the road layout to increase the capacity and construct a dual lane (cf. single lane) roundabout at the Loop Road-SH1 intersection and a dual lane bridge of the Otaika River has resulted in a minor increase the size of the works footprint. The new affected areas are represented by roadside rank grass, much of which is maintained (mowed) for traffic safety reasons. However, it is acknowledged that the increase in the footprint could see a requirement for the salvage and relocation of additional 'Not Threatened' copper skinks (*Oligosoma aeneum*). Accordingly, a variation to the existing WAA is being sought to allow the salvage and relocation of up to 40 individual copper skinks to allow the lizard mitigation work and the project to continue. Considering the low quality of the additional affected habitat for indigenous lizards it is expected that the 40 lizard limit would be sufficient to see the project through to completion.

Attached is our completed and signed WAA variation application.

We are requesting 1) an increase in the number of skinks to be salvaged/ relocated (from 20 to 40 skinks), 2) an increase in the term by one year, and 3) for an AECOM ecologist (9(2)(a)) to be named on the authority to assist with the salvage operation.

Supporting documents that were submitted with our initial WAA application (e.g. LMP, iwi consultation evidence) remain relevant.

Please acknowledge receipt of this WAA variation application.

Nga mihi,

9(2)(a)

**Wildlife Ecologist & Herpetologist | Bioresearches (A Babbage Company)**

Level 4, 68 Beach Road, Auckland 1010 | PO Box 2027, Shortland Street, Auckland 1140

9(2)(a)

[www.bioresearches.co.nz](http://www.bioresearches.co.nz)

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Summary of Lizard Management activities that have occurred to date (under WAA 69578-FAU) as part of the SH1 Loop Road improvements project.

Summary compiled by 9(2)(a) (Aecom NZ Ltd.)

Date	Summary of Activities
7 February 2019	Cultural introduction/ huia and pre-start meeting held at Otaika Community Hall
1 April 2019	An inspection of the property, 10 Portland Road, was undertaken on 1 April 2019 from a vehicle. The brief inspection revealed that the large pile of concrete posts that were identified in the Lizard Management Plan (2017) remained undisturbed at the site. Thus, the lizard management recommendations for this area remain <i>status quo</i> .
3 April 2019	<p>Vegetation stripping (potential lizard habitat removal) north of the Loop Road-SH1 intersection (western side of SH1) supervised by an AECOM ecologist 9(2)(a), under the guidance of 9(2)(a). No native skinks were found.</p> <p>Five large stockpiles of felled trees (mixed native and exotic species) were created by the vegetation clearance contractors (Orang Otang). The piles were placed up against existing vegetation, as per the project herpetologist's recommendations, to allow lizards to freely move out of the cut vegetation and into adjacent habitats.</p>
13 April 2019	<p>9(2) visited the site to re-inspect areas where trees had been felled and vegetation stripped on 3 April 2019.</p> <p>Under the supervision of a herpetologist, contractors lifted trees from the stockpile using a <i>SuperGrip</i> grapple attached to an excavator and shook the vegetation numerous times before feeding it into the chipper/mulcher. The herpetologist was given the opportunity to search the vegetation and debris on the ground for lizards beneath the site where trees had been shaken. The herpetologist was also able to watch the vegetation as it was fed into the chipper/ mulcher and had the opportunity to request chipping halt immediately if a native lizard was sighted.</p> <p>Four of the five stockpiles were searched/ supervised in this manner and only exotic plague skinks (<i>Lampropholis delicata</i>) were detected.</p> <p>The herpetologist indicated that no supervision was required during chipping of the fifth pile given the lower quality of the vegetation (smaller trees) and since no native lizards had been detected in the other piles.</p> <p>A brief search of skinks was undertaken in areas of stripped vegetation alongside the SH1 motorway, between the SH1/Loop Road intersection and 518 SH1. No native lizards were found; however, plague skinks were abundant.</p> <p>Works pertaining to the salvage of native lizards in the northern section of the SH1 Loop Road project (between Otaika Creek and 518 SH1) now complete. This includes the initial pre-vegetation clearance lizard searches, supervised vegetation clearance/ vegetation stripping and supervision of the native tree chipping/ mulching. No native lizards were detected and thus, no relocation(s) were required.</p>

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Date	Summary of Activities
	Advice given to project managers that the lizard salvage operation was expected to recommence once works south of Otaika Creek begin later in the year.
30 April 2019	<p>AECOM ecologist 9(2)(a) supervised, under the guidance of 9(2), the movement of approximately three quarters of the concrete pylons located at the corner of Portland Rd.</p> <p>Small sections of the pile were removed at a time and manual searches of the ground cover and surrounding grass were undertaken. Much of the potential habitat under the pylons was unsuitable, either due them being buried too far into the soil or being stored raised off the ground, creating an environment that was too dry. Only a small section of the pile furthest from the road were found to provide suitable habitat. During the search of this area a single native copper skink was identified and salvaged at approximately 10:20am. The captured individual was released into Otaika Reserve within in two hours of capture, in the company of some students from the local school.</p> <p>Four adult and several juvenile plague skinks were also found in this location, along with several egg husk piles.</p>
29 November 2019	<p>Manual habitat searches for lizards undertaken by 9(2) on the eastern side of SH1, north of Portland Road. The understorey and leaf litter accumulations were searched, and decaying logs lifted. 6 copper skinks were captured and relocated into the Otaika Reserve.</p> <p>The trees (predominantly macrocarpa) remained standing in this area and the herpetologist advise the project manager that the trees could be felled and left on the ground for 48 hrs before being dismantled and disposed of. Since much of the vegetated bank could not be searched effectively (e.g. very large logs could not be lifted), it was advised that the entire area be re-searched by an ecologist, with the assistance of an excavator, prior to earthworks.</p>
11 May 2020	Opportunistic capture of a copper skink under logs on western side of SH1, immediately south of the Loop Road-SH1 intersection (north). Captured by 9(2) and relocated into Otaika Reserve. Images forwarded to 9(2) for verification of species.
19 May 2020	<p>Machine (excavator) assisted searches for lizards undertaken, supervised by AECOM ecologist 9(2)(a) under the guidance of 9(2), at 5 Portland Road, along the Portland Road and SH1 road frontages of this property. 15 adult and subadult copper skinks were captured and relocated to the Otaika Reserve. Multiple plague skinks were also seen during the works.</p> <p>Two areas at this location were not able to be searched due to the presence of overhead and underground cables. It was communicated to 9(2) that these areas would need to be searched at a later date once these services were removed or disconnected.</p>
29 May 2020	9(2) inspected an area of grass that was in the process of being weed-wacked on the eastern side of SH1, opposite the Loop Road-SH1 intersection (north). No native lizards were located.

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### Lizard salvage-relocation summary

Date	Area searched	Species (native only)	Number salvaged	Relocation site
30 April 2019	Concrete pylons in paddock south of Portland Road	Copper skink	1	Otaika Reserve
29 November 2019	Roadside bank, eastern side of SH1, north of Portland Road.	Copper skink	6	Otaika Reserve
11 May 2020	Opportunistic capture under logs on western side of SH1, immediately south of the Loop Road-SH1 intersection (north)	Copper skink	1	Otaika Reserve
19 May 2020	Roadside bank, eastern side of SH1, north of Portland Road	Copper skink	15 <sup>1</sup>	Otaika Reserve

<sup>1</sup> The project WAA (69578-FAU) authorised the relocation of up to 20 lizards of any species. The salvage effort on 19 May 2020 resulted in the capture of 15 copper skinks in a single capture session, which carried the total number of salvaged and relocated lizards over the “20 lizard” threshold, by two copper skinks. I.e. 22 ‘Not Threatened’ copper skinks have been relocated to date. The decision was made at the time to relocate the two additional skinks into the Otaika Reserve due to welfare concerns. It was not considered appropriate to release the two copper skinks back into the works footprint and risk their survival, while a WAA variation was sought. Instead, the two additional lizards were relocated along with the other copper skinks into the pest-managed Reserve. The LMP indicated that Otaika Reserve could receive up to 50 indigenous lizards due to its habitat suitability and the proposed level of management. No further lizard salvage activities have been undertaken to date, recognising that a WAA variation is required to continue with the salvage operation.

### Relocation site (Otaika Reserve) management

The LMP stated that post-release monitoring (and pest control) would be required where  $\geq 10$  ‘Not Threatened’ or  $\geq 1$  ‘At Risk’ or ‘Threatened’ species are relocated as part of the salvage. To date, 22 ‘Not Threatened’ copper skinks have been relocated into Otaika Reserve, and so pest control is now underway and post-release monitoring will commence in accordance with the recommendations in the LMP.

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9a



Department of  
Conservation  
*Te Papa Atawhai*

# Wildlife Act Authority

## Variation

### Application form 9a

This application form is to vary part thereof a current Authorisation (called the Authority) involving any animal protected under the Wildlife Act 1953 (which does not include marine mammals)

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# Using this application form

## ! Application checklist

### Completing the application



**Save** – You can save this application form to your digital device and edit or fill it in your own time.



**Fill** – You can fill this application digitally using Microsoft word.



**Print** – You can print this application form and fill it manually, or you can fill it digitally, then print it.



**Submit** – This application form can be submitted by email or by post.



**Email** – Email your application and all the required labelled attachments to: [permissions@doc.govt.nz](mailto:permissions@doc.govt.nz)



**Post** – Post your application and all the required labelled attachments to:  
Permissions Team  
Private Bag 3072  
Hamilton 3240

Have you included labelled attachments as required for your activities (including maps, testimonials, and consultations)?

Have you read the section regarding liability of the applicant for payment of fees?

Have you signed your application (digitally or manually)?

### Navigation



**Hints** – Use the links through the hints column on the right hand side of the application form



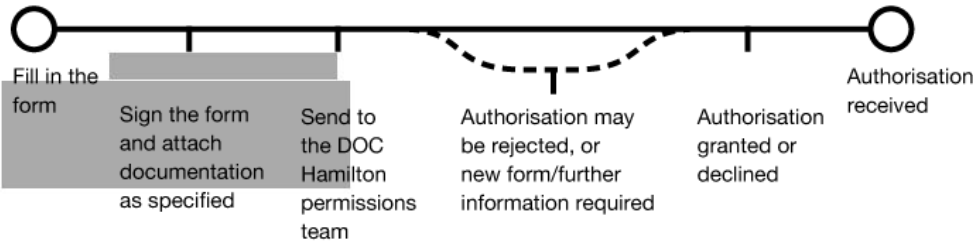
**Scroll** – Simply use your mouse or keyboard arrows to scroll through the document page-by-page.

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## Before you start

You will need to attach evidence of your current Wildlife Act Authorisation.

## Process



! Please take the timeframes below into consideration when submitting your application.

! An application is deemed complete when all information requested has been received.

! Any amendments requested after lodgement may require a new variation application to be completed resulting in a delay of processing of your application.

! Please see also the [fees](#) section.

## Applications for proposals of activities are categorised as either standard or complex proposals:

- Standard proposals are those activities that are likely to have little or no significant effect on conservation values. See the fee section for information on what fees are likely to apply.
- Complex proposals are those activities likely to have more significant effects, and therefore require careful consideration. See the fee section below for information on what fees are likely to apply.

## Consultation:

- Consultation is required on most applications. In general iwi have 20 working days to respond to DOC once we make a formal request. If there are considerable iwi values to consider they may request a further 20 working days to respond. If no response is received from iwi within the specified period DOC will continue to process your application, as we may be able to locate relevant information about their interests from other sources.

! For more information please see the [wi consultation section](#).



---

## Contact

Statutory Process Team  
Private Bag 3072  
Hamilton 3240

+64 27 308 8958  
permissions@doc.govt.nz

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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# Section A | Authority holder details

Full name of Authorised holder

**Applicant:** NZ Transport Agency

Attention: s 9(2)(g)(ii); M: s 9(2)(g)(ii); E: s 9(2)(g)(ii) PA: Private Bag 106602, Auckland 1143

**Agent:** 9(2)(a), Bioresearches (Babbage Consultants) as per below.

! Please provide evidence of your Current Authorisation

Authorisation number

69578-FAU

! Please update your address details if they have changed.

Postal address

Bioresearches (Babbage Consultants)  
PO Box 2828  
Auckland 1010

Street address (if different from postal)

Level 4, 63 Beach Road, Auckland 1010

! You must provide a New Zealand address for service.

Phone

9(2)(a)

Website

Contact person

9(2)(a)

Role

Ecologist/ Herpetologist

Phone

9(2)(a)

Mobile

9(2)(a)

Email

9(2)(a)

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# Section B | Variation description details

## 1. Variation activity description.

Please provide a brief summary paragraph (100 words or less) here:

Condition 14 of the SH1 Loop Road improvements project WAA (69578-FAU) allows for the "salvage of up to twenty (20) individuals of any species". A recent redesign of the road layout to increase the capacity and construct a dual lane (cf. single lane) roundabout at the Loop Road-SH1 intersection has resulted in a minor increase the size of the works footprint, which could see a requirement for more than 20 indigenous copper skinks (*Oligosoma aeneum*) to be salvaged and relocated. A variation to the existing WAA is being sought to allow the salvage and relocation of up to 40 individual copper skinks to allow the lizard mitigation work and the project to continue.

! Attach a copy of your proposal to this form and label it Attachment B1.

! See Authorisations and Special Conditions [for your information.](#)

Would you like to change or add Authorised Personnel for your Current Authority?

Yes  No, go to next question.

Please provide full name of the personnel.

RETAIN

9(2)(a) (Bioresearches, Babbage Consultants)

and ADD

9(2)(a) (AECOM NZ Ltd.)

Environmental Scientist (Ecology)

M 9(2)(a)

9(2)(a)

## 2. Are you requesting to vary the term?

Yes, provide details in 2.1  No, go to next question.

### 2.1. Reason for the term request?

Our current WAA (69578-FAU) is valid for the term commencing on and including 20 December 2018 and ending on and including 20 December 2021.

We would like to request a one (1) year extension to this term so that it ends on and includes 20 December 2022. The reason for this is to accommodate the assigned contractors schedule and any unforeseen delays in construction, especially considering potential implications of COVID-19 regulations/ restrictions on work activities.



**3. Are you requesting to vary the location?**

Yes, provide details in 3.1       No, go to next section.

**3.1. Location/s**

State the location/s in which the activity will be carried out and why this site is the best option. For specific sites, please include a map (and GPS co-ordinates if available). Attach map and label it attachment B.3.1

**!** Use DOCgis to view Conservation Land.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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# Section C | Access to Restricted Lands

Special permission is required to enter some public conservation lands that have particularly high levels of protection. If you wish to enter land of any status listed below to carry out the proposed activity, please select the status and state the full name of the land to which permission for access is sought.

Nature Reserve (s20 Reserves Act 1977)

**Name of land to be accessed**

Scientific Reserve (s21 Reserves Act 1977)

**Name of land to be accessed**

Government Purpose (s22 Reserves Act 1977)

**Name of land to be accessed**

Specially Protected Area in a National Park (s13 National Parks Act 1980)

**Name of land to be accessed**

State why?

Wildlife Sanctuary (s9 Wildlife Act 1953)

**Name of land to be accessed**

Wildlife Refuge (s14 Wildlife Act 1953)

**Name of land to be accessed**

Wildlife Management Reserve (s14 Wildlife Act 1953)

**Name of land to be accessed**

**!** Wildlife Act  
Authorisations apply to private land and public conservation land. If the location is private land, you will also need the consent of the land owner.

**!** If proposing to undertake your activity in a National Park, your activity must be essential for management, research, interpretation or educational purposes. Please state why?

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approved lizard release site)

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

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## Section E | Consultation

Many applications require consultation with Tāngata whenua (local Māori), and other interested parties. Please attach proof and details of all consultation, including with hapū or iwi, to this application and label as attachment E.

Please attach any additional written expert views, advice or opinions you have obtained concerning your proposal to support the application and label them attachment E.

**!** If you are unsure of any consultation requirements for your proposal, please see [iwi consultation section](#) or contact your local DOC partnerships office to discuss what is required.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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# Section F | Fees

## Please note

This section only applies to applications with a commercial focus – which will include applications from registered companies. The Department does not charge fees for non-commercial Wildlife Act authorisations.

## Processing fees

Section 60B of the Conservation Act contains the statutory provisions regarding processing fees.

The Department recovers all direct and indirect costs to process an application from applicants regardless of whether the application is approved or declined. If at any stage an application is withdrawn, the Department will invoice the applicant for the costs incurred by the Department up to that point.

### Standard application fee

The estimated standard application fee is **\$400 +GST**.

This covers most applications. However if your application is likely to have significant effects, is novel, or spans multiple DOC regions, it will require more careful consideration and cost approximately **\$800 +GST**.

Particularly complex applications may incur further costs – you will be sent an estimate of costs in this situation. We will contact you to advise if the fee is more than the estimated standard cost. Applicants are also entitled to request an estimate of costs at any point, but the Department may impose a charge for preparing such an estimate. Estimates are not binding.

## Paying fees

The Department will ordinarily invoice the applicant for processing fees after a decision has been made on the application, but in some cases interim invoices will be issued.

Please select your method of payment below.

- I have attached a cheque
- I have direct credited the DOC account

Please use the Applicant name and permission number (which the permissions team will give to you) as the references.

**Department of Conservation**  
**Westpac Bank**  
**Account number: 03 0049 0002808 00**

- I do not intend to pay the fees at the time of applying and/or I require an invoice for payment

- I have a purchase order/number from an organisation registered with DOC

**!** If you are making an application for non-commercial activity, [proceed to declaration](#).

**!** Applicants are required to pay the processing fees within 28 days of receiving an invoice. The Director-General is entitled to recover any unpaid fees as a debt.

**!** If you are applying from outside New Zealand we can process a credit card payment – please [contact us](#) to request this procedure.



## Section F (continued) | Fees

### Fee waivers and reductions

The Director-General has discretion to reduce or waive processing fees. You may apply for a fee waiver or reduction if you can provide information to the permissions team about how your application meets at least one of the following criteria.

- The activity will make a direct contribution to management
- The activity will support or contribute to the Department's priority outcomes – stated in the Department's 2013 – 2017 Statement of Intent
- There will be other non-commercial public benefits from the activities covered by the authorisation (if approved)
- Activity covered by the authorisation (other than research, collection or educational activities) will make a contribution to the management of, or the public interest in, the lands that are covered by the authorisation

The Department may obtain further information either from the applicant or from any other relevant source in order to process the application. The applicant will be advised of any information obtained from other sources. The cost of obtaining such information will be charged to and recovered from the applicant. The applicant will be informed as soon as practicable from receipt of the application if further information is required before this application form can be fully processed by the Department.

### Terms and conditions: Account with the Department of Conservation

Have you held an account with the Department before?

Yes

No

If **yes**, under what name?

### Terms and conditions: Account with the Department of Conservation

1. I/We agree that the Department of Conservation can provide my details to the Department's Credit Checking Agency to enable it to conduct a full credit check.
2. I/We agree that any change which affects the trading address, legal entity, structure of management or control of the applicant's company (as detailed in this application) will be notified in writing to the Department of Conservation within 7 days of that change becoming effective.
3. I/We agree to notify the Department of Conservation of any disputed charges within 14 days of the date of the invoice.
4. I/We agree to fully pay the Department of Conservation for any invoice received on or before the due date.
5. I/We agree to pay all costs incurred (including interest, legal costs and debt recovery fees) to recover any money owing on this account.
6. I/We agree that the credit account provided by the Department of Conservation may be withdrawn by the Department of Conservation, if any terms and conditions of the credit account are not met.
7. I/We agree that the Department of Conservation can provide my details to the Department's Debt Collection Agency in the event of non-payment of payable fees.

! View the Department's 2013 – 2017 Statement of Intent [here](#) for the priority outcomes.





## Section F (continued) | Fees

### Reduction in fees for exceeding processing timeframe

If the Department fails to meet its own processing timeframes the estimate of fees will be reduced at a rate of 1% per day late, up to a maximum of 50% of the total processing fee. The reduction will not apply if the Applicant's actions have delayed the process.

### Additional Fees

You may also be required to pay additional fees. These may include:

- Annual management fee to cover administration time; and/or
- Monitoring fee to cover the cost of monitoring the effects of your activity.

! Please [contact the Permissions team](#) to discuss whether these fees apply.

[Redacted content consisting of several horizontal grey bars of varying lengths, likely covering sensitive information.]

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# Section G | Declaration

I certify that the information provided on this application form and all attached additional forms and information is to the best of my knowledge true and correct.

Signature (applicant)

9(2)(a)

Date (dd/mm/yyyy)

14/08/2020

Signature (agent/ authorised person)

9(2)(a)

Date (dd/mm/yyyy)

13/08/2020

This application is made pursuant to Section/s 41(1)(g), 53; 54; 55; and/or 56 of the Wildlife Act 1953 [and (where applicable) Section/s 22; 49; 50; 51; 57; and/or 59 of the Reserves Act 1977; and/or Section/s 5; 13; 14(3) of the National Parks Act 1980; and/or 38 of the Conservation Act].

Applicants should familiarise themselves with the relevant provisions of the Wildlife Act 1953, the Conservation Act 1987, the Reserves Act 1977 and the National Parks Act 1980 relating to authorisations.

The purpose of collecting this information is to enable the Department to process your application. The Department will not use this information for any reason not related to that purpose.

Applicants should be aware that provisions of the Official Information Act may require that some or all information in this application be publicly released.

### For Departmental use

Credit check undertaken?

Yes

No

Comments

Signed

Name

Approved

Name

**!** An Authorisation may be varied or revoked if the information given in this application contains inaccuracies.

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**!** Approval is to be by a Tier 4 Manager or above.



To: s 9(2)(g)(ii) as Operations Manager of Whangarei

From: s 9(2)(g)(ii) as Operations Director of NNI

Date: 6<sup>th</sup> November 2020

Task Assignment: Process Variation Request from: NZ Transport Agency (NZTA)

The Court of Appeal and Supreme Court judgments in the *PauaMAC5 Inc.* case had ramifications for the types of authorisations delegates of the Director-General of Conservation (DG) can grant under section 53 of the Wildlife Act 1953:

1. An application for authorisation under section 53 can only be considered if the activity is “catch alive” or “kill”. Lesser interferences, such as disturbance or unsuccessful pursuit **can only be authorised if they occur as part of “catch alive or kill”**.
2. **Authorising “catch alive or kill” envisages something inherently intentional.** It cannot be used to facilitate or “cover” in case of an accidental action. An example of accidental killing is hitting a bird with your car. Incidental killing would be where an area is bulldozed knowing lizards will be present even though salvage has been undertaken. Accidental cannot be authorised; incidental can.
3. The judgments also confirmed the purpose of the Act (essentially to protect wildlife and control game). This means that an activity authorised under section 53 must promote the wider purpose of the Act. Purely anthropocentric activities with no benefit to wildlife would be unlikely to meet the purpose of the Act as there is no element of protection.

For more information on the impacts of the PauaMAC5 case, refer to the Factsheet for Decision Makers [DOC-6193546](#)

### Variation Application to Existing Wildlife Act Authority

The Department has received a request from NZTA to vary their current Wildlife Act Authority.

The applicant holds an authority to carry out:

<p>Authorised activity (including the species, any approved quantities and collection methods) (Schedule 2, clause 2)</p>	<p><u>Authorised Activity:</u> Capture and salvage of native lizard species prior to and during vegetation clearance to protect individuals from harm while vegetation clearance takes place.</p> <p><u>Methodology:</u> Search and salvage prior to vegetation clearance: manual searching through terrestrial debris, ground cover and tree bark and foliage.</p> <p>Destructive searching of areas with dense coverage supervised by a herpetologist/ecologist: grass trimming, vegetation removal with hand tools and large machines.</p>
---	---



Department of Conservation  
Te Papa Atawhai

	Supervised vegetation clearance during site preparation/construction.
The Land (Schedule 2, clause 2)	Public Conservation Land: Otaika Valley Government Purpose Wildlife Management Reserve  Other land: State Highway and local road.
Personnel authorised to undertake the Authorised Activity (Schedule 2, clause 3)	9(2)(a)  Others under the supervision of 9(2)(a)
Term (Schedule 2, clause 4)	Commencing on and including 20 December 2018 and ending on and including 20 December 2021

The Authority Holder is now applying to vary this authority by:

- 1) increase the number of skins to be salvaged/ relocated (from 20 to 40)
- 2) an increase in the term by one year
- 3) for an AECOM ecologist (9(2)(a)) to be named on the authority to assist with the salvage operation.

Fees

The authority for agreeing fees sits with PPL Director to ensure a consistent approach across the country. Where the fee setting is consistent with the Price Book, place-based decision makers can incorporate this into their decision.

Purpose

To make a decision on the application.

Quantity:

- A decision or other appropriate closure of the application
- Written rationale for decision
- Permissions processing complete (e.g. paperwork, database)

Quality:

- Ensure permissions contracts contain relevant conditions around current covid-19 restrictions
- Ensure the purpose of the Wildlife Act 1953 is considered
- Ensure a robust decision-making process following best practice
- Ensure appropriate interaction and communication with the applicant
- **Use team process and follow the defined 'Type 1' process steps**
- Ensure final decision is appropriately shared
- Assess and escalate critical issues
- Learn how to shorten the cycle time

Resources

Permissions Advisor – s 9(2)(g)(ii)  
Community Ranger -  
Technical Advisor – s 9(2)(g)(ii)

Link to Application: <https://doccm.doc.govt.nz:443/wcc/faces/wccdoc?dDocName=DOC-6410727>



Department of Conservation  
*Te Papa Atawhai*

Additional Resources:

Permissions Advisor guidance: [DOC-6182664](#)

Court of Appeal DOC legal advice: [DOC-5701834](#) [legally privileged]

Supreme Court DOC legal advice: [DOC-6096829](#) [legally privileged]

Timeframe

Within 20 working days of acceptance of Task Assignment. In this instance, the 20 working days will commence from 10<sup>th</sup> November.

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## Permission Decision Support Document

### Application Details

Decision Maker	s 9(2)(g)(ii) Whangarei Operations Manager (Acting)
Applicant	NZ Transport Agency (NZTA)
Permission Number	69578-FAU
Permission Type	Wildlife Act authorisation

### Key Dates

Application received	24/08/2020
Task Assignment assigned	24/08/2020
Context Meeting	28/10/2020
Check-In Meeting	NA
Decision due	8/12/2020

### Document Links

Application	<a href="#">DOC-6410727</a> and email confirming agreement to additional year of predator control and monitoring - <a href="#">DOC-6574976</a>
Task Assignment	<a href="#">DOC-6410732</a>

### Resources

Permissions Advisor	s 9(2)(g)(ii)
District Office/s	s 9(2)(g)(ii)
Science and Policy	s 9(2)(g)(ii)

## Cost Recovery

Function	Time (minutes)	Date complete
Capture	20	
Summary	15	
Understand		
Assign	15	
Pre-application advice*		

\*Up to four hours of pre-application advice is provided free of charge record all time in the table, but do not charge the Applicant for the first four hours.

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# 1. Task Register

Tasks as set by the Decision Maker:

No.	Task description	Accountability	Estimated time req'd to complete task (minutes)	Timeframe (date due)	Date complete	Time taken to complete task (minutes)
1	Co-ordinate the processing of the application including (but not limited to) communicating with the Applicant, managing the Permissions Database record, and co-ordinating the completion of the Decision Support Document	Permissions Advisor				150
2	Undertake a statutory analysis of the application	Permissions Advisor				100
3	Share the decision with the team members on behalf of the Decision Maker	Permissions Advisor				
4	Share the decision with those consulted with (including Treaty Partners and the Conservation Board)	Community Ranger/anyone who has consulted				
5	Ask about s 9(2)(a) experience / qualification	s 9(2)(g)(ii)				20
6	Get confirmation that applicant happy to extend trapping and monitoring one more year	s 9(2)(g)(ii)				15
7	Ask for extension	s 9(2)(g)(ii)				15
8	Iwi consultation	s 9(2)(g)(ii)				100

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	Decisionmaker					60
	Technical Advisor - Ecology	s 9(2)(g)(ii)				120

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## 2. Purpose

To make a decision on the application.

## 3. Context

The Department has received a request from NZTA to vary their current Wildlife Act Authority.

The applicant holds an authority to carry out the following:

<p>Authorised activity (including the species, any approved quantities and collection methods)  (Schedule 2, clause 2)</p>	<p><u>Authorised Activity:</u>  Capture and salvage of native lizard species prior to and during vegetation clearance to protect individuals from harm while vegetation clearance takes place.  <u>Methodology:</u>  Search and salvage prior to vegetation clearance: manual searching through terrestrial debris, ground cover and tree bark and foliage.  Destructive searching of areas with dense coverage supervised by a herpetologist/ecologist: grass trimming, vegetation removal with hand tools and large machines.  Supervised vegetation clearance during site preparation/construction.</p>
<p>The Land  (Schedule 2, clause 2)</p>	<p>Public Conservation Land: Otaika Valley Government Purpose Wildlife Management Reserve  Other land: State Highway and local road.</p>
<p>Personnel authorised to undertake the Authorised Activity  (Schedule 2, clause 3)</p>	<p>9(2)(a)  Others under the super vision of 9(2)(a)</p>
<p>Term  (Schedule 2, clause 4)</p>	<p>Commencing on and including 20 December 2018 and ending on and including 20 December 2021</p>

The Authority Holder is now applying to vary this authority by:

- 1) increase the number of skinks to be salvaged/ relocated (from 20 to 40)

2) an increase in the term by one year and to extend the pest management and monitoring for an additional year. The additional pest management and monitoring was agreed to by the applicant in an email dated 19 January 2021 see [DOC-6574976](#).

3) for an AECOM ecologist 9(2)(a) to be named on the authority to assist with the salvage operation.

**Location**

The activity has been applied for at the following location:

Conservation area	Land status	District Office	Activity
Otaika Valley Government Purpose Wildlife Management Reserve	Purpose Wildlife Management Reserve	Whangarei	Wildlife release

**Relevant details about the Applicant**

Credit check result	<i>NA as existing customer</i>
Compliance with previous permission conditions	<i>No record of any non-compliance</i>
Relevant convictions	<i>No record of any convictions</i>

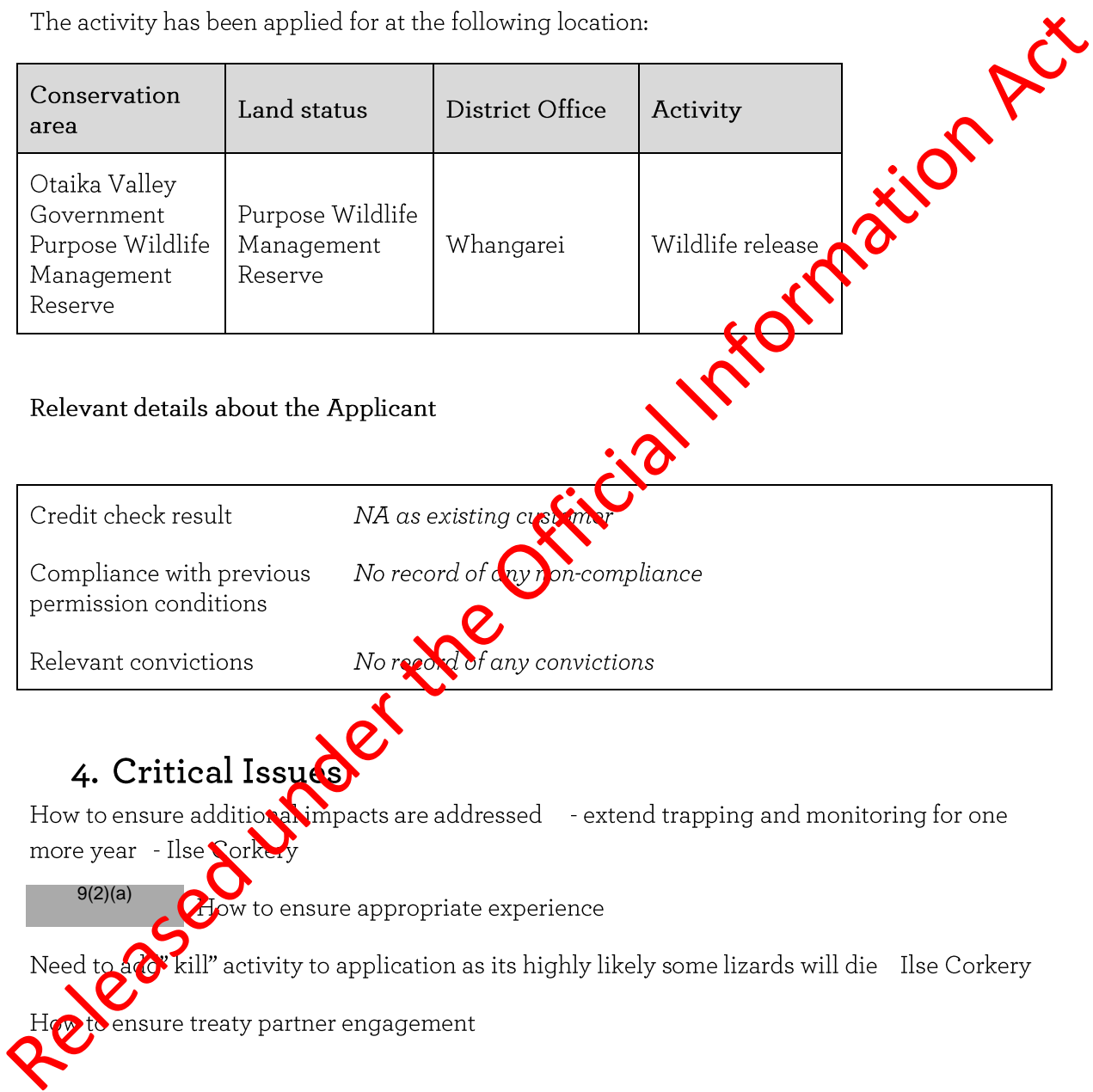
**4. Critical Issues**

How to ensure additional impacts are addressed - extend trapping and monitoring for one more year - Ilse Corkery

9(2)(a) How to ensure appropriate experience

Need to add "kill" activity to application as its highly likely some lizards will die Ilse Corkery

How to ensure treaty partner engagement



## 5. Consultation with Treaty Partners

Whangarei District– Aurelia Robertson

### SECTION A: Treaty Settlement implications

1. Is any site subject to the application due to be transferred to whānau, hapū, or iwi?  
If no, go to question 4. If yes, identify the site.

No

2. Has a Treaty settlement disclosure form been completed for the site? Were any existing encumbrances noted on that form?

N/A

3. Who is leading the negotiations process for DOC in the Policy Negotiations Team?

N/A

4. If your Treaty Partners have settlement legislation in place already, are there any specific post-settlement implementation obligations that relate to the site or proposed activity?

No

### SECTION B: Marine and Coastal (Takutai Moana) Area Act 2011

*If you have any questions about the Marine and Coastal (Takutai Moana) Area Act or the consultation required by this Act, firstly check the Concessions Guidance Document, and secondly, contact Adrian Gilby ([agilby@doc.govt.nz](mailto:agilby@doc.govt.nz))*

- Is the location subject to any applications or approvals for customary marine title or protected marine rights under the Marine and Coastal (Takutai Moana) Act 2011? If yes, identify the Treaty Partners who have either applied for or had approved customary marine title or protected marine rights at the location.

No

- If yes, has the Applicant provided evidence of consultation with these Treaty Partners? *The Applicant has a requirement to consult with anyone who has an application under the Act that is additional to DOC's consultation with Treaty Partners. See the Concessions Guidance Document for more information).*

N/A

### SECTION C: Whānau, hapū, and iwi consulted

*Complete the Consultation Summary table – copy this table if more columns are required.*

Consultation Summary			
Treaty Partner consulted with	Te Parawhau		
Date consultation was sent out	20/11/2020		
Consultation time frame end date	18/12/2020		
Consultation method (email, phone, face to face etc)	email		
How many attempts made to consult?	2		
DOC-CM link to any consultation emails received	<a href="#">DOC-6526596</a>		

**SECTION D: Consultation with Te Parawhau**

Te Parawhau position is unchanged and do not oppose the application timeframe extension to cover new works at Loop Rd project. They ask that all current mitigation measures agreed to under the current authority remain within the extended authority applied.

**6. Contributions**

Technical Advisor – Ecology **S 9(2)(d)(ii)**  
 Happy with **9(2)(a)** cv.

3/12/2020

**Statutory Analysis: Authorisation under the Wildlife Act 1953**

**S 9(2)(g)(i)** Permissions Advisor

Consistency with conservation legislation

Conservation legislation assessed:

Section 53 of the Wildlife Act 1953

Criteria for decision:

- Is the activity consistent with the relevant conservation legislation?

Yes

**Discussion:**  
**Catch Alive:**

The Director General can authorise any specified person to catch alive absolutely protected wildlife for 'any purpose approved by the Director-General'.

The Court of Appeal in *PauaMac5 Incorporated v Director-General of Conservation* [2018] BNZCA 348 [4 September 2018] held that while authorisation can be granted "for any purpose", the purpose must be one which is consistent with the purpose of the Act, which is protection of wildlife i.e. it must have protective benefits. The purpose of catching alive the wildlife for rescuing from vegetation clearance purposes has protective benefits for the wildlife. The Department's technical advisor did not raise any issues over the increase from 20 to 40 lizards to be salvaged. Therefore, the catch alive aspect of this application is consistent with the legislation.

The Department's technical advisor also stated that she was satisfied with the curriculum Vitae for the additional authorised personnel [redacted] 9(2)(a)

**Consistency with statutory planning documents**

**Statutory planning documents assessed:**  
Northland Conservation Management Strategy 2016

**Criteria for decision:**

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

Yes

**Discussion:**

There are no provisions of relevance contained in the Northland Conservation Management Strategy 2016 or in Conservation General Policy.

**Purpose for which the land is held**

**Criteria for decision:**

- Is the activity consistent with s17U(3) of the Conservation Act? (That is, not contrary to the purpose for which the land is held).

Yes

**Discussion:**

The activity of releasing affected wildlife to a management reserve is managed under the Reserves Act 1977. The purpose of wildlife management reserves is for wildlife management (section 22). The Department's technical advisor did not raise any issues over the increase from 20 to 40 lizards to be salvaged and released into the Otaika Valley Government Purpose Wildlife Management Reserve.



## 7. Proposed Operating Conditions

- (i) Clause 14 of Schedule 3 is deleted and replaced with:

This Authority only allows the salvage of up to forty (40) individuals of any species. If a larger number is estimated at the salvage site, a separate application to translocate over forty (40) individuals is required.

- (ii) Clause 4 of Schedule 1 is deleted and replaced with the following:

Commencing on and including 20 December 2018 and ending on and including 20 December 2022.

- (iii) Clause 3 of Schedule 1 is deleted and replaced:

9(2)(a)

- (iv) Condition 10 of Schedule 3 is deleted and replaced with the following:

Authorised Activity

The salvage operation shall be in accordance with the following:

- “Wildlife Act Application from NZTA dated 27 November 2018”
- “Lizard Management Plan: SH1 Loop Road to Smeatons Hill Improvements” prepared by Bio researchers dated 13 December 2018.
- “Pest Management Plan: Otaika Valley Government Purposed Wildlife Management Reserve” prepared by AECOM dated 17 December 2018.
- Email from Applicant’s consultant 9(2)(a) dated 19 January 2021 confirming that the Applicant agrees to an additional year of predator control and monitoring to that mentioned in the lizard management plan and pest management plan forming part of the authorisation.

## 8. Decision Making

### Recommendations

The application is in accordance with the Wildlife Act 1953.  
Tangata whenua stated that they remain unopposed to the application.

It is therefore recommended that the application be approved.

**Decision: Authorisation under the Wildlife Act 1953**

1. Approve the granting of a Wildlife Act Authority Variation to the New Zealand Transport Agency subject to the standard authorisation document and the special conditions listed below:

Approve ~~Decline~~

Special conditions to be included:

*Decision Maker to list the condition numbers to be included, as per section 7 (Proposed Operating Conditions) of this report.*

9(2)(a)

Signed by s 9(2)(g)(ii) Whangarei Operations Manager (Acting)  
Pursuant to the delegation dated 9 September 2015

19/03/2021

Date

**Decision Maker comments**

*Decision Maker to comment on the rationale behind their decision. If there is nothing contentious this can be brief, but if there are differing views between DOC staff and/or DOC and Treaty Partners, or there are multiple options available, or the decision made is different from what is recommended/requested, the rationale for the decision made must be clearly provided.*

*All critical issues have been captured and formed part of the decision-making process. Consultation with Iwi was undertaken and they were not opposed to the activity.*

*The Permissions Advisor will share the rationale for the decision with team members.*



# Variation to a Wildlife Act Authority under the Wildlife Act 1953

Authorisation Number: 69578-FAU

THIS DEED OF VARIATION OF AN AUTHORITY is made this 19 day of March 2021

**PARTIES:**

The Director General of Conservation, and where required, the Minister of Conservation (the Grantor)

AND

NZ Transport Agency (NZTA) (the Authority Holder)

**BACKGROUND**

- A.** By an Authorisation dated the 20<sup>th</sup> day of December 2018 the Director-General of Conservation granted an Authority under the Wildlife Act 1953 to the Authority Holder upon the terms and conditions expressed and implied in the Authority.
- B.** The Grantor hereby varies that Authority.

NOW BY THIS DEED the Grantor authorises as follows:

**1. Variation**

In exercise of the Grantor's powers under the Wildlife Act the Grantor varies the Authority as follows:

- (i) Clause 14 of Schedule 3 is deleted and replaced with:

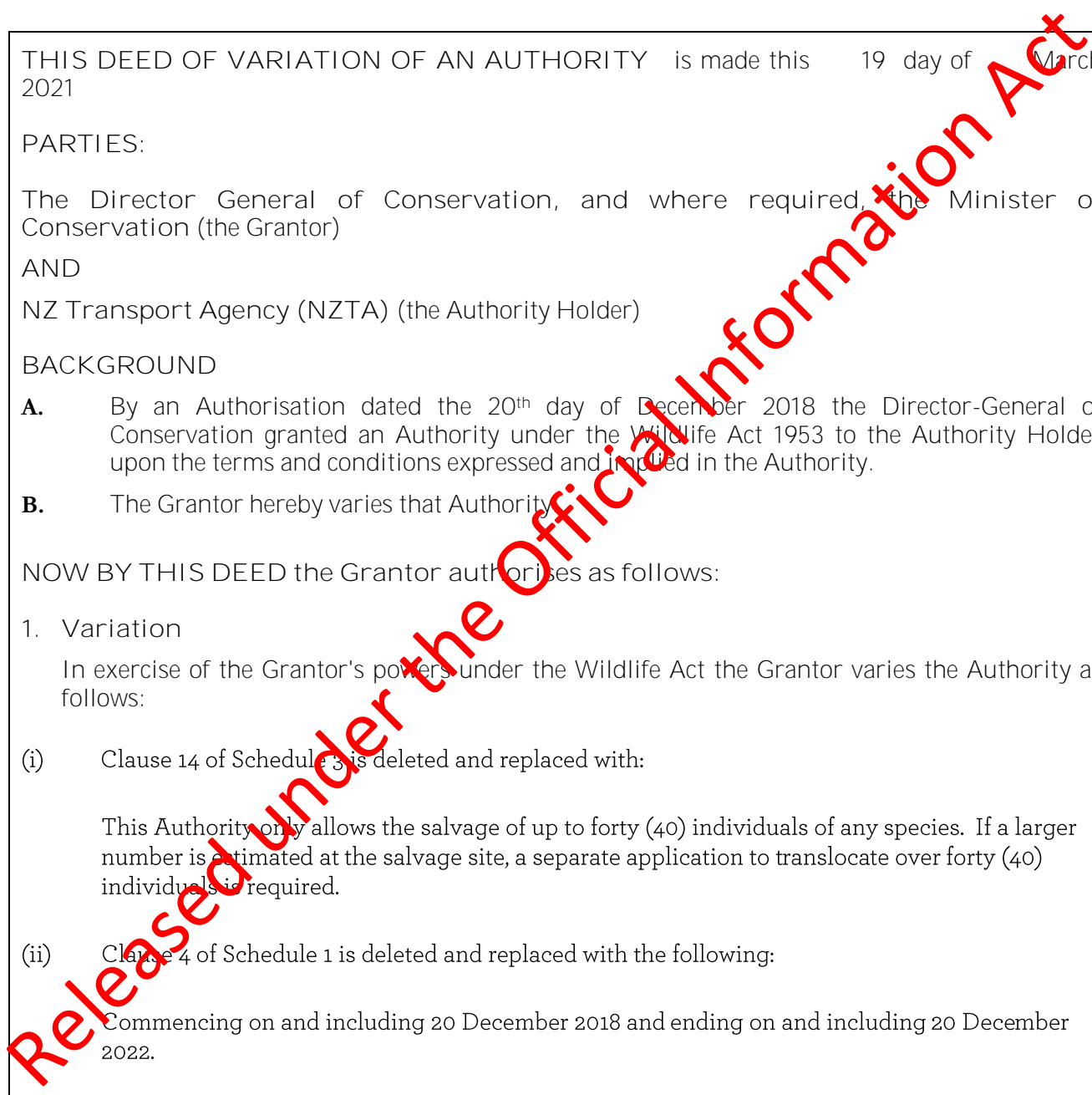
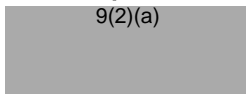
This Authority only allows the salvage of up to forty (40) individuals of any species. If a larger number is estimated at the salvage site, a separate application to translocate over forty (40) individuals is required.

- (ii) Clause 4 of Schedule 1 is deleted and replaced with the following:

Commencing on and including 20 December 2018 and ending on and including 20 December 2022.

- (iii) Clause 3 of Schedule 1 is deleted and replaced:

9(2)(a)



(iv) Condition 10 of Schedule 3 is deleted and replaced with the following:

Authorised Activity

The salvage operation shall be in accordance with the following:

- “Wildlife Act Application from NZTA dated 27 November 2018”
- “Lizard Management Plan: SH1 Loop Road to Smeatons Hill Improvements” prepared by Bio researchers dated 13 December 2018.
- “Pest Management Plan: Otaika Valley Government Purposed Wildlife Management Reserve” prepared by AECOM dated 17 December 2018.
- Email from Applicant’s consultant [redacted] 9(2)(a) dated 13 January 2021 confirming that the Applicant agrees to an additional year of predator control and monitoring to that mentioned in the lizard management plan and pest management plan forming part of the authorisation.

2. Confirmation of other Authority Covenants

Except to the extent to which they are amended by this Variation the provisions expressed and implied in the Authority continue to apply

3. Costs

The Authority Holder must pay the costs of and incidental to the preparation and completion of this Variation.

[redacted] 9(2)(a)

SIGNED on behalf of the Grantor by [redacted] s 9(2)(g)(ii), Whangarei Operations Manager acting under delegated authority

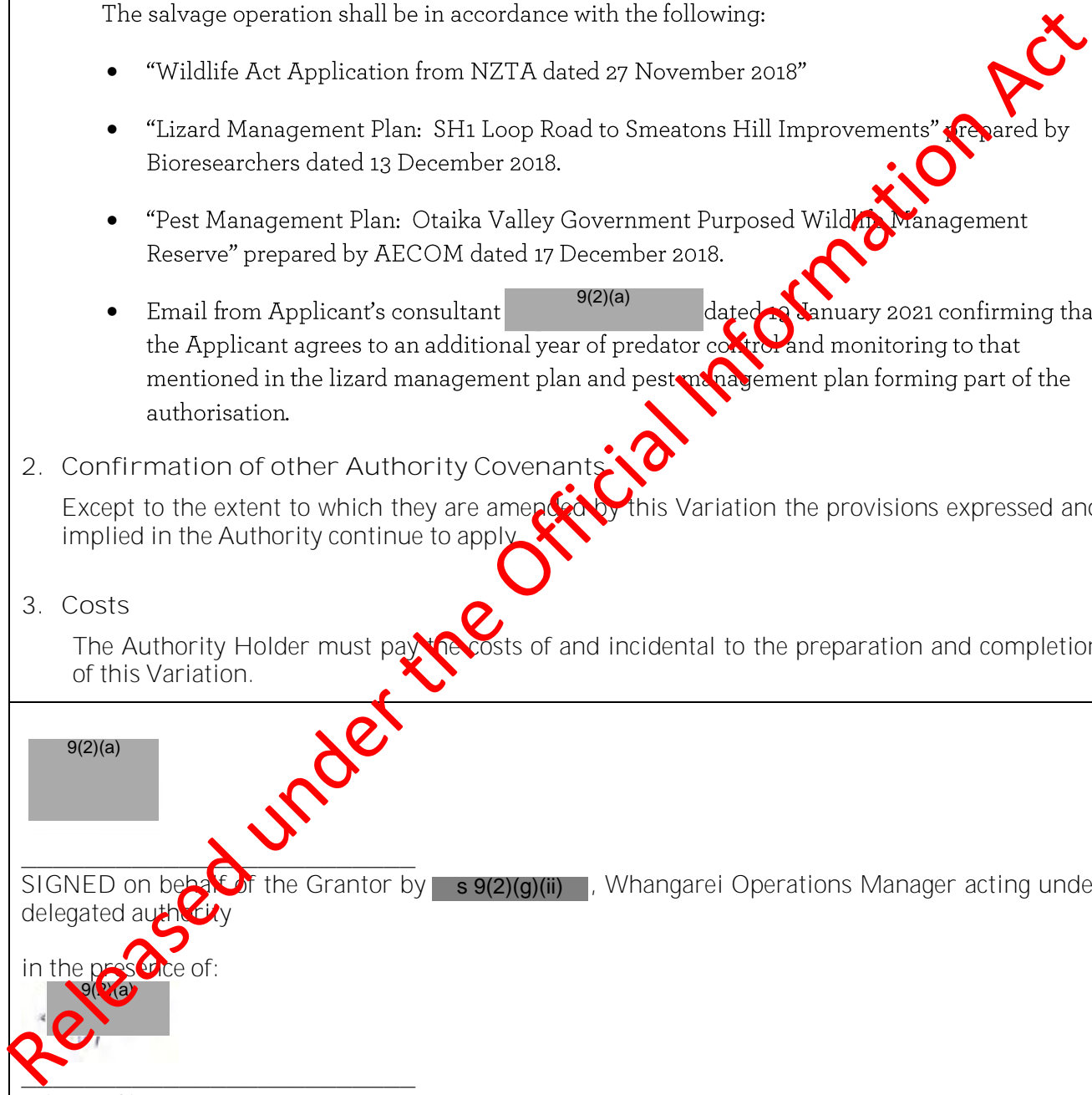
in the presence of:

[redacted] 9(2)(a)

\_\_\_\_\_  
Witness Signature

Witness Name: [redacted] s 9(2)(g)(ii)

Witness Occupation: Supervisor – Community (Whangarei)



Witness Address: 2 South End Avenue, Raumanga, Whangarei

A copy of the Instrument of Delegation may be inspected at the Director-General of Conservation's office at 18-32 Manners Street, Wellington.

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**Standard Process:** The below chart identifies what is part of the standard process for each type of application. This chart is included on every page of the Tool. Anything **not included** should be inputted as an Add-On:

Non-Notified Concessions	Complex Non-Notified Concessions	Notified Concessions	Non-Rate Fee Applications
Standard Concessions, i.e., Guiding (1 location), Aircraft (3 locations), Marine Mammals, Freshwater and Material Variations applications	For Guiding (2 locations) and Aircraft (2+ locations) applications	All Concessions in the public notification process	Tax, Logging, WADIC, AATN and Fish Passage applications
<b>Includes:</b> <ul style="list-style-type: none"> <li>T4 Decision Maker (1x)</li> <li>Permissions Advisor (1x)</li> <li>Community Ranger (1x)</li> <li>Wildlife Processing Team Time</li> <li>Consent Meeting (1x)</li> <li>Check-in Meeting (1x)</li> <li>Standard/Statutory Review Team</li> <li>Decision Making Time</li> <li>Work Decision Time</li> </ul>	<b>Includes:</b> <ul style="list-style-type: none"> <li>As per Non-Notified Concessions</li> <li>Additional Time for High Volume Locations</li> </ul>	<b>Includes:</b> <ul style="list-style-type: none"> <li>As per Non-Notified Concessions</li> <li>Permissions TA Manager and team</li> <li>Additional Check-in Meeting (2"x)</li> <li>Additional Time for coordination and statutory analysis as part of notification process</li> </ul>	As there is no base fee to these, this tool is used to calculate an estimate and actual costs regardless of the standard process. Consequently, the time for the Statutory Review Team is included in the Cost Recovery Tool.
<b>Does Not Include:</b> <ul style="list-style-type: none"> <li>Anything not included above</li> </ul>	<b>Does Not Include:</b> <ul style="list-style-type: none"> <li>AATN (for multi-regional applications)</li> </ul>	<b>Does Not Include:</b> <ul style="list-style-type: none"> <li>Notification Costs</li> <li>Hearing Costs</li> </ul>	

**Non-Base Fee (includes Mining, WADIC, AATN, Fish Passage applications)**

**COST ESTIMATE SECTION**

Processing Stage	Standard Task	Staff Member
Capture	Capture, Summary, Assign	Statutory Process Team
	Admin Tasks	Permissions Advisor
Pre-Context Meeting Tasks	Understand Application	Permissions Advisor Community Ranger T4 Decision Maker
	Context Meeting	Permissions Advisor Community Ranger T4 Decision Maker
Post Context Meeting Tasks	Update Task Register	Permissions Advisor
	Check-in Meeting Set Up	Permissions Advisor
Application Processing	Analysis of Proposal/Mapping	Permissions Advisor
	Input into DSD	Community Ranger
	Peer Review	Permissions Advisor
Customer Correspondence	Liaison with Applicant	Permissions Advisor
Check-in Meeting	Check-in Meeting	Permissions Advisor Community Ranger T4 Decision Maker
	Decision	Decision T4 Decision Maker
Post Decision	Post Decision Admin	Permissions Advisor

**Add-Ons**

Type	Base Fee	Quantity	Rate	hrs/km	Total
Additional Pre-App Time					\$5.00
High Volume Locations					\$5.00
Understand Meeting					\$5.00
Additional Team Members					9(2)(j)
<b>Tier 5 Additional Staff</b>					
Additional Rangers (i.e. community/bs/rac)					9(2)(j)
GIS Specialists					
Technical - Historic					
Technical - Ecological					
Technical - Recreation					
Technical - Freshwater					
Technical - Statutory Planner					
Statutory Support Officer (SSO)					
Notional Support & Advice					
Legal/Solicitor Review					
<b>Tier 3 (i.e. Directors)</b>					
Multi-Regional Application					9(2)(j)
Site Visit					
Significant Additional Tasks					
Additional Check-in Meeting					
Public Notification					
<b>Sub Total</b>					

**Acknowledgement Letter Inputs**

Pre-App	9(2)(j)
Additional Resource	
Site Visit	
Public Notification	
Large/Complex	
Permissions Advisor	
Statutory Process Team	
Community Ranger	
T4 Decision Maker	
<b>Total</b>	
GST	
<b>Subtotal</b>	

**ACTUAL TIME SECTION**

Processing Stage	Standard Task	Staff Member
Capture	Capture, Summary, Assign	Statutory Process Team
	Admin Tasks	Permissions Advisor
Pre-Context Meeting Tasks	Understand Application	Permissions Advisor Community Ranger T4 Decision Maker
	Context Meeting	Permissions Advisor Community Ranger T4 Decision Maker
Post Context Meeting Tasks	Update Task Register	Permissions Advisor
	Check-in Meeting Set Up	Permissions Advisor
Application Processing	Analysis of Proposal/Mapping	Permissions Advisor
	Input into DSD	Community Ranger
	Peer Review	Permissions Advisor
Customer Correspondence	Liaison with Applicant	Permissions Advisor
Check-in Meeting	Check-in Meeting	Permissions Advisor Community Ranger T4 Decision Maker
	Decision	Decision T4 Decision Maker
Post Decision	Post Decision Admin	Permissions Advisor

**Add-Ons**

Type	Base Fee	Quantity	Rate	hrs/km	Total
Additional Pre-App Time					\$5.00
High Volume Locations					\$5.00
Understand Meeting					\$5.00
Additional Team Members					9(2)(j)
<b>Tier 5 Additional Staff</b>					
Additional Rangers (i.e. community/bs/rac)					9(2)(j)
GIS Specialists					
Technical - Historic					
Technical - Ecological					
Technical - Recreation					
Technical - Freshwater					
Technical - Statutory Planner					
Statutory Support Officer (SSO)					
Notional Support & Advice					
Legal/Solicitor Review					
<b>Tier 3 (i.e. Directors)</b>					
Multi-Regional Application					9(2)(j)
Site Visit					
Significant Additional Tasks					
Additional Check-in Meeting					
Public Notification					
<b>Total</b>					
<b>Previously Invoiced</b>					
<b>Sub Total</b>					

**Approval Letter Inputs**

Pre-App	9(2)(j)
Additional Resource	
Site Visit	
Public Notification	
Large/Complex	
Permissions Advisor	
Statutory Process Team	
Community Ranger	
T4 Decision Maker	
<b>Amount Previously Invoiced</b>	
<b>Total</b>	
GST	
<b>Subtotal</b>	

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Department of Conservation  
*Te Papa Atawhai*

File Ref: 69578-FAU

19/03/2021

Waka Kotahi NZ Transport Agency (NZTA)  
C/- [redacted] 9(2)(a)

Dear [redacted] 9(2)(a)

**Re: WILDLIFE ACT AUTHORITY APPLICATION 69578-FAU APPROVAL**

I am pleased to advise you that your application for a Wildlife Act Authority has been approved and I am now able to offer you an authority outlining the terms and conditions of this approval. Please find the authority enclosed.

This document contains all the terms and conditions of your authorisation to undertake the activity and represents the formal approval from the Department for Waka Kotahi NZ Transport Agency (NZTA) to carry out the activity.

Please read the terms carefully so that you clearly understand your obligations.

**Payment of Processing Fees**

The final cost incurred to process your application is [redacted] 9(2)(i) + GST and will be invoiced in due course.

Yours sincerely,

[redacted] 9(2)(a)

[redacted] s 9(2)(g)(ii)

Whangarei Operations Manager(Acting)

[redacted] s 9(2)(g)(ii)

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