



MEMO

TO Douglas Fletcher
COPIED TO Philippa Crisp
FROM Roger Uys
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FILE NUMBER

Eastern Bays Shared Path notified consent – Review of report on response to questions from the Greater Wellington Regional Council regarding the application to conduct works associated with the construction of a 4.4km shared path along Marine Drive in Hutt City’s Eastern Bays

In response to the notified consent, the Greater Wellington Regional Council requested additional information on the impacts on the habitats and wildlife. The initial response from the applicants addressed some of the requests, but information around the impacts on the shoreline feeding birds and on little blue penguins was deferred. This review considers a report by Dr John Cockrem (Dated 28 July 2019) seeking to address these outstanding questions.

Shoreline feeding birds

The Regional Council recognised that there were three broad feeding guilds of birds in the project area: (1) the offshore fishers (e.g. shearwaters and terns), (2) the inshore fishers (e.g. shags) and (3) the shoreline foragers (e.g. gulls and oystercatchers). While the impacts on the first two groups were acknowledged to be likely to be temporary, there was a concern that the impacts of the development may result in a permanent reduction of habitat for the shoreline feeders.

The applicants were asked to:

- (a) *Please map the current feeding/foraging habitat for shoreline foragers within the current project area and quantify what percentage of this habitat will be lost as a result of the Shared Path Project.*
- (b) *Once the percentage of habitat loss has been confirmed please provide an appropriate effects management package to confirm how the applicant intends to avoid, remedy, mitigate and/or offset the effects of habitat loss on shoreline foragers in accordance*

with the full effects management hierarchy, as required by Policies P32 and P41 (and Schedule G) of the PNRP. In particular, please break down the effects management package for shoreline foragers into the relevant categories (avoid, remedy, mitigate) and describe which measures/actions have been taken to:

- i. avoid significant coastal habitats for birds (Schedule F2 areas); then*
- ii. avoid more than minor adverse effects on shoreline foragers; then*
- iii. remedy any more than minor adverse effects on shoreline foragers; then*
- iv. mitigate any more than minor adverse effects on shoreline foragers; then*
- v. offset any residual effects on shoreline foragers*

Only once the effects management hierarchy has been followed and all other avenues exhausted is it appropriate to offer an offset to address the residual adverse effects on shoreline foragers.

In response to *Question a*, Dr Cockrem has mapped the current extent of feeding/foraging habitat for shoreline foraging birds by appropriate methods. Dr Cockrem has calculated the current extent to be 51,200m² of available habitat, with 5,836m² or 11.4 percent of this area to be lost as a result of the Shared Path. This information has adequately addressed the question posed.

In response to *Question b*, Dr Cockrem has indicated that the applicants feel that it would not be possible to avoid or remedy the loss of habitat for shoreline foraging birds. The applicant proposes that part of the loss of feeding area could be mitigated by the creation of rock revetments, but these are only claimed to mitigate a “small proportion” of the habitat lost and the spatial extent of the areas were not reported. The proposal to mitigate any residual effects on shoreline foraging birds is to create a breeding area for shoreline birds and little blue penguins on the southern breakwater wall at the Seaview Marina.

This offset at the marina may provide breeding habitat for shoreline birds but will not address the loss of feeding habitat for these species. The loss of available habitat is estimated at 5,836m², while the proposed breeding habitat enhancement on the seawall will only create 350 to 400m² of breeding habitat. Breeding is not possible without adequate food reserves, so we should be careful in considering improved breeding habitat as an offset to a loss of feeding opportunities.

It is also stated that the proposed biodiversity offset will not have adverse effects on biodiversity, however little blue penguins are currently nesting in the area proposed to be enhanced for shoreline bird breeding and the current penguin nesting opportunities at the end of the seawall will be lost. The proposal is to offset this loss of current penguin nests by improving the nesting habitat for penguins at the start of the seawall by raising the seawall so that the nests do not get inundated by high seas. There is, however, no evidence presented that inundation of nests is currently a problem or guarantee that either the shoreline birds or the penguins will use these enhanced areas for nesting and the area available for the penguins is likely to be less than currently available.

Variable oystercatchers are the shoreline feeding bird species most likely to be impacted by loss of feeding habitat. This species, although only At Risk nationally, is considered to be Vulnerable in the Wellington Region, which makes it a regionally Threatened species. It is unclear how many pairs of oystercatchers currently occupy the coastline area that will be lost, but it is likely that there are more than the one pair that might adopt the enhanced area on the seawall given the territoriality of this species during breeding season and the extent of the proposed seawall enhancement. The offset package has also not considered the impacts of disturbance of the oystercatchers' feeding in the habitat that remains by people and dogs using the Shared Pathway. It is therefore likely that the proposed offset measures will not adequately address the impact on this regionally Threatened species.

Little blue penguins

The Regional Council requested the applicant to:

- (a) *Please provide an assessment of the actual and potential effects on little penguins in accordance with the emerging DoC standard.*
- (b) *Please carry out an evaluation of the effects of the proposal on little penguins and how these effects are intended to be managed in accordance with the full effects management hierarchy, as required by Policies P32 and P41 (and Schedule G) of the PNRP. In particular, please break down the effects management package for little penguins into the relevant categories (avoid, remedy, mitigate) and describe which measures/actions have been taken to:*
 - i. *avoid significant coastal habitats for birds (Schedule F2 areas); then*
 - ii. *avoid more than minor adverse effects on little penguins; then*
 - iii. *remedy any more than minor adverse effects on little penguins; then*
 - iv. *mitigate any more than minor adverse effects on little penguins; then*
 - v. *offset any residual effects on little penguins*

Only once the effects management hierarchy has been followed and all other avenues exhausted is it appropriate to offer an offset to address the residual adverse effects on little penguins.

Dr Cockrem has received advice from DOC on their conditions for working around penguins. Rather than the 100m buffer that DOC has specified for working around shoreline birds in other consents, that was referred to in the response by GWRC, the DOC conditions for penguins in this development required a minimum distance of 10m from nests. DOC did however stipulate that this was subject to the nature of the works and associated disturbance. Where earthworks are taking place during the breeding season I feel that a 100m buffer should be maintained.

The applicant has indicated that it would not be possible to avoid significant coastal habitat for birds or some adverse effects on the penguins in the project area. They propose that potential nesting sites be created in the rock revetments to remedy any more than minor effects. They do not however stipulate how many potential nesting sites might be created in this way. We may therefore request

them to stipulate a minimum number of potential nesting sites they would create or require them to create at least three potential nesting sites for every nest encountered by the detection dog.

The applicant proposes to undertake the work where there are penguin nests between 1 March and 30 June outside of the main nesting or moulting season. Penguins can however be present in nesting sites at any time of the year and may be injured or killed if their presence is not known. Ideally therefore, work in areas where penguins are known to nest should consider having an environmental officer on site and possibly include additional detector dog surveys just prior to the commencement of excavation.

The value of the proposed offset to residual effects on penguins at the Seaview Marina has been discussed above. In addition to the marina a section of the Whiorau Reserve has also been proposed as an offset for penguins. Penguins are currently nesting around the whole reserve, but only a small section of the Reserve (400-450m² area in the ~14,000m² Reserve) is proposed to be fenced. The “new” breeding habitat referred to will require the addition of nesting boxes, but it is unclear how many nesting boxes will be provided. The fencing to protect penguins from people and dogs to create “safe” breeding habitat will only benefit those birds nesting in the small fenced area while birds using the existing nests across the remainder of the Reserve will come under increased pressure from the increased use of the area.

Looking forward

The adverse effects of the loss of habitat and continued disruption of shoreline feeding birds and nesting little blue penguins do not appear to be adequately offset by the measures proposed. The impacts of increased activity are not addressed and the offsets do not appear to equate to the loss of habitat. I would like to encourage GWRC to continue talking to the applicant about opportunities to identify areas that could be enhanced by the exclusion of dogs and implementation of pest control to improve the quality of the habitat for shoreline feeding birds. I would also like to see the applicant investigate the opportunity to create a new penguin reserve or reserves outside of existing nesting areas to truly offset the impacts that this development will have.