

Appendix A - Proposed Resource Consent Conditions

Definitions

The table below defines the acronyms and terms used in the conditions below.

Acronym/Term	Definition
BSUDPs	Bay Specific Urban Design Plans.
BNP	The Beach Nourishment Plan.
CEMP	The Construction Environmental Management Plan.
Certify, certification and certified	In relation to a management plan, means assessed by Council staff acting in a technical certification capacity, and in particular as to whether the document or matter is technically consistent with the requirements contained within the conditions of this consent.
CMA	Has the same meaning as 'coastal marine area' in section 2 of the RMA.
Commencement of Construction	The time when Construction Works (excluding site investigations and Enabling Works) for the Project (or a part of the Project) commence.
Completion of Construction	When construction of the Project (or part of the Project) is complete.
Construction Works	One or more of the various activities (excluding site investigations and Enabling Works) undertaken under these resource consents.
Consent Holder	Hutt City Council.
Enabling Works	Includes the following and similar activities: <ul style="list-style-type: none"> (a) geotechnical investigations (including in the CMA), including access on land for these investigations; (b) establishing site yards, site offices, site entrances and fencing; (c) establishing bird protection areas for Little Penguin and Shoreline Forager populations and an oystercatcher protection area; (d) demolition or removal of buildings and structures; (e) relocation of services; and (f) establishing minimisation measures (such as erosion and sediment control measures).
HEP	Habitat Enhancement Plan.
HNZPT	Heritage New Zealand Pouhere Taonga.
Little Penguin	NZ little penguin (<i>Eudyptula minor</i> , kororā).
Little Penguin Interest Group	Department of Conservation, Mike Rumble, Eastbourne Pest Control and Forest & Bird.
LPMP	The Little Penguin Management Plan.
LUDP	The Landscape and Urban Design Plan.
Manager, Environmental Regulation	The Manager, for the time being, of the Environmental Regulation Department, Wellington Regional Council.



Revised resource consent conditions for the
Eastern Bays Shared Path Project

Dated 30 November 2020.

Acronym/Term	Definition
MHWS	Mean High Water Springs.
Project	The design, construction, operation and management of the Eastern Bays Shared Path Project and associated works.
Reclamation	Has the meaning given to that term in section 2.2 of the Proposed Natural Resources Plan for the Wellington Region Decision Version (dated 31 July 2019) as it relates to the CMA.
RMA	The Resource Management Act 1991.
Shoreline Forager	variable oystercatcher and red-billed gull.
SRHP	Seawall and Revetment Habitat Plan
Team Leader, Resource Consents	The Team Leader for the time being of the Resource Consent Department, Hutt City Council.
TMP	The Traffic Management Plan.
Working day	Has the same meaning as in section 2 of the RMA.

General Conditions

These general conditions apply to all resource consents unless specified otherwise. Additional conditions which apply to specific resource consents are set out in the following pages.

Ref	Condition
<i>General and Administration</i>	
GC.1	Except as modified by the conditions below (including certified management plans), the Project shall be undertaken in general accordance with the information provided by the Consent Holder <ul style="list-style-type: none"> (a) in the consent application and associated plans and documents lodged with the Wellington Regional Council on 12 April 2019; (b) in response to further information requests; and (c) in its evidence for the Hearing Panel.
GC.2	Where there is inconsistency between: <ul style="list-style-type: none"> (a) The application, plans and documents referenced in Condition GC.1 and further information provided by the Consent Holder post lodgment, including during the hearing, the most recent information and plans shall prevail; and (b) The application, plans and documents referenced in Conditions GC.1 and GC.2(a) and the conditions of consent, the conditions shall prevail.
<i>Pre-construction Administration</i>	
GC.3	The Consent Holder shall notify the Manager, Environmental Regulation in writing of the proposed date of Commencement of Construction at least 20 working days prior to that date.
GC.4	The Consent Holder shall provide a copy of this consent and any documents and plans referred to in this consent to each operator or contractor undertaking works authorised by this consent at least 10 working days prior to the Commencement of Construction.
<i>Management Plan Approval Process</i>	
GC.5	<ul style="list-style-type: none"> (a) <u>Conditions (b) to (i) below apply to all management plans required by these conditions.</u> (b) All management plans shall be submitted to the Manager, Environmental Regulation and/or the Team Leader, Resource Consents (as relevant) for certification at least 30 working days prior to the Commencement of Construction. (c) All management plans shall provide the overarching principles, methodologies and procedures for managing the effects of the construction of the Project to achieve the environmental objectives, outcomes and performance standards required by these conditions. (d) All management plans may be submitted for certification in parts or in stages to address particular activities or to reflect the staged implementation of the Project and shall clearly show the linkages with plans for adjacent stages and interrelated activities. (e) Any certified management plan may be amended, if necessary, to reflect any minor changes in design, construction methods or management of effects. Any amendments are to be discussed with and submitted to the Manager, Environmental Regulation and/or the Team Leader, Resource Consents (as relevant) to inform them of the change, unless those amendments would result in a materially different outcome to that described in the original plan. Those minor amendments do not require certification, but the updated plan must be provided to the Manager, Environmental Regulation and/or the Team Manager, Resource Consents (as relevant). (f) Any material amendments to a certified management plan shall be submitted to the Manager, Environmental Regulation and/or the Team Leader, Resource Consents (as relevant) for certification. Any material amendment must be consistent with the purpose of the relevant management plan and the requirements of the relevant conditions of these consents.

Commented [VHC1]: S42 report

- Proposed change to GC.5 (e), (f) and (g) is not supported as a requirement to have each minor change reviewed would impose a delay on the design process and a not-insignificant burden on the reviewing body as outlined in Ms Williams' evidence.
- GC.5 (g) already requires that any material amendment must be consistent with the purpose of the management plan.
- The remaining conditions are acceptable.

Ref	Condition
	<p>(g) If no comments are received on a management plan submitted under (b), or an amended management plan in (f) within 15 working days, then the management plan is deemed to have been certified and the Consent Holder may implement the plan or the changes.</p> <p>(h) Should the Manager, Environmental Regulation and/or the Team Leader, Resource Consents (as relevant) refuse to certify a management plan, or a part or stage of a management plan, the Consent Holder shall submit a revised management plan (or part or stage) for certification as soon as practicable. Should certification of the revised plan (or part or stage) be refused then the Consent Holder must, within 10 working days of the refusal, engage a suitably qualified, mutually acceptable independent expert to resolve the matters in dispute. The expert shall resolve the matters within 10 working days of being engaged and his or her decision shall be final. The cost of such a process will be met by the Consent Holder.</p> <p>(i) All works and monitoring shall be carried out in general accordance with the certified management plans.</p> <p><i>Advice note: Management plans must be emailed to notifications@gw.govt.nz or [HCC email address] and include the reference WGN190301 or RM190124 (as relevant), and the name and phone number of a contact person responsible for the proposed works.</i></p> <p><i>Advice note: Any preliminary works, which do not require resource consent or are permitted activities, can be undertaken prior to the certification of any management plans.</i></p>
<p>Construction and Environmental Management Plan</p>	
<p>GC.6</p>	<p>(a) The Consent Holder shall, in consultation with an experienced ecologist, prepare a CEMP for the relevant Project stage (excluding site investigations and Enabling Works) and submit this to the Manager, Environmental Regulation in accordance with the requirements of Condition GC.5. Commencement of Construction shall not occur until certification is obtained.</p> <p>(b) The purpose of the CEMP is to:</p> <ul style="list-style-type: none"> (i) Confirm final Project details; (ii) Ensure that the Construction Works remain within the limits and standards approved under the consent; and (iii) Set out the management procedures and construction methods to be undertaken to avoid or minimise adverse effects arising from the Construction Works. <p><i>Advice note: Any investigations works, outside of those consented, which penetrate groundwater and/or any contaminated land investigations that do not comply with permitted standards will require separate consents.</i></p>
<p>GC.7</p>	<p>The CEMP shall include:</p> <ul style="list-style-type: none"> (a) Confirmation of the proposed staging and sequencing of construction, including staging of the Construction Works by bay. Continuous areas of seawall being constructed shall be limited to a stipulated length as set out in the CEMP and determined on a bay by bay basis. Works in the subtidal areas shall reflect Condition C.6(d) in that there is flexibility in terms of maximum length of seawall construction for works in these areas, but not for works outside of the subtidal areas. (b) An outline construction programme that takes into account timing constraints in these conditions and the management plans listed in Condition GC.8; (c) The final construction methodologies; (d) Contact details of the site supervisor or project manager and the Consent Holder's Project liaison person (phone, postal address, email address); (e) Methods and systems to inform and train all persons working on the site of potential environmental issues and how to avoid or minimise potential adverse effects; (f) The proposed hours of work;

Ref	Condition
	<ul style="list-style-type: none"> (g) Details of any public access restrictions and what measures will be in place to minimise disruption to public access; (h) Location of construction site infrastructure including site offices, site amenities, contractors' yard access, equipment unloading and storage areas and contractor car parking; (i) The clear identification and marking of the construction areas within the CMA; (j) Where machinery is to be within the CMA, a list of that machinery and a protocol, developed in consultation with an experienced ecologist, for the management of that machinery to reasonably reduce ecological impacts and the footprint of the operations; (k) The measures to be adopted to maintain the construction area and adjacent parts of the CMA in a tidy condition in terms of disposal/storage of rubbish (so as to avoid attracting mammalian predators and undesirable species to the construction area), storage and unloading of construction materials and similar construction activities; (l) Procedures for managing and controlling erosion and sediment run-off into the CMA to achieve Condition C.6; (m) Procedures to reduce contaminants from Constructions Works on land or in the CMA into the CMA or groundwater. Such procedures and measures shall include, but are not limited to: <ul style="list-style-type: none"> (i) Refuelling and carrying out machinery maintenance, including being at least 5m inland from MHWS, away from watercourses and not on the foreshore area, the use of biodegradable hydraulic fluids in machinery working within the foreshore and CMA where practicable, a spill kit on hand and staff trained in its deployment; (ii) Ensuring that wash water from tools, equipment or machinery is not discharged into the CMA or the stormwater system; (iii) Keeping the area of disturbance in the foreshore and CMA to the minimum reasonably necessary to complete the works; (iv) Minimising the use of machinery within the CMA and ensuring that machinery is used in compliance with the CEMP; (v) Providing appropriate wash-down facilities for all concreting equipment to prevent wash water from entering the CMA and the stormwater system; (vi) Storing any hazardous substances so that they will not enter the CMA; (vii) Ensuring, except for (viii), that during piling or seawall construction and ancillary work, no wet concrete, or any water or liquid that has come into contact with wet concrete or with any other cementitious products without appropriate treatment as set out in (ix), is able to enter the CMA; (viii) Ensuring that piling or seawall construction and ancillary work within the CMA complies with Condition C.6; (ix) Ensuring that the pH of water discharged from any work site that has used wet cementitious products has a pH level similar to the local receiving environment; (x) Removal of any temporary construction materials and debris associated with the Construction Works from the CMA; and (xi) A site-specific methodology for dewatering and managing effects on the aquifer where the excavation and/or depth of any required seawall foundation exceeds 2.5 m Below Ground Level

Ref	Condition
	<p>(n) Procedures for ensuring that residents, network utility operators, road users and businesses in the immediate vicinity of construction areas are given prior notice of the Commencement of Construction, the location of the work and are informed about the expected duration and effects of the work;</p> <p>(o) Means for maintaining public pedestrian access along Marine Drive during construction;</p> <p>(p) Procedures for incident management, including contingency procedures to address emergency spill response(s) and clean up;</p> <p>(q) Measures for protecting the site from tidal intrusion and storm events, and protocols to address any overtopping event that may occur during construction;</p> <p>(r) Appropriate management triggers that initiate on-site investigation of erosion and sediment controls and supporting monitoring and reporting measures;</p> <p>(s) Consideration of fish passage in locations as outlined in Condition EM.12; and</p> <p>(t) Type of imported fill material to be used within the CMA to minimise contamination of the CMA as outlined in Condition C.9.</p> <p>(u) The existing gravel beach vegetation at Lowry Bay (native species, including the pīngao) to be translocated into the beach nourishment area immediately seaward of the shared path footprint in accordance with direct transfer rehabilitation principles as practicable.</p> <p>(v) Measures to avoid, where practicable, the use of machinery, and any other disturbance of existing native vegetation on gravel beaches in the construction zone, where that vegetation is to remain.</p> <p>(w) Procedures for transplanting the six At Risk species in the landscape plantings at Point Howard and Windy Point to adjoining currently grassed areas or to adjoining reserves (such as Whiorau).</p> <p>(x) The <i>Atriplex cinerea</i> plantings at York Bay and Claphams Rock to be protected from the effects of vehicles.</p> <p>(y) Identification of opportunities to retain existing native vegetation patches between the shared path and revetment.</p> <p>(z) Procedures to monitor every 6 months for any post-construction establishment of invasive weeds (including boneseed and old man's beard) within areas affected by the works and for their removal as appropriate for a period of two years after works in any one bay are completed.</p>
GC.8	<p>The CEMP shall incorporate or refer to the following management plans:</p> <p>(a) Landscape and Urban Design Plan (including Bay Specific Urban Design Plans as appropriate) (refer to Conditions LV.1 to LV.7);</p> <p>(b) Beach Nourishment Plan (refer to Conditions EM.13 to EM.14);</p> <p>(c) Little Penguin Management Plan (refer to Conditions EM.2 to EM.5);</p> <p>(d) Traffic Management Plan (refer to Conditions GC.11 to GC.13);</p> <p>(e) A plan for works within 100m of a Shoreline Forager nest (refer to Condition EM.1C);</p> <p>(f) Seawall and Revetment Habitat Plan (refer to Condition EM.19 below); and</p> <p>(g) Habitat Enhancement Plan (refer to Conditions EM.7 to EM.9).</p> <p>(h) A site-specific Noise Management plan, should it be necessary (refer to Condition GC.14)</p> <p>If a CEMP is submitted in part or for a Project stage, it shall only incorporate or refer to the management plans relevant to that part or stage.</p>
GC.9	<p>All personnel working on the site shall be made aware of the requirements contained in the certified CEMP. The certified CEMP shall be implemented and maintained (and amended</p>

Commented [VHC2]: S42A report

- Proposed conditions GC.7 (u) to (z) have been reworded to allow greater clarification. The intent is generally accepted.
- GC.7 (w) is not supported as there will already be monitoring under EM.15.

Ref	Condition																																															
	in accordance with GC.5(e) and (f) as necessary) throughout the entire period of the Construction Works.																																															
GC.10	The Consent Holder shall ensure that a copy of this consent and all certified plans and documents referred to in this consent, are kept on site at all times and available for inspection on request by the Wellington Regional Council.																																															
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GC.11	The Consent Holder shall prepare a TMP to append to the CEMP, and submit this to the Team Leader, Resource Consent for certification in accordance with the requirements of Condition GC.5.																																															
GC.12	The purpose of the TMP is to manage the various traffic management, safety and efficiency effects associated with the Construction Works.																																															
GC.13	The TMP shall include, but not be limited to, the following: <ul style="list-style-type: none"> (a) Management of traffic along Marine Drive adjoining the construction areas to protect public safety, manage delays to road users (especially during peak times), minimise disruption to property access and methods to keep the public informed about potential impacts on Marine Drive; (b) Access and parking for contractors; and (c) Specification of any additional measures necessary during periods of activities which involve high levels of construction traffic on nearby properties, such as the CentrePort site at Point Howard (including communication and any necessary physical management steps). 																																															
<i>Construction Noise</i>																																																
GC.14	Noise arising from Construction Works shall be measured and assessed in accordance with NZS 6803:1999 <i>Acoustics – Construction Noise</i> and shall comply with the noise criteria set out in the following table, unless site-specific provisions are included in the CEMP as required in GC.8: <p>Table CNV1: Construction noise criteria</p> <table border="1"> <thead> <tr> <th>Day</th> <th>Time</th> <th>L_{Aeq}(15 min)</th> <th>L_{AFmax}</th> </tr> </thead> <tbody> <tr> <td colspan="4">Residential buildings</td> </tr> <tr> <td rowspan="4">Weekdays</td> <td>0630h – 0730h</td> <td>55 dB</td> <td>75 dB</td> </tr> <tr> <td>0730h – 1800h</td> <td>70 dB</td> <td>85dB</td> </tr> <tr> <td>1800h – 2000h</td> <td>65dB</td> <td>80dB</td> </tr> <tr> <td>2000h – 0630h</td> <td>45dB</td> <td>75dB</td> </tr> <tr> <td rowspan="4">Saturdays</td> <td>0630h – 0730h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td>0730h – 1800h</td> <td>70 dB</td> <td>85 dB</td> </tr> <tr> <td>1800h – 2000h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td>2000h – 0630h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td rowspan="4">Sundays and Public Holidays</td> <td>0630h – 0730h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td>0730h – 1800h</td> <td>55 dB</td> <td>85 dB</td> </tr> <tr> <td>1800h – 2000h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td>2000h – 0630h</td> <td>45 dB</td> <td>75 dB</td> </tr> </tbody> </table>	Day	Time	L _{Aeq} (15 min)	L _{AFmax}	Residential buildings				Weekdays	0630h – 0730h	55 dB	75 dB	0730h – 1800h	70 dB	85dB	1800h – 2000h	65dB	80dB	2000h – 0630h	45dB	75dB	Saturdays	0630h – 0730h	45 dB	75 dB	0730h – 1800h	70 dB	85 dB	1800h – 2000h	45 dB	75 dB	2000h – 0630h	45 dB	75 dB	Sundays and Public Holidays	0630h – 0730h	45 dB	75 dB	0730h – 1800h	55 dB	85 dB	1800h – 2000h	45 dB	75 dB	2000h – 0630h	45 dB	75 dB
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<i>CentrePort access</i>													
GC.15	The Consent Holder shall enter into an agreement with CentrePort prior to any Construction Works being undertaken within the road reserve and land owned by CentrePort (being Section 1 Survey Office Plan 31984, Reference WN37D/408; and Part Lot 1 DP 10694 & Section 70-72 Block XIV Belmont Survey District and Part Lot 1 DP 10694, Reference WN479/105), adjacent to the CentrePort wharf (Point Howard), to ensure that access arrangements are maintained in accordance with CentrePort's proposed upgrade works.												
<i>Completion of Construction</i>													
GC.16	After Completion of Construction in each bay, the Consent Holder shall notify the Manager, Environmental Regulation in writing within 2 working days (48 hours) that the works have been completed.												
GC.17	The Consent Holder shall ensure that on Completion of Construction the site is left in a tidy manner, including all litter associated with the works being removed.												
GC.18	The Consent Holder shall, as far as reasonably practicable, remedy all damage and disturbance caused by vehicle traffic, plant and equipment to the foreshore during Construction Works, in consultation with a suitably qualified ecologist.												
<i>Incidents - General</i>													
GC.19	The Consent Holder shall maintain a permanent record of any incidents (such as, but not limited to, the spill of hydraulic fluid or other discharge not authorised by this consent and exceedance of the management trigger developed under GC.7 (r)) that occur at individual work stages that result, or could result, in an adverse effect on the environment.												
GC.20	The record shall include: <ul style="list-style-type: none"> (a) The type and nature of the incident; (b) Date and time of the incident; (c) Weather conditions at the time of the incident (as far as practicable); (d) Assessment of the effects of the incident; (e) Measures taken to remedy the effects of the incident; and (f) Measures put in place to prevent the incident from reoccurring. 												
GC.21	The record in Condition GC.20 shall be maintained at the work site and shall be made available to the Manager, Environmental Regulation upon request.												
GC.22	The Consent Holder shall notify the Manager, Environmental Regulation within 1 working day of any such incident.												
GC.23	The Consent Holder shall forward an incident report to the Manager, Environmental Regulation within 7 working days of the incident occurring. This report shall include the matters listed in Condition GC.20. <i>Advice Note: Wellington Regional Council may investigate any incidents to determine if a breach of this consent or the RMA has occurred and may also undertake enforcement action depending on the circumstances.</i>												
<i>Complaints Management</i>													
GC.24	The Consent Holder shall maintain a complaint register that includes:												

Ref	Condition
	<p>(a) The details of each complaint;</p> <p>(b) Actions taken to investigate the complaint (if any);</p> <p>(c) The outcome of such investigations if undertaken and the likely cause of the matter that led to the complaint;</p> <p>(d) The nature and timing of any measures implemented by the Consent Holder to respond to the complaint; and</p> <p>(e) Actions (if any) to be taken in the future to prevent to occurrences of similar events and complaints.</p> <p><i>Advice note: Should there be a series of complaints related to a single incident then only one investigation needs to be completed by the Consent Holder.</i></p>
GC.25	The Consent Holder shall make the complaint register in Condition GC.24 available to the Manager, Environmental Regulation, on request.
<i>Consent Lapse</i>	
GC.26	Pursuant to section 125(1) of the RMA, the consents shall lapse 10 years from the date of the commencement of these consents (in accordance with section 116 of the RMA).
<i>Review of conditions</i>	
GC.27	<p>Pursuant to section 128 of the RMA, the conditions of consent may be reviewed by the Hutt City Council or Wellington Regional Council by the giving of notice pursuant to section 129 of the RMA, in [month, year] and every year thereafter in order to deal with:</p> <p>(a) any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or</p> <p>(b) any other adverse effect on the environment on which the exercise of the consent may have an influence.</p>
<i>Transport</i>	
GC.28	An independent road safety audit shall be undertaken at the detailed design stage and at the pre-opening/post-construction stage.

Commented [VHC3]: S42 report

- Proposed condition GC.28 is acceptable.
- Proposed GC.29 is not supported as it is considered unnecessary, has no purpose and is adequately covered by the safety audit in GC.28.
- Proposed GC.30 is not supported as it is considered unnecessary and inefficient and happens through the normal detailed design process; this would also require reliance on a third party.

Coastal Activities (C)

Ref	Condition
<i>Engineering Plans and Specifications</i>	
C.1	<p>At least 30 working days prior to the Commencement of Construction, the Consent Holder shall submit detailed engineering plans and specifications (including tidal levels, dimensioned cross sections, elevations, site plans of all areas of proposed reclamation and de-reclamation, permanent and temporary structures, outfalls structures, associated permanent and temporary coastal zone occupations and areas where the construction area will extend into the subtidal zone), prepared by a suitably qualified and experienced engineer in general accordance with the documents listed in Conditions GC.1 and GC.2(a), to the Manager, Environmental Regulation for certification using the process in Condition GC.5.</p> <p>The requirements for certification set out in Condition GC.5 apply equally to the certification of the detailed engineering plans and specifications under this condition.</p>
C.2	<p>The engineering plans and specifications submitted under Condition C.1 shall cover the following matters:</p> <p>(a) Shared path;</p> <p>(b) Seawalls, including drainage and texture to be applied to the curved surface and depressions to be applied to the flat platforms of the curved seawall;</p> <p>(c) Revetment, including the reuse of in situ natural rock/cobble material and minimising the excavation of in situ rock where possible, without compromising structural integrity, along with the drilling of rock pools into the hard revetment rock of intertidal areas. The design of the revetments should look at all options to reduce the revetment footprint without compromising on structural integrity of the seawall, overtopping protection, or coastal processes;</p> <p>(d) Access steps, ramps, bus stops; and</p> <p>(e) Beach nourishment.</p>
C.3	The Consent Holder shall comply with the engineering plans and specifications certified under Condition C.1.
<i>Occupation of the CMA</i>	
C.4	The right to temporarily occupy part of the CMA during Construction Works is limited to the areas and structures identified in the plans and specifications referred to in Condition GC.1.
C.5	The right to permanently occupy part of the CMA is limited to the areas and structures identified in the plans and specifications referred to in Condition GC.1.
<i>Erosion and sediment control</i>	
C.6	<p>Erosion and sediment control measures shall be implemented throughout the Construction Works. They shall be constructed and maintained so as to operate and perform in accordance with the <i>Erosion and Sediment Control Guidelines for the Wellington Region (Reprinted June 2006)</i> in the CMA, the measures set out below and the certified CEMP.</p> <p>Within the CMA measures may include, but not be limited to, the following considerations:</p> <p>(a) Not exposing non-native backfill material to the sea.</p> <p>(b) Use of weight-bearing mats on the foreshore substrate.</p> <p>(c) Methods for isolating and containing the construction area including:</p> <p>(i) Bunding/shuttering in a predominantly gravel/sand beach zone; and</p> <p>(ii) Alternative sediment control devices, such as geotextile containers or tubes filled with locally sourced sand, in rocky shore habitats or where the seawall works occur close to the mid tide mark.</p>

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• Proposed condition C.2 (c) is partly supported. As outlined in Ms Williams' evidence she does not consider a landscape architect needs to be involved in the rock selection process. The type of rock required is addressed in Dr Allis's evidence.

Commented [VHC5]: S42 report

• Proposed condition C.6 is not supported as public access is adequately addressed in the CEMP under GC.7. I note that the word "prevented" does not appear to be correct, I consider that "permitted" would better describe the intent.

Ref	Condition
	<p>(d) Limiting the length of any continuous section of seawall under construction at one time as appropriate, for example if the construction footprint extends into subtidal zone and a longer length allows for a single subtidal area to be contained in the one site then a longer length would be preferable.</p> <p>(e) Earthworks and construction activities to be planned to respond to tide timing, tidal height and forecasts of wind and wave conditions so that these matters can be factored into necessary erosion and sediment controls.</p>
<i>Contaminant Release</i>	
C.7	The Consent Holder shall take all reasonably practicable measures to limit the amount of contaminants from the Construction Works released on land or in the CMA, and shall ensure that the sediment concentrations of any discharge of sediment laden water to the stormwater system or the CMA do not exceed 100g/m ³ . Such measures shall be included in the CEMP.
<i>Reclamation</i>	
C.8	The total reclamation area for the Project is limited to the areas and structures identified in the plans and specifications referred to in Condition GC.1, but shall not exceed 3000m ² . <i>Advice note: Statutory processes in respect of reclaimed land must be complied with, including under the Marine and Coastal Area (Takutai Moana) Act 2011.</i>
C.9	Imported fill material to be used in the reclamations shall be restricted to clean natural sand, gravels and rock.
C.10	The Consent Holder shall maintain a log recording the source of the materials imported onto each reclamation on the site. This log shall be made available to the Manager, Environmental Regulation for inspection on request.
<i>As-Built Certification</i>	
C.11	The Consent Holder shall supply to Wellington Regional Council and the LINZ Hydrographic Services Office and LINZ Topographic Services Office (Chief Hydrographer, National Topo/Hydro Authority, Land Information New Zealand, Private Box PO Box 5501, Wellington 6145), a set of 'as built' plans, final topographic and, if relevant, bathymetric data covering the finished works, and appropriate certification confirming that the new structures and structures have been built in accordance with sound engineering practice, within 60 working days of the completion of the works.
<i>Maintenance of Structures</i>	
C.12	The structures permitted to occupy part of the CMA by this consent shall be maintained in a good and sound condition, and any repairs that are necessary shall be made, subject to obtaining any necessary resource consents.

Commented [VHC6]: S42 report

- The exceedance trigger proposed in condition C.10 has been included.
- Proposed condition C.9 is not supported as this is adequately covered under s107 of the RMA.

Commented [VHC7]: S42A report

- Proposed condition C.15 is not supported as it is inefficient, has no purpose and is covered off adequately under all the other conditions.
- Proposed condition C.16 is not supported as it is inefficient and has no purpose. This condition is commonly applied to maintenance on seawalls where there are site-specific works on sections of seawall. I don't consider that it applies in these circumstances.

Ecological Management (EM)

Ref	Condition
<i>Little Penguins and Shoreline Foragers</i>	
EM.1	In order to avoid or minimise adverse effects of the Project on Little Penguins and Shoreline Foragers, the Consent Holder shall: <ul style="list-style-type: none"> (a) comply with Condition EM.1A; (b) undertake the habitat enhancement measures set out in Conditions EM.7 to EM.9; (c) as set out in Condition LV.4(c), incorporate relevant detailed design elements within the LUDP as recommended in the LPMP in Condition EM.5; (d) undertake design and construction in accordance with the LPMP in Condition EM.5; (e) manage rubbish and waste in accordance with the CEMP in Conditions GC.7 and EM.1B(d); (f) provide pest management in accordance with Condition EM.1B; and (g) provide protection areas as set out in Conditions EM.1B and EM.7 to EM.9.
EM.1A	Construction Works between 1 July and 31 January (the Little Penguin breeding period) shall not occur within 10m of any active burrows or nests identified in Condition EM.5(a)(i).
EM.1B	The Consent Holder must: <ul style="list-style-type: none"> (a) provide up to a maximum of \$60,000, for pest management within the protection areas specified in (b) below and the adjacent Eastern Bays coastal environment; (b) establish protection areas (refer to Appendix 1) at the following locations, in accordance with Conditions EM.7 to EM.9: <ul style="list-style-type: none"> (i) an oystercatcher protection area at Sorrento Bay; and (ii) penguin and shorebird protection areas at: <ol style="list-style-type: none"> 1. Whiorau Reserve; 2. North Bishops Park; and 3. HW Shortt Park; (c) within six months of the commencement of consent initiate the required statutory process to exclude dogs from: <ul style="list-style-type: none"> (i) the foreshore and beach area of Rona Bay abutting North Bishops Park penguin and shorebird protection area and running for the same length, as shown in Appendix 1; and (ii) The foreshore and beach area of Sorrento Bay abutting the Sorrento Bay oystercatcher protection area and running for the same length, as shown in Appendix 1; and (d) undertake a six-monthly rubbish clean up along the Shared Path and its adjacent beaches.
EM.1C	<ul style="list-style-type: none"> (a) During the nesting season of any Shoreline Forager, no more than 10 working days prior to the Commencement of Construction, the Consent Holder shall engage a suitably qualified ecologist to undertake a Shoreline Forager nesting survey within the relevant construction area. (b) If any Shoreline Forager nest in the relevant construction area is identified, the Consent Holder shall engage a suitably qualified ecologist to: <ul style="list-style-type: none"> (i) GIS locate and mark on the ground the nest location; (ii) advise on whether or not the nest of the Shoreline Forager contains eggs or chicks;

Commented [VHC8]: Condition EM.1B has been expanded to respond to concerns about oystercatchers raised in the s42A report.

Commented [VHC9]: Condition EM.1C has been expanded to respond to concerns about oystercatchers raised in the s42A report.

Ref	Condition
	<p>(iii) if it does contain eggs or chicks, advise on the management of Construction Works within 100m of the nest, including:</p> <p>A. the use of specific machinery; and</p> <p>B. the use of specific minimisation measures and/or working practices; and</p> <p>(iv) prepare a plan for works incorporating the matters in (iii) which the Consent Holder shall include in the CEMP under Condition GC.7; and</p> <p>(c) If the oystercatcher nest located off the point between Sorrento Bay and Lowry Bay is confirmed by a suitably qualified ecologist to be occupied by a breeding pair then during November no Construction Works shall occur within 100m of the nest while it is so occupied. If the nest is so occupied at other times of the year Construction Works within 100m shall occur under the advice of a suitably qualified ecologist as to the use of specific machinery and specific minimisation measures and/or working practices.</p> <p>(d) If the oystercatcher nest located off the point between Sorrento Bay and Lowry Bay has resulted in chicks being hatched then no Construction Works within the oystercatcher managed works zone (refer to Appendix 1) shall occur within the months of December and January unless a suitably qualified ecologist has determined that the chicks have not survived or they can fly. If non-flying oystercatcher chicks are present within the oystercatcher managed works zone (refer to Appendix 1) during February then Construction Works within the oystercatcher managed works zone (refer to Appendix 1) shall occur only if a suitably qualified ecologist determines that work with specific machinery and specific minimisation measures and/or working practices can proceed without endangering the chicks.</p>
EM.1D	The consent holder shall commission a suitably qualified ecologist to lead a study of variable oystercatchers in the Project area (the Eastern Bays from Point Howard to Sunshine Bay and including Windy Point) including the influence of the Project on variable oystercatchers and their behaviours. The study shall be completed and results provided to the Manager, Environmental Regulation, Wellington Regional Council, within five years of the Completion of Construction of the Project.
<i>Little Penguin Management Plan</i>	
EM.2	The Consent Holder shall prepare a LPMP and submit this to the Manager, Environmental Regulation for certification in accordance with the requirements of Condition GC.5.
EM.3	The purpose of the LPMP shall be to as far as reasonably practicable avoid, but otherwise minimise, adverse effects on the Little Penguin population established in and adjacent to the existing revetment, during design and Construction Works.
EM.4	The LPMP shall be prepared by a suitably qualified person in consultation with the Little Penguin Interest Group.
EM.5	<p>The LPMP shall address the following matters:</p> <p>(a) Measures to minimise adverse effects on the Little Penguin population during construction, including that:</p> <p>(i) Two Little Penguin detection dog surveys, or a detection method approved by a Little Penguin expert appointed by the Consent Holder, must be undertaken in January prior to the Commencement of Construction in each bay. The purpose is to identify active Little Penguin burrows and nests within the construction area of each bay. No Construction Works shall occur in an area not surveyed in accordance with this provision; and</p> <p>(ii) The GPS coordinates for all active burrows and nests identified in (i) must be recorded;</p> <p>(b) A protocol for managing construction effects on Little Penguins will be prepared to avoid direct effects on nesting and moulting Little Penguins. The protocol will include measures to ensure that formerly active burrows and nests will not be reoccupied so</p>

Commented [VHC10]: S42A report

- Proposed condition EM.1D is not supported as pest management is already covered under condition EM.1(f) and EM.1B.
- In relation to the broader Eastern Bays area, there is already a pest-free initiative managed by Sally Bain that addresses pest control. The Project will be working closely with community groups.

Condition EM.1D has been expanded to respond to concerns about oystercatchers raised in the s42A report.

Ref	Condition
	<p>that Constructions Works can proceed. The protocol will be prepared by a Little Penguin expert appointed by the Consent Holder;</p> <p>(c) A programme for monitoring Little Penguins within or adjacent to the construction area during the Construction Works proportionate to the scale of the works in that area and the number of burrows and nests to determine whether any reasonably practicable steps can be undertaken by the Consent Holder to further reduce adverse effects, including steps provided for in the HEP (refer Conditions EM.7 to EM.9);</p> <p>(d) Staff and contractor training;</p> <p>(e) Identification of specific areas where Little Penguin and dog control signage would be beneficial to reduce the risks of adverse effects on Little Penguins; and</p> <p>(f) Opportunities to enhance Little Penguin habitat through detailed design, including:</p> <p>(i) Potential seawall design opportunities to restrict road access for Little Penguins through penguin passage elements; and</p> <p>(ii) Potential rock rip rap design opportunities to include key holes for Little Penguin nests.</p> <p><i>Advice note: The handling of protected wildlife will require permits to be obtained from the Department of Conservation under the Wildlife Act 1953.</i></p>
EM.6	Any outcomes from monitoring under Condition EM.5(c) shall be applied, as appropriate, to future Construction Works by revising the LPMP so that over time processes and responses to minimise effects on Little Penguins are refined and improved. The results of the monitoring shall be provided to the Little Penguin Interest Group and the Manager, Environmental Regulation, Wellington Regional Council within 1 month of completion.
<i>Habitat Enhancement Plan</i>	
EM.7	The Consent Holder shall prepare a HEP and submit this to the Manager, Environmental Regulation for certification in accordance with the requirements of Condition GC.5 prior to Commencement of Construction.
EM.7A	The HEP shall be prepared by a suitably qualified ecologist in consultation with the Little Penguin Interest Group and the Eastbourne Dunes Restoration Group.
EM.8	The purpose of the HEP shall be to provide protection areas (as specified in Condition EM.1B and shown in Appendix 1) for the Little Penguin and Shoreline Forager populations.
EM.9	<p>The HEP must address and/or include the following within the penguin and shorebird protection areas (and the oystercatcher protection area where relevant):</p> <p>(a) fencing of the boundaries as shown in the plans in Appendix 1 with a minimum standard to keep dogs out;</p> <p>(b) pest management measures, using funding provided in Condition EM.1B;</p> <p>(c) a Planting Plan for revegetation or the maintenance of vegetation-free areas in accordance with (f) as appropriate, including details of species to be planted and areas planting will take place in;</p> <p>(d) signage identifying the relevant protection area to reduce the risks of adverse effects on Little Penguins and Shoreline Foragers;</p> <p>(e) opportunities to enhance Little Penguin habitat within the protection areas including providing and maintaining a minimum of 100 nesting opportunities across the three protection areas;</p> <p>(f) opportunities to enhance Shoreline Forager habitat in the protection areas, including wooden poles providing further safe roosting habitats;</p> <p>(g) provisions as appropriate to provide ecological resilience to sea level rise; and</p> <p>(h) timeframes for completing (as appropriate) the measures outlined in the HEP, including:</p>

Commented [VHC11]: This condition has been reworded. The protocol is addressed in Dr Cockrem's evidence.

Commented [VHC12]: This condition has been reworded to include reference to oystercatchers. The detail is addressed in Dr Cockrem's evidence.

Ref	Condition
	<p>(i) for the Whiorau Reserve penguin and shorebird protection area:</p> <p>A. fencing must be completed prior to Commencement of Construction (see (a) above);</p> <p>B. detailed design of habitat enhancement for the Little Penguin and Shoreline Foragers must be finalised, and nesting boxes and roosting measures must be installed, prior to Commencement of Construction (see (e) and (f) above);</p> <p>C. pest management measures must be installed and operational prior to Commencement of Construction (see (b) above);</p> <p>D. signage must be installed prior to Commencement of Construction (see (d) above);</p> <p>E. planting shall be undertaken in accordance with the timeframes specified in the Planting Plan (see (c) above); and</p> <p>(ii) for the Bishops Park and HW Shortt Park penguin and shorebird protection areas, and the Sorrento Bay oystercatcher protection area, the establishment process (ie the measures specified in A to E above) must commence prior to Commencement of Construction, and measures A to D above must be completed within six months following Commencement of Construction (and the planting in accordance with the specified timeframes in the Planting Plan).</p>
<i>Intertidal and subtidal ecology</i>	
EM.10	For any construction areas where there are intertidal rock pools or loose rocky material in the intertidal zone, prior to the Commencement of Construction the Consent Holder shall check any rock pools and under loose rocks within the construction area for fish (such as rock fish) and relocate them outside of the construction area. Initial training and guidance by a qualified ecologist will be required.
EM.11	<p>For any construction areas that may extend into the subtidal zone, the Consent Holder shall:</p> <p>(a) Undertake all measures possible to reduce the construction area in the subtidal zone to the minimum required to complete the works in a safe and efficient manner, and avoid operating heavy machinery in the subtidal zone unless there is no reasonably practicable alternative. If works must occur in the subtidal zone, then the Consent Holder shall undertake appropriate measures to isolate the construction site from the subtidal zone to protect the site and prevent contamination release into the CMA, in accordance with the requirements of the certified CEMP;</p> <p>(b) During Construction Works within the subtidal zone the Consent Holder shall, where reasonably practicable, remove large rocks (greater than 0.4m diameter that are not part of the bedrock material and can be safely moved) that have been colonised with biota. They shall be placed in a nearby subtidal zone until the Completion of Works in that area. On completion of works, the rocks shall either be returned to the area from which they were removed, left at their new location or relocated to another appropriate subtidal location; and</p> <p>(c) Avoid adverse effects on the seagrass beds at south Lowry Bay (as identified in Figure 3 of Appendix C2 of the AEE) from Construction Works and beach nourishment. Measures shall include, but not be limited to:</p> <p>(i) Monitoring of seagrass beds in south Lowry Bay before and after Construction Works and beach nourishment to confirm that the beach nourishment works have not resulted in any net loss of seagrass extent and cover through unforeseen physical encroachment into the seagrass beds, increased turbidity or altered hydrodynamics;</p> <p>(ii) The monitoring in (i) shall include mapping the perimeter of each seagrass bed and assessing the average plant cover within each bed immediately before works commence, immediately after works have been completed and 1 year after the completion of the beach nourishment works;</p>

Commented [VHC13]: s42A report – changes to proposed condition is not supported as training and guidance is already provided and the proposed condition is inefficient.

Commented [VHC14]: s42A report

- Proposed condition EM.11 (c) (iv) is not supported as monitoring is already covered off under the condition in (i).
- Proposed condition EM.11 (d) is not supported as EM.10 provides for training and guidance.

Ref	Condition
	<ul style="list-style-type: none"> (iii) The results of the monitoring in (i) shall be provided to the Manager, Environmental Regulation, Wellington Regional Council within 1 month of completion; (iv) A visual assessment near and around the seagrass beds following beach nourishment to assess how nourishment material is settling in and around the seagrass beds; and (v) Ensuring that the seagrass beds are appropriately marked during Construction Works and beach nourishment to avoid any potential adverse effects.
<i>Fish Passage</i>	
EM.12	<p>At the key culvert outlets listed in Table 7 of Appendix B of the AEE, the Consent holder shall:</p> <ul style="list-style-type: none"> (a) Ensure culvert extensions associated with the Project are designed in consultation with a qualified freshwater ecologist so as to improve, or at least maintain, existing fish passage. These details will be included in the engineering plans specified in Condition C1. (b) Gain pre-construction information on the existing culvert outlets, via inspection by a qualified freshwater ecologist on at least four occasions during low tide and taking detailed photos and measurements (including distance of invert above or below current beach level, height of any perch, height of headroom, depth of any flowing surface water). Outlets will also be visited once at high tide to determine the level of outlet inundation. (c) Monitoring post-construction outlet characteristics every six months for three years from Completion of Construction of the Project by repeating the procedure outlined in (b) above at low tide. Outlets will also be visited three times (yearly) at high tide to determine the level of outlet inundation (but this recording can be arranged by the Consent Holder). Monitoring of all culvert will be combined. (d) Engage the qualified freshwater ecologist in (b) to provide a report to the Consent Holder confirming that the outlet structures are operating as intended in (a) and if any more than minor issues for fish passage are identified with the outlet structure through the examination in (c) the freshwater ecologist shall identify remedial actions to ensure operation as intended in (a) is achieved. (e) Provide a copy of the report under (d) to the Manager, Environmental Regulation within 2 weeks of receipt and within 12 months of receipt have completed any identified remedial actions and confirm in writing to the Manager, Environmental Regulation that the works have been completed.
<i>Beach Nourishment Plan</i>	
EM.13	<p>The Consent Holder shall prepare a BNP and submit this to the Manager, Environmental Regulation for certification in accordance with the requirements of Condition GC.5.</p> <p>Beach nourishment shall only occur in Point Howard beach, York Bay and south Lowry Bay and be deposited in general accordance with the Plans in Appendix 1 to these conditions. The maximum volume of material that may be deposited is 6,000m³, to be distributed between the three bays as outlined in Table 5-1 of Appendix F of the AEE.</p>
EM.14	<p>The BNP shall include, but not be limited to:</p> <ul style="list-style-type: none"> (a) The design conditions at the time of the beach nourishment and for the beach nourishment to achieve after 2 years; (b) The name and location of the sediment source; (c) Evidence of approvals and consents for taking the material and ensuring imported materials do not exceed allowable maximum contaminant levels under the relevant ADAWR (2019) Default Guideline Values; (d) A specification of the borrow material including: <ul style="list-style-type: none"> (i) Ensuring no more than 2% of sediment is of a size smaller than 62 microns;

Commented [VHC15]: This condition has been expanded and includes the intent of the proposed condition EM.13 outlined in the s42A report.

Ref	Condition
	<p>(ii) The grading envelope;</p> <p>(iii) Colours; and</p> <p>(iv) Extent of placement;</p> <p>(e) A construction methodology to limit potential adverse effects that includes, but is not limited to, the following measures:</p> <p>(i) Separation and disposal offsite of silts and clays in beach excavation sediments;</p> <p>(ii) Use of beach nourishment sediments that are similar or slightly coarser than in situ sediments, that will maintain the existing profile without spreading onto seagrass beds;</p> <p>(iii) Excluding fine sediments from beach nourishment sediments;</p> <p>(iv) Only undertaking beach nourishment in the winter months between June and August;</p> <p>(v) Forming the high tide construction beach with a slightly over-steepened profile;</p> <p>(vi) Only depositing as much sediment on the beach as can be transferred along the placement area in the day of placement;</p> <p>(vii) Only transferring and shaping the beach profile during lower tide levels in calm conditions, and such that the formed toe does not extend much beyond mean low water springs;</p> <p>(viii) Minimising the working area and mobilization of sediment;</p> <p>(ix) Stockpiling woody debris and then replacing woody debris in the wrack line following beach nourishment;</p> <p>(x) Avoiding the placement of beach nourishment materials no further south than the centerline of Gill Road at the southern end of Lowry Bay;</p> <p>(xi) At Lowry Bay, ensure any barging of beach nourishment material avoids disturbance of seagrass beds;</p> <p>(xii) Forming and shaping a steeper profile within the existing beach footprint; and</p> <p>(f) Placing imported beach sediment along the entire designated placement area rather than in one discrete location;</p> <p>(g) Minimising the potential to block stream outlets with fish passage during beach nourishment by:</p> <p>(i) Identifying pipe outlets that are identified as important for fish passage as identified in Table 7 of Appendix B of the AEE;</p> <p>(ii) Avoiding initial placement of sediment from within 20 m of existing outlets; and</p> <p>(iii) Monitoring of stream outlets indicated in Table 6 of Appendix B of the AEE during beach nourishment and then fortnightly for the first 6 months after nourishment and monthly for another 6 months thereafter to check they remain clear. If blocked, the Consent Holder shall clear gravels and sand block the outlets.</p> <p><i>Advice note: Clearance of any accumulated material at the outlets may require a separate consent if not able to comply with permitted activity standards.</i></p>
	<p><i>Beach monitoring and management– beach nourishment</i></p>
<p>EM.15</p>	<p>The Consent Holder shall undertake monitoring of beach volume via 6 monthly beach profiles (or equivalent elevation surveying techniques) to ensure the actual effect on beach sediment processes is in line with the expectations for generally minor redistribution of beach material.</p> <p>The monitoring shall commence prior to the Commencement of Construction in each bay in Condition EM.13, and continue for 2 years after Completion of Construction in that bay. If</p>

Commented [VHC16]: s42A report

- Proposed condition EM.14(e)(viii) is not supported and this addressed in Mr Reinen-Hamil's evidence and covered by the above provisions.
- Proposed condition EM.14(e)(xii) is not supported and is addressed in Mr Povall's evidence.
- Proposed condition EM.14(e)(xiv) is not supported as it is adequately covered under the CEMP.
- Proposed condition EM.14(e)(xv) is not supported as it is adequately covered under the CEMP.
- Proposed condition EM.14(f) is not supported as it is adequately covered under the CEMP.

Ref	Condition
	<p>nourishment occurs in more than one bay, the monitoring timing shall be aligned so that the monitoring of each bay occurs at the same time.</p> <p>This monitoring information shall be interpreted at the end of the 2 year period in that bay by an experienced coastal scientist and that interpretation shall be provided to the Manager, Environmental Regulation within 1 month of its completion.</p>
EM.16	<p>The monitoring should include the nourished area and the foreshore at the base of the seawall extending at least 60 metres along the seawall at both edges of the nourished area at York Bay and Point Howard beach, and 60 metres to the south and 240 metres to the north of the nourishment at Lowry Bay.</p>
EM.17	<p>If beach nourishment monitoring results in Condition EM.15 show that design conditions in the BNP have not been met, then the Consent Holder shall, if deemed to be required by an experienced coastal scientist or engineer, 'top up' the beach nourishment and/or undertake beach maintenance as recommended..</p> <p>Only one 'top up' event may occur at each location. If a 'top up' is required it shall occur within 2 years of the completion of the monitoring. If a 'top up' is required at more than one bay then the nourishment and/or maintenance shall, if possible, be undertaken at the same time.</p> <p>The design conditions of such 'top ups' shall be prepared by an experienced coastal scientist or engineer and certified as meeting the design conditions of the beach nourishment in the BNP by the Manager, Environmental Regulation in accordance with the requirements of Condition GC.5. To avoid doubt, Condition EM.14(e) applies to any beach nourishment 'top up'.</p>
EM.18	<p>An intertidal and subtidal benthic invertebrate monitoring programme designed by a qualified ecologist will be undertaken at least 12 months after the completion of beach nourishment in that bay to assess whether the redistributed beach nourishment material is having any significant adverse effect on the benthic intertidal and subtidal biota.</p> <p>If monitoring results show that redistributed beach nourishment material has had significant adverse effects on the benthic intertidal and subtidal biota, any 'top ups' under EM.17 will be designed by the Consent Holder to appropriately minimise those significant adverse effects on benthic intertidal and subtidal biota.</p>
<i>Seawall and revetment habitat</i>	
EM.19	<p>The Consent Holder shall engage a suitably qualified ecologist to prepare a Seawall and Revetment Habitat Plan (SRHP) and submit this to the Manager, Environmental Regulation for certification in accordance with the requirements of Condition GC.5 prior to Commencement of Construction. The SRHP shall provide for appropriate habitat for intertidal biota, including but not limited to:</p> <ul style="list-style-type: none"> (a) incorporating textures to the curved surfaces and depressions to the flat platforms of the seawalls; (b) drilling rock pools into the hard revetment rock of the mid-low tide zone; (c) reuse of larger colonised rock material; (d) purpose-made rock pool features (to be used where appropriate, and without compromising structural integrity); (e) where appropriate and/or feasible, pre-cast 'pot plant/window box structures that can be added to the surface of the curved seawall; and (f) a map of appropriate scale, showing where each method of enhancement will occur.

Landscape, Urban Design and Visual (LV)

Ref	Condition
<i>Landscape and Urban Design Plan</i>	
LV.1	The Consent Holder shall prepare a LUDP for the Project and submit this to the Manager, Environmental Regulation for certification in accordance with the requirements of Condition GC.5. The Consent Holder shall provide the LUDP for certification within 3 months of the commencement of the consents. The process to prepare the LUDP, including as set out in Condition LV.3, must be completed within this timeframe.
LV.2	The purposes of the LUDP are to: <ul style="list-style-type: none"> (a) Provide a detailed design for the Project that responds to local landscape character, identity and land use and is in general accordance with the Design Features Report (dated January 2019), and other relevant plans and documents referred to in Conditions GC.1 and GC.2(a); (b) Integrate the Project's permanent works into the surrounding landscape and urban context and to illustrate the urban and landscape design elements of the Project; and (c) Outline methods and measures to avoid or minimise adverse effects on natural character, landscape and recreational amenity during the construction of the Project.
LV.3	The LUDP shall be prepared by the Consent Holder, with input from a suitably qualified and experienced ecologist, engineer, landscape architect, recreation specialist, traffic engineer and urban designer, and in consultation with: <ul style="list-style-type: none"> (a) The Mana Whenua Steering Group to be established under Condition MW.1; (b) Relevant Resident Associations; (c) Hutt City Council (Parks and Reserves); and (d) Eastbourne Community Board.
LV.4	The LUDP shall reflect and/or incorporate the plan in Condition EM.19 as appropriate and, as a minimum, shall address how the detailed design of the Project: <ul style="list-style-type: none"> (a) Achieves design outcomes based on the following general hierarchy of environmental effects: <ul style="list-style-type: none"> (i) Safety; (ii) Ecology; (iii) Natural character; (iv) Public access; and (v) Urban design, recreational and visual amenity; (b) Responds to conflicts between any of the matters listed above, including in relation to the significance (if any) of their values relevant to the specific design matters being considered, and the significance of the matters in the context of each individual bay; (c) Responds to any relevant design elements recommended in the LPMP in Condition EM.5 and the HEP in Condition EM.9 while applying the same approach as in (a) and (b); and (d) Responds to: <ul style="list-style-type: none"> (i) The design principles set out in Appendix J: Design Features Report (dated January 2019), and other relevant plans and documents referred to in Conditions GC.1 and GC.2(a); and (ii) Relevant Industry Standards.

Commented [VHC17]: s42A report – the word "granting" is not supported (refer to s116 of the RMA).

Commented [VHC18]: s24A report removal of "general hierarchy" is not supported. The conditions have to be sufficiently certain to direct debate during the management plan process over which factors have priority which could result in significant delays. The order reflects Part 2 of the RMA.

Ref	Condition
<i>Bay Specific Urban Design Plans</i>	
LV.5	<p>The LUDP shall include the final BSUDPs for each bay within the Project area, which shall address the detailed design, within the particular bay, for the benefit of pedestrians, cyclists and others using the local road network as well as the specific urban design, landscape, ecology and recreational amenity matters, including those listed in Condition LV.7, as relevant to the particular bay.</p> <p>The final BSUDPs may either be attached to, and certified as part of, the initial LUDP or prepared later, and added to the LUDP on a staged basis, if the Construction Works are staged bay by bay and individually certified under Condition LV.6.</p>
LV.6	<p>The BSUDPs shall be prepared by the Consent Holder in two stages for each bay:</p> <p>(a) Stage 1: A draft design protocol that sets out the priorities for the bay design in terms of engineering and safety requirements as well as ecology, natural character, landscape, urban design and recreational amenity elements and issues. The draft design protocol shall provide visual representations of best practice on comparable coastal shared path projects, to demonstrate the level of design to be targeted. The protocol shall be provided to the Relevant Resident Association for the affected bay (if any) and the Eastbourne Community Board for comments, if any, within 15 working days from receipt. Any comments received, and the Consents Holder's response and reasons if they are not accepted, are to be provided to the Manager, Environmental Regulation, alongside the draft design protocol, within 20 working days from receipt of the comments; and</p> <p>(b) Stage 2: The final BSUDPs, which are to be certified either on their own (in accordance with Condition GC.5) or (if included in the initial LUDP) when the LUDP is certified under Condition LV.1.</p>
LV.7	<p>The BSUDPs shall, include specific landscape and urban design details for:</p> <p>(a) Seawall structures, including transition zones between seawall types;</p> <p>(b) Beach access including steps, ramps and associated handrails where required;</p> <p>(c) Safety barriers and railing;</p> <p>(d) The treatment of stormwater structures at the coastal interface;</p> <p>(e) Little Penguin and Shoreline Forager related structures including penguin passage elements, ramps, nests, boxes and wooden poles for roosting;</p> <p>(f) Planting treatment;</p> <p>(g) The treatment of existing trees and existing landscape and natural features;</p> <p>(h) The design and area of space available for recreational amenity activities;</p> <p>(i) The design and orientation of features, spaces and access points;</p> <p>(j) Refuge and seating opportunities, including size and arrangement of space to allow for stopping and gathering at frequent intervals distributed along the route;</p> <p>(k) Signage and storyboards;</p> <p>(l) Surface treatments.</p>

Commented [VHC19]: s42A report – wording accepted but the word "comparable" has been added so that the representations are relevant to the Project. I also think that requiring "achievement" of visual representation from other projects in other areas is inappropriate and does not provide any project flexibility. Rather, I prefer the word "targeted" to show that they are something to be aimed for.

Commented [VHC20]: s42A report

- Proposed condition LV.8 is not supported as the safety audit under condition GC.28 will raise any safety concerns. This is addressed in condition LV.3 and in Mr Povall's evidence.

Mana whenua (MW)

Commented [VHC21]: Conditions on mana whenua have been included as mentioned in the evidence of Mr Love and Mr Puketapu-Dentice.

Ref	Condition
Mana Whenua Steering Group	
MW.1	<p>(a) At least three months prior to the Start of Construction, the Consent Holder shall invite mana whenua to establish a Mana Whenua Steering Group (MWSG) for the Project. The following parties shall be invited to include representatives on the MWSG:</p> <ul style="list-style-type: none"> (i) Port Nicholson Block Settlement Trust, on behalf of Taranaki Whānui ki Te Upoko o Te Ika (Taranaki Whānui); (ii) Te Rūnanga o Toa Rangatira Incorporated, on behalf of Ngāti Toa Rangatira. <p>(b) The purpose of the MWSG is to:</p> <ul style="list-style-type: none"> (i) Facilitate ongoing engagement with mana whenua in respect of the activities authorised by these resource consents; (ii) Provide an opportunity for mana whenua to provide kaitiaki inputs into the Project as set out in condition MW.3; and (iii) Ensure appropriate tikanga and kawa (customary practices and protocols) are being applied throughout the development and implementation of the Project.
MW.2	The MWSG shall be invited to hold regular meetings (monthly) throughout the Construction Works, until the Completion of Construction.
MW.3	<p>The MWSG shall be invited to participate in the following:</p> <ul style="list-style-type: none"> (a) Development of the Project detailed design to incorporate cultural values into elements such as: <ul style="list-style-type: none"> (i) Cultural expression in artwork and in landscape works and plantings, through the LUDP required under Conditions LV1 – LV4; (ii) Signage and storyboards describing local features and the history of the area, through the BSUDPs required under Conditions LV5 – LV7; and (iii) The ecological management measures required under Conditions EM1 – EM19; (b) The processes required to be followed in respect of the discovery of archaeological features or deposits, or taonga, under Conditions AP1 and AP2; (c) Development and implementation of agreed cultural protocols / tikanga appropriate to the works or activities (for example: blessings, accidental discoveries, vegetation clearance, relocation of native fauna); and (d) Development and implementation during the Construction Works of cultural monitoring requirements and measures, to acknowledge the historic and living cultural values of the area to mana whenua and to minimise potential adverse effects on these values.

Archaeological Protocols (AP)

Ref	Condition
<i>Discovery of Archaeological Features or Deposits</i>	
AP.1	<p>If remains are exposed that are potentially archaeological features or deposits, the following procedure should be adopted:</p> <ul style="list-style-type: none"> (a) Earthworks should cease in the immediate vicinity while an archaeologist is consulted to establish whether the remains are part of an archaeological site as defined under the Heritage New Zealand Pouhere Taonga Act 2014. (b) If the archaeologist confirms that it is an archaeological site, the area of the site will be defined by the archaeologist and excluded from earthworks. (c) HNZPT will be informed of the discovery and, if the site cannot be avoided, an application for an archaeological authority to modify or destroy the archaeological site will be made (this is a legal requirement). (d) If the archaeological site relates to Māori occupation, Taranaki Whānui and Ngāti Toa Rangatira must be consulted. (e) No work can be carried out that will affect the site until the archaeological authority has commenced. (f) Any conditions attached to the archaeological authority must be complied with.
<i>Discovery of Taonga</i>	
AP.2	<p>Maori artefacts such as carvings, stone adzes, and greenstone objects are considered to be taonga (treasures). These are taonga tūturu within the meaning of the Protected Objects Act 1975. Taonga may be discovered in isolated contexts, but are generally found within archaeological sites, modification of which is subject to the provisions of the Heritage New Zealand Pouhere Taonga Act 2014.</p> <p>If taonga are discovered the following procedure will apply to the taonga itself:</p> <ul style="list-style-type: none"> (a) The area of the immediate site containing the taonga will be secured in a way that protects the taonga as far as possible from further damage. (b) The archaeologist will then inform HNZPT and the nominated Taranaki Whānui and Ngāti Toa Rangatira representatives so that the appropriate actions (from cultural and archaeological perspectives) can be determined. (c) Work may resume when advised by HNZPT or the archaeologist. (d) The archaeologist will notify the Ministry for Culture and Heritage of the find within 28 days as required under the Protected Objects Act 1975. This can be done through the Auckland War Memorial Museum. (e) The Ministry for Culture and Heritage, in consultation with Taranaki Whānui and Ngāti Toa Rangatira, will decide on custodianship of the taonga.
<i>Tangata Whenua Contacts</i>	
AP.3	<p>The contact details for Taranaki Whānui are as follows:</p> <ul style="list-style-type: none"> (a) Port Nicholson Block Settlement Trust – Kirsty Tamanui telephone: +64 27 459 9050 PO Box 12164, Thorndon, Wellington 6144 (b) Wellington Tenth Trust (Wellington) – Vicki Hollywell +64 4 473 2502 PO Box 39 294, Wellington Mail Centre, Lower Hutt 5045 24d Marine Parade, Petone. <p>The contact details for and Ngāti Toa Rangatira are as follows: Naomi Solomon, Resource Management & Communications Manager, telephone: +64 4 238 4952 (email: naomi@ngatittoa.iwi.nz)</p>

Commented [VHC22]: Note updated contact details.



Revised resource consent conditions for the
Eastern Bays Shared Path Project

Dated 30 November 2020.

	PO Box 50355, Porirua 5024
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APPENDIX 1: PROTECTION AREAS

Overview



Protection Area Overview
Project: Eastern Bays Shared Path

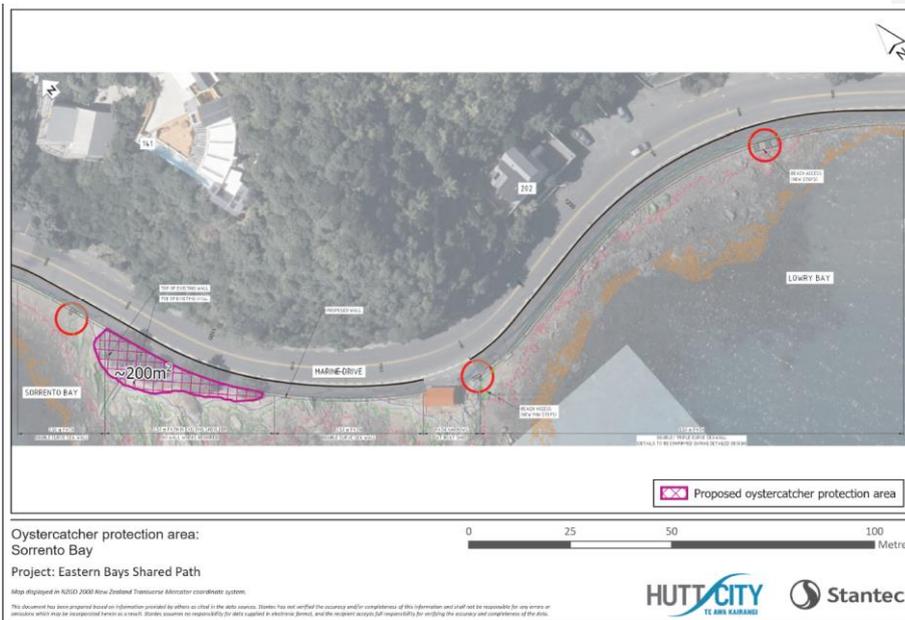
Map displayed in NZGD 2000 New Zealand Transverse Mercator coordinate system.

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BIRD PROTECTION AREAS

1. Sorrento Bay oystercatcher protection area



2. Whiorau Reserve penguin and shorebird protection area



3. Bishops Park penguin and shorebird protection area



4. HW Shortt Park penguin and shorebird protection area





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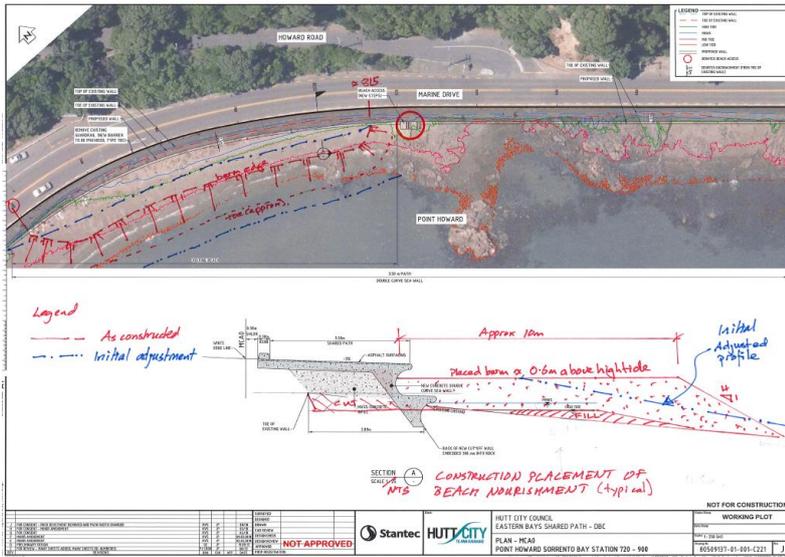
OYSTERCATCHER MANAGED WORKS ZONE



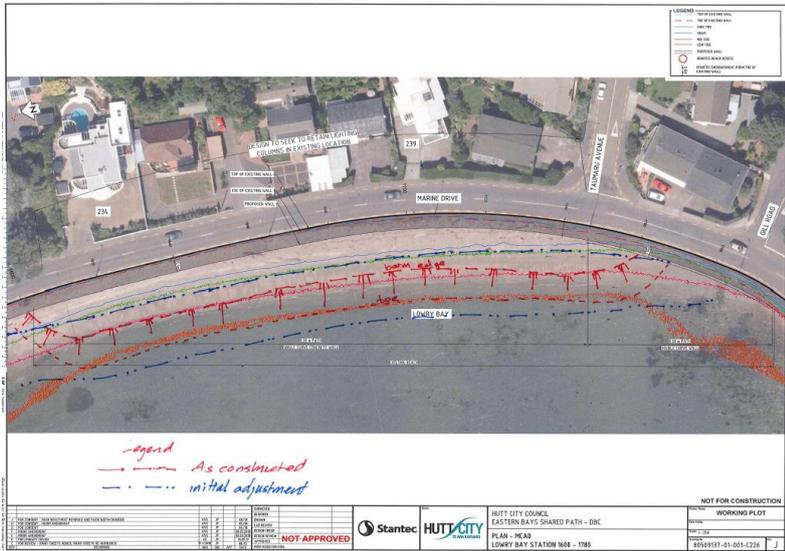
APPENDIX 2: BEACH NOURISHMENT PLANS

[Note: Draft plans are included below. These will be replaced with final plans (once these have been prepared).]

Beach Nourishment – Point Howard



Beach Nourishment – Lowry Bay



Beach Nourishment – York Bay

