

# Memo

**To:** Environmental Protection Authority    **From:** Mark Arbuthnot

**Date:** 07 July 2025    **Project No:** 12004.29

**Re:** Response to comments provided under section 53 of the Fast-track Approvals Act 2024

On 26 May 2025, the Bledisloe North Wharf and Fergusson North Berth Extension expert panel (**Panel**) released Minute 3, recording their decision on which parties are to be invited to comment on the substantive application under s 53 of the Fast-track Approvals Act 2024 (**FTAA**). Comments were invited on 28 May 2025, and the closing date was 27 June 2025.

Comments have been received from the following parties:

- (a) Minister for Climate Change.
- (b) Associate Minister of Transport.
- (c) Minister for Land Information.
- (d) Minister for Māori Crown Relations.
- (e) Auckland Conservation Board.
- (f) Auckland Council.
- (g) Department of Conservation.
- (h) McCallum Bros Ltd.
- (i) New Zealand Conservation Authority.
- (j) Ngāti Whātua Ōrākei.
- (k) Waikato Tainui.
- (l) Ngāti Paoa.

On 28 May 2025, New Zealand Game Animal Council confirmed that it would not be making comment on the substantive application.

The EPA provided a copy of the comments received under s 53 of the FTAA to the applicant on 30 June 2025. Pursuant to s 55(2) of the FTAA, the applicant provides the following response to the comments received.

The response includes amendments to the proposed conditions of consent:

- (a) An updated set of proposed resource consent conditions is appended as **Attachment 1**.
- (b) An updated set of proposed wildlife consent conditions is appended as **Attachment 2**.

### **Minister for Climate Change**

The Minister for Climate Change has not identified any substantive matters relating to the substantive application. The Minister has requested, however, that the Wharf should enable low emission ships and consider new low emission fuel capability, if applicable.

The Bledisloe North Wharf has been designed with pits and ducting to enable shore power to be installed in the future. POAL is currently investigating low emission fuels which can potentially be made available on any berth, including Bledisloe North Wharf and Fergusson North Berth Extension.

In any event, as discussed within the Air Quality Assessment prepared by Tonkin and Taylor:

- (a) The increase in efficiencies associated with the loading and unloading of larger container ships at the Fergusson North Berth Extension will result in a lower fuel consumption per teu transported when compared to smaller ships, meaning that air emissions are likely to reduce over time for the same volume of cargo handled.
- (b) The reduction in fuel sulphur content under Regulation 14 of Annex VI of the International Convention for the Prevention of Pollution from Ships ('**MARPOL**') has significantly reduced SO<sub>2</sub> emissions and will also have reduced emissions of particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>).

### **Associate Minister of Transport**

The Associate Minister of Transport supports the Project and considers it to present “a significant opportunity to unlock development and economic growth”. The Associate Minister has advised

that the ability to attract large cruise ships and logistics vessels will benefit tourism and improve trade and the economy.

The applicant agrees with the Associate Minister's comments.

### **Minister for Land Information**

The Minister for Land Information has confirmed that there is no affected LINZ-administered land and no substantive reason for the Minister for Land Information to make a submission to the Expert Consenting Panel under ss 53 and 54 of the FTAA.

### **Minister for Māori Crown Relations**

The Minister for Māori Crown Relations supports the application subject to any comments received from the relevant Māori groups. The Minister also encouraged the Panel to receive comments from Ngāti Whātua o Kaipara and to have regard to the statutory acknowledgements that apply to the coastal marine area.

The applicant sent two letters and a follow up email to Ngāti Whātua o Kaipara outlining the Project and seeking confirmation whether they, as Mana Whenua for the area, consider that a cultural values assessment is required in respect of the proposal. No response was received.

Section 12 of the substantive application provides a summary of the Treaty Settlements and customary rights that are relevant to the Project area.

### **Auckland Conservation Board**

The Auckland Conservation Board ('ACB') advises that there will be relatively small impacts on wildlife and the environment if the proposed mitigation measures and management plans are fully implemented. The ACB goes on to provide a list of conditions they consider necessary, which are based largely on the documents contained in the substantive application.

Table 1 below responds to each of the conditions the ACB has recommended.

Table 1: Applicant response to ACB conditions

ACB recommended condition	Applicant response
<p>For Little Penguins:</p> <ul style="list-style-type: none"> <li>- all aspects of the Little Penguin Management Plan are finalised and approved by the Department of Conservation, including: <ul style="list-style-type: none"> <li>○ comprehensive inspection of the rock walls occurs immediately before the construction phase commences</li> <li>○ more frequent inspection for presence of penguins during construction</li> <li>○ if penguins are found, implementation of a construction pause, and authorised removal by qualified staff to an approved alternate location.</li> </ul> </li> </ul>	<p>The Little Penguin Management Plan ('LPMP') has been reviewed by the Department of Conservation ('DOC') who agree that <i>"the processes and methods are appropriate as they are proposed to ensure the protection of wildlife and therefore consistent with the purpose of the Wildlife Act."</i></p> <p>The LPMP ensures the rock revetment is inspected prior to construction and there is an exclusion zone put around a little penguin is found during construction.</p> <p>Kennedy Environmental Limited ('KEL') has confirmed that the frequency of the construction surveys (ecologist and DOC approved detector dog) has been determined with reference to the fact that no little penguin have been found within the Bledisloe North revetment by the preconstruction surveys.</p> <p>KEL has confirmed that the pre-construction and construction surveys, combined with the training that will be provided to contractors to ensure they know how to identify little penguin, is a reasonable approach to ensure the protection of little penguin.</p>
<p>For marine mammals:</p> <ul style="list-style-type: none"> <li>- Daily presence of marine mammal spotters in elevated positions to detect morning presence or daily encroachment of any marine mammals.</li> </ul>	<p>Addressed by Condition 34, which includes:</p> <ul style="list-style-type: none"> <li>- Methods to reduce the noise at source by selecting pile driving equipment and methodologies that generate lower noise emissions.</li> </ul>

<sup>1</sup> Pg. 13, 6.2(c); Section 51(2)(c) wildlife approval report for – FTA-0053-SUB Bledisloe North Wharf and Fergusson North Berth Extension.

ACB recommended condition	Applicant response
<ul style="list-style-type: none"> <li>- During piling, continual monitoring of specific exclusion zones.</li> <li>- Daily gradual increase in piling noise levels, to allow any marine mammals to move away from area before potentially damaging noise levels are experienced.</li> <li>- Cessation of piling activities if marine mammals come within exclusion zones.</li> <li>- Where necessary, use of water bubble curtains to minimise noise transmission.</li> </ul>	<ul style="list-style-type: none"> <li>- Methods to mitigate noise from piling works, including where necessary the use of bubble curtains, or other systems to reduce noise propagating into and through the water column.</li> <li>- A requirement for marine mammal observation processes within the predicted TTS zones during piling, comprising visual monitoring from a static land-based observation point(s) 30 minutes prior to commencing all impact piling operations (noting that the draft Underwater Construction Noise Management Plan ('UCNMP') outlines there will be a soft start procedure for impact piling).</li> <li>- Shut down procedures in the event that a marine mammal is detected within or approaching the TTS zones.</li> </ul>
<p>For Biosecurity:</p> <ul style="list-style-type: none"> <li>- Strict adherence to the proposed Marine Biosecurity management plan in order to avoid the spread of unwanted/biosecurity risk species by construction vessels.</li> </ul>	<p>Addressed by section 6.4.3 of the Effects on Ecological Environment prepared by KEL, which confirms that construction barges will be sourced locally (currently working within the Waitematā Harbour) to minimise biosecurity risks associated with importing non-indigenous species, and that contractors such as Heron Construction have Pest Free Warrants for their vessels and operate under Biosecurity Management plans.</p> <p>As KEL has assessed the biosecurity effects relating to the proposed Bledisloe North Berth toe trench excavation to be negligible, no additional conditions of consent are considered necessary.</p>
<p>For Water Quality:</p> <ul style="list-style-type: none"> <li>- Implementation of proposed safeguards.</li> </ul>	<p>Conditions 54 to 61 set out the water quality monitoring and management measures to be implemented during the construction of the Project.</p>

## Auckland Council

On 2 May 2025, the panel convener held a conference with participants for the Bledisloe North Wharf and Fergusson North Berth Extension project. At the conference, the panel convener encouraged the applicant to continue to engage with Auckland Council on the project with a view to resolving any outstanding issues.

The applicant and Auckland Council have continued to engage positively on the substantive application, with some of those discussions recorded at Attachment A of the Auckland Council comments.

Auckland Council has confirmed it supports the proposal, noting that the adverse effects can be suitably avoided or mitigated by appropriate conditions of consent as proposed by the applicant. As well as this, several additional conditions have been set out within the Council's specialists' memos.

Table 2 below responds to the additional conditions that have been proposed within the specialists' memos.

*Table 2: Applicant response to Auckland Council conditions*

Auckland Council recommended condition	Applicant response
Landscape Architecture	
The final materiality and finished appearance of the Bledisloe Wharf Extension and Fergusson North Wharf Extension including piles, breastwork / edges are to be provided, including the demonstration of where detail design, materiality and / or iwi design has been introduced to minimise visual impact on the landscape, natural character and visual amenity values.	<p>This condition is not accepted by the applicant. The visual assessment undertaken has identified visual impacts to be limited, so the design and materials proposed are inherently appropriate within the port context in which the new structures will sit.</p> <p>The applicant has existing commitments to seek iwi-led design input to the cruise terminal, noting that the overall visual integration of the wharf structures into the existing port landscape is already well-</p>



Auckland Council recommended condition	Applicant response
	managed by the chosen industrial design and material approach.
<p>The following could be included as an advice note (associated with Condition 72):</p> <p>The reuse of the existing rock revetment along Bledisloe Wharf is reused on site where possible, this could be in the construction of new structure, or elsewhere on site as barriers/ features.</p>	<p>The reuse of existing rock revetment material is primarily a construction management matter, and while beneficial reuse will be considered by the applicant where practical and appropriate, it does not necessitate a specific advice note.</p>
<b>Stormwater and Industrial Trade Activities</b>	
<p>The application documents do not include the cross-section &amp; preliminary design sizing calculations for the new Jellyfish device. It is essential to review these preliminary calculations to ensure that the proposed treatment will mitigate the stormwater quality effects of contaminants generated by the site's proposed activities, such as total suspended solids (TSS), hydrocarbons, heavy metals, and oil &amp; grease.</p>	<p>Fergusson North Berth has already been fitted with a Jellyfish stormwater management device that has been sized and designed to meet these requirements.</p> <p>The applicant agrees to an amendment to Condition 35 to make specific reference to Fergusson North Berth. This will have the effect of requiring a post-construction meeting (Condition 37) and "As-Built" plans for the stormwater management works being certified and submitted to Council (Condition 38) for the wharf extension.</p>
<p>The proposed updated EMP has not been included in the application reports. The applicant has suggested a condition for the EMP under Condition 44, which will need to reference the update of the existing EMP.</p>	<p>This is addressed by Conditions 44 to 49, which include a requirement for the updated EMP:S to be submitted to Council as part of the Annual Reporting Requirements.</p>
<p>To ensure that the discharge of contaminants from the treatment system is minimized to an acceptable level and to assess the effectiveness of stormwater management practices, it is essential to implement and maintain a robust maintenance and monitoring program for stormwater discharges from the Jellyfish device. Therefore, we recommend including a discharge monitoring program to be</p>	<p>This matter is adequately addressed by Conditions 47, 48, and 49 which require:</p> <ul style="list-style-type: none"> <li>- The annual review of the EMP:S and reporting of any changes.</li> <li>- The reporting of all spills of Hazardous Substances of Classes 1 to 6, 8 and 9 over 20 litres and all spills of other hazardous substances over 50 litres.</li> <li>- Annual reporting to the Council detailing the performance of the EMP:S,</li> </ul>

Auckland Council recommended condition	Applicant response
conducted approximately quarterly or biannually over a period of three years.	inspections and maintenance undertaken, etc.
<p>I recommend removal of clauses 6(d) and (e) as the EMP:S relates to the ongoing management of the site, and provision of an updated version 10 days prior to commencement of works makes little sense. Provision of the updated information can and should occur upon completion of the installation of the devices to and procedures to which the document relates.</p>	<p>Condition 6 requires the specified management plans to be submitted at least ten working days prior to the commencement of the works “unless stated otherwise in the conditions”.</p> <p>In this instance, Condition 40 requires the Operation and Maintenance Plan to be submitted within 30 working days of completion of the installation of the stormwater management works.</p> <p>However, it is acknowledged that the EMP:S is not subject to a similar requirement. A new Condition 43A is added to require the EMP:S to be submitted within 30 working days of completion of the installation.</p>
<p>I recommend that the condition 6 be split into those plans required to be provided 10 days and prior to commencement of works (condition 6A) and those management plans required to be provided at whatever time their specific condition requires (condition 6B). This will address the discrepancy for all relevant management plans.</p>	<p>Condition 40 and amended Condition 44 is sufficient so as to make changes to Condition 6 unnecessary.</p>
<p>The information required to be contained within the OMP and EMP:S forms an updated section of the sites existing EMP:S, not a stand-alone document. Subsequent conditions or an advice note to this effect would clarify this relationship.</p>	<p>An advice note has been added to Condition 47 to address this matter.</p>
<b>Air Quality</b>	
<p>Continuous air quality monitoring for PM<sub>2.5</sub>, PM<sub>10</sub>, and SO<sub>2</sub> at a sensitive receptor near the project site is recommended to assess potential localised impacts from relocated shipping</p>	<p>This condition is not accepted by the applicant. Tonkin &amp; Taylor (Jenny Simpson, Senior Environmental Engineer) has provided the following response:</p>



Auckland Council recommended condition	Applicant response
<p>emissions. This will help validate air dispersion modelling, ensure compliance with air quality standards, and provide data for any necessary mitigation measures.</p>	<p>“The Officer has provided three reasons for recommending air quality monitoring, which I respond to below:</p> <ul style="list-style-type: none"> <li>• To validate air dispersion modelling - Air dispersion modelling has not been carried out as part of the air quality technical assessment because the effects of the project can be described without modelling. Therefore, there is no need to undertake air quality monitoring to validate air dispersion modelling outputs.</li> <li>• To ensure compliance with air quality standards: <ul style="list-style-type: none"> <li>▪ As agreed by the Council’s reviewer, the air quality impacts of the project will be minor and are mainly related to emission sources (ships) being relocated rather than increasing emissions. This relocation will result in small changes in separation distances to receptors, which are not expected to have any material effects on PM<sub>10</sub> and PM<sub>2.5</sub> concentrations and only very small changes in SO<sub>2</sub> concentrations at some receptors (other than at Princes Wharf where there should be a material improvement).</li> <li>▪ Shipping emissions are the main source of SO<sub>2</sub> around the Port (and a small contributor to levels of PM<sub>10</sub> and PM<sub>2.5</sub>). A full year of air quality monitoring for SO<sub>2</sub> undertaken by Ports of Auckland in Parnell (approximately 350 m south of the Port boundary) in 2018/19 demonstrated that air quality met the</li> </ul> </li> </ul>

Auckland Council recommended condition	Applicant response
	<p>NZ ambient air quality standards and guidelines, and the more stringent World Health Organization 2021 air quality guidelines. SO<sub>2</sub> concentrations will have reduced significantly (approximately 75%) compared to when this monitoring was conducted due to the 75% reduction in the marine fuel sulphur limit in January 2020. Consequently, further air monitoring for SO<sub>2</sub> is not warranted as there is a high degree of confidence that any minor changes in SO<sub>2</sub> air quality at some receptors will not contribute to exceedances of New Zealand ambient air quality guidelines.</p> <ul style="list-style-type: none"> <li>▪ As shipping emissions are a small contributor to PM<sub>10</sub> and PM<sub>2.5</sub> concentrations around the Port, any minor changes in air quality related to the project will be so small that they will almost certainly not be discernible in the monitoring data and will not impact on the extent to which existing air quality meets air quality standards. Air monitoring for PM<sub>10</sub> or PM<sub>2.5</sub> is unlikely to provide useful information in relation to the effects of the project.</li> <li>• To provide data for any necessary mitigation measures – as the air quality impacts of the project will be minor, no specific mitigation measures are proposed (noting also that the normal emissions from ships are a permitted activity and do not require resource consent). The main mitigation measure for emissions to air from ships is compliance with the global marine fuel sulphur limit, which is</li> </ul>

Auckland Council recommended condition	Applicant response
	implemented through the Maritime Transport (MARPOL Annex VI) Amendment Act 2021 and the Marine Protection Rules Part 199. The Marine Protection Rules are administered by Maritime NZ.”
Ensuring compliance with low-sulphur fuel regulations to sustain the declining trend in ship-related emissions.	The applicant does not accept this condition. Compliance with low-sulphur fuel regulations is a requirement of MARPOL VI and administered by Maritime New Zealand. A condition is therefore unnecessary.
<b>Auckland Transport</b>	
<p>AT also recommends that, visible wayfinding signage should be provided in proximity to the proposed pedestrian gate, so that pedestrians exiting the site can readily and safely disperse into the city.</p> <p>The provision of the gate is considered to form part of the proposal. The signage requirements are recommended as a condition of consent as part of the proposed transport management plan.</p>	Condition 53 has been amended to include a requirement for visible wayfinding signage to be provided in proximity to the proposed pedestrian gate.

### Department of Conservation

The Department of Conservation has confirmed its view that the application in general addresses the key substantive matters in relation to actual and potential adverse effects. The Department of Conservation has provided comments on the application relating to wildlife, marine mammals and marine biosecurity, which could provide a basis for further improvements to the proposed conditions.

Table 3 below responds to the commentary provided in paragraphs 3.9–3.14 of the report in relation to the conditions to avoid, mitigate or remedy any potential and actual effects on marine mammals, and paragraphs 3.15-3.18 in relation to the conditions to avoid, mitigate or remedy any potential and actual adverse effects in relation to biosecurity hazards.

Table 3: Applicant response to Department of Conservation comments

Department of Conservation comments	Applicant response
Marine Mammals	
<p>3.9 [The mitigation and management for piling is] considered appropriate to manage actual and potential effects, however, it is unclear what buffer will be added to zones to ensure no marine mammals encroach into an area of Temporary Threshold Shift (TTS). It is important that imposition of too strict a TTS limit does not frustrate the consent, as this would not be lawful and could cause significant delays. The Department also considers that any consent granted should also consider the potential worst-case effects of “double piling” (piling occurring at both wharves at the same time) and devising appropriate mitigation strategies in conditions to address this effect.</p>	<p>KEL has confirmed that the TTS zones were determined through the modelling undertaken by Marshall Day Acoustics for those marine mammals considered likely to be present in the Waitematā Harbour during the project piling phase.</p> <p>KEL has also advised that:          “The management approach set out in the draft Underwater Construction Management Plan (UWNMP) (Attachment 11 of the Application) prepared by Marshall Day will utilise marine mammal observers (MMO) who will undertake observations to identify observable marine mammals outside the TTS zones with detection initiating a piling shut down procedure. The MMO observation process will be supplemented by two other sources of information:</p> <ul style="list-style-type: none"> <li>• Observations by vessels within the harbour reporting observations to harbour control which is operated by Port of Auckland.</li> <li>• Observations reported on social media which will often occur in near real time.”</li> </ul> <p>Piling will not be undertaken simultaneously at Bledisloe North Berth and Fergusson North Berth Extension.</p> <p>Notwithstanding, even if piling were to be undertaken simultaneously, Marshall Day Acoustics has confirmed that:</p>

Department of Conservation comments	Applicant response
	<p>“The Bledisloe and Fergusson piling works are at least 900m apart and would have separate / distinct MMO management zones. Two scenarios:</p> <ol style="list-style-type: none"> <li><b>Vibro pile driving at Bledisloe and Fergusson (proposed):</b> Cumulative noise levels would increase by 0 - 1 decibels between the two wharves. A 1 decibel increase would result in a negligible change to the MMO management zones / approach.</li> <li><b>Impact pile driving at Bledisloe and Fergusson (worst case contingency):</b> Cumulative noise levels could increase by 2 – 3 decibels between the two wharves, within the overlap of the two MMO zones. At the two MMO zones cumulative outer extents (i.e. west of Bledisloe and east of Fergusson), the increase would again be less than 1 decibel, resulting in the same conclusion for vibro pile driving above.”</li> </ol>
<p>3.10 POAL have indicated that piling work will cease if animals ‘are approaching the zone of TTS’, which suggests there will be some level of buffer. POAL have undertaken to only do piling during daylight hours, which is critical for the functioning of MMOs.</p>	<p>This statement is sufficiently addressed by Condition 34(a)(v) and (vi) which requires the UCNMP to include observation processes to identify marine mammal presence within the predicted TTS during piling, comprising visual monitoring from a static land-based observation point(s) 30 minutes prior to commencing all impact piling operations, together with shut down procedures in the event that a marine mammal is detected within or approaching the TTS zones.</p>
<p>3.11 Another matter which the Department recommends the conditions/management plan should adopt is the use of a “soft start” to warn marine mammals of the commencement of piling.</p>	<p>This is sufficiently addressed by Condition 34(a)(i) which requires the UCNMP to include methods to reduce the noise at source by selecting the pile driving equipment and</p>



Department of Conservation comments	Applicant response
	<p>methodologies that generate lower noise emissions.</p> <p>The draft Underwater Noise Construction Management Plan outlines there will be a soft start procedure for impact piling to alert marine mammals or penguins to the present of the piling rig and enable animals to move away.</p>
<p>3.12 The split of measures in conditions compared to what is in attachment 11 of the application Draft UCNMP (Marshall Day Acoustics 2025) should be explicit. The Department's view is that the objective and performance standards need to be outlined in the conditions, and the other details can be in the management plan. The Department's view is that the TTS should be used as the basis for the objective, and conditions should detail the specifications for the validation of the noise levels, outline the mitigation required, and provide for reviews of the mitigation measures. Whereas the management plan should detail the "how" of achieving this objective and performance standards (see Giles and Barton 20202).</p>	<p>Not accepted.</p> <p>Conditions 33 and 34 already reflect the approach recommended by Giles and Barton (2020), in that they separate the core performance requirements (objectives, validation, and mitigation expectations) from the operational detail and methodologies, which is provided for the in certified UCNMP.</p> <p>Condition 33(b) sets a clear objective to confirm the TTS zones, and Condition 34(a)(iv) requires noise validation, zone confirmation, and review of mitigation effectiveness.</p> <p>This provides the necessary clarity, enforceability, and flexibility to respond to site-specific construction methodologies, seasonal constraints, and emerging best practice.</p> <p>No amendment is required.</p>
<p>3.13 The species POAL have included are those most likely in the area. The Department has however also recorded one Hector's dolphin in this area in recent times. This recent recording is one of the only times a</p>	<p>KEL has advised that:</p> <p>"In reviewing the marine mammals that should be included in the underwater noise modelling, it was considered that there was an extremely low probability of Hectors dolphin</p>

Department of Conservation comments	Applicant response
<p>Hector's dolphin has been seen in the inner Hauraki Gulf, so it is understandable why this species has not been included. Although this could have an impact on the management zones, as they are considered a species sensitive to noise.</p>	<p>(<i>Cephalorynchus hectori</i>) being found within the harbour. Hector's is a coastal species with its population focussed on the east and west coast of the South Island. There are records of Hector's being sighted on the east coast of the North Island up to Whangarei. Over the last five years (2020-2024) there have been five isolated sightings off the north-east coast of New Zealand with one in 2024 of a single Hector's dolphin within the Waitemata Harbour. The frequency of sightings is sufficiently low, to exclude it from the species-specific assessment that was carried out. Further information is included in Appendix A to this memo.</p> <p>As described in the Supplementary notes in Appendix B to this memo, the TTS zones for the VHF cetaceans (which include Hector's dolphin), are larger compared to the other cetacean groups. However, the use of bubble curtain mitigation reduces the TTS zones (more for VHF cetaceans than LF cetaceans) (refer to TTS zone notes in Appendix B). Given the very low likelihood of a Hector's entering the harbour, it is considered that its presence would likely be noted by the public or by vessels in the lower harbour (on-communicated to the project by harbour control) or spotted by MMOs and the piling shut down process initiated."</p>
<p>3.14 There are other species less likely to occur that have previously been present in in the area, however, it is reasonable to consider that these would be picked up by MMOs if present. For example, Bryde's whales are not listed and are present year-round in the Hauraki Gulf, however available information</p>	<p>KEL has confirmed that:          "Other species of small and larger cetaceans have been identified within the Waitematā Harbour. Bryde's whale is one of the few that has a resident population within the Hauraki Gulf and is well studied (refer supplementary notes in Appendix A). There are few records</p>

Department of Conservation comments	Applicant response
<p>on distribution suggests they are unlikely to be impacted by this project, being so close to the Port. It may be prudent to evaluate the noise modelling at lower frequencies in the hearing range of Bryde's whales. While there are islands in the way of where these whales typically frequent, this could be tested as a condition requirement this to see that they are not impacted.</p>	<p>of Bryde's entering Waitematā Harbour, but it has been reported in 2015 (refer Appendix A).</p> <p>Appendix B includes notes on modelling of TTS zones for Low frequency (LF) cetaceans (which include Bryde's whale). The modelled TTS zones for LF cetaceans are typically larger than those identified for cetacean and pinniped groups that were modelled. The zones are smaller than that for the VHF group. Even though the likely TTS zones are larger, Bryde's whale is a very unlikely visitor to the harbour. Even if a large cetacean such as Bryde's were to enter the harbour its presence would be noted quickly (by MMOs or vessels in the lower harbour, on communicated to the project by harbour control) and the piling shut down process initiated."</p> <p>In relation to Bryde's whales, it is noted that a speed reduction protocol already applies to commercial vessels transiting the Hauraki Gulf, as set out in the Hauraki Gulf Transit Protocol for Commercial Shipping. This protocol includes procedures for reporting whale sightings, which are coordinated through Harbour Control. This protocol provides a mechanism by which the presence of a Bryde's whale may be identified and relayed to contractors via Harbour Control. In the unlikely event that a whale is detected near the project area by the MMO or through the Transit Protocol reporting processes, the piling shut-down procedures in the UCNMP would apply.</p>
Biosecurity	
<p>3.15.1 It is noted that there is a question around excavation enhancing the spread of</p>	<p>As noted in section 5.7.1 and 5.7.4.4 of the KEL assessment, Mediterranean fanworm is</p>

Department of Conservation comments	Applicant response
<p>marine pests (page 35): “the primary biosecurity issue is whether the excavation will enhance the spread of any NIS of concern”. However, the answer/resolution to this question is not clarified. Clarifying this may help inform any appropriate avoidance, remediation or mitigation strategies.</p>	<p>already present within the area proposed for excavation, and is consistently recorded as part of the six-monthly biosecurity surveys undertaken across the Waitematā Harbour, including the seabed. A second NIS, <i>Styela clava</i> (clubbed tunicate), is also well established and not subject to active control.</p> <p>Section 6.4.3 of the KEL assessment concludes that the loss of fanworm fragments during excavation is unlikely to result in further establishment elsewhere in the harbour due to the already widespread distribution of the species in adjacent environments. In this context, any release of fragments during excavation is not expected to meaningfully increase the rate of spread or infestation. The effects are therefore assessed as negligible, and no specific avoidance or mitigation measures are proposed or considered necessary.</p> <p>For completeness, the Ministry for Primary Industries has reviewed the associated biosecurity risk in relation to disposal of dredged material at sea. On 6 May 2025, the Environmental Protection Authority (EPA), acting on MPI’s advice, approved the disposal of this material at the designated offshore site. That approval can be found on the Port of Auckland Website<sup>2</sup> and confirms that the overall biosecurity risk of the proposed works is acceptable.</p>
<p>3.15.2 The assessment states (page 39): Some minor loss of marine growth from the piles may occur during lifting. As described in Section 4.6, fanworm (<i>Sabella spallanzanii</i>),</p>	<p>KEL has advised that:          “As noted by Department of Conservation, fanworm is a notifiable organism (Section 5.7.4.3 of KEL). The Construction</p>

<sup>2</sup> [https://drive.google.com/drive/folders/1TETa5zEkKr4o-HA\\_gpQhzdT\\_OE5Mq5px](https://drive.google.com/drive/folders/1TETa5zEkKr4o-HA_gpQhzdT_OE5Mq5px)



Department of Conservation comments	Applicant response
<p>are well established in the Port, on the seabed alongside the BN reclamation and elsewhere in the lower Waitematā Harbour. This pest species is a notifiable organism (section 45 and Biosecurity (Notifiable Organisms) Order 2016) under the Biosecurity Act 1963. Section 52 of the Biosecurity Act sets out restrictions of the spread of an unwanted organism. This requires the piles are not transported elsewhere with fanworm attached as there are other locations in the north island that have fan-worm management programs in place.</p> <p>3.15.3 The Department was unable to identify any further explanation on what is intended to be done with these piles to meet these requirements and therefore minimise the risk for exacerbating the spread of the unwanted organism. It may be useful to clarify what is intended to be done with these piles to minimise any potential adverse effects and inform conditions/management plans.</p>	<p>Management Plan will address the pest management associated with the removal of piles. The Construction Management Plan will require any fanworm be removed from the piles prior to the piles being transferred to an area where fanworm is not present.</p> <p>An update to the list of items to be included in the management plan has been added to draft Condition 18.”</p>
<p>3.15.4 The Department has noted mitigation of biofouling risk only refers to the construction vessels – not the piles and wharf structures. This is an area where the conditions could be improved to address the biosecurity risk of piles and structures, if it is not otherwise addressed in an appropriate management plan.</p>	<p>KEL has advised that:</p> <p>“The biofouling risk of construction vessels was included in the assessment as this was considered a risk. The new structures will add surfaces able to be colonised by both native and exotic organisms. The ability to minimise colonisation by exotic organisms is a complex area of biosecurity mitigation and there does not appear to be a single way by which the colonisation or use of new habitat (created by installation of new piles) by exotic biota can be limited/mitigated.”</p>
<p>3.15.5 The Department has noted that page 88 of the AEE references regulations and proposing conditions to manage the threat of fanworm spread from piles during removal:</p> <p>(b) Some minor loss of marine growth on the</p>	<p>KEL has confirmed that:</p> <p>“The reference to regulations related to the management of fan-worm on piles removed to land under sections 52 and 53 of the Biosecurity Act 1993 (Duties of owners of</p>



Department of Conservation comments	Applicant response
<p>piles is anticipated during removal. The piles will be managed in accordance with biosecurity regulations to prevent the spread of Mediterranean fanworm (<i>Sabella spallanzanii</i>), a notifiable pest species under the Biosecurity Act 1993.</p> <p>3.16 It would be helpful to clarify the reference to 'regulations' to understand how these are proposed to influence conditions to assist in minimising these potential effects.</p>	<p>organism). The sections direct that no person shall knowingly transport or distribute, any material or equipment (e.g., the piles or any material removed from the marine environment) [note that this also applies to rocks removed from the revetment] that may contain or harbour a marine sustained control pest (e.g., fan worm). Measures will be implemented to remove marine growth (and appropriately dispose of that material) via the Construction Management Plan (refer 3.15.3 above)."</p>
<p>3.17 The application states (page 89): The excavation will result in the loss of soft-bottom habitat within the toe trench footprint. Biological surveys indicate that the existing habitat supports sparse infauna and no epifaunal communities of ecological significance. The new rock habitat established during revetment construction will support a similar biological community to the surrounding area. Disturbed seabed adjacent to the trench will stabilise naturally, and biological communities in these areas are expected to recover over time through natural processes. The overall effect on local habitat has been assessed by KEL to be negligible to low.</p> <p>3.18 The Department is unclear on how the conclusion that the new rock habitat established during revetment construction will support a similar biological community to the surrounding area has been drawn. It would be prudent to clarify what steps are being taken to ensure that marine pests, particularly fanworm, won't colonise first and outcompete anything else.</p>	<p>KEL has advised that:</p> <p>"In relation to the Revetment works on the BN revetment, Section 6.3.2 of KEL states "The work will result in the loss of existing intertidal and subtidal habitat (described in Section 5.6 and 5.7). With the proposed construction, the community will not re-establish on the new revetment due to the new revetment being shaded by the new wharf deck."</p> <p>The deck shading will have most effects in the intertidal and upper sub-tidal. It is likely that at the base of the revetment the current sponge habitat would re-establish. The loss of the intertidal habitat on the new revetment was the factor that led to the provision of mitigation elements which include addition of "fish" hotels to steel piles, and mussel ropes within the port (draft Condition 66).</p> <p>Refer 3.17 and 3.15.4 above."</p>

### Wildlife Approval

On 12 June 2025, DOC has provided a ‘wildlife approval report’ under s 51(2)(c) of the FTAA. Appended to that report is a revised condition set for the wildlife approval. The applicant is generally supportive of the revised conditions. Table 4 below sets out the applicant’s response to the conditions that remain outstanding.

*Table 4: Response to Wildlife Approval conditions*

<b>Condition</b>	<b>Applicant response</b>
1.5 The Director-General will certify an amendment to the LPMP if it includes processes for the following, in a manner that will achieve the LPMP objective: ... (ii) Training construction staff in the identification and detection of little penguins. ...	The inclusion of the term “detection” in Condition 1.5(ii) implies that construction staff will undertake formal penguin detection using specialist methods (e.g. conservation dogs). Rather, construction staff will receive training to support the identification and reporting of any signs of little penguin presence (e.g. sightings or calls) during works.  Specialist detection will be undertaken by trained and qualified personnel, including dog handlers, as part of the certified Little Penguin Management Plan (LPMP). As such, the reference “detection” has been deleted.
... (vi) The safe management and, if appropriate, relocation of little penguin if found within or near to the Project area, including identification of appropriate relocation sites and mitigation for impacts like habitat loss. ...	The certified LPMP currently identifies only one relocation site, located on the eastern container terminal revetment near Judges Bay, as described in section 5.9.2 of the draft LPMP. Accordingly, the reference to “relocation sites” in Condition 1.5(vi) has been revised to “relocation site” to reflect the current proposal.
... (ix) Reporting procedures and format for providing the results of any monitoring or surveying required by the LPMP.	While the LPMP requires surveying to be undertaken, it does not include any specific monitoring requirements. To clarify the intent of the condition and ensure alignment with the LPMP, Condition 1.5(ix) has been amended by deleting the word ‘monitoring’, so that it now reads: “(ix) Reporting

Condition	Applicant response
	procedures and format for providing the results of any surveying required by the LPMP.”

### **McCallum Bros Ltd**

McCallum Bros Ltd has advised that it supports the application in its entirety and considers the Project necessary due to the plans to transfer Captain Cook and Marsden Wharves to Auckland Council for public use and the need to ensure that Auckland has a well-functioning port.

### **New Zealand Conservation Authority**

The New Zealand Conservation Authority (‘NZCA’) has evaluated the proposal against its statutory conservation oversight role and concludes that the proposal is broadly consistent with the statutory conservation management framework. Concerns have been identified in relation to possible gaps in iwi engagement, lack of Treaty settlement (including Marine and Coastal Area Act 2011 (MACA)) assessment, species management measures for kororā, and limited integration of biodiversity policy and public amenity considerations. The NZCA are of the opinion that the proposal requires further alignment with conservation planning documents, DOC’s statutory mandate and the New Zealand Coastal Policy Statement (‘NZCPS’).

Table 5 below responds to the recommendations that are contained in the NZCA report.

*Table 5: Applicant response to New Zealand Conservation Authority recommendations*

NZCA recommendations	Applicant response
The NZCA recommends that any FTAA approval granted by the Panel incorporate enforceable conditions to uphold the purpose of the Conservation Act, the principles of the General Policy for Conservation, the protection of ecological and cultural values under the Wildlife and Marine Reserves Acts and the NZCPS.	The applicant has proposed conditions of consent which will ensure potential adverse effects are appropriately avoided, remedied or mitigated, but which are no more onerous than is considered necessary, in accordance with s 83 of the FTAA.



NZCA recommendations	Applicant response
<p>The NZCA recommends that the Panel seek assurance that engagement with mana whenua was early, genuine, and culturally grounded. The project must demonstrate alignment with Treaty settlement instruments, particularly those that include cultural redress in the Auckland waterfront area, and ensure that iwi and hapū with acknowledged customary interests have had a meaningful opportunity to shape the project's design, ecological mitigation, and implementation. Without clear evidence of such engagement or inclusion of cultural mitigation pathways, the application does not sufficiently demonstrate compliance with the Treaty obligations embedded in section 4 of the Conservation Act 1987.</p>	<p>The applicant has consulted widely on the Project. A summary of that engagement is appended to the substantive application as Attachment 3. The statutory obligation to consult with relevant iwi authorities, Treaty settlement entities, and protected customary rights groups and customary marine title groups has been met by the applicant.</p>
<p>The NZCA recommends that the Panel seek confirmation from the Crown, preferably Te Tari Whakatau or the Ministry for the Environment, that the proposed project does not compromise, conflict with, or undermine any current Treaty settlements, redress mechanisms, or MACA interests. In the absence of such assurance, the application may contravene section 7 of the FTAA. It should not proceed until these matters are resolved to the satisfaction of the Crown and affected iwi and hapū.</p>	<p>Section 12 of the substantive application provides an overview of the Treaty Settlements and customary rights that are relevant to the Project area.</p> <p>The applicant has consulted with the relevant iwi authorities, hapū, and Treaty settlement entities, as well as the relevant application groups with applications for customary marine title under the MACAA.</p>
<p>The NZCA recommends that the Panel:</p> <ul style="list-style-type: none"> <li>Require the certified LPMP to be an enforceable condition of any wildlife approval and ensure it is fully implemented according to the recommendations outlined in the DOC's section 51(2)(c) report.</li> <li>Maintain DOC's certification and recertification responsibilities for any</li> </ul>	<p>KEL has stated that:</p> <p>"The LPMP finalisation will be an enforceable requirement of conditions and will provide the basis for the requirements of the WAA. As noted above, DOC have already indicated in their submission that they consider the content of the LPMP appropriate. It is expected that the certification of the LPMP will be undertaken jointly by Department of</p>

NZCA recommendations	Applicant response
<p>amendments to the LPMP to safeguard ecological integrity and ensure compliance with the Wildlife Act 1953 and DOC operational standards.</p> <ul style="list-style-type: none"> <li>• Guide the applicant to collaborate with mana whenua to integrate tikanga-based practices and mātauranga Māori into the implementation of the LPMP, ensuring meaningful opportunities for iwi involvement in penguin relocation, habitat monitoring, and kaitiaki roles.</li> <li>• Ensure all ecological monitoring data and incident reports related to kororā are shared transparently with both DOC and relevant mana whenua entities to uphold the principles of partnership, active protection, and shared environmental stewardship.</li> </ul>	<p>Conservation and Auckland Council through the conditions. This will then require all revisions to the plan to be approved by both the department and council.</p> <p>Some specific information collected during surveys and incidental discovery, incident reports or relocation of kororā will be reported to Department of Conservation. No ongoing kororā monitoring is proposed as part of survey and relocation of kororā will occur within the port boundaries”. As such relocation which has to occur “immediately” after capture will be carried out by the kororā handlers specified in the WAA.</p>
<p>While the proposal meets the functional need test under Policy 6 of the NZCPS and is supported by Policy 10 NZCPS, further work is required to demonstrate compliance with Policy 11 NZCPS and the NPS-IB. The NZCA recommends that the Panel:</p> <ul style="list-style-type: none"> <li>• Require the implementation of the DOC-certified LPMP as a binding condition of approval, ensuring that residual impacts on kororā are properly avoided (NZCPS Policy 11), and that any temporary habitat loss is managed through the proposed nest box provisions.</li> <li>• Officially include mana whenua input in identifying taonga species and their habitats, and ensure this knowledge guides the ongoing development and adjustment of biodiversity management measures, in accordance with NPS-IB requirements.</li> </ul>	<p>Conditions 62 to 65 require the implementation of the LPMP.</p> <p>The ecological effects of the Project have been assessed by KEL to be negligible to low. Further input into the LPMP and long-term environmental monitoring of the Project area (which has been discussed with the Department of Conservation) is not considered to be necessary. The Application also provides a planning assessment of the relevant policies of the NZCPS (including Policy 11).</p> <p>Any residual adverse effects on indigenous biodiversity are therefore considered to be appropriately avoided.</p>



NZCA recommendations	Applicant response
<ul style="list-style-type: none"> <li>Require long-term ecological monitoring and transparent reporting, with monitoring results shared with DOC and relevant mana whenua entities to support shared stewardship and adaptive management.</li> <li>Ensure that any residual adverse effects on indigenous biodiversity that are not required to be avoided are managed through ecologically suitable and culturally sensitive compensation or enhancement measures.</li> </ul>	<p>The Application provides enhancement in the form of improved fish habitat and mussel ropes.</p>
<p>The NZCA recommends that the Panel impose conditions requiring the applicant to:</p> <ul style="list-style-type: none"> <li>Minimise visual dominance of the proposed infrastructure when viewed from Queens Wharf, Quay Street, and the ferry terminal area</li> <li>Incorporate design elements that soften the interface between built port structures and the coastal environment, such as public viewing platforms, green infrastructure, or integrated pedestrian access where feasible</li> <li>Demonstrate that the proposed works do not impede current or future opportunities for public engagement with the Waitematā Harbour</li> <li>Assess and report on potential effects on natural character and amenity as part of any landscape and visual impact assessment required by the Panel.</li> </ul>	<p>The applicant undertook extensive consultation in relation to the Project, including with Auckland Council, Auckland Transport, mana whenua, residents, and other interest groups. The Project was refined as a result, with the width of the Bledisloe North Wharf reduced to limit the scale of the encroachment into the harbour from 13m to 6.6m beyond the Bledisloe B3 Wharf. The visual dominance effects of the Bledisloe North Wharf have been minimised as a result.</p> <p>The Project is located within a customs bonded area where public access is restricted for safety and security reasons. The Project therefore minimises its adverse effects on public access and recreational use of the coastal marine area. By locating within part of the CMA that is subject to existing occupation rights under s384A of the RMA, the extent of the occupation of the CMA has been limited to those areas which are essential for the Project's operations and public safety, minimising further potential loss of public access.</p>

NZCA recommendations	Applicant response
	An assessment of the Landscape and Visual Effects of the Project has been undertaken by Boffa Miskell and is included as Attachment 30 to the substantive application. The effects of the Project on natural character have been assessed to be very low.

### Ngāti Whātua Ōrākei

Ngāti Whātua Ōrākei has raised several matters in its comments on the substantive application. In response:

1. The applicant acknowledges the rohe of Ngāti Whātua Ōrākei and the concerns that have been raised in relation to the breadth of consultation undertaken with iwi and hapū.
2. The correspondence between Ngāti Whātua Ōrākei Chair, Marama Royal and POAL Chair, Jan Dawson dated 22 October and 1 November 2024 establishes an active and constructive working relationship on specific priorities, including broader transport matters, cultural engagement and employment opportunities. There have been a range of meetings between the applicant and Ngāti Whātua Ōrākei prior to the lodgement of the application, summarised in the consultation log.
3. Prior to the lodgement of the substantive application, POAL also committed to engaging with Ngāti Whātua Ōrākei on the detailed design of the cruise passenger terminal (refer to consultation summary), noting that the use of the ground floor of the vehicle handling facility for the embarking and disembarking of passengers and the alterations associated with the creation of the cruise terminal are provided for as a permitted activity under the provisions of the Auckland Unitary Plan.
4. The applicant prioritises cultural engagements and opportunities with Ngāti Whātua Ōrākei. At the same time, the applicant notes that s 53(2)(b) of the FTAA requires comments to be invited from “any relevant iwi authorities”. POAL has complied with that requirement.
5. The FTAA does not require applicants to demonstrate that a proposal will have a significant public benefit, environmental benefit, or both, before an approval can be granted. In any event, the public and environmental benefits of the Project have been clearly identified in the substantive application and include:

- a. Improved port capacity and reliability to support international cruise tourism and freight logistics, benefiting Auckland's economy and employment, as well as wider national economic efficiency.
  - b. The facilitation of the transfer of Captain Cook and Marsden Wharves to Auckland Council for future public use, providing the opportunity for public access and recreational opportunities in due course.
  - c. The intensification and optimisation of existing port operations, rather than expanding into unmodified coastal areas, representing an efficient use of natural and physical resources.
  - d. More efficient crane operations, removing repositioning delays and fuel wastage, and ensuring the long-term viability of the port as a strategic physical resource of national economic significance.
  - e. The relocation of large cruise vessels away from Princes Wharf and central city berths to Bledisloe North Wharf, reducing visual dominance of large ships and conflicts with ferry operations in the Queens Wharf basin.
  - f. Reduced delays and cancellations due to weather constraints at existing berths, improving certainty for cruise lines and positive visitor experience.
  - g. Ecological enhancements to mitigate effects including the provision of fish houses, penguin boxes and mussel ropes.
6. In relation to the transfer of Captain Cook Wharf and Marsden Wharf to Auckland Council, the Auckland Council Long Term Plan 2024–2034 ('**LTP**') provides for the transfer to occur within a two to five year timeframe. The LTP notes that any final decision to transfer the wharves is subject to the granting of the relevant consents for this Project and agreement between the parties on the valuation of the wharves. It is acknowledged that the completion of the transfer agreement will take time, particularly in light of the local government election scheduled for October 2025. However, works on the Project must commence this year to enable the transfer to occur. In light of the above and to provide additional comfort in relation to the planned transfer of captain Cook and Marsden Wharves, the applicant proposes the following additional condition of consent:

- a. Within 12 months of the commencement of construction works authorised by this consent, the Consent Holder shall provide written evidence to the Team Leader Compliance and Monitoring Central, Auckland Council, confirming that an agreement has been entered into between Ports of Auckland Limited and Auckland Council for the transfer of Captain Cook Wharf and Marsden Wharf.  
If an agreement has not been entered into within 12 months of commencement of construction, the Consent Holder shall provide a written update to Council outlining the status of negotiations and anticipated timeframe for completion.
7. The substantive application has been prepared with recognition that the effects (positive and adverse) extend beyond the footprint of the works. The assessment has considered cumulative and operational impacts on the wider port and harbour system, including marine ecology, underwater noise, traffic movements, cruise vessel berthing, and cultural values.
8. The applicant acknowledges the significance Ngāti Whātua Ōrākei places on the preparation and review of management plans as a means of giving effect to their role as kaitiaki. However, formal involvement in the preparation and review of management plans prepared for the purposes of this application is not proposed. The established partnership between the applicant and Ngāti Whātua Ōrākei provides a more effective and enduring channel through which cultural and environmental outcomes can be advanced, including opportunities for involvement in environmental planning, operational discussions, and development proposals of mutual interest. Notwithstanding, the applicant remains open to sharing finalised versions of relevant management plans with Ngāti Whātua Ōrākei as part of ongoing engagement, outside of the formal certification process.
9. The cumulative effects of the Project are well canvassed in the substantive application. For example:
  - a. The landscape and visual effects assessment concludes that cumulative effects are low, even when accounting for the proposed wharf extensions in combination with the existing port infrastructure and operational context.
  - b. The ecological assessment addresses cumulative effects in relation to construction activities and their impact on habitat disturbance, particularly for little penguin populations, benthic and intertidal ecology, and marine mammals and fish species.

- c. Cumulative effects in relation to navigation and marine safety are also assessed. The increased berth capacity, the navigational footprint and manoeuvring requirements of larger vessels, and the potential for conflict with ferry, commercial, and recreational harbour traffic have all been assessed to be acceptable.
  - d. The air quality assessment considers the cumulative effects of increased ship numbers and associated emissions within the port environment and finds no significant adverse air quality effects.
  - e. Cumulative transport effects are addressed through the Integrated Transport Assessment. The effects of additional cruise passenger activity on roads, pedestrian networks, and transport services, have been assessed to be minor.
10. For completeness, POAL confirm the existing baseline for effects at the port is 10,000 teu ships as these ships can currently be accommodated with the existing port infrastructure. This is the baseline used throughout the various assessments.
  11. Matters pertaining to the structural condition of Captain Cook Wharf and Marsden Wharf is a matter for the sale and purchase agreement between POAL and Auckland Council.
  12. The ecological effects of the Project have been assessed by KEL to be negligible to low. Long-term environmental monitoring of the Project area is not considered to be necessary.
  13. In relation to the concerns raised regarding the transport effects of the Project and the implications to its vision for the wider Te Tōangaroa area, the transport assessment advises that the cruise terminal is expected to generate fewer than two vehicles per minute at its peak, while the Fergusson North Berth Extension will generate up to 106 additional truck movements per day. Such effects are negligible within the context of daily traffic variability and does not require input from Ngāti Whātua Ōrākei. In any event, the letter prepared by POAL Chair, Jan Dawson dated 1 November 2024 confirms that the applicant will work with Ngāti Whātua Ōrākei, NZ Transport Agency and Auckland Transport to find a sustainable solution to Ngāti Whātua Ōrākei's concerns. This broader strategic direction sits outside of the fast-track process.
  14. In relation to the duration of the resource consents that have been sought:
    - a. The Bledisloe North Wharf represents a significant financial investment and has a design life of more than 50 years. The maximum consent duration of 35 years is therefore sought in relation to the coastal permits that are required for the proposed



new Bledisloe North Wharf. A consent duration of 10 years is not an acceptable outcome.

- b. A consent duration until 4 August 2052 is sought in relation to the coastal permits that are required in relation to the Fergusson North Berth Extension to align with the consents held by POAL for Fergusson North Berth. It would be unreasonable to limit the duration of the Fergusson North Berth Extension to a period of 10 years in this context.
- c. A consent duration until 28 February 2045 is sought in relation to the industrial and trade activity discharge permits that are required in relation to the Project to align with the consent held by POAL. It would be unreasonable to limit the discharge from two comparatively small areas of the Port of Auckland to a period of 10 years in this context.

Discussions between the applicant and Ngāti Whātua Ōrākei remain ongoing. Since the filing of its comments on the substantive application, Ngāti Whātua Ōrākei Trust has written to the applicant to reiterate its support for the project. It values the opportunity to engage directly on the applicant's response and acknowledges the applicant's intentions regarding environmental mitigation and further korero, and the rationale for seeking a longer consent term.

Ngāti Whātua Ōrākei Trust "sees the proposed site consolidation as an important opportunity to enhance both the natural and built environment across the Ports and Te Tōangaroa precinct" and "look[s] forward to continuing to work together on key matters, including reducing truck traffic on Tangihua Street, progressing the design of the new cruise terminal, and identifying further initiatives that deepen our relationship and advance shared aspirations".

A copy of the letter is appended as **Attachment 3**.

### **Waikato Tainui**

Waikato-Tainui recommends that the application be declined in its current form. It is of the opinion that the proposal does not demonstrate full compliance with relevant legislation, and fails

to properly consider or integrate cultural values, ecological risks, and intergenerational responsibilities.

The applicant consulted widely prior to the lodgement of the application, including with Waikato-Tainui. POAL complied with the consultation requirements on the Act under section 29. Two letters and a follow up email were sent to Waikato-Tainui explaining the project and inviting them to prepare a cultural impact assessment. No response was received. POAL does not consider it necessary or appropriate for the application to be suspended while a CIA is prepared. POAL gave ample opportunity for a CIA to be prepared, and this delay would be against the underlying purpose of the fast-track legislation.

The substantive application contains a comprehensive assessment of the relevant statutory framework and the ecological effects of the Project. The consultation with Mana Whenua and relevant applicant groups has informed the Project (for example, the width of the Bledisloe North Wharf was reduced to limit the scale of encroachment into the harbour from 13m to 6.6m beyond the Bledisloe B3 Wharf). POAL also received CIAs from other mana whenua groups. No dredging activities are proposed.

### **Ngāti Paoa**

The applicant acknowledges the significance of Te Waitematā to Ngāti Paoa. Ngāti Paoa has identified the following Treaty settlements as being relevant to the consideration of the substantive application:

- (a) the Ngāti Paoa Deed of Settlement (and Ngāti Paoa Claims Settlement Bill);
- (b) the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed and 2014 Act; and
- (c) the Pare Hauraki Collective Redress Deed.

### **Ngāti Paoa Deed of Settlement and Claims Settlement Bill**

Under the Ngāti Paoa Claims Settlement Bill, when processing resource consent applications within, adjacent to, or directly affecting a statutory area, the relevant consent authority must have regard to the statutory acknowledgement area in deciding, under s 95E of the Resource

Management Act 1991, whether the trustees are affected persons in relation to the activity. The Project will not take place within, adjacent to, or directly affect any statutory area identified in Schedule 3 of the Ngāti Paoa Claims Settlement Bill.

#### Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014

The Ngā Mana Whenua o Tāmaki Makaurau Collective Deed records that it (and therefore the Redress Act) does not provide for cultural redress to the Waitematā and Manukau harbours, as this will be developed in separate negotiations between the Crown and Ngā Mana Whenua o Tāmaki Makaurau.

#### Pare Hauraki Collective Redress Bill

Under the Pare Hauraki Collective Redress Bill, when processing resource consent applications within, adjacent to, or directly affecting a statutory area, the relevant consent authority must have regard to the statutory acknowledgement area in deciding, under s 95E of the Resource Management Act 1991, whether the trustees are affected persons in relation to the activity. The relevant consent authority must also provide the trustee and each governance entity a summary of the application, or if notice of the application is served on the consent authority under s 145(10) of the RMA, a copy of the notice. The Project will not take place within, adjacent to, or directly affect any statutory area identified in Schedule 3 of the Pare Hauraki Collective Redress Bill.

## **Appendix A**

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**Supplementary notes on  
Hector's Dolphin and Bryde's  
Whale prepared by Kennedy  
Environmental Limited**

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## **Appendix A: Supplementary notes on Hector's Dolphin and Bryde's Whale prepared by Kennedy Environmental Limited**

Hector's Dolphin is a coastal species with a preference for shallow waters (within 15-20 km of shore) and typically has a small home range (Brager & Brager 2018). Habitat modelling was undertaken for Hector's dolphin by Torres et al. (2013). Torres et al. (2013) examined all national sightings up to that time identifying sightings on the east coast of the North Island. These included eight up to East Cape, two in the Bay of Plenty, one on east coast of Coromandel, one east of Waiheke Island and one off Bay of Islands. The model predicted high habitat suitability in sub areas within Hauraki Gulf and Bay of Plenty where Hector's Dolphin are not known to currently occur. It is not known whether the current national distribution reflects distribution prior to European arrival in New Zealand.

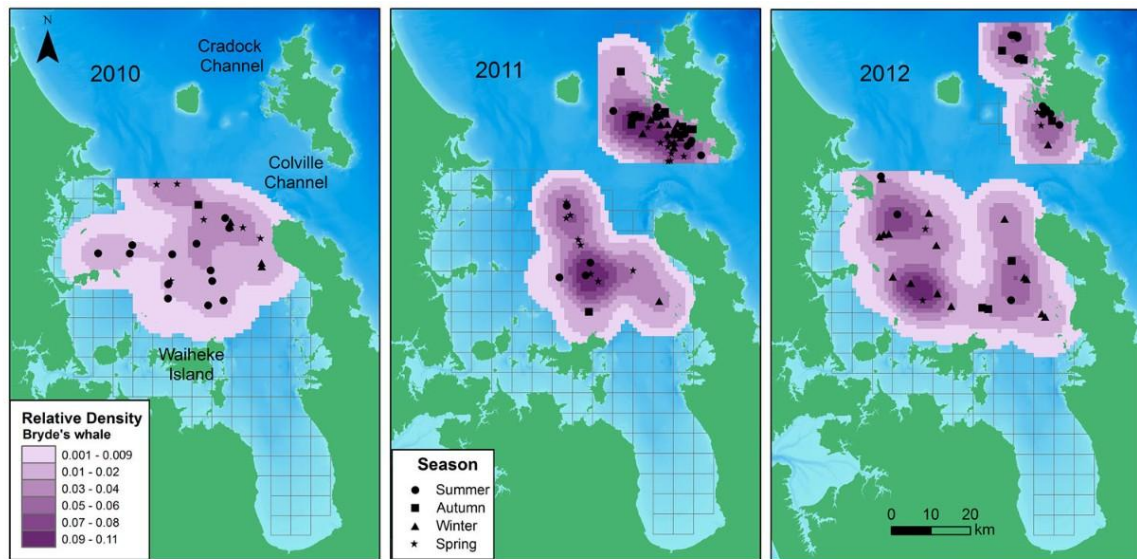
Over the last four years, there are published accounts of Hector's dolphin sightings on the east coast near Auckland. These include:

- In 2020, a small group of Hector's were identified off the coast of Coromandel's Hot Water Beach (<https://www.doc.govt.nz/news/media-releases/2022-media-releases/hectors-dolphin-spotted-off-northland-and-auckland-coasts>).
- On 2 September 2022, a single dolphin was spotted in Mahurangi Harbour. This individual was then sighted at Onarahi beach on 4 September (source noted above). On 14 October it was also seen in Mangonui Harbour. DOC noted that it was the first time in 100 years that this species had been seen there.
- On 19 October 2023 two dolphin were spotted near TeKouma a few kilometres south of Coromandel town. Department of Conservation noted that this was the third time in 60 years Hector's dolphin had been seen in the Firth of Thames. (<https://www.doc.govt.nz/news/media-releases/2023-media-releases/hectors-dolphins-spotted-in-firth-of-thames/>).
- On 11 December 2024 a single Dolphin likely to be Hector's was seen in the lower Waitemata Harbour.

Bryde's whale are the most common large cetacean in the Hauraki Gulf and are present all year round (Dwyer et al. 2018). Bryde's are identified as Nationally Critical because of their low numbers in New Zealand. Survey effort by Dwyer over 2010 through 2012 provides relative density distribution information which indicates that there are focal areas within the Hauraki Gulf. Bryde's



whale have been seen on the north coast of Waiheke Island and would be expected to only occasionally swim into the waters off the North Shore and into the Rangitoto Channel.



**Figure 5.** Annual relative densities of Bryde's whales in the inner Hauraki Gulf (IHG) in 2010–2012 and off Great Barrier Island (GBI) in 2011–2012. Darker shading represents higher density cells. The sighting position of each Bryde's whale group is indicated according to season. Bathymetry is depicted with darker shades of blue representing deeper waters (data courtesy of NIWA; Mackay et al. 2012). The  $5 \times 5$  km grid is also shown.

Figure A1. From Dwyer et al. (2016).

On August 25, 2015, a single adult whale was seen in Rangitopuni Creek in the upper Waitemata Harbour and was identified as likely to be a Bryde's whale (<https://www.stuff.co.nz/auckland/71446883/whale-spotted-in-creek-kilometres-from-open-sea>). .

## **Appendix B**

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**Supplementary notes on TTS  
zones for Hector's Dolphin and  
Bryde's Whale prepared by  
Kennedy Environmental Limited**

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## **Appendix B: Supplementary notes on TTS zones for Hector's Dolphin and Bryde's Whale prepared by Kennedy Environmental Limited**

Bryde's whale is a low frequency (LF) hearing cetacean. The LF cetacean group contains the mysticetes (baleen whales). NOAA (2024) identifies that the LF cetaceans have a hearing range of 7-36 kHz. This range sits within and below the range for the two pinniped species that were modelled but the auditory weighting and exposure factors differ. The weighted TTS onset acoustic criteria ( $SEL_{24}$ ) (168 dB) is similar to that of the two pinniped groups (170 and 168 dB) (NOAA 2024) both of which were modelled.

NOAA (2024) identify that the VHF group of cetaceans (which includes Hector's dolphin and other Cephalorhynchus species) hear within the range from 200 Hz to 165 kHz, a range greater than all the other groups of cetaceans. These cetaceans were previously included in the HF group prior to NOAA (2024). The weighted TTS onset acoustic criteria ( $SEL_{24}$ ) (144 dB) for impulsive sources is lower than for the LF cetaceans and phocid pinnipeds (see above). This range results in a greater sensitivity to underwater noise. Consequently, the TTS zones for VHF cetaceans are larger than other groups when modelled.

Modelled TTS zone sizes are dependent upon a wide range of factors, especially geology, landform in the project area, water depth and are project specific in relation to pile size and pile method. Previous assessment of underwater noise in New Zealand was undertaken using thresholds from NOAA (2018), which pre-dates the threshold data in NOAA (2024) used in the modelling for the current project.

TTS zones for LF and VHF cetaceans (HF in the pre-2024 studies) have been included in the acoustic modelling undertaken in a number of New Zealand underwater noise assessments. These studies have involved a range of pile sizes but the information for pile sizes most similar to the current study are noted below.

Pile driving in Port of Lyttelton has been intensively studied in relation to Hector's Dolphin (Leunissen & Dawson 2018). That study reported a TTS zone for impact piling (2,700 strikes per hour with 2 hours of piling per day) of 2,700 m (unmitigated). A MMO zone of 450 m was used over the 14 months of piling. Ongoing research and evaluation of data showed that dolphin responded to the noise during piling by moving away (Leunissen et al. 2019, Clement et al. 2025).

- Tonkin & Taylor (2022) reported TTS zones for piling in Kaiwharawhara Wellington ferry terminal for 910 and 1,500 mm piles. This study was a desk exercise rather than a modelling study. The TTS zones ( $SEL_{cum}$  for impulsive piling sources) with bubble curtain mitigation (BCM) were 350-920 m for LF cetaceans, 130-320 m for MF cetaceans (orca), 360-830 m for HF cetaceans (Hector's) and 150-380 m for phocid pinnipeds. The LF zones were similar to those for HF cetaceans and about twice those for phocid pinnipeds. For vibro-piling (non-impulsive sound), the TTS zones were all assessed to be <100 m in size.
- Marshall Day (2020) assessed underwater noise for piling works (750-1,050 mm piles) at port of Picton. For impact piling with BCM the TTS zones for HF cetaceans were 460-590 and for vibro-piling with BCM, none to 120 m (no LF cetacean zones modelled in the Picton study).
- Marshall Day (2021) assessed underwater noise for piling works (750-1,500 mm piles) at Seaview wharf, Wellington Harbour. For the 710-1,050 mm piles (impact piling) the LF TTS zones with BCM were 500-750 m and for HF cetaceans (Hector's) 565-700 m. No data was provided for BCM with vibro piling but Marshall Day (C Fitzgerald) have indicated that bubble curtains typically reduce the un-mitigated TTS zones by half. Based on the range of TTS zones presented in that study for unmitigated vibro piling the TTS zones could be in the range 80-500 m for LF and ~80-750 m for HF cetaceans.

The Seaview project included a study on the effects of bubble curtains to mitigate underwater noise (Lawrence et al. 2022). That work demonstrated that bubble curtains are very effective at reducing noise from 250 Hz up to a maximum at 8 kHz. Overall, it provides good reduction in noise for the VHF cetaceans (Hector's dolphin) but less so for the LF cetaceans (Bryde's whale). Consequently, bubble curtains reduce the TTS zones for VHF cetaceans more than for LF cetaceans.

Overall, it would be expected that the LF cetacean TTS zones in the Waitemata harbour would be about twice as large as those modelled for phocid pinnipeds. The use of BCM will reduce the TTS zones significantly.

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## **Attachment 1**

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**Updated proposed conditions  
of resource consent**

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## **General conditions**

1. Except as provided for in the conditions below, the activities authorised by this consent shall be undertaken in general accordance with the information and plans submitted by the Consent Holder with the application, including:
  - (a) Application form, Statutory Analysis and Assessment of Effects on the Environment prepared by Bentley & Co. Ltd titled “Bledisloe North Wharf and Fergusson North Berth Extension” and dated February 2025.
  - (b) The reports listed at **Attachment 1**.
  - (c) The plans listed at **Attachment 2**.

Where any conflict between the documents and these conditions of consent exists, the conditions of consent shall prevail.

## **Lapse**

2. In accordance with clause 26 of Schedule 5 to the Fast-track Approvals Act 2024, this consent lapses five years after the date it commences unless the consent is given effect to at an earlier date.

## **Duration**

### Bledisloe North Wharf

3. Permit [ref no. Bledisloe North Wharf] shall expire 35 years from being given effect to unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

### Fergusson North Berth

4. Permit [ref no. Fergusson North Berth] shall expire on 4 August 2052 unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

### Industrial Trade Activity discharge

5. Permit [ref no. Industrial Trade Activity discharges] shall expire on 28 February 2045 unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

## Management plans

6. The following management plans required by a condition of this resource consent shall be submitted to the Council (Team Leader Compliance Monitoring – Central) for certification. Unless stated otherwise within these conditions, the management plans shall be submitted at least ten working days prior to commencement of the works to which they relate:
  - (a) A Construction Management Plan (refer to Conditions 16 to 18).
  - (b) An Erosion and Sediment Control Plan (refer to Conditions 21 to 24).
  - (c) An Underwater Construction Noise Management Plan (refer to Conditions 32 to 34).
  - (d) An Operation and Maintenance Plan (refer to Conditions 40 to 42).
  - (e) An updated Environmental Management Plan: Stormwater (refer to Conditions 44 to 47).
  - (f) A Transport Management Plan (refer to Conditions 51 to 53).
  - (g) A final Little Penguin Management Plan (refer to Conditions 62 to 65).

The certification process shall be confined to confirming that the management plan adequately gives effect to the relevant condition(s).

7. Any management plan required by Condition 6 shall be prepared by a Suitably Qualified and Experienced Person(s) ("SQEP").
8. Any management plan required by Condition 6 may be submitted in parts or stages to reflect staged implementation of the Project, or to address specific activities authorised by the consent.
9. Any changes to the management plans required by Condition 6 must be submitted to the Council (Team Leader Compliance Monitoring – Central) for re-certification as soon as practicable.
10. No works that are subject to the relevant management plan required by Condition 6 shall commence until the relevant management plan has been certified by Council (Team Leader Compliance Monitoring – Central) and all measures identified in that plan as needing to be put in place prior to the start of those works are in place.
11. The Consent Holder must comply with all certified management plans at all times.
12. A copy of the relevant certified management plans shall be held on each of the project sites at all times.



**Pre-construction meetings and notification**

13. No less than five working days prior to commencement of the consented works or stage of consented works, the Consent Holder shall arrange a preconstruction meeting with Council (Team Leader Compliance Monitoring – Central) in conjunction with relevant technical specialists, as required) as well as the site contractor. Representatives of Ngāti Whātua Ōrākei, Te Ākitai Waiohua, and Ngaati Te Ata Waiohua shall also be invited to attend.
14. The purpose of the pre-construction meeting is to share information in respect of the works methods, management plan requirements and compliance with the conditions of the resource consents and ensure appropriate tikanga and kawa (customary practices and protocols) are being applied throughout the construction of the Project.
15. The following information shall be made available by the Consent Holder at the pre-construction meeting:
  - (a) Conditions of consent;
  - (b) Approved (signed/stamped) construction plans;
  - (c) Timeframes for key stages of the works authorised under these consents;
  - (d) Contact details of the site contractor, site engineer and other key contractors; and
  - (e) All certified Management Plans.

**Construction Management**

16. The Consent Holder shall prepare a Construction Management Plan (“CMP”) for the proposed works in accordance with Conditions 6 to 9.
17. The objective of the CMP is to:
  - (a) Ensure that the construction works remain within the limits and standards approved under the consent and set out the management procedures and construction methods to be undertaken to avoid, remedy or mitigate potential adverse effects and risk arising from construction activities.
  - (b) Ensure that navigation and safety management procedures are implemented to effectively coordinate with port authorities, delineate operational boundaries, and implement timely emergency and remediation measures to avoid, remedy or mitigate potential adverse effects and risks associated with construction activities.
18. For certification purposes, the CMP shall, at a minimum:

- (a) Outline the proposed construction methodology, staging, processes and techniques to be used for the Project, including for:
  - (i) The installation of temporary structures.
  - (ii) Piling.
  - (iii) Remedying any disturbance resulting from works.
  - (iv) Removal of any temporary piles associated with temporary access/support.
- (b) Set out the construction works programming, including:
  - (i) An outline construction programme.
  - (ii) Confirmation of the proposed staging and sequence of construction.
- (c) Detail the proposed approach to site management including:
  - (i) The measures to be adopted to maintain the construction zone and adjacent parts of the CMA in a tidy condition in terms of storage and unloading of materials, refuse storage and disposal and other activities.
  - (ii) The provision of any site office, parking for workers' vehicles and workers' conveniences (e.g. portaloos).
  - (iii) The location of construction machinery access and storage during the period of site works, including any temporary mooring of the barge(s) and other workboats.
  - (iv) A contingency plan and associated communication protocol for oil spills on land and over water during construction.
  - (v) The procedures for controlling sediment run off into the CMA set out in the Erosion and Sediment Control Plan required by Condition 21, and the removal of any debris and construction materials from the CMA.
  - (vi) Site clean-up and remediation following works completion.
  - (vii) The roles and responsibilities and contact information to enable real-time communication with Port of Auckland Harbour Control as required to maintain navigational safety.
  - (viii) The boundaries of the construction zones to prevent conflict between port operations and construction activity, both ashore and in the CMA.
  - (ix) The procedures in place to respond to any emergency, whether created by construction activity or from external maritime activities.
  - (x) The measures to ensure that any risks created by external maritime activities are mitigated.

(xi) The measures to avoid the spread of unwanted organisms associated with the removal of redundant piles and rock from Bledisloe North.

(d) Outline the methods and procedures for consultation and communications with Mana Whenua and Council.

19. During construction works, the Consent Holder shall maintain a record of any complaints received about the construction works. The record shall include:

- (a) The date, time and nature of the complaint.
- (b) The name, phone number and address of the complainant (unless the complainant wishes to remain anonymous).
- (c) Measures taken to respond to the complaint (including a record of the response provided to the complainant) or confirmation of no action if deemed appropriate.
- (d) The outcome of the investigation into the complaint.
- (e) Any other activities in the area, unrelated to the Project that may have contributed to the complaint, such as non-project construction, fires, traffic accidents or unusually dusty conditions generally.

20. A copy of the complaints record required by Condition 19 shall be made available to Council (Team Leader, Compliance Monitoring – Central) on request.

### **Erosion and sediment control**

21. The Consent Holder shall prepare an Erosion and Sediment Control Plan (“ESCP”) in accordance with Conditions 6 to 9.

22. Unless agreed otherwise with Council (Team Leader – Compliance Monitoring – Central), the ESCP shall, at a minimum, include the following information as appropriate to the scale, location and type of earthworks:

- (a) Drawings showing location and quantities of earthworks, contour information, catchment boundaries and erosion and sediment controls (location and dimensions).
- (b) Supporting calculations for erosion and sediment controls.
- (c) Details of construction methods to be employed, including timing and duration.
- (d) Specific procedures for managing the exposure of fine material during revetment works (rock removal).
- (e) A programme for managing exposed area, including progressive stabilisation considerations.
- (f) Monitoring, maintenance and record-keeping requirements.

- (g) Contingency measures for spills and large storm events.
23. Earthworks must not, after reasonable mixing, result in any of the following effects in receiving waters:
- (a) The production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials.
  - (b) Any conspicuous change in the colour or visual clarity.
  - (c) Any emission of objectionable odour.
  - (d) Any significant adverse effects on aquatic life.
24. The Consent Holder shall inspect the erosion and sediment controls at the site of the works on a regular basis and within 24 hours of each rainstorm event that is likely to impair the function or performance of the erosion and sediment controls. A record shall be kept of the date and time of the inspection and the date, time and details of any maintenance undertaken. These details shall be forwarded to Council (Team Leader, Compliance Monitoring – Central) on request.

### **Construction traffic management**

25. During construction, the Consent Holder shall ensure:
- (a) All access routes and points for all construction vehicles, laydown areas, and parking areas for plant, construction vehicles and the vehicles of workers and visitors are contained within the Port of Auckland
  - (b) There are practices and procedures in place to protect the safety of workers and users of the Port of Auckland at all times.
  - (c) Access is maintained at all times for all modes of transport to / from the Project area.
  - (d) Disruption from construction traffic on the Port of Auckland is minimised as far as is practicable.
  - (e) There shall be no deposition of earth, mud, dirt or other debris on any public road or footpath resulting from construction works. In the event that such deposition does occur, it shall immediately be removed.

### **Navigation and safety**

26. Prior to the Commencement of Construction of the Bledisloe North Wharf and/or Fergusson North Berth Extension, the Consent Holder shall consult the Auckland Harbourmaster to identify the appropriate location, number and types of temporary aids

to navigation (shapes, signs or lights) required for the construction phase of the Project (including for the temporary and/or permanent coastal structures). The aids to navigation as approved by the Harbourmaster shall be provided and maintained by the Consent Holder at its cost, in compliance with Maritime New Zealand guidelines, and the Auckland Port and Harbour Marine Safety Code.

27. The Consent Holder shall ensure that lighting used for and during construction is designed, used and maintained in a manner so as to avoid any visual interference with temporary or existing permanent navigational lights.
28. The Consent Holder shall request, as part of Condition 26, that the Harbourmaster issue a Notice to Mariners at least five working days prior to the commencement of the works.
29. The Consent Holder shall ensure that real-time VHF communications is available at the work site to enable direct VHF communications with Port of Auckland Harbour Control on CH12. Channel 16 is to be monitored while any activity is being undertaken that may impact, or could be impacted by port marine activities.
30. The Consent Holder shall notify the Auckland Harbourmaster in writing of completion of works within two working days of the completion of the last Project activity on the wharf structures that may have an effect on the marine environment or maritime and navigational operations.
31. The Consent Holder shall on completion of works, provide the Auckland Harbourmaster, and the Land Information NZ (LINZ) Hydrographic Office in writing within ten working days of completion of the Project or stage of the Project, details of the 'As-Built' extent and elevation of the wharves, related structures and lights and request for the associated nautical chart and 'List of Lights' be updated.

### **Underwater construction noise management**

32. The Consent Holder shall prepare an Underwater Construction Noise Management Plan ("UCNMP") in accordance with Conditions 6 to 9.

*Advice note: The application documents contain a draft UCNMP which will be finalised in accordance with this condition of consent.*

33. The objective of the UCNMP is to:
  - (a) Manage the underwater noise effects of construction activities on marine mammals;  
and
  - (b) Confirm the predicted temporary threshold shift zones ("TTS") based on the selected piling methodology.



34. For certification purposes, the UCNMP shall, at a minimum:

- (a) Detail the measures to manage underwater noise effects on marine mammals, including:
  - (i) Methods to reduce the noise at source by selecting pile driving equipment and methodologies that generate lower noise emissions.
  - (ii) The approach to scheduling of high noise works based on the ecologist's recommendations to manage pile driving during sensitive seasonal periods.
  - (iii) Methods to mitigate noise from piling works, including where necessary the use of bubble curtains, or other systems to reduce noise propagating into and through the water column.
  - (iv) Validation of the underwater noise levels and mitigation, including underwater noise measurements to validate the size of the predicted zones and review of the effectiveness of mitigation and management measures.
  - (v) Marine mammal and little penguin observation processes to identify marine mammal presence within the predicted TTS during piling, comprising visual monitoring from a static land-based observation point(s) 30 minutes prior to commencing all impact piling operations.
  - (vi) Shut down procedures in the event that a marine mammal is detected within or approaching the TTS zones.

#### **Captain Cook Wharf and Marsden Wharf Transfer**

34A. Within 12 months of the commencement of construction works authorised by this consent, the Consent Holder shall provide written evidence to the Team Leader Compliance and Monitoring Central, Auckland Council, confirming that an agreement has been entered into between Ports of Auckland Limited and Auckland Council for the transfer of Captain Cook Wharf and Marsden Wharf.

If an agreement has not been entered into within 12 months of commencement of construction, the Consent Holder shall provide a written update to Council outlining the status of negotiations and anticipated timeframe for completion.

#### **Stormwater management works**

35. The following stormwater management works shall be constructed for the following catchment areas and design standards prior to the commencement of activities from the Project area:

Works to be undertaken	Device Catchment Area	Design Guideline
------------------------	-----------------------	------------------

Bledisloe North Berth	8,773m <sup>2</sup>	75% TSS removal
<u>Fergusson North Berth</u>	<u>1,800m<sup>2</sup></u>	<u>75% TSS removal</u>

*Advice note: Fergusson Wharf has already been fitted with a stormwater management device that has been sized and designed to meet these requirements.*

36. In the event that any modifications to the stormwater management works are required, the following information shall be provided to and certified by the Council (Team Leader Compliance and Monitoring Central in consultation with Team Leader – Stormwater, Natural Resources and Specialist Input), prior to implementation:
- Plans and drawings outlining the details for the new stormwater system and treatment system at Bledisloe North berth; and
  - Plans and drawings outlining the details of any modifications to the Fergusson North berth stormwater treatment system; and
  - Supporting information that details how the proposal does not affect the capacity or performance of stormwater management works.

#### Post-Construction Meetings

37. The Consent Holder or their agent shall arrange and conduct a post construction site meeting within 30 working days of completion of installation of the stormwater management works specified in Condition 35 between Council (Team Leader Compliance and Monitoring Central in consultation with Team Leader – Stormwater, Natural Resources and Specialist Input) and all relevant parties, including the Consent Holder's engineering advisor. As-Built Plans as specified in Condition 38 shall be made available for this meeting.

#### Certification of Construction Works

38. "As-Built" plans for the stormwater management works specified in Condition 35 shall be certified as a true record of stormwater management works by a Chartered Professional Engineer and submitted to the Council (Team Leader Compliance and Monitoring Central in consultation with Team Leader – Stormwater, Natural Resources and Specialist Input), within 30 working days of the completion of the stormwater management works.
39. The "As-Built" plans of the stormwater management works shall include:
- The surveyed location (to the nearest 0.1m) and level (to the nearest 0.01m) of the discharge structure, with co-ordinates expressed in terms of New Zealand Map Grid and LINZ datum.

- b) Plans and details of the stormwater management works, including confirmation of the water quality volume and storage volume.
- c) Documentation of any discrepancies between the design plans and the “As-Built” plans.

#### Operation and Maintenance Plan

- 40. Within 30 working days of completion of the installation of the stormwater management works the Consent Holder shall prepare an updated Operation and Maintenance Plan (“OMP”) (contained in the “Commercial Port of Auckland: Standard Operating Procedures and Inspection and Maintenance Requirements” document) for the stormwater management works in accordance with Conditions 6 to 9.
- 41. The objective of the updated OMP is to set out how the stormwater management works are to be operated and maintained to the design standard set out in Condition 35 so that adverse effects are minimised.
- 42. For certification purposes, the OMP shall include, at a minimum:
  - i) A programme for regular maintenance and inspection of the stormwater; management works authorised under Condition 35 of this Consent.
  - ii) A programme for the collection and disposal of debris and sediment collected by the stormwater management works or practices.
  - iii) A programme for post storm/post spill maintenance.
  - iv) General inspection checklists for all aspects of the stormwater management works.
  - v) Details of the person or bodies who will hold responsibility for long-term maintenance or the stormwater management works and the organisational structure which will support this process.

#### Operation and Maintenance Plan

- 43. The stormwater management works shall be inspected and managed by the Consent Holder in accordance with the OMP as required by Condition 40.

#### Site Management

43A. Within 30 working days of completion of the installation of the stormwater management works the Consent Holder shall prepare an updated Environmental Management Plan: Stormwater (“EMP:S”) in accordance with Conditions 6 to 9.

- 44. The site shall be operated and managed in accordance with ~~an the~~ updated Environmental Management Plan: Stormwater (“EMP:S”) to ensure the risks from the site are managed appropriately.

45. The updated EMP:S shall include but not be limited to:
- i) Identification of the specific activities conducted on site and the identification of potential contaminants associated with the activities conducted on the site.
  - ii) Methods used to manage environmental risks from site activities and ensure that contaminants identified avoid contacting stormwater runoff as far as practicable.
  - iii) An emergency spill response plan.
  - iv) An up-to-date and accurate site drainage plan showing the location of the final discharge point of the site stormwater management works.
  - v) Identification of appropriate auditing requirements to ensure performance of all components of the updated EMP:S.
46. The EMP:S document shall be kept on site and accessible at all times.
47. The EMP:S shall be reviewed by the Consent Holder annually each July following the date of completion of the works, or as part the incident review for a major pollution incident at the structure, to ensure all components of the EMP:S are still relevant. A summary of all revisions and the revised sections shall be submitted to Council (Team Leader Compliance and Monitoring Central in consultation with Team Leader – Stormwater, Natural Resources and Specialist Input) as part of the annual report required by Condition 49.

*Advice Note:*

*The information required to be contained within the OMP and EMP:S forms an updated section of the sites existing EMP:S, not a stand-alone document.*

48. All spills of Hazardous Substances of Classes 1 to 6, 8 and 9 over 20 litres and all spills of other hazardous substances over 50 litres that have entered the stormwater system or waterbody from the wharf shall be reported immediately to the Auckland Council's Harbourmaster or the Auckland Council's 24 Hour Water Pollution Hotline (09-377-3107).

Annual Reporting Requirements

49. A report shall be forwarded annually to the Council (Team Leader Compliance and Monitoring Central in consultation with Team Leader – Stormwater, Natural Resources and Specialist Input), each July following the completion of the works.

The above report shall include but not be limited to:

- i) All aspects of the performance of the EMP:S relating to this consent, including results of any audits required by Condition (v).

- ii) All documentation associated with the updated EMP:S as required by Condition 45.
- iii) Details of all inspections and maintenance of the stormwater management works for the preceding 12 months.
- iv) Details of the person(s) or body responsible for maintenance of the site.
- v) Records of any spills or incidents which occurred within the previous 12 months and the response which was undertaken.

#### Review Condition

50. The conditions of this ITA consent may be reviewed by Auckland Council pursuant to s 128 of the RMA, by giving notice pursuant to s 129 of the RMA, at two yearly intervals after [date].

The purpose of the review may be for any of the following purposes; namely:

- i) To deal with any adverse effect on the environment which may arise from the exercise of the Industrial or Trade Activity consent or upon which the exercise of the Industrial or Trade Activity consent may have an influence and which becomes apparent, or is found appropriate, to deal with at a later stage, and in particular but without limiting the ambit of this clause to:
  - a) insert conditions, or modify existing conditions, to require the Consent Holder to identify the character or nature of any discharges authorised by this consent and to report the result of that monitoring to Auckland Council; and/or
  - b) insert conditions, or modify existing conditions, to require the Consent Holder to monitor the effects of any discharges authorised by this consent on the local receiving environment and to report the results of that monitoring to Auckland Council;
  - c) the conditions may relate to matters contained in s 108(4) of the RMA.
- ii) Insert conditions, or modify existing conditions, to remedy, mitigate or minimise any adverse effects on the environment resulting from the discharges authorised by this consent, including remedying or mitigating any adverse effect on the environment which may arise from the exercise of this consent and which it is appropriate to deal with at a later stage.

### **Transport management plan**

51. At least ten working days prior to the first berthing of a cruise ship at Bledisloe North Wharf, the Consent Holder shall prepare a 'Transport Management Plan ("TMP") in accordance with Conditions 6 to 9.
52. The objectives of the TMP are to:
  - (a) Ensure that the transport effects of large numbers of cruise passengers associated with cruise ships utilising the Bledisloe North Berth are adequately managed.
  - (b) Ensure the safe and efficient operation of marine and port activities at the Port of Auckland at all times.
  - (c) Provide for a safe and secure environment at the Port of Auckland.
  - (d) Ensure public access is provided between the cruise terminal building and Quay Street.
53. For certification purposes, the TMP shall, at a minimum, include:
  - (a) Details of the boundary between the cruise terminal facility and the adjacent public network.
  - (b) Details of the key transport infrastructure elements within the cruise terminal facility.
  - (c) Details of the proposed external network access points and internal circulation by transport mode.
  - (d) Details of the key interfaces with other Port of Auckland operations.
  - (e) Details on the management and operation of coaches and taxi / rideshare vehicles within the cruise terminal facility, including the provision of marshals.
  - (f) Details of the separated routes (using concrete barriers or similar) for different vehicle types between the Tinley Street access and egress and the transfer facility, including the provision of marshals, as well as identified speed limits.
  - (g) Details of the management and dedicated route for pedestrians between the processing centre and Quay Street, including the 'meet and greet' area north of Quay Street.
  - (h) Details of how the cruise ship passengers will be provided with information on routes to / from the city centre, including any marshals / wayfinding signage to be located along the route.
  - (i) Details of how the cruise ship passengers will be provided with information on travel options for the facility, particularly nearby parking and pick-up or drop-off options for those needing to travel by private car.



- (j) Details of how the interface with staff parking on the entry and exit routes off Tinley Street will be managed.
- (k) Details of the access and egress routes between Tinley Street and the site, including the proposed management procedures for the entry / exit gates and provision of visible wayfinding signage in proximity to the pedestrian gate.

### **Water quality monitoring**

54. The Consent Holder shall undertake water quality monitoring at least once per week during the excavation of the toe trench at Bledisloe North Wharf until 12 sets of water quality samples are collected, to confirm that the increase in total suspended solid (TSS) concentration downstream of the excavation activity is within the expected range. Water quality samples shall be collected:
- (a) On a day that dredging is occurring.
  - (b) On an ebb-tide any time within the 1.5 hour period before low tide or the 1.5 hour period after high tide. or
  - (c) On an ebb-tide any time within the mid-tide being the three hour period that starts 1.5 hours after high tide and ends 1.5 hours before low tide.
  - (d) From the surface (approximately 0.5m below the water surface) and above near the seabed (approximately 0.5m above the seabed) at each of the following sites:
    - i. At an up-drift control site located at least 500m beyond the operations.
    - ii. At a dilution gradient site 50m down-drift of the operations aligned approximately along the axis of the tidal stream.
    - iii. At a compliance site 200m down-drift of the operations aligned with the excavation activity.
55. The Consent Holder shall ensure that the dilution gradient and compliance site samples are representative of the plume generated by the operations (i.e. not collected before the plume has had a chance to develop upon the start of the operations and not after the plume has had a chance to dissipate upon completion of the operations).
56. The Consent Holder shall have the samples analysed for TSS concentration.
57. During the sampling required by Condition 54, the Consent Holder shall take and maintain a photographic record of the dredging plume:
- (a) The photographs being taken from an elevated vantage point within 1 hour of the samples being collected under Condition 54.

- (b) The photographs showing the full extent of any visible plume or water discolouration.
  - (c) Documenting the date and time, sea state conditions, and the approximate extent of the noticeable sediment plume.
58. In the event the TSS at the compliance site exceeds 25g/m<sup>3</sup> above TSS at the control site (for the same position in the water column for both samples i.e. comparing top samples with top samples and bottom samples with bottom samples), the Consent Holder shall provide details of any contingency measures to be implemented in accordance with this condition to Council (Team Leader Compliance Monitoring Central) no later than 5 working days after the exceedance occurs. These shall include further monitoring measures in the first instance or a site-specific effects assessment, and practical modifications to the relevant activities where further monitoring identifies repeated exceedances. Such modifications may include suspending or altering the excavation methodology or reducing production rates.
59. Within 10 working days of the completion of all water quality sampling required by Condition 54, the Consent Holder shall summarise and submit the results to Council (Team Leader Compliance Monitoring Central) along with information concerning:
- (a) The relationship between up-stream and downstream data.
  - (b) Recommendations for any changes to on-going monitoring and reporting for the balance of the duration of the consent.
60. If the water quality sampling undertaken as required by Condition 54 shows no exceedance of the water quality trigger, the consent holder shall continue to monitor the dredging plume using visual monitoring as set out in Condition 57. The photographic record should be maintained and be made available to Council (Team Leader Compliance Monitoring Central) on request.
61. In the event that a noticeable sediment plume outside of the consent area that is not localised and is not of a short duration is observed, the consent holder shall take a photographic record and the dredging activity shall cease, and the consent holder shall immediately notify and consult with the Council (Team Leader Compliance Monitoring Central) to determine an appropriate course of action to minimise further sediment discharges and any adverse effects associated with the plume.

### **Little penguin management**

62. The Consent Holder shall submit a final a Little Penguin Management Plan ("LPMP") in accordance with Conditions 6 to 9.

*Advice note: The application documents contain a draft LPMP which will be finalised through this condition of consent.*

63. The objectives of the LPMP shall be to:
- a. Provide the framework for responding to little penguin finds in pre-construction surveys or an unexpected find of little penguin during construction works.
  - b. Ensure appropriate methods and procedures are in place to protect little penguins in the event they are found during construction of the Project.
64. For certification purposes, the LPMP shall, at a minimum include:
- a. The methods and processes for:
    - (i) Surveying and monitoring for Little Penguin both pre-construction and during construction.
    - (ii) Training construction staff for what to do in the event a Little Penguin is found during construction.
    - (iii) Reporting and communicating the presence of Little Penguin within the Project area.
    - (iv) Responding to a Little Penguin sighting within or near to the Project area.
    - (v) The management and relocation of Little Penguin if found within or near to the Project area.
65. Prior to any construction work being undertaken in relation to the Bledisloe North Berth, the Consent Holder shall ensure that the northern Bledisloe Terminal rock bund is checked for the presence of Little Penguin by a SQEP. If any Little Penguin are identified within or adjacent to the construction area and are considered to be at risk by the SQEP and would benefit from translocation, then they shall be translocated to other suitable habitat in accordance with the processes set out in the LPMP.

### **Ecological Enhancement**

66. Prior to the commencement of construction works the Consent Holder shall, in conjunction with a SQEP, prepare final plans that makes provision for:
- (a) The addition of fish habitat ‘houses’ to the outside of steel piles at both ends of the Bledisloe North Wharf:
    - i. The fish habitat ‘houses’ can be constructed from eco-concrete or pottery clay-like materials (or similar) and attached to the piles using straps, with at least two

‘houses’ per strap and two straps per pile, fitted to at least 18 piles, and positioned at different tidal levels (low tide to 5m below low tide).

- (b) The addition at least 18 blue or green mussel rope units between the outside one to two rows of piles at selected locations within the Port (typically external wharf areas with higher current velocities):
- i. Ropes shall be maintained at or below mean low tide.
  - ii. Suggested locations include the seaward ends of the B1 Wharf, Jellicoe Wharf, and Freyberg Wharf where they would have no effect in relation to vessel berthing or other port activities.
  - iii. At each location at least three clusters of rope shall be installed.

67. The works in Condition 66 shall be implemented after the completion of the construction work and prior to the commencement of the use of Bledisloe North Wharf.

### **Contamination**

68. All earthworks shall be undertaken in accordance with the Contaminated Soils Management Plan, prepared by Beca Limited and dated 19 September 2024 (‘the CSMP’). Any variations to the CSMP shall be submitted to the Team Leader Compliance Monitoring – Central for certification, in conjunction with the Contaminated Land Specialist, that it appropriately manages actual and potential soil contamination effects and is within scope of this consent.
69. Should earthworks be undertaken within the current operational area of the substation building at the Bledisloe Terminal and the associated hazardous storage area and former concrete structures, soil sampling across these areas shall be undertaken. Based on the findings of this soil sampling, the CSMP shall be updated as necessary and submitted to the Team Leader Compliance Monitoring – Central for certification, in conjunction with the Contaminated Land Specialist.
70. During earthworks all necessary action shall be taken to prevent dust generation and sufficient water shall be available to dampen exposed soil and/or other dust suppressing measures shall be available to avoid dust formation. The Consent Holder shall ensure that dust management during the excavation works generally complies with the Good Practice Guide for Assessing and Managing Dust (Ministry for the Environment, 2016).
71. In the event of accidental discovery of contamination during earthworks which has not been previously identified, the Consent Holder shall immediately cease the works in the

vicinity of the contamination hotspot and notify the Team Leader Compliance Monitoring – Central. A suitably qualified and experienced contaminated land practitioner (SQEP) shall be engaged to assess the situation (including possible sampling and testing) and decide on the best option for managing the material.

72. Excavated material that is not re-used on site shall be disposed of at an appropriate facility licensed to accept the levels of any identified contamination.
73. Following the completion of the soil disturbance works, the site contractor or nominated SQEP will prepare a Site Closure Report ('SCR') summarising the works completed (including records of soil removed from the site, the results of any additional investigations, accidental soil contamination discoveries, and other complaints or incidents). The SCR will be submitted to Auckland Council for certification.

### **Coastal processes monitoring**

74. Within six months of completion of the Project, the Consent Holder shall undertake the following:
  - a. Acoustic Doppler Current Profiler ("ADCP") measurements to provide continuous data on current conditions, detecting any changes in the harbour environment. Measurements shall be undertaken before construction and then every two years following completion of construction for a period of six years.
  - b. Bathymetric surveys that shall be undertaken prior to the commencement of construction and then every two years following completion of construction for a period of six years.

The results of the above surveys shall be submitted to the Team Leader Compliance Monitoring – Central.

## **Attachment 2**

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**Updated conditions of wildlife  
approval**

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The Department of Conservation ("**DOC**") was required to provide a report under s51 of the FTAA to support the Panel's assessment of the wildlife approval. This report includes DOC's proposed conditions to attach to the wildlife approval. POAL has provided its proposed changes to these below.

Given the revised Little Penguin Management Plan supplied by the Applicant (Appendix A of DOC's Section 51 Wildlife Report), the Director-General considers it would be appropriate for the Panel to condition the wildlife approval based on that management plan, rather than requiring further D-G certification post-approval. We consider this option would most align with the procedural principles in section 10 of the FTAA. POAL agree with this approach and have provided proposed changes to the conditions below.

**1. Little Penguin Management Plan**

- 1.1. Port of Auckland Limited (POAL) will comply with the Little Penguin Management Plan (LPMP) that is annexed to this Approval, or any certified amendment to that LPMP, throughout the Project.
- 1.2. The LPMP may be amended consistently with the process set out in the LPMP. Any proposed amendment to the LPMP must be prepared by a suitably qualified and experienced person with expertise in penguin management and must be submitted to the local Operations Manager of the Department of Conservation, on behalf of the Director-General of Conservation, for certification in accordance with condition 1.3.
- 1.3. The Director-General will certify amendments to the LPMP if they meet the objective in condition 1.4 and contain the processes in 1.5
- 1.4. The objective of the LPMP (including any amendment) is to ensure that actions regarding little penguins/kororā are carried out in a manner that is appropriately managed, by avoiding, remediating and mitigating the effects of the Approval on little penguins.
- 1.5. The Director-General will certify an amendment to the LPMP if it includes processes for the following, in a manner that will achieve the LPMP objective:
  - (i) Surveying and monitoring for little penguin both pre-construction and during construction.
  - (ii) Training construction staff in the identification and detection of little penguins.
  - (iii) Training construction staff for what to do in the event a little penguin is found during construction.
  - (iv) Reporting and communicating to relevant persons the presence of little penguin within the Project area.
  - (v) Responding to a little penguin sighting within or near to the Project area.
  - (vi) The safe management and, if appropriate, relocation of little penguin if found within or near to the Project area, including identification of appropriate relocation sites and mitigation for impacts like habitat loss.

- (vii) Procedures to ensure penguins are only relocated if they are neither moulting nor nesting penguins, including establishment of cordons around any penguins located that are moulting or nesting, and signage preventing disturbance of nesting and moulting penguins once cordoned off.
- (viii) Feedback mechanisms for any adaptive management, including circumstances in which a material change to the management plan would be required and how that change would be certified following the same process as in this condition.
- (ix) Reporting procedures and format for providing the results of any monitoring or surveying required by the LPMP.

If, however, the Panel is still minded to set a condition requiring D-G certification of the LPMP, we recommend the LPMP condition is edited with the following replacing condition 1.1 of the above, and adjusting cross-references accordingly:

**1. Little Penguin Management Plan**

- 1.1. Port of Auckland Limited (POAL), in conjunction with a suitably qualified and experienced person, will prepare a Little Penguin Management Plan (LPMP) and submit it to the local Operations Manager of the Department of Conservation for certification on behalf of the Director-General.
- 1.2. POAL will not start works unless the LPMP has been certified, and will comply with the LPMP or any certified amendment throughout the Project.
- 1.3. The Director-General will certify the LPMP if it meets the objective in 1.X and contains at least the processes in 1.X.

**Other conditions**

The following conditions are essentially “mechanical” conditions that DOC would normally include as part of a wildlife approval. We have included these for context and consideration by the Panel as part of their decision-making. We note the importance of ensuring the future workability of the approval, given that it is to be administered by the Director-General. They also rely on “defined terms” that will potentially need amendment depending on other terms used in the decision document.

**2. Employees, contractors, or agents of POAL**

- 2.1. POAL is responsible for the acts and omissions of its employees, contractors, or agents.
- 2.2. POAL is liable under this Approval for any breach of the terms of the Approval by its employees, contractors, or agents as if the breach had been committed by POAL.
- 2.3. Where obligations bind more than one person, those obligations bind those persons jointly and separately.

**3. Authorised Activity**

3.1. POAL is only allowed to exercise the approval as specified in this Decision Document.

3.2. Any arrangements necessary for access over private land or leased land are the responsibility of POAL.

**4. Authorised Person**

4.1. Only POAL is authorised to exercise the approval.

**5. Term**

5.1. This Approval commences and ends on the dates set out in the Decision Document.

**6. Liabilities**

6.1. POAL agrees to exercise the Approval at POAL's own risk and releases to the full extent permitted by law the Director-General and the Director-General'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 POAL's exercise of the Approval.

**7. Compliance with legislation and Director-General's notices and directions**

7.1. POAL must comply with all statutes, bylaws, and regulations, and all notices, directions, and requisitions of the Director-General and any competent authority relating to the exercise of the Approval.

**8. Revocation**

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

8.1.1. POAL breaches any of the conditions of this Approval.

8.1.2. In the Director-General's opinion, the exercise of this Approval causes or is likely to cause any unforeseen or unacceptable effects.

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

**9. Costs**

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

**10. Variations**

10.1. POAL may apply to the Director-General for variations to this Approval in line with clause 7(2) of Schedule 7 of the Fast-track Approvals Act 2024.

## **Attachment 3**

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**Letter from Ngāti Whātua  
Ōrākei dated 4 July 2025**

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4 July 2025

Port of Auckland  
1 Sunderland Street,  
Mechanics Bay,  
Tāmaki Makaurau 1010

By email: [REDACTED]

**RE: Follow-Up on POAL Fast Track Proposal – Strengthening Shared Aspirations**

Tēnā kōrua,

Thank you for the constructive and open dialogue since our submission regarding the POAL Fast Track proposal, and for the ongoing engagement between our organisations.

I appreciated the opportunity to kōrero with both you and Roger Gray about the submission process and to reiterate our support for the project. We value the opportunity to engage directly on your response, and we acknowledge your feedback and POAL's intentions regarding environmental mitigation and after further korero, the rationale for seeking a longer consent term.

Ngāti Whātua Ōrākei Trust sees the proposed site consolidation as an important opportunity to enhance both the natural and built environment across the Ports and Te Tōangaroa precinct. We look forward to continuing to work together on key matters, including reducing truck traffic on Tangihua Street, progressing the design of the new cruise terminal, and identifying further initiatives that deepen our relationship and advance shared aspirations.

Ultimately, these efforts serve not just our respective organisations but also contribute meaningfully to the future of Tāmaki Makaurau.

I want to reaffirm the Ngāti Whātua Ōrākei Trust's commitment to maintaining a productive and enduring relationship with POAL, guided by the principle of being good neighbours.

Nāku iti nei, nā



Lisa Davis  
Tumu Whakarae | Chief Executive Officer  
Ngāti Whātua Ōrākei Trust