

Memo

To:	Environmental Protection Authority	From:	Mark Arbuthnot
Date:	19 August 2025	Project No:	12004.29
Re:	Response to comments on draft conditions s 70(4) FTAA		

On 1 August 2025, the Bledisloe North Wharf and Fergusson North Berth Extension expert panel (**Panel**) released Minute 5, inviting comments on the draft conditions of consent from specified parties in accordance with s 70 of the Fast-track Approvals Act 2024 (**FTAA**).

Response to comments on the draft conditions of consent (s 70(4) of the FTAA)

In accordance with s 70(4) of the FTAA, Port of Auckland Limited (**POAL**) provides that the following response to the comments that have been received on the draft conditions. The only comments that have been received on the draft conditions were from Auckland Council.

Attachment 1 to this response sets out track-changes to the Panel's draft conditions, with POAL's responses to Council's comments incorporated. The Panel's recommended conditions have been used as the base document, and the track-changes show the amendments proposed in response to Council's comments. Not all of Council's requested changes are agreed with. The changes in Attachment 1 therefore represent POAL's response, rather than a further mark-up of Council's comments.

Table 1 below summarises the responses to each of the Council's comments, indicating whether the requested change is agreed, not agreed, or agreed in part.

Table 1: Response to comments that have been received on the draft conditions

	Comments on Draft Condition	Response to Comments
	General comments	
	<p>The application was lodged into Councils database as one (bundled) application. To provide for future administration and monitoring, Council's reference numbers for this application are:</p> <ul style="list-style-type: none"> ○ BUN60445198 - Council application reference (Bundled) ○ LUC60445199 - s9 Land use ○ CST60445200 - s12 coastal permit ○ DIS60445270 - Discharge of contaminants from ITA 	<p>The reference numbers for the application have been incorporated onto the updated draft conditions that are appended to this memo as Attachment 1.</p>
	<p>If the Panel prefers to retain the layout as per the draft decision, the Council requests that the numbering for the Fergusson Wharf (second set of conditions) be continued on from the numbering of Bledisloe Wharf or that Fergusson Wharf be numbered as 1A; 2A, etc. This will ensure that each condition has a unique number that can be linked to the Council's monitoring system and avoids a situation where the same condition has two different identification numbers.</p>	<p>Amendments have been made to the numbering of the draft conditions that are appended to this memo as Attachment 1 to ensure that each condition is provided with a unique number that can be linked to Council's monitoring system.</p>
	<p>As Council officer titles change the Council suggests any reference to specific titles, for example <i>'the Council (Team Leader Compliance Monitoring – Central)'</i> be altered to refer just to <i>"the Council"</i> with a general advice note inserted at the end of the decision noting that:</p> <ul style="list-style-type: none"> • <i>For the purpose of compliance with the conditions of consent, "the Council" refers to the council's monitoring officer unless otherwise specified.</i> 	<p>POAL agrees to the change, which are incorporated into the updated draft conditions that are appended to this memo as Attachment 1.</p>

	Comments on Draft Condition	Response to Comments
	Bledisloe Wharf	
	<i>General conditions applicable to all consents</i>	
1.	In relation to Condition 1 (general accordance), Council suggests deleting the reference to 'general' as it is too vague and leaves room for interpretation.	<p>POAL does not agree to the deletion of the word 'general' from Condition 1.</p> <p>The inclusion of 'general accordance' recognises the practical reality of development projects. Inevitably, minor variances can occur that are inconsequential in planning terms, but which otherwise necessitate formal applications to vary consent conditions. "General accordance" provides an appropriate mechanism to accommodate them.</p> <p>Requiring absolute accordance would impose unnecessary time and cost.</p>
9.	After Condition 9, Council suggests moving the advice note from Condition 18 to this location.	Agreed. Refer to updated draft conditions appended as Attachment 1
	<i>Coastal permit</i>	
16.	In relation to Condition 16 (Construction Management Plan content), Council suggests that item (a)(iv) is updated to include the words "and any other structures (if any)" in relation to the removal of temporary piles.	Agreed. Refer to updated draft conditions appended as Attachment 1
25.	Council suggests that Condition 25 (underwater construction noise management) is amended to explicitly reference the management of <u>underwater</u> noise to minimise adverse effects on marine mammals <u>and kororā</u> .	Agreed. Refer to updated draft conditions appended as Attachment 1
36.	Condition 36 relates to sediment plumes from construction activities. Council suggests placing a timeframe of 48 hrs to define what is a short duration.	POAL does not agree to the insertion of a 48-hour timeframe to define what is a

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		<p>‘short duration’.</p> <p>In POAL’s experience, a ‘short duration’ can vary considerably depending on the nature and circumstances of the plume.</p> <p>It is better for the condition to stay silent on the duration as it will provide more flexibility for the management of sediment plumes.</p>
39.	Condition 39 relates to coastal process monitoring. Council suggests that a timeframe of 30 working days is imposed to submit the results of the surveys to Council.	<p>POAL does not agree to Council’s proposed amendment requiring results to be submitted within 30 days. A 60-day timeframe is more practical, as it allows sufficient time for data processing and specialist review while still providing Council with results in a timely manner.</p> <p>That said, the words “Within six months of completion of the Project” can be deleted from the start of the condition as the relevant timeframes are specified in clauses (a) and (b) of the condition and require the work to be undertaken prior to the commencement of construction.</p> <p>The condition has been amended in Attachment 1 to require submission within 60 days of completion of each survey.</p>
	<i>Land use consent</i>	
45.	Condition 45 relates to the preparation of a ‘Transport Management Plan’. Council suggests that additional words are added to require the certified TMP to be implemented for cruise ship embarking and disembarking.	Agreed. Refer to updated draft conditions appended as Attachment 1

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46.	In relation to Council 46 (TMP objectives), Council has requested that (e) is amended to include a requirement that the footpath and cycleway along Quay Street remain unobstructed for pedestrians and cyclists.	<p>POAL does not oppose the inclusion of Council's requested wording, provided that it is clear the objective relates to ensuring the design and operation of the transport management measures do not obstruct the Quay Street footpath and cycleway. The consent holder cannot reasonably be responsible for incidental pedestrian behaviour on public land (such as passengers stopping to talk), as no works are proposed within the public footpath or cycleway and POAL has no ability to control its use.</p> <p>On this basis, the following changes are proposed in relation to Condition 46(e):</p> <p>(e) Ensure public access is provided between the cruise terminal building and Quay Street, <u>and that the footpath and cycleway along Quay Street remain unobstructed by the transport management measures.</u></p>
47.	For the same reasons as Condition 46, Council suggests additional working to item (g) to require the TMP to provide details of the on-site pedestrian wait area, and to ensure that there is no conflict with pedestrians and cyclists on the adjacent public footpath/cyclists.	<p>POAL does not oppose Council's requested amendment, on the basis that it is clear the requirement relates to the design and operation of the TMP and its associated facilities. The consent holder cannot reasonably be responsible for incidental pedestrian behaviour on the public footpath and cycleway, as no works are proposed within that area and its use cannot be controlled.</p> <p>On this basis, the following changes are proposed in relation to Condition 47(g):</p>

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		(g) Details of the management and dedicated route for pedestrians between the processing centre and Quay Street, including <u>details of the on-site pedestrian wait area and the 'meet and greet' area north of Quay Street, to ensure no conflict arises from the transport management measures with pedestrians and cyclists on the adjacent public footpath / cycleway.</u>
48.	Council has requested a new Condition that requires the effectiveness of the measures implemented in the TMP to be monitored for each of the first five berthing's of cruise ships, and additional monitoring to be undertaken at the request of Council no less than once every 12 month period.	<p>POAL notes that this requirement has not been raised previously through the assessment process and considers that the monitoring proposed is unnecessary given the comprehensive objectives and requirements of the TMP.</p> <p>However, POAL is not opposed to the inclusion of the condition, subject to the reference to additional monitoring "at the request of Council" should be framed in a way that ensures monitoring is only required where there is a clear and specific reason, rather than on a routine or arbitrary basis.</p> <p>To provide certainty, the following amendment is proposed:</p> <p>48. The effectiveness of the measures implemented in the TMP must be monitored by an SQEP for each of the first 5 berthing's of cruise ships and a report submitted to the council detailing the findings and outlining recommendations on any additional measures (if required) that can be implemented to ensure the objectives of the TMP are achieved. Thereafter, additional monitoring of the</p>

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		effectiveness of the TMP must be undertaken at the request of the Council, <u>where Council has identified a specific concern regarding the effectiveness of the TMP</u> , at a frequency of no less than once every 12 month period.
	<i>Industrial and Trade Activity consent</i>	
	Council has proposed multiple changes to the ITA provisions on the basis that terminology should be updated from “stormwater management” to “structural controls,” that an additional condition should be included requiring submission of detailed design for certification prior to construction, and that a pre-start meeting be held before construction of the structural control.	<p>POAL does not agree to Council’s requested changes.</p> <p>The proposed ITA consent conditions were drafted to mirror the existing ITA consent held by POAL, so that stormwater discharges across the Port are managed in a consistent way under the established BPO regime. Introducing different terminology or new process steps for this project would create inconsistencies between consents for the same receiving environment and result in administrative complexities for both POAL and Council.</p> <p>Both the existing and proposed ITA consents have the same duration. At expiry, conditions can be reviewed comprehensively for consistency with any updated Council practice.</p> <p>In the meantime, the proposed conditions already provide for design performance, certification of as-builts, management plans, annual reporting, and a review condition (noting that the stormwater treatment device is specified in the application documents). These measures ensure effective and consistent management without the need for further change.</p>

	Comments on Draft Condition	Response to Comments
	Fergusson Wharf	
	<i>General conditions applicable to all consents</i>	
1.	In relation to Condition 1 (general accordance), Council suggests deleting the reference to 'general' as it is too vague and leaves room for interpretation.	<p>POAL does not agree to the deletion of the word 'general' from Condition 1.</p> <p>The inclusion of 'general accordance' recognises the practical reality of development projects. Inevitably, minor variances can occur that are inconsequential in planning terms, but which otherwise necessitate formal applications to vary consent conditions. "General accordance" provides an appropriate mechanism to accommodate them.</p> <p>Requiring absolute accordance would impose unnecessary time and cost.</p>
	<i>Coastal permit</i>	
25.	Council suggests that Condition 25 (underwater construction noise management) is amended to explicitly reference the management of <u>underwater</u> noise to minimise adverse effects on marine mammals <u>and kororā</u> .	Agreed. Refer to updated draft conditions appended as Attachment 1
25.	In relation to Condition 25(d), Council has stated that it is of the view that observation from the water is preferred given the observation of marine mammals and kororā is required and has suggested changes to the condition to this effect.	<p>POAL does not support the Council's proposed amendment.</p> <p>The current wording requires observations from a static land-based position, while still allowing observations to be undertaken from water level and other locations as part of the overall monitoring system. This approach ensures that observations are made effectively, including for species such as kororā, observations from a watercraft are limited in distance as the observations are at water level.</p>

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		Removing the land-based reference and instead noting only that “water-based observations are preferred,” complicates the observation process.
	Industrial and Trade Activity consent	
	<p>Council has proposed multiple changes to the ITA provisions on the basis that terminology should be updated from “stormwater management” to “structural controls,” that an additional condition should be included requiring submission of detailed design for certification prior to construction, and that a pre-start meeting be held before construction of the structural control.</p> <p>Council has also advised that as the device for the Fergusson North Berth has been installed, some of the conditions may not be necessary.</p>	<p>POAL does not agree to Council’s requested changes.</p> <p>The proposed ITA consent conditions were drafted to mirror the existing ITA consent held by POAL, so that stormwater discharges across the Port are managed in a consistent way under the established BPO regime. Introducing different terminology or new process steps for this project would create inconsistencies between consents for the same receiving environment and result in administrative complexities for both POAL and Council.</p> <p>Both the existing and proposed ITA consents have the same duration. At expiry, conditions can be reviewed comprehensively for consistency with any updated Council practice. That is the appropriate time to consider terminology changes or refinements, not now.</p> <p>In the meantime, the proposed conditions already provide for design performance, certification of as-builts, management plans, annual reporting, and a review condition. These measures ensure effective and consistent management without the need for further change.</p> <p>In relation to Fergusson North Berth, while the stormwater treatment device</p>

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		itself has already been installed (and is specified within the application documents), conditions are still required as there is pipework yet to be installed to connect drainage into the existing device. The conditions therefore remain necessary to ensure the system functions as intended and is certified appropriately.

Bledisloe North Wharf Condition 37 – Ecological Enhancement

Following initial feedback on the draft conditions, POAL has identified that alternatives to attaching the fish houses to piles by straps need to be explored. The use of straps may not be suitable in this marine environment, and alternative methods of attachment will need to be considered. A change to the wording to require straps “or similar” has therefore been made to Condition 37. The number of fish houses proposed remains unchanged (minimum four per pile).

General conditions

Condition 1 of the resource consent for the Bledisloe North Wharf and the Fergusson North Berth both make reference to “The reports listed at Attachment 1” and “The plans listed at Attachment 2”.

POAL notes that these attachments have not been prepared for the Panel’s consideration. To assist the Panel in its decision making, a list of the reports and plans that are to be appended to the Bledisloe North Wharf and the Fergusson North Berth consents are appended to this memorandum as **Attachment 2**.

<https://Bentleyco.Sharepoint.Com/Projects/Shared Documents/Projects/Port Of Auckland/Bledisloe Terminal 12004.29/Fast Track Application/Substantive Application/Correspondence To EPA/5. Response To Comments On Draft Conditions 19 August 2025.Docx>