

## Your Comment on the Bledisloe North Wharf and Fergusson North Berth Extension project application

Please include all the contact details listed below with your comments and indicate whether you can receive further communications from us by email at [substantive@fasttrack.govt.nz](mailto:substantive@fasttrack.govt.nz)

### 1. Contact Details

Please ensure that you have authority to comment on the application on behalf of those named on this form.

Organisation name (if relevant)	Department of Conservation		
First name	<div></div>		
Last name	<div></div>		
Postal address	<div></div>		
Mobile phone	<div></div>	Work phone	<div></div>
Email	<div></div>		

### 2. We will email you draft conditions of consent for your comment

<input checked="" type="checkbox"/>	I can receive emails and my email address is correct	<input type="checkbox"/>	I cannot receive emails and my postal address is correct
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### 3. Please provide your comments on this application

Please find comments attached

Note: All comments will be made available to the public and the applicant when the Ministry for the Environment proactively releases advice provided to the Minister for the Environment.



Jenni Fitzgerald

**Fast-Track Applications Manager**

Acting pursuant to delegated authority on behalf of the Director-General of Conservation.

Date: 27/06/2025

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

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## Comments on a fast-track consenting application

### Fast-track Approvals Act 2024 section 53

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**To:** The Expert Panel

**From:** Director-General of Conservation

**Regarding fast-track project:** Bledisloe North Wharf and Fergusson North Berth Extension project

**Fast track Reference:** FTA –2503-1028

## 1 Background

- 1.1 Port of Auckland Ltd (POAL) has lodged a substantive application for the Bledisloe North Wharf and Fergusson North Berth Extension project under the Fast-track Approvals Act 2024 (the Act).
- 1.2 POAL is seeking resource consent and a wildlife approval under the Act to authorise the construction and operation of a new 330m long and 27.5m wide wharf to the northern end of the existing Bledisloe Terminal and a 45m x 34m extension to the existing Fergusson North Berth to accommodate larger container ships (the Project). In part, the Project involves the reshaping and partial replacement of an existing rock revetment – the wildlife approval sought is to capture, handle and relocate little penguin if they are found prior to/during the works.
- 1.3 Overall, the permissions sought will enable POAL to reconfigure its operational footprint to create efficiencies in operation at the Bledisloe and Fergusson terminal areas. It will also enable the transfer of Captain Cook and Marsden wharves to Auckland Council (AC) for public use. The application has been assessed as a discretionary activity.
- 1.4 The proposal is not on or near Public Conservation Land but is in the Coastal Marine Area (CMA) and is subject to the NZ Coastal Policy Statement (NZCPS) for which the Minister of Conservation has jurisdiction.
- 1.5 Auckland Harbour is also part of the Hauraki Gulf Marine Park (pursuant to the Hauraki Gulf Marine Park Act 2000(HGMPA)), established to protect the natural, recreational, historical, and cultural values of the Hauraki Gulf.
- 1.6 In accordance with sections 53(2)(k) and 53(2)(m)(i) of the Act, the Director-General of Conservation (D-G) has been invited to comment on the substantive application. Statutory delegations are in place for the Department of Conservation (DOC / the Department) to provide commentary on behalf of the D-G.

- 1.7 The applicant engaged with the Department of Conservation Auckland District Office in August 2024, prior to the enactment of the Act. The Department's response to this engagement is included as Appendix 34 of the application.

## **2 Department of Conservation advice**

- 2.1 The Department is of the view the application in general addresses the key substantive matters in relation to actual and potential adverse effects. The Department 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.
- 2.2 The Department is of the view that the application is consistent with the provisions of the RMA set out in Schedule 5 clause 17. The project should, with appropriate conditions, have no more than minor adverse effects on the ecological values of the Auckland Port area.
- 2.3 The Department is prepared to provide commentary on draft conditions.
- 2.4 The Department has also provided commentary in relation to the New Zealand Coastal Policy Statement 2010 (NZCPS) for which it is the lead agency.
- 2.5 The Department feels that the application is generally consistent with the NZCPS, in particular; Policies 9 (Ports), 18 (Public Open Space), and 19 (Walking Access).
- 2.6 Overall, the Department's view is that application is also consistent with the HGMPA (sections 7 and 8).
- 2.7 In relation to the impact on little penguin the Department considers that if the appropriate conditions, including the proposed draft management plan, are adopted then actual and potential adverse effects on the species will be addressed.
- 2.8 In relation to marine mammals the Department is reasonably comfortable that the applicant is proposing to take the appropriate steps to avoid, remedy or mitigate the impacts on marine mammals likely to occur in the area influenced by the piling activity. As reflected in Section 3.5- 3.15 of this report there may be scope for further improvement in the conditions.
- 2.9 Clarification around some of the biosecurity management measures would be prudent to ensure that management plans and conditions appropriately avoid, remedy or mitigate these risks (further commentary is provided in Section 3.15 of these comments).

## **3 Assessment**

### **Ecological context**

- 3.1 POAL has undertaken significant ecological investigations as part of their application under the Act. The Project area is highly modified as it is part of the Auckland Port which has been extensively modified as a working port over the last 150 years. The ecological values in the surrounding area are generally low.

### **Little penguin**

- 3.2 In relation to the wildlife approval sought for little penguin/kororā, it is the Department's view that if the appropriate conditions are set, any actual and potential adverse effects will be avoided, minimised or remedied.
- 3.3 The applicant has provided a draft Little Penguin Management Plan (LPMP) which outlines the methods (related to best practice and avoiding, minimising and remedying effects) that it proposes to adopt during the Project. Assessing the content of the LPMP was key to the Department's consideration of potential and actual effects and the management of those effects (See the Department's Section 51 report).
- 3.4 If the LPMP is amended further during the current process (i.e. prior to the panel issuing its decision) the Department would recommend further review of any changes by its experts prior to finalisation.

### **Marine mammals**

- 3.5 The Department recognises one of the more significant concerns around potential biodiversity effects of this wharf development is the effects of piling noise on marine mammals. As such there is a need for active measures be applied to reduce piling noise at source. This is because of the enhanced ability of sound to travel through columns of water.
- 3.6 The Department's Canterbury staff have experience working with similar concerns in relation to marine mammals, particularly Hector's dolphin, and piling noise related to the consenting for the redevelopment of Te Awaparahi Port Development in Lyttelton Harbour following the Canterbury earthquakes. In that case the hearing commissioners did agree that unmitigated piling noise was a "...high probability, high potential impact risk to Hector's Dolphin that must be avoided and mitigated to the greatest extent possible" (paragraph 182, page 51 decision<sup>1</sup>).
- 3.7 The Department's technical staff consider POAL have evaluated the likely impacts on marine mammals in an appropriate manner. Notably pile driving (vibro-piling and hammer driving piling) and noise disturbing marine mammals is the key concern. POAL have used the appropriate criteria and are using up to date USA standards (NOAA 2024).
- 3.8 Mitigation and management for piling is appropriately considered at 9.4.2 in the Kennedy Environmental Limited, Assessment of Effects on the Ecological Environment (Attachment 31 of the application). It directs management to the draft Underwater Construction Noise Management Plan (UCNMP) (Marshall Day 2025). The management and mitigation is proposed to include:
- production of sound/noise modelling for noise from piling,
  - plans being put in place for appropriate mitigation (e.g. bubble curtains for impact driving), and

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<sup>1</sup> [REPORT AND DECISION OF HEARING COMMISSIONERS Sharon McGarry and Peter Atkinson 7 December 2017 Application for by the Lyttelton Port Company for the Te Awaparahi Bay Reclamation Project](#)

- zones being set up for marine mammal monitoring, and
  - employment of Marine Mammal Observers (MMOs), with appropriate mechanisms to stop the activity when marine mammals are present within the zone. This will be undertaken by Marshall Day.
- 3.9 The above management actions are 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.
- 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.
- 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.
- 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 2020<sup>2</sup>).
- 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 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.
- 3.14 There are other species less likely to occur that have previously been present 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 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

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<sup>2 2</sup> Giles, Hilke; Barton, Barry --- “*Adaptive Management* Under the RMA: The Tension Between Finality and Flexibility” [2020] NZJ Env. Law 2; (2020) 24 NZJEL 1

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.

## **Biosecurity**

3.15 After reviewing the Kennedy Environmental Limited, Assessment of Effects on the Ecological Environment (Attachment 31 of the application), the Department has made the following observations.

3.15.1 It is noted that there is a question around excavation enhancing the spread of 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.

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 (Sabella spallanzanii), 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.*

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.

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.

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: *(b) Some minor loss of marine growth on the piles is anticipated during removal. The piles will be managed in accordance with biosecurity regulations to prevent the spread of Mediterranean fanworm (Sabella spallanzanii), a notifiable pest species under the Biosecurity Act 1993.*

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.

- 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.*
- 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.

## 4 Assessment of application with relevant provisions

### **New Zealand Coastal Policy Statement**

- 4.1 Generally, the application is consistent with New Zealand Coastal Policy Statement (NZCPS) Policy 9 (Ports), in that it will enable a more efficient and safe port in NZ's largest city. This is because it will enable the Bledisloe Terminal to accommodate "roll on roll off" and large cruise ships from Captain Cook wharf, including a new cruise passenger terminal. The extension of the existing Fergusson terminal will enable quay cranes to access the full length of the berth without repositioning or being subject to loading restrictions. The proposal will enable 10,000 twenty-foot equivalent (TEU) container ships to berth at the wharf. All these measures will deliver significant economic, operational and environmental benefits.
- 4.2 The Department was unable to identify any reference to NZCPS Policy 12 which addresses harmful aquatic organisms.

### **The Hauraki Gulf Marine Park Act 2000**

- 4.3 Auckland Harbour is part of the Hauraki Gulf Marine Park (pursuant to the Hauraki Gulf Marine Park Act 2000 (HGMPA)), established to protect the natural, recreational, historical and cultural values of the Hauraki Gulf. DOC is the administering agency for the HGMPA, sections 7 and 8 of which are to be treated as if they were an NZ coastal policy statement under the RMA. The HGMPA has the status of a National Policy Statement (NPS) under the RMA. The Auckland Port is within the HGMP boundaries. This proposal assists with giving effect to the HGMPA by giving effect to the social, economic, and recreational well-being of the people of Auckland and their communities.



- 4.4 Overall, the Department's view is that application is considered highly consistent with the NZCPS and HGMPA (Sections 7 and 8).

## **5 Assessment of applications consistency with DOC obligations and role**

### **Conservation General Policy (2005)**

- 5.1 The application is consistent with Marine Species and Ecosystems General Policy 4.4(j), which seeks to avoid or minimise adverse effects on populations and individuals of marine species (such as penguins and marine mammals). This will be achieved by an appropriate little penguin management plan and the noise abatement conditions for marine mammals proposed by POAL. It also is consistent with Policy 4.4(l) which directs the Department to work with other agencies such as POAL to protect marine species.
- 5.2 The application is consistent with Conservation General Policy 7(d) to undertake statutory advocacy to protect natural resources generally and Policy 4.2(b) on Biosecurity which seeks to prevent new pests becoming established, provided adequate conditions address these matters.
- 5.3 Overall, the Department's view is that proposal is consistent with the Conservation General Policy.

### **Consistency with the Auckland Conservation Management Strategy**

- 5.4 The proposed activity is located within the Hauraki Gulf Place of the Auckland Conservation Management Strategy (CMS) 2014. A general outcome for this Place includes enhancing conservation values of all areas.
- 5.5 The proposal will be consistent with the provisions of the CMS Objective 6.1.1.9 to advocate and work with Auckland Council to protect natural heritage off public conservation lands and waters. Additionally, Objective 6.1.1.11 seeks to manage threats to marine mammals to ensure their recovery and protection, and the proposed conditions address the noise threat of construction in particular.
- 5.6 The enhanced recreational access provided by the Captain Cook and Marsden wharves being enabled for public use is consistent with CMS Objective 6.3.1.10.
- 5.7 Overall, the Department considers the application consistent with the Auckland CMS. If the application progresses, conditions should further address the protection and persistence of any marine wildlife (notably little penguins), biosecurity, and marine mammals related to noise and disturbance during construction and ongoing port activity.

## 6 Treaty Obligations

- 6.1 Under Section 7 of the Act the panel must act in a manner that is consistent with the obligations arising under existing Treaty settlements.
- 6.2 The Department's section 51 report (Appendix E) provided a high-level summary of Treaty settlement information for the panel to consider.
- 6.3 The Department is also aware that under a number of these claims and settlements there are also considerations that would relate to the RMA. These relate to relationship agreements, consultation and marine mammals which may also be relevant for the panel to consider.
- 6.4 The Department has notified iwi groups of the progression of this application in accordance with its Treaty Partnership and settlement obligations.
- 6.5 The Department received correspondence from Ngaati Te Ata Waiohina on the application on 23/06/2025 and has attached this feedback as Appendix A to these comments.

## 7 Comments on conditions

- 7.1 The Department welcomes the opportunity to comment on a draft condition set as set out in section 70 of the Act.
- 7.2 The Department provided a revised condition set as Appendix D to the section 51 Report provided on 12/06/2025 for the wildlife approval sought in relation to little penguin. Any conditions in relation to the resource consent should be consistent with the conditions adopted in relation to the wildlife approval.
- 7.3 The Department recommends the panel consider the commentary provided in paragraphs 3.9–3.14 of this report when determining conditions to avoid, mitigate or remedy any potential and actual effects on marine mammals; and paragraphs 3.15-3.18 when determining conditions to avoid, mitigate or remedy any potential and actual adverse effects in relation to biosecurity hazards.

## 8 Appendices

**Appendix A)** Email Ngaati Te Ata Waiohina 23/06/2025

## **Appendix A: Email Ngaati Te Ata Waiohua 23/06/2025**

Marie Payne

**From:** Fiona McKenzie  
**Sent:** Tuesday, 24 June 2025 7:57 am  
**To:** Marie Payne; John Galilee  
**Cc:** Jenni Fitzgerald; Donna Shepard; Alex Rogers; Rebecca Rush; Anna Atchley  
**Subject:** FW: FW: Advice on Ports of Auckland Fast Track Application Wharf Extensions

Kia Ora Marie,

I understand that the email I sent out to iwi on Monday was advisory in nature, however I have received feedback (below) from Ngāti Te Ata, if you could please see that it is forwarded to the applicant and let me know when that is done so that I can in turn, confirm back to Ngāti Te Ata. Thank you.

Nga mihi,

Fiona

**From:** Paora Puru [REDACTED]  
**Sent:** Monday, 23 June 2025 3:26 pm  
**To:** Fiona McKenzie [REDACTED]  
**Cc:** Karl Flavell [REDACTED]  
**Subject:** Re: FW: Advice on Ports of Auckland Fast Track Application Wharf Extensions

Kia ora Fiona,

Ngaati Te Ata Waiohua acknowledges receipt of DOC’s 51 Report on the Wildlife Approval and the notice regarding the fast-tracking of the Bledisloe North Wharf and Fergusson North Berth Extension under the Fast-track Approvals Act (FTAA).

We remind the Crown and applicant that Ngaati Te Ata Waiohua has already submitted a Cultural Values Assessment (CVA) for this proposal. Given the project’s progression through a fast-tracked process and the applicant’s intention to seek Wildlife Act approval for kororaa (Little Penguin), we expect the following without delay:

- A formal written response from the applicant addressing all concerns and recommendations raised in our CVA;
- The preparation of an addendum to our CVA, to ensure all fast-track related impacts are fully assessed from a Ngaati Te Ata Waiohua cultural perspective.

Ngaa mihi,  
Paora

On Mon, Jun 23, 2025 at 11:55 AM Fiona McKenzie <[REDACTED]> wrote:

Kia Ora korua,

Further to our earlier advice email to you in March on this Fast-track application (below), please find following a link to DOC’s 51 Report on the Wildlife Approval for your additional information and reference ahead of the closing date for invited comments (to Fast Track panel – see <https://www.fasttrack.govt.nz/projects/bledisloe-north-wharf-and-fergusson-north-berth-extension/comments-from-invited-parties>) on Friday 27th June 2025. Thank you.

DOC 51 Report [Reports and advice | Fast-track website](#).

Nga mihi,

Fiona

**From:** Fiona McKenzie  
**Sent:** Monday, 17 March 2025 12:24 pm  
**To:** Karl Flavell [REDACTED]; Paora Puru [REDACTED]  
**Subject:** Advice on Ports of Auckland Fast Track Application Wharf Extensions

Kia ora,

Please find information below around the Schedule 2 (Fast Track Approvals Act) listed project. This application has now been accepted for processing.

[REDACTED]			
Port of Auckland Limited	Bledisloe North Wharf and Fergusson North Berth Extension	Construct a new reinforced concrete-piled wharf structure at the Bledisloe Terminal, a reinforced concrete-piled extension to the existing Fergusson North Berth, a cruise passenger terminal, and fendering	Land and coastal marine area at the Port of Auckland, 1 to 9 Quay Street, Auckland

As per information available in the referral application/completeness decision the applicant is seeking a Wildlife Approval for Little Penguin.

As you may be aware Ports of Auckland Limited lodged:

- An initial application on the 7<sup>th</sup> of February which was returned for incompleteness.
- A revised application on the 10<sup>th</sup> of March which was deemed complete on the 12<sup>th</sup> March

More information can be found on MFE’s website here: [Bledisloe North Wharf and Fergusson North Berth Extension | Fast-track website](#) including the completeness decisions.

As per Section 53 clause 2 (b) and (c) of the Fast-track Approvals Act (FTAA) DOC is aware that comments must be invited from any relevant Iwi authorities and any Treaty Settlement Entities (as specified in the FTAA).

We anticipate that a panel will be in the process of being set up for the application. In accordance with Section 53 a panel will direct EPA to invite written comments on a substantive application not later than 10 working days after the panel is set up. As set out in Section 54 comments must be received by the EPA (on behalf of the panel) on a specified date which is 20 working days after the date on which the information is given.

More information can be found in Sections 53 and 54 of the FTAA.

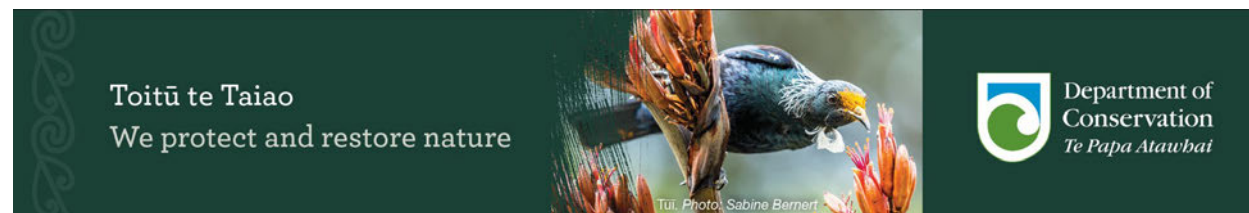
DOC’s email is to make you aware of the process and statutory timeframes, more information on the process is available in the attached PDF.

Nga mihi,

**Fiona McKenzie** (she/her)

Ranger, Community | Kaimahi, Ao Hāpori  
Department of Conservation | Te Papa Atawhai  
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[www.doc.govt.nz](http://www.doc.govt.nz)



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