

**BEFORE THE BLEDISLOE NORTH WHARF AND FERGUSON NORTH BERTH EXTENSION
[FTAA-2503-1028] EXPERT PANEL**

In the matter of the Fast-track Approvals Act 2024

And approvals sought under the Resource Management Act 1991
and the Wildlife Act 1953

**Record of Decisions of the Expert Panel
under Section 87 of the
Fast-track Approvals Act 2024**

Decision 1: Approvals relating to Resource Management Act 1991 granted subject to conditions

Decision 2: Approval relating to Wildlife Act 1953 granted subject to conditions

Date of Decisions: 21 August 2025

Date of Issue: 21 August 2025 (amended 8 September 2025)

Expert Panel

Dr Phil Mitchell (Chair)

Bal Matheson (Member)

Robert Scott (Member)

CONTENTS

A – EXECUTIVE SUMMARY

B – CONTEXT, APPLICATION OVERVIEW AND APPROVALS SOUGHT

C – PROCEDURAL MATTERS

D – LEGAL CONTEXT FOR DECISIONS

E – EVALUATION OF EFFECTS ON THE ENVIRONMENT – RMA APPROVALS

F – EVALUATION OF RELEVANT PLANNING INSTRUMENTS – RMA APPROVALS

G – EVALUATION OF EFFECTS ON LITTLE PENGUIN – WILDLIFE APPROVAL

H – EVALUATION OF INFORMATION & REQUIREMENTS - WILDLIFE APPROVAL

I – EVALUATION OF NATIONAL AND REGIONAL BENEFITS OF PROJECTS

J – PRINCIPAL ISSUES IN CONTENTION AND KEY FINDINGS OF PANEL

K – ASSESSMENT OF CONDITIONS – RMA APPROVALS & WILDLIFE APPROVALS

L – OVERALL EVALUATION AGAINST CRITERIA - RMA APPROVALS

M – OVERALL EVALUATION AGAINST CRITERIA - WILDLIFE APPROVAL

N – FINAL DECISION

APPENDICES

1. CONDITIONS – RMA APPROVALS

2. CONDITIONS – WILDLIFE APPROVALS

3. SUMMARY OF COMMENTS RECEIVED ON SUBSTANTIVE APPLICATION

4. SUMMARY OF COMMENTS RECEIVED ON CONDITIONS OF RMA APPROVALS

5. SUMMARY OF COMMENTS RECEIVED ON CONDITIONS OF WILDLIFE APPROVAL

6. APPLICANT RESPONSE TO AUCKLAND COUNCIL COMMENTS ON RESOURCE CONSENT CONDITIONS

PART A: EXECUTIVE SUMMARY

- 1 This is an application by Port of Auckland Ltd (**POAL** or **Applicant**) for resource consents under the Resource Management Act 1991 (**RMA approvals**) to construct, operate and maintain a new wharf at the northern end of the Bledisloe Terminal (**Bledisloe Wharf**), to construct, operate and maintain an extension to the Fergusson North Berth (**Fergusson Berth**) (collectively, **Projects**), and for a wildlife approval under the Wildlife Act 1953 (**wildlife approval**) in relation to little penguin | kororā in the vicinity of the Bledisloe Wharf (collectively, the **Application**).
- 2 The location of the Projects are within the Port of Auckland, at 1-9 Quay Street, to the immediate north of the Auckland CBD (**Site**).¹
- 3 The Application was included as a listed project in Schedule 2 of the Fast-track Approvals Act 2024 (**FTAA** or the **Act**). On 9 May 2025, we (the **Expert Panel**) were appointed to determine the Application.
- 4 We have assessed the Application applying the relevant statutory criteria within the purpose and context of the FTAA.²
- 5 We received comments from those invited to comment³ up until 27 June 2025 and a response to those comments from the Applicant on 7 July 2025. We have carefully reviewed all of that information in evaluating the Application.
- 6 We must make a separate decision in respect of each of the two types of approvals sought.⁴
- 7 The relevant statutory tests for the RMA approvals are set out in clause 17, Schedule 5 FTAA. In that regard, we find as follows:
 - a. Bledisloe Wharf:
 - i. The project promotes the purpose of the FTAA.
 - ii. The project achieves the purpose of the RMA, as set out in Part 2 of that Act (excluding section 8).
 - iii. The project will not, after imposition of conditions, have any residual adverse effects that are unacceptable or that will result in material harm.
 - iv. The project is generally consistent with, and otherwise not contrary to, the relevant national, regional and district planning instruments.
 - v. Granting the approval will comply with section 7. (However, if that section does not apply then we confirm that our substantive decision and the nature of the conditions imposed would not have changed.)

¹ Part Lot 37 DP 131568 and Lot 13 DP 131563.

² Legislation Act 2019, s 10; and FTAA, ss 3 and 10.

³ FTAA, s 53.

⁴ Section 87(1), FTAA.

- vi. The conditions imposed comply with section 83.
- b. Fergusson Berth:
- i. The project promotes the purpose of the FTAA.
 - ii. The project achieves the purpose of the RMA, as set out in Part 2 of that Act (excluding section 8).
 - iii. The project will not, after imposition of conditions, have any residual adverse effects that are unacceptable or that will result in material harm.
 - iv. The project is generally consistent with, and otherwise not contrary to, the relevant national, regional and district planning instruments.
 - v. Granting the approval will comply with section 7. (However, if that section does not apply then we confirm that our substantive decision and the nature of the conditions imposed would not have changed.)
 - vi. The conditions imposed comply with section 83.
- 8 We have determined that the RMA approvals should be approved subject to the conditions in Appendix 1. We make that finding on the basis of the criteria listed for each of the approvals. In making that determination we have, in accordance with the statutory directive, placed the greatest weight on the purpose of the Act. However, we record that we would have reached the same conclusion even without according the purpose of the Act any greater weight than the other criteria.
- 9 The relevant statutory tests for a wildlife approval are set out in Schedule 7, clause 5. In that regard, we find as follows:
- a. Bledisloe Wharf:
- i. The project promotes the purpose of the FTAA.
 - ii. The project will not, after imposition of conditions, result in material harm to little penguin | kororā, and accordingly the project will achieve the purpose of the Wildlife Act as set out in section 3 of that Act.
 - iii. There is no other relevant information or requirements relevant to our assessment of the wildlife approval under clause 5(c), Schedule 6 FTAA.
 - iv. The conditions imposed comply with clause 6, Schedule 7 and with section 83 FTAA.
- 10 We have determined that the wildlife approval should also be approved, subject to the conditions in Appendix 2. We make that determination on the basis of the criteria listed for that approval. While we are required to give the greatest weight to the purpose of the FTAA, due to the nature of the Project, the proposed conditions and the minor degree of resulting adverse effects, and the positive benefits accruing, we record that we would have reached the same conclusion even without according the purpose of the Act any greater weight than the other criteria.

- 11 These decisions are made in accordance with section 87 FTAA. This decision document therefore includes:
- a. The decisions – throughout and summarised in Part N;
 - b. The reason for the decision – throughout and summarised in Part L and Part M;
 - c. A statement of the principal issues in contention – Outlined in Part J;
 - d. The main findings of the principal issues in contention – Summarised in Part J; and
 - e. The date on which the RMA approvals lapse – Appendix 1.

PART B: CONTEXT, APPLICATION OVERVIEW, AND APPROVALS SOUGHT

Context

Applicant

- 12 POAL is the authorised person for the Projects as set out in section 42 FTAA.

Port (the Site)

- 13 The Site is the land and Coastal Marine Area (**CMA**) at the Port of Auckland, described as 1-19 Quay Street, Auckland (the **Port**). The Site falls across two parcels legally described as Part Lot 37 DP 131568 and Lot 13 DP 131563. The Applicant provides a detailed description of the Site,⁵ which we summarise below.
- 14 The Port is located on the edge of the Waitematā Harbour, north of and adjacent to Auckland's CBD. The Auckland waterfront has been shaped by the shoreline reclamation and development of transport and marine infrastructure over the past 170 years. The 77 hectares occupied by the wharfs and storage is almost exclusively sited on reclaimed land.
- 15 The arrangement of the Port's wharfs, including the western finger wharfs and the container/international trade wharfs to the east creates a series of "basins" with a distinct character quite different to the open waters of the Waitematā Harbour. The working port elements east of Queens Wharf contain substantial areas of hardstand (piled wharfs and reclaimed land) and are frequented by large cargo ships and smaller coastal vessels. Other elements which characterize the area include port infrastructure such as cranes, machinery, vehicles, shipping containers and imported vehicles and equipment.
- 16 The bulk of the working port is defined by Bledisloe Terminal and Fergusson Container Terminal (refer Figure 1 below). The Bledisloe Terminal is accessed via Tinley Street which connects to the Tangihua Street/Quay Street/Tinley Street intersection featuring restricted POAL staff parking, customs-controlled access and a multi-storey vehicle handling facility. The Fergusson Container Terminal is accessed via Solent Street which connects to Tamaki Drive via signalised intersection which requires vehicles to pass through port security along Sutherland Street. The surrounding land use west, north and east of Bledisloe Wharf fall within the Waitematā Harbour while the area to the south is the location of a multi-cargo facility for the handling of imported vehicles. The areas to the north, east and south east of the Fergusson Container Terminal fall within the Waitematā Harbour with the area to the west comprising the existing Fergusson North Berth and south-west is a workshop for crane maintenance.

⁵ Substantive Application for the Bledisloe North Wharf and Fergusson North Berth Extension pg. 36-37.



Figure 1: Location of existing Bledisloe Terminal and Fergusson Container Terminals, Captain Cook Wharf, Marsden Wharf and Fergusson North Berth

Bledisloe Wharf and Central Wharves

- 17 The Bledisloe Wharf and Central Wharves (**Captain Cook** and **Marsden Wharves**) comprise an area of approximately 16 hectares that handles much of the POAL's multi cargo and is identified in Figure 1 above reproduced from the Application.
- 18 The existing Bledisloe Terminal handles considerable roll-on-roll-off (**RORO**) throughput with Captain Cook and Marsden Wharves used for the berthing and unloading of RORO vessels as well as the berthing of the work boat vessels and the 'Awanuia' (3,900 tonne bunker tanker). The southern portion of the Bledisloe Terminal is occupied by a five level car handling facility with capacity for approximately 1,100 to 1,700 vehicles providing storage capacity additional to that of the existing at-grade facility.

Fergusson Container Terminal

- 19 The Fergusson Container Terminal comprises an area of 30 hectares that is the Port's main container terminal serving as the nation's largest import port, handling 25 percent of total container volume. It comprises three berths for international container ships. The Fergusson North Berth, which is a 295 m berth for unloading and loading of container ships, is the port's deepest and largest berth. POAL has invested in three quay cranes that can service 10,000 TEU ships from the northern end of the Fergusson Terminal. While the berth is capable of accommodating ships up to a size of 10,000 TEU⁶, POAL state that it is operationally inefficient because quay cranes cannot access the full length of the ship. This means that 10,000 TEU container ships currently do

⁶ "TEU" is a reference to "Twenty-foot Equivalent Unit" and is the standard measurement used in the shipping and logistics industry. A standard shipping container is 20 feet long. A capacity of 10,000 TEU therefore refers to the ability of a container ship to carry 10,000 standard shipping containers.

not call at the berth. Fergusson North Berth occasionally accommodates cruise ships but this conflicts with container operations.

Planning controls

- 20 The following Auckland Unitary Plan Zoning, Overlay and Management Layers apply to the site and its immediate surrounds as reproduced by Figure 2:

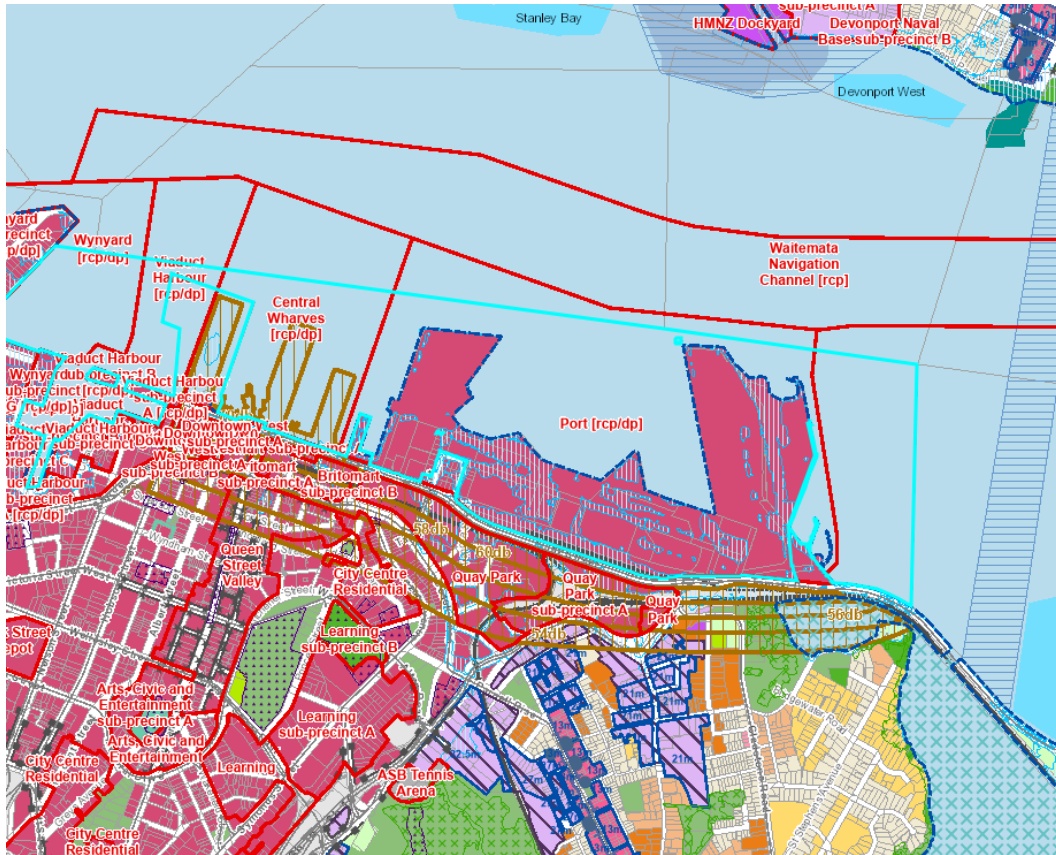


Figure 2: Auckland Unitary Plan Map

Zoning

- Coastal – General Coastal Marine Zone;
- Business - City Centre Zone; and
- Coastal – Transition Zone.

Precinct

- Port Precinct [rcp/dp]; and
- Waitematā Navigation Channel Precinct [rcp].

Overlays

- Historic Heritage and Special Character: Auckland War Memorial Museum Viewshaft Overlay [rcp/dp];
- Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place – 2016, Ferry Building [rcp/dp];
- Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place – 2735, Queens Wharf [rcp/dp]; and
- Infrastructure: City Centre Port Noise Overlay [rcp/dp].

Controls

- a. Coastal Inundation 1 per cent AEP Plus 1m Control – 1m sea level rise; and
- b. Macroinvertebrate Community Index – Urban.

Relevant existing resource consents and permits held by POAL

- 21 POAL holds a suite of resource consents and approvals for its existing operations at the Port. These are summarised below and were appended as Attachment 17 and 18 in the Application.

Occupation permits

- 22 POAL holds a coastal permit, granted under section 384A of the RMA to occupy the CMA (including that part of the CMA that is subject to the Projects) and to manage and operate port-related activities to the extent necessary to undertake its port-related commercial undertakings until September 2026.⁷
- 23 POAL holds a coastal permit for Fergusson North Berth under section 12(2) of the RMA, until August 2052.

Fergusson North Berth resource consents

- 24 POAL holds a combination of coastal permits and land use consents to upgrade the capacity of Fergusson Container Terminal by means of expansion, comprising:
 - a. The reclamation of approximately 9.4 hectares of harbour bed to the north and east of the existing Fergusson Container Terminal – appended as Attachment 19 to the Application;
 - b. The construction of a new, 320 m long berth adjacent to the northern edge of the proposed reclamation (with a 295 m range for the quay cranes);
 - c. The construction of a new piled mooring dolphin to the east of the proposed new berth;
 - d. The demolition and construction of a replacement mooring dolphin and connecting link (wharf extension) to the north of the existing Fergusson Berth;
 - e. The discharge of stormwater from the expanded Terminal;
 - f. The use of the reclamation for the loading and unloading of vessels and cargo, storage of cargo, truck exchanges, and servicing of vessels and equipment, and to construct and use reefer towers for power and refrigeration; and
 - g. The use of the berthage for loading and unloading of vessels and cargo, storage of cargo, servicing of vessels and equipment, and providing bunkering of vessels.

Industrial or Trade Activity discharge permit

- 25 POAL holds an ITA discharge permit (ref, 25179) providing for the discharge of stormwater and contaminants from the entire commercial port area, classified as a "High Risk" "Activity Area", valid to 28 February 2045. A copy of this discharge permit was appended as Attachment 20 to the Application.

⁷ Clause 47 of the Resource Management (Consenting and Other System Changes) Amendment Bill proposes to insert a new subpart 5 of Part 7A of the RMA, which, if enacted, would have the effect of extending the duration of s 384A coastal permits to 30 September 2046.

Capital and maintenance dredging permits

- 26 POAL holds a permit to remove a combined volume of 2,500,000 m³ of capital works dredging from the Waitematā Navigation Channel and the Fergusson Terminal approaches over two stages to provide a dredged depth of between -13.5m CD to 15.2m CD. POAL is the holder of a permit to remove the equivalent accumulated amount of up to 75,000 m³ of material over any five-year period from the Waitematā Navigation Channel and the Port Precinct. POAL also holds a permit to undertake maintenance dredging of the existing Waitematā Navigation Channel and the Fergusson Terminal approaches. A copy of these dredging permits was appended as Attachment 21 of the Application.

Application

- 27 The Application is for a new 330 m long and 27.5 m wide wharf to the northern end of the Bledisloe Terminal for RORO and large cruise ships (Bledisloe Wharf) and a 45 m long 34 m wide extension to the length of the existing Fergusson Berth (Fergusson Berth) to accommodate and improve efficiencies for larger container ships.⁸

Key Features of the Application

Bledisloe Wharf

- 28 The proposed new Bledisloe Wharf shown below will be capable of accommodating multi-cargo vessels, roll-on-roll-off vessels and cruise ships that exceed 300 m length. This will alleviate the congestion of large cruise ships berthing at Princes Wharf and reduce delays to public transport ferry services. The reconfiguration of the Port's operational footprint will create efficiencies and provide greater certainty for the cruise industry, passengers and the sea freight industry.
- 29 The new wharf will cover an area of 9,075 m² with overall dimensions of 330 m (length) by 27.5 m (width) incorporating reinforced bored piles supporting a cast in-situ concrete wharf deck, fendering and other ancillary structures such as bollards, ladders, water hydrants and provision for future shore power cables around the wharf structure.⁹ The new Bledisloe Wharf will be accessible to light commercial vehicles, cargo handling plant, provedoring trucks, cruise passenger transfer vehicles, and trucks accessing the berth to deliver provisions to ships.¹⁰ The location of the proposed wharf has been designed and located such that vessels can be accommodated without requiring further capital dredging works to occur.¹¹ The proposed works also include a replacement rock revetment to protect the northern edge of the Bledisloe Terminal with the existing rock revetment to be stripped, graded, replaced and supplemented with new rocks as well as a new concrete mattress at both ends of the wharf.

⁸ Section 5.2 – The Proposal – An overview, Substantive Application (pg. 16) dated March 2025.

⁹ Section 5.16 – The Proposal – Proposed new Bledisloe North Wharf, Substantive Application (pg. 20) dated March 2025.

¹⁰ Section 5.17 – The Proposal – Proposed new Bledisloe North Wharf, Substantive Application (pg. 21) dated March 2025.

¹¹ Section 5.19 – The Proposal – Proposed new Bledisloe North Wharf, Substantive Application (pg. 21), dated March 2025.



Figure 3: Proposed Works Layout Plan (reproduced from Attachment 6 – Proposed Plans)

- 30 A new cruise passenger terminal is proposed to be established within the ground floor of the existing vehicle handling facility within the Bledisloe Terminal with an associated public pick-up and drop-off area (**PUDO**) providing four public PUDO spaces to accommodate public vehicle demand¹². In addition an area for taxis and coaches accessed via the existing vehicle crossing to Tinley Street and permanent amenities including toilets, Customs and MPI processing area and a passenger waiting area will be provided.¹³ This will include a public area on the southern side of the existing building for taxi and coach drop off and pick-up with provision for pedestrian access created on the existing paved area to Quay Street with final details to be confirmed at detailed design stage.¹⁴

Fergusson Berth

- 31 The proposed extension to the existing Fergusson Berth will enable quay cranes to access the full length of a 10,000 TEU container ships eliminating inefficiencies in the currently consented arrangement that arise from mid-call repositioning or loading restrictions.¹⁵

¹² As agreed upon between Auckland Transport and the POAL within Appendix B, Memorandum of Counsel on behalf of Port of Auckland Limited, dated 11 June 2025.

¹³ Section 5.22 - The Proposal - Proposed cruise passenger terminal, Substantive Application (pg. 22), dated March 2025.

¹⁴ Section 5.24 - The Proposal - Proposed cruise passenger terminal, Substantive Application (pg. 22), dated March 2025.

¹⁵ Section 5.12 - The Proposal - Certainty for international shipping lines, Substantive Application (pg. 18), dated March 2025.

- 32 The extended wharf structure will be connected to the existing Fergusson North Berth and will have an area of approximately 1,530 m² with overall dimensions of 45 m (length) by 34 m (width) consisting of reinforced concrete bored piles supporting an cast in-situ concrete wharf deck and fendering and other ancillary structures such as bollards, ladders, water hydrants and provisions for future shore power cables as required.¹⁶ The completion of the reclamation and the construction of the associated rock revetment are authorized under an existing resource consent held by POAL.¹⁷

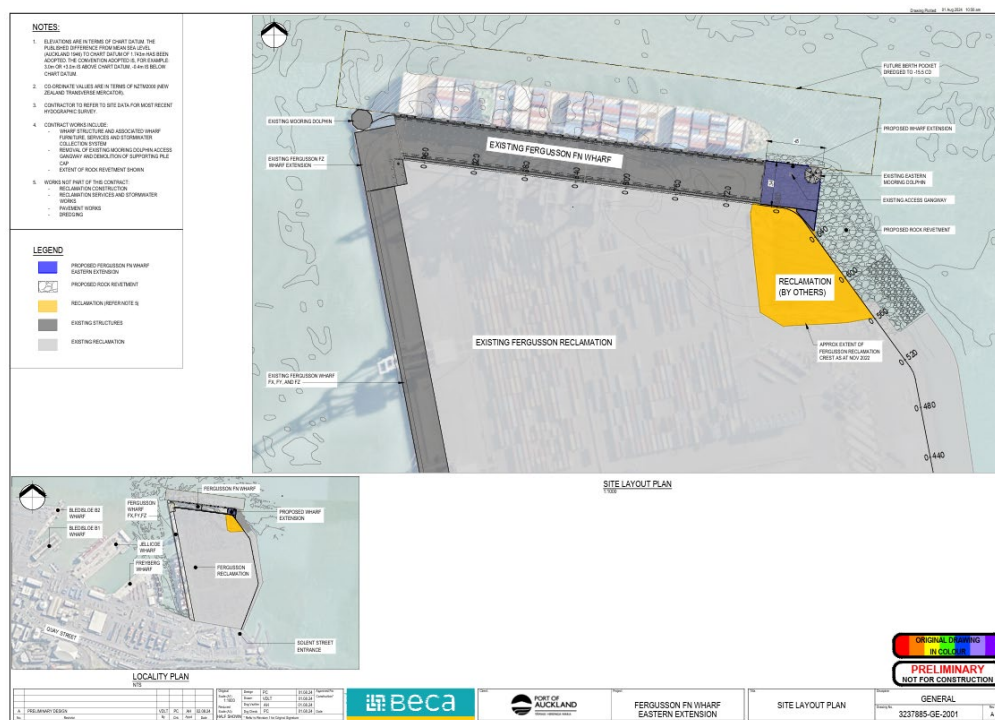


Figure 4: Site Layout Plan (Reproduced from 'Attachment 6 – Proposed Plans')

Construction Methodology

- 33 The Application and supporting technical assessment entitled 'Attachment 7 – Indicative Construction Methodology' estimates the construction of the Bledisloe Wharf to occur over a programme of approximately 18 months with the Fergusson Berth works estimated to last approximately 9 months.¹⁸
- 34 The Panel understands that a decision has yet to be made as to whether construction activities associated with the new Bledisloe Wharf and Fergusson Berth will run concurrently or consecutively. If undertaken consecutively Bledisloe Wharf will be constructed first, followed by the Fergusson Berth.¹⁹ The total construction period is expected to run between 18 to 36 months.

¹⁶ Section 5.29 – The Proposal – Proposed Fergusson North Berth Extension, Substantive Application (pg. 23-24), dated March 2025.

¹⁷ Section 5.31 – The Proposal – Proposed Fergusson North Berth Extension, Substantive Application (pg. 25), dated March 2025.

¹⁸ Section 5.33 – The Proposal – Construction methodology for the Bledisloe North Berth and Fergusson North Extension (pg. 25), dated March 2025.

¹⁹ Section 5.34 – The Proposal – Construction methodology for the Bledisloe North Berth and Fergusson North Extension (pg. 26), dated March 2025.

- 35 The construction methodology for the new Bledisloe Wharf includes the following key activities:
- a. Rock wall removal
 - i. Approximately 2-3 m depth by 6.5 – 13 m width of existing rocks removed using a long-reach excavator from the landward side with unsuitable materials to be used as filter materials for upgraded revetement or disposed of offsite.
 - b. Revetement Wall Slope Preparation
 - i. Low areas will be filled and tidied up to form the design slope profile with temporary slope protection to be used on exposed slopes containing rocky and fine materials.
 - c. Pile construction
 - i. Two to three rows (one to two pile bents) of new piles will be constructed from landward side, progressing seaward using temporary staging fixed to permanent piles;
 - ii. For piles over the existing rock bund, temporary outer 2 m casings will be installed before permanent casings, allowing removal of rocks using a clamshell bucket to ensure piles can be driven to design depth; and
 - iii. The pile will be bored into the Waitematā sandstone, then filled with reinforced concrete.
 - d. Toe Trench excavation and armour placement
 - i. Excavation will be conducted to the design slope by one to two pile bents at a time using a barge-mounted excavator or from a excavator using the temporary staging platform; and
 - ii. Geotextile, underlayer and rock armour will be placed between the piles.
 - e. Wharf deck construction
 - i. One to two bents of the wharf deck will be constructed using precast shell beams, deck planks and cast in-situ topping; and
 - ii. Fenders, bollard and ladders to be installed upon completion of the deck.
 - f. Concrete mattress (wharf ends):
 - i. At the ends of the wharf, a concrete mattress will be installed instead of a rock revetement to prevent erosion or scouring caused by water movement or vessel activity.
- 36 The construction of the Fergusson Berth includes the following activities:

a. Pile construction

- i. Two to three rows of new piles will be constructed at a time, progressing seaward using temporary staging; and
- ii. The piles will be bored into the Waitematā sandstone and then filled with reinforced concrete.

b. Mudcrete bund and rock revetment works

- i. Approximately 1 m of overbuilt mudcrete bund will be trimmed to the design slope profile; and
- ii. Geotextile, underlayer and rock armour will be placed between the piles.

c. Wharf deck construction

- i. The reinforced in-situ concrete wharf deck will be constructed using formwork supported by permanent piles; and
- ii. Installation of crane rails, cable slots, fenders, bollards, and ladders will be installed after deck construction.

Earthworks

- 37 Earthworks are required to the landward side of the existing Bledisloe Terminal to facilitate construction involving establishment of piles and the revetment wall across an area of 1,400 m² to a maximum depth of approximately 6 m and will be limited to the northernmost area 6 m of Bledisloe Terminal.
- 38 Earthworks within the landward side of the mudcrete bund of the Fergusson Terminal will involve pile establishment and mudcrete bund reconstruction. The earthworks are expected to be limited to the northernmost 6 m of the mudcrete bund forming an area of approximately 200 m².

Contaminated Soils Management

- 39 'The Preliminary Site Investigation and Detailed Site Investigation' – Attachment 8 recorded sampling that exceeded background levels, but no concentrations exceeded the adopted human health criteria and groundwater sampling returned results for heavy metals, PHAs and TPHs below laboratory detection limit.
- 40 Due to the operational nature of port infrastructure along the eastern extent of Bledisloe Wharf and Fergusson Berth, limited soil sampling was able to occur in these areas. A draft Contaminated Soils Management Plan has been prepared to detail recommended procedures for soil disturbance and required actions in the event of unexpected contamination discovery that will be updated should earthworks be undertaken in the areas unable to be sampled. A Site Closure Report (**SCR**) will be prepared by the site contractor or nominated SQEP post-construction and submitted to Auckland Council.

Construction Noise Management

Terrestrial construction noise management

- 41 All construction work will be undertaken in a manner achieving compliance with the construction noise standards of the Auckland Unitary Plan without the requirement of specific mitigation measures.²⁰

Underwater noise management

- 42 '*The Construction Noise Assessment*' – Attachment 10 to the Application includes an assessment of the proposed underwater noise effects of the preferred and contingency pile driving methods occurring in two stages - meaning piling of both wharves will not occur at the same time²¹ - and recommended mitigation and management measures to control effects. The assessment has identified Temporary Threshold Shift (**TTS**) Zones resulting from impact pile driving (preferred method) not exceeding 200 m and impact pile driving (contingency method) extending up to 2,350 m (reducing to 825 m with a bubble curtain). The underwater behavioural response zones for impact pile driving encompass most of the Waitematā Harbour whereas vibro pile driving underwater behavioural response zones are considerably smaller. The airborne behavioural response zones for little penguin|kororā do not exceed 150 m.
- 43 The following management measures have been suggested as part of a draft underwater construction management plan incorporating best practise management and mitigation recommendations to control effects as far as practicable to be submitted to Auckland Council for certification:
- a. Prioritization of Vibro pile driving as it generates lower noise levels with impact pile driving to only be used as a secondary method if sufficient embedment cannot be achieved;
 - b. Use of bubble curtains, cofferdams and similar systems as an effective measure to reduce underwater noise propagation, especially for species with high-frequency hearing such as dolphins and orcas;
 - c. Scheduling of high noise works based off ecologist's recommendations to manage pile driving during sensitive seasonal periods;
 - d. A dedicated Marine Mammal Observer will monitor the Marine Mammal Observation Zone for at least 30 minutes before starting pile driving;
 - e. Soft start procedures will gradually increase piling energy to alert marine mammals and allow them to move away;
 - f. Shut-down procedure will stop piling if marine mammals are sighted within the Marine Mammal Observation Zone;

²⁰ Section 5.44 – The Proposal – Construction noise management, Terrestrial construction noise management (pg. 29), Substantive Application, dated March 2025.

²¹ para. 9-10, Memorandum of Counsel on Behalf of Port of Auckland Limited, dated 11 June 2025.

- g. Pile driving (vibro and impact pile driving) will be limited to daylight hours only to enable effective marine mammal observation and mitigate annoyance associated with the character of impulsive impact pile driving;²² and
- h. Carrying out underwater noise measurements to validate the size of the predicted zones and to review effectiveness of mitigation and management measures.

Construction Traffic Management

- 44 The 'Assessment of Transport Effects' – Attachment 12, has concluded that construction traffic effects will not materially impact the safety, efficiency and operation of the surrounding road network when compared to the current day-to-day variability in vehicle movements associated with the Port's operations. Where possible, marine deliveries will be utilised as much as possible and rock rip-rap and toe excavated material will be transported to and from the site via barge with all other material elements to be delivered via truck. All access routes and points for construction vehicles, laydown areas and parking areas for plant, construction vehicles and vehicles associated with workers and visitors within the Port of Auckland, will be maintained to an extent where disruption from construction traffic is minimised as far as practicable. The proposed management measures will employ practises and procedures to protect the safety of the Port's users and ensure no deposition of material resulting from construction works.

Stormwater Discharge

- 45 An existing Industrial Trade Activity (**ITA**) discharge permit is held by POAL covering port-wide operations with stormwater management contained in an existing Environmental Management Plan: Stormwater (**EMP:S**) which required site specific ITA solutions to be developed with the (then) Auckland Regional Council based around the Best Practicable Option (**BPO**). The BPO management regime under the existing ITA consent includes a suite of Standard Operating Procedures (**SOPs**) addressing port operations, a spill response plan monitored internally by POAL, and an EMP:S audited and reviewed annually and provided in report format to Auckland Council. The Port being located at downstream limit of the Auckland City Centre stormwater catchment and containing hard protection structures means stormwater discharge and quantity effects (eg: scouring, erosion and flooding) are not relevant with excessive stormwater accumulation naturally draining into the harbour.

Proposed stormwater management practices for Bledisloe Wharf

- 46 The "Assessment of Effects Associated with ITA and Stormwater Discharges" – in Attachment 13 to the Application assesses the proposed stormwater treatment and mitigation measures for the Bledisloe Wharf. It is proposed that stormwater falling on the wharf deck extension will be collected and treated in accordance with GD01 using a proprietary Jellyfish Filter located in a concrete manhole on the landside reclamation appropriately sized for the "water quality design storm" before being discharged into the Waitematā harbour. The BPO that applies to the port operations under the existing ITA consent will be implemented for the Bledisloe Wharf extension including SOPs, spill response and EMP:S to manage stormwater discharge quality.

²² Ibid.

Proposed stormwater management practises for Fergusson Berth

- 47 The existing wharf which is fitted with a Jellyfish chamber sized to be of sufficient capacity to treat stormwater discharges from the Fergusson Berth.

Proposed conditions of ITA consent:

- 48 A suite of conditions have been proffered by POAL that it considers will ensure alignment with the existing ITA consent held.²³ These have been summarised in the Application but are reproduced below:
- a. A design guideline of 75% TSS removal from the Bledisloe Wharf and Fergusson Berth;
 - b. Certification of the "As-Built" plans for the stormwater management works by a Chartered Professional Engineer;
 - c. The preparation of an updated Operation and Maintenance Plan;
 - d. The preparation of an updated EMP:S;
 - e. Annual reporting requirements on the performance of the EMP:S; and
 - f. A review condition.

Coastal Processes

- 49 POAL states that the effects of the proposed wharf extension may cause localised increases in current velocities that are not expected to extend into the wider harbour with the primary tidal regime to remain unaffected. The Bledisloe Wharf and its piled structures may cause localised wave reflection and wake pattern changes confined to the immediate area and will be similar to the existing situation. Overall, POAL considers that the Fergusson Berth will have minimal impacts on waves and wakes. The expected developments are expected to have no more than minor impacts on wave and wake conditions with negligible effects on the broader harbour wave climate. The proposed wharves are also expected to have minimal impacts on sediment processes with some scour to the seabed in the vicinity expected with vessel movements.
- 50 A mitigation and monitoring plan has been proposed to comply with relevant environmental standards and includes ongoing monitoring of bathymetry. This will include continuation of Acoustic Doppler Current Profiler (**ACDP**) measurements to provide ongoing data on current conditions, to be conducted before construction and then every two years for a period of six years as well as bathymetric surveys following the same programme with results to be provided to Auckland Council.

²³ Section 5.63 - Proposal – Proposed conditions of ITA consent (pg. 33-34), Substantive Application, dated March 2025.

Approvals sought and management plans proposed

Approvals required under the RMA

- 51 In accordance with Schedule 5, clause 5(1)(f) FTAA, Section 8 of the Substantive Application²⁴ identifies activities requiring consent under the relevant Auckland Unitary Plan Provisions and against the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (**NES-CS**).
- 52 This information was set out in Attachment 22 of the Application and has since been amended following a Memorandum of Counsel²⁵ on behalf of Port of Auckland Limited whereby agreement was reached with Auckland Council on consents required to authorise the project. A schedule of permitted activities was also described in Attachment 23 of the Application.
- 53 The relevant planning framework and reasons for consent are broadly summarised as follows:

Bledisloe Wharf

- a. New wharves in the Port Precinct require resource consent as a restricted discretionary activity (I208.4.1(A24)).
- b. Hard protection structures (reconstruction of Bledisloe Wharf revetment) require resource consent as a restricted discretionary activity (I208.4.1(A35)).
- c. Earthworks exceeding a volume of 2,500m³ (approximately 8,400m³) require resource consent as a restricted discretionary activity (E12.4.1(A10)).
- d. Temporary construction activities in the coastal marine area outside of the City Centre not otherwise provided for require resource consent as a restricted discretionary activity (E40.4.1(A6²⁶)).
- e. Impact and vibratory piling activities require resource consent as a restricted discretionary activity (F2.19.8(A114)).
- f. Temporary structures or buildings within the coastal marine area (associated with construction activities) (F2.9.10(A128²⁷) that exceed 40 working days and therefore do not comply with Standard F2.21.10.4 require resource consent as a restricted discretionary activity (C1.9²⁸).
- g. The discharge of stormwater from a wharf structure that exceeds 5,000m² (8,773 m² proposed) to the coastal marine area requires resource consent as a

²⁴ Section 8 – Reasons for Consent (pg. 40), Substantive Application, dated March 2025.

²⁵ Memorandum of Counsel on behalf of Port of Auckland Limited, dated 11 June 2025.

²⁶ As agreed upon between Auckland Council and the POAL within Appendix B, Memorandum of Counsel on behalf of Port of Auckland Limited, dated 11 June 2025.

²⁷ Ibid.

²⁸ Ibid.

discretionary activity (F2.8.4.1(A10)).

- h. The use of the wharf for an industrial or trade activity listed as "high risk" in Table E33.4.3 requires resource consent as a controlled activity (E33.4.1(A8)).
- i. The discharge of contaminants from a new industrial or trade activity area listed as "high risk" in Table E33.4.3 requires resource consent as a discretionary activity (E33.4.2(A24)).

Fergusson Berth:

- a. New wharves in the Port Precinct require resource consent as a restricted discretionary activity (I208.4.1(A24)).
- b. Temporary construction activities in the coastal marine area outside of the City Centre not otherwise provided for require resource consent as a restricted discretionary activity (E40.4.1(A6²⁹)).
- c. Temporary activities on land associated with building or construction that exceeds 24 months requires resource consent as a restricted discretionary activity (E30.4.1(A24)).
- d. Impact and vibratory piling activities require resource consent as a restricted discretionary activity (F2.19.8(A114)).
- e. Temporary structures or buildings within the coastal marine area (associated with construction activities)(F2.19.10(A128³⁰) that exceed 40 working days and therefore do not comply with Standard F2.21.10.4 require resource consent as a restricted discretionary activity (C1.9).
- f. The use of the wharf extension for a new industrial or trade activity listed as high risk in Table E33.4.3 requires resource consent as a controlled activity (E33.4.1(A8)).
- g. The discharge of contaminants from a new industrial or trade activity area listed as "high risk" in Table E33.4.3 requires resource consent as a discretionary activity (E33.4.2(A24)).
- h. The disturbance and removal soil from a piece of land that is subject to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health that does not meet the requirements of regulation 8(3) requires resource consent as a controlled activity (regulation 9(1)).

- 54 The Panel has reviewed all the documentation and the further information provided by the Applicant and the participants. The Panel is satisfied that, in terms of the Plan and its various proposed plan changes, overall, the Application is a discretionary activity.³¹

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

Approvals relating to Wildlife Act 1953

- 55 Pursuant to s 42(4)(h) FTAA, POAL is seeking a wildlife approval under the Wildlife Act 1953 for the capture, handling and relocating of little penguin | kororā, should it be required during construction of the Bledisloe Wharf.

Management Plans

- 56 The application stated the following management plans are proposed to be implemented to manage the environmental effects of the Project and form part of the conditions:
- a. Construction Management Plan (**CMP**) will manage construction-related effects within the limits and standards approved under the consent and will set out management procedures and construction methods to be undertaken to avoid, remedy or mitigate potential adverse effects.
 - b. Erosion and Sediment Control Plan (**ESCP**) will provide details to minimize sediment runoff during construction.
 - c. Underwater Construction Noise Management Plan (**UCNMP**) will manage underwater noise construction effects on marine mammals which will also confirm the predicted TTS Zones based on the selected piling methodology.
 - d. Operation and Maintenance Plan (**OMP**) will be finalised within 30 days of the completion of installation of stormwater management. This will set out how the stormwater management works are to be operated and maintained to the design standard as well as a maintenance programme, contingency for collection and disposal of debris, post storm/spill maintenance, inspection checklists and details of who is responsible for long-term maintenance of the stormwater management works.
 - e. Updated EMP:S will document the specific activities and identification of potential contaminants, methods used to manage environmental risks, emergency spill response, accurate site drainage plan showing final discharge point of site stormwater management works and will identify appropriate auditing requirements to ensure performance of all components of the updated EMP:S.
 - f. Contaminated Soils Management Plan (**CSMP**) will address the handling and disposal of contaminated materials, minimising the risk to the environment and human health.
 - g. Transport Management Plan (**TMP**) will ensure the operational transport effects of large numbers of cruise passengers associated with cruise ships utilising the Bledisloe Wharf are adequately managed. It will also provide for an efficient, safe and secure transport environment at the Port and will ensure public access is provided between the cruise terminal building and Quay Street.

- h. Little Penguin Management Plan (**LPMP**)³² will provide procedures for responding to little penguin | kororā finds in pre-construction surveys or unexpected finds during construction works as well as ensuring appropriate methods and procedures to protect the penguins if they are found in accordance with SOP. The methods meet best practice standards for penguin conservation and have been informed by DoC and the framework provided for by the Wildlife Act.

³² As amended following lodgment of Application resulting from ongoing engagement and clarification sought by DoC provided within Appendix A within Memorandum of Counsel on behalf of Port of Auckland Limited, dated 11 June 2025.

PART C: PROCEDURAL MATTERS

- 57 The following matters of procedure are relevant for this decision.

Panel Convener steps

- 58 Minute 1 of the Panel Convener³³ confirmed that a copy of the Application was provided to Panel Convener, Jane Borthwick under section 47(7) FTAA and recorded that the Environmental Protection Authority (**EPA**) had requested a section 18 report.
- 59 Minute 5³⁴ of the Panel Convener confirmed the appointment of this Expert Panel under section 50 in accordance with Schedule 3 of the Act and specified the date for commencement as being 19 May 2025. The decision timeframe was recorded as being 40 working days from the date that invited comments on the application close: the default period under s 79 was deemed insufficient given that this is one of the first panels set up under the Act requiring careful application of a new statutory decision-making test and refinement of draft conditions necessitating additional time. Our decision must therefore be issued by 22 August 2025.

Initial Panel briefing and site visit

- 60 Minute 1 of the Expert Panel³⁵ dated 19 May 2025 issued by Panel Chair Dr Phil Mitchell confirmed the time and details for the online briefing from the Applicant and other participants invited to the earlier Convener conference.
- 61 The briefing was held on 29 May 2025. The purpose of this briefing was to provide us with a high level overview of the application by way of the Applicant providing a short PowerPoint presentation, providing us an opportunity to ask any questions about the application noting we would have had time to familiarise ourselves with the Application and supporting documents and would have undertaken an initial site visit, and to give the participants an opportunity to raise any matters that they wished to bring to our attention.
- 62 Minute 2 of the Expert Panel³⁶ issued by Panel Chair Dr Phil Mitchell recorded the site visit undertaken by the Expert Panel on the 20th of May 2025 accompanied by Mr Alex Mickleson (the Panel's Administrator from the EPA) and escorted by Mr Alistair Kirk who is a senior executive employed by POAL. We toured the subject site by minivan

³³ Minute 1 of Panel Convener – Confirmation of Application Receipt and Upcoming Steps – Bledisloe North Wharf and Fergusson North Berth Extension [FTAA-2502-1028], 31 March, 2025.

www.fasttrack.govt.nz/data/assets/pdf_file/0018/2871/Minute-1-of-panel-convener-Bledisloe-North-Wharf-and-Fergusson-North-Berth-Extension

³⁴ Minute 5 of the Panel Convener – Panel appointments and decision time frame Bledisloe North Wharf and Fergusson North Berth Extension [FTAA-2503- 1028]. 9 May, 2025.

³⁵ Minute 1 of the Expert Panel – Applicant and participants' briefing, 19 May 2025.
www.fasttrack.govt.nz/data/assets/pdf_file/0018/4473/FTAA-2503-1028-Minute-1-Panel-Minute-with-regard-to-briefing-19-May-2025

³⁶ Minute 2 of the Expert Panel – Site Visit, 21 May 2025.
www.fasttrack.govt.nz/data/assets/pdf_file/0013/4621/FTAA-2503-1028-Minute-2-Panel-Minute-re-site-visit-20-May-2025

and stopped to inspect existing port operations, and the locations associated with the Projects.³⁷

Other advice and reports obtained

Section 51 Report – Wildlife Approval

- 63 Pursuant to section 51(2)(c) of the Act, if a wildlife approval is sought then the Panel Convenor must direct the EPA to obtain a report from the Director-General of Conservation (**DoC**) addressing the matters set out in clause 3 of Schedule 7.
- 64 That report was received on 12 June 2025 in conjunction with a memorandum of counsel on behalf of DoC addressing certain legal considerations. The memorandum is addressed below in our consideration of the applicable criteria, however for present purposes we record DoC's support for the granting of the wildlife approval provided that the conditions proposed by DoC are adopted by the Applicant.
- 65 In response to DoC's comments, the LPMP was amended by the Applicant.³⁸ Those amendments included:
- a. Habitat loss mitigation;
 - b. Identification of a specific area into which little penguin would be relocated;
 - c. Clarification that breeding or moulting birds will not be relocated; and
 - d. A change from permanent to temporary marking.
- 66 Overall, we understand that DoC is now satisfied with the provisions of the LPMP and that through this process DoC has proposed conditions to ensure the management of actual and potential effects as part of the wildlife approval application. The section 51(2)(c) report concludes that the proposed activities are consistent with the statutory planning documents and policy.

Section 18 Report – Treaty Settlements

- 67 Pursuant to section 52 of the Act, on 9 April 2025 the Panel Convener provided the Expert Panel with a report obtained under section 18 on Treaty settlements and other obligations. Appended to that report is a list of the relevant Māori groups including relevant iwi authorities, treaty settlement entities and several groups with applications relating to the Marine and Coastal Takutai Moana Act 2011.³⁹

³⁷ Minute 2 of the Expert Panel – Site Visit, para. 3, 21 May 2025.
www.fasttrack.govt.nz/data/assets/pdf_file/0013/4621/FTAA-2503-1028-Minute-2-Panel-Minute-re-site-visit-20-May-2025

³⁸ Appendix A – Memorandum of Counsel on behalf of Port of Auckland Limited, 11 June 2025.

³⁹ Fast-track Approvals Act 2024 – Treaty settlements and other obligations (Section 18) report: FTAA-2503-1028 Bledisloe North Wharf and Fergusson North Berth Extension, Dated 9 April 2025.

Comments received on the Application

- 68 The Act does not contain any notification process and there is no obligation to hold a hearing. The primary mechanism by which third parties can provide information to a Panel is through the provision of comments (section 53, FTAA).
- 69 We describe below the procedure for seeking comments, a precis of comments received, and a brief description of the Applicant's response to those comments.

Requirement to seek comments

- 70 When applying section 53 in respect of this application, we are required to: ⁴⁰
- a. Identify specific entities identified in section 53(2)(a)-(e), (g), (j)-(k) and (m) from whom comment must be sought;
 - b. Identify "the land to which the substantive application relates" and "the land adjacent to that land for the purposes of section 53(2)(h), (i) and (l);
 - c. Having regard to the finding in (b) above, identify the owners or occupiers of, or requiring authorities with a designation on, that land and adjacent land from whom comment must be sought under s 53(2)(h), (i) and (l); and
 - d. Decide whether comments should be sought from any other person under section 53(3).

Who are the specified entities?

- 71 To assist us to identify specific entities, the EPA provided us with a memorandum dated 23 May 2025 identifying the entities falling within section 53(2)(a)-(e), (g), (j)-(k) and (m). We carefully considered and accepted that advice, and invitations to comment accordingly sent to those parties.

What is the "land to which the application relates" and what is the "adjacent land"?

- 72 In the absence of the FTAA providing specific direction as to how the "land to which the application relates" and "adjacent land" is to be defined, we determined that those phrases need to be applied in a manner that reflects the specific nature and context of a substantive application, and that an interpretation is taken which is consistent with the purpose of the Act.
- 73 In light of the above commentary, we determined that "the land to which the substantive application relates" comprised:
- a. The area of Bledisloe Wharf from Quay Street to a point some 6 m north of the proposed Bledisloe Wharf as shown in Figure 5 reproduced from Diagram 1 of Minute 3.
 - b. The area of the Fergusson Container Terminal from Tamaki Drive to the seaward edge of the Fergusson Berth including an area of coastal marine area to the west of

⁴⁰ Minute 3 of the Expert Panel – Section 53 Matters, 26 May 2025.
[www.fasttrack.govt.nz/ data/assets/pdf_file/0027/4788/FTAA-2503-1028-Panel-Minute-3](http://www.fasttrack.govt.nz/data/assets/pdf_file/0027/4788/FTAA-2503-1028-Panel-Minute-3)

Fergusson Berth up to and including the existing mooring dolphin as shown by Figure 5 reproduced from Diagram 1 of Minute 3.⁴¹



Figure 5: Bledisloe Wharf and Fergusson Berth Extension works

- 74 We considered an approach of defining the “land to which the substantive application relates” as being the extent of the Applicant’s landholding and the full extent of its coastal occupation permits. We decided against this because it would classify land over 1 km away as “adjacent land”, despite such land being well beyond any potential ambit of any possible effect.⁴² That outcome would not have been consistent with the purpose of the FTAA.

Who are the owners and occupiers requiring authorities with interests in the land to which the substantive application relates to or the adjacent land?

- 75 In defining “adjacent land”, we adopted an interpretation that includes abutting land and part of the abutting coastal marine area. We also accepted that, depending on context, adjacent land could also extend to land that is only separated from the land to which the substantive application relates by a “road, railway line or watercourse”.⁴³
- 76 Having regard to the context in this case, we decided that adjacent land should include land separated by Tinley Street but should not include the land on the south side of either Quay Street (in respect of the Bledisloe Wharf) or Tamaki Drive (in respect of the Fergusson Berth).

⁴¹ Minute 3 of the Expert Panel – Section 53 Matters – Diagram 1 – Bledisloe North Wharf and Fergusson North Berth Extension Works, 26 May 2025.
https://www.fasttrack.govt.nz/data/assets/pdf_file/0027/4788/FTAA-2503-1028-Panel-Minute-3

⁴² Minute 3 of the Expert Panel – Section 53 Matters, para. 9, 26 May 2025.
https://www.fasttrack.govt.nz/data/assets/pdf_file/0027/4788/FTAA-2503-1028-Panel-Minute-3

⁴³ Minute 3 of the Expert Panel – Section 53 Matters, para 10, 26 May 2025.
https://www.fasttrack.govt.nz/data/assets/pdf_file/0027/4788/FTAA-2503-1028-Panel-Minute-3

77 Our reasons for this finding are summarised as:

- a. Quay Street and Tamaki Drive are very busy arterial roads, with four or more lanes of traffic whereas Tinley Street is a narrow, two-way road and will provide vehicle access from Quay Street to the new passenger reception facility.
- b. Most of the Bledisloe Wharf works are occurring well distant from Quay Street, with the only works proximate to Quay Street being the development of the passenger reception area within an existing building (vehicle handling area). The operation of this development may have some adverse effects on owners and occupiers of land on the eastern side of Tinley Street but would not materially affect the owners and occupiers of land to the south of Quay Street.
- c. All works associated with the Fergusson Berth are occurring well distant from Tamaki drive and therefore could not conceivably affect land to the South of Tamaki Drive.

78 In respect of the seaward boundary of the “adjacent land”, we defined that area as being 100 m from the edge of the Project land (and extended around any land parcel boundaries or wharf structures for practicality). The adjacent land is shown in Figure 6 below which has been taken from Diagram 2 of Minute 3.⁴⁴



Figure 6: Bledisloe Wharf and Fergusson Berth Extension adjacent land

79 Each of the entities within those areas were invited to provide comment on the Application.

⁴⁴ Minute 3 of the Expert Panel – Section 53 Matters, Diagram 2 – Bledisloe North Wharf and Fergusson North Berth Extension adjacent land, 26 May 2025.
https://www.fasttrack.govt.nz/_data/assets/pdf_file/0027/4788/FTAA-2503-1028-Panel-Minute-3

- 80 We limited the definition of “occupiers” in respect of the CMA to the holders of coastal occupation permits, thereby excluding from that definition those who might temporarily transit through this part of the CMA. Again, we considered that this narrower definition was more consistent with the purpose of the FTAA.

Should comment be sought from any other party?

- 81 In determining whether comment is to be sought from “any other person the panel considers appropriate”, the FTAA provides no further guidance to us as to how this discretion should be exercised.
- 82 Despite an unfettered discretion under s 53(3), the exercise of a statutory discretion must be undertaken in a principled manner consistent with the purpose of the legislation conferring that discretion.⁴⁵
- 83 In assessing the purpose of the FTAA, we must have regard to s 10, Legislation Act 2019, and in particular s 10(1) “The meaning of an enactment must be ascertained from its text and in light of its purpose”, and s 10(3) “The text of the legislation includes indications provided in the legislation”. Examples of such indications are provided in s10(4), Legislation Act 2019.
- 84 In respect of those matters, the purpose of the FTAA is “... to facilitate the delivery of infrastructure and development projects with significant or regional or national benefits.”⁴⁶
- 85 Further indications present in the FTAA include the procedural principles of the Act, such as the requirement in section 10 that “Every person performing functions and duties and exercising powers under this Act must take all practicable steps to use timely, efficient and cost-effective processes that are proportionate to the functions, duties or powers being performed or exercised.” Those indications also include the requirement in clause 10(1), Schedule 3 for a Panel to “... regulate its own procedure as it thinks appropriate, without procedural formality, and in a manner that best promotes the just and timely determination of the approvals sought in a substantive application.”
- 86 Other indicators include the lack of requirement to publicly notify an application, that a hearing is not required to be held,⁴⁷ that no person has a right to be heard by a panel,⁴⁸ that decisions must be issued within very tight timeframes⁴⁹, and there are very limited rights of appeal.⁵⁰
- 87 We concluded that the “special circumstances” jurisprudence afforded under the notification provisions under the RMA, which affords a much stronger presumption of public participation, are not useful in the context of this application. This is because of the fundamentally different purpose of the FTAA, because of the starting presumption

⁴⁵ *Royal Forest and Bird Protection Society of New Zealand Incorporated v Minister of Conservation* [2016] NZCA 411, at [53] per Harrison J for the majority.

⁴⁶ s 3 FTAA 2024.

⁴⁷ s 56 FTAA 2024.

⁴⁸ Ibid.

⁴⁹ s 27 FTAA 2024.

⁵⁰ S 99 FTAA 2024.

under the FTAA that comments are only received from identified parties, and because there is no right to a hearing and there are only very limited appeal rights. A contextual examination of the FTAA identifies the directives under clause 10 of Schedule 3 and other provisions of the Act for focused and timely decision-making. While RMA jurisprudence on special circumstances has identified public interest as being a relevant factor (although not determinative) in whether special circumstances apply, we do not agree that such a principle should be incorporated into the FTAA because projects listed under Schedule 2 (or accepted as a referral project) are likely to be subject to high levels of public interest.

- 88 Section 53 of the FTAA, in contrast to the RMA, does not correlate the identification of those from whom comment must be sought to any degree of adverse effect; rather under the FTAA the opportunity to comment is because of an entity's status as a regulator, identified iwi or tangata whenua, geographic proximity, Minister of the Crown, or other relevant administering entity.
- 89 In summary, the exercise of our discretion was guided by the following principles:
- a. The purpose of the FTAA.
 - b. The statutory requirement to issue a decision within a very short timeframe.
 - c. The nature of the Projects in their factual context (i.e. the development of port facilities within an operating commercial port).
 - d. Whether the Projects involves novel or contentious legal matters or disputed factual matters, beyond that which might be expected as part of a regionally or nationally significant project processed under the FTAA (we did not identify any such novel or contentious legal or factual matters).
 - e. Whether the Projects would otherwise be prohibited under the relevant legislation (they were not).
 - f. The comprehensiveness and quality of the Applicant's technical information and how the Applicant has addressed the issue of consultation (the Application was comprehensive and the consultation was thorough).
 - g. Whether the wide range of entities from whom comment must be sought under section 53(2) would ensure that all relevant information is before us to enable us to make a robust decision (we considered that it would).
 - h. Whether any exceptional factors that would warrant the exercise of a discretion to invite comment from any further person that go well beyond mere public interest – for example, are there any persons affected to such a significant extent that considerations of natural justice might warrant their comments being sought, or is there an absence of information on certain issues that might be filled through seeking comments from any other person. (We did not identify any such factors.)
- 90 After having regard to the above matters, we decided not to invite comment from any other entity under section 53(3) of the FTAA. We concluded that the application material and wide range of entities from whom comment must be invited will ensure a robust decision while balancing the need for an efficient decision-making process. While public interest in the Project is not sufficient to warrant exercise of discretion

under section 53(3), there is not likely to arise any contentious legal or factual disputes and the application does not on its face raise any legal issues. The works for the Project are not otherwise prohibited under the relevant legislation and are the types of activities anticipated within a nationally significant commercial port and do not give rise to any other exceptional factors which weigh in favour of seeking comment from any other entity.

Comments received

- 91 The EPA invited comments on the Application by letter dated 28 May 2025.⁵¹ Responses to this invitation were due on 27 June 2025. Comments were received on time from the following individuals and organisations:
- a. Relevant local authorities: Auckland Council.
 - b. Relevant iwi authorities: Ngāti Whātua Ōrākei Trust, representing Ngāti Whātua Ōrākei; Ngāti Paoa Iwi Trust, representing Ngāti Paoa, Te Whakakitenga o Waikato Incorporated representing Waikato-Tainui.
 - c. Any relevant Treaty Settlement entities: Ngāti Paoa Iwi Trust.
 - d. Any applicant group under the Marine and Coastal Area (Takutai Moana) Act 2011: Ngāti Whātua Ōrākei.
 - e. The owners of the land to which the Application relates and the land adjacent to that land: Auckland Council, and Department of Conservation.
 - f. The occupiers of the land to which the Application relates and the land adjacent to that land unless, after reasonable inquiry and occupier cannot be identified: McCallum Bros Limited, and Auckland Council.
 - g. The Minister for the Environment and other relevant portfolio Ministers (those being the Minister of Climate Change, the Associate Minister of Transport, the Minister of Land Information, and the Minister for Māori Crown Relations).
 - h. Relevant administering agencies: Auckland Council, Department of Conservation, and Ministry for the Environment.
 - i. The persons and groups listed in Clause 13 of Schedule 5 (Resource Consent) and the persons listed in clause 4 of Schedule 7 (Wildlife approval): Director-General of Conservation, the New Zealand Conservation Authority, and Auckland Conservation Board.

⁵¹ Minute 3 of the Expert Panel, 28 May 2025.
[www.fasttrack.govt.nz/ data/assets/pdf_file/0027/4788/FTAA- 2503-1028-Panel-Minute-3.pdf](http://www.fasttrack.govt.nz/data/assets/pdf_file/0027/4788/FTAA-2503-1028-Panel-Minute-3.pdf)

- 92 Of the 13 comments received, seven were in support of the proposal being granted,⁵² one party was opposed,⁵³ and five responses neither supported nor opposed.⁵⁴
- 93 We thank all parties who commented for their contributions, and we have carefully considered all of the matters raised. A detailed summary of comments received is in Appendix 3 to this decision, while the discussion of any specific comments that are contentious are summarised at Part J below.
- 94 The provision of comments is an essential element of the FTAA process, and we consider it useful that we make some observations about the comments on the proposal received from Auckland Council in accordance with section 53, given that we found some of them to be of fairly limited assistance, and our comments below may assist any council which is preparing comments on future applications under the FTAA.
- 95 Our principal point is that unlike section 42A reports prepared under the RMA, it is the Council, not individual Council specialists, who are invited to comment under section 53 FTAA. In that regard, while comments from technical specialists will obviously inform the Council's comments, the opinions of those specialists need only be provided to the extent they inform the comments Council wishes to bring to our attention.
- 96 In this instance, a number of the comments provided by Council's technical specialists were just that - "comments" - that were of a very general nature. It would have been of more assistance to us if the Council had curated those comments into a concise summary of the matters that the Council considered to be material to our decision-making and how Council proposed matters in contention could / should be addressed. Of course, technical support for justifying that position would then be needed. We also consider that it is the Council's role to ensure that any specialist comments are confined to matters within that specialist's expertise.
- 97 Finally, in the context of a fully discretionary activity and the exclusion of non-complying activities under the FTAA, it is not clear to us that there is much to be gained by a forensic analysis of each and every Unitary Plan rule trigger in the manner undertaken by the Council in its comments in this case.

Applicant's response to comments received

- 98 On 7 July 2025 the Applicant provided a response to the comments received on the application from those persons who were invited to comment under Section 53 of the FTAA. This included, amongst other matters, an updated set of draft consent conditions and updated wildlife approval conditions.
- 99 We have considered the Applicant's responses, and, where appropriate, refers to those responses at Part J of this report below.

⁵² Associate Minister of Transport, Minister for Maori Crown Relations, Auckland Conservation Board, Department of Conservation, McCallum Bros Ltd, and New Zealand Conservation Authority.

⁵³ Te Whakakitenga o Waikato Incorporated representing Waikato-Tainui.

⁵⁴ Minister of Climate Change, Minister for Land Information, Auckland Council, Ngati Paoa Iwi Trust, and Ngati Whatua Orakei.

Comments from the Minister for Māori Crown Relations: Te Arawhiti and Minister of Māori Development

- 100 Under section 72 FTAA we invited comment from the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development on 1 August 2025.⁵⁵ We received a response from the Honourable Tama Potaka Minister for Maori Crown Relations stating that the Application was supported subject to any comments received from the relevant Māori interests. The Minister also encouraged us to seek comment from Ngāti Whatua o Kaipara and for us to have regard to the statutory acknowledgements over the coastal and marine area in each of the four settlements – Ngāi Tai ki Tāmaki Claims Settlement Act 2018, Ngāti Tamaoho Claims Settlement Act 2018, Te Kawerau ā Maki Claims Settlement Act 2015, and Te Ākitai Waiohū Deed of Settlement signed in November 2021.

Conditions

- 101 Procedural steps in relation to the conditions are described as part of our discussion at Part K below.

No hearing required

- 102 In accordance with section 56 of the FTAA, we do not require a hearing on any issue. We have been able to adequately consider all issues based on the information available including the Application, comments received, responses to comments and the further information provided by the Applicant, the Council and invited persons. The material issues involved were comprehensively addressed in the documentation provided thereby resolving any technical expert differences of opinion. Residual issues were sufficiently clear for us to consider.
- 103 In coming to that conclusion, we were mindful of the emphasis on time limited decision-making in the present process, the purpose of the FTAA in section 3 (ie to facilitate the delivery of infrastructure and development projects with significant regional or national benefits), and the procedural principles in section 10 FTAA that require us to take all practicable steps to use timely, efficient, consistent, and cost effective processes that are proportionate to our functions, duties or powers.

Timing of the Panel decision

- 104 In accordance with the Panel Convenor Minute dated 9 May 2025 the time frame for us to issue our decision documents under sections 79 and 88 is 40 working days from the date that invited comments on the application close – namely, 22 August 2025.

⁵⁵ Minute 5 of the Expert Panel, 1 August 2025.

PART D: LEGAL CONTEXT

Legal context for a listed project under the FTAA

- 105 In accordance with section 42 FTAA an authorised person⁵⁶ for a listed project may lodge a substantive application with the EPA. The substantive application is required to follow the process set out in sections 43 and 44. The Applicant lodged the Application on 10 March 2025.
- 106 The EPA decided that the Application was complete and within scope⁵⁷ on 12 March 2025. The EPA made a recommendation on whether there were competing applications or existing resource consents for the same activity on 26 March 2025.⁵⁸ The EPA then provided the Application to the Panel Convenor and requested a report from the Ministry for the Environment⁵⁹ under section 18 FTAA on 31 March 2025. A report was received on 9 April 2025. Other procedural steps are described in Part C above.
- 107 In writing this section of its decision, we have been assisted by the legal submissions filed by counsel for the Applicant (as part of the Application)⁶⁰, and by counsel for DoC (as part of its Section 51 Report).⁶¹

Decisions on approvals

- 108 Section 81 describes the decision-making framework under the FTAA. Relevant to the approvals sought in this instance, that framework comprises:

81 Decisions on approvals sought in substantive application

- (1) A panel must, for each approval sought in a substantive application, decide whether to—
 - (a) grant the approval and set any conditions to be imposed on the approval; or
 - (b) decline the approval.
- (2) For the purpose of making the decision, the panel—
 - (a) must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90;
 - (b) must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision);
 - (c) must comply with section 82, if applicable;
 - (d) must comply with section 83 in setting conditions;
 - (e) may impose conditions under section 84;
 - (f) may decline the approval only in accordance with section 85.

⁵⁶ FTAA, sections 4 and 42.

⁵⁷ FTAA, section 43.

⁵⁸ FTAA, section 47.

⁵⁹ The Ministry for the Environment is the responsible agency for the purpose of section 18.

⁶⁰ Attachment 36 of the Substantive Application – Legal Considerations.

⁶¹ Section 51(2)(c) Wildlife Approval Report for – FTA-0053-SUB Bledisloe North Wharf and Fergusson North Berth Extension, DoC, Dated 12 June 2025.

- (3) For the purposes of subsection (2)(b), the clauses are as follows:
 - (a) for an approval described in section 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5:
 - ...
 - (i) for an approval described in section 42(4)(h) (wildlife approval), clauses 5 and 6 of Schedule 7:
- (4) When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project's regional or national benefits.
 - ...
- (6) Despite subsection (2)(a), the panel—
 - (a) is not required to consider any advice, report, comment, or other information it receives under section 51, 53, 55, 67, 69, 70, or 72 after the applicable time frame; but
 - (b) may, in its discretion, consider the information as long as the panel has not made its decision under this section on the approval.
- (7) To avoid doubt, nothing in this section or section 82 or 85 limits section 7.

109 We are also particularly cognisant of section 7 FTAA, which reads:

7 Obligation relating to Treaty settlements and recognised customary rights

- (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
 - (a) the obligations arising under existing Treaty settlements; and
 - (b) customary rights recognised under—
 - (i) the Marine and Coastal Area (Takutai Moana) Act 2011:
 - (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.
- (3) In this section, existing Treaty settlements means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).

110 It is unclear to us whether or not section 7(2) operates to exclude section 7(1) from our consideration. On the one hand, we are clearly exercising a “judicial function” in making these decisions, which would indicate that section 7(1) does not apply. On the other hand, sections 82(3) and 84(1), discussed below, quite explicitly direct that an expert panel is required to consider and apply section 7 in the context of making a decision or imposing a condition under the FTAA. In light of that ambiguity, we will include consideration of section 7(1) in the context of sections 82(3) and 84(1). If we are wrong, however we will also state whether, if section 7(1) does not apply, our consideration of the matters identified in those sections would have led to any different outcome.

111 In respect of section 7(1), there are no relevant customary rights applying to the Site but there are existing Treaty settlements. Those Treaty settlements relevant to the Application comprise:

- a. Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014.

- b. Te Kawerau ā Maki Claims Settlement Act 2015.
- c. Ngāti Tamaoho Claims Settlement Act 2018.
- d. Ngāi Tai ki Tāmaki Claims Settlement Act 2018.
- e. Ngāti Whātua Ōrākei Claims Settlement Act 2012.

112 Because a Treaty settlement applies, section 82 becomes relevant to our decision making. That section states:

82 Effect of Treaty settlements and other obligations on decision making

- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.
- (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.
- (3) The panel must also consider whether granting the approval would comply with section 7.
- (4) In this section, **document**—
 - (a) means any document, arrangement, or other matter; and
 - (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

Ability to decline consent

113 Section 85(1) and (2) describes the circumstances in which a Panel must decline an approval.

114 We have determined that none of those circumstances apply in this case:

- a. Neither of the approvals sought are for an ineligible activity (s 85(1)(a), FTAA).
- b. The coastal permit being sought is not for aquaculture activities (s 85(2), FTAA).

115 Section 85(3) describes the circumstances in which an approval may be declined. For the reasons described below, we have determined that none of those circumstances apply in this case.

Approvals relating to the Resource Management Act 1991

116 In considering whether to grant an RMA approval, we must apply Schedule 5 FTAA.⁶²

117 Clause 17 of Schedule 5, as relevant to the Application, states:⁶³

⁶² FTAA, section 81(2)(b) and (3)(a).

⁶³ For the purposes of clause 17(2)(c), the Panel is not aware of any Mana Whakahono ā Rohe or joint management agreement relevant to the approval. There are no provisions of the RMA that would require the

17 Criteria and other matters for assessment of consent application

- (1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),
- (a) the purpose of this Act; and
 - (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
 - (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.
- (2) For the purpose of applying any provisions in subclause (1),—
- (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
- ...
- [sub-clauses (2)(b)-(c), and (3) – (7) omitted]

- 118 When assessing the purpose of the Act under clause 17(1)(a) we must, as directed by section 81(4), consider the extent of the Projects' national or regional benefits.
- 119 We understand the phrase "take into account" as requiring us to directly consider the matters so identified and give them genuine consideration; rather than mere lip service, such as by listing them and setting them aside: *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* [2024] NZSC 26 at [169], [224].⁶⁴
- 120 In respect of those matters to be taken into account, the greatest weight must be given to the purpose of the FTAA.⁶⁵ This "legislatively directed weighting" has been previously utilised in s 34 of the Housing Accords and Special Housing Areas Act 2013 (**HASHAA**), which was considered by the Court of Appeal in *Enterprise Miramar Peninsula Inc v Wellington City Council* [2018] NZCA 541 (**Enterprise Miramar**).
- 121 The difference between that formulation and that of the FTAA is that the HASHAA created a hierarchy of criteria, with the greatest weight to be given to criterion (a) and the least weight to be given to criterion (e), whereas in the FTAA the requirement is simply for the decision maker to give the greatest weight to criterion (a). The implication, therefore, is that in the FTAA the criteria in (b)-(c) are to have equal statutory weight. Subject to bearing that distinction in mind, the *Enterprise Miramar* decision provides the following helpful guidance for our decision making, as follows (adapted as it would apply to the FTAA):

Panel to decline the approvals, and accordingly clause 17(3) and (4) are not considered further. Clause 17(5)-(7) are procedural in nature only.

⁶⁴ While the Supreme Court's decision was in the context of a requirement to "have regard to" a relevant consideration, we consider that an equivalent obligation should apply to the phrase "take into account" in clause 17, Schedule 5 FTAA.

⁶⁵ Another notable feature is that any reference to Part 2 of the RMA excludes section 8 of the RMA.

- a. While the greatest weight is to be placed on the purpose of the FTAA, we must be careful not to rely solely on that purpose at the expense of due consideration of the other matters listed in (b) to (c): *Enterprise Miramar*, at [41].
- b. Clause 17 requires us to consider the matters listed in clause 17(1)(a)-(c) on an individual basis, prior to standing back and conducting an overall weighting in accordance with the specified direction: *Enterprise Miramar*, at [52] – [53].
- c. The purpose of the FTAA is not logically relevant to an assessment of environmental effects. Environmental effects do not become less than minor simply because of the purpose of the FTAA. What changes is the weight to be placed on those more than minor effects; they may be outweighed by the purpose of facilitating the delivery of infrastructure and development projects with significant regional or national benefit, or they may not: *Enterprise Miramar*, at [55].

122 In accordance with clause 17, the relevant matters we take into account comprise:

- a. The purpose of the FTAA, being “to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.” Both the Bledisloe Wharf and Fergusson Berth projects are “infrastructure”.⁶⁶ When assessing this criterion we must consider the extent of the projects’ national or regional benefits. This criterion is to be individually assessed as part of a clause 17(1) assessment, and then, when conducting an overall assessment, is to be given the greatest weight.
- b. Part 2 of the RMA, comprising: section 5; section 6(a) – “preservation of the natural character of the coastal environment ...”, and the protection of them from inappropriate use and development”, (d) – “the maintenance and enhancement of public access to and along the coastal marine area ...”, (e) – “the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga”, and (h) – “the management of significant risks from natural hazards”; section 7 – (a) “kaitiakitanga”, (b) – “the efficient use and development of natural and physical resources”, (c) – “the maintenance and enhancement of amenity values”, (f) – “maintenance and enhancement of the quality of the environment”, (g) – “any finite characteristics of natural and physical resources”, and (i) – “the effects of climate change”.
- c. Part 3 of the RMA, and in particular: section 12 (restrictions on use of coastal marine area); section 15 (discharges of contaminants); section 16 (duty to avoid unreasonable noise); and section 17 (duty to avoid, remedy or mitigate adverse effects).
- d. Part 6 of the RMA, and in particular: section 104 (consideration of applications); section 104B (consideration of applications for discretionary or non-complying applications); and section 108 (conditions of resource consents).

123 In respect of clause 17, we further record that:

⁶⁶ Refer s 2, RMA: “Infrastructure means – ... (k) facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in [section 2\(1\)](#) of the Port Companies Act 1988:” Note, the RMA definition applies by virtue of s 4(2)(a), FTAA.

- a. Parts 8-10 of the RMA do not apply to the Application and have not been considered.⁶⁷
 - b. No other relevant provisions of any other legislation that directs decision making under the RMA has been drawn to our attention as being relevant to the Application.⁶⁸
- 124 Clause 18 is procedural and directs that in setting conditions, the provisions of Parts 6, 9 and 10 of the RMA apply subject to certain necessary modifications to reflect the FTAA. None of clauses 19-22 are relevant to the Application.

Approvals relating to a Wildlife Approval under the Wildlife Act 1953

- 125 In considering whether to grant a wildlife approval under the Wildlife Act 1953, we must apply clause 5 of Schedule 7 FTAA.
- 126 Clause 5 states:

5 Criteria for assessment of application for wildlife approval

For the purposes of [section 81](#), when considering an application for a wildlife approval, including conditions under [clause 6](#), the panel must take into account, giving the greatest weight to paragraph (a),—

- (a) the purpose of this Act; and
- (b) the purpose of the Wildlife Act 1953 and the effects of the project on the protected wildlife that is to be covered by the approval; and
- (c) information and requirements relating to the protected wildlife that is to be covered by the approval (including, as the case may be, in the New Zealand Threat Classification System or any relevant international conservation agreement).

- 127 The discussion at paragraphs 117 - 120 above in relation to clause 17 applies equally to our assessment of clause 5 - insofar as the *Enterprise Miramar* decision provides guidance as to how we should approach our assessment of clause 5(a), the purpose of the Act, and what meaning should be given to the phrase "take into account".
- 128 For the purposes of clause 5(b):
- a. The Wildlife Act does not have a specific purpose section but it still has a purpose. Section 10, Legislation Act 2019, provides that "legislation must be construed in light of its purpose, and the word legislation is defined to include both the whole and *any part* of an Act. So, in cases of the kind we are now considering, the provision concerned must be interpreted to advance its own purpose."⁶⁹ That provision is section 3, the purpose of which is that, with some limited exceptions, wildlife is "to be absolutely protected throughout New Zealand."

⁶⁷ FTAA, Schedule 5, clause 17(1)(b).

⁶⁸ FTAA, Schedule 5, clause 17(1)(c).

⁶⁹ Burrows and Carter *Statute Law in New Zealand* (6th Ed, 2021), Chapter 8, p 314.

- b. The wildlife to be covered by the approval are little penguin |kororā, and accordingly it is the effects on that species that we must consider under this sub-clause. (Those effects are described at paragraphs 271 - 276 below.)

129 In respect of clause 5(c), we must consider:

- a. Information *and* requirements relating to little penguin |kororā;
- b. while bearing in mind that, as stated in the legal submissions for DoC⁷⁰ this clause does not relate to an assessment against the FTAA requirements (that obligation is provided for elsewhere in the FTAA), but rather includes broader matters such as:
 - i. NZ Threat Classification System (classified nationally as At Risk: Declining and regionally as Threatened: Regionally vulnerable);⁷¹
 - ii. relevant International Conservation Agreements;⁷²
 - iii. any other information about, or requirements directed specifically to little penguin | kororā.⁷³

Content of our record of decision

130 For each approval sought in the Application, we must prepare a separate decision document.⁷⁴

131 That decision document must:⁷⁵

- a. state our decision;
- b. state our reasons for the decision;
- c. include a statement of the principal issues in contention; and
- d. include our main findings on those issues.

132 For any RMA approval, the decision document may specify a date on which the approval lapses in accordance with clause 26 of Schedule 5 and must comply with clause 22 of Schedule 5 (if applicable).

133 Consistent with those requirements, the remainder of this decision:

⁷⁰ Paragraph 4.3.2, DoC Memo of Counsel.

⁷¹ Paragraph 4.2.3, Section 51(2) Report.

⁷² DoC is not aware of any such agreements: Section 51(2) Report, para 7.1.2

⁷³ The Panel has not been made aware of any such other information or requirements. The Panel agrees that wider statutory planning documents and policy about conservation matters generally is not specifically a matter for consideration under this clause: Section 51(2) Report, para 7.2.1.

⁷⁴ Section 87(1), FTAA.

⁷⁵ Section 87(2), FTAA.

- a. Identifies the key adverse effects of the projects, and our finding on those effects as they relates to the RMA approvals sought – Part E.
 - b. Identifies the relevant planning instruments, and the Panel’s finding on those key provisions as they relates to the RMA approvals sought – Part F.
 - c. Identifies the key adverse effects of the project works on little penguin | kororā, and our findings on those effects as they relate to the wildlife approval sought – Part G.
 - d. Identifies the key information and requirements related to the protected wildlife to be covered by the wildlife approval – Part H.
 - e. Identifies the national and regional benefits of the Projects as found by us – Part I.
 - f. Identifies the Principal Issues outstanding and then our findings on those outstanding issues – Part J.
 - g. Records the conditions on which the RMA approvals are to be granted, and appends these conditions as Appendix 1 to this decision – Part K.
 - h. Records of the conditions on which the wildlife approval is to be granted, and appends these conditions as Appendix 2 to this decision -Part K.
 - i. With regard to those findings above, records our determination of the Application against the relevant criteria for each of the two types of approvals sought – Part L and Part M.
 - j. Final Decision – Part N.
- 134 In drafting this decision, we have had regard to the procedural principles underpinning the FTAA, including the requirement for expeditious but robust decision making.

PART E: EVALUATION OF EFFECTS – RMA APPROVALS

Overview

- 135 Clause 17(b) of Schedule 5 FTAA requires us to take into account Part 6 of the RMA, including in particular s 104(1)(a) – “any actual and potential effects on the environment of allowing the activity” and s 104(1)(ab) “any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity”.
- 136 The AEE provided an assessment of these matters at Section 10 of the Application⁷⁶, and various technical reports were appended. The comments received also raised a range of actual and potential effects.
- 137 For construction effects, these include (in summary):
- a. Construction methodology;
 - b. Earthworks;
 - c. Transport;
 - d. Noise;
 - e. Navigation and safety / recreation;
 - f. Ecology; and
 - g. Cumulative effects.
- 138 For operational effects, these include (in summary):
- a. Landscape and visual;
 - b. Navigation and safety;
 - c. Recreational activities;
 - d. Coastal processes;
 - e. Ecology;
 - f. Air quality;
 - g. Trade waste;
 - h. Stormwater; and

⁷⁶ Section 10 – Assessment of Effects on the Environment, Substantive Application, (pg. 57-105) dated March 2025.

- i. Positive effects.
- 139 Various cultural effects were identified by the following iwi who were consulted, submitted Cultural Impact Assessment, or provided comments, each identifying slightly different cultural effects:
- a. Ngāti Whātua Ōrākei;
 - b. Ngāti Pāoa; and
 - c. Waikato-Tainui.
- 140 When evaluating the effects of the Projects in this part of the decision, we have:
- a. adopted a definition of the receiving environment that encompasses not just the environment that presently exists, but also the future state of the environment as it might be modified by the utilisation of rights to carry out a permitted activity under a district or regional plan or by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented;⁷⁷
 - b. had regard to the relevant planning provisions identified in Part F; and
 - c. had regard to the ameliorating effect of any conditions of consent that have been offered by the Applicant and those which are proposed to be imposed by the Panel.
- 141 Given the relatively uncontentious nature of much of the information received on the assessment of effects, this decision generally records a summary of the effects under two headings (construction effects and operational effects) and contains an evaluation of the assessment material and all comments received under each of those two main headings. The exception relates to cultural effects, where the effects identified as arising from both construction and operation have been assessed together.

Construction effects – Assessments

Construction methodology

- 142 The proposed area of construction works involves existing rock revetments, seabed, and reclamation areas: the berth water depth is sufficient to avoid the need for dredging at either project location.
- 143 The Application and Attachment 7 – Indicative Construction Methodology describes that the construction effects will be managed as follows:

Construction Activity	Effects	Management Proposed
Bledisloe Wharf		
Removal of the existing rock revetment	Risk of erosion and wash out of fine sediment potentially	Minimise risk of exposure through working 6.5-13 m (1-2 pile bents at a time

⁷⁷ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84].

Construction Activity	Effects	Management Proposed
	containing contaminated materials.	and using erosion protection controls such as temporary concrete mat or rock bags. The Contaminated Soils Management Plan also provides details on soil disturbance controls. Existing rocks that are removed and deemed unsuitable will be disposed to an approved offsite facility.
Removal of toe trench material/minor slope filling	The excavation of toe trench and any minor filling on the slope will cause seabed disturbances underwater.	Excavated dredged materials will need to be placed or removed and collected in a controlled manner by a long reach excavator working from landside or on a temporary staging platform.
Piling	Noise generated from the driving of pile casing into Waitematā Sandstone and associated disturbance of material	<p>Contractor to implement controls such as the use of a vibratory hammer as opposed to drop a hammer to minimise noise. The Underwater Construction Noise Management Plan provides detail on proposed noise mitigation to minimise effects and is assessed further in the Construction Noise Effects section below.</p> <p>A drilling rig will remove material contained within the piles to be collected in a controlled manner and disposed offsite to an approved facility.</p> <p>Steel reinforcement cage is installed and concrete tremie is poured (confined within the pile casings) thereby having minimal environmental effects.</p> <p>As the top of piles is to be broken down to sound concrete, the concrete debris is to be collected and captured to prevent it from entering the harbour.</p>
Rock revetment works	Potential disturbance from placing each rock into position.	The controlled placement of each rock by using a rock clamshell bucket will mean works are confined to the slope surface and toe trench and will thereby have minimal effects on the environment.

Construction Activity	Effects	Management Proposed
Concrete Mattress	Concrete mattress to be installed under an existing wharf with fluid concrete to be pumped into formwork filler sleeves and filled in a tremie-filling fashion.	The fluid concrete pumping is fully contained within the tremie pipe, filler sleeves and the formwork and protected against washout during curing by the formwork thereby having minimal effects on the environment.
Wharf Deck Construction	Installation of precast beams over piles with precast deck planks spanning between beams and temporary side formwork is placed to enable in-situ concrete portion to be completed.	Deck works are fully contained within the formwork and consist of precast concrete elements therefore have minimal environmental effects.
Fergusson Berth		
Piling	Noise and associated disturbance with driving of steel cased piles into Waitematā Sandstone.	<p>The contractor shall implement controls such as the used of vibratory hammer opposed to a drop hammer to minimise noise generation from the works.</p> <p>A drilling rig will remove materials contained within the piles in a controlled manner and disposed off-site to an approved facility.</p> <p>The concrete tremie is confined within pile casings therefore it will have minimal environmental effects.</p> <p>As the top of piles are broken down to sound concrete, the debris will be collected and captured to prevent deposition into harbour.</p>
Mudcrete trimming and rock revetment	Disturbance effects associated with trimming of the mudcrete bund, placement of a geotextile underlayer and rock armour layer.	The effects of the rock revetment works will be done in a controlled manner using an excavation bucket and rock clamshell bucket placing rock into each position and is confined to the slope surface and toe trench thereby having minimal effects on the environment.
Wharf Deck Construction	Steel reinforcement installation and in-situ concrete poured to complete construction of the wharf deck above the water level.	The deck works are contained fully within the temporary formwork which is placed on the underside and sides of the deck. As

Construction Activity	Effects	Management Proposed
		such there will be minimal effects on the environment.

- 144 Construction-related effects will be managed through the CMP to ensure that construction works are undertaken within the limits and standards approved under the consent. The CMP will set out management procedures and construction methods to be undertaken to avoid, remedy or mitigate potential adverse effects arising from construction activities. For certification purposes, the CMP will be prepared by a suitably qualified experienced person (**SQEP**) and shall, at a minimum include the matters identified in conditions.

Construction earthworks and sediment control

- 145 Earthworks above the Mean High-Water Springs (**MHWS**) landward side of the existing Bledisloe Terminal and landward side of the mudcrete bund of the Fergusson Terminal will be managed through an Erosion and Sediment Control Plan (**ESCP**). The content of the ESCP is prescribed by conditions, and the application of the ESCP will result in no production of conspicuous oil, grease films, scums or foams, or floatable or suspended materials; no conspicuous change in the colour or visual clarity of the water; no emissions of objectionable odour; and no significant adverse effects on aquatic life.
- 146 A Contaminated Soils Management Plan will be implemented to address the handling and disposal of contaminated materials, minimising risk to the environment and human health.

Construction traffic

- 147 During construction, construction traffic movements associated with the Projects are expected to have negligible traffic effects within or beyond the site:
- The Bledisloe Wharf construction is expected to generate approximately six trucks and 40 light vehicles creating an additional 92 movements daily.
 - The Fergusson Berth is expect to generate three truck movements, 45 light vehicles summing to 96 vehicle movements, which are identified to have little discernible effect compared to day to day truck movement variability at Solent Street/Tamaki Drive intersection.

Construction Noise

- 148 By virtue of the site being located within the General Coastal Marine Zone and proposing the use of impact and vibro pile driving methods during construction, the activity is restricted discretionary pursuant to Table F2.19.8 (A114) which requires an assessment of the effects of underwater noise on marine fauna. Marine ecologists have identified the relevant marine biota including marine mammals (e.g. orca, common dolphin and bottlenose dolphin, fur seals, and leopard seals); little penguin | kororā; and a range of fish species.
- 149 The Construction Noise Assessment has identified pile driving as the loudest construction activity associated with the Project, with other ancillary construction

activities such as concrete pours are anticipated to be indistinguishable from regular port activities even if carried out before dawn.⁷⁸

Airborne noise

- 150 The noise assessment has outlined the two-stage approach to installation of piles meaning piling at both wharves will not occur at the same time. As a result, the Noise Assessment has not specifically assessed the cumulative effects of piling at both wharves simultaneously. If two rigs were to drive piles concurrently, the predicted cumulative noise level could be slightly higher (1-3 decibels) which has been assessed as being an indiscernible change in level.
- 151 The predicted noise effects by Marshall Day are:
- a. 63 dB LA_{eq} at the Business Zone on the south side of Quay Street; and
 - b. 56 dB LA_{eq} at the Residential Zone interface to the north and east.
- 152 In summary, the construction activities are predicted to readily comply with airborne construction noise limits.

Underwater noise

- 153 The potential auditory injury and behavioural response zones for marine fauna from the proposed pile driving methods have identified TTS zones of <200 m for vibro piling and up to 2,350 m for impact pile driving (contingency method). If a bubble curtain was used, the largest zone would be reduced to 825 m. Permanent Threshold Shift (**PTS**) zones are much smaller, with most species having PTS thresholds that are not exceeded for vibro pile driving and ranging from less than 50 m for high-frequency cetaceans to 525 m for phocid pinnipeds assuming impact pile driving methodology.
- 154 The underwater behavioural response zones for impact pile driving encompass most of the of the Waitematā Harbour but are significantly reduced with hammer cushions and bubble curtains. Vibro piling behavioural response zones are considerably smaller, with lower noise levels reducing potential disturbance effects
- 155 For little penguin | kororā, Marshall Day have advised PTS zones of less than 50 m for impact pile driving while no physiological effects are predicted for vibro pile driving. Behavioural response zones for kororā extend up to 3,150 m for unmitigated impact pile driving and reduce to 640 m for vibro pile driving.
- 156 Marshall Day predict fish species will experience limited physiological impacts with mortality zones restricted to within 50 m of the piling site, while TTS zones extend up to 580 m for impact pile driving and less than 200 m for vibro pile driving.⁷⁹ Behavioural response zones for fish, based on a conservative threshold of 150 dB RMS, extends up to 405 m for impact pile driving and less than 200 m for vibro pile driving⁸⁰.

⁷⁸ Section 4.0 – Construction Noise Effects on People – Attachment 10 – Construction Noise Effects, (pg. 8), Marshall Day Acoustics, Dated February 2025.

⁷⁹ Section 5.7.1 – Auditory injury zones – Ibid.

⁸⁰ Section 5.7.2 – Behavioural response zones – Ibid.

- 157 Current best practise measures on marine projects where there is potential to impact marine fauna include:
- a. Reducing the noise at source by selecting pile driving equipment and methodologies that generate lower noise emissions;
 - b. Scheduling high noise works based on the ecologist's recommendations to avoid pile driving during sensitive seasonal periods, and driving during daylight hours to aid marine mammal observers;
 - c. Mitigating noise from the piling using bubble curtains, cofferdams and similar systems to reduce noise propagating into the water column;
 - d. Stopping/postponing works when marine fauna is present (ie using marine mammal observers, and/or use of acoustic detectors and similar technologies to identify marine mammals in the marine mammal observation zone); and
 - e. Validating the underwater noise levels and mitigation by carrying out underwater noise measurements to verify the size of the predicted zones and review the effectiveness of mitigation and management measures.
- 158 A draft Underwater Construction Noise Management Plan (**UCNMP**)⁸¹ outlines measures to mitigate underwater noise impacts from the piling activities to reduce potential construction noise effects on marine mammals and little penguin | kororā to an acceptable level. The UCNMP will detail measures to manage underwater noise effects on marine mammals and penguins.
- 159 POAL proposes the following mitigation and management measures as outlined by Marshall Day in the draft UCNMP:
- a. Using a hammer cushion or dolly to provide effective noise mitigation and avoid steel on steel contact.
 - b. Piling works are only proposed to be carried out during sunrise and sunset to enable sufficient light for observation of marine mammals and little penguin | kororā , with additional restrictions potentially required if new sensitive marine fauna is identified close to piling works.
 - c. Noise will be mitigated through use of a bubble curtain installed effectively and confirmation of this confirmed prior to commencement of impact piling and effectiveness further verified through ongoing monitoring.
 - d. Ensuring the marine mammal observation zone (as identified by the ecologist) is clear of marine mammals or little penguin| kororā during piling, with that process of continuous observation being undertaken by someone with an observer qualification recognised by DoC or trained to the satisfaction of an MMO who holds an observer qualification that is recognised by DoC, a defined pre-start procedure 30 minutes before commencement, a defined soft-start procedure (impact piling)

⁸¹ Attachment 11 to the Substantive Application – Draft Underwater Construction Noise Management Plan, Marhsall Day Acoustics, Dated 4 February 2025.

for 30 minutes, and a required shut down procedure if a marine mammal or little penguin| kororā is are within or about to enter the shut-down zone.

Effects of construction works on navigation safety/recreational

- 160 The Applicant commissioned Navigatus Consulting to prepare a Navigational Safety Assessment (**NSA**) on navigation at and near the Port, including between the eastern edge of the Fergusson Terminal to the outer edge of Princes Wharf, the Downtown Ferry Basin (**DFB**), and the adjacent Waitemata Harbour area including the main navigation channel.
- 161 That report concluded that construction activities will be conducted primarily from shore with minimal on-water work. The assessment recommended avoiding berthing operations adjacent to active construction areas where possible and implementing specific risk assessments when such operations are necessary. Physical barriers and scheduling controls were noted as being able to maintain safe separation between construction and operational activities.
- 162 The effects of construction on recreational watercraft users of the Waitemata Harbour in the vicinity of the Projects have also been fully assessed as part of the NSA. Given the location of the construction works, those works will not limit recreational opportunities to any greater extent than currently exist. The use of the walkway on the eastern side of the Fergusson Container Terminal will remain accessible throughout the duration of the Fergusson Berth works and accordingly any values associated with that walkway will not be affected.

Effects of construction activities on ecological values

- 163 An ecological effects assessment⁸² has been undertaken by Kennedy Environmental Limited (**KEL**) entitled "Assessment of effects on the ecological environment" appended as Attachment 31 and outlined within Section 10 of the Application. The following paragraphs have been reproduced from that ecological assessment.

Nature of the environment

- 164 The ecological environment adjacent to the Bledisloe Wharf and Fergusson Berth proposed construction sites include water depths off the northern sides of the Bledisloe Terminal and Fergusson Terminal of 12.0 m and deeper, with the berth pocket at Fergusson Berth having being previously dredged. The water at the proposed Bledisloe Wharf is sufficiently deep to avoid the need for further dredging activities. Within the Port, currents are weaker than the main body of the harbour due to the sheltering effect of piled wharfs and solid reclamation.
- 165 The seabed off Bledisloe Wharf is typically flat with bare areas and ripples with patches of fine gravel evident from stormwater discharge on the revetment. The seabed at the Fergusson Berth is covered with residual harder dredged fragments with occasional patches of shell and muddier sediments.
- 166 The water quality within the main body of the Waitematā Harbour where the proposed works are to occur are determined by the ebb and flow of tidal waters from outside the harbour and from upper harbour beyond the Auckland Harbour Bridge. Circulation

⁸² Attachment 31 of Substantive Application - Assessment of effects on the ecological environment, Kennedy Environmental Limited, March 2025.

patterns within the port berth either side of Bledisloe Terminal have an influence on water quality as the port basins receive stormwater from the Auckland CBD. Shipping and tug movements within the Port also intermittently suspend sediment. TSS concentrations in harbour water are typically low, seasonal and influenced by phytoplankton growth.

- 167 Results of sediment sampling found that concentrations of copper and zinc in toe trench surface sediments were higher in the vicinity of Bledisloe Terminal but below ANZG (2018) Default Guideline Values (**DGV**), except for Tributyl Tin in surface sediment where some samples had concentrations above the DGV. Within the Fergusson Berth pocket, all concentrations of trace elements were below ANZG (2018) DGV.

Intertidal and subtidal habitat characteristics

- 168 The intertidal environment at the proposed Bledisloe Wharf location supports a diverse community dominated by kelp and other intertidal species, including oysters, limpets, and chitons, which have developed over the past 40 years. The Bledisloe Wharf revetment intertidal habitat supports a good example of kelp habitat on 'constructed' hard substrate considered to be a diverse community supporting a range of algal species and invertebrates. The intertidal ecology of Fergusson Berth limits ecological diversity due to its shaded environment with encrusting species such as oysters and mussels present on piles but minimal growth on the revetment. The presence of kelp on the outer rows of piles on all seaward facing sides of Fergusson Berth contain abundant oysters, blue mussel and some green mussel. The rock revetment under the existing Fergusson Wharf supports a community adapted to low-light establishing over the last ten years.
- 169 The subtidal seabed habitat off Bledisloe Wharf is characterized by muddy sand with occasional shell fragments and contains the epifauna of scatter sponges, cushion stars and occasional scallops. These do not form significant sponge gardens. The base of the Bledisloe Wharf revetment supports sponges and other burrowing organisms, but the overall community is sparse and of low ecological significance.
- 170 The coarse seabed near Fergusson Berth contains residual dredged fragments, rocks and gravel from previous dredging with fine sediment largely absent due to strong tidal currents. Epifauna is limited with occasional sponges and hydroids observed in two locations.
- 171 The subtidal seabed habitat near both proposed wharf extensions do not support any unique or high value ecological communities and are considered to be of low ecological significance with scattered epifauna and limited biodiversity.

Fauna present

- 172 Within the coastal environment of the Auckland Region, there are nine marine reptile species that have been sighted but all are considered to be uncommon and unlikely to be encountered. The species that would have been present historically likely include copper skink (*Oligosoma aeneum*), the shore skink (*O. smithi*) and ornate skink (*O. ornatum*). No ink tracks were found on track cards and there is no indication of indigenous lizards present within the rock revetment at the proposed Bledisloe Wharf location.

- 173 The landward side of the Port does not contain any natural terrestrial habitat or planted areas due to the biosecurity controls within the Port. Trees on the city side of the port boundary and small Pohutukawa outside the red-fence adjacent to the Marine Rescue Centre in Judges Bay provide habitat for common urban birds. The only bird species commonly seen within the Port and around wharf edges are on the Bledisloe Wharf revetment are rock pigeons (domestic pigeon, rock dove, Kererū aropani, *Columba livia*). Overall, there are few species of coastal bird that commonly utilise the harbour close to the construction areas. These species are:
- a. Black-backed gulls (Not Threatened – Regionally and Nationally): nesting in variable numbers within the Port with three nests at the top of the Bledisloe Wharf revetment with a further nest identified at the northern end of the revetment on the east side of the Fergusson Container terminal;
 - b. Red-billed gulls (At Risk Declining – Nationally, Threatened Regionally Vulnerable – Regional): nesting within the Port on several wharfs with the largest numbers at Marsden Wharf at the end and in wooden nest boxes constructed on old concrete wharf piles. This species also nest in smaller numbers at the northern end of Bledisloe Wharf and Jellicoe wharf;
 - c. White fronted tern (At Risk Declining – Nationally, Threatened Regionally Vulnerable – Regional): nesting at a number of locations within the Port; and
 - d. Little penguin | kororā (At Risk – Declining – Nationally, Threatened – Regionally Vulnerable – Regional) with few records of the species within the Waitematā Harbour in databases such as iNaturalist or e-bird with occasional observations of penguins swimming in harbour waters peaking in September through November coinciding with penguin chick rearing. Works previously on the Westhaven Marina rock revetment disturbed breeding little blue penguin resulting in the death of chicks providing an indication that penguins nest and rear chicks within the lower harbour. Walkover surveys and penguin detector dog searches in August and November 2024 found no presence of little penguin | kororā at Bledisloe Wharf with searches along the Fergusson Container Terminal revetment detecting penguin odour and guano at three locations but no direct sightings. Little penguin | kororā were detected in Judges Bay with active burrows, audible penguins and photo evidence in one location but not within the Port.
- 174 There are five species of whales and dolphins that are seen in the Waitematā Harbour as residents with New Zealand fur seal (*Arctocephalus forsteri*) and leopard seal (*Hydrurga leptonyx*) spending extended periods in the harbour. Other species documented in the lower harbour include bottlenose dolphin (*Tursiops truncatus*), common dolphin (*Delphinus delphis*) and orca (*Orcinus orca*).
- 175 The fish fauna in the harbour is diverse but does not include species of conservation significance and the areas adjacent to Bledisloe Wharf and Fergusson Berth are not considered significant nursery areas or high-quality recreational fishing grounds.

Ecological Effects

- 176 The effects on the physical and ecological resources within the Waitematā Harbour have been discerned by KEL in their ecological assessment into the following four key matters:

- a. Effects of demolition of the deck structure at the western end of Bledisloe Wharf.
- b. Construction of the Bledisloe Wharf and Fergusson Berth revetment.
- c. Excavation of the Bledisloe Wharf toe trench.
- d. Construction of the Bledisloe Wharf and Fergusson Berth wharf structures (piling works).

Effects of demolishing the deck structure at the western edge of Bledisloe Wharf

- 177 The demolition of the deck structure at the western end of Bledisloe Terminal involves the removal of the reinforced concrete deck and 8-9 concrete filled steel-cased piles to seabed level and then craned onto the Bledisloe Terminal. No adverse environmental effects are anticipated from the demolition of the deck structure and the removal of piles is expected to generate minor underwater turbidity, localised disturbance of fish and minor loss of marine growth on piles to be managed in accordance with biosecurity regulations to prevent the spread of Mediterranean fan worm (*Sabella spallanzanii*) which is a pest species under the Biosecurity Act 1993.⁸³
- 178 None of these potential effects have been assessed to be adverse as they are localised and temporary in nature, with the ecological value assessed to be moderate, the magnitude and overall level of effect also assessed to be low.

Effects of Revetment Works (Bledisloe Wharf and Fergusson Berth)

- 179 The analysis by KEL identifies the potential discharges resulting from the proposed revetment works to be compliant with the water quality standards outlined in Section F2.21.8.1 – General Coastal Marine Zone with procedures used during proposed works to assist in managing changes that may influence water quality.
- 180 As discussed in the preceding Construction management effects assessment, the upgrading of the Bledisloe Wharf Revetment involves the following methodology:
- a. Trim and removal of some of the existing revetment rocks (seaward face) within a narrow strip (up to 13 m width);
 - b. Installation of piles (two rows of five piles each except at both ends where new pile numbers are reduced due to presence of existing piles and deck);
 - c. Installation of geotextile onto bed around piles and into toe trench; and
 - d. Placement of new underlayer and armour rock (to specification) on the revetment surface.
- 181 During the proposed works it is expected that some man-made debris will be encountered in the upper part of the revetment but this will be removed and taken away for disposal to landfill.

⁸³ Section 6.2 Demolition Works (pg. 38) – Attachment 31 of the Substantive Application – Assessment of ecological effects, Kennedy Environmental Limited, dated March 2025.

- 182 The proposed works will have no effects on coastal bird species nesting within the Port. No little penguin | kororā have been detected in the revetment to date (with ongoing surveys to be undertaken) thereby the overall effects are considered likely to be negligible. The work will result in the loss of some intertidal and subtidal habitat with the communities to not re-establish on the new revetment being shaded by the new wharf deck. The expected loss of habitat is of a local nature. The overall effect of the revetment upgrading work on existing habitat (particularly intertidal habitat) will be moderate to high with mitigation proposed to provided ecological benefit for this habitat loss and is discussed further below.
- 183 The proposed works associated with the Fergusson Berth revetment as discussed in the preceding construction management effects section, will involve:
- a. Trimming the seaward edge of the final mudcrete reclamation edge to provide a slope to lay revetment rock onto with trimmed material to be placed onto the reclamation or disposed to landfill; and
 - b. Placement of new revetment rock to extend the existing revetment around to meet the existing revetment under the east end of Fergusson Berth.
- 184 The effects from initial rock placement on the seabed at the base of the reclamation will create minor local temporary disturbance with some suspension of sediment with the effects considered to be negligible. Subsequent building up from the base will result in little sediment disturbance. The end of the current revetment was layered with smaller rock that requires removal and placement of larger rock. These works will create some noise disturbance of a short-term duration (several days during the day) with the key receptor being little penguin | kororā. The revetment is not a noise free environment due to truck movements alongside the revetment with trucks queuing to pick up containers passing directly above the closest detected little penguin | kororā burrow. Disturbance periods, restricted to during the day, are considered to be minor with overall potential effects considered to be low. There is no loss of intertidal habitat to occur.

Effects of the excavation of the Bledisloe Wharf toe trench

- 185 The Bledisloe Wharf toe trench excavation involves backhoe dredge excavation of sediment from the Bledisloe Wharf toe trench as part of each tranche of revetment works to create a stable footing. All removed sediment is proposed to be placed into a hopper barge positioned alongside the excavation to be disposed to the Cuvier Dumping Site (**CDS**) under the POAL's Marine Dumping Consent EEZ4000011 or alternatively disposed to an approved landfill or reclamation. The excavations will result in the loss of low-value soft-bottom habitat and associated in-fauna over a width of approximately 10 m. The seabed is to change from sediment to rock with the temporary suspended sediment and minor contaminant release expected to occur but to quickly stabilised as surface irregularities are evened by currents. The biological community is expected to recover over time following the completion of excavation and revetment construction, with the community expected to be very similar to currently present.
- 186 Biosecurity risks will be minimised through sourcing of construction barges locally to avoid importation of non-indigenous species (**NIS**) with the most common NIS within the footprint is the secondary target species, the Mediterranean fan worm. The proposed excavation may result in loss of some NIS species to seabed adjacent to

excavation. Although this species is able to regrow from fragments, its presence on seabed both up and down the harbour would indicate that any loss of fan-worm pieces would be unlikely to adversely increase the harbour fan worm population. KEL assesses the biosecurity effects from the Bledisloe Wharf toe trench excavation to be negligible.

- 187 When determining the effects on Water Quality, KEL has estimated from previous studies sediment losses from bucket dredgers of 2.1% and 4% for mechanical dredgers. KEL also identifies that approximately 10% of the total dredged sediment would be lost to the adjacent water with larger aggregates expected to fall back to the seabed within the dredging area or at the edges of the dredging area. Review of previous monitoring of total suspended solids down-current of dredging activity during ongoing port maintenance (since 2001), previous Rangitoto dredging (2004-2007) and for the Americas Cup dredging in 2018-2019 found out of 35 sample events, only one sample exceeded the 25 mg/L identified in resource consent conditions with a trigger value of 25 mg/L also required in consent conditions for the Americas Cup development. This monitoring has shown that elevated TSS can occur localised close to the proposed excavation area but downstream (>200m from dredging site) concentrations are similar to those measured upstream. It is not expected for significant off-site changes in water quality during the toe trench excavation, however monitoring conditions are proposed and the works to occurring under a Monitoring Plan allowing for observation-based changes to excavation to deal with visual plumes or elevated TSS concentrations, should they occur.
- 188 Other contaminants released during excavation, is total ammoniacal nitrogen from pore water with KEL assessing concentrations of contaminants below the ANZG (2018) following some dilution to reduce in water concentrations. Concentrations of contaminants are expected to be below the 95% protection DGVs close to the dredging and have no waterborne toxicity. Overall, KEL concludes that waterborne toxicity or significant changes in water quality are not anticipated.
- 189 Following reasonable mixing, discharges arising from toe-trench excavation is expected to meet the requirements of F2.21.8 water quality standards relating to discharges under the AUP.
- 190 Localised sedimentation of larger sediment aggregates will occur near the proposed Bledisloe Wharf excavation area. Larger particles are expected to settle in around an hour but smaller particles would take longer, the strong tidal currents off Bledisloe Wharf resulting in any suspended sediment becoming part of the mass of sediment in the harbour tidal stream. Short term localised effects (construction period and temporary for a period after construction) on sediment dwelling biota near the Bledisloe Wharf toe trench excavation will occur but effects have been assessed by KEL to be short term and considered negligible to no more than minor.⁸⁴
- 191 Underwater noise generated by excavation activities is expected to be similar to previous dredging activities in the Auckland waterfront, with KEL and Marshall Day concluding that there would be no risk of auditory injury to fish or marine mammals at the calculated underwater noise source levels for backhoe dredging activity.

⁸⁴ Section 6.4.5 Sedimentation (pg. 46) – Attachment 31 of Substantive Application – Assessment of ecological effects, Kennedy Environmental Limited, dated March 2025.

Effects of piling works

- 192 As discussed within the ecological assessment of KEL, piling is one of the key elements of the Bledisloe Wharf construction and Fergusson Berth extension with the key effects identified as:
- a. The potential for suspension of marine sediment during piling.
 - b. Changes in water quality during piling.
 - c. Effects on underwater noise from piling.
- 193 Suspension of sediment at the seabed surface would normally occur when the pile casing contacts the seabed or revetment but once the casing is driven into the seabed the driving activity is expected to result in little disturbance and temporary generation of suspended sediment. Sediment disturbance during pile installation is considered to be very minor compared to sediment excavation.
- 194 Where piles are drilled (within steel casing) prior to inserting reinforcing and sediment, the sediment removed from the casing would be taken off-site for disposal with no sediment physically removed during piling to be deposited within the harbour.
- 195 KEL advises that pile driving within the waterfront area has occurred for several major projects over the last decade with no indication that piling has created visible sediment plumes. As such, the effects of piling on the generation of suspended sediment have been assessed by KEL to be negligible.⁸⁵
- 196 In relation to discharge of contaminants resulting from seabed disturbance and transport of contaminants with particles, the effects have been deemed by KEL to be very minor compared to sediment excavation. It is noted site specific piling related effects (water clarity and quality) are considered negligible⁸⁶
- 197 Prior to concrete pouring, the pile casings will be dewatered with the water pumped ashore and disposed with no discharge to the harbour environment. KEL have also advised that during pouring of concrete into pile casings, concrete will have no direct contact with seawater to not give arise to any water quality issues during this phase of works. The effects of piling on release of contaminants associated with seabed sediment disturbance are considered negligible⁸⁷.
- 198 KEL confirms that the airborne and underwater noise have the potential to disturb ecological communities despite some species nesting successfully within the Port are likely to have habituated to common noise activities. Conservative modelling of underwater noise which is expected to require over a period of 120-160 days to complete for Bledisloe Wharf and 16-24 days at Fergusson Berth during daylight hours and using vibro piling to minimise underwater noise.
- 199 For marine mammals, the overall level of potential effects associated with vibro piling are very low for seals and low for high frequency cetaceans (without mitigation). The overall level of potential effects from impact piling (with noise mitigation) is considered to be low to moderate given the two species have very high ecological value and may

⁸⁵ Section 6.5.3.1 Suspended Sediment (pg. 49) – Ibid.

⁸⁶ Ibid.

⁸⁷ Section 6.5.3.2 Contaminants (pg. 49) - Ibid.

be negligible to moderate in the context of the temporary nature and very low likelihood of cetaceans being within the predicted TTS zones. For both species of seals (fur and leopard seals – low and medium ecological value) the TTS zones associated with impact piling are larger extending into the harbour: with potential for seals to enter this zone but is likely for exhibiting of avoidance behaviour in advance of the zones and frequency of occurrence is considered low to very low. KEL have determined the overall level of potential effects associated with impact piling to be low for seals (with noise mitigation). The effects of underwater noise from impact piling (should it be required) is expected to be negligible to moderate for high frequency cetaceans and low to moderate for seals. Further mitigation is also proposed through the use of Marine Mammal Observers (**MMOs**) in the draft Underwater Construction Noise Management Plan (**UCNP**) further reducing potential risks of effects.⁸⁸

- 200 There are expected to be no adverse physiological effects to fish unless they are in immediate proximity of the piling (using either method) with behavioural effects expected around the site of piling (both methods). KEL has assessed these effects as localised, temporary and only occurring during daylight hours to be very low to low level.⁸⁹
- 201 Of the three species of birds that are of Conservation significance (Red-billed gull, white fronted tern and little penguin | kororā) that are present in the waters near or adjacent to the Bledisloe Wharf and Fergusson Berth project areas, little penguin | kororā are likely to habituate to local airborne sounds but can be disturbed by construction activities as underwater swimmers and feeders when away from their burrow. Based on the modelling undertaking by Marshall Day, the PTS and TTS effects on penguins are very unlikely and assisted by the dawn and dusk departure movements of penguins from burrow sites within Judge Bay. For potential behavioural effects, the modelled zone for effects (vibro-piling) is assessed by KEL to be more than moderate and extends several hundred metres from the site of works. KEL have stated that adjacent to Bledisloe Wharf, penguins transiting the harbour may be temporarily affected (behaviourally) by moving out of the disturbance area. At the Fergusson Berth extension, where a burrow was identified at the northern end of the container terminal revetment, KEL advise penguins transiting the harbour near the container terminal reclamation may be temporarily affected (behaviourally not physiologically) by piling-related noise.⁹⁰

Other ecological effects

- 202 The ecological assessment states that the construction of the Bledisloe Wharf will prevent black-backed gulls from nesting at the top of the existing revetment. KEL advise that as this is not a protected species under the Wildlife Act, mitigation is not necessary for the loss of this space and will be of benefit to the Marsden Wharf nesting colony of red-billed gull and white-fronted tern.
- 203 The proposed noise and vibration is not expected to have adverse effects as the closest nesting red-billed gull or white fronted tern are approximately 128 m from the west end of Bledisloe Wharf and 150 m from the east end of Bledisloe Wharf. The

⁸⁸ Section 6.5.4.2 Effects on marine mammals (pg. 53) – Ibid.

⁸⁹ Section 6.5.4.3 Effects on fish (pg. 53) – Ibid.

⁹⁰ Section 6.5.4.4 Effects on coastal birds (pg. 55) – Ibid.

magnitude of effects is considered negligible to low on these species of high ecological value and an overall effect of very low to low.⁹¹

- 204 The effects of the excavation of the Bledisloe Wharf revetment trench as a temporary excavation occurring over a short duration will not directly affect food supply based on:
- a. The area of seabed where habitat is disturbed; and
 - b. The limited generation of suspended solids and the type of food consumed as both species feed within a much wider environment (and are not feeding on benthic species).

Cumulative effects

- 205 The Application did not specify whether works at the sites of both Projects will proceed concurrently or sequentially. However, given the spatial separation of the work sites, even if the works did proceed concurrently the only cumulative effect of concern that has been raised by the assessment relates to noise effects from piling. Accordingly, to provide for either scenario, a condition has been proposed to prohibit pile driving occurring at both sites contemporaneously.

Construction effects – Panel evaluation of assessments and comments received

- 206 We are satisfied that the effects of the construction activities have been accurately and appropriately assessed and that they can be appropriately avoided, remedied or mitigated by the imposition of conditions.

Operational effects – Assessments

Landscape and visual amenity effects

- 207 The potential effects of the Project on landscape and visual amenity were assessed by a Landscape Effects Assessment (**LEA**)⁹² dated 5 February 2025 and addressed in Section 10 of the Substantive Application. The following paragraphs are from the LEA.
- 208 The existing environment is described by Boffa Miskell as being a heavily modified waterfront that has been shaped by reclamation and the development of transport and marine infrastructure over the past 170 years. The waterfront area remains influenced by the Waitematā Harbour physically and visually despite its heavy modification, while the bulk of the working port is defined by the Bledisloe Wharf and Fergusson Berth Terminals servicing large-scale container and other ships. These working port elements have been described as simplistic and functional, characterized by hardstand (including piled wharfs and reclaimed land). Other elements which characterize the visual catchment include cranes, port machinery/vehicles, shipping containers and imported vehicles and equipment.

⁹¹ Section 6.6 Other Construction Related Effects (pg. 56) – Ibid.

⁹² Attachment 30 of Substantive Application - Landscape Effects Assessment, Boffa Miskell, 5 February 2025.

Effects on Natural Character

- 209 The proposal's design and location within the surrounding environment will have minimal negative effects on the harbour's natural features both physical and perceived. The major natural elements associated with the Port environment are the coastal waters, coastal interface, natural patterns and processes associated with interactions between the sea and the coast, together with the fluctuating tidal levels. It is considered that the Project will have a very low adverse impact on the actual naturalness of the harbour despite the perceived increase to modification associated with inclusion of vessels at Bledisloe Wharf. The adverse effects associated with the wharf expansion will be very low with up to low adverse effects on perceived attributes with the periodic presence of vessels on Bledisloe Wharf. This is a result of the localised areas specific to the Project being within one of the most extensively modified parts of the coastal environment seeing over a century of reclamation, development and construction of coastal structures.

Effects on Landscape Characteristics, Attributes and Values

- 210 In terms of landscape effects, the Project aligns with the existing character of the port area with the activity capable of being integrated without diminishing the landscape quality of the local setting. The scale of the Waitematā Harbour coupled with the limited size of the proposed extensions will ensure the Project only slightly intrudes into the harbour environment. Overall, the assessment concludes that adverse landscape effects will be low and have very low adverse effects on the perceived naturalness of the Waitematā Harbour.

Visual Effects

- 211 The visual effects of the project have been considered from a range of onshore areas and across the Waitematā Harbour. The most notable effects will be on visitors to Queens Wharf, where the Bledisloe Wharf may partially obscure views of the harbour, especially toward the Gulf Islands with the effects considered low-moderate on viewing audiences. The visual disruptions of the harbour will become more noticeable when vessels are docked, and are anticipated to bring moderate adverse effects, though will be periodic rather than permanent features.
- 212 From other viewpoints across the isthmus, the proposed extensions will have minimal visual consequences and subsequently very low adverse effects as the proposed extensions are "modest in scale, low in height and will blend into the existing wharf layout and geometry". From many viewpoints the extensions will be out of sight or difficult to discern but there will be some noticeable change to some views when vessels are docked at Bledisloe Wharf from the north and some locations to the west. These effects will be intermittent and are likely to partially merge with the city skyline or align to the typical view of marine activity. These periodic effects will be up to low adverse.
- 213 The cumulative effects of the project on the natural character conditions and the landscape, and visual values of the Waitematā Harbour will be low overall when considered alongside the broader modification of the landscape and harbour context. Having regard to the assessment of Boffa Miskell, significant adverse effects on natural character values, natural landscapes and natural features of the coastal environment are expected to be avoided and the natural character of the coastal environment protected against inappropriate use and development. Other adverse effects are

considered to be appropriately avoided, remedied or mitigated through design and layout of the wharf which would appear as a logical extension building on the established characteristics and activities of wharf-based port infrastructure as such that the underlying values of the coastal environment are broadly maintained.

Effects on navigation and safety within the Waitemata Harbour

- 214 As noted earlier under the assessment of construction effects, the Applicant commissioned Navigatus Consulting to prepare a NSA on navigation at and near the Port, including between the eastern edge of the Fergusson Terminal to the outer edge of Princes Wharf, the DFB, and the adjacent Waitematā Harbour area including the main navigation channel.
- 215 The NSA employed a comprehensive comparative risk analysis examining the current situation, proposed works activities, and post-project operations. The methodology was guided by AS/NZS 31000:2009 Risk Management standards, PIANC Report No 121 - Harbour Approach Channels Design Guidelines (**PIANC Report**), and Maritime New Zealand's "New Zealand Port and Harbour Marine Safety Code" and "Key Principles for Marine Safety Risk Management."
- 216 Extensive stakeholder consultation was conducted with the Harbourmaster's office, POAL operations personnel, commercial ferry operators (Fullers and SeaLink), the Royal New Zealand Navy, and representatives from eight local yacht clubs.

Key conclusions of NSA

- 217 Key conclusions of the NSA were:
- a. *PIANC Compliance:*⁹³ The NSA confirmed compliance with international design standards. The turning area north of both wharves exceeds minimum requirements, with approximately 1,100 metres width at Bledisloe Wharf (requiring minimum 696 metres for the 348-metre design vessel) and 840 metres at Fergusson Berth (requiring minimum 720 metres for the 360-metre design vessel).
 - b. *Commercial Shipping Operations:*⁹⁴ The analysis in the NSA found no material increase in navigational difficulty for commercial shipping. The Bledisloe Wharf extends only 7.6 metres beyond existing structures in an area where the harbour exceeds one kilometre in width. The Fergusson Berth extension maintains the existing wharf footprint with respect to navigable water. Both developments enable more straightforward berthing operations than current arrangements, particularly for cruise ships avoiding the congested DFB environment.
 - c. *Ferry and Cruise Ship Operations:*⁹⁵ The project delivers significant benefits to ferry operations and cruise ships through reduced conflicts in the DFB. Currently, large cruise ships berthing at Princes Wharf create scheduling challenges and safety risks for ferry services. By enabling larger cruise ships to use Bledisloe Wharf, the typical size of vessels using Princes Wharf will decrease, reducing operational disruption and collision risks in the ferry basin. For general harbour navigation, ferry routes passing the northern end of Bledisloe Terminal should maintain appropriate clearances from berthed vessels. The NSA recommends

⁹³ Section 6.1.1.

⁹⁴ Section 6.2.2.

⁹⁵ Section 6.2.3 and 6.2.4.

reviewing speed-uplift zone boundaries⁹⁶ to ensure clarity regarding preferred clearances to large berthed vessels. In addition to the reduction in risk associated with more simplified ship handling and fewer potential conflicts with ferry operations at the DFB, cruise ship operations will see reduced risk through improved berthing arrangements at the new Bledisloe Wharf.⁹⁷

- d. *Recreational Maritime Activity*:⁹⁸ Video surveillance conducted over three months (March-May 2024) documented 285 vessel observations within 200 metres of the proposed Bledisloe Wharf location. The majority of recreational vessels, including sailing boats, maintain appropriate distances from commercial port areas, particularly adhering to an informal "race exclusion zone" approximately 140 metres from Bledisloe Wharf. The assessment concludes that recreational traffic will adapt navigation patterns to pass construction areas and berthed vessels at similar distances to current practice with existing structures. The wide harbour fairway (over 1,000 metres) provides ample space for all vessel types without creating bottleneck effects.
- e. *Wind Shadowing Effect*:⁹⁹ A significant concern raised during yacht club consultations was potential wind shadowing effects from large berthed vessels. The assessment conducted detailed technical analysis using established methodologies from wind physics literature, examining shadow extents under worst-case southerly wind conditions. Wind shadow calculations were performed for representative vessel types. The analysis considered both shadow extent and probability of occurrence. South-easterly to south-westerly winds (conditions creating shadows extending into the harbour) comprise 27% of recorded conditions. With optimum berth occupancy of 70% and racing activities occurring 13% of the time, the probability of wind shadowing affecting sailing vessels during races is approximately 2.4%. Even in the highest-impact scenario with both a cruise ship at Bledisloe Wharf and container ship at Fergusson Berth during southerly winds, at least 510 metres of clear air remains in the fairway for sailing vessels. The assessment notes that southerly winds create optimal "reaching" conditions for sailing vessels, providing good manoeuvrability and speed, allowing sailors to adjust their track to avoid shadowed areas with minimal impact on passage time.

Comparative risk assessment

- 218 The comparative risk analysis demonstrates an overall reduction in harbour navigational risk profile. Key improvements include – *Reduced Risks*: Elimination of large cruise ships anchoring in busy harbour areas; decreased ferry-cruise ship conflicts in the DFB; removal of tender operations for passenger transport; improved cruise ship berthing arrangements with modern infrastructure; and reduced exposure of the public to mooring line failure risks; and *New or Increased Risks*: Limited wind shadowing effects during specific conditions; temporary construction-related hazards; and minor changes requiring updated nautical charts and communications.

⁹⁶ Section 3.7.

⁹⁷ Section 6.2.5.

⁹⁸ Section 6.2.7.

⁹⁹ Section 7.

Conditions recommended

- 219 The NSA identified standard maritime safety controls as sufficient for most risks, including SOLAS safety management systems, seamanship standards, navigation bylaws, and harbour control procedures. Additional controls recommended included:¹⁰⁰
- a. Notices to Mariners for construction activities and permanent changes.
 - b. Review of speed-restricted zone boundaries around Bledisloe Wharf.
 - c. Formalization of the sailing exclusion zone on official charts.
 - d. Any construction management plan should address maritime safety aspects.
 - e. Updated nautical charts reflecting new infrastructure.
 - f. Proper design of wharf lighting to prevent navigation interference.

Effects on recreational users

- 220 The effects on recreational watercraft users of the Waitemata Harbour in the vicinity of the Project have been fully assessed as part of the NSA and discussed above.
- 221 Wider recreational values potentially impacted by the Project include fishing and the use of the walkway that runs part-way along the eastern edge of the Fergusson Container Terminal. In respect of opportunities to fish, the Project works are located within a customs bonded area where public access is restricted for safety and security reasons. Access to the seaward side of the Project works is limited for the reasons described in the NSA. Accordingly, the Project will not limit those opportunities to any greater extent than currently exist. The use of the walkway will remain accessible throughout the duration of the Project works and accordingly any values associated with that walkway will not be affected.

Effects on coastal processes

- 222 The Applicant provided a comprehensive coastal effects assessment using multiple approaches including hydrodynamic modelling with Delft3D, empirical wave calculations, historical bathymetric analysis, and field measurements.¹⁰¹ The assessment examined effects on tidal flows, waves and wakes, sediment processes, and coastal hazards under various scenarios including different tidal conditions (spring and neap), wind effects, sea level rise projections, and vessel berthing configurations.
- 223 Key conclusions of the assessment included:
- a. *Tidal flows and currents:*¹⁰² The Project works will have negligible effects on tidal flows and currents within Waitematā Harbour. While localised increases in current velocities of up to 5% may occur near the wharves due to the additional structures, these changes are not expected to extend into the wider harbour environment.

¹⁰⁰ Section 8.

¹⁰¹ Appendix 14.

¹⁰² Section 4.3.

The primary tidal regime will remain unaffected. The presence of berthed vessels causes only localised flow reductions (approximately 15% near the BN berth), which are temporary and related to operational activities.

- b. *Wave and Wake Effects:*¹⁰³ Wave and wake effects will be no more than minor for both developments. The proposed BN Wharf, comprising piled structures over an existing revetment, will cause localised wave reflection and wake pattern changes, but these effects remain confined to the immediate area around the new piles. The 45m FN extension, aligning with existing structure geometry, will have negligible impact on waves and wakes due to its alignment with the existing adjacent conditions. No significant changes to the local wave climate are anticipated.
- c. *Sediment Process Effects:*¹⁰⁴ Sediment process impacts are assessed as negligible for the BN Wharf and no more than minor for the FN extension. The proposed BN Wharf is positioned over an existing revetment in a less active part of the harbour, south of the main flow line between Fergusson Berth Terminal and Wynyard Point. Its influence on sediment transport is expected to be limited, with only localised changes in sediment accretion and erosion around the immediate vicinity. The FN extension, aligning with existing wharf geometry, will result in minor disruption to sediment dynamics. Some additional localised erosion is anticipated due to minor increases in current velocity, but this is not expected to alter broader sedimentation patterns.
- d. *Coastal Hazard Assessment:*¹⁰⁵ Both developments will have negligible effects on coastal hazards. The structures are designed to align in elevation with existing facilities (approximately 5.4m Chart Datum), maintaining similar exposure to coastal hazards. In terms of wave overtopping, the structural design will need to account for the dynamic forces from wave action on the deck, piles, and interfaces with the existing structures to maintain stability during extreme conditions. The proposed new BN Wharf and FN Wharf extension are planned to align in elevation with the existing facilities, resulting in similar exposure to coastal hazards. The effects of proposed developments on the tide levels, extreme sea levels and tsunamis within the harbour be negligible.
- e. *Cumulative Effects Assessment:*¹⁰⁶ The cumulative effects of both developments together are assessed as no more than minor. The assessment compared effects against the existing environment, which encapsulates all past anthropogenic developments within the harbour, providing a comprehensive baseline. The overarching conclusion emphasises that effects are negligible to minor because the scale of proposed developments is small compared to the immediate coastal area (lower harbour and main channel). Adverse effects are avoided or minimised by the proposed developments, with impacts remaining localised and generally not extending into the immediate coastal area

¹⁰³ Section 4.4.

¹⁰⁴ Section 4.5.

¹⁰⁵ Section 4.6.

¹⁰⁶ Section 4.7.

Conditions recommended

- 224 In terms of monitoring, the assessment recommended continuation of Acoustic Doppler Current Profiler (**ADCP**) measurements before construction and every two years for six years, and bathymetric surveys on the same schedule, with the results to be reported to Council.¹⁰⁷

Ecology effects

- 225 The ecological effects have been summarised at some length earlier in our decision. This is because the vast majority of the effects arise during the period of construction works.
- 226 In terms of ongoing effects, the KEL report identifies that the key change in coastal processes relates to the introduction of piles into an environment at Bledisloe Wharf where there are no piles along the northern face of Bledisloe Wharf Terminal. At Fergusson Berth, there will be an increase in the number of piles along the face of the wharf. No significant changes are expected in the harbour wave environment with thereby no physical environment such that seabed physical characteristics will change significantly meaning habitat/ecology would not be expected to change.
- 227 The project will also result in no discernible changes to the physical nature of the seabed with KEL confirming at Bledisloe Wharf, all piles do not intrude directly into the exposed seabed. The first four of five rows do not have any influence on seabed character or ecology with the final row (50 piles) embedded into the seabed resulting in the loss of 32 m² of muddy sand seabed with an increase in vertical hard habitat.¹⁰⁸ At Fergusson Berth the additional piles convert some soft seabed habitat to hard vertical habitat.
- 228 KEL has identified the operation of vessels associated with the project's marine activities to not pose a risk to coastal seabirds and the risk of vessel strike to marine mammals is negligible. Notwithstanding, as part of the overall proposed Environmental Management Plan, marine mammal awareness will be included.

Air Quality

- 229 The Applicant has provided an assessment of air quality effects.¹⁰⁹
- 230 The air quality assessment examined existing conditions around the Port of Auckland and evaluated the potential impacts of both the Bledisloe Wharf and Fergusson Berth projects. The assessment analysed multiple pollutants, but those of most concern were identified as: sulphur dioxide (SO₂), particulate matter (PM₁₀ and PM_{2.5}), and nitrogen dioxide (NO₂).¹¹⁰ The assessment compared current concentrations against

¹⁰⁷ Section 5.

¹⁰⁸ Section 6.6.3 Changes to the Seafloor Landscape – Ibid.

¹⁰⁹ Attachment 32 to Application, prepared by Tonkin + Taylor.

¹¹⁰ Section 3.1.

national environmental standards, ambient air quality guidelines, and WHO 2021 guidelines.¹¹¹

- 231 The assessment established that shipping emissions represent the main source of SO₂ in the port vicinity¹¹², with monitoring data showing concentrations below the relevant NESQA/AAQG and WHO 2021 guidelines. Significantly, following the 2020 reduction in marine fuel sulphur content, SO₂ concentrations have decreased by approximately 75%, consistent with trends observed at the Port of Tauranga.¹¹³ Similar trends would be expected around the Port of Auckland.
- 232 For particulate matter¹¹⁴, the assessment identified diverse sources including shipping, diesel vehicles, and natural sea salt, concluding that shipping emissions have are a relatively minor contributor to particulate matter concentrations. NO₂ concentrations were found to be primarily influenced by motor vehicle emissions rather than shipping activities.¹¹⁵
- 233 In terms of effects of each of the Project elements, the assessment concluded:
- a. *Fergusson Berth Extension*:¹¹⁶ The project will facilitate the accommodation of larger container ships, enabling the same cargo volume to be transported with fewer ship visits. Larger vessels demonstrate superior operational efficiency, resulting in "lower at-berth fuel consumption per TEU for larger ships compared to smaller ships." Consequently, the project is expected to reduce overall emissions over time for equivalent cargo volumes handled.
 - b. *Bledisloe Wharf*:¹¹⁷ This development primarily involves redistributing existing ship berth locations rather than generating additional shipping activity. The assessment identified positive air quality effects, particularly the relocation of large cruise ships from Princes Wharf to a more distant location, which will "materially improve air quality at the Princes Wharf apartments/hotel." Additionally, enabling very large cruise ships to berth directly eliminates the need for ships to hold position in the harbour using main engines, thereby reducing emissions.
- 234 The assessment concluded¹¹⁸ that for most receptors, there will be "no material change in PM₁₀, PM_{2.5} and NO₂ air quality" as any effects are minimal compared to background concentrations. While some locations may experience small increases in SO₂ concentrations due to reduced separation distances, these are expected to remain "well below the WHO 2021 air quality guidelines."

¹¹¹ Section 4.

¹¹² Section 5.2.2 and 6.2.

¹¹³ Section 6.2.

¹¹⁴ Section 6.3.

¹¹⁵ Section 6.4.

¹¹⁶ Section 8.1.

¹¹⁷ Section 8.2.

¹¹⁸ Section 9.

Trade waste

- 235 POAL holds an ITA discharge permit (ref. 25179) providing for the discharge of stormwater and contaminants from the entire (existing) commercial port area as a "High Risk" Activity Area. It expires on 28 February 2045.
- 236 In processing this permit, Auckland Council determined that it is not appropriate to separate the individual elements of the commercial port operations and as such all of the existing land, wharves that form the Port of Auckland regardless of whether environmentally hazardous substances are stored or discharged within a particular area are considered a "High Risk" Activity Area.
- 237 As such, POAL has sought consent through to 28 February 2045 in relation to the industrial and trade activity discharge permits sought so as to align with the existing consent¹¹⁹.

Stormwater

- 238 The effects of operational stormwater discharges were assessed by Beca in Attachment 13 – Assessment of Effects Associated with Industrial and Trade Activities and Stormwater Discharges and outlined in Section 5 of the Substantive Application.
- 239 Beca concluded that no additional stormwater will be discharged into the harbour from the new berth and extension. The hard surface catchment of the berth and extension will produce little sediment and does not travel over sealed roads mitigating roading metal being captured within the system. In addition, the only traffic over the new impervious areas will be limited to cargo handling equipment and stevedores. As a result of this limited traffic, particulates and hydrocarbons deposited by vehicles will be very low. There will be no permanent storage of environmentally hazardous substances on the new berth and extension with any temporary storage to be in appropriate containers with spill response implemented. As no logs will be processed on either of the berth or wharf extension, there will be very limited loose organic material within the catchment. The cumulative area of the new impervious areas (0.85 hectares for Bledisloe Wharf and 0.18 hectares for Fergusson Berth) represents a small proportion of the 18,000-hectare area of the harbour with flows generated from these new areas to be captured and treated via proprietary treatment (jellyfish stormwater management device) before being substantially diluted after discharge and reasonable mixing with the harbour.
- 240 To further mitigate potential effects the measures proposed for the extensions encompass the following which Beca considers to be the BPO:
- a. Management practices to provide source control of contaminants.
 - b. Spill response procedures for spills during temporary storage of hazardous substances.

¹¹⁹ Attachment 20 of Substantive Application – Copy of Industrial or Trade Activity Discharge Permit, dated February 2010.

- c. Collection and treatment of stormwater from the new impervious are in accordance with GD01.
 - d. Design of stormwater system in accordance with GD01 with sufficient capacity for the "water quality design storm" and the total new increase in impervious areas (8,500 m² and 1,800 m²). Both systems will use propriety Jellyfish devices and have been designed in accordance with the calculations considering variations in levels between existing and new wharf structures. The overall design meets project requirements by achieving at least 75% TSS for the newly introduced catchment.
 - e. The use of Jellyfish Filters utilising membrane filtration cartridges and "tentacles" provide for a large filtration surface area resulting in a high flow and high pollutant removal capacity.
 - f. Documentation of the measures will be incorporated into the existing Environmental Management Plan (**EMP:S**) for the Port of Auckland and is included in the conditions of consent outlining identification of specific activities and identification of potential contaminants associated with these activities, methods used to manage environmental risk from site activities to ensure contaminants identified avoid contacting stormwater runoff as far as practicable and an emergency spill response plan.
 - g. Accurate site drainage plan showing location of final discharge point of site stormwater management works and identification of appropriate auditing requirements to ensure performance of all components of the updated EMP:S.
 - h. Operation and Maintenance Plan for stormwater treatment outlining:
 - i. Programme for regular maintenance and inspection of stormwater management works.
 - ii. Programme for collection and disposal of debris and sediment collected by stormwater management works or practises.
 - iii. A programme for post storm/post spill maintenance.
 - iv. A general inspection checklist for all aspects of the stormwater management works.
 - v. Details of people will hold responsibility for long-term maintenance, or stormwater management works and organisational structure will support the process.
- 241 Beca concludes that effects from the ITA activity and stormwater discharges are insignificant.
- 242 Beca note there will be no erosion and scour effects as the discharge occurs directly to water and the shoreline adjacent to the discharge point are protected by designed rock revetments.
- 243 The Bledisloe Wharf and Fergusson Berth areas are located outside of any overland flow paths or flood plains so the effects of flood nuisance to other properties at the downstream limit of the catchment is negligible. Any excessive accumulation will drain naturally into the harbour with the existing on-site infrastructure of catchpits, slot drains and subsurface pipes effectively channelling flows away minimising risk of ponding or overflow. The likelihood of flooding at Bledisloe Wharf and the Fergusson Berth are considered to be low.

- 244 As noted above and within the preceding ecological effects assessment, the effects on sediment quality will be insignificant. This is a result of the proposed surfacing, low traffic volumes, small catchment area and proposed management practises, spill procedures and stormwater collection and treatment.
- 245 Beca anticipate that sedimentation will occur beneath the wharf and berth extension due to a reduction in flows from the introduction of new piles and other structures. Beca consider that considered to be beneficial as it will remove sediment from harbour waters.
- 246 Beca and KEL conclude that ecological effects will be de minimis given the minimal extent of changes to water and sediment quality from the stormwater discharge.

Positive effects

- 247 The delivery of this project is recognised by the Mayor of Auckland who speaks to the significant benefits for Auckland and its community resulting in “an excellent outcome for Auckland¹²⁰” which is affirmed and quantified in a monetary sense by the Economic Impact Assessment – Attachment 14 of the Application and discussed further in Part I of this decision.
- 248 In summary, the value-added contribution to Auckland’s economy is forecast to be between \$4.5 billion (low) and \$12.7 billion (high), which in present value terms is between \$1.8 billion (low) and \$5.4 billion (high).
- 249 The value-added contribution to New Zealand’s economy is estimated to be within \$5.5 billion (low) and \$14.6 billion (high), which is estimated to be in present value terms between \$2.5 billion (low) and \$6.6 billion (high).
- 250 The benefits to regional and national employment is estimated to be between 50,000 to 112,000.
- 251 The benefits of the Fergusson Berth are outlined as:
- a. Increased capability to accommodate larger container vessels up to 10,000 TEU;
 - b. Increase overall container handling throughput; and
 - c. Reduced shipping delays and maintaining Auckland’s competitiveness and vitality as a key trade hub.
- 252 The benefits materialising from the Bledisloe Wharf extension are:
- a. Berthing of larger cruise vessels reducing reliance on anchoring and shuttle transfers strengthening the Port of Auckland’s position as the most visited tourist seaport; and

¹²⁰ Attachment 5 - Letter from the Mayor of Auckland supporting the Project, Dated 14 November 2024.

- b. Enhanced operational efficiency through provisioning of cruise infrastructure allowing for faster vessel turnaround times, greater volumes of passengers facilitating economic activity in surrounding sectors.
- 253 The transfer of Captain Cook and Marsden Wharves to Auckland Council is another significant benefit of the Projects, increasing the extent of the publicly accessible waterfront directly adjoining the CBD and Queens Wharf by 3.1 hectares. This outcome is consistent with Council's long-term strategy to improve connectivity to Waitematā outlined within the Long-Term Plan 2024-2034.

Operational effects – Panel evaluation of assessments and comments received

- 254 We are satisfied that the effects of the operational activities have been accurately and appropriately assessed and that they can be appropriately avoided, remedied or mitigated by the imposition of conditions.

Construction and Operational Effects – Cultural effects

Ngāti Whātua Ōrākei

- 255 Ngāti Whātua Ōrākei asserts its enduring status as tangata whenua and tangata moana of Waitematā Kupenga Rau. They emphasise that primary rights (over and above other iwi) relating to the Waitematā Kupenga Rau belong to Waitematā Kupenga Rau itself. First and foremost, the right of Waitematā Kupenga Rau to exist in and of itself without further intrusion from unnecessary development or continued occupation without clear significant public good, significant environmental benefit or preferably both. They see the new cruise terminal as an opportunity to integrate their cultural narratives as a gateway to Tāmaki Makaurau. They advocate for reducing consent durations to 10 years to allow for adaptive management and the exercise of their kaitiaki responsibilities. They also seek active involvement in the detailed design of the cruise terminal's transport and in finalising transport-related and long-term environmental management plans.
- 256 POAL's response acknowledged the significance Ngāti Whātua Ōrākei places on management plans as a means of exercising kaitiakitanga. POAL affirmed their commitment to robust consultation with Ngāti Whātua Ōrākei in the detailed design of the cruise passenger terminal, prioritizing cultural engagement opportunities within their rohe. While acknowledging Ngāti Whātua Ōrākei's desire for formal involvement in preparing and reviewing management plans, POAL proposed that their established partnership provides a more effective and enduring channel for advancing cultural and environmental outcomes. They stated they remain open to sharing finalised versions of relevant management plans outside of the formal certification process. Regarding consent duration, POAL reiterated its stance for longer terms (35 years for Bledisloe North Wharf, and aligning with existing permits for Fergusson North and ITA discharges) due to significant financial investment and asset design life, stating that 10-year terms would be unreasonable in this context. POAL also reiterated its commitment to finding a sustainable solution to Ngāti Whātua Ōrākei's concerns regarding truck traffic on Tangihua Street and progressing the design of the new cruise terminal. They noted that Ngāti Whātua Ōrākei had written to them to reiterate their support for the project and its site consolidation as "an important opportunity to enhance both the natural and built environment".

Ngāti Pāoa

- 257 Ngāti Pāoa (represented by the Ngāti Pāoa Iwi Trust) identifies the Waitematā as being of vital spiritual, cultural, customary, ancestral, and historical significance to them. Ngāti Pāoa neither expressly supports nor opposes the Projects. Their primary concern is that the project might unintentionally foreclose future Treaty settlement redress options for the Waitematā wahapū, given that negotiations are currently paused. They request that the Panel include an acknowledgement of Te Waitematā's significance to Ngāti Pāoa in the application and recognise it through a mechanism to be agreed between them and POAL. They request that consideration is given to any potential negative environmental effects of the project and how they can best be avoided, or if not, mitigated to the maximum extent possible. They also advocate for offset mitigations where negative environmental effects cannot be avoided at the place they are occurring, so that the overall health of the harbour is not worsened as a result of the project.
- 258 POAL's response acknowledged the significance of Te Waitematā to Ngāti Pāoa. POAL clarified that the project area will not take place within, adjacent to, or directly affect any statutory area identified in Ngāti Pāoa's Claims Settlement Bill or the Pare Hauraki Collective Redress Bill. POAL also noted that redress for the Waitematā and Manukau harbours is to be developed in separate negotiations, not covered by the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act. Regarding consent duration, POAL maintained that the Bledisloe North Wharf represents a significant financial investment with a design life of over 50 years, justifying the 35-year duration sought for the coastal permits. For industrial and trade activity (ITA) discharge permits, they sought to align the consent duration with their existing ITA consent (until 2045), stating it would be unreasonable to limit it to 10 years. POAL reiterated its commitment to managing stormwater and ITA discharges consistent with existing practices.

Waikato-Tainui

- 259 Waikato-Tainui (represented by Te Whakakitenga o Waikato Incorporated) consider the Waitematā a taonga of enduring cultural and environmental significance, emphasizing the holistic integrated management of all environmental elements. While acknowledging the importance of functional port infrastructure, they express concern that the Projects, within a context of sustained development pressure, demonstrates an imbalance in weighing cultural and ecological values of the Waitematā against infrastructure demands, potentially eroding their relationship with the Waitematā. Waikato-Tainui seeks that the application be declined in its current form, or at least deferred/suspended until there is full compliance with any conditions or recommendations arising from Cultural Impact Assessments (CIAs) submitted by relevant iwi and hapu, with these to be fully integrated into the planning and decision-making process; tikanga-based monitoring and mitigation framework for both construction and long-term operations; and the ecological assessments are revised to incorporate marine-specific dynamics, cumulative effects, and mātauranga Māori.
- 260 POAL's response to Waikato-Tainui was that they complied with consultation requirements under Section 29 of the Fast-track Approvals Act (FTAA), sending letters and follow-up emails to Waikato-Tainui inviting a CIA, but received no response. POAL does not consider it necessary or appropriate to suspend the application for a CIA, arguing that such a delay would go against the underlying purpose of the fast-track legislation. They also stated that no dredging activities are proposed as part of this specific application (which was a matter raised in the comment) and noted that other

Mana Whenua groups did provide CIAs which informed the project, leading, for example, to a reduction in the proposed wharf width to limit harbour encroachment. POAL also asserted that the substantive application already contains a comprehensive assessment of the relevant statutory framework and ecological effects.

Cultural effects – Panel evaluation

- 261 We have carefully considered the cultural effects that have been raised in the documentation received, and the response provided by POAL to the formal comments received.
- 262 Many of the items raised by the iwi parties relate to matters outside of our jurisdiction as an Expert Panel on this application under the FTAA. We can take those matters no further.
- 263 In the comments received that relate to matters within our jurisdiction, we note that the cultural effects identified were mainly associated with other environmental effects such as water quality and habitat protection. We were not advised of any direct or purely cultural effect arising as a result of the Projects. To the extent that the iwi parties raised environmental concerns, then we have addressed those in our assessment of environmental effects above. For reasons described there, we conclude that those effects are overall low and are appropriately managed by the proposed conditions of the RMA approvals and the wildlife approval.
- 264 Finally, we consider that, given the low level of adverse effect, the high level of capital expenditure proposed, POAL's commitment to ongoing engagement and the benefits in providing long term certainty, very good reasons would need to be identified to justify a significantly shorter term than the 35-year term sought. We do not consider that any such reasons are present in this case, and accordingly, we have granted the approvals for the term sought by POAL.

PART F: EVALUATION OF RELEVANT PLANNING INSTRUMENTS – RMA APPROVALS

Overview

- 265 In assessing an RMA approval, clause 17(b) of Schedule 5 requires us to take into account Part 6 of the RMA, including in particular s 104(1)(b). That in turn requires an assessment of the relevant planning instruments
- 266 The Application refers to the relevant instruments and identifies relevant provisions. This section addresses the planning instruments that we consider to be of particular relevance to the Application. We also rely on our conclusions on effects and the conditions hawse have decided to impose.

Relevant planning instruments – Assessment

- 267 The relevant planning framework is set out in Section 11 of the Application and in the further information provided by POAL and Auckland Council. We have carefully reviewed that information and adopt it for the purposes of our decision on the RMA approvals.
- 268 We note for the record, the following matters:
- a. The only applicable national environmental standard is the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.
 - b. The applicable national policy statements comprise:
 - i. New Zealand Coastal Policy Statement 2010, and in particular policies 2, 6, 9, 11, 13, 15, 23 and 25.
 - ii. National Policy Statement for Urban Development 2020 (updated May 2022), and in particular objectives 4 and 8, and policies 1 and 6.
 - c. The relevant regional policy statement is Part B of the Auckland Unitary Plan, and in particular:
 - i. B2 Tāhuhu whakaruruhau ā-taone - Urban growth and form, objectives B2.2.1.(1) and policies B2.3.2.(1)(e), objectives B2.5.1.(1) and B2.5.1.(3).
 - ii. B3 Ngā pūnaha hanganga, kawekawe me ngā pūngao - Infrastructure, transport and energy, objectives B3.2.1.(1)-(4), (8), and policies B3.2.2.(1)-(3), (7), and objective B3.3.1.(1), and policies B3.3.2.(1), (2) and (7).
 - iii. B4 Te tiaki taonga tuku iho - Natural heritage, objective B4.2.1.(1), Policy B4.2.2.(3) and (6).
 - iv. B6 Mana Whenua, objectives B6.3.1.(1) and (2), and policies B6.3.2.(1)-(4) and (6).
 - v. B8 Toitū te taiwhenua - Coastal environment, objectives B8.3.1.(1)-(2), and policies B8.3.2.(1)-(5), (8), and objectives B8.5.1.(3) and policies

B8.5.2.(17), (19) and (20).

d. The remaining relevant parts of the Auckland Unitary Plan are identified by the Applicant as including:

- i. I202 – Port Precinct (this precinct primarily consists of land or coastal areas owned or controlled by POAL).
- ii. H8 – Business – City Centre Zone.
- iii. F2.14 – Use, development and occupation of the coastal marine area.
- iv. F2.16 – Structures.
- v. F2.18 – Underwater noise.
- vi. E11 Land disturbance – Regional, and E12 Land disturbance – District.
- vii. E18 – Natural character of the coastal environment.
- viii. E19 – Natural features and natural landscapes in the coastal environment.
- ix. E25 – Noise and vibration.
- x. E27 – Transport.
- xi. E33 – Industrial and trade activities.

e. Other relevant instruments include:

- i. Hauraki Gulf Marine Park Act 2000.

269 For completeness, we record that are not aware of any planning documents recognised by a relevant iwi authority and lodged with a local authority that are relevant to the Application (clause 5(2)(g), Schedule 5).

Relevant planning instruments – Panel evaluation

270 We do not understand that there is any material dispute about the particular provisions identified as being relevant to our assessment of the Application. We have carefully reviewed the planning assessment in Part 11 of the Application and adopt that assessment for the purposes of our decision on the RMA approvals.

PART G: EVALUATION OF EFFECTS – LITTLE PENGUIN | KORORĀ

Overview

- 271 The potential effects on little penguin | kororā as a result of the works at the Bledisloe Wharf site have been assessed by KEL. Relevant paragraphs of that assessment include:
- a. Little penguin | kororā (At Risk – Declining – Nationally, Threatened – Regionally Vulnerable – Regional) with few records of the species within the Waitematā Harbour in databases such as iNaturalist or e-bird with occasional observations of penguins swimming in harbour waters peaking in September through November coinciding with penguin chick rearing. Works previously on the Westhaven Marina rock revetment disturbed breeding little penguin | kororā resulting in the death of chicks providing an indication that penguins nest and rear chicks within the lower harbour.
 - b. Walkover surveys and penguin detector dog searches in August and November 2024 found no presence of little penguin | kororā at Bledisloe Wharf with searches along the Fergusson Container Terminal revetment detecting penguin odour and guano at three locations but no direct sightings. Little penguin | kororā were detected in Judges Bay with active burrows, audible penguins and photo evidence in one location but not within the Port.
 - c. Of the three species of birds that are of conservation significance (Red-billed gull, white fronted tern and little penguin | kororā) that are present in the waters near or adjacent to the Bledisloe Wharf and Fergusson Berth project areas, little penguin | kororā are likely to habituate to local airborne sounds but can be disturbed by construction activities as underwater swimmers and feeders when away from their burrow. Based on the modelling undertaken by Marshall Day, the PTS and TTS effects on penguins are very unlikely and assisted by the dawn and dusk departure movements of penguins from burrow sites within Judge Bay. For potential behavioural effects, the modelled zone for effects (vibro-piling) is assessed by KEL to be more than moderate and extends several hundred metres from the site of works. KEL have stated that adjacent to Bledisloe Wharf, penguins transiting the harbour may be temporarily affected (behaviourally) by moving out of the disturbance area. At Fergusson Berth, where a burrow was identified at the northern end of the container terminal revetment, KEL advise penguins transiting the harbour near the container terminal reclamation may be temporarily affected (behaviourally not physiologically) by piling-related noise¹²¹.
 - d. The proposed works will have no effects on coastal bird species nesting within the Port. No little penguin | kororā have been detected in the revetment to date (with ongoing surveys to be undertaken) thereby the overall effects are considered likely to be negligible. The work will result in the loss of some intertidal and subtidal habitat with the communities to not re-establish on the new revetment being shaded by the new wharf deck. The expected loss of habitat is of a local nature. The overall effect of the revetment upgrading work on existing habitat (particularly

¹²¹ Section 6.5.4.4 Effects on coastal birds (pg. 55) – Ibid.

intertidal habitat) will be moderate to high with mitigation proposed to provide ecological benefit for this habitat loss and is discussed further below.

- e. The effects from initial rock placement on the seabed at the base of the reclamation will create minor local temporary disturbance with some suspension of sediment with the effects considered to be negligible. Subsequent building up from the base will result in little sediment disturbance. The end of the current revetment was layered with smaller rock that requires removal and placement of larger rock. These works will create some noise disturbance of a short-term duration (several hours during the day) with the key receptor being little penguin | kororā. The revetment is not a noise free environment due to truck movements alongside the revetment with trucks queuing to pick up containers passing directly above the closest detected little penguin | kororā burrow. Disturbance periods restricted to during the day are considered to be minor with overall potential effects considered to be low. There is no loss of intertidal habitat.

- 272 As noted earlier in our decision, the Section 51(2)(c) report provided by DoC recorded concerns in respect of the potential effects on little penguin | kororā, and DoC recommended that changes be made to the Applicant's draft LPMP (March 2025).
- 273 In its formal comments provided subsequently on 27 June 2025, DoC confirmed that its earlier concerns had been addressed by the amended draft LPMP (May 2025), as follows:

Little penguin

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.

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).

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.

- 274 The Auckland Conservation Board's comments also raised proposed amendments to the LPMP. These comments were the subject of a detailed response by KEL.

Effects – Panel evaluation of assessments and comments received

- 275 We agree that the nature of the adverse effects on little penguin | kororā have been appropriately identified in the assessments identified above. In light of the agreement between the Applicant and DoC and given that no other party has raised any specific concerns not already raised by DoC or the Applicant, we are satisfied that adverse effects can be appropriately managed by conditions and the measures described in the amended draft LPMP.
- 276 We acknowledge the constructive engagement between the parties that has occurred in particular in respect of this issue.

PART H: EVALUATION OF INFORMATION & REQUIREMENTS - WILDLIFE APPROVAL

Overview

- 277 In assessing a wildlife approval under the Wildlife Act 1953, we must apply clause 5 of Schedule 7 FTAA. Clause 5(c) requires us to take into account “information and requirements relating to the protected wildlife that is to be covered by the approval [ie little penguin | kororā] (including, as the case may be, in the New Zealand Threat Classification System or any relevant international conservation agreement)”.

Information and Requirements – Assessments

- 278 The applicable information and requirements have been commented on by DoC in its Section 51(2)(c) Report, and in Sections 6 and 7 of that report.
- 279 Section 7 sets out 3 documents that prescribe DoC’s wider planning and policy functions, namely: Conservation General Policy 2005; Auckland Conservation Management Strategy 2014; and Hauraki Gulf Marine Park Act 2000.

Information and Requirements – Panel evaluation of material and comments received

- 280 In respect of the matters above:
- a. We note DoC’s acknowledgement that it is not aware of any relevant international conservation agreements that are relevant to the Application (para 7.1.2).¹²²
 - b. We agree with DoC’s statement the wider statutory planning documents and policy applicable to DoC are not explicitly required to be taken into account under clauses 5 and 6 of Schedule 7 FTAA. We have reviewed those higher order documents referred to and while we have not taken them explicitly into account, we find that the proposed LPMP will ensure that the adverse effects on the protected wildlife will be avoided or mitigated in a manner consistent with those documents.
- 281 In summary, we are satisfied that the effects of the construction activities on little penguin | kororā have been accurately and appropriately assessed and that they can be appropriately avoided or mitigated by the imposition of conditions requiring that the LPMP be adhered to.

¹²² Section 51(2)(c) Wildlife Approval Report for – FTA-0053-SUB Bledisloe North Wharf and Fergusson North Berth Extension, DoC, Dated 12 June 2025.

PART I: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

Regional or National Benefits – Assessments

- 282 As noted above in Part D, when taking the purpose of the FTAA into account, section 81(4) FTAA specifically requires us to consider the extent of the Projects' regional or national benefits.
- 283 We remind ourselves that the purpose of the FTAA is "to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*."
- 284 The assessment of adverse impacts in relation to an approval sought is particularly relevant in the context of a decision to decline an approval. An approval can only be declined if the adverse impacts are out of proportion to regional or national benefits.¹²³
- 285 There is no specific definition of what might constitute a significant regional or national benefit. However, section 22(2) FTAA, which relates to the criteria for assessing a referral application, might be seen as providing some guidance. Relevant to the Projects, that section provides (relevantly):

(2) For the purposes of subsection (1)(a), the Minister may consider—

(a) whether the project—

...

- (ii) will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:
- (iii) will ... contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
- (iv) will deliver significant economic benefits:
- (v) will support primary industries, including aquaculture:
- ...
- (vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
- (viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
- (ix) will address significant environmental issues:
- (x) is consistent with local or regional planning documents, including spatial strategies. ...

- 286 The Economic Impact assessment provided as Attachment 24¹²⁴ to the Application provides a fulsome examination of the potential economic impacts of the Projects. It assumes ongoing growth in the trade and cruise sectors without the Projects but attributes a portion of the growth to the Projects as key to enabling continued growth in both sectors.¹²⁵
- 287 There are two sets of benefits relating to the performance of the Auckland economy relating from a more efficient port supporting trade and tourism and the eventual

¹²³ Section 85(3) FTAA.

¹²⁴ Attachment 24 – Economic Impact Assessment.
www.fasttrack.govt.nz/data/assets/pdf_file/0014/1841/Attachment-24-Economic-Impact-Assessment

¹²⁵ para. 11, Memorandum of Counsel on behalf of Port of Auckland Limited, dated 11 June 2025.

transfer of the Marsden and Captain Cook Wharves to Auckland Council for public use.

- 288 The Projects will enhance the Port's capacity and efficiency by enabling the handling of larger container ships (up to 10,000 TEU), multi cargo vessels and cruise ships over 300 m in length increasing economic performance and benefit at a macro and microeconomic scale. This alignment with global trends in shipping benefitting from economies of scale will ensure New Zealand remains competitive in international trade as a maritime hub and extends the opportunity for further economic diversification. Through accommodation of larger vessels, transshipment through other ports will be avoided minimising transportation costs and emissions, resulting in more efficient shipping practises and reducing overall emissions.
- 289 As one of two primary seaports in New Zealand, the Port plays a distinct role in the New Zealand economy as both nationally and regionally significant infrastructure, handling 38% of the country's imports valued in excess of \$30Bn in 2023 alone. The Port is expected to grow by 34% from 2023-2053 with the Project attributed between 5-15% and is forecast to be responsible for growing Port's operations between 1.7-5.1% over this period¹²⁶. The potential contribution to the Economy through trade from 2024-2052 ranges between \$4.2 - \$12.6 billion¹²⁷. Many parts of New Zealand's economy rely on the income generated by export trades, particularly the primary production industries. The Port is a key factor in enabling the efficient delivery of goods to end or intermediary uses and playing a role as a major hub for cruise tourism as the most visited port each year because of its proximity to the city-centre offering tourist amenity and supporting infrastructure. The cruise tourism sector contributes \$224m in passenger spending annually with forecasts expecting cruise ship berths to increase by 10% from 2024-2028.¹²⁸ In calculation of the cruise sector effects, the net additional effect between 2024-2053 of the Project is attributed \$0.7 billion.¹²⁹
- 290 POAL is owned by Auckland Council and achieved profits of \$55 m in 2023-2024 with these profits used to pay dividends to the Council enabling the funding of essential services, infrastructure projects and community initiatives. The Projects are expected to deliver substantial economic benefits contributing between \$1.8bn and \$5.4bn in real present value to the Auckland economy and between \$2.5bn and \$6.6bn (present value) to the New Zealand economy over the next 30 years. It will sustain and facilitate employment of 101,400 MECs in Auckland (10.4% of regional employment) increasing to 139,300 MECs by 2053 with the contribution nationally to increase from 118,300 MECs to 160,600 by 2053.¹³⁰
- 291 The relocation of RORO vessels enables the transfer of Captain Cook and Marsden Wharves to Auckland Council for public use allowing for better utility and accessibility of the waterfront area as envisioned within Auckland's Long-Term Plan¹³¹ and supported by a letter from Auckland's Mayor Mr Wayne Brown provided inside

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Attachment 24 – Economic Impact Assessment – Section 3.6 – Cruise Activity, pg 11.
www.fasttrack.govt.nz/data/assets/pdf_file/0014/1841/Attachment-24-Economic-Impact-

¹²⁹ para. 11, Memorandum of Counsel on behalf of Port of Auckland Limited, dated 11 June 2025.

¹³⁰ Ibid – Section 4.5 – Total Economic Contribution, pg. 19-20.

¹³¹ Auckland's Long-Term Plan, Volume 1, pg. 45, Dated 27 June 2024.
www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/budget-plans/Documents/long-term-plan-2024-2034-vol-1

Attachment 5 of the Application.¹³² In that we regard, we find that there is no impediment to the immediate transfer of these wharves to Auckland Council to realise the connectivity and public benefits and that this should occur as soon as possible after completion of the Bledisloe Wharf works. We have imposed a condition to that effect.

Regional or National Benefits - Evaluation

- 292 We find without question, that the Projects will, individually and collectively, deliver significant regional and national benefits.
- 293 The Projects represent widespread and long-term social and economic benefits for Auckland and New Zealand. This is manifested through enhanced economic performance, fit-for-purpose infrastructure that will streamline and increase efficiency of port-operations, support urban regeneration of the waterfront space, mitigate environmental impacts and strengthen New Zealand's position in global trade and tourism markets. We conclude that "*the project will have significant or regional benefits*" meeting the purpose of the FTAA.
- 294 Despite some misgivings about the methodology, the Council's Economist and Chief Economist state the Projects are likely to make a positive contribution to regional and national economy and deliver a net benefit to society assuming that the counterfactual would mean the Port would eventually face capacity constraints resulting in displacement of container/vehicle trade to Tauranga located further from the primary import market. Prior studies applying a cost-benefit analysis finding society to be materially worse off if vehicle imports are moved away from Auckland and shifting of container trade to an alternative location would be unlikely to result in a net benefit to society than if the activity remained at the Port.

¹³² Attachment 5 – Letter from Mayor of Auckland supporting project.
www.fasttrack.govt.nz/_data/assets/pdf_file/0013/1822/Attachment-5-Letter-from-Mayor-of-Auckland-supporting-Project_Redacted

PART J: PRINCIPAL ISSUES IN CONTENTION

RMA approvals

- 295 The only substantive issue in contention in respect of the RMA approvals is that Waikato-Tainui consider that the Application should be declined because it does not demonstrate full compliance with the relevant legislation and fails to properly consider and integrate cultural values, ecological risks, and intergenerational responsibilities.
- 296 We are not persuaded that the Projects are inconsistent with any relevant legislation and we are satisfied that the conditions we have imposed are such that adverse effects, including cultural effects, will be appropriately avoided, remedied or mitigated.

Wildlife Act approval

- 297 There are no issues in contention as regards the wildlife approval.
- 298 The nature and extent of effects, and the methods by which those effects can be appropriately managed, have been agreed by both the Applicant and DoC.
- 299 We are satisfied that the effects of the construction activities associated with the Projects can be appropriately avoided or mitigated by the imposition of conditions.

PART K: CONDITIONS – RMA APPROVALS AND WILDLIFE APPROVAL

Overarching requirements

- 300 Section 81 FTAA provides that, as part of granting any RMA approval or wildlife approval, we must set any conditions to be imposed on that approval.
- 301 A feature of the FTAA is the overarching and mandatory requirement in section 83 that any conditions imposed on any approval must be no more onerous than necessary:

83 Conditions must be no more onerous than necessary

When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.

- 302 A second overarching requirement is set out in section 84 FTAA. We observe that, this is a discretionary, rather than mandatory, requirement:

84 Conditions relating to Treaty settlements and recognised customary rights

- (1) For the purposes of section 7, the panel may set conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

- 303 We have kept these directives in mind during our assessment of any party's comments on the proposed conditions.

Conditions on RMA approvals – Principles

- 304 The specific guidance for setting conditions on RMA approvals is provided by clause 18, Schedule 5 FTAA:

18 Conditions on resource consent

When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:

- (a) a reference to a consent authority must be read as a reference to a panel; and
- (b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.

- 305 Consistent with that direction generally to apply the provisions of the RMA in relation to conditions, we have approached our assessment of the proposed conditions in accordance with the following principles:

- a. No condition should be more onerous than necessary to address the reason for it being imposed.
- b. We may impose conditions to protect a relevant Treaty settlement, subject to any

such condition being consistent with the principles below.

- c. A resource consent condition must be for a resource management purpose, not an ulterior one; it must fairly and reasonably relate to the development authorised by the resource consent or designation; and it must not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties would not have imposed it.
- d. The underlying purpose of the conditions of a resource consent should be to manage environmental effects by setting outcomes, requirements or limits to that activity, and how they are to be achieved.¹³³
- e. Conditions must also be certain and enforceable.¹³⁴
- f. A condition must not delegate the making of any consenting or other arbitrary decision to any person, but may authorise a person to certify that a condition of consent has been met or complied with or otherwise settle a detail of that condition.¹³⁵

Conditions on RMA approvals – Evaluation of conditions

- 306 A copy of draft conditions together with a copy of a draft decision document for each approval were circulated for comment on 1 August 2025 which included the date set by the us by which comments on the draft conditions must be received by the EPA.¹³⁶
- 307 Comments were received from POAL, Auckland Council, the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development, summaries of which are attached as Appendix 4.
- 308 The comments from POAL were confined to a very small number of drafting matters, and with one minor exception, have all been accepted. That exception relates to the Transport Management Plan for Bledisloe Wharf, where we have accepted the primary point made, but we have proposed amended text, as set out in Conditions 45 and 46.
- 309 The comments from Auckland Council were more fulsome and covered issues that we have grouped under 6 headings, as follows:
 - a. Whether the consents should be exercised “in accordance with” the Application and associated material or “in general accordance” with it.
 - b. The conditions should refer to “Auckland Council”, rather than specifying particular staff positions, such as specific Team Leader.
 - c. Using the Council consent reference numbers in the titles of the various consents, to assist the Council’s monitoring teams.
 - d. Because many of the conditions for Bledisloe Wharf and Fergusson Berth are

¹³³ *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] NZEnvC 31 at [156].

¹³⁴ *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.

¹³⁵ *Turner v Allison* (1970) 4 NZTPA 104.

¹³⁶ S 70(2), FTAA.

duplicated, each condition should have a unique number in order to avoid confusion.

- e. A number of editorial changes to aid clarity.
 - f. More detailed, but not substantive amendments to the conditions for the Bledisloe Wharf ITA consent.
- 310 We received comments from POAL on 19 August 2025 in response to Auckland Council's comments, which are reproduced in full in Appendix 6.
- 311 Having reviewed all the comments, we have:
- a. Determined that the consents should be exercised "in accordance with" the Application and associated material.
 - b. Accepted that the conditions should refer to Auckland Council, rather than specific staff positions.
 - c. Accepted that it would assist Auckland Council staff if the individual consents referred to the Council's consent numbering system.
 - d. Not accepted that the two sets of conditions need to be individually numbered.
 - e. Accepted the significant majority of the comments from Auckland Council that assisted in making the conditions clearer.
 - f. Not accepted Auckland Council's suggested amendments to the Bledisloe Wharf ITA consent, because we do not consider them necessary, especially given the duty under section 83 FTAA for conditions to be no more onerous than necessary.
- 312 The comments from Minister Potaka do not address the proposed conditions, nor this decision (relating as they do to supporting ongoing relationships with Mana Whenua), so we do not address them further.
- 313 We are satisfied that the conditions of the RMA approvals attached in Appendix 1 meet the requirements of sections 83 and 84 of the FTAA, and are consistent with the principles described above.

Conditions on Wildlife approvals – Principles

- 314 The specific guidance for setting conditions on wildlife approvals is provided by clause 6, Schedule 7 FTAA:

6 Conditions

- (1) A panel may set any conditions on a wildlife approval that the panel considers necessary to manage the effects of the activity on protected wildlife.
- (2) In setting any condition under subclause (1), the panel must—
 - (a) consider whether the condition would avoid, minimise, or remedy any impacts on protected wildlife that is to be covered by the approval; and

- (b) where more than minor residual impacts on protected wildlife cannot be avoided, minimised, or remedied, ensure that they are offset or compensated for where possible and appropriate; and
- (c) take into account, as the case may be, the New Zealand Threat Classification System or any relevant international conservation agreement that may apply in respect of the protected wildlife that is to be covered by the approval.

315 We have complied with these directions and those in sections 83 and 84 FTAA in setting our proposed conditions on the wildlife approval.

Conditions on wildlife approvals – Evaluation of conditions

- 316 A copy of draft conditions together with a copy of a draft decision document for each approval were circulated for comment on 1 August 2025.
- 317 The matters raised in the various comments received on the draft conditions circulated in accordance with section 70 FTAA are summarised in Appendix 5.
- 318 Both DoC and the Auckland Conservation Board have confirmed that they were satisfied with the draft conditions, while POAL proposed some minor amendments to the wording of conditions, all of which related to any future proposals to amend the LPMP.
- 319 We do not consider that the POAL's proposed amendments are material, and are rendered even less significant because there is no disagreement about the contents of the finalised LPMP which is attached to the conditions.
- 320 We are satisfied that the conditions of the Wildlife approval attached in Appendix 2 meet the requirements of sections 83 and 84 of the FTAA, and are consistent with the principles described above.

PART L: OVERALL EVALUATION AGAINST STATUTORY CRITERIA – RMA APPROVALS

- 321 We have considered the Application and all advice, reports and other information received, in accordance with section 81(2)(a) FTAA.
- 322 We have applied the provisions of Schedule 5 in the manner required by section 81(2)(b) FTAA.
- 323 We find that the Projects, whether considered individually or collectively, will promote the purpose of the FTAA. The Projects are indisputably “infrastructure” as defined, and we accept that the Projects will each generate significant regional (if not national) benefit.
- 324 We have taken into account the relevant elements of Part 2 of the RMA (excluding section 8 of that Act). We find that the Projects will promote the purpose of the RMA, and in particular that:
- a. the Projects are an “appropriate” use or development in the locations identified, and that they will not have an adverse effect on the existing natural character of this part of the coastal environment;
 - b. the Projects will not adversely affect public access to and along the CMA, beyond those restrictions which presently necessarily exist for health & safety and operational reasons, and bearing in mind the transfer of Marsden and Captain Cook Wharves to Auckland Council for public use will enhance public access to the CMA in this location;
 - c. the Projects will not materially further interfere with the relationship of Mana Whenua with their ancestral lands, water or other taonga, and the engagement undertaken, future engagement anticipated, and consent conditions imposed will ensure that Mana Whenua will have the opportunities to exercise kaitiakitanga;
 - d. the Projects represent an efficient use of the physical resources (represented by the port infrastructure) and the natural resources (represented by the CMA), and will recognise the finite characteristics of those natural and physical resources, through the ability to relocate cruise ships to the Bledisloe Wharf and allow larger container ships to be processed more efficiently at Fergusson Berth;
 - e. the risks of natural hazards and climate change have been appropriately considered by the Project’s design; and
 - f. due to the nature of the existing environment and the activities enabled by its zoning, there will be no material harm on any amenity values or the quality of the environment arising from the Projects.
- 325 We have taken into account the relevant matters in Part 3 of the RMA. Through the proposed consent conditions, the Projects will, in accordance with section 16 of the RMA, adopt the best practicable option to ensure that the emission of noise does not exceed a reasonable level. We are also satisfied that the proposed consent conditions will ensure that the duties imposed by section 17 of the RMA will be met. The nature of the FTAA process is entirely consistent with the procedural principles at sections 18A and 21 of the RMA. The remaining matters in Part 3 are procedural in nature relating to the types of resource consents required.
- 326 We have taken into account the relevant matters in Part 6 of the RMA, which are primarily sections 104, 104B and 108. In that regard, for reasons outlined earlier, we find that:

- a. Neither of the Projects, in the context of the existing environment and after considering the ameliorating effect of the proposed conditions, will give rise to unacceptable adverse effects on the environment.
 - b. Each of Projects are either consistent with (or are not contrary to) the objectives and policies of the relevant national, regional and district planning instruments. The Projects are strongly supported by the majority of the objectives and policies of the Auckland Unitary Plan, which is unsurprising given that the nature of the Projects represent an entirely appropriate and expected use within the Port Precinct.
- 327 We have not been made aware of any other relevant provision of legislation that directs decision making under the RMA.
- 328 Under section 81(2) FTAA we are required to undertake our overall evaluation against each of the relevant criteria individually, and then to apply the greatest weighting to the purpose of the FTAA. We confirm that we would grant the approvals subject to the conditions set out at Appendix 1, and that we would do even without needing to apply any greater weighting to the purpose of the FTAA relative to other criteria.
- 329 There are no applicable recognised customary rights affected by the Projects but there are relevant Treaty settlements. Accordingly, in respect of section 82(3) FTAA, we confirm that granting the approval is consistent with section 7. In the event that section does not apply to our decision making, then we confirm that we would not have made any different decision or imposed any different conditions.
- 330 In imposing the conditions described in Appendix 1, we have complied with section 83 FTAA. We understand that section 84 FTAA states that we may set conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 for the purposes of section 7 FTAA, but have decided that no such conditions were necessary.

PART M: OVERALL EVALUATION AGAINST STATUTORY CRITERIA – WILDLIFE APPROVAL

- 331 As we have done above in respect of the RMA approvals, we describe below our evaluation of the wildlife approval against the relevant statutory criteria. Our task in this regard has been assisted by the agreement by all parties who presented information to us as to how the adverse effects on the protected wildlife (little penguin | kororā) will be managed.
- 332 We have considered the Application and all advice, reports and other information received, as described in section 81(2)(a) FTAA.
- 333 We have applied the provisions of clauses 5-6 of Schedule 7 in the manner required by section 81(2)(b) FTAA, and taken into account those matters identified.
- 334 We find the Bledisloe Wharf will promote the purpose of the Act (clause 5(a), Schedule 7). It is infrastructure, and it will generate regional (if not national) benefits. Amongst others, the benefits arise from both the relocation of the cruise ships from a congested DFB to the Bledisloe Wharf, but also from the ability to better manage larger cruise ships.
- 335 Further, we find that, subject to the proposed conditions, the Bledisloe Wharf can be constructed in a manner that will protect little penguin | kororā as far as practicable, and accordingly the Project is also consistent with the purpose of the Wildlife Act – which we have earlier determined to be that found in section 3 of the Wildlife Act (clause 5(b), Schedule 7).
- 336 Finally, we have considered whether there is any other information or relevant requirements relating to the little penguin | kororā (clause 5(c), Schedule 7), and we have decided that there is not.
- 337 We are required to undertake our overall evaluation against each of the relevant criteria individually, and then to apply the greatest weighting to the purpose of the FTAA. We confirm that we would grant the wildlife approval subject to the conditions set out at Appendix 2, and that we would do even without needing to apply any greater weighting to the purpose of the FTAA relative to other criteria.
- 338 When imposing conditions on the wildlife approval, we have complied with the obligations of clause 6(b), Schedule 7.

PART N: FINAL DECISION


- 339 We have considered the Application and supporting information, the comments received on it and on the draft conditions, the further information provided as a result of comments received from other participants, and the subsequent refinement of the Application. We thank all those who commented for their contributions.
- 340 We have determined to grant the approvals sought subject to the conditions attached as Appendix 1 and Appendix 2 to this Decision.



Dr Phil Mitchell
(Chair)



Bal Matheson (Member)



Robert Scott (Member)

APPENDIX 1: CONDITIONS – RMA APPROVALS

BLEDISLOE WHARF

General conditions applicable to all consents

1. Except as provided for in the conditions below, the activities authorised by this consent must be undertaken in accordance with the information and plans submitted by the Consent Holder with the application, including:
 - (a) The document prepared by Bentley & Co. Ltd titled "Substantive Application for the Bledisloe North Wharf and Fergusson North Berth Extension" and dated March 2025.
 - (b) The reports listed at **Attachment 1**.
 - (c) The plans listed at **Attachment 2** (collectively referred to in these conditions as **"the Project"**).

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

Lapse

2. In accordance with clause 26 of Schedule 5 to the Fast-track Approvals Act 2024, these consents lapse five years after the date of commencement.

Management plans

3. The following management plans required by a condition of this resource consent must be submitted to the Council for certification. Unless stated otherwise within these conditions, the management plans must 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 14 to 16).
 - (b) An Erosion and Sediment Control Plan (refer to Conditions 40 to 43).
 - (c) An Underwater Construction Noise Management Plan (refer to Conditions 25 to 26).
 - (d) An Operation and Maintenance Plan (refer to Conditions 61 to 63).
 - (e) An updated Environmental Management Plan: Stormwater (refer to Conditions 65 to 69).
 - (f) A Transport Management Plan (refer to Conditions 45 to 47).

The purpose of the certification process is to confirm that the management plan gives effect to the relevant condition(s) and will ensure compliance with any standards or limits or other requirements specified in those conditions.

4. All management plans required by Condition 3 must be prepared by a Suitably Qualified and Experienced Person(s) ("SQEP").
5. All management plans required by Condition 3 may be submitted in parts or stages to reflect staged implementation of the Project, or to address specific activities authorised by the relevant consent.
6. Any changes to the management plans required by Condition 3 must be submitted to the Council for re-certification as soon as practicable and any changes may only be implemented once certification has been received.
7. Any works that are subject to a management plan required by Condition 3 must only commence once that management plan has been certified by the Council and all measures identified in that plan as needing to be in place prior to the start of those works are in place.

8. The Consent Holder must comply with all certified management plans at all times.
9. A copy of the relevant certified management plans must be held on the project site at all times.

Advice Note:

Management measures to avoid, remedy or mitigate the adverse effects of construction activities on little penguin | kororā are addressed in a Little Penguin Management Plan annexed to a Wildlife Permit issued in respect of the Project.

Pre-construction meetings and notification

10. No less than five working days prior to commencement of the works or stage of works authorised by these consents, the Consent Holder must arrange a pre-construction meeting with the Council as well as the site contractor. Representatives of Ngāti Whātua Ōrākei, Te Ākitai Waiohua, and Ngaati Te Ata Waiohua must also be invited to attend.
11. 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 is observed and kawa (customary practices and protocols) are being applied throughout the construction of the Project.
12. The following information must 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.

Coastal permit - CST60445200

Duration

13. These consents expire 35 years from the date of commencement unless they have lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Construction Management

14. The Consent Holder must prepare a Construction Management Plan ("CMP") for the activities authorised by these consents in accordance with Conditions 3 to 6.
15. The objective of the CMP is to:
 - (a) Ensure that the construction works remain within the limits and standards specified in these consents and set out the management procedures and construction methods to be undertaken to avoid, remedy or mitigate potential adverse effects of 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 of construction activities.
16. For certification purposes, the CMP must, 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 and other structures (if any) 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 41, 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 Wharf.
 - (d) Outline the methods and procedures for consultation and communications with Ngāti Whātua Ōrākei, Te Ākitai Waiohū, and Ngaati Te Ata Waiohū and Council.
17. During construction works, the Consent Holder must maintain a record of any complaints received about the construction works. The record must 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.
18. A copy of the complaints record required by Condition 17 must be made available to the Council on request.

Navigation and safety

19. Prior to the commencement of activities authorised by these consents, the Consent Holder must:
- (a) consult the Auckland Harbourmaster to identify and confirm 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) in order to ensure compliance with Maritime New Zealand guidelines, and the Auckland Port and Harbour Marine Safety Code; and
 - (b) provide, at its cost, all aids to navigation confirmed by the Auckland Harbourmaster as being required; and
 - (c) request, that the Auckland Harbourmaster issue any applicable Notice to Mariners in respect of the above.
20. The Consent Holder must ensure that lighting used for and during construction is designed, used and maintained in a manner that avoids visual interference with temporary or existing permanent navigational lights.
21. The Consent Holder must maintain, at its cost, the aids to navigation referred to in Condition 19 for the duration of the Project to the satisfaction of the Auckland Harbourmaster.
22. The Consent Holder must ensure that real-time VHF communications are available at the work site to enable direct VHF communications with Port of Auckland Harbour Control on Channel 12. Channel 16 is to be monitored while any activity is being undertaken that may impact on, or could be impacted by, port marine activities.
23. The Consent Holder must notify the Auckland Harbourmaster in writing 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.
24. Within ten working days of completion of the Project or stage of the Project the Consent Holder must provide the Auckland Harbourmaster, and the Land Information NZ (LINZ) Hydrographic Office, in writing, details of the 'As-Built' extent and elevation of the wharves, related structures and lights and request that the associated nautical chart and 'List of Lights' be updated accordingly.

Underwater construction noise management

25. The Consent Holder must ensure that underwater noise from construction activities minimises, to the extent practicable, adverse effects on marine mammals and kororā by:
- (a) Selecting pile driving equipment and methodologies that minimise noise emissions to the extent practicable;

- (b) Where necessary, using bubble curtains or other systems to reduce noise propagating into and through the water column;
 - (c) Validating underwater noise levels and mitigation, including the size of the Temporary Threshold Shift ("TTS") zones;
 - (d) Undertaking marine mammal and little penguin | kororā observations from a static land-based observation point(s) 30 minutes prior to commencing pile driving to identify their presence within the TTS; and
 - (e) Shutting down pile driving when a marine mammal and/or kororā is detected within or approaching the TTS zones and only recommencing pile driving once the marine mammal and/or kororā is no longer detected in the TTS zones.
26. The Consent Holder must prepare an Underwater Construction Noise Management Plan ("UCNMP") in accordance with Conditions 3 to 6 in general accordance with the draft UCNMP lodged with the application, in order to demonstrate how compliance with Condition 25 will be achieved and to confirm the extent of the TTS zones.
27. Pile driving pursuant to these consents must not occur concurrently with pile driving undertaken pursuant to the consents authorising the expansion of Fergusson Wharf to ensure compliance with Condition 25.

Captain Cook Wharf and Marsden Wharf Transfer

28. Within 36 months of the commencement of construction works authorised by this consent, the Consent Holder must provide written evidence to the 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 to Auckland Council.

Water quality monitoring

29. The Consent Holder must undertake total suspended solids concentrations (TSS) 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.
30. Samples must 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.
31. The Consent Holder must 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).

32. During the sampling required by Conditions 29 and 30, the Consent Holder must 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 in accordance with Conditions 29 and 30.
 - (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.
33. In the event the TSS at the compliance site exceeds 25g/m³ 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 must provide details of any contingency measures to be implemented in accordance with this condition to the Council no later than 5 working days after the exceedance occurs. These contingency measures must in the first instance include further monitoring or a site-specific effects assessment, and practicable modifications to the relevant activities. Such modifications may include suspending or altering the excavation methodology or reducing production rates.
34. Within 10 working days of the completion of all water quality sampling required by Conditions 29 and 30, the Consent Holder must summarise and submit the results to the Council 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.
35. If the water quality sampling undertaken as required by Conditions 29 and 30 shows no exceedance of the water quality trigger, the consent holder must continue to monitor the dredging plume using visual monitoring as set out in Condition 32. The photographic record should be maintained and be made available to the Council on request.
36. In the event that a noticeable sediment plume outside of the consent area is not localised is observed for at least 48 hours, the consent holder must take a photographic record and the dredging activity must cease, and the consent holder must immediately notify and consult with the Council to determine an appropriate course of action to minimise further sediment discharges and any adverse effects associated with the plume.

Ecological Enhancement

37. Prior to the commencement of construction works the Consent Holder must, 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 (or similar), 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 must 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 must be installed.

38. The works in Condition 37 must be implemented after the completion of the construction work and prior to the commencement of the use of Bledisloe North Wharf.

Coastal processes monitoring

39. Within six months of completion of the Project, the Consent Holder must 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 must be undertaken before construction and then every two years following completion of construction for a period of six years.
- (b) Bathymetric surveys that must 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 must be submitted to the Council within 30 working days of completion.

Land use consent – LUC60445199

Erosion and sediment control

40. 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.

41. The Consent Holder must prepare an Erosion and Sediment Control Plan ("ESCP") in accordance with Conditions 3 to 6 in general accordance with the draft ESCP lodged with the application, in order to demonstrate how compliance with Condition 40 will be achieved.

42. Unless agreed otherwise with the Council, the ESCP must, 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.
43. The Consent Holder must 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 must be kept of the date and time of the inspection and the date, time and details of any maintenance undertaken. These details must be forwarded to the Council on request.

Construction traffic management

44. During construction, the Consent Holder must 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 must 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 must immediately be removed.

Advice note: The Port of Auckland comprises the land and CMA at 1-19 Quay Street, Auckland Central.

Transport management plan

45. The consent holder must:
- (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 and that the footpath and cycleway along Quay Street remain unobstructed.
46. At least ten working days prior to the first berthing of a cruise ship at Bledisloe North Wharf, the Consent Holder must prepare a 'Transport Management Plan ("TMP") in accordance with Conditions 3 to 6 in order to demonstrate how compliance with Condition 45 will be achieved.
47. For certification purposes, the TMP must, 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 to ensure no conflict with pedestrians and cyclists on the adjacent public footpath / cycleway.
 - (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.
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 effectiveness of the TMP must be undertaken at the request of the Council, in circumstances where the Council has identified concerns about the effectiveness of the TMP, at a frequency of no less than once every 12 month period.

Contamination

49. All earthworks must be undertaken in accordance with the Contaminated Soils Management Plan, prepared by Beca Limited and dated 19 September 2024 ('CSMP'). Any variations to the CSMP must be submitted to the Council for certification that it appropriately manages actual and potential soil contamination effects and that the requirements of Conditions –50 - 54 are achieved.
50. 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 must be

undertaken. Based on the findings of this soil sampling, the CSMP must be updated as necessary and submitted to the Council for certification, in conjunction with the Contaminated Land Specialist.

51. During earthworks all necessary action must be taken to prevent dust generation and sufficient water must be available to dampen exposed soil and/or other dust suppressing measures must be available to avoid dust formation. The Consent Holder must 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).
52. In the event of accidental discovery of contamination during earthworks which has not been previously identified, the Consent Holder must immediately cease the works in the vicinity of the contamination hotspot and notify the Council. A suitably qualified and experienced contaminated land practitioner (SQEP) must be engaged to assess the situation (including possible sampling and testing) and decide on the best option for managing the material.
53. Excavated material that is not re-used on site must be disposed of at an appropriate facility licensed to accept the levels of any identified contamination.
54. Following the completion of the soil disturbance works, the site contractor or nominated SQEP must 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 must be submitted to Auckland Council for certification.

Industrial and Trade Activity consent – DIS60445270

Duration

55. Permit [ref no. Industrial Trade Activity discharges] will 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.

Stormwater management works

56. The following stormwater management works must 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 Standard
Bledisloe North Wharf	8,773m ²	75% TSS removal

57. In the event that any modifications to the stormwater management works are required, the following information must be provided to and certified by the Council prior to implementation:
 - (a) Plans and drawings outlining the details for the new stormwater system and treatment system at Bledisloe North Wharf; and
 - (b) Supporting information that details how the proposal does not affect the capacity or performance of stormwater management works.

Post-Construction Meetings

58. The Consent Holder must arrange and conduct a post construction site meeting within 30 working days of completion of installation of the stormwater management works

specified in Condition 56 between Council and the Consent Holder's engineering advisor. As-Built Plans as specified in Condition 59 must be made available at this meeting.

Certification of Construction Works

59. "As-Built" plans for the stormwater management works specified in Condition 56 must be certified as a true record of stormwater management works by a Chartered Professional Engineer and submitted to the Council within 30 working days of the completion of the stormwater management works.
60. The "As-Built" plans of the stormwater management works must include:
 - (a) 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

61. Within 30 working days of completion of the installation of the stormwater management works the Consent Holder must 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 3 to 6.
62. The objective of the updated OMP is to set out how the stormwater management works will be operated and maintained to ensure that the design standard in Condition 56 is achieved.
63. For certification purposes, the OMP must, as a minimum, include:
 - (a) A programme for regular maintenance and inspection of the stormwater management works authorised under Condition 56 of this Consent.
 - (b) A programme for the collection and disposal of debris and sediment collected by the stormwater management works or practices.
 - (c) A programme for post storm/post spill maintenance.
 - (d) General inspection checklists for all aspects of the stormwater management works.
 - (e) 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

64. The stormwater management works must be inspected and managed by the Consent Holder in accordance with the OMP as required by Condition 61.

Site Management

65. Within 30 working days of completion of the installation of the stormwater management works the Consent Holder must prepare an updated Environmental Management Plan: Stormwater ("EMP:S") in accordance with Conditions 3 to 6.

66. The site must be operated and managed in accordance with the updated Environmental Management Plan: Stormwater ("EMP:S") to ensure the risks from the site are managed appropriately.
67. The updated EMP:S must include but not be limited to:
- (a) Identification of the specific activities conducted on site and the identification of potential contaminants associated with the activities conducted on the site.
 - (b) Methods used to manage environmental risks from site activities and ensure that contaminants identified avoid contacting stormwater runoff as far as practicable.
 - (c) An emergency spill response plan.
 - (d) An up-to-date and accurate site drainage plan showing the location of the final discharge point of the site stormwater management works.
 - (e) Identification of appropriate auditing requirements to ensure performance of all components of the updated EMP:S.
68. The EMP:S document must be kept on site and accessible at all times.
69. The EMP:S must 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 must be submitted to the Council as part of the annual report required by Condition 71.

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.

70. 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 must 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

71. A report must be forwarded annually to the Council each July following the completion of the works.

The report must include but not be limited to:

- (a) Detailing all aspects of the performance of the EMP:S relating to this consent, including results of any audits required by Condition 67(e).
- (b) All documentation associated with the updated EMP:S as required by Condition 65.
- (c) Details of all inspections and maintenance of the stormwater management works for the preceding 12 months.
- (d) Details of the person(s) or body responsible for maintenance of the site.
- (e) Records of any spills or incidents which occurred within the previous 12 months and the response which was undertaken.

Review Condition

72. 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 following the date of commencement of this consent.

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

- 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.
- 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.

Any review under this condition must give effect to the purpose of the Fast-track Approvals Act 2024.

ATTACHMENT 1: BLEDISLOE WHARF LIST OF REPORTS

Report title and reference	Author	Rev	Dated
Indicative Construction Methodology	Beca	2	20/09/2024
Preliminary Site Investigation and Detailed Site Investigation	Beca	1	28/08/2024
Draft Contaminated Soils Management Plan	Beca	-	19/09/2024
Assessment of Construction Noise Effects	Marshall Day Acoustics	3	04/02/2025
Draft Underwater Construction Management Plan	Marshall Day Acoustics	1	04/02/2025
Assessment of Transport Effects	Beca	8	05/02/2025
Assessment of Effects Associated with Industrial and Trade Activities and Stormwater Discharges	Beca	B	04/02/2025
Coastal Effects Assessment Report prepared by Beca Limited	Beca	4	21/11/2024
Economic Impact Assessment	Market Economics	-	29/01/2025
Navigational Safety Assessment	Navigatus Consulting	1.2.1	04/02/2025
Landscape Effects Assessment	Boffa Miskell	4	05/02/2025
Assessment of effects on the ecological environment	Kenned Environmental	4	03/03/2025
Air Quality Assessment	Tonkin & Taylor	1	20/12/2024

ATTACHMENT 2: BLEDISLOE WHARF LIST OF PLANS

Drawing title and reference	Author	Rev	Dated
Existing site and geotechnical investigation plan 3237885-CA-001	Beca	B	18/09/2024
Proposed works layout plan 3237885-CA-002	Beca	B	18/09/2024
Revetment plan 3237885-CA-003	Beca	B	18/09/2024
Revetment section – 1 3237885-CA-004	Beca	B	18/09/2024
Revetment section – 2 3237885-CA-005	Beca	B	18/09/2024
Revetment section – 3 3237885-CA-006	Beca	B	18/09/2024
Stormwater and services plan 3237885-CA-007	Beca	C	14/11/2024
Demolition plan 3237885-2200-SE-100	Beca	A	18/09/2024
General arrangement plan and elevation 3237885-220-SE-110	Beca	A	18/09/2024
Plan – pile setout 3237885-220-SE-113	Beca	A	18/09/2024
Plan – deck units 3237885-220-SE-114	Beca	A	18/09/2024
Typical section sheet 1 3237885-220-SE-121	Beca	A	18/09/2024
Typical section sheet 2	Beca	A	18/09/2024

3237885-220-SE-122			
Typical details	Beca	A	18/09/2024
3237885-2200-SE-123			

FERGUSSON NORTH BERTH

General conditions applicable to all consents

1. Except as provided for in the conditions below, the activities authorised by this consent must be undertaken in accordance with the information and plans submitted by the Consent Holder with the application, including:
 - (a) The document prepared by Bentley & Co. Ltd titled "Substantive Application for the Bledisloe North Wharf and Fergusson North Berth Extension" and dated March 2025.
 - (b) The reports listed at **Attachment 1**.
 - (c) The plans listed at **Attachment 2** (collectively referred to in these conditions as "the Project").

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

Lapse

2. In accordance with clause 26 of Schedule 5 to the Fast-track Approvals Act 2024, these consents lapse five years after the date of commencement.

Management plans

3. The following management plans required by a condition of this resource consent must be submitted to the Council for certification. Unless stated otherwise within these conditions, the management plans must 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 14 to 16).
 - (b) An Underwater Construction Noise Management Plan (refer to Conditions 25 to 26).
 - (c) An Operation and Maintenance Plan (refer to Conditions 42 to 44).
 - (d) An updated Environmental Management Plan: Stormwater (refer to Conditions 46 to 48).

The purpose of the certification process is to confirm that the management plan gives effect to the relevant condition(s) and will ensure compliance with any standards or limits or other requirements specified in those conditions.

4. All management plans required by Condition 3 must be prepared by a Suitably Qualified and Experienced Person(s) ("SQEP").
5. All management plans required by Condition 3 may be submitted in parts or stages to reflect staged implementation of the Project, or to address specific activities authorised by the relevant consent.
6. Any changes to the management plans required by Condition 3 must be submitted to the Council for re-certification as soon as practicable and any changes may only be implemented once certification has been received.
7. Any works that are subject to a management plan required by Condition 3 must only commence once that management plan has been certified by the Council and all measures identified in that plan as needing to be in place prior to the start of those works are in place.
8. The Consent Holder must comply with all certified management plans at all times.

9. A copy of the relevant certified management plans must be held on the project site at all times.

Pre-construction meetings and notification

10. No less than five working days prior to commencement of the works or stage of works authorised by these consents, the Consent Holder must arrange a pre-construction meeting with Council as well as the site contractor. Representatives of Ngāti Whātua Ōrākei, Te Ākitai Waiohū, and Ngaati Te Ata Waiohū must also be invited to attend.
11. 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 is observed and kawa (customary practices and protocols) are being applied throughout the construction of the Project.
12. The following information must 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.

Coastal permit _CST60445200

Duration

13. These consents expire 35 years from the date of commencement unless they have lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Construction Management

14. The Consent Holder must prepare a Construction Management Plan ("CMP") for the activities authorised by these consents in accordance with Conditions 3 to 6.
15. The objective of the CMP is to:
 - (a) Ensure that the construction works remain within the limits and standards specified in these consents and set out the management procedures and construction methods to be undertaken to avoid, remedy or mitigate potential adverse effects of 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 of construction activities.
16. For certification purposes, the CMP must, 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 and other structures (if any) 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) Site clean-up and remediation following works completion.
 - (vi) The roles and responsibilities and contact information to enable real-time communication with Port of Auckland Harbour Control as required to maintain navigational safety.
 - (vii) The boundaries of the construction zones to prevent conflict between port operations and construction activity, both ashore and in the CMA.
 - (viii) The procedures in place to respond to any emergency, whether created by construction activity or from external maritime activities.
 - (ix) The measures to ensure that any risks created by external maritime activities are mitigated.
 - (d) Outline the methods and procedures for consultation and communications with Ngāti Whātua Ōrākei, Te Ākitai Waiohū, and Ngāati Te Ata Waiohū and Council.
17. During construction works, the Consent Holder must maintain a record of any complaints received about the construction works. The record must 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.
18. A copy of the complaints record required by Condition 17 must be made available to Council on request.

Navigation and safety

19. Prior to the Commencement of activities authorised by these consents, the Consent Holder must:

- (a) consult the Auckland Harbourmaster to identify and confirm 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) in order to ensure compliance with Maritime New Zealand guidelines, and the Auckland Port and Harbour Marine Safety Code; and
 - (b) provide, at its cost, all aids to navigation confirmed by the Auckland Harbourmaster as being required; and
 - (c) request, that the Auckland Harbourmaster issue any applicable Notice to Mariners in respect of the above.
20. The Consent Holder must ensure that lighting used for and during construction is designed, used and maintained in a manner that avoids visual interference with temporary or existing permanent navigational lights.
 21. The Consent Holder must maintain at its cost, the aids to navigation referred to in Condition 19 for the duration of the Project to the satisfaction of the Auckland Harbourmaster.
 22. The Consent Holder must ensure that real-time VHF communications are available at the work site to enable direct VHF communications with Port of Auckland Harbour Control on Channel 12. Channel 16 is to be monitored while any activity is being undertaken that may impact on, or could be impacted by, port marine activities.
 23. The Consent Holder must notify the Auckland Harbourmaster in writing 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.
 24. Within ten working days of completion of the Project or stage of the Project, the Consent Holder must provide the Auckland Harbourmaster, and the Land Information NZ (LINZ) Hydrographic Office, in writing, details of the 'As-Built' extent and elevation of the wharves, related structures and lights and request that the associated nautical chart and 'List of Lights' be updated accordingly.

Underwater construction noise management

25. The Consent Holder must ensure that underwater noise from construction activities minimises, to the extent practicable, adverse effects on marine mammals and kororā by:
 - (a) Selecting pile driving equipment and methodologies that minimise noise emissions to the extent practicable;
 - (b) Where necessary, using bubble curtains or other systems to reduce noise propagating into and through the water column;
 - (c) Validating underwater noise levels and mitigation, including the size of Temporary Threshold Shift ("TTS") zones;
 - (d) Undertaking marine mammal and little penguin | kororā observations from a static land-based observation point(s) 30 minutes prior to commencing pile driving to identify their presence within the TTS; and
 - (e) Shutting down pile driving when a marine mammal and/or kororā is detected within or approaching the TTS zones and only recommencing pile driving once the marine mammal and/or kororā is no longer detected in the TTS zones.

26. The Consent Holder must prepare an Underwater Construction Noise Management Plan ("UCNMP") in accordance with Conditions 3 to 6 in general accordance with the draft UCNMP lodged with the application, in order to demonstrate how compliance with Condition 25 will be achieved and confirm the extent of the TTS zones.
27. Pile driving pursuant to these consents must not occur concurrently with pile driving undertaken pursuant to the consents authorising the new wharf at Bledisloe Terminal to ensure compliance with Condition 25.

Captain Cook Wharf and Marsden Wharf Transfer

28. Within 36 months of the commencement of construction works authorised by this consent, the Consent Holder must provide written evidence to the 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 to Auckland Council.

Coastal processes monitoring

29. Within six months of completion of the Project, the Consent Holder must 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 must be undertaken before construction and then every two years following completion of construction for a period of six years.
 - (b) Bathymetric surveys that must 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 must be submitted to the Council within 30 days of completion.

Land use consent – LUC60445199

Construction traffic management

30. During construction, the Consent Holder must 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 must 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 must immediately be removed.

Advice note: The Port of Auckland comprises the land and CMA at 1-19 Quay Street, Auckland Central.

Contamination

31. All earthworks must be undertaken in accordance with the Contaminated Soils Management Plan, prepared by Beca Limited and dated 19 September 2024 ('CSMP'). Any variations to the CSMP must be submitted to the Council for certification, that it appropriately manages actual and potential soil contamination effects and that the requirements of Conditions 32 - 35 are achieved.
32. During earthworks all necessary action must be taken to prevent dust generation and sufficient water must be available to dampen exposed soil and/or other dust suppressing measures must be available to avoid dust formation. The Consent Holder must 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).
33. In the event of accidental discovery of contamination during earthworks which has not been previously identified, the Consent Holder must immediately cease the works in the vicinity of the contamination hotspot and notify the Council. A SQEP must be engaged to assess the situation (including possible sampling and testing) and decide on the best option for managing the material.
34. Excavated material that is not re-used on site must be disposed of at an appropriate facility licensed to accept the levels of any identified contamination.
35. Following the completion of the soil disturbance works, the site contractor or nominated SQEP must 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 must be submitted to Auckland Council for certification.

Industrial and Trade Activity consent – DIS60445270

Duration

36. Permit [ref no. Industrial Trade Activity discharges] will 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.

Stormwater management works

37. The following stormwater management works must 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 Standard
Fergusson North Berth	1,800m ²	75% TSS removal

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

38. In the event that any modifications to the stormwater management works are required, the following information must be provided to and certified by the Council, prior to implementation:
 - (a) Plans and drawings outlining the details of any modifications to the Fergusson North berth stormwater treatment system; and

- (b) Supporting information that details how the proposal does not affect the capacity or performance of stormwater management works.

Post-Construction Meetings

- 39. The Consent Holder must arrange and conduct a post construction site meeting within 30 working days of completion of installation of the stormwater management works specified in Condition 37 between the Council and the Consent Holder's engineering advisor. As-Built Plans as specified in Condition 40 must be made available for this meeting.

Certification of Construction Works

- 40. "As-Built" plans for the stormwater management works specified in Condition 37 must be certified as a true record of stormwater management works by a Chartered Professional Engineer and submitted to the Council, within 30 working days of the completion of the stormwater management works.
- 41. The "As-Built" plans of the stormwater management works must include:
 - (a) 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

- 42. Within 30 working days of completion of the installation of the stormwater management works the Consent Holder must 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 3 to 6.
- 43. The objective of the updated OMP is to set out how the stormwater management works will be operated and maintained to ensure that the design standard in Condition 37 is achieved.
- 44. For certification purposes, the OMP must, as a minimum include:
 - (a) A programme for regular maintenance and inspection of the stormwater management works authorised under Condition 37 of this Consent.
 - (b) A programme for the collection and disposal of debris and sediment collected by the stormwater management works or practices.
 - (c) A programme for post storm/post spill maintenance.
 - (d) General inspection checklists for all aspects of the stormwater management works.
 - (e) 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

- 45. The stormwater management works must be inspected and managed by the Consent Holder in accordance with the OMP as required by Condition 42.

Site Management

46. Within 30 working days of completion of the installation of the stormwater management works the Consent Holder must prepare an updated Environmental Management Plan: Stormwater ("EMP:S") in accordance with Conditions 3 to 6.
47. The site must be operated and managed in accordance with the updated Environmental Management Plan: Stormwater ("EMP:S") to ensure the risks from the site are managed appropriately.
48. The updated EMP:S must include but not be limited to:
 - (a) Identification of the specific activities conducted on site and the identification of potential contaminants associated with the activities conducted on the site.
 - (b) Methods used to manage environmental risks from site activities and ensure that contaminants identified avoid contacting stormwater runoff as far as practicable.
 - (c) An emergency spill response plan.
 - (d) An up-to-date and accurate site drainage plan showing the location of the final discharge point of the site stormwater management works.
 - (e) Identification of appropriate auditing requirements to ensure performance of all components of the updated EMP:S.
49. The EMP:S document must be kept on site and accessible at all times.
50. The EMP:S must 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 must be submitted to the Council as part of the annual report required by Condition 52.

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.

51. 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 must 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

52. A report must be forwarded annually to the Council each July following the completion of the works.

The report must include but not be limited to:

- (a) Detailing all aspects of the performance of the EMP:S relating to this consent, including results of any audits required by Condition 48(e).
- (b) All documentation associated with the updated EMP:S as required by Condition 47.
- (c) Details of all inspections and maintenance of the stormwater management works for the preceding 12 months.
- (d) Details of the person(s) or body responsible for maintenance of the site.

- (e) Records of any spills or incidents which occurred within the previous 12 months and the response which was undertaken.

Review Condition

53. 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 following the date of commencement of this consent.

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

- 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.

Any review under this condition must give effect to the purpose of the Fast-track Approvals Act 2024.

ATTACHMENT 1: FERGUSON NORTH BERTH LIST OF REPORTS

Report title and reference	Author	Rev	Dated
Indicative Construction Methodology	Beca	2	20/09/2024
Preliminary Site Investigation and Detailed Site Investigation	Beca	1	28/08/2024
Draft Contaminated Soils Management Plan	Beca	-	19/09/2024
Assessment of Construction Noise Effects	Marshall Day Acoustics	3	04/02/2025
Draft Underwater Construction Management Plan	Marshall Day Acoustics	1	04/02/2025
Assessment of Transport Effects	Beca	8	05/02/2025
Assessment of Effects Associated with Industrial and Trade Activities and Stormwater Discharges	Beca	B	04/02/2025
Coastal Effects Assessment Report prepared by Beca Limited	Beca	4	21/11/2024
Economic Impact Assessment	Market Economics	-	29/01/2025
Navigational Safety Assessment	Navigatus Consulting	1.2.1	04/02/2025
Landscape Effects Assessment	Boffa Miskell	4	05/02/2025
Assessment of effects on the ecological environment	Kenned Environmental	4	03/03/2025
Air Quality Assessment	Tonkin & Taylor	1	20/12/2024

ATTACHMENT 2: FERGUSON NORTH BERTH LIST OF PLANS

Drawing title and reference	Author	Rev	Dated
Site layout plan 3237885-GE-2001	Beca	A	02/08/2024
Borehole location plan 3237885-GE-2010	Beca	A	02/08/2024
General arrangement plan 3237885-SE-2110	Beca	A	02/08/2024
Wharf extension general arrangement plan 3237885-SE-2113	Beca	A	02/08/2024
General arrangement typical sections 3237885-SE-2115	Beca	A	02/08/2024
General arrangement typical details 3237885-SE-2116	Beca	A	02/08/2024
Pile arrangement plan sheet 1 3237885-SE-2121	Beca	A	02/08/2024
Pile details sheet 1 3237885-SE-2123	Beca	A	02/08/2024
Pile details sheet 2 3237885-SE-2124	Beca	A	02/08/2024
Deck arrangement plan 3237885-SE-2131	Beca	A	02/08/2024
Wharf stormwater and services layout plan 3237885-CE-2710	Beca	A	02/08/2024

APPENDIX 2: CONDITIONS – WILDLIFE APPROVAL

1. Little Penguin Management Plan

- 1.1. The Approval Holder must comply with the Little Penguin Management Plan ('LPMP') that is annexed to this Approval, or any amendment to that LPMP that has been certified in accordance with Conditions 1.2 – 1.5.
- 1.2. The Approval Holder may propose amendments to the LPMP at any time. Any proposed amendment 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, for certification by the Director-General of Conservation in accordance with Condition 1.3. Any amendments may only be implemented once certification has been received.
- 1.3. The purpose of the certification process is to confirm that the amended management plan gives effect to Conditions 1.4 and 1.5.
- 1.4. The objective of the amended LPMP is to ensure that actions by the Approval Holder regarding little penguins/kororā are carried out in a manner that avoids, remedies or mitigates adverse effects on little penguins.
- 1.5. Any amendment to the LPMP must provide for:
 - (a) Surveying and monitoring for little penguin both pre-construction and during construction.
 - (b) Training construction staff in the identification and detection of little penguins.
 - (c) Training construction staff for what to do in the event a little penguin is found during construction.
 - (d) Reporting and communicating to relevant persons the presence of little penguin within the Project area.
 - (e) Responding to a little penguin sighting within or near to the Project area.
 - (f) 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.
 - (g) 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.
 - (h) 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.
 - (i) Reporting procedures and format for providing the results of any monitoring or surveying required by the LPMP.

2. Revocation

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

- (b) In the Director-General's opinion, the exercise of this Approval has caused, or is likely to cause, any unforeseen adverse effects on little penguins.
- 2.2. If the Director-General intends to revoke this Approval in whole or in part, the Director-General must give the Approval Holder such prior notice as is reasonable and necessary in the circumstances.
- 3. Costs**
 - 3.1. The Approval Holder 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.
- 4. Variations**
 - 4.1. The Approval Holder may apply to the Director-General for variations to this Approval in accordance with clause 7(2) of Schedule 7 of the Fast-track Approvals Act 2024.

KENNEDY ENVIRONMENTAL LIMITED

LITTLE PENGUIN MANAGEMENT PLAN FOR BN AND FN WHARF PROJECT



Prepared for Port of Auckland Limited

August 2025

1 Limitations

This report has been prepared by Kennedy Environmental Limited (KEL) under contract for its client. The report has been prepared to a specific scope of work. The report cannot be relied upon by a third party for any use without written consent of KEL and or its client.

This report may not be reproduced or copies in any form without the permission of the client. Such permission is to be given only in accordance with the terms of the client's contract with KEL.

2 Document Revision History

Revision	Author	Version	Date of release
1	P Kennedy	Issue to POAL for review.	20 December 2024
2	P Kennedy	Final draft issue to POAL	4 February 2025
	P Kennedy	Re-issue of final draft issue to POAL	3 March 2025
3	P Kennedy	Updated final draft issue to POAL	13 May 2025
4	P Kennedy	Updated final draft issue to POAL	19 May 2025
5	P Kennedy	Updated final draft issue to POAL	27 May 2025
6	P Kennedy	Final pre-decision issue to POAL	12 August 2025

3 Bibliographic Reference

This report should be referenced as:

KEL 2025. Little Penguin Management Plan for BN & FN Wharf Project. Prepared by Kennedy Environmental Limited for Port of Auckland, August 2025.

Table of Contents

Contents

1	Limitations	i
2	Document Revision History.....	i
3	Bibliographic Reference	i
1	INTRODUCTION.....	1
2	This Plan	1
3	Definitions.....	2
3.1	Wildlife Act Authorisation Conditions	3
4	Kororā	4
4.1	Introduction	4
4.2	Breeding	4
4.3	Burrow Habitat.....	4
4.4	Site Fidelity	5
5	MANAGEMENT.....	5
5.1	Introduction	5
5.2	Health & Safety	6
5.3	Preconstruction/Construction Penguin Communications	6
5.4	Approved Kororā Handlers.....	7
5.5	Preconstruction Surveys.....	7
5.6	Information Recorded in Surveys	7
5.7	Construction Surveys	8
5.8	Finding Kororā at BN.....	8
5.8.1	During penguin pre-construction surveys.....	8
5.8.2	During construction.....	8
5.9	Capture, Handling, Relocation.....	9
5.9.1	Kororā handling.....	9
5.9.2	Relocation site.....	9
5.10	Longer Term Kororā Mitigation	10
5.11	Changes to Management Plan	11
6	FINDING INJURED OR DECEASED KORORA	11
6.1	Injured Kororā.....	11
6.2	Deceased Kororā	11
7	COMMUNICATIONS	12
7.1	Key Contacts	12
7.2	Summary of Reporting to Department of Conservation.....	12
8	REFERENCES	13

1 INTRODUCTION

The Port of Auckland Limited (POAL) operates the Port of Auckland (the Port). POAL is intending to progress construction of two new wharf structures at the Port in accordance with consents obtained under the Fast-track Approvals Act 2024 (the Project). The Project involves:

- The construction of an additional wharf/berth at the seaward side of the existing Bledisloe Terminal. This is referred to as the Bledisloe North (BN) wharf. The new wharf provides for large cruise ships (>300 m in length) and existing roll on roll off (RoRo) needs.
- The construction of an extension to the existing Fergusson North (FN) berth at the Fergusson container terminal which improves vessel container management at the berth (i.e., loading / unloading time).

Under the conditions of consent issued by the Expert Panel (FTAA-2503-1028), POAL is required to prepare a Little Penguin Management Plan (LPMP). This document is a pre-decision version of the LPMP required under those consent conditions and is an appendix to the Wildlife Act Approval (WAA) (Department of Conservation (DOC)) issued by the Expert Panel. The LPMP provides the framework for undertaking pre-construction and construction surveys, responding to little penguin (kororā, *Eudyptula minor iredale*) finds in pre-construction surveys, construction surveys or an unexpected find of kororā during construction works.

For context, the assessment of potential ecological effects prepared in support of POAL's application for resource consent (KEL 2024) concluded that although kororā had not been located within the rock revetments within the Project area, there was a possibility that kororā may be present. As a contingency it was identified that should kororā be discovered during works that a WAA under the Wildlife Act should be in place to allow the capture, handling and relocation of kororā if required.

2 This Plan

This LPMP has been prepared in accordance with the proposed conditions set out in the WAA. This LPMP is based on the recommended conditions set out in the draft decision issued by the Expert Panel. The final WAA will be included in Appendix A. The key elements of this plan include:

- Section 3 which sets out key definitions.
- Section 4 which provides a summary of kororā breeding and ecology.
- Section 5 identifies the points where the plan intersects with the Construction Management Plan (CMP).
- Section 6 sets out management processes where a WAA has been granted.
- Section 7 sets out some recommended draft conditions.
- Section 8 provides information about communications relating to LPMP.

LITTLE PENGUIN MANAGEMENT PLAN

Revisions to this Plan will be made where required when the certified version of the CMP becomes available.

Figure 1 shows the location of the existing revetments at Bledisloe terminal and Fergusson Container terminal.

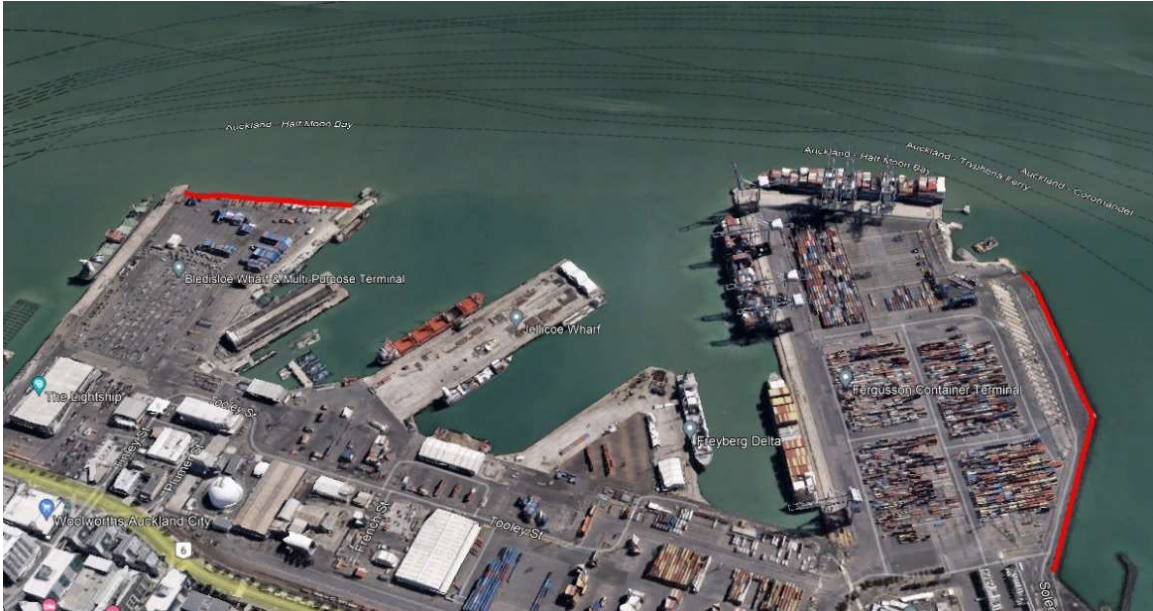


Figure 1: Location of revetment at Bledisloe Terminal (left) and Fergusson Container Terminal, (right) at Port of Auckland (from KEL 2024). Existing FN wharf is the wharf with container ship berthed at north of container terminal.

This LPMP does not include matters such as predator control as the Port is a biosecurity-controlled area and POAL has an extensive pest control program in relation to terrestrial pests such as mice and rats.

3 Definitions

This LPMP makes reference to a number of matters that require definition. These are set out below.

Suitably Qualified Coastal Ecologist

A person who with a tertiary ecology qualification and experience working with coastal birds. They will be responsible for supervising and advising on the overall kororā management actions for the Project as required.

Suitably Qualified Kororā Specialist

A person who with a tertiary ecology qualification and experience working with kororā (or if a tertiary qualification is lacking, a person with kororā experience that is approved by DOC). They

LITTLE PENGUIN MANAGEMENT PLAN

will be responsible for supervising and advising on kororā management actions for the Project as required. A specialist may also be a DOC-banding office certified penguin handler.

DoC-Permitted penguin handler

A person who is identified as part of the Project to capture, handle and relocate kororā. An approved handler should have a level 2 (competent) or L3 (expert) certification. That is, has sufficient experience to handle kororā on their own.

Active burrow

A burrow containing, or suspected to contain, a nesting bird, viable nest contents (egg(s) and / or chicks (s)), or moulting bird based on the identification of penguin sign by a suitably qualified and experienced coastal ecologist.

Penguin sign

The sighting of guano, feathers, odour or penguin sounds at a suspected burrow.

As set out in this LPMP, due to the length of the Project construction period, at least two penguin handlers will be identified.

3.1 Wildlife Act Authorisation Conditions

Table 1 sets out the requirements of the WAA (Appendix A) in relation to the contents of the LPMP and where in this plan the specific matters can be located.

Table 1. WAA Requirements.

Condition	Requirement	LPMP Section
1.5(a)	Penguin surveys - pre-construction and during construction.	5.5, 5.7
1.5(b)	Training construction staff to be able to spot little penguins	5.3
1.5(c)	Training construction staff for what to do in the event a little penguin is found during construction.	5.3
1.5(d)	Reporting and communicating to relevant persons the presence of little penguin within the Project area.	5.8
1.5(e)	Responding to a little penguin sighting within or near to the Project area.	5.8.2
1.5(f)	The safe management and, if appropriate, relocation of little penguin if found within or near to the Project area, including to relocation site and mitigation for impacts like habitat loss.	5.9, 5.10
1.5(g)	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.	5.8.2

LITTLE PENGUIN MANAGEMENT PLAN

1.5(h)	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	5.11
1.5(i)	Reporting procedures and format for providing the results of any monitoring or surveying required by the LPMP	5.6

4 Kororā

4.1 Introduction

There is little published information available about the numbers of kororā that are present and nest within the lower Waitematā Harbour. Kororā have a national conservation status of At-Risk – Declining (Robertson et al. 2021)) and a regional status of Threatened Regionally Vulnerable (Wooley et al. 2024). There are few records of little penguins within Waitematā Harbour in sources such as iNaturalist or e-bird. There are occasional observations of kororā swimming within harbour waters with observations typically peaking in September through November. Kororā have been found during other construction works within the harbour. The most recent being in 2023 on the Westhaven Marina breakwater during rock replacement.

4.2 Breeding

Kororā are nocturnal, typically coming ashore after dusk and leaving before dawn. Adults are present at colonies throughout the year. For most colonies in New Zealand the breeding season begins around July and continues until February when chicks fledge. The yearly cycle involves occupation of burrows and pair formation; breeding with egg laying/incubation/hatching/chick rearing/moulting. There is fluidity in timing of breeding activity around New Zealand so it is generally assumed that penguin can be present for most of the year with a short period around May and June when they will be at sea for a few weeks feeding preparing for the breeding season (refer Fleming 2013).

4.3 Burrow Habitat

Kororā utilise a diverse range of habitat for nesting. Burrows are dug where ground is suitable or where natural or artificial features provide a dark space where they can nest. In urban areas on the coast kororā have often bred under houses. As much of the lower Waitematā Harbour shoreline is man-made, kororā have found suitable nesting locations in revetments and under buildings that are up against the shore (e.g., the marine Rescue Centre on Tamaki Drive by the Port).

The two surveys (using a kororā detector dog) carried out in August and November 2024 (KEL 2024) on the BN revetment did not detect kororā sign. Examination of the revetment from the northern end of the Fergusson Container Terminal west to Tamaki Drive, found positive dog

detects and several burrow with audible and or visual evidence of kororā presence (Figure 2). Kororā are not present at the location of the FN works as the rock revetment is yet to be constructed adjacent to this location.

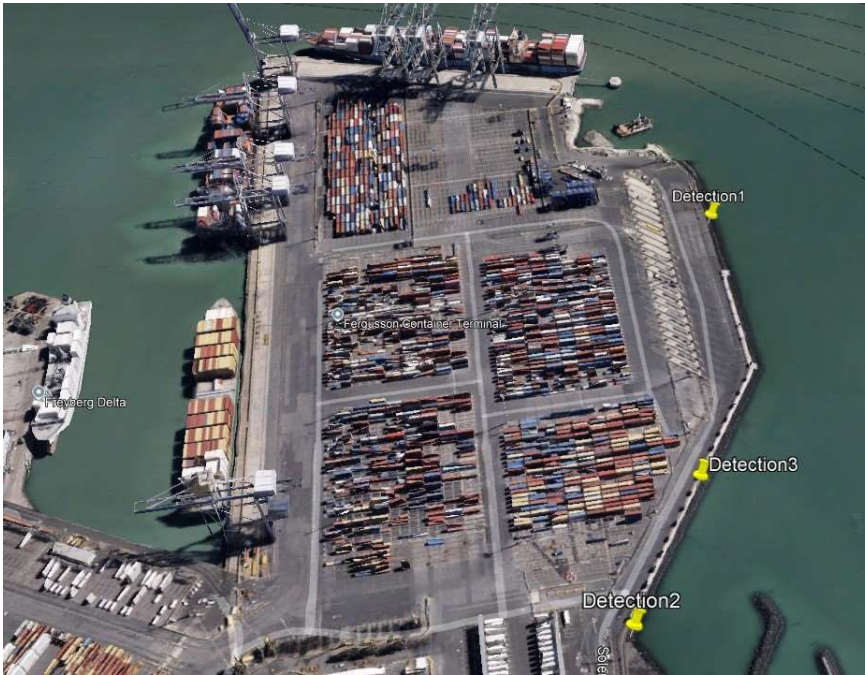


Figure 2: Fergusson Container Terminal, locations where kororā burrow were detected (from KEL 2024).

The ability to detect kororā in their burrow using burrow scopes is very dependent upon how deep the burrow is within rocky areas such as revetments. Although kororā nest above the high tide mark, some burrows can be several metres or more within the revetment.

4.4 Site Fidelity

Kororā in general return to the colony they fledged from. An overview of fidelity in kororā colonies is provided by Wilson & Mattern (2024).

5 MANAGEMENT

5.1 Introduction

Rock revetment works will only occur at BN as a component of the overall construction program. There will be initial works on the revetment in the lead up to wharf construction. Work will then occur for multiple short periods though the entire BN works period. The physical works during wharf construction will involve:

- The removal of rock to allow steel pile tubes to be installed.

- Removal of smaller rock from sections of the revetment to ensure the rock in the revetment is of suitable size. Replacement with rock of defined size.

5.2 Health & Safety

Prior to any surveys being conducted to establish presence of kororā, a Health and Safety assessment will be carried out and a Job Safety Analysis (JSA) prepared for this element of work. The JSA which will be prepared prior to the first pre-construction survey will focus on field work on the revetment and penguin handling. The draft JSA (Appendix B of this Plan), includes relevant matters included in NZPI (2024):

- Reference to kororā handling protocols (e.g., as a standard operating procedure (SOP) as they apply to who is permitted to handle under the Wildlife Act 1953 (WA).
- Information about hygiene practices and biosecurity during all site work.
- Safety procedures to be followed while working around the water's edge within the Port/on the revetments.

5.3 Preconstruction/Construction Penguin Communications

Prior to any construction starting information will be communicated to all worksite staff involved in works on the revetment (crane drivers, piling equipment) about kororā. The information will be sufficient to ensure that site workers will be able to spot kororā within their work areas and respond accordingly. The key information that will be communicated will include:

- Why there is a need to watch out for kororā.
- Where they could be found.
- What they look like.
- What to do if you see one within a work zone.
- Who to advise if you see a kororā.

Training will be provided to onsite contractors to identify signs of kororā habitation (e.g., moulted feathers and guano (penguin poo)) should it be present and to discuss actions required to secure work sites, construction materials and equipment to prevent kororā access. This training will be run by a suitably qualified and experienced ecologist.

During construction and at toolbox meetings:

- What to do if you see one within a work zone and what to do if a kororā is injured.
- Who to advise if you see a kororā.

Information will be re-communicated should there be changes in personnel on site.

5.4 Approved Kororā Handlers

Prior to the commencement of work on the project work site, at least two DOC approved kororā handlers should be identified and available to assist if required. Two handlers are required due to the duration of the project and to ensure one handler is available at any time.

Should changes to the designated kororā handlers be required, the alternate handlers will be identified to DOC to confirm that they are suitable for the required role.

The work commencement timetable should be communicated to DoC approved kororā handlers.

5.5 Preconstruction Surveys

Prior to any construction starting at BN, pre-construction surveys will be carried to identify any sign of penguin burrow activity within the BN revetment area. The dates for undertaking the survey or surveys are dependent on the commencement date for first site work. At least two surveys would be undertaken in the three months prior to commencement of work. As set out in Section 3 of this LPMP, detection is defined as:

- A positive detect by an approved detector dog but no kororā sign or
- The identification of penguin sign (refer definitions and Section 5.6) at a locality identified by a dog.

If a detection is made, a burrow-scope or other suitable tool camera will be used to assist with identifying the burrow contents.

5.6 Information Recorded in Surveys

If a detection is made of any kind, the following information will be recorded (as applicable):

- The location of dog detection(s) or by detection by specialist/handlers.
- The GPS location of the nest (GPS or phone GPS).
- The identification of any kororā sign including guano, feathers, odour, penguin sounds.
- The identification of any kororā within the burrow (e.g., using a burrow-scope) and whether they are moulting).
- The number of eggs or chicks if seen in the burrow.
- Photographs to confirm location.

Information collected in the field will be recorded on the field record form provided in Appendix C.

The results of each survey will be communicated by email to DOC within 10 days of the completion of any survey.

5.7 Construction Surveys

Following commencement of construction works at BN and FN, kororā surveys will be conducted no less than every three months on the BN revetment and on the Fergusson Container terminal eastern revetment down to the start of the red fence (identified by Detection 2 in Figure 1). Surveys will cease when piling work is completed. The surveys will record the information set out in Section 5.6.

5.8 Finding Kororā at BN

5.8.1 During penguin pre-construction surveys

If kororā are found during a pre-construction survey, the location(s) will be identified and location communicated to the project manager.

A temporary exclusion zone of 10 m will be put in place around the location until a review of penguin management options within this area is carried out.

Upon discovery of the kororā, the site construction manager (or nominated alternative) and Port of Auckland will be informed, and the process outlined in Appendix D will be implemented immediately to arrange the capture, handling and relocation of the kororā. Refer Section 7.1 for key contact information.

While waiting for the arrival of an authorised person, the kororā will not be handled or disturbed further. If the kororā is injured or ill, DOC will be immediately contacted to receive advice on what actions to undertake (also refer Section 6).

5.8.2 During construction

On the basis that no kororā burrows have been identified within the BN revetment, it is not intended that a specialist be on site during all rock removal. However:

- Excavator operators will receive training to ensure they know how to identify kororā.
- A stop work process will be in place in the event of a penguin sighting. If a kororā is sighted, the location(s) will be identified and location communicated to project manager and ecology specialists. An exclusion zone of 10 m around the location will then be implemented (refer Appendix D).
- Breeding or moulting kororā will not be disturbed and site work within the exclusion zone will resume when the kororā have left the area.
- If it is identified that the kororā is a single bird, is thought to be ill or injured, it will be captured by an approved handler. If the kororā is well, it will be relocated. as set out in Section 5.9. If the kororā is considered to be ill or injured, it will be managed as set out in Section 6.

5.9 Capture, Handling, Relocation

5.9.1 Kororā handling

All kororā capture and handling will be carried out by an approved handler and will be carried out in accordance with a SOP (which will be included in Appendix E of the final draft of the Plan).

Records will be kept to trace all movements of handled/captured penguin.

Should any kororā have a band then the band details should be recorded.

Relocation will be to the sole site identified in Section 5.9.2.

5.9.2 Relocation site

Any kororā captured within the BN construction site off the revetment and able to be relocated immediately will be taken to the relocation site located on the existing eastern container terminal revetment in Judges Bay. This site will be used during the duration of the BN revetment works. The current nature of the site is shown in Figure 3. This location is immediately north of the public walkway outside the red-fence and south of the location marked detection 1 on Figure 1. The upper surface of the revetment site will be infilled to form a flat surface some 2 m wide and 10 m in length. Three wooden penguin boxes will be located within the area. The boxes will be separated from the adjacent roadway by a temporary fence.



Figure 3: Fergusson Container Terminal revetment, location of proposed relocation area.

It is recommended that any kororā relocated from the work site should be temporarily marked (using twink on the back of the head) to allow easy identification should it return to the work site.

Suitable transportation cages will be made available for transport of kororā.

5.10 Longer Term Kororā Mitigation

With the completion of the remaining Fergusson Container Terminal reclamation, it is proposed that part of the reclamation surface adjacent to the revetment will be utilised to house kororā boxes. This area will not be available until the rock revetment is constructed following the completion of all piling for the FN berth extension. Figure 4 illustrates the proposed location.

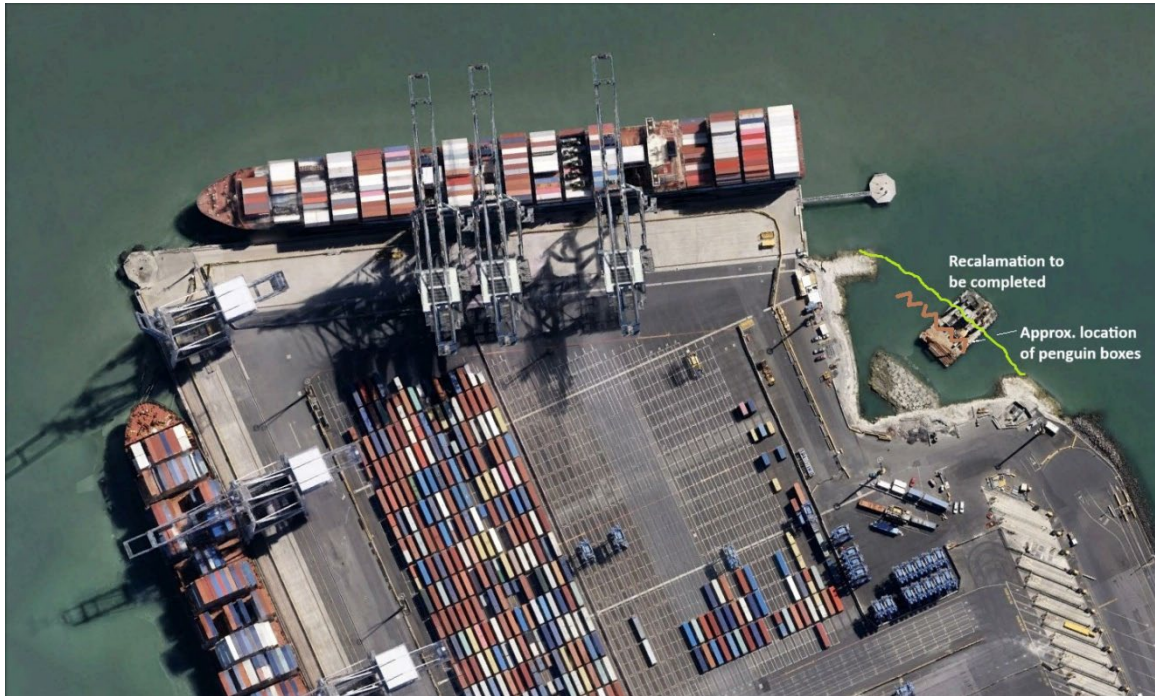


Figure 4: Location of longer-term penguin boxes on yet to be completed Fergusson Container Terminal reclamation.

The boxes will be located within a strip along the top of the yet to be constructed rock revetment. The key elements of the proposed location will comprise:

- A strip 5-7.5 wide which can accommodate at least 10 kororā boxes.
- Boxes would be staggered and separated by at least 5 m to minimise territorial interaction.
- Boxes would be constructed to a standardised design (Department of Conservation or West Coast Penguin Trust design).
- Area would be separated from adjacent port activity by a suitable fence, with a gate to access kororā box area.
- Area would have limited planting to ensure access around kororā boxes.
- The adjacent revetment would have no specific access for kororā. To aid kororā access, some supplementary infill with smaller revetment rock may be able to be carried out in one area of revetment.

5.11 Changes to Management Plan

Following issue of the WAA, no material changes will be made to the LPMP without the approval of DOC in accordance with the conditions of WAA. In relation to the review of Plan contents:

- The Plan (or specific sections) will be reviewed should site construction activities change in any way that affects management actions within the Plan.
- The overall Plan should be reviewed 30 days prior to the end of each year (December).
- Changes to the Plan should be communicated to DOC by end of January each year.
- As required by Condition 1.2 of the WAA (Appendix B), all changes to the LPMP must be submitted to DOC for certification. The changes cannot be implemented until certification is received from DOC.

6 FINDING INJURED OR DECEASED KORORĀ

6.1 Injured Kororā

Should an injured or sick kororā be identified on site:

Contact the approved handler.

If the handler recommends use the appropriate PPE and place the injured kororā into a suitable transportation carrier as set out in the SOP.

For injured or sick penguins contact the nominated wildlife rehabilitation centre. In this case it is:

BirdCare Aotearoa

74 Avonleigh Road
Green Bay, Waitakere, Auckland
Phone: (09) 816 9219

Website: www.birdcareaotearoa.org.nz

If the centre is unavailable contact DoC through the [DOC emergency hotline](#) **0800 DOC HOT (0800 362 468)**.

6.2 Deceased Kororā

Under the Wildlife Act, kororā is a protected species. In the event that a dead kororā is located within the project area:

- The finding will be reported to DOC (Auckland Office) with 24 hours. Refer contact details in Section 8.

LITTLE PENGUIN MANAGEMENT PLAN

- A photograph should be taken of the bird as found. The photograph should include any information (e.g., on the ground) that might relate to cause of death. The photograph(s) should be included in the findings email to DOC.
- The dead bird should be collected with all handling carried out with disposable gloves and placed into a ziplock plastic bag. The bag should then be stored in a fridge if the carcass is to be transported within 24 hours.
- The project 'ecologist' or 'penguin specialist' should determine (in conjunction with DOC) if an autopsy is required. If an autopsy is to be performed, then the carcass should be placed into a suitable container and sent by courier to the vet lab or Massey University [contact details to be included in final plan) or alternative veterinary facility (e.g., Pet Doctors St Lukes & Exotics Centre).

7 COMMUNICATIONS

7.1 Key Contacts

The key contacts for matters set out in this LPMP are set out in Table 2.

Table 2 Key contacts.

Party	Person	Phone	Email
POAL Project manager			
Project ecologist			
DOC approved penguin handler			
DOC approved penguin handler			
Department of Conservation			
Auckland Council			

7.2 Summary of Reporting to Department of Conservation

The WAA conditions and this plan provide for information to be provided to DOC. This includes:

1. The results of Pre-construction surveys (by email within 10 days of completion of survey).
2. The results of kororā surveys carried out three monthly during the construction period (by email within 10 days of completion of survey). Note construction period is deemed to be completion of piling.
3. The finding of kororā within the construction site.
4. The relocation of kororā to the "relocation site".

Updates to the LPMP on an annual basis (by end of January) and whenever changes are required as a result of any other activities that have a bearing on the LPMP.

8 REFERENCES

NZPI 2024. Penguin monitoring: Health and safety awareness. New Zealand Penguin Initiative. Version 1, August 2024. Available at <https://www.nzpi.nz/korora/littlepenguin-resources>.

Robertson HA, Baird K, Elliot GP, Dowding JE, Elliott JP, Hitchmough RA, McArthur N, Miskelly CM, O'Donnell CFJ, Sagar PM, Scofield RP, Taylor GA, Mochel P 2021. Conservation status of birds in Aotearoa Zealand, 2021. New Zealand Threat Classification Series 19. Department of Conservation.

Wilson K-J, Mattern T 2024. Little (Blue) penguin/kororā. Available at <https://sop.penguinarhive.org/little-penguin>. Accessed 17 December 2024.

Woolly J, Lovegrove T, Robertson H, Dell'Araccia G, Melzer S 2024. Conservation status of birds in Tāmaki Makaurau / Auckland. Auckland Council technical report, TR2024/5

Appendix A: Wildlife Act Authorisation.

To be appended when granted

Appendix B: Job Safety Analysis.

This Appendix contains a draft version of the JSA. This will be reviewed and updated by the Ecologist, Penguin specialist, d POA and contractor prior to inclusion in the LPMP for certification.

LITTLE PENGUIN MANAGEMENT PLAN

Appendix C: Field Record Forms.

Field record form for kororā burrow discovery during Pre-construction and other surveys. **V1 2 March 2025 Pre-review draft.**

Location		
Date of survey		
Time of LP burrow detection		
Unique burrow ID	i.e., CT-1, BN-1 etc.	
GPS (if available)		
Method of detection	Person	
	Detector dog	
Penguin sign	Guano	
	Odour	
	Tracks	
	Feathers	
	Heard	
	Seen visual	
	Seen burrow-scope	
Site location photographs taken	Yes/No	
	Time	
Other notes		

Appendix D: Notification Process (penguin on site).

Note: This appendix provides a summary of all activities that require notification within project and to various organisations on the occasion that kororā are discovered. Actions will be modified based on requirements of WAA. This Appendix may be integrated into the main body of the LPMP.

LITTLE PENGUIN MANAGEMENT PLAN

1 Discover of injured kororā

1a Injured natural causes

Action	Party	Contact details
Collect and transport to vet specialist	Birdcare Aotearoa Vets, St Lukes.	Phone, address Phone, address
Communicate by email to DOC Auckland.	Department of Conservation	Email.

1b Injured during handling

Action	Party	Contact details
Collect and transport to vet specialist	Birdcare Aotearoa Vets, St Lukes.	Phone, address Phone, address
Communicate by phone and email to DOC Auckland.	Department of Conservation	Phone Email.

2 Discover of deceased kororā (unknown causes)

2a Known cause

Action	Party	Contact details
Communicate by phone and email to DOC Auckland.	Department of Conservation	Phone Email

2b Unknown cause

Action	Party	Contact details
Communicate by phone and email to DOC Auckland.	Department of Conservation	Phone Email
Communicate by phone and email to MPI.	Ministry of Primary Industries	Phone Email.

3 Relocation of kororā

Following completion of a relocation, relocation information will be emailed to DoC.

Action	Party	Contact details
Communicate email to DOC Auckland.	Department of Conservation	Email

LITTLE PENGUIN MANAGEMENT PLAN

4 Discovery of kororā during construction

Should a kororā be discovered on site or during construction.

Situation/Action	Communication to	Contact details
If sighted off revetment but within or adjacent to BN or FN work location		
1. Notify site manager and kororā team.	Site manager Team ecologist	Phone Phone
2. Kororā handler to capture bird.	Kororā team to capture and relocate kororā and: Relocate to relocation area if well. Transport to Birdcare or vet if unwell/injured.	
If sighted on revetment at BN Not within burrow/single injured or ill		
1. Operator/person making observation to notify site manager and kororā team.	Site manager Team ecologist	Phone Phone
2. Establish 10 m buffer zone around sighting.		
3. Remove kororā from site for relocation or transport to Birdcare/vet as above. Remove need for buffer zone		
4. Communicate outcome to DOC	Department of Conservation	Email
If sighted in revetment at BN during revetment work		
1. Operator/person who identify kororā cease work, notify site manager.	Site manager Team ecologist	Phone Phone
2. Establish 10 m buffer zone around sighting. Undertake toolbox assessment to determine replacement of rock at burrow location, isolation period and ongoing burrow checks.		
3. Communicate outcome to DOC.	Department of Conservation	Email

Appendix E: Penguin Handling SOP.

Little Penguin Handling Standard Operating Procedure.

Note: This document is draftSOP prepared to set out the key aspects/requirements should kororā handling/management be required as part of the Project. It is intended that this document will be:

Reviewed and updated where required by the project penguin specialist.

Provided to DOC as part of the LPMP certification.

.

1 Introduction

This SOP sets out specific information relating to:

- Appropriate training for kororā handlers.
- Health & safety related to handling.
- The handling of kororā following discovery during project works.
- The management of kororā following capture.
- Relocation of kororā.
- The management of injured kororā.
- The management of deceased kororā.

The latter two items are included for completeness although they are included in the LPMP.

Permissions are required from Department of Conservation (DOC) to interact with kororā, capture kororā for obtaining data, checking bands/tags and or relocating kororā if required during construction works. These permissions are obtained through a Wildlife Authorisation granted under the Wildlife Act 1953 (<https://www.doc.govt.nz/get-involved/apply-for-permits/>).

2 Appropriate Training

The kororā specialist/handlers must have appropriate experience:

- Handling of kororā and must have handled kororā previously.
- Have DoC banding office certification level 2 or Level 3 certification.

It is expected that the Project will have at least two handlers available.

3 Health & Safety

3.1 JSA

All kororā management team members must have read the LPMP JSA prior to commencing work and understand the risks associated with working on the project and working with kororā. The key aspects of the JSA include:

- Being aware of the work environment especially while on the Port revetments.
- Being aware of risks while handling or assisting with handling of kororā.

3.2 Working on revetment

No field team members will undertake field work alone/out of site when near water or on any section of port revetment. Life jacket to be worn.

When working on the revetments, all field staff must be fully aware of footing when moving over the revetment. Ensure you are comfortable at all times in locations you are working. Take

extra care if windy or during rain. If any concerns are raised, take 5 and discuss state of work conditions. No work is planned during times of darkness.

3.2 Well-being of LP

There are a number of areas where well-being of LP should be considered. NZ Penguin Initiative (2024) has been referred to as the document is one of the few Health & Safety evaluations of working with Kororā.

The penguin specialist (and any person who may assist) should wear gloves to avoid direct contact with penguin to reduce transfer of oil to feathers.

Kororā are susceptible to stress and injury during handling. Handlers should be familiar in recognising stress during handling.

3.2 Diseases

As discussed by NZPI (2024) kororā are susceptible to a range of diseases.

Most penguin have not been in direct contact with humans. As such they are susceptible to a variety of pathogens that can be communicated by humans. With current concerns about bird flu, the potential for communication to LP must also be considered.

No field team members should have been in contact with poultry. If there has been contact, the clothes being worn should have been laundry washed.

Refer section 8 on handling injured, ill or Section 9 on handling deceased kororā.

4 Kororā handling

Penguin specialist, approved handlers may educate on site persons who are assisting with appropriate techniques handling of kororā prior to construction commencing.

Gloves will be worn while handling kororā.

Hands are to be washed before touching face or eating.

It is assumed at this stage that kororā may need to be captured if:

- A burrow is identified at BN during pre-construction survey (and kororā are not moulting or nesting).
- Single kororā are discovered within any land-based part of the construction area
- Kororā are identified during works (and kororā are not moulting or nesting).

If a kororā is seen within an area that requires it to be relocated, the handler will approach the kororā from behind. The kororā is grabbed gently with both hands with flippers held against its sides. The penguin is held away from the handlers body to reduce potential for pecking. The carrier box (lined with a towel) will be brought to the handler and the kororā placed into the cage. The cage will then be taken to a level location close to the revetment for

checks/measurements (refer below) then transported to overnight care or vets or to relocation site.

The pet cage should be placed in shade and should not be left in a stationary vehicle unattended especially in summer.

Time in pet-cage should be as short as possible. The kororā should be transported to the relocation site within two hours.

If the relocation cannot happen same day, the penguin should be transported asap to the agreed holding facility (e.g., BirdCare Aotearoa) who will have been notified in advance. The penguin will then be collected the following day and released at the relocation site.

5 Checking for identification

Any LP caught will be checked for identification which could be either:

- Previously applied twink (on back of head).
- A flipper tag. Tag details will be recorded.
- A pit tag. A Pit tag would require the handler to have access to a handheld electronic reader (NZ made options include Gallagher HR4 but there are a range of simple reader options available). Checks will be made should a reader become available.

6 Banding/tagging

Kororā relocated from the site will not be banded. Birds will be marked with temporary twink marker on the back of the head.

7 Injured Kororā

There are two situations where injured kororā may need to be managed.

During the project If at any time a kororā is injured as part of the translocation process, DOC will be immediately contacted to receive advice on what actions to undertake.

If a kororā has been injured while at sea by a predator or boat. Protocol will be to take bird to either of the identified veterinary facilities.

Handling of injured kororā should be carried out as noted in the following section.

8 Collection and handling of dead Kororā

Should a dead kororā be found during pre-construction surveys or during construction, the following will be carried out/information collected. Although unlikely, if multiple deceased kororā are identified, leave birds in place and advise DOC and MPI as required. This is

LITTLE PENGUIN MANAGEMENT PLAN

precautionary due to the potential for avian flu to be the cause (refer discussion on avia influenza on DOoC website and by NZPI 2024).

A photograph will be taken in situ.

Several close-up photos of the kororā should be taken.

Field notes should be taken of any observation of surroundings and of state of kororā to assist in interpreting photographs or specimens.

When handling dead kororā, gloves must be worn. NZPI (2024) recommends that a mask is also worn and that post handling if any skin scratches etc. are identified by handlers, wounds should be treated with disinfectant.

At this stage it is assumed that a check for cause of death will be carried out by a veterinarian specialist. The extent of autopsy will be confirmed prior. The specimen should be placed into a large paper bag and placed into a sturdy plastic container and if the specimen cannot be taken to the vet same day, stored in a refrigerator at 4°C. The specimen should be delivered to one of the two identified veterinarians in the LPMP within 48 hours. DoC should be notified of the death and delivery to vet. Final autopsy information should be forwarded to DoC.

9 References

DoC undated. Use of transponders to monitor yellow-eyed penguins: Updating best practice.

NZPI 2024. Kororā monitoring protocols. New Zealand Penguin Initiative. Version 5 April 2024. Website: www.nzpi.nz.

NZPI 2024. Penguin monitoring: health and safety awareness. New Zealand Penguin Initiative. Version 1 August 2024. Website: www.nzpi.nz.

NZPI 2024. Kororā/little penguins (*Eudyptula minor*) Avian Influenza. New Zealand Penguin Initiative. October 2024. Website: www.nzpi.nz.

Wasiak P 2020. Fieldwork procedures for working with little penguins. Phillip Island Nature Parks, Conservation Department. Issue 1, June 2020.

APPENDIX 3: SUMMARY OF COMMENTS RECEIVED ON SUBSTANTIVE APPLICATION

No.	Party/agency	Summary of Comments/Key issues raised	Relief sought
1	Minister for Climate Change	<ul style="list-style-type: none"> The project will support climate change mitigation, but not to a notable level. The project does not significantly support climate change adaptation, reduce risks arising from natural hazards or support recovery from events caused by natural hazards. 	<ul style="list-style-type: none"> Nil
2	Associate Minister of Transport	<ul style="list-style-type: none"> The application will support the Government's priorities for freight, economic growth, transport and tourism. The project is vital for growing the maritime economy, the ability to attract larger cruise ships and logistics vessels will benefit tourism and improve NZ's ability to export goods to the world. 	<ul style="list-style-type: none"> Nil
3	Minister for Crown Relations	<ul style="list-style-type: none"> Supports the application subject to any comments received from relevant Māori groups identified in the Section 18 report. 	<ul style="list-style-type: none"> Encourages the Expert Panel to receive comments from Ngāti Whatua o Kaipara.
4	Minister for Land Development	<ul style="list-style-type: none"> The application has no adverse implications for the Land Information portfolio. There is no affected LINZ-administered land and no substantive reason for the Minister for Land Information 	<ul style="list-style-type: none"> Nil
5	Auckland Conservation Board	<ul style="list-style-type: none"> Potential conservation impacts are most likely to occur during the construction phase, rather than in the long term. 	<ul style="list-style-type: none"> To maintain a minimal impact, there needs to be requirements and monitoring in place to

		<ul style="list-style-type: none"> • Therefore, based on the information currently available, it is expected that there will be relatively small impacts on wildlife and the environment, if all proposed amelioration management plans are fully implemented. • To maintain a minimal impact, there needs to be requirements and monitoring in place to ensure that all such environmental management plans are actually implemented – • The Proposal may result in some potential longer-term climate benefits, due to changes in ship visitation (fewer, larger vessels etc). • Based on the findings of the biological survey conducted by the applicant there appears to be low risk of immediate impacts on penguins. However, there exists a need for constant monitoring of the construction sites to determine if penguins do start nesting (or come ashore) in the vicinity. One point of concern is that the draft Little Penguin Management Plan (LPMP) does not appear to specify a sufficiently frequent expert inspection for the presence of penguins during construction and appears to rely merely on trained construction workers to observe penguins if present. This finalised LPMP (including identifying an acceptable alternate location to which any penguins can be moved) should be required to be approved by the relevant authority before the Proposal proceeds. 	<p>ensure that all proposed environmental management plans are actually implemented.</p> <ul style="list-style-type: none"> • For Little Penguins - all aspects of the Little Penguin Management Plan are finalised and approved by the Department of Conservation, including: <ul style="list-style-type: none"> - comprehensive inspection of the rock walls occurs immediately before the construction phase commences - more frequent inspection for presence of penguins during construction - if penguins are found, implementation of a construction pause, and authorised removal by qualified staff to an approved alternate location. • For marine mammals - Daily presence of marine mammal spotters in elevated positions to detect morning presence or daily encroachment of any marine mammals. • During piling, continual monitoring of specific exclusion zones: <ul style="list-style-type: none"> - Daily gradual increase in piling noise levels, to allow any marine mammals to move away from area before potentially damaging noise levels are experienced. - Cessation of piling activities if marine mammals come within exclusion zones - Where necessary, use of water bubble curtains to minimise noise transmission.
--	--	--	---

		<ul style="list-style-type: none"> • The Proposal appears to provide a good assessment of potential effects of land and sea noise on wildlife, specifically marine mammals. The provided Management Plan appears to include a good array of impact minimisation methods that are planned to be put in place and should sufficiently minimise risks to marine mammals. Overall, there is a reasonable chance that there will be minimal impacts on marine mammals, IF all minimisation methods are fully implemented, and marine mammal observers are always in place. • The Proposal appears to provide a suitable Marine Biosecurity management plan for the construction period. This Plan should adequately avoid the spread of unwanted/biosecurity risk species by construction vessels during construction, if all proposed actions are undertaken. • Based on data reported in the Proposal, water turbidity and contaminant effects should be relatively minimal during both the construction phase and after. 	<ul style="list-style-type: none"> • For Biosecurity - Strict adherence to the proposed Marine Biosecurity management plan in order to avoid the spread of unwanted/biosecurity risk species by construction vessels. • For Water Quality - implementation of proposed safeguards.
6	Auckland Council	<ul style="list-style-type: none"> • Council identifies two additional matters of consent that have not been identified by the Applicant: <ul style="list-style-type: none"> - Rule F2.19.10 (A139) Marine and Port facilities and buildings not on an existing wharf or existing coastal marine structures - Discretionary Activity 	<ul style="list-style-type: none"> • Principal Landscape Architect at Auckland Council recommends a condition in relation to 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

		<ul style="list-style-type: none"> - F2.19.10 (A142) hard protection structures - Discretionary Activity <p>A comprehensive analysis of relevant rules from the Auckland Unitary Plan is provided.</p> <ul style="list-style-type: none"> • An assessment from Auckland Council's Principal Landscape Architect is provided, along with recommended conditions. The assessment concludes that the proposal will overall have low to low-moderate adverse effects on the natural character, landscape and visual amenity values of the area. • An assessment from Auckland Council's Senior Coastal Specialist is provided which concludes that potential adverse effects on coastal/marine ecology including underwater noise effects from construction and sediment quality resulting from the proposed works would be less than minor, subject to adherence of good practice and the proposed conditions of consent (including suggested amendments). • An assessment is provided by Auckland Council Ecologist who concludes that the potential effects on avifauna within the works area have been adequately assessment by the POAL. • An assessment is provided by Auckland Council's Specialist in Stormwater and Industrial Trade Activities, who provides a fulsome assessment which ultimately concludes the proposed water quality treatment is 	<p>introduced to minimise visual impact on the landscape, natural character and visual amenity values. A further advice note is also recommended in relation to the reuse of the existing rock revetment along Bledisloe Wharf where possible, this could be in the construction of new structure, or elsewhere on site as barriers/ features.</p> <ul style="list-style-type: none"> • Council monitoring officer recommends updates to proposed Condition 5, 6(e) and 40-48. • The Panel should refer to the council's 'Consent Conditions Manual' for standard conditions which may be appropriate for this development. The Consent Conditions Manual can be accessed at the following URL: Resource consent conditions. To provide for future administration and monitoring, Council's reference numbers for this application are: BUN60445198- Council application reference (Bundled); LUC60445199- s9 Land use; CST60445200- s12 coastal permit; DIS60445270 – Discharge of contaminants from ITA; DIS60445249 – Discharge of Stormwater
--	--	--	--

		<p>appropriate in the context of the development and the anticipated contaminants, such that the effects of stormwater discharge to the receiving environment will be adequately avoided or suitably mitigated.</p> <ul style="list-style-type: none"> • An assessment is provided by Council's Senior Traffic Engineer, who notes a number of matters raised have now been responded to adequately by Beca and ultimately raises no concerns with the proposal from a traffic safety and generation perspective. • An assessment is provided by Auckland Council's Economist, who concludes that the proposal is likely to make a positive contribution to the regional and national economy and deliver a net benefit to society. • An assessment is provided Auckland Council Environmental Monitoring Specialist, who recommended updates to proposed Condition 5, 6(e) and 40-48. • Assessments are also provided by provided from Council's Senior Noise and Vibration Specialist, Air Quality Specialist, Land Contamination Specialist, Development Engineer, Water Care Services Limited, Council's Consultant specialists in Healthy Waters and Flood Resilience, Auckland Transport Principal Development Engineer and Auckland Council's Senior Parks Planner, none 	
--	--	---	--

		<p>of which raised concerns or sought specific actions.</p> <ul style="list-style-type: none"> The Waitemata Local Board (WLB) overall supports the proposed development. They recommended that POAL be obliged to mitigate the environmental impacts the construction and the project as a whole would have on the Hauraki Gulf. Notes that comments provided by the WLB have been responded to adequately by the POAL. 	
7	New Zealand Conservation Authority	<ul style="list-style-type: none"> Overview of the NZCA provided. NZCA outlines concerns about Treaty of Waitangi obligations, specifically in relation to Ngāti Whātua Ōrākei. Kororā (Little Penguin) is an At Risk: Declining taonga species protected by the Wildlife Act 1953. NZCA supports the Little Penguin Management Plan (LPMP), which: <ul style="list-style-type: none"> Avoids disturbing breeding and moulting penguins Uses non-invasive temporary marking (e.g. twink) Provides nest boxes and monitoring during construction 	<ul style="list-style-type: none"> The NZCA recommends that the Panel seek assurance that engagement with mana whenua was early, genuine, and culturally grounded and that the proposed project does not compromise, conflict with, or undermine any current Treaty settlements, redress mechanisms, or MACA interests. <p>Recommended conditions:</p> <ul style="list-style-type: none"> 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. 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

		<ul style="list-style-type: none"> • Application needs stronger alignment with NZCPS Policy 11 and NPS for Indigenous Biodiversity. • NZCA offers conditional support. 	<p>any temporary habitat loss is managed through the proposed nest box provisions.</p> <ul style="list-style-type: none"> • Minimisation of visual dominance of the proposed infrastructure when viewed from Queens Wharf, Quay Street, and the ferry terminal area • Incorporation of 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 • Require that the proposed works do not impede current or future opportunities for public engagement with the Waitematā Harbour. • Assess and report on potential effects on natural character and amenity as part of any landscape and visual impact assessment required by the Panel.
8	Ngāti Whātua Ōrākei	<ul style="list-style-type: none"> • Context and history provided for Ngāti Whātua Ōrākei. • Overview provided of Te Tōangaroa precinct adjacent to the project site. • Ngāti Whātua Ōrākei consider the significant environmental benefits claimed within the application be clearly articulated, with supporting detail that demonstrates how and where such benefits will be delivered and 	<ul style="list-style-type: none"> • The application should only be granted where it demonstrably provides a significant public benefit, significant environmental benefit, or preferably both. • That ahi-kā and tangata whenua status of Ngāti Whātua Ōrākei within the 'heartland' of our rohe is recognised and elevated within the decision-making processes of this application.

		<p>maintained for the full duration of the consent and options to enhance the public benefit of the proposal should be actively pursued.</p> <ul style="list-style-type: none"> • All development within Waitematā Kupenga Rau should deliver significant public benefit and net environmental gain. Opportunities to further improve environmental and public benefit should be further explored with Ngāti Whātua Ōrākei. • Comments provided in relation to consultation with correct iwi and hapū and the ahi-kā and tangata whenua status of Ngāti Whātua Ōrākei. • Ngāti Whātua Ōrākei anticipates being actively involved in preparing final management plans (including a long-term monitoring programme for the site), particularly in relation to traffic management. They also anticipate being involved in the review of these management plans, with reviews happening every three years. • Ngāti Whātua Ōrākei is unclear following a review of the provided documentation, what the cumulative effects of increased vessel size and frequency within Waitematā Kupenga Rau will be. These effects must be further assessed in order to make a well-informed and responsible decision on the Proposal. • Where mitigation of effects cannot be achieved within the development site, Ngāti Whātua 	<ul style="list-style-type: none"> • That only “appropriate” and correct iwi and hapū are considered to be relevant iwi authorities under section 53(2)(b). • The assessment and management of transportation effects associated with the cruise terminal must give appropriate regard to the aspirations of Te Tōangaroa. • Investment must be provided into the surrounding pedestrian, cycling, and roading network should be provided by POAL to accommodate the increased movements. • Captain Cook and Marsden Wharves should be fit-for-purpose prior to their transfer to Te Kaunihera. • Final Management plans (including long-term environmental monitoring of the site) are developed and reviewed in partnership with Ngāti Whātua Ōrākei. • Consent durations should be reduced to 10-year terms.
--	--	--	---

		<p>Ōrākei anticipates environmental offsetting and improvement for a project of this nature and scale. The expectation is that offsetting must address the full suite of adverse effects arising from the Application and not only be applied where a positive environment is being degraded but additionally to improve the mauri of Waitematā Kupenga Rau.</p>	
9	<p>Te Whakakitenga o Waikato on behalf of Waikato-Tainui</p>	<ul style="list-style-type: none"> • Background to Waikato-Tainui provided. • Overview provided of outstanding and remaining Waikato-Tainui Treaty of Waitangi claims. • As the application stands, it does not appear to meaningfully consider the cultural, historical, or ongoing relationships that tangata whenua have with the Waitemataa, which is a taonga, and its surrounding environment, • There remains an imbalance in how cultural and ecological values are weighed against the demands of infrastructure and growth. • Engagement does not appear to have occurred at a level that reflects this significance or recognises the role of iwi in shaping decisions that affect their rohe. Without active cultural monitoring or meaningful mana whenua involvement in water quality management, the proposal fails to uphold its obligations to 	<ul style="list-style-type: none"> • Waikato-Tainui recommends that the application be declined in its current form. • If the application is not declined outright, it is recommended that it be deferred or suspended until the following are completed: <ul style="list-style-type: none"> a) Full compliance with any conditions or recommendations arising from Cultural Impact Assessments (CIAs) submitted by relevant iwi and hapuu, with these to be fully integrated into the planning and decision-making process. b) A tikanga-based monitoring and mitigation framework for both construction and long-term operations c) Revision of ecological assessments to incorporate marine-specific dynamics, cumulative effects, and maatauranga Māori. • Waikato-Tainui urges the Panel to withhold any decision until Cultural Impact Assessments from relevant marae, hapu and iwi have been completed and meaningfully considered.

		<p>tangata whenua or recognise the full extent of its environmental and cultural impacts.</p> <ul style="list-style-type: none"> • The proposal presents risks to species and habitats of cultural and ecological importance, as identified in several application assessment documents. It does not fully meet the requirements of relevant environmental legislation and policy. • The affected harbour areas—particularly Significant Ecological Areas—support key foraging, nesting, and migration functions. It is our assessment that these impacts have not been avoided, adequately mitigated, or properly assessed in partnership with appropriate iwi environmental and cultural representatives. Dredging and port operations in these areas will disturb the seabed, resuspend legacy contaminants, and damage benthic ecosystems. • Port-related activities continue to generate significant revenue, yet there is no clear reinvestment into the restoration or protection of the harbour environment. This disparity underscores a broader failure to prioritise the health of the harbour in decision-making. • Potential effects must be considered in the context of existing water quality pressures, not in isolation. 	
--	--	--	--

		<ul style="list-style-type: none"> Legacy contaminants in sediment at the proposed dredging and construction sites pose clear ecological and cultural risks. Disturbing these sediments during construction could release harmful substances into the water column. 	
10	Ngāti Pāoa Iwi Trust	<ul style="list-style-type: none"> Ngāti Pāoa Iwi Trust neither expressly supports nor opposes this project. The primary concern of Ngāti Pāoa Iwi Trust is that potential settlement redress options may be unintentionally foreclosed by the project. We consider this can be mitigated to an extent by the Panel turning their minds to this matter when drafting any conditions and considering whether the conditions could have an impact on foreclosing future settlement opportunities. Ngāti Pāoa acknowledges that such caveats on conditions would provide some short-term uncertainty for the Port, but they would help alleviate concerns and uphold the Crown's commitments that the Waitematā settlement negotiations will be conducted in good faith. Ultimately, the Treaty settlement will help provide long-term certainty for all involved, including the Port, so it could be considered to be a temporal trade-off. Ngāti Pāoa has been engaging with Eke Panuku (Auckland Council) on the Central Wharves Project relies on this Fast-track application for the Bledisloe North Wharf and Fergusson North 	<ul style="list-style-type: none"> Nil

		<p>extension to be approved. Through the Central Wharves Project Ngāti Pāoa we consider there are potential positive opportunities for Ngāti Pāoa, other iwi, the community and the environment. It is requested that the Panel will give consideration to these broader positive opportunities.</p> <ul style="list-style-type: none"> • The health of Te Waitematā is of vital importance to the health of Ngāti Pāoa. It is requested that the Panel give consideration to any potential negative environmental effects of the project and how they can best be avoided, or if not, mitigated to the maximum extent possible. Ngāti Pāoa as that offset mitigations be considered, where if there are effects that can't be mitigated at the place they are occurring that restoration is provided in other areas of Te Waitematā of an ideally greater, but at least equivalent, magnitude so that the overall health of the harbour isn't worsened as a result of the project. 	
11	McCallum Bros. Ltd	<ul style="list-style-type: none"> • McCallum Bros. Ltd supports this Fast Track Application in its entirety. 	<ul style="list-style-type: none"> • Nil
12	Department of Conservation	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • The Department wishes to review draft conditions.

		<ul style="list-style-type: none"> • The Department feels that the application is generally consistent with the NZCPS. • The Department's view is that application is also consistent with the HGMPA. • The Department considers the application consistent with the Auckland CMS. • 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. • 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. The Department's technical staff consider POAL have evaluated the likely impacts on marine mammals in an appropriate manner. POAL have used the appropriate criteria and are using up to date USA standards (NOAA 2024). • There may be scope for further improvement in the conditions. Clarification around some of the biosecurity management measures would be prudent to ensure that management plans and 	
--	--	---	--

		<p>conditions appropriately avoid, remedy or mitigate these risks.</p> <ul style="list-style-type: none"> • 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. • The Department received correspondence from Ngaati Te Ata Waiohau on the application on 23/06/2025 and Attached this correspondence. • Any conditions in relation to the resource consent should be consistent with the conditions adopted in relation to the wildlife approval. 	
13	Minister for Ocean and Fisheries	<p>Late comments</p> <ul style="list-style-type: none"> • Supports the application and notes substantive economic benefits. 	<ul style="list-style-type: none"> • Nil
14	Minister for Tourism and Hospitality	<p>Late comments</p> <ul style="list-style-type: none"> • Supports the application and notes substantive benefits for cruise ship tourism/economy. 	<ul style="list-style-type: none"> • Nil

APPENDIX 4: SUMMARY OF COMMENTS RECEIVED ON CONDITIONS FOR RMA APPROVALS

No.	Party/agency	Summary of Comments/Key issues raised in Resource Consent Conditions
1	(Port of Auckland Limited)	Bledisloe Wharf Consent Conditions
		<p>The words "Mana Whenua" in Condition 16(d) are shown as having been struck out but haven't been deleted from the document.</p> <p>Disagrees with Condition 46(a) requiring details of how the Traffic Management Plan achieves the objectives of the Construction Traffic Management Plan. The TMP and CTMP are standalone documents with the TMP an operational management plan rather than addressing construction management matters.</p> <p>Condition 56(b) of the Industrial Trade Activity consent includes an erroneous reference to the Fergusson Wharf consent.</p>
		Fergusson Berth Consent Conditions
		<p>The words "Mana Whenua" in Condition 16(d) are shown as having been struck out but haven't been deleted from the document.</p> <p>Condition 38(a) of the Fergusson Berth Industrial Trade Activity consent includes an erroneous reference to the Bledisloe North Wharf consent.</p>
2	Minister for Crown Relations: Te Arawhiti and Minister for Māori Development	Minister Potaka has made no comments on the conditions.
3	Auckland Conservation Board	No issues.
4	Department of Conservation	No issues.

No.	Party/agency	Summary of Comments/Key issues raised in Resource Consent Conditions
5	Auckland Council	General Comments on both draft condition sets (Bledisloe Wharf and Fergusson Berth)
		<p>The various consents could helpfully list the Council's application numbers application.</p> <p>Because there is duplication of many conditions for Bledisloe Wharf and Fergusson Berth, sequential numbering would assist.</p> <p>The conditions should reference "the Council" not specific roles/titles.</p> <p>Condition 1 in both sets of conditions should require activities to be undertaken "in accordance with" the Application documents and the word "generally" should be deleted.</p> <p>Condition 16 in both sets of conditions should include reference to "any other structures (if any)".</p> <p>Condition 25 in both sets of conditions should include reference to <u>underwater</u> noise from construction activities and add reference to kororā (in addition to marine mammals).</p> <p>Reference to "stormwater management" in the ITA consents is now referred to "structural controls" by the Council and the conditions should reflect this terminology.</p> <p>The discharge-related conditions for both sets of ITA conditions should require the designs of the treatment devices to be certified by council prior to implementation.</p> <p>The conditions should require to a pre-start meeting to be held prior to commencement of the construction of stormwater management devices.</p>
		Bledisloe Wharf Consent Conditions
		The advice notice following Condition 18 would be better located following Condition 9.

No.	Party/agency	Summary of Comments/Key issues raised in Resource Consent Conditions
		<p>Condition 36 should refer to a specific timeframe – e.g. 48 hours, rather than to a “short duration”..</p> <p>The results of bathymetric surveys (Condition 39(b)) be submitted to council within 30 working days of completion.</p> <p>Additional detail should be included in the Traffic Management Plan to ensure that it is in place for cruise ship embarking and disembarking.</p> <p>Conditions 46(e) and 47(g) should be amended to ensure that appropriate space is provide on-site for the pedestrian wait area in order to avoid obstructions on the footpath.</p> <p>Condition 47(i) should include reference to public transport options.</p> <p>A new Condition 48 should be included that requires monitoring of the effectiveness of the TMP and for the TMP to be reviewed if its objectives are not being met.</p> <p>Auckland Council has suggested some amendments to conditions relating to “As-Built” plans of the stormwater management devices.</p> <p>Amendments should be made to Condition 65 so as to state the objectives of the Environmental Management Plan: Stormwater.</p> <p>Condition 65(a) could be improved by requiring the locations of specific activities to be specified and Condition 65(c) should include greater detail about emergency spill response.</p>
		<p>Fergusson Berth Consent Conditions</p> <p>Condition 25 should require marine mammal and Kororā observations to be undertaken from the water.</p>

No.	Party/agency	Summary of Comments/Key issues raised in Resource Consent Conditions
		Because the stormwater treatment device has already been installed at Fergusson Berth that the Post-Construction Meetings Conditions and Certification of Construction Works (Conditions 39-41) may not be necessary.

APPENDIX 5: SUMMARY OF COMMENTS RECEIVED ON CONDITIONS OF WILDLIFE APPROVAL

No.	Party/agency	Summary of Comments/Key issues raised in Wildlife Approval Conditions
1	Applicant (Port of Auckland Limited)	<p>Reference to “detection” of Kororā should be deleted from Condition 1.5(b).</p> <p>Condition 1.5(f) includes “relocation sites” plural instead of singular.</p> <p>Condition 1.5(i) includes the words “monitoring or” where comments received by DoC on the methods within the LPMP are limited to reporting and surveying.</p> <p>The applicant has provided a final version of the Little Penguin Management Plan as requested by the Expert Panel in para. 5 of Minute 5.</p>
2	Auckland Conservation Board	No issues.
3	Department of Conservation	No issues.

**APPENDIX 6: APPLICANT RESPONSE TO AUCKLAND COUNCIL COMMENTS ON
RESOURCE CONSENT CONDITIONS**

(REPRODUCED IN FULL)

	Comments on Draft Condition	POAL 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> <p style="padding-left: 40px;"><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>	<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	POAL Response to Comments
	Bledisloe Wharf	
	General conditions applicable to all consents	
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
	Coastal permit	
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 'short duration'.

	Comments on Draft Condition	POAL Response to Comments
		<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>
	Land use consent	
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

	Comments on Draft Condition	POAL Response to Comments
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>

	Comments on Draft Condition	POAL Response to Comments
		(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.</p> <p>Thereafter, additional monitoring of the effectiveness of the TMP must be undertaken at the request of the Council, <u>where Council has identified a specific</u></p>

	Comments on Draft Condition	POAL Response to Comments
		<u>concern regarding the effectiveness of the TMP,</u> at a frequency of no less than once every 12 month period.
	Industrial and Trade Activity consent	
	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	POAL Response to Comments
	Fergusson Wharf	
	General conditions applicable to all consents	
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>
	Coastal permit	
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>

	Comments on Draft Condition	POAL Response to Comments
		<p>Removing the land-based reference and instead noting only that "water-based observations are preferred," complicates the observation process.</p>
	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>

	Comments on Draft Condition	POAL Response to Comments
		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.

BLDISLOE NORTH WHARF CONDITION 37 – ECOLOGICAL ENHANCEMENT

Following initial feedback on the draft conditions, POAL has identified that alternatives to attaching 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 Bledisloe North Wharf and the Fergusson North Berth consents are appended to the conditions of consent at **Attachment 2**.