

**Resource Consent Applications**  
**Eastern Bays Shared Pathway**  
**WGN190301 & RM190194**

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### **Minute 3 of Hearing Panel**

1. The purpose of this Minute is to request clarifications from the Applicant in response to matters arising from the Right-of-Reply and its associated appendices that were issued on 22 January 2021. This Minute is provided to all parties for their information but requires no action by any party other than the Applicant.
2. The Commissioners first note that we undertook a second site visit on 27 January 2021 and reviewed the Right-of-Reply on that same day. Before we make a determination whether we have sufficient information to close the hearing and to undertake our deliberations and prepare a written decision, we wish to receive responses to the questions raised by the Hearing Panel in this Minute as soon as possible, but no later than the end of Friday 5 February 2021.
3. Assuming that we are satisfied by the responses, we will then close the Hearing, undertake our deliberations, and release a decision report no later than 15 working days after the official close of the Hearing.
4. The Commissioners also note that, although this Minute refers to recommended consent conditions, it does not reflect a pre-judgment that consent will be granted.

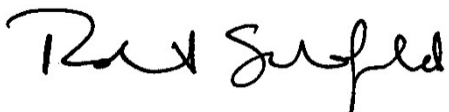
### **Questions in Relation to the Right-of-Reply**

5. Each of the following questions should be responded to individually. In any particular case, if the Applicant chooses not to provide the information we seek, then a reason for either not responding (or providing an alternative response) must be given. All responses will be a matter of record and posted to the application website.
6. Cross jurisdictional liaison: For the sake of clarity, the Commissioners consider there would be value in a condition(s) directing the consent authorities' agreement on processes and the split of responsibilities related to certification, monitoring, and enforcement. A condition(s) requiring these matters to be agreed at the outset of the project would help avoid unnecessary delays and duplication of effort in the implementation of the consents. Could the applicant please provide some recommended wording?
7. Recommended Condition GC.5 (Management Plan Approval Process): The Commissioners are unclear about whether the recommended Management Plan approval process is intended to be fully applied to other plans which are not specifically identified as management plans: in particular, the Bird Protection Plan, the Beach Nourishment Plan, the Landscape and Urban Design Plan and Bay Specific Landscape and Urban Design Plans. All of the recommended conditions for these plans refer to meeting the requirements of Condition GC.5. Could the applicant please provide clarification?

8. Recommended Condition GC.15 (Infrastructure): Please advise whether an agreement has been reached with CentrePort. We also note that we lack the authority to impose a condition which relies on the agreement of a third party. Please propose rewording to avoid that issue.
9. Recommended Condition GC.7 (CEMP): Please provide recommended wording that requires the CEMP to include procedures for seagrass monitoring and management.
10. Recommended Condition GC.8 (CEMP): Please provide recommended wording that requires the CEMP to incorporate or refer to a Monitoring Plan. The Commissioners envisage that such a plan would primarily cover ecology matters, but it could also be useful for matters such as noise and construction traffic monitoring. Please also provide a separate new condition(s) that addresses the purpose and content of a Monitoring Plan.
11. Recommended Condition C.1 (Engineering plans): This recommended condition would require the consent holder to provide all engineering plans prior to commencement of construction. Because plans will be developed on a bay-by-bay basis over a period of some years, we assume it would be unnecessary and unworkable to provide all of the engineering design plans prior to project commencement. Can the applicant please confirm whether a staged submission of engineering plans is intended, and if so, provide alternative recommended wording for this condition? This clarification question also applies to recommended condition GC.5(d).
12. Recommended condition C.8 (CMA footprint): Should the term “within the MHWS” be better phrased as “below MHWS”?
13. Recommended Bird Protection Plan conditions (EM.1 to EM.9): We understand these conditions are an amalgam of previously recommended conditions. The tracked version of changes to these conditions is not well suited to our deliberations. We wish to receive a tracked version which clearly shows where the wording from the previously recommended conditions is unchanged, where there is recommended new wording, and where wording is proposed to be deleted. We appreciate that this may be difficult to provide, so are open to alternative ways to clarify the evolution of these conditions.
14. Recommended Condition EM.11 (Seagrass): EM.11(c) and EM.11(e) appear to require revision to ensure that, together, the management of potential effects before, during, and after construction is seamlessly covered. In particular, we are concerned that the process described in EM.11(e) would not facilitate a rapid response if it becomes apparent that adverse effects are occurring during the construction process. Without limiting other potential responses, we consider that regular monitoring during the construction process and the ability for an immediate ‘stop work’ notice to be issued (on ecological advice) should be a component of the process. We are concerned that, as currently written, there could be a significant lag between the identification of effects and actions taken to avoid or minimise those effects within this sensitive environment. If necessary, can the applicant please provide amended wording to address this matter?
15. Recommended Condition EM.14 (Beach nourishment): For clarity, please review and revise or clarify the percentages and types of material referred to in EM.14(f) as the percentages do not sum to 100%.
16. Recommended Condition EM.19 (Seawall and Revetment Habitat Plan): Should the SRHP have a purpose statement to be consistent with the other plans ?
17. Recommended conditions LV.1 and LV.2 (the purpose of the LDUP): In his response to Minute 2, Hutt City’s reporting planner Mr Kellow stated that, in his opinion, “the TLRC is certifying the process established by the LV conditions rather than the design”. He further noted that “it is considered reasonable to adopt the position of certifying the process rather than the detailed design because of the wide range of matters addressed by the conditions”. However, the way the recommended LV conditions are framed, it is not clear as to the purpose of the certification in LV.1. It could be read that the LUDP

(and BSLUDPs) are to be certified with regard to whether they meet the purpose outlined in recommended condition LV.2, which includes the design of the Project. Could the applicant please clarify and, if necessary, provide some recommended rewording?

18. Recommended condition LV.4 (LUDP Outcomes): While it is recommended to remove the requirement to follow a general hierarchy to resolve any conflict between outcomes in developed design plans, the new requirement in the first part of LV.4(b) would appear to reintroduce the use of a hierarchy. The Commissioners question whether this clause would be better worded by commencing clause (b) with “The resolution of any conflict between the environmental effects in (a) should be considered according to the significance (if any) of their values.... etc”?
19. Recommended condition LV.7 (Details contained within a BSLUDP): The Commissioners question whether a new “wrap-up” matter should be added to the list in this condition, referring to any other matter that would achieve the specific outcomes in condition LV.2?
20. Bird Protection Map 3 (Bishops Park): Please explain the ways in which the “potential *revegetation* area” differs from the “proposed *protection* area”; the circumstances in which the potential revegetation area would be given effect to; whether any of the proposed conditions in EM.6D would apply; and / or the nature of the conditions which would apply to that area.



**Robert Schofield**

Chair, Hearing Panel