

File No: WGN190301 & RM190124
29 May 2019

Hutt City Council
C/- Stantec
PO Box 13-052
Armagh, Christchurch

For: Caroline van Halderen (via email caroline.vanhalderen@stantec.com)

Dear Caroline

Thank you for your application to conduct works associated with the construction of a 4.4km shared path along Marine Drive in Hutt City's Eastern Bays. As you are aware, the application is being processed as a joint application. Therefore the matters which fall for consideration under the jurisdiction of both Hutt City Council (consents) and Greater Wellington Regional Council (GWRC) are being assessed by the respective regulatory planning teams concurrently. Accordingly, please find below the requests for further information under section 92(1) from both GWRC and HCC (consents) and an additional request for affected party approval under s95E from GWRC.

(WGN190301) GWRC matters – Shannon Watson, Resource Advisor

Thank you for your application to conduct works associated with the construction of a 4.4km shared path along Marine Drive in Hutt City's Eastern Bays, which we received on Wednesday 17 April 2019, the application was formally received once payment had been received on Wednesday 15 May 2019. With support from technical experts I have reviewed your application and the supporting information; however, there are a few areas of your proposal that require clarification. Affected party approval for your proposal is also recommended. I have highlighted these areas below:

Resource consent application: further information request under section 92(1) and affected party approval under section 95E of the Resource Management Act 1991

<i>Applicant:</i>	<i>Hutt City Council</i>
<i>Proposal:</i>	<i>Eastern Bays Shared Path (cycleway/walkway)</i>
<i>Location:</i>	<i>Hutt City Eastern Bays (Point Howard, Sorrento Bay, Lowry Bay, York Bay, Mahina Bay, Sunshine Bay Windy Point)</i>

Resource consents required: *Coastal permits and land use consents associated with the construction and operation of a 4.4km shared path along Marine Drive in the Eastern Bays.*

Information requested (Section 92(1))

I require further information on your application so that I can better understand the effects of your proposal, its effects on the environment and how any adverse effects on the environment might be avoided, remedied or mitigated.

Terrestrial ecology and avifauna

In respect of effects on terrestrial ecology and avifauna including little penguins and lizards, the application has been reviewed by Dr Roger Uys, Senior Environmental Scientist, GWRC. Dr Uys makes the following comments:

Beach/coastal habitat

- The report only identifies one threatened ecosystem, the gravel beach as defined by Holdaway, Wisser and Williams (2012). This ecosystem does not appear in more recent classifications of rare and naturally uncommon ecosystems in New Zealand (Wisser et al 2013); having been subsumed into the category of shingle beaches which have been assessed to be Threatened: Nationally Endangered (Ministry for the Environment and Stats NZ 2015). This carries the same threat status as gravel beaches, so the difference in naming is semantic, but worth noting. More importantly, for the shingle beaches in the Shared Path Project area to be considered threatened ecosystems they need to support communities of plants and animals adapted to that habitat. The assessment does not outline the composition of these ecosystems, other than to note a “predominance of introduced species”. This is not atypical of coastal environments but does not tell us whether the shingle beaches in the project area should be considered as Threatened. A species inventory is needed for this purpose.*
 - Please provide a species inventory or additional supporting information to allow GWRC to determine what species are found within the project footprint and whether any of these locations should be considered “Threatened Ecosystems”.*

Avifauna

- Based on the species listed in the assessment, there are three broad feeding guilds of birds in the project area: (1) the offshore fishers (e.g. shearwaters and terns), (2) the inshore fishers (e.g. shags) and (3) the shoreline foragers (e.g. gulls and oystercatchers). Impacts on the first two groups are likely to be temporary, but the impacts on the shoreline foragers may result in a permanent reduction in habitat. While there appear to be few birds nesting in the project area, there are important shoreline foraging grounds that may be lost. The report details the numbers of birds, but this data is quite old in some cases, and does not provide a complete picture of the populations through the year. The current number of birds also does not reflect the potential of*

the habitat that may be lost. What is needed is an assessment of the current extent of shoreline foraging habitat and the amount of habitat that will be lost to the development. This loss may then be mitigated or offset by excluding dogs and pest animals to create the equivalent extent of suitable habitat further south.

- (a) Please map the current feeding/foraging habitat for shoreline foragers within the current project area and quantify what percentage of this habitat will be lost as a result of the Shared Path Project.***
- (b) Once the percentage of habitat loss has been confirmed please provide an appropriate effects management package to confirm how the applicant intends to avoid, remedy, mitigate and/or offset the effects of habitat loss on shoreline foragers in accordance with the full effects management hierarchy, as required by Policies P32 and P41 (and Schedule G) of the PNRP. In particular, please break down the effects management package for shoreline foragers into the relevant categories (avoid, remedy, mitigate) and describe which measures/actions have been taken to:***
 - i. avoid significant coastal habitats for birds (Schedule F2 areas); then***
 - ii. avoid more than minor adverse effects on shoreline foragers; then***
 - iii. remedy any more than minor adverse effects on shoreline foragers; then***
 - iv. mitigate any more than minor adverse effects on shoreline foragers; then***
 - v. offset any residual effects on shoreline foragers***

Only once the effects management hierarchy has been followed and all other avenues exhausted is it appropriate to offer an offset to address the residual adverse effects on shoreline foragers.

Herpetofauna

- 3. *There has been no assessment of effects on herpetofauna (lizards) included within the application documents. The recent Cobham Drive Cycleway development across the harbour, which has similar habitat features as those present within the project footprint, unexpectedly displaced a large population of northern grass skink (*Oligosoma polychroma*). There is reason to believe this species, along with copper skink (*Oligosoma aeneum*) and common gecko (*Hoplodactylus maculatus*) may be present in the project area.*
 - (a) Please engage a suitably qualified herpetofauna expert to undertake an initial assessment to see if lizards/skinks/geckos are present within the project area.***
 - (b) If herpetofauna are confirmed to be present within the project area, please identify how the effects of the proposal on herpetofauna will be appropriately avoided, remedied, mitigated and/or offset.***

Little Penguins

4. *The application indicates that the works stand to impact more than 100 little penguins (based on the estimate of 50-60 penguin pairs in the project area, not accounting for the juveniles and singletons) which is a significant portion (12-14 percent) of the known population in the Wellington Harbour. The Vegetation and Avifauna Assessment claims that the 24 nesting sites within 50m of the project area is a small impact, however Dr Uys comments that the emerging standard (as advised by the Department of Conservation – e.g. in response to a development application on the Kaiwharawhara Spit) is to consider effects within 100m of nesting shorebirds. Taking into account the comments of Dr Uys I consider there is a need for the project to consider effects on penguins more holistically. Where the project is restricting or changing the location of access (or form of access) to known nesting sites this is an effect and needs to be considered and addressed. Conversely, design features which increase penguin accessibility are also associated with adverse effects as this increased access will result in additional human/penguin interaction and exacerbate the risk of harm to little penguins.*
 - ***Please provide an assessment of the actual and potential effects on little penguins in accordance with the emerging DoC standard.***

5. *The works are set to result in a net loss of 440m of accessible coastline (520m lost minus 80m gained). This translates into a 35 percent reduction in accessible coastline (from 34 percent to 22 percent) across the project area (interpreted from section 8.2.6 of the Assessment of Effects on Coastal Vegetation and Avifauna). It is not clear how much of this will be, or could be, mitigated by the addition of landing structures or other mechanisms to allow penguins to come ashore. It is also noted that landing structures (or other mechanisms) would only serve to maintain the human/wildlife conflict situation that exists around the eastern bays which has resulted in at least 20 little penguin mortalities between mid-2015 and mid-2018 (section 8.2.3). In addition, the continued use of stormwater infrastructure for access to nesting areas on residential properties is inappropriate and should not be maintained or encouraged by the Shared Path Project design. Based on the information presented in the application, Dr Uys considers that the Shared Path Project will have a more than minor impact on the little penguin population and that the mitigation and offsetting measures provided are not appropriate. Dr Uys recommends that effects on penguins should be offset by providing equivalent, appropriate habitat along the seaward edges of the Eastern Bays coastline for little penguins to nest and roost safe from humans, dogs, cars, pest animals and sea level rise.*
 - ***Please carry out an evaluation of the effects of the proposal on little penguins and how these effects are intended to be managed in accordance with the full effects management hierarchy, as required by Policies P32 and P41 (and Schedule G) of the PNRP. In particular, please break down the effects management package for little penguins into the relevant categories (avoid, remedy, mitigate) and describe which measures/actions have been taken to:***
 - i. avoid significant coastal habitats for birds (Schedule F2 areas); then***
 - ii. avoid more than minor adverse effects on little penguins; then***

- iii. remedy any more than minor adverse effects on little penguins; then*
- iv. mitigate any more than minor adverse effects on little penguins; then*
- v. offset any residual effects on little penguins*

Only once the effects management hierarchy has been followed and all other avenues exhausted is it appropriate to offer an offset to address the residual adverse effects on little penguins.

Note: Dr Uys recommends opportunities to reduce the human/wildlife conflict within the eastern bays should be explored and built into the design wherever practicable. Dr Uys makes specific mention to rocky headlands and comments that if public access is excluded these areas could become penguin refugia that are safe from people and dogs. Wooden nest boxes or pre-cast (3D printing) penguin nests placed amongst rocks and vegetation are other options which would likely reduce the risks of penguins coming into contact with humans, dogs and traffic.

Sea mammals

6. *It is not clear whether effects of the proposal on sea mammals (particularly seals) have been considered. The project design has the potential to increase the ability for seals to access the road, increasing the wildlife/human conflict in the Eastern Bays.*
- ***Please confirm how the project design will ensure that the likelihood of sea mammals accessing the road is not increased.***

Pest and rodent control

7. *Has consideration been given to the management of pest animals? The project may increase the accessibility of rodents to sensitive foreshore environments. The additional presence of rodents has the potential to adversely affect these sensitive ecosystems through providing additional competition for food sources and direct effects on bird populations.*
- ***Please confirm how the project design and construction methodology will ensure that the presence of rodents and other pest animals does not adversely affect sensitive coastal ecosystems and coastal bird populations***

Marine (sub and intertidal ecology)

In respect of marine (intertidal and subtidal) ecology, the application has been reviewed by Dr Megan Oliver, Team Leader, Aquatic Ecosystem and Quality, GWRC. Dr Oliver comments:

Seagrass

8. *As noted in the reports, the three occurrences of seagrass in Lowry Bay represent the last of this habitat type in Wellington Harbour. And in fact, outside of Porirua Harbour, Dr Oliver is not aware of any other seagrass meadows left in the region. As such, these highly valuable, biogenic habitats are under threat of local extinction from smothering and erosion resulting from the*

Shared Path Project. Seagrass has a threat status of “At Risk-Declining” and is listed as a habitat with significant indigenous biodiversity values in the coastal marine area in Schedule F5 of the Proposed Natural Resources Plan (PNRP) for the Wellington Region. As such, the PNRP directs (P42) these habitats to be protected and restored, for ecological connections to be maintained between fragmented habitats, to provide adequate buffers and to avoid cumulative adverse effects and incremental loss. Dr Oliver concludes that the mitigation measures outlined in the application are not sufficient to protect or restore the seagrass. Therefore, it is expected that given their regional significance, any effects of the proposal on seagrass are likely to be more than minor. Dr Oliver would like to see further consideration given to monitoring and mitigating the impact of sedimentation and changes in hydrodynamics on these sea grass meadows.

(a) Please carry out an evaluation of the effects of the proposal on seagrass and how these effects are intended to be managed in accordance with the full effects management hierarchy, as required by Policies P32 and P41 (and Schedule G) of the PNRP. In particular, please break down the effects management package for seagrass into the relevant categories (avoid, remedy, mitigate) and describe which measures/actions have been taken to:

- i. avoid seagrass habitat (Schedule F5 areas); then***
- ii. avoid more than minor adverse effects on seagrass habitat; then***
- iii. remedy any more than minor adverse effects on seagrass habitat; then***
- iv. mitigate any more than minor adverse effects on seagrass habitat; then***
- v. offset any residual effects on seagrass habitat***

Only once the effects management hierarchy has been followed and all other avenues exhausted is it appropriate to offer an offset to address the residual adverse effects on seagrass habitat.

(b) Please confirm the extent of encroachment on any seagrass habitat as a result of beach re-nourishment at Lowry Bay.

Note: Given the regional significance and ecological value of the seagrass ecosystem (being the last in Wellington Harbour) any encroachment on seagrass habitat is not considered acceptable to GWRC.

Landscape and Visual Amenity

In respect of landscape and visual amenity (including natural and coastal character) effects, the application has been assessed by Jeremy Head, consultant landscape and visual amenity expert, WSP Opus on behalf of GWRC.

- 9. Mr Head is generally satisfied with the methodology used and the conclusions reached by Ms Julia Williams in the Landscape and Visual Assessment (LVA), however would like to see certain policies of the New Zealand Coastal Policy Statement (NZCPS) which have been omitted from the LVA addressed by Ms Williams.***

- *Please revise the LVA to include an assessment of Policy 6, Policy 10 and Policy 18 of the NZCPS.*

Freshwater Fish

In respect of effects on freshwater fish, the application has been assessed by Dr Evan Harrison, Senior Freshwater Scientist, GWRC.

10. *The Freshwater Fish Passage report identifies three species that are confirmed, or are likely to be present via a desktop survey and a visual assessment. However, Dr Harrison comments that records on the freshwater fish data base suggest that the streams do support quite a diversity of species (7 species in total). Dr Harrison confirms there is a gap in the knowledge in terms of a fish survey (the report identified this). However, based on what we know from other smaller flowing stream flowing into the harbour the most likely fish to be present are banded kokopu, eels and koaro.*

- *Please confirm if a freshwater fish prediction model has been used to inform the likely presence/absence of fish species in the effected streams. If so, please confirm what prediction model has been used.*

Recreation and public open space

In respect of recreational amenity and public safety effects the application has been assessed by Catherine Hamilton, consultant recreation expert, WSP Opus, on behalf of GWRC.

Path width and health and safety effects

11. *Ms Hamilton comments that she does not agree that 2.5m is an acceptable width in this physical setting for reasons of safety and comfort. This is because the path is tightly constrained between a busy road with poor sight lines, and a drop off into the coastal marine area. Ms Hamilton states the minimum width should, in her view, be 3.5m along the entire length of the path. In addition, there was concern the proposed transitions from 3.5m to 2.5m often occur abruptly and/or on tight bends, further compounding issues of safety and comfort. Of greatest concern is the length of 2.5m sections (>150m) given National Standards recommend no more than 10m long sections at this width.*

In addition, although the Greenaway Assessment states that 3.5m wide is the preferred width, it does not discuss the implications of going below the accepted level of service (LOS) by reducing the path to 2.5m, nor does it provide any mitigation measures or other alternatives which have been, or could be, considered. Ms Hamilton comments that the 2.5m wide examples are not, in her opinion, applicable where there are constraints on both sides such is the case for this project (i.e. active land and drop off into CMA). The Assessment of Alternatives report argues that 2.5m is a compromise in order to protect coastal marine values relating to resilience, protecting infrastructure, and managing coastal values in the face of climate change and sea level rise. From a recreation point of view, it is not clear that this compromise results in an acceptable recreation

or safety solution. Ecological values are also not a relevant matter for consideration under a recreation assessment.

- (a) Please confirm whether the increase in usable space (afforded by the shared path) as a result of new and replacement seawalls (and rock revetment) forms part of the effects management package to remedy, mitigate or offset the loss of beach space (and associated recreational amenity) for the project as a whole or only applies as an effects management response to specific locations.***
- (b) If only applicable to certain beaches please confirm what beaches the effects management package applies to.***
- (c) (In respect of P133 of the PNRP) Please provide further information including case studies and commentary on 2.5m wide pathways with similar constraints to the Eastern Bays shared path, to allow GWRC experts to more accurately examine the likely impacts on user safety and comfort. Any consideration of ecological effects in drawing conclusions on recreation impacts should be excluded from this assessment.***
- (d) Please confirm what recreational opportunities the proposed design provides and breakdown how the proposed design avoids, remedies and mitigates user conflicts and safety issues.***

Refuge/pause points

12. *The application makes no comment about the lack of refuge/pause points built into the design. Ms Hamilton notes that refuges/pause areas are provided only where existing widened areas are available along the route. It is considered best practice to provide regular refuges at frequent intervals to allow multi-modal users, some of whom will be slow and frail, to take regular breaks outside of the line of movement. Refuges also provide for gathering and enjoyment of the coastal setting enhancing the user experience and increasing recreational amenity values.*
- (in respect of P133 and P134 of the PNRP) Please confirm whether refuges/pause points are part of the effects management package to remedy, mitigate or offset the loss of public open space such as beach space (and the associated recreational and visual amenity values). If part of the effects management package please provide further information on planned refuges and their distribution along the shared path.***

Crowding and busyness

13. *The report does not comment on the potential impacts of increased activity, which a successful shared path will facilitate, on existing user experience. Part of the endearing experience of this complex coastal edge is the ability to sit quietly and take in the views, sounds and smells. The path, if it meets its own active transport objectives, will become a busy and potentially crowded route - especially in the narrower (2.5m) areas where beach intrusion is to be minimised.*

- *(In respect of P133 and P134 of the PNRP) Please provide further information on the potential diminished enjoyment of the coastal landscape that may result from busyness and crowding. Please note that this is of particular concern in Sorrento Bay.*

Coastal Processes and beach re-nourishment

In respect of effects on coastal processes and beach re-nourishment, the application has been assessed by Dr Iain Dawe, Senior Policy Advisor (Hazards), GWRC.

14. *Dr Dawe comments that he is satisfied that the project proposal can satisfy the test of no more than minor effects on coastal processes and hazards providing the work is constructed according to the plans and follows best practice construction methods and design for coastal protection structures. However, it is noted there is a significant departure in the duration of monitoring recommended by NIWA in the coastal processes report (5 years) and the related condition 52 in the proposed conditions section (2 years). In addition, and of most importance is that monitoring condition 52 needs to state that an immediate post-nourishment survey will be undertaken as a baseline so it can be assessed how the sediment has moved from placement and from the pre-construction beach profile.*

Monitoring Condition C.6 (NIWA report Appendix - E)

“HCC shall develop a beach management plan which includes monitoring of beach volume via 6 monthly beach profiles (or equivalent elevation surveying techniques) for 5 years in each bay. This is to ensure the actual effect on beach sediment processes are in line with the expectations for generally minor redistribution of beach material and minor changes to beach volume, as well as confirm whether the beach nourishment has been successful in maintaining the same beach area as Eastern Bays Shared Path: Coastal Physical Processes Assessment 109 at present day. The surveying shall commence before construction begins and continue for 5 years after construction ends in each bay. The surveys shall include cross-shore transects from Marine Drive to 3 m below Chart Datum, and at 50 m spacings along each beach. The survey resolution should be of sufficient detail to identify significant changes in grade and the presence of key features such as rocky reefs, stormwater outlets, stairs and access ways, as well as determining a MSL shoreline contour. This survey information shall be interpreted after year 2 and year 5 by an experienced coastal scientist to assess the changes to see whether the beaches are approaching a new equilibrium in line with expectations, and make recommendations on the requirement for ongoing monitoring, or if the monitoring could cease. However, in the unlikely event that the 2nd year assessment indicates that unanticipated erosion is occurring (i.e. beach in disequilibrium), the beach nourishment consent will still be active (and other bays may be still under construction) and HCC may be able to easily top-up the beach with more fill to compensate for erosion losses. These assessment reports shall be provided to the Greater Wellington Regional Council within 2 months of each survey.”

Monitoring Condition 52 (Monitoring conditions report)

“The consent holder shall undertake monitoring of beach volume via 6 monthly beach profiles (or equivalent elevation surveying techniques) to ensure the actual effect on beach sediment

processes is in line with the expectations for generally minor redistribution of beach material. The surveying shall commence prior to the Commencement of Construction, and continue for 2 years after construction in that bay is completed. This survey information shall be interpreted at the end of the 2 year period in that bay by an experienced coastal scientist and made available to the Wellington Regional Council.

- (a) Please justify the reason for the departure from the recommendations of your coastal processes experts with regards to the duration of monitoring.*
- (b) Please confirm an immediate post-nourishment survey will be undertaken as a 'baseline' so that GWRC can assess how the sediment has moved from placement and from the pre-construction beach profile at the earliest opportunity.*

(RM190124) HCC matters – Dan Kellow, Resource Consents Planner

I have assessed your application, received on 29 April 2019, and decided I need more information to help me understand your proposal, its environmental effects and how you plan to lessen those effects. The council is empowered under section 92(1) of the Resource Management Act 1991 to require this information.

1. *I understand that you have a copy of the peer review of the Transport Assessment that was undertaken by Wanty Transportation Consultancy Ltd.*
 - *As a result of the peer review please provide the following information:*
 - a) Please provide a copy of the Road Safety Audit.*
 - b) Please provide additional reasoning on the decision to not include any barrier on the seaward side of the Shared Path.*
 - c) Please confirm the height of the kerb separators*

You will note that there are several suggested design changes within the Wanty Transport peer review. My understanding is that there may be further detailed design changes to the Shared Path as a result of the Road Safety Audit and in the future when NZTA review the project. The suggested detailed design changes within the Wanty Transport peer review do not need responding to individually, given detailed design is still underway, as they are not 'further information' matters. However I suggest they should be taken into account as further detailed design is undertaken.

2. *In regard to the peer review of the Landscape and Visual Assessment I concur with the points raised relating to the role of the LUDP and the lack of certainty that this process provides.*

- *Please confirm your view on whether through the LUDP process that, for example, seaward side low barriers could be installed in some areas. I make this point as this type of amendment to the design would potentially be out of scope of the proposal.*
3. *Within table 8.3 (page 38) of the application it states that the Shared Path in parts traverses land within the Special Recreation Recreation Area and Passive Recreation Activity Area.*
- *Please confirm where this occurs as the proposal appears to me to not relate to either of these areas.*
4. *For your information I have come to the same conclusion as you regarding activity status but via a different path. My view is that the SP is a 'network utility' under the District Plan. The Network Utilities Chapter states that the underlying zone policies, objectives and rules do not apply to network utilities but that citywide rules do apply. The District Plan states in Chapter 14I (Earthworks) that the earthworks rules do not apply to the establishment of network utilities. As a consequence I consider the activity needs resource consent under rule 13.3.1.38 and 14E 2.2(b) but not under 14I 2.2(b).*

Date information required

Please provide the above information by **Thursday 20 June 2019**. If you are not able to supply the information requested¹ by this date, you must let us know in writing within this timeframe, either that you require additional time (at which time we will set a reasonable timeframe for you to provide the information) or that you refuse to provide the requested information.

Affected party approval (Section 95E)

I have assessed your proposal, and consider that your proposal will, or is likely to have more than minor effects on the owners of the following land parcels:

- *Centreport Limited - Sec 1 SO Plan 31984*
- *Hutt City Council (Parks) - Sec 1 SO 32758, Lots 5, 6 7 DP 1694 (0001), Pt Lot 3 DP 14002 and Pt Lot 2 DP 18500*
- *James Robert Thomas and Janete Thomas - Lot 4 DP 10005*

I note that the applicant has requested the application be publicly notified and therefore written approval of the above parties is not strictly required. However, the written approval of the identified persons would be helpful in that it would narrow down the number of parties the application will be directly notified to.

¹ Under section 92A of the Resource Management Act 1991.
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Processing of your application

Your application has been placed on hold, and the statutory 'clock' stopped², until such a time that:

- we receive the requested information, receive written notice that you refuse to provide it, or the time period for providing the requested information has expired.

Please feel free to contact Shannon on 04 830 4461 or Dan on 04 570 6666 if you have any questions or concerns.

Yours sincerely



Shannon Watson

Resource Advisor, Environmental Regulation, Greater Wellington Regional Council



Dan Kellow

Resource Consents Planner (Contractor), Hutt City Council

² Under section 88C and 88E of the Resource Management Act 1991
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