

Before the Hearings Panel of Greater Wellington Regional Council and Hutt City Council

IN THE MATTER of the Resource Management Act 1991
(the Act)

AND

IN THE MATTER Resource consent application by Hutt City Council
under section 88 of the Act, to carry out the Eastern
Bays Shared Path Project

BETWEEN Greater Wellington Regional Council (GWRC) and
Hutt City Council (Local Authorities)

AND Hutt City Council Transport Department (Applicant)

Section 42A Addendum Report: Response to applicants evidence

On behalf of Greater Wellington Regional Council (GWRC)

Roger Uys

2 December 2020

INTRODUCTION

- 1 My full name is Roger Gregory Uys. I am a Senior Environmental Scientist at GWRC. I have worked for GWRC since 1 February 2016.
- 2 I hold a BSc and BSc(Hons) from University of Natal (now University of KwaZulu-Natal) in South Africa. I also have an MSc and PhD in Ecology from University of Cape Town in South Africa.
- 3 I am a member of the Ecological Society of New Zealand.
- 4 I have twenty years' cumulative ecological work experience, including fifteen years' experience providing environmental advice to local government.
- 5 I have been responsible for providing expert advice to GWRC on matters relating to the effects of this application on penguins and shorebirds.
- 6 I have read and am familiar with the Code of Conduct for Expert Witnesses in the Environmental Court Practice Note 2014. I agree to comply with that Code. My qualifications are set out above.
- 7 I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from my opinions expressed.

RESPONSE TO STATEMENT OF EVIDENCE OF DR JOHN FENTON COCKREM (AVIFAUNA (KORORĀ / LITTLE PENGUINS AND SHOREBIRDS)) ON BEHALF OF THE APPLICANT

- 8 I am responding to the email from Esther Bennett received on 18 November 2020 which I did not have time to review before the s42A was finalised and the evidence presented by Dr Cockrem regarding the effects on tōrea pango / variable oystercatchers.
- 9 The coastline of the Eastern Bays has been identified as a significant bird habitat in the regional proposed Natural Resources Plan, in part because of the population of variable oystercatcher it supports.
- 10 Variable oystercatcher have been listed as a Nationally At Risk, Recovering species and as such are of national conservation concern.
- 11 Dr Cockrem has concluded that, "when all the potential effects, measures to address potential effects and benefits to birds are considered, the overall effects of the Project on kororā / little penguins, variable oystercatchers and other bird species are likely to be less than minor."
- 12 I contend that variable oystercatchers will experience a loss of habitat that will not be avoided, mitigated or remedied by the proposed conditions and therefore without further measures to manage these effects the adverse effects on this shorebird species may be more than minor.
- 13 The Applicant has quantified a net loss of 3786m² or 7 percent of shorebird habitat between the toe of the proposed construction and the low tide mark in the project area.
- 14 The area for shorebird foraging is a narrow strip of coastline, in places only several meters wide, governed by the availability of the tides. Consequently, a number of birds living along

its length may rely on the areas that will be affected. The numbers of variable oystercatcher expected to be displaced has not been reported by the Applicant.

- 15 Any further loss of habitat around Te Whanganui-a-Tara / Wellington Harbour comes on top of a cumulative loss of shorebird habitat resulting from developments that have significantly decreased the area available for use by shorebirds. The Applicant has not considered this cumulative effect in their assessment.
- 16 Dr Cockrem has downplayed the loss of shorebird habitat in his statement that, “the actual loss of feeding opportunities for oystercatchers due to this encroachment will be less than the estimated area of lost potential shorebird foraging habitat because some of the mapped potential shorebird foraging habitat is bare rock with no food for shorebirds.”
- 17 “Bare rock with no food for shorebirds” however provides valuable roosting habitat at a suitable distance, known as the flight-initiation-distance, from disturbance by people and dogs. As such the loss of any habitat cannot be overlooked in the consideration of effects on variable oystercatchers.
- 18 In mitigation of the loss of shorebird habitat, the Applicant points to the extent of three protected areas they are proposing to create at Bishop’s Park, HW Shortt Park and Whiorau Reserve. It needs to be recognised that only part of these areas will be suitable for shorebird foraging and nesting. The area of habitat suitable for shorebirds (particularly oystercatchers) has not been quantified and only total areas are reported.
- 19 Dr Cockrem refers to a new protected area in Sorrento Bay for variable oystercatcher that has been proposed as a condition by the Applicant. In a telephonic discussion with him (30/11/2020), Dr Cockrem explained that this area was identified to provide a refuge for variable oystercatcher chicks to retreat to during high seas. The proposed protected area is an existing area of coastline that is currently available to the chicks. While the area may be fenced to mitigate the risk of dog attack, the added value of “protecting” this area to manage the effects of the shared path on variable oystercatcher is questionable as there is no certainty that this area will be used by oystercatcher chicks.
- 20 With reference to the ongoing use of the path and disturbance of variable oystercatchers Dr Cockrem stated that, “variable oystercatchers are very tolerant of human presence in areas such as Eastbourne where they are accustomed to the presence of people.”
- 21 Variable oystercatchers are wild animals whose natural behaviour is negatively affected by the presence of people. Although oystercatchers in urban areas display a greater level of tolerance to disturbance than animals in rural landscapes they are not immune to the presence of humans and dogs in the project area. The Applicant has proposed signage to encourage dogs on leads and is proposing to investigate increased dog control measures however dog control measures are outside of the RMA process and their implementation cannot be guaranteed. In addition, I contend that the Applicant has not identified the key risk areas where birds are likely to be displaced by the ongoing use of the shared path or evaluated the potential to manage these effects in those areas.
- 22 Dr Cockrem has recommended conducting a study of habitat use and feeding behaviour of variable oystercatcher to determine whether or not their feeding behaviour will be affected by proximity of the Shared Path. Research after the fact will not in itself manage the effects on the birds in the project area.

23 Variable oystercatchers are a territorial species, pairing up and defending stretches of coastline through the spring/summer breeding season irrespective of whether pairs get an opportunity to nest. Although Dr Cockrem states there is only one known variable oystercatcher nesting site currently within the Eastern Bays and this is not likely to be directly affected by the shared path, loss of habitat in which to create territories is likely to affect the natural behaviour of the species. The Applicant has not fully quantified the expected effect of the shared path on the number of variable oystercatcher territories. It is however reasonable to expect that variable oystercatchers may be present and maintaining territories (as is their natural behaviour) in any suitable shoreline habitat. The loss of variable oystercatcher habitat cannot be mitigated by habitat improvements in areas that already support birds as the resident birds will not accept displaced individuals into their territory. Rather, displaced birds are likely to be relegated to less productive habitats through the spring/summer. Without a means to manage the effects of habitat loss, the effects on variable oystercatcher may be more than minor.