

Report to the Hearing Committee on a notified resource consent application

Summary of application

Activity: To construct, operate and maintain a 4.4km shared path (cycleway and pedestrian access) along the seaward edge of Marine Drive.

File Reference: RM190124

Applicant: Hutt City Council Transport Department



Consent Sought: **Operative City of Lower Hutt District Plan**

Landuse consent for the construction and use of land as a shared path along Marine Drive and land adjacent to Marine Drive, Eastern Bays.

Location: Legal Road and Local Purpose Reserve, Sec 1 SO 31984, Lot 4 DP 10005, Lot 1 DP 1538 and the Coastal Marine Area (CMA); on the seaward side of Marine Drive, between Point Howard and the northern end of Days Bay, and extending from the southern end of Days Bay (Windy Point) to Eastbourne (at Muritai Road/Marine Drive intersection).

Legal Description: Legal Road and Local Purpose Reserve, Sec 1 SO 31984, Lot 4 DP 10005, Lot 1 DP 1538 and the Coastal Marine Area (CMA);

Recommendation: I recommend that consent be granted for the reasons outlined in this report.

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Report peer reviewed by:	Peter McDonald	Senior Resource Consent Planner, Hutt City Council		23/11/2020

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Eastern Bays Shared Path

1. Purpose

This report provides an analysis of the resource management issues in respect of the resource consent application made by the Hutt City Council Transport Department (HCC Transport, the applicant) to construct, operate and maintain a 4.4km shared path (cycleway and pedestrian access) along the seaward edge of Marine Drive in Lower Hutt's Eastern Bays. The proposal includes construction of new structures, and additions and/or alterations, replacement, and removal and demolition of existing structures (including seawalls, revetments, boat ramps, beach access structures and stormwater pipes), to accommodate the proposed shared path.

The assessment and recommendations contained in this report are not binding on the Commissioners. This report has been prepared without knowledge of the content of any evidence or submissions that will be made at the hearing; consequently, it cannot be assumed that the Commissioners hearing the application will reach the same conclusions as those provided in this report.

A separate s42A report has been prepared by Shannon Watson on behalf of GWRC in respect of the resource consent applications within GWRC's jurisdiction. There are issues which extend across the jurisdiction of both HCC and GWRC. For some issues, such as ecological effects, GWRC's assessment in Mr Watson's s42A is largely relied upon, and supported.

The s42A report prepared by Mr Watson on behalf of Greater Wellington Regional Council contains sections titled.

- Project Objectives and Context
- Location
- Proposal
- Construction Methodology
- Notification
- Notification
- Submissions
- Further Information and meeting; and
- Consideration of Alternatives

These sections are not repeated in this report so Mr Watson's report should be referred to for these details.

Mr Watson's report describes the proposal thoroughly and states that details of the structures to be located on land following the reclamation of the CMA are provided in this report. The structures will be the shared path, kerb separators, low level wooden wheel guards, bus stops and shelters, street lighting, signage and seating. These are, with the exception of the barrier and wheel guards, all described in the AEE Appendix K. The description in Appendix K is adopted. The barriers and wheel guards were introduced to

the proposal pre public notification via Memorandum 4. The existing 300m section of upgraded seawall and path at York Bay shows how the path will appear once constructed.

The report below references appended information as well as further information and expert reviews that can be found at <http://www.gw.govt.nz/EasternBaysSharedPath>.

2. Statutory reasons for requiring resource consent

2.1 City of Lower Hutt District Plan

The district plan was made fully operative in 2004. Since that time numerous plan changes have been completed. In regard to this proposal the key chapter is Chapter 13 'Network Utilities'. There are no current plan changes relating to Chapter 13.

2.2 Activity status

Appendix S of the application states the shared path will traverse the following Activity Areas.

- General Business Activity Area
- General Recreation Activity Area
- Hill Residential Activity Area

In addition, the shared path traverses a Significant Natural Resource (SNR 44) at Point Howard. Between the various Activity Areas the shared path will be on land that will be reclaimed, road reserve (no zoning) or on existing land that does not have any zoning. This is land on the seaward side of the road reserve above MHWS that does not have zoning on the planning maps.

Permitted Activities

Section 8.6.3 of the AEE sets out the Permitted Activities relevant to the proposal.

Network Utilities

Rule 13.3.1.2 states that the operation and maintenance of network utilities is permitted activity subject to compliance with standards relating to earthworks, vegetation and noise. Subject to meeting the standards the ongoing operation and maintenance of the shared path will be a permitted activity.

Rule 13.3.1.37 relates to Roading and Traffic and Transport Structures and states the following are permitted activities subject to compliance with a related earthworks standard:

Traffic control signals and devices, light and decorative poles and associated structures and fittings, post boxes, landscaped gardens, artworks and sculptures, bus stops and shelters, phone boxes, public toilets and road furniture located within the road reserve and the rail corridor.

The elements of the proposal that fall within the above items are permitted activities. This includes bus stops, shelters and barriers which are being altered or included within the proposal.

Transport Chapter

Rule 14A 5.1 states any activity is a permitted activity if it complies with the standards listed in the Appendix Transport 1.

The standards include a requirement that all roads must be constructed in accordance with NZS 4404:2019. The applicant states that the proposal will comply with the standards.

Noise Chapter

Rule 14C 2.1 (f) relates to noise and states:

All construction, demolition, and maintenance work shall comply with NZS 6803P "Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work".

The application states that the proposal will comply with construction noise standards and that if night works are required that consent for construction noise would be sought independently at the appropriate time. Given the uncertainty around construction noise timing, duration and noise level it is considered that this is a reasonable approach.

Rules that are triggered by the proposal

A legal opinion contained in attachment 1 states that zoning cannot be attributed to the existing land that does not have zoning however this is of no real consequence as the proposal is captured by rule 13.3.1.38 (Discretionary Activity) as discussed below.

Section 8.3 of the AEE sets out the applicant's position on the district plan rules that trigger resource consent. Prior to the rule assessment the application states that an application is required for an Innominate Activity, as a Discretionary Activity, pursuant to Section 89(2) of the RMA for the construction, operation and maintenance of the shared path not on land, that is, land that will be reclaimed.

The introduction to the Network Utilities Chapter states:

The provisions in this Chapter apply to network utilities throughout all zones of the City. The underlying zone objectives, policies and rules do not apply to network utilities, including roads, unless specifically referred to. City wide rules, such as those relating to historic heritage, notable trees, earthworks and hazardous substances will still apply. Under Rule 14A (a), network utilities that are located in the road reserve are subject to the provisions of the activity area where the road reserve is located. Where the road reserve is between two different activity areas, the centre line of the road reserve will become the boundary between such activity areas.

The application sets out in section 8.3 the definition of network utility which is:

"...any activity undertaken by a network utility operator as defined in section 166 of the RMA, relating to:

...construction, and operation of roads and railway lines..."

The shared path falls within the meaning of road for the reasons set out in the legal opinion contained within attachment 1. I agree that the shared path will fall within the meaning of a 'road' and is therefore a network utility.

Rule 13.3.1.38 relates to Network Utilities and states the following is a **Discretionary Activity**:

“The construction, alteration or diversions of roads, excluding any such construction works which is part of a subdivision.” I agree with the applicant that the proposal requires resource consent for a **Discretionary Activity** under Rule 13.3.1.38.

The application states in table 8-3 that:

The Shared path is constructed within the existing road or in the road reserve, and is considered an alteration to the road. The Shared path in part traverses land within the Special Recreation, Passive Recreation, General Business, Hill Residential.

The shared path does not traverse land within the Passive Recreation Activity Area or the Special Recreation Activity Areas. The applicant acknowledged this in correspondence dated 22/07/2019.

Despite the introduction to the Network Utilities Chapter stating that citywide rules such as earthworks apply, the Earthworks Chapter at rule 14I 2 states that the earthworks provisions shall not apply to the following:

Earthworks associated with the establishment of network utilities in accordance with Chapter 13 – Network Utilities...

The Network Utilities provisions contain specific standards for earthworks although these standards are not linked to rule 13.3.1.38. HCC's interpretation is that the Network Utilities Chapter statement prevails over the Earthworks Chapter statement. Accordingly, I do not agree with the applicant, as set out in table 8-3 of the AEE, that resource consent is required under earthworks rule 14I 2.2(b). Nevertheless, effects associated with earthworks must be considered due to the Discretionary Activity status.

The assessment matters for a Discretionary Activity are contained in section 13.3.5 and state:

In considering an application for a discretionary activity, the Council's discretion is unrestricted. The Council shall consider any relevant matter with particular regard to the objectives and policies of the Plan. In addition, the Council shall have particular regard to the relevant matters outlined in 13.3.4 – Matters of Discretion for Restricted Discretionary Activities

Within the AEE Table 8-3 states that resource consent is required for a Restricted Discretionary activity under rule 14 2.2(b) because the shared path traverses 'Significant Natural Resource 44' at Point Howard. I agree with the applicant that the proposal requires resource consent for a **Restricted Discretionary Activity** under rule 14 2.2(b).

The shared path passes directly in front of a listed heritage building in Lowry Bay, Skerrett Boat Shed, but no works are proposed to the shed so resource consent is not triggered in relation to works or alterations to a heritage building.

2.3 Overall activity status

Overall, the activity must be assessed as a **Discretionary Activity** under the City of Lower Hutt District Plan.

3. Other consents and approvals required

An assessment of the consents required from GWRC is contained in the s42A report prepared by Mr Watson and should be referred to for details.

3.1 Contaminated Land

Potential effects on human health and the environment may occur if contaminated land is disturbed and/or used during the construction of the Project in the vicinity of the Sunshine Bay Garage. The garage is on the landward side of the road against the base of the hill so is well separated from the proposed path. The application states¹ that once the detailed design is complete, it may be necessary to undertake a detailed assessment of the contaminated site and if relevant a resource consent will be sought at that time. I consider this to be a reasonable approach and that appropriate management of any contaminated soil can be managed through separate resource consent.

3.2 Heritage Authority

The project area is a highly modified environment and no sites of cultural or archaeological importance have been identified. It is noted that the harbour is a statutory acknowledgment area established through the Port Nicholson Block Claims Settlement Act 2009. It is possible that there may be archaeological sites given the historic occupation of the area. No authorisation under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) from Heritage New Zealand is currently required. However, before works are undertaken, to avoid any delays, should unidentified subsurface features be exposed, an authority will be applied for under Section 44(a) of the HNZPTA to cover all works undertaken for the Project.

4. Matters for consideration

This section sets out the framework that has been used to assess the application.

4.1 Statutory criteria

The matters to which a consent authority shall have regard when considering applications for resource consents and submissions are set out in section 104(1) of the Act as follows:

When considering an application for resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to –

- (a) any actual and potential effects on the environment of allowing the activity; and*
- (b) any relevant provisions of –*
 - i. a national policy statement,*

¹ Page 166 AEE

- ii. *other regulations,*
 - iii. *a national policy statement*
 - iv. *a New Zealand coastal policy statement,*
 - v. *a regional policy statement or proposed regional policy statement; and*
 - vi. *a plan or proposed plan; and*
- (c) *any other matters the consent authority considers relevant and reasonably necessary to determine the application.*

The provisions of s 104 are all "subject" to Part II, which means that the purpose and principles of the Act are paramount.

4.2 Planning instruments and other matters

The following planning instruments and documents are most relevant to this application from a territorial local authority perspective

National

- The New Zealand Coastal Policy Statement 2010
- Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011
- National Policy Statement on Urban Development 2020

Regional

- The Regional Policy Statement for the Wellington Region 2013

District

- City of Lower Hutt District Plan

5. Consideration of Alternatives

A discussion on the assessment of alternatives has been provided in the s42 report by Mr Watson and should be read in conjunction with this report.

6. Existing environment

The existing environment is described in section 10 of the application and appropriately reflected in the respective technical reports submitted in support of the application. I consider the description of the existing environment to be accurate and adopt this section of the application in accordance with s42A (1A) of the Act. The existing

environment was taken into account when considering all effects and the proposals consistency with the various policy documents.

Seawalls already exist along 90% of the Project area; however, most do not allow sufficient space for the shared path alongside the Marine Drive carriageway. A total length of 1.3km (29% of the Project length) including the newly built curved seawall at York Bay, and existing revetment in southern Sunshine Bay is not changing from its current state. The 300m of relatively new curved wall in York Bay already provides for a Shared path that is consistent with the current designs and is in good condition.

7. Assessment of actual and potential effects 104(1)(a)

The assessment of environmental effects below considers the key effects arising from the application that are within the jurisdiction of Hutt City Council. These effects are:

- Effects on the transport network (incl safety of users)
- Effects on recreation activities (incl. user experience, loss of beach above MHWS)
- Biophysical and visual amenity related effects
- Infrastructure (including parking)
- Effects on tangata whenua and cultural values
- Construction effects (above MHWS – noise, vibration, traffic safety, temp paths)
- Effects on heritage values
- Effects on ecological values and vegetation
- Positive effects

7.1 Transport related effects

This section covers effects associated with the design and use of the shared path and includes positive effects, user safety and conflict with vehicles on the road carriageway.

7.1.1 Effects on the transport network

The application includes a Transport Assessment in Appendix L of the AEE. The Transport Assessment and wider application was peer reviewed on behalf of HCC Resource Consents and GWRC by David Wanty. The Recreation Assessment in Appendix K also comments on path width and safety. Mr Wanty's brief of evidence is attached to this report. All of the above documents should be read in conjunction with this report.

Context

Marine Drive is a Primary Collector Road that serves 6,000 to 8,000 vehicles per day and is the only road access to Eastbourne. In most places cyclists are not accommodated and are expected to use a narrow road shoulder or share the live traffic lane. Key infrastructure services are located within the road corridor including the Main Outfall Sewer Pipe which is Regionally Significant Infrastructure. In places the road is subject to debris and water being deposited on the road during southerly storm events.

Positive effects

Positive effects of the proposal are set out on pages 89 to 95 of the AEE and within the Transport Assessment. The positive effects are summarised below.

An economic evaluation was undertaken by the applicant in accordance with NZTA's Economic Evaluation Manual guidelines. Table 23-3 and Figure 23-1 on page 91 of the AEE provide a summary of the cost benefit analysis which shows the project has a positive cost benefit ratio. The assessment states the majority of the benefits are due to the health and environment benefits of the facility. It is accepted that the proposal will have positive effects such as enhanced accessibility and connectivity, increased choice of transport modes, enhanced safety for cyclists and pedestrians, increased resilience, recreation and social benefits.

The enhanced safety and connectivity is expected to increase the number of pedestrians and cyclists due to the improvement over the existing which is likely to result in an increase in active transport users along Marine Drive.

Adverse effects

Page 33 of the Transport Assessment sets out the potential adverse effects on the local road network. These are summarised below.

- During construction there will be disruption with temporary traffic management required along with lane closures which will disrupt all forms of transport.
- Construction vehicles will increase the number of vehicles on the local road network.
- The application states parking will be retained where possible adjacent to the seaward side of the shared path however some informal parking will be lost. In some places the shoulder currently used for informal parking will be reallocated to the shared path. Formal parking at Point Howard, Whiorau Reserve and Days Bay will be retained and reoriented to angle and/or parallel parking.
- The proposal is expected to increase the number of people crossing Marine Drive to the seaward side of the road. No additional crossings are proposed.
- There is potential for conflict between the increased number of path users and people waiting for bus stops.

Expert peer review - David Wanty

In summary Mr Wanty's evidence states:

- *the proposal provides for adequate capacity and safety for the anticipated demand of non-motor vehicle users and that it is reasonable that certain design aspects will be clarified/confirmed at the detailed design stage.*
- *In some sections it is proposed to provide a low edge barrier on the coastal side, which I consider a practical approach particularly with respect to anticipated users of mobility scooters. Where the shared path is sufficiently clear of hazards there need be no low/high barriers...*
- *I am aware that the applicant has had to balance minimising encroachment onto the foreshore with providing a path of adequate width that provides a quality recreation experience and that encourages use²*

Expert response to submissions

Mr Wanty's comments in paragraphs 37 to 54 of his brief of evidence respond to transport related submissions where submitters opposed aspects of the proposal. I have summarised Mr Wanty's comments below.

Safety related submissions

Submission 30 raised concern about cyclist and motor vehicle conflict at Point Howard. Mr Wanty's view is that the safety audit conducted at detailed design stage will address any matter not already identified.

Submission 60 raised the need for warning signs for motorists. Mr Wanty's view is that this is an existing independent requirement for the road controlling authority (HCC) noting that warning signs are already in place.

Submission 84 raised the separation of pedestrians and cyclists on the path and suggested grade separation where the path is 3.5m wide and textural definition where the path is 2.5m wide. Mr Wanty does not recommend a condition of consent that requires the shared path to have a separating white line or grade separation.

Submission 85 suggested the path should be 2.5m wide for its entire length and that a shared path at Days Bay should be dealt with at the same time as this proposal as should north of Point Howard.

Submission 87 opposes moving the road closer to 315 Marine Drive, York Bay, which the submitter considers will make entering and exiting 315 Marine Drive unsafe. Mr Wanty stated it was difficult to difficult to detect changes to the roadway and traffic lanes.

Submission 117 considered that the path would be too close to the roadway. Mr Wanty considers that while this is desirable it is not a viable option and the separation proposed is not unreasonable.

² Paragpahy12 – 14 of Mr Wanty's Brief of Evidence

Submission 132 was neutral but raised concerns over the exposed nature of the shared path to waves. Mr Wanty considers there would be little use of the path in clearly adverse conditions.

Submission 168 raised safety concerns when transitioning between the path and the road and the shared path may be inadequate for electric bicycles and scooters. Mr Wanty acknowledged these concerns and that they are part of the further safety auditing of the detailed design.

Shared path width submissions

Mr Wanty noted many submissions commented on pathway width and that in his view on balance the widths as proposed are reasonable. Mr Wanty highlights the need to recognise the 'effective' width which would be less next to the safety barrier however he notes that because of the 'shy factor' effect of users keeping a perceived safe distance from the edge that the effective width with and without barriers may be the same.

Mr Wanty's brief of evidence makes the following recommendations:

17. *I recommend that a clear shared path width of nominally 2.4 metres be provided for most of the route along the harbour edge (excluding local pinch points) where currently proposed, and a clear width of 3.5 metres where practical (consistent with the current proposal).*
18. *I recommend that railings for the steps and increased area at the top of the steps be investigated and confirmed at the detailed design stage, with warning signs for people as appropriate re use of the mini-steps that I accept as having been designed primarily for penguin access.*
19. *I recommend further road safety audits (contingent on approval) be conducted at the detailed design and pre-construction/post-construction stages.*

Avoiding, remedying and mitigating effects

The AEE states that mitigation of construction effects on the Marine Drive results from the construction being staged over a 3 – 6 month period per bay with construction limited at times to low tide and off-peak traffic times.

In regard to a reduction of informal parking the AEE states mitigation will be in the form of improvements to formal parking areas and that the shared path may reduce the need for on-street parking by enabling improved walking and cycling access.

In regard to increased pedestrian crossing demand the application states that there will be regular gaps between the separators allowing pedestrians and cyclists to cross Marine Drive.

The applicant's proffered conditions relating directly to traffic effects are GC.11 to GC 13 which require a Traffic Management Plan to be submitted for certification. The conditions and matters to be covered are typical of traffic management plans and will manage public

safety, delays to road users, disruption to property access and methods to keep the public informed about impacts on Marine Drive.

Mr Wanty reviewed conditions GC.11 to GC.13 along with associated conditions which propose to develop the detailed design of the barrier, kerb separators and railing through the LUDP and BSUDP process. Mr Wanty considers that it is appropriate to finalise the detailed design of the rail and barrier as part of the LUDP and BSUDP process.

Mr Wanty's recommended additional conditions in his draft brief of evidence which was provided to the applicant. The additional conditions sought:

- the undertaking of an independent road safety audit at the detailed design stage and at the pre-opening/post-construction stage.
- that the Hutt City Council as Applicant review the posted speed limit along the project route within 'x' years of a convenient start point. Mr Wanty suggested that Council propose what the start point might be and associated 'x'.
- that Hutt City Council regularly monitor and report usage of and safety/incidences along the Shared path within the first y years of operation. I would suggest that 'y' might be 1 to 3.

The applicant rejected the suggested conditions (see Memorandum 5) and stated:

A safety audit is integral to the design of the project and will form part of the detailed design process. It is not considered necessary or appropriate for this, or the provision of monitoring/reporting on safety in the nature suggested, to be covered by the conditions of consent.

Assessment

The transport assessment concludes that the proposal will result in several positive effects;

- improved real and perceived safety for pedestrians and cyclist;
- improved resilience;
- improved connectivity and accessibility for local residents;
- a modal shift from private motor vehicles to more sustainable transport choices; and
- positive health benefits.

The assessment considers the following adverse transport effects will be minor;

- Temporary construction traffic effects;
- Marginally increased maintenance costs;
- Reduction of informal parking; and

- increased crossing demand and the potential for conflict between path users and people waiting at bus stops.

In relation to the increase in the number of people crossing Marine Drive to access the shared path the applicant states that there will be regular gaps between separators and traffic lane providing space to access the path. Mr Wanty did not raise any concerns with this aspect of the proposal

In relation to the southern end of the path a transition point will be provided for southbound cyclists to cross the carriageway. At the northern end the path will be integrated into the existing path. Mr Wanty did not raise any concerns with this aspect of the proposal.

In relation to the potential conflicts at bus stops the shared path will pass behind all bus shelters³ to minimise potential for conflict between path users and people using buses.

Mr Wanty has reviewed the applicant's response to the suggested conditions in his draft evidence and now recommends only two conditions which require an independent road safety audit at the detailed design stage and at the pre-opening/post-construction stage and monitoring of path usage and safety incidences.

I concur with Mr Wanty that both of the recommended conditions will potentially assist the consent holder to ensure the shared path is appropriately designed and whether the use of the shared path is resulting in incidents and/or accidents which indicate alterations to the path, signage or other aspects of the path is required. I understand a similar monitoring condition has been imposed for other consents, e.g. the Hutt River market

I therefore consider that subject to the effective implementation of the proffered and two proposed conditions of consent any adverse effects on the transport network could be appropriately mitigated to an acceptable level. I concur with the AEE in that there are clearly positive effects on the transport network. Suggested wording has been included in the draft conditions contained in attachment 5.

7.2 Recreation amenity associated with path use

The application includes a Recreation Assessment by Rob Greenaway & Associates in Appendix K. The Recreation Assessment and parts of the wider application was peer reviewed by Catherine Hamilton (WSP Opus) on behalf of GWRC and HCC. A position statement is attached and all of the above documents should be read in conjunction with this report.

The assessment below covers recreation effects associated with use of the shared path. Recreation effects in relation to beach users is assessed in the s42A prepared by Mr Watson on behalf of GWRC. There is some overlap between the peer review undertaken by Mr Wanty (Transport Engineer) and the peer review undertaken by Ms Hamilton in that both experts commented on user safety and conflict with other path users and people accessing the beach.

Context

³ Page 33 AEE Transport Assessment

People currently walk and ride bicycles along the seaward side of Marine Drive however as described in the application documents “*Currently, pedestrian and cyclist connectedness and use along the Eastern Bays is low, due to few dedicated facilities and the tightly constrained nature of the road along Marine Drive. For the most part, cyclists and pedestrians must use the road shoulder, which is very narrow or non-existent in sections.*” The only section of the road that currently includes a wide path is a 300m section on the relatively new curved wall in York Bay.

The AEE states that the area is mostly of local recreation value used for local residents for swimming, small boat launching, walking and dog walking. Fishing occurs off rocky areas. The Point Howard Beach is described as having good parking, and a safe and sandy beach, a toilet and changing sheds and is used by residents of Lower Hutt and Wainuiomata. The application states the Ferry Road headland at the southern point of Sunshine Bay is a regionally popular coastal fishing site along with a seawall at the western corner of Whiorau reserve.

Positive recreation effects

Positive effects of the proposal are discussed on page 95 of the AEE and within section 7 of the Recreation Assessment within Appendix K.

The positive effects of the proposal that are related to recreation can be broadly stated as;

- an increase in users (180 new users per day according to the transport assessment estimate);
- enhancing the experience of people who currently use the shoulder of Marine Drive; and
- health and social benefits of an increase in users, and therefore people undertaking physical activity.

These benefits are not disputed. The application reports that the shared path has been an expectation of the regional recreation and tourism planning for more than a decade and will part of the Great Harbour Way and Remutaka Cycle Trail. The high number of submissions in support of the proposal from the local community clearly demonstrates that local residents think there will be recreation benefits. Submission’s in support of the proposal by the Cycling Action Network and Cycle Wellington both raised the improved access to the Remutaka Cycle Trail and Great Harbour Way.

Path width - recreation amenity

The width of the shared path has been the subject of discussion in relation to safety and user experience. The application sets out the consultation that was undertaken to gain an understanding of what path width was most acceptable to the community. The application reports that a 2.5m wide path was the community preference with the main motivation for the 2.5m over 3.5m being to avoid encroachment onto beach areas. The Recreation Assessment⁴ discusses various published path width standards and

⁴ Page 20 Appendix K AEE Recreation Assessment

concludes that 3.5m is the recommended minimum standard for a shared path. Reasons given for this width were:

- compliance with established standards
- the high likelihood of walkers in groups and two to three abreast
- lack of recovery space for cyclists on a narrower path
- likely high level of use by dog walkers and children on a range of devices
- congregation and stationery use of the path at beach areas
- the potential for the path's use as a cycling commuter route
- advent of e-bikes enabling access by an older age group and
- the continuing development of pathways throughout the Wellington Region.

The assessment goes on to acknowledge that a 3.5m wide path compared to a 2.5m wide path will have greater adverse effects on the coastline and acknowledges the compromise that has been made in the final design. The Recreation Assessment states in the Conclusion that "*The path remains substantially at the preferred width, and the narrow sections should not compromise its success*"⁵

The Recreation Assessment concludes that the shared path will result in a significant change for the better in recreation and commuting participation in the Eastern Bays and that mitigations will maintain key areas of beach amenity and ensure that the scale of adverse effects are no more than minor

Expert peer review

The peer review by Ms Hamilton (WSP-Opus) assessed the Recreation Assessment prepared by Rob Greenaway and Associates. The focus of Ms Hamilton's review is on the expected recreation outcomes of the proposal which includes recreation amenity benefits of the shared path as well as impacts upon the existing recreation values associated with beach activities and use of the rocky coastline. Ms Hamilton's review should be read in full but is summarised below.

Ms Hamilton's Position Statement states that in assessing the likely outcomes that she took into account the following key points:

- tangible and intangible factors are relevant
- design standards need to be met
- access to the coast and wider area.

A difficulty expressed in the Position Statement and in earlier comments from Ms Hamilton is that the lack of detailed design has limited her ability to fully assess the recreation outcomes of the proposal. Ms Hamilton's view is that the reliance on the consent condition process to review the detailed plans is concerning. This leads onto

⁵ Page 72 Recreation Assessment

the concern with the time allowed and content of the LUDP and BSUDP's within the proposed consent conditions.

One of the concerns is that a staged design process could result in ad hoc outcomes and the loss of overall cohesion and unity. It is suggested by Ms Hamilton that full design up-front with staged construction could avoid this problem.

Ms Hamilton also considers conditions should allow for hold points at preliminary, developed and detailed design stages for review to occur.

In relation to design standards Ms Hamilton's view is *design standards for recreation amenity outcomes are being unacceptably compromised as a trade-off to protect coastal marine ecology especially.*⁶

The two key areas of concern are the path width and handrail position and heights.

The Position Statement notes the conclusions reached in the Rob Greenaway Assessment report and references the NZTA and Auckland Transport which indicate that 3.5m is a preferred minimum.

Ms Hamilton states in her Position Statement that *I think it would be worth simulating the design parameters to better understand behaviour associated with the proposed design and to alleviate any unintended consequences on recreation use and enjoyment and safety in areas where the path is proposed to be narrower than 3.5m.*

At the time of writing this report it had not been investigated with the applicant what the constraints were to widening the path to 3.5m, by narrowing the carriageway for cars etc, to alleviate the concerns raised by Ms Hamilton. I note that in Mr Wanty's position statement that he commented that a narrower carriageway may have consequences for commuter cyclists who are not using the shared path.

In relation to barriers the ability for Ms Hamilton to comment is limited due to the lack of detail around barrier height and design. Ms Hamilton states there would be concern if barriers are higher than 1.1m as they may be in the sightline of path users and diminish connection with the seascape thereby reducing overall recreation enjoyment. In relation to the design Ms Hamilton would be concerned if the barriers encroach into the 3.5m path width.

Submissions

In earlier correspondence Ms Hamilton commented while there were several submissions that supported a narrower path adequate sizing of a path is a matter for expert analysis. I concur with this position.

I note that there are numerous submissions in support of the proposal that cited improved safety as a reason for supporting the proposal with many submissions going on to state the improved level of safety would encourage pedestrians and cyclists. Numerous submissions made generic statements that the shared path will encourage recreation in the area.

Submissions that are focused on safety have been assessed earlier under the transport assessment.

⁶ Page 3 Position Statement by Ms Hamilton

Avoiding, remedying and mitigating effects

The conditions of consent proposed by the applicant that relate to the design of the proposal are numbered LV.1 through LV.7. GC.5 is relevant as it sets out the management plan approval process.

In Memorandum 6 the applicant addressed matters raised earlier in the assessment process in relation to the status of BSUDP's. In the applicant's view the revised conditions clarify that the BSUDP's are part of the management plans identified under condition GC.5. In addition, further refinement was made to conditions LV.5 and LV.6.

Despite the amendments made to conditions made by the applicant post lodgement amendments to the proposed conditions are discussed and suggested below due to concerns raised by Ms Hamilton and Mr Head (Landscape and Visual Assessment peer reviewer). The objective of the suggested amendments to conditions is to ensure the final design is more likely to be of high quality which cannot be determined from the preliminary plans.

At the time of writing this report the applicant had provided updated conditions in Memo 6 and these have been assessed by Ms Hamilton and are discussed below.

In relation to GC.5 (b) Ms Hamilton considers the 'at least 30 working days' timeframe to be too short. Her view is at 30 working days prior to a project commencing the contractor will be pre-ordering materials and deploying resources. The pressure to then ensure the project starts as scheduled may result in expediency over a quality process and design. Ms Hamilton recommends additional time be allowed within GC.5, including for adjudication. I acknowledge Ms Hamilton's concern but consider the risk is with the applicant. If a plan submitted for certification is not acceptable then GWRC and/or HCC will not certify the plan. I also note that the 30 working days is a minimum timeframe which the consent holder may not necessarily work to.

In relation to GC.5(e) Ms Hamilton has recommended that this should be amended to require any changes, not just changes considered 'minor', to the LUDP and BSUDP's to be submitted to the Manager Environmental Regulation and Team Leader Resource Consents for (re)certification. Mr Head (recreation effects peer review) agrees with this suggested change to GC.5(e). The reasons for removing 'minor' from GC.5(e) are that it is a subjective term that requires expert evaluation. The concern is the less tangible values that relate to recreation can be overlooked if an appropriately qualified and experienced expert is not involved. I concur with this suggestion and have proposed a revised condition GC.5.

In regard to GC.5 (h) Ms Hamilton does not consider that 10 working days is adequate time to find and engage a suitably qualified and experienced expert who then has another 10 working days to resolve a dispute. I agree that this is a short time period but again the risk is within the applicant and the time period is potentially redundant in any case. If a mutually agreed suitably qualified and experienced independent expert is not engaged within 10 working days or does not make their decision within 10 working days then the consent holder must still wait for the decision.

In regard to LV.3 the words 'suitably qualified and experienced' is recommended to be added before the list of experts to ensure the appropriate people are engaged in the process.

In regard to LV.4(a) Ms Head considers that removing the reference to 'general hierarchy' would be beneficial as there are links and interdependencies between safety, recreation and landscape. I concur with this point and have recommended a change to LV.4(a) to this effect.

In regard to LV.4(d)(ii) Ms Hamilton considers industry design standards and best practice exemplars for shared paths at a minimum 3.5m width should be referred to. This is proposed by Ms Hamilton because of her firm view that a 2.5m wide path risks unintended consequences for safety and recreation amenity and safety. I agree that the 2.5m wide sections may result in lower recreation amenity for users compared to the 3.5m wide sections. However, I note that Mr Wanty has accepted that 2.5m is acceptable in regard to safety. Consequently, I have not recommended that minimum 3.5m widths be specified.

In regard to LV.6(a) Ms Hamilton considers that the draft design protocol would benefit from including annotated photographic exemplars of best practice coastal shared path projects, to demonstrate the level of design to be achieved. I concur and an amendment to this condition is recommended that requires visual representations to be added to the condition to the draft design protocol.

In regard to LV.7 Ms Hamilton recommends adding surface treatments and minimum path widths to the urban design details to be considered. I concur that surface treatments should be added to LV.7 but that specifying minimum path widths is not appropriate or necessary as these are specified in the detailed engineering plans.

Assessment

The fact the proposal is only developed to a preliminary design stage has meant the ability to assess recreation amenity associated with path use has been limited.

A key concern remains, from a recreation amenity perspective, that in places the path is only 2.5m wide and that a 3.5m path would be line with best practice and would provide greater recreational amenity, safety and may result in greater use.

I agree with the position of Ms Hamilton on these matters but recognise the clear trade off the applicant has had to make between path width and encroaching onto the foreshore. I also note that Mr Wanty considers that sections of 2.5m wide path can be accepted from a safety perspective. I acknowledge that the sections of the path that are 2.5m wide may not result in a recreation experience that a path width that meets best practice would. I also note the high level of support for the shared path as expressed through submissions with only seven submissions seeking a wider path than proposed.

Overall, I consider that subject to the effective implementation of the suggested conditions of consent any adverse effects on recreation amenity could be appropriately mitigated to an acceptable level. Suggested wording has been included in the draft conditions.

Loss of beach space

The proposal includes beach re-nourishment of existing high tide beaches at Point Howard, Lowry Bay and York Bay to mitigate the loss of high-tide beach and associated recreation amenity at these locations. A total of approximately 6,000m³ of material will be required for beach re-nourishment, distributed across the respective bays as follows:

- Point Howard - 1,600m³
- Lowry Bay - 3,200m³
- York Bay - 1,200m³

Although approximately 6,000 m³ of material will need to be imported it is estimated that this will rapidly consolidate to around 4,600m³ when placed due to sediment transport processes, tidal action and construction traffic movements.

It is likely that the Hutt River will be the source of material for beach re-nourishment given its proximity to the project and relative composition to natural beach sediments found across the Eastern Bays.

The AEE considers that the beach nourishment will mean loss of beach space is mitigated with coastal amenity being retained. The AEE states post mitigation the effects on recreation amenity at York Bay, Point Howard and Lowry Bay will be less than minor.

While recreation associated effects due to loss of beach space above MHWS is within HCC's jurisdiction loss of beach space and beach nourishment have consequential effects on coastal processes, intertidal and subtidal ecology, natural character and coastal birds. Mr Watson has assessed these matters, and effects on recreation amenity, in his report and outlined the proposed beach nourishment process and associated conditions in detail. Mr Watson's report should be referred to for this assessment.

Proffered conditions of consent requires beach nourishment to be monitored and for a single 'top up' to occur within two years of the two year monitoring programme being completed.

Loss of beach space was raised by several submitters, particularly in relation to York Bay.

Dr Iain Dawe has stated⁷ that the beach nourishment will be as stable as the existing beach and he is comfortable with the beach nourishment related conditions for monitoring and remedial action. Mr Watson's conclusion, based on expert advice of Ms Hamilton and Dr Iain Dawe, in relation to effects on recreational amenity is that subject to successful implementation of the conditions that adverse effects on recreation amenity will be no more than minor. I concur with this conclusion.

Boat Ramps

Three boat ramps will be built in their existing locations at Point Howard, York Bay and Mahina Bay and steps will be provided in the same or close to the same location as existing. Some of these are within HCC's jurisdiction however Mr Watson has assessed public access in general in his s42A report. The ramps will be built in the same locations but will be parallel to the wall and have minimum grades.

Submissions have raised the location and number of beach access points and the width of the proposed boat ramp in York Bay. The BSUDP will allow local input into the finer details of the access steps and boat ramps.

⁷ Email dated 18/11/2020 to Shannon Watson.

I come to the same conclusion as Mr Watson that the proposal maintains access to the beaches and coastal marine area.

7.3 Visual effects

The application includes a Landscape and Visual Assessment (LVA) in appendix D. In addition, further information responses have added additional assessment on natural character, landscape and visual effects. The applicant provided a supplementary LVA report dated October 2019 after seaside barriers were introduced into the project.

The LVA and parts of the wider application was peer reviewed by Jeremy Head (WSP Opus) on behalf of GWRC and HCC. The peer review and subsequent correspondence is attached and all of the above documents should be read in conjunction with this report.

The assessment below follows the approach of the AEE and assesses biophysical effects, effects on visual amenity and construction effects associated with the shared path. An assessment of effects on natural character has been undertaken by Mr Watson in his s42A report.

Context

The application describes the landscape context as:

“Marine Drive has a distinctive pattern of settlement and land use. The road is contained between the harbour and the hills. At a local scale, each bay has a unique identity, the cumulative product of the settlement pattern and the bay landform including the curvature of the bay, the steepness of the hills and their proximity to the coastline, the orientation of the bay and its exposure to the prevailing winds and the coastal edge.

Hutt City currently does not identify outstanding natural landscapes (ONLs) and features (ONFs) or special amenity landscapes (SALs) in its district plan. The Landscape Evaluation Draft Technical Review Assessment undertaken for Hutt City in 2016 did not identify any ONFLs or SALs within the project area.

A natural character assessment was undertaken in 2016 for Greater Wellington Regional Council and Hutt City Council. No Outstanding or Very High Natural Character areas are identified within the Eastern Bays coastal terrestrial area, which is assessed as having Moderate natural character”⁸.

The peer review stated “...the wider site context is described in thorough detail by the Ms Williams and is not commented on further in this peer review”. Given those comments I consider the landscape context description to be accurate and accordingly is adopted.

The LVA describes the site by bay on pages 13 - 18. I adopt this description. On the seaward side there is variety in regard to the size of the beach, height below the road, presence and size of rock outcrops. In regard to the interface the form of the existing road edge varies with seawalls already present along 90%⁹ of the 4.4km path length.

⁸ Page 3 EBSP LVA Appendix D

⁹ Page 9 Section 3.2 of the Introduction

The LVA splits the assessment into biophysical effects, effects on natural character, effects on visual amenity and construction effects.

Biophysical effects

In relation to biophysical effects, which relate to changes in landform, vegetation cover and waterways, the LVA considers there is a small loss of local landform and that overall biophysical effects are Low¹⁰ over the length of the project. 'Low' is akin to a less than minor adverse effect on the seven point scale used in the LVA. At a local scale there are potentially moderate effects at Point Howard, north of the beach, and at Sunshine Bay. These localised effects have been assessed as moderate. The localised effects in areas where beach nourishment is occurring, Point Howard, Lowry Bay and York Bay, are assessed as Moderate – Low.

The peer review dated May 10 2019 concludes that *“the existing treatment of the coastal edge where the proposal is located is currently poor and in need of improvement. The proposal addresses this adequately and represents a nett improvement on the coastal edge’s appearance and functionality. The extent of the changes closely aligns with the current extent of the modified coastal edge – but not everywhere and so ‘moderate’ landscape effects will occur in these areas¹¹.”*

I concur with the assessment of the effects on biophysical effects and consider the biophysical effects to be less than minor over the length of shared path.

Effects on visual amenity

Visual effects relate to changes to specific views and may or may not adversely affect peoples' visual amenity. The effects on visual amenity for residents are primarily related to the presence of the safety barriers as the seawalls will not generally be visible below the road level. Kerb separators, signage and path markings and future street furniture and bus shelters will also be visible to residents and may generate effects. The visibility of the proposal from residential sites is affected by several factors such as fencing, vegetation, elevation and orientation of dwellings and location and height of habitable rooms.

The LVA assesses the effects on visual amenity on local residents, drivers, pedestrians and cyclists, beach users and from on the water. The revised LVA provided an assessment of the barriers on visual amenity.

The areas where a barrier will be located are:

- Gill Road to Whiorau Reserve - this is directly opposite dwellings at 4 Gill Road Flats 1 – 6 and Flats 1 and 2 2 Gill Road. The majority of the barrier would be opposite the undeveloped base of the steep hillside.
- York Bay north – 1 Taungata Road, 301, 303, 305 Taungata Rd and 23 Waitohu Road. The views from these dwellings are either screened by vegetation or over the barrier due to the elevated position of the dwellings.
- Between Mahina Bay and Sunshine Bay – this is opposite the base of the steep undeveloped hillside

¹⁰ Page 30 EBSP LVA Appendix D

¹¹ Page 11 LVA peer review by WSP Opus dated May 10 2019.

- Windy Point – opposite dwellings at 625 – 735 Marine Drive (13 dwellings).
- Between 214 and 228 Marine Drive¹² - directly opposite dwellings.

Residents

For residents in areas where a barrier is not present the LVA considers that the effects at a local scale could be Low if the design principles outlined in section 5.2 of the LVA are adhered to. The assessment considers the visual effects are Very Low in the wider context.

For areas where a barrier is present an assessment has been undertaken for individual sites although not for sites at the western end of Lowry Bay.¹³ The LVA considers that for dwellings with rooms at street level and views directly across the road to the barrier the effect may be Moderate – Low but that there is the potential for this to reduce via the final design. Moderate – Low is considered to be equivalent to ‘minor’ effects in RMA terminology. Within each bay and at a local scale the level of effect on the visual amenity of individual residents will be determined by the finer grained detail design of the barriers along with the other features such as path signage and path markings. Within the wider landscape the barriers are considered to have Very Low visual effects.

Drivers

For drivers the assessment notes the barrier becomes a screen in oblique views and that overall, the widened road with a shared path diminishes the immediate experience of driving along the edge of the harbour. The assessment notes the immediate character of the Marine Drive, where a barrier is present, is changed but the wider landscape dominates views from a vehicle with the overall effect on visual amenity being Low for drivers where a barrier is present and Very Low where a barrier is not present.

Pedestrians and cyclists

For pedestrians and cyclists, the LVA considers the effect on visual amenity to be generally positive where unsightly seawalls and infrastructure are removed or where no path is currently provided. The integration of features such as path markings, signage, stormwater outlets, bus shelters and street furniture will also determine the visual effect for cyclists and pedestrians. The LVA considers if these features are carefully located to avoid visual clutter and maintain views down to the water’s edge that adverse visual effects have the potential to be Low. The barriers will not limit views for path users and the adverse effect of the barriers on cyclists and pedestrians is assessed as Very Low.

Beach users

In regard to views from the beach the LVA noted the focus is on views towards the water rather than the land. The replacement walls were assessed as having high visual impact which should reduce with weathering and as the bio mitigation textures reduce the reflectivity of the lower curve of the wall. The visual effects of beach nourishment will depend on material used with the assessment considering that if locally sourced material

¹² Barrier introduced via Memorandum 5.

¹³ Supplementary Report to LVA dated October 2019

is that visual effects will decrease over time from Moderate-Low to Very Low. The barriers are not proposed for areas that are adjacent to the main swimming beaches.

Views from the water

In regard to views from the water the LVA considers that while the wall will be visible from closer views, with a lighter more reflective tone than the older seawalls and with more consistent horizontal lines, the visual effect will be Very Low over time with age and weathering. The LVA considers the barrier does not change the level of effect from the water.

Summary

The LVA's summary concludes that overall, the adverse effects on visual amenity are considered to be Low to Very Low. Detailed design will determine the effects at a local scale with careful design of signage, path markings, safety features, stormwater and piped stream outlets, bus shelters and street furniture required to avoid visual clutter and maintain views.

Construction effects

During construction of each 20m section of seawall, views towards the coastal edge from the street will be screened by machinery, although residents in elevated locations will retain their distant views to the hills across the harbour. Views from the foreshore and water towards the road edge will also be obscured by machinery and construction works.

The visual impact of construction will be localised and temporary, with each bay expected to take 3-6 months to complete. Adverse effects are short term and considered to be Very Low.

Overall, the applicant considers the proposal to be an appropriate development in this location for the following reasons:

- The existing coastal edge has been modified by the road and historic seawall structures that have disrupted natural ecological processes
- Within the wider Eastern Bays landscape, the particular elements, features and experiential values that contribute significantly to the experiential natural character value of the area will remain unchanged
- Works are confined to narrow fringe of land between the road and the water. While it is an important component of the Eastern Bays landscape, this coastal edge has a low visual prominence within the wider landscape context

Expert peer review

A conclusion is reached by the applicant that effects on visual amenity are Low to Very Low and that effects on individual sites that are at street level with views directly across the road to the barrier the effect may be Moderate – Low but that there is the potential for this to reduce via the final design.

Mr Head's peer review, prior to the introduction of the safety barrier, concluded:

There is general agreement with the content and conclusions reached in the Applicants' LVA. The existing treatment of the coastal environment where the proposal is located is currently poor and in need of improvement. The proposals

address this adequately and represents a nett improvement on the coastal edge's appearance and functionality. The extent of the changes closely aligns with the current extent of the modified coastal edge – but not everywhere and so 'moderate' landscape effects will occur in these areas. This is a reasonable conclusion. Visual effects arising from the proposal are considered to be 'low' overall. This is a reasonable conclusion.¹⁴

The peer review went on to say that *high natural landscape values and amenity values enjoyed in the area will continue to be maintained following the proposal as currently presented which essentially 'tidies up' the existing situation in generic manner.*

Mr Head's peer review confirmed that the proposal was being considered as a worst case scenario, that is, without improvements that may occur via the LUDP process. Mr Head stated that there was a degree of discomfort with the proposal being submitted for resource consent that relied on further development. This is a matter that become more important when the barriers were introduced without a design or height being confirmed.

Following the introduction of safety barriers Mr Head's conclusion¹⁵ changed to adverse effects being Moderate as the barrier will be a prominent feature around a highly defined landscape edge. Mr Head's Position Statement does not include a final assessment on effects on visual amenity but in regard to landscape effects states adverse effects will be between Low and Moderate.¹⁶

Overall Mr Head considers that;

- the current proposal is lacking sufficient details to draw absolute conclusions;
- the outcomes are aspirational rather than actual and heavily reliant on the design and review process established via consent conditions.

Amendments to the conditions have been recommended by Mr Head and these are discussed below.

Submissions

There was very little commentary on the visual impact of the path but five submissions did state a barrier would be unsightly or was unnecessary. Two submissions commented that a barrier was necessary.

Avoiding, remedying and mitigating effects

The application states design features incorporated into the design will create consistency. The design features include;

- Continuous curved walls.
- A concrete trim along the seaward edge.

¹⁴ Page 11 Jeremy Head (WSP Opus) review of Landscape and Visual Assessment dated May 10 2019

¹⁵ Email dated 18 October 2019 from Jeremy Head to Shannon Watson

¹⁶ Page 5 Jeremy Head's (WSO Opus) Position Statement

- Material for beach nourishment is to be sourced locally to match existing beach material colour, grain size (sand) and texture (gravel).
- Allowing natural rock outcrops to maintain their integrity when they meet the road edge.
- Avoiding the use of plant beds along on the coastal edge, particularly beds with kerbs or stone edges. This is an exposed, marine environment and amenity horticulture degrades the existing natural character.

The applicant proposes to follow the process set out in conditions LV1 to LV7 to develop the proposal from the current Preliminary Design to a Detailed Design via development of the LUDP and BSUDP(s).

A suggested condition is that a Landscape and Urban Design Plan (LUDP) be developed in consultation with the ecologists, Hutt City Council, the Eastbourne Community Board, local resident organisations and the Eastern Bays community. Within each bay and at a local scale, final effects on natural character and visual amenity will be determined by finer grained detailed design through Bay Specific Landscape and Urban Design Plans (BSUDP). The BSUDP will include details such as:

- Seawall structures, including transition zones between seawall types;
- Beach access including steps, ramps and associated handrails where required;
- Safety barriers and railing;
- The treatment of stormwater structures at the coastal interface;
- Little Penguin and Shoreline Forager related structures including penguin passage elements, ramps, nests, boxes and wooden poles for roosting;
- Planting treatment;
- The treatment of existing trees and existing landscape and natural features;
- The design and area of space available for recreational amenity activities;
- The design and orientation of features, spaces and access points;
- Refuge and seating opportunities; and
- Signage and storyboards.

Assessment

It is acknowledged that the applicant's approach to developing detailed design through the process for generating the LUDP and BSUDP's allows some public input via the Eastbourne Community Board and residents associations has the potential, but not certainty, to result in a quality design. Equally, it limits the ability to assess visual effects because the assessment relies on understanding the design and scale of the proposal. The expert peer review by Mr Head is explicit in the difficulty or limited ability to assess the proposal given the fact detailed design is yet to be developed. Essentially the application relies on the process of developing the LUDP and BSUDP's to further mitigate the effects of the proposal.

District plan rule 13.3.1.37 lists the following structures as permitted activities, subject to compliance with the earthworks standard 13.3.2.5;

Traffic control signals and devices, light and decorative poles and associated structures and fittings, post boxes, landscaped gardens, artworks and sculptures, bus stops and shelters, phone boxes, public toilets and road furniture located within the road reserve and the rail corridor.

'Road furniture' is not defined in the district plan or RMA however the Resource Consent Team at Hutt City Council have confirmed that safety barriers and/or handrails alongside footpaths would be considered as a permitted activity under rule 13.3.1.37. The implication is that once the shared path is constructed and becomes part of the road reserve that barriers are a permitted activity and adverse visual effects associated with the barriers can be disregarded if the permitted baseline is applied.

The conditions of consent proposed by the applicant that relate to the design of the wall are numbered LV.1 through LV.7. GC.5 also is relevant as this sets out the process for certifying plans.

Because of the lack of detail design the following suggested amendments to the conditions of consent have been proposed by Mr Head. The intention of the suggested amendments to conditions is to ensure the final design is more likely to be of high quality.

The suggested changes were made in conjunction with Ms Hamilton and are shown the recommended conditions.

Overall, I consider that subject to the effective implementation of the recommended conditions of consent any overall biophysical adverse effects are less than minor and effects on visual amenity might range from less than minor to minor but that this is contingent on the LUDP and BSUDP process so a firm conclusion cannot be made.

7.4 Effects on Infrastructure

This section considers the effects on infrastructure including Marine Drive, bus stops, parking spaces and underground services.

Marine Drive

The proposal will enhance the protection of Marine Drive which is the only road access into Eastbourne, through upgrading and constructing of the shared path and seawall, so the proposal is considered to have a positive effect in this regard. The shared path will reduce the frequency and cost of clearing the road following storm events. Within the road reserve is the main outfall sewer pipeline that serves 146,000 residents and industry and the pipeline is regionally significant infrastructure. 'Resilience' has been discussed in greater detail by Mr Watson on behalf of GWRC and I concur with his comments.

Bus stops

The proposal includes relocating northbound bus stops at Mahina Bay and York Bay. The shelter at Mahina Bay is proposed to be moved 50m to the north to avoid encroaching onto useable beach space. The location of bus shelters will be confirmed with the GWRC as the authority that manages public transport. The design of bus shelters will be part of the LUDP consent process. The Design Features Report states in section 3.9 that in all circumstances the shared path will be directed to the rear of bus shelters to avoid conflict whereas the section 7.9.2 of the AEE states the shared path cannot be diverted behind bus shelters in all locations. It is noted that the placement of bus shelters is a permitted activity under district plan rule 13.3.1.37.

Several submissions commented on repositioning of bus stops or the amount of room around bus stops and potential conflict between path users and people waiting at bus stops.

Parking spaces

The application states that existing parking spaces will be retained where possible. Existing formal parking areas at Point Howard - Seaview Terminal side and Point Howard (landward side of road) Whiorau Reserve and at Days Bay will be unaffected.

In some locations informal parking occurs where there is additional shoulder width and in places this will be reallocated to the shared path. Informal parking at Point Howard and Windy Point exists and this informal perpendicular parking reoriented to diagonal or parallel respectively. These areas are shown in Figures 3-13 of the Design Features Report. Two submissions specifically mentioned that there is insufficient parking but do not comment on any particular location

Underground services

Powerco Ltd submitted on the proposal and indicated support as it will protect their infrastructure that is located within and adjacent to the road corridor. PowerCo Ltd requested that they are notified of any works within 3m of their assets.

Wellington Water submitted on the application and stated they have a neutral position. WWL stated that they have an interest in ensuring protection of water supply assets during construction. WWL's submission noted the presence of culverted streams that the SP will cross and suggested signage, variance in path materials or informational displays on these streams could be created. The submission also recommended the use of water sensitive design be incorporated into stormwater management.

Avoiding, remedying or mitigating adverse effects

In relation to potential conflict between path users and other people at bus stops the application states line marking and signage will be used to highlight areas of potential conflict. In addition, the path will be diverted around the rear of the bus shelters where possible.

In relation to the loss of some of the informal car parking spaces the applicant has proposed to create car parking spaces at Point Howard and Windy Point.

Assessment

The increased resilience of Marine Drive and the infrastructure assets within the road corridor is clearly a considerable positive effect of this proposal

The loss of some informal car parking spaces may cause pressure on parking availability in the local area. The number of informal parking spaces that will be lost has not been quantified but the mitigation offered via formalising some of the informal parking at Point Howard and Windy Point is an appropriate response. The loss of some informal parking spaces is an inevitable consequence of the shared path and was not an issue focused on strongly in submissions. Overall, the loss of informal car parking space is considered an acceptable consequence of the shared path.

The concerns raised regarding relocating two northbound bus shelters are acknowledged but it is noted that bus stops and bus shelters are a permitted activity in the district plan and therefore adverse effects due to relocating and/or erecting bus shelters can be disregarded as part of the permitted baseline. The inclusion of bus shelters within the LUDP process means the design of the shelters will include input from the Eastbourne Community Board and relevant Residents Associations. Overall, any

adverse effects due to relocating bus shelters are considered acceptable when the permitted baseline is taken into account.

There are no recommended changes to the conditions due to any of the comments made in this section.

7.5 Effects on tangata whenua

The application acknowledges that the harbour as whole is highly significant to tangata whenua. The application was provided to the Port Nicholson Block Settlement Trust due to the site being adjacent to a statutory acknowledgment area. As part of the public notification notice was served on Port Nicholson Block Settlement Trust; Te Runanga o Ngati Toa; Wellington Tenth's Trust; Te Atiawa ki te Upoko o te Ika a Maui Potiki Trust and Waiwhetu marae

A cultural impact report (CIR) was included with the application. The application notes the concluding comments of the CIR which is that the shared path "*should have only minor cultural impacts largely related to the rocky coastline of the area and perhaps on some sites around the harbour. The provision of a safe shared pathway for pedestrians and cyclists would be welcome addition to the area for all.*"

Avoiding, remedying or mitigating adverse effects

Three conditions have been proffered, AP.1 – AP.3, that relate to:

- *Discovery of Archaeological Features or Deposits*
- *Discovery of Taonga*
- *Tangata Whenua Contacts*

In addition, the application states that the project offers opportunities through story boards and signage to enhance cultural and heritage values and share them with the community. Signage and storyboards are included as one of the design details required via condition LV.7

Assessment

Taking into account the concluding comments within the CIR, the proffered conditions of consent and the lack of submissions relating to cultural matters the proposal is considered to be acceptable in relation to effects on tangata whenua.

Recommended conditions

I consider the proffered conditions are acceptable and appropriate.

7.6 Effects related to construction activity

Context

The Design Features Report (Appendix J) outlines the design details and construction methodology for the design features. Appendix J should be referred to for the full details. The application notes that details of the design features may change as the design progresses and the construction methodology may vary.

The construction period is estimated at 6 years with a staged approach completing each bay in totality with each section expected to take 3-6 months to complete. In places the shared path will be constructed opposite dwellings and in these locations residents will be highly aware of the construction activity whereas in other locations construction effects will be limited to the functioning of the transport network.

Adverse Effects

Effects on the CMA, sediment discharge, contaminants and habitat disturbance have been assessed within the s42 report prepared by Mr Watson and these effects largely fall within the jurisdiction of GWRC. The assessment below is focused on construction related effects above the seawall.

During construction the proposal will affect the flow of traffic, cyclists and pedestrians along Marine Drive as temporary traffic management and lane closures will be necessary at times. The application states that a stop-go system will be in place with work undertaken at off-peak times where possible while also at times having to undertake work at low tide.

Other potential construction associated effects include noise, dust, vibration and temporary visual effects due to the presence of machinery in the area.

The application considers that these are typical effects of any construction activity and will occur during the daytime. The application considers that dust nuisance is unlikely due to the materials that will be encountered and that vibration effects are not expected.

Expert peer review

David Wanty's assessment of transport related matters noted the proffered Traffic Management Plan (TMP) and did not suggest any changes to this condition.

Submissions

Wellington Water Ltd submitted on the application and stated they have a neutral position. WWL stated that they have an interest in ensuring protection of water and waste water assets during construction and suggested that conditions and controls should address this matter.

Avoiding, remedying and mitigating effects

In relation to construction effects the applicant's proffered conditions of consent include a Construction and Environmental Management Plan (CEMP) and Traffic Management Plan (TMP). The TMP will identify how temporary access for all transport modes will be provided for and will include residents to be informed of the programme of works and likely traffic disruptions.

The application states¹⁷ that night works, if required, will not occur adjacent to nearby residents. Post lodgement of the application a condition has been proffered relating to construction noise. Initially the proposal stated that construction, demolition and maintenance will comply with the relevant NZS Construction Noise Standard (NZS 6803P) and that if work were to occur at night that a resource consent would be sought at a later date. Subsequently, a condition has been proffered which requires construction works to comply, *as far as practicable*, with NZS 6803:1999. The use of the wording, *as far as practicable*, introduces uncertainty into the condition of consent and in my view should be removed from the condition. If the construction works do not comply with district plan rule 14A 2.1 (f), which permits construction noise in accordance with NZS 6803P, then consent will need to be sought.

Assessment

Construction related effects are temporary and will be spatially limited at any one time. The approach of using management plans which need certification before approval ensures that appropriate measures will be included in the management plans. Overall, I consider that construction effects can be appropriately mitigated to an acceptable level subject to the effective implementation of conditions.

Recommended Conditions

Noise arising from Construction Works shall be measured and assessed in accordance with NZS 6803:1999 Acoustics – Construction Noise and shall comply, ~~as far as practicable~~, with the noise criteria set out in the following table:

Table CNV1: Construction noise criteria

Day	Time		LAeq(15 min)	LAfmax
Residential buildings				
Weekdays	0630h	–	55 dB	75 dB
	0730h		70 dB	85dB
	0730h	–	65dB	80dB
	1800h		45dB	75dB
	1800h	–		
	2000h			
	2000h – 0630h	–		
Saturdays	0630h	–	45 dB	75 dB
	0730h		70 dB	85 dB
	0730h	–	45 dB	75 dB
	1800h		45 dB	75 dB
	1800h	–		
	2000h			

¹⁷ Section 20.3.5.

	2000h 0630h	–		
Sundays and Public Holidays	0630h	–	45 dB	75 dB
	0730h		55 dB	85 dB
	0730h	–	45 dB	75 dB
	1800h		45 dB	75 dB
	1800h	–		
	2000h			
	2000h 0630h	–		
Commercial and industrial receivers				
All	0730h	–	70 dB	
	1800h		75 dB	
	1800h	–		
	0730h			

7.7 Effects on heritage

The proposed path passes by the Skerrett Boat Shed in Days Bay which is listed in the Heritage Chapter of the District Plan.

The path will narrow at this point to avoid the boat shed being physically impacted. Because the boat shed is untouched by the shared path and the path will not screen or alter the visibility of the boat shed there is no adverse effect on the shed's heritage values.

7.8 Vegetation and gravel beach ecosystem

Information on the vascular vegetation and flora found in the project area are outlined in the Assessment of Environmental Effects on Coastal Vegetation and Avifauna contained in Appendix C and this should be referred to for a full description.

The application states that the sites within the project area have a moderate to high ecological values associated with the presence of seagrass (assessed by Mr Watson) and that *... "One Nationally Critical (*Atriplex cinera*) and eight At Risk indigenous plant species occur within, or very near to, the shared path footprint. Two of these species are restoration plantings (*Atriplex cinera*, pingao). Six are in HCC landscape plantings at Point Howard and Windy Point. The seagrass in Lowry Bay is the only one not derived in some way from human agency¹⁸."* Sparse vegetation cover exists on narrow stretches of beach gravels and sands above MHS in Whiorau/Lowry, York and Sunshine Bays and at Windy Point. The small gravel beaches present in all five bays are classified as

¹⁸ Page vii paragraph 9 AEE on Coastal Vegetation and Avifauna.

an endangered, historically uncommon ecosystem (shingle beaches). Although the gravel beaches are an endangered naturally uncommon ecosystem, the ecological value of the gravel beaches ecosystem that would be lost to the shared path is described as moderate because of its highly modified condition, small extent and the erosion occurring.

The application states erosion over the last two or three years has caused significant loss of beach gravel and sand vegetation cover.

A 'Significant Natural Resource' is a district plan overlay. Significant Natural Resource 44 is located at Point Howard. The district plan listing for SNR 44 is "*Point Howard Beach – Plant – Melicytus obovatus* ss 'coast". The Assessment of Coastal Vegetation and Avifauna did not include this plant in the table (table 4-2) of Threatened and At Risk indigenous species found within or very near to the shared path footprint. Because the plant has not been identified as being within or near the shared path footprint it is considered the adverse effects on SNR are avoided.

Effects

The application states that the shared path alignment will affect six At Risk Species in an area of HCC landscape planting. A single pingao plant at Whiorau/Lowry Bay and its habitat will be lost. Some *Atriplex cinera* (Nationally Critical) plantings may be vulnerable to crushing by the machinery.

The vegetated parts of the gravel beach ecosystem at Lowry Bay will be translocated to the beach nourishment area along with the pingao. The application acknowledges that elsewhere parts of the ecosystem will be lost under the shared path and seawall footprint. Measures within the CEMP, and additional measures discussed below, are intended to ensure that construction effects on remaining beach gravel ecosystems are appropriately mitigated. The areas where beach nourishment is occurring, Point Howard, Lowry Bay and York Bay, means the gravel beach ecosystem will be sustained at these beaches. Because of the moderate ecological value, due to the small extent, highly modified state and erosion, the post mitigation effects on gravel beach ecosystems are assessed as being low.

Submissions

The submission by East Harbour Environmental Association commented that the use of heavy machinery on rocks and beaches will damage flora and that this has not been taken into account.

Avoiding, remedying and mitigating effects

The applicant states options to mitigate the effects on vegetation include translocating existing plants and their gravel to suitable locations which includes nearby reserves such as Whiorau Reserve, Claphams Rock and beaches at Point Howard, Lowry Bay and York Bay including beach nourishment areas.

The application states the following provisions will be included in the CEMP;

- avoiding the use of machinery and other forms of disturbance in vegetated areas through the creation of low barriers;

- For works in vegetated gravel beaches, apply vegetation direct transfer rehabilitation principles as practicable: remove vegetation and the top substrate separately from the underlying gravels and apply to prepared rehabilitation sites as set out above, and bury woody material (to minimise carbon release).
- retaining isolated shrub vegetation between the shared path margin and revetment.

Page 51 of the applicant's assessment of ecological effects sets out several provisions that should be included in the Construction and Environmental Monitoring Plan and Beach Nourishment Management Plan. These have not been included in the proposed conditions which may have been an oversight. It is recommended the provisions below are included in the conditions and they have been included in the recommended conditions.

“i. Translocate the existing gravel beach vegetation at Lowry Bay (native and adventive species, including the pīngao) into the beach nourishment area immediately seaward of the shared path footprint. Apply vegetation direct transfer rehabilitation principles as practicable.

ii. Aim to avoid the use of machinery and any other disturbance at existing vegetation on gravel beaches in the construction zone, provided that vegetation is proposed to remain in-situ.

iii. Transplant the six At Risk species in the landscape plantings at Point Howard and Windy Point to adjoining currently grassed areas or to adjoining reserves (such as Whiorau).

*iv. Recognise *Atriplex cinerea* plantings at York Bay and Claphams Rock as sensitive sites in the CEMP and create low landscaping barriers to avoid vehicles crushing at risk plants.*

v. Where revetment is constructed without a cantilever wall, retain existing isolated shrub vegetation patches between the shared path margin and the revetment.

vi. Thoroughly clean off earth materials any machinery that would be working on the backshore where vegetation is present. vii. Physically demarcate the location of seagrass within the 5 m seawall construction zone at south Lowry Bay.

viii. Undertake works near seagrass localities outside spring tide periods, to minimise the risk of sediment mobilisation into the sea caused by higher tide levels overtopping sediment control measures.

b. Include the following provisions in the Beach Nourishment Management Plan:

i. At all three beaches, specify the methods to separate excavated beach sediments from shared path foundations into those suitable for placement on beaches, and dispose offsite those that have significant levels of silt and clay (

ii. At Lowry Bay, ensure any barging of beach nourishment material is appropriately separated from seagrass beds to avoid any disturbance.

iii. Prepare a site within the beach nourishment area immediately seaward of the shared path footprint at Lowry Bay near the present pīngao location that has a top layer of uncompacted beach sediments. Translocate the existing pīngao patch and other vegetation and their gravel and sand habitat at Lowry Bay to this site.

Recommended Monitoring

Include the following monitoring provisions and contingent actions in the Construction and Environmental Management Plan or Beach Nourishment Management Plan:

i. Undertake a pre-construction baseline assessment and post-construction outcome assessment for Threatened and At Risk plant species, and the vegetated gravel beaches.

ii. Monitor for any post-construction establishment of invasive weeds (including boneseed and old man's beard) and remove as necessary, for a period of two years after works in any one bay are completed.

iii. Include provisions in the beach nourishment monitoring plan to monitor seagrass mortality/survival and changes in densities and distribution. Undertake monitoring on one occasion before works occur and on two annual occasions after works occur (giving four measurements with the existing baseline survey, recognising temporal and spatial seagrass variability).

iv. Undertake seagrass restoration if there is a significant net loss that is likely to be attributable to proxy nourishment or beach nourishment."

Assessment

A conclusion is reached by the applicant where the adverse effects on vegetation when taking into account the mitigation measures are less than minor and that post mitigation effects on the beach gravel ecosystem is low.

The preferred mitigation option is to translocate the existing pīngao patch and its gravel and sand habitat immediately seaward of the project footprint, in conjunction with the beach nourishment programme. Compaction of beach sediments at the chosen site would need to be minimised. This would retain the pīngao on-site for a period of some years to decades, until lost to eventual erosion.

The expert review of the project by Dr Roger Uys included an assessment on vegetation. In an email to Shannon Watson dated 24 October 2019 Dr Uys stated "*I am satisfied that there are no plant species of concern on the single beaches that cannot be replaced by plantings.*"

Given the statement above by Dr Uys and the applicants expert assessment I consider the effects on vegetation, taking into account the mitigation measures, will be less than minor. Accordingly, subject to the effective implementation of the recommended conditions I consider that the adverse effects on the vegetation and gravel beach ecosystem(s) are less than minor.

Atkinson Tree

A planted pohutukawa on York Bay beach is known as the Atkinson Tree and the proposal requires the removal of the tree. The Atkinson tree appears to be located close to the middle of the proposed path with little ability to deviate around the tree or narrow the path at this point.

Retaining the Atkinson tree was mentioned in nine submissions with its visual amenity and shading valued by submitters. One submitter suggested that the path could be narrowed at this section to allow the tree to be retained. The application states that an arborists report has concluded that tree is in poor health and is unlikely to survive being relocated to another location.

Removal of this tree will clearly be an adverse effect of the shared path for the submitters and others who value its presence. Several other trees along the path are being retained with the path being narrowed and trimmed in some cases.

The legal opinion discussed earlier determined that the land on the seaward side of the road, that is not zoned on the district plan planning maps, does not have a zone and that the general district wide provisions only need to be assessed and considered. The Atkinson tree it is not protected by the general district wide provisions and as such resource consent is not required to remove the tree. Accordingly, if this aspect of the permitted baseline is applied the adverse effects associated with removing the tree can be disregarded. Nevertheless, the BSUDP process may be an opportunity to further explore whether any options exist for retaining or replacing the tree.

7.9 Ecological Effects

Ecological effects of the project have been assessed by Mr Watson as ecological effects mostly fall within the jurisdiction of GWRC. One species in particular, the New Zealand Little Penguin, whose nesting sites are within HCC's jurisdiction, clearly overlap jurisdictional boundaries. I confirm I have reviewed Mr Watson's assessment and support his conclusions in regard to effects on NZ Little Penguins. Mr Watson's 'Overall Assessment' of effects on Little Penguins states:

Dr Uys advises that provided the applicant can accommodate 100 nesting opportunities at an appropriate spacing across the habitat enhancement areas, and an appropriate framework for pest management can be developed in accordance with the guidance provided above, effects on little penguins can be managed to an acceptable level.

I have recommended conditions of consent having regard to these matters. Should consent be granted, subject to the effective implementation of these conditions, I am satisfied the effects on little penguins can be appropriately managed.

Mr Watson's report should be referred to for the assessment on the NZ Little Penguins.

7.10 Positive Effects

The application sets out in Section 23 of the AEE the key transportation outcomes that are expected to be achieved as follows:

- Improving safety for pedestrians and cyclists;
- Increased numbers of pedestrians and cyclists;
- Increase availability of the route through reducing the times it is needs to be cleaned following storm events

The economic analysis of the project included the following benefits;

- accessibility and connectivity;
- choice of transport modes and travel time;
- safety benefits for cycling a facility;
- resilience;
- health and environmental benefits for a cycling and walking facility; and
- recreation and social benefits.

The economic evaluation also included quantifying health, travel time and safety benefits. These benefits are acknowledged and the assessment adopted. The positive effects were taken into account in making a recommendation on the application.

Summary and conclusion on effects within Hutt City Councils jurisdiction

The effects associated with this proposal are wide and varied and there is a small degree of uncertainty in relation to landscape and visual amenity effects due to the proposal being developed to a preliminary stage.

Transport related effects are overall considered to be positive due to the proposal promoting active transport modes and the seawall increasing the protection of Marine Drive. The key issue where there is uncertainty between experts is in relation to safety of path users where the path narrows to 2.5m. Noting that the applicants safety audit of the preliminary plans did not raise concern about user safety, nor did the applicants own transport and recreation experts or Mr Wanty consider the 2.5m sections to be unacceptable my view is the 2.5m sections are acceptable from a safety perspective. I highlight that Ms Hamilton has not been able to come to the same conclusion.

Effects on recreation amenity related to path use are uncertain to a degree due to the reliance on the development of the LUDP and BSUDP's to achieve quality outcomes. Amendments to the conditions proffered by the applicant have been recommended to add more certainty to the outcome of the development process. However, the LUDP and BSUDP processes do not guarantee outcomes so it is not possible to come to a firm conclusion on the recreation amenity benefits of the proposal.

Effects on visual amenity are varied depending on the viewpoint. Overall, where a barrier is not proposed there is agreement that effects could be less than minor but this again depends to a degree on the LUDP and BSUDP's. Where a barrier is present the effects will depend on height and design and the particular viewpoint. As stated above amendments to the conditions proffered by the applicant have been recommended to add more certainty to the outcome of the development process.

Effects on infrastructure are positive or within the range of activities that can occur as of right within the road reserve. These effects are overall acceptable.

Effects on tangata whenua have been appropriately considered and appropriate consultation undertaken by the applicant. The proffered conditions of conditions are acceptable. Effects on tangata whenua are considered to be acceptable with the potential to create positive effects via storyboards and signage to enhance cultural and heritage understanding of the area.

Construction related effects can be managed appropriately through the methods outlined in the application and the amended CEMP. Construction related effects within the jurisdiction of HCC are considered to be no more than minor.

Effects on vegetation can be appropriately mitigated through relocating plants and gravel beds following best practice. The effects are no more than minor.

Ecological effects have been assessed by Mr Watson and I support his conclusions on matters (Penguins) that fall within the jurisdiction of HCC.

8. Objective and policies of the relevant planning instruments 104(1)(b)

8.1 National planning instruments

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

I concur with the applicant's assessment of the relevance of the NES for Assessing and Managing Contaminants in Soil to Protect Human Health on page 96 of the AEE. Accordingly, I adopt that assessment which is not repeated here for brevity.

New Zealand Coastal Policy Statement

In addition to the assessment provided in the AEE the applicant has provided further assessment in Memorandum 1. The relevant objectives and policies are set out below and then an assessment of the proposal in relation to the objectives and policies follows.

Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*
- protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and*
- maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with*

significant adverse effects on ecology and habitat, because of discharges associated with human activity.

Policy 1(2) establishes that the 'coastal environment' includes both the natural and built environment, such as infrastructure, areas at risk from natural hazards and items of cultural heritage. The proposal is clearly safeguarding the integrity, form, functioning and resilience of the built component of the coastal environment.

Policy 11 Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

- a) avoid adverse effects of activities on:*
 - i. indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
 - ii. taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
 - iii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;*
 - iv. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
 - v. areas containing nationally significant examples of indigenous community types; and*
 - vi. areas set aside for full or partial protection of indigenous biological diversity under other legislation; and*
- b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:*
 - i. areas of predominantly indigenous vegetation in the coastal environment;*
 - ii. habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
 - iii. indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
 - iv. habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
 - v. habitats, including areas and routes, important to migratory species; and*

vi. ecological corridors, and areas important for linking or maintaining biological values identified under this policy

In relation to the eight At Risk¹⁹ plant species and the gravel beach, an endangered naturally occurring uncommon ecosystem, which occur within HCC's jurisdiction, the potential adverse effects on these indigenous ecosystems and habitats are mitigated by the proposal to translocate these areas immediately seaward of the proposed shared path or to dune restoration sites nearby.

The proposal's effects on vegetation and gravel beach ecosystems have been considered with the ecological value of the gravel beach ecosystem considered to be Moderate. Subject to undertaking translocation following best practice along with additional provisions being inserted into the CEMP, as recommended by the applicant's vegetation expert, the proposal will be consistent with Objective 1 and adverse effects are avoided.

With the exception of the above comments in relation to vegetation in regard to protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of the indigenous coastal flora and fauna and maintaining coastal water quality the overall assessment by Mr Watson is relied upon and should be referred to.

In relation to the NZ Little Penguin the assessment by Mr Watson is relied upon.

Objective 2

To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- *recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;*
- *identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and*
- *encouraging restoration of the coastal environment*

In regard to Objective 2 I generally concur with the applicant's assessment in the AEE, additional assessment contained in a Memorandum titled 'Responses to Further Information Request received 29 May 2019' dated July 2019 and in the Supplementary LVA Report. These assessments include consideration of policies 6, 10, 13, 14, 15 and 18.

The proposal will occur along a narrow band in an already modified coastal environment with seawalls of varying designs and quality along the length of most of the shared path. No outstanding natural features, outstanding natural landscapes or areas with outstanding natural character have been identified in the project area.

Mitigation through the use of a consistent path width and seawall detailing will manage effects noting that the finer design details are reliant on the LUDP and BSUDP which introduces some uncertainty to the outcome. The material for beach nourishment will be

¹⁹ Page 39 AEE Coastal Vegetation

chosen to match existing beach material which should effectively mitigate natural character related effects.

Restoration includes removal of redundant structures and concrete slabs used as part of the existing revetment as well as restoration of the intertidal areas through creating texture on the new concrete seawalls where habitats may re-establish.

The conclusion in the first peer review of Landscape and Visual Assessment stated “*It is agreed that the high natural character landscape values and amenity values enjoyed in the area will continue to be maintained following the proposal as it is currently presented which essentially ‘tidies up’ the existing situation in a generic manner*”. It is noted that this assessment was made prior to railings being proposed in some areas and the peer reviewer (Mr Head WSP-Opus) concluded in his Position Statement that effects on natural character would be between Low and Moderate. Policy 15 (b) requires protecting the natural features and landscapes of the coastal environment from significant adverse effects and avoiding, remedying or mitigating other effects in the coastal environment. Effects on natural features occur along a narrow band of land where there are existing seawalls for most of the path length and the proposal has not been assessed as significant by the applicant or peer review expert.

Overall, significant adverse effects have been avoided the proposal is considered to be consistent with Objective 2 and related policies.

Objective 3

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- *recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- *promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- *incorporating mātauranga Māori into sustainable management practices; and*
- *recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua*

I concur with, and adopt, the assessment in the AEE in regard to Objective 3 which considers the proposal is consistent with Objective 3.

Objective 4

To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:

- *recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy;*
- *maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional*

reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and

- *recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.*

In regard to Objective 4 I concur with the applicant's assessment in the AEE. The assessment includes consideration of policies 18, 19 and 20.

The proposal will clearly enhance public walking and cycling along the coast. The proposal will also ensure public access along the coast is maintained when sea level rise reduces the ability to walk along the foreshore. Beach access will be maintained and in places enhanced with further refinement possible through the LUDP and BSUDP development process. No new vehicle or boat access is proposed but boat ramp access will be maintained. Beach nourishment will mitigate effects associated with foreshore loss.

Overall, public space qualities and recreation opportunities in the coastal environment are maintained and the proposal is achieving Objective 4.

Objective 5

To ensure that coastal hazard risks taking account of climate change, are managed by:

- *locating new development away from areas prone to such risks;*
- *considering responses, including managed retreat, for existing development in this situation; and*
- *protecting or restoring natural defences to coastal hazards.*

In regard to Objective 5 I generally concur with the applicant's assessment in the AEE. The assessment includes consideration of policies 24 - 27.

The application considers the seawall is the only short to medium term option to protect Marine Drive and regionally significant infrastructure along the coast. The proposal is acknowledged as being the first step in incremental seawall upgrades or other options to respond to sea level rise. This is a reasonable conclusion and I consider the proposal meets Objective 5.

Objective 6

To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- *the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;*

- *some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;*
- *functionally some uses and developments can only be located on the coast or in the coastal marine area;*
- *the coastal environment contains renewable energy resources of significant value;*
- *the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;*
- *the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;*
- *the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and*
- *historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.*

In regard to Objective 6 I generally concur, and adopt, the applicant's assessment in the AEE. The assessment includes consideration of Policy 6.

I concur with the AEE's assessment in regard to the shared path having a functional need to be located in the CMA given the lack of realistic alternatives. This is a reasonable conclusion and I consider the proposal meets Objective 6.

Policy 17 Historic heritage identification and protection

Protect historic heritage in the coastal environment from inappropriate subdivision, use, and development by:

- (a) identification, assessment and recording of historic heritage, including archaeological sites;*
- (b) providing for the integrated management of such sites in collaboration with relevant councils, heritage agencies, iwi authorities and kaitiaki;*
- (c) initiating assessment and management of historic heritage in the context of historic landscapes;*
- (d) recognising that heritage to be protected may need conservation;*
- (e) facilitating and integrating management of historic heritage that spans the line of mean high water springs;*

(f) including policies, rules and other methods relating to (a) to (e) above in regional policy statements, and plans;

(g) imposing or reviewing conditions on resource consents and designations, including for the continuation of activities;

(h) requiring, where practicable, conservation conditions; and

(i) considering provision for methods that would enhance owners' opportunities for conservation of listed heritage structures, such as relief grants or rates relief.

The Skerrett Boatshed in Lowry Bay is a category 2 listed historic building. The shared path avoids impacting upon the building by narrowing as it passes the boatshed.

Conditions of consent have been proffered that relate to discovery of archaeological deposits and taonga.

The proposal is considered to meet policy 17.

National Policy Statement on Urban Development 2020

The NPS UD applies to planning decisions by any local authority that affect an urban environment. Policy 1 is;

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

(c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and

This proposal will enhance accessibility between the eastern bays and promote the use of active transport. The proposal meets this Policy 1.

8.2 Regional Policy Statement

8.2.1 Regional Policy Statement (RPS)

The RPS outlines the resource management issues of significance to the region and provides a framework for managing the natural and physical resources of the region in a sustainable manner. Further to this, the RPS identifies objectives, policies and methods which are designed to achieve integrated management of the natural and physical resources of the whole region.

The AEE sets out, according to the applicant, the key objectives and policies. Where the assessment within the AEE is agreed with this is adopted and the assessment is not repeated. In some instances, additional points are made or comments are made.

Objective 3

Habitats and features in the coastal environment that have significant indigenous biodiversity values are protected; and Habitats and features in the coastal environment that have recreational, cultural, historical or landscape values that are significant are protected from inappropriate subdivision, use and development.

Policy 37, Safeguarding life-supporting capacity of coastal ecosystems – consideration

In relation to habitats and features in the HCC jurisdiction the proposal and associated conditions will ensure adequate mitigation is undertaken in relation to habitats and features with significant biodiversity values. Given the expert assessment submitted with the application and the expert comments from Dr Uys from GWRC I consider this objective is met in regard to matters within HCC's jurisdiction.

Objective 4

The natural character of the coastal environment is protected from the adverse effects of inappropriate subdivision, use and development.

Policy 35 sets out what matters regard must be had to in preserving the natural character of the coastal environment. Policy 36 sets out what matters should be considered when determining whether an activity is inappropriate in the coastal environment.

The objective relates to inappropriate use and development. The proposed seawall and shared path will largely replace existing seawall so this form of development already exists in this area. The earlier assessment in this report, and assessment within Mr Watson's report on the effects on natural character, have confirmed that the adverse effects are on natural character are at a level that cannot be considered inappropriate and therefore the proposal is not contrary to Objective 4.

Objective 6

The quality of coastal waters is maintained or enhanced to a level that is suitable for the health and vitality of coastal and marine ecosystems.

Objective 7

The integrity, functioning and resilience of physical and ecological processes in the coastal environment are protected from the adverse effects of inappropriate subdivision, use and development.

The above objectives and associated policies has been addressed by Mr Watson in his s42A report.

Objective 8

Public access to and along the coastal marine area, lakes and rivers is enhanced (objective 8 is shared for the coastal environment and fresh water).

As discussed earlier this proposal has significant positive effect on public access to and along the coastal marine area. The proposal meets this objective.

Objective 10

The social, economic, cultural and environmental, benefits of regionally significant infrastructure are recognised and protected.

The proposal protects regionally significant infrastructure so the proposal is assessed as meeting this objective.

Objective 16

Indigenous ecosystems and habitats with significant biodiversity values are maintained and restored to a healthy functioning state.

Within the HCC jurisdiction the impact upon indigenous vegetation will be mitigated by translocating plants as discussed earlier and this has been accepted by Dr Uys (GWRC).

In relation to Little Penguins assessment provided by Mr Watson is supported which concludes any effects are less than minor after mitigation.

Objective 19

The risks and consequences to people, communities, their businesses, property and infrastructure from natural hazards and climate change effects are reduced.

Objective 20

Hazard mitigation measures, structural works and other activities do not increase the risk and consequences of natural hazard events.

Objective 21

Communities are more resilient to natural hazards, including the impacts of climate change, and people are better prepared for the consequences of natural hazard events.

The proposal will reduce the risk and consequences of natural hazards in the form of storm surge. However, it is noted that the proposal is a first step in incremental upgrades to mitigate sea level rise associated effects. The proposal is considered to meet these objectives.

Objective 22

A compact well designed and sustainable regional form that has an integrated, safe and responsive transport network and:

(a) a viable and vibrant regional central business district in Wellington city;

(b) an increased range and diversity of activities in and around the regionally significant centres to maintain vibrancy and vitality;

(c) sufficient industrial-based employment locations or capacity to meet the region's needs;

(d) development and/or management of the Regional Focus Areas identified in the Wellington Regional Strategy;

- (e) urban development in existing urban areas, or when beyond urban areas, development that reinforces the region's existing urban form;*
- (f) strategically planned rural development;*
- (g) a range of housing (including affordable housing);*
- (h) integrated public open spaces;*
- (i) integrated land use and transportation;*
- (j) improved east-west transport linkages;*
- (k) efficiently use existing infrastructure (including transport network infrastructure); and*
- (l) essential social services to meet the region's needs.*

The proposal will improve the transportation function of Marine Drive, increase cyclist and pedestrian safety and increase connectivity along the eastern bays. This objective is achieved.

Objective 23

The region's iwi authorities and local authorities work together under Treaty partner principles for the sustainable management of the region's environment for the benefit and wellbeing of the regional community, both now and in the future.

Objective 24

The principles of the Treaty of Waitangi are taken into account in a systematic way when resource management decisions are made.

Objective 25

The concept of kaitiakitanga is integrated into the sustainable management of the Wellington region's natural and physical resources.

Objective 26

Mauri is sustained, particularly in relation to coastal and fresh waters.

Objective 27

Mahinga kai and natural resources used for customary purposes, are maintained and enhanced, and these resources are healthy and accessible to tangata whenua.

Objective 28

The cultural relationship of Māori with their ancestral lands, water, sites, wāhi tapu and other taonga is maintained.

The application sets out how objectives 23 – 28 were met in appendix S and I adopt this assessment.

8.3 City of Lower Hutt District Plan

The relevant area wide objectives and policies are;

Objective 1.10.6 Recreation and Open Space

To provide and maintain a diverse range of open space and recreation facilities for the enjoyment of residents and visitors which meets the needs of different sectors of the community.

The relevant policies are:

- d) To ensure the conservation of natural and heritage features and landscapes.*
- e) To restrict the development of buildings and structures to ensure the open space characteristics and amenity values of land within the Recreation and Open Space Activity Areas are maintained and enhanced*

The proposal is considered to meet this objective as the shared path will enhance passive recreation opportunities around the coastline. Policy (e) is related to a district plan rule that limits the scale of buildings in recreation activity areas. This proposal does not adversely affect the open space characteristics of the area given the path is a low level 'structure'.

Objective 1.10.11 Lessening Natural Hazards

To avoid or mitigate the vulnerability and risk of people and development to natural hazards.

The relevant policy states:

- d) To manage areas susceptible to coastal hazards such as coastal erosion and sea level rise*

The proposal will lessen the vulnerability of Marine Drive to coastal erosion so is considered to be consistent with this objective.

The shared path will traverse General Business Activity Area, General Recreation Activity Area and Hill Residential Activity Area and road reserve. A section of the shared path passes through a Significant Natural Resource and passes by a Grade 2 heritage building that is identified in the district plan.

The first relevant objective for the General Business Activity Area is:

Objective 6A 1.1.1

To accommodate those non industrial activities which are suitable in the General Business Activity Area and which do not cause adverse effects on amenity values of the area and the receiving environment.

The relevant policy is:

(e) That the accommodation of non-industrial activities avoids or mitigates adverse effects on the amenity values of the area and the environment

The General Business Activity Area section of the shared path is at Point Howard where the path traverses Centreport land. No seawalls are proposed within this area. The shared path will extend across a grass berm and a sealed area with minimal physical change to the area.

Due to the minimal physical works the proposal will not cause adverse effects on the General Business Activity Area and is considered to meet the objective and policy. Submission 30 (Z Energy, BP Oil NZ Ltd, Mobil Oil NZ Ltd) raised concern with conflict between vehicles turning into this area and path users. The submission requested that appropriate signage and infrastructure be erected in this area to warn road users entering the Point Howard headland of cyclists and pedestrians. The submission also requested that a condition be imposed that requires consultation with NZSOL (pipeline managers overseeing ongoing pipeline inspections/maintenance) and Z Energy who are responsible for the upgrade to the pipelines in this area) is ought. The justification for such a condition will be raised/discussed when Z Energy, BP Oil NZ Ltd, Mobil Oil NZ Ltd speak to their submission.

Overall, the proposal is considered to be consistent with the objective and policy discussed above.

Objective 6A 1.2.1 Effects on the Amenity Values of the Area

To maintain and enhance the amenity values of the activity area and neighbouring areas.

- c) That buildings or structures in the Point Howard General Business Activity Area located on Eastern Bays Marine Drive adjacent to the Seaview Tanker Terminal be designed and maintained to maintain and enhance the amenity values and character of the coastal environment*

This proposal does not introduce any new structure(s) within the Point Howard area because the shared path is crossing existing land only in this section.

Overall, the proposal is considered to be consistent with the objective and policy discussed above.

The relevant objective for the Hill Residential Activity Area is:

Objective 4D 1.1.1

To maintain and enhance the distinct characteristics and amenity values associated with the hillside residential areas of the City.

The relevant policies are:

- a) That the visual appearance and nature of earthworks be managed to minimise the adverse effects on the visual amenity values of the hillside environment.*

- b) *That the clearance of vegetation be managed to avoid, remedy or mitigate any adverse effect on the visual amenity values of the hillside environment or the intrinsic values of ecosystems.*

The Hill Residential section of the shared path is 428 Marine Drive (privately owned) which is a 708m² irregular shaped site in Mahina Bay that does not contain any buildings. The site is separated from other Hill Residential sites by Marine Drive. The path will deviate around a tree on this site to allow the tree to be retained. The shared path will have a negligible effect on the amenity values of the Hill Residential Activity Area due to the minor bulk of the works and separation from residential sites. Any effects due to earthworks will be avoided once the path is constructed.

Overall, the proposal is considered to be consistent with the objective and policy discussed above.

The relevant objectives for the General Recreation Activity Area are:

Objective 7A 1.1.1

To ensure that recreation activities have adverse effects, which are no more than minor on adjoining residential activity areas.

Policies

- a) *To ensure that recreation activities are of a scale and character that amenity values of adjoining residential activity areas are not affected adversely.*
- b) *To ensure that adverse effects, such as noise, glare, light spill and odour, generated by activities in the General Recreation Activity Area, are managed to ensure that residential amenity values are maintained.*

The General Recreation Activity Area(s) are at Whiorau/Lowry Bay Reserve, Mahina Bay and close to Windy Point. The expected increase in recreation activity will be physically separated from residential activity by Marine Drive. The separation distance, and nature of the expected activity, means adverse effects on residential amenity will be avoided.

The proposal is considered to meet the above objective and policies.

Objective 7A 1.1.2

To ensure that recreation activities carried out are compatible with the physical characteristics of the land.

Policy (a) *To encourage land of suitable topography to be developed and used for formal and active forms of recreation.*

The Issue Statement for this objective and policy states areas which are generally flat and not covered in bush should be developed for more active and formal recreation purposes. The flat topography is ideal for a shared path.

The proposal is considered to meet the objective and policy.

Objective 7A 1.2.1

To control the size, scale, character, location and external appearance of buildings and structures.

Policies

- a) *To ensure that the external appearance of buildings and structures have adverse effects which are no more than minor on the amenity values of adjoining residential activity areas.*
- b) *To ensure that the design and external appearance of buildings and structures maintains and enhances the amenity values of recreation and open space areas.*
- c) *To ensure that the location, size and scale of buildings and structures have adverse effects which are no more than minor on the functioning of other activities.*
- d) *To encourage the multi-utilisation of buildings and structures*

The LVA considers that the effects on visual amenity on individual residents will be determined by the finer grained detailed design of the safety structures. The LVA considers the potential effects on residential amenity will be Low if design principles are followed. However, residences have been identified within the Supplementary LVA Report where barriers will partially screen direct views of the coastal edge and harbour and the effect on the visual amenity for these residents will be Moderate to Low with the LVA considering this effect may be reduced through final design detailing. The peer reviewer of the LVA, Mr Head, does not distinguish between landscape effects and visual amenity effects. Mr Head considers landscape effects where the barrier is present as Moderate which must be more than minor. Due to the lack of detailed design a firm conclusion cannot be reached as to whether the proposal is contrary to Policy a) which seeks to ensure that the appearance of buildings and structures have adverse effects on the amenity values of adjoining residential areas that are no more than minor.

The relevant objectives within the Network Utilities Chapter are:

Objective 13.1.1

To recognise and protect the benefits of regionally significant network utilities

Policies

- a) *To identify regionally significant network utilities within the City on Council planning maps, as practicable.*
- b) *To recognise the national, regional and local benefits of regionally significant network utilities.*

I concur with the AEE which notes Marine Drive is a regional access road and the shared path would be part of a regional network of cycleways. The proposal is considered to meet the objective and policy.

Objective 13.1.3

To recognise and provide for the sustainable, secure and efficient use, operation and development of network utilities within the City.

Policies

- a) *To recognise and provide for the:*
 - i. *need for new and the maintenance and upgrading of existing network utilities;*
 - ii. *technical and operational requirements and constraints of network utilities in assessing their location, design, development, construction and appearance; and*
 - iii. *benefits that network utilities provide to the economic, social and cultural functioning of the City.*
- b) *To enable the efficient construction, installation, operation, upgrading and maintenance of network utilities.*

The AEE notes Marine Drive is prone to overtopping in storm events and in sections the wall has a residual life of 5 years. Upgrading the seawall will improve the structural stability of the walls and will protect the road and underground infrastructure.

The proposal is considered to meet the objective and policies.

Objective 13.1.4

To manage any adverse effects on the environment resulting from the design, location, operation, upgrading and maintenance of network utilities.

Policies

- a) *To ensure that network utilities are designed, located, developed, constructed, upgraded, operated and maintained to avoid, remedy or mitigate any actual or potential adverse effects on the environment.*
- b) *To manage effects on health and safety by ensuring network utilities are designed, located, upgraded, operated and maintained to comply with relevant national environmental standards and to meet other nationally recognised standards and guidelines.*
- c) *To enable the co-location or multiple use of network utilities where this is efficient, technically feasible and practicable and assists with avoiding, remedying or mitigating adverse effects on the environment.*
- f) *To encourage network utility providers to consult with local communities, landowners and the Regional Council (where relevant) on the appropriate placement, location and design of new network utilities.*

The effects assessment in the AEE and in this report considers that the adverse effects have been acceptably avoided, remedied or mitigated.

In relation to policy (f) the applicant has undertaken significant consultation with the local community.

The proposal is considered to meet the objective and policies.

Transport

Objective 14A 3.1

A safe, efficient, resilient and well-connected transport network that is integrated with land use patterns, meets local, regional and national transport needs, facilitates and enables urban growth and economic development, and provides for all modes of transport.

Policy 14A 4.1

Additions and upgrades to the transport network should seek to improve connectivity across all modes and be designed to meet industry standards that ensure that the safety, efficiency and resilience of the transport network are maintained.

Policy 14A 4.6

Vehicle access, parking, manoeuvring and loading facilities should be designed to standards that ensure they do not compromise the safety and efficiency of the transport network.

Policy 14A 4.7

The transport network, land use, subdivision and development should provide for all transport modes.

The proposal will clearly increase connectivity across active transport modes compared to the existing situation. The proposed formalised car parking spaces will be compliant with standards and improve safety compared to some of the informal parking. The proposal is consistent with the objective and policies above.

Objective 14A 3.2

Adverse effects from the construction, maintenance and development of the transport network on the adjacent environment are managed.

Policy 14A 4.3

The transport network should be located and designed to avoid, remedy or mitigate adverse effects on the adjacent environment.

The proposal's construction methodology and proffered conditions of consent adequately manage construction effects for the reasons discussed earlier in this report and within Mr Watson's s42A report. The broader effects have been discussed above with the conclusion being they are acceptable.

Noise

Objective 14C 1.1

To maintain or enhance the amenity value of all activity areas by ensuring that the adverse effects of excessive noise on the environment are avoided or mitigated.

Policies

- f) *To recognise that noise levels may be different through a construction phase.*
- g) *To recognise that Noise Management Plans may be appropriate to manage matters beyond those addressed in this District Plan.*

The application states that construction noise will be compliant with the relevant construction noise standard but that consent will be sought if this is going to be breached. This is considered a reasonable approach given the uncertainty of construction periods, timeframes and machinery to be used. A Construction and Environmental Management Plan will be developed and implemented to mitigate construction noise effects if compliance with policy (g).

The proposal is considered to meet the above objective and policies.

14E 1.1 Protection of Significant Natural, Cultural and Archaeological Resources.

Objective 14E 1.1

To identify and protect significant natural, cultural and archaeological resources in the City from inappropriate subdivision, use and development

Policies

- c) *That any activity or site development shall not modify, damage or destroy a significant natural, cultural or archaeological resource.*
- d) *That any activity or site development shall not compromise the natural character or visual amenity values of a significant natural, cultural or archaeological resource.*
- e) *All buildings, structures and activities shall preserve the natural character, visual amenity values and landscape values of the significant natural, cultural or archaeological resources including the identified coastal environment.*
- f) *The scale, height, location and design of all buildings and structures shall protect the amenity values, especially landscape values, of the identified coastal environment.*
- h) *That any activity or site development will take into account new findings of significant natural, cultural and archaeological resources.*
- i) *That any activity or site development shall not modify, damage or destroy the intrinsic values of the ecosystems of a significant natural, cultural or archaeological resource.*

The shared path passes through SNR 44 at Point Howard with the district plan listing being "Plant – *Meliccyctus obovatus* ssp 'coast'". The SNR listing only applies to the road reserve area within the SNR overlay as the SNR rules have a sunset clause meaning they no longer have legal effect on sites in private ownership. – see rule 14E 2.2 (b)(iii). The *Meliccyctus obovatus* ssp 'coast' was not identified in the applicant's Vegetation and Avifauna Assessment and the section of the shared path in this area will pass over grass

and a sealed area therefore there is likely to be no impact upon this plant which may not be present in this area.

Earthworks

14I 1.1 Objective

To ensure that earthworks are designed to maintain the natural features that contribute to the City's landscape.

Policies

- a) *To ensure that earthworks are designed to be sympathetic to the natural topography.*
- b) *To protect significant escarpments, steep hillside areas, and the coastal area by ensuring that earthworks are designed to retain the existing topography, protect natural features, and prevent erosion and slips.*

Adjacent to the coast the earthworks are occurring where the existing seawall is located (seawalls exist along 90% of the shared path) which means the work is occurring in areas where the natural topography has already been altered. Earthworks are required for foundations and backfilling between the proposed wall and existing wall. Away from the coast the earthworks are very minor with ground preparation to form the path or to widen the existing path at Whiorau Reserve.

The proposal is considered to meet the objective and policies above.

14I 1.2 Objective

To ensure earthworks do not affect adversely the visual amenity values, cultural values or historical significance of an area, natural feature or site.

Policies

- b) *That rehabilitation measures be undertaken to mitigate adverse effects of earthworks upon the visual amenity values.*
- d) *To recognise the importance of cultural and spiritual values to the mana whenua associated with any cultural material that may be disinterred through earthworks and to ensure that these values are protected from inappropriate earthworks.*

Mitigation measures have been set out in the LVA and consent conditions proffered in relation to earthworks potentially having an adverse effect on cultural or spiritual values. The proposal is considered to meet the objective and policies above.

Other relevant matters 104(1)(c)

On pages 109 -112 of the AEE discusses several documents that could be considered as other matters. The documents are:

- Government Policy Statement on Land Transport 2018

- Coastal hazards and Climate Change – A guidance Manual for Local Government (MfE 2017)
- Wellington Regional Transport Plan (2015)
- Regional Cycling Plan 2008
- Draft Hazard Management Strategy for the Wellington Region (2016)

I generally agree with the comments made in relation to the above documents and therefore adopt the assessment set out over pages 109 – 114.

Pages 113 – 114 of the AEE discusses four Hutt City Council policy documents.

Eastern Bays Marine Drive Design Guide

The first is the Eastern Bays Marine Drive Design Guide. The design guide forms part of the Hutt City Design Framework and establishes an agreed and explicit direction for future work by HCC in the Eastern Bays area. The Design Guide focuses on the design of the sea edge, specifically the seawall, walkway and associated elements between Port Road and Windy Point. Its scope includes the design of elements and landscape located on both sides of Marine Drive.

The application describes design principles outlined in the Eastern Bays Marine Drive Design Guide were taken into account in the early design stages and, where relevant, have been incorporated into the Design Features Report and the Preliminary Design Plans. These design principles include:

- Achieve compatibility along the bays by consistency in the location and design of elements, and use of materials.
- Consideration of the whole environment into an integrated solution.
- All work must be an improvement on what is existing.
- Change seawall type if necessary, at a promontory, rock outcrop or other major feature within the bay, or in locations where a ramp or set of steps provides a logical/neat transition point between wall types.
- Recognise the individual character of each bay by reinforcing and strengthening those valued patterns that establish the unique identity of the bay.
- Locate all elements carefully to avoid visual clutter and maintain a focus on the seashore and natural environment.
- Design the seawall to be multi-functional.

The proposal will result in uniformity in the design and appearance of the seawall which will be a significant improvement to the existing mix of seawall designs. This satisfies the first and third design principles of recognising the character of individual bays. The BSUDP process takes into account the fifth and sixth design principles. Finally, the seawall will be multi-functional given it will also accommodate the shared path.

Overall, the proposal is considered to achieve the objectives of the design guide.

Walk and Cycle the Hutt 2014 - 2019

This strategy's objective is to promote greater levels of walking and cycling. The shared path is one of the off-road pathways identified in this strategy and the application is therefore meeting the objective of Walk and Cycle the Hutt 2014 – 2019.

I have read and agree with the assessment of the proposal against The *Environmental Sustainability Strategy for the Hutt Valley 2015 – 2045* and the *Urban Growth Strategy* on page 114 of the AEE. I adopt the assessment.

9. Part 2 of the Act

Consideration of an application under section 104 of the Act is subject to Part 2.

Part 2 of the Act sets out the purpose of the Act, which is to promote the sustainable management of natural and physical resources, and in sections 6, 7 and 8 sets out matters that consent authorities should consider when exercising their functions under the Act.

Section 6 – Matters of National Importance

In exercising its powers and functions under the Act, the Hutt City Council is required to recognise and provide for the matters of national importance listed in section 6 of the Act. I have identified the following matters to be of relevance to this application and have addressed the effects of the proposal on that basis.

All section 6 matters are relevant to this proposal and have been considered in the effects assessment of this report.

- a. *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- b. *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- c. *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- d. *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- e. *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- f. *the protection of historic heritage from inappropriate subdivision, use, and development:*

- g. the protection of protected customary rights:*
- h. the management of significant risks from natural hazards*

Section 7 – Other Matters

The other matters to which Hutt City Council must have particular regard in relation to managing the use, development, and protection of natural and physical resources are listed in section 7 of the Act.

The relevant section 7 matters are underlined:

- a) *kaitiakitanga:*
- aa) *the ethic of stewardship:*
- b) *the efficient use and development of natural and physical resources:*
 - (ba) *the efficiency of the end use of energy:*
- c) *the maintenance and enhancement of amenity values:*
- d) *intrinsic values of ecosystems:*
- e) *[Repealed]*
- f) *maintenance and enhancement of the quality of the environment:*
- g) *any finite characteristics of natural and physical resources:*
- h) *the protection of the habitat of trout and salmon:*
- i) *the effects of climate change:*
- j) *the benefits to be derived from the use and development of renewable energy*

The effects assessment has assessed these matters and I concur with the analysis of these matters contained within the AEE.²⁰

9.1.1 Section 8 – Principles of the Treaty of Waitangi

Section 8 of the Act requires Hutt City Council to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) when considering applications for resource consent. The Waitangi Tribunal and Courts continue to establish the principles of the Treaty of Waitangi and it is recognised that the principles are continuing to evolve. The two key principles that are of relevance to this application are active protection of Māori interests and consultation.

²⁰ Page 116 AEE

The application has demonstrated early consultation and engagement with tangata whenua and there will be on going involvement through the development of the Land and Urban Design Plan.

9.1.2 Section 5 – Purpose and Principles

Section 5 defines “sustainable management” as:

“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enable people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

I consider the proposal meets the purpose of the Act because the shared path will provide for the social, economic and cultural wellbeing of the local community and visitors by creating a widely supported, as evidenced through submissions, cycle and pedestrian path which will increase connectivity around the eastern bays, promote active transport and increase resilience while retaining access to the coastline. Adverse effects within Hutt City Council’s jurisdiction are at worst minor (potentially on visual amenity of some individual dwellings and less than minor in all other respects.

10. Conclusions

I conclude that adverse effects are appropriately avoided, remedied or mitigated but noting there is a degree of uncertainty regarding localised visual effects due to the preliminary design and recreation amenity outcomes of path users due to the design only being at the preliminary stage. In relation to the NZCPS, RPS and District Plan objectives and policies the proposal is consistent with the relevant objectives and policies for matters within Hutt City Council’s jurisdiction. The proposal is consistent with other matters such as the ‘Eastern Bays Marine Drive Design Guide’ and ‘Walk and Cycle the Hutt’ strategy.

11. Recommendation

I recommend that landuse consent is granted subject to suitable conditions of consent being imposed.

Report prepared by:

Recommendation approved by:



Dan Kellow
Environmental Planner
Independent contractor

Peter McDonald
Senior Resource Consent Planner
Hutt City Council