

Decision following the hearing of an application for resource consent under the Resource Management Act 1991

Proposal

Auckland Council (Community Facilities) seeks an integrated resource consent to establish a 15km shared (pedestrian and cycle) path linking the Waitematā and Manukau Harbours to be known as the “Te Whau Pathway”. The Te Whau Pathway will link Karaka Bay in Green Bay, to Te Atatū where it connects with the existing State Highway 16 shared path. The proposed Pathway will connect 33 reserves, esplanade reserves, sports parks and roads, as well as connecting the suburbs of Te Atatū, Kelston, Glendene, Avondale, New Lynn and Green Bay using a series of coastal boardwalks and land-based paths.

These resource consents **GRANTED**. The reasons are set out below:

Application number:	BUN60337530 [comprising LUC60337532(Land Use) CST60337531(Coastal) DIS60337533 (Discharge)]
Site address:	Various land and coastal locations between 31 Bridge Ave, Te Atatū South and 235A Portage Road, Green Bay
Applicant:	Auckland Council (Community Facilities)
Hearing commenced:	Monday 21, Wednesday 23 and Thursday 24 September 2020 at 9.30 a.m.
Hearing panel:	Robert Scott (Chairperson) Barry Kaye David Mead Nigel Mark-Brown (withdrew 29/09/2020)
Appearances:	<u>For the Applicant:</u> Matthew Allan, counsel Rowan Ashton, counsel Graham Hooper, Corporate John Youdale, Construction Methodology Stephen Hewett, transport/traffic Shaun King and Micky Yang, Acoustics Connon Andrews, Coastal Processes Rob Greenaway, Recreation Sarah Budd, Terrestrial Ecology and Estuarine Wetlands Dr Tim Martin, Avifauna Ecology Dr Shaw Mead, Marine Ecology (Skype) Wade Robertson, Landscape and Visual Emily Cambridge, Crime Prevention through Environmental Design (Skype) Ailsa Fisher, Planning Glen Farley, Archaeology Curtis Blyth, erosion and sediment control (Skype)

Amelia Linzey/Sarah MacCormick, Social Impacts
Leon Saxon, Arboriculture

For the Submitters:

Royal Forest and Bird - Nicholas Beveridge

Bike Te Atatū - Melanie Dixon

Bike Auckland - Barb Cuthbert

Whau Coastal Walkway Trust - Tony Miguel (chair)

40 Koromiko Place residents - Erica Wood

The Scouts Association of New Zealand

- Gloria Crann, Motu Moana Camp Facilities Manager

Martin Ball

Culav family

- Peter Reaburn, Planning

- Dragomir Culav

Waitakere Outrigger Canoe Club - Peter Reaburn

Avondale Community Action

- Nina Patel and Tracey Ogden-Cork

St Mary of the Immaculate Conception Parish Avondale

- Terry Gruijters

Cliff Corcoran

Healthy Families Waitākere - Nischal Chakravarthy

Span Farm Boat Yard Limited

- Laura Beilby, legal

- Jeff White

Carl Wilson

Justin Wood

For Council:

Fennel Mason, Project Lead

Nick Pollard, Planner

Ainsley Verstraeten, Landscape Architect

Kala Sivaguru, Coastal Specialist

Gavin Donaldson, Arborist

Glen Wright, Lighting

Amanda Ling, Development Engineer

Gillian Stewart, Social Impact

Daniel Winter, Noise Consultant

Jason Smith, Ecologist

Nicola Livingston, Stormwater Engineer

Richard Challis, Healthy Waters

Glenn Pope, Earthworks

Michael Hamerton, Auckland Transport

Sam Otter, Senior Hearings Advisor

Hearing adjourned	24 September 2020
Commissioners' site visit	17 September 2020 (Land) 22 September 2020 (coastal)
Hearing Closed:	3 October 2020

Introduction

1. This decision is made on behalf of the Auckland Council (**Council**) by Independent Hearing Commissioners Robert Scott (Chairperson), Barry Kaye and David Mead appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (**RMA**).
2. This decision contains the findings from our deliberations on the application for resource consent and has been prepared in accordance with section 113 of the RMA.
3. The applications were publicly notified on 14 November 2019. A total of 368 submissions were received, with 306 in support, 4 neutral and 57 in opposition. No late submissions were received. One submission (number 123) was withdrawn.

Summary of proposal

4. The application is extensively described in the Assessment of Environmental Effects (**AEE**) provided by the applicant and the Council section 42A report for the hearing (**hearing report**). While we do not repeat that detail in this decision, we summarise the following salient components:
 - Auckland Council Community Facilities has applied to the Auckland Council for resource consents to establish a 15km shared path linking the Waitematā and Manukau Harbours, to be known as the Te Whau Pathway (**Pathway**). Parts of the route have already been consented, with this application being for approximately 10.4km of the route comprising 7.1km of boardwalk and 3.3km of footpaths.
 - The Pathway will link Karaka Bay in Green Bay, to Te Atatū where it connects with the existing State Highway 16 shared path. Consent is sought for a development envelope and the application does not include a final developed design as the final alignment of the pathway has not been determined.
 - The proposed pathways will be 3.0m in width on land, and the proposed boardwalks will be 4.3m in width across the Coastal Marine Area (**CMA**).
 - The Te Whau catchment involves a mix of residential, commercial, industrial and recreational development. The proposed Pathway will connect 33 reserves, esplanade reserves, sports parks and roads, as well as connecting the suburbs of Te Atatū, Kelston, Glendene, Avondale, New Lynn and Green Bay. As part of the proposal, there will be a range of seating, viewing and rest areas and artworks, as well as weed control and revegetation works.
5. The Pathway has been described in five sections which we summarise from the hearing report as:

Section 1 - Portage Road

This section covers the route from Karaka Bay to Olympic Park, New Lynn. A large part of this section has been constructed, with the required works being limited to between Karaka Bay and Sister Rene Shadbolt Park. The use of a small portion of a property on the corner of Portage Road and Connaught Street is proposed. The works within this section include a new at-grade shared pathway along the eastern side of Portage Road, which will require changes to on-street parking near Karaka Bay and a new pram crossing across Kinross Street to connect Craig Avon Park and Sister Rene Shadbolt Park.

The shared path will then connect with the existing footpath along Portage Road. At the intersection with Wolverton Road, there will be minor upgrades to the intersection and a new shared path will be constructed to connect to Olympic Place. All works along Wolverton Road will remain within the road reserve.

Section 2: Olympic Park to Ken Maunder Park

This section covers the route from Olympic Park to Ken Maunder Park and includes the first part of the pathway along the Whau River. A shared at-grade pathway will connect to the footpath along Wolverton Road in the south-western corner of Olympic Park and will connect to an existing footpath just past the existing footbridge within the reserve.

A new boardwalk will then pass under the North Auckland rail line on the eastern side of the Whau River. A separate boardwalk is proposed along the western side of the Whau River, which will connect back to the main route and continues along the eastern bank of the river. The boardwalk passes under the National Grid Power Line at several points through this section. A stair connection to St Mary's School is proposed to the school's site boundary.

At Great North Road, the boardwalk continues under the road bridge and there will be both stair and at-grade access to Great North Road. From here, the boardwalk will continue along the northern side of the river and connect to an existing at-grade path at 98 Wingate Street. From the new residential development at Sandy Lane, a new boardwalk will connect to Rata Street, where a new shared path will cross the Rata Street bridge. This portion will either reach 118A Ash Street (a private residential property) or will align through the CMA and 122A Ash Street (marginal strip administered by the Department of Conservation). A new pedestrian crossing will provide access to Ken Maunder Park and an existing pathway, although there is also an existing underpass.

Section 3: Ken Maunder Park to Archibald Park

From the western edge of Ken Maunder Park, a new 2m wide by approximately 100m long bridge will be established adjacent to the existing bridge and will connect to Queen Mary Avenue via a new shared pathway. Some minor road upgrades are also proposed here, including a new speed table, signage and road markings. At the end of Queen Mary Avenue, a new cycle ramp will connect to Queen Mary Reserve. At the northern end of Queen Mary Reserve, a new boardwalk will enter the CMA. As the boardwalk passes Koromiko Street and Lynwood Road, there will be stair connections to the road.

The boardwalk then enters Archibald Reserve with a new shared pathway proposed across the boat ramp accessway. Where the path crosses the boat ramp access it is

proposed to include design details such as differing textures, colours and signage to minimise conflicts between the path users and boat access users. The specific design measures proposed are to be determined as part of the detailed design stage. The envelope in this location also expands into the car park to enable the path to cross through the car park which will require some reconfiguration of it. This connects to the existing pathway through the reserve.

Section 4: Archibald Park to Laurieston Park

From the northern end of Archibald Park, a new shared path will connect to a small section of boardwalk and then at-grade footpath across Cobham Reserve. From Cobham Reserve, there will be a new path linking to Cobham Crescent. The pathway then splits, with the main pathway continuing along the Whau River and the other path going west up the Wairau Creek. The western link provides connections to Akatea Park and Harmell Esplanade. The main pathway extends from Cobham Reserve, across the Wairau Creek and runs through the CMA adjacent to the Span Farm esplanade reserve. As the boardwalk passes Avenger Place, a new boardwalk connection will be provided. The boardwalk then connects to Laurieston Park, through Hepburn Esplanade Reserve, via boardwalks and at-grade footpaths. At Laurieston Park, a new footpath will link to Glen Marine Parade and will connect to a new boardwalk at the northern boundary.

Section 5: Laurieston Park to North West Cycle Connection

This section involves a boardwalk through the CMA which provides links to Meadow Crescent, Riverglade Esplanade and McLeod Park. At McLeod Park, the path connects to the existing path and then connects to another section of boardwalk at the northern edge of the reserve. This connects to Roberts Field and then provides a new boardwalk at the northern edge of the reserve. The boardwalk then provides access to Covil Park via a stairway and new footpath, whilst the boardwalk continues behind the Te Atatu Boat Club, connecting to Bridge Avenue Reserve. From here, the existing footpath adjoins to Bridge Avenue where a raised speed table is proposed across to the northern side of Bridge Avenue. The pathway then runs down the northern side of Bridge Avenue and re-enters the CMA at the end of Bridge Avenue. This will involve some minor road upgrading to amend the parking and road layout. The last portion of the walkway connects from Bridge Avenue to a boardwalk which will link up with the State Highway 16 shared pathway.

Activity Status

6. All parties agreed that the overall consent status under the Auckland Unitary Plan - Operative in Part (**Unitary Plan**) for the proposal is for a discretionary activity. As set out in the hearing report, the specific consents are summarised as follows:
 - Discretionary activity consent is required to discharge stormwater in excess of 5,000m² under Rule E8.4.1(A10).
 - Discretionary activity consent is required for new impervious areas greater than 50m² within Stormwater Management Area control – Flow 1 or Flow 2 that does not comply with Standard E10.6.1 or Standard E10.6.4.1 under Rule E10.4.1(A4).

- Discretionary activity consent is required for the discharge of contaminants from contaminated land under Rule E30.4.1(A7).
- Discretionary activity consent is required for mangrove removal in a Significant Ecological Area – Marine 2 under Rule F2.19.4(A50).
- Discretionary activity consent is required for Infrastructure CMA structures in a Significant Ecological Area – Marine 2 for a new bridge under rule F2.19.10(A133) and new boardwalk under Rule F2.19.10(A143).
- Discretionary activity consent is required under Regulation 11 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.
- Restricted discretionary activity consent is required for land disturbance activities that cannot comply with the Standards E12.6.2(1) and E12.6.2(13) under Rule E12.4.1(A1).
- Restricted discretionary activity consent is required for vegetation alteration in open space zones including: tree trimming under E16.4.1(A6); works within the protected rootzone under E17.4.1(A8); and tree removal under Rule E16.4.1(A10).
- Restricted discretionary activity consent is required for vegetation alteration in Roads including: tree trimming under E17.4.1(A6); works within the protected rootzone under E17.4.1(A8); and, tree removal under Rule E17.4.1(A10).
- Restricted discretionary activity consent is required for activities that do not comply with noise and vibration standards under Rule E25.4.1(A2).
- Restricted discretionary activity consent for the establishment of impervious areas greater than 10% or 5,000m² under Rule H7.9.1(A46).
- Restricted discretionary activity consent is required for the establishment of infrastructure under Rule E36.4.1(A56).
- Restricted discretionary activity consent is required for vegetation alteration within 20m of mean high water springs under E15.4.1(A21) and exceeds the slope and area standards under Rule E15.4.1(A22).
- Restricted discretionary activity consent is required for impact and vibratory piling in an area identified as Significant Ecological Area – Marine 2 under Rule F2.19.8(A114).

Procedural matters

7. Following the hearing of evidence and the water-based site visit (and prior to our deliberations on the application), Commissioner Mark-Brown became aware that a relative of his (via a submission under a company name) was a submitter to the application. Upon discovering this Commissioner Mark-Brown advised the Chair and

stepped down from the panel to avoid the appearance of a conflict of interest. We accept that this oversight was not immediately obvious to the Commissioner and had no bearing on his conduct.

Reports and evidence considered

8. In reaching our decision we have considered:

- The application, the AEE and all its supporting documents and plans, including amended material provided at, and following the hearing;
- The Council hearing report (prepared by Mr Pollard) with supporting reports, peer reviews, recommended conditions of consent attached to the hearing report ;
- The pre-circulated expert Evidence in Chief (**EIC**) from the applicant and the submitters;
- The verbal and written submissions and correspondence from the submitters;
- The expert evidence and supplementary evidence provided at the hearing;
- The Applicant's verbal and written right of reply and response to further questions posed by the Commissioners;
- Comments by Council officers on those further questions.

Relevant standards, policy statements and plan provisions considered

16. We have considered the application in terms of the matters set out in section 104 which requires us to, 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 environmental standard:*
 - (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:*
 - (vi) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

9. Despite all section 104 considerations being “*subject to Part 2*”, the Court of Appeal in *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 has held that consent authorities “*must have regard to the provisions of Part 2 when it is appropriate to do so*”. The Court of Appeal went on to find that there may be situations where it would be “*appropriate and necessary*” to refer to Part 2 when considering consent applications, including where there is doubt that a plan has been “*competently prepared*” under the RMA.

10. We find that the provisions of the Unitary Plan, in relation to this proposal, have addressed the relevant Part 2 matters and identify no issues with the competence of its preparation. We also find that the relevant district and regional plan provisions of the Unitary Plan have "given effect" to those of the Regional Policy Statement in the Unitary Plan. Accordingly, we have relied on the district and regional plan provisions of the Unitary Plan.
11. We have also had regard to the relevant statutory provisions including section 104B relating to discretionary activities. We have had regard to sections 105 and 107 as relates to certain matters associated with discharge permits and coastal permits where the proposal would otherwise contravene s15 (or ss15A or 15B). We have had regard to section 108 and 108AA as it relates to conditions of consent. We have had regard to section 125 with regard to the lapsing of consents and finally we have considered section 128 with regard to the review of conditions.
12. In accordance with section 104(1)(b)(i)-(vi) of the RMA, we have had regard to the following planning provisions:
 - a. National Environmental Standards;
 - National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.
 - b. National Policy Statement
 - National Policy Statement for Freshwater Management;
 - National Policy Statement on Electricity Transmission;
 - New Zealand Coastal Policy Statement 2010; and
 - Hauraki Gulf Marine Park Act 2000 (HGMPA).
 - c. Auckland Unitary Plan (Operative in part) - Regional Policy Statement
 - B2 Tāhuhu whakaruruhau ā-taone - Urban growth and form
 - B3 Ngā pūnaha hanganga, kawekawe me ngā pūngao - Infrastructure, transport and energy
 - B6 Mana Whenua
 - B7 Toitū te whenua, toitū te taiao – Natural resources
 - B8. Toitū te taiwhenua - Coastal environment
 - B10 Ngā tūpono ki te taiao - Environmental risk
 - d. Auckland Unitary Plan (Operative in part)
 - D9 Significant Ecological Areas Overlay
 - D26 National Grid Corridor Overlay
 - Chapter E – Auckland-wide
 - E1, E10, E11, E15, E16, E17, E18, E24, E25, E26, E27, E30

- F2 Coastal Zones
 - H7 Open Space Zones
 - H3 Residential Single House Zone
 - H4 Residential – Mixed Housing Suburban Zone
 - H17 Business – Light Industry Zone
- e. Other non-statutory planning instruments
- Te Pou O Kahu Pokere – Iwi Management Plan for Ngāti Whātua Orākei (2018)
 - The New Lynn Urban Plan 2010-2030
 - The Auckland Plan 2050
 - Marine and Coastal Area (Takutai Moana) Act 2011 (MACA)

Local Board comments

13. As set out in the hearing report we acknowledge that no local board comments were received. However, we note that the project started as the Whau West Greenway in 2011/12 being a concept put forward by Whau River Catchment Trust and the Greenways Project Inc. We acknowledge that this version of the Pathway was presented and approved in principle by the Whau Local Board.

Summary of evidence heard

Applicant Evidence

14. The Council hearing report was circulated prior to the hearing and taken as read. The hearing report concluded that the application fulfils the relevant statutory tests of Sections 104 and 104B of the Resource Management Act, as it is consistent with, and not contrary to, the relevant planning objectives and policies, while any resultant adverse effects are, at worst, minor in scale and acceptable in nature. The recommendation of the hearing report was, subject to further or contrary evidence being presented at the hearing, that consent be granted, subject to appropriate conditions. A set of recommended conditions of consent were included with the hearing report.
15. The evidence presented at the hearing responded to the issues and concerns identified in the Council planning officer's recommendation report, the application itself and the submissions made on the application. We took the somewhat unusual step of requesting that the Applicant present the proposal and its experts in the sequence of stages proposed and this greatly helped us to understand the various stages of the proposal and its corresponding effects in greater detail.
16. The submissions and evidence presented by the applicant at the hearing is summarised below.
17. **Mr Matthew Allan** (assisted by Mr Rowen Ashton) presented legal submissions for the Applicant. He summarised the history of the project which was started in 2011, adopted

- by Council in 2017 and lodged in 2019. The project has adopted an “envelope consenting approach” which Mr Allan explained as the area of occupation of the pathway as well as areas immediately either side needed for construction activity plus some flexibility to make minor changes during construction/implementation. He advised that this envelope for the pathway on land is fairly fixed but extends up to 20m wide in the CMA with the construction envelope limited to 12m wide. Mr Allan likened this approach to being analogous with a designation for roading projects which often provide flexibility of final route alignment and construction methodology. He cited the direct referral decisions of the Environment Court in *Panuku Development Auckland v Auckland Council* as a precedent for an envelope approach.
18. Mr Allan referred to a number of existing coastal structures within the Whau River catchment identified in the AEE and various expert evidence. He submitted that case law provides that the existing environment for the purposes of an effects assessment does not include unlawful activities and cited a number of relevant Environment Court cases to support this.
19. The legal submissions summarised the assessment of effects undertaken by the Applicant and the various responses by the Council officers as part of their assessment. He also summarised the submissions in opposition as well as agreements reached between the Applicant and:
- The submitter at 21 Kelston Road (Loretta and Phil Augustin (submission #322)) including the offer of an Augier condition to design the substructure of the boardwalk at a height of 3.0m Auckland Vertical Datum where the boardwalk crosses the Kelston Tributary;
 - The submitter at 16 Stedman Place, Avondale to avoid the installation of viewing platforms between Rizal Reserve and Wolverton Street with consequential amendments to conditions.
20. Mr Allan addressed us on the issue of “functional need” which we were told was an important policy requirement for coastal structures in the NZCPS and coastal plan instruments. He advised that there was a disagreement between the reporting planner (Mr Pollard) and the Applicant’s Planner (Ms Fisher) on this matter. He submitted, with reference to case law and the relevant planning provisions, that the Applicant is strongly of the view that a functional need has been demonstrated and if not, it was consistent with the policy framework even if there is no such functional need.
21. Mr Allan stated that the Applicant was generally supportive of the hearing report (save for the disagreement regarding “functional need”) and generally supported the recommended conditions of consent with a number of recommended changes which annexed to Ms Fisher’s supplementary evidence.
22. He submitted that consent should be granted, subject to the amended set of conditions appended to Ms Fisher’s supplementary evidence.
23. **Mr Graham Hooper** is a Principal Planner in the Community Facilities department at Auckland Council and his evidence focussed on the project objectives, consultation with affected parties, changes to the proposal since lodgement, investigations of

- unconsented and consented structures in the CMA, response to submissions, engagement with submitters post lodgement and comment on the hearing report and proposed conditions.
24. At the hearing, as requested by us, he took us through each stage of the proposed pathway and provided a detailed overview of each stage. He provided responses to our questions regarding CPTED design at the Rata Street underpass and detailed specific consultation and mitigation offers made to the residents at 40 Koromiko Road (which included aural and acoustic screening of parts of the boardwalk directly facing each dwelling, tinting on windows within each property).
 25. We asked Mr Hooper if the proposed steps at Great North Road could be converted to a ramp and he agreed that that would be a preferred option if it was feasible and offered to investigate this option and report back to the Commissioners.
 26. We also enquired about the use of cycle stairs (which we understand to be a pedestrian stairway which also has a channel alongside it to facilitate walking a bicycle up or down the stairway). Mr Hooper advised that these would only be needed at points where there was a steep connection between land and the boardwalk. He confirmed the need for cycle stairs at each connection where stairs are to be installed and that should be included in the conditions of consent, if granted.
 27. Mr Hooper also submitted a supplementary statement of evidence which specifically addressed the supplementary statement of Ms Crann (on behalf of The Scouts Association of New Zealand) and the evidence filed by Peter Reaburn on behalf the Culav family (259 Hepburn Road).
 28. **Mr John Youdale** is an experienced civil engineer and he provided expert evidence on the likely construction methodology and utility services aspects of the Proposal. He explained the three components of the pathway being the at-grade components on land, the coastal boardwalks and the special crossings. For works in the CMA Mr Youdale explained that options included the use of swamp mats to allow heavy machinery to access the site at low tide or a “build as you go” method that progressively extends the section of boardwalk. He emphasised that flexibility was needed so that the contractor could choose the method in any one section.
 29. **Mr Curtis Blythe** provided expert evidence on contaminated land management and erosion & sediment control; including a proposed contaminated soils management plan and an erosion and sediment control plan.
 30. He noted that an existing Contamination Assessment was undertaken that identified a low risk to human and environmental receptors. Several sites were identified that require a more detailed intrusive site investigation. Consent was sought under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) as a discretionary activity on the basis that the Contamination Assessment did not adequately assess the contamination risk in accordance with the NESCS. This consenting approach was considered appropriate based on the findings of the Contamination Assessment, the Proposal’s preliminary design status and limited ability to access areas of the site requiring additional investigation.

31. Mr Blythe stated that a contaminated soils management plan (**CSMP**) was prepared for the Proposal to manage these risks and support the resource consent application and added that a Detailed Site Investigation (**DSI**) would be required for the specific sites identified within the CSMP. The findings of these DSIs would inform which management practices outlined in the CSMP will apply on a site-by-site basis.
32. He considered that this process will provide confidence that the findings of each DSI will be successfully managed by the CSMP with less than minor effects to human health and environmental receptors arising.
33. In terms of erosion and sediment control, it was his view that the Pathway's linear nature, flat gradient, low volume of earthworks and progressive stabilisation will create discrete earthwork zones that present a low risk from erosion and subsequent sediment loss. Site-specific Erosion and Sediment Control Plans (**ESCPs**) will be developed by the consent holder and contractors will identify specific controls in discrete areas of earthworks once detailed design and construction methodology is finalised.
34. Standard concrete (or asphalt) footpath and boardwalk will have best practice erosion and sediment control measures implemented, as detailed in the ESCP.
35. He considered that this approach would successfully manage any potential erosion and sediment discharge risk from construction activities with less than minor effects to receiving environments from sediment loss.
36. In his conclusion he advised that the risk of contaminants on human health and the environment can be effectively mitigated during pathway construction.
37. **Mr Leon Saxon** is an experienced arborist and he provided expert arboriculture evidence relating to the removal of trees as part of the Pathway project. He noted that forty-seven trees (or tree groups) located within road reserve or reserve land were identified as requiring removal to facilitate construction of the proposed path. He stated that the tree removals are spread out over the development envelope with no significant concentrations of tree removal. We were also advised that there are no notable trees (listed within the Unitary Plan's Schedule of Notable Trees, Schedule 10) affected by the Proposal. None of the trees proposed for removal are significant as unusual species or have any other particularly outstanding values. Any adverse effects resulting from the tree removal are able to be mitigated over time through replacement planting.
38. Works will be required within the protected root zones of retained trees. The exact types of design measures where works are required within the root zones of retained trees had not been confirmed at this (the consenting) stage. Notwithstanding this, design measures do exist which have been proven to be effective in similar projects. He was confident that where trees were identified as requiring such design considerations, adverse effects can be suitably minimised. In order to ensure sufficient consideration is given to adjacent retained trees during detailed design, suitable conditions of consent requiring development of Tree Protection Management Plans at each stage of development are proposed.

39. Overall, he considered that, subject to the imposition of proposed conditions, the Proposal's adverse effects on the trees identified for retention and vegetation generally will be less than minor.
40. **Mr Glen Farley** is an experienced archaeologist and he provided archaeological evidence on a number of identified and recorded archaeological or other historic heritage sites in the vicinity of the pathway works.
41. Mr Farley advised that background research was undertaken on the archaeological and other historic heritage in the vicinity of the Project area. A series of field surveys were undertaken within the Project area to examine previously recorded sites and establish whether any unrecorded sites were present.
42. Mr Farley advised that a total of 33 sites of archaeological or other historic heritage value were recorded within 50m of the proposed route of the shared path.
43. His assessment identified potential direct adverse effects on four known archaeological and other historic heritage sites, three being midden deposits and one a brickworks. He noted that the Project may also affect a further four archaeological sites, which lie in close proximity of the proposed route, being two midden deposits, another brickworks and a landing site. Accordingly, Mr Farley stated that the Project may potentially affect eight known sites. There is also potential for unrecorded sites to be affected by the Project, or on recorded sites where locations could not be accurately determined.
44. He assessed the potentially affected sites under the relevant heritage criteria and concluded that they are of low to moderate heritage significance. The recovery of information through the archaeological recording and investigation of any in situ archaeological remains will appropriately mitigate any loss of archaeological information. The provision of interpretation signage at suitable locations will enhance the understanding of both Māori and early European heritage of the area within the community. He considered that the overall effects of the proposal will be no more than minor and that the Project can be supported from an archaeological perspective.
45. **Mr Micky Yang** is an experienced acoustic expert and he prepared expert evidence on that part of the project relating to underwater construction noise. **Mr Shaun King** is an experienced acoustic expert and he prepared the balance of the acoustic evidence on all other matters.
46. Mr Yang concluded that the underwater noise effects of the proposal will be negligible but acknowledged that on the rare occasion when a marine mammal may travel into the Whau River, appropriate management measures are set out in the conditions to manage the effects on marine mammals.
47. Mr King undertook an assessment of the operational noise effects for this Project. He stated that the change in noise level will be negligible and the overall noise level reasonable. He also undertook an assessment of construction noise and vibration. In that assessment he identified that the proposed construction methodology will exceed the relevant limits of the Auckland Unitary Plan. He recommended mitigation and management measures and a draft construction noise and vibration management plan is to be provided. He concluded that with implementation of a suitable construction noise

and vibration management plan and compliance with the proposed conditions, construction noise and vibration effects will be acceptable.

48. **Mr Cannon Andrews** is an expert in coastal processes and his evidence covered effects of the proposal on coastal processes in the Whau River environment. In his evidence he acknowledged that:

There is no definitive design for the proposed boardwalk, rather – as explained in the evidence of Mr Hooper and Ms Fisher – an envelope consenting approach is being taken for the structure to be located within the Coastal Marine Area (CMA), with the structure subject to detailed design. As discussed in the evidence of Mr Hooper for the Applicant, the intent of the Proposal is that structures within the CMA are to be located on the intertidal flats avoiding tidal channels while minimising mangrove and salt marsh removal and pruning as far as reasonably practicable. The form of the boardwalk as defined by the Applicant’s concept includes a proposed deck level of 2.90m Auckland Vertical Datum (AVD), a likely soffit level of 2.47m AVD and a typical horizontal pile spacing of 4-8m’.

and that:

The Proposal has adopted a structure design life of 50 years with a deck level based on a 1 in 2 year extreme sea level (39% Annual Exceedance Probability (AEP)), a 1 in 50 year wave event (2% AEP) and considering sea level rise to 2070 under the Representative Concentration Pathway (RCP) 4.5M scenario.

This level is driven by the Proposal’s intent to minimise visual effects by adopting a deck level that is low as practicable. During extreme events there is potential for the structure to be subject to tidal and wave overtopping, potentially affecting access along the structure.

49. Mr Andrews stated that the parts of proposed Te Whau boardwalk located within the CMA were considered to have minimal impact on coastal processes, which include, tide, wave, scour and sediment transport processes. He advised that over time as sea level rises due to climate change the likelihood that the boardwalk deck is overtopped increases. For the present day it was likely that the portions of the boardwalk with a deck level of 2.9m AVD can accommodate a 2% AEP extreme sea level and wave conditions before access is affected. At 2070, which is the end of the structure life, access is likely to be affected during 39% AEP extreme sea level and 2% AEP wave conditions consistent with the design intent. To address this, he stated that the design intent was that the structures can be easily upgraded to accommodate future sea level rise should it occur at an accelerated rate over the structure design life of 50 years.
50. **Ms Amelia Linzey** is an experienced planner and she provided expert evidence on the social impacts of the proposal which was based on a Social Impact Assessment she prepared and was submitted with the AEE (Ms Linzey did not attend the hearing as prior to commencement the Commissioners advised the applicant that they had no questions for her). She advised that once the pathway is constructed there will be high positive impacts overall. She added that the positive outcomes include impacts on way of life and health and wellbeing for the wider community.

51. She considered that the operational impacts were also highly positive, both in respect of way of life and health and wellbeing, but also in respect of quality of environment and community character and cohesion. She acknowledged that during construction, potential adverse social impacts were identified, largely derived from the disruption to use of open space and reserves, transport management and visibility/amenity considerations but was of the view that these can be mitigated by appropriate controls and management of construction activities.
52. Ms Linzey specifically identified two groups that would experience adverse social impacts, these being:
- Residents immediately adjoining the coastal marine area who have an outlook to the coastal marine area in which the boardwalk will be located and, in some cases, private outdoor space that would be 'exposed' to users of the boardwalk. This included properties at Ash Street, Koromiko Street and Meadow Crescent in particular; and
 - For users of the coastal marine area where use of boats or other marine vessels may be impacted. This included properties with formal and unauthorised boat storage/access and more informal recreational users (e.g. those vessels with height clearances in excess of those provided by the boardwalk to access the CMA, along this area of the coast).
53. With regard to mitigation Ms Linzey supported the mitigation measures offered for the 40 Koromiko Street Residents proposed construction management measures which have also been offered as conditions of consent by the applicant. Overall, Ms Linzey acknowledged that for a small number of neighbours, the Pathway will give rise to potential negative social outcomes through potential changes to their way of life and to their appreciation of the quality of their environment. While she considered that these impacts have been mitigated, she concluded that there will still be residual adverse social impacts experienced by these people.
54. **Mr Rob Greenaway** is an experienced recreation and tourism planner and he gave evidence on the effects of the Pathway on access for small craft in the Whau River and the potential benefits to recreation participation from the Te Whau project generally.
55. He advised that boating activities on the Whau River include, in the main, outrigger canoe and rowing activities carried out by local clubs, and more generally and at lower intensity, casual kayaking, stand-up paddle boarding, rowing and fishing from a dinghy, and some dinghy sailing. He added that power boating is a low frequency activity due to the shallow nature of much of the Whau River but confirmed that several residents with riparian access own such craft.
56. In terms of effects on recreational boating passage, Mr Greenaway was of the view that boating activity on the Whau River predominantly avoids the areas proposed to be occupied by the pathway and as such he opined that the effects on boating passage at the general level will inevitably be minor. In coming to this conclusion, he explained that the height of the boardwalk also provides for easy passage for all small craft at mean high water with a 1.06m air gap, with only minor restrictions at higher tides for dinghies. He also acknowledged that the air gap had been raised by 0.53m under the boardwalk at the Kelston Street tributary (as referenced by Mr Allan in closing submissions) where

several properties have riparian access, in order to allow passage for small craft over a wider tidal range (and for slightly larger small craft), but still will not permit access by large power boats. That said, he also acknowledged the proposal will result in the loss of direct access to the Whau River for large craft from a small number of private properties (although local public boat ramps retain an option), while access for small craft will be maintained with only minor restrictions at very high tides.

57. **Ms Sarah Budd** – is an experienced ecologist and presented evidence on the terrestrial ecology and estuarine wetlands effects of the proposed Pathway construction and operation. Her evidence covered the ecological effects on terrestrial and saltmarsh habitats (excluding avifauna) and recommended measures to avoid, remedy and mitigate those effects and the ecological work carried out since lodgement, including preparation of the following:
- a) Ecological Management Framework (EMF; Budd and Martin 2020a);¹
 - b) Bat Management Plan (BMP; Wairepo et al. 2019); and
 - c) Lizard Management Plan (LMP; Wairepo and Goldwater 2019).
58. She advised that the consenting envelope for the Proposal covers a total of 13.64 hectares and contained 16 vegetation and habitat types. Those habitat types were described in detail in the Ecological Assessment.
59. She noted that the Te Whau Estuary, within and close to the proposed footprint of the Te Whau Pathway, supports the habitats and fauna values expected for an upper arm of the Waitematā Harbour within a mixed urban-industrial landscape. The consenting envelope has, she said, been designed to maximise the number of terrestrial-marine ecotones that are crossed at a right angle. That alignment avoids almost all of the saltmarsh vegetation on the western side of the Te Whau estuary and minimises the impact footprint within the ecotone area.
60. While the boardwalk may still pass over small areas of saltmarsh, adverse effects would be avoided by using a ‘build-as-you-go’ method to ‘bridge over’ these areas, and using a light permeable deck material to ensure saltmarsh species continue to receive sufficient sunlight to thrive.
61. Any adverse effects associated with the removal of indigenous terrestrial vegetation (excluding specimen trees) will be addressed by improving the habitat values of the remaining areas of shoreline vegetation through pest plant control, enhancement planting, and indigenous revegetation.
62. **Dr Tim Martin** is an experienced ecologist and he provided expert evidence on the avifauna ecology in the Whau River based on site surveys and assessments included in the AEE. Dr Martin stated that seven indigenous terrestrial bird species were recorded during the survey of the consenting envelope along with bird species potentially present and breeding in and alongside the Te Whau Estuary.
63. He stated that a survey of banded rail distribution and habitat use in Te Whau Estuary was undertaken in March – August (inclusive) in 2020 and confirmed that banded rail, an “At Risk” bird species, is resident in the area. Banded rail will be using habitats along the shoreline, including forest, shrubland, and saltmarsh, for roosting and nesting, and

mangrove habitats in the adjacent intertidal zone for foraging. He advised that banded rail will be using habitats along the shoreline, including forest, shrubland, and saltmarsh, for roosting and nesting, and mangrove habitats in the adjacent intertidal zone for foraging.

64. In terms of habitat loss Dr Martin calculated the approximate length of the shoreline surveyed for banded rail along the western Te Whau Estuary as being 7.04 kilometres with a maximum 12m wide clearance corridor, this equates to only 2.5% of the total shoreline length. He concluded that the small extent of mangrove clearance proposed for the construction of this pathway, the Te Whau Pathway is unlikely to result in any adverse effects for the banded rail population of this estuary.
65. We asked Dr Martin to comment further on potential effect of use of the boardwalk on banded rail habitat and he advised that banded rail may be temporarily affected by construction activity but this can be managed through the use of the proposed avifauna management plan. He also stated that they would continue to forage under or near the boardwalk and were likely, based on previous experience, to use the boardwalk for shelter.
66. **Dr Shaw Mead** is an experienced marine biologist and his evidence was presented in support for Dr Tim Haggitt who undertook the field assessment but was unavailable for the hearing. It was his view that the proposed Pathway will have negligible adverse impacts on the existing marine ecology and wider ecological integrity and functioning of the Te Whau River. He concluded that based on the existing species present, any disturbed areas will likely recover quickly. He added that the construction of the pathway is more than likely to provide additional habitat and shelter for species at high tide (fish, eels), provide hard substrate for colonisation of sessile marine invertebrates (barnacles) and increased protection of mangrove pneumatophores beneath the boardwalk.
67. **Ms Emily Cambridge** is a qualified landscape architect and Crime Prevention Through Environmental Design (**CPTED**) practitioner. Her evidence focused on the CPTED effects of the proposal. While she has looked at the CPTED implications of the entire project, her evidence focussed on specific sites including the cycle underpass at Great North Road bridge, Rata Street and Western Rail Link bridge and the various connections to Te Whau Pathway from adjacent residential streets. She advised that she supported the inclusion of condition of consent relating to the implementation of the CPTED assessment and design undertaken by BECA as part of the AEE. Subject to these measures she was of the view that the safety and security effects of the Proposal can be appropriately managed through the recommendations of the previous reports, the proposed CPTED assessment and detailed design phase.
68. Ms Cambridge also provided supplementary evidence to respond to submitter evidence of Ms Gardner at 41 Alanbrooke Crescent.
69. We asked Ms Cambridge about the underpasses at Rata Street and she stated that the most appropriate response was to provide additional lighting at either end and within the underpass and to maintain sightlines as much as possible.

70. **Mr Wade Robertson** is an experienced landscape architect and he presented landscape and visual evidence on the proposed Pathway.
71. He described the approach taken to his assessment of the proposal noting that the Landscape and Visual Assessment (**LVA**) was prepared by Ms Sue McMannaway.
72. As described in that LVA the Proposal passes through a number of distinct character areas and within those areas the physical character and boardwalk visibility and visual effects are localised and discrete in nature. He supported the statement in the LVA that from the land, the shared pathway will not be viewed or experienced all at once, but will be seen in distinctly separate sections.
73. Agreeing with the LVA, Mr Robertson considered that the at-grade sections of the Proposal will result in a “very low level of landscape change” and the resulting landscape and visual effects will for the most part be very low in degree. He noted that the LVA found that the “the at-grade paths proposed will have negligible impacts on landscape and natural character” which was marginally lower in degree than his own assessment but immaterial in the context of broader landscape and visual effects.
74. He clarified that there were two notable exceptions to the very low degree of effect associated with the at-grade sections of the Proposal as identified in the LVA, namely:
- ‘Laurieston Cottage’ located on the Culav property at 259 Hepburn Way, and
 - Those residential properties located adjacent to Cobham Reserve.
75. He addressed both locations and the potential effects of the adjacent at-grade sections of the Proposal later in his evidence.
76. In his opinion the construction activities associated with the at-grade sections of the board walk will result in a very low degree of effect on open space users and adjacent residents. The reason was that the at-grade pathway will require very low levels of earthworks (i.e. modification of landform), is unlikely to require the removal of significant vegetation, and will be completed in a relatively short timeframe. He also stated that it is relevant to note that it is common to see construction activities of this nature in residential areas and directly adjacent to open spaces, and being relatively minor in scale and temporary in nature, any adverse landscape and visual effects of the on-land construction aspects of the Proposal will be low in degree
77. He confirmed that approximately 6.5 km of boardwalk, consisting of 17 separate boardwalk sections varying from 20 to 4,880m in length, will be constructed over intertidal mudflats and low-lying vegetated margins.
78. At his para 5.25 he agreed with the LVA where it states, “the landscape and natural character of the parks and river setting, or the wider landscape will not be significantly adversely affected by the shared pathway”. He also agreed with the LVA that the river corridor has the capacity to absorb the boardwalk without fundamentally changing or significantly affecting its landscape and natural character, although he acknowledged that the ability to absorb change varies throughout the alignment and noted that some locations are more ‘hot spots’ than others, particularly in terms of the perceptual/

experiential aspects of natural character and specifically in locations where private residences are directly adjacent to largely undeveloped sections of the river corridor. In assessing a moderate sensitivity to change he agreed with the conclusion in the LVA that overall, the “adverse effects on landscape and natural character are assessed as low to moderate”.

79. In his opinion, the LVA should have expanded beyond purely ‘visual’ effects to include other aspects that contribute to the broader concept of perception, including other sensory aspects synonymous with coastal and river environments (namely smells and sounds), as well as experiential aspects such as isolation and a sense of connection with the river. In his experience and having reviewed a number of the public submissions, this slightly broader approach includes loss of privacy, access restriction/severance and visual impact and are largely the result of the scale and proximity of the boardwalk to residential properties, specifically (but not only) the section of the boardwalk between Queen Mary Reserve to Cobham Park.
80. While summarising the visual effects of the Proposal as being “generally considered to be low” he identified several locations along the boardwalk alignment where the combination of loss of privacy and visual impacts pointed to the need for further investigation of screening opportunities, including:
- Dwellings adjacent to Cobham Reserve, primarily 58 Cobham Crescent
 - 259 Hepburn Road (aka the Culav property) near Laurieston Park
 - Dwellings overlooking the boardwalk near Meadow Crescent, primarily 20 Meadow Crescent, and
 - Residents at the end of Koromiko Street primarily 1-3/40 Koromiko Street.
81. Mr Robertson also provided two separate supplementary statements of evidence (17 September and 16 October respectively). His September statement addressed;
- a) The proposed facility for boat access at 125 Lynwood Road; and
 - b) The proposed section of pathway adjacent to 259 Hepburn Road (aka the Culav property).
82. In regards to 125 Lynwood Road he noted that the applicant and the owners had reached agreement on a solution to the issues.
83. He noted those were;
- a) A self-supporting connection between the end of the existing jetty at 125 Lynwood Road and the boardwalk, with a lockable gate no higher than the balustrade height; and
 - b) On the river side of the boardwalk, a lockable gate no higher than the balustrade height, providing access to a small landing point, and a stairway or ramp, leading to a fixed jetty / platform parallel to the boardwalk, between 6 and 8 metres in length, and no greater than 1.2m in width.

84. In terms of 259 Hepburn Road (Culav family) he considered that there was a workable solution that can be explored through the detailed design phase to mitigate landscape and visual effects and in his opinion the proposed amendments to consent conditions (in the condition set attached to Ms Fisher's supplementary evidence), which seek to achieve the maximum separation between the Pathway and the Laurieston/Culav Cottage provided an opportunity to achieve the outcomes sought.
85. **Mr Stephen Hewett** is an experienced traffic engineer and his evidence focussed on the construction traffic effects of the proposal as well as the operational aspects once the pathway is completed. In terms of construction effects Mr Hewett stated that the proposal would utilise existing reserves as major staging points for construction activity and that those would be appropriate to manage the construction related deliveries and parking required. Some construction traffic would occur around the proposed road connection points also. Mr Hewett supports the requirement for the preparation of a Construction Traffic Management Plan (**CTMP**) to be prepared, implemented and required as a condition of consent.
86. In terms of operational traffic effects Mr Hewett stated that there will be 22 new access connections onto the pathway's off-road route providing significantly improved accessibility. He added that the majority of these new connections cater for cyclists and users with impaired mobility and that the proposal will have a positive effect on public transport users as there are several local and regional public transport links within approximately 600m of the pathway, including the New Lynn train station. In conclusion Mr Hewett also stated that the Pathway promotes a safe travel option for commuters and recreational travel along the Whau River and the surrounding areas by overcoming severance and providing connections with nearby cycle infrastructure, parks and existing greenways.
87. During the Panel's questioning Commissioner Mead asked that additional data be provided regarding SH16 cycleway usage (Te Atatū cyclists)-which was subsequently provided.
88. **Ms Ailsa Fisher** is an experienced planner and she managed the preparation of the AEE and all responses to requests for further information. In her evidence she stated that she relies on the expert assessments provided with the AEE and expert evidence presented at the hearing. She stated that the positive effects of the proposal would be significant through the introduction of a recreation and commuter facility for walking and cycling, which enhances access to the Whau River and has a range of benefits including for health and safety, community wellbeing and impacts on the transport network while designed at a level to provide reasonable access/easy passage underneath it for smaller craft to continue enabling on-water recreation opportunities.
89. Ms Fisher stated that construction effects could be managed through a combination of management plans to be enforced through conditions of consent.
90. She acknowledged that there are "a few discrete areas throughout the Pathway" in which a higher degree of adverse effect is anticipated. This includes:
- a. The residents at Units 1-3/40 Koromiko Street, who may experience adverse visual and social (way of life/privacy) effects;

- b. Other properties along the Pathway may also experience adverse visual and privacy effects, visual screening is proposed for those properties;
 - c. Effects on the use of the consented jetty at 125 Lynwood Road.
91. Included with Ms Fisher's evidence was a revised set of conditions based on those recommended by the Council.
92. Ms Fisher also provided a supplementary statement of evidence addressing the effects of the proposal on specific sites in terms of additional mitigation and consent conditions offered to address specific concerns.

Submitter Evidence

93. **Mr Nick Beveridge** gave evidence on behalf of the **Royal Forest and Bird Protection Society of New Zealand Inc (Forest & Bird)** and he spoke directly to his submission. He stated that Forest & Bird sought that consent be declined unless there was an ongoing commitment to plant pest and animal control.
94. We asked Mr Beveridge whether this was something that could be addressed through a condition of consent and he offered to provide a specific condition to address this.
95. **Melanie Dixon** on behalf of **Bike Te Atatu** spoke to their submission and presented graphic evidence in support of the proposal. She explained that the Pathway would provide up to 20km of car free cycling in the locality with very good links to rapid transit hubs at the Te Atatu Interchange and at New Lynn. She stated that the pathway would provide shorter and safe trips within the neighbourhood (schools, shops, reserves and town centres) that would reduce reliance on motor vehicles.
96. Ms Dixon highlighted the cultural component of the proposal with strong links to Maori cultural values, connection with the waterway and the fostering of a commitment to restoration of the waterway. She also emphasised the potential for the Pathway to become a tourist destination.
97. **Ms Barbara Cuthbert** of **Bike Auckland** supports the proposal and the submission by Bike Te Atatu and stated that the Pathway creates a strategic, convenient and attractive recreation and commuting link. She added that it would create opportunities for healthy lifestyles and a strong community.
98. Ms Cuthbert was asked to comment on the importance of lighting, especially in currently dark locations and she responded with the example of the Orakei Pathway which uses down facing lights and was very effective in her view. She also responded to a question by us regarding community engagement by supporting the establishment of a community liaison group.
99. She stated that Bike Auckland preferred that the shared path be wider than proposed but accepted the width proposed. She supported the CPTED approach to places where the Pathway goes under roads and bridges. She expressed concern regarding the Portage Road component as that relied on cycle lanes that are painted on the road rather than a physical barrier to vehicle traffic. She opined that this method was "outdated" and offered little protection to cyclists.

100. **Mr Tony Miguel** presented written evidence in support of the submission by the **Whau Coastal Walkway Trust**. He stated that he has been involved with the Trust since its inception and he is the Chairperson of the Trust. He advised us that the Project was estimated by the Trust to provide a significant boost to the local economy by increasing the number of pedestrian and cycling traffic to local business. He also spoke to other positive benefits such as improved ecosystems and natural resources (i.e. water quality), amenity values and social economic wellbeing.
101. **Ms Erica Wood** lives at Unit 2, **40 Koromiko St** and she spoke on behalf of Robbie and Gloria Kiddie at Unit 1, 40 Koromiko St, and Karen Cullen at Unit 3 Koromiko St. All three submitters were opposed to the proposal. Ms Wood presented evidence from a written statement as a digital presentation.
102. She spoke to the direct views and close proximity that all three residents have of the Whau River and their appreciation of its ecological and aesthetic values. As residents who live directly on the Whau, Ms Wood stated that they are opposed to the proposal. Their principles were expressed as being threefold:
- 1) Threat to ecology
 - 2) Concern over asset maintenance and responsibility and
 - 3) Threat to homeowners' privacy, security and right to water access.
103. Ms Wood stated that the residents all supported an alternative proposal to have the Pathway diverted behind their dwellings by following along Nikau St and joining the path closer to Archibald Park. She urged the Commissioners to take that option.
104. Ms Wood stated that the proposal would cause mass disruption in the form of construction of the walkway and ongoing litter and human interference would compromise their precious habitat and she listed the various bird species that frequent the intertidal and river environments and added that a leopard seal also visited the locality on occasion.
105. The issue of privacy and security was also raised by Ms Wood and she stated that they all enjoy a view that is basically devoid of other people, zero traffic noise and has an incredible natural outlook. She stated that they feel privileged to be there, but all that would change with the proposed Pathway in front of their properties. She was concerned that they would be looking straight onto the Pathway, and likewise those travelling on it will have uninterrupted views into their homes. In her view the proposed Pathway will wholly compromise and degrade their lifestyle, without any compensation.
106. We discussed the various mitigation options put to Ms Wood and the other residents by the Applicant. These include (as in the evidence of Ms Linzey and Ms Fisher):
- setting back the boardwalk beyond the mangroves
 - reducing the height compared with the original concept
 - reduced/dimmed lighting;
 - offers of visual screening and window treatment

In response, Ms Wood indicated that none of these mitigation measures were acceptable and they were rejected. The other two submitters from Unit 1 and Unit 3 Koromiko St, who were present at the hearing indicated the same position.

107. **Ms Gloria Crann** spoke to the submission by the **Scouts Association of New Zealand**. Ms Crann was primarily concerned that the project encroached on their land. She was concerned that the boundaries identified on the plans were subjective and did not represent a proper survey of the boundary between the road and their land.
108. She referred to the possible removal of established Pohutukawa trees and planting of fruit trees on their land and was opposed to this. She also expressed concern regarding the existing entry point for their site and that the cycleway within the road reserve might inhibit sightlines into their site.
109. Ms Crann was also concerned with the noise that would be generated from the use of the scout camp on children using the camp.
110. **Mr Martin Ball** submitted in support of the proposed Pathway. He stated that he was a small boat user and that the Pathway would still maintain access for this activity but wanted to see the Applicant commit to providing additional boat launching facilities for hand-carried craft along the boardwalk section in the CMA. When questioned by the Commissioners he stated that he sought 24-30 such facilities. In his view these should be located near connecting road linkages to minimise the length of distance for hand-carried vessels to be carried.
111. **Mr Peter Raeburn** is an experienced planner and he presented evidence on behalf of P and AM Culav and EM, DA PJ Culav (**Culav Family**). Their submission relates to that part of the Pathway passing the “Culav Cottage”, a dwelling with historic heritage value on the Culav Family land at 259 Hepburn Road. He stated that the Culav Family has owned land at 247 –259 Hepburn Road since 1933. In the past the land has been used for orcharding and vineyards, but it is currently mostly in pasture and grazed.
112. He advised that the Culav Family have prepared a subdivision application for the land, which has not been lodged with Auckland Council. We were advised that the implication of this is that once lodged the land would be subject to an esplanade reserve of 20m being taken and therefore used to locate the pathway in this location. Mr Raeburn stated that the Pathway application appears to rely on that esplanade reserve being taken, whereas no such application had been lodged. He added that the Culav Family accepts that a subdivision would require an esplanade reserve and have prepared a subdivision plan but added that it still may not be pursued. It was his view that the Pathway application must be assessed, not in relation to a hypothetical future environment, but the environment that exists now.
113. Mr Raeburn presented evidence supporting why he thought the proposed alignment was not practical and based on adverse privacy, outlook, noise, heritage and security issues. Mr Raeburn expressed a preference for the pathway to be re-aligned so that it was on the seaward side of an existing Norfolk Island Pine, outside an existing well (or ‘long drop’ toilet that might have heritage status) but inside an area of salt marsh which has ecological and habitat value.

114. Mr Dragmar Culav also gave evidence and he stated that the Culav Family were not opposed to the Pathway but were opposed to its location in relation to their cottage.
115. In response to questions from the Commissioners, Mr Allan stated that they were aware of the issue and they would respond with a solution that addressed the Culav Family concerns in their reply.
116. **Mr Peter Raeburn** also presented evidence for the **Waitakere Outrigger Canoe Club** in his capacity as a club member. He explained that the Club adjoined Te Atatu Boating Club on Bridge Street (being the northern end of the Pathway). It has 150 members and is a regular user of the Whau River. Mr Raeburn stated that the Club regard the Whau River as a taonga and they have adopted a kiatiaki (guardianship) role with regard to litter collection.
117. He advised that the Club supported the Pathway and planned to upgrade their facilities to include its own pontoon near the existing Te Atatu Boat Club pontoon.
118. **Ms Nina Patel** is an experienced urban designer and presented an extensive brief of written evidence in support of the submission by Avondale Community Action. She stated that her evidence was given in a “personal capacity” rather than as an independent expert urban designer. Her evidence focussed mainly on the upper reaches of the Te Whau Pathway -primarily Stages 1 and 2, the area between Archibald Park and Karaka/ Green Bay.
119. Ms Patel stated that she was generally supportive of the proposal but had concerns regarding certain aspects including the proposed Urban Design Landscape Framework. She also sought a more sensitive, creative design, landscape and construction process than indicated in the consent documentation with consent conditions that are current and flexible enough to deliver meaningful, longer term community involvement and engagement. She also stated that she was opposed to the location of the Stage 3 part of the Te Whau Pathway between Archibald Park and Queen Mary Reserve and set out detailed reasons for this.
120. Ms Patel sought the removal of the proposed arts condition from the current Landscape condition to allow for a more innovative, creative approach to the way that art is integrated into the project.
121. **Ms Tracey Ogden-Cork** is also an experienced urban designer and she gave verbal support to Ms Patel’s submission in her own capacity rather than as an independent expert.
122. **Mr Terry Gruitjers** gave verbal evidence in support of the submission by **St Mary of the Immaculate Conception Parish**. The Parish sought a pathway extension into their site to enable students and parishioners’ direct access from the Pathway. Mr Gruitjers explained that the Council has advised them that it will provide an extension to their parish and he was pleased to support this.
123. **Mr Cliff Corcoran** lives at 47 Koromiko Road and he presented verbal evidence in opposition to the proposed boardwalk. He also submitted a number of colour photos of

the locality including birdlife. His submission concerns mainly adverse effects from the boardwalk on the local ecology and habitats for native birds.

124. Mr Corcoran sought that the boardwalk component be removed from that part that adjoins the Koromiko Road area.
125. **Mr Nischal Chakravarthy** gave verbal evidence on behalf of the **Healthy Families Waitakere** in support of the Pathway. He stated that the Pathway promotes health and wellbeing by connecting people with their environment, creating a sense of community and improving connectivity for non-motorised forms of transport and creating an attractive tourist attraction.
126. Mr Chakravarthy emphasised the importance of connectivity and placemaking as part of the Pathway project and that it was likely to become an essential component of the community. He supported Mr Balls request for additional places to launch small portable water craft from the boardwalk.
127. **Ms Laura Beilby** presented legal submissions on behalf of **Span Farm Boat Yard Limited** (located at 20 Akatea Road). She explained the current business operates a boat maintenance and repair service and relies on an existing slipway and jetty from the Wairau Creek (being a branch of the Whau River) which also passes over an existing esplanade reserve. She acknowledged that these structures do not have resource consent and there is no lease over the adjoining esplanade reserve. She also accepted the Council legal submission that legal access to the Whau River and use of the slipway and jetty do not form part of the existing environment.
128. Ms Beilby stated that access from the Whau River was essential to the Span Farm operation and that the proposed heights for the Boardwalk would not allow the majority of vessels to pass underneath. She acknowledged that the Applicant offered to increase the air gap between the boardwalk and Auckland Vertical Datum (**AVD**) by 0.53m to 3.00 AVD. However, she stated that this would not be sufficient and sought that the air gap be increased to 4m above MHWS or 5.47m AVD.
129. **Mr Carl Wilson** lives at 17 Corregidor Place, Avondale. His dwelling directly adjoins an esplanade reserve (**Corregidor Esplanade Reserve**). This reserve is grassed and has no formed pathways. He stated that he generally supported the Pathway but opposed the extension proposed through to Sandy Lane along an existing esplanade reserve. His preference was for the alternative alignment from the Rizal Reserve directly to Ash Street.
130. In response to questions from the Commissioners, Mr Wilson acknowledged that the proposed pathway along the Corregidor esplanade reserve was a permitted activity and can be undertaken without consent.
131. **Mr Justin Wood** lives at 10 Corregidor Place and he also opposed the proposed Sandy Lane extension through the adjoining esplanade reserve. He stated that most dwellings adjoining the reserve had direct frontage to it and that the proposed pathway would adversely affect the outdoor living areas of his dwelling which directly adjoins the esplanade. He favoured the removal of this link and a direct linkage from Rizal Reserve through the CMA to Ash Street.

132. In response to questions from us, the Council advised that, while the pathway along this reserve was a permitted activity, it was prepared to reduce the width of the path from 3m to 2m and form an earth bund with planting to provide some screening and privacy to Mr Wood's house and other houses (including Mr Wilson's) along this stretch of reserve.

Tabled Evidence

133. The following evidence was tabled at the hearing.
134. **Ms Louise Gardner** lives at 41 Alanbrooke Crescent. Her evidence stated that she is in no way concerned with the boardwalk as a piece of progressive new infrastructure to the area but has some security concerns with regard to public access to her lawn. She sought that the pathway be relocated to the opposite side of the Whau River where the land is zoned Business: Light Industry.
135. **Ms Jenna McFarlane** tabled planning evidence on behalf of **Transpower New Zealand Limited (Transpower)**. Their interest lies in regard to the Hepburn Road – Mount Roskill A 110kV, Henderson – Mount Roskill A 110kV and Henderson – Otahuhu A 220kV National Grid transmission lines that traverse sections of the proposed Pathway route. The evidence stated that Transpower has undertaken further electrical engineering assessment of the proposed shared pathway and an envelope in which the pathway could be moved if required. Transpower confirmed that it is now satisfied that any potential adverse effects from the proposed pathway and its construction could be addressed through appropriate (and agreed) conditions placed on the resource consent.
136. **Ms Rebecca Vertongen** tabled legal submissions on behalf of **Heritage New Zealand Pouhere Taonga**. The evidence concerned the potentially unlawful works on land defined as an "archaeological site" under the Heritage New Zealand Pouhere Taonga Act 2014 and in the Unitary Plan. The submission recognised that the Applicant intends to apply for an archaeological authority for those areas where archaeological sites are known or suspected and that in those areas, the specifications of how the archaeological sites are to be investigated will be detailed within the authority. The submission adds that to investigate an archaeological site without an archaeological authority would potentially be an unlawful modification of a site. As such, Ms Vertongen recommended that Conditions 90 and 91 (in the final decision version) could potentially be unlawful and set out alternative wording.

Council Officers

137. **Mr Nick Pollard** provided planning comments following the completion of evidence. He stated that he considered the evidence presented at the hearing, including the submissions from those submitters in opposition and stated that he still was of the opinion that consent be approved subject to conditions. He discussed a number of the conditions which the Applicant was seeking to amend and stated that this would be set out in a written statement from him.
138. Mr Pollard stated that he did not agree with the Applicant's request for Condition 1 to be worded as "generally in accordance" and that Council standard "in accordance with" wording should be adopted. He also discussed the issue of whether those elements of the Pathway within the CMA have a "functional need" to be there or whether it is a

“operational need”. In that regard Mr Pollard stated that it was a “operational need” rather than a “functional need” but that such a classification was still supported by the planning framework.

139. The issue of riparian rights was also discussed and Mr Pollard stated that he supported the explanation of riparian rights set out by Mr Allan.
140. **Ms Ainsley Verstraeten** provided landscape architecture comments on the evidence presented. She considered (in relation to landscape matters) that consent should be granted and added the following comments:
- She supported the condition set out by Mr Raeburn regarding Culav cottage;
 - She supported the Applicant’s offer to provide an additional 53cm for the boardwalk at 21 Kelston Road;
 - She agreed with the Applicant’s proposal to provide a boat mooring attached to the boardwalk at 125 Linwood Road and that this would not create any additional landscape effects;
 - She considers that the adverse effect on the residents at 40 Koromiko Street will be significant but did not recommend any additional structures to mitigate the effects of the Pathway. She did recommend that any balustrade along this section be as visually permeable as possible;
 - She agreed with Ms Patel’s request for a Community Stakeholder group and an art and placemaking strategy.
141. The applicant’s right of reply was given verbally at the close of evidence by Mr Allan and subsequently in a detailed written statement dated 16 October 2020. The right of reply addressed the following matters.
- a. Matters arising during the presentation of the Applicant’s case;
 - b. Matters arising from presentation of submitters’ cases;
 - c. One matter arising from the Council reporting team’s comments on the final day of the hearing relating to ‘functional need’; and
 - d. Proposed amendments to the conditions of consent and pathway envelope drawings, including the Applicant’s response to further feedback on conditions received from the Council team since the hearing. An updated set of draft conditions and amended envelope drawings accompanied the submissions as attachments to the second supplementary statement of evidence of Ailsa Fisher.
142. Following questions from the Commissioners during the verbal right of reply, Mr Allan also submitted further briefs of expert evidence on the matter increasing the height of the Pathway across the Wairau Creek to allow addition height of recreational vessels as sought by the submission by Span Farm Limited. The following additional evidence was provided:

143. **Graham Hooper** gave supplementary evidence from the Applicant's perspective on the implications (including the cost implications) of a bridge structure over the Wairau tributary of the Whau River to achieve a deck underside elevation of 5.47m AVD (providing air draft clearance at Mean High Water (MHW) of 4.06m) and increasing the span to 9m wide. He stated that Span Farm's proposal for a much higher bridge structure across the Wairau Creek is a matter of concern and is not supported. It has potentially significant cost and budgetary implications.
144. **Rob Greenaway** gave supplementary evidence on the recreational implications of increased boardwalk height to 5.47m AVD (as requested by Span Farm) and the offer by the Council to increase the boardwalk height 0.53m to 3m AVD.
145. He stated that the increased height sought by Span Farm will have little recreation benefit to the recreational value of Wairau Creek on the basis that 99% of the future recreation value of Wairau Creek will be via the use of the Te Whau Pathway, and the ability to view the landscape of the Creek from the boardwalk. He added that the long climb and descent needed to provide a height of 5.47m AVD could potentially compromise accessibility for those with limited mobility.
146. **John Youdale** gave supplementary evidence on the engineering and cost considerations of a bridge structure over the Wairau Creek to achieve a deck underside elevation of 5.47m AVD and to increase the span to 9m, as requested by Span Farm and the engineering and cost considerations of raising the boardwalk by 0.53m to achieve a deck underside elevation of 3.00m AVD as offered by the Applicant on a 'best endeavours' basis.
147. He stated that raising the boardwalk elevation, either separately or in conjunction with an increase in some or all of the spans is feasible, but the cost increase may be more than 100% relative to a standard boardwalk. He added that there are also a number of considerations to raising the boardwalk to achieve an elevation of 5.47m AVD such as the potential need for lateral bracing between piles.
148. **Wade Robertson** gave supplementary evidence on the potential landscape and visual effects of a boardwalk over the Wairau Creek Tributary of the Whau River to achieve a substructure underside deck height of 3.00m AVD and 5.47 AVD. In his opinion, in landscape and visual terms, a proposed 0.53m increase in height will not result in any discernible adverse effects, because:
- a. The change to the horizontal profile of the boardwalk (i.e. side elevation) resulting from a 'ramping up' will be barely discernible when viewed by boardwalk users (i.e. 'gun barrel' views along the boardwalk) and those travelling along Te Whau River and Wairau Creek (i.e. side on views).
 - b. Where the boardwalk passes through and over mangroves, its vertical separation (i.e. the gap between the top of the mangroves and substructure) will be retained, meaning that the boardwalk will remain visually bedded down or anchored in the view.
 - c. As discussed in the supplementary evidence of Mr Youdale, the additional height will not fundamentally change the construction methodology of the 'special crossing' and

so factors such as mangrove removal, scale of machinery and duration of works will remain essentially unchanged.

149. He then considered the effects of an increase in the height of the substructure to 5.47m AVD to provide for more substantial watercraft to pass under the boardwalk and access Span Farm's facility located approximately 400m to the south west (i.e. up Wairau Creek) of the proposed boardwalk.
150. In landscape and visual terms, in his opinion, the proposed increase in height will result in increased prominence of the boardwalk and additional adverse visual effects will arise.
151. He estimated that SFBY's proposed increase in boardwalk height would place the top of the deck at a similar height to the top of the Watercare pipe bridge located slightly up stream of the Span Farm site. The proposed 1.4m high balustrade would then be visible (albeit visually permeable) above this height.
152. In his opinion this will result in an increase in visual prominence of the boardwalk and has the potential to result in a moderate degree of visual effect for recreational users of Wairau Creek and, to a lesser degree, people passing along the main Whau River corridor (although in that situation, distance is a mitigating factor being 400 - 500m to the northeast).
153. In concluding, it was his opinion that the 3.00m AVD scenario will not result in additional adverse landscape and visual effects when compared to the proposed (2.47m AVD substructure) boardwalk design.
154. The proposed 5.47m AVD scenario will result in additional adverse landscape and visual effects, where visual effects for recreational users will be moderate and the increased bulk and scale of the substructure will negatively impact future boardwalk users. In his opinion the 5.47m AVD scenario is an inappropriate design response in this location as it is inconsistent with the 'one path' design principle that promotes a common aesthetic and detracts from legibility of this section of the Pathway and Te Whau River corridor.
155. **Dr Shaw Mead** gave supplementary evidence responding to the Commissioners questions on mangrove height in the vicinity of 40 Koromiko Street and the historical and likely future mangrove growth in the Wairau Tributary of the Whau River.
156. During the hearing we had asked how mature the mangroves were in this area and whether they would be expected to grow taller and if so, over what period of time. In response Dr Mead stated that the mangroves in the area are likely to be mature and as tall as they will get on the basis that Auckland is relatively close to the southern extent of mangrove growth in New Zealand. He added that any mangroves that had been trimmed will grow back to their original height of 1m-1.5m.
157. **Ailsa Fisher**, gave supplementary planning evidence on the policy framework for the assessment of alternatives to the currently proposed boardwalk and alternative alignments to the proposed Wairau Creek boardwalk. She also provided a revised set of conditions and updated versions of several envelope drawings.

Principal issues in contention

158. The entire proposal was in contention as the applicant sought consent for a range of restricted discretionary and discretionary consents with a discretionary activity consent status required overall. While some of the submitters opposing the application sought that the entire proposal be refused consent, other submitters set out that if consent were to be granted then conditions were needed to be imposed to avoid, remedy or mitigate, the adverse effects of the proposal.
159. We heard from submitters and their experts and legal counsel during the hearing and there are a number of matters that are in contention arising from that evidence and submissions. That said, we are required to make findings on all matters raised in submissions and not just those in direct contention at the hearing. In this decision we have naturally focused more on those matters that were contentious at the hearing in contrast to those matters where there was agreement between the applicant and the Council officers and no evidence to the contrary from any other persons. We have nevertheless addressed them and made a finding. Our finding on those less contentious matters are set out in the first part of our main finding on the principal issues in contention. The second part of our decision addresses those matters that remained in contention at the close of the hearing.

Effects on Network Utility Infrastructure

160. The proposed Pathway involves construction works and structures within the proximity of a number utility infrastructure assets. This includes underground wastewater, stormwater and water supply utilities on land and a number of above ground wastewater pipes spanning sections of the CMA. The Applicant in its AEE and evidence confirmed that where existing utilities have been identified in the alignment of the Pathway, the Pathway's final alignment, pile driving locations, and construction methods will be altered to prevent damage to the civil services and avoid health and safety issues for workers during construction.
161. As identified in the hearing report, the proposal and its supporting documentation has been reviewed by Ms Amanda Ling, Council's Development Engineering Specialist and Mr Pollard, the reporting planner, relied on the expert comments of Ms Ling in relation to stormwater and wastewater matters. Ms Ling provides her conditional support for the proposal.
162. The Pathway also is within proximity to several 110kV and 220 kV National Grid transmission lines administered and operated by Transpower. Transpower made a submission and raised concerns that the Pathway may interfere with access to its powerlines or includes works or structures within proximity to its powerlines. Transpower sought that the consent be refused until such time as an Electrical Clearance assessment under the New Zealand Electrical Code of Practice (**NZEC**P) has been undertaken.
163. The Applicant confirmed in its evidence that it has offered conditions of consent to address these concerns and Transpower, in its tabled evidence, confirmed that Conditions 120-123 (in the final decision version) addresses its concerns. Those

conditions require compliance with the NZECP and a National Grid Construction Management Plan to be prepared and complied with.

164. Finding

We find that any adverse effects on Network Utility Infrastructure will be avoided, remedied or mitigated subject to the agreed conditions of consent. This includes conditions regarding works in proximity to the National Grid.

Ecological Effects

165. The proposal will require land disturbance, construction activity, vegetation alteration and the establishment of structures, and associated works, in the CMA. Areas of the land and Whau River are identified as Significant Ecological Areas and the proposal has the potential to have effects on the habitats of native species including birds, lizards, bats and benthic fauna. These effects include permanent loss of habitat, temporary disruption to and injury / mortality of native fauna, and sedimentation.

166. These matters were addressed in the expert evidence of Sarah Budd (terrestrial ecology), Dr Tim Martin (avifauna) and Dr Shaw Mead (marine ecology). A number of mitigation measures were identified by these experts and incorporated into the proposal including the following:

- Avoid effects (removal or pruning) on pōhutukawa trees at the southern end of Archibald Park;
- Minimise the amount of saltmarsh vegetation required to be removed when designing the final boardwalk alignment;
- Preparation of an Ecological Management Plan. The plan is to provide for a bird nesting survey prior to construction works. No construction works in the vicinity of identified nests can commence until chicks have fledged. This relates to indigenous bird species only;
- Preparation of a Lizard Management Plan covering areas of terrestrial vegetation clearance and pruning;
- Preparation of Bat Management Plan (if bats are identified during survey as noted in section 5.2.6);
- Preparation of Tree Management Plan (see arboricultural mitigation above); and
- Preparation of Landscape Plans (based on that set out in Appendix Q) for replacement planting of trees that are being removed.

167. Several submissions raised general concerns about the potential for adverse ecological effects associated with proposed vegetation removal and associated impacts on wildlife including habitat and habitat connectivity. In particular, submissions lodged by the Department of Conservation and the Royal Forest and Bird Protection Society respectively, raised specific concerns about:

- The potential loss and fragmentation of indigenous biodiversity within identified Significant Ecological Areas and other important ecological corridors;

- Uncertainty with how adverse effects will be avoided; what effects will be avoided or mitigated; and how potential or actual effects will be effectively mitigated to protect biodiversity values;
 - The lack of baseline ecological data and the difficulty to identify and monitor potential effects on biodiversity in the area affected by the proposal;
 - The failure to include comprehensive conditions for ongoing pest control and avoiding vegetation removal / construction during the bird breeding season;
 - The adequacy of the proposed bat management plan; and
 - Reliance on management plans to address potential adverse effects.
168. As set out in the hearing report, the proposal and supporting documentation has been reviewed by Mr Jason Smith, Council's consultant Ecology Specialist. Mr Smith confirmed, subject to the imposition of appropriate conditions of consent, that the proposed activities and their effects on ecological values can be adequately managed.
169. Mr Smith recommended a number of conditions including pre-start conditions and the preparation of an Ecological Management Plan (**EMP**) (Condition 12 in the Hearing Report version). The recommendations of Mr Smith seek to ensure that the assessments, the Ecological Management Framework, Ecological Management Plan, and the certified Wildlife Management Plans are appropriately adhered to during the development. That will include ongoing monitoring for a five year period following the completion of works.

Finding

170. We find that the ecological effects of the proposal, including effects on the avifauna values, existing terrestrial and marine ecological habitats and benthic fauna have been acceptably avoided, remedied or mitigated.

Marine Water Quality Effects

171. The proposal will require construction activities to be undertaken within the CMA including the clearance of mangroves and saltmarsh to enable the supporting boardwalk structures to be established. This will include construction of staging areas, placing of swamp mats to enable machinery and workers to access the works area and to drive piles within the CMA. In addition, earthworks will be undertaken on land adjoining the Whau River and given their proximity to the river, have the potential to impact on water quality. As noted by the Applicant, the Whau River is identified as a Significant Ecological Area and provides habitat for a range of native species including birds and benthic fauna.
172. The evidence of Mr Blythe addressed the sediment and erosion control effects of the proposal and its potential effects on water quality. In terms of erosion and sediment control Mr Blythe stated that the shared path's linear nature, flat gradient, low volume of earthworks and progressive stabilisation will create discrete earthwork zones that present a low risk from erosion and subsequent sediment loss. He recommended that site-specific Erosion and Sediment Control Plans (**ESCP**) be developed by the consent

holder and that contractors should identify specific controls in discrete areas of earthworks once detailed design and construction methodology is finalised.

173. He opined that construction of the proposed standard concrete (or asphalt) footpath and boardwalk can have best practice erosion and sediment control measures applied, as detailed in the ESCP. He considered that this approach would successfully manage any potential erosion and sediment discharge risk from construction activities with less than minor effects to receiving environments from sediment loss. In his evidence he states:

The ESCP identifies the principles and practices required to mitigate any potential effects of sediment discharge from the project site during construction. The shared path's linear nature, flat gradient, low volume of earthworks and progressive stabilisation will create discrete earthwork zones that present a low risk from erosion and subsequent sediment loss. Site specific ESCPs are recommended to be developed by the contractor to identify specific controls in these discrete areas once detailed design and construction methodology is finalised. I consider that this erosion and sediment control management approach will appropriately mitigate any potential adverse effects of sediment discharge to the environment and the associated effects of sediment discharge are therefore considered less than minor.

174. As set out in the hearing report, the proposal and supporting documentation have been reviewed by Ms Kala Sivaguru, Senior Specialist - Coastal and Mr Glenn Pope Consultant Specialist – Earth, Streams and Trees for the Council. Ms Sivaguru has assessed and recommended conditions on, amongst other matters, the construction activities to be undertaken within the CMA. Mr Pope has assessed the proposal and recommended conditions on the proposed land disturbing activities.

175. Ms Sivaguru considers that the effects of each stage of construction will be 'short-term' and following the completion of works species will recolonise the affected areas and the CMA will return to a more natural state. Ms Sivaguru also considers that the new piles for the boardwalk and bridge structures will provide habitat to encrusting organisms. In terms of activities that disturb the soft sediments within the CMA, Ms Sivaguru concludes in her assessment:

The applicant is proposing to use appropriate sediment control measures during construction to limit the effects of sedimentation into the river. In addition, it is proposed to remove the mangroves during low tide and retaining the root system where possible. Whilst the river water quality has been identified as poor, these measures would mitigate the effects on ecology and water quality from sediment disturbance and redistribution during construction.

The temporary disturbance during construction is likely to cause some organisms including fish, coastal birds to cease feeding in this area and to forage elsewhere. This effect is likely to be temporary and will be less than minor.

Accordingly, the construction effects on marine ecology including fish and avifauna and water quality would be less than minor."

176. Mr Pope comments on the sensitivities of the adjacent receiving environment noting the significance of the potential for discharges to the Manukau Harbour, the Whau River within the Waitemata Harbour and the wider Hauraki Gulf Marine Park. Mr Pope recommends the need for careful design and implementation of erosion and sediment control and the need for monitoring to ensure that these controls remain effective. Mr Pope concludes:

Overall, considering the erosion and sediment controls and management techniques proposed by the applicant for the earthworks and subject to my recommendations, it is assessed that the applicant has proposed a reasonable methodology for undertaking earthworks and controlling sediment and other discharges from the site.

Provided the earthworks are undertaken in accordance with my recommendations and the general guidance outlined in GD05, it is considered the erosion and sediment control aspects of the proposal will be appropriately managed and are representative of a best practice option (BPO).

177. We note that the recommended conditions in the hearing report version included conditions (Conditions 26-28) which required the preparation of a “site-specific erosion and sediment control plans” (or series of plans) for each stage of the Pathway and that these plans must be certified by the Council before works commence. Those conditions also set out the matters to be included within each plan and a process for any modification to them.

Finding

178. While there are a number of submissions that raise concerns regarding construction effects and the potential this will result in adverse sedimentation within the Whau River, we are satisfied that the Applicant has properly addressed these matters in its AEE and in the expert evidence before us. Furthermore, we are satisfied that various sediment and erosion control measures can be certified and implemented through the recommended conditions of consent.

Tree Removal

179. The Applicant identifies that approximately 117 trees and 40 groups of trees are within or located in close proximity to the proposed consenting envelope. Trees comprise a mix of both native (pōhutukawa, ti-kouka, puriri etc.) and exotic (oak, pine, mexican cypress etc) species. Of these, the proposal will require, potentially, the removal of 47 trees / tree groups and works within the rootzone of 33 trees / tree groups all located on land identified as Road or zoned Open Space in the Unitary Plan.
180. The Applicant’s arborist Mr Saxon stated in his evidence that there are no notable trees (listed within the Unitary Plan’s Schedule of Notable Trees) affected by the Proposal. He added that none of the trees proposed for removal are significant as unusual species or have any other particularly outstanding values. In his view, any adverse effects resulting from the tree removal are able to be mitigated over time through replacement planting.

181. Mr Saxon also advised that works will be required within the protected root zones of retained trees. He conceded that the exact types of design measures where works are required within the root zones of retained trees had not been confirmed at this stage but added that design measures exist which have been proven to be effective in similar projects he has been associated with. He was confident that where trees were identified as requiring such design considerations, adverse effects can be suitably minimised. In order to ensure sufficient consideration is given to adjacent retained trees during detailed design, suitable conditions of consent requiring development of Tree Protection Management Plans at each stage of development are proposed.
182. A number of mitigation measures are proposed by the Applicant and these include:
- Works will avoid mature and native vegetation wherever possible;
 - Specific design including root bridging detail and / or the use of boardwalk structures for trees to be retained;
 - A detailed tree protection methodology to be prepared and adhered to both during and post construction;
 - The removal and pruning of any vegetation to be undertaken by suitably trained and experienced arboricultural contractors;
 - A works arborist will be engaged to supervise works within the root zone / dripline of the identified trees; and
 - A planting plan will be prepared during detailed design for replacement planting. It is noted that a suggested planting palette has been prepared and included in this application as Appendix Q (Landscape Plans) to use as a basis for the planting plan. Replacement planting shall be carried out on the following basis:
 - For trees measuring 4 - 8m in height that are removed – one for one replacement is proposed;
 - For trees measuring over 8m in height that are removed – two for one replacement is proposed.
183. Mr Saxon supported the imposition of consent conditions to manage tree removal and works.
184. The proposal and supporting documents have been reviewed by Mr Gavin Donaldson, Senior Specialist Arborist – Earth, Stream and Trees for the Council. Mr Donaldson is supportive of the approach adopted by Mr Saxon and states in his assessment:

As the proposed pathway route options and construction methods have not been finalised, it is difficult to accurately determine the overall extent of effects upon protected trees, however, I accept the Applicant's approach regarding the requirement for each stage to be subject to the Community Facilities Urban Forest Specialist receiving and signing off of a Detailed Design Approval in regard to the affected trees and vegetation. Provision has now been made within the proposed consent conditions for the CF [Community Facilities] Urban Forest Specialist to review and 'certify' a finalised tree protection management plan, (TPMP) including a specific requirement for a design proposal for vegetation

alteration and removal to be prepared at each stage of the construction for the assessment and certification of the Community Facilities Senior Urban Forest Specialist.

Therefore, I can confirm that while the Applicant seeks consent to remove trees within and adjacent to the proposed pathway footprint as a 'worst-case' provision, this will be tempered by the need for the tree works to be reviewed and signed off by the Senior Urban Forest Specialist as the tree asset manager, who will have considered the options and mitigation measures available.

185. Several submissions raise concerns about the proposed removal of mature vegetation, with specific concerns relating to potential adverse effects on birdlife, privacy, noise levels, and the exacerbation of glare toward private properties. In addition, certain submissions advocate for the retention of specific trees or the adoption of a design approach that enables the retention of trees for shade and amenity purposes.
186. A Tree Protection Management Plan (TPMP) is proposed in respect of managing potential arboriculture effects and is required by recommended Conditions 29-31. The TPMP will include tree protection measures and mitigation proposed to avoid and minimise effects on vegetation as a result of the proposed works. In addition, a condition of consent has been recommended by the Council based on the recommendations of the updated arboriculture report and feedback from Mr Donaldson, to require the attendance of the Resource Consents Specialist Advisor – Arborist; the Community Facilities Urban Forest Specialist Advisor for the local board area; and the appointed works arborist at pre-commencement meetings for works in each stage of the proposed pathway development. The recommended condition of consent requires that vegetation protection measures are discussed at any pre-commencement meeting to ensure arborist oversight across the spectrum of trees and tenure that may be encountered during the works. Specific arboriculture conditions are also proposed based on the recommendations of the Arboriculture Report, to ensure any tree removal or pruning is undertaken and supervised by qualified arborists in accordance with a Tree Protection Management Plan.

Finding

187. Subject to the conditions recommended, we find that any adverse effects of tree removal and tree works will be adequately avoided, remedied or mitigated.

Coastal Hazard and Inundation

188. A number of submissions raised the issue of sea level rise and whether the proposed boardwalk was designed to account for this. The evidence of Mr Andrews addressed this matter and he stated:

The Proposal has adopted a structure design life of 50 years with a deck level based on a 1 in 2 year extreme sea level (39% Annual Exceedance Probability (AEP)), a 1 in 50 year wave event (2% AEP) and considering sea level rise to 2070 under the Representative Concentration Pathway (RCP) 4.5M scenario.

This level is driven by the Proposal's intent to minimise visual effects by adopting a deck level that is low as practicable. During extreme events there is potential for the structure to be subject to tidal and wave overtopping, potentially affecting access along the structure.

189. Mr Andrews stated that the proposed Te Whau boardwalk located within the CMA is considered to have minimal impact on coastal processes, which include, tide, wave, scour and sediment transport processes.
190. He advised that over time as sea level rises due to climate change the likelihood that the boardwalk deck is overtopped increases. For the present day it was likely that the portions of the boardwalk with a deck level of 2.9m AVD can accommodate a 2% AEP extreme sea level and wave conditions before access is affected. At 2070, which is the end of the structure's life, access is likely to be affected during 39% AEP extreme sea level and 2% AEP wave conditions consistent with the design.
191. The design intent was that the boardwalk structure will be easily upgraded to accommodate future sea level rise should it occur at an accelerated rate over the structure's design life of 50 years. We note that the coastal permit sought is for a maximum of 35 years and a decision can be made at the time of renewal to lift the boardwalk to account for any sea level rise.
192. While none of the submitters or the Council assessment noted concerns regarding coastal processes, several submitters raised concerns regarding navigation under the proposed boardwalk. While this is addressed in the evidence of Mr Robert Greenaway further comment was provided by Mr Andrews on tidal levels and durations to inform Mr Greenaway's assessment.
193. Based on the Applicant's concept design the proposed soffit level of the boardwalk is likely to be 2.47m AVD which will result in an air gap of 1.06m at MHW reducing to 0.72m for the present day sea levels. For the location at the Kelston tributary where the underside of the boardwalk was now proposed to be 0.53m higher than the concept design, the air gap increases to 1.59m and 1.25m at MHW and PMHWS respectively.
194. Mr Andrews said that the analysis showed that 50% of the time (mean sea level) water levels are above 0.20m AVD and 9.2% of the time the water level is above MHW (i.e. on average 2.2 hours a day). Water levels above PMHWS occur approximately 1.5% of the time (i.e. on average ~20 minutes a day)
195. The proposal and supporting documentation have been reviewed by Ms Amanda Ling, Council's Development Engineering Specialist. Ms Ling supports the approach taken by the Applicant based on a 50 year design life, and she recommends conditions to require a further hazard assessment is undertaken at the detailed design stage and that the proposal is designed so as to avoid any obstruction to overland flow paths.
196. In his reply submission, Mr Allan further addressed the issue of retrofitting the boardwalk to account for sea level rise. He submitted:

... the Applicant remains of the view that it is appropriate during detailed design of the boardwalk sections for specific design consideration to be given to

enabling retrofitting to accommodate future sea level rise. The Applicant proposes to improve the wording of condition 163 by making it clear that full details of any design measures proposed to enable retrofitting shall be provided with the drawings and specifications lodged for certification under condition 94:

“During detailed design for the boardwalk sections in the CMA, the consent holder shall give specific design consideration to enabling retrofitting to accommodate future sea level rise. Full details of any design measures proposed to enable such retrofitting shall be provided with the drawings and specifications lodged for certification under condition 94.”

Finding

197. We accept the approach taken by the Applicant in that it has based the height of the boardwalk on a 50 year time frame which provides, in our view, adequate future mitigation for coastal inundation including sea level rise over that period. We note that the construction methodology allows for the boardwalk to be increased in height to account for further sea level rise if that is appropriate. On this basis we find that the risk from coastal hazards and inundation has been managed and that adverse effects have been avoided, remedied or mitigated.

Construction effects

198. A number of submissions raised concerns with the potential adverse effects of construction noise both on land and underwater (affecting marine mammals).

Construction Noise

199. A land-based noise assessment was undertaken by Mr King for the Applicant. He concluded that the change in operational noise levels will be negligible and the overall noise level generated by users of the pathway will be reasonable. He also undertook an assessment of construction noise and vibration. In that assessment he identified that the proposed construction methodology will exceed the relevant limits of the Auckland Unitary Plan. Mitigation and management measures were recommended and a draft construction noise and vibration management plan was provided. He concluded that with implementation of a suitable construction noise and vibration management plan and compliance with the proposed conditions, construction noise and vibration effects will be acceptable.
200. This assessment was reviewed by Mr Daniel Winter, Council’s consultant Construction Noise and Vibration Specialist. Key issues raised by Mr Winter include the predicted construction noise levels of up to 100dB LAeq where impact piling and compaction work is undertaken, which Mr Winter considers to be ‘significant’. As a consequence, Mr Winter recommends conditions are imposed to ensure impact piling is undertaken with sufficient separation or temporary relocation of affected residents is provided for the duration of those works. Similarly, Mr Winter notes there are receivers predicted to experience vibration levels in excess of 5mm/s, which Mr Winter considers to be ‘significant’ and conditions are recommended to reduce these potential effects to an acceptable level. Mr Winter in his Council review states:

...the construction noise and vibration effects on receiving sites have the potential to be significant and above the level of effects anticipated and provided for by the AUP.

The noise from the construction of the path will be disruptive at times, in particular when impact piling and plate compaction is being undertaken near to receivers.

The relatively short duration and linear nature of works provides some assurance that the exposure periods of construction noise above the permitted construction noise limits will be limited at any single site location. The application of mitigation and management measures will be important in reducing these effects.

201. Mr Winter recommended conditions are proposed to ensure that an updated CNVMP is provided prior to each stage of works and this is included as Conditions 24 and 25.
202. An underwater noise assessment was undertaken by Mr Yang. Mr Yang concluded that the underwater construction noise effects will be negligible. On the occasion when a marine mammal may travel into the Whau River, appropriate management measures are set out in the conditions to manage the effects on marine mammals. Conditions have been recommended to manage these underwater noise effects including the following:
- a. Use piling methods that minimise underwater noise e.g. 'soft starts' (gradually increasing the intensity of impact piling);
 - b. Undertake visual monitoring during piling operations to identify any marine mammals in the area; and
 - c. Either not commencing piling, or stopping piling (generation of underwater noise), if a marine mammal is identified within the predicted zones of influence for impact piling

Finding

203. We find that the construction noise effects have been adequately identified and addressed by the Applicant and can be implemented through the imposition of the conditions of consent as set out in the hearing report.

Construction Traffic

204. The potential adverse effects from construction traffic were raised in a number of submissions. This matter was addressed in the traffic evidence of Mr Hewitt. He stated that any potential impacts of construction traffic can be minimised through a Construction Traffic Management Plan (CTMP) prepared by the consent holder and nominated contractor prior to works commencing on the Pathway. He recommended that the CTMP should contain measures such as identifying appropriate routes for heavy vehicles to use and minimising the impact on parks and reserves and existing businesses.
205. Mr Hewitt advised that most staging areas are in or adjacent to parks and reserves currently used recreationally by the public. This will be an important matter for the contractor to include in the CTMP to ensure the safety of park users and to time deliveries of materials to avoid busy times at the parks, where possible. He advised that

the busiest two sites are Craigavon Park and Laurieston Park for concrete pours where 20-25 concrete trucks are anticipated to construct the at-grade pathway.

206. The proposal and supporting documentation have been reviewed by Mr Michael Hamerton, Development Planner (Auckland Transport). Mr Hamerton advises that the conclusions of the Transport Impact Assessment and the AEE are accepted and makes no specific comment in relation to construction traffic and the proposal to prepare a Construction Traffic Management Plan. We note the CTMP condition is recommended in the hearing report version as Condition 22 and 23.

Finding

207. We find that subject to the imposition of conditions of consent requiring a CTMP the proposed construction traffic activities and their effects can be managed such that these effects are avoided, remedied or mitigated.

Landscape and Natural Character Effects

208. Landscape and natural character effects are raised by many submissions both in terms of direct effects on individual properties (such as the Koromiko residents, which we address separately) or more generally, such as with regard to the proposed boardwalk located within the CMA.
209. The landscape evidence of Mr Robertson addressed these matters. He stated that in terms of natural character and landscape effects within the Whau River corridor there is capacity to absorb the boardwalk without fundamentally changing or significantly affecting landscape and natural character values. In reaching this conclusion Mr Robertson acknowledges that the ability to absorb change varies throughout the alignment and some locations are more 'hot spots' than others, particularly in terms of the perceptual/ experiential aspects of natural character and specifically in locations where private residences are directly adjacent to largely undeveloped sections of the river corridor. In his view the natural character and landscape effects are low or moderate based on the following:
- The proposed boardwalk having a 'conceptual' reason for being located within the river corridor;
 - The design of the boardwalk, as reflected in the LUDF and proposed consent conditions, promotes integration and reinforcing the "legibility of the serpentine riverscape";
 - The character of the open spaces that adjoin the river corridor will be enhanced by improved public access and connectedness;
 - The location of the boardwalk to the outer river margins will avoid impacts on the unmodified open river channel;
 - Physical impacts will be limited to the construction period and to the immediate boardwalk footprint in the longer term;

- Additional rehabilitation and enhancement planting are proposed within the construction footprint and adjacent public open space (respectively); and
- There are significant positive experiential effects resulting from improved access to this coastal/ estuarine/ river environment for those members of the community that utilise the boardwalk for recreation and commuting.

210. Mr Robertson concludes that:

In my opinion the proposed boardwalk is an appropriate development in the context of the Te Whau River environment and in terms of s6(a) of the RMA, because while there are some adverse physical and perceptual effects on natural character in some locations along the proposed alignment, overall the natural character of the river corridor will be preserved, especially taking proposed mitigation and enhancement revegetation being proposed.

In addition, the improved access to the river corridor that will result from the Proposal will provide an opportunity for a wider cross-section of the community to engage and appreciate the Te Whau River environment. With this enhanced experience comes the opportunity for the health and well-being of Te Whau to be more 'front of mind' in the community and may provide a catalyst to more of a protection and enhancement mindset into the future.

211. The evidence of Ms Patel commented on landscape effects and she was particularly concerned with the potential adverse landscape effects of the Pathway in Section 3 – Archibald Park to Queen Mary Reserve. In her view this section represented:

the most outstanding natural feature of the entire length of the wai te whau landscape when viewed by boat along the length of the pathway between the Te Atatu and Olympic Park. This is because most of the other parts of the river and many of our parks in this area have been already visually dominated and are being increasingly compromised by industry and infrastructure –Rosebank Peninsula (precast panels) ,Motu Manawa (NW motorway), and pylons dominating our neighbourhoods and parks (eg. Tony Segedin Park and Ken Maunder Park).

212. Ms Patel conceded that a pathway in this location might be less visually dominant when the tide is full. However, in her opinion, the majority of the time the supporting structure would be visible from multiple public viewpoints and this would further exacerbate the visual impact of this part of the pathway.

213. Ms Patel stated that it would be preferable to keep the path on land at this point to be more sheltered. This would better open up the park land behind the pohutukawas as a shady sitting/ picnic area like it has been used many times in previous Flotilla Whau events, and would better respond to the natural landscape character of the area.

214. This aspect of the proposal has been reviewed by Ms Verstraeten for the Council and she confirms that subject to the imposition of appropriate conditions of consent landscape and visual effects can be appropriately mitigated and minimised during the detailed design phase. We note that detailed and extensive landscape conditions are

recommended in the hearing report in Conditions 90-99 including conditions relating to boardwalk design, landscape design and a review process.

Finding

215. We find that the natural and character and landscape effects of the proposal, especially relating to the boardwalk component within and adjoining the CMA and river environments will be acceptably avoided, remedied or mitigated.

Archaeological Effects

216. As discussed in the summary of evidence, Mr Farley presented archaeological evidence and he confirmed that there are a total of 33 sites of archaeological or other historic heritage value recorded within 50m of the proposed route of the shared path with potential direct adverse effects on four known archaeological. He also referred to other nearby historic heritage sites being three being midden deposits and one a brickworks site.
217. He assessed the potentially affected sites under the relevant heritage criteria and concluded that they are of low to moderate heritage significance. The recovery of information through the archaeological recording and investigation of any in situ archaeological remains will appropriately mitigate any loss of archaeological information. The provision of interpretation signage at suitable locations will enhance the understanding of both Māori and early European heritage of the area within the community. He considered that the overall effects of the proposal will be no more than minor and that the Project can be supported from an archaeological perspective.
218. The proposal and supporting documentation have been reviewed by Mr Matthew Campbell, Council's consultant heritage and archaeology specialist. Mr Campbell specifically addresses the submission from Heritage New Zealand Pouhere Taonga (HNZPT). HNZPT have recommended that an additional condition is imposed that requires that accidental discovery protocols apply to any extent of pathway not subject to an Authority. However, Council officers have noted that the requirement for an Authority cannot be conditioned as it is the subject of a third party approval. Irrespective, the merit of seeking an Authority on this basis is recognised and the requirements under other legislation will need to be recognised by the applicant as these works are undertaken.
219. Mr Campbell has recommended conditions that require a Heritage and Archaeological Management Plan be prepared and other procedural measures be implemented to ensure that pre-1900 archaeological / historic heritage material is not unnecessarily or inadvertently damaged by the proposed works. We note that this has been confirmed in the hearing report Conditions 33 (Heritage and Archaeology Management Plan) and Conditions 87-89 regarding recorded sites and accidental discovery.

Finding

We find that any adverse effects to known archaeological sites will be avoided and that there are sufficient mechanisms in place to avoid adverse effects should accidental discovery occur.

Lighting effects

220. The AEE and hearing report describe that the proposal includes illumination of the pathway and boardwalk elements. The lighting proposed is streetlights mounted on 6m columns for the sections of the at grade pathway. For the pathways proposed alongside roads, lighting will be provided by the existing street lighting. For the boardwalk section, luminaires embedded into the deck and/or the up to the handrail are proposed. The lighting will have an asymmetric distribution such that the majority of light is directed onto the boardwalk.
221. The introduction of this additional illumination into areas that are not currently lit has the potential to impact the environment including intrusive effects including light spill and glare on the viewing audience and in particular affecting nearby neighbours. We note that the provision of adequate levels of lighting along the Pathway (especially in areas not already illuminated) are considered important for CPTED as set out in the evidence of Ms Cambridge. She adds that lighting along the pathway will encourage greater use of the area therefore increasing passive surveillance along property boundaries.
222. The proposal and supporting documents have been reviewed by Mr Glen Wright, Council's consultant Lighting Specialist. Mr Wright confirms subject to the imposition of appropriate conditions of consent that the proposed activities and their effects can be appropriately managed. These recommendations include the lighting in accordance with CPTED principles; consideration of lower poles and dimming options where there are sensitive receivers; illumination on the boardwalk should be directed downward from handrails; and, pathway street connection points are to have lighting that provides an environment that feels safe and comfortable for walkers and cyclists.
223. We note that conditions are recommended in the hearing report being: Conditions 42-44 requiring the preparation of a Lighting Design Report detailing: Details of all pathway lighting, including details on the location, type, lux levels, compliance with the Unitary Plan E24 calculations; supporting drawings of the proposed lighting and locations; and calculations and manufacturers data.

Finding

224. We find that the proposed lighting will enable the use of the pathway during hours of darkness, helping to ensure the safety of users, especially during winter months. It will ensure that the pathway provides a safe route and is well lit at road connections, whilst mitigating adverse light spill and glare effects towards adjacent residential properties. We are satisfied that the recommended conditions of consent will adequately achieve this.

Navigation and recreational use of Whau River

225. The issue of navigation and associated recreational use of the Whau River was a matter of concern in a number of submissions. A number of submissions raised site specific concerns over access to the Whau River and these included the submissions from 125 Linwood Road and 21 Kelston Road. The former has been resolved between the Applicant and submitter which provides for an extension of the existing jetty beyond the boardwalk, to enable continued boat access for 125 Lynwood Road (and confirmed with

a condition of consent offered by the Applicant on a Augier basis) . The latter has been resolved between the Submitter and Applicant through an offer to increase the height of boardwalk (between chainage 5760 and 5800) to a height of 3m AVD to allow a greater air gap between the boardwalk and the tide level. We endorse these agreements and commend the parties for their co-operative efforts to resolve these site specific matters.

226. However, a good number of submissions raised the same concerns generally. That is, that the proposed boardwalk would unreasonably sever access between properties with direct coastal frontage with the Whau River and otherwise restrict recreational use of the Whau for a range of recreational vessels. We see two distinct issues which we consider require a finding from us and these are:

- What is the nature of riparian rights and will it be adversely affected?
- and
- Will the boardwalk prevent reasonable access to the Whau River being provided?

Riparian Rights

227. We asked Mr Allan to explain to us the common law principle of riparian rights and how it applied to the proposed CMA boardwalk components of the Pathway. In his reply submission he quoted from an English House of Lords case: *Tate & Lyle Industries v Greater London Council* that riparian rights included the following:

- (a) *Riparian owners are entitled to access to the water in contact with their frontage, and to have the water flow to them in its natural state in flow, quality and quantity so that they may take water for ordinary purposes in connection with their riparian tenement including the use of water power.*
- (b) *Private riparian rights do not extend beyond the property boundary and should not be conflated with public rights of navigation.*
- (c) *In addition, the Court found that riparian rights do not extend to jetties, as jetties are merely chattels and not capable of attracting riparian rights.*

228. Mr Allan submitted that this authority from the House of Lords confirms that common law riparian rights do not extend beyond property boundaries. The proposal therefore, in his submission, has no effect upon riparian titles which will continue to have water flow to property boundaries unabated and access to the CMA from property boundaries remain. Mr Allan then referred to the fact that the Whau River is part of the common marine and coastal area and therefore incapable of ownership (as sections 9 and 11(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 confirm).

229. We received no further evidence or submissions on this matter and we note that Mr Pollard, in his Council response to evidence presented, agreed with the description of riparian rights as set out by Mr Allan. We also agree with Mr Allan and therefore we have interpreted “riparian rights” in this manner.

Recreational Access

230. The primary evidence presented to us on this matter was from Mr Greenaway who is an experienced recreation consultant. Mr Greenaway advised that boating activities on the Whau River include, in the main, outrigger canoe and rowing activities carried out by local clubs, and more generally and at lower intensity, casual kayaking, stand-up paddle boarding, rowing and fishing from a dinghy, and some dinghy sailing. He added that power boating is a low frequency activity due to the shallow nature of much of the Whau River but conceded that several residents with riparian access own such craft. Marine Rules limit speed in the Whau River to 5 knots and so high-speed jet skiing, power boating or water skiing is not permitted.
231. He opined that the setting is particularly suited to rowing and canoeing due to its low levels of other boating activity and that there was public access to the water via boat ramps at the Te Atatu Boating Club, Saunders Reserve, and Archibald Park. With regard to access, he opined that access to the water is somewhat limited by the growth of mangroves along most of the foreshore, and mud (mostly soft and difficult to walk on) which is exposed around 2 hours either side of high tide.
232. Because almost all boating activity on the Whau River, including outrigger canoes, rowing and kayaking, avoids the areas proposed to be occupied by the Pathway, Mr Greenaway was of the view that effects on boating passage at the general level will “inevitably be minor”. He added that the height of the boardwalk also provides for easy passage for all small craft at mean high water (with a 1.06m air gap), with only minor restrictions at higher tides for dinghies. He acknowledged that these effects are largely specific to properties with waterfront access, and also include effects where larger craft are stored on the foreshore. While acknowledging that many of these properties rely on illegal coastal structures and thus do not form part of the existing environment (in RMA terms), he nevertheless accepted that the proposal will result in the loss of direct access to the Whau River for large craft from a small number of private properties (although existing local public boat ramps retain an option), while access for small craft will be maintained with only minor restrictions at very high tides.
233. Overall, Mr Greenway was of the view that adverse effects of the Pathway on recreational boating in the Whau River will be minor. We also note the advice in the hearing report that the Auckland Harbourmaster has not raised any issues relating to navigation or safety.

Finding

Overall, while use of Whau River will be affected by the proposed boardwalk, we find that navigation and recreation access will be acceptable and will be maintained for the existing and expected recreational uses within this coastal environment.

Crime Prevention Through Environmental Design

234. Concerns regarding the safe use of the boardwalk was raised in many submissions and these related to matters such as visibility and lighting during both daytime and night time use. The Applicant addressed this specifically through the evidence of Ms Cambridge who is an experienced CPTED practitioner. Ms Cambridge has reviewed the CPTED

assessment undertaken by MWH in 2017 and agrees with its approach to improve safety through the adoption of the following measures:

- Vegetation should be pruned to retain open views to the pathway;
- Encourage patronage outside of peak periods for additional natural surveillance;
- Organised surveillance and mechanical surveillance is investigated during future design phases and consideration be given to the minimum sight distance and minimum curve radii of the boardwalk structure; and
- Specific improvements in visibility and lighting at major underpasses.

235. In addition to these recommendations in the 2017 CPTED report, Ms Cambridge made the following additional recommendations:

- Improving lighting to the entrance points and adjacent street spaces for pedestrians and cyclists;
- Enhanced maintenance and vegetation clearance to improve and maintain sightlines onto the pathway; and
- New fences along the adjacent streets to have a level of permeability for enhanced passive surveillance along the corridor.

236. In her review for the Council, Ms Verstraeten supported the majority of these measures and although she had some outstanding safety concerns at specific locations (such as at Avenger Place) she advised that the benefits outweigh the remaining CPTED concerns and the recommended conditions of consent will ensure a high level of intervention is included in the future design of the space to appropriately manage residual effects. We note that these are represented in the conditions (Condition 42 and 43) relating to lighting, and as well as specific conditions related to CPTED matters (being Condition 99).

Finding

237. We find that the Applicant has taken CPTED issues into account when developing the Pathway proposal and that the measures identified by them and endorsed by Council officers and reflected in conditions of consent are appropriate and will ensure that an adequate level of safety and security for all users will be achieved.

Matters Contested at the Hearing

Functional or Operational Need

238. An issue that remained in contention between the Applicant and the Council planners is whether the boardwalk component of the Pathway to be located within the CMA has a “functional” or “operational” need to be located there. In that regard Ms Fisher for the Applicant was of the view that the boardwalk in the CMA had a functional need to be there whereas Mr Pollard for the Council was of the view initially that it had neither a functional or an operational need. We note that neither planner was of the view that not

having a “functional need” resulted in a fatal flaw for the proposal but that the distinction had important implication for the policy framework.

239. This issue of functional need was covered by Mr Allan in his opening submission where he stated that the relevant provisions can be found in the New Zealand Coastal Policy Statement 2010 (**NZCPS**) and both the Regional Policy Statement (**RPS**) and Regional Coastal Plan (**RCP**) components of the AUP. Starting with the NZCPS, he set out the relevant provisions in Objective 6 and Policy 6(2)(c) and (d). Objective 6 of the NZCPS is 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... functionally some uses and developments can only be located on the coast or in the coastal marine area;

Policy 6 deals with activities in the coastal environment. Policy 6(2)(c) and (d) concerning the CMA are to:

- (c) *recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;*
- (d) *recognise that activities that do not have a functional need for location in the coastal marine area generally should not be located there;*

240. We were then directed to the RPS provisions within the Unitary Plan which are to give effect to the NZCPS and Mr Allan referred to RPS Objective B8.3.1(4) and Policy B8.3.2(3)). The objective states:

rights to occupy parts of the coastal marine area are generally limited to activities that have a functional need to locate in the coastal marine area, or an operational need making the occupation of the coastal marine area more appropriate than land outside of the coastal marine area.

Mr Allan observed that this objective follows the wording of the NZCPS but introduces the new concept of “operational need”. In providing clarification of what “operational need” means, Mr Allan referred to the Unitary Plan Independent Hearing Panel, in its report on Topic 008 (Coastal Environment), the Panel stated:

In the Panel’s view, a clear distinction needs to be made between providing for activities which have a functional need to locate in the coastal marine area, and for other activities (including those which may have an operational need to do so). The Panel has incorporated policy supporting those activities that have a functional need which require the use of natural and physical resources of the coastal marine area. The Panel has also included a policy to support those activities that have an operational need to locate in the coastal marine area where that activity cannot practicably be located outside of the coastal marine area.

241. Mr Allan referred to the Environment Court case SKP v Auckland Council (2018 NZEnvC 081) where in considering various components of a marina, The Court found that a

marina had a functional need to locate in the CMA and that a floating car park deck had an operational need and “arguably” a functional need.

242. We are also aware that there is a definition of “functional need” in the Unitary Plan which states:

Functional need

The need for a proposal or activity to traverse, locate or operate in a particular environment because it can only occur in that environment.

243. In Ms Fisher’s planning evidence, she opines that there is a functional need and stated:

In my view there is a functional need for locating the activity and structures in the CMA, given the objectives of the Proposal, including to increase access to and along the Whau River as well as the ability to provide for a safe and convenient commuter route in this location (the benefits of the Proposal as a commuter route is commented on by Mr Hewett and in submissions). I note given the function of the Proposal as a coastal pathway, there is a need to locate it within the coastal environment generally, and whilst land has been used where practicable (such as within esplanade areas and public open spaces) use of the CMA is required to connect such spaces or where land cannot practicably be used, for example in areas where there are riparian rights.

244. In the Council’s hearing report, Mr Pollard initially stated that while supporting the grant of approval to the Pathway, there was neither a functional or operational need for the boardwalk to be located in the CMA. In his verbal response to the evidence presented, he modified his position and stated that he was “reluctant to conclude that there is an outright functional need for the proposal to be located in the CMA” on the basis that the boardwalk could be located entirely on land using alternative routes. That said, he acknowledged that alternative land routes would be “less efficient” and “potentially prohibitive in terms of cost” and would “reduce the experiential quality of the route” including the need for numerous steep gradients to connect various components of the route. On that basis he remained of the view that there was no functional need to be in the CMA but conceded that there was an operational need for it to be in the CMA.

Finding

245. We are grateful to Mr Allan, Ms Fisher and Mr Pollard for their assistance clarifying these matters. We have considered both sides of this debate carefully and are of the view that while “functional need” is broadly enabled in the provisions of the NZCPS, the RPS and RCP provisions of the Unitary Plan provide more clarification and certainty to what is (and is not) a functional need. The Unitary Plan also sets out the alternative pathway for considering “operational need” which is, in our view, consistent with the broad approach adopted in the NZCPS. In this regard, we are entirely satisfied that the Pathway falls within the RMA definition of “infrastructure” (a matter not in dispute between the parties) and that the Unitary Plan specifically provides for infrastructure involving structures and activities in the CMA with an operational need while not being something that can only functionally locate in the CMA. Accordingly, we find that an “operational need” for infrastructure in the CMA is clearly consistent with the provisions of the NZCPS, RPS and RCP provisions and in this instance is justified for the following reasons:

- The Pathway is consistent with the definition of “infrastructure” in the RMA;
- It creates a more efficient and linear route for the Pathway which cannot be efficiently created on land;
- It enables more efficient connections that favour use by multi-nodal forms of transport and persons with mobility issues; and
- It enables a significant increase in the number of people in the community to obtain quality access to and along the CMA.

Vessel access to Span Farm Boat Yard Limited

Unconsented structures in the existing environment

246. Span Farm Boat Yard Limited (Span Farm) owns a property at 20 Akatea Road which adjoins the margins of the Wairau Creek. From this property they operate a boat launch/retrieval, storage and repair business. It operates an existing concrete slipway to launch and retrieve a variety of vessels.
247. Span Farm lodged a submission in opposition on the basis that the pathway would result in adverse navigational and access effects on the grounds that the boardwalk proposed across the Wairau Creek (from Laurieston Park to McLeod Park) would prevent most vessels from being able to access the property from the Whau River. The submission sought that the Pathway be refused consent or amended to provide a navigable bridge or similar to enable vessels to continue to access the site.
248. Span Farm was represented at the hearing by its legal counsel, Ms Bielby. She stated that Span Farm had operated a boat yard with riparian access for many years but had changed hands to its current owner in 2017. She advised that the current owners were in the process of upgrading the facility and removing a number of abandoned vessels in the CMA nearby.
249. The submission included an amended relief for the boardwalk crossing of the Wairau Creek to be replaced with a raised bridge structure sitting at 5.47 AVD as opposed to the 2.47m AVD height proposed so as to allow vessels to access the boat yard facility.
250. The submission by Span Farm was addressed by Mr Allan in his opening legal submissions. He stated that Span Farm does not have direct riparian access to the CMA on the basis that it is separated by an existing esplanade reserve and there is no record of any lease to use or occupy it as a slipway. He added that the existing slipway is also unconsented. He submitted that the Panel must disregard Span Farm’s unconsented activities and structures and disregard any impact the Proposal may have on their commercial operation (since it relies on unconsented access).
251. Mr Allan made submissions on the legal status of the “existing environment” with regard to assessing effects under section 104((1)(a) of the RMA where he stated:

The effects of the Proposal must be assessed against the existing environment, which embraces the future state of the environment as it might be modified by

permitted activities and by resource consents which have been granted where it appears likely that those consents will be implemented: Queenstown Lakes District Council v Hawthorn Estate Ltd.

252. With regard to existing structures, Mr Allan referred us to recent case law on this matter and submitted that case law confirms unconsented structures, and other unlawful activities, do not form part of the “environment”.
253. In her legal submission, Ms Bielby concedes that legal access to the Whau River from Span Farm across the esplanade reserve and the ongoing use of the jetty and slipway does not form part of the existing environment in terms of the RMA, but noted that these can be consented by the Council subject to a resource consent for a discretionary activity. She added that even if it is accepted by the Commissioners that pursuant to section 104(1)(a) of the RMA the loss of their existing riparian access should be disregarded, we should still have regard to the fact that “the Whau River itself, forms part of the existing environment and impacts on its navigability and the impediment on access to this part of the river should be taken into account”.

Finding

254. Having considered this matter in some detail, we accept the legal submission of Mr Allan with regard to whether we can consider the slipway and use of the esplanade reserve as part of the existing environment. While we acknowledge that Span Farm may have operated the slipway and occupied the esplanade reserve since 1945 without incident, we are of the view that the law is clear with regard to the existing environment and consideration of existing activities that are operating without consent. In that regard, we accept that we have no basis to consider the slipway and use of the esplanade reserve as being part of the existing environment, notwithstanding them being considered essential by Span Farm to their operation.

Provision of a Bridge Structure across Wairau Creek

255. As discussed above, Span Farm seek that the section of the boardwalk across the mouth of the Wairau Creek be replaced with a bridge structure up to 5.47m AVD. We asked the Applicant how this might be achieved. We also asked the Applicant to advise us on a practical width to facilitate vessel access at this height.
256. In his supplementary evidence, Mr Youdale stated that it was feasible to raise the boardwalk to 5.47m AVD with a 9m wide span to allow vessels to pass through. He added that this would also require additional ramping on either side and additional strengthening for spans resulting in use of more expensive concrete piling. In terms of costing Mr Youdale estimates that a longer span structure would be of the order of 65 to 100% more than the cost of a standard boardwalk, without allowing for increased length of piles relative to the assumed average.
257. The supplementary landscape evidence of Mr Robertson considered the landscape and visual effect of the additional height of a raised boardwalk and this was illustrated for us with some photo simulations. Mr Robertson stated:

In these simulations the top of the boardwalk balustrade is at approximately 4.3m AVD, which means that under the proposed 5.47m AVD scenario the bottom of the boardwalk substructure would be approximately 1.1m above the top of the balustrade as illustrated in the visual simulations. It is plausible that the top of the balustrade would be almost level with the roof lines of the industrial buildings that provide the backdrop to the VP04 photo simulations.

258. In Mr Robertson's opinion a raised boardwalk as sought by Span Farm will result in an increase in visual prominence of the boardwalk and has the potential to result in an at least moderate degree of visual effect for recreational users of Wairau Creek and, to a lesser degree, people passing along the main Whau River corridor (although in that situation, distance is a mitigating factor being 400 - 500m to the northeast).
259. Mr Greenaway provided supplementary evidence on the recreational effect of raising the boardwalk. He opined that while raising the height of the boardwalk at Wairau Creek will have some recreational benefit for 'larger small' vessels this would not occur without compromise from a recreational perspective. While he acknowledged that the raised boardwalk would provide an additional 3m in clearance, as sought by Span Farm, it was his view that the long climb and descent required could potentially compromise accessibility for those with limited mobility. He concluded that there is very little motivation from a recreation perspective to add an additional 3m clearance, and there is the likelihood of adverse effects on an important population of future path users.
260. In his closing submission, Mr Allan confirmed that the Council offers, on a best endeavour's basis, to increase the height of the boardwalk from 2.47m AVD to 3m AVD (being an increase in height of 0.53m) to allow a higher air gap for recreational users. This offer was made in recognition of the submission by Span Farm but also in recognition that there are a number of properties with direct access to the CMA in the Wairau Creek catchment and that there would be recreational benefits from providing a higher air gap for recreational users in this catchment.

Finding

261. While we agree with Span Farm that the current and proposed additional boardwalk height (from 2.47m to 3m AVD) will have a direct impact on their ability to access their site for larger vessels from the Whau River, we find that an increase in the boardwalk height to 5.47m AVD is not justified in terms of financial cost, increased adverse landscape and visual effects and potential adverse effects on mobility access. As stated above we cannot have regard to the existing use of the slipway and esplanade reserve occupation as these do not form part of the existing environment under section 104(1)(a) of the RMA. We note that while the construction of the boardwalk will have an impact on the ability of vessels to access Span Farm from the Whau River, vessels could still feasibly access the site using the road servicing the existing boat ramp and jetty at Archibald Park. Also, vessels may be transported to Span Farm via the wider roading network.
262. In making this finding we have also had regard to wider recreational effects for those properties with riparian access in the wider Wairau Creek catchment and for other water users to access the creek environment. In that regard we accept the evidence of Mr

Greenaway that additional height proposed for the boardwalk to 3m AVD will adequately provide for their expected recreational access and use within the CMA.

Effects on the residents at 40 Koromiko Street

263. The proposal received submissions from the owners and occupiers (**residents**) of three dwellings at 40 Koromiko Road (Units 1-3). The issues raised in their submissions relate to:
- (a) Privacy, security and noise from the operational use of the boardwalk;
 - (b) Visual effects including the boardwalk being lit at night;
 - (c) Ecological effects (particularly with respect to birds and marine species);
 - (d) Implications to property values;
 - (e) Riparian access; and
 - (f) Consideration of an inland route as an alternative route.
264. With regard to ecological effects in (c) we have already made a finding with regard to ecological effects based on the expert evidence of the Council's and Applicant's experts (Budd, Mead, Martin). With regard to effects on property values in (d) we accept the legal submissions of Mr Allan that the Environment Court has held that any diminution in property value is not in itself a relevant RMA consideration. With regard to (e) we have already made a finding with regard to riparian rights based on Mr Allan's legal submission and the evidence of Mr Greenaway regarding the "air gap" enabled under the boardwalk enabling passage of small craft. In this section we address the other three matters still in contention.
265. We heard evidence from Ms Erica Wood who lives at 2/40 Koromiko Street. Her evidence was also on behalf of the other residents being Karen Cullen at 3/40 Koromiko and Robbie and Gloria Kiddie at 1/40 Koromiko Street.
266. Ms Wood's evidence was extensive and competently prepared and set out her concerns relating to the matters identified in her submission. With regard to privacy, Ms Wood stressed that all three residents bought their properties "*because of the unparalleled privacy and quiet it afforded us in busy Auckland*" and that each property is "*basically void of other people, zero traffic noise and has an incredible natural outlook*". Her concern was that those travelling on the boardwalk will have uninterrupted views into their homes. She stated that the Pathway will "*wholly compromise and degrade our lifestyle, without any compensation*". In particular, Ms Wood was concerned that the Pathway will be just metres from the front of each of their dwellings and stated that each of the three dwellings are identical in layout with windows that look out onto the river from each of their ground floor bedrooms and second level lounges.
267. The proximity of the boardwalk to each dwelling was also a security concern to Ms Wood and the other residents. Ms Wood stated that the Pathway's close proximity to the front of each dwelling puts them at unnecessary risk because they "*will be thrust into a new level of visibility and vulnerability*". She noted that they have water craft on their front

lawns and while they are currently shielded from prying eyes, they would be vulnerable to theft with the walkway so nearby. She also was concerned about intrusion into their privacy at night due to the proposed lighting on the path.

268. In terms of relief, these submitters seek that the consent be refused. However, Ms Wood stated in evidence that an alternative inland route that avoids the boardwalk in front of their dwellings was potentially acceptable.

269. In response to these (and other related) submissions we were advised by the Applicant that a report by MRCagney had been prepared to assess the suitability of an alternative on-road route between Ken Maunder Park and Lynwood Road. The social impact evidence of Ms Linzey and Ms McCormick discusses the outcomes of this report and states:

The report assessed that an on-road route could be achieved and that such an option could likely satisfy Auckland Transport code or best-practice. However, that report also identified that substantial streetscape improvements and modifications would likely be required and on the basis of the typography would be unlikely to meet a number of project objectives, including in respect of the pathway as a coastal feature.

270. The traffic evidence of Mr Hewett also addressed this matter and he stated that the existing street environment does not provide a suitable environment for pedestrians and cyclists using the other sections of the Pathway. He explained that this is due primarily to driveway visibility, substantial modifications required to the street layout and the challenge in providing an accessible access at the end of Lynwood Road. He stated that providing an accessible connection at the northern end of Lynwood Road for the on-road route section to connect into the proposed boardwalk on the coast would not be possible. A cycle staircase as proposed in other locations would not be suitable as it would be inaccessible. In Mr Hewett's opinion the alternative route is not recommended as it would:

- a. create safety and accessibility issues,
- b. reduce the attractiveness of the Pathway for use by cyclist as an alternative mode of transport to the city by making it less efficient and
- c. not met the project objectives.

271. The applicant, via the evidence of Ms Linzey identified the adverse effects on the three units:

I have assessed and agree that these will give rise to positive social impacts of the pathway for the wider community, and I acknowledge that some of these impacts are specifically derived from it being an off-road facility. Notwithstanding this, I maintain that the boardwalk option, particularly between Ken Maunder Park and Lynwood Road has potential adverse social impacts for a subset of this community – particularly neighbours facing the boardwalk and some users of the coastal marine area.

272. To address this matter, a number of mitigation measures have been considered by the Applicant and these are summarised in the evidence of Ms Linzey and Ms Fisher and have been included in a number of recommended conditions of consent. These are summarised as follows:
- a. Condition 51(f) which proposes lighting management to restrict light spill at night for the residents at Koromiko;
 - b. Condition 92(a)(v) which states that viewing platforms should be avoided between Queen Mary Reserve and Archibald Park;
 - c. Condition 95(b) which offers property screening on those units at Koromiko St;
 - d. Condition 98 which offers treatment of glass windows for the properties at 40 Koromiko; and
 - e. Condition 102, which provides that signage is to be avoided on the section of boardwalk between Queen Mary Reserve and Archibald Park, with the exception of health and safety and way finding-related signage.

273. The evidence Ms Linzey has considered these measures and she states:

I consider that these measures in combination provide for mitigation of the potential impacts. However, I note that in the case of these units there may be some issues if only one or two of the property owners of the different units take up property screening outcomes and the other(s) do not. This may limit the effectiveness of the mitigation for those residents who considered the screening for privacy outweighed the value of outlook.

274. At the hearing, we were advised by Ms Wood that all three residents were not in favour of any of the mitigation measures offered by the Applicant.

275. We were informed by Mr Allan that the Applicant was prepared to delete the proposed connection to the boardwalk from Koromiko Street and this was confirmed in the reply submissions which stated:

The Applicant proposes one material change, however, having heard the submitters' concerns about being 'boxed in' by the boardwalk and stairway connection at the end of Koromiko St, and potential security concerns in relation to this connection. The Applicant proposes to delete the Koromiko Street connection from its plans in order to address this concern. Envelope plan sheet 17 has been updated to reflect this. This change directly addresses this concern, and avoids the potential effect that Ms Wood describes of feeling 'boxed in' by the boardwalk.

276. The proposed mitigation measures were also discussed by Mr Robertson in his landscape evidence. He concedes that the proposed boardwalk is highly visible from the residential units at the end of Koromiko Street owing to elevation and proximity of the boardwalk, being approximately 30-35m away but accepts that lowering it was not practicable for coastal hazard reasons. Nor does he support pushing it out further into

the Whau River corridor as this would generate new adverse landscape and visual effects. Mr Robertson did not support screening structures being placed on the boardwalk due to the impacts on landscape. With regard to the Applicant's offer of privacy screening on the submitter's properties, Mr Robertson considers that there are "trade-offs" to this being:

- space is limited meaning that screening would need to take the form of fences and louvered screens, which will compromise naturalness further; and
- screening at both upper and lower levels would mean views out to and across the river corridor would be significantly obscured or entirely screened on a full-time basis.

Finding

277. We have considered all this evidence in some detail and we also visited each of the Koromiko St dwellings and observed the outlook to the Whau River from both the upper living rooms and ground floor deck and lawn areas. We were assisted by this visit as it helped us to contextualise the evidence of the Applicant's experts and the evidence of Ms Wood. We also viewed the Koromiko St dwellings from the water in a location close to where the boardwalk will be erected, during our water-based site visit.
278. We are of the view that the boardwalk in its current configuration and location will have adverse effects of some significance on these residents in terms of visual amenity of their outlook. We agree with Ms Wood that these residents currently enjoy a pleasant and mostly natural view to the Whau River and the boardwalk will clearly have an effect on that view, while noting that the Unitary Plan does not require that an uninterrupted view be maintained. In terms of mitigation, we are satisfied that the Applicant has exhausted all options to reasonably mitigate these visual effects in terms of boardwalk height, distance from the properties and managing lighting intensity. However, we accept that there are still unmitigated adverse effects in terms of visual amenity for these specific properties.
279. In terms of privacy, we acknowledge the efforts by the Applicant to identify specific screening measures to address the privacy concerns of the residents. That said, we understand the conundrum of providing screening for privacy purposes that would have the potential adverse effect of further limiting views from these dwellings and creating a sense of enclosure.
280. With regard to privacy issues we were less concerned that levels of privacy would be significantly affected due to the distance between the dwellings and the boardwalk and the likely focus of boardwalk users on the Pathway itself to the expansive views it would provide eastwards to the Whau River. In that regard, we do not consider that screening is expressly necessary for privacy purposes. Notwithstanding that, we acknowledge the offer by the Applicant to provide screening even though the residents have indicated that it would not be accepted. In that regard we are minded to keep those mitigation measures in the conditions of consent as a partial remedy should the affected parties wish to avail themselves of that option.

281. Turning to the visual amenity effects of the proposal, we have considered the options of re-routing the Pathway on land as set out in the MRCagney assessment and we agree with the Applicant it would be a poorer alternative that would generate an additional range of adverse construction, traffic management and road network effects. We also accept that this alternative would run contrary to the objective to create a Pathway that is focussed on it being a coastal experience.
282. Accordingly, while it is acknowledged that the Pathway in this location would have a direct adverse effect on the outlook of these residents, we consider that this effect will be outweighed by the significant positive benefits of the Pathway in providing public access to and along the coastal environment (a matter identified as one of national importance by the RMA and the Unitary Plan) . Further, we find that an alternative route on land that avoids passing directly in front of these dwellings is not practicable and would be a far poorer alternative.

Effects of the boardwalk placement on the Culav Property at 259 Hepburn Road

283. The submission by the Culav Family relates to that part of the Pathway passing the “Culav Cottage”, a dwelling with historic heritage value on the Culav Family land at 259 Hepburn Road. The Culav Family have owned land at 247 –259 Hepburn Road since 1933. In the past the land has been used for orcharding and vineyards, but it is currently mostly in pasture and grazed. The application shows the pathway passing close to the cottage, on land and not in the CMA.
284. Mr Reaburn stated that the Pathway application appeared to rely on an esplanade reserve being taken, whereas no such reserve currently exists. Mr Raeburn’s planning evidence advised that the Culav Family have prepared a subdivision application for the land but this has not been lodged with Auckland Council. We were advised that the Applicant had assumed that the land would be subject to an esplanade reserve of 20m being taken and therefore located the pathway in this location, avoiding the CMA and an area of salt marsh. Mr Raeburn was of the view that the Pathway application must be assessed, not in relation to a hypothetical future environment, but the environment that exists now.
285. Mr Raeburn presented evidence supporting why he thought the proposed alignment was not practical and would generate adverse privacy, outlook, noise, heritage and security issues. Mr Raeburn expressed a preference for the pathway to be re-aligned so that it was on the seaward side of an existing Norfolk Island Pine, outside an existing well (or long drop toilet that might have heritage status) but inside an area of salt marsh which has ecological and habitat value.
286. Mr Dragmar Culav also gave evidence and he stated that the Culav Family were not opposed to the Pathway but were opposed to its location in relation to their cottage.
287. There was some discussion on this matter at the hearing and a number of options were identified. We questioned Ms Budd on the ecological implications of the options identified and she advised that it would be acceptable for the boardwalk to be located on outer (eastern) side of the Norfolk Pines provided it did not encroach upon an identified area of saltmarsh.

288. As part of the reply submission by the Applicant, Mr Allan advised that it is prepared to agree to a condition similar to that proposed by Mr Reaburn, identifying a location for the path adjacent to the Laurieston / Culav cottage at 259 Hepburn Road between the Norfolk pines and the edge of the saltmarsh. The Applicant has produced an amended condition (proposed condition 104) and a revised pathway envelope plan (sheet 28) to reflect this.

Finding

289. We find that the proposed location of the boardwalk agreed between the Applicant and the Culav Family and set out in the Applicant's reply submissions is appropriate and will avoid, remedy or mitigate any adverse effects on the natural (coastal) environment and the amenity and heritage values of the Culav cottage at 259 Hepburn Road.

Access to the approved jetty at 125 Lynwood Avenue

290. In his opening submissions, Mr Allan advised that the Applicant had reached agreement with the owner and resident of 125 Lynwood Road, Mr Mark Norman. He advised that Mr Norman holds a coastal permit for an existing jetty, which will expire on 31 December 2034 (permit no. 30871 dated 20 June 2005).

291. The hearing report recommended a condition to secure small boat access for this property, which the Applicant supported subject to minor modifications proposed by Mr Greenaway (condition 145). The agreed solution between the parties is as follows:

- (a) The provision of a facility for boat access for 125 Lynwood Road beyond the boardwalk between chainage 5990 and chainage 6020.
- (b) The key elements of this facility would be:
 - (i) A self-supporting connection between the end of the existing jetty at 125 Lynwood Road and the boardwalk, with a lockable gate no higher than the balustrade height; and
 - (ii) On the river side of the boardwalk, a lockable gate no higher than the balustrade height, providing access to a small landing point, and a stairway or ramp, leading to a jetty / platform parallel with and fastened to the boardwalk, between 6 and 8 metres in length, and no greater than 1.2m in width

292. At the conclusion of hearing evidence, Mr Pollard indicated that the Council was not supportive of the lockable gate as it was a coastal structure in the CMA, being land administered by the Crown.

293. Generally, we agree that structures in the CMA should be available to the public for use except for where exclusive occupation has been granted pursuant to section 12(2) of the RMA. In this instance the entire boardwalk will be a public structure with unrestricted public access at all times. In this sense we see the case for the connection to 125 Lynwood Road to also be publicly available. However, we are also mindful that this structure has been provided to mitigate the loss of riparian access for a lawfully approved jetty which involved a degree of exclusivity. Given that any vessel used by Mr Norman will effectively be moored directly adjacent to an entirely public boardwalk there

is understandable reason for concern by him with regard to ensuring the safety of any vessel moored there. Accordingly, we are of the view that:

- (a) It is reasonable to allow Mr Norman to prevent the public having access to his vessel in the interests of security; and
- (b) this is an unusual case, outside the generality of situations where coastal permit holders seek exclusivity.

Finding

We find that it is appropriate in this case for the facility for boat mooring for 125 Lynwood Road to provide lockable gates no higher than the proposed balustrade height of the boardwalk.

Hand carried boat launch points

294. Mr Martin Ball gave verbal evidence in general support of the Pathway but sought that additional provision be made for launching of small craft from the pathway via ramps along the entire length of the pathway. Mr Ball referred to potentially 24-30 facilities along the coastal sections of the Pathway.
295. We consider that there is merit in the suggestion and asked Mr Allan to further consider whether this could be included in the proposal. In his reply submission Mr Allan stated that the Applicant has not included such a condition in its proposal and has not undertaken a specific assessment of the effects its inclusion may generate. That said, Mr Allan stated that the Applicant acknowledges the potential for the option to develop facilities for launching of hand-carried craft to be a worthwhile addition to the Proposal. The Applicant therefore proposes a condition of consent which provides for this, expressly on an optional basis.
296. The Applicant has offered a further condition (Condition 159) to facilitate this as follows:

During detailed design the consent holder shall, in consultation with the CLG, identify locations appropriate for launching handheld craft (e.g. Kayaks, Stand Up Paddleboards) along the pathway route and within the envelope. Details of the locations identified in consultation with the CLG shall be provided to the Team Leader Compliance Monitoring – West. While the provision of such facilities is within the scope of works authorised by this consent, where located within the envelope, it is not a requirement of this consent to provide any such facilities. Should the consent holder in its discretion decide to provide any facilities for launching handheld watercraft in accordance with this condition, it shall provide design drawings and specifications for such facilities to the Team Leader Compliance Monitoring – West for certification for compliance with the matters noted below:

- *Consistency with any relevant provisions of the LUDF;*
- *Where connected to a section of boardwalk, the promotion of a smooth transition and continuity with the boardwalk design in the relevant location;*

- *Avoidance of any health and safety concerns, including potential obstruction and inconvenience to pedestrians and cyclists using the path.*

Any such facilities shall be constructed by the consent holder in accordance with the certified drawings at the time of construction of the relevant section of the boardwalk or path.

Finding

297. We find that the Applicant should identify locations appropriate for launching handheld craft (e.g. Kayaks, Stand Up Paddleboards) along the pathway route and within the project envelope in accordance with proposed Condition 159.

Objectives and Policies

298. The Applicant's planning expert and council's reporting planner identified a wide range of objectives and policies to be taken into account. They were largely in agreement as to the implications of these provisions and we rely upon their analysis. Both found substantial support for the project in terms of the infrastructure provisions of the Unitary Plan and the importance of providing access to and along the coastal environment.
299. There are important objectives and policies within Chapter B7, Chapter D9 and Chapter E15 of the AUP that relate to indigenous biodiversity and SEA (Marine and Terrestrial) matters. These objectives and policies reflect the directions set out in the New Zealand Coastal Policy Statement as they relate to the CMA. In particular are provisions requiring the avoidance of adverse effects on threatened or at-risk species and protecting areas of significant indigenous biodiversity. We are satisfied, based on the evidence, that sufficient steps have been taken to achieve this outcome.
300. With regard to landscape issues, Chapters E18 and E19 include provisions that manage use and development of the coastal environment to maintain the characteristics and qualities of natural character and landscapes of the coastal environment (taking into account the 'naturalness' of the environment the structures and activities are within). We are confident that the boardwalk will add to the character of the coastal environment. We also note the support of the objectives and policies of Chapter B8.3 that generally seek to provide for appropriate use and development in the coastal environment, such as activities that are for the public benefit.
301. Policy F2.14.3.5 of the Regional Coastal Plan provide for use and occupation of the common marine and coastal area by infrastructure, where it does not have a functional need to locate in the common marine and coastal area but has an operational need, and only where it cannot be practicably located on land and avoids, remedies, or mitigates other adverse effects on:
- a. The existing use, character and value of the area;
 - b. Public access, recreational use and amenity values;
 - c. Natural character and scenic values, from both land and sea;
 - d. Water quality and ecological values;
 - e. Coastal processes including erosion;

- f. Other lawfully established use and development in the coastal marine area or on adjoining land;
- g. The anticipated future use of the area for marine activities; and
- h. Mana Whenua or historic heritage values.

As discussed in our findings, we are satisfied that the application meets these criteria. As noted, the pathway cannot be located on land, while still providing a coastal experience. Its design and construction will avoid and mitigate effects on the matters listed in (a) to (h).

Conditions

302. The following is a discussion setting out the Commissioners findings on various conditions that relate to matters discussed in the substantive decision.
303. There was disagreement between the Applicant and the Council in relation to Condition 1 and the matter of whether development should be carried out 'in accordance with' the plans and information supplied (the Council's position) or 'in general accordance with' the plans and information (the Applicant's position). This disagreement is one that the Panel has had to address on other occasions and the determinations made vary depending on the nature and scale of proposals.
304. In this case where we have essentially been asked to approve a 'concept' for development we are mindful of the need to allow for some flexibility in final design iterations albeit only where they fall within the scope of what consent has been sought for. The Pathway is generally located within a defined envelope or development area which varies from place to place and in some cases has been specifically varied from that originally sought in order to reflect other particular decisions that the Panel has made in relation to some submissions (as addressed in the substantive decision).
305. We concur with Mr Allan in this case and note the caselaw that he put in front of us supporting the use of the words 'in general accordance with' (*the America's Cup direct referral decision: Panuku v Auckland Council*).
306. We note also that the list of documents set out in Condition 1 has been appropriately amended in response to the submission by Nina Patel to include a reference to the Landscape and Urban Design Framework.
307. Condition 9 and 10 sets out an arbitration process in the event of any dispute, disagreement or inaction arising as to any Council certification/approvals required by the consent conditions, or as to the implementation of, or monitoring required by the conditions. The Council does not support this while the Applicant considers it a prudent measure.
308. The Council advised us that the condition as worded was not tied to an environmental effect and was therefore difficult for the Council's Compliance and Monitoring Team to enforce should that be necessary. They also noted that the condition does not specify where the costs fall placing the burden of administration on the Council's Compliance and Monitoring Team. They are concerned that if adopted, there was the potential for a precedent that could introduce a circumstance of perceived injustice and perception of unfair application of the rules. Also, the Council noted that the proposed advice note

specifies that the process in the condition will prevail over the enforcement processes. Enforcement processes are endorsed by the Regulatory Committee and this advice note would undermine that process. Additionally, the condition did not confirm that the expert determination was final and therefore did not close out the conflict. They considered that existing processes are established to ensure that if there are concerns about resolution of disputes between Auckland Council Regulatory staff and Community Facilities then this can be dealt with at various levels as delegated to them by the Governing Body of Council. Overall, the Council considered that resolving disputes through a process locked in as a condition of consent was rigid and did not allow for flexibility. They also noted that if this were to become the normal, it would add unnecessary time and cost to the Compliance and Monitoring process.

309. It was the Council's view that the Council's processes can adequately address the need for conflict without the need for a third party expert to provide input.
310. Having considered the position of both the Council and the Applicant we consider that given the complexity of the project and reliance on management plans to set out detailed mitigation measures, the arbitration condition is appropriate subject to the matter of costs being clarified and confirmation that the decision of the independent arbitration is binding on all parties. We therefore agree with Mr Allan for the Applicant.
311. We do not consider that the use of such a condition sets any precedent in any way and note that the use of such a condition was found to be appropriate by the Waterview Board of Inquiry.
312. In respect of the Council's concern we agree with the Council that the advice note as proposed by the Applicant should be modified so that it does not prevent the Council taking any appropriate enforcement action.
313. Following from the evidence of Ms Crann for the Sea Scouts, the Applicant proposed a condition to address matters raised about the property boundary of the Sea Scouts land at Portage Road and the proximity of the shared path to that land. That is set out as Condition 15. We consider that to be a sensible approach to ensuring there are no encroachments of the works on private property which was one of the submitters concerns.
314. Mr Allan in his reply addressed the matter of Condition 2 and the lapse period for any consent. He discussed the linked Condition 3 which had additional wording stating that:

"This consent will be given effect to by undertaking any one stage of the proposed development, and shall not lapse due to the passage of time between stages of the development".

In his opinion, the proposed conditions reflect the legal position in terms of s125(1A)(a) relating to when a consent is given effect to. In his view, it is good practice as endorsed by the Environment Court. He noted that in **Biodiversity Defence Soc Inc v Solid Energy New Zealand Ltd**, the Environment Court held that mining-related resource consents had not lapsed merely because no actual mining took place before the lapse date. Expenditure on giving effect to the consents was relevant as a measurement of the commitment to activating the consents. Where there is a suite of related consents, giving

effect to those consents must be an overall appraisal rather than a consideration of whether each consent has been given effect to. The substantial preparatory work of the consent holder was sufficient to give effect to the suite of consents when construed as a whole. The Court indicated that where consents provide for substantial preparatory research and ground work and for adaptive management, it may assist for a lapse condition to specify what amounts to 'giving effect' to the consent. This, Mr Allan said, is essentially what the Applicant proposes to do. The proposed wording was in his opinion transparent and made the position clear to all. The Applicant's strong preference was that the wording remains as Condition 3.

315. While the Commissioners understand the thrust of the Applicant's argument, they note that the project at this point in time only has known funding such that only two of the four stages of the Pathway will initially be constructed (the first and last stages).
316. While the project undoubtedly has merit (such that consent is to be granted) the notion that major parts of the consent may be implemented sometime in the future when many of the current circumstances underpinning the merits of the proposal (including Covid 19 recovery project prioritisations) may potentially have changed appears to us to be somewhat at odds with the construct of 'certainty' from the perspective of those persons who submitted on the proposal as well as the public at large (whether or not they submitted).
317. While this is essentially a public good project, we do not see that there is any difference per se to any other larger scale 'public good' projects such as providing for affordable housing; which also is essentially (and more fundamentally in our view) a public good.
318. We consider that the original 10 year period applying to the duration of the consent is more appropriate than what the Applicant seeks and that should the project not be given effect to within that period then the consent holder has the statutory ability to seek that the duration of the consent be extended. For those reasons Condition 2 specifies a 10 year lapse date with standard terms applying with proposed Condition 3 being deleted.
319. As noted in Mr Allan's reply, Ms Ogden-Cork proposed in her evidence that a condition be imposed requiring Community Stakeholder Liaison Groups to be established for each section or sub-section of the pathway.
320. Mr Allan submitted that the scope of the condition, as proposed, by the submitter was significant and ultimately impractical (e.g. the group would enter into discussion about additional connections, future works, and works on neighbouring developers' sites). However, he noted, the Applicant in principle supported the establishment of a Community Liaison Group (**CLG**) and a condition was suggested.
321. We concur with the inclusion of a condition (Condition 20) that a CLG be established as that will provide a good interface as the project evolves.
322. The Council proposed that a new sentence be added to the end of Condition 30(e) to refer to the list of stakeholders and parties considered potentially affected by proximity to site/storage and construction zones to be identified by a Social Impact Assessment expert. The Applicant's position was that, while a SIA expert (and others) may have input

into the preparation of the list required by that condition, that need not be prescribed by a condition. We concur with the Applicant in this respect.

323. Following from the evidence of Mr Raeburn concerning the effects of the proposal on the Culav property as discussed in the substantive decision we note that both the Council and the Applicant agreed to amendments to Condition 47 to specify the scheduled heritage features on the Culav land.
324. Also following from discussions with the Commissioners, the Applicant proposed amendment to Condition 66 to require the provision of cycle 'stairs' wherever pedestrian stairs are proposed.
325. Similarly following from interchanges between the Commissioners and the Applicant Condition 88 is amended to require replacement specimen trees to be in immediate proximity to the locations of removed trees (as well as an advice note added defining a specimen tree).
326. Mr Allan also noted in his reply that the Council sought the deletion of the first sentence of Condition 91 relating to pre-1900 material. The Council's concern was that the condition may give rise to confusion, given the Accidental Discovery Rules in the Auckland Unitary Plan. The Applicant noted that this condition wording had been in the draft condition set for some time and that it was appropriate to retain the first sentence of this condition (with requested Heritage New Zealand's edits) but that an advice note would make it clear that the Accidental Discovery Rules in AUP still apply. Again, we agree with the Applicant in that regard.
327. We note that amendments have been made to Condition 93a to clarify the design intent in relation to the boardwalk balustrade, substructure and deck plate. These amendments are agreed as between Mr Robertson for the Applicant and Ms Verstraeten for the Council clarifying the intent of the required design details and as such we concur. Also, additions to Condition 93b (new items iii and iv) are included in response to feedback from the Council. We concur with these changes as they give greater certainty as to intent particularly in relation to the property at 125 Lynwood Road and the raised sections of the walkway at the Kelston tributary and Wairau Creek.
328. As set out in Mr Allan's reply, amendments have been made to Condition 95 to clarify that any visual screen mitigations would only be on land and not on the boardwalk. The matter of mitigation conditions for specific properties is discussed in the substantive decision. We note here that the Applicant agreed on an Augier basis to include reference to 16 Stedman Place to address concerns raised by that submitter.
329. An advice note has been added to Condition 100 following from discussions between the Commissioners and the Applicant. That note signals that as an alternative to undertaking visual screening and window treatment works at Units 1 – 3 / 40 Koromiko Street, it is open to discussion of the possibility of paying a sum to the owners of those units representing the monetary equivalent of those works.
330. A new Condition 102 has been added reflecting the discussion around the Culav property noting Mr Raeburn's evidence in that respect. The 'envelope' within which the

pathway can be constructed has been refined in order to address the issues raised by the Culav's in regards to an appropriate separation from the Culav cottage.

331. The lighting design condition, Condition 105, has been amended to reference the AUPOP standards and also to address particular lighting needs at specific locations such as the Great North Road and Rata Street bridges and to provide further clarity in relation to lighting and dimming profiles during the hours of darkness. The Commissioners raised some of these matters with the Council and the Applicant during the course of the hearing and the changes reflect those discussions.
332. Condition 106 relating to CPTED matters has been amended to expressly address the Olympic Park rail bridge and the Rata Street underpass locations.
333. Condition 153 relating to kayak/canoe access at particular locations has been amended on an Augier basis as offered by the Applicant to address matters raised by the submitters at 16 Stedman Place by the specific inclusion of reference to their property in the condition.
334. Similarly, on an Augier basis Condition 155 has been amended to address matters concerning clearance under the boardwalk raised by the submitters/owners of 21 Kelston Street (the Augustins).
335. Condition 158 has been amended following from matters raised by the Commissioners whereby apart for particular exceptions (specific areas/locations) a maximum deck height for the walkway is prescribed.
336. Condition 158 has been added on an Augier basis by the Applicant following from the submissions by and evidence for Span Farm in relation to the clearance height for water craft. This matter is discussed in detail in the substantive decision.
337. There also was some disagreement between the Council and the Applicant around a new Condition 159 relating to identifying appropriate locations for launching hand carried craft. The Commissioners note that the matter of provision for launching of handheld craft arose in part from submissions by Mr Ball. The Council raised issues around lack of certainty that possible options identified would be given effect to and that there were Council certification related issues arising from the wording of the condition.
338. The Applicant opposed the Council's proposed deletion of text which made the permissive nature of the condition clear but agreed with various additions to the condition as suggested by the Council. Provision of opportunities for such launching options are indeed beneficial in the Commissioner's view as they widen the opportunities for use of the CMA which reflects Mr Greenways evidence relating to the nature of water craft usage.
339. However, we accept the Applicant's position that provision of such launching options should not be mandatory while noting that we consider that it would be inconsistent with the emphasis placed by the Applicant on the use of small craft in the Whau and Wairau tributary for such opportunities not to be provided for at the time of construction or at the least not prevented in the future through design limitations.

340. Conditions 160 and 161 reflect discussions between the Commissioners and the Applicant. Condition 160 specifically ensures piles do not limit the use of tidal channels and Condition 161 as noted by Mr Allan, provides for retrofitting to be incorporated into the design but does not require it. The condition provides a process for retrofitting.

Decision

341. In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104, 104B, 105, 107, 108 and 108AA and Part 2 of the RMA, we determine that resource consent to establish a 15km shared path linking the Waitematā and Manukau Harbours, known as the Te Whau Pathway be **granted** for the reasons and subject to the conditions set out below.

Reasons for the decision

1. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA, the actual and potential effects from the proposal are found to be acceptably avoided, remedied or mitigated subject to conditions of consent. While there some direct and localised adverse effects that will be significant in terms of construction and operational effects (e.g. the residents at 40 Koromiko Street), these are suitably outweighed by the positive effects of the proposal.
2. The proposal will result in transformative positive effects that will be realised by its implementation that will generate considerable recreational, transport and community benefits to the environment and community.
3. In accordance with an assessment under s104(1)(b) of the RMA, the proposal is found to be consistent with the relevant statutory documents, including the:
 - a. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.
 - b. National Policy Statement for Freshwater Management.
 - c. National Policy Statement on Electricity Transmission.
 - d. New Zealand Coastal Policy Statement 2010.
 - e. Hauraki Gulf Marine Park Act 2000.
 - f. Auckland Unitary Plan (Operative in part) including the relevant provisions in the Regional Policy Statement contained therein.
4. In accordance with an assessment under s104(1)(c) of the RMA, the following other matters have been considered:
 - a. Te Pou O Kahu Pokere – Iwi Management Plan for Ngāti Whātua Orākei (2018).
 - b. The New Lynn Urban Plan 2010-2030.
 - c. The Auckland Plan.
 - d. Submissions received.
 - e. Marine and Coastal Area (Takutai Moana) Act 2011.

5. In regard to other relevant RMA sections, the proposed application is consistent with the provisions of Sections 105 and 107 in relation to the proposed discharge consent, and consideration of Sections 35, 108, 108AA, 123 and 125 have been taken into account.
6. Overall, we find that the proposal will result in acceptable actual and potential effects and is consistent with the relevant provisions of the operative plan, the relevant National Environmental Standards and Coastal Policy Statement, and with Part 2 of the Act.

CONDITIONS

General conditions

These conditions apply to all resource consents.

1. The development authorised by these consents shall be carried out in general accordance with the documents and drawings and all supporting additional information submitted with the applications, detailed below, and all referenced by the council as resource consent numbers LUC60337532, DIS60337533, CST60337531. In the event of inconsistency between the plans and documents referred to below and the conditions of these consents, the conditions shall prevail.
 - Application Form and Assessment of Environmental Effects titled “Te Whau Pathway (Green Bay to Te Atatū) – Assessment of Environmental Effects” prepared for Auckland Council Community Facilities by Beca Limited, dated 18 April 2019.
 - Section 92 responses prepared by Beca Limited dated 10 October 2019 and 24 April 2020.

Report title and reference	Author	Rev	Dated
Te Whau Shared Path Construction Methodology, Prepared for Auckland Council	Beca Ltd	C	18/12/18
Arboriculture Report: Te Whau Shared Use Path – April 19 (updated 5 August 2020) – [28771] (Ref: 28771)	Arborlab Consultancy Services Ltd	-	05/08/20
Te Whau Pathway Archaeological Assessment	Clough and Associates Ltd	-	March 2019
Ngāti Whātua Ōrākei Cultural Values Assessment, Te Whau Pathway, Report for: Auckland Council.	Ngāti Whātua Ōrākei Whai Maia Ltd	2	24/11/16
Cultural Impact Assessment for Whau Coastal Walkway Project Whau River, Auckland.	Te Kawerau Iwi Tribal Authority	-	June 2015
The Whau Coastal Walkway project, Cultural Impact Assessment.	Ngati Te Ata Waiohua	-	08/03/15
Te Whau Pathway – Civil and Coastal Processes Assessments.	Beca Ltd	3	22/03/19
Contaminated Soils Management Plan – Te Whau Shared Pathway.	Beca Ltd	3	22/03/19
Assessment of Ecological Effects for the Te Whau Shared Pathway, West Auckland.	eCoast / Wildlands	-	April 2019
Ecological Management Framework for the Te Whau Shared Pathway, West Auckland	Wildlands	-	September 2020
Lizard Management Plan for Te Whau Shared Pathway, West Auckland	Wildlands	-	December 2019
Bat Management Plan for Te Whau Shared Pathway, West Auckland	Wildlands	-	December 2019

Te Whau Pathway – Erosion and Sediment Control Plan Principles and Practices.	Beca Ltd	1	28/08/18
Te Whau Shared Pathway – Landscape and Visual Assessment, Final, (Ref: 03042019).	Landwriters		03/04/19
Crime Prevention Through Environmental Design (CPTED) Review and Recommendations for Te Whau Pathway Memorandum (Ref: 4217284).	Beca Ltd	4	03/04/19
Te Whau Shared Path Acoustic Assessment (Rp 001 20171079).	Marshall Day Acoustics Ltd	2	20/03/19
Te Whau Shared Path Construction Noise and Vibration Management Plan (Rp 003 20171079).	Marshall Day Acoustics Ltd	1	20/03/19
Te Whau Pathway Social Impact Assessment, Prepared for Auckland Council.	Beca Ltd	4	03/04/19
Te Whau Pathway – Transport Impact Assessment Report, Prepared for Auckland Council.	Beca Ltd	3	21/03/19
Te Whau Pathway Consenting: Communications and Consultation Plan, Prepared for Auckland Council.	Beca Ltd	B	03/04/19
Te Whau Pathway – Resource Consent Landscape Plans	Beca Ltd	B	05/08/20
Te Whau Pathway – Typical Planting Palettes	Beca Ltd	B	20/12/18
Te Whau Pathway, Demand Assessment and Economic Evaluation.	Flow Transportation Specialists Ltd	C	15/08/19
Te Whau Pathway Project - Assessment of alternative on-road route (Ref: NZ3049).	MRCagney Pty Ltd	1	04/04/20
Te Whau Pathway Scheme Investigation: Scheme Assessment Report, prepared for Auckland Transport, including the Landscape and Urban Design Framework.	MWH Ltd / Stantec	Final	29/06/17
Avifauna Management Plan for Te Whau Shared Pathway, West Auckland	Wildlands		08/20

Drawing title and reference	Author	Rev	Dated
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 1 of 36 (Drawing No: 80509320-C2-0104_G101)	Beca Ltd / Auckland Transport	C	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 2 of 36 (Drawing No: 80509320-C2-0104_G102)	Beca Ltd / Auckland Transport	E	15/10/19

Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 3 of 36 (Drawing No: 80509320-C2-0104_G103)	Beca Ltd / Auckland Transport	D	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 4 of 36 (Drawing No: 80509320-C2-0104_G104)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 5 of 36 (Drawing No: 80509320-C2-0104_G105)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 6 of 36 (Drawing No: 80509320-C2-0104_G106)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 7 of 36 (Drawing No: 80509320-C2-0104_G107)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 8 of 36 (Drawing No: 80509320-C2-0104_G108)	Beca Ltd / Auckland Transport	D	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 9 of 36 (Drawing No: 80509320-C2-0104_G109)	Beca Ltd / Auckland Transport	D	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 10 of 36 (Drawing No: 80509320-C2-0104_G110)	Beca Ltd / Auckland Transport	C	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 11 of 36 (Drawing No: 80509320-C2-0104_G111)	Beca Ltd / Auckland Transport	E	12/10/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 12 of 36 (Drawing No: 80509320-C2-0104_G112)	Beca Ltd / Auckland Transport	F	13/10/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 13A of 36 (Drawing No: 80509320-C2-0104_G113A)	Beca Ltd / Auckland Transport	D	06/04/20

Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 13 of 36 (Drawing No: 80509320-C2-0104_G113)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 14 of 36 (Drawing No: 80509320-C2-0104_G114)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 15 of 36 (Drawing No: 80509320-C2-0104_G115)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 16 of 36 (Drawing No: 80509320-C2-0104_G116)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 17 of 36 (Drawing No: 80509320-C2-0104_G117)	Beca Ltd / Auckland Transport	D	08/10/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 18 of 36 (Drawing No: 80509320-C2-0104_G118)	Beca Ltd / Auckland Transport	D	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 19 of 36 (Drawing No: 80509320-C2-0104_G119)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 20 of 36 (Drawing No: 80509320-C2-0104_G120)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 21 of 36 (Drawing No: 80509320-C2-0104_G121)	Beca Ltd / Auckland Transport	D	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 22 of 36 (Drawing No: 80509320-C2-0104_G122)	Beca Ltd / Auckland Transport	D	08/10/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 23 of 36 (Drawing No: 80509320-C2-0104_G123)	Beca Ltd / Auckland Transport	C	08/10/20

Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 24 of 36 (Drawing No: 80509320-C2-0104_G124)	Beca Ltd / Auckland Transport	D	15/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 25 of 36 (Drawing No: 80509320-C2-0104_G125)	Beca Ltd / Auckland Transport	D	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 26 of 36 (Drawing No: 80509320-C2-0104_G126)	Beca Ltd / Auckland Transport	D	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 27 of 36 (Drawing No: 80509320-C2-0104_G127)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 28 of 36 (Drawing No: 80509320-C2-0104_G128)	Beca Ltd / Auckland Transport	D	08/10/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 29 of 36 (Drawing No: 80509320-C2-0104_G129)	Beca Ltd / Auckland Transport	C	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 30 of 36 (Drawing No: 80509320-C2-0104_G130)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 31 of 36 (Drawing No: 80509320-C2-0104_G131)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 32 of 36 (Drawing No: 80509320-C2-0104_G132)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 33 of 36 (Drawing No: 80509320-C2-0104_G133)	Beca Ltd / Auckland Transport	C	15/10/19
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 34 of 36 (Drawing No: 80509320-C2-0104_G134)	Beca Ltd / Auckland Transport	B	15/10/19

Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 35 of 36 (Drawing No: 80509320-C2-0104_G135)	Beca Ltd / Auckland Transport	D	06/04/20
Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 36 of 36 (Drawing No: 80509320-C2-0104_G136)	Beca Ltd / Auckland Transport	C	06/04/20

Other additional information	Author	Rev	Dated
Te Whau Assessment of Environmental Effects Objectives and Policies detailed assessment.	Beca Ltd	-	12/03/19

2. Under section 125 of the RMA, these consents lapse ten years after the date they are granted unless:
 - a. The consents are given effect to; or
 - b. The council extends the period after which the consents lapse.
3. The consent holder shall pay the council an initial consent compliance monitoring charge of \$1020.00 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to these consents.

Advice Note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consents. In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consents have been met, will the council issue a letter confirming compliance on request of the consent holder.

Management Plan Certification Process

4. Conditions 5 to 13 apply to all Management Plans required by these conditions.
5. Management Plans shall be submitted to the Team Leader Compliance Monitoring - West for certification in writing. Management Plans shall be submitted at least twenty (20) working days prior to Commencement of Construction of any works in any stage authorised by these consents unless otherwise specified in the conditions. The consent holder shall ensure that any changes to draft Management Plans are clearly identified.

Advice Note:

Any preliminary works, which do not need resource consent / are permitted activities can be undertaken prior to any Management Plan(s) being certified.

6. Management Plans may be submitted in parts or in stages to address particular activities or to reflect a staged implementation of the project, and when provided in part

or for a stage shall be submitted at least twenty (20) working days prior to Commencement of Construction of that part or stage unless otherwise specified in the conditions. Management Plans submitted shall clearly show the linkage with plans for adjacent stages and interrelated activities.

7. Where consultation on a Management Plan is required by a condition of these consents including any change to a Management Plan contemplated by Condition 12, the consent holder shall provide the following to the Team Leader Compliance Monitoring – West when submitting the Management Plan for certification:
 - a. A summary of consultation during preparation of the Management Plan;
 - b. Any feedback on the proposed text of the Management Plan from the party or parties that the condition requires consultation with; and
 - c. A response to that feedback indicating the matters that were not incorporated into the text of the Management Plan submitted for certification and the reasons why.
8. Should the Team Leader Compliance Monitoring – West refuse to certify a Management Plan, or a part or stage of a Management Plan, in accordance with Condition 6 above, the consent holder shall submit a revised Management Plan for certification as soon as practicable. The certification process shall follow the same procedures as outlined in Condition 5 above.
9. In the event of any dispute, disagreement or inaction arising as to any Council certification/approvals required by the consent conditions, such matters shall be referred by the consent holder in the first instance to the appropriate Community Facilities Manager, Auckland Council Manager and to the Resource Consents Manager, Auckland Council to determine a process of resolution. If a resolution cannot be agreed, then the matter may then be referred to an independent appropriately qualified expert, agreeable to both parties, setting out the details of the matter to be referred for determination and the reasons the parties do not agree. The independent appropriately qualified expert shall be appointed within 10 working days of the consent holder or Auckland Council giving notice of their intention to seek expert determination. In regards to this process all costs fall to the Applicant. The expert shall, as soon as possible, issue his or her decision on the matter. In making the decision, the expert shall be entitled to seek further information and hear from the parties as he or she sees fit. The decision of the independent appropriately qualified expert shall be binding on all parties.

Advice Note:
The dispute resolution process provided for in this condition does not prejudice any party's right to take enforcement action in relation to the implementation of the conditions.
10. Any certified Management Plan may be amended if necessary, to reflect any minor changes in design, construction methods or management of effects. Any amendments are to be discussed with and submitted to the Team Leader Compliance Monitoring – West for confirmation in writing prior to implementation of the change, unless the Team Leader Compliance Monitoring - West determines in his or her discretion that those amendments once implemented would result in a materially different outcome to that described in the original plan.

11. Any changes to a certified Management Plan involving a materially different outcome under Condition 10 shall be submitted to the Team Leader Compliance Monitoring - West to certify that they comply with the applicable requirements of these conditions. Any material change must be consistent with the purpose of the relevant Management Plan and the requirements of the relevant conditions of these consents. Where a Management Plan was prepared in consultation with affected parties, any material changes to that Plan shall be prepared in consultation with those same parties.
12. All works shall be carried out in accordance with the certified Management Plans. No works shall commence until written certification of a Management Plan has been received, unless otherwise approved in writing by the Team Leader Compliance Monitoring - West.

Pre-Construction Conditions

13. The consent holder shall, in accordance with condition 6, submit to the Team Leader Compliance Monitoring – West for certification, the following Management Plans (collectively referred to as “**Management Plans**”):
 - a. Construction Management Plan (**CMP**);
 - b. Construction Traffic Management Plan (**CTMP**) – Condition 31;
 - c. Construction Noise and Vibration Management Plan (**CNVMP**) – Condition 33;
 - d. Site-Specific Erosion and Sediment Control Plan (**SSESCP**) – Condition 35;
 - e. Chemical Treatment Management Plan (**CHTMP**) (if required in accordance with Condition 62) – Condition 60;
 - f. Historic Heritage Management Plan (**HHMP**) (if required in accordance with condition 48) – Condition 46;
 - g. Tree Protection Management Plan (**TPMP**) – Condition 38; and
 - h. Ecological Management Plan (**EMP**) (incorporating relevant Fauna Management Plans) – Condition 41;
 - i. Avifauna Management Plan – Condition 44.

Advice Note - Management Plans:

1. *Certification of the Management Plans referred to in Conditions 5 and 6 relates only to those aspects of the plans that are relevant under the Resource Management Act 1991. The certification does not amount to an approval or acceptance of suitability by the council of any elements of the management plan that relate to other legislation, for example, but not limited to, the Building Act 2004, the Heritage New Zealand Pouhere Taonga Act 2014, the Wildlife Act 1957, or the Health and Safety in Employment Act 1992.*
2. *The Fauna Management Plans referred to above are the Avifauna Management Plan (**AMP**), Bat Management Plan (**BMP**) and Lizard Management Plan (**LMP**).*

14. Prior to the commencement of works in any stage authorised by these consents, the consent holder shall:
- a. hold a pre-start meeting that:
 - i. is located on the subject site;
 - ii. is scheduled not less than five working days before the anticipated commencement of any works authorised by these consents;
 - iii. is attended by:
 1. Council officers, including:
 - a. Council's nominated Compliance Monitoring Officer;
 - b. In the case of trees on private land – the Resource Consents Specialist Advisor – Arborist;
 - c. In the case of trees in streets and Council Reserves - the Community Facilities Urban Forest Specialist Advisor for the local board area.
 - d. a suitably qualified archaeologist;
 - e. the appointed works arborist;
 - f. a suitably qualified ecologist;
 - g. representation from the contractors who will undertake the works.
 - b. The following matters shall be discussed at the meeting:
 - i. erosion and sediment control measures;
 - ii. the earthworks methodology;
 - iii. archaeological matters including:
 1. what constitutes archaeological material;
 2. the legal requirements for unanticipated archaeological discoveries; and
 3. the appropriate procedures to be followed under the Accidental Discovery Protocols to safeguard materials;
 - iv. ecological matters including:
 - i. the Ecological Management Framework (**EMF**);
 - ii. The EMP for that stage; and
 - iii. Fauna Management Plans;
 - iv. vegetation protection measures including:
 1. the Tree Protection Management Plan; and
 2. the methodology and timing of the works;
 3. clearly marked out clearance areas with the tree protection placed onsite;
 4. site plan and the itemised trees and the proposal;
 5. the nature and placement of protective fencing;
 6. site access and areas for manoeuvring vehicles and machinery;
 7. areas for storing and/or stockpiling materials, spoil and equipment;
 8. location of works and any excavations required;
 9. care and control methods;
 10. when and where the appointed works arborist is required on site; and
 - v. all other applicable conditions of consent to ensure all relevant parties are aware of and familiar with the necessary conditions of these consents.
 - c. The following information shall be made available at the pre-start meeting:

- a. Timeframes for key stages of the works authorised under these consents;
- b. Details of staging and stabilisation methodologies;
- c. Full design details of all Erosion and Sediment Controls;
- d. Resource consent conditions;
- e. Management Plans (required by Condition 13); and
- f. The contact information of relevant agencies including the project archaeologist, Heritage New Zealand Pouhere Taonga and the Auckland Council Heritage Implementation Team.

Advice Note – Pre-commencement meeting:

To arrange the pre-commencement meeting required by Condition 14 please contact the Council to arrange this meeting on monitoring@aucklandcouncil.govt.nz, or 09 301 01 01. The conditions of consent should be discussed at this meeting. All additional information required by the Council should be provided two days prior to the meeting.

15. Prior to or during detailed design for the section of pathway adjacent to the Motu Moana Camp land owned by the Scouts Association of New Zealand the consent holder shall undertake a survey of the Portage Road boundary of this property where it is adjacent to the road reserve. The results of that survey shall be provided to the Scouts Association of New Zealand.

Construction Management Plan (CMP)

16. The consent holder shall prepare a Construction Management Plan (**CMP**) or series of CMPs to reflect each stage of the project. The purpose of the CMP is to provide for construction works authorised by the consents in a way that avoids, remedies and mitigates adverse effects and shall be consistent with Condition 1. The CMP shall include as a minimum:
 - a. An outline construction programme;
 - b. Confirmation of the proposed staging, staging duration and order of construction over the sites;
 - c. Contact details of the site or project manager and construction liaison person;
 - d. Hours of work for each stage and site;
 - e. Measures to be adopted to maintain the land affected by the works in a tidy condition in terms of disposal/storage of rubbish, storage and unloading of construction materials and similar construction materials;
 - f. Procedures and methods for monitoring the stability of earthworks, and retaining during construction;
 - g. Site remediation and reinstatement procedures;
 - h. Location of site infrastructure including site offices, site amenities, contractors yard access, equipment unloading and storage areas, contractor parking and security;
 - i. Procedures for engaging with residents, road users, schools, businesses and other land users in the immediate vicinity of the construction areas. The purpose of this engagement is to provide prior notice of the commencement of construction

activities and ensure they are informed about the expected duration and effects of the work (refer to the requirements listed under Condition 31(f)(i)-(v));

- j. Means of ensuring the health and safety of the general public;
 - k. Procedures for responding to complaints about construction activities;
 - l. The location of domestic rubbish and project construction rubble removal from the shore / estuary edge and any area occupied and/or utilised during the works. for any given stage, such that these areas and enhancement areas are free from project construction rubble and as free as reasonably practicable from domestic rubbish; and
 - m. Integration with the following Management Plans required as conditions of consent:
 - i. CTMP – Condition 31;
 - ii. CNVMP – Condition 33;
 - iii. Contaminated Soils Management Plan (**CSMP**) - Condition 126;
 - iv. SSES CP – Condition 35;
 - v. TPMP – Condition 38;
 - vi. EMP – Condition 41;
 - vii. AMP – Condition 44;
 - viii. HHMP– Condition 46; and
 - ix. CHTMP– Condition 60.
17. The CMP shall include a Coastal Construction Management Plan (**CCMP**) for construction works in the Coastal Marine Area (**CMA**). The CCMP must specify the following:
- a. A construction timetable;
 - b. Final construction methodology and alignment, including details of:
 - i. installation of temporary structures in the CMA;
 - ii. the route to be used for accessing the site for construction purposes;
 - iii. A removal methodology for the temporary platform and piles extraction, for mangrove removal, and disposal for cleared mangrove plants, and spoil from drilling for piles;
 - iv. Methods to ensure that, where practical, when removing mangroves, adult mangroves are cut as close to the sediment as possible and leave root masses intact where possible;
 - v. Methods to maintain a safe navigation channel past the works site, detailing periods during when there maybe restrictions on navigation past the site.

- vi. The construction footprint, demarcating those areas in the CMA and coastal edges which need to be physically marked onsite, with access (for vehicles and staff) restricted to the footprint;
- c. The construction methodology shall minimise mangrove removal/pruning as far as reasonably practicable and apply a maximum clearance envelope of 12m in width along the corridor;
- d. Contingency plans in case of discharges to the coastal marine area during works; and
- e. General site management, including details of:
 - i. site access;
 - ii. the bunding or containment of fuels and lubricants to prevent the discharge of contaminants;
 - iii. methods to ensure that any equipment or machinery to be stored on the temporary staging is appropriately secured above mean high water springs, and methods to ensure that no spills into the coastal marine area will occur;
 - iv. methods to maintain or restrict public access to and along the coastal marine area while the activities are being carried out;
 - v. methods to ensure compliance with noise standards; and
 - vi. site reinstatement upon completion of the activities.

Community Liaison Group

- 18. Within two (2) months of the granting of resource consent, the consent holder shall establish a Community Liaison Group (**CLG**).
- 19. The membership of the CLG shall include representative(s) of the consent holder and (by invitation only) those individuals identified as representatives of the community within or with a relationship to the area, to a maximum of twenty (20) representatives. Invitations shall be sent as a minimum to the following groups to provide nominations of representatives to join the CLG: the Henderson-Massey and Whau Local Boards; Ngāti Whātua Ōrākei; Te Kawerau a Maki; Bike Auckland and Bike Te Atatū; Te Whau Pathway Project Steering Group members; local residents associations; local schools; and groups representing local Pacifica, Indian and Chinese communities. Members may nominate other members.
- 20. The purpose of the CLG shall be to:
 - a. Provide a means for the Consent Holder to provide regular updates on the Project, which CLG members can disseminate through their networks;
 - b. Enable opportunities for concerns and issues (raised by the community with CLG members or by CLG members themselves) to be reported to, and responded to by, the consent holder;
 - c. Act as a conduit between the consent holder and the community that provides for community interests to be identified and articulated;

- d. Provide opportunities for members of the CLG to input into the development and implementation of local placemaking initiatives to be provided on public open space (on land outside the CMA) in general accordance with the Landscape and Urban Design Framework;
- e. Assist the consent holder in organising and participating in community engagement events.

Advice note:

Placemaking is a multi-faceted approach to the planning, design and management of public spaces. Placemaking capitalises on a local community's assets, inspiration, and potential, with the intention of creating public spaces that promote people's health, happiness and wellbeing.

- 21. The consent holder will provide opportunities for the CLG to review and provide comment on the draft boardwalk design drawings and specifications as follows:
 - a. Where condition 93 applies, prior to the consent holder submitting the boardwalk design drawings and specifications to the Auckland Urban Design Panel; or
 - b. Otherwise, where condition 93 does not apply, prior to the consent holder submitting the boardwalk drawings and specifications for certification under condition 92.
- 22. The consent holder will provide the opportunity for the CLG to review and provide comment on the finalised landscape design drawings to be developed in accordance with condition 94, prior to the Consent Holder submitting the drawings to Team Leader Compliance Monitoring - West for certification.
- 23. The consent holder will consult with the CLG when developing the Communication and Consultation Plan required under condition 27.
- 24. The CLG shall meet:
 - a. At least every 3 months during detailed design and construction;
 - b. At least annually at other times; or
 - c. As otherwise agreed by the CLG.
- 25. The consent holder shall provide reasonable administrative support for the CLG including but not limited to:
 - a. Organising meetings at a local venue;
 - b. Distributing an agenda to each CLG member prior to meetings to ensure that the CLG meetings are purposeful, utilised effectively and outcome-focused;
 - c. Inviting all members of the CLG when establishing the CLG, and from time to time when there is a vacancy in its membership;
 - d. The taking and dissemination of meeting minutes.
- 26. The CLG shall continue for the duration of the Project and for 12 months following completion of the Project.

Communication and Consultation Plan – Social Impact Management

27. Prior to construction, the consent holder shall prepare and submit to the Team Leader Compliance Monitoring - West a Communication and Consultation Plan (**CCP**). The purpose of the CCP is to set out a framework and methodology to ensure appropriate communication and consultation is undertaken with the community, stakeholders, affected parties and affected in proximity parties to the construction site, prior to and during the works. The CCP shall cross-reference and outline the consultation and communication strategies to be undertaken by all construction and site specific activities and plans that are relevant to those listed in Condition 27(f)(i)-(v).
28. The CCP shall include:
- a. The proposed format and communication channels for providing information to the immediate neighbours, receiving their feedback, and reporting on response to that feedback;
 - b. The nominated complaints process which must identify:
 - i. How complaints can be made;
 - ii. Who is responsible for responding to complaints;
 - iii. How responses to complaints will be provided; and
 - iv. The timeframes that responses will be provided within.
 - c. The nominated phone numbers and email address for both urgent and non-urgent matters;
 - d. Guidelines on:
 - i. the communication strategies;
 - ii. the accountabilities and frequency of communications and consultation; and
 - iii. the range of communication and consultation tools to be used (and channels, including any modern and relevant communication methods, newsletters or similar, advertising etc).
 - e. A list of stakeholders or parties considered potentially affected by proximity to each site/storage and construction zones, particularly in respect of works in open space and reserve areas and parties affected by any works that may impact public access to and along the CMA as a result of construction works;
 - f. In respect of the consultation strategies, specific measures proposed to undertake communication on and consultation with parties in respect of the following:
 - i. Works proposed relating to the location of construction sites and / or construction storage areas and the security of these areas, where they are in public reserves and open spaces;
 - ii. Traffic access required and management measures proposed for any construction sites / storage and construction zones in open space and reserves;

- iii. Any closure or management of the use of reserves and/or open spaces required for construction or site storage activities;
 - iv. Construction noise anticipated in open spaces and the hours / duration of works in these locations (where this is considered to potentially disrupt the use / enjoyment of these places for the public over the construction period); and
 - v. Information detailing the proposed removal of trees and vegetation from open spaces and reserve areas as identified in the Tree Protection Management Plan.
- g. A summary of the communication and consultation undertaken between the Applicant and the parties listed in e) above. The summary shall include any outstanding/unresolved issues or disputes raised by parties.
 - h. Processes for review of the CCP, including any lessons learnt or feedback relevant to a future stage.
29. A contact person shall be made available for public enquires for the duration of the construction works between 7.30am and 6.00pm from Monday to Saturday.
30. The CCP shall be implemented and complied with for the duration of the construction works.

Construction Traffic Management Plan (CTMP)

31. The consent holder shall prepare a CTMP for each stage of works and shall submit the CTMP to the Team Leader Compliance Monitoring – West for certification. The purpose of the CTMP is to avoid, remedy or mitigate adverse effects on traffic safety and efficiency resulting from the construction works and shall be consistent with Condition 1, in order to:
- a. Adhere to the requirements of relevant Act, Regulations, Bylaws and consent conditions in relation to construction traffic;
 - b. Support a culture of road safety awareness and commitment;
 - c. Achieve best practice in transport safety to protect public safety, including the safe passage of pedestrians and cyclists;
 - d. Enable unobstructed emergency services access;
 - e. Minimise disruption to the surrounding community by minimising delays to road users, pedestrians and cyclists, and particularly public transport at all times, and minimise disruption of public access to reserves where staging areas are located; and
 - f. Inform the public about any potential impacts on the road network.
32. The CTMP shall:
- a. Identify how Condition 31 will be achieved;
 - b. Outline measures to ensure that construction works do not impede local access for emergency vehicles such as ambulances and fire trucks;

- c. Identify appropriate ingress and egress routes to/from the staging areas for construction vehicles;
- d. Provide the typical number and size of trucks movements for each staging area per week;
- e. Provide the mechanism and nominated person for receiving, addressing and monitoring queries relating to construction traffic, as well as responding to complaints in relation to the construction traffic;
- f. Outline the specific management measures to be employed at each of the staging areas; and
- g. Comply with the version of the NZ Transport Agency Code of Practice for Temporary Traffic Management that applies at the time the CTMP is prepared.

Construction Noise and Vibration Management Plan (CNVMP)

33. The consent holder shall submit a CNVMP to the Team Leader Compliance Monitoring – West for certification. The objective of the CNVMP is to determine and require the adoption of the Best Practicable Option (**BPO**) for the minimisation of all construction noise and vibration effects from the works. The CNVMP shall be prepared by a suitably qualified and experienced acoustics expert.
34. The CNVMP shall:
- a. Set out the procedures and management measures that will ensure, as far as reasonably practicable, that construction work will comply with the project standard of 75 dB LAeq and the construction vibration conditions set out below at any occupied building;
 - b. Include a specific section that sets out detailed procedures and management measures for minimising the noise effects of the phases of work that will exceed the project standard of 75 dB LAeq following the adoption of the BPO;
 - c. Set out the physical noise reduction measures that will be implemented and the triggers or thresholds for implementing them;
 - d. Set out details of the written communication with occupants of all buildings within 50 m of the work areas to be provided at least ten days prior to the commencement of activities on site. The written advice shall set out:
 - i. a brief overview of the construction works;
 - ii. the working hours and expected duration;
 - iii. all mitigation measures to be implemented;
 - iv. the procedure for lodging concerns/complaints regarding noise and vibration;
 - v. the procedure for noise and vibration monitoring where concerns are raised by receivers;
 - vi. contact details for site personnel for any concerns regarding noise and vibration; and

- vii. a procedure for the receipt, management and response to any complaints received about noise or vibration.
- e. The CNVMP shall address the requirements of Annex E of NZS6803:1999 as a minimum.

Site-specific Erosion and Sediment Control Plan (SSESCP)

35. The consent holder shall prepare a series of SSESCPs for each stage of proposed works and shall submit these to the Team Leader Compliance Monitoring – West for certification. The purpose of these SSESCP(s) is to set out the proposed controls to be implemented during land disturbance activities to minimise erosion and sediment loss. The SSESCP(s) shall be prepared in accordance with Auckland Council’s Guidance Document 005 – Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region (GD05) and the *Te Whau Pathway - Erosion and Sediment Control Plan Principles and Practices Report* (Beca, August 2018) submitted with the application and shall include as a minimum:
- a. specific erosion and sediment control works (location, dimensions, capacity) in general accordance with GD05;
 - b. supporting calculations and design drawings;
 - c. details of construction methods;
 - d. monitoring and maintenance requirements;
 - e. catchment boundaries and contour information;
 - f. staging information;
 - g. cut and fill areas and volume including a plan(s) showing the extent of land disturbance;
 - h. a CHTMP where necessary in accordance with Condition 60; and
 - i. details relating to the management of exposed areas (e.g. grassing, mulching).
36. The SSESCP(s) should contain the necessary design details to address the minimum requirements listed under Condition 35.
37. If minor modifications to the proposed erosion and sediment control measures are required, any such modifications should be in general accordance with, or exceed, the requirements of Auckland Council’s Guidance Document 05 – Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region (GD05). Modifications should be limited to the scope of this consent and as identified in the approved plans. Any minor amendments should be provided to the Team Leader Compliance Monitoring – West, prior to implementation to confirm that they are within the scope of this consent in accordance with condition 10 and 11.

Advice note:

Any changes to the erosion and sediment control measures which affect their performance or level of treatment they provide, may require an application to be made in accordance with section 127 of the RMA.

Tree Protection Management Plan (TPMP)

38. The consent holder shall prepare a TPMP, prepared by a suitably qualified and experienced arborist, for certification by the Community Facilities Senior Urban Forest Specialist (or equivalent). The TPMP shall be prepared in accordance with the Arboricultural Assessment – Te Whau Pathway report (Arborlab, August 2020) submitted with the application (and in particular, Appendix 1 – Tree Protection Methodology) and be prepared in consultation with the Community Facilities Senior Urban Forest Specialist. The purpose of the TPMP is to avoid, remedy or mitigate any adverse construction effects on those trees to be retained as part of the project as far as reasonably practicable.
39. The TPMP shall include, at a minimum, the following information:
- a. A design proposal for vegetation alteration and removal at each stage of the construction for the assessment and approval by the Community Facilities Senior Urban Forest Specialist from the Local Board area. The following information shall be included in the design proposal for each stage:
 - i. Updated plans if there are changes from the approved plans;
 - ii. Details of trees to be removed, pruned or subject to works in the rootzone;
 - iii. Path construction details and construction methods where works are within the rootzone;
 - iv. Tree protection methods required to avoid damage to retained trees; and
 - v. The mitigation proposed, including, but not limited to, details of replacement tree numbers, species and planting grade.
 - b. Tree protection measures for trees to be retained based on the items in the Arborlab report, referenced within Condition 1;
 - c. Demarcation of temporary construction access and storage areas, outside the permeable dripline and / or rootzone areas of retained trees;
 - d. Use of protective barrier fencing; and
 - e. Procedures for working within the dripline / rootzone of any retained tree, including appointment of a qualified and experienced arborist (“appointed works arborist”) to oversee directly all works within the dripline and rootzone of the trees located in the areas of work for the duration of the site works, until the route is considered completed, and including any reinstatement works that fall outside the area of the works.
40. Compliance with the recommended tree protection measures and construction methodology must be monitored by the appointed works arborist and logged in accordance with the vegetation log sheet contained in the TPMP. The log sheet must be provided to Team Leader Compliance Monitoring – West at agreed intervals or, where required, on request.

Ecological Management Plan (EMP)

41. Prior to the commencement of vegetation clearance associated with each individual stage of works authorised by these consents, the Consent Holder shall prepare and

submit an EMP to the Team Leader Compliance Monitoring – West for certification. The EMP shall be consistent with the EMF and shall include, but not be limited to:

- a. The identification and description of all impacts on terrestrial ecology (including the location and area of any vegetation clearance or alteration).
 - b. A table outlining the minimum areas of replacement planting and all associated calculations based on the ratios provided in the EMF (dated September 2020).
 - c. Plans identifying all elements of the activities to address the adverse effects of the activities, including:
 - i. A Planting Plan (that includes the replacement planting specified by Condition 88);
 - ii. Pest plant control requirements; and
 - iii. A Monitoring and Maintenance Plan prepared in accordance with Condition 42.
 - d. Fauna Habitat Assessments undertaken in accordance with all applicable conditions of consent;
 - e. Any fauna Management Plans (i.e. AMP for birds, BMP for bats or LMP for lizards) required.
 - f. Timing details of when enhancement works will be undertaken, such that all enhancements are undertaken within two years of the associated impact occurring.
 - g. Minimising vegetation clearance within SEA 4645.
42. The Monitoring and Maintenance Plan required as part of the EMP under Condition 41 shall include as a minimum:
- a. Monitoring criteria, methods and indicators to ensure the performance standards are met, including the removal of pest plants and monitoring of mangrove re-establishment.
 - b. Pest plant standards and targets, and animal management standards and targets as required by the EMF, LMP and BMP.
 - c. All planting shall achieve a minimum of a 90% survival rate for the first five years following the given stage of works.
 - d. Details of monitoring frequency, including:
 - i. Monitoring shall be conducted in accordance with the Monitoring and Maintenance Plan certified as part of the EMP shall be conducted annually for the first five years following any planting for a given stage of works and the results reported to Auckland Council with twenty working days of the monitoring being completed.
 - ii. Monitoring of mangrove reestablishment, which shall be conducted in accordance with the EMF.

43. At the end of the five-year maintenance and monitoring period the consent holder shall confirm that all planting (within the planting areas) is compliant with the Regional Pest Management Strategy.

Avifauna Management Plan (AMP)

44. The Consent Holder shall prepare and submit an AMP to the Team Leader Compliance Monitoring - West for certification. The AMP shall be prepared by a suitably qualified and experienced avifauna ecologist who has been approved by the Team Leader Compliance Monitoring - West.
45. The AMP shall be consistent with the AMP dated August 2020 (refer Condition 1) and address the following (where relevant):
- a. Surveys for nesting indigenous birds, with appropriate measures to avoid disturbance of nesting birds.
 - b. Avoiding disturbance of coastal and shoreline habitats due to movement or location of people, machinery, and construction materials by
 - i. The physical demarcation of the construction footprint for the duration of works at a site
 - ii. Access for people, machinery, and temporary storage of materials being restricted to within the construction footprint.
 - c. Ensuring that construction results in a net increase in the extent of habitats for avifauna, including indigenous forest and saltmarsh habitats.

Historic Heritage Management Plan (HHMP)

46. The Consent Holder shall prepare a HHMP for each stage of the proposed works and shall submit this to the Team Leader Compliance Monitoring – West for certification. The HHMP shall be prepared to manage adverse effects on historic heritage that may occur as a result of the construction of the shared path. The HHMP shall include, at a minimum, the following information:
- a. Locations of known (scheduled) historic heritage sites within 50m of the work area including the Culav/Laurieston Cottage and associated well/long drop (NZAA site number R11/3039);
 - b. Any pre—1900 archaeological sites which may require an Archaeological Authority under the HNZPTA;
 - c. Roles, responsibilities and contact details of Project personnel, Mana Whenua representatives, and relevant agencies involved with heritage and archaeological matters including surveys, monitoring of Construction Works and monitoring of conditions;
 - d. Methods for protecting and/or minimising effects on historic heritage sites during enabling and construction works where practicable (for example the fencing off of historic heritage sites to protect them from damage during construction)
 - e. Specific areas to be investigated, monitored and recorded by a Suitably Qualified Person as illustrated using aerial photos the Project area or similar digital techniques;

- f. Training requirements for contractors and subcontractors on historic heritage areas/features within the Project area, legal requirements relating to accidental discoveries, and accidental discovery protocols. The training should be undertaken under the guidance of a Suitably Qualified Person and Mana Whenua representatives, and should include a pre—construction briefing to contractors.
47. Where there are no archaeological or heritage sites in proximity to the works in any given stage, the requirement under Condition 46 for the preparation of the HHMP may be waived. This is to be determined by the Council’s nominated Heritage Specialist.

Earthworks conditions

48. Earthworks shall be undertaken in accordance with the documents identified in Condition 1 and the following management plans where relevant:
- a. CMP (Condition 16)
 - b. CSMP (Condition 126)
 - c. SSESCP (Condition 35)
 - d. TPMP (Condition 38)

Advice note: Accidental Discovery Protocol

If any archaeological features are uncovered on the site, works should cease and the Council and Heritage New Zealand Pouhere Taonga (09 307 9920) should be notified immediately. The Heritage New Zealand Pouhere Taonga Act 2014 provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. It is an offence under this Act to destroy, damage or modify any archaeological site without an authority from Heritage New Zealand Pouhere Taonga. An archaeological site is defined as a place associated with pre-1900 human activity where there may be evidence relation to history of New Zealand. Archaeological features may include old whaling stations, ship wrecks, shell middens, hangi or ovens, pit depressions, defensive ditches, artefacts, or koiwi tangata (human skeletal remains), etc. For guidance and advice on managing the discovery of archaeological features, contact the Council Team Leader Cultural Heritage Implementation on 09 301 0101.

49. Within ten working days following implementation and completion of the specific erosion and sediment control works referred to in Condition 35, and prior to the commencement of earthworks (or each stage of earthworks) activity, a suitably qualified and experienced professional shall provide written certification to the Team Leader Compliance Monitoring - West that the erosion and sediment control measures have been constructed and completed in accordance with all applicable conditions of consent. Written certification shall be in the form of a report or any other form acceptable to the Team Leader Compliance Monitoring - West.
50. Certification of the sediment and erosion control structures required by Conditions 35 and 49 should contain sufficient details to address the following matters:
- a. Details on the contributing catchment area;

- b. Retention volume of structure (dead storage and live storage measured to the top of the primary spillway);
 - c. Dimensions and shape of structure;
 - d. Position of inlets/outlets; and
 - e. Details regarding the stabilisation of the structure.
51. Notice shall be provided to the Team Leader Compliance Monitoring - West at least two working days prior to the removal of any erosion and sediment control works specifically required by any condition of consent and the certified SSES CP.
52. All earthworks shall be managed to minimise any discharge of debris, soil, silt, sediment or sediment-laden water from beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately, and the discharge shall be mitigated and/or rectified to the satisfaction of the Council.
53. There shall be no deposition of earth, mud, dirt or other debris on any road or footpath resulting from earthworks activity on the subject site. In the event that such deposition does occur, it shall immediately be removed. In no instance shall roads or footpaths be washed down with water without appropriate erosion and sediment control measures in place to prevent contamination of the stormwater drainage system, watercourses or receiving waters.

Advice Note:

In order to prevent sediment laden water entering waterways from the road, the following methods may be adopted to prevent, or address discharges should they occur:

- *provision of a stabilised entry and exit point(s) for vehicles;*
- *provision of wheel wash facilities;*
- *ceasing of vehicle movement(s) until materials are removed;*
- *cleaning of road surfaces using street-sweepers;*
- *silt and sediment traps; and*
- *catchpit protection.*

In no circumstances is the washing of deposited materials into drains advised or otherwise condoned.

It is recommended that the consent holder discuss the appropriateness of any potential measures and approaches with the Council. Alternatively, please refer to Auckland Council's Guidance Document 05 – Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region (GD05) for guidance.

54. Soil disturbance works must be undertaken in a manner which minimises the generation of dust on the site and avoids offensive or objectionable effects, and shall be carried out in general accordance with the *Good Practice Guide for Assessing and Managing Dust* (Ministry for the Environment, 2016).

Implementation

55. The operational effectiveness and efficiency of all erosion and sediment control measures specifically required by the certified SSES CP(s) shall be maintained throughout the duration of earthworks activity, or until the site is permanently stabilised

against erosion. A record of any maintenance work shall be kept and be supplied to the Council on request.

56. Earthworks on the site shall be staged in accordance with the relevant certified SSESCP(s) and shall be sequenced to minimise the discharge of contaminants to groundwater or surface water in accordance with certified SSESCP(s).
57. Earthworks shall be progressively stabilised against erosion during all stages of the earthwork activity. Interim stabilisation measures may include:
 - a. The use of waterproof covers, geotextiles, or mulching;
 - b. Top-soiling and grassing of otherwise bare areas of earth; and
 - c. Aggregate or vegetative cover that has obtained a density of more than 80% of a normal pasture sward.

Upon abandonment or completion of earthworks for each stage of the proposed development authorised by these consents, all areas of bare earth shall be permanently stabilised against erosion to the satisfaction of the Council, using measures such as those identified above.

Advice Note:

It is recommended that the consent holder discuss the appropriateness of any potential measures or approaches with the Council, who will guide you on the most appropriate approach to take. Please contact the Council at monitoring@aucklandcouncil.govt.nz, or 09 301 01 01. Alternatively, please refer to Auckland Council's Guidance Document 05 – Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region (GD05) for guidance on an appropriate approach. The on-going monitoring of these measures is the responsibility of the consent holder.

Seasonal Earthworks Restrictions and Monitoring

58. No earthworks on the subject site shall be undertaken between 30 April and 1 October in any year, without the submission of a 'Request for winter works' for approval to the Council. All requests must be renewed annually prior to the approval expiring and no works shall occur until written approval has been received from the Council. All winter works will be reassessed monthly or as required to ensure that adverse effects are not occurring in the receiving environment.
59. The erosion and sediment controls at the site of the works shall be inspected on a regular basis and within 24 hours of each rainstorm event that is likely to impair the function or performance of the erosion and sediment controls. A record shall be maintained of the date, time and any maintenance, corrective actions or improvements undertaken in association with this condition. This monitoring record shall be forwarded to the Council on request.

Chemical Treatment Management Plan (CHTMP)

60. Prior to the commencement of any earthworks, where a Decanting Earth Bund (**DEB**), Sediment Retention Pond (**SRP**) or dewatering treatment device is proposed as part of the SSESCP(s) required by Condition 35, a Chemical Treatment Management Plan (**CHTMP**) shall be submitted to the Team Leader Compliance Monitoring - West for certification. The CHTMP shall include as a minimum:

- a. Specific design details of any chemical treatment system proposed (all DEBs and SRPs should be treated by a rainfall activated system);
 - b. Monitoring, maintenance (including post storm) and contingency programme (including a record sheet);
 - c. Details of optimum dosage (including assumptions);
 - d. Results of initial chemical treatment trial;
 - e. A spill contingency plan; and
 - f. Details of the person or bodies that will hold responsibility for operation and maintenance of the chemical treatment system and the organisational structure which will support this system.
61. Chemical treatment of all sediment retention ponds, decanting earth bunds or other treatment device proposed as part of the SSESCP(s) shall be applied in accordance with the certified CHTMP.
62. Any DEBs utilised during earthworks shall be designed to ensure that they:
- a. Have a two percent storage capacity, being at least two cubic metres of impoundment volume for every 100m² of contributing catchment;
 - b. Have a level invert and two layers of geotextile covering and pinned securely to the emergency spillway to prevent erosion; and
 - c. Use floating decant devices that discharge at a rate of 3 litres per second, per hectare of contributing catchment.

Infrastructure conditions

Road Assets:

63. Unless specifically provided for by these consents, there shall be no damage to public roads, footpaths, berms, kerbs, drains, reserves or other public asset as a result of the earthworks and construction activity. In the event that such damage does occur, the Team Leader Compliance Monitoring – West Council will be notified within 24 hours of its discovery. The costs of rectifying such damage and restoring the asset to its original condition shall be met by the consent holder.

Crossings and Footpaths:

64. All new connections onto the Auckland Transport network shall be designed and formed to Auckland Transport 'Transport Design Manual' unless otherwise approved by the Principal Development Engineer, Resource Consenting and Compliance, Auckland Council. This shall be undertaken at the consent holder's expense and to the satisfaction of the Team Leader Compliance Monitoring – West.

Engineering Plan Approval:

65. Prior to the commencement of any construction work for a stage, the consent holder shall submit engineering plans (including engineering calculations and specifications) to the Principal Development Engineer, Resource Consenting and Compliance, Auckland Council. Details of the Chartered Professional Engineer who shall act as the consent

holder's representative for the duration of the development shall also be provided with the application for Engineering Plan Approval.

The engineering plans shall address but not be limited to (where relevant to the stage):

- a. Re-alignment of kerbing at proposed crossing locations vs the use of retro-fit kerb solutions.
- b. The gradients at Akatea Park where stairs are currently proposed and the feasibility, or lack thereof, of the construction of a pathway of an acceptable gradient in place of or in addition to the stairs currently proposed.
- c. Raised crossings are to be considered at the proposed crossing locations on Connaught Street, Kinross Street and Bridge Avenue.
- d. Intersection design at Portage Road and Wolverton Road to ensure safe crossing for cyclists and pedestrians. Pavement markings and/or signage to indicate the path is a shared path, as appropriate.
- e. Safe 'connecting path' design for cyclists and pedestrians.
- f. Traffic calming where the pathway connects to the road reserve to slow traffic around these connection points.
- g. Detailed design of all street lighting in conflict with the pathway required to be relocated.
- h. Where applicable, the treatment for redundant sections of pathway already constructed.
- i. The provision of bicycle stairways wherever pedestrian stairs are proposed.

Development Engineering conditions

66. The consent holder shall provide detailed design plans with locations of surveyed existing public stormwater drainage and outfalls at building consent/engineering plan approval application stage. Where relocation and/or extension of the existing public stormwater network system is required, the works shall be in accordance with Auckland Council standards: refer Auckland Code of Practice for Land Development and Subdivision.

Advice Note:

Public drainage relocation and/or extension requires separate engineering plan approval from Council. Standards are outlined in Council's "Development Engineering As-built Requirements" document. The as-builts of new public drainage to be vested in the Council are to be approved by Auckland Council, Regulatory Engineering.

67. Where the pathway is located within the road reserve, the consent holder shall form and construct the proposed new shared pathway in accordance with the Auckland Code of Practice for Land Development and Subdivision and the current Auckland Council/Auckland Transport Local Path Design Guide unless otherwise approved. The design is to be submitted to the Team Leader Compliance Monitoring West for approval by Auckland Transport on behalf of the Council.

68. The consent holder shall provide to the Team Leader Compliance Monitoring West all Road Assessment and Maintenance Management data and as-built plans of the new road assets formed.

Advice Note:

This will be inclusive of kerb lines, catch-pits, street lighting, footpaths, signs, street furniture, landscaping, pedestrian access ways and property boundaries. Certified as-built plans shall be submitted to the Council in accordance with the Council Asset Data Standards and Auckland Transport requirements for roading services assets.

69. The consent holder shall undertake a hazard risk assessment for shared path works at detailed design stage of each stage, including identifying areas subject to potential overland flow and/or land instability and the degree to which the hazard would impact on the proposed works. The hazards shall be assessed by a suitably qualified engineer, whose recommendations shall be adopted into the specific design of proposed works prior to commencing construction. Design details and recommended mitigation measures are to be provided at building consent application stage.
70. The Consent Holder shall not obstruct overland flow with any fencing, structure or impermeable landscaping. The flood characteristics must not be changed beyond the boundary of the construction envelope for a range of flood events in ways that result in:
- a. Loss of flood storage;
 - b. Increase in flood depth or frequency;
 - c. Loss of/changes to overland flow paths;
 - d. Acceleration or retardation of flows; or
 - e. Any reduction in flood warning times elsewhere on the flood plain.
71. The construction of structural foundations, retaining structures and all associated earthworks must be supervised by a suitably qualified engineering professional. In supervising the works, the suitably qualified engineering professional shall ensure that they are constructed and otherwise completed in accordance with NZS 4431:1989 Code of Practice for Earthfill for Residential Development or NZS 4404: 2010 Land Development and Subdivision Infrastructure, and Auckland Council Code of Practice for Land Development and Subdivision – Section 2.

Advice Note – Development Engineering

1. *The public shared path is to be approved as part of the Engineering Plan Approval for roading. Any public stormwater drainage works are to be approved as part of the Engineering Plan Approval for public drainage. Application and approval must be granted prior to works commencing.*
2. *Proposed works within 2m of non-critical and/or 10m of critical Watercare assets (public wastewater/water supply) will require Works Over consent approval from Watercare Services prior to construction commencing. Works Over Pre-approval Consultation Letter from Watercare Services and bridging design details in accordance with Watercare Code of Practice are to be provided at the building consent application stage.*

3. *Proposed works within 2m of the public stormwater drainage will require bridging design details in accordance with Council Stormwater Code of Practice and CCTV video of the subject drainage to be provided at the building consent application stage.*
4. *Structure-specific geotechnical assessment to confirm the proposed works are suitable for the development site areas is required at building consent application stage.*

Ecology Conditions

Vegetation Clearance / Construction Work and Nesting Bird Survey:

72. The following requirements apply to vegetation clearance:
 - a. Vegetation clearance should as far as practicable not occur within the following ecosystem types during the months of September to January inclusive:
 - i. Terrestrial treeland, forest, shrubland, and scrub (including all mature trees whether indigenous or exotic);
 - ii. Saltmarsh;
 - iii. Any other vegetation within 30 metres of mean high water springs (except mown grassland);
 - iv. Mangrove habitats.
 - b. Where vegetation clearance or construction work that may disturb nesting birds (as advised by a suitably qualified and experienced ecologist) is carried out during the period of September to January inclusive in the areas identified in Condition 74a, a nesting bird survey must be undertaken by a suitably qualified and experienced ecologist in the manner required by the AMP a maximum of three (3) days prior to the commencement of works authorised by these consents.
 - c. Where vegetation clearance or construction work that may disturb nesting birds (as advised by a suitably qualified and experienced ecologist) is undertaken outside of the September to January inclusive period, a suitably qualified and experienced ecologist must check all large trees (greater than 8 metres tall) within the area to be cleared and within 50 metres of the construction works, to determine if nesting shags or herons are present.
73. The results of the nesting bird surveys required by Conditions 72b. and 72c. must be provided to the Team Leader Compliance Monitoring – West prior to works commencing.
74. Where an active nest of any indigenous bird is identified by the nesting bird surveys required by Conditions 72b. and 72c:
 - a. The nest and immediately surrounding vegetation must be retained, clearly marked and cordoned until the chicks have fledged or the nest has been naturally abandoned; and

- b. Where threatened or at risk species are present, a fifty (50) metre exclusion zone (measured from the nest) must be established in the area within which no vegetation clearance or construction works that may disturb the birds (as advised by a suitably qualified and experienced ecologist) may be undertaken until the chicks have fledged or the nest has been naturally abandoned.
75. Where an active threatened or at risk species nest establishes during vegetation clearance and construction work in the habitats listed in Condition 72a., these works may continue provided that:
- a. The threatened or at risk species is monitored and assessed by a suitably qualified and experienced ecologist; and
 - b. The ecologist confirms that the works will not cause the failure of a nest of a threatened or at risk species.
76. Where construction works in the habitats listed in Condition 72a. cease for a period of more than three (3) consecutive days, the surveys required by Conditions 72b. and 72c., and the subsequent actions required by Conditions 73 and 74, must be repeated.

Fauna Habitat Assessments:

77. The Fauna Habitat Assessments required under Condition 41d. shall be undertaken by suitably qualified and experienced ecologists to identify areas within the works stage which are considered to provide habitat for any indigenous lizards, bats or birds.
78. The Fauna Habitat Assessments shall assess if any of the vegetation proposed to be removed or altered provides habitat for indigenous fauna. If, in the opinion of approved ecologists, the vegetation removal is in an area considered to provide habitat for indigenous fauna the appropriate fauna Management Plan (AMP, BMP, or LMP) shall be reviewed and updated as appropriate. The revised fauna Management Plan must be appended to the EMP for that stage.

Planting:

79. Any planting required by this consent shall:
- a. Be in accordance with the EMP as required by condition 41;
 - b. Be in accordance with Appendix 16: *Guideline for Native Revegetation Plantings* of the Auckland Unitary Plan: Operative in Part;
 - c. Be located within the Whau catchment; and
 - d. Not include any plant species listed on Auckland Council's Regional Pest Management Strategy as a pest plant species.

Lizard and Bat Management Plans (LMP and BMP):

80. The LMP (when required) shall be prepared by a suitably qualified and experienced ecologist/herpetologist who has been approved by the Team Leader Compliance Monitoring West.
81. The LMP shall be consistent with the LMP dated December 2019 (refer Condition 1) and address the following (where relevant):

- a. Credentials and contact details of the ecologist/herpetologist who will implement the plan.
 - b. Timing of the implementation of the LMP.
 - c. A description of methodology for survey, trapping and relocation of lizards rescued including but not limited to: salvage protocols, relocation protocols (including method used to identify suitable relocation site(s)), nocturnal and diurnal capture protocols, supervised habitat clearance/transfer protocols, artificial cover object protocols, and opportunistic relocation protocols.
 - d. A description of the relocation site(s); including discussion of:
 - i. Location of the relocation site(s) and proximity to capture areas
 - ii. Habitat quality at the relocation site(s) and confirmation that it is of equal or superior habitat value to lizards than the capture site
 - iii. Confirmation that the site contains a population of resident lizards
 - iv. Provisions to enhance and/or increase lizard carrying capacity at the release site, if required e.g. depositing salvaged logs, wood or debris for newly released native skinks that have been rescued;
 - v. Confirmation that the site will be protected from future development and any protection mechanisms (if required) to ensure the relocation site is maintained (e.g.) covenants, consent notices etc;
 - vi. Any pest animal management to ensure the relocation site is maintained as appropriate habitat.
 - e. Triggers for requiring post-relocation monitoring, along with a brief description of potential monitoring goals and methods that may be used to achieve those goals. These may include but not be limited to baseline surveys at the release site, and the collection of specific morphometric data from all captured lizards prior to relocation to facilitate effective monitoring of relocated individuals if required. The LMP shall specify that any post-relocation monitoring methods will be discussed with experts from the Department of Conservation and the strategy developed within a post-relocation monitoring plan;
 - f. A post-vegetation clearance search for remaining lizards.
 - g. Identification of any other suitable / recommended measures that may include compensation for residual effects upon lizards that cannot be addressed through salvage.
82. A BMP (when required) shall be prepared by a suitably qualified and experienced ecologist who has been approved by the Team Leader Compliance Monitoring - West.
83. The BMP shall be consistent with the BMP dated December 2019 (refer Condition 1) address the following (where relevant):
- a. Credentials and contact details of the ecologist who will implement the plan.

- b. Timing and implementation of an acoustic survey prior to work occurring to determine whether bats are using roosting habitats to be affected by the pathway construction.
 - c. Activities to be carried out in the event that bats are detected during the acoustic survey, including:
 - i. Vegetation removal protocols.
 - ii. Bat box installation
 - iii. Pest animal control.
 - iv. Monitoring requirements.
84. A suitably qualified and experienced ecologist shall oversee the implementation of any actions required under the LMP or BMP. The suitably qualified ecologist shall write to confirm to the Council that the works have been carried out according to the certified plans.
85. Upon completion of works, all findings resulting from the implementation of the LMP and BMP shall be recorded by a suitably qualified and experienced ecologist and shall be sent to the Council and any applicable national database such as the Department of Conservation's Amphibian/Reptile Distribution Scheme (ARDS) Card.

Advice note:

Except as required by the EMF, LMP and BMP, no pest animal control is otherwise required by the conditions of this consent.

Arboriculture Conditions

86. The removal and pruning of any vegetation shall be undertaken by suitably trained and experienced arboricultural contractors in accordance with the certified Tree Protection Management Plan required by Condition 38, and in a manner which avoids any unnecessary damage or disturbance to any retained vegetation and their root zones (for example sectional felling in conjunction with modern rigging techniques where required). All pruning shall adopt natural target pruning and be restricted to the removal of third and fourth order limbs only wherever possible.
87. The appointed works arborist shall be engaged by the consent holder at the start of the project to supervise tree removal operations and works within the root zone / dripline of the identified trees in accordance with the approved Tree Protection Management Plan required by Condition 38. The appointed works arborist must be experienced in tree protection systems and construction methodologies and will need to be able to co-ordinate site works ensuring that the tree protection methodology is correctly implemented.
88. A record shall be kept of all specimen trees removed during the project. Replacement planting shall be carried out within areas identified for compensation planting in the EMF in proximity to the locations of removed trees (or as otherwise agreed with the Senior Urban Forest Specialist) with trees of a minimum root ball grade of 45L at the time of planting. Replacement planting shall be carried out on the following basis:
- a. For trees measuring 4 to 8 metres in height – 1 for one.

- b. For trees measuring over 8 metres in height – 2 for one.

Advice note:

A specimen tree is any tree planted singularly as a focus of attention which may be noteworthy because of its attributes such as; size, species, flower, bark, form, rarity, or siting.

89. The general tree protection measures included as Appendix 1 of the Arboriculture Report referenced in Condition 1 shall be followed whenever activities are carried out within the Protected Root Zones (Crown Spread Radius) of trees identified for retention.

Archaeology Conditions

90. Detailed pathway development plans shall take into account the locations of recorded archaeological sites and ensure they are avoided in the first instance and where avoidance is not feasible that effects on these sites are minimised through appropriate construction techniques.
91. The Heritage Unit Manager shall be notified if any pre-1900 archaeological / historic heritage material not subject to an existing archaeological authority is exposed during the project works as part of the accidental discovery protocol procedures. In the event that any pre-1900 archaeological / historic heritage material which is not subject to an existing archaeological authority is exposed during the project works; the project archaeologist will follow the requirements of the accidental discovery protocol.

Advice Note:

For the avoidance of doubt, the Accidental Discovery Rules in the Auckland Unitary Plan – Operative in Part shall also continue to apply.

Landscape conditions – Boardwalk Design

Finalised boardwalk design drawings and specifications:

92. Prior to the commencement of any work on site for each stage, the consent holder shall provide to the Team Leader Compliance Monitoring - West for certification, a finalised set of detailed design drawings and supporting written documentation.
- a. The submitted information shall be consistent with the Te Whau Pathway Landscape and Urban Design Framework Volume 1 & 2 (2017) (**LUDF**) and the following (apart from in the instance of c. below):
- i. Balustrade - metal 'fins' and timber battens are to be avoided. Steel rods or similar (galvanised or powder coated to be visually recessive and achieve low reflectivity) no greater than 20mm diameter at 100mm spacings between 100mm x 50mm steel posts or similar shall be used to achieve visual permeability. The balustrade is to extend below the floor of the deck and to at least half the depth of the substructure (namely bearers, joists, and beams) and/or deck plate described in 93a iii below. The purpose of the balustrade extension is to further 'blur' the edge between the bottom of the deck and the substructure by providing added texture and shadow cast.
 - ii. Substructure – where the boardwalk substructure is visibly discernible from residential properties and public open space, spans between piles shall be maximised and the use of vertical bracing between piles shall be limited. Where such bracing is required it shall be designed to reduce visual bulk/

prominence as far as practicable. For the section of boardwalk from Queen Mary Reserve to Lynwood Road (between chainage 5780 and 6160) the maximisation of pile spans and the avoidance of bracing shall be prioritised, while also taking into account resulting potential increased pile dimensions, in an overall effort to reduce visual bulk and reduce visual effects.

- iii. Deck plate – where the boardwalk substructure (namely bearers, joists and beams) are visibly discernible from residential properties and public open space, the inclusion of a deck plate shall be considered. The purpose of the deck plate is to reduce visual clutter and to enable a consistent and continuous horizontal profile to the boardwalk, and so the depth of the deck plate shall be commensurate with the visible substructure it is intended to screen (excluding piles and vertical bracing). Where a deck plate is to be used it shall be recessed from the edge of the deck.
- iv. Alignment - ensure a reasonable level of sinuosity is maintained when considering changes to the alignment of the boardwalk.
- v. Viewing platforms – viewing platforms shall be avoided on the section of boardwalk between Queen Mary Reserve and Archibald Park, and between Rizal Reserve and Wolverton Street.

Advice note:

Item (v) is intended to provide certainty that viewing platforms will not be provided on the section of boardwalk between Queen Mary Reserve and Archibald Park, and between Rizal Reserve and Wolverton Street. Viewing platforms that extend further out than the boardwalk itself are not generally anticipated.

- b. The finalised set of detailed drawings shall include, but not necessarily be limited to, the following information:
 - i. The final layout plans showing the exact location of the boardwalk structure;
 - ii. Annotated cross-sections and/or design details with key dimensions to illustrate a typical boardwalk section, including materials and colours;
 - iii. The final details of the boat access facility at 125 Lynwood Road;
 - iv. The final details of any raised sections at the Kelston tributary and Wairau Creek.
- c. During detailed design should the design depart from the principles listed in Condition 93a, the following information must be provided with the detailed design drawings:
 - i. A description of the departure;
 - ii. An assessment of the design by a suitably qualified and experienced Landscape Architect;
 - iii. A summary of any other alternatives considered, and why these are not practicable;

- iv. Where the departure relates to an increase in balustrade height, design detail demonstrating the transition back to the typical balustrade height.

Advice Note:

It is recommended that the consent holder consider reducing the height of the balustrade where practicable and in line with relevant standards/legislation during detailed design.

Boardwalk design review process:

93. Prior to submitting the finalised boardwalk design drawings and specifications for the first stage which includes a boardwalk, and for the stage between Queen Mary Reserve and Archibald Park required by Condition 92, the following process will occur:
 - a. The final draft design of the boardwalk for the stage in question will be presented to the Auckland Urban Design Panel (**AUDP**). The AUDP will undertake a review of the final draft design against the principles identified in Condition 92a, and provide comment including recommendations for any changes necessary to give effect to those design principles;
 - b. Once the AUDP has concluded that the proposed design of the boardwalk achieves the design principles, the consent holder shall provide a report to the Council that describes the AUDP process undergone for the design for which certification is sought and the recommendations or conclusions provided by AUDP specifying how the proposal achieves the design principles; and
 - c. The Council shall have regard to the AUDP report when determining whether to certify that the requirements of Condition 92 have been achieved.

Landscape conditions – Landscape Design

Finalised landscape design drawings:

94. Prior to the commencement of any work on site of each stage, the consent holder shall provide to the Team Leader Compliance Monitoring - West for certification, a finalised set of detailed landscape design drawings and supporting written documentation which have been prepared by a landscape architect or suitably qualified professional. The submitted information shall be consistent with the consented Landscape Plans prepared by Beca, dated 05.08.20 and Screening options dated 02.04.2020 (refer Condition 1), and shall, at a minimum, include the following landscape design drawings, specifications and maintenance requirements:
 - a. An annotated planting plan(s) which communicates the proposed location and extent of all areas of planting, including reinstatement planting, mitigation / screening planting (refer to Condition 95) and replacement planting;
 - b. The annotated planting plan design shall incorporate the specimen trees required by section 87 of the report prepared by Arborlab and referenced within Condition 1 above, and shall incorporate relevant EMP recommendations and the replacement planting required by Condition 88;
 - c. A plant schedule and specification based on the submitted planting palettes which details specific plant species, plant sourcing, the number of plants, and height and/or grade (litre) / Pb size at time of planting;

- d. An annotated street furniture plan and related specifications which confirm the location and type of all seats, bins, lights, fences, walls and other structural landscape design elements;
- e. Location and indicative scale of proposed artwork;
- f. Details of the incorporation of Te Aranga Design principles;

Landscape conditions – Visual Mitigation

Screening:

95. During detailed design, the consent holder must provide for and offer the following landowners the option for visual screening on land and not on the boardwalk (if that property is within the stage subject to detailed design):
- a. Those properties identified on the Landscape Plans, namely: 21 Alanbrooke Crescent, 2166 Great North Road, 98 Wingate Street, 122A Ash Street, 58, 60, 70, 78 and 80 Cobham Crescent, 92 Glen Marine Parade, and 14 Meadow Crescent.
 - b. Units 1 – 3 / 40 Koromiko Street;
 - c. 259 Hepburn Road (in respect to the Culav/Laurieston historic cottage);
 - d. 58a and 72a Cobham Crescent;
 - e. 20 Meadow Crescent;
 - f. 41 Alanbrooke Crescent;
 - g. 16 Stedman Place.

Advice Note:

While visual screening is proposed in the Landscape Plans for 10 Corregidor Place (as part of the wider Te Whau Pathway project), this section of Te Whau Pathway is being progressed separately and is outside the scope of these consents.

96. At any time up to 3 months after use of the relevant stage commencing, the landowners referenced in Condition 95 may accept the offer of the consent holder to provide a visual screen. All costs associated with this visual screening shall be met by the consent holder.
97. If any landowner referenced in Condition 95 agrees to a visual screen:
- a. the consent holder shall consult with the landowner to design a visual screen on the relevant property boundary (next to the alignment) which is to be generally consistent with the Screening Options (Beca, 02.04.2020) referenced in Condition 1;
 - b. If the installation of the visual screen will not impact on the ability to undertake construction works, the visual screen is to be implemented within 2 months of design being agreed by the parties or within such other timeframe as may be agreed with the landowner (taking into account factors such as planting seasons). If the installation of the visual screen will impact on the ability to undertake construction works, the visual screen will be installed as soon as practical

following completion of the works and prior to the section of the pathway becoming operational; and

- c. in relation to any soft landscaping components of the agreed design, the consent holder shall (with the landowner's agreement) replace any plants that fail within two years of initial planting.
- d. Implementation of this condition is not bound by any other pre-construction conditions of consent.

Window Treatment:

- 98. During detailed design of the stage which includes the boardwalk from Queen Mary Reserve to Lynwood Road (between chainage 5780 and 6160), the consent holder must offer the following landowners the option for window treatment on the river facing side of the property (to reduce the ability for Pathway users to see through windows or glass doors) to be provided by the consent holder:
 - a. Units 1 – 3 / 40 Koromiko Street.
- 99. At any time up to 3 months after use of the relevant stage commencing, the landowners referenced in Condition 98 may accept the offer of the consent holder to provide window treatment. All costs associated with this window treatment shall be met by the consent holder.
- 100. If the landowner is in agreement, the window treatment is to be implemented within 2 months of the landowner accepting the offer from the consent holder in accordance with Condition 99 above, or within such other timeframe as may be agreed with the landowner.

Advice Note:

The consent holder has advised that, as an alternative to undertaking visual screening and window treatment works at Units 1 – 3 / 40 Koromiko Street, it is open to discussion of the possibility of paying a sum to the owners of those units representing the monetary equivalent of those works.

Path alignment - Cobham Crescent

- 101. During detailed design of the relevant stage, the consent holder shall (in consultation with the landowners of 58 and 58a Cobham Crescent) prepare detailed path alignment and design drawings which maximise the distance between the pathway and the property boundaries of 58 and 58a Cobham Crescent where the pathway separates from the main alignment to connect with Akatea Park. The consent holder shall submit the detailed drawings to the Team Leader Compliance Monitoring - West showing the alignment and design of the path at this location for certification, together with a summary of the outcome of consultation undertaken with the landowners, and explaining the reasons for the final alignment design proposed. The consent holder shall construct the section of path in question in accordance with the certified drawings.

Path alignment - 259 Hepburn Road

- 102. The alignment of the pathway adjacent to the Culav / Laurieston cottage at 259 Hepburn Road shall be located entirely within the envelope shown on Auckland Transport Te Whau Pathway Scheme Design: General Layout Plan Sheet 28 of 36 (Drawing No:

80509320-C2-0104_G128, Rev D, being between the two existing Norfolk Pines and areas of saltmarsh.

Lighting Design

103. At least twenty (20) working days prior to the commencement of works for any stage authorised by these consents, the consent holder shall prepare a lighting design report prepared by a suitably qualified lighting practitioner and submit this report to the Team Leader Compliance Monitoring – West for certification. The lighting design report shall include the following information:
- a) Details of all pathway lighting, including details on the location, type, lux levels, compliance with the Auckland Unitary Plan E24 calculations;
 - b) Supporting drawings of the proposed lighting and locations; and
 - c) Calculations and manufacturers data.
104. When preparing the lighting design report, regard shall be given to, but not be limited to, the following matters:
- a. Lighting designed to be compliant with the requirements of Category P3 lighting of AS/NZS 1158:3.1, and Auckland Transport's Traffic Design Manual Chapter 12 – Street Lighting;
 - b. Lighting designed in accordance with CPTED principles and any requirements of the detailed CPTED assessment undertaken in accordance with condition 106 and Auckland Unitary Plan E24 rules;
 - c. Pole mounted lighting is to have zero tilt luminance with no light projected above the horizontal;
 - d. Using lower than 6m height poles in sensitive areas and as a means to comply with the Auckland Unitary Plan E24 rules in some locations;
 - e. Boardwalk lighting to be from handrail mounted lighting directed downwards and away from nearby residential dwellings. The handrail lighting is to be via regularly spaced luminaires and not a continuous fully illuminated handrail solution;
 - f. Where the pathway passes units 1-3 / 40 Koromiko Street assigning dimming profiles (lowering output at different times of the night) to further minimise environmental effects of the lighting;
 - g. Near the Great North Road bridge and the Rata Street bridge provide adequate lighting to the cycle underpass and the pathway leading to the underpass to address CPTED concerns;
 - h. All pathway street connection points to have lighting;
 - i. Whether lighting, during the hours of darkness, will be:
 - i. on continuously, or at certain times; or
 - ii. subject to dimming profiles at certain times;
 - j. Upgrading street lighting within the construction envelope as required to ensure a minimum Category P3 lighting performance.

105. Within one month of the completion of installation of lighting for any stage of construction, a suitably experienced and qualified expert shall be appointed to certify that the installed lighting is consistent with the lighting design report or is compliant with the Auckland Unitary Plan E24 rules.

Detailed CPTED assessment

106. Prior to the commencement of any work on site for each stage, the consent holder shall provide to the Council for certification, a detailed CPTED assessment, prepared by a suitably experienced professional. The CPTED assessment shall be undertaken with reference to the final detailed design drawings as approved under Conditions 92 and 94 and include the following:
- a. A report confirming how the design and safety recommendations in Beca Memo dated 5 March 2019 and the MWH CPTED report dated 30/05/16 have been included in the final design of the stage. Specifically, the treatment of:
 - i. Cycle underpasses at the Great North Road bridge and Western Rail Link bridge;
 - ii. The Olympic Park rail bridge;
 - iii. Connections to Te Whau Pathway from adjacent streets;
 - iv. Treatment of the Avenger Place connection to include the increase in lighting along the extent of Avenger Place and Bancroft Crescent to remove dark spots along the corridor. The consent holder is to investigate the use of CCTV in this location; and
 - v. The existing Rata Street underpass, and in particular the lighting treatment of this underpass and approaches to the underpass using vandal resistant lighting.
 - b. A wayfinding strategy that identifies the location and suite of signage proposed to enable people to make informed decisions about route choices as required by Condition 107c below.

Signage conditions

107. The following signage details shall be prepared as part of the detailed design for each stage and shall be submitted to the Team Leader Compliance Monitoring – West for certification prior to implementation:
- a. The general location of signage highlighting to the public that all dogs are required to be on lead while on the Te Whau pathway boardwalks.
 - b. Interpretation information panels and other heritage elements relating to both the Maori and early European heritage of Te Whau, at appropriate locations along the extent of the walkway, including specifically in the locality of the brickworks sites R11/2016 and R11/3040 and the Culav/Laurieston cottage and long drop/well at 259 Hepburn Road.
 - c. Wayfinding strategy that identifies the location and suite of signage proposed to enable people to make informed decisions about route choice.

- d. The general location of signage highlighting to the public that boardwalk sections may be subject to overtopping during extreme weather events.
 - e. Signage is to be avoided on the section of boardwalk between Queen Mary Reserve and Archibald Park, with the exception of health and safety and wayfinding related signage.
108. The signage required by Condition 107 is to be implemented prior to each respective pathway stage becoming operational, unless otherwise approved by the Team Leader Compliance Monitoring – West in writing.

Noise and vibration conditions

109. Construction work may only take place between 7.30am and 6.00pm from Monday to Saturday. There shall be no works on Sundays or public holidays. The restriction on hours of works shall not apply to quiet activities, such as site set up or staff meetings, which may occur outside of these hours.
110. Noise from any construction work must not exceed a limit of 75 dB LAeq and 90 dB LAmax when measured 1m from the façade of any occupied building, unless otherwise provided for in Conditions 113 and 114.
111. Noise must not exceed a limit of 85 dB LAeq and 100 dB LAmax at an occupied building unless one of the following are achieved:
- a. Written confirmation from the affected occupier is obtained that confirms that they accept the noise effects of the work and do not wish to be relocated, or
 - b. The occupants of the affected building are temporarily relocated for the duration of the exceedance of 85 dB LAeq and 100 dB LAmax.
112. An exceedance of the limits in Condition 111 shall only occur if, following the adoption of the BPO (as required by the CNVMP in Condition 33), the noise levels cannot practicably be reduced to comply. The consent holder shall prepare and maintain:
- a. A description of the mitigation measures that have been adopted to minimise the noise effects and why that option(s) has been determined to be the BPO in any particular case; and
 - b. A description of the mitigation measures that have been investigated but discounted as impracticable, including the reasons why they have been discounted.

The descriptions required above shall be maintained as an addendum to the CNVMP and made available to the Council upon its request for at least 6 months after the completion of all works associated with this consent.

113. Where noise emissions from construction activities will exceed a level of 75dB LAeq measured within an outdoor play area of any school or childcare centre, one of the following options must be adopted by the consent holder:
- a. Mitigation measures (including but not limited to acoustic screening) are installed or implemented to reduce the construction noise within the outdoor play area to be no more than 75dB LAeq (15min); or

- b. Where the noise cannot practicably reduced to 75dB $L_{Aeq(15min)}$ the consent holder must liaise with an appropriate representative of the school or childcare centre to organise undertaking the site works at times when children will not be within the outdoor play area; or
 - c. The works that result in 75dB L_{Aeq} being exceeded in the outdoor play area are only undertaken when the school or childcare centre is closed.
114. The guideline vibration limits set out in the DIN standard and in Standard 25.6.30(1a) must not be exceeded except where the consent holder:
- a. Can demonstrate to the satisfaction of the Team Leader Compliance Monitoring - West:
 - i. that the receiving building(s) are capable of withstanding higher levels of vibration and what the new vibration limit is. The investigation required to demonstrate this must include an assessment of the building(s) by a suitably experienced and qualified structural engineer and a full pre-condition survey; and
 - ii. that the consent holder has obtained the written agreement of the building owner(s), that a higher limit may be applied.
115. A reasonable attempt must be made to contact the building owner to carry out surveys and if access is not made available the reasons must be recorded in the CNVMP.
116. The consent holder shall, within 1 month of the completion of (identified activity), contact the owners of the properties where vibration limits set out in the DIN standard have been predicted to be exceeded and to undertake a Post Construction Building Condition Assessment.
117. Where a Post-Construction Building Condition Assessment confirms any damage to a building as a result of (identified activity) vibration, the consent holder shall be required to rectify the damage at its own cost, as soon as practicable, in consultation with the owner of the property and if access is provided.
118. A copy of the pre and post building condition surveys shall be provided to the Council on written request.
119. Vibration from construction shall not exceed 5mm/s PPV at any building that is occupied during the works. If measured or predicted vibration from construction activities exceeds 2mm/s PPV at an occupied building, the consent holder shall consult with the occupants where an exceedance is predicted or measured, to:
- a. Discuss the nature of the work and the anticipated days and hours when the exceedances are likely to occur;
 - b. Determine whether the exceedances could be timed or managed to reduce the effects on the receiver; and
 - c. Provide in writing, no less than three days prior to the vibration-generating works commencing, details of the location of the works, the duration of the works, a phone number for complaints and the name of the site manager.

Advice Note:

If the building is not occupied, then the vibration limit specified above (2mm/s PPV) does not apply. This allows high noise or vibration work to be scheduled when receivers are not present, subject to compliance with building damage criteria and compliance with the controls at other nearby buildings that are occupied. The consent holder shall maintain a record of these discussions and make them available to the Council on its request.

Conditions Specific to the National Grid Yard

120. The proposed activities / works shall be designed and constructed to comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001).
121. Prior to the commencement of works within the National Grid Yard (12m either side of any National Grid Asset), a National Grid Construction Management Plan (**NGCMP**) shall be prepared for each stage of the Project, in consultation with Transpower New Zealand Limited, to ensure the protection of National Grid transmission assets.
 - a. The NGCMP can be submitted in stages and subsequently updated for each additional stage. The scope of works covered in the NGCMP only needs to include works proposed within the National Grid Yard; and
 - b. Each stage of the NGCMP must be given to Transpower NZ Ltd for its review and certification at least 15 working days prior to the final version being submitted to the Council: and
 - c. Each stage of the NGCMP shall be submitted to Council (Team Leader Compliance Monitoring West) for information 10 working days prior to works commencing on the stage.

Advice Note:

The NGCMP should be sent to Transpower at transmission.corridor@transpower.co.nz

122. Each Stage of the NGCMP must (but is not limited to):
 - a. Include a record of consultation undertaken with Transpower, and its certification of the plan in accordance with Condition 121b above (including consultation on previous stages where relevant).
 - b. Be prepared by the principal contractor carrying out the works, certified builder or an engineer suitably qualified in relation to the nature of the works.
 - c. Include the name, experience and qualifications of the person/s nominated by the consent holder to supervise the implementation of, and adherence to, the NGCMP.
 - d. Include details of the contractor's liability insurance held to cover any costs, direct or indirect, associated with any damage to the National Grid transmission lines, directly or indirectly caused by works undertaken to give effect to this consent.
 - e. Demonstrate (using construction drawings/plans and descriptions of procedures, methods and measures) that all construction activities, will meet the safe distances within the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP 34: 2001) or any subsequent revision of the code, including (but not limited to) those relating to:

- i. Excavation and Construction near Towers (Section 2 NZECP34:2001);
 - ii. Building to conductor clearances (Section 3 NZECP34:2001);
 - iii. Ground to conductor clearances (Section 4 NZECP34:2001);
 - iv. Mobile Plant to conductor clearances (Section 5 NZECP34:2001); and
 - v. People to conductor clearances (Section 9 NZECP34:2001).
- f. Include details of any areas that may be “out of bounds” during construction and/or areas within which additional management measures are required, such as fencing off, entry and exit hurdles, maximum height limits, or where a safety observer may be required (a safety observer will be at the consent holder’s cost).
 - g. Demonstrate (using either construction drawings/plans and/or descriptions of procedures, methods and measures) how the existing transmission lines and support structures will remain accessible during and after construction activities;
 - h. Demonstrate how the effects of dust (including any other material potentially resulting from construction activities able to cause material damage beyond normal wear and tear) on the transmission lines will be managed;
 - i. Demonstrate how changes to the drainage patterns, runoff characteristics and stormwater will avoid adverse effects on the foundations of any support structure;
 - j. Demonstrate how construction activities that could result in ground vibrations and/or ground instability will be managed to avoid causing damage to the transmission lines, including support structures;
 - k. Provide details of proposed contractor training for those working near the transmission lines;
 - l. Include emergency contact details and procedures; and
 - m. Details of personnel responsible for supervising the implementation of and adherence to the NGCMP.
123. All works/activities are to be undertaken in accordance with the approved NGCMP.

SPECIFIC CONDITIONS – DISCHARGE PERMIT (CONTAMINATED LAND) DIS60337533

Expiry

124. Consent DIS60337533 shall expire twenty years from the date it has been granted unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the RMA.

Notification of works commencing

125. The Team Leader Compliance Monitoring – West shall be informed, in writing, at least ten working days prior to the start date of the works on each stage authorised by discharge permit DIS60337533.

Advice note:

A pre-start meeting is also required by Condition 14 at least five working days prior to the start date of works commencing.

Contaminated Soils Management Plan (CSMP)

126. The CSMP submitted with the application (Contaminated Soils Management Plan - Te Whau Shared Pathway, Beca, March 2019) shall be implemented prior to the commencement of works for any stage authorised by this consent and maintained throughout the entire construction period of the project or relevant project stage to manage potential adverse effects of works within contaminated (or potentially contaminated) sites as informed by any Detailed Site Investigation (**DSI**) undertaken throughout the duration of the project, as required by the CSMP. The CSMP may be amended/updated if necessary, for instance following the results of additional soil sampling. Any amendments/updates to the CSMP should be limited to the scope of these consents and be consistent with the conditions of these consents. Any proposed amendments/updates to the CSMP should be discussed with and submitted to the Team Leader Compliance Monitoring – West for confirmation in writing prior to implementation of the change.

Advice Note:

The Council acknowledges that the CSMP is intended to provide flexibility of the management of the works and contaminant discharges. Accordingly, provision is made for the CSMP to be amended/updated if necessary.

Detailed Site Investigation (DSI)

127. Prior to the commencement of earthworks at each of the stages, a Detailed Site Investigation (**DSI**) shall be undertaken in each area identified as having a HAIL land use as outlined in Section 1.5.2.1 of the CSMP. The additional assessment shall be prepared by a Suitably Qualified and Experienced Professional (**SQEP**) in accordance with the Contaminated Land Management Guidelines No. 1 and No. 5 (Ministry for the Environment, 2011).
128. In the event that a DSI identifies contaminants at concentrations exceeding relevant Soil Contaminant Standards for the protection of human health for recreational land use, as set out in the *National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health* and/or Permitted Activity soil acceptance criteria detailed by Standard E30.6.1.4 of the AUP, a Remediation Action Plan (**RAP**) shall be prepared by a SQEP and submitted to the Team Leader for certification prior to the commencement of earthworks. The RAP shall include details of validation sampling to be undertaken following remedial works to ensure that the above Permitted Activity criteria and standards are met and that soil contamination at the site has been adequately remediated so that the site is safe for the intended future land-use.
129. In the event of the accidental discovery of contamination during earthworks which has not been previously identified, works within 5 metres of the contamination shall immediately cease and a SQEP shall be engaged to oversee the management of the contaminated material. The Team Leader Compliance Monitoring - West shall be notified of the contamination within 1 working day.
130. Excavated material that is not re-used on-site shall be disposed of at a facility that holds a consent to accept the levels of any identified contamination. Excavated soil shall not be disposed of as 'cleanfill' unless it has been appropriately tested and characterised by a SQEP as meeting the 'Cleanfill material' definition set out in the AUP.

131. The consent holder shall ensure that the contamination level of any soil imported to the site;
- a. Complies with the definition of 'Cleanfill material', as set out in the AUP;
 - b. Be solid material of an inert nature; and
 - c. Not contain hazardous substances or contaminants above natural background levels of the receiving site.
132. All sampling and testing of contamination on the site shall be overseen by a SQEP. All sampling shall be undertaken in accordance with the *Contaminated Land Management Guidelines No.5: Site Investigation and Analysis of Soils* (Ministry for the Environment, revised 2011).

Site Completion Report (SCR)

133. Within three months of the completion of each stage of the project, a Site Completion Report (**SCR**) shall be submitted to the Team Leader Compliance Monitoring – West for certification. The SCR shall be prepared by a SQEP in accordance with the *Contaminated Land Management Guidelines No. 1: Reporting on Contaminated Sites in New Zealand* (Ministry for the Environment, revised 2011) and contain sufficient detail to address the following matters within each stage:
- a. A summary of earthworks undertaken, including the location and dimensions of the excavations carried out and the volume of soil excavated;
 - b. Details and results of any testing, if undertaken during the works, and interpretation of the results in the context of the AUP and NES:CS;
 - c. Records/evidence of the appropriate disposal for any material removed from the site;
 - d. Records of any unexpected contamination encountered during the works and response actions, if applicable;
 - e. Conditions of the final site ground surface and details of any validation sampling undertaken on materials re-used on site or imported to site;
 - f. An ongoing monitoring and management plan (if necessary) detailing procedures and requirement for any future work on the site;
 - g. Reports of any complaints, health and safety incidents related to contamination, and/or contingency events during the earthworks, if applicable; and
 - h. A statement certifying that all works have been carried out in accordance with the requirements of the consent, otherwise providing details of relevant breaches, if applicable.

Advice Note:

1. *Discharge from the site includes the disposal of water (e.g. perched groundwater or collected surface water) from the land-disturbance area.*

2. *If any contamination exceeding the Permitted Activity soil acceptance criteria, set out in Chapter E30 of the AUP, is retained within the site upon the completion of the proposed land-disturbance activity, a long-term contaminant discharge consent under Chapter E30 of the AUP may be required for the site.*

SPECIFIC CONDITIONS – DISCHARGE PERMIT (STORMWATER DIVERSION AND DISCHARGE) DIS60337533

Expiry date

134. Consent DIS60337533 shall expire 35 years from the date it has been granted unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Scope

135. Consent DIS60337533 authorises diversions and discharges of stormwater onto land or into water from additional impervious areas of the shared pathway subject to the conditions of this consent.

Stormwater Management

136. The stormwater management approach shall comply with the following table:

Situation / Scenario for impervious area	Stormwater management controls / structural device
Shared path in parks and reserves	<ul style="list-style-type: none"> • Adjacent grass / vegetated swales or slopes • Landscaped buffer margins • Erosion control
Natural depressions / overland flow paths	<ul style="list-style-type: none"> • Grass / vegetated swales or slopes dependent on permeability of soils • Ensure direction of overland flow paths are not altered unless otherwise agreed / approved at the final design stage • Overland flow paths traversing under the shared pathway are piped or bridged • Overland flow paths on the lower side of the shared pathway are vegetated and avoid the use of piped outfalls to the coastal marine environment
Road crossing / Auckland Transport (AT) network	<ul style="list-style-type: none"> • Avoid discharges from new impervious area to the road stormwater system • Any stormwater discharges to AT stormwater network to be approved in consultation with AT • Adjacent grass / vegetated swales or slopes

Existing outfalls	<ul style="list-style-type: none"> • Use existing outfalls where appropriate and provided for in accordance with conditions of any outfall consent • Seek approval to discharge stormwater to any existing outfalls from the asset owner
New outfalls (if any)	<ul style="list-style-type: none"> • Erosion protection to minimise bed scour and bank erosion • In accordance with TR2013/018

Advice note:

For clarity, stormwater devices include swales, outfalls or other similar stormwater management devices.

137. Prior to any new impervious surface being constructed, the relevant stormwater management control to service that area identified in the table in Condition 136 shall be installed and operational.
138. Prior to each stage of construction detailed designs including any relevant drawings, plans and calculations shall be submitted to and certified by the Team Leader Compliance Monitoring – West for each stage of construction.

Construction meetings for stormwater management

139. A pre-construction meeting shall be held by the consent holder, prior to commencement of each stage of construction of the shared pathway with installation of any stormwater devices onsite, that:
 - a. is arranged five working days prior to initiation of the construction of any stormwater devices on the site;
 - b. is located on the subject site;
 - c. includes representation from the Council;
 - d. includes representation from the site stormwater engineer or contractors who will undertake the works and any other relevant parties.
140. The following information shall be made available prior to, or at the pre-construction meeting:
 - a. timeframes for key stages of the works authorised under this consent;
 - b. contact details of the site contractor and site stormwater engineer; and
 - c. construction plans approved (signed/stamped) by an Auckland Council Development Engineer.
141. A post-construction meeting shall be held by the consent holder, within 20 working days of completion of the stormwater management works, that:
 - a. is located on the subject area;

- b. includes representation from the Council; and
- c. includes representation from the site stormwater engineer or contractors who have undertaken the works and any other relevant parties.

Advice Note:

To arrange the construction meetings required by Condition 139 and Condition 141, please contact the Council via monitoring@aucklandcouncil.govt.nz.

Certification of stormwater management works (As-Built Plans)

142. As-Built certification and plans of the stormwater management works, which are certified (signed) by a suitably qualified registered surveyor as a true record of the stormwater management system, shall be provided to the Team Leader Compliance Monitoring – West for approval.

Contents of As-Built Plans

143. As-Built Plans shall be provided to the Team Leader Compliance Monitoring – West five working days prior to the post-construction meeting required by this consent.
144. The As-Built plans shall display the entirety of the stormwater management system, and shall include:
- a. the surveyed location (to the nearest 0.1m) and level (to the nearest 0.01m) of the discharge structure, with co-ordinates expressed in terms of NZTM and LINZ datum;
 - b. location, dimensions and levels of any overland flow paths including cross sections and long sections;
 - c. plans and cross sections of all stormwater management devices.

Operation and Maintenance Plan

145. An Operation and Maintenance Plan shall be provided to the Team Leader Compliance Monitoring – West for certification five days prior to the post-construction meeting required by Condition 141.
146. The Operation and Maintenance Plan shall set out how the stormwater management system is to be operated and maintained to ensure that adverse environmental effects are minimised. The plan shall include:
- a. Details of who will hold responsibility for long-term maintenance of the stormwater management system and the organisational structure which will support this process;
 - b. A programme for regular maintenance and inspection of the stormwater management system;
 - c. A programme for the collection and disposal of debris and sediment collected by the stormwater management devices or practices;
 - d. A programme for post storm inspection and maintenance;
 - e. A programme for inspection and maintenance of any outfalls; and

- f. General inspection checklists for all aspects of the stormwater management system, including visual checks.
147. The stormwater management system shall be managed in accordance with the certified Operation and Maintenance Plan.
148. The Operation and Maintenance Plan shall be updated and submitted to the Team Leader Compliance Monitoring – West for certification, upon request.

SPECIFIC CONDITIONS – COASTAL PERMIT CST60337531

Expiry

149. The consent for the occupation of the coastal and marine area and use of the pathway shall expire 35 years from the date it has been granted, unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Notification of works commencing

150. The Team Leader Compliance Monitoring – West shall be notified in writing at least ten working days prior to the commencement of construction activities authorised by coastal permit CST60337531.

Construction site

151. For the duration of construction activity, the construction site shall be maintained in good order. Specifically:
- a. No construction materials shall be left in a position where they could be carried away by storms, floods, waves or other natural events;
 - b. All damage and disturbance to the foreshore and / or seabed caused by vehicle traffic, plant and equipment shall be remedied as soon as practicable, to the satisfaction of the Council;
 - c. All machinery, equipment, construction materials, cut mangroves or other vegetation shall be removed from the coastal marine area at the completion of each day's work and/or when the incoming tide dictates that work must cease, unless an alternative approach is approved in writing by the Team Leader Compliance Monitoring - West.

Occupation and access

152. Public access to and along the coastal marine area shall be maintained while the construction activities are undertaken, except where it is necessary to exclude the public for health and safety reasons. Where it is necessary to exclude the public for health and safety reasons, signage shall be provided to communicate the potential duration of exclusion, and identify alternative areas for public access.
153. The consent holder shall ensure that the pathway design and/or alignment provides for dinghy (unrigged and with standard air draught) or kayak/canoe access from No 125 Lynwood Road, New Lynn to the Whau River channel, and from 16 Stedman Place, Avondale, to the Avondale Stream and down to the Whau River channel, at mean high water.

154. The consent holder shall provide a facility for boat access for 125 Lynwood Road beyond the boardwalk between chainage 5990 and chainage 6020 involving:
- a. A self-supporting connection between the end of the existing jetty at 125 Lynwood Road and the boardwalk (stairs or a ramp), with a lockable gate no higher than the balustrade height;
 - b. On the river side of the boardwalk, a lockable gate no higher than the balustrade height, providing access to a small landing point, and a stairway or ramp, leading to a fixed jetty / platform parallel with the boardwalk between 6 and 8 metres in length, and no greater than 1.2m in width.

Detailed design drawings for the facility shall be prepared and submitted to the Team Leader Compliance Monitoring – West for certification at the same time as the drawings required by condition 92. The detailed design drawings shall be certified for compliance with the matters listed in (a) and (b) above, and the following further matters:

- a. The promotion of a smooth transition and continuity with the boardwalk design in this location, including stairs / ramping (minimum gradient of 1 in 4) connecting the existing jetty and the boardwalk;
- b. The height of the handrail and gates shall remain at a maximum of 1.4m above deck level; and
- c. The height of any poles required for the facility shall not exceed the handrail height.

The facility shall be constructed by the consent holder in accordance with the certified drawings at the time of construction of the relevant section of the boardwalk.

Advice Note:

The owner of 125 Lynwood Road holds a current coastal permit (no. 30871 dated 20 June 2005) for a jetty. The existing permit, which provides a non-exclusive right to occupy the CMA, expires on 31 December 2034. The intent of condition 154 is in effect to provide for an extension of the existing jetty beyond the boardwalk, to enable continued boat access for 125 Lynwood Road. For the avoidance of doubt, the consent for the new facility is held by the consent holder (Community Facilities).

155. Where the boardwalk crosses the Kelston tributary (approximately between chainage 5760 and 5800), the height of the substructure of the deck shall be designed at a height of 3.00m Auckland Vertical Datum. The consent holder shall also:
- a. Use its best endeavours during the detailed design phase to facilitate further clearance below the substructure in this location, for example through exploring potential design changes to the substructure of the walkway;
 - b. Once detailed design work commences on the relevant part of the boardwalk across the Kelston tributary, keep the owners of 21 Kelston Street regularly updated (monthly updates) as to progress with detailed design, including in particular in relation to its consideration of any design changes to facilitate greater clearance under the boardwalk at this location;
 - c. Provide no less than three months' written notice to the owners of 21 Kelston Street of the date that construction of the section of boardwalk referred to in this condition will commence.

156. Once operational, the right to occupy part of the common marine and coastal area shall be limited to the structures approved as part of this consent.
157. The height of the boardwalk is to be generally designed at a maximum of 2.89m AVD deck height except where additional height is:
- a. Required to facilitate a transition to adjacent land;
 - b. Required for special crossings; or
 - c. Otherwise required or provided for by the conditions of this consent.
158. The consent holder shall use its best endeavours during the detailed design phase to facilitate a further 0.53m clearance below the substructure above the Wairau Creek tributary between chainages 7520 and 7540 (i.e. a substructure height of 3.00m AVD).
159. During detailed design the consent holder shall, in consultation with the CLG, identify locations appropriate for launching handheld craft (e.g. Kayaks, Stand Up Paddleboards) along the pathway route and within the consented envelope. Details of the locations identified in consultation with the CLG shall be provided to the Team Leader Compliance Monitoring – West. While the provision of such facilities is within the scope of works authorised by this consent where located within the envelope, it is not a requirement of this consent to provide any such facilities. Should the consent holder propose the inclusion of any facilities for launching handheld watercraft in accordance with this condition, it shall provide finalised design drawings and specifications for such facilities to the Team Leader Compliance Monitoring – West for certification for compliance with the outcomes noted below:
- a. Consistency with any relevant provisions of the LUDF;
 - b. Where connected to a section of boardwalk, the promotion of a smooth transition and continuity with the boardwalk design in the relevant location;
 - c. Avoidance of any health and safety concerns, including potential obstruction and inconvenience to pedestrians and cyclists using the path.

Any such launching facilities shall be constructed by the consent holder in accordance with the drawings certified under this condition at the time of construction of the relevant section of the boardwalk or path.

Design

160. During detailed design for boardwalk sections in the CMA, the consent holder shall ensure that the alignment and design of the boardwalk avoids the location of piles in tidal channels. The boardwalk design drawings and specifications lodged for certification under Condition 92 shall specifically address the requirement of this condition.
161. During detailed design for the boardwalk sections in the CMA, the consent holder shall give specific design consideration to enabling retrofitting to accommodate future sea level rise. Full details of any design measures proposed to enable such retrofitting shall be provided with the drawings and specifications lodged for certification under Condition 92.

Underwater noise

162. The consent holder shall implement the following measures where practicable to minimise underwater noise during pile-driving:

- a. Use piling methods that minimise underwater noise e.g. 'soft starts' (gradually increasing the intensity of impact piling);
 - b. Undertake visual monitoring during piling operations to identify any marine mammals in the area; and
 - c. Either not commencing piling, or stopping piling (generation of underwater noise), if a marine mammal is identified within the predicted zones of influence for impact piling in Table 8 at page 15 of the Marshall Day Acoustic Assessment, dated 20 March 2019.
163. For construction works within the CMA, the consent holder shall submit a CNVMP prior to any of the following occurring:
- a. A change in piling method, or the size or type of piles to be driven which could result in higher noise levels;
 - b. Revised Temporary Threshold Shifts (**TTS**) values and weightings for any of the species of interest identified for the subject site;
 - c. The identification of any new cetacean species of interest within the subject site relative to the species identified in the Marshall Day Acoustic Assessment Report, dated 27 March 2020; or
 - d. A change to the best practice guide for the management of underwater noise on marine fauna from piling.

Post-development

164. The consent holder shall, within five working days of the completion of the works remove all machinery and materials from the coastal marine area, to the satisfaction of the Council.
165. The Council shall be notified, in writing, of the expected date of the completion of construction activity, at least ten working days prior to the expected completion date of any stage.
166. Within twenty working days of the completion of construction activity of any stage, the consent holder shall supply the Council with a complete set of 'as built' plans. The 'as built' plans shall include a location plan, a plan which shows the area of occupation, and structure dimensions, and a typical cross-section.
167. Within twenty working days of the completion of construction activity of any stage, the consent holder shall supply a copy of the 'as built' plans to the New Zealand Hydrographic Authority (Land Information New Zealand, Private Box 5501, Wellington 6011 or customersupport@linz.govt.nz).
168. The pathway authorised by these consents shall be maintained in a structurally sound condition for the duration of the consent, and any repairs that are necessary shall be made, subject to obtaining any necessary resource consents.

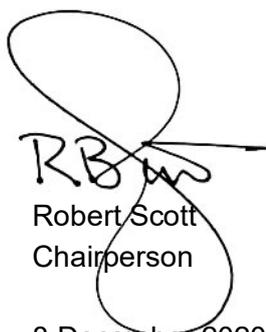
General Advice Notes

1. *Any reference to "working days" within this decision refers to working days as defined in s2 of the RMA.*

2. *For the purpose of compliance with the conditions of consent, “Team Leader Compliance Monitoring - West” refers to the council’s monitoring inspector unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz to identify your allocated officer.*
3. *For more information on the resource consent process with Auckland Council see the council’s website: www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment’s website: www.mfe.govt.nz.*
4. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*
5. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*
6. *This development involves building or other construction works within 10m of Watercare’s water and wastewater network. A ‘works over approval’ may be required for these works. The consent holder will be responsible for ensuring all necessary approvals are obtained from Watercare. See Watercare’s website (www.watercare.co.nz) for more information*

List of Acronyms used in Conditions

AUDP	Auckland Urban Design Panel
AMP	Avifauna Management Plan
BMP	Bat Management Plan
BPO	Best Practicable Option
CHTMP	Chemical Treatment Management Plan
CCMP	Coastal Construction Management Plan
CMA	Coastal Marine Area
CCP	Communication and Consultation Plan
CLG	Community Liaison Group
CMP	Construction Management Plan
CNVMP	Construction Noise and Vibration Management Plan
CSMP	Contaminated Soils Management Plan
CTMP	Construction Traffic Management Plan
CPTED	Crime Prevention Through Environmental Design
DEB	Decanting Earth Bund
DSI	Detailed Site Investigation
EMF	Ecological Management Framework
EMP	Ecological Management Plan
HHMP	Historic Heritage Management Plan
LMP	Lizard Management Plan
LUDF	Landscape and Urban Design Framework Volume 1 & 2 (2017)
NGCMP	National Grid Construction Management Plan
RAP	Remediation Action Plan
SSESCP	Site-Specific Erosion and Sediment Control Plan
SCR	Site Completion Report
SRP	Sediment Retention Pond
SQEP	Suitably Qualified and Experienced Professional
TPMP	Tree Protection Management Plan
TTS	Temporary Threshold Shifts



Robert Scott
Chairperson

8 December 2020