

BEFORE THE ENVIRONMENT COURT

Decision No. [2016] NZEnvC 248

IN THE MATTER of the Resource Management Act 1991
AND of an appeal pursuant to s 120 of the Act
BETWEEN NORTHCOTE POINT HERITAGE
PRESERVATION SOCIETY
INCORPORATED
(ENV-2015-AKL-000101)

Appellant

AND AUCKLAND COUNCIL
Respondent

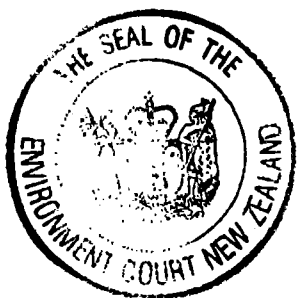
AND WOODWARD INFRASTRUCTURE
LIMITED
Applicant

AND AUCKLAND COUNCIL
AUCKLAND TRANSPORT
CYCLE ACTION AUCKLAND
GENERATION ZERO
MEZZANINE CAPITAL LIMITED
NEW ZEALAND TRANSPORT AGENCY
PANUKU DEVELOPMENT AUCKLAND
Section 274 Parties

Court: Principal Environment Judge LJ Newhook
Environment Commissioner R Howie
Environment Commissioner I Buchanan

Hearing: 31 October, 1 and 2 November 2016

Appearances: KM Littlejohn for Appellant
DJ Minhinnick and MJ Doesberg for Applicant
MC Allan and RS Ward for Auckland Council (Regulatory Capacity)
MG Wakefield for Auckland Council (Non-regulatory Capacity)
DA Nolan QC for Panuku Development Auckland
GC Lanning for Auckland Transport
J Bain for New Zealand Transport Agency



Date of Decision: 15 December 2016

Date of Issue: 15 December 2016

**DECISION OF THE ENVIRONMENT COURT GRANTING CONSENT TO ESTABLISH
AND OPERATE SKY PATH ON THE AUCKLAND HARBOUR BRIDGE**

- A: Appeal by NPHPSI refused; consent granted.**
- B: Conditions of consent approved as finally lodged after the hearing.**
- C: Costs reserved.**

REASONS

Introduction

[1] The Applicant, Woodward Infrastructure Limited, applied to Auckland Council for numerous consents required to establish and operate a walking and cycling path to be attached to the Auckland Harbour Bridge with landings near Westhaven at the Southern end, and Northcote Point at the northern. The consents were granted by independent hearing commissioners (whose decision we have had full regard to pursuant to s 290A RMA, although many facets of it have been overtaken since it issued).

[2] Three appeals were lodged seeking refusal of consent; two were withdrawn before our hearing; the appeal by Northcote Point Heritage Preservation Society Incorporated (NPHPSI) remained.

[3] The hearing was approached by the appellant in a slightly beguiling fashion, appearing on its face to be opposition to many of the proffered conditions of consent; however masking a thrust seeking refusal based on allegations that many of the conditions should be construed as unlawful, insufficiently enforceable, uncertain, and inadequate to manage the potential effects on the environment of Sky Path.

[4] During the period of case management, the applicant's proffered conditions changed quite significantly, largely as a result of agreements reached amongst parties and by groups of expert witnesses. More importantly however, the backdrop of the statutory instruments changed considerably prior to and again just after our hearing. In ways which we shall describe in more detail below, relevant parts of the then Proposed



Auckland Unitary Plan (PAUP) became the subject of council decision-making subsequently not challenged by appeals, later again declared operative. Relevant provisions of legacy plans consequently dropped away. These changes had the significant consequence of converting what had been acknowledged to be a non-complying activity, into what the parties (and we) agreed had become a discretionary activity.

Issues in Contention

[5] The Appellant lodged a lengthy and complex statement of issues some months before the hearing. At the request of the Court it refined its issues significantly at the end of the week prior to the hearing. It remained opposed to the grant of consents, principally on account of problems it perceived with conditions.

[6] The Applicant propounded that potential positive effects of granting consent are significant and would strongly support a grant of consent. At the commencement of the hearing the Applicant added a new issue about "permitted baseline", because the making operative of significant parts of the PAUP allegedly turned significant portions of the proposal into permitted activities. The applicant submitted that the Court could exercise discretion employing the concept of permitted baseline as an overlay to the mandatory examination of 'existing environment'.

[7] Leaving aside the challenge earlier mounted based on the proposal's previous non-complying activity status (including a jurisdictional challenge under s 104D) that fell away when status became agreed as discretionary, the issues stated by the Appellant on the eve of the hearing were that the Applicant's proposed conditions of consent were not lawful, sufficiently enforceable, certain, and adequate to manage Sky Path's predicted effects on the environment at the Northern Landing to an acceptable level, in particular raising questions about the following:

- (a) In relation to the Northern Landing structures and facilities, do conditions 11, 12 and 13 sufficiently ensure that the design of these non-residential building elements will be appropriate in a residential area, and that their use will not have adverse impacts on the amenity enjoyed by close residents (e.g. loss of privacy)?
- (b) Is the objective in condition 37(b) of the Operational Plan:
 - (i) Sufficiently enforceable/certain to manage the effects of the potential use of Sky Path to an acceptable level in relation to the existing environment?



- (ii) Is it adequate to manage the potential impacts of pedestrians and cyclists? Should that be an objective of the Operational Plan?
 - (iii) Would a clear objective specifying an acceptable level of usage/activity at the Northern Landing, which the Operational Plan would then implement, be an appropriate technique in circumstances where the effects of the activity and the effectiveness of the management techniques are suggested are unknown?
 - (iv) What would that level of usage be in order to maintain amenity values at the location of the Northern Landing? Would it vary by day of the week, or by season or be fixed? Would it have exceptions (e.g. opening days; special occasions)? How would it be varied if it was reached that effects on the environment were proven to be acceptable? By mechanism within the consent? Or by variation under the Act?
- (c) In relation to condition 40, is the proposal to vest Council with a power to approve an amendment of the need to comply with certain conditions, lawful? How can the Council know whether the "best endeavours" objective in condition 37(b) has been achieved?
- (d) In relation to condition 42, should the media strategy simply advise that there is no car parking provided at the Northern Landing for Sky Path users?
- (e) In relation to condition 46, are the hours of operation appropriate to acceptably manage the effects of the use of Sky Path at the Northern Landing? Should toilet facilities (if within scope) be subject to such hours of operation?
- (f) In relation to condition 56, are triggers for additional mitigation to be provided in relation to increased pedestrian and cycle flows (as surveyed by condition 53(c)) appropriate? What should those triggers be?
- (g) Following on from condition 54(b), is condition 59, whereby additional mitigation must be undertaken, lawful?
- (h) In relation to condition 59A, in the event that a usage/activity limitation at the Northern Landing is not imposed, would the inclusion of that outcome be an appropriate matter to record as a potential



technique to address the effects of the operation of Sky Path at the Northern Landing on a review of conditions under s 128 of the Act?

[8] The Statement concluded by questioning whether approving the proposal would achieve the sustainable management purpose of the Act as a discretionary activity.

The Proposal in More Detail

[9] We have already described the proposal as comprising a pedestrian and cycle pathway across the Harbour Bridge, with three geographical components. The issues in the appeal focussed on the northern component, the Northern Landing at Northcote Point.

[10] Evidence for the Applicant identified that the Auckland Harbour Bridge was originally intended to have provision for pedestrians and cyclists, but that had been excluded throughout the life of the bridge; hence the current public private partnership (PPP) approach to the proposal now.

[11] No parking is intended to be provided at the Northern Landing as part of the present proposal. That understanding however did not placate the Appellant in relation to its concerns.

[12] The middle geographical component involves the Sky Path being suspended under the eastern-most traffic lane of the bridge. As it approaches the Northern Landing, the Sky Path is intended to move under the main Harbour Bridge deck, about 10 metres above ground level over Stokes Point/Te Onewa Reserve, at the tip of Northcote Point. It is then proposed to loop downwards to traverse between two of the dual column supports for the eastern "clip-on" before looping back under itself and reaching ground with a northward orientation. We attach an exhibit, VP05, which is in 2 parts, one showing the existing undercroft area, and the other a visual simulation of what we have just described in words.

Zoning

[13] The following is a summary of the zoning situation under the PAUP and legacy plans, with very little description of the latter because of the agreement ultimately reached amongst the parties that the PAUP now governed the situation.

[14] At the time of the hearing it was uncontroverted that Sky Path would traverse the Open Space Informal Recreation Zone, with its support piers located in this area, before landing on a property owned and controlled by NZTA at 4 Princess Street, zoned



Single House Zone. Beyond this the pathway would be located on road reserve notated as "road" in the PAUP. At the hearing the Applicant, Auckland Council, Auckland Transport and NZTA agreed, and ultimately so it appeared the Appellant also agreed, that because the zonings were not subject to appeal on decisions of the Council on the PAUP, they must be treated as operative under s 86F RMA.

[15] Counsel for the Respondent in its regulatory role signalled that it would likely declare all relevant parts of the PAUP operative within days of the hearing concluding, and we gave leave for it to confirm same to the Court. This in fact occurred 2 weeks after the hearing. Significant portions of the PAUP became operative in part by resolution of the Council on 15 November 2016. This simply formalised the operative effect of the provisions under s 86F RMA, and confirmed that the provisions of the 3 legacy instruments had become redundant (being Auckland Council District Plan, North Shore and Isthmus sections, and Auckland Regional Plan: Air Land and Water).

[16] We agree with the parties that no aspect of the proposal now required consent as a non-complying activity, because that status had resided in some provisions of legacy instruments no longer relevant. The parties were correct to reach agreement that the status overall had become discretionary.

[17] We have no difficulty in finding that Sky Path comprises an off-road pedestrian and cycling facility that falls under Rule E 27.4.1(A10) of the PAUP, and is therefore a discretionary activity at the Northern Landing. A similar position is arrived at in relation to the Strategic Transport Corridor Zone and road reserve, pursuant to two other rules in the PAUP now also operative, E26 and H22.

[18] We have no difficulty coming to the view that certain elements of the proposal qualify as a permitted activity (which might trigger permitted baseline analysis), in the PAUP, as follows:

- (a) Rule E26.2.3.2(A67) providing for the construction, operation, use, maintenance, and repair of road network activities on an Auckland wide basis on roads.
- (b) Rule E27.4.1(A10) providing for off road pedestrian and cycle way facilities on an Auckland wide basis.
- (c) Rule H22.4.1(A1) providing for the construction, maintenance, upgrade and usage of cycleways and walkways in the STCZ.

[19] Also drawn to our attention by Mr Allan, counsel for the council in its regulatory capacity, was descriptive material in clause A1.6.3 of the PAUP, as to how the Auckland wide provisions operate, which we quote:



A1.6.3 Auckland Wide Provisions

Auckland wide provisions apply to the use and development of natural and physical resources across Auckland **regardless of the zone in which they occur.**

Auckland wide provisions are located in chapter E of the Plan and cover natural resources, Mana Whenua, the built environment, infrastructure, environmental risk, subdivision and temporary activity matters. **Auckland wide provisions generally apply more restrictive rules than the zone or precinct provisions that apply to a site, but in some cases they can be more enabling.**

...

[20] In effect, if Auckland wide provisions provide for an activity in zone, they “trump” the zone provisions. We accept that therefore off-road works at the Northern Landing, pursuant to the activity table in E27.4, confirms that it specifies the activity status of the land use activities in all zones.

[21] We noted that the council’s planning witness Ms JA Valentine was not cross-examined on these matters. Our own consideration of these matters confirms that Mr Allan was right to rely on her evidence about them. For reasons that will follow in our discussion of permitted baseline, we find however that not a great deal turns on this for the ultimate outcome of the case.

Does the Permitted Baseline Concept Apply?

[22] Ms Valentine and the applicant’s planning witness Mr RJ Blakey agreed that a permitted baseline should apply.¹ The Appellant’s planning witness Mr VRC Warren did not agree.²

[23] Mr Warren’s disagreement was grounded in two propositions:

- (a) Because Sky Path requires discretionary activity consent, a permitted baseline should not apply;
- (b) Since all potential relevant adverse effects of a discretionary activity must be assessed, a permitted baseline proposal that contemplates (and seeks to exempt from assessment) introducing more than 13,000 persons a day into a residential cul-de-sac would be fanciful.

¹ Second joint witness statement of planning experts at para [16].

² Second joint witness statement of planning experts at para [17].



[24] We have considered the evidence of all three witnesses and the submissions of counsel, and largely hold against Mr Warren's reasoning. First, s 104(2) RMA does not distinguish amongst different kinds of activity status, as to whether a permitted baseline might be held to be relevant; it is of general application under that section. Secondly, when the evidence is analysed, the proposition is not entirely fanciful, but probably has little impact on the overall outcome in any event.

[25] Mr Warren having accepted that off-road walking and cycling facilities were a permitted activity, he nevertheless suggested that in the absence of Sky Path, permitted activity walking and cycling usage of the area around [this part of] Northcote Point might see no more than a small increase on current levels of activity in Princess Street.³

[26] We think he might be partly right about that last aspect, but as we have said, we doubt that a great deal turns on this, because Mr Warren might have been conflating "existing environment" with "permitted baseline". We note and accept the proposition advanced by counsel for the Applicant⁴ that the case for the Applicant had essentially been built on the former; that the latter had only come in to view when the legacy provisions fell away, and that the conservatism and robustness of the evidence for the Applicant and the Respondent in any event supported a grant of consent subject to appropriate conditions quite apart from the permitted baseline aspect.

[27] Our subsequent analysis of effects on the environment, including as to the existing environment in the locality, persuaded us that the arguments about permitted baseline were something of a distraction, leaving us to determine whether the last mentioned submissions on behalf of the Applicant and Respondent have force.

Effects on the Environment

[28] We turn to another aspect requiring examination under s 104 RMA, effects on the environment.

[29] We start by noting that the case for the Appellant relied extremely heavily on the evidence of but one expert witness, Mr Warren. The other parties called a variety of specialist experts in the disciplines of traffic, urban design, landscape and visual, and acoustic effects.

[30] While Mr Warren is a planner of very long experience, he clearly felt driven to offer opinions in the other specialist areas. While we did not automatically favour the

³ Cross-examination of Mr Warren by Mr Minhinnick transcript p. 165, lines 10-23.

⁴ Reply submissions 2 November 2016 para 2.3 (c),(d) and (e).



specialist experts' views over his, we ultimately had no difficulty in preferring theirs' where there was conflict, given that most of the limited cross-examination in the case was directed to the planners; that the Applicant's transport witness Mr D McKenzie was subject to very limited cross-examination as was the Council's transport witness Mr B Mein; and the others were not questioned. This was particularly telling when it came to analysing the visual amenity aspects of the proposal.

[31] It is appropriate to commence with consideration of the existing environment. We considered statements from a number of the local residents, indeed we paid them very close attention because they are undoubtedly the people who stand to be affected in the greatest way by the proposal. We also made a careful inspection of the area of the proposed Northern Landing, discussing the detail of same with the parties on the record in Court before and after the event. The statements of the residents that we considered came from Ms EW Hannam, Mr G Hughes, Mr R Tout, Mr BK Holloway, Ms JE Shaw, Mr RT Brown and Ms CM Brown, Mr C Blanche, Ms J White and Mr G Rodgers, Ms CA Kitchenman and Mr LW Hogarth.

[32] We were obliged to place these statements alongside the urban design, landscape, visual, and CPTED evidence called by the other parties that went untested by questioning. These were from Mr G Falconer, Mr B McKenzie and Ms S Peake, called by the Applicant, and Ms R Skidmore, called by the Council.

[33] In the overall analysis, we felt unconvinced by many of the claims of the residents about the existing environment, which unfortunately we considered had been viewed somewhat through "rose tinted glasses".

[34] We accept the evidence of the residents about steps that they have taken to ameliorate this environment for themselves, but we consider that the very need for such amelioration has arisen from the quite severe nature of the existing environment as described by the experts. Indeed, we note that the experts in their joint witness statement,⁵ considered that the residents had come to "accept" the existing major infrastructure as part of their living environment. The further agreements⁶ are telling, and in our view correct. They were that the Harbour Bridge is the dominant piece of infrastructure across the area; that it has an industrial character and creates shade and requires ongoing maintenance with its associated activity; that it is not characteristic of a low density residential environment – indeed it is a unique situation; and that a number of properties have responded to this character by turning their backs to the adjoining street and bridge environment. They agreed that the bridge undercroft is a

⁵ At paragraph 7.

⁶ In paragraphs 8-11 of that statement.



large and enclosed space. Also that inter-visibility from one side of the street to the other is not high and is often limited. Also that the Harbour Bridge is a dominant structure, and that the addition of Sky Path would be subservient to that structure. The experts noted the presence of existing street trees, the existing separation distances, the transience of views, and an ability to design balustrade screening that would avoid undue overlooking of adjacent properties from the Sky Path itself. They considered that at ground level there is already effective screening present. They supported additional screening as offered by the Applicant, and that this might be designed in a way to meet preferences of residents.

[35] Turning to matters acoustic, the Applicant called the evidence of Mr R Hegley and the Respondent the evidence of Mr H Miller. These witnesses met and produced a joint statement which was largely agreed. As was frankly confirmed by our site inspection, the noise and vibration from traffic on the Harbour Bridge structure (and no doubt sometimes noise created by maintenance activities) is considerable.

[36] We accept the untested agreement by the two experts that new noises in the neighbourhood from people talking would not be out of character in the existing environment, as such would be below the existing traffic noise and volume, and would not be the dominant source of noise in the area.⁷

[37] We acknowledge that there might be some temporary construction noise discernible in the locality, but it would not be at all significant in relation to the existing din and vibration from the operation of the Harbour Bridge, and note that construction activity with its attendant noise and vibration is to be expected in an urban area, often simply controlled or mitigated by conditions of consent. We also note that given that we are not now considering a non-complying activity, it is not a feature of the case that we ascertain whether or not effects on the environment would be "no more than minor".

[38] We were attracted to an overarching statement about effects on the environment, and the existing environment, by Ms Valentine:⁸

The AHB extends across the Waitemata Harbour and creates the undercroft areas at both the Northern and Southern Landings. At the Northern Landing, the AHB has created a covered end to the Princess Street cul-de-sac. When visiting the landing area, it is seen as an unoccupied space with little human activity. There are high background vehicle noise levels from the AHB above. Ms Skidmore and Mr Miller discuss these aspects of the existing environment



⁷ Joint witness statement, acoustics, paragraph 2.3.

⁸ At paragraph 7.10 of her Evidence in Chief.

further in their evidence. I am not aware of any existing resource consents in this area that have not been implemented.

[39] We accept the qualification to the last sentence advanced by Mr Allan in submissions, that the planners agreed in their first joint witness statement⁹ that the New Zealand Transport Agency's pathway and landscape project for the Te Onewa Reserve should be treated as part of the existing environment.

[40] Concerning the overall thrust of the case of the Appellant that conditions of consent could not acceptably avoid remedy or mitigate adverse effects (referring to s 5(2)(c) RMA), the point has been reached in our consideration of the case, to turn to the proposed conditions, and the correctness or otherwise of that assertion.

Assessment of the Proposed Conditions

[41] Rather typical of cases like this, an iterative approach was taken to draft conditions of consent by counsel, the planners, and expert witnesses.

[42] The key question ultimately became whether what was finally proposed by the Applicant after those inputs, with or without any further modification that we might direct, would adequately avoid, remedy or mitigate adverse effects on the environment.

[43] At the conclusion of the hearing we were sufficiently certain that consent should be granted on appropriate conditions, that we made an announcement to that effect. We indicated that this would be on the basis of the latest version of draft conditions lodged, some suggestions from the Respondent, and several matters queried by the Court. A further update of draft conditions was lodged by the Applicant on 4 November, pursuant to leave, dealing with the matters raised.

[44] We turn now to record our reasons for finding that the draft conditions of consent were, with the small modifications requested, entirely appropriate and not subject to the legal difficulties alleged by the Appellant.

[45] We consider that the prime difficulty with the Appellant's approach was that it seized upon and addressed individual conditions in isolation, rather than regarding them as a total package as has been held in previous decisions to be the proper approach. The primary way in which the draft conditions work (which meets with our approval) is that the required Operational Plan will set various measures, for instance those listed concerning media, way-finding and signage strategy; which are then required to be the subject of ongoing monitoring which can produce a number of



⁹ At paragraph 14.

different results, including changes to the Operational Plan itself, or requirements for additional mitigation.

[46] In view of this last finding, we record that it would be tedious for us to pick our way piece by piece through the various criticisms by the Appellant of individual conditions, utilising the various questions posed by the Appellant in its statement of issues lodged just before hearing. We commend Mr Allan for attempting that approach, but note that he found himself of necessity cross-referencing amongst conditions. We will deal with the matter more by way of overview.

[47] Starting with conditions 37, 38 and 40, the Appellant argued that condition 37 was deficient because it allegedly did not contain clear objectives to provide focus to the Operational Plan or performance criteria to operate as bottom lines.¹⁰ Those same submissions also criticised the objectives as fundamentally evaluative and ultimately an unlawful delegation. It considered that there were inadequate means of controlling pedestrians and cyclists.

[48] We hold, bound indeed by the decision of the High Court in *New Zealand King Salmon*¹¹ litigation, that an objective in a condition is capable of being set by qualitative criteria in appropriate circumstances, and not solely by quantitative criteria.

[49] The Environment Court has taken a similar approach in setting resource consent conditions.¹²

[50] Setting objectives by way of qualitative criteria can appear evaluative on its face, but if properly established, can be certified by delegates, applying their qualifications and experience. In the *West Coast*¹³ case the Court in fact went out of its way to comment that it was appropriate to provide some flexibility to allow the best possible environmental outcomes. Ironically, in view of the submissions on behalf of the Appellant on this occasion, the Court also noted that management plans should be read in conjunction with other hold points and controls in other conditions. This is an holistic approach to interpretation of conditions that we have already found to be lawful.

[51] At paragraph [72] of its Counsel's submissions, the Appellant submitted that the approach it was criticising was contrary to s 108(2)(e) RMA as producing some sort of "best practicable option" approach in relation to certain consents. So long as appropriately framed to include measurable certification, the approach will work at

¹⁰ Appellant submissions at paragraphs [69]-[71].

¹¹ *Environmental Defence Society Inc v New Zealand King Salmon Co Ltd* [2013] NZHC 1992 at paragraphs [114]-[128] (aspects not overturned on appeal).

¹² Refer for example, to *West Coast Environmental Network Inc v Royal Forest and Bird Society of New Zealand Inc* [2013] NZEnvC 253 at p. 79.

¹³ *Ibid* at paragraphs [43]-[45].



law¹⁴.

[52] We hold that the approach taken in draft conditions 37 and 40 engage the judgment and skill of a Council officer acting as a certifier in relation to the approval of the Operational Plan, rather than as an arbiter.

[53] As to the criticism through cross-examination of the witnesses Blakey and Mein, the "Draft Operational Plan" before the Court is just that; indeed it is an early draft and will, as submitted by Counsel for the Applicant,¹⁵ still be subject to detailed design. Condition 38 makes it clear that the Operational Plan will be "based on" the Draft Operational Plan, but it also lists minimum measures to be included, which in turn are fleshed out by other conditions. Again, the focus on the Appellant was too narrow.

[54] Turning to the monitoring and review conditions, 53 – 59, counsel for the Appellant sought to question the approach taken in them to provide for close monitoring, and if a trigger is met, recommendation and implementation of additional mitigation. This approach having been approved by this Court in *Tram Lease Limited v Auckland Transport*¹⁶ in a designation situation, counsel alleged that such an approach was "novel" for land use activities.¹⁷

[55] We accept the submissions on behalf of the Applicant in reply,¹⁸ that these proposed conditions are lawful, certain and enforceable. We do not understand or accept the alleged distinction between designation and land use activity consent for present purposes. We note and accept the submissions of counsel for Auckland Transport referring to a decision of this Court in *Villages of NZ (Mt Wellington) Ltd v Auckland City Council*¹⁹ (a designation case). We are aware of another, *Z Energy Limited v Western Bay of Plenty District Council*²⁰ (a land use case), in which such an approach was adopted.

[56] During the hearing the Court raised the possibility of there being a review condition pursuant to s 128 RMA, and the planning witnesses indicated support for that. Mr Warren continued to propound the imposition of limits, which Mr Minhinnick submitted in reply²¹ would pre-determine the outcome of any review. The planning witnesses called by the Applicant and the Council supported a more generalised review provision.

¹⁴ *King Salmon* High Court Decision, *ibid*.

¹⁵ Reply submissions, paragraph 3.9.

¹⁶ [2015] NZEnvC 191.

¹⁷ Appellant submissions, paragraph [78].

¹⁸ Reply submissions, paragraph 3.11.

¹⁹ Decision No. A023/09, concerning conditions 5B and 5C, at pages 4 and 5 in the text, where a similar condition was imposed on a designation for a sports field.

²⁰ [2016] NZEnvC 156, Attachment A, condition 5.

²¹ Reply submissions on behalf of Applicant, paragraph 3.13.



[57] Mr Minhinnick submitted that such condition was not really necessary, but the Applicant would accept same as a fallback and a comfort for the local residents and the Council. We ourselves suggested that such a condition should be employed, targeted at the Northern Landing.

[58] The draft conditions lodged on 4 November incorporate an appropriate condition (59B), without pre-set limits (which we confirm is acceptable), and targeted at the Northern Landing area (also approved).

[59] In its submissions²² the Council supported a condition of consent setting up a community liaison group. It agreed with comments from the Court that despite Mr Warren's misgivings about the operation of such groups on some occasions, it was worth establishing one in the present circumstances. We approve the draft condition to that effect.

[60] Probably the most fundamental thrust by the Appellant concerning conditions was its proposals for restricted hours of operation at the Northern Landing and a cap of 1440 entry and exit movements there. This was essentially based on the evidence of Mr Warren, but as we have already commented, stepped well beyond the evidence of the expert landscape and visual, urban design, and CPTED witnesses' evidence which was unchallenged.

[61] The Appellant suggested limitation of entry hours to 6 a.m. to 7 p.m., and exit from 6 a.m. to 10 p.m., at the Northern Landing. We struggled to discern any good purpose for such limitations, particularly in light of the evidence of the experts just mentioned.

[62] We turn first to the concept of a patronage cap, again derived from the evidence of Mr Warren. First, under cross-examination by Mr Minhinnick, Mr Warren conceded that his estimate of commuter patronage was under-estimated to a degree concerning commuters who commenced a trip at the Southern Landing, proceeded to the North Shore and then back later in the day.²³ More importantly, the Appellant did not provide any evidence correlating the number of users of Sky path with any particular adverse effect on the amenity at the Northern Landing. Its conservatism in suggesting a cap is apparent when one accepts the submission (as we do) of Mr Minhinnick that the Appellant has seized upon a cap that is only approximately 10% of the projected Year 5 summer Saturday patronage.²⁴ We expressed our considerable surprise about this, particularly in light of there being no serious evidentiary support for such an approach,



²² At paragraphs 102 – 104.

²³ Transcript, p. 164, lines 5-15.

²⁴ Applicant's reply, paragraph 4.7.

and our surprise remains.

[63] We agree with the submission of counsel for the Applicant²⁵ that such limitation would entirely undermine the transport function of Sky Path.

[64] The Appellant earnestly submitted that there should be a mandatory pre-booking arrangement to ensure that capacity limitations were met, appearing to compare it to booking a flight online. We agree with the Applicant that such complexity is unnecessary and should not be required, noting however that the Applicant proposes to use such a system to manage initial opening peak usage and special events.

[65] We conclude that the raft of proposed conditions, read and interpreted collectively, and inclusive of the new review condition in addition to monitoring and mechanisms for adjustments, will regulate and minimise effects on the environment entirely adequately.

[66] We attach as Appendix B the draft conditions lodged on 4 November, and endorse them.

[67] We exercise our discretion under Part 2 of the Act, employing its several lenses to the degrees required by the several provisions, in now granting consent, subject to those conditions.

[68] Costs are reserved. Any application is to be made by 27 January 2017, with any responses lodged 10 working days after that.

DATED at AUCKLAND the 15th day of December 2016.

For the court:



LJ Newhook
Principal Environment Judge

²⁵ Applicant's reply submission, paragraph 4.9.



Proposed Auckland Harbour Bridge Pathway (SkyPath) - Visual Simulation

Prepared: 22nd November 2014



Existing View



Visual Simulation of Proposed Design

VP05 - SkyPath Update - Stokes Point North - 90 degrees

Captured - Canon 6D with a 85mm lens
 Image Projection Method - Rectilinear

Field of View - 90 degrees Horizontal x 35 degrees Vertical
 Viewing distances - A1 375mm, A2 265mm, A3 187mm

Camera Position - 398579.967, 805909.607, 20.760 - Co-ordinate system Mt Eden 2000.
 Camera 1720 mm above ground. Photographed 22 May 2014 10:30am

SkyPath conditions - November 2016

GENERAL CONDITIONS

These conditions apply to all resource consents.

1. The activity shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Council as consent number R/LUC/2014/3364, R/REG/2014/3365 and R/REG/2014/720, except where otherwise amended by the other conditions of this consent.
 - Assessment of Environmental Effects prepared by Blakey Planning Ltd, dated November 2014;
 - Addendum letters: dated 20th October 2014; 21st November 2014, 24th March 2015 and 16th April 2015 prepared by SkyPath Auckland Harbour Bridge Pathway Trust;
 - Urban Design Report prepared by Reset Urban Design, dated 17th October 2014;
 - Engineering Report prepared by Airey Consultants Ltd, dated 14th August 2014;
 - Lighting Design Report prepared by Light Works Ltd, dated 5th August 2014 and addendums: Request for further information – Lighting Fixture Type By Area, dated 21st October 2014, letter dated 5th November 2014, and memorandum attached as "Annexure Q" to further information received 24rd March 2015;
 - Design and Colour Review; Northern landing re-design, landscape and visual effects summary, prepared by Environmental Planning and Design Ltd, dated 16th October 2014;
 - Northern Landing Re-Design, Landscape and Visual Effects Summary, prepared by Environmental Planning and Design Ltd, dated 17th October 2014;
 - Transportation Assessment prepared by TDG Ltd dated October 2014, and Carpark Traffic Assessment dated October 2014;
 - Acoustic Report prepared by Hegley Acoustic Consultants, dated August 2014 and addendums: letter dated 22nd October 2014, and 16th March 2015;
 - CPTED Assessment prepared by Peake Design Ltd;
 - Resource Consent Drawing Package prepared by Reset Urban Design and itemised as the following:

Reference	Plan title	Rev	Dated
CP01	Southern Landing Context Plan	A	30.06.14
CP02	Northern Landing Context Plan	A	30.06.14
MP01	Southern Landing Mitigation Plan	A	14.10.14



SkyPath conditions - November 2016

MP02	Northern Landing Mitigation Plan	H	09.06.15 ¹
DD KP01	Key Plan	B	13.10.14
DD PL01	Southern Landing	B	13.10.14
DD PL02	Northern Landing	D	23.03.15
GA01	Southern Landing	D	13.10.14
GA02	Northern Landing	H	23.03.15
DD EL01	Overall Bridge Elevation, Elevation 1 of 2	B	30.06.14
DD EL02	Overall Bridge Elevation, Elevation 2 of 2	B	13.10.14
DD SE01	Southern Landing Long Section	C	13.10.14
DD SE02	Southern Landing Cross Section AA	B	13.10.14
DD SE03	Southern Landing Viewing Platform BB	A	30.06.14
DD SE04	Northern Landing Long Section	E	23.03.15
DD SE05	Northern Landing Cross Section CC	F	19.03.15
DD SE06	Northern Landing Detail Section	B	13.10.14
DD KP02	Module Layout Key Plan	A	16.07.14
T101	Type 1 Module	B	13.10.14
T201	Type 2 Module	B	13.10.14
T301-A	Type 3 Module (Pier 1&2)	C	13.10.14
T301-B	Type 3 Module (Pier 3&5)	C	13.10.14
T302-A	Type 3 Module Elevation (Pier 1&2)	B	12.08.14
T302-B	Type 3 Module Elevation (Pier 3&5)	B	12.08.14
	Design Elements		20.06.14
	Lighting		15.10.14
DE01	Handrail Detail	A	30.06.14

2. This consent (or any part thereof) shall not commence until such time as the following charges, which are owing at the time the Council's decision is notified, have been paid in full:



_____ (to not be drawing with the same number provided post-notification, and dated 23.03.2015.)

_____ (to not be drawing with the same number provided post-notification, and dated 23.03.2015.)
 Curran Street, Northcote Point; Auckland Harbour Bridge;
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SkyPath conditions - November 2016

- (a) All fixed charges relating to the receiving, processing and granting of this resource consent under section 36(1) of the Resource Management Act 1991 (RMA); and
 - (b) All additional charges imposed under section 36(3) of the RMA to enable the Council to recover its actual and reasonable costs in respect of this application, which are beyond challenge.
3. The consent holder shall pay any subsequent further charges imposed under section 36 of the RMA relating to the receiving, processing and granting of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under section 36(3) of the RMA that are subject to challenge, the consent holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant decision.
4. Under section 125 of the RMA, this consent lapses eight years after the date it is granted unless:
 - (a) The consent is given effect to; or
 - (b) The Council extends the period after which the consent lapses.
5. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$5000.00 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

Advice Note:

The initial monitoring charge 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 consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. Only after all conditions of the resource consent have been met, will Council issue a letter confirming compliance on request of the consent holder.

PRE-CONSTRUCTION CONDITIONS

Community Liaison Group

6. Within 12 months of the commencement of this consent and at least six months prior to construction commencing on-site, the consent holder shall establish a Community Liaison Group. This Group shall be consulted as part of the development of all management plans and the Operational Plan. Evidence of this consultation shall be provided to the Council (Team Leader Compliance and Monitoring – Central) on request. The Group shall also be consulted on an ongoing basis regarding SkyPath operation. The Group shall be provided with details of the key consent holder contact personnel during the construction period and the ongoing operation of SkyPath.



SkyPath conditions - November 2016

The objectives of the Community Liaison Group are to:

- (a) keep the community informed of developments associated with the construction of SkyPath; and
- (b) provide a forum for community feedback, particularly in relation to Management Plans and the Operational Plan.

The following groups shall be invited to join the Community Liaison Group: Northcote Residents Association, Herne Bay Residents Association, Westhaven Marina Users Association, St Marys Bay Association, Northcote Point Action Group, Northcote Point Heritage Preservation Society, Little Shoal Bay Protection Society, Kaipatiki Local Board, and SkyPath user groups. The owners and occupiers of 1 – 14 Princes Street, 1 Queen Street and the owners and operators of The Wharf function and event centre shall be invited to join the group. New Zealand Transport Agency, Auckland Transport, Pānuku Development Auckland Limited (Development Auckland) and the Council Project Sponsor shall also be invited to join the group.

The Council (Team Leader Compliance and Monitoring - Central) shall be provided a statement outlining those groups invited to join the Community Liaison Group, the agreed members of the Group and the key contacts of the Group prior to the submission of any management plan to Council for approval.

For the avoidance of doubt, the Community Liaison Group shall be consulted by the consent holder in relation to the following conditions:

- The Construction Management Plan under condition 10.
- The updated mitigation plan under condition 12.
- The location and design of the privacy screens proposed at the Northern Landing under condition 13.
- The Construction Traffic Management Plan under condition 15.
- The Construction Noise and Vibration Management Plan under condition 16.
- The Transport Safety Audit under condition 20.
- The CPTED Safety Strategy under condition 21.
- The Operational Plan under condition 37.
- The signage and wayfinding strategy under condition 41.
- The Southern Landing Traffic Works Plan under condition 44.
- The Northern Landing Traffic Works Plan under condition 45.
- The CPTED Review under condition 50.
- The Transportation Monitoring Assessment under condition 52.
- The Transportation Monitoring Assessment under conditions 54, 58 and 59.



SkyPath conditions - November 2016

Advice note:

It is anticipated that the community groups identified above will be invited to participate on matters of interest to their geographic area.

Proximity to Transpower Assets

7. The consent holder shall liaise with Transpower New Zealand Limited ("Transpower") during the detailed design phase for SkyPath to ensure that provision is made to protect and maintain security of Transpower's 'HOB-WRD A' transmission cable, in particular:
 - (a) A minimum 2.0 metre clearance shall be maintained between the cables and the Northern Landing cross-over or from any launch point or screen/cover that may be accessible for maintenance use;
 - (b) A minimum 1.0 metre clearance shall be maintained between the outer limits of the SkyPath structure and the outer edge of Transpower's protective cable screens, so that regulatory limits of EMF exposure are not at risk of being breached.
8. The consent holder shall provide Transpower a minimum of 10 working days' notice prior to the commencement of the proposed works.

Site Access

9. Subject to compliance with the consent holder's health and safety requirements and provision of reasonable notice, the servants or agents of the Council shall be permitted to have access to relevant parts of the ground level construction sites controlled by the consent holder at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements and/or to take samples.

Construction Management Plan

10. Prior to the commencement of any site works, the consent holder shall provide to the satisfaction of Council (Team Leader Compliance and Monitoring - Central) a Construction Management Plan ("CMP") prepared by a suitably qualified expert that shall include specific details relating to the construction and management of all works associated with this development, and include if required:
 - (a) The name and contact details (phone, email, postal address) of the site manager;
 - (b) The location of a noticeboard at each construction site that clearly identifies the name, telephone number and address for service of the site manager;
 - (c) Construction timetable;
 - (d) Confirmation of construction methodology, including:
 - (i) details of any temporary structures in the coastal marine area (e.g. silt fences);
 - (ii) methods to remedy any disturbance resulting from works.



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- (e) Contingency plans in case of discharges to the coastal marine area during works;
- (f) Site management, including details of:
 - (i) site access;
 - (ii) measures to ensure that no equipment or machinery is cleaned, or refuelled or stored in any part of the coastal marine area;
- (g) Measures to be adopted to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage and unloading of building materials and similar construction activities;
- (h) Procedures for controlling sediment run off, dust and the removal of soil, debris and construction materials from public roads or places (including identifying the location of wheel wash facilities), or the harbour;
- (i) Procedures for controlling and removal of construction materials from public roads or places:
- (j) Location of workers' parking and conveniences (e.g. portaloos);
- (k) Ingress and egress to and from the site for construction vehicles:
- (l) Location of loading and storage areas:
- (m) Location of any cranes or large equipment required to service the building construction:
- (n) The extent of any scaffolding and/or gantries required to construct the structure:
- (o) The extent of any screening required on or near boundaries of the site to maintain safety and amenity:
- (p) Any means of protection of services such as pipes and water mains within the legal road;
- (q) Proposed hours of work on the site; and
- (r) Confirmation that the Community Liaison Group has been consulted during the preparation of the plan.
- (s) Conditions on the use of residential streets (including Queen Street south of the Queen Street roundabout) for parking by construction workers vehicles.

The CMP must include confirmation that machinery and construction vehicle parking will not be located on Queen Street south of the Queen Street roundabout.

Advice Note:

The purpose of the CMP is to confirm final project details to confirm that the works remain within the limits and standards approved under these consents and that the

Queen Street, Northcote Point; Auckland Harbour Bridge;
Queen Street and Westhaven Drive, Westhaven – 'SkyPath'



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construction and operation activities avoid, remedy or mitigate adverse effects on the environment.

SPECIFIC CONDITIONS – LAND USE CONSENT R/LUC/2014/3364

PRE-CONSTRUCTION CONDITIONS

Urban Design and Landscape

11. Prior to commencement of construction, the consent holder shall make an offer to the owners of 1, 3, 6, 8 and 10 Princes Street to provide planting and/or timber fencing in general accordance with Mitigation Plan MP02, Rev H, prepared by Reset Urban Design to provide screening for those properties. Evidence of this engagement shall be provided to the Council (Team Leader Compliance and Monitoring – Central). If the landowner gives approval and provides access to their property, the relevant planting and/or timber fencing shall be carried out by, and at the cost of, the consent holder within 3 months of the landowner's approval being provided.
12. Prior to the commencement of construction an updated plan of the Northern Landing of all ancillary structures to the SkyPath (including hard and soft landscaping and street furniture) prepared by a suitably qualified expert shall be submitted for approval of Council (Team Leader Compliance and Monitoring - Central). These components, (in addition to the approved way finding signage and lighting strategies outlined in conditions 41 and 47) shall provide the following:
 - (a) Location and design details of all ground level privacy screens;
 - (b) Location and species of any vegetation or boundary treatment (eg timber fencing) agreed to under condition 11 above;
 - (c) Design details of the full length of the eastern-facing section of the Northcote Landing 'loop', including details of balustrade treatment to maintain the privacy of adjacent residential properties (being 1, 1A, 3, 5 and 7 Princes Street);
 - (d) Means of directing pedestrian and cyclist movements along the route shown on the Mitigation Plan MP02 Rev H prepared by Reset Urban Design.
13. Prior to the commencement of construction, the consent holder shall submit for the approval of Council (Team Leader Compliance and Monitoring - Central in consultation with Landscape and Urban Design Specialists) the detailed plans of the main structure, including balustrades, and debris screen. The detailed plans shall be in general accordance with the plans referenced in condition 1. These plans shall also provide details of the materials to be used and include the location and design of the privacy screening proposed at the Northern Landing.
14. Prior to the commencement of construction, any revisions to the Southern Landing shall be submitted to Council for approval (Team Leader Compliance and Monitoring - Central) and shall be in general accordance with the plans referenced in condition 1. As part of this submission the consent holder shall provide confirmation of liaison with and support from Development Auckland for these changes.

Management Plans

No later than 20 working days prior to the commencement of any work on the site, a Construction Traffic Management Plan ('CTMP'), appropriate to the scale and nature



Princes Street, Northcote Point; Auckland Harbour Bridge;
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of the development, shall be prepared by a suitably qualified expert and submitted for the approval of the Council (Team Leader Compliance and Monitoring - Central). The purpose of the plan is to set out the details of the steps to be taken to ensure that construction traffic effects on the adjacent road network are minimised. The plan shall address all traffic management measures, as listed in Appendix A to these conditions of consent.

16. Prior to the commencement of any site works, the consent holder shall submit a Construction Noise and Vibration Management Plan ("CNVMP") to the satisfaction of the Council (Team Leader Compliance and Monitoring - Central). The CNVMP shall be prepared by a person qualified in environmental acoustics and vibration, who has been approved by the Council (Team Leader Compliance and Monitoring - Central, in consultation with the Environmental Health Officer). The purpose of the CNVMP is to detail the measures to be implemented to comply with conditions 27, 28 and 29. The CNVMP must include, but is not limited to:
- (a) A description of the final construction methodology, including a list of potentially noisy plant and equipment, the estimated noise levels and the approximate locations within the site.
 - (b) Predicted noise and vibration levels and where the predicted noise levels may exceed the relevant standards, specific mitigation measures to be implemented which may include, but are not limited to, acoustic screening, the use of alternative equipment, etc.
 - (c) Methods of noise and vibration monitoring to be undertaken during each phase of the works. Additional monitoring shall be undertaken in the event of any complaints received.
 - (d) A complaints management system will be implemented by the consent holder. It must specify the person(s) responsible for maintaining the complaints register, procedures to be followed in investigating and resolving complaints and procedures for reporting complaints to Council.
 - (e) Confirmation that in the event of the measured noise levels exceeding the relevant standard, the Council (Team Leader Compliance and Monitoring - Central, in consultation with the Environmental Health Officer), will be notified immediately and further mitigation options shall be investigated and implemented with the prior approval of the Council.
 - (f) The name and contact telephone numbers of the Site Manager or other persons responsible for supervision of the works, implementation of the CNVMP and complaint receipts and investigations

Advice Note:

Conditions 27, 28 and 29 provide the maximum noise and vibration limits and work hours.

17. Any substantive change to the CMP, CTMP and the CNVMP shall be submitted to the Council (Team Leader Compliance and Monitoring - Central) for approval at least ten working days prior to the proposed change taking effect.



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18. The Council (Team Leader Compliance and Monitoring – Central) shall be informed in writing at least 20 working days prior to the commencement of the works authorised by these consents.
19. For the purposes identified in the CMP, the consent holder shall hold a preconstruction site meeting at each construction site between representatives of the Council and all relevant parties, including the primary contractor, at least 10 working days prior to commencement of works authorised by these consents.

Transport Safety Audit

20. Prior to construction, the consent holder shall engage a suitably qualified expert to undertake a detailed design Transport Safety Audit of SkyPath including the area around the Landings. This Audit shall address all modes of transport. The findings of this audit shall be submitted to Council (Team Leader Compliance and Monitoring - Central) for review. If any changes are required to improve safety these shall be implemented as part of the detailed design and construction.

CPTED Safety Strategy

21. Prior to construction, the consent holder shall engage a suitably qualified CPTED expert to prepare a detailed Safety Strategy of SkyPath including the area around the Landings. This Strategy shall be developed in conjunction with the urban design and landscape plans required by conditions 12, 13 and 14, and shall include details of the following:
 - (a) A review of the layout and portal entrances against CPTED principles;
 - (b) Review of fencing and gates (territorial control) at either end of the SkyPath portals;
 - (c) Lighting strategy at the Northern Landing area in particular - including integration with existing lighting;
 - (d) the location of any public toilets at the Northern Landing
 - (e) Onsite security methodology for each landing detailing the timing and frequency of security personnel stationing at either end;
 - (f) Other security initiatives such as CCTVs;
 - (g) Graffiti (zero tolerance) and litter eradication plan.

This Strategy shall be submitted to Council (Team Leader Compliance and Monitoring - Central) for review. If any changes are required to improve safety these shall be implemented as part of the detailed design and construction.

Trees

22. Prior to any site works commencing, a pre-commencement site meeting shall be held to identify trees to be removed at the Southern Landing. Present at this meeting shall be Council (Team Leader Compliance and Monitoring - Central) and all contractors or sub-contractors who will be working on site within the drip-line of, or adjacent to, any protected vegetation.



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23. All tree removal shall be carried out in a manner that avoids damage to trees identified for retention.

Advice Note:

The nominated arborist should involve the Council (Team Leader Compliance and Monitoring - Central) in the decision making process where any tree roots over 50mm are to be severed as works progress.

24. Temporary protective fencing to protect the trees to be retained shall be installed prior to any site works commencing. The purpose of the temporary protective fencing is to provide an area around the retained trees that will facilitate their successful retention during the construction process. The exact extent and location of the temporary protective fencing shall be finalised on site before works begin, by the nominated arborist. As a minimum, the temporary protective fencing shall utilise hurricane mesh barriers of a minimum 1.8m in height firmly anchored into the ground with steel waratah stakes unless otherwise agreed by the nominated arborist. Signage (minimum size 600mm x 450mm) shall be attached to the temporary protective fence at no greater than 10m intervals stating that it is a tree protection area and there should be no unauthorised entry.

Cultural Heritage

25. The consent holder shall offer iwi the opportunity to monitor the works associated with this consent. This offer shall be provided to Ngati Maru, Ngati Whatua o Orakei, Ngai Tai Ki Tamaki and Te Kawerau a Maki a minimum of 10 days prior to works commencing. A copy of correspondence outlining the offer to iwi shall be submitted to the Council (Team Leader Compliance and Monitoring - Central).

DURING CONSTRUCTION CONDITIONS

26. All construction works shall be carried out in accordance with the approved CTMP, CMP, CNVMP, and construction methodology required by foregoing conditions to the satisfaction of Council (Team Leader Compliance and Monitoring - Central).

Noise

27. Construction work, other than any construction work utilising the traffic lanes of the Auckland Harbour Bridge, shall be carried out, as far as is reasonably practicable, in compliance with the construction noise limits set out in NZS 6803:1999 and Rule E25.6.27 of the Auckland Unitary Plan (Decisions Version).
28. Unless otherwise approved by the Council (Team Leader Compliance and Monitoring - Central), all construction works at the Northern and Southern Landings including mechanical equipment, except for the delivery, installation, breakdown and removal of cranes to the site (if required) and any construction work utilising the traffic lanes of the Auckland Harbour Bridge, shall be restricted to the hours of between 7.30am to 6.00pm Monday to Friday, and 9.00am to 1.00pm Saturday (for the Northern Landing) and 8.00am to 1.00pm Saturday (for the Southern Landing). No works shall be undertaken on Sundays and public holidays.

Advice Note:



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This condition does not control the hours of construction work when utilising the traffic lanes of the Auckland Harbour Bridge for construction. Those works hours are controlled separately by New Zealand Transport Agency.

Vibration

29. Vibration generated by construction activities shall be controlled to ensure any resulting ground vibration does not exceed the limits set out in Table 1 of DIN 4150:3-1999: Structural vibration – Part 3 Effects of vibration on structures when measure on the foundation or the horizontal plane of the highest floor of an affected building.

Sediment Control

30. The consent holder shall take all necessary measures to control silt contaminated stormwater at all times during the earthworks stage at either landing site, in accordance with Auckland Council District Plan (Auckland City Isthmus Section 1999) Annexure 14 Guidelines and/or Auckland Regional Council TP10 requirements. In particular, the sediment control measures shall consist of cesspit controls, typically cloth covering and filter sock bunds to detain surface flows from entering the stormwater system; the use of TP90 super silt fences and/or bunds at the lower edge of excavated areas.
31. After each rainfall event, the consent holder shall remove all sediment from excavations immediately to an off-site location to reduce the risk of it going beyond the excavation area.
32. The consent holder shall ensure that the contractor undertakes the works in accordance with good engineering practice. This shall include not undertaking excavations immediately prior to forecast significant rainfall events, minimising the amount of exposed area at any one time, and to rapidly stabilise exposed surfaces as they progress.

Work in Transport Corridor

33. Works within transport corridors shall be undertaken in accordance with the National Code of Practice for Utility Operators' Access to Transport Corridors (November 2011), unless otherwise agreed between the consent holder and the Corridor Manager.

Proximity to Transpower Assets

34. A Transpower representative shall be allowed access on-site during the construction stage.

Advice Note:

Transpower (or a representative) has a right of access to its existing assets under section 23 of the Electricity Act 1992. Any development must not preclude or obstruct this right of access. It is an offence under section 163(f) of the Electricity Act 1992 to intentionally obstruct any person in the performance of any duty or in doing any work that the person has the lawful authority to do under section 23 of the Electricity Act 1992.

Transpower cable protection covers shall not be interfered with at any time.



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Cultural Heritage

36. In the event of the accidental or unexpected discovery of archaeological features, including human remains:
- (a) All work within the vicinity of the discovery shall cease immediately.
 - (b) A buffer of at least 5 metres shall be set up around the discovery and this shall be marked on the ground, preferably with pegs and tape, or similar.
 - (c) All machinery and plant shall be removed from the buffer zone where this is possible.
 - (d) The following parties shall be informed within 24 hours of the discovery:
 - (i) site archaeologist, or other qualified archaeologist
 - (ii) The Council (Team Leader Compliance and Monitoring - Central)
 - (iii) Heritage New Zealand Pouhere Taonga (Heritage NZ)
 - (iv) Ngati Maru, Ngati Whatua o Orakei, Ngai Tai Ki Tamaki and Te Kawerau a Maki authorities shall be informed. Appropriate protocols (tikanga) shall be observed.
 - (v) If the discovery is of human remains, the New Zealand Police shall be informed.
 - (e) The archaeologist shall take relevant steps to secure the area of the discovery.
 - (f) The archaeologist shall assess the discovery and advise Council, Heritage NZ and the client on the relevant steps to be taken.
 - (g) Works in the area of the discovery shall not recommence until authorised in writing by the archaeologist in consultation with the Council, any identified affected parties and Heritage NZ.

Operational Plan

37. Three months prior to the opening of SkyPath the consent holder shall prepare an Operational Plan and submit this to Council (Team Leader Compliance and Monitoring - Central) for approval. The approved Operational Plan shall be implemented prior to the opening of SkyPath. The objectives of the Operational Plan are to:
- (a) detail the operational measures to be implemented to ensure the safety and security of users of SkyPath;
 - (b) detail the operational measures to be implemented to ensure to the extent reasonably practicable that the traffic and parking impacts of SkyPath are no more than minor. In particular, the Operational Plan shall include details of measures to:
 - (i) discourage recreational and tourist users accessing SkyPath from the Northern Landing; and



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- (ii) encourage all users to choose walking, cycling, public transport or other non-car modes to access SkyPath.
 - (c) enable the consent holder to respond to its ongoing engagement with the community and key stakeholders in relation to the operation of SkyPath.
38. The Operational Plan prepared under condition 37 shall:
- (a) be based upon the ~~{Draft Operational Plan dated August 2016{XX1}}~~;
 - (b) be prepared in consultation with the New Zealand Transport Agency to ensure that it aligns with any operational requirements of the consent holder's licence to occupy, including any limits on the number of users of SkyPath at any one time, for structural or health and safety reasons. When the Operational Plan is submitted for approval under Condition 37, the consent holder shall provide the Council (Team Leader Compliance and Monitoring - Central) with confirmation from the New Zealand Transport Agency of its acceptance of the Operational Plan; ~~(including any operational plan approved under that licence);~~ and
 - (c) include the following operational information and measures as a minimum:
 - (i~~a~~) management techniques to address safety and security on SkyPath for its users;
 - (ii~~b~~) the provision of traffic management measures (see condition 40 below);
 - (iii~~c~~) a signage and wayfinding strategy (see condition 41 below);
 - (iv~~d~~) a media strategy (see condition 42 below);
 - (v~~e~~) processes for ongoing liaison with the Community Liaison Group, user groups and the surrounding community;
 - (vi~~f~~) processes for ongoing liaison with the key stakeholders of Auckland Council, New Zealand Transport Agency and Auckland Transport, and Development Auckland. These stakeholders shall be provided with the opportunity to have input into the preparation of the Operational Plan; and
 - (vii~~g~~) provision of a feedback register that is updated on a regular basis identifying adverse effects that may arise through the day-to-day operation of the facility, and from feedback from the surrounding community and the Community Liaison Group and how these matters have been addressed by the consent holder. This register shall be made available to Council on request as part of any review.

Advice note

10. —A licence to occupy will need to be obtained from the New Zealand Transport Agency. As part of the licence to occupy, the approval of the New Zealand Transport Agency will be required with respect to a number of matters including, but not limited to, construction, health and safety requirements, noise/vibration, urban design and CPTED, traffic management, lighting, operational management and maintenance. It is recognised that the licence to occupy granted by the New Zealand Transport Agency may also require limits



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~~on the number of users of SkyPath at any one time, for structural or health and safety reasons.~~

39. The Operational Plan shall be a living document that is to be regularly updated in consultation with the New Zealand Transport Agency (as manager of the Auckland Harbour Bridge) and other stakeholders including Auckland Transport, Ngati Maru, Ngati Whatua o Orakei, Ngai Tai Ki Tamaki and Te Kawerau a Maki authorities and the Community Liaison Group. The Operational Plan shall be reviewed as a minimum at the times set out below (and the consent holder shall establish a project team with membership offered to each of the stated stakeholder groups to review the effectiveness of the Operational Plan at stages (a) to (f) below):
- (a) At the end of each week for the first month that SkyPath is open to the public;
 - (b) At the end of each month for the first 3 months that the SkyPath is open to the public (if it does not coincide with another review);
 - (c) At the end of the first December and the first January that the SkyPath is open to the public (if it does not coincide with another review);
 - (d) At the end of the first year that the SkyPath is open to the public (if it does not coincide with another review);
 - (e) Every 3 years following the SkyPath being opened to the public (if it does not coincide with another review); and
 - (f) Prior to and following any one-off events where patronage of SkyPath is anticipated to be unusually high (for example attractions on Waitemata Harbour such as large yachting regattas or race starts).

Any amendments to the Operational Plan shall be submitted for approval by the Council (Team Leader Compliance and Monitoring - Central). As part of any review, the consent holder shall note any comments received from the New Zealand Transport Agency and the stated stakeholder groups, along with an explanation of where and why any comments have not been incorporated into the Operational Plan.

40. The Operational Plan shall include a section addressing the traffic management measures to be in place for the opening of SkyPath. The following opening / initial period measures shall be in place:
- (a) An Event Traffic Management Plan shall be in place for each of the first four weekends following the opening of SkyPath;
 - (b) Access to SkyPath shall be restricted to on-line bookings for the first three weeks of operation;
 - (c) Access to SkyPath shall be restricted to on-line bookings for weekends for the first summer period (1 December to 28 February) of operation;
 - (d) A pricing structure shall be implemented that is designed to discourage the use of SkyPath at weekend peak times;

The signage and wayfinding strategy required under condition 41 shall be implemented; and



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- (f) At least three additional traffic management staff shall be provided at each Landing (in addition to normal staff / security) during weekends, and shall be stationed on adjacent roads.

The measures outlined in (d) and (f) above shall remain in place until the Team Leader Compliance and Monitoring – Central has certified a report from the consent holder prepared by a suitably qualified and experienced traffic engineer assessing the operation of SkyPath that determines consent holder has received written confirmation from the Council that the measure(s) can be removed or modified because they are no longer required to achieve the objective in condition 37(b). The report must include, at a minimum:

- details of the numbers and pattern of users of SkyPath from the time of opening;
- details of the implementation of measures (a), (b) and (c) above;
- an assessment of the impacts on traffic and parking at both Landing areas as a direct result of SkyPath usage; and
- confirmation that the objective in condition 37(b) can be achieved without the measures in (d) and/or (f).

Advice Note:

~~There are also likely to be operational requirements in the consent holder's licence to occupy as issued by NZTA. It is important that the Operational Plan required by the consent conditions and any operational requirements from NZTA's licence to occupy is aligned.~~

Signage and Wayfinding Strategy

41. The Operational Plan shall include a signage and wayfinding strategy for approval of Council (Team Leader Compliance and Monitoring - Central in consultation with Urban Design Specialists) along with evidence of consultation on the strategy that has been undertaken with Development Auckland and Auckland Transport. The purpose of this strategy is to set out the measures to be implemented to ensure that SkyPath users are informed of key routes and linkages at the Landings and to discourage extraneous traffic movements towards the Landings. This strategy shall provide details of the following:
- (a) how members of the public will be directed to and from SkyPath at the landing areas;
 - (b) how members of the public will be directed to connect with other cycle, pedestrian and public transport routes in the vicinity of the SkyPath landing areas;
 - (c) signage addressing any statutory parking and bus/coach restrictions in the area;
 - (d) information signage discouraging SkyPath-related car parking near the landings and in surrounding suburbs, and advising of alternative parking options such as in public car park facilities further away (primarily City Centre);



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- (e) hours of operation and alternative routes;
- (f) emergency contact phone numbers; and
- (g) the design and location of all proposed signs.

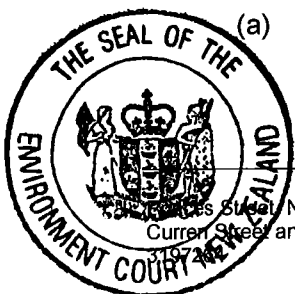
This strategy shall be implemented prior to the opening of SkyPath, and be coordinated with the Media Strategy under condition 42.

Media Strategy

42. The Operational Plan shall include a media strategy which shall include the following key messages:
- (a) directing recreational and tourist users to commence their journey from the Southern Landing, or appropriate locations within the city such as Britomart Transport Centre;
 - (b) encouraging users to choose walking, cycling, public transport or other non-car modes to access SkyPath;
 - (c) directing users accessing SkyPath by car to appropriate public carpark facilities (this may include internet/smartphone information) and advising that there is no dedicated carparking at the Northern Landing for SkyPath users;
 - (d) identifying nearby walking/cycling routes for users to access SkyPath from;
 - (e) providing live patronage information and identifying anticipated periods of high demand to reduce the likelihood of patrons arriving when the facility is already operating at high capacity; and
 - (f) alerting users to any currently active opening / initial period restrictions that may be in place.
43. As a minimum, the media strategy under condition 42 shall be implemented:
- (a) for at least one month in advance of the opening of SkyPath;
 - (b) for at least one month after the opening of SkyPath; and
 - (c) during December and January each year and to advise of any restrictions or pre-bookings required in respect of special one-off events.

Southern Landing Traffic Works Plan

44. Prior to the opening of SkyPath, the consent holder shall engage a suitably qualified expert to submit to the Council (Team Leader Compliance and Monitoring - Central) for approval, a Traffic Works Plan for the Southern Landing outlining the location of the following physical traffic and parking mitigation measures that are to be implemented and in place prior to the opening of SkyPath:
- (a) provision for two tour coach and shuttle drop-off bus spaces and associated manoeuvring access located no more than approximately 400m walking distance from the Southern Landing turnstiles;



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- (b) provision of a vehicle drop-off area for four to six vehicles located no more than approximately 800m walking distance from the Southern Landing turnstiles;
- (c) provision of three to four mobility car parks, located as close as reasonably possible to the Southern Landing turnstiles; and
- (d) provision of safe walking and cycling access from the surrounding existing road and path network into the Southern Landing turnstile plaza, including pedestrian and cyclist crossings over Curran Street, and Westhaven Drive in the vicinity of the Harbour Bridge.

Proof of consultation with Auckland Transport, Development Auckland and the Community Liaison Group shall be provided with the Plan.

Advice Note

The consent holder is encouraged to work with Development Auckland in relation to parking management measures at Westhaven in relation to SkyPath-related car parking, particularly in Westhaven Marina's Northern Car Park and Western Car Park areas.

Northern Landing Traffic Works Plan

45. Prior to the opening of SkyPath, the consent holder shall submit to the Council (Team Leader Compliance and Monitoring - Central in consultation with the Transport specialist and Auckland Transport) for approval, a Traffic Works Plan for the Northern Landing, prepared by a suitably qualified expert, outlining the location of the following physical traffic and parking mitigation measures that are to be implemented and in place prior to the opening of SkyPath:
- (a) provision of road signage directing SkyPath users away from accessing Princes Street (south of Alma Street) by motor vehicle (other than vehicles accessing the SkyPath mobility parking spaces); and
 - (b) provision of a vehicle drop-off area for three vehicles, located in the southern part of Queen Street as identified on TDG plan DWG NO: 12035A13F.

Proof of consultation with Auckland Transport, and the Community Liaison Group shall be provided with the Plan.

POST DEVELOPMENT CONDITIONS

Operational Conditions

46. Access to SkyPath and associated public toilet facilities by the public shall be limited to between the hours of 0600 and 2200, seven days a week.

Lighting

47. Within 30 days of the commencement of the operation of the SkyPath, the consent holder shall submit to Council (Team Leader Compliance and Monitoring – Central in consultation with the Environmental Health Officer) a report from a suitably experienced lighting expert accepted by Council, confirming that the added illuminance from SkyPath at any residential property boundary does not exceed the following levels in a horizontal or vertical plane at any height:



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- (a) 10 Lux between the hours of 6.00am and 10.30pm
 - (b) 5 Lux between the hours of 10.30pm and 6.00am
48. There shall be no motion-activated lighting, or flashing lighting effects at the Northern Landing.

Noise

49. Noise from the operational activities associated with SkyPath shall not exceed the following noise limits at any point within the boundary of a site zoned residential or at the notional boundary of The Wharf event and function centre:
- (a) 10.00pm - 7:00am 45dBA Leq and 75dBA Lmax;
 - (b) 7:00am - 10:00pm 60dBA Leq.

Sound levels shall be measured in accordance with the provisions of NZS 6801:2008 Acoustics - Measurement of environmental sound, and assessed in accordance with the provisions of NZS 6802:2008 Acoustics - Environmental Noise.

Amplified sound at the Northern Landing shall be limited to announcements only and no amplified music shall be permitted at any time.

CPTED Monitoring

50. At a period no sooner than three months nor later than six months following the opening of SkyPath, the consent holder shall provide to Council (Team Leader Compliance and Monitoring - Central in consultation with the Auckland Design Office), a review of the implemented CPTED strategy for the Northern and Southern Landings undertaken by an appropriately qualified CPTED specialist. This review shall be undertaken following consultation with NZTA and should also include any recommendations for improvements in relation to CPTED matters.

CPTED Review

51. Pursuant to section 128 of the Act, within three months of receiving the CPTED Review under condition 50, the Council may review the conditions of consent to require implementation of any of the recommendations identified in the CPTED review.

Transport Monitoring

52. Prior to opening, the consent holder shall provide a baseline Transportation Monitoring Assessment (prepared by a suitably qualified traffic engineer) of traffic movements and parking demand in the roading network at the Southern Landing, at the locations outlined below. As a minimum, the Transportation Monitoring Assessment shall include:
- (a) A seven day period of automatic traffic count on:
 - (i) Curran Street between Sarsfield Street and Jervois Road; and
 - (ii) Westhaven Drive between Z Pier and Sails Restaurant.



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- (b) An assessment of parking demand on Saturdays from 10.00am - 5.00pm within the public kerbside parking network on:
 - (i) Curran Street north of Ponsonby Primary School and Emmett Street; and
 - (ii) Sarsfield Street for one block either side of its intersection with Curran Street.
 - (c) An assessment of peak period intersection average delay (weekday peak from 7.00am - 9.00am and 4.00pm - 7.00pm, and Saturday peak from 11.00am - 2.00pm) at the following intersections:
 - (i) Sarsfield Street / Shelly Beach Road;
 - (ii) Sarsfield Street / Curran Street; and
 - (iii) Westhaven Drive / Shelly Beach Road.
 - (d) Walking and cycling surveys at the intersections and times described in (c) above, including detail such as usage numbers, origin, destination).
53. Prior to opening, the consent holder shall provide a baseline Transportation Monitoring Assessment (by a suitably qualified traffic engineer) of traffic movements and parking demand in the roading network at the Northern Landing, at the locations outlined below. As a minimum, the Transportation Monitoring Assessment should include:
- (a) An assessment of parking demand on Saturdays from 10.00am - 5.00pm within the public kerbside parking network within 800 metres of the Northern Landing.
 - (b) An assessment of peak period intersection average delay (weekday peak from 7.00am - 9.00am and 4.00pm - 7.00pm, and Saturday peak from 11.00am - 2.00pm) at the following intersections:
 - (i) Queen Street / Alma Street;
 - (ii) Princes Street / Alma Street; and
 - (iii) Queen Street / Onewa Road.
 - (c) Walking and cycling surveys at the intersections and times described in (b) above, including detail such as usage numbers, origin, destination).
54. No sooner than three months nor later than six months following the opening of SkyPath, the consent holder shall provide to Council (Team Leader Compliance and Monitoring - Central in consultation with the Transport specialist) for approval a Transportation Monitoring Assessment (by a suitably qualified traffic engineer). The Transportation Monitoring Assessment shall address:
- (a) The matters covered by the baseline Transportation Monitoring Assessments under conditions 52 and 53.
 - (b) Recommendations for additional mitigation to avoid material traffic or parking impacts directly attributable to the operation of SkyPath where one of the triggers in condition 56 is exceeded.



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A copy of the draft Transportation Monitoring Assessment shall be provided to the Community Liaison group for comment, and any comments received from the Community Liaison Group shall be provided to the Council with the Transportation Monitoring Assessment.

55. In preparing the Transportation Monitoring Assessment under condition 54, regard shall be given to:
- (a) Identification of any changes in the local traffic environment, directly attributable to SkyPath, including changes in pedestrian and cyclist route choices since the opening of SkyPath; and
 - (b) The timing of the completion of SkyPath related projects or transportation-related improvements in the area. This may include those identified at section 8.4 of the Transportation Assessment Report identified in condition 1.
56. For the purposes of condition 54, the triggers for additional mitigation recommendations are:
- (a) an increase in parking demand within the public kerbside parking network, within 800 metres of either landing, taking into account any operational parking restrictions area, where parking occupancy is regularly above 85% occupancy at peak times for parking occupancy in those areas; or
 - (b) an identified and quantified increase in the peak period intersection average delay of more than 20 seconds per vehicle (and the resultant intersection Level of Service is D or worse) at any of the intersections identified above at condition 52(c) or 53(b).
57. The Transportation Monitoring Assessment required by condition 54, shall be repeated by 31 March of the first year following the opening date of SkyPath and on the second, third and fifth years thereafter or as appropriate depending on the opening date, to capture the summer period.
58. The Transportation Monitoring Assessment required by condition 54, shall be repeated by 31 March of the tenth and / or fifteenth anniversary of the opening date, if requested in writing by the Council (at least 3 months prior to such anniversary).
59. The Consent Holder shall be required to implement any mitigation recommended in the Transportation Monitoring Assessment and approved by the Council within 6 weeks of receiving written notice by the Council (or such other time as specified by the Council).
- 59A. Pursuant to section 128 of the Act, within three months of receiving a Transportation Monitoring Assessment under condition 54, 57 or 58, the Council may review the conditions of consent in order to address adverse transportation effects by:
- (a) implementing measures to control access to the adjacent road network by SkyPath users travelling in private vehicles;
 - (b) encouraging access to SkyPath by travel modes such as walking, cycling and public transport to a greater degree, including by requiring localised improvements to pedestrian and cyclist infrastructure.



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Advice Note:

Flexibility is considered necessary in regards to the implementation of these measures – so as to not overburden the project with unnecessary requirements, as well as to ensure that stakeholders and neighbours have confidence that potential adverse effects can be effectively managed.

59B. Pursuant to section 128 of the Act, and by 31 March of the first year following the opening date of SkyPath, and on the second, third, fifth, tenth and 15th anniversary, the Council (Team Leader Compliance & Monitoring Leader) may review the conditions of consent in order to address any significant amenity effects on residents of the Northern Landing area (between Alma Street and the Landing, including number 1 Queen Street) as a direct result of the patronage of SkyPath.

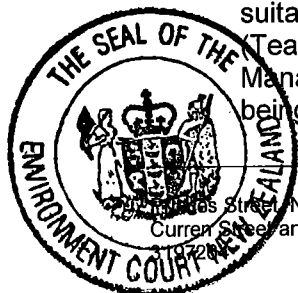
As a result of any review enacted under this condition, the Council may direct changes to the conditions of this consent which may include:

- (a) Requiring the implementation of a pricing structure which is designed to discourage the use of the SkyPath Northern Landing at peak times;
- (b) Implementation of an online-only booking system at peak times;
- (c) Amendments to the mitigation measures outlined on Reset Urban Design Mitigation Plan MP02;
- (d) Requiring further offers of planting or fencing under condition 11 (to the owners of the listed properties or to other nearby properties);
- (e) Requiring further screening on SkyPath and/or around the landing portal;
- (f) Amendments to the Signage and Way-finding Strategy required under condition 41;
- (g) Amendments to the Northern Landing Traffic Works Plan required under condition 45;
- (h) Amendments the Media Strategy required under condition 42;
- (i) Further review of the CPTED Safety Strategy (in addition to the review required under condition 51); and
- (j) Amendments to the Operational Plan required by condition 37, and taking into account any changes to the Operational Plan that have occurred as a result of condition 39.

As part of the review the consent holder shall provide data on patronage and timing of use for the previous 12 month period.

NES CONDITIONS

60. Prior to earthworks commencing a Site Management Plan shall be prepared by a suitably qualified contaminated land specialist to the satisfaction of the Council (Team Leader Compliance and Monitoring - Central) and any variations from the Site Management Plan shall be approved in writing by the Council prior to the variation being actioned.



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61. A suitably qualified and experienced contaminated land specialist shall be engaged to monitor the earthworks.
62. The earthworks shall not result in any airborne or deposited dust beyond the project area boundary of the site that is determined to be noxious, objectionable or offensive. Good practice measures, such as those described in Section 8 of the Good Practice Guide for Assessing and Managing the Environmental Effects of Dust Emissions, Ministry for the Environment (2001), shall be adopted at all times.
63. Appropriate control measures shall be put in place during the works to avoid the discharge of contaminated water to the Waitemata Harbour.
64. All excavated soil that requires off-site disposal shall be taken to a consented landfill and evidence of the disposal shall be provided to the Council (Team Leader Compliance and Monitoring - Central).
65. Works shall cease in the vicinity of any contamination not previously identified and the Council (Team Leader Compliance and Monitoring - Central) shall be advised immediately.
66. The contamination levels of any imported soil/fill shall comply with Auckland Council's clean fill criteria.
67. Within three months following completion of the remediation earthworks, a Site Validation Report shall be provided to the satisfaction of the Council (Team Leader Compliance and Monitoring - Central). The Site Validation Report shall include, but not be limited to:
 - (a) confirmation that the remediation and bulk earthworks were carried out in accordance with the approved Site Management Plan;
 - (b) details of any variations to the approved Site Management Plan;
 - (c) description of any environmental incident including the discovery of unexpected contamination and contingency actions undertaken;
 - (d) any test results for imported soil or spoil disposed offsite; and
 - (e) evidence of landfill disposal of all spoil.

Advice Note:

For the avoidance of doubt, a single Site Management Plan shall be prepared addressing the matters set out in conditions 60 and 85.

SPECIFIC CONDITIONS – COASTAL PERMIT R/REG/2014/3365

GENERAL

68. The consent holder shall notify the Harbourmaster in writing of the date of the proposed commencement of works, at least 10 working days prior to the proposed start date.

A copy of the conditions of consent shall be available at all times on the work site as a requirement for contractors to be aware of restrictions.



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70. The consent holder shall undertake works in accordance with the approved Construction Management Plan required under condition 10.
71. For the duration of the works, the consent holder shall maintain the site in good order to the satisfaction of the Team Leader - Coastal.

Duration

72. Consent to occupy the coastal marine area by the SkyPath structure, and to use the structure to provide for cycling and walking, shall expire on 01 July 2043 unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Lighting

73. The lighting colour projected onto the Auckland Harbour Bridge support piers shall be to the satisfaction of the Harbourmaster.
74. Any proposed flashing lighting effects shall be agreed with the Harbourmaster prior to use.

POST DEVELOPMENT CONDITIONS

75. Navigation aids shall be installed to the satisfaction of the Harbourmaster prior to the use of the proposed structure.
76. Within one week of the completion date, the Team Leader – Coastal shall be notified in writing of the date of completion of the works.
77. The consent holder shall, within two weeks following the completion of the works remove any construction materials from the coastal marine area, to the satisfaction of the Team Leader - Coastal.
78. Within one month of the completion of the proposed works, a complete set of "as built" plans shall be supplied to the Team Leader - Coastal.
79. A copy of the "as built" plans shall be provided to the Hydrographic Office (Chief Hydrographer, National Topo/Hydro Authority, Land Information New Zealand, Private Box 5501, Wellington) within one month of the completion of the works.

Extent of Occupation

80. The right to occupy part of the coastal marine area shall be limited to the area of the structure identified in the documents listed in condition 1 above.
81. The right to occupy part of the coastal marine area shall be an exclusive right.

Maintenance Requirements

82. The structure permitted to occupy the coastal marine area by this consent shall be maintained in a good and sound condition, and any repairs that are necessary shall be made, subject to obtaining any necessary resource consents.



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Use

83. The structure shall be used for the purpose of public walking, cycling and mobility aid access.

SPECIFIC CONDITIONS – DISCHARGE OF CONTAMINANTS R/REG/2015/720

Duration

84. This consent shall expire on 3 July 2023 unless it has been surrendered or been cancelled at an earlier date pursuant to the RMA.

PRE-CONSTRUCTION CONDITIONS

85. At least ten (10) days prior to the commencement of the proposed earthworks activity on the subject sites, a Site Management Plan shall be provided to the Team Leader Earthworks and Contaminated Land, Natural Resources and Specialist Input, for review. The Site Management Plan shall be prepared by a suitably qualified and experienced contaminated land professional in accordance with Schedule 13 (A4) of the Auckland Council Regional Plan: Air, Land and Water.
86. No earthworks activity on the subject sites shall commence until confirmation is provided from the Team Leader Earthworks and Contaminated Land, Natural Resources and Specialist Input, that the Site Management Plan satisfactorily meets the requirements of Schedule 13 (A4) of the ACRP:ALW, and all measures identified in that plan as required to be put in place prior to the commencement of works have been established.

Advice Note:

The Site Management Plan required by condition 85 should contain sufficient detail to address the following matters:

- (i) The areas within the project site designated for the excavation works, including depths and extent of the proposed works, and an updated map showing the earthworks areas;*
- (ii) Excavation, management, and disposal procedures for soil, sediment, dust, surface run-off water, and groundwater, if encountered, and odour control;*
- (iii) Dewatering of potential perched groundwater and disposal procedures, including testing of groundwater or surface run-off water if disposal option to the stormwater system or marine environment is considered;*
- (iv) Contingency measures;*
- (v) Proposed sampling and analysis; and*
- (vi) Proposed Works Summary Reporting.*

The Council acknowledges that the Site Management Plan is intended to provide flexibility of the management of the works and contaminated site discharge. Accordingly, the plan may need to be further updated. Any updates should be limited to the scope of this consent and consistent with the conditions of this consent. If you would like to confirm that any proposed updates are within scope, please contact the



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Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input, on (09) 301 0101.

87. The Team Leader Earthworks and Contaminated Land, Natural Resources and Specialist Input, shall be notified at least two (2) working days prior to the land disturbance activity on the subject site.

Advice Note:

To comply with condition 87 please contact the Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input at david.hampson@aucklandcouncil.govt.nz to advise of the start of works. The following details should also be provided:

- (i) Name and telephone number of the project manager and the site owner;*
- (ii) Site address to which the consents relate;*
- (iii) Activity to which the consents relate; and*
- (iv) Expected duration of the works.*

DURING CONSTRUCTION CONDITIONS

88. All disturbance of the contaminated and potentially contaminated soil for the proposed earthworks shall be carried out in accordance with the Site Management Plan required by condition 85 and any changes to the plan shall be approved in writing by the Team Leader Earthworks and Contaminated Land, Natural Resources and Specialist Input, prior to the change being carried out.
89. All disturbance of potentially contaminated soil shall be supervised by a suitably qualified contaminated land professional, who shall ensure that all soil sampling, management procedures, and contingency measures outlined in the Site Management Plan required by condition 85, and all relevant consent conditions are adhered to. Certification from the suitably qualified contaminated land specialist responsible for supervising the works shall be provided within the Works Summary Report required by condition 98.
90. All soil disturbance works shall be managed to minimise any discharge of debris, soil, silt, sediment or sediment-laden water from the subject site to either land, stormwater systems or receiving marine environment.

Advice Note:

Discharge from the site includes the following:

- (i) infiltration of stormwater into open excavations that may be contaminated; and*
- (ii) disposal of water (eg perched groundwater or collected surface run-off water) from excavations.*

Measures such as covering excavations overnight and during heavy rainfall, diverting overland flow around the works area, and appropriate disposal of any water collected in an excavation may be required to comply with this condition.



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91. All earthworks shall be managed to avoid the potential for cross-contamination of materials to occur, in particular movement of contaminated soil around the site and/or deposition of contaminated soil on other parts of the site shall be avoided. Where soils are identified for off-site disposal, they shall be loaded directly for removal, where possible, and all material shall be covered during transportation off site.
92. To minimise the spread of contaminated material, all stockpiles of excavated potentially contaminated material shall be located within the catchment of erosion and sediment controls for the site. All stockpiles shall be covered with either polythene or an equivalent impermeable material when the site is not being worked and during periods of heavy rain.
93. At all times dust shall be controlled in accordance with the publication titled Good Practice Guide for Assessing and Managing the Environmental Effects of Dust Emissions, Ministry for the Environment (2001).
94. Excess soil or waste materials removed from the subject site shall be deposited at a disposal site that holds a consent to accept the relevant level of contamination.
95. Any perched groundwater, or surface run-off water, encountered within the excavation area requiring removal shall be considered as potentially contaminated, and shall either:
 - (a) be disposed of by a licensed liquid waste contractor; or
 - (b) pumped to sewer, providing relevant permits are obtained; or
 - (c) discharged to the stormwater system or surface waters, provided testing demonstrates compliance with the Australian and New Zealand Environment Conservation Council (ANZECC) *Guidelines for Fresh and Marine Water Quality* (2000) for the protection of 95 percent of marine water species.
96. Where contaminants are identified that have not been anticipated by the application, works in the area containing the unexpected contamination shall cease until the contingency measures outlined in the Site Management Plan required by condition 85 have been implemented, and have been notified to the Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input. Any unexpected contamination encountered during the works and contingency measures implemented shall be documented in the Works Summary Report required by condition 98.

Advice Note:

In accordance with condition 96 any unexpected contamination may include separate phase hydrocarbons, contaminated soil, perched water or groundwater. The consent holder is advised that where unexpected contamination is significantly different in extent and concentration from that anticipated, handling the contamination may be outside the scope of this consent. Advice should be sought from the Team Leader Earthworks and Contaminated Land, Natural Resources and Specialist Input prior to carrying out any further work in the area of the unexpected contamination to ensure this is within the scope of this consent.

All sampling and testing of contamination on the site shall be overseen by a suitably qualified contaminated land professional. All sampling shall be undertaken in



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accordance with Contaminated Land Management Guidelines, No.5 – Site Investigation and Analysis of Soils, Ministry for the Environment (revised 2011).

Advice Note:

All testing and analysis should be undertaken in a laboratory with suitable experience and ability to carry out the analysis. For more details on how to confirm the suitability of the laboratory please refer to Part 4: Laboratory Analysis, of Contaminated Land Management Guidelines No.5.

POST DEVELOPMENT CONDITIONS

98. Within three months of the completion of earthworks on the site, a Works Summary Report shall be provided to the Team Leader Earthworks and Contaminated Land, Natural Resources and Specialist Input. The Works Summary Report shall be prepared by a suitably qualified contaminated land professional in accordance with Schedule 13 (A5) of the Auckland Council Regional Plan: Air, Land and Water and the Contaminated Land Management Guidelines, No.1 - Reporting on Contaminated Sites in New Zealand, Ministry for the Environment (revised 2011).

Advice Note:

The Works Summary Report required by condition 98 should contain sufficient detail to address the following matters as a minimum:

- (i) a summary of the works undertaken, including a statement confirming whether the excavation of the site has been completed in accordance with the Site Management Plan required by condition 85;*
- (ii) the location and dimensions of the excavations carried out, including a relevant site plan;*
- (iii) a summary of soil, perched water, and/or groundwater testing undertaken, if applicable, including tabulated analytical results, and interpretation of the results in the context of the Contaminated Land Rules of the Auckland Council Regional Plan: Air, Land and Water, the Proposed Auckland Unitary Plan;*
- (iv) copies of the disposal dockets for the material removed from the site;*
- (v) records of any unexpected contamination encountered during the works and contingency measures undertaken, if applicable;*
- (vi) details regarding any complaints and/or breaches of the procedures set out in the Site Management Plan required by condition 85 and the conditions of this consent; and*
- (vii) results of testing of any imported fill material to ensure compliance with the definition of 'cleanfill', as per 'A Guide to the Management of Cleanfills', Ministry for the Environment (2002).*

GENERAL ADVICE NOTES

The consent holder shall obtain all other necessary consents and permits, including those under the Building Act 2004, and comply with all relevant Council Bylaws. This consent does not constitute building consent approval. Please check whether a

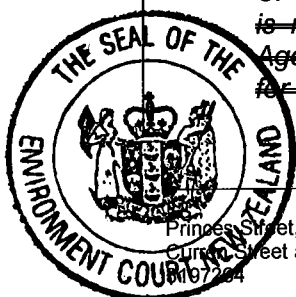
*Koromiko Street, Northcote Point; Auckland Harbour Bridge;
Curren Street and Westhaven Drive, Westhaven – 'SkyPath'*



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building consent is required under the Building Act 2004. Please note that the approval of this resource consent, including consent conditions specified above, may affect a previously issued building consent for the same project, in which case a new building consent may be required.

2. *The consent holder shall obtain all appropriate approvals from Watercare Services Limited for works over their infrastructure prior to any works commencing.*
3. *Terms of Reference have been established for the SkyPath project between the consent holder and the Mana Whenua Working Group, which outline obligations and undertakings for the consent holder based on a spirit of partnership.*
4. *A copy of this consent shall be held on site at all times during the establishment and construction phase of the activity.*
5. *The consent holder is requested to notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencement. Such notification should be sent to the Team Leader: Compliance and Monitoring - Central, (fax: 353 9186) and include the following details:*
 - (i) *name and telephone number of the project manager and the site owner;*
 - (ii) *site address to which the consent relates;*
 - (iii) *activity to which the consent relates; and*
 - (iv) *expected duration of works.*
6. *This consent does not relieve the consent holder of his/her responsibility to apply for any other consents which may be required by the Auckland Council and/or Heritage New Zealand. This consent is issued under the Resource Management Act 1991 and does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety in Employment Act 1992), regulations, Bylaws, and rules of law.*
7. *The scope of this resource consent is defined by the application made to Auckland Council and all documentation supporting that application.*
8. *All references to Council officers / roles or other entities shall include their successors.*
9. *A lease and air space licence will need to be obtained from Pānuku Development Auckland, and an air space licence from the Auckland Council Parks Sport and Recreation department.*
- ~~10. *A licence to occupy will need to be obtained from the New Zealand Transport Agency. As part of the licence to occupy, the approval of the New Zealand Transport Agency will be required with respect to a number of matters including, but not limited to, construction, health and safety requirements, noise/vibration, urban design and CPTED, traffic management, lighting, operational management and maintenance. It is recognised that the licence to occupy granted by the New Zealand Transport Agency may also require limits on the number of users of SkyPath at any one time, for structural or health and safety reasons.*~~



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- | 104. *The CTMP will be assessed for approval by the relevant Road Controlling Authority (Auckland Transport on behalf of Auckland Council and/or the New Zealand Transport Agency).*



**APPENDIX A (TO CONSENT CONDITIONS)
TRAFFIC MANAGEMENT PLAN
FOR DEMOLITION & CONSTRUCTION ACTIVITIES**

The following is a list of issues that would need to be addressed in detail in any traffic management plan being prepared for demolition and construction activity.

- ingress/egress to/from site
- materials storage
- truck unloading/loading, particularly hours of operation and that truck movements shall be outside of peak hours.
- concrete deliveries
- rubbish removal
- truck movements to the site
- truck waiting
- truck cleaning
- subcontractors vehicles
- workers vehicles
- craneage
- cherry pickers
- pedestrian movements and pedestrian control/safety
- all weather protection for pedestrians
- needs of other property owners/occupiers affected by the works and how those needs will be met (including parking, servicing, access requirements).
- equipment to be used for control of traffic
- details of all signage
- on street parking controls and liaison with Parking Services
- impact on street lighting
- liaison with emergency services
- liaison with public transport and road transport organisations
- how to keep footpaths and roadway clean and uncluttered
- site sheds (on or over the street).

NB The plan needs to take account of the full potential effects of the activity on public space (road, footpath, etc).

The contractor will need to have evaluated:

- a) The traffic conditions
- b) Existing traffic and parking controls
- c) Physical features
- d) Visibility restrictions
- e) Requirements of other properties re: access etc.

It is suggested that for significant construction sites there be someone appointed who has responsibility and accountability for controlling traffic matters and ensuring that the agreed traffic management plan is adhered to.

