

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



Proposal

To construct two ship mooring dolphins and associated wharf access structures from the end of Queens Wharf in the coastal marine area and to undertake alterations to the existing Queens Wharf structure, including strengthening, removal of existing bollards, installation of new piles and bollards and modifying the sub-structure.

The resource consents are **GRANTED** subject to conditions. The reasons are set out below.

Application number(s):	CST60323353
Site address:	Queens Wharf, Waitematā Harbour
Applicant:	Panuku Development Auckland Limited
Hearing days:	18, 19, 20, 21, 25, 26 and 27 February 2019
Hearing panel:	Kitt Littlejohn Juliane Chetham Trevor Mackie
Appearances:	Panuku Development Auckland Limited: Daniel Minhinnick & Simon Pilkington, Legal Counsel Matthew Twose & Rod Marler, Panuku Simon Oddie, Auckland Council John Smith, Panuku Alistair Kirk, Ports of Auckland Limited Matthew Holbrook, Ports of Auckland Limited Greg Akehurst, Market Economics Limited Peter Clough, NZIER Stuart Houghton, Boffa Miskell Limited Stephen Brown, Brown NZ Limited Rachel de Lambert, Boffa Miskell Limited John Brown, Plan Heritage Limited Geraint Bermingham & Damian Gibbs, Navigatus Consulting Limited Jim Dilley, Harbourmaster Kristian Nelson, McMillen Jacobs Associates

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

	<p>Stephen Priestley, Consulting Engineer Joe Phillips, Beca Limited Craig Fitzgerald, Marshall Day Acoustics Limited Sharon de Luca, Boffa Miskell Limited Karl Cook, Barker & Associates Limited</p> <p>Submitters:</p> <p><u>Cooper and Company NZ Ltd</u> (Vicki Morrison-Shaw, Don McKenzie) <u>Cruise Lines International Association</u> (Stephanie de Groot, Sture Myrmell, Susan Bonner, Simon Smith) <u>Royal Caribbean Cruise</u> (Susan Bonner) <u>New Zealand Cruise Association, ISS-McKay Limited, I D Tours New Zealand Limited</u> (Stephanie de Groot, Graig Harris, Jeremy Palmer) <u>Regional Tourism New Zealand</u> (Charlie Ives) <u>Tourism Industry Aotearoa</u> (Steve Hanrahan) <u>Bryce Bartley</u> <u>Coralie van Camp</u> <u>Ngāti Te Ata</u> (Roimata Minhinnick) <u>Fullers Group Limited & 360 Discovery Limited</u> (Daniel Sadlier, Michael Horne, Alistair Thompson) <u>Alan Stamp</u> <u>Martin Poulsen</u> <u>Ian McNeill</u> <u>Heart of the City Inc</u> (Vic Beck, Kelvin Norgrove, Tania Loveridge) <u>Queens Wharf Submitters</u> (Rob Enright, Ruby Haazen, Noelene Buckland, Luke Niue, Michael Goldwater, Julie Stout, Bridget Gilbert, Timothy Denne, Graeme Burgess, Pip Cheshire, Robert Scott) <u>Mike Lee</u> <u>Joel Cayford</u> <u>Andrew Barney</u> <u>Michael McKeown</u> <u>Auckland Yachting & Boating Association Inc</u> (Alan Webb, Richard Brown, Tony Skelton, Grant McDuff, Barry Holton) <u>Devonport Heritage</u> (Margot McRae, Alistair Helm) <u>Heritage New Zealand/Pouhere Taonga</u> (Rebecca Vertongen, Robin Byron)</p> <p>Auckland Council Reporting Team:</p>
--	---

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

	Tracey Grant, Principal Project Lead Shane Martin, Economics Bryan Pooley, Heritage Hamish Speakman, Transportation Peter Kensington, Landscape, Natural Character and Amenity Andrew Hayton, Harbourmaster Richard Blakey, Reporting Planner Hearings Advisor: Sam Otter
Hearing adjourned	27 February 2019
Commissioners' site visit	19 February 2019
Hearing Closed:	8 March 2019

Summary of decision

1. Panuku Development Auckland Limited has sought resource consent under the Resource Management Act 1991 to construct two ship mooring dolphins and associated access gangways from the end of Queens Wharf in Auckland and to undertake alterations to the wharf structure. The works are intended to enable Queens Wharf to berth larger cruise ships than can presently be accommodated at Auckland's cruise ship berths at Princes or Queens Wharf. The applications are a discretionary activity under the Auckland Unitary Plan and require consideration under ss 104 and 104B of the Act.
2. After considering the evidence we have decided to grant consent, subject to conditions. We have found that although the proposal would have a range of adverse effects on the environment, both during construction and operation, those effects are able to be avoided, remedied or mitigated to an acceptable level by way of good construction management, engagement with Mana Whenua, and consultation with other stakeholders. The proposal by Panuku that the occupation consent for the dolphins expire once Captain Cook Wharf is operational as a large cruise ship berth, or in 15 years' time (whichever is the earlier), and that the structures are then removed, was a key feature of the application that weighed in its favour. Its positive economic and social benefits, and improvements to the current process of receiving large cruise ships, were also beneficial features.
3. We also found that the application was consistent with all relevant statutory and non-statutory planning and strategic documents guiding the use and development of the Auckland Waterfront, and the Central Wharves Precinct in particular. We were not persuaded by arguments that the proposal would impact significantly on the current use or future development potential of Queens Wharf for public open space and recreational activities, or that consent should be refused because the dolphins were new structures in the Waitemata Harbour. Rather, we found that the proposal achieves the sustainable management of natural and physical resources.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

Introduction

4. This decision is made on behalf of the Auckland Council (“Council”) by Independent Hearing Commissioners.¹ It contains the findings of our deliberations following the hearing of the application by Panuku Development Auckland Limited (“Panuku”) for resource consent to construct two ship mooring dolphins and associated wharf access structures from the end of Queens Wharf in Auckland and to undertake alterations to the wharf structure (strengthening, removal of existing bollards, installation of new piles and bollards and modifying the sub-structure).
5. This decision has been prepared in accordance with s 113 of the Resource Management Act 1991.²

Procedural matters

6. The application by Panuku was publicly notified on 10 September 2018. A total of 329 submissions were received, with 44 in support, 284 in opposition, and 1 neutral.
7. Two procedural matters were addressed at the hearing.
8. First, pursuant to s 37 we resolved to receive a small number of submissions that were filed after the close of the submission period on the grounds that the delay in filing them was minimal, that they raised similar matters to other submissions and because Panuku did not object to them being received.
9. Second, on day 5 of the hearing, we received an application by NewsHub to film aspects of some submitters’ presentations. In the absence of an objection by any of the parties present, we allowed the application.

Materials considered and summary of evidence

10. The s 42A report on the application was prepared by Mr Richard Blakey, an independent, qualified and experienced resource management planner,³ and was circulated prior to the hearing in accordance with s 103B(2). The report canvassed all of the application material submitted by Panuku in support of the application, further information provided in response to s 92 further information requests from council officers and specialist reviewers, and all submissions received on the application.
11. In his report, Mr Blakey analysed all of the information in relation to the application in a thorough and comprehensive way. Although not required by s 42A, Mr Blakey also included a recommendation that we exercise our discretion to refuse consent to the application. In summary, although Mr Blakey accepted that the proposal would yield a economic and social benefits, he considered it would have more than minor adverse effects on the environment, including in terms of visual and landscape effects, adverse

¹ Kitt Littlejohn, Julianne Chetham and Trevor Mackie, appointed and acting under delegated authority under ss 34 and 34A of the Resource Management Act 1991.

² Unless otherwise specified, references to sections and sub-sections are references to sections and sub-sections in the Resource Management Act 1991.

³ A summary of Mr Blakey’s qualifications and experience was included as Attachment 10 to the s 42A report.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

amenity and recreational effects, as well as adverse effects on cultural values and the heritage qualities of Queens Wharf. Consequently, Mr Blakey also considered the proposal would be inconsistent with the relevant statutory and non-statutory planning documents.

12. Despite his recommendation, Mr Blakey helpfully provided us with a draft set of conditions to be imposed on the consent in the event we came to a different view of the proposal after hearing the evidence presented by the applicant and submitters. The draft conditions recommended a maximum 12-year duration for the coastal occupation consent relating to the mooring dolphins and their associated gangways, as well as a requirement that they be removed from the CMCA prior to the expiry of the consent.
13. Mr Blakey's s 42A report (and recommendation) was informed by and included copies of a number of technical specialist reviews, prepared by other council officers and independent consultants. These reviews were from Dr Kala Sivaguru (marine ecology effects), Dr Shane Martin (economic effects), Sam Morgan (coastal process effects), Hamish Speakman (traffic and transportation effects), Priyanka Misra (built heritage effects), Andrew Gordon (airborne noise and vibration effects), Jon Styles (underwater noise and vibration effects), Peter Kensington (landscape, natural character and visual effects), and Paul Crimmins (air discharge effects).
14. The s 42A report (and its specialist reviews) was taken "as read" at the hearing, on the basis that it had been pre-circulated and studied by the Commissioners.
15. In accordance with s 103B(3), Panuku provided briefs of the evidence it proposed to call at the hearing in support of its application. The witnesses who prepared that evidence are listed in the record of appearances at the front of this decision. The evidence comprised non-expert corporate evidence, and expert technical and evaluative evidence from a range of qualified and experienced persons.
16. In accordance with s 103B(4), submitters also provided briefs of evidence from the experts they intended to call in support of their submissions. A number of submitters also helpfully provided the briefs of non-expert evidence they intended to call in advance of the hearing. The submitters and witnesses who provided us with written statements or briefs of evidence either prior to or at the hearing are listed in the record of appearances at the front of this decision.
17. At the hearing briefs of evidence were taken "as read" on the basis that they had been pre-circulated and studied by the Commissioners, but witnesses were given the opportunity to summarise and/or highlight aspects of their written briefs. A number of Panuku's witnesses also presented rebuttal statements of evidence responding to the expert evidence that had been provided by submitters.
18. Two parties "tabled" evidence for our consideration (Christopher and Monica Cotter, Ngāti Whātua Ōrākei).

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

19. On day 5 of the hearing counsel for Panuku filed a memorandum signed by counsel for Ngāi Tai Ki Tāmaki and other mana whenua⁴ (Mr Aidan Warren) who had “submitted in opposition to the application” advising that an agreement had been reached between those mana whenua and Panuku and that they no longer required to be heard.⁵
20. At the conclusion of the hearing of submitters Mr Blakey and several of the reporting specialists were summarised their assessments and provided responses or further comments on matters that had arisen during the hearing relevant to their areas of expertise. Several provided detailed supplementary evidence in writing, responding to Panuku’s rebuttal evidence.
21. A number of parties appearing at the hearing were represented by counsel who presented submissions in support of their clients’ position on the application. Consistent with convention, counsel for Panuku had a right of reply, which was presented at the end of the hearing.
22. Section 113 specifically requires us to provide a summary of the evidence we heard at the hearing. The volume of evidence presented to us was considerable. We have included a summary of it in Schedule 1 to this decision. The summary sets out the broad contents and conclusions of the evidence presented without going into every witnesses’ detailed analysis and opinions. We record that we have reviewed and considered in detail all of the evidence presented to us.

The application, consent requirements and activity status

The application

23. Panuku has applied for resource consent to construct two ship mooring dolphins and associated wharf access structures from the end of Queens Wharf in the coastal marine area of the Waitematā Harbour adjacent to the Auckland City CBD. The application also seeks consent to undertake alterations to the existing Queens Wharf structure, including strengthening, removal of existing bollards, installation of new piles and bollards and modifying the sub-structure of the wharf.
24. The works are proposed to upgrade the eastern berth at Queens Wharf so that cruise ships up to 362m in length can be safely moored alongside the wharf. Presently, all of Auckland’s cruise berths have capacity limitations (Princes Wharf East – 318m (up to 330m in certain conditions); Queens Wharf West – 200m; Queens Wharf East – 295m), and the project would address that.
25. The proposed works include the construction of two new ship mooring dolphins (each supported by six 1.8m-diameter concrete piles) located at distances of 49m and 82m (to the centres of the dolphins) from the northern end of the wharf. The mooring dolphins would be connected to Queens Wharf by two sections of gangway, supported on piles. The combined length of these new structures extends for 90.3m beyond the end of the

⁴ Ngāti Tamaoho, Ngāti Whanaunga, Ngāti Tamatera, Ngāti Maru, Te Ākitai o Waiohū, Te Patukirikiri and Te Ara Rangatū o te iwi o Ngāti Te Āta.

⁵ Memorandum of Counsel Confirming Agreements, 25 February 2019.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

existing wharf structure. When not in use for ship mooring activities, the first section of gangway would be open for public use.

26. The upgrade also involves strengthening of the southern end of the wharf, seven new additional bollards on the eastern side at the southern end of the wharf, and additional fender clusters on the eastern side at the north end of the wharf.
27. As the proposed mooring dolphins and their associated access gangways would occupy the common marine and coastal area ("CMCA"), they require a coastal occupation permit under s 12(2). The maximum term able to be granted for such a permit is 35 years (s 123(c)), however, in this case, Panuku amended its application in advance of the hearing to seek coastal occupation rights for the new structures for a term of 15 years only, on the basis that it is anticipated that Captain Cook Wharf will have been developed as the primary cruise ship wharf for Auckland and would likely be available for the mooring of larger cruise ships by that time. In its reply, Panuku further modified this aspect of its application and offered (by way of *Augier* condition), that any coastal occupation permit granted expire on the earlier of 15 years or two years after Captain Cook Wharf "is operational to receive extra-large cruise ships".⁶
28. Panuku also proposes a condition requiring that the dolphins and their access gangways be removed prior to the expiry of the coastal occupation permit, the intention being that the use of Queens Wharf for the berthing of larger cruise ships would cease at this time and the wharf and its surrounding water space would be reinstated to their pre-development condition. Together, the maximum 15-year duration and proposal to remove the mooring dolphins etc before the expiry of the term were the basis for Panuku's position that the proposal was essentially for a temporary activity.

Consent requirements

29. As all of the activities proposed by Panuku would take place in the coastal marine area ("CMA"), s 12 imposes certain restrictions on them. In this case, as none of the activities are expressly allowed to occur under the relevant regional coastal plan they can only be authorised by way of resource consent. The relevant regional coastal plan is comprised of Chapter F2 and the Central Wharves Precinct I202 in the Auckland Unitary Plan ("AUP").⁷ As Queens Wharf is identified in the Historic Heritage Overlay, Chapter D17 also applies to the consideration of the proposed works. It was common ground that under these provisions the proposal requires consents for the following activities:
 - (a) Temporary restriction of public access to the 10m perimeter area of Queens Wharf during construction (Restricted Discretionary Activity per C1.9(2) due to infringement of Standard I202.6.1.9(1));
 - (b) Occupation of the CMCA by temporary structures for the purpose of construction works for a period greater than 40 working days (Restricted Discretionary Activity per C1.9(2) due to infringement of Standard F2.21.10.4(1));

⁶ Panuku, Reply Submissions, 27 February 2019, at 2.21.

⁷ Although the Auckland Unitary Plan is described as being "Operative in Part", all of the provisions engaged by this application are operative.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

- (c) Modifications to the primary feature of a Category B place and activities within the scheduled extent of place of a Category B place (wharf strengthening, removal of existing bollards, and installation of new piles and bollards, modifying the substructure and deck of Queens Wharf) (Restricted Discretionary Activity per D17.4 (A9));
 - (d) Construction activities:
 - (i) within the General Coastal Marine Area zone, which result in noise levels received at 1m from the façade of a building within the General Coastal Marine Zone (not containing an activity sensitive to noise that is occupied during the works) exceeding the limits identified within tables E25.6.27.2 (Restricted Discretionary Activity per E25.6 (A2));
 - (ii) that result in vibration levels that exceed the identified levels within table E25.6.30.1 (Restricted Discretionary Activity per E25.6 (A2)),
 - (e) Underwater impact and vibratory piling, including within the Historic Heritage Overlay (Restricted Discretionary Activity per F2.19.8 (A114));
 - (f) Alterations of an existing lawful coastal marine structure that is a component of infrastructure⁸ (being the alterations to Queens Wharf involving the wharf strengthening, removal of existing bollards and installation of new piles) (Restricted Discretionary Activity per F2.19.10 (A124));
 - (g) “Marine and port accessory structures” on an existing wharf in the Historic Heritage Overlay area (being the new fender clusters and bollards) (Discretionary Activity per F2.19.10 (A137));
 - (h) Occupation of the CMCA by an activity that would otherwise be permitted where the area to be occupied is already the subject of an existing occupation consent (Restricted Discretionary Activity per I202.4 (A22)); and
 - (i) Coastal structures not otherwise provided for in Table I202.4.1 (being the two new mooring dolphins, access gangways and their associated occupation of the CMCA (Discretionary Activity per I202.4 (A36)).
30. The consent requirement (h) above requires a brief explanation. As we understand it, the rule requires a person to obtain their own occupation permit if they propose to undertake activities that are permitted in an area that is already the subject of an existing occupation permit held by another person. In this case, Ports of Auckland Limited (“POAL”) holds a s 384A occupation permit in respect of Queens Wharf⁹ and its surrounds. The rule therefore ensures that POAL’s occupation rights are not impacted by a third party deciding

⁸ Queens Wharf is considered to be a component of “infrastructure” as it is a “*facilit[y] for the loading or unloading of cargo or passengers carried by sea*” and these are included within the definition of “infrastructure” in s 2 of the RMA, which is incorporated into the definition of “infrastructure” in Chapter J of the AUP.

⁹ See Appendix 21 of the AEE.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

to conduct a permitted activity in reliance on them, without POAL's rights being considered. As POAL has given written approval to Panuku's application in this case, we must conclude that it has no concern with what Panuku proposes by way of occupation in this area.

31. There was some debate between Mr Blakey and Mr Cook, Panuku's planner, about this rule. The debate was not as to the purpose of the rule, as we have explained above, but about the "permitted activities" that Mr Cook said it covered. These were "marine and port activities" (i.e., the berthing of cruise ships) and "marine and port accessory structures" to be installed on the mooring dolphins to facilitate the mooring of ships to them (i.e., bollards, capstans, lighting structures etc).¹⁰ There was no dispute about the permitted status of the former of these activities, but Mr Blakey disagreed that the latter (accessory structures) could be treated as permitted, as they were integral components of the mooring dolphins and could not be considered in isolation. In his view, both their installation and occupation fell to be treated as a discretionary activity under I202.4(A36).
32. We prefer Mr Cook's reasoning on this issue. Table I202.4 clearly identifies "marine and port accessory structures" and "marine and port activities" as permitted activities within the Central Wharves Precinct. Under rule A22 therefore, occupation of the CMCA by them requires consideration as a restricted discretionary activity. By contrast, the occupation permit required for the mooring dolphin structures and their associated gangways requires consideration as a discretionary activity under rule A26. We consider below the separate and more contentious issue about whether the effects of these permitted activities can be disregarded under s 104(2).

Consent status of the application

33. We have considered and determined the applications together (i.e., "bundled") as one proposal with an overall discretionary activity status (discretionary being the most "onerous" status of the separate consent requirements). We consider that a case could have been made to "unbundle" the consents required for the wharf strengthening and upgrading works from those associated with the dolphins and associated gangways, but as no party submitted that we should, we have followed the orthodox approach of dealing with the consents as one application.

Relevant statutory provisions

34. The statutory framework for consideration of the proposal is found in pt 6 of the Resource Management Act 1991. It is this framework and the matters it directs us to have regard to that has framed our consideration and determination of the application.
35. Section 104(1) sets out the mandatory matters to which we must have regard when considering the application and any submissions received. The approach to the various matters in s 104(1) is well established: the directive "*must have regard to*" does not mean "*must give effect to*". Rather it simply requires decision-makers to give genuine attention

¹⁰ Both phrases are terms defined in Chapter J of the AUP.

and thought to the matters set out.¹¹ The relative weight to be accorded the matters listed in s 104(1)(a)-(c) is for the decision maker, on the evidence. The Environment Court has also recently observed that flexibility is important when approaching this task, in the sense that the relative importance that various considerations have, and the manner in which they interrelate, will vary according to context.¹²

36. Our jurisdiction in respect of the application is set out in s 104B: after considering the application we may grant or refuse consent. If we grant consent, we may impose conditions under s 108, provided they comply with s 108AA.
37. The relevance of pt 2 of the RMA in this assessment framework has recently been clarified by the Court of Appeal.¹³ The extent to which reference to pt 2 may be required when considering an application for resource consent will depend on whether the relevant plan(s) have been prepared having regard to pt 2 and with a coherent set of policies designed to achieve clear environmental outcomes. If not, or if in doubt, it will be appropriate and necessary to refer to pt 2 – that being the implication of the phrase “subject to Part 2” at the outset of s 104.
38. In the case of this application, no party submitted that we ought to expressly resort to pt 2 on the grounds that the relevant planning framework was not sufficiently coherent. All accepted the currency and comprehensive nature of the AUP as the primary planning document engaged by the application. We agree with those submissions and find that it is not necessary to resort directly to pt 2 to determine the application. In this regard, we follow the approach of the Environment Court in its decision granting consents for the works required for the AC36 regatta, where it too saw no basis to resort to pt 2 finding:¹⁴

...the AUP has only recently been made operative, so can in a general sense be considered to offer provisions prepared having regard to Part 2, and a coherent set of policies designed to achieve clear environmental outcomes.

Existing Environment (s 104(1)(a))

39. We set out here our understanding of the relevant natural and physical resources that comprise the existing environment for the purposes of considering the effects of the proposal.

Queens Wharf and Surrounding Locality

40. Queens Wharf is one of Auckland's central city finger wharves. It is centrally located at the foot of the Auckland CBD and extends outward into the Waitematā Harbour in line with Queen Street. Queens Wharf is a concrete structure approximately 350m long by 85m wide and has a surface level approximately 3.6m above mean sea level. It was constructed between 1907 and 1913.

¹¹ *Foodstuffs (South Island) Ltd v Christchurch CC* (1999) 5 ELRNZ 308; [1999] NZRMA 481 (HC).

¹² *Albert Road Investments Ltd v Auckland Council* [2018] NZEnvC 102. See also *The Warehouse Ltd v Dunedin CC* EnvC C101/01; *R v CD* [1976] 1 NZLR 436.

¹³ *R J Davidson Family Trust v Marlborough DC* (2018) 20 ELRNZ 367 at [73] – [76].

¹⁴ *Re Panuku Development Auckland Ltd* [2018] NZEnvC 179 at [667].

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

41. The Auckland Ferry Building is located immediately to the west of the southern end of Queens Wharf. This building is occupied by restaurant and café facilities, retail units and offices. In addition, there are a number of ferry and tourist boat embarkation and disembarkation pier facilities, with associated ticket facilities located along the Quay Street harbour edge. Further to the west is Princes Wharf, which is occupied by a number of restaurants, office units, residential apartments and the Hilton Hotel.
42. To the south of Queens Wharf is the Auckland CBD. This area is dominated by multi-storey office building developments with hospitality and retail premises at the ground level. Quay Street and its intersection with Queen Street is located to the immediate south of Queens Wharf. The Britomart Transport Station and the Commercial Bay development, which is currently under construction, are located on the adjacent southern side of Quay Street.
43. To the east of Queens Wharf is the POAL customs bonded port facilities area. This includes Captain Cook Wharf to the immediate east, and the partially deconstructed Marsden Wharf to the east of Captain Cook Wharf. Bledisloe Terminal, Jellicoe Wharf, Freyberg Wharf and the Fergusson Container Terminal, which make up the bulk of the operational area of the Port of Auckland, are located further to the east
44. Queens Wharf was purchased from POAL in 2009 by the former Auckland Regional Council (now Auckland Council) and the Crown. It is now owned by Panuku and the Crown jointly (as tenants in common). Following that purchase the wharf was developed and used as a key event area for the Rugby World Cup in 2011.
45. In 2019, there are four main buildings on Queens Wharf:
 - The Cloud: A public event space operated by Panuku (originally developed to perform the function of a 'Fanzone' for the 2011 Rugby World Cup).
 - Shed 10: A former POAL cargo shed, restored and refurbished in 2013 to enable it to be used as Auckland's primary cruise ship terminal, as well as for events.
 - The Ferry Terminal: On the western side of Queens Wharf, providing embarkation and disembarkation points for Auckland ferry operations, as well as ticketing and associated ferry operation facilities.
 - The Lighthouse sculpture: Located to the north of Shed 10, designed by Michael Parekowhai and unveiled in late 2016.
46. These buildings are arranged around a central access "spine" which provides a visual continuation of, and connection between, Queen Street and along the wharf. This retained central "spine" was the primary access onto the wharf from Quay Street when it was originally occupied by five other cargo sheds and operated historically as a freight handling facility.
47. In addition to these permanent buildings there is a temporary container "village" comprising a handful of shipping containers located on the southernmost end of the wharf

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

close to where it meets Quay Street. Various other “street furnishings” are placed around and along the wharf, providing seating areas, tree planters, sculptural elements and signage. The area to the immediate north of The Cloud, towards the harbour end of the wharf, provides a range of these features.

48. Vehicle access is provided onto the wharf from Quay Street with a marked vehicle carriageway for a distance of approximately 150m along the wharf to a turning area. Limited drop-off and areas for parking are provided on the wharf in various locations, subject to day-to-day operational requirements.
49. Although it is publicly owned and pedestrian access to it from Quay Street is unrestricted, public access over the Queens Wharf is limited to varying degrees by rights given to third parties. For example, public access to the ferry buildings is managed by Auckland Transport as the owner and operator of those facilities, just as access into The Cloud and Shed 10 is managed by the owners of those buildings on a day to day basis, including when they have hired them to third parties for ticketed functions, at which times general public access into them is controlled.
50. Queens Wharf is also operated as Auckland’s primary cruise ship terminal with two cruise ship berths positioned on its eastern and western sides. Of those two berths the eastern berth is utilised more regularly given the ship to shore facilities located along the eastern side of the wharf for that purpose. This use of the wharf places constraints on the extent of public access that is available to it, as well as having an effect on the amenity experienced on the wharf from time to time. Customs New Zealand designates parts of Queens Wharf, Shed 10 and The Cloud (on occasion) as “customs-controlled areas” on days when a cruise vessel is booked onto Queens Wharf East or Queens Wharf West. At these times, public access to these designated areas is restricted.
51. POAL also holds specific use rights over Queens Wharf which enable it to berth and service cruise ships at the wharf. These are referred to as POAL’s Cruise Ship Licence (“CSL”) and Perimeter Strip Licence. Under these licences the berthing areas adjacent to the wharf and a “restricted access” area along the eastern side of the wharf, including Shed 10, are to be available at POAL’s discretion for its exclusive use to service cruise ships. In particular, the CSL entitles POAL to limit general public access to this area of Queens Wharf a minimum of 5 hours and a maximum of 12 hours before the arrival of a cruise ship and a minimum of 5 hours and a maximum of 12 hours after its departure. There is no other legal limitation on the frequency of use of these parts of Queens Wharf for cruise ship activities by POAL. The licences are for terms of five years, perpetually renewable.¹⁵
52. Unrestricted public access to Queens Wharf is therefore confined to those parts of the wharf outside of the buildings and the POAL restricted access area. This comprises the central “spine” access area, the western edge of the wharf adjacent to The Cloud and the northern end. These areas are also utilised to varying degrees by coaches and taxis servicing the wharf on days when cruise ships are berthed.

¹⁵ Panuku, Reply Submissions, 27 February 2019 (interpolation).

53. In the 2018/2019 cruise season we were advised that Auckland would be visited 129 times by cruise ships. For 122 of those visits the berthing facilities at either Princes Wharf or Queens Wharf would be utilised. Although we were not told what the specific per-wharf visitations were, we understand that the majority utilised Queens Wharf. This use of Queens Wharf for the berthing of cruise ships (which is a permitted activity in the Plan), together with the associated activity and public access restrictions on the wharf that go with it, are relevant features of the existing environment.

Queens Wharf – Consented Activities

54. There are a number of resource consents in existence for Queens Wharf that authorise the structures and activities described above. Notably, because the wharf is situated in the CMCA, all the consents are coastal permits under s 12, and subject to specific dates of expiry. These consented activities must also be treated as part of the existing environment and taken into account in any assessment of effects.
55. The occupation of the CMCA by Queens Wharf itself relies upon an existing s 384A coastal permit held by POAL (granted by the Minister of Transport in 1994). This includes the area of CMCA occupied by Queens Wharf (and the location of the mooring dolphins proposed in the current application). The POAL s 384A permit expires on 30 September 2026.
56. The Cloud building was originally consented on a temporary basis under the Rugby World Cup 2011 (Empowering) Act 2010. Prior to the expiry of that consent in October 2011 a new consent was granted that provided for the use of Queens Wharf (including The Cloud and Shed 10) as a multi-purpose entertainment and gathering venue to enable a broad range of public and private events, shows and recreational activities to occur through to 31 July 2012. In February 2012 a further consent was granted to enable the ongoing use of Queens Wharf in a similar manner to that enabled under the 2011 consent and to allow The Cloud to remain on the wharf until 31 July 2022. The consent also provided for two 40-foot containers to be generally located at the rear of Shed 10, and to replace an external kitchen facility approved by the 2011 consent. A subsequent s127 variation to the conditions of this consent provided for a small area for additional permanent structures, and to retain various temporary structures.
57. A further consent was granted in December 2013 to incorporate and replace a number of the aforementioned consents relating to activities and temporary structures on Queens Wharf. This has an expiry date of 31 July 2023.
58. Consent was granted in August 2012 for the redevelopment of Shed 10 to accommodate facilities associated with a cruise ship terminal and for event space. This consent expires on 31 August 2022.
59. Consent for the Michael Parekowhai Sculpture was granted on 27 August 2015 and expires in 2050.
60. Consent was granted in December 2015 to establish a shipping container village for a period of five years (i.e. expiring in December 2020) comprising 11 containers in total. The

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

village is intended to meet the needs of the cruise ship and ferry passengers using the wharf and to mitigate the loss of the retail and food and beverage activities displaced by the current City Rail Link and Downtown Shopping Centre works. Four containers are used for food and beverage, four for retail, with the remaining three used for storage, rubbish and an information kiosk.

Permitted baseline (s 104(2))

61. The current use of Queens Wharf for cruise ship berthing and associated activities and operations fall within the definition of “Marine and port activities” in the AUP, which are permitted activities within the Central Wharves Precinct. This permitted activity rule would extend to the use of the mooring dolphins by larger cruise ships, as well as the activities and operations associated with the servicing of those ships. It was generally accepted that the effects of those activities would be proportionally greater in scale than the servicing related activities associated with the cruise ships of the size currently able to berth at Queens Wharf.
62. Current activities also rely (for s 12(2) purposes) on the s 384A permit held by POAL for Queens Wharf. As that permit does not expire until 30 September 2026, we find that the effects on the environment of the current level of cruise activities at Queens Wharf is a legitimate permitted baseline for effects assessment purposes under s 104(2) up to that date in 2026, which we have determined it appropriate to consider in analysing the effects of Panuku’s proposal. We also consider it reasonable to include within that baseline the effects of increases in cruise activities that could be anticipated as a consequence of more frequent cruise ships visits, also up to 30 September 2026.
63. Panuku also submitted that we should rely on s 104(2) to exclude from consideration the effects of the use of the mooring dolphins (if approved) by the large cruise ships they are designed to cater for, as well as the effects of the “marine and port accessory structures” that would be affixed to them, because these effects arise from activities that are permitted under the Plan. Effects in issue here were the visual effects of the large vessels moored at the wharf and the traffic related effects arising from their servicing, and the visual effects of the lighting poles to be installed on the mooring dolphins, including at night.
64. We do not accede to this submission. In our view it would be an inappropriate use of the discretion in s 104(2) to disregard from assessment effects that are not presently capable of being generated by permitted activities. To borrow a phrase from older case law, such activities are ‘fanciful’ because, but for approval and construction of the mooring dolphins, they could not otherwise presently occur. It was also accepted that a separate consent was required for the occupation rights necessary to conduct these activities in the CMCA (rule A22), which is another reason why we find s 104(2) of no use to Panuku in relation to these activities.
65. Our understanding of the law is that the meaning of the phrase in s 104(1)(a), “*actual and potential effects on the environment of allowing the activity*”, includes the direct effects of exercising the resource consent which are inevitable or reasonably foreseeable, as well

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

as effects of other activities that would inevitably flow from the granting of consent.¹⁶ Such effects are not excluded from consideration simply because they may be permitted. As such, we find that we must have regard to the effects that would follow from the use of the mooring dolphins by large cruise ships, as well as the effects of the accessory structures to be fixed to them, as part of our assessment of effects under s 104(1)(a). However, we record that in doing so we will disregard the level of effect that falls within the permitted baseline of existing and reasonably foreseeable cruise activity at Queens Wharf, as described above.

Relevant policy statements and plans (s 104(1)(b))

66. In considering and determining the application s 104(1)(b) requires us to have regard to the following policy statements and plans:

- New Zealand Coastal Policy Statement 2010 (“NZCPS”).
- The Hauraki Gulf Marine Park Act (“HGMPA”).
- The Auckland Regional Policy Statement (Chapter B of the AUP) (“RPS”), in particular:
 - B3 Infrastructure, Transport and Energy.
 - B5 Historic Heritage and Special Character.
 - B6 Mana Whenua.
 - B8 Coastal Environment.
- Auckland Unitary Plan (Operative in Part) (“Plan”), in particular:
 - D17 Historic Heritage Overlay.
 - E18 Natural Character of the coastal environment.
 - E19 Natural features and natural landscapes in the coastal environment.
 - F2 Coastal – General Coastal Marine Zone.
 - I202 Central Wharves Precinct.

67. In accordance with our understanding of how we may approach the various matters in s 104(1)(b), we record that we have approached our assessment of the application by focussing first on the most specific relevant provisions, namely those in the Plan itself. This is because these provisions “give effect to” the RPS, NZCPS and HGMPA,¹⁷ and so comprise the most refined or detailed manifestation of those regional and national policies in relation to the natural and physical resources affected by the application and their

¹⁶ *Cayford v Waikato Regional Council*, Decision No A127/98 (EC).

¹⁷ S 67(3) RMA.

sustainable management. Second, we have referred to the RPS as the next most contextually relevant higher-order policy framework for the provisions in the Plan itself. As the RPS also “gives effect to” the NZCPS and HGMPA,¹⁸ we can be confident that the requirements of those documents have been appropriately incorporated into the RPS. As a final “check”, we have then considered the provisions of the NZCPS and HGMPA.

Other Relevant Matters (s 104(1)(c) RMA)

68. Section 104(1)(c) requires us to have regard to “*any other matter [we] consider relevant and reasonably necessary to determine the application*”. We adopt the approach that any “matters” to be considered must be related to the issues contemplated by the purpose of the RMA, which touch and concern the application and the submissions to be determined.
69. Non-RMA documents are commonly considered as relevant matters under s 104(1)(c), particularly where they relate to the management of the natural and physical resources affected by the application under consideration or are directed to managing activities that are a common feature of the existing environment.
70. In this case, we have considered the following non-RMA documents because they describe various plans or strategies for the waterfront of Auckland that are in the public domain and which are relevant to the application generally:
- City Centre Masterplan 2012.
 - Waterfront Plan 2012.
 - Downtown Framework 2014.
 - Central Wharves Strategy.
71. The s 42A report on the application also noted the existence of a draft Ports of Auckland 30-year Masterplan.¹⁹ Although this document comments on the management of cruise ship facilities within the port of Auckland over the next 30-years, we have not found it to be of assistance in determining any of the issues raised by the application.
72. We have also considered the Auckland Navigation Safety Bylaw 2014 to be a relevant matter of reasonable necessity for us to have regard to.

Aspects of the proposal not in contention

73. Although Panuku’s application was wholly opposed by numerous submitters who sought that it be refused consent, not all aspects of it were in specific contention, in the sense of being the subject of differing expert opinions as to effects or the policy implications of those effects.

¹⁸ S 62(3) RMA

¹⁹ Hearing Agenda, p164.

74. On the basis of the s 42A report and the detailed expert evidence presented to us, we find the following aspects of the proposal to be non-contentious and not in issue. Our purpose in identifying these matters at this stage of our decision is to assist readers to understand why we do not discuss them in any further detail in this decision.

Functional need

75. There was no debate that the proposed mooring dolphins have a functional need to be located in the CMA, given their purpose. We find that this strong policy framework in the Plan for use and development in the CMA, which flows out of the RPS and the NZCPS, is satisfied.²⁰ We also consider that the access gangways have a functional need to be located in the CMA, because of the strong functional association they have with the dolphins and their operation, including in relation to ensuring the health and safety of those persons operating the mooring dolphins.

Exclusive Occupation

76. We find that the extent of exclusive occupation proposed by Panuku for the mooring dolphins and gangways is reasonable and appropriate by reference to the relevant policy framework.²¹ It is limited to the area necessary for the efficient functioning and use of the dolphins, and only restricts public use to ensure public safety. The issue of whether the extent of public access made available is satisfactory mitigation for any loss of public access and recreational use is discussed below as part of Issue (c).

Efficient use

77. We find that the proposal is an efficient use and development in the CMA and achieves the relevant policy framework on that regard.²² The proposed structures are to be located in an area of the CMA that is already significantly developed with coastal structures and used by people and communities, and thus support consolidation of coastal use and development. Due to their design, size and location, we also consider them to be an efficient use of the CMCA, in the sense that they “take up” the minimum space necessary to achieve their function.

Land based facilities

78. There was no evidence that the policy framework aimed at ensuring that use and development in the CMA is supported by all necessary land-based access and infrastructure was not met.²³ There was evidence as to the impacts of the operation of the enlarged cruise berth on the land based transportation network, which we consider specifically below under Issue (c). Other than that matter, we are satisfied that all necessary land-based infrastructure to support the use of the mooring dolphins is available.

²⁰ F2.14.2(2); F2.14.3(1); F2.16.2(1); F2.16.3(1).

²¹ F2.14.2(3); F2.14.3(2).

²² F2.14.2(4); F2.14.3(2).

²³ F2.14.2(7); F2.14.3(10).

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

Queens Wharf strengthening and upgrade works; aspects of the mooring dolphins

79. The additions and alterations to the existing structure of Queens Wharf to make it structurally and operationally capable of mooring larger ships (strengthening, removal of existing bollards, installation of new piles, bollards and fenders, and modifying the sub-structure of the wharf), were not aspects of the proposal that were at issue. These aspects included:
- (a) The temporary construction related effects of undertaking these works (airborne noise and vibration effects, water quality and ecological effects, underwater noise effects, traffic effects, navigation effects).²⁴
 - (b) The impacts of these works on the historic heritage values of Queens Wharf.²⁵
 - (c) The coastal occupation effects of these works (noting that Queens Wharf is already consented to occupy the CMCA by the s 384A permit held by POAL).
80. In respect of the mooring dolphins and their associated gangways, certain of the effects were also not in issue:
- (a) Airborne noise, vibration, water quality, ecological, underwater noise and traffic effects arising from and during construction.²⁶
 - (b) Effects on coastal processes (tides, currents and sea-level rise) arising from the physical presence of new structures in the harbour.²⁷
81. In respect of these matters, we find in favour of the application. Subject to appropriate management of the construction related effects by way of conditions, we consider that these aspects of the proposal would have only minor adverse effects on the environment and as such would be generally consistent with the Plan provisions that are engaged for consideration.²⁸ We record here in respect of conditions, that we are satisfied with the management plan approach proposed by Panuku. We discuss Mr Blakey's reservations with that approach later in this decision in the context of Issue (g).

Effects on Mana Whenua values

82. Another significant aspect of the proposal that by the end of the hearing we considered to be non-contentious - in the sense that it is an aspect of the application, its development by Panuku and its processing, on which we do not have to make any express findings on contested evidence, relates to effects on Mana Whenua values and the policy regime put in place in the RPS and the Plan to address those values.

²⁴ Evidence of Craig Fitzgerald, Dr Sharon de Luca, Joe Phillips, Gerraint Bermingham & Damian Gibbs; reports by Dr Kala Sivaguru, Andrew Hayton, Hamish Speakman, Andrew Gordon, Jon Syles.

²⁵ Evidence of John Brown, Priyanka Misra, Graeme Burgess.

²⁶ Evidence of Craig Fitzgerald, Dr Sharon de Luca, Joe Phillips, Gerraint Bermingham & Damian Gibbs; reports by Dr Kala Sivaguru, Andrew Hayton, Hamish Speakman, Andrew Gordon, Jon Syles.

²⁷ Evidence of Stephen Priestley; report by Sam Morgan.

²⁸ F2.5.3(4), (5) and (6).

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

83. Although we commenced the hearing with submissions by Mana Whenua that were in support,²⁹ neutral³⁰ and in opposition³¹ (supported by a Cultural Values Assessment which was included in the Agenda),³² by the end of the hearing the position of Mana Whenua in opposition had changed to one of neutrality³³ on the basis of agreed amended consent conditions.³⁴ We were provided a copy of those agreed conditions by Panuku when it delivered its reply.
84. In light of this, the position today is that all Mana Whenua who submitted on the application are neutral about it, provided that if we grant consent the agreed conditions should be imposed.
85. It is trite that it is for Mana Whenua to convey their position on cultural matters in resource management proceedings.³⁵ This right must also extend to an ability to alter their position, including during the processing of a resource consent application on the basis that an applicant has addressed their concerns. Accordingly, we find that the impacts of the proposal on cultural values are acceptable to Mana Whenua.
86. Before proceeding we pause to express our gratitude to Mana Whenua who participated in the hearing and shared with us their cultural knowledge and associations with the Auckland waterfront area and the Waitematā. We have had regard to all of that material in our consideration and determination of Panuku's application.

Principal Issues in Contention

87. A number of aspects of the proposal were opposed and a variety of issues raised in support of that opposition. The focus of the opposition was on the physical, amenity and associated recreational effects of the mooring dolphins and their associated gangways in the location proposed, as well as the longer-term, strategic implications of allowing the project to proceed. Based on the submissions and evidence we have identified the following issues on which we need to make findings:
 - (a) The appropriate future environment for the consideration of the effects of the proposal;
 - (b) The nature, scale and importance of the positive effects of the proposal (economic, social, health and safety);
 - (c) The nature, scale and importance of the actual and potential adverse effects of the proposal, in particular with respect to:
 - Public access to and use of Queens Wharf;

²⁹ Te Ara Rangatu o te iwi o Ngāti Te Ata (per R Minninnick), Submissions Vol 2, p914.

³⁰ Ngāti Whatua Orakei, Submissions Vol 2, p901.

³¹ Ngāti Tamaoho, Ngāti Whanaunga, Ngāti Tamatera, Ngāti Maru, Te Ākitai o Waiohau, Te Patukirikiri and Ngāi Tai ki Tāmaki (Submissions Vol 2, pp 587, 602, 617, 632, 649, 847 and 862).

³² Hearing Agenda p254

³³ Memorandum of Counsel Confirming Agreements, 25 February 2019, para 6.

³⁴ Memorandum of Counsel Confirming Agreements, 25 February 2019, para 5.

³⁵ *SKP Incorporated v Auckland Council* [2018] NZEnvC 81, at [157], [166].

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

- The use of the Waitematā Harbour by other vessels;
 - The heritage values of Queens Wharf;
 - Landscape values and natural character of the Waitematā Harbour;
 - The amenity value of Queens Wharf as public open and recreational space;
 - Traffic and transportation matters;
- (d) Whether alternatives have been adequately considered;
- (e) Whether the proposal is consistent with the relevant statutory planning provisions applying to Queens Wharf;
- (f) Whether the proposal is consistent with the non-statutory/strategic planning provisions applying to Queens Wharf;
- (g) Whether conditions of consent can be devised to ensure the adverse effects of the proposal are appropriately avoided, remedied or mitigated;
- (h) Whether the application should be approved.

88. We address and make findings on these issues below.

Issue (a) –The future environment

Other consent applications

89. It is well settled that granted but unimplemented resource consents for new buildings or activities on adjoining sites that are likely to be given effect to can be considered as part of the existing or receiving environment of a consent proposal.³⁶ In this case we were not advised of any resource consents that would fall within this aspect of the “environment” for the purposes of s 104(1)(a).
90. However, we were advised by a number of parties that an application (also by Panuku) was presently being processed by the Council for a proposal to redevelop the adjacent Ferry Basin into a more functional space for ferry transport into the future. This application apparently involves the removal of Piers 3 and 4 ahead of the AC36 regatta in 2021, as well as the relocation of ferry berthage to along the western side of Queens Wharf, with these new piers being accessed from the edge of Queens Wharf itself.
91. The resource consent application for this work was lodged on October 2018 and was publicly notified on 19 November 2018, with submissions closing on 17 December 2018. At the time of this decision, the application had been heard, but no decision released. For this reason, we consider that it would be unlawful for us to formulate an understanding of

³⁶ *Queenstown Lakes DC v Hawthorn Estate Ltd (No 2)* (2006) 12 ELRNZ 299 (CA).

the future environment at Queens Wharf as if this application were approved and the environment modified by its implementation.

92. In a similar vein, we were also told of a number of other resource consent applications and projects underway in the Auckland downtown and city centre waterfront area (referred to as the Downtown Infrastructure Development Programme (“Downtown Programme”)), being led by Auckland Transport (“AT”) for upgrades and improvements to public infrastructure, prioritised for delivery prior to 2021. These include:
- Quay Street seawall upgrade project.
 - New Downtown Public Space.
 - Quay Street Enhancements.
 - Quay Street Utilities Relocation.
 - Britomart East Bus Interchange in Quay Street.
93. Of these projects, only one has been approved – the Quay Street Utilities Relocation – and work is presently underway. What is clear from this evidence is that Quay Street and its interface with the CBD is in a state of planning for significant change over the next few years. However, as the future of these other projects is still subject to approval it would be wrong for us to assess the effects of the current application on an environment in which their implementation is assumed.

Environmental trends

94. In presenting their cases, a number of parties submitted that there were potential trends in relevant activities that we ought to consider as legitimate components of the future receiving environment. Although the principal case authority on the relevance of the future environment to the assessment of the effects of resource consents is most often associated with the notion of considering unimplemented consents for activities on neighbouring sites that are likely to be given effect to, we accept that it goes further than that and entitles consent authorities to consider the future state of the environment generally, on which any predicted effects of the instant proposal will occur.³⁷ What is required is a “real world” approach to analysis,³⁸ with a genuine attempt made to understand what the environment might look like over the duration of the activity proposed.
95. Two future trends were identified to us as relevant to the assessment of the application.
96. The first, put forward by Panuku, was that cruise ship visits to Auckland (and New Zealand) would decline over the short to medium term if the facilities at Queens Wharf were not upgraded to enable extra-large ships to berth alongside and that this would lead to significant adverse economic consequences for Auckland and the regions. Reliance was placed on statements made by Ms Bonner and Mr Myrmell to support the occurrence

³⁷ *Queenstown Lakes DC v Hawthorn Estate Ltd (No 2)* (2006) 12 ELRNZ 299 (CA), at [57].

³⁸ *Queenstown Central Ltd v Queenstown lakes DC* (2013) 17 ELRNZ 585 (HC), at [85].

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

of this trend.³⁹ However, we do not consider that either of the statements by these witnesses was sufficiently definitive as to a fixed corporate position, or even a timeframe over which such plateauing and declining cruise visitation would occur, to enable us to treat it with the weight (or certainty) that counsel for Panuku suggested we should. We also observe that this negative forecast for the future of cruise in New Zealand also appears to be 'out-of-sync' with the trends in cruise tourism growth to New Zealand generally, on which we heard considerable evidence from the cruise industry. This evidence was also corroborated by Mr Kirk, that POAL had so far accepted 159 cruise ship bookings for the 2019/2020 season (up 30 on the prior season).

97. We accept the evidence that major cruise line operators are continually renewing their fleets and that there is a current trend in the industry towards larger vessels, many of which would not be able to berth at Queens Wharf in Auckland. Mr Kirk's evidence that POAL is regularly turning away booking requests from large cruise ship operators also indicates that there is growing interest in visits from larger vessels to New Zealand.
98. In the result, we are not persuaded that this trend will "bite" significantly into New Zealand cruise industry growth in the short term (i.e., within the next 5 or so years). Beyond that timeframe though, appreciating that cruise lines schedule their itineraries and ports of call several years in advance, we accept that the risk of declining cruise activity will increase in the absence of suitable berthing facilities in Auckland for larger cruise ships.
99. The second trend, put forward by Ms Beck for Heart of the City Inc, was that predicted increases in the populations of workers, visitors and residents in the Auckland CBD would result in increased demand for access to public open spaces within the CBD, such as Queens Wharf. Based on those trends Ms Beck submitted that we should avoid allowing an activity to occur on Queens Wharf that would prevent or limit public use of it over that foreseeable future.
100. We agree that future growth in CBD populations is a relevant trend to consider. However, it is difficult to predict what that means for the future of Queens Wharf. On the basis of the existing consents, the location and use of the main buildings on the wharf (The Cloud and Shed 10) is allowed to continue until 2022. The use of Queens Wharf for cruise ship berthing by POAL is also allowed to occur under the Plan and by way of POAL's licences indefinitely. And although there are clearly expressed aspirations to develop more public use and recreation facilities on the wharf (e.g., Waterfront Strategy 2012), we are not aware of any definitive plans or timeframes for doing so.
101. As such, we do not consider that CBD population trends will have any significant impacts on the use of Queens Wharf for at least the next 5 or so years, but beyond that timeframe, we are conscious that population trends are likely to place greater pressure on the development of more public facilities on Queens Wharf.

Issue (b) - Positive effects

³⁹ Panuku, Reply Submissions, 27 February 2019, para 5.1(e).

102. Completion of the project and its subsequent operation as proposed would have a number of potentially positive effects. Those about which there was no serious dispute included:
- (a) the health and safety of passengers and crew of extra-large cruise ships would be enhanced by those vessels being able to berth alongside Queens Wharf (as opposed to being transferred by tenders from mid-harbour into the Admiralty Steps, and back again);
 - (b) navigation of recreational and commercial craft across the harbour would not be disrupted and would be made safer with large cruise ships being able to berth at Queens Wharf (by comparison to the current situation);
 - (c) the landscape values of the Waitematā Harbour would be less affected, in terms of the open vista able to be enjoyed across the harbour, if large cruise ships were able to berth in closer to the developed CBD edge of the harbour.
103. In our discussion of Issue (a) above, we found that cruise tourism revenues may plateau and decline in the future on the basis that current berth infrastructure inadequacies in Auckland remained unresolved. This potential trend would obviously be avoided if the mooring dolphins were installed. We find that this outcome would be a positive effect of the proposal.
104. The positive effect about which we heard the most evidence concerned the economic and flow on social benefits of the project, arising from the fact that the dolphin structures would allow the berthing of extra-large cruise ships alongside Queens Wharf. Although we heard evidence from five expert witnesses on this topic⁴⁰, the differences between them were relatively slight and focussed on the appropriate approach and methodology to assessing, quantifying and categorising the economic benefits of the project. Those who reviewed the initial assessment work completed by Mr Akehurst, indicated how they might have gone about the exercise in a different way, used more conservative assumptions, or factored in others.
105. The key aspect of the economic effects analysis on which they all agreed though was that the effects of the project will be positive in economic terms in that it will return economic benefits to the people and communities of Auckland, and further afield into those regions that offer stop over ports and facilities for cruise itineraries. We accept that evidence and find accordingly. We do not intend to make specific findings about which of the approaches to assessment is the more 'correct' one as we do not consider that we need to know the precise quantum of economic benefits arising from the project in order to determine the application.
106. One aspect of the assessment completed by Mr Akehurst that was the subject of criticism, including by submitters, was the fact that it did not attempt to include costs associated with other adverse effects of the project that were of a subjective or value-laden nature, and thus difficult to "monetise" and incorporate into a cost benefit calculation. Both Mr Akehurst (and Mr Clough) accepted this criticism and acknowledged that the assessed

⁴⁰ Mr Akehurst, Mr Clough, Mr Smith, Dr Denne, Dr Martin.

positive economic effects would ultimately need to be balanced against the assessed adverse effects and an overall evaluation on effects made in that regard. This acknowledgement was appropriately made and accords with our understanding of the effects assessment role under s 104(1)(a).

107. RPS Policy B8.3.2(1) (use and development) directs recognition of *“the contribution that use and development of the coastal environment make to the social, economic and cultural well-being of people and communities”*. RPS Objective B8.5.1(3) is that *“economic well-being is enabled from the use of the Hauraki Gulf’s natural and physical resources without resulting in further degradation of environmental quality or adversely affecting the life-supporting capacity of marine ecosystems”*. The provisions of the GCMZ flow from these RPS level provisions. We find that the economic and social benefits of the project support the attainment of these provisions.

Issue (c) – Adverse effects

Public access to and use of Queens Wharf

108. Submitters in opposition were concerned that the construction and operation of the mooring dolphins would impact on the ability of the public to access and use Queens Wharf for its identified purpose as a public space. In considering this issue, we remind ourselves that although it is in public ownership and described in various publications as “the People’s Wharf”, Queens Wharf is managed on a day to day basis by its owners (the Council and the Crown), for a variety of purposes (only one of which is for publicly accessible open space), and with various operational restrictions. However, any proposal that would result in a diminution of public access over it must be seriously considered given that the wharf is located in the CMCA.
109. On our understanding of the application, we are satisfied that the dolphin structures themselves will not reduce the area of Queens Wharf that is presently available for the use and enjoyment of the public. The gangway access structure will attach immediately adjacent to the end of the wharf at the same level of the existing deck and extend to the north. No part of the wharf that is presently able to be accessed by the public will be made inaccessible by these structures.
110. The only “loss” of existing public access rights over the wharf that we are aware of would occur temporarily during the use of the mooring dolphins, when access around the entrance onto the gangway to them would need to be restricted until the mooring lines were safely secured by POAL staff. We find that this impact on public access over the wharf structure would be minimal. On the evidence as well, we are satisfied that the extent of the wharf that the public are presently excluded from during the time that cruise ships are berthed at Queens Wharf will not increase if the mooring dolphins are constructed. We find therefore that the berthing of large cruise ships using the mooring dolphins will not change the current extent of public access available to Queens Wharf to any great extent.
111. We note that a number of submitters considered that the presence of the dolphin structures and, for some, the large cruise ships using them, would adversely affect their

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

‘public access experience’ at Queens Wharf. We discuss that issue below under the topic of effects on amenity values.

112. We accept that there would be temporary restrictions on public access over parts of the wharf during construction of the dolphins etc, but do not consider that those restrictions would have a significant affect overall, if properly managed, or are inappropriate in the circumstances.
113. Another relevant ‘public access’ aspect of the proposal arises from objective and policy provisions in the Plan. Objective F2.16.2(2) is that structures “*provide for public access and multiple uses where practicable, other than those restricted by location or functional requirements*”. Policy F2.16.3(8) requires structures to be designed to “*be multi-purpose where practicable and where it will not conflict with operational or safety requirements*”, and policy F2.16.3(13) requires structures “*to provide for public access and reasonable use, except ... where public use needs to be restricted or excluded for operational, or health and safety reasons.*”
114. In response to these policy directives Panuku has proposed that the first section of gangway from the end of the wharf to the first mooring dolphin would be available for unrestricted public access and use (except during mooring operations). The second section of gangway, and the mooring dolphins themselves, would not be publicly accessible though. This aspect of the proposal drew a number of criticisms.
115. The first was that Panuku should allow access to all of the structures. However, that request was not supported by any evidence confirming that such access would be appropriate from a health and safety perspective. The extensive evidence we had on that topic from Panuku and from POAL (via Mr Kirk), was therefore unchallenged. We are satisfied on that evidence that Panuku’s public access proposal for the dolphins is reasonable and consistent with the policy provisions we have recorded above.
116. The second criticism was that the public access being offered over the first section of gangway was insufficient mitigation for the effect of the new structures on the “loss” of public access they would cause. This concern brings into consideration objective F2.14.2(3), which requires any loss of public access and use as a result of exclusive occupation in the CMCA to be minimised and mitigation provided where practicable. On the basis of the evidence, however, we have not identified any loss of public access or use associated with the wharf due to the proposal, so we are not persuaded that mitigation in the form of additional or improved public access is required. The relevant policy direction in this case is to provide for public access on new coastal structures, except where to do so is impracticable and Panuku should not be criticised for endeavouring to achieve the policy requirements of the Plan.
117. We apprehend this argument is more about the nature and extent of the public access proposed to the dolphin mooring structure, when compared to the nature and extent of public access presently available at the end of Queens Wharf and how the former is no compensation for the latter. We return to this argument below when considering effects on amenity values.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

Use of the Waitematā Harbour by other vessels

118. The proposed mooring dolphins and associated gangways project a total of 90.3m into the Waitematā Harbour beyond the end of Queens Wharf. The mooring dolphin structures are 15m in diameter each, while the first gangway is 2.3m wide and the second is 1.4m wide. For reference purposes, Queens Wharf is approximately 350m long by 85m wide. The presence of these new structures has the potential to affect other uses of the harbour who presently navigate through or close to the coastal waters that they would occupy, by requiring them to take a different course (in order to avoid the new structures). A range of potential navigation safety issues arise as well.
119. Although general rights of navigation by vessel in the CMCA are preserved at law under s 27 of the Marine and Coastal Area (Takutai Moana) Act 2011, those rights are subject to restriction and prohibition by way of sub-ordinate legislation (including by bylaw and regional plan). Of relevance to the present case, the waters of the inner Waitematā Harbour are subject to the Navigation Safety Bylaw 2014 ("Bylaw"), and the powers it invests in the Auckland Harbourmaster to make regulations as to vessel speeds and "no access" areas.
120. Under the RMA, the Plan also enables applications to be made for structures to be placed in the CMCA and for occupation rights to be granted in respect of them. If approved, those rights also operate as a qualification on general rights of navigation in the CMCA. Not surprisingly, in considering such applications, a plethora of considerations apply. Relevant to the present issue - impacts on use of the CMCA by other vessels - we note the following policies:
- Policy F2.14.3(4), which requires us to "*avoid granting rights of exclusive occupation in areas with high public use and where it will have a significant adverse effect on public access and recreational use*" of the CMCA;
 - Policy F2.16.3(7), which requires structures in the GCMZ to be located to minimize impacts on other coastal activities and adverse effects on recreational use; and
 - Policy F2.16.3(22), which requires us to ensure that structures in the CMA do not pose a risk to navigation or to public health and safety by requiring them to be maintained and appropriately located and lit.
121. The proposed structures are located to the south of the main harbour channel which is the natural 'transit line' between Bledisloe Terminal and Wynyard Point. They are also located within the existing 5-knot speed restriction area, which applies within 200m of all waterfront structures under cl 14(1)(d) of the Bylaw, a little to the south of a 12-knot limited speed zone set by the Harbourmaster to control vessel speed (Map 7.0 in the Bylaw), and in a 'Port security and customs area – no entry' zone. Although we acknowledge evidence from recreational boaties that these restrictions do not necessarily render the water-space off the end of Queens Wharf a "no-go" area, we find that in practice they operate to make the area to be occupied by the mooring dolphin structures not an area of "high public use" for recreational boating or public access by private vessel.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

122. Notwithstanding this, recreational boating submitters raised a number of concerns with the location of the proposed structures, notably that they would “narrow” the harbour by a further 100m and thereby significantly reduce the area available for use by thousands of recreational boating enthusiasts. This would restrict the flow of boat traffic in an already very busy waterway including ferry traffic, and that they would introduce a navigational hazard, especially at night, as the structures may not be easily seen against the background of other lights.
123. Mr Hayton, the Harbourmaster for Auckland, provided specialist input to the s 42A report on these issues. His advice was that the present width of navigable water between Queens Wharf and Stanley Point is approximately 1200m and that the dolphins would reduce that to approximately 1100m. In his view, that distance provided “*ample navigable water for vessels to transit the harbour*”. This is wider than the narrowest part of the inner harbour between Fergusson North Wharf and the Devonport Navy Base at approximately 850m without ships alongside (reducing to approximately 780m with ships alongside), and places the proposed dolphins to the south of an imaginary line extending from Wynyard Point to Bledisloe Wharf.
124. Mr Hayton agreed that the narrowing of the harbour would have the effect of concentrating vessels into a smaller area, but, maintained that approximately 1100m width of navigable water was sufficient for vessels to be able to transit safely through the harbour provided that the Maritime Rules and the Bylaw were complied with. We heard evidence to similar effect from Messrs Bermingham, Gibbs and Dilley for Panuku.
125. In terms of speed restrictions, Mr Hayton advised that Maritime Rule part 91 and the Bylaw both require a vessel not to exceed 5 knots within 200 meters of any structure. As such, the 5-knot limit will extend further into the harbour once the dolphins are constructed, as they will be the new baseline for the 200m measurement. The 5-knot speed limit takes precedence over the 12-knot limit, which applies within the areas of the inner harbour outside of 200m from shore or a structure, so there would not be a conflict between the two different speed requirements.
126. In terms of the requirements to ensure navigation safety, Mr Hayton advised that the dolphins need to be appropriately charted on LINZ Chart NZ5322 (Auckland Harbour East) a copy of which it is prudent for every vessel to carry when navigating within the inner harbour. During daylight hours, the dolphin structure will be visually conspicuous to mariners. During the hours of darkness, the outermost dolphin will have a navigational light meeting the Harbourmasters requirements. The walkways will also be required to be lit highlighting its presence to mariners.
127. We acknowledge concerns by recreational boaties that the dolphins will potentially affect the way in which they have historically used the harbour and that this may be an inconvenience, or at worst a navigation hazard. But on the evidence we have heard, we are not persuaded that the proposal offends the key policy requirements in the Plan that we are required to have regard to when it comes to recreational boating. We are also satisfied on that evidence that the dolphin structures will not pose a risk to navigation given their location in a low speed environment and the proposals for their marking and lighting.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

128. The impacts of the dolphin structure on the use of this part of the harbour by ferries raises slightly more complex issues. This is because some ferries approaching the ferry basin from the east take the shortest route possible into the ferry basin which regularly takes them close to the end of Queens Wharf through water space that would be occupied by the new structures. If approved, ferries would therefore be required to transit slightly further to the west within the main harbour channel, avoiding the new structures, before proceeding into the ferry basin. A similar route deviation would also be required for ferries leaving the ferry basin heading to the east.
129. On the impact of this deviation on ferries, the evidence for Panuku was that they will prefer to take the most direct route possible to the 12-knot zone from the ferry basin and as such there would be little interaction between them and the dolphins. With the extension of the 5-knot speed restriction further northwards, it was determined that ferries would be required to travel a short distance further at 5-knots maximum speed to reach the 12-knot zone. However, the overall impact of this on total journey times was considered to be minimal, being between 10 to 26 seconds at most.
130. The major operator of the ferry services concerned, Fullers/360 Discovery, did not accept this analysis. Its case was that the dolphins would materially affect journey times and the maximum frequency of all eastbound services from the ferry basin, and that these effects were significant and should weigh against the proposal, given the millions of passengers it currently carries on those routes annually and who rely on its timetables.
131. We accept that the services provided by ferries are a legitimate coastal activity that is expressly enabled in the Central Wharves Precinct of the Plan. Due to the number of passengers utilising these services on a regular basis, we also consider that the ferry basin area is an area of “high public use”. On the evidence it is clear that the configuration of the dolphins at the location proposed is likely to increase marginally the length of the route that some ferries would have to navigate when leaving the ferry basin to the east, or when approaching it from that direction. This in turn would affect travel times for those using them. However, we are not persuaded that this slight increase to the length of time currently taken by these eastbound ferry services to complete their routes represents a “*significant adverse effect on public access*”, even though it would affect large numbers of commuters.
132. Overall we find that the dolphin structures do not impact upon the ability of the ferry basin to be used for maritime passenger operations; and their use by large cruise ships will have similar effects on boat traffic in the harbour (including ferries) as the current use of the Queens Wharf east berth has. We are also satisfied that they have been designed and located to minimize effects on other coastal activities and not to pose a risk to navigation generally. Accordingly, we consider they achieve the relevant policy considerations intended to guide managing competing users of the CMCA.

The heritage values of Queens Wharf

133. Queens Wharf is included within the Historic Heritage Overlay as a Category B place. The wharf itself is identified as both the “primary feature” and the scheduled “extent of place”.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

Consequently, all modifications to it require consent (refer D17.4(A9) and F2.19.10(A137)).

134. As noted above, the physical modifications proposed to the wharf itself (strengthening, new bollards and fenders) were ultimately considered acceptable to the various heritage experts who gave evidence, in terms of effects on the heritage fabric of the wharf. This was due to their discreet and “in character” nature.
135. Mr Burgess also accepted that the connection of the proposed dolphin gangway to the northern end of the wharf would not involve the demolition of the Pilot Stair structure, although he remained concerned that the steps would be covered. We do not share that same concern: the steps are already covered by heavy steel grating and unable to be appreciated to any great extent.
136. In the result we are satisfied that the effects of the various physical modifications required to Queens Wharf by the proposal will be minor and acceptable from a heritage protection perspective. In reaching this finding, we record that we have paid careful attention to the various assessment criteria and other provisions relevant to the modification of items within the Historic Heritage Overlay as set out in D17 of the Plan.
137. The key issue in dispute between the heritage experts was whether the addition of the gangways and the dolphin moorings to the end of Queens Wharf, extending 90.3m into the adjacent water space, but beyond the identified “extent of place” would adversely affect the heritage values of the wharf, given their visibility as an observable addition to the historic form of the wharf.
138. We note that the Plan does not require a new structure being placed next to an historic heritage place identified in the Historic Heritage Overlay to obtain a consent for that specific reason. Consent requirements arise only in respect of modifications to the scheduled items themselves, or for new buildings within historic heritage places.
139. However, the effect of GCMZ objective F2.16.2(3) and associated policy F2.16.3(6)(a), which are engaged by this discretionary activity proposal, is to require CMA structures to be located to avoid significant adverse effects and avoid, remedy or mitigate other adverse effects “*on the values of areas identified as*”, inter alia, D17 Historic Heritage Overlay. Consideration of whether the proposal is consistent with these provisions is therefore necessary.
140. Queens Wharf is identified as having a number of heritage values namely, historical, social, knowledge, technological, physical attributes and context. With respect to the addition of the dolphins and gangways, the heritage value the subject of most attention by the expert heritage witnesses was “context”. As a heritage value, “context” is described in the AUP as follows: “*the place contributes to or is associated with a wider historical or cultural context, streetscape, townscape, landscape or setting*”.⁴¹ Appendix 8 of the AEE included a summary statement of the heritage significance of Queens Wharf.⁴² In relation to context, the statement notes:

⁴¹ RPS B5.2.2(1)(h).

⁴² AEE Appendix 8, p9

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

“Viewed from the harbour or as a continuation of the main street of the city, Queens Wharf, with the prominence of Shed 10, is a well-known Auckland landmark. The wharf has considerable regional aesthetic and contextual significance. As part of the wider historical context of the port and the city, Queens Wharf was designed as one of the key elements in the overall 1904 plan to redesign the port. In its location at the base of Queen Street, the wharf forms part of a group of significant historic structures built around the same time including the former Chief Post Office, the Endeans Building, the Ferry Building and the Queens Wharf Gates.”

141. It goes without saying that the addition of the dolphins and gangways to the end of Queens Wharf will change its setting: they are new structures to be placed in water space adjacent to the wharf where presently there are none. However, to the extent that it is the surrounding water space that defines Queens Wharf as a wharf, we do not consider that the new structures would significantly affect that given their location, linear form and scale relative to the wharf itself.
142. Similarly, with respect to context, we agree with Mr John Brown that regardless of whether cruise ships are moored or not, the dolphin structure would not significantly impact on the historical context of Queens Wharf as an historical extension of the urban form of Queen Street to the harbour. Nor would its relationship with the overall 1904 Hamer plan, or the harbour generally, be significantly or even moderately affected.
143. We do not agree with Mr Burgess's (or Dr Pooley's) evidence that the impact of the dolphin structure on the views to or from Queens Wharf is an impact on the setting or historic context of the wharf. The appreciation of the existing form of a structure (be it of historic heritage importance or not) is a matter for consideration when looking at the effects of a proposal on amenity values. To consider impacts on views to or from a scheduled heritage structure as a part of assessing heritage impacts would be to double count such matters and conflate the issue of visual amenity values with context or setting. We discuss effects on amenity values later in this decision.
144. Returning to the relevant policy considerations therefore, we are satisfied that the dolphin structure avoids significant adverse effects on the historic heritage values of Queens Wharf. It will have an effect on the context of the wharf, and thus one of its heritage values, but we consider that this will be minor overall.

Effects on natural landscapes and natural character of the Waitematā Harbour

145. Effects of activities on natural landscapes and natural character of the coastal environment are managed in a number of specific ways in the Plan. The first is by way of identification in the Overlay Chapter. In this case, as none of the area of the coastal environment affected by the project is identified as an area of Outstanding or High Natural Character or as an Outstanding Natural Feature or Outstanding Natural Landscape, none of the directive objective and policy requirements that apply to activities in such areas are engaged.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

146. The second management approach, which applies to other areas of natural character and natural landscapes in the coastal environment, is by way of specific objective and policy provisions in the Auckland-wide section of the Plan, specifically Chapters E18 and E19.
147. We heard evidence from a number of experts skilled in the process of assessment of natural character and natural landscapes. The evidence comprised of an analysis of the various features of the area of the application followed by an assessment of the effects of the proposal on those features.
148. The experts all generally agreed that although the area of water space immediately adjacent to Queens Wharf was natural, in the sense that it was not occupied by structures, the natural character of the inner Waitemata Harbour as a whole was not high, principally due to the extensive modification that has occurred around the foreshore over the past several hundred years and the regular use that is made of the coastal waters themselves by humans. Based on this analysis of natural character, we were advised that the proposal would have limited if any effects on natural character.
149. Objective E18.2(1) is that the “*natural characteristics and qualities that contribute to the natural character of the coastal environment are maintained*”, with this objective being achieved, in the case of non-significant effects, by avoidance, remediation or mitigation of adverse effects on such contributing characteristics and qualities, taking into account a number of matters (Policy E18.3(3)). In this case, in reliance on the evidence presented, we are satisfied that the location, scale and design of the mooring dolphin structure substantially avoids adverse effects on the open water characteristics and qualities of the inner Waitematā Harbour.
150. As Ms Gilbert reminded us in her evidence, landscape is a multi-faceted concept an assessment of which has been extended to include visual amenity, experiential, recreational, shared and recognised, and cultural values. However, when it comes to landscape, the focus of the Plan is on maintaining the “*characteristics and qualities of natural landscapes and natural features which have particular values, provide a sense of place or identity, or have high amenity value*” (E19.2(1)). We suspect that there is a significant overlap in the process of assessment of effects on landscape conducted by Ms Gilbert (and the other landscape architects for that matter), and that provided for under the Plan, but in the circumstances prefer to frame our findings on this matter in line with the considerations highlighted by the Plan.
151. We find that the principal characteristic of the natural landscape of the inner Waitematā Harbour affected by the proposal is the area of coastal water space that would be occupied by the dolphin structures. We accept that the coastal waters of the harbour are a significant component of its landscape value and provide a sense of place and identify for all who are familiar with them. As a whole, they also have high amenity value. However, we are satisfied that their location adjacent to the most modified edge of that landscape, their scale in relation to it and their design, which “fits” with the majority of other structures along this edge of the harbour, all serve to ensure that their effects are no more than minor. Accordingly, we find that adverse effects on natural landscapes are adequately avoided.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

The amenity value of Queens Wharf as public open and recreational space

152. The effect of the proposed dolphins and their use on amenity values was the most contentious aspect of the project and one on which we heard considerable evidence. We remind ourselves that the RMA defines “amenity values” in s 2 as *“those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”*. On the evidence we heard, a range of natural and physical qualities and characteristics were identified as contributing to the amenity value of Queens Wharf, namely:
- (a) Its proximity to and connections with the CBD;
 - (b) The availability of public access to large areas of the wharf, together with the street furnishings and other conveniences provided for visitors to use and enjoy;
 - (c) The natural environmental features and physical recreational attributes able to be enjoyed when present on the wharf, including close views of and visual connections with the harbour and its users, the ability to fish, the relative quietness of the space in comparison to the noise and bustle of the CBD.
153. The Plan identifies clear management objectives to be achieved by new activities and structures when it comes to amenity values. Policy F2.16.3(7) requires structures to be located to minimise impacts on recreational use and visual impacts, particularly on areas sensitive to effects such as headlands or the outer edges of enclosed bays, as seen from both land and water. Policy F2.16.3(8) requires structures to be designed to minimise impacts on amenity values and generally fit with the character of any existing built elements, including the use of materials and colours having regard to safety requirements.
154. We find that the proximity of the wharf to and its connection with the CBD will be unaffected by the project. Similarly, the extent of the wharf available for public access and use (as discussed above), will be maintained. There are likely to be periods of access restriction to parts of the wharf presently accessible to the public during construction, but overall, we are satisfied that those effects can be managed to an acceptable level.
155. To the extent that they will change the nature and quality of the access and recreational experience able to be enjoyed presently at the northern end of Queens Wharf, we agree with submitters that the dolphin structures will have effects on amenity values. The most significant effects will be visual and experiential. These will range from less than minor to moderate-high, depending on the proximity and nature of the viewing audience. The views and the current experience of the harbour will be affected the most from the wharf itself.
156. We accept though that Panuku has designed the dolphin structures to minimise visual impacts and impacts on amenity values as far as practicable. This was appropriate, given the sensitive nature of Queens Wharf as a headland ‘of-sorts’, on a very accessible part of the Auckland waterfront. It has also attempted to make it ‘fit’ as much as possible with the architectural vernacular seen along the waterfront, while at the same time trying to keep its form as subservient as possible to the form of Queens Wharf.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

157. The issue to be determined is whether the residual visual effects and effects on amenity values of these structures are appropriate in this location bearing in mind the scheme of the Plan as a whole, and its overall objectives when it comes to use and development in the CMA and within the Central Wharves Precinct in particular. We have concluded that these more than minor adverse visual and amenity effects are appropriate and, as we discuss later, are capable of remedy.

Traffic and transportation matters

158. There was no dispute on the expert evidence that the traffic and transportation related effects arising from construction of the proposal could be appropriately managed by conditions of consent.
159. In terms of the traffic related effects arising from use of the dolphins, initially Panuku adopted the stance that they were not worthy of consideration, because use of the dolphins (once constructed) was a permitted activity and there were no standards that applied to vehicle movements associated with that activity. However, “hedging its bets” that the additional traffic related effects that would arise from large cruise ships berthing at Queens Wharf could be considered, it requested its traffic engineer, Mr Phillips, to undertake an analysis of what those additional effects might be and to propose conditions to address them. Based on our analysis of the permitted baseline we consider Panuku’s revised approach to this issue was wise.
160. Responding to this evidence, Mr Speakman, Council’s reviewing traffic specialist, presented supplementary evidence late in the hearing which identified various matters on which he considered further information was required and recommended a number of conditions. The timing of this evidence drew criticism from Panuku in reply. Ideally, upon the presentation of the additional analysis and evidence, the engineers in question would have conferred about any matters of disagreement, in an effort to achieve a resolved position for our benefit. For whatever reason, that did not occur. But we do not consider that the blame for that can be laid wholly at the feet of Mr Speakman.
161. We have considered the issues raised in Mr Speakman’s supplementary evidence in detail and Panuku’s response to them in reply. We agree with Panuku that the appropriate place for them to be resolved is in the Traffic Management Plan (“TMP”) now proposed by it to assist in the management of the traffic effects arising from use of the dolphins (and Queens Wharf) by large cruise ships. Helpfully, there was no dispute amongst the traffic engineers about the objectives of the TMP. We have taken on board one of Mr Speakman’s suggestions for matters to be included in the TMP though and discuss this later in the context of Issue (g).
162. Mr Speakman’s final recommendation was that there be a condition preventing the berthing of a large cruise ship at Queens Wharf when an event is being held. However, we do not consider that such a condition is necessary because of the current conditioning regime that applies to events on Queens Wharf. This requires the intended promoter of an event to manage its effects if the event is likely to result in more than 2000 people on Queens Wharf (including in combination with the berthing of a cruise ship). This obligation

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

would not alter if the proposal was approved and, in our view, allows for appropriate co-ordination between activities involving large numbers of people on Queens Wharf.

Issue (d) - Alternatives

163. Under the RMA, where an activity is likely to result in "*any significant adverse effect on the environment*" Schedule 4, clause 6(1)(a) requires that an applicant include in their application a "*description of any possible alternative locations or methods for undertaking the activity.*" Panuku's application did not include such a description because, based on the assessment of effects undertaken, it did not consider any of the identified adverse effects of its proposal to be significant. Based on our findings on the key environmental effect issues, we consider Panuku's approach with respect to Schedule 4, clause 6(1)(a) of the RMA to have been appropriate.
164. However, Panuku's AEE included as Appendix 2 a report entitled "Mooring Dolphins – Consideration of Options", prepared by Barker & Associates, which was relied on to establish that its preferred option had at least been through a process of consideration alongside other possible alternatives. At the hearing various submitters were critical of the assessment and contended that Panuku had too quickly dismissed feasible or reasonable options to accommodate large cruise ships in Auckland. Maintaining the status quo, using sea-anchors (instead of dolphin mooring structures), using other wharves in the Port Precinct, and developing Captain Cook Wharf now were the preferred alternatives put forward by these submitters.
165. Plan Policy F2.16.3(1) (efficient use of coastal space by structures) directs new structures to be limited: (b) to where the proposed purpose or use cannot practicably be accommodated on existing structures or facilities; and (d) to locations where the purpose and frequency of use warrants them, and an alternative that would have lesser effects is not a practicable option. We consider the dispute as to alternatives in the context of these policy provisions.
166. Although it would appear to be technically possible, we are satisfied that accommodating large cruise ships on other wharves within the Port Precinct, such as Bledisloe or Jellicoe, is not practicable. The wharves in question are not designed to facilitate the embarking and disembarking of multiple passengers and offer a poor visitor "gateway" to the city as a result. More importantly, the owner and operator of the wharves in question (POAL) is unwilling to allow them to be used for this purpose because they are effectively at capacity with their primary freight function. While they have been used occasionally in the past for large cruise ships, they have not been for some years for this reason. We have no basis to dispute this evidence.
167. We agree with Mr Scott, that there is no statutory planning reason why the wharves in the Port Precinct could not be used for berthing large cruise ships. But that does not necessarily make doing so practicable. Without an indication from POAL that it is willing to allow the regular berthing of such ships at its freight wharves until Captain Cook Wharf is developed, it is not a practicable alternative to the current proposal.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

168. We also find that the proposed purpose and estimated frequency of use of the mooring dolphins is sufficient to justify their development, including in particular the health and safety, and visitor experience, improvements they will generate for the passengers and crew of large cruise ships by comparison to the status quo of mid-harbour station-keeping. Furthermore, after considering in detail the adverse effects of the proposal and the status quo, on balance we are not convinced that the latter option has “lesser effects” than the proposed option, particularly with respect to safe navigation, landscape and visual amenity effects.
169. In terms of the other two options suggested by submitters, we find that Captain Cook Wharf cannot be used for the berthing of large cruise ships and so it is not a practicable alternative at this time. It may become that in due course, but that is not relevant to an assessment of the practicable alternatives to the proposal before us now. Finally, Mr MacDuff’s suggestion of sea-anchors would clearly have lesser landscape and visual amenity effects than the proposed mooring dolphins and gangways. But, for the reasons described in Appendix 2 of the AEE, we are not persuaded that they are a practicable alternative to the proposal.
170. In summary, we are satisfied that Panuku’s assessment of alternative options for the mooring of large cruise ships has demonstrated that the mooring dolphin proposal is the most practicable option at this time and the Plan’s assessment requirements in this regard have been met.

Issue (e) – Statutory Policy Framework – The Central Wharves Precinct

171. Panuku submitted that the Central Wharves Precinct provided substantial support for its proposal, as the provisions in the precinct were the most tailored to Queens Wharf and its current and planned future circumstances. Accordingly, it contended that they should carry significant weight in our assessment.
172. Submitters in opposition contended the opposite, submitting that the Central Wharves Precinct provisions provided no support for Panuku’s application and supported refusal of the application on the grounds that it is inconsistent with those provisions. Considerable weight was put on Objective 4 of the Precinct in particular, which refers to “*public wharf space developed and used for predominantly public activities*”, an outcome it was said would be defeated if the application was approved.

The Central Wharves Precinct

173. Precinct Plan 3 graphically depicts the boundary of the Central Wharves Precinct. Notably, it includes three central city finger wharves (Princes Wharf, Queens Wharf, and Captain Cook Wharf). All of the water space between these wharves (including the ferry basin) and the water space to the north of the wharves is included within the Precinct.
174. In the precinct description it is noted that the land within the precinct has an underlying zoning of Business-City Centre whereas the underlying zoning of the CMA within the precinct is GCMZ. The precinct is described as being characterised by its active water

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

edge, maritime passenger operations (including cruise ships), marine and port activities, proximity to the city core, and areas of low-rise character buildings.

175. The description notes that Captain Cook Wharf currently forms part of the working port infrastructure (indeed, it remains presently in the ownership of POAL), where public access is necessarily restricted. The description records that it may be appropriate to provide for public access and development if this wharf is no longer required for port operations.

176. The purpose of the Precinct is:

“To provide for ongoing use for maritime passenger operations and other marine and port activities, and in parts of the precinct to provide an environment and an appropriate scale of built form for public activities, marine facilities and events, while maintaining public access to the waterfront and providing for sustainable land and coastal management within the precinct.”

Objectives & Policies

177. When considering the objectives and policies of the Precinct it is important to recall that they apply to the whole Precinct and not just Queens Wharf.

178. Objective 1 of the Precinct is aspirational. It is:

“A world-class visitor destination that is recognised for its quality buildings, public open spaces, recreational opportunities, marine and port activities and facilities and events.”

179. Other relevant objectives are:

“(3) A safe, convenient and interesting environment, which optimises pedestrian and cycling use and connections to the waterfront and to the core central business district, in public areas of the precinct.

(4) Public wharf space developed and used for predominantly public activities for the benefit of the people of Auckland and visitors while also enabling marine and port activities and maritime passenger operations.

(5) Adverse effects arising from activities and development are avoided, remedied or mitigated, in an integrated manner across mean high water springs.”

180. Policies relevant to the application are as follows:

“(1) Enable the efficient operation and development of the precinct by providing for activities which have a functional need to locate in or adjacent to the coastal marine area, including maritime passenger operations, marine and port activities and maritime passenger facilities including for the cruise ship industry.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

(2) Development which is of a medium to low scale on the waterfront which integrates and does not conflict with the scale of the development in neighbouring precincts.

(3) Enable a diverse range of activities while:

- (a) Avoiding, mitigating or remedying potential adverse effects in an integrated manner across mean high water springs, including reverse sensitivity effects on marine and port activities and maritime passenger operations; and*
- (b) Maintaining and enhancing public access to the water's edge, except where public access must be excluded for safety, security, biosecurity, customs, maintenance or operational purposes.*

(4) Provide for continued use of all berthage areas adjacent to public open spaces for maritime passenger operations and other marine and port activities.

(6) Encourage the development of a diverse range of high-quality visitor experiences including promenading, coastal recreation and temporary activities.

(7) Provide for a network of different-sized public open spaces in key locations along the water's edge to cater for a range of recreational opportunities and provide vantage points.

(8) Enable public access and events along Queens Wharf in a manner that does not constrain or conflict with the use of this wharf as a terminal and berthage for maritime passenger operations, cruise ship operations, other visiting non-cargo vessels and public transport facilities.

181. Consistent with these policies, the activity table for the CMA portion of the Precinct provides for “*maritime passenger operations*” and “*marine and port activities*” in all areas of the Precinct as permitted activities. However, “*maritime passenger facilities*” (including for the cruise ship industry) are provided for only by way of a discretionary activity consent. This indicates that while the ongoing use of the wharves and CMA within the Precinct for maritime passenger operations and cruise activities is a key planned outcome within the Precinct, new facilities, including CMA structures that may be required for these operations, need to be considered on a case-by-case basis, hence this application. But apart from Policy 3(a), which requires consideration of reverse sensitivity effects on maritime passenger operations when considering other activities being sought for approval within the Precinct, there is little else within the policy framework of the Precinct per se that speaks directly to the proposal for the dolphins as discretionary CMA structures.

182. We find therefore that it is the objectives of the Precinct that provide the most relevant set of considerations for assessment of the proposal. We consider each of them in turn.

183. **Objective 1:** We do not consider that the dolphins would detract from the Central Wharves Precinct as a destination for visitors, or in any way hinder it from becoming a “world-class” destination. Nor does it impact upon the extent of public spaces, recreational opportunities or event capabilities available within the Precinct. Rather, by assisting the

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

Precinct to maintain a role as the primary point of entry for cruise ships, the proposal goes some way to assisting in the continued recognition of it for one of the purposes specified in the objective.

184. **Objective 2:** We are satisfied that the dolphin structure itself is of a low scale and integrates well (and does not conflict) with the scale of development in neighbouring precincts. Considered together, its similar height to the existing deck of Queens Wharf, its scale in comparison to the finger wharves in the Precinct generally, and its location wholly with the Precinct in an area substantially developed for maritime activities all serve to ensure that this objective is achieved.
185. **Objective 3:** In our view, the dolphins would not threaten the safety or convenience of the environment in any of the public areas within the Precinct, or detract from the interest of the Precinct to visitors, or the ability to optimise pedestrian and cycling use and connections to the waterfront and the CBD.
186. **Objective 4:** This objective was the subject of much focus at the hearing. In our interpretation it should not be read as directing an allocation of uses within the Precinct, with “public activities” having the greatest share. We consider that reliance on the word “predominantly” for that interpretation is misplaced. The word “predominantly” modifies the nature of the activities aspired to in the Precinct (i.e., that they be “predominantly public”), not their proportion when measured against the other activities also provided for. In our view, all three activities have equal “rights” within the Precinct, albeit that proposals for the use and development of public wharf space should be of predominantly public, rather than private, nature.
187. In our assessment, the proposal enables marine and port activities within the Precinct. On the evidence, we are also satisfied that it does not impact to any significant extent on existing maritime passenger operations occurring within the Precinct. Nor does it utilise public wharf space that could otherwise be developed and used for “*public activities for the benefit of the people of Auckland and visitors*”; nor threaten the ability for that outcome to be achieved on Queens Wharf or elsewhere in the Central Wharves Precinct. On the face of it therefore, the proposal achieves one of the key aspects of the objective, while not threatening the attainment of the other two, equally important, aspects.
188. **Objective 5:** The mooring dolphins will have some adverse effects on the environment. On the basis that these effects are avoided, remedied or mitigated, in an integrated manner across mean high water springs, a matter we return to below in the context of considering Issue (g), then this objective will be achieved as well.
189. In summary, based on our analysis of the application and the evidence we find that allowing the development of these structures at the northern end of Queen's Wharf would not imperil any of the objectives of the Central Wharves Precinct; in fact, they would assist in the attainment of several of them.
190. A number of submitters argued that the proposal should be refused on the basis that it was a further encroachment of structures into the Waitematā Harbour and this was inappropriate. However, we have not been able to identify a “bright-line” policy of “no

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

further encroachment" into the harbour in any of the relevant statutory documents we have analysed. The most stringent policy framework applies to reclamation, which is generally classified as non-complying. But, subject to assessment against a detailed range of criteria and policies, new CMA structures within the harbour can be considered and approved as restricted discretionary or discretionary activities. By reference to the matters to be considered we observe that the opportunities for new CMA structures in the harbour are much more limited than they might have been historically, but they are not prohibited and can be approved on the grounds that they are acceptable on a case by case basis.

191. We also acknowledge that numerous submitters considered that allowing the dolphins threatens the future development of Queens Wharf as public open space. However, the evidence is that cruise ship activities have a long-standing and legitimate place on Queens Wharf, as do commuter ferry services and public events and open space. As such, we do not agree that enabling the construction of the dolphins for a temporary period to facilitate the continued operation of Queens Wharf for cruise activities "tips the balance" on Queens Wharf away from public open space and passive recreational use towards the cruise industry. Rather, we consider it would actually assist the Precinct to better achieve some of its core objectives.

Issue (f) – Non-Statutory Policy/Strategic Framework

192. A number of non-statutory strategic documents have been prepared since 2012 in order to guide the future planning and development of Auckland's waterfront and port. An issue in the case was whether Panuku's proposal was consistent with them (Panuku's position), or not (Mr Blakey's (and others') position). As noted earlier, we have determined that these documents are relevant to the application and that an understanding of them is necessary for us to determine the application.
193. The **Auckland City Centre Masterplan 2012** is a 20-year vision that sets the direction for the future of the city centre as the cultural, civic, retail and economic heart of the city. It identifies eight key transformational moves designed to transform and provide a cultural and economic heart for Auckland, so that it is a great place to live, work and play in.
194. Two of the transformational moves relate to the Auckland waterfront (the "Harbour Edge Stich" and "A Water City") and rely for their detail on the Waterfront Plan 2012. It is recorded that the Waterfront Plan will contribute to the delivery of the Masterplan through providing "a multi-use cruise ship facility in the refurbished Shed 10 on Queens Wharf, as well as event spaces and improved public amenity to complement the cruise hub functionality". We were told by Messrs Marler and Twose that one of the key assumptions underlying the Masterplan was that Auckland's primary cruise ship terminal will be operational on Queens Wharf "for the next 15 years", i.e., until at least 2032.
195. Published in June 2012, the Council's **Waterfront Plan 2012** sets out the vision and goals for Auckland's city centre waterfront. It is an integrated action plan that contains a range of short, medium and long-term initiatives to transform this part of the city. The decision of the Environment Court in the AC36 matter characterised this plan as aiming "to create an area that accommodates a range of activities which add to the character and sense of

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

place that is also well connected to the wider city, and is an area that can be used by all members of the public”.⁴³

196. The Waterfront Plan sought to establish a multi-use cruise ship facility in the refurbished Shed 10 on Queens Wharf, as well as event spaces and improved public amenity to complement the cruise hub's functionality. These outcomes have been implemented in part through the redevelopment of Shed 10 (per the consent issued in August 2012), and the current operation of part of Queens Wharf for cruise ship purposes on both sides of the wharf. Other outcomes have not been achieved to date (e.g., removal of the Cloud and development of more public recreation spaces, including a salt water pool).

197. The Waterfront Plan appears to anticipate the current proposal. On the Concept Plan included in the Waterfront Plan, an extension to the northern end of Queens Wharf, presumably to assist in the mooring of cruise ships, is depicted. In the text of the Plan it is also noted:

“Princes Wharf will remain as the secondary cruise terminal but as growth continues, additional facilities will be required. Further extensions to the north and south of Shed 10 will provide additional capacity, together with a dolphin extension to the wharf to accommodate berthing of the expected larger vessels.”

198. We were told, again by Messrs Marler and Twose, that parts of the Waterfront Plan relating to the central wharves area are presently being “refreshed” in order to respond to the “significant growth in the number and size of cruise ships visiting Auckland, as well as the need to accommodate growth in ferry services and meet demands for public access to the water's edge.”

199. The introductory section to the **Downtown Framework 2014** advises that:

It provides the context for individual projects based on the council's strategic direction. It is non-statutory. It is a living document that will continue to evolve over time responding to new opportunities to fulfil the potential of downtown.

200. In respect of Queens Wharf, it notes that:

Queens Wharf was opened to public access as ‘the People’s Wharf’ in 2010. The next stage of revitalisation of the wharf is in the early stages of planning. Future plans for the wharf will deliver significant new public space as well as taking account of future ferry and cruise operations.

201. Implementation of the Downtown Framework is presently occurring through various components of the Council's DIDP and, with respect to the city centre wharves, the **Central Wharves Strategy** about which it is advised that:

This strategy will address competing demands on the water space, responding to growing demand and operational requirements for ferry, cruise and port activities. Importantly this will also need to consider how these operations affect how we can

⁴³ NZEnvC 179, at [652].

use wharf spaces (function, development and activities) and aspirations for the harbour's edge. (p14&15)

202. The Central Wharves Strategy, prepared by the Council's City Centre Integration Group, is a strategy focusing on the central city finger wharves with the objective of addressing the growth expected to occur in ferries, cruise ships, public space/events and freight. As updated in September 2017, the strategy is the:

"proposed staged delivery of additional waterfront public open space and new ferry infrastructure, and the need for further cruise infrastructure in the medium-long term and noting:

That the transition of Captain Cook Wharf to a cruise terminal and berths remains the optimal option to deliver the economic benefit from the growth of the cruise industry but remains subject to negotiation with the Ports of Auckland Limited;

The long-term masterplan for Queens Wharf as a key public and event space will need to be staged with projects such as the ferry terminal, cruise infrastructure and the removal of the Cloud."

203. The spatial plan depicting the Central Wharves strategy identifies a mooring dolphin of sorts off the northern end of Queens Wharf, the Cloud removed, a reconfigured ferry basin, Marsden Wharf removed, and Captain Cook Wharf extended and developed with a new cruise terminal.
204. Reading these documents as whole their strategy to address the competing demands for the central wharves area, achieve greater integration between the wharves and the CBD, and recognise Queens Wharf's role as "a people's wharf", while establishing increased facilities for cruise ships, is tolerably clear. In that respect, the extension to and development of Captain Cook Wharf, involving a wharf structure that extends to approximately 30m northwards of Queens Wharf, is the recognised and preferred long-term outcome for Auckland's cruise ship terminal.
205. However, these documents do not rule out the possibility of improvements to the Queens Wharf cruise infrastructure, such as, by way of obvious example, a dolphin mooring extension to the end of the wharf to enable it to accommodate the anticipated more frequent arrival of larger cruise ships, pending the longer-term solution becoming available. Various plans within the documents depict such an extension.
206. For this reason, we cannot agree with Mr Blakey that the proposal does not give effect to the "directions" expressed in these documents simply because it is a temporary option in response to present and future demand and not the long-term preferred option. We found nothing in these strategic documents warring against the adoption of a staged approach, whereby activities may be reorganized over time as progress towards the preferred outcome is advanced. Furthermore, it is only being advanced, as we understand it, in light of the lack of availability of Captain Cook Wharf and funding to develop it. Absent those factors, there would be no rationale for it in the first place.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

207. Accordingly, we find that the proposal is not inconsistent with the non-statutory planning and strategic framework for the Central Wharves and that allowing it to proceed would assist Auckland in the short term to achieve several of the strategic waterfront objectives relating to the retention and development of the cruise industry generally within the Auckland waterfront area.

Issue (g) – Effects Management - Conditions

208. Following our assessment of the principal issues in contention we have found that the project will have the following adverse effects:

- (a) minimal adverse effects on public access to Queens Wharf;
- (b) less than minor effects on the use of the occupied water space by recreational boats, mostly arising from the inconvenience caused by the location of the dolphins and their use from time to time by large cruise ships;
- (c) minor effects on ferry services, due to the potential impacts on routes and timetables that will be caused by the location of the dolphins, consequently affecting the people and communities that rely on these services;
- (d) minor effects on the 'context' heritage values of the wharf due to the location of the dolphin structures;
- (e) minor effects on the natural character and landscape values of the inner Waitematā Harbour;
- (f) in terms of amenity values:
 - adverse effects on visual amenity values ranging from less than minor to moderate-high, depending on proximity and the nature of the viewing audience;
 - minor effects on some recreational values/experiences able to be enjoyed at the end of the wharf presently;
- (g) minor effects arising from construction, including effects arising from traffic movements;
- (h) potentially more than minor traffic effects arising from use of the dolphins by large cruise ships.

209. We have not identified any significant adverse effects arising from the proposal. Accordingly, the policy framework that directs avoidance of such effects (e.g., by refusal of consent) is not engaged, and we have scope to consider the effects of the proposal by reference to the more accommodating policy direction of "avoid, remedy or mitigate". In this regard, the proposed conditions of consent are directly relevant, because if the identified adverse effects are able to be avoided, remedied or mitigated by way of

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

conditions, then that will weigh in our final assessment and determination of the application.

210. We have reviewed Panuku's proposed conditions in detail, as well as the helpful comments made on them by Mr Blakey. The most significant aspect of them is their proposed duration and dolphin decommissioning requirement. We consider this aspect of the conditions first, and then turn briefly to discuss a small number of other issues with them.

Duration

211. Panuku's proposal is that the coastal occupation permit for the dolphin structure have a term of 15 years from the date of commencement, or a term expiring on the date that is two years after Captain Cook Wharf becomes operational for cruise activities. The two year "window" is to enable sufficient time for the dolphin structures to be removed. The removal (or decommissioning) requirement is secured by way of separate condition, which would have the effect of defeating the operation of s 124: that is, the condition would have to be changed or deleted by way of application under s 127 before the consent expired if that obligation was to be avoided, even if an application to renew the occupation consent was to be made.
212. Together, we find that these conditions have the legal effect of remedying the adverse effects caused by the physical location and presence of the dolphin structure off the end of Queens Wharf that we have identified, namely inconvenience to recreational boaties; impacts on ferry users; effects on heritage, natural character, natural landscape and amenity values.
213. Mr Blakey recommended a fixed duration of 12 years, which he considered was appropriate in order to enable Panuku to recover the cost of expenditure to build the dolphin and also the cost of decommissioning it. Other submitters, notably Heritage New Zealand and, as a fall-back, Urban Auckland and others, suggested a term of 10 years maximum. Still others recommended a term of less than 10 years.
214. The factors relevant to the duration of a consent are set out in *PVL Proteins*⁴⁴. A decision as to the appropriate term:
- is to be made for the purpose of the RMA;
 - should have regard to actual and potential effects and relevant planning instruments, the nature of the activity and sensitivity of the receiving environment to adverse effects; and
 - should take into account that conditions may be imposed requiring the supply of information over the life of consent, observance of specific standards, and reserving the power to review conditions.

⁴⁴ *PVL Proteins Ltd v Auckland Regional Council*, A61/2001 at paragraphs 27 – 34.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

215. The Court also noted that expected future change in the vicinity, or uncertainty about the effectiveness of conditions to protect the environment, may indicate a shorter term.
216. In this case Panuku has put forward a 15 year consent duration in response to concerns raised as to the length of term initially proposed, which included suspicions about the veracity of its claims that the structures would only remain off the end of Queens Wharf until such time as its preferred longer term solution could be developed. We find that Panuku's proposal for a shorter consent duration was appropriately made in the circumstances.
217. On the basis of Mr Kirk's evidence, Captain Cook Wharf could become available for development for cruise facilities between 5 to 10 years from now. Panuku's evidence was that a realistic consenting and development timeframe for those facilities (once the wharf was available) could be in the order of 3 to 5 years. So, the worst-case scenario (in terms of the presence of the dolphins off the end of Queens Wharf) is 15 years; the best case is 8 years. Although submitters suggested shorter consent durations, we heard no evidence that would lead us to doubt the timeframes described by Panuku as required in order to relocate to Captain Cook Wharf. In light of that evidence, we find that little would be achieved by imposing a shorter duration than that proposed by Panuku, other than to court a further, potentially unnecessary, consent process. The *Augier* qualification to the duration offered by Panuku in reply is a critical aspect of our satisfaction with this consent duration proposal, as is the fact that it aligns, +/- 5 years, with the 20 year planning timeframe covered by the Waterfront Plan 2012.
218. We do not accept the argument from submitters that the proposed conditions as to duration and decommissioning are ineffective because once the dolphins are constructed Panuku will simply apply to renew them at the end of the term and will rely on their existence to justify the continued occupation of the CMCA. We are obliged to treat the conditions, including as to duration, as legally effective (see *Barry v Auckland City Council*⁴⁵ and *88 The Strand v Auckland City Council*⁴⁶). We accept that Panuku is legally entitled, prior to the end of the term, to apply to vary the consent (as to decommissioning) and renew it for a further period. But the prospect of an application being renewed is not a relevant factor to be taken into account when determining whether to grant or refuse consent under s 104B. Those applications (if made) would need to be determined on their merits at the time.
219. In our assessment the duration of 15 years (maximum) proposed by Panuku is appropriate to achieve the purpose of the RMA, including by not prolonging the imposition of the adverse effects of the dolphins on the local environment for an unreasonable period. In this regard we record that if these structures were to occupy the CMCA at the end of Queens Wharf for a period longer than 15 years, we would not have found their adverse effects to be adequately avoided, remedied or mitigated.

Other conditioning issues

⁴⁵ *Barry v Auckland City Council* [1975] 2 NZLR 646 (CA).

⁴⁶ *88 The Strand v Auckland City Council* [2002] NZRMA 475 (HC).

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

220. An issue of contention between Panuku and Mr Blakey related to the extent of information provided by Panuku in its application as to its management plan proposals. Mr Blakey was concerned that the management plans needed to be prepared to a sufficient level of information now in order to enable the effects of the activity to be properly assessed.
221. We have carefully reviewed the proposed management plan conditions and find that they conform with the expectations of the Court when it comes to such conditions.⁴⁷ We are satisfied that the objectives for each of the plans to achieve are clear and appropriate. Together with the specified matters to be addressed (so as to achieve the objectives), we consider that the certification/approval process for them will yield management plans that will appropriately avoid, remedy and mitigate the adverse effects of the construction and operational aspects of the project they are directed at managing.
222. We have included to other condition matters. The first is within TMP condition 38 (a new matter of detail), namely: “[m]easures to ensure that buses, coaches, mini-vans and taxis do not queue along the western side of Queens Wharf”. This is to address a concern raised by Mr Speakman (with which we agree), and which was also confirmed as part of the proposal by Panuku in reply.⁴⁸
223. The second additional condition we have considered it appropriate to impose is in relation to reporting on the duration of the occupation consent for the dolphins (condition 58). The condition provides:

In order to provide information as to the expected duration of the occupation consent for the mooring dolphins and associated structures the Consent Holder shall lodge a Duration Progress Report (“DRP”) with the Team Leader Compliance Monitoring – Central annually on the anniversary of the commencement of this consent. The DRP shall set out the steps taken and progress made within the preceding 12 month period towards the development of Captain Cook Wharf as Auckland’s primary large cruise ship berthage and terminal and the estimated expected expiry date of this permit based on that progress.

224. The purpose of the condition is to provide information to the Consent Authority (and the public) about the expected expiry date of the permit. We consider that the condition is a corollary of the *Augier* component of the duration condition offered by Panuku; but is authorised in any event by s 108(3) as it relates to the exercise of the resource consent in question (i.e., for coastal occupation).

Decision

225. Under s 104B we have determined to exercise our discretion in favour of the application and to grant consent, subject to conditions. We are satisfied that doing so will achieve the sustainable management of natural and physical resources. The application will generate positive economic, and health and safety effects and its adverse effects will be time limited and then remediated (by removal of the structures). We record that without either of these factors being in its favour, we would not have exercised our discretion in this manner.

⁴⁷ See for example, *Northcote Point Heritage Preservation Society Inc v Auckland Council* [2016] NZEnvC248.

⁴⁸ Panuku, Reply Submissions, 27 February 2019, para 2.43(a).

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

226. At the hearing many submitters expressed the view that a decision approving the application would “take the pressure off” Panuku, POAL and the Council to progress the preferred long-term solution for the cruise industry in Auckland (i.e., Captain Cook Wharf). Others argued that an approval would further delay the long-promised redevelopment of Queens Wharf as a premium public open and recreational space. To prevent either of those occurrences, which were resoundingly rejected as unsatisfactory, we were urged to “send a message” by refusing consent. In doing so, submitters envisaged we would force Panuku, the Council and POAL to “get to work” on Captain Cook Wharf now and start to plan for the exit of cruise from Queens Wharf and its redevelopment for public open space and recreational activities in the near future.
227. We acknowledge submitters’ frustrations with the actions (or inactions) of their elected representatives and their controlled organisations when it comes to managing public assets. However, the appropriate forum to express those frustrations is at the triennial ballot-box. Our jurisdiction is limited to considering and determining the application in accordance with the RMA and does not extend to using our decision-making powers to “send messages” to people about what we think they should or should not do with natural and physical resources.
228. In exercise of our delegation under ss 34 and 34A of the RMA, after having regard to the foregoing matters, we therefore determine that the resource consent should be granted for the reasons stated above, subject to the conditions set out in **Schedule 2**.

A handwritten signature in blue ink, appearing to read 'KRM Littlejohn', with a long horizontal flourish extending to the right.

K R M Littlejohn (for and on behalf of the Commissioners)

Chairperson

23 April 2019

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Decision of Commissioners

Schedule 1 – Summary of evidence heard

Panuku's evidence

1. **Mr Rod Marler** is the Design and Place Director at Panuku and has over 30 years' experience delivering large and complex projects. **Mr Matthew Twose** is the Manager Planning Consents at Panuku. He has over 20 years' experience in the planning and resource management field in Auckland and led the recent AC36 and Westhaven Pile Mooring resource consent applications for Panuku.
2. Mr Marler and Mr Twose's evidence:
 - (a) provided background on Panuku, particularly with regard to its ownership and management of Queens Wharf;
 - (b) outlined Panuku's role in the planning of the central wharves area, and how the proposal sits in relation to those strategies and plans;
 - (c) summarised Panuku's general approach to engagement with Mana Whenua of Tāmaki Makaurau and detailed its approach to engagement with Mana Whenua in respect to the proposal; and
 - (e) provided comment on the s42A report and supporting technical reports.
3. By way of summary, their evidence was that:
 - (a) Queens Wharf has three key purposes, as a public open space, a major events space, and as a cruise terminal and that Panuku has worked to ensure all three of these purposes for Queens Wharf are achieved. They emphasised that this is not a case of competing or conflicting requirements; that the wharf is planned to accommodate the growth and development of all three purposes. In their view the proposal did not foreclose or curtail the continued use and development of Queens Wharf as a public open space or major events space.
 - (b) There is a comprehensive suite of integrated, strategic planning documents guiding the development and use of Queens Wharf for cruise, events and public open space. The documents include the Waterfront Plan 2012, the City Centre Masterplan 2012, the Central Wharves Strategy, the Downtown Framework 2014, and the AUP. In their view, this integration occurs both horizontally, with the documents all closely linking to another under the Auckland Plan, and vertically, with the AUP giving effect to the higher order planning documents, including the NZCPS. They considered that the proposal was consistent with all of these documents and, in particular, implemented a significant number of key objectives in the Waterfront Plan, Downtown Framework and Central Wharves Strategy.
 - (c) Panuku has well-established forums and processes through which it engages with Mana Whenua. It is committed to ongoing Mana Whenua engagement on the proposal, along with the other projects in the CBD waterfront area that Panuku is responsible for delivering.

Schedule 1 – Summary of evidence heard

- (d) The merits of the proposal have been exhaustively assessed and reviewed by the Council and Panuku has received the Governing Body of Auckland Council's agreement to advance through the resource consent process as a publicly notified application. Mr Marler and Mr Twose were confident the Project appropriately addressed the environmental effects associated with its construction, location and operations, and should be granted consent.
4. **Mr Simon Oddie** is the Principal Programme Manager within the City Centre Unit of the Development Programme Office at Auckland Council and Council's Programme Lead for the Downtown Infrastructure Development Programme ("DIDP"). He has been involved from the initial planning phase and was instrumental in developing an implementation strategy, as well as establishing the delivery vehicle, for the provision of key infrastructure upgrades and outcomes in advance of the 36th Americas Cup and Asia-Pacific Economic Cooperation Leaders' Week in 2021.
5. Mr Oddie's evidence explained the DIDP in order to contextualise the proposal within the broader development objectives currently in place for downtown Auckland. He advised that the objective of the DIDP is to deliver a world class waterfront and downtown precinct which integrates requirements for public open space, transport, tourism and cultural elements and described its various goals. He then described the projects within the DIDP that were underway and their delivery timeframes. The projects were the Quay Street seismic upgrade, the Downtown Ferry basin redevelopment, the Downtown public space upgrade, Quay Street streetscape Enhancements, the Britomart East bus interchange and the Queens Wharf cruise upgrade.
6. Mr Oddie's conclusion was that the Auckland waterfront is a focal point for visitors and residents of Auckland alike and that DIDP was Council making good on its promise to provide transformative outcomes for this area. He considered that the proposal was "*a critical element of the DIDP, and must therefore go ahead if the Council family is to deliver on its development expectations.*"¹
7. **Mr John Smith** is contracted by Panuku to provide advice on waterfront projects and the implementation of the Waterfront Plan, and by Auckland Tourism Events and Economic Development (ATEED) to provide advice on the cruise industry. Mr Smith is an urban manager with nearly 30 years' experience working for state and local governments in Australia, and over 10 years' experience advising Local Government in Auckland and New Zealand. For the last 5 or so years, he has led the implementation of the cruise infrastructure strategy for the Council, including the development of the Central Wharves Strategy and the upgrade of cruise infrastructure on Queens Wharf.
8. In his evidence Mr Smith discussed the importance of cruise for Auckland and New Zealand, described the current limitations of Auckland's cruise facilities, and set out Council's planning for cruise, including the development of the proposal. Mr Smith also set out Project detailed engagement undertaken with key stakeholders and described the proposal in detail.
9. By way of summary it was Mr Smith's evidence that:

¹ S Oddie, EIC, para 4.1.

Schedule 1 – Summary of evidence heard

- (a) The cruise industry has a significant and growing economic importance to New Zealand. Direct expenditure from the cruise industry in New Zealand in 2017 / 2018 was \$433 million, an increase of 18.5% from the previous year, with \$131 million of this occurring in Auckland. Regions elsewhere in New Zealand benefit significantly from the cruise industry with expenditures of \$302 million in 2017 / 2018.
 - (b) Worldwide growth of the cruise industry is also evident. Growth is estimated at 7% per annum, with 36% growth in New Zealand in the last cruise season. With the current infrastructure, considered by Mr Smith to be inadequate, growth of cruise ship visits would be restricted in his view to 0.9% per annum compared to 4.2% historically, with passenger growth of 2% compared to 15% historically. However, cruise ship visit projections suggest that with better infrastructure, ship visits are likely to increase from 110 in 2017 / 2018 to between 229 and 241 in 2030 / 2031.
 - (c) Auckland does not currently provide adequate infrastructure to accommodate the cruise industry primarily because the cruise industry is changing. Extra-large cruise ships have emerged as new classes of vessel favoured by the major cruise lines. There are a significant number of these ships in service and on order, with many destined for Asia, Australia and New Zealand. The largest cruise vessels are anticipated to be in this region in five to seven years. Auckland's cruise ship berths cannot accommodate extra-large cruise ships with Ovation of the Seas mooring in the Waitematā Harbour for its seven visits in 2017 -2018.
 - (d) The purchase of Queens Wharf and redevelopment of Shed 10, the proposal itself, and the planning for a future cruise terminal on Captain Cook Wharf, indicated in Mr Smith's view that Council recognises the importance of cruise to the region's economy and has invested considerable planning in ensuring Auckland can accommodate the cruise industry as it grows and develops.
 - (e) The proposal is a progressive improvement to cruise infrastructure to enable extra-large ships to berth alongside a wharf that will satisfy the immediate needs of the cruise industry, whilst planning and enabling development for the conversion of Captain Cook Wharf into a cruise terminal over the coming decade. He considered that the proposal was therefore critical "if New Zealand is to continue to enjoy the fruits of the cruise industry".²
10. **Mr Alistair Kirk** is the General Manager of Infrastructure and Property for Ports of Auckland Limited ("POAL"). He is responsible for the provision and management of all assets and property of POAL, and for developing POAL's 30 Year Master Plan.
11. Mr Kirk advised that POAL supported the construction and operation of the proposed infrastructure upgrades to the eastern cruise ship berth on Queens Wharf and had given its written approval to the application.
12. Mr Kirk confirmed that POAL sold Queens Wharf to the Council and the Crown in 2010, but it retains the s 384A RMA coastal occupation permit for the wharf itself and its immediate surrounding waterspace. POAL is licenced by the wharf owners (the Crown and the Council)

² J Smith, EIC, para 10.1

Schedule 1 – Summary of evidence heard

to berth cruise ships at Queens Wharf and manage all associated activities. POAL also has obligations to maintain the sub-structure of Queens Wharf, the berthing assets (bollards and fenders) and dredge the berth pockets.

13. In his evidence Mr Kirk summarised POAL's role in relation to the cruise industry in Auckland; outlined why POAL considered the proposal was needed; discussed the long-term strategy for extra-large cruise ships in the Auckland region; and outlined POAL's priorities in relation to what the proposal should achieve.
14. By way of summary, it was Mr Kirk's evidence that:
 - (a) POAL plays a critical role in relation to enabling Auckland's cruise industry, including by managing bookings and providing the services and facilities that are necessary to safely berth ships and manage passengers;
 - (b) POAL considers the Project is necessary to ensure Auckland's (and New Zealand's) growing cruise industry keeps up with international demand for facilities to enable extra-large cruise ships to berth alongside a wharf. The consequences of not providing this infrastructure are significant and will, in POAL's view, see a reduction in cruise ship activity in Auckland. The Project responds to an existing deficit in Auckland's berthing infrastructure and provides an immediate solution while the longer-term solution (Captain Cook Wharf) remains required for POAL's freight activities for at least the next 10-15 years;
 - (c) The current arrangements require extra-large ships to "moor" in the harbour, with passengers tendered to shore. This arrangement is not satisfactory. It is inefficient, preventing these ships from "exchanging" (i.e. starting and finishing cruises in Auckland), and requires significant POAL resources to manage. It is also inherently much less safe for passengers than disembarking via appropriate wharf-side facilities;
 - (d) POAL will be responsible for the operation of the dolphins, including mooring operations. In this regard, the health and safety of POAL's linesmen and other workers is POAL's overriding concern. POAL will not operate the dolphins unless they are safe for its workers. The proposed gangways connecting the dolphins are therefore "non-negotiable" from POAL's perspective, as they are essential for ensuring worker safety.
15. In conclusion, it was Mr Kirk's view that there is a clear need for an immediate solution that will enable the mooring of extra-large cruise ships in Auckland and that the proposal responds to this requirement and has been carefully designed so that it is safe for POAL to operate, reliable and easy for POAL to maintain.
16. **Mr Matthew Holbrook** is a Senior Pilot at POAL, a position he has held for the last 5 years. As a Pilot, Mr Holbrook is directly involved with ensuring the safe movement of vessels into and out of the Port of Auckland. As part of that function, it is his responsibility to ensure vessels are safely and securely made fast to the wharf arrangement in such a manner that both he and the ship's master are confident that the vessel is "fast" for the prevailing and expected conditions for the duration of the stay of the vessel.

Schedule 1 – Summary of evidence heard

17. Mr Holbrook has completed approximately 300 vessel movements per year since 2005 and, taking into account his prior 20 years at sea on a variety of vessels, considered himself to be an expert ship handler and an expert in safely arranging for the berthing and mooring of vessels.
18. In summary, it was Mr Holbrook's evidence that:
 - (a) Pilots provide an essential service to users of the Port of Auckland. For a pilot, the primary concern is ensuring that the vessel reaches its destination safely, and is able to be secured with minimal risk to all involved;
 - (b) Currently the berth at Queens Wharf East is unable to accommodate vessels larger than 294m. The key reason for this is the length of extra- large vessels as compared with the length of the wharf. These factors dictate the necessary line arrangement to fast the ship. In Mr Holbrook's opinion, to currently berth ships over 294m at Queens Wharf would be inherently unsafe. In particular, it would challenge the integrity of the wharf, fittings, structure and vessel;
 - (c) Some extra-large cruise ships are able to maintain dynamic positioning in the harbour, instead of berthing at the wharf. However, this is only a small percentage of cruise ships. As Queens Wharf is the primary cruise hub for Auckland, Mr Holbrook considered there was a need for the proposed mooring dolphin structures to ensure that extra-large cruise ships can safely berth at Queens Wharf;
 - (d) The purpose of the two mooring dolphins for which consent is sought, is to support mooring bollards so that large cruise vessels can be safely secured at the Queens Wharf East berth, with an appropriate line arrangement employed;
 - (e) Simulations have been undertaken by POAL which demonstrate that the mooring dolphin structures will allow vessels to have the security of knowledge that they can safely remain alongside Queens Wharf in the predominant weather conditions that could normally be expected to be experienced in this location.
19. **Mr Greg Akehurst** is a Director of Market Economics Limited, an independent research consultancy. Mr Akehurst was commissioned by Panuku to assess the potential economic effects of the proposed infrastructure upgrades to the eastern cruise ship berth on Queens Wharf. In his evidence Mr Akehurst summarised his assessment as follows:
 - (a) Implementing the proposal is preferred from an economic perspective to a "Do Nothing" future under each of the scenarios modelled. That is, there are significant positive economic effects under each of the three future scenarios assessed. In his view, if the economic effects were the sole decision criteria, then under each considered future, the best decision was to carry out the proposal to enable extra-large cruise vessel visits to be handled at Queens Wharf;
 - (b) In more detail, Mr Akehurst considered that the total value of economic effects for the three future scenarios assessed were as follows:

Schedule 1 – Summary of evidence heard

- Under a Conservative Future: the project is preferred over the Do Nothing. This results in a positive position with Net Present Value ("NPV") of \$46.9 million or a Benefit Cost Ratio ("BCR") of 4.5 when viewed over the 15 year life of the project;
 - Under the Likely Future: the project is preferred over the Do Nothing. This results in a positive position with NPV of \$164 million or a BCR of 13.3 over 15 years;
 - Under a High Future: the project is preferred over the Do Nothing. This results in a positive position with NPV of \$251 million or a BCR of 19.9 over 15 years.
- (c) As with every development / use of resources, Mr Akehurst acknowledged that there will be a range of costs, as well as benefits (or positive effects). Not all of these costs are purely economic and easily monetised. For the purposes of his evidence though he focussed on pure economic costs (such as construction costs, and other costs associated with the provision of goods and services to the cruise industry in economic terms), rather than seeking to quantify in monetary terms all of the adverse effects of the project. Costs and benefits in areas other than economics have been assessed on a qualitative basis by other relevant experts.
20. It was Mr Akehurst's conclusion that building the dolphins and associated infrastructure will lead to a much stronger Auckland economy than continuing with the status quo.
21. **Mr Peter Clough** is a Senior Economist at the New Zealand Institute of Economic Research in Wellington, who was commissioned by Panuku to undertake a peer review of the Economic Assessment of Auckland Cruise Terminal Upgrade prepared by Market Economics (Mr Akehurst).
22. It was Mr Clough's evidence that the assessment completed by Mr Akehurst conformed to a cost benefit analysis calculating a net present value and benefit cost ratio, with some elements of an economic impact analysis to illustrate potential impacts on economic value and employment. In particular, it compared the economic consequences of the proposed dolphins against a counter-factual of continuing with current arrangements for handling large cruise ships and estimated the costs and benefits under three scenarios, labelled conservative, likely and high growth, differentiated by the number of extra-large cruise ships and passengers that might arrive to spend time and money in Auckland. Mr Clough noted that the assessment suggests the mooring dolphins would have positive results in all scenarios, with particularly strong net benefits in the likely and high growth scenarios.
23. Mr Clough considered that the analysis, structure and the assumptions of the assessment are reasonable, although he would adopt some slightly different assumptions in undertaking the assessment. However, he confirmed that even in doing so he agreed with Mr Akehurst that the mooring dolphins would still be net beneficial in all three scenarios, albeit with smaller NPVs and BCRs.
24. Mr Clough advised that there were always uncertainties around future levels and values in any economic assessment. However, given the NPV and BCR results and the evidence of Mr Akehurst he considered that the positive economic result assessed produced by the

Schedule 1 – Summary of evidence heard

Project was robust to substantial changes in assumptions. In other words, on all the sensitivity testing undertaken, including the amended assumptions he would have used to assess the Project, it continues to be net beneficial under all three scenarios.

25. Overall, adjusting the assessment to take account of his suggestions, it was Mr Clough's opinion that the project would still provide benefits well in excess of costs, and would enhance well-being by injecting revenue that supports incomes widely across the Auckland economy.
26. **Mr Stuart Houghton** is a landscape architect, urban designer and Associate Partner at Boffa Miskell Limited, who was commissioned by Panuku to assess the potential landscape and visual effects of the proposal, and to provide design advice to inform the design of the structures prepared by Panuku's engineers. This input focused on identifying design measures to reduce and mitigate the visual impact of the structures as analysed and assessed in the site context.
27. By way of summary, it was Mr Houghton's evidence that:
 - (a) The proposed dolphin structures and associated gangways will extend out some 90.3m from the end of Queens Wharf, thereby enabling the mooring of larger cruise ship vessels (being the Oasis class vessels up to 362m) along the eastern side of Queens Wharf;
 - (b) The location of these structures off the end of Queens Wharf occupies a prominent and highly visible location within the Central Wharves precinct of the city centre waterfront, but that the design and operation of the facility has been carefully considered to reduce the visual impact and the effects on public access, use and enjoyment of Queens Wharf. As such, the design has incorporated a number of mitigating factors to help avoid the potential for significant adverse effects;
 - (c) Notwithstanding these measures, the Project will generate a level of adverse effects on natural character, landscape and visual amenity values, particularly when seen at close quarters from the end of Queens Wharf;
 - (d) Following his landscape and visual assessment it was Mr Houghton's opinion that:
 - There will be Low (less than minor) adverse effects on the perceived level of natural character associated with the small reduction in openness and additional coastal structures viewed off the end of Queens Wharf.
 - There will be Moderate-Low (minor) adverse landscape effects on the character of the surrounding city centre waterfront and broader harbour setting. This was because the proposal's structural elements were consistent with the nature and appearance of the existing wharf and waterfront structures and activity. In this context, he considered that the Project represented only a relatively small additional structure in the scale of the existing waterfront and the large scale and visually expansive harbour setting of the Waitematā harbour.

Schedule 1 – Summary of evidence heard

- There will be adverse effects on visual amenity ranging from Very Low (less than minor) for more distant viewing opportunities such as Devonport Wharf to Moderate-High (more than minor but not significant) for the most proximate landward viewing location at the northern end of Queens Wharf. This assessed level of effect is because the structures will detract from the existing visual character of views to the Waitematā, North Shore and Hauraki Gulf seen across open water from the public gathering space and viewing point at the end of the Wharf.
- (e) That Council's landscape specialist peer reviewer Mr Peter Kensington and he were generally in agreement with the nature of the landscape and visual change associated with the project, but had reached different conclusions as to the severity of adverse effects. In this regard, Mr Houghton considered that Mr Kensington had overstated the sensitivity of viewing audiences to structures of the nature and scale proposed. In Mr Houghton's view, the context for the Project was a "working wharf" within a "highly modified city centre waterfront" albeit that the location afforded expansive viewing opportunities of the harbour and wider coastal environment. However, Mr Houghton considered that these views are not static or fixed in their visual qualities and character given the highly diverse and dynamic maritime activity that occurs in this part of the harbour.
- (f) In any event, it was Mr Houghton's analysis that these effects would be short lived and then remedied in time because the project was intended only as an interim measure to accommodate larger cruise ships alongside Queens Wharf until such time as Captain Cook Wharf can be extended and redeveloped to become the primary hub of cruise operations on the Auckland waterfront. Mr Houghton referred to the conditions of consent now offered by Panuku that secured that outcome, and advised that he supported them.
- (g) Based on the limited period of time that the structures would therefore remain adjacent to Queens Wharf, Mr Houghton considered that the adverse visual amenity effects generated by the proposal on up-close viewing audiences on Queens Wharf were acceptable for the medium term.
28. **Mr Stephen Brown** is an experienced landscape architect who was engaged by Panuku to undertake a peer review of the Landscape and Visual Assessment undertaken by Mr Houghton. He was also requested to evaluate the effects of the application for the wider Auckland Waterfront, which included exploring the existing amenity, and urban landscape, values found within the area between Silo Park and the Britomart Precinct, and the contribution that the cruise shipping industry makes to that area.
29. In terms of his peer review role, Mr Brown agreed with Mr Houghton that both Queens Wharf and its waterfront surrounds are highly developed and modified, lying close to the extremely modified end of the naturalness spectrum associated with the region's varied array of coastlines. In Mr Brown's view, the only elements that retain any real semblance of natural character are the harbour waters abutting the CBD and port, and – across the harbour's broad reach – the sedimentary cliffs of Stanley Point.

Schedule 1 – Summary of evidence heard

30. Mr Brown also agreed with Mr Houghton's description of the receiving environments and audiences potentially exposed to Queens Wharf and the proposed berthing facilities and considered the range of representative viewpoints chosen to assist with more detailed evaluation of the application were appropriate. Although he agreed with the description of the key changes that would accrue and that the proposed dolphins and gangways would be maritime elements sitting reasonably comfortably within a waterfront landscape that is "structural, hard-edged and predominantly 'working' in nature", Mr Brown considered three other factors were relevant when evaluating the dolphins' effects on landscape and visual amenity, namely that:
- (a) The dolphins would not change or greatly alter the sequence of wharves and basins that line most of the western and central waterfront, which channelise views towards the harbour from the likes of Quay Street, Albert Street, the bottom of Queen, and even from the Wynyard Quarter / North Wharf and the Te Wero Bridge;
 - (b) The dolphins would stay well within a line extended between the seaward terminus of the Western Viaduct (Hamer Street merging with Brigham Street) and the outer edge of Bledisloe Wharf;
 - (c) Views of the volcanic cones from both Queens Wharf and Princes Wharf are largely dominated by the open expanse of water in the immediate foreground backed by the relatively flat profile of Stanley Point and the even flatter margins of Little Shoal Bay and Birkenhead (near the Northern Motorway). The volcanic cones framing Devonport and beyond, remain quite distant and devoid of the visual 'strength' experienced from other vantage points around the harbour such as from other locations like Tamaki Drive, or from Devonport and Stanley Point looking back towards the city.
31. In terms of Mr Brown's wider analysis of the contribution that cruise ships make to the character and amenity values of Auckland's waterfront area, both positive and negative, and whether or not large cruise ships should be berthed at Queens Wharf at all, Mr Brown undertook a series of site visits to Auckland's waterfront, both with and without cruise ships present, which explored current public use of the waterfront area – including that of both Queens and Princes Wharves – and the levels of amenity found within that existing environment. This provided him a benchmark for his evaluation of the effects of the proposed dolphins in the context of the wider waterfront.
32. Based on this investigation, Mr Brown concluded that cruise ships were an important, indeed integral, component of the waterfront landscape. Both cruise liners and their passengers make a significant contribution to the colour, vitality and amenity value of Auckland's harbour-front. Moreover, although such vessels detract from some aspects of the harbour landscape, including its residual naturalness, their extrovert architecture, perceived 'glamour' and other associations create a spectacle that contributes beneficially to Auckland's waterfront.
33. Mr Brown also considered the effects of the proposed dolphins in their own right and in conjunction with berthed ships, alongside the 'counterfactual' effects associated with the stationing of large cruise ships in the middle of the Waitematā Harbour. This involved looking at the nature of the landscape experience offered by Queens Wharf at present and the

Schedule 1 – Summary of evidence heard

relative significance of the wharf as a public space – in the context of the public realm found within the wider waterfront.

34. On the basis of that assessment, it was Mr Brown's view that the natural character and landscape effects of the proposed dolphins would be modest, at worst, and that the amenity effects would be of a relatively low order. Overall it was conclusion that although the dolphins would have an adverse effect on the landscape and amenity values of Auckland's waterfront, such effects were acceptable in the context of the site's maritime setting and the positive contribution that cruise ships (and their passengers) make to the landscape of the waterfront as a whole.
35. Finally, Mr Brown responded to the conclusions of Mr Kensington, the Council's reviewing specialist landscape architect. He agreed that the access proposed to part of the dolphin structure was less than ideal or even desirable in comparison to what was offered at the distal end of Queens Wharf at present, but disagreed that, overall, its effects in relation to recreational use would be Moderate-High.
36. In terms of landscape character and visual effects, Mr Brown maintained his opinion that the Waitematā Harbour would retain most of its current levels of naturalness, expressiveness, legibility, and overall integrity, even in close-up views from Queens Wharf. Although the dolphins would be visible, they would be maritime structures sitting within a fundamentally maritime environment. They would not appreciably alter the profile and signature of the immediate harbour-front, while the wider form of the harbour would also remain intact.
37. In conclusion Mr Brown opined that in his assessment the amenity effects associated with the proposal would be of a Low order, overall, and that the combination of natural character, landscape and amenity (including recreational) effects were acceptable from a 'landscape' standpoint.
38. **Ms Rachel de Lambert** is an experienced landscape architect and Director of Boffa Miskell Limited who was commissioned by Panuku to assess the potential effects of the proposal on the landward public recreation and open space values presently able to be enjoyed at Queens Wharf.
39. It was Ms de Lambert's evidence that Queens Wharf forms part of the Central Wharves precinct of the Auckland waterfront and that as a long finger wharf reaching out into the harbour, the northern distal end of the wharf, set behind Shed 10 and The Cloud, is somewhat remote from the city and the general flow of people along the waterfront. Furthermore, she considered that Queens Wharf has the character of a working wharf, with cruise forming one of the core functions of the wharf alongside providing an event space for the city and respecting the recognised heritage attributes of the wharf.
40. In recreational terms, the distal northern end of the wharf was not highly used in Ms de Lambert's opinion, with fishing providing a key recreational function, alongside walking / promenading / running for exercise, cycling / scooting, occupying the small collection of outdoor seating and observing the more recently installed Lighthouse sculpture. The wharf is also used for a range of free and paid events, some of which use the northern outdoor area at the end of the Cloud which in turn, attracts people to the wharf.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

41. She based this assessment, in part, on quantitative data collected over a (limited) one-week period in both January 2014 and 2019, which she said demonstrated that the activity associated with cruise ships accessing Queens Wharf adds to the recreational activity on the wharf, including its northern end, with people attracted to watching cruise ships departing from, more so than arriving at, the wharf. By comparing the 2014 and 2019 data, Ms de Lambert observed that there had only been a small increase in the numbers using the northern end of Queens Wharf over the past 5 years, with greater numbers mostly present during lunch times and in the evening. She considered that an evening increase in numbers between 2014 and 2019 could reflect the greater number of inner-city residents and/or that the Lighthouse sculpture also provides a greater attraction in the evening when the light effect of the work is more apparent. As in 2014, she observed that organised events attracted the greatest number of people to the end of the wharf (e.g., the Latin Fiesta over Auckland Anniversary weekend which attracted up to 93 people).
42. Observing harbour views at the end of the wharf forms part of the recreational amenity of the wharf. However, much of the recreational activity was not, in Ms de Lambert's opinion, reliant on the amenity provided by those views. In this respect she considered that Council's reporting landscape architect and planner (Messrs Kensington and Blakey), had overstated the effect of the proposal on the recreational amenity values of the wharf, by conflating a perceived impact on views of the harbour from the northern end of the wharf with a correlative adverse effect on recreational activities and amenity.
43. Ms de Lambert considered that the proposal would generate a low level of adverse effects on the recreational activities and associated amenity of Queens Wharf, including in respect of its northern end. In this regard, she agreed with the assessment and evidence of Mr Houghton.
44. In conclusion, Ms de Lambert noted that:
 - (a) She agreed with the proposed conditions intended to require the proposal to be removed prior to the expiry of any consent that might be granted (noting Panuku's proposal for 15 years in that regard);
 - (b) The presence of extra-large (Oasis class and other) ships moored to the dolphin structures would provide a further public attraction and encourage visits to Queens Wharf for the purpose of experiencing the scale and 'theatre' of their arrival / departure / proximity;
 - (c) The existing extent of physical access to the northern end of Queens Wharf will not be altered by the dolphin structures or their operation. Some limited additional public access to part of the dolphin gantry will be available (other than when ships are berthed using the dolphins), which in her view would become popular to fisher people extending their reach into the harbour whilst providing some limited value to the general public as a viewpoint;
 - (d) The changes to the experiential qualities of the wharf are over-emphasised by Mr Kensington and Mr Blakey by their strong conflation of the nature of effects on views with adverse effects on recreational experience. In her opinion, the opportunity to gain good views of the harbour will remain in a way that maintains that aspect of

Schedule 1 – Summary of evidence heard

recreational amenity; moreover, many of the recreational activities on the wharf are little affected by the specific nature or quality of views because recreational users are likely to be relatively insensitive to the nature of visual change proposed.

45. **Mr John Brown** is an historic heritage expert and director of Plan Heritage Limited. Mr John Brown was commissioned by Panuku to assess the potential effects of the proposed infrastructure upgrades to the eastern cruise ship berth on Queens Wharf on historic heritage because Queens Wharf is scheduled as a Category B historic heritage place under Schedule 14.1 Historic Heritage Places ("AC Schedule") of the Plan and a Category 1 heritage place in the New Zealand Heritage List / Rārangī Kōrero.
46. Mr John Brown's evidence was that:
- (a) Queens Wharf is a scheduled Category B historic heritage place recognised for its historical, social, knowledge, technological, physical attributes and context values in the Plan. The primary features are the substructure and deck (including shed platforms), Shed G (now known as Shed 10), ferry shelter, electricity substation building, railway tracks, crane rails, and weighbridge. The Historic Heritage Extent of Place is the wharf structure itself. There are no protected views to or from the wharf;
 - (b) Although some of the works are within the extent of place of Queens Wharf, these will not have a detrimental effect on the historic heritage values of the place or its scheduled status as a Category B historic place;
 - (c) The localised adverse effect of physical interventions to the Queens Wharf structure is minor in nature, comprising seven mooring bollards and the connection to the gangway to provide access to the mooring dolphins. The overall physical attributes value of the wharf will not be compromised in his opinion as the overwhelming majority of the historical wharf fabric will not be affected;
 - (d) The project will result in a partial interruption of some harbour views from and towards the northern end of the Wharf, but the effects on these views from an historic heritage perspective will be minor while all other views remain unaffected by the Project. In that regard, he considered that the dolphin structures would not undermine the historical context values or setting of the wharf: instead the harbour environment and the maritime activity relating to the structures would contribute to these values;
 - (e) In allowing more visitors to embark and disembark Queens Wharf, Mr John Brown considered that this would have positive effects by reinforcing the continuing maritime use of the structure and other benefits to historic heritage generally by increasing visitor numbers to Queens Wharf and other historic heritage places in the vicinity;
 - (f) Moreover, any adverse heritage effects (which were considered to be less than minor) would be remedied in due course following the removal of the structures at the end of 15-year duration consent now sought by Panuku;
 - (g) Mr John Brown considered that the proposal was not contrary to the historic heritage objectives and policies of the Plan and supports ongoing use of Queens Wharf for its historical purpose.

Schedule 1 – Summary of evidence heard

47. **Mr Geraint Bermingham** is a risk management consultant and professional engineer with experience in the aviation, marine and other high-hazard sectors. He is a director and an owner of Navigatus Consulting Limited, a specialist risk management firm. **Mr Damian Gibbs** is also a risk management consultant and former Naval Officer with experience in navigation, general marine operations and other high-hazard military defence activities. He is employed as the lead maritime consultant at Navigatus. Navigatus was commissioned by Panuku to provide advice on navigational safety and utility aspects for the Queens Wharf mooring dolphins project. This included an assessment of the effects of the dolphins on navigational safety in the harbour as well as on general public and worker safety.
48. In summary, the joint view of Messrs Bermingham and Gibbs was that the dolphins would not create a material hazard to water users in the harbour, nor would they create an impediment to powered craft transiting the main harbour.
49. In terms of sail craft, they considered that the dolphins would have very limited effects as the natural transit lines will be generally unaffected. From a navigation safety perspective, the situation when an extra-large cruise ship would be berthed at the dolphins would be an improvement on the current situation where these ships moor in the channel using dynamic positioning.
50. They acknowledged that there will be some effects on ferry operators in terms of small delays to some ferry routes caused by the need to navigate a path to avoid the new structures. These delays were estimated to be between 10 – 26 seconds, which they considered to be minimal. They observed that there were options (including amendments to the local maritime bylaws) for the Council and Harbourmaster to allow ferries to traverse faster through the 5-knot speed limit area (under the Maritime Rules), should it be considered safe for them to do so and that this would mitigate any potential route delays.
51. In addition, the witnesses considered that the construction related navigation impacts on ferry operators, as well as on other harbour users, would need to be appropriately managed via a Maritime Safety Management Plan ("MSMP"). This would form part of the Construction Management Plan for the project and would specifically address maritime safety matters during the construction period. They recommended that this MSMP be developed in consultation with all key maritime stakeholders in the event consent was approved.
52. Messrs Bermingham and Gibbs described various maritime rules applying to vessels in the harbour, namely the Maritime Rules and the Auckland Navigation and Safety Bylaw 2014 and Controls. They advised that Maritime Rule 91.6(1)(b) restricts the speed of vessels to 5-knots when within 200 metres of the shore or any structure. Further, in accordance with the Maritime Rules, the Council and the Harbourmaster have certain powers to specify areas of the harbour as speed restricted zones beyond the 200m zone. The Bylaw contains the Waitematā Harbour Restricted Zone, which allows vessels traversing the area immediately north of Queens Wharf to travel at a maximum speed of 12 knots. Vessels are not allowed to use an automatic steering device in the Waitematā Harbour Restricted Zone.
53. The Bylaw also imposes vessel access restrictions within the Ferry Basin and extending 50m to the north of the Basin. This restricts all vessels, except the passenger ferries, vessels authorised to use (or assist others to use, such as tugs) facilities within the basin (i.e., the

Schedule 1 – Summary of evidence heard

Ferry Terminal, Queens Wharf west berth and Princes Wharf) or any emergency response vessels, from using this area.

54. The dolphins and gangway will be located to the south of the main channel and the natural southern boundary created by a transit line drawn between 200m off the end of Bledisloe Terminal and 200m off of the end of Princes Wharf. The 200m line is set by the 5 knot speed control under the Maritime Rules. The dolphins and gangway are also located to the east of the ferry basin and the associated restricted area.
55. **Mr James Dilley** is a Harbourmaster and experienced maritime consultant who was commissioned by Panuku to undertake a peer review of the "Navigation and Safety Assessment" prepared by Navigatus.
56. Mr Dilley agreed with the conclusions and recommendations of the Navigatus assessment and considered that the project provided a secure, safe berthing arrangement for cruise ships up to 362 m length as well as safe access and working platforms, including a gangway, for port staff during mooring operations.
57. In terms of construction, Mr Dilley considered it would critical to navigation safety that all key stakeholders were involved in ongoing open discussions for the construction period, and that an integrated MSMP for the area was implemented.
58. Mr Dilley reviewed the options assessment undertaken by Panuku and agreed that the proposal was a superior and safer alternative compared with various other options, including using alternative berths or using dynamic positioning. In particular, he was of the view that the use of alternative berths in the Ports of Auckland commercial environment was not possible in terms of health and safety requirements; and many of the wharves were not currently of a suitable construction to accommodate the mooring of large cruise ships. He also agreed that the use of dynamic positioning had a greater overall navigational safety risk than the project, with the project removing any possible risks associated with tendering operations and people working from a vessel during mooring operations.
59. With the exception of ferry traffic visiting the ferry basin, Mr Dilley's evidence was that the proposed structures would be located within an area of limited traffic volume. In his opinion, most harbour traffic, unless specifically navigating to a location within the vicinity of Queens Wharf, would not deviate their course to pass through an area that has 5-knot speed limit under the Maritime Rules, and which is well offset from the direct-line passage through the middle of the harbour.
60. According to Mr Dilley, it would only be vessels navigating to or from the ferry basin, including port company and other vessels involved in berthing to the east of Queens Wharf and alongside Captain Cook Wharf when approaching from the area of Wynyard Wharf and the Viaduct Basin, that would be affected by the location of the new structures. The level of effect on these vessels would be minimal in his view, with a maximum additional distance to travel of approximately 184 m (i.e. out around the dolphins when navigating from one side of Queens Wharf to the other).
61. Mr Dilley considered that no other vessels would likely be affected by the project on a day-to-day basis. He did acknowledge there are sailing vessels and small boats that venture near

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

the area of the project, but these were a very small proportion of the overall recreational fleets, and would still not be significantly affected from a navigation/transit perspective.

62. Mr Dilley endorsed the proposed safety features of the project: one or more Aid to Navigation (light); lighting of the gangway area; ensuring the structures contrast against the existing background; the nature and position of the project will be promulgated via local notices to mariners. In his view, corrections placed on charts through LINZ should ensure that the project is not a hazard to navigation; and the speed limit in the area of the project should be set by regulations to a maximum of 5 knots, providing any skipper with suitable time to identify and avoid the mooring dolphins.
63. Finally, Mr Dilley advised that during construction, a construction zone would be required with non-construction vessels to be excluded from this zone. A Notice to Mariners will need to be issued prior to work commencing, allowing all vessel users to be aware of the nature of work taking place in the area. A MSMP involving all key stakeholders ought to be completed in his view, prior to the commencement of the work, to enable any navigation safety concerns during the construction period to be effectively managed.
64. **Mr Kristian Nelson** is a civil engineer employed as a Principal Engineer with McMillen Jacobs Associates, seconded to Downer Infrastructure and acting as the Contractor Design Manager for the DIDP. Mr Nelson's evidence described the proposed methodology for construction of the upgrades to the eastern cruise ship berth on Queens Wharf, including the dolphins and gangways.
65. Mr Nelson's evidence was based on a detailed review of the application and engineering documents and his experience in maritime construction. In his opinion, he considered that Panuku would be able to complete construction of the project in a manner that limited any potential impacts on affected parties principally because the proposed equipment and methods were suitable for the project design and considered best practice in terms of marine construction for minimising the effects of temporary construction on the environment and nearby structures and receivers.
66. Mr Nelson noted the following aspects of the construction methodology that supported this view:
 - (a) the requirement for marine transit of working staff will be reduced, provides an easily contained surface connected to the end of Queens Wharf and minimised the risk of accidental discharge to the CMA;
 - (b) the construction site will be isolated from the public at the terminal end of Queens Wharf and delivery traffic along Queens Wharf will be similar to the current cruise support operations of heavy trucks & buses for a disembarking cruise ship;
 - (c) as construction will be primarily focused at the end of the wharf, any disruption to marine vessel movements will be limited.
 - (d) the programme and required space for the construction prepared in the Alta Report is considered reasonable.

Schedule 1 – Summary of evidence heard

- (e) the proposed equipment and method of construction to be employed is current best practice for the control of noise and vibration and for mitigating any effect on the general marine environment.
 - (f) due to the limited area required for the project site, any spoil produced will be removed as soon as possible.
 - (g) the construction methods for the fender pile clusters and mooring bollards have limited adverse effects, are well defined work and are standard industry practice.
 - (h) the ability for the Downtown JV to coordinate the project within the wider DIDP is an advantage in terms of resourcing and completion to contract timeframes.
67. **Mr Stephen Priestley** is an experienced engineer and until recently was the Senior Technical Director with Beca Limited in Auckland, who were commissioned by Panuku to consider the engineering aspects of the project, and to assess potential effects on coastal processes.
68. Mr Priestley gave evidence of the preliminary investigation and structural analysis completed by Beca for the proposed dolphin structures. He noted that the size of the extra-large cruise vessels, particularly the windage area, dictates the size of the structural elements of the dolphins, whereas operational constraints mainly dictate the plan size of the dolphins. Results of the structural analysis were then compared to the size of the dolphin structures at either end of Fergusson North Wharf, as a further basis of verification of engineering appropriateness of the proposed dolphins.
69. On the basis that the project was carried out in accordance with the proposed conditions of consent presented by Mr Cook, and based on his experience with other coastal processes studies and with other port, maritime and dredging projects, Mr Priestley considered that:
- (a) any adverse effects associated with the discharge of stormwater from the dolphins would be insignificant;
 - (b) any adverse effects arising from the construction and operation of the dolphins on coastal processes would be minor and acceptable; and
 - (c) natural hazards such as sea level rise, storm surge and tsunami had been appropriately considered in the design of the Project.
70. **Mr Joseph Phillips** is an engineer with 17 years' experience in transport planning and traffic engineering. Mr Phillips was commissioned by Panuku to assess the potential transport and traffic effects of the construction and operation of the proposal. He noted that he was very familiar with the transport environment of the lower Auckland CBD and of the surrounding City Centre network, and had visited the site during the berthing of cruise ships and regularly at other times.
71. Based on his assessment, it was Mr Phillips recommendation that both a Construction Traffic Management Plan ("CTMP") and a Traffic Management Plan ("TMP"), be prepared to manage and mitigate traffic and transport related effects during the construction and

Schedule 1 – Summary of evidence heard

operational phases respectively. He anticipated that, were consent granted, these management plans would be developed by Panuku (with the support of its experts and the construction contractor and in consultation with other key stakeholders) and then provided to Auckland Council for certification, as required by the proposed conditions.

72. It was Mr Phillips evidence that the construction works for the project would lead to some minor disruption to normal travel patterns during peak construction activity (i.e. during concrete pours). However, he did not consider this would be significantly different from other construction projects that have occurred, are currently occurring, or are proposed within the Queens Wharf and downtown area of the City Centre.
73. In his view, the potential adverse transport effects during construction could be satisfactorily managed and mitigated by the CTMP and other mechanisms required in the proposed conditions. On this basis, he considered that overall the adverse transport effects of the construction works would be less than minor.
74. Mr Phillips noted that the traffic assessment provided by Harrison Grierson to the Council agreed with his assessment of the temporary construction-related effects and the proposed mitigation; namely that the adverse effects would be less than minor and able to be dealt with through the proposed CTMP. He could therefore see no basis for the conclusion in the s42A report that the construction-related traffic effects would be minor, which conclusion was contrary to both his assessment and the Harrison Grierson assessment.
75. With respect to operational effects, Mr Phillips recorded his understanding that the use of Queens Wharf as a cruise ship terminal and any associated mooring of cruise ships was a permitted activity under the Plan, as it fell within the definition of "port activities". In his view, this meant that resource consent was not specifically required to moor extra-large cruise ships at Queens Wharf. Furthermore, he noted that the trip generation rule (E27.6.1) of the Plan does not apply in the City Centre zone, the implication being that vehicle activity arising from activities occurring in the zone is not a matter controlled by the Plan.
76. Mr Phillips referred to the Medium Term Activity consent which authorised The Cloud and the use of that facility and the wharf for events, noting that it imposes conditions on events where they are proposed to occur concurrently with the mooring of a cruise ship or other significant port activity. These conditions are intended to manage effects in circumstances where there is a likelihood of more than 2,000 people being in attendance on Queens Wharf at any one time. This can result in the need for an Event Management Plan ("EMP"), as well as, potentially, an event specific TMP. The triggers for an EMP and associated mitigation measures are the events, not the activity of mooring cruise ships at Queens Wharf.
77. It was because of this consent framework that Mr Phillips had reached the view that events occurring concurrently with the mooring of extra-large ships at Queens Wharf can continue to be safely managed to avoid inappropriate traffic and access effects on Quay Street and beyond.
78. Based on the assessments of other Panuku witnesses, that the frequency of extra- large cruise ships mooring at Queens Wharf would be up to 22 over an annual cruise season, Mr Phillips conclusion was that potential adverse traffic effects of the operational phase of the Project (i.e. the mooring of extra-large cruise ships at Queens Wharf) could be satisfactorily

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

managed through a TMP. Overall, therefore, it was Mr Phillips evidence that the adverse transport effects of the mooring of extra-large cruise ships at Queens Wharf will be minor or less and acceptable.

79. **Mr Craig Fitzgerald** is an engineer employed as an Associate with Marshall Day Acoustics specialising in environmental noise and vibration assessments. Mr Fitzgerald was commissioned by Panuku to assess the potential construction noise and vibration effects of the project.
80. It was Mr Fitzgerald's evidence that:
- (a) airborne construction noise would generally comply with the relevant standards applying to the work in this location. However, piling was predicted to exceed those standards at immediately adjacent occupied buildings on Queens Wharf for brief periods;
 - (b) construction vibration would comply with the relevant standards for the avoidance of cosmetic damage to buildings. However, Mr Fitzgerald recommended that the closest gangway pile to the Lighthouse building/art installation be vibro driven, or that sensitive artworks be restrained or removed during impact piling if that method was used. Mr Fitzgerald also predicted that there was a potential for the vibration amenity limit to be exceeded for brief periods at adjacent occupied buildings on Queens Wharf;
 - (c) potential underwater noise effects could be satisfactorily managed by implementing shut down procedures for the piling works if a marine mammal or diver was identified within the Temporary Threshold Shift zones;
 - (d) a Construction Noise Vibration Management Plan ("CNVMP") should be prepared to enable the identification of the Best Practical Option to avoid, remedy or mitigate the noise and vibration effects of the Project as far as practicable.
81. With the implementation of a CNVMP by the construction contractor, Mr Fitzgerald considered that the residual construction noise and vibration effects of the project would be appropriately managed and reasonable.
82. **Dr Sharon De Luca** is a marine ecologist and Associate Partner at Boffa Miskell Limited. Dr de Luca was commissioned by Panuku to assess the potential effects of the construction and operation of the proposed dolphins on marine ecology.
83. It was Dr de Luca's evidence that:
- (a) the marine ecological values in the project area included low value benthic invertebrate assemblages, moderate value hardshore invertebrate assemblages and fish assemblages and potentially very high value marine mammals (if present);
 - (b) effects of construction on marine ecological values, with appropriate management practices in place, were assessed to be low to very low;

Schedule 1 – Summary of evidence heard

- (c) permanent habitat loss due to occupation of the seabed by new structures was assessed to have a very low level of effect, with the increase in hard structures providing a very small benefit of increased habitat for hardshore organisms. The cumulative effect of the proposal on habitat loss was also considered as very low due to the very small area of habitat involved;
 - (d) temporary habitat disturbance to fish, plankton, benthic hard and soft shore organisms were assessed as a low to very low level of effect, due to the short duration of construction activities and the ability of mobile organisms to avoid affected areas;
 - (e) effects of noise and vibration during construction on marine mammals could be avoided through the implementation of appropriate management practices;
 - (f) the marine biosecurity risk during construction could be minimised, through the implementation of appropriate management practices, to a very low level of effect. The preparation of a Biosecurity Management Plan was recommended as a consent condition.
 - (g) the level of effect on marine ecological values of cruise ships mooring at Queens Wharf using the infrastructure proposed was considered to be low to very low.
84. **Mr Karl Cook** is an experienced resource management planner and a Director of Barker & Associates. Mr Cook co-ordinated the preparation of the resource consent application for the proposal for Panuku and completed the assessment of environmental effects ("AEE") that accompanied it.
85. In his evidence Mr Cook recorded that it was relevant to his evaluation of the application from a planning perspective, that the project was proposed to meet an immediate need for upgrading of Auckland's cruise ship facilities and that in meeting these needs, the evidence prepared by Panuku's economic experts was that it would have significant and widespread benefits.
86. Mr Cook confirmed his opinion as set out in the AEE that the application accords with the relevant matters for consideration of applications under the RMA but noted that his view differed from that in the s42A report. Nonetheless, Mr Cook considered that on the basis of a balanced and thorough examination of the relevant issues, the project was in accordance with the applicable statutory framework and could appropriately be granted consent subject to conditions.
87. In terms of his key conclusions about the project, it was Mr Cook's evidence that:
- (a) The proposal has been developed in accordance with Auckland Council's strategic plans for Queens Wharf and the Central Wharves area, which are consistent with the multiple purposes that this infrastructure is intended to serve. The immediate need that is being met is recognised in the non-statutory strategic framework and is an interim step towards a longer-term objective that sits beyond a ten-year period. Panuku proposes a 15-year consent duration and a review condition to align with that strategic context;

Schedule 1 – Summary of evidence heard

- (b) Discretionary consent is required overall, including for the new structures proposed within the CMA. Those consents required consideration of a wide range of issues in the Plan and higher-order documents. Notably, the project is not located within or adjacent to any areas identified in the Plan as having significant or high natural character, landscape or other values. Rather, it is located within the Central Wharves Precinct, which expressly provides for marine and port and maritime passenger activities;
- (c) The assessments of relevant actual or potential effects by Panuku's independent experts and addressed in evidence confirm that adverse effects will be appropriately avoided, remedied or mitigated. Consent conditions are proposed to ensure that measures are implemented to achieve this, including through the use of management plans in relation to certain matters. While opposed by several Mana Whenua groups, as has been achieved recently in similar projects within the CMA in central Auckland scope exists – principally via consent conditions - to recognise and provide for Maori cultural values.

Submitters' evidence in support of the application (or neutral)

Cooper and Company NZ

- 88. **Mr Donald McKenzie** is an experienced Civil Engineer specialising in traffic and transportation. He is the Group Manager Northern Region – Transportation for Stantec New Zealand. Mr McKenzie was requested by Cooper and Company NZ to review the transportation and traffic implications of Panuku's proposed development for that submitter.
- 89. Cooper and Company NZ is a significant land owner, developer and manager of the Britomart precinct in the Auckland CBD and has, for the past 14 years, invested significantly in developing the precinct into a quality urban environment. Cooper and Company NZ is a party to a Development Deed with the Auckland Council which sets out an agreed vision for the development of the Britomart precinct including the surrounding streets, and has responsibility for managing the Britomart precinct's public areas and spaces, including footpaths on Quay, Customs and Queen Streets and shared spaces. The submitter also owns and manages the Britomart car park on the corner of Quay Street and Britomart Place. It was Cooper and Company NZ's position that upgrading Queen's Wharf to provide for the mooring of extra-large cruise ships would have economic and social benefits, and supported the proposal on that basis, but wished to ensure that there was adequate consultation and coordination in respect of traffic effects (both construction and operational) to ensure that what was described as "an already challenging traffic environment" was not made worse.
- 90. It was Mr McKenzie's evidence, based on his review of the application materials that the proposal had the potential to generate additional adverse effects on the operation of Quay Street and the surrounding transport network if not managed appropriately. In that regard he supported the proposed CTMP and TMP condition proposals put forth by Panuku in order to assist in the management of traffic during construction and the operation of the facility (i.e., use of Queens Wharf for berthing extra-large cruise ships). Mr McKenzie was provided the opportunity to have input into Panuku's proposed conditions and at the hearing indicated that the matters he had recommended as appropriate were included and acceptable.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

91. Mr McKenzie also agreed with the proposal to incorporate specific consultation with Cooper and Company NZ into the process of preparing the CTMP and for each version or update of the TMP as it related to the operation of the facility.
92. On the basis that these measures were incorporated into the conditions and the management planning going forward it was Mr McKenzie's opinion that the potential adverse traffic effects on the surrounding transportation network associated with the construction and operation of the mooring dolphins for extra-large cruise ships could be appropriately managed.

Cruise Lines International Association/Royal Caribbean Cruise

93. **Mr Sture Myrmell** is president of Carnival Australia and P&O Cruises Australia and also serves as the chairman of Cruise Lines International Association ("CLIA") Australasia. Mr Myrmell has worked in the cruise industry for 25 years. CLIA is the world's largest cruise industry trade association and represents cruise lines responsible for over 97% of the cruise passenger arrivals in New Zealand each year. Mr Myrmell advised that CLIA supported the application by Panuku.
94. According to Mr Myrmell, in 2018, over 28 million people took a cruise worldwide and this was expected to grow to 30 million people this year. Australia and New Zealand represent both an important source market and a deployment region for the industry. Currently Australia and New Zealand accounts for 4.8% of global cruise ship deployment. This was a significant percentage given the size of the respective populations. According to Mr Myrmell this region (together with southeast Asia) is considered by the industry to be a highly valued deployment hedge to the Northern Hemisphere winter.
95. It was Mr Myrmell's evidence that there has been significant growth in cruise ship visits to New Zealand over the past 15 years. In 2001-2002 there were 16 cruise ships completing 59 cruises through New Zealand waters and carrying 40,750 passengers. By the current 2018-2019 cruise season, this figure had grown to 41 cruise ships undertaking 191 voyages and carrying almost 275,000 passengers.
96. Mr Myrmell advised that as well as growing their cruise vessel fleets to meet increased demand, international cruise operators plan to renew their fleets over time. This involves gradually retiring older "tonnage" and investing in newer ships, including new builds. As at 30 September 2018 Mr Myrmell advised that there were 105 new cruise ships on order for delivery between 2018 and 2027. He considered this was a significant number given that there are only 336 active ocean-going cruise ships currently operating globally. Almost one-third of these new ships will have a capacity of 4,000 or more passengers, indicating that they were very likely to be longer than the current capability of Queen's Wharf and Princess Wharf to accommodate. Ships with capacity of 3,000 or more passengers account for 74% of the total passenger capacity of the ships on order, and ships with capacity of 4,000 or more passengers represent 56%. Mr Myrmell advised that in recognition of the positive economic impact of cruise tourism, many international ports had upgraded or were in the process of upgrading their berthing capacity.
97. It was Mr Myrmell's expectation that in the near future an increasing number of ships exceeding 294 metres in length will be earmarked for possible deployment in this region.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

However, he noted that the current cruise infrastructure in New Zealand limits this opportunity.

98. Mr Myrmell noted that Auckland is the key access point for New Zealand itineraries and that being able to access Auckland is critical to sustaining future cruise tourism growth in New Zealand. According to Mr Myrmell, if Auckland is able to provide berthing for cruise ships of all sizes it will generate a number of opportunities to provide further economic benefit to Auckland and other New Zealand regional economies. In particular, catering for full ship turnarounds would involve a significant increase in passenger and cruise line spend as well as providing an increased opportunity for New Zealand based business to service and supply the ships.
99. It was Mr Myrmell's view that the current situation of mooring ships in the harbour and disembarking via tender was unsustainable in the long-term because this experience will be less positive than others available. In addition, he considered that cruise lines that have been willing to operate in this way to date may not continue to do so in the future if there is no longer an intended solution. Cruise lines have been anticipating the development of a solution for some years now in his view and they will also take into account that an alternative terminal development at Captain Cook Wharf is unlikely to occur within the next 10 years. It was Mr Myrmell's opinion that if the proposal was not implemented New Zealand's cruise passenger numbers will "plateau and eventually decline". As well, Auckland may not be used as a regional cruise hub and visitor numbers may decrease substantially in the future if the infrastructure to support the new generation of cruise ships is not made available.
100. **Ms Susan Bonner** is the Vice-President and Managing Director for Australia and New Zealand of Royal Caribbean Cruises Ltd ("Royal"). She has over 18 years' experience in the cruise industry. Her evidence was presented on behalf of Royal and CLIA in support of Panuku's application.
101. Ms Bonner advised that Royal operates three global cruise brands, being Royal Caribbean International, Celebrity Cruises and Azamara Club Cruises and is the second largest cruise company in the world. She advised that New Zealand is a keen destination for Royal's current itineraries and that in the 2018-2019 season, cruise ships in the Royal Group will make over 200 calls to New Zealand ports and carry approximately 133,000 guests.
102. Ms Bonner described how the Royal fleet currently based in Australia and New Zealand includes the *Ovation of the Seas*, the largest cruise ship to be deployed in this region. The *Ovation* has a maximum capacity of 4,900 passengers and an overall length of 348m. When visiting Auckland, the *Ovation* is required to moor in the Waitematā Harbour rather than docking at Princes or Queens Wharf (unlike other Royal ships deployed in Australia and New Zealand) as the facilities cannot accommodate a vessel of her length.
103. Ms Bonner noted that from a cruise line perspective, being unable to berth alongside is logistically challenging, creates additional vessel movements for ship's tenders and is detrimental to guest experience. It also means that the ship is limited to making transit calls in Auckland and cannot make home port or turnaround calls. From a passenger experience viewpoint Ms Bonner considered that being unable to berth alongside reduces the overall experience of the port call and reduces the time spent by passengers ashore.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

104. Ms Bonner advised that as the major cruise operators' ships get larger they (like Royal) will be seeking destinations that can offer alongside berthing as much as possible, given the substantially better passenger experience and turnaround visit opportunities this allows. A number of key overseas cruise ports are in the process of upgrading their wharf infrastructure to ensure they remain attractive to large ship visits. The use of mooring dolphins was a relatively common solution utilised by overseas ports from Ms Bonner's experience.
105. Ms Bonner considered that the proposal would result in a range of benefits namely:
- (a) It will allow itinerary planners for the major cruise lines to continue to plan for calls to Auckland and New Zealand into the future.
 - (b) It will enhance the experience of cruise visitors visiting Auckland and would increase the possibility of them choosing to visit Auckland again.
 - (c) It will increase cruise visitor expenditure in Auckland due to the increased passenger and crew capacity of the new generation ships, and the fact that their passengers and crew will have more time to spend ashore.
 - (d) It would enable larger ships to perform turnaround calls in Auckland which are presently precluded when the ship is at anchor in the Harbour, which increases opportunities for local services and suppliers.
 - (e) It will allow Auckland to support cruise tourism throughout New Zealand, as once Auckland is accessible to all cruise ships this will generate growth and visits to other regional ports in New Zealand.
106. In concluding, Ms Bonner noted that newer cruise ships were calling to New Zealand today and that newer in the mass market family holiday market essentially equalled bigger, and significantly so. In her view, New Zealand risked missing opportunities should it not be able to accommodate the bigger ships that are heading to this region, such as the Ovation and others that Royal wishes to bring in future. She confirmed that Auckland is a key destination for New Zealand and that Auckland's cruise infrastructure needs to grow to enable larger ships to berth in order to bring benefits for the visitor economy that will flow from such ships being able to berth alongside in New Zealand's principal city.
107. **Mr Simon Smith** is the Executive Chairman and a Principal Consultant at AEC Group Pty Ltd, one of Australia's largest economic consultancy firms. Mr Smith's evidence was presented in support of CLIA's submission supporting the proposal by Panuku.
108. It was Mr Smith's evidence that demand for cruise tourism continues to grow globally, and particularly, in Australia, New Zealand and Asia. The cruise lines were responding to this demand by building new ships, of which a considerable number are extra-large vessels to take advantage of the economies of scale. Similarly, cruise lines are seeking new destinations to expand and diversify their itineraries.
109. Mr Smith had considered the assessments and evidence produced by Mr Akehurst and Mr Clough and also agreed that the economic benefits of the proposal outweighed the "do nothing" case. He considered that the economic assessment was particularly conservative,

Schedule 1 – Summary of evidence heard

and that if the proposal proceeded, growth in the number of extra-large cruise ship visits post 2024-25 in all scenarios (which was assumed to plateau in the report) will in fact result in increased economic benefits, over and above those stated. In his view the economic benefits therefore vastly outweighed the costs. Moreover, the capital construction cost would be recovered from the users; there will be additional expenditure by passengers, crew and vessels in Auckland; passengers will have an improved experience and more time on the ground; and cruise tourism will be boosted around New Zealand.

New Zealand Cruise Association/ID Tours NZ Limited/ISS-Mackay Limited

110. **Mr Kevin O'Sullivan** is the Chief Executive of the New Zealand Cruise Association ("NZCA") and has 45 years' experience in various maritime sectors, at sea and on shore. His evidence was given in support of NZCA, ID Tours NZ Ltd and ISS-McKay Ltd's submissions in support of Panuku's proposal.
111. NZCA is the industry body of the New Zealand cruise sector and has more than 95 member organisations spanning the entirety of New Zealand's cruise sector. This includes cruise lines, ports, airports, airlines, regional tourism organisations and development agencies, local government, shipping agents, ground handlers, provedores, transport and service providers and tour operators.
112. Mr O'Sullivan advised that there has been a considerable increase in both ships, ship visits and passenger numbers in New Zealand since 1994. This has grown in the last few years to 275,000 passengers and is forecast to increase to around 349,000 passengers this season. He observed that the growth is largely attributable to 6 larger ships making multiple calls namely: The Ovation of the Seas, Majestic Princess, Celebrity Solstice, Golden Princess, Norwegian Jewel and Radiance of the Seas.
113. Mr O'Sullivan considered that improvement to the cruise infrastructure at Queens Wharf in Auckland was extremely important to the entire cruise industry. This is because Auckland presently does not have the capacity to accommodate vessels longer than 330 metres alongside any current cruise berth and this will impact on the future of the cruise industry in New Zealand. He noted that the cruise industry internationally is expanding, building more and larger ships and that if Auckland has the appropriate infrastructure it will see many of these ships arriving and exchanging in the region and New Zealand's cruise visitor economy will continue to grow. He noted that New Zealand ports have recognised this and a number (Picton, Wellington, Napier, Port Chalmers and Tauranga) have all invested in infrastructure to ensure the larger ships can visit their regions; only Auckland, has lagged behind.
114. In Mr O'Sullivan's view an increase in cruise ship passengers disembarking directly into downtown Auckland would add to the Auckland economy quickly and easily. It would include increased nights in hotels, increased flights into and out of Auckland, increased passenger, cruise line and cruise spend and increased visitation to Auckland and surrounding regions tourist attractions. Moreover, he considered that larger ships berthing in Auckland will have positive flow-on effects in the regions outside of Auckland as an improvement in Auckland's facilities may encourage more and larger vessels to visit New Zealand as a whole. If that eventuated it would lead to increased economic activity in the regions and an important boost to regional economies. Mr O'Sullivan considered that if the mooring dolphins were not built, Auckland would not work as a cruise hub for larger ships and the cruise industry growth

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

would be in danger of plateauing or declining as mid-sized ships were eventually removed from service. Granting the consent would ensure that the future of cruise in New Zealand continued to be positive.

115. **Mr Jeremy Palmer** is the Managing Director of ID Tours New Zealand Ltd (“ID Tours”), which is one of New Zealand’s leading destination management companies, with approximately 80% of its business based around the inbound cruise sector. His evidence was provided in support of ID Tours, NZCA and ISS-McKay’s submissions in support of the project.
116. Mr Palmer’s evidence provided background to ID Tours and its role in the cruise industry, described the constraints of the current facilities at Queens Wharf and Princes Wharf and the impact on passenger experience as well as the constraints of mooring in the Waitemata Harbour for cruise lines and their passengers. He explained why he considered the proposal to be important and the benefits that it would bring to ID Tours, the tourism industry and the cruise industry in general if consent were granted. In his view, if the application for consent was granted New Zealand would have the opportunity to benefit from the demonstrable growth potential of the cruise industry and would also join the vast majority of comparable ports in and around New Zealand that are capable of berthing *Ovation* class vessels and thereby avoid constraining other ports and destinations in New Zealand.
117. **Mr Craig Harris** is the Managing Director of ISS-McKay, which provides marine agency solutions across New Zealand ports, including to the cruise industry. His evidence was given in support of the NZCA and ISS-McKay submissions in support of the project.
118. In his evidence he provided background to ISS-McKay and its role in the Auckland cruise industry. He described the practical constraints arising with the current facilities at Queens Wharf and Princes Wharf for the cruise industry as well as the constraints of cruise lines mooring in the Waitemata Harbour. He considered that the proposal was important and would bring benefits to the cruise industry and ISS-McKay if it was approved.
119. Its importance was due to the fact that Auckland is the gateway port for New Zealand passenger exchanges and that both Auckland and Sydney are the gateway ports for the Australasian and South Pacific regions. Cruise passengers need an international airport with excellent connectivity and hotels as this is the basis from which the cruise lines build itineraries. Wharf infrastructure is the other requirement to facilitate a gateway operation and New Zealand can currently facilitate *Ovation* class ships berthing at all of its main ports except Auckland. Overall, it was Mr Harris’ evidence that the proposal would bring positive economic benefits to Auckland and enable the continued growth of the cruise industry generally in Auckland and beyond.

Regional Tourism New Zealand

120. **Mr Charlie Ives** is the Executive Officer for Regional Tourism New Zealand, a membership based and funded organisation representing the interests of all regional tourism organisations throughout New Zealand. Regional Tourism New Zealand supported the proposal in its entirety and Mr Ives’ evidence was presented in support of that position. In his statement of evidence Mr Ives summarised the importance of the cruise industry for

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

regional New Zealand, set out the implications for regional New Zealand of the project not being approved and discussed aspects of the s 42A report.

121. Mr Ives considered that additional berthing capacity at Queens Wharf would make New Zealand a more attractive destination for cruise lines. Because Auckland is New Zealand's 'draw card' when it comes to maintaining an international market share in the cruise industry, it plays a critical role for the continued growth of the present cruise industry in the regions. This is due to it being New Zealand's only international city and cruise hub, with the capacity for cruise ships to start and finish their cruise itineraries (exchanges), an international airport, and its accommodation capacity for large numbers of visitors. Mr Ives noted that no other New Zealand city has the required level of infrastructure, capacity and international connections to operate as New Zealand's cruise hub. Accordingly, in his view, the likelihood of the regions hosting cruise ships for transit visits will be significantly reduced if Auckland is not able to accommodate large cruise ships.
122. In summary, Mr Ives' evidence was that the cruise industry has a significant and growing economic importance to New Zealand and that a lack of suitable infrastructure in Auckland for large ships would have a significant impact on regional economies.

Te Ara Rangatu o te Ngāti Te Ata Waiohū Incorporated

123. **Mr Roimata Minhinnick** presented evidence in support of the submission by Ngāti Te Ata. His evidence reiterated the points set out in the written submission made on the project. He stated that Ngāti Te Ata supported the application, as they have a fruitful and constructive relationship with Panuku, and have had a Memorandum of Understanding ("MOU") since 2016.
124. Ngāti Te Ata have 1000 years of significant traditional cultural territory relationship with the Waitematā. Mr Minhinnick sought an undertaking for access to the mooring dolphin structures, and for opportunities for a cultural centre and for waka to take part in the America's Cup events and to be represented in the Waitematā. He referred to the MOU meaning of a gathering place of canoes (Te Herenga Waka). He agreed that there was a need for a safe mooring for visiting ships. The area was traditionally tauranga waka, or "safe anchorage".

Ngāti Whātua Ōrākei Whāia Maia Ltd

125. **Mr Ngarimu Blair** tabled evidence on behalf of Ngāti Whātua Ōrākei. The evidence included substantive historical evidence from experts Dr Malcolm Patterson and Professor David Williams for Ngāti Whātua Ōrākei prepared for the recent AC36 hearing. Mr Blair considered the historical relationships outlined therein demonstrate that Ngāti Whātua Ōrākei has a deep and ongoing connection to the Auckland CBD Waterfront area, and holds primary mana whenua status in this location. He acknowledged the mana whenua status of Ngāti Paoa as the Marutuahu iwi holding primary mana whenua status for the subject area and also recognised the close relationships and connections to the various Waiohū iwi.
126. The tabled evidence confirmed that Ngāti Whātua Ōrākei maintain a neutral position on the proposal on the basis. Although it maintains the view that the proposal comprises a further intrusion of development into the Waitematā and has unavoidable adverse effects on the

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

Mauri, Ngāti Whātua Orākei appreciate the case of need, accepting that the proposal is a practicable means of achieving the desired mooring capability for over-size ships.

Submitters' evidence in opposition to the application

Mr Bartley

127. **Mr Bryce Bartley** is a retired teacher, trainer and active in community groups. He opposed the application and agreed with the s 42A report and recommendation. Mr Bartley's primary concern was the extension the dolphins would make into the harbour and the obstruction that would cause for other regular harbour users.
128. Mr Bartley considered that the current scenario of vessels maintaining 'station' in the stream of the harbour was quite acceptable and that the analysis that led to the identification of the mooring dolphins as the preferred option for the mooring of large cruise ships was a consequence of 'group think' and needed to be reconsidered.
129. Mr Bartley also observed that the Devonport ferry is frequently disrupted in its timetabling by cruise ships departing at or after 1800 hours already.

Fullers Group Limited/360 Discovery Limited

130. **Mr Michael Horne** is the Chief Executive Officer and a Director of Fullers Group Ltd. He is also a Director of 360 Discovery Ltd. Together their fleet of vessels totals 21 boats, which link the central Auckland ferry basin to 19 destinations and carry 5.6 million passengers per annum on a mix of commuter and tourist services (out of a total of approximately 6.3 million ferry passengers overall that use the ferry basin). It was Mr Horne's evidence that the current configuration and operation of the ferry basin is barely able to accommodate the competing needs of commuters, visitors and cruise activities which all compete to share the water space and associated land and wharf side spaces. He noted that Fullers is a longstanding provider of commuter and tourist ferry services on the Hauraki Gulf and is therefore a significant contributor to the Auckland economy as well as being a significant contributor to the amenities enjoyed by commuters and visitors alike in terms of maritime public transport services throughout Auckland and the Gulf Islands.
131. Mr Horne emphasised that the current navigational environment in which Fullers operate is constrained and presents various challenges. He said it was difficult for Fullers to maintain the high standards expected of it by Auckland Transport and its customers particularly during peak times, at which times its timetables were occasionally not met. However, Fullers was able to achieve high standards a majority of the time while complying with the various speed restrictions in place on the harbour.
132. In Mr Horne's opinion the effect of the proposal would be a requirement for Fullers to make permanent changes to its timetables to accommodate the delays to its services that the mooring dolphins would cause. He considered that this would have commercial implications for Fullers but, more importantly, it would lead to a reduction in the standard of services able to be provided for commuter and tourist passengers in Auckland.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

133. Mr Horne noted that Fullers did not oppose the construction of new infrastructure to service the cruise industry, as a proportion of cruise passengers would utilise Fullers services to other parts of Auckland and the Gulf Islands. However, he advised that Fullers was concerned that the rationale for the proposal paid little or insufficient regard to matters such as the effects on the social and economic contribution of the ferry industry, increased conflicts on the harbour as a result of growth in the recreational and commercial fleet and the effects that the application would manifest cumulatively with other projects forming part of the DIDP.
134. **Mr Alistair Thomson** is the Health and Safety Manager for Fullers 360 Discovery Ltd. Prior to that was employed by Maritime New Zealand as a Maritime Officer. In his evidence he provided a summary of how the regulatory environment in the Waitematā Harbour has developed over the period he has been employed by Fullers in order to provide a background to the constrained environment in which Fullers operates and into which the mooring dolphins would be placed. The purpose of the evidence was, in his view, to provide a flavour of the policy direction which Maritime Safety Regulation is headed, to consider against the suggestions by witnesses for Panuku that Fullers is able to mitigate the effects of the proposal on itself by engaging in future, unrelated regulatory processes under the Navigation Safety Bylaw.
135. Mr Thomson was critical of what he considered to be a lack of consultation in the development of the application. He considered that Panuku's response to the issues raised by Fullers appeared to be based on allegations that Fullers currently only achieves its timetables as a result of unlawfully exceeding speed restrictions on the Harbour and that Fullers is operating inefficiently, as it does not use the optimum route identified by Panuku's experts to navigate to and from the ferry basin.
136. In response, Mr Thomson confirmed that, while there have been isolated incidences of non-compliance with speed restrictions, Fullers currently operates in compliance with all speed restrictions. While challenging, Fullers can achieve its timetables and meet AT and customer expectations as to frequency and reliability most of the time, including during peak periods, except when extenuating circumstances arise. Examples he gave included weather, harbour traffic, restricted visibility conditions and maintenance issues.
137. In Mr Thomson's view the "optimum route" identified by Panuku represented a desktop exercise that did not take full account of the real world requirements of operating a ferry service in the Waitematā Harbour. He remained of the view that the proposal would have an effect on ferry operations that would require changes to timetables for as long as the new structures were located off the end of Queens Wharf. Mr Thomson emphasised that this outcome did not take into account any other operational changes that might arise following the ferry basin redesign application, or the increasing recreational and commercial use of the Waitematā Harbour.

Mr Stamp

138. **Mr Alan Stamp** is a physicist. His evidence was in opposition to the application and was based upon his analysis that there was an alternative option available for the mooring of large cruise ships at Queens Wharf that, if used by Panuku, would render the proposed dolphins unnecessary. In his evidence he described what he understood to be a

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

conventional mooring arrangement and then described, including with the use of graphical illustrations, alternative mooring arrangements he had devised. Although Mr Stamp had no experience or expertise in mooring large vessels, he considered his concepts warranted further analysis.

Mr Poulson

139. **Mr Martin Poulson** made an engaging presentation which essentially encouraged us to think to the future and make a “hard” decision now in order to motivate the Council and POAL to restructure its long-term plans for the use and development of the Port infrastructure. The “hard” decision he recommended was refusal of consent.

Mr McNeill

140. **Mr Ian McNeill** presented a written statement in which he offered his opinions about the project. In summary, he considered that the proposal was not necessary and that it was POAL who should be more proactive in reorganising its assets and infrastructure to accommodate the cruise industry, rather than forcing Panuku to build the dolphins off Queens Wharf to do so.

Heart of the City Inc

141. **Ms Viv Beck** is the Chief Executive of Heart of the City Incorporated, a business association for the city centre which includes more than 4,000 commercially rated properties and 12,000 plus businesses. The Heart of the City’s objective is the development and success of the city centre as a thriving place to do business, and as an accessible, safe and welcoming urban community.
142. Ms Beck advised that Heart of the City supported the Waterfront Plan 2012 and the Central Wharves Strategy Refresh 2017 in principle. She considered that they provided an integrated and coherent approach to how the Auckland waterfront is intended to be developed to accommodate a variety of activities and types of development over the next 20 to 30 years. In particular, Heart of the City supported the intent that Queens Wharf be a dedicated “people’s wharf” as an open public gathering place with venues for events and functions and that Captain Cook Wharf be the location for cruise ship facilities.
143. Ms Beck acknowledged that the cruise sector generates economic benefits for the region, but in her view the presence of the proposed dolphins at Queens Wharf and their use by large cruise ships would take away significant value from a core “public realm” space located in the heart of the city close to transport hubs and Queen Street which connects the waterfront and city centre. This “value” is currently able to be enjoyed by more than 120,000 workers, 57,000 residents and 60,000 students in the city centre as well as thousands more domestic and international visitors.
144. Ms Beck’s principal concern therefore was the potential impact of the dolphin structures on public amenity and recreation values. As well, she considered that the proposal was merely an expedient option that reflected short-term thinking and that if consent were granted it would act as a disincentive to progress the Captain Cook Wharf option or any alternative solution.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

145. Ms Beck commented on various aspects of the evidence presented by Panuku, particularly the evidence of Mr John Smith and Ms de Lambert, and Mr Akehurst.
146. Ms Beck considered that it was important to consider the scale of public interest in the waterfront's public realm now and into the future noting that there are well over 200,000 people in the city centre on a daily basis and that continued expected growth in residential worker and visitor populations in the city centre will naturally increase demand for pedestrian access to public space and event facilities. In that regard she considered that it was not unreasonable to expect that visitors to Queens Wharf could double from 1.125 million annually now to 2.25 million annually over the 15-year horizon of the proposed consent duration.
147. In conclusion, Heart of the City's primary contention remained that the potential for adverse effects of the dolphins were significant and the aggregate impact on the Auckland public outweighed the economic returns that would be derived.

Urban Auckland and others

148. **Ms Noelene Buckland** is an Auckland city centre resident and Chair of the City Centre Residents' Group. She is also a member of the City Centre Masterplan Reference Group, the AC36 Community Liaison Group and the Auckland City Centre Advisory Board. Ms Buckland's evidence was presented in support of the Urban Auckland group of submitters in opposition to the application.
149. In Ms Buckland's view the proposed dolphins would negatively alter the ecosystem of the shared space that Queens Wharf provides for both people and communities, and have a more than minor impact on amenity values as well as the social, economic, aesthetic and cultural aspects of the Queen's Wharf precinct. This was due in her opinion to the overwhelming scale of the large cruise ships that the dolphins are designed to accommodate. Rather than an open, light, welcoming spot to relax in and enjoy the pleasantness of water vistas in a quiet location, the proposed extension to accommodate large cruise ships would result in users of the public space on the north and eastern regions of Queens Wharf being dwarfed by a massive wall of steel and glass that blocks all views to the east and northeast. The scale, intensity and proximity of the vessels in her view would be intimidating and unbearable.
150. Ms Buckland was of the view that Queens was the last wharf available in Auckland that could accommodate the place-making initiatives that the people of Auckland have said they want on their waterfront and that allowing the application would threaten the implementation of those initiatives within a reasonable period of time.
151. **Mr Luke Niue** is Chairman of the Parnell Community Committee, a community group that has been actively involved in planning matters related to the Auckland waterfront for some years. Mr Niue's evidence was given in support of the Urban Auckland submitters in opposition and opposed the application essentially on the grounds that it created another encroachment of infrastructure into the Waitematā Harbour and was an ad hoc solution to operational demands that went beyond being short-term. Fifteen years was not temporary in Mr Niue's view and provided no incentive to find a more permanent solution.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

152. It was Mr Niue's evidence that although cruise ships could be seen as part of a public open waterfront, Auckland should not have to respond to every operational demand or class of ship requirement, at the expense of its natural assets, amenity and enjoyment of the Waitematā Harbour. The central wharves, and Queens Wharf in particular are owned by the people of Auckland and New Zealand and were purchased to progressively enable a repurposing of the downtown waterfront to a high amenity open and recreational space. In Mr Niue's view Panuku's proposal would threaten the obtainment of that objective.
153. **Ms Julie Stout** is Chair of the Society for the Protection of Auckland City & Waterfront Incorporated (Urban Auckland for short) which was founded in 2000. It was Ms Stout's evidence that Urban Auckland and its co-submitters were not in principle against cruise ships coming to Auckland and agreed that it was preferable that they be berthed alongside wharves rather than remain in the harbour stream. However, Ms Stout considered that the option that had been devised was one that compromised the precious harbour and waterfront solely for the benefit of the cruise industry who are fast growing in size of vessels, number of passengers and frequency of visits. In her view, far from the current co-sharing of Queens Wharf with cruise and ferries, the public of Auckland would be squeezed off their wharf if the proposal went ahead
154. Ms Stout considered that the current proposal was a "fill the gap" response to a failure in future proofing and port management by both POAL and the cruise industry, and the public was being unfairly asked to carry the cost and burden for up to another 15 years. In her view Queens Wharf had not yet been able to be developed for its ultimate aspirational use, being a high valued public and recreational park, and that if the proposal succeeded in the interim that redevelopment would be delayed yet again.
155. Ms Stout considered that there were other options available for the berthing of large ships and provided evidence of the Queen Mary II berthing adjacent to Jellicoe Wharf in 2015. She indicated that Bledisloe Wharf was free approximately 10 days every month and so, in her view, it could be managed to enable large ships to berth from time to time. Ms Stout considered that the project brought no significant benefits. All Urban Auckland could see was "Aucklanders being shunted off their wharf by too large cruise ships". Urban Auckland's objective was to support the development of a vision for Queens Wharf as a first-rate public space, embodying the city's Marae Atea to the harbour and a symbolic gateway to the world. The proposal by Panuku, in Ms Stout's view, would frustrate the attainment of that objective in the short-term.
156. **Mr Michael Goldwater** made a presentation opposing the application which detailed how the Waitematā Harbour is one of Auckland's cornerstone assets and has been subject to continual wharf developments and reclamations that have had significant cumulative effects on the Harbour. He was of the view that inadequate consideration had been given to alternative options for berthing cruise ships within the POAL footprint and that economic benefits were exaggerated by the applicant. Overall, he submitted that the proposal's benefits had not been proven to outweigh the multi-generational economic, cultural and environmental costs the community is being asked to bear. The proposal would result in a further incursion into the Waitematā Harbour, with particular effects on public space and heritage values.

Schedule 1 – Summary of evidence heard

157. **Mr Pip Cheshire**, an experienced Architect, presented evidence on behalf of Urban Auckland and related submitters. Mr Cheshire's evidence addressed the "urban design implications" of the proposed installation of the mooring dolphins off the north end of Queens Wharf. His evidence focussed on the work that was associated with those areas of the wharf that were currently open to public access and those areas that could or should be open to public access and the harbour immediately beyond the wharf.
158. Mr Cheshire considered that Queens Wharf occupies a unique position within the Auckland CBD valley because of its location at the bottom of Queen Street and its extension into the Waitematā Harbour providing a continuous pedestrian experience from the enclosure of the commercial, retail and residential heart of the city to the "open expanses of the Waitematā". In his view, its value was a consequence of this functional relationship with the CBD, namely providing a passage or promenade from the busy and crowded interactions of the city's main street to a more private and reflective space within the realm of the Waitematā Harbour. Its value in this regard, in his view, was as a gateway "without parallel" in the world's maritime cities.
159. Mr Cheshire considered that the potential of the wharf's public open spaces is currently occluded by the absence of a comprehensive redevelopment that meets the goals that were articulated at the time of its 2009 purchase, i.e. as a people place. An issue in his view was the need to generate a balance of use in area between the safe requirements of a working cruise ship terminal and the realisation of the wharf's potential as a public space. He considered that the present "near continuous" closure of the eastern side of the wharf for cruise ship activities already compromised public access to that part of the wharf. It was his view that the dolphins being located within close proximity to the wharf's end would be deleterious to the experience able to be gained from that location – even in its current state. In his view the installation would therefore be an inappropriate extension of an important civic space.
160. **Dr Timothy Denne** is an Economist and Director of Covec Ltd, an Auckland based economics consultancy. Dr Denne was engaged to provide advice to Urban Auckland and its co-submitters in respect of the economic aspects of the proposal. In his summary statement Mr Denne identified his two main areas of concern with the economic analysis presented by Mr Akehurst and reviewed by Mr Clough (Panuku's experts). Those areas were, first, the analytical techniques used (and specifically the use of economic impact assessment (alongside cost benefit analysis)) and, second, the assumptions and calculations used in the cost benefit analysis.
161. In respect of his first concern Dr Denne's evidence was that the impacts on GDP and employment in the analysis completed by the other experts was likely exaggerated and should be ignored and that the net present value from a cost benefit analysis is regarded as the total extent of the regional net benefit.
162. In respect of the second concern, the CBA assumptions and calculations, Dr Denne considered that not all of the spend of a passenger could properly be considered a benefit and that the assumed passenger levy might not materialise and therefore the revenue should not be treated as "bankable", at least not in full.

Schedule 1 – Summary of evidence heard

163. In conclusion, Dr Denne's evidence was that the net benefits of the project are likely to be smaller overall than those estimated by Mr Akehurst and reviewed by Mr Clough.
164. **Mr Graeme Burgess** is a partner in Burgess Treep & Knight Architects Ltd and has been involved in the field of conservation and heritage since 1990. He prepared and filed expert evidence on behalf of Urban Auckland and related submitters in respect of the historic heritage significance of Queens Wharf and the effects that Panuku's proposal would have on those values.
165. It was Mr Burgess' evidence that Queens Wharf is the only wharf structure within the waterfront of the Auckland Port that has been scheduled under the Plan as an historic heritage place. The form of the wharf is the only section of the 1904 W.H. Hamer plan for redevelopment of the waterfront that is scheduled and as such represented, in his view, that historic pattern, much of which was still in place. According to Mr Burgess the Hamer Scheme, instituted between 1907 and 1922 created Queens Wharf, the Ferry Quay, Princes Wharf, the Lighter Basin, Captain Cook Wharf and extended east to Wynyard Wharf. The clear planned form of the wharf and its association with the Hamer scheme was a key element in its overall heritage value according to Mr Burgess.
166. Mr Burgess considered that Queens Wharf needed to be seen in the round and that its form contributes to the context. The historic form of the wharf was experienced in his view from many public vantage points, from Princes Wharf, from on board passenger ferries and other passing vessels, and in views across the harbour frontage from the Auckland Harbour Bridge. He considered that the intactness of the wharf in its plain historic form can be experienced from those vantage points. Mr Burgess also noted that Queens Wharf connects Queen Street to the harbour and that this linkage, both visual and physical, was an historic linkage that also related to historic use of the wharf as a social space, a promenade as well as a working dock.
167. Mr Burgess agreed with the s 42A report that the changes proposed to the historic fabric of the wharf to enable the new bollards and fendering were minor and would have little or no effect on the heritage fabric of the wharf, provided that due care was taken to retain those elements, such as rail lines, that were considered to have a high heritage value.
168. Mr Burgess also agreed with the s 42A report that the proposed mooring structure extension at the northern end of the wharf would have a significant effect on the historic value of the wharf. In his opinion this was due to the fact that the structure was not small in scale and would have a disruptive visual effect on the plain form of the wharf that would detract from the overall heritage value of it. He considered that the wharf is at least of regional importance and the proposal detracted from historic heritage which he considered to therefore make it inappropriate in terms of s 6(f) of the RMA. Moreover, Mr Burgess noted that the proposed use of the wharf for mooring purposes did not enhance the heritage value of the place because the wharf is already a working wharf. In his view the proposed extension would simply amplify that use in a manner that was out of scale with the historic working use of the wharf.
169. **Ms Bridget Gilbert** is an experienced Landscape Architect who was engaged by Urban Auckland and others to review Panuku's application documents, and the s 42A report and provide comment as to whether she could support their submission in opposition to the

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

proposal., Ms Gilbert filed a detailed statement of expert evidence in respect of the visual, natural character and landscape effects of the proposal.

170. In terms of landscape values, it was Ms Gilbert's opinion that Queens Wharf displays landscape values that rate towards the higher end of the spectrum as a consequence of it having high visual amenity, experiential, recreational, shared and recognised and historic values. Dealing with each of these her evidence was:
- (a) With respect to visual amenity, the values were associated with the highly attractive, engaging, dramatic and memorable views that are available from the northern end of the Wharf effectively "on" the waters of the Waitematā and which enable an appreciation of the more natural landscape elements of the Tāmaki Makaurau landscape, serve as a counterpoint to the intensity of development associated with the neighbouring CBD (including the Port), and epitomised the identity and "sense of place" of Auckland as a truly waterfront city. In her view the proximity of the Queens Wharf harbour view to the CBD and the city's public transport hub also contributes to the importance of this outlook.
 - (b) With respect to experiential values, Ms Gilbert considered these to be associated with the relatively quiet and tranquil waterfront ambience at the northern end of the wharf juxtaposed against the bustling CBD. In addition, the heritage features of the wharf, the sounds of waves lapping, seabirds and sea breezes, the smell of fishing bait, the feel of salt laden winds, the acute awareness of the weather and the very close proximity the wharf enables for users to experience the relatively uncluttered expansive waters of the harbour add to its experiential appeal.
 - (c) With respect to recreation, these were as a consequence of the scale of the open space available at Queens Wharf (acknowledging that the potential of this space has not been fully realised to date), its proximity to the Quay Street and Queen Street spines and the experiential and visual amenity values outlined above.
 - (d) With respect to shared and recognised values, Ms Gilbert considered these were demonstrated by the considerable number of submissions expressing interest in the landscape effects of the proposed development. To her this led to the view that Queens Wharf is an urban landscape feature that is cherished by many Aucklanders. The repeated vision articulated in master planning documents for Queens Wharf that it form a significant and impressive waterfront public open space celebrating its rich history as well as accommodating cruise ships also speaks to the importance of the area to the wider community.
 - (e) With respect to historic values she deferred to the evidence of Mr Burgess.
171. Ms Gilbert also considered that Queens Wharf interfaces and is effectively located within a seascape that has high cultural values. In her opinion, all of these (urban) landscape values come together to firmly establish Queens Wharf as a noteworthy place within the CBD that displays a high landscape sensitivity to development change.
172. Ms Gilbert also considered that the proposed development would adversely impact on the visual amenity values associated with the northern end of Queens Wharf and Princes Wharf

Schedule 1 – Summary of evidence heard

and the tall buildings lining the waterfront adjacent to the area to a significant degree (high adverse effect in her opinion). In relation to viewers in the vicinity of Stanley Point, on the water to the east of Queens Wharf, at Princes Wharf and in the central area of Queens Wharf, Ms Gilbert considered adverse visual effects would be “more than minor”. Taking into account her assessment of the landscape values alongside her analysis of visual effects led her to conclude that the proposal would have high (significant) adverse effects with respect to landscape effects.

173. It was Ms Gilbert’s view that the gangway access, structure design, enabling of public access along the eastern side of the Wharf or a 15-year consent period provided no meaningful mitigation of adverse effects.
174. With respect to natural character, Ms Gilbert essentially agreed with the other landscape architects that given the highly modified context of the wider area and the relatively limited range of abiotic and biotic elements, patterns and processes evident at Queens Wharf, that overall the existing natural character values rated towards the mid to lower end of the spectrum and, consequently, would not be adversely affected to a significant degree by the introduction of the proposed dolphin structures in the location proposed.
175. Ms Gilbert identified the differences in her ratings of adverse landscape effect with the ratings given by Panuku’s experts and advised that it stemmed from four factors:
 - (a) A difference in evaluation of the importance and sensitivity of the outlook from Queens Wharf as a gateway to the CBD and the public open space experience available at Queens Wharf.
 - (b) A difference in opinion as to the “visual fit” of the proposed structures within that context.
 - (c) A difference of opinion as to the importance of the uncluttered and open waters of the Waitematā to the quality of the view afforded from Queens Wharf, Princes Wharf and the tall buildings along the waterfront in the vicinity and to the public open space experience.
 - (d) A difference of opinion in the importance on the visible extension of the structures into the harbour on landscape values.
176. Overall, it was Ms Gilbert’s evidence that the proposed development would ‘tilt the balance’ at Queens Wharf from a public place that is intended to equally balance cruise ship, heritage and public open space imperatives to one in which cruise ship requirements would dominate. Ms Gilbert acknowledged that Queens Wharf was very much a “work-in-progress” as a public open space.
177. **Mr Robert Scott** is an experienced planner who provided planning evidence on behalf of Urban Auckland and related submitters
178. Mr Scott’s analysis of the application relied on the analysis of the s 42A report and it’s supporting specialist inputs, as well as on the expert evidence presented on behalf of Urban Auckland and others (Ms Gilbert, Mr Burgess, Dr Denne, Mr Cheshire).

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

179. Based on an analysis of the Central Wharves Precinct objectives and policies it was Mr Scott's evidence that the intention for the redevelopment of Queens Wharf was to make it *"primarily a place oriented for people with the presumption that the cruise ship industry was more compatible, being a passenger and tourist focussed activity as opposed to a commercial freight function"*. Accordingly, it was his view, that the establishment of cruise ship related facilities and berthage needed to be compatible with the public access function of the wharf in ways that the working Port to the east is not. Mr Scott considered that Panuku had downplayed and underappreciated the values evident from the location and arrangement of Queens Wharf in the waterfront of Auckland and their significance to Queens Wharf generally as a recreation open space resource. It was his opinion that the efforts that have been undertaken to date to transform Queens Wharf from a working freight wharf to a predominantly public oriented place would be under threat if the proposed dolphins were approved.
180. It was Mr Scott's evidence that the proposal was not an example of integrated planning and would have cumulative adverse effects. It was also his view that the addition of the proposed dolphins to Queens Wharf would read as a migration of the industrial working port character into a portion of the CBD that is intended to be of a more human scale and that expresses and celebrates its heritage values through its provision of public open space.
181. Mr Scott also provided evidence in respect of alternatives and expressed the view that the wharves within the Port precincts to the east were practicable alternatives and had been discounted by Panuku too quickly. Mr Scott pointed out that there were no impediments from a statutory planning perspective to the berthing of extra-large cruise ships within the Port precinct and therefore further consideration of the use of that existing wharf space was warranted in his view. Mr Scott rejected the position taken by POAL that the Port precinct was not a practicable option for the berthing of large cruise ships and indicated that they were mere operational considerations and not valid planning or resource management reasons to dismiss further consideration of interim berthage in this area.
182. In conclusion, Mr Scott indicated that he supported the development of Captain Cook Wharf as a long-term base for the cruise industry. He advised that if a consent were to be granted however a 15-year duration was too long and would introduce effects into the Queens Wharf area that would be for an extended period. His recommendation was a consent duration of less than 10-years. In his view that duration would better recognise the significance of Queens Wharf as a public space and would prioritise the need for Panuku and POAL to work collaboratively to achieve the desired outcome for providing berthage at Captain Cook Wharf.

Mr Barney

183. **Mr Andrew Barney** made a presentation that emphasised four key points in support of the submission he made on the application, namely that: the proposal was likely to be rendered unnecessary; that it failed to reasonably consider other less damaging options; that it was procedurally flawed; and that it failed to consider the prospect of protests occurring as a consequence of any decision to approve it.

Mr Michael Lee

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

184. **Mr Michael Lee** is an Auckland Councillor representing the Waitematā and Gulf ward who has a long history of roles on the Auckland Regional Council and Hauraki Gulf Forum with a keen interest in issues relating to the Waitematā Harbour and Hauraki Gulf. Mr Lee is also currently serving as Chair on the Auckland Council Heritage Advisory Panel. He was concerned that allowing consent would have a precedent effect, he queried the economic analysis provided, and agreed with the submission of Heritage NZ and others in relation to the adverse heritage and aesthetic effects of the proposal. He considered the application was for a 'wharf extension' rather than a mooring dolphin and presented photographs of "genuine" mooring dolphins at Circular Quay in Sydney. Overall, Mr Lee agreed with the findings of the s 42A report and considered consent should be declined on the following grounds:

- (a) the proposal will be contrary to the sustainable management of natural and physical resources;
- (b) it will not (in the context of the Downtown Programme and Central Wharves Strategy) support the efficient use and development of resources;
- (c) will generate both short term and long term significant adverse environmental effects on the Waitematā Harbour and Hauraki Gulf Marine Park;
- (d) will conflict with the strongly expressed views of 'people and communities' in Auckland, against further reclamation, extensions and encroachments into the Harbour; and
- (e) would be inconsistent with the purpose and principles of the RMA 1991, NZCPS and provisions of the Hauraki Gulf Marine Park Act.

Ms Coralie Van Camp

185. **Ms Coralie Van Camp** gave evidence from the perspective of an experienced power launch skipper with many years of experience motoring around the Waitematā Harbour. Ms Van Camp was opposed to the application due to the removal of a large area of water from public use and described some of the navigational issues she had experienced in the past traversing the stretch of water between Tamaki Drive and Westhaven Marina, and considered the dolphins could present a navigational risk to vessels in future. She then outlined some of the issues she had observed with Cruise Ships berthing at overseas ports having watched the Prime Planet series of 'The Cruise'. Ms Van Camp was uncertain that the application would resolve the issues of providing for extra-large Cruise Ships and considered the proposal tantamount to allowing a cruise industry takeover of Queen's Wharf.

Mr Christopher and Monica Cotter

186. **Mr and Mrs Cotter** tabled evidence opposing the application which described the Waitematā Harbour as a wonderful public asset that as far as possible, must be available for the public use of all Aucklanders and the general public. They were of the view that economic benefits were exaggerated by the applicant and that the proposal would result in adverse impacts on the cultural, social and amenity values of Queen's Wharf and surrounds, and significantly affect the landscape and recreational values of the area.

Schedule 1 – Summary of evidence heard

Herne Bay Residents Association Inc ('HBRAI')

187. **HBRAI** tabled a statement requesting that consent be declined and supported the submission of Urban Auckland Ltd. Their evidence was that the proposal was in fact a wharf extension, alternatives had not been given appropriate consideration, the economic case was unproven and that adverse recreational and amenity impacts on harbour users would be significant.

Mr McKeown

188. **Mr Michael McKeown** is a retired engineer and gave evidence from the perspective of a city centre resident since 1995. Mr McKeown had also sailed the Hauraki Gulf since 1985 as a recreational boater. He advised that he was not an expert in planning matters but rather a keen observer of the city centre environment for the past several decades.
189. Mr McKeown requested us to refuse consent to the application on a number of grounds including that the proposed dolphin structure restricts the navigable channel by a further 90 metres for recreational, ferry and other commercial vessels; the dolphin structure prevents the mooring of vessels across the end of Queen's Wharf; the use is not a traditional use of a heritage structure; and that oversized cruise ships on the eastern side of the wharf would severely restrict harbour views from public areas on the wharf.
190. Mr McKeown also considered that the discharge and boarding of up to 6,000 passengers and 2,500 crew can overwhelm the public spaces on and near the wharf, thereby degrading the reasonable and enjoyable use of these areas for cruise ship passengers, other visitors, workers and residents alike. He preferred the current "station keeping" of vessels in the main harbour stream. Mr McKeown also expressed concerns with impacts on air quality from ship engines.

Mr Cayford

191. **Mr Joel Cayford** is a Planner & Senior Policy Advisor at the New Zealand Planning Institute. His evidence was presented independently in support of his own submission in opposition to the project. The focus of Mr Cayford's evidence, applying his practical experience and research based knowledge of the planning, promotion and protection of certain social and cultural values of Auckland's downtown waterfront resources, was to provide an assessment of how those values on Queens Wharf would be affected by the project and by the planning processes and decisions that are shaping Auckland's waterfront public space.
192. In his evidence Mr Cayford considered that since being created as "party central" during the Rugby World Cup in 2011, Queens Wharf had become embedded in the hearts and minds of Aucklanders and visitors to the city, but not just for cruise ship visits. In global terms he considered that Queens Wharf was a young piece of public waterfront infrastructure – especially when compared with relatively mature regenerated city waterfronts in other locations around the world. In its short life as a public space, Queens Wharf has already been through a tumultuous planning period in Mr Cayford's view. It has lost a heritage shed and gained the controversial Cloud whose temporary life has been extended. It has become, again temporarily, Auckland's primary cruise ship terminal. It is destined to become Auckland's main ferry terminal. In Mr Cayford's view it is the best place in Auckland's CBD

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

waterfront to find peace and quiet at all times of the day and night and a connection with the Waitematā Harbour and all that goes on there.

193. It was Mr Cayford's evidence that the proposal would "tip the balance" too far and risk damage that can be avoided by instead requiring oversized cruise ships to moor in the harbour. The impact on the use of Queens Wharf would come principally from the fact that the addition of the dolphin to the end of the wharf would erode the vista and sense of connection with the harbour that can be presently gained from this location. In his view, by placing the dolphins and gangway structures in that space, the amenity attributes enjoyable at the end of the wharf would be adversely affected.

Auckland Yachting & Boating Association Inc ("AYBA")

194. **Mr Richard Brown** presented evidence on behalf of the AYBA. He advised that opposition to the proposal was mostly on safety grounds, but also because of the loss of amenity and the "ongoing perception that it is alright to keep encroaching into the harbour".
195. Mr Brown considered that boat traffic using the harbour is squeezed at the narrowest point between Ferguson Wharf and the Navy Wharf down to an approximate 800m wide gap. This was further reduced to a 12-knot zone 400m wide by two 200m wide strips either side where the speed limit is 5 knots. He noted that at present this widens slightly at Queens Wharf but becomes more complex with the passage of numerous ferries. In his view, the proposed application would reduce the total width at this point by a further 90 metres and that this would result in increased navigational risks through this area. With more ferry services and boats predicted to be present in the harbour generally, he also considered it would lead to congestion through this part of the harbour that would give rise to increased risks.
196. Mr Brown presented us with a number of photographs and examples of existing issues observed on the harbour with respect to Port operations, wash and wave action from ferries and other boats, and suggested that this would become more common in due course if the proposal was approved.
197. Mr Brown was also concerned that occupation of this part of the harbour by the dolphins would represent a significant loss of amenity and a tactical option for the yacht racing fraternity.
198. **Mr Barry Holton** presented evidence on behalf of the AYBA. In summary he considered that Panuku should be investigating less permanent and less intrusive structures than what they presently proposed and that it was a waste of public resources to provide a permanent type mooring structure for a 15 year period only, particularly when it would only be needed for up to 8 visits a year by two ships.
199. As a recreational small boat user, he also expressed his serious concerns about the navigational safety risks that the dolphins would present, particularly at night.
200. **Mr Tony Skelton**, also presented evidence on behalf of AYBA. Mr Skelton has been a member of the Royal New Zealand Yacht Squadron for 54 years and has been sailing for 65 years. Mr Skelton described the racing calendar within the Waitematā Harbour, including providing a map showing the positioning of buoys that were used by racing craft. He

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

considered that these races, together with the cruising and recreational use of the Waitematā Harbour by its members along with the racing and recreational use by members of the Ponsonby Cruising Club and the Richmond Yacht Club would make it arguably one of the largest users of the inner Waitematā Harbour and this usage is increasing.

201. Mr Skelton confirmed that the RNZYS opposed Panuku's proposal for the primary reason that the dolphins and gangway structures would create a significant navigational hazard for all marine users of the Waitematā Harbour. In particular, the extension of the structures into the Harbour would interrupt the ability to sail down the city side of the Harbour, or would make that route more dangerous, particularly for inexperienced skippers faced with an aggressive race competitor. He considered that the Council had been fully briefed years ago on the prospect of larger ships coming to Auckland and that they have done nothing to plan for that. He also considered that there were other viable and workable options available for the mooring of large cruise ships.
202. **Mr Grant MacDuff** presented evidence on behalf of the AYBA. Mr MacDuff advised that the purpose of his evidence was to comment on the assessment of alternative options. In particular he considered that there were options that were feasible and would cost less than the suggested "wharf extension" and should be investigated further. The option he presented involved using sea anchors and mooring buoys that would retain over 80 metres of the proposed 90 metres required as clear, open and navigable water.
203. In terms of his experience as a recreational boater in the Waitematā Harbour, Mr MacDuff advised us that travelling close to the ferry basin was often necessitated by tidal flows. He considered that the dolphin proposal was a de facto extension of Queens Wharf and would have impacts on the use of the water space off the end of Queens Wharf as a consequence.

Devonport Heritage

204. **Ms Margot Macrae** and **Mr Alistair Helm** presented evidence on behalf of Devonport Heritage who had submitted in opposition to the application. Their evidence was principally concerned with the potential impact of the dolphin structures on the views available from Queens Wharf to the landscape and settlements of the North Shore and the Devonport peninsula in particular. They considered that Panuku had dismissed the amenity and landscape values of Queens Wharf for the sake of the cruise ship industry and supported the s 42A assessment that the consequences for the tourism industry of not constructing the dolphins would not be as dire as forecast. They noted that there was debate in New Zealand and internationally about the real benefits of cruise tourists and cited international examples of constraints being placed on cruise activities adjacent to some well-visited international destinations.
205. Ms Macrae and Mr Helm also considered that the application would have economic negatives on the major North Shore ferry route from Takapuna/Bayswater to the Auckland CBD. They supported evidence by Fullers that there would be adverse impacts on the ferries and their operators, citing examples of the Devonport ferry being disrupted by cruise ship movement, resulting in significant delays in scheduled transit times.
206. In conclusion these witnesses opined that the project came down to a choice between the needs of the cruise industry and the needs of Aucklanders - a choice between making life

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

easier for cruise ships and passengers or the need to retain essential commuter links from the North Shore and Gulf Islands to the central city. In their view it was a choice between residents and tourists.

Heritage NZ/Pouhere Taonga

207. **Ms Robin Byron** is employed as a Senior Conservation Architect with Heritage New Zealand Pouhere Taonga in its Northern Regional Office based in Auckland. She is a registered architect with the Architectural Institute of British Columbia, Canada and an Affiliate Member of the New Zealand Institute of Architects.
208. Ms Byron's evidence addressed the submission made on the project by Heritage New Zealand. She discussed the significance associated with Queens Wharf, described consultation undertaken with Heritage New Zealand by Panuku prior to the lodgement of the application and outlined the significant visual effects associated with the proposed dolphin structures and the associated mooring of large cruise ships in the harbour. Ms Byron advised that despite the visual effects, which Heritage New Zealand considered to be intrusive, it was able to agree to the dolphins on a temporary basis for three interconnected reasons. First, the landscape of the waterfront is presently in a state of flux and change, arising from a number of projects, which meant it was difficult for Heritage New Zealand to take a permanent position; second, Heritage New Zealand was sympathetic to the economic benefits to Auckland of the cruise industry and to the vibrancy that overseas visitors bring to Auckland, so that providing an interim solution would ensure such benefits were maintained; third, because the dolphins were being proposed as a short-term temporary solution, a point in time would be reached when they would be removed and the heritage fabric of Queens Wharf reinstated. Her evidence was that Heritage New Zealand considered that a maximum period of 10 years for the proposed dolphin structures was appropriate.

Council reporting officers/specialists' further evidence

209. At the conclusion of the submitters' evidence the author of the s 42A report (Mr Blakey) and a handful of the specialist reviewers who provided input to that report presented supplementary statements of evidence. We treated these statements as being supplementary to the reports they presented to us by way of the agenda, which, as noted earlier, were all taken as read. The supplementary statements responded to various matters that had arisen during the hearing and provided final comments for our consideration. We note them briefly below.
210. **Dr Shane Martin** is an Economist who works within Auckland Council's Chief Economist Unit. Dr Martin provided input into the s 42A report. By way of supplementary evidence, he advised:
- (a) That none of the evidence that had been presented at the hearing had changed his assessment that the use associated with the mooring dolphins was highly likely to be significantly net positive from an economic perspective for Auckland;
 - (b) In relation to the issues about quantification of economic benefits for non-tangible aspects, Dr Martin indicated that there was precedent in New Zealand to draw upon and that he had examined such examples of those precedents where other non-

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

tangible impacts had been assigned a value. In each case, he advised that the costs paled in comparison to the calculated net benefit of the mooring dolphin proposal because of the difference in scale between the economic benefits and the economic costs;

- (c) Much of the economic evidence that had been presented in opposition to the proposal was either unsubstantiated by actual empirical evidence or was arithmetically incorrect.

211. **Mr Hamish Speakman** provided supplementary evidence in respect of transport related effects. He confirmed that he remained of the view that expected construction traffic effects could be accommodated on the road network and further, that the final CTMP should consider the cumulative traffic related effects of other applications in the downtown waterfront area. He considered that Auckland Transport would be able to manage the potential cumulative effects by choosing to approve, decline or alter individual CTMPs.

212. The balance of Mr Speakman's supplementary statement related predominantly to issues he had identified with the operational aspects of the proposal and in particular disembarking of passengers, boarding of passengers, berthing during an event occurring at the wharf, circulation of tour coaches and buses and managing pedestrians along Quay Street. In Mr Speakman's view the traffic effects on general traffic and on pedestrians and cyclists as a result of the increase of turning movements into and out of Queens Wharf had not been quantified and he was therefore unable to conclude whether the traffic effects would be minor or more than minor. Should the application be granted, Mr Speakman recommended several conditions of consent, namely:

- (a) That cruise ships carrying more than 3,000 passengers need to board and exit in accordance with an approved TMP which should detail how tour coach/bus movements will be managed to prevent stacking/queuing of coaches on the western side of Queen's Wharf;
- (b) A variety of changes to the CTMP to better manage construction traffic associated with the development; and
- (c) Finally, a condition that a cruise ship carrying more than 3,000 should be prevented from berthing at Queen's Wharf when an event is being held there.

213. **Dr Bryan Pooley** provided supplementary comment in respect of heritage matters, Ms Misra since having left the Council employ. In Dr Pooley's view the only heritage value that would be appreciably affected by the proposal was context because the dolphin structures would extend off the end of Queens Wharf. He considered that the Plan provides for the consideration of views to and from a heritage place (referring to a description in D17 Historic Heritage Overlay) and that accordingly the mass of the dolphin structure was a factor that ought to be considered. In that regard he agreed with Ms Misra that the light poles would be highly visible and if possible should be reduced in height in consideration of the "setting of a historic heritage place".

214. **Mr Peter Kensington** provided supplementary evidence in respect of landscape and visual effects. Mr Kensington remained of the view expressed in his specialist memo provided in

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 1 – Summary of evidence heard

the s 42A report that the proposal was inappropriate from a visual and landscape effects perspective but concluded by acknowledging that there is a need to provide an immediate short-term solution for the cruise industry while a long-term outcome is confirmed. However, in his view, the current proposal was not the appropriate short-term solution, because it was a functional (engineered) response that did not provide a balanced public benefit or new equivalent public access and associated amenity values that would be commensurate with what was lost. For Mr Kensington, while the adverse effects will be very localised to the northern end of Queen's Wharf, the site was an important/unique public space and if the proposal was constructed as currently designed it would alter the current, clean panoramic outlook that is experienced from the northern edge of Queens Wharf and result in significant adverse visual effects. He referred to Figure 20 in the Boffa Miskell visual assessment materials which he considered affirmed his conclusions.

215. Finally, **Mr Richard Blakey** presented a detailed supplementary statement. Overall, he maintained his recommendation that the proposal be refused consent, but that if consent were to be granted it ought to be for a duration of no more than 12-years. He also maintained his view that several of the applicant's management plan proposals were presently "undercooked" and provided an insufficient basis on which to reach any clear conclusions as to the scale of adverse effects, particularly in respect of construction related matters.

Schedule 2 –Conditions of Consent

Under section 108 of the Resource Management Act 1991, the resource consent is subject to the following conditions:

Definitions

“BMP” means Biosecurity Management Plan;

“CMA” means the ‘coastal marine area’ as defined by the RMA;

“CMCA” means the ‘common marine and coastal area’ as defined in the Marine and Coastal Area (Takutai Moana) Act 2011;

“CMP” means Construction Management Plan;

“CNVMP” means Construction Noise and Vibration Management Plan;

“Commencement of Construction” means commencement of any construction works for the Project. For the avoidance of doubt, it excludes site investigations, fencing, and any activities that do not need resource consent and/or are permitted activities;

“Consent Holder” means Panuku Development Auckland Limited;

“Council” means the Auckland Council;

“CTMP” means Construction Traffic Management Plan;

“DMP” means Decommissioning Management Plan;

‘DPR’ means Duration Progress Report

“HFAP” means Heritage Features Alteration Plan;

“MSMP” means Maritime Safety Management Plan;

“Project” means the proposal as described in the documents detailed at Condition 5;

“QWKEP” means the Queens Wharf Kaitiaki Engagement Plan;

“RMA” means the Resource Management Act 1991;

“TMP” means Transportation Management Plan; and

“TTS” means Temporary Threshold Shift.

General conditions

Commencement and duration

1. Pursuant to s125 of the RMA, this resource consent lapses five (5) years after the date it is granted unless it has been cancelled, surrendered, or given effect to at an earlier date pursuant to the RMA.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

2. Pursuant to ss116 and 123 of the RMA, the duration of the resource consent for construction activities (including associated temporary occupation) within the CMA and CMCA under s12 of the RMA shall be five (5) years from the date it commences.
3. Pursuant to ss116 and 123 of the RMA, the duration of the resource consent for structures installed as part of the upgrade and strengthening of Queens Wharf to occupy the CMCA under s12(2) of the RMA shall be 15 years from the date it commences.
4. Pursuant to ss116 and 123 of the RMA, the duration of the resource consent for the dolphin mooring structures and associated piles and gangways to occupy the CMCA under s12(2) of the RMA shall be:
 - (a) 15 years from the date the consent commences; or
 - (b) from the date the consent commences until the date that is two years after Captain Cook Wharf becomes operational to receive large cruise ships,whichever date is the earlier.

Development in accordance with plans

5. The proposed structures shall be designed, operated and maintained in general accordance with the information provided with the application, and all referenced by the Council as consent number **CST60323353** as follows:
 - (a) The Assessment of Environmental Effects report, titled "*Queens Wharf Cruise Ship Wharf Upgrade – Queens Wharf, Auckland Central*", prepared by Barker & Associates Limited, dated August 2018, reference 15364; and
 - (b) The following plans and information:
 - Preliminary Design Report, prepared by Beca Ltd, dated 31 August 2018;
 - Engineering Plans, prepared by Beca Ltd, reference 3232840:
 - CA-K001, Plan of Proposed Modifications (15 Aug 2018, Rev L)
 - CA-K002, Mooring Dolphin and Access Gangway, Details 1 of 2 (6 Aug 2018, Rev L)
 - CA-K003, Mooring Dolphin and Access Gangway, Details 2 of 2 (15 Aug 2018, Rev L)
 - CA-K004, Proposed Additional Fender Cluster (21 Oct 2016, Rev C)
 - CA-K005, Typical Fender Details (2018, Rev C)
 - CA-K006, Southern Bollard Upgrade (2018, Rev C)
 - CA-K00, Hydrographic Plan (2018, Rev A)

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 –Conditions of Consent

- CA-K008, Details Wharf Interface (23 Aug 2018. Rev A)
 - AEE Engineering Aspects Report, prepared by Beca Ltd, dated 31 August 2018;
 - Navigation Safety and Utility Report, prepared by Navigatus Consulting, dated 30 August 2018;
 - Natural Character, Landscape and Visual Amenity Effects Assessment, prepared by Boffa Miskell Ltd, dated 30 August 2018;
 - Heritage Impact Assessment prepared by Plan.Heritage Ltd, dated 27 August 2018;
 - Queens Wharf Transport Assessment report, prepared by Beca Ltd, dated 3 September 2018;
 - Marine Ecology Assessment report, prepared by Boffa Miskell Ltd, dated 31 August 2018;
 - Construction Method report, prepared by Alta, dated 22 August 2018;
 - Acoustic Assessment report, prepared by Marshall Day Acoustics, reference Rp 001 R08 20180310, dated 31 August 2018;
 - Construction Noise and Vibration Management Plan, prepared by Marshall Day Acoustics, reference Rp 002 R03 20180310, dated 31 August 2018;
 - Report into Berthing Requirements for Cruise Ships at Auckland's Queens Wharf, prepared by Dale Cole & Associates Ltd, dated October 2017; and
 - Decommissioning Methodology Technical Memo, prepared by James Cowderoy of Beca Ltd, dated 6 August 2018.
- (c) Additional information letter, prepared by Devon Rollo of Barker & Associates, dated 30 November 2018.
6. In the event of any conflict between the documents listed above and the conditions of this consent, the conditions shall prevail.

Monitoring

7. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$3,000 inclusive of GST, plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to this consent/s.

Advice note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

resource consent. In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent have been met, will the Council issue a letter confirming compliance on request of the consent holder.

Pre-commencement

Mana Whenua Engagement

8. No later than ten days following commencement of the consent, the Consent Holder shall invite the Mana Whenua listed in (c) below to establish a new Forum ("Forum") to:
 - (a) Assist the Consent Holder in the preparation of a Queens Wharf Kaitiaki Engagement Plan ("QWKEP") (Conditions 9 - 14) consistent with relevant customary practices and in accordance with the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), especially the principles of consultation, active protection, participation and partnership; and
 - (b) Fulfil the obligations set out in the QWKEP on behalf of Mana Whenua.
 - (c) In no particular order:
 - Ngāti Whātua Ōrākei
 - Ngāti Pāoa
 - Ngāi Tai ki Tāmaki
 - Ngāti Maru
 - Ngāti Tamaoho
 - Ngāti Te Ata Waiohua
 - Ngāti Whanaunga
 - Ngāti Tamaterā
 - Te Ākitai Waiohua
 - Te Patukirikiri
 - Te Kawerau ā Maki
 - Ngāti Whātua o Kaipara
 - Te Rūnanga o Ngāti Whātua

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

- Ngāti Wai
- Ngāti Manuhiri
- Ngāti Rehua Ngāti Wai ki Aotea
- Te Uri o Hau
- Te Ahiwaru Waiohū
- Waikato-Tainui

The Consent Holder shall facilitate and fund the resourcing of the Forum to meet all its fair and reasonable costs associated with any work streams required for the Forum to fulfil its role in respect of this condition.

Advice Note:

It is acknowledged that Te Tiriti o Waitangi/The Treaty of Waitangi underpins the relationship between Mana Whenua and the Crown. Inherent in this are (amongst other things) the principles of partnership, reciprocity, active protection and equity. Importantly, the principle of partnership is endorsed by the concept of good faith. Those principles are acknowledged in the Local Government Act 2002.

The Consent Holder acknowledges that Te Waitematā is of extremely high spiritual, ancestral, cultural, customary and historical importance to Mana Whenua.

The Consent Holder records its commitment to implementing this condition in good faith, and to using the services of an independent mediator, as necessary. Conditions 8 - 14 have been offered by the Consent Holder to ensure that Mana Whenua are able to engage meaningfully with this project and its outcomes.

9. The Consent Holder shall prepare a QWKEP for the project with the assistance of the Forum, in the spirit of partnership. Within 20 working days of the Commencement of Consent or prior, the Consent Holder shall provide a copy of the QWKEP to the Team Leader Compliance Monitoring – Central for their records.
10. The purpose of the QWKEP is to assist Mana Whenua to express tikanga, fulfil their role as kaitiaki, and establish the engagement process before, during and after the completion of construction activities for implementation throughout the project. It shall be formulated through:
 - (a) Providing the framework for a collaborative approach between the Consent Holder and Mana Whenua, to address the matters which impact cultural values / interest, before, during and after the completion of the construction activities; and
 - (b) Identifying how the Consent Holder and the Forum will ensure that effective relationships are provided for throughout the duration of consent.
11. The objectives of the QWKEP are to:

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

- (a) Provide integrated management opportunities for Mana Whenua to recognise the holistic nature of the Mana Whenua world view;
- (b) Acknowledge the cultural and spiritual importance of Te Waitematā and its surrounds to Mana Whenua;
- (c) Acknowledge Mana Whenua as kaitiaki, and to assist Mana Whenua to fulfil their role as kaitiaki;
- (d) Recognise the importance of engagement and identification of key Mana Whenua values, areas of interest and matters concern in relation to the project;
- (e) Provide Mana Whenua with an opportunity to be actively involved with the formulation and implementation of the QWKEP;
- (f) Enable Mana Whenua to identify cultural values and interests for the project and to explore ways to recognise, protect and enhance such values
- (g) Provide means for Mana Whenua to welcome manuhiri; and
- (h) Facilitate engagement between the Consent Holder and Mana Whenua in relation to the activities authorised by this consent.

12. As a minimum, the QWKEP shall include details of the following matters:

- (a) How Mana Whenua who have historic associations with the project area and its surrounding waters have been involved in the formulation of the QWKEP and are to be involved in its implementation throughout the duration of the consent;
- (b) The process for involvement of Mana Whenua in the preparation and implementation of the engineering design, construction management, and operational plans as they relate to:
 - i. Managing and monitoring water quality during construction and operation;
 - ii. Managing and monitoring sediment quality;
 - iii. Managing and monitoring marine species in the project area;
 - iv. Managing underwater noise effects during construction so as to protect marine animals;
 - v. Protecting the waters of the area from biosecurity risks;
 - vi. Providing cultural markers within the project area to recognise the historic associations of Mana Whenua with the area, reflect Te Aranga Design Principles and the significance of the land and seascapes of Te Waitematā to Mana Whenua; and
 - vii. Enabling the use of infrastructure for cultural activities;

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

- (c) At the discretion of individual Mana Whenua, inclusion of cultural values assessments, and/or Mana Whenua world views in the management plans;
 - (d) In giving effect to this condition, involvement by Mana Whenua in preparation and implementation of any management plans required for these consents.
 - (e) How Mana Whenua will be provided with access to the project area over the duration of the consent;
 - (f) Ensuring appropriate protocols are followed throughout the lifetime of the Project;
 - (g) Accidental discovery protocols;
 - (h) Using traditional Mana Whenua names;
 - (i) Using Mana Whenua designed and inspired artwork;
 - (j) How provision will be made for Mana Whenua to be included in the processing of manuhiri that visit including but not limited to, identification of any appropriate location for waharoa;
 - (k) Incorporate refuse/recycling facilities to cater to the increased passengers in the management plan/design; and
 - (l) Procedures for site blessings, other cultural ceremonies and the cultural induction of construction workers and any other staff;
 - (m) Timing, frequency, location and methods of cultural monitoring procedures and protocols during construction activities to demonstrate achievement of the objective(s) for the QWKEP;
 - ((n) Ongoing Mana Whenua engagement procedures following the completion of construction; and
 - (o) The process by which amendments can be made to the QWKEP.
13. The role of the Forum in terms of this consent shall continue for the duration of this consent.
14. The Consent Holder shall operate the structures in accordance with the QWKEP.

Management Plans – certification and review process

15. Any certified management plan may be amended if necessary to reflect any minor changes in design, construction methods or management of effects. Any amendments are to be agreed by the Team Leader Compliance Monitoring – Central in writing prior to implementation of any changes. Re-certification is not required under this condition if, the Team Leader Compliance Monitoring – Central confirms those amendments are within scope of the consent, and once implemented would result in an outcome that is similar to, or better than that described in the original plan.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

16. Any changes to a certified management plan that may result in a materially different outcome shall be submitted to the Team Leader Compliance Monitoring - Central to certify these amendments are within scope of the consent and compliance and consistency with the applicable requirements of these conditions prior to implementation of any changes. Where a management plan was prepared in consultation with affected parties, any material changes to that plan shall be prepared in consultation with those same parties. No changes to the management plans are to be implemented prior to written certification from the Team Leader Compliance Monitoring – Central.
17. No construction shall take place until certification of the management plans required by Conditions 20 – 42 has been obtained.
18. All works shall be carried out in accordance with the approved management plans.
19. All personnel working on the project site, and where relevant those responsible for ongoing management of the development, shall be made aware of the requirements contained in the management plans. Copies of the certified management plans shall be held on the project site at all times while any activity associated with construction is occurring. The approved management plans shall be implemented and maintained throughout the entire period of the works and, as relevant, the life of the development.

Construction Management Plan

20. A minimum of ten working days prior to the Commencement of Construction, the Consent Holder shall prepare a Construction Management Plan (“CMP”) and submit it to the Team Leader Compliance Monitoring – Central for certification that it gives effect to the objectives and complies with the requirements in Conditions 21 and 22.
21. The objectives of the CMP are to:
 - (a) Ensure that the construction works remain within the limits and standards approved under the consent and set out the management procedures and construction methods to be undertaken in order to avoid, remedy or mitigate potential adverse effects arising from construction activities;
 - (b) Ensure that the Consent Holder has prepared a programme of works that will enable the structures and all other associated land-based works, to be constructed in a manner that is timely, adequately co-ordinated and minimises the adverse effects of construction on existing users of the affected land and water space;
 - (c) Ensure that procedures are in place to ensure that the site is managed safely and in a tidy condition throughout the entire construction process; and
 - (d) Avoid damage (beyond the approved modifications required to undertake the works) to Queens Wharf and its heritage primary features during construction and ensure appropriate mitigation/remediation should damage occur.
22. The CMP shall include:

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

- (a) Construction quality assurance:
- (i) Contact details of the contractor's site supervisor or project manager and the Consent Holder's Project Liaison Person (phone, postal address, email address);
 - (ii) Confirmation of the construction methodology, including for permanent and temporary structures;
 - (iii) Location of construction site infrastructure including site offices/amenities, contractors' yard access, equipment unloading and storage areas, construction access to the CMA, contractor car parking and security;
 - (iv) Methods and systems to inform and train all persons working on the site of potential environmental issues and how to avoid remedy or mitigate any potential adverse effects;
 - (v) Procedures for ensuring that residents, businesses, network utility operators and road users in the immediate vicinity of construction areas are given prior notice of the Commencement of Construction and are informed about the expected duration and effects of the work;
 - (vi) Procedures for responding to, recording and reporting complaints about construction activities;
 - (vii) Means of providing for the health and safety of the general public;
 - (viii) Measures to be adopted to maintain the CMA and wharf areas affected by the works in a tidy condition in terms of disposal / storage of rubbish, storage and unloading of construction materials and similar construction activities;
 - (ix) Procedures for controlling sediment run-off, dust and the removal of soil, debris, demolition and construction materials (if any) from public roads or places adjacent to the work site/s;
 - (x) Contingency plans in case of unexpected sediment discharges to the CMA during works;
 - (xi) Proposed temporary fencing or other structures along the boundary of the construction areas in order to delineate boundaries, maintain site security, prevent unauthorised access, ensure the safe and practical operation of adjacent sites, and to avoid intrusion of construction works beyond the construction area;
 - (xii) Measures to manage the potential impacts of construction lighting on residents, businesses and on local fauna;

Schedule 2 –Conditions of Consent

- (xiii) Methods to ensure that barges and equipment used in the CMA are clean and certified as free of invasive species identified by the Ministry of Primary Industries;
 - (xiv) Procedures for the refuelling, cleaning, maintenance and storage of plant and equipment, methods to be used to minimise the need for these activities in the CMA, and measures to avoid discharges of contaminants from these activities in the CMA;
 - (xv) Measures to address the storage of fuels, lubricants, hazardous and/or dangerous materials, along with contingency procedures to address emergency spill response(s) and clean up;
 - (xvi) Procedures for incident management, monitoring and reporting including review and corrective and preventative action;
 - (xvii) Site clean-up following completion of works, including removal of construction materials and temporary structures; and
 - (xviii) Maintenance of plant in a good state of repair so as not to produce excessive fumes or leakage of contaminants when parked or in operation.
- (b) Construction works programming including:
- (i) An outline construction programme;
 - (ii) Confirmation of the proposed sequence of construction;
 - (iii) Consideration of the relationship of construction works with other construction projects on Queens Wharf and the Downtown seawalls; and
 - (iv) Identification of the areas that will be publicly accessible during construction.
- (c) Site management:
- (i) The measures to be adopted to maintain the construction zone and adjacent parts of the CMA in a tidy condition in terms of storage and unloading of materials, refuse storage and disposal and other activities;
 - (ii) The provision of any site office, parking for workers' vehicles and workers' conveniences (e.g. portaloos);
 - (iii) The location of construction machinery access and storage during the period of site works, including any temporary mooring of the barge(s);
 - (iv) The procedures for controlling the removal of any debris and construction materials from the CMA; and
 - (v) The provision of any artificial lighting associated with construction works and the effects of any such lighting.

Schedule 2 –Conditions of Consent

- (d) Details of the measures to protect Queens Wharf and its primary heritage features from damage during construction and the process to agree and implement any mitigation/remediation actions should damage occur (with reference to the Heritage Features Alteration Plan required by Condition 35).

Construction Traffic Management Plan

- 23. A minimum of ten working days prior to Commencement of Construction, the Consent Holder shall prepare a Construction Traffic Management Plan (“CTMP”) and submit it to the Team Leader Compliance Monitoring – Central Monitoring for certification that it gives effect to the objectives and complies with the requirements in Conditions 24 and 25.
- 24. The objectives of the CTMP are to:
 - (a) Provide for the safety of everyone at all times;
 - (b) Ensure maintenance of access at all times for all modes of transport to / from properties on Quay Street;
 - (c) Minimise disruption from construction traffic on occupants of Queens Wharf;
 - (d) Minimise adverse effects on amenity caused by construction traffic on Queens Wharf and Quay Street;
 - (e) Avoid Full Road Closures and minimise any Partial or Managed Road Closures;
 - (f) Manage integration with other construction projects and Auckland Transport projects;
 - (g) Provide for prior engagement with stakeholders when access to properties will be affected by construction traffic; and
 - (h) Provide a mechanism for addressing queries and responding to complaints.
- 25. The CTMP shall include:
 - (a) The traffic management measures that will be required to be implemented;
 - (b) A mechanism and nominated stakeholder manager responsible for receiving, addressing and monitoring queries and responding to complaints in relation to the construction works;
 - (c) Specific construction site traffic management measures (for example ensuring sufficient space is maintained on construction site(s) to prevent vehicles queueing on the street) to ensure that construction traffic does not affect the efficiency and safety of other vehicles, pedestrians and people on cycles on Quay Street;

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 –Conditions of Consent

- (d) Specific measures for the accommodation of existing vehicle traffic on Queens Wharf to maintain cruise ship and ferry operations pick-up/drop-off transport functions, servicing functions and event buildings access;
- (e) Confirmation of typical numbers of heavy vehicle movements throughout the day;
- (f) Coordination with Auckland Transport regarding other construction sites and streetworks in the vicinity of Queens Wharf, including Quay Street (including but not limited to Downtown seawalls and Piers 3 and 4 relocation);
- (g) The movement of heavy vehicles shall be managed to avoid queuing or parking from occurring on adjacent roads that may affect access to and from adjacent properties;
- (h) Minimising heavy vehicle movements between 10.30pm and 6.00am;
- (i) Maintaining safe and efficient vehicle, pedestrian and cyclist accesses to Queens Wharf;
- (j) Monitoring of landscaping and pavements located on construction routes within the vicinity of the site and provide remediation of any damage directly attributable to Project construction traffic;
- (k) Providing safe access workers walking and cycling to the Project construction work areas;
- (l) In coordination with Auckland Transport, implement measures to raise awareness of pedestrians walking and people cycling east-west along Quay Street to construction and heavy vehicle drivers turning onto Queens Wharf;
- (m) Restricting or preventing public access to parts of Queens Wharf where required for public safety and identifying such areas on a plan;
- (n) Educating construction staff of the safety needs of pedestrians and people cycling;
- (o) Confirmation that no heavy vehicles will reverse to or from Quay Street;
- (p) Processes for monitoring, and to enable review and amendment to the CTMP; and
- (q) Evidence shall be provided as part of the CTMP of consultation with Cooper and Company as a key stakeholder for engagement.

Construction Noise and Vibration Management Plan

- 26. A minimum of ten working days prior to Commencement of Construction, the Consent Holder shall prepare a Construction Noise and Vibration Management Plan (“CNVMP”) and submit it to the Team Leader Compliance Monitoring – Central Monitoring for certification that it gives effect to the objectives and complies with the requirements in Conditions 27 and 28.
- 27. The objectives of the CNVMP are to:

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

- (a) Identify and adopt the Best Practicable Option for the management of construction noise and vibration;
- (b) Define the procedures to be followed when construction activities cannot meet the noise and vibration standards in Conditions 48 and 49;
- (c) Inform the duration, frequency and timing of works to manage disruption;
- (d) Require engagement with affected receivers and timely management of complaints; and
- (e) Protect the wellbeing of marine mammals.

28. The CNVMP shall include:

- (a) The relevant measures from NZS 6803:1999 "Acoustics - Construction Noise", Annex E2 "Noise management plans";
- (b) The relevant measures from DIN 4150-3:1999 "Structural vibration - Part 3 Effects of vibration on structures", Appendix B "Measures for limiting the effects of vibration", and AUP(OP) vibration standards and including measures to protect the "Lighthouse" structure; and
- (c) With reference to condition 45, measures to mitigate and manage the underwater noise effects on marine mammals from impact and vibratory piling, including defined TTS zones, marine mammal observation procedures, measurements of underwater noise at the commencement of vibratory and impact piling to update the TTS zones, and procedures to ensure piling works cease when marine mammals are present inside the management zones.

Biosecurity Management Plan

29. A minimum of ten working days prior to Commencement of Construction, the Consent Holder shall prepare a Biosecurity Management Plan ("BMP") and submit it to the Team Leader Compliance Monitoring – Central for certification that it gives effect to the objectives and complies with the requirements in Conditions 30 and 31.

30. The objectives of the BMP are:

- (a) To avoid the spread of any unwanted/biosecurity risk species to and from the site to other locations by construction vessels during construction and any future decommissioning;
- (b) To ensure that proposed works are carried out in a manner that minimises the risk of any biosecurity threats from unwanted/biosecurity risks species and / or the transfer of those threats off-site; and
- (b) To ensure that any operators of any construction related vessels are aware of their obligations to avoid the spread of any unwanted/biosecurity risk species to the Hauraki Gulf or offshore islands; and

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

- (c) To ensure that decommissioning of infrastructure is carried out in a manner that minimises the risk of any threats from unwanted/biosecurity risks species and / or the transfer of those threats off-site.

31. The BMP shall include:

- (a) Identification of any unwanted/biosecurity risk species present;
- (b) Identification of the potential for transfer of threat species on and off-site;
- (c) Measures to avoid or minimise transfer of unwanted/biosecurity species, during construction and future decommissioning; and
- (d) Requirement for certification of vessels and equipment demonstrating they are free of unwanted/biosecurity risk species.

Marine Safety Management Plan

32. A minimum of ten working days prior to Commencement of Construction, the Consent Holder prepare, in consultation with the Harbourmaster, a Marine Safety Management Plan (“MSMP”) and submit it to the Team Leader Compliance Monitoring – Central for certification that it gives effect to the objectives and complies with the requirements in Conditions 33 and 34.

33. The objectives of the MSMP are to:

- (a) Provide for efficient operation of the waterspace affected by construction;
- (b) Provide a safe environment for all water users;
- (c) Ensure water users are appropriately notified of construction activities and any changes to the operation of the waterspace affected by construction;
- (d) Ensure safe navigation access to berths is maintained for vessels at all times as far as practicable to enable continued operations by ferry operator, cruise ships operators and the POAL are met at all times;
- (e) Maintain safe navigation for and access to other berth holders and water space users; and
- (f) Ensure access to and from the Ferry Basin is maintained for vessels at all times as far as practicable.

34. The MSMP shall include:

- (a) Information and notification procedures for operational communications e.g. with Ports of Auckland Ltd Harbour Control, the Auckland Transport Ferry Services Team and water users in the Ferry Basin;

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

- (b) Details of the maritime safety risk controls to be implemented and adhered to (including the placement of buoys and temporary beacon lights);
- (c) Details of the shielding or use of other means to prevent glare and reflection or confusion with navigation lights from construction related lights and area flood lighting;
- (d) Details of those responsible for implementing the MSMP and their responsibilities including the contact details of the Construction Manager and all those in charge of construction vessels; and
- (e) Evidence shall be provided as part of the MSMP of consultation with the Harbourmaster, POAL, Fullers Ferries, Sealink Ferries, Belaire Ferries, the Police Maritime Unit and the Coastguard.

Heritage

35. A minimum of ten working days prior to the commencement of any construction involving any alteration to Queens Wharf heritage primary features, the Consent Holder shall prepare the final design details of alterations to heritage primary features by way of a Heritage Features Alteration Plan (“HFAP”) and submit it to the Team Leader Compliance Monitoring – Central for certification that the details are in accordance with the drawings and all information submitted with the application. No alteration of primary features shall take place without certification of the final design details.

Traffic Management Plan - Operation

36. At least ten working days prior to the first berthing of a cruise ship at Queens Wharf utilising the mooring dolphins, the Consent Holder shall prepare a Traffic Management Plan (“TMP”) and submit it to the Team Leader Compliance Monitoring – Central for certification that the TMP gives effect to the objectives and complies with the requirements in Conditions 37 and 38.
37. The Objectives of the TMP are to:
- (a) Ensure that the transport effects of large numbers of cruise passengers associated with cruise ships utilising the mooring dolphins are adequately managed;
 - (b) Ensure that transport and servicing provisions associated with ferry activities operating from Queens Wharf are adequately maintained;
 - (c) Minimising vehicle numbers and trip generation associated with the cruise ships utilising the mooring dolphins;
 - (d) Ensure that the servicing activities associated with cruise ships utilising the mooring dolphins are managed to ensure the safe and efficient operation of transport activities on Queens Wharf and Quay Street;
 - (e) Provide for a safe and secure environment at all times;

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 –Conditions of Consent

- (f) Incorporate measures to ensure public access to Queens Wharf and along Quay Street; and
 - (g) Ensure the document is reviewed at regular intervals to maintain appropriate and up-to-date measures.
38. The TMP shall include:
- (a) Identification of temporary private bus and coach pick-up/drop-off locations, as well as temporary pick-up/drop-off locations for taxis, private hire vehicles and private vehicles, including the route of vehicle movements on Queens Wharf;
 - (b) Measures to ensure that buses, coaches, mini-vans and taxis do not queue along the western side of Queens Wharf;
 - (c) Identification of any temporary traffic marshalling measures required for safe movement and manoeuvring of all vehicles on Queens Wharf;
 - (d) Measures to maintain normal daily access for servicing and essential vehicles to access other occupiers of Queens Wharf, as well as for the ferry berths along the western side of Queens Wharf;
 - (e) Measures to restrict access to parts of the Queens Wharf for authorised vehicles only, associated with cruise ship activities;
 - (f) Identification of cruise ship terminal staff parking areas;
 - (g) Measures to maintain safe vehicle, pedestrian and cycle access to Queens Wharf areas outside those required for operational use associated with the berthing, embarking and disembarking of passengers and crew, and servicing of cruise ships;
 - (h) Coordination with Auckland Transport regarding construction sites and streetworks in the vicinity of Queens Wharf, including Quay St (including but not limited to downtown seawalls and Piers 3 and 4 relocation);
 - (i) The measures to ensure that heavy vehicles do not queue or park on adjacent roads that may affect access to and from adjacent properties;
 - (j) Measures to maintain the safe and efficient operation of Quay Street;
 - (k) Evidence shall be provided as part of the TMP of consultation with Cooper and Company as a key stakeholder for engagement; and
 - (l) Requirement for reviews of the document and procedures for updates and changes.

Decommissioning Methodology Plan

39. A minimum of one month prior to the commencement of decommissioning, the Consent Holder shall submit to the Team Leader Compliance Monitoring – Central for certification a

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

Decommissioning Methodology Plan (“DMP”) outlining the methods to be used for the removal of the mooring dolphins and gangways (“structures”). The DMP shall include reference to:

- (a) How the various components of the structures will be removed, and any remediation to Queens Wharf and associated heritage components that are likely to be required;
- (b) How construction vehicles and/or vessels will access the area during the decommissioning phase and the likely duration;
- (c) The expected extent and duration of navigation restrictions; and
- (d) The extent and characteristics of airborne and underwater noise and vibration effects.

Notifications

General

- 40. The Consent Holder shall notify the Team Leader Compliance Monitoring – Central in writing of the date of the proposed commencement of works at least 10 working days prior to the proposed start date.
- 41. The Consent Holder shall provide details of the final locations of the new bollards to ensure that the existing rail and crane lines are avoided. These details shall be provided to the Council (Team Leader Compliance Monitoring – Central in consultation with Team Leader Built Heritage) for certification prior to the lodgement of a Building Consent application.

Harbourmaster

- 42. The Harbourmaster’s Office (Auckland Transport Harbourmasters Office, Private Bag 92250, Auckland 1142 or HarbourMaster@aucklandtransport.govt.nz) shall be notified by the Consent Holder in writing at least 10 working days prior to construction activity commencing in the coastal marine area.

During construction

Site Access

- 43. Subject to compliance with the Consent Holder’s health and safety requirements and provision of reasonable notice, servants or agents of the Council shall be permitted to have access to relevant parts of the surface construction sites controlled by the Consent Holder at all reasonable times for the purpose of carrying out inspections, surveys, investigations, test, measurements and/or to take samples.

Advice to Harbourmaster

- 44. The Harbourmaster should be kept updated throughout the construction project and no work should be carried out that may reduce the amount of sea room available in the vicinity of the ferry basin without the Harbourmasters approval.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

Monitoring of underwater noise effects

45. The Consent Holder shall avoid and mitigate adverse underwater noise effects on marine mammals and divers by:
- (a) Undertaking visual monitoring each construction day 30 minutes prior to commencing piling operations, to ensure there are no marine mammals and/or divers in the area identified as being within the Temporary Threshold Shift (“TTS”) zones as identified in the Marshall Day report (August 2018) or as amended as a result of noise measurement in accordance with Condition 46;
 - (b) Using a wooden or plastic dolly for driving in the steel piles;
 - (c) Using ‘soft starts’ for impact piling (gradually increasing the intensity of impact piling) and minimise duty cycle;
 - (d) Undertaking visual monitoring during piling operations to identify whether marine mammals and/or divers are in the area/TTS zones defined by Condition 46; and
 - (e) Implementing shut down procedures when marine mammals or divers are identified within the TTS zones as defined in Condition 46.
46. Within 7 days of the commencement of impact or vibratory piling, the consent holder shall engage a suitably qualified and experienced underwater acoustics expert to:
- (a) Undertake noise level monitoring of the first impact and vibratory pile driving works to determine the level of underwater noise and the frequency spectrum for the purpose of verifying the TTS zones.
 - (b) Update the TTS zone for impact and vibratory piling using the criteria in the following table from the National Oceanic and Atmospheric Administration: "Technical Guidance for Assessing the Effects on Anthropogenic Sound on Marine Mammal Hearing" (July 2016). The TTS zones should be used to inform the management measures in the CNVMP (refer conditions 28 and 45).

Construction hours

47. The hours of construction shall be limited to 0630 – 2230 Monday to Friday, and 0700 – 2300 on Saturdays. Activities that can be demonstrated to comply with Condition 48 are permissible outside these periods, but heavy civil works shall not be undertaken.

Noise standards

48. Construction noise shall be measured and assessed in accordance with the provisions of New Zealand Standard NZS 6803:1999 “Acoustics - Construction Noise” and comply with

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 –Conditions of Consent

the following Project Standards unless otherwise provided for in the CNVMP (refer Condition 28):

Airborne

Day	Time	dB LAeq (30min)	dB LAFmax
Monday to Friday	0630 – 2230	75	90
Saturday	0700 – 2300	80	90
Sunday	0900 – 1900	65	85
All other times (night-time)		60	75

Underwater

Species	Impact piling	Vibro piling
Mid-Frequency Cetaceans (Orca, bottlenose dolphin)	170 dB re 1 $\mu\text{Pa}^2\text{s}$ SEL cum (mf) 224 dB re 1 μPa L_{peak}	178 dB re 1 $\mu\text{Pa}^2\text{s}$ SEL cum(mf)
Otariid Pinnipeds (Fur seals)	188 dB re 1 $\mu\text{Pa}^2\text{s}$ SEL cum (ow) 226 dB re 1 μPa L_{peak}	199 dB re 1 $\mu\text{Pa}^2\text{s}$ SEL cum(ow)
Phocid Pinniped (Leopard seal)	170 dB re 1 $\mu\text{Pa}^2\text{s}$ SEL cum (pw) 212 dB re 1 μPa L_{peak}	181 dB re 1 $\mu\text{Pa}^2\text{s}$ SEL cum(pw)

Vibration standards

49. Construction vibration shall be measured in accordance with ISO 4866:2010 “Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures” and comply with AUP Standard E25.6.30 (1) unless otherwise provided for in the CNVMP approved pursuant to Condition 26.

Dimensional certification

50. Surveyor certification shall be provided to the Team Leader Compliance Monitoring – Central at the end of the piling stage for the outer dolphin that confirms that these piles have been installed at the designed position such that the structures will not exceed 90.3m in length at completion, as measured from the northern end of Queens Wharf.

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

Site maintenance

51. For the duration of the works, the Consent Holder shall maintain the site in good order to the satisfaction of the Team Leader Compliance Monitoring – Central.

Post-construction

Advice of completion of works

52. Any temporary structures used in construction shall be removed from the CMA and the deck of Queens Wharf no later than 14 days following the completion of construction.
53. The Team Leader Compliance Monitoring – Central shall be notified in writing of the date of completion of the works, within one week of the completion date.

As-built Plans to Council and Chief Hydrographer

54. Within twenty (20) working days of the completion of the construction works, the Consent Holder shall supply a copy of the 'as built' plans to the Team Leader Compliance Monitoring – Central and the New Zealand Hydrographic Authority (Land Information New Zealand, Private Box 5501, Wellington 6011 or customersupport@linz.govt.nz). The 'as built' plans shall include a location plan, a plan which shows the area of occupation, structure dimensions, and elevations.

Use and Occupation

55. The right to occupy part of the CMCA shall be limited to the area of the temporary staging works (to be defined) and the area occupied by the structures to be constructed under this consent identified in the documents listed in Condition 5.

Maintenance Requirements

56. The structures permitted to occupy part of the CMCA 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.

Section 128 Review

57. Pursuant to s128 of the RMA, the conditions of these consents may be reviewed by the Council (at the Consent Holder's cost):
- (a) At any time during the construction period in relation to the structures that are subject to the provisions in s12 of the RMA where the best practicable option may be necessary to remove or reduce any adverse effect on the environment; and/or
 - (b) Within 6 months from the date the Team Leader Compliance Monitoring – Central is notified of completion of the final stage of construction work, and thereafter annually for 5 years, and thereafter at 5 yearly intervals, to deal with any adverse effect(s) on

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

the environment which may arise from the exercise of the consent, or which may be identified following:

- i. The granting of a customary marine title or protected customary right or the vesting of ownership over any part of the common marine and coastal area encompassing the project site; and/or
- ii. The outcome of any Treaty negotiations involving the Waitematā Harbour.

Duration Reporting

58. In order to provide information as to the expected duration of the occupation consent for the mooring dolphins and associated structures the Consent Holder shall lodge a Duration Progress Report (“DPR”) with the Team Leader Compliance Monitoring – Central annually on the anniversary of the commencement of this consent. Each annual DPR shall set out the steps taken, and progress made, within the 12 month period preceding the date of the DPR towards the development of Captain Cook Wharf as Auckland’s primary large cruise ship berthage and terminal and the estimated expiry date of the occupation consent for the mooring dolphins based on that progress.

Decommissioning

59. The mooring dolphins and associated structures shall be decommissioned and removed from the CMA by the Consent Holder and at the Consent Holder’s expense, in accordance with the DMP before the expiry of this consent.

Heritage Reinstatement

60. As part of decommissioning, the steel grating over the heritage steps at the northern end of Queens Wharf shall be removed to make the steps accessible again. All physical damage to heritage items within and on the wharf shall be rectified and made good, to the satisfaction of the Council (Team Leader Compliance Monitoring – Central in consultation with Team Leader Built Heritage). This work shall be carried out within three months of decommissioning.

Safety Notices

61. Prior to allowing public onto the publicly accessible section of the mooring dolphin gangway, information signage shall be installed on the end of the wharf to warn visitors to the area as to the potential tsunami hazards and wave overtopping in this location. These signs shall be clear and easily identifiable by visitors and occupants and shall identify locations where people in the vicinity should evacuate in order to be safe from tsunami.

Advice notes

General

CST60323353: Panuku Development Auckland Ltd (Queens Wharf Cruise Berth Upgrades & Mooring Dolphins)

Schedule 2 to Decision of Commissioners – Conditions of Consent

Schedule 2 –Conditions of Consent

1. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
2. *For the purpose of compliance with the conditions of consent, “the Council” refers to the Council’s monitoring inspector unless otherwise specified.*
3. *For more information on the resource consent process with Auckland Council see the Council’s website www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment’s website: www.mfe.govt.nz.*
4. *The Consent Holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety in Employment Act 1992), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval.*
5. *Compliance with the consent conditions will be monitored by the Council in accordance with s35(d) of the RMA. This will typically include site visits to verify compliance (or noncompliance) and documentation (site notes and photographs) of the activity established under the consents. In order to recover actual and reasonable costs, Inspections will be charged at the relevant hourly rate applicable at the time.*

Duration of co-existing coastal permits

6. *The current occupation permit for Queens Wharf, to which the various structures approved as part of this consent are attached, will expire on 30 September 2026 in accordance with the terms of the s384A RMA permit held by the Ports of Auckland Limited (“POAL”).*
7. *The current POAL maintenance dredging permit (reference 34673) will expire on August 2027, and before the end of the [TBC]-year occupation duration provided for under Condition 3. The continuation of maintenance dredging to support the use of Queens Wharf for the berthing of cruise ships will be dependent on a new consent being obtained.*