

Ecological Management (EM) conditions EM.1 to EM.9: comparison between Appendix A (30 November 2020) version and 5 February 2021 version

Appendix A (30 November 2020) version		5 February 2021 version	
Ref	Condition	Ref	Condition
<i>Little Penguins and Shoreline Foragers</i>		<i>Bird Protection measures</i>	
EM.1	<p>In order to avoid or minimise adverse effects of the Project on Little Penguins and Shoreline Foragers, the Consent Holder shall:</p> <ul style="list-style-type: none"> (a) comply with Condition EM.1A; (b) undertake the habitat enhancement measures set out in Conditions EM.7 to EM.9; (c) as set out in Condition LV.4(c), incorporate relevant detailed design elements within the LUDP as recommended in the LPMP in Condition EM.5; (d) undertake design and construction in accordance with the LPMP in Condition EM.5; (e) manage rubbish and waste in accordance with the CEMP in Conditions GC.7 and EM.1B(d); (f) provide pest management in accordance with Condition EM.1B; and (g) provide protection areas as set out in Conditions EM.1B and EM.7 to EM.9. <p>[See EM.1 in 5 February version]</p>	EM.1	<p>In order to avoid or minimise adverse effects of the Project on Little Penguins and Shoreline Foragers, the Consent Holder shall:</p> <ul style="list-style-type: none"> (h) Seek dog control measures in accordance with Condition EM.2; (i) Prepare a Bird Protection Plan (BPP) in accordance with Conditions EM.3 to EM.3C; (j) Undertake Construction Works in accordance with Conditions EM.4 to EM.4D; (k) Deliver pest management in accordance with Condition EM.5; (l) Deliver the protection areas in accordance with Conditions EM.6 to EM.6E; (m) Deliver rubbish and waste management in accordance with Condition EM.7; (n) Complete reviews of the protection areas (Conditions EM.8 to EM.8C); (o) Complete a study of variable oystercatchers (Condition EM.8D); and (p) Complete a public education awareness programme for avifauna in accordance with Condition EM.9. <p>In relation to:</p> <ul style="list-style-type: none"> (q) pest management, the Consent Holder shall provide up to a maximum of \$60,000 to be used to implement the measures set out in the Pest Management Strategy; (r) the protection areas in Conditions EM.6B to EM.6E, the Consent Holder shall: <ul style="list-style-type: none"> (i) provide up to a maximum of \$300,000 to be used to establish the protection areas (including, if required, the potential additional area in Condition EM.2(d)) in accordance with the BPP; and (ii) provide up to a maximum of \$6,000 per year for the duration of the consents for the ongoing management of the protection areas; (s) the variable oystercatcher study in Condition EM.8D, the Consent Holder shall provide up to a maximum of \$30,000; and (t) the public education programme in Condition EM.9, the Consent Holder shall provide up to a maximum of \$15,000. <p>All the sums above include GST.</p> <p>The Consent Holder shall report to the Manager, Environmental Regulation and the Manager, Regulatory Services, Hutt City Council when the monies specified above have been allocated. Any monies not fully spent to the maximum sums above shall be allocated to ongoing management (including pest control) within the protection areas and/or the public educational campaign in Condition EM.9.</p> <p><i>Advice note: The handling of protected wildlife will require permits to be obtained from the Department of Conservation under the Wildlife Act 1953.</i></p> <p>[Amended from previous EM.1 and EM.5]</p>
EM.1A	<p>Construction Works between 1 July and 31 January (the Little Penguin breeding period) shall not occur within 10m of any active burrows or nests identified in Condition EM.5(a)(i).</p> <p>[See EM.4 in 5 February version]</p>		N/A
EM.1B	<p>The Consent Holder must:</p> <ul style="list-style-type: none"> (a) provide up to a maximum of \$60,000, for pest management within the protection areas specified in (b) below and the adjacent Eastern Bays coastal environment; (b) establish protection areas (refer to Appendix 1) at the following locations, in accordance with Conditions EM.7 to EM.9: <ul style="list-style-type: none"> (i) an oystercatcher protection area at Sorrento Bay; and (ii) penguin and shorebird protection areas at: <ol style="list-style-type: none"> 1. Whiorau Reserve; 2. North Bishops Park; and 3. HW Shortt Park; 		N/A

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	<p>(c) within six months of the commencement of consent initiate the required statutory process to exclude dogs from:</p> <p>(i) the foreshore and beach area of Rona Bay abutting North Bishops Park penguin and shorebird protection area and running for the same length, as shown in Appendix 1; and</p> <p>(ii) The foreshore and beach area of Sorrento Bay abutting the Sorrento Bay oystercatcher protection area and running for the same length, as shown in Appendix 1; and</p> <p>(d) undertake a six-monthly rubbish clean up along the Shared Path and its adjacent beaches.</p> <p>[See EM.1, EM.2, EM.6B – EM.6E, EM.7 in 5 February version]</p>		
EM.1C	<p>(a) During the nesting season of any Shoreline Forager, no more than 10 working days prior to the Commencement of Construction, the Consent Holder shall engage a suitably qualified ecologist to undertake a Shoreline Forager nesting survey within the relevant construction area.</p> <p>(b) If any Shoreline Forager nest in the relevant construction area is identified, the Consent Holder shall engage a suitably qualified ecologist to:</p> <p>(i) GIS locate and mark on the ground the nest location;</p> <p>(ii) advise on whether or not the nest of the Shoreline Forager contains eggs or chicks;</p> <p>(iii) if it does contain eggs or chicks, advise on the management of Construction Works within 100m of the nest, including:</p> <p>A. the use of specific machinery; and</p> <p>B. the use of specific minimisation measures and/or working practices; and</p> <p>(iv) prepare a plan for works incorporating the matters in (iii) which the Consent Holder shall include in the CEMP under Condition GC.7; and</p> <p>(c) If the oystercatcher nest located off the point between Sorrento Bay and Lowry Bay is confirmed by a suitably qualified ecologist to be occupied by a breeding pair then during November no Construction Works shall occur within 100m of the nest while it is so occupied. If the nest is so occupied at other times of the year Construction Works within 100m shall occur under the advice of a suitably qualified ecologist as to the use of specific machinery and specific minimisation measures and/or working practices.</p> <p>(d) If the oystercatcher nest located off the point between Sorrento Bay and Lowry Bay has resulted in chicks being hatched then no Construction Works within the oystercatcher managed works zone (refer to Appendix 1) shall occur within the months of December and January unless a suitably qualified ecologist has determined that the chicks have not survived or they can fly. If non-flying oystercatcher chicks are present within the oystercatcher managed works zone (refer to Appendix 1) during February then Construction Works within the oystercatcher managed works zone (refer to Appendix 1) shall occur only if a suitably qualified ecologist determines that work with specific machinery and specific minimisation measures and/or working practices can proceed without endangering the chicks.</p> <p>[See EM.4D in 5 February version]</p>		N/A
EM.1D	<p>The consent holder shall commission a suitably qualified ecologist to lead a study of variable oystercatchers in the Project area (the Eastern Bays from Point Howard to Sunshine Bay and including Windy Point) including the influence of the Project on variable oystercatchers and their behaviours. The study shall be completed and results provided to the Manager, Environmental Regulation, Wellington Regional Council, within five years of the Completion of Construction of the Project.</p> <p>[See EM.8D in 5 February version]</p>		N/A
<i>Little Penguin Management Plan [LPMP replaced in 5 February version by BPP]</i>		<i>Dog control measures</i>	
EM.2	<p>The Consent Holder shall prepare a LPMP and submit this to the Manager, Environmental Regulation for certification in accordance with the requirements of Condition GC.5.</p> <p>[LPMP replaced in 5 February version by BPP]</p>	EM.2	<p>The Consent Holder shall within 12 months of the Commencement of Consent initiate the required statutory process to exclude dogs from:</p> <p>(a) the foreshore and beach area of Rona Bay abutting Bishops Park protection area and running for the same length, as shown indicatively in Appendix 1; and</p>

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			<p>(b) the foreshore and beach area of Sorrento Bay from the southern end of the Sorrento Bay oystercatcher protection area and running to the northern end of the oystercatcher managed works zone, as shown indicatively in Appendix 1.</p> <p>Should the dog exclusions over the foreshore and beach areas outlined above not be successfully delivered the Consent Holder shall:</p> <p>(c) review the fencing options for the Bishops Park and the Sorrento Bay protection areas;</p> <p>(d) develop and implement, in consultation with the Manager, Environmental Regulation and the Eastbourne Dunes Restoration Group, a revegetation plan (with the purpose to support the enhancement of the area for shorebirds through appropriate replacement of exotic plants (in particular marram grass) and planting for screening), install signage in accordance with Condition LV.7(k) and (l) and pest management in accordance with Condition EM.5 at the potential revegetation area which covers the areas of existing vegetation between the Rona Bay pier and the HW Shortt Park protection area, as shown indicatively in Map 3 of Appendix 1; and</p> <p>(e) investigate alternative dog control measures that may be available and the details of any enforcement or compliance measures that may be implemented, and report back to the Manager, Environmental Regulation and the Manager, Regulatory Services, Hutt City Council.</p> <p>[Amended from previous EM.1B(c)]</p>
	N/A		<i>Bird Protection Plan – preparation and certification</i>
EM.3	<p>The purpose of the LPMP shall be to as far as reasonably practicable avoid, but otherwise minimise, adverse effects on the Little Penguin population established in and adjacent to the existing revetment, during design and Construction Works.</p> <p>[LPMP replaced in 5 February version by BPP]</p>	EM.3	<p>The Consent Holder shall prepare a BPP and submit this to the Manager, Environmental Regulation for certification in accordance with the requirements of Condition GC.5.</p> <p>[Added since 30 November version]</p>
	N/A	EM.3A	<p>The purpose of the BPP shall be to as far as reasonably practicable avoid, but otherwise minimise, adverse effects on Little Penguins and Shoreline Foragers in the Project area and adjacent areas (including existing revetment, the coastal edge running along the length of the Project area and the bird protection areas set out in Conditions EM.6 to EM.6E).</p> <p>The objectives of the BPP shall be to:</p> <p>(a) Maintain or enhance the level of habitat and species diversity post-construction of the Project comparative to that existing pre-construction.</p> <p>(b) Maintain or enhance habitat for Little Penguins and Shoreline Foragers along the Eastern Bays coast comparative to pre-construction of the Project.</p> <p>[Amended from previous EM.3]</p>
	N/A	EM.3B	<p>The BPP shall be prepared by a suitably qualified and experienced ecologist in consultation with the Little Penguin Interest Group, Eastbourne Dunes Restoration Group, and the Mana Whenua Steering Group.</p> <p>[Amended from previous EM.4]</p>
	N/A	EM.3C	<p>The BPP shall include:</p> <p>(a) nesting and construction measures (Conditions EM.4 to EM.4C);</p> <p>(b) staff and contractor training requirements (as necessary and reasonable);</p> <p>(c) suggested signage locations and content to be incorporated as appropriate within the BSUDPs under Condition LV.7;</p> <p>(d) opportunities to avoid or further minimise effects on Little Penguins and enhance Little Penguin habitat through detailed design (through linkage to the CEMP in Condition GC.8), including:</p> <p>(i) potential seawall design opportunities to restrict road access for Little Penguins; and</p> <p>(ii) potential rock rip rap design opportunities to include key holes for Little Penguin nests;</p> <p>(i) a Pest Management Strategy (Condition EM.5);</p> <p>(j) a plan for works within 100m of a Shoreline Forager nest (Condition EM.4D);</p>

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			(k) the final boundary, fence design and details of the four bird protection areas to be established (Conditions EM.6 to EM.6E and Appendix 1); (l) rubbish and waste management (Condition EM.7); (m) a framework for a public education programme for avifauna (Condition EM.9); (n) identification of important habitat for Shoreline Foragers including opportunities for screening or barriers at these areas as provided through Condition LV.7; (o) a description of measures to ensure the protection areas are appropriately managed and maintained to maximise opportunities for habitation by Little Penguins and Shoreline Foragers for the duration of the consents; and (p) a summary of consultation in Condition EM.3B including a response to matters raised during consultation that have not been adopted and the reasons why. [Amended from previous EM.5]
	N/A	<i>Bird Protection Plan – Nesting and construction measures</i>	
EM.4	The LPMP shall be prepared by a suitably qualified person in consultation with the Little Penguin Interest Group. [LPMP replaced in 5 February version by BPP]	EM.4	Construction Works between 1 July and 31 January (the Little Penguin breeding period) shall not occur within 10m of any active nesting or moulting sites identified in Condition EM.4A. [Amended from previous EM.1A]
	N/A	EM.4A	The BPP shall contain measures to avoid or minimise adverse effects on Little Penguins during construction, including: (a) A staged process developed by a suitably qualified and experienced independent Little Penguin expert for Construction Works in each bay to locate and protect active Little Penguin nesting and moulting sites within the construction area prior to the Commencement of Construction. (b) The staged process in (a) shall be detailed in the BPP but, unless (c) or (d) applies, shall include: (i) Identification of areas within the bay and within the construction area that provide suitable Little Penguin nesting habitat; (ii) Undertaking, within 5 working days of the Commencement of Construction in each bay, a Little Penguin dog detection survey of any identified area in (i) to identify active nesting and moulting sites; (iii) Either complete Construction Works within the surveyed area in (ii) within 10 working days or ensure the surveyed area is secured from penguin access as soon as reasonably practicable and no later than 2 working days from the completion of the survey (unless an active nesting or moulting site is located, in which case access to that site shall be enabled and Condition EM.4 applies) until Construction Works within the area are completed; (iv) Twice weekly inspection of any Little Penguin exclusion measures in (iii) and if any are found to be damaged, they shall be reinstated within 24 hours of the inspection unless it is unreasonable given weather conditions in which case they must be reinstated as soon as reasonably practicable; and (v) If repairs under (iv) are not completed within 24 hours, then the Consent Holder shall consult the Little Penguin expert on the need for a new Little Penguin detection survey prior to the Commencement of Construction. If the Little Penguin expert determines that repairs are required, a Little Penguin detection survey shall be undertaken in accordance with (ii) (as relevant). (c) Where the Little Penguin expert considers that the process in (b) would not result in the best outcome for Little Penguins in a particular area or bay an alternative process may be provided which shall include an explanation as to why the process in (b) is not recommended to be followed. (d) A detailed description of any alternative process (or processes) available should a Little Penguin detection dog not be reasonably available to undertake a survey in accordance with (b)(ii). (e) A detailed description outlining how any Little Penguins encountered during survey or Construction Works will be managed (if required) in accordance with best practice. (f) A description of measures to ensure that formerly active nesting and moulting sites cannot be reoccupied during construction.

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			(g) The GPS coordinates for all active nesting or moulting sites identified by the survey in (b)(ii) must be recorded and a picture taken and annotated with the location of the nest and the co-ordinates. This information must be provided to the Manager, Environmental Regulation within 5 working days. [Amended from previous EM.2 – EM.6]
	N/A	EM.4AA	An exclusion zone with a minimum 10m radius must be established around any active nesting or moulting sites identified in Condition EM.4A while ensuring access to the ocean is maintained. [Added since 30 November version]
	N/A	EM.4B	The BPP shall contain a programme for monitoring Little Penguins within or adjacent to the construction area during the Construction Works proportionate to the scale of the works in that area and the number of active nesting or moulting sites to determine whether any reasonably practicable steps can be undertaken by the Consent Holder during Construction Works to further reduce adverse effects. [Amended from previous EM.5]
	N/A	EM.4C	Any outcomes from monitoring under Condition EM.4B shall be applied, as appropriate, to future Construction Works by revising the BPP so that over time processes and responses to minimise effects on Little Penguins are refined and improved. The results of the monitoring shall be provided to the Little Penguin Interest Group and the Manager, Environmental Regulation within 1 month of completion. [Amended from previous EM.6]
	N/A	EM.4D	(a) During the nesting season of any Shoreline Forager and no more than 10 working days prior to the Commencement of Construction, the Consent Holder shall engage a suitably qualified and experienced ecologist to undertake a Shoreline Forager nesting survey within the relevant construction area. (b) If any active Shoreline Forager nest in the relevant construction area is identified under (a), the Consent Holder shall engage a suitably qualified ecologist to: (v) GIS locate and implement an exclusion zone around the nest location using rope or similar material; (vi) advise whether or not the nest of the Shoreline Forager contains eggs or chicks; (vii) if it does contain eggs or chicks, advise on the management of Construction Works within 100m of the nest, including: A. the use of specific machinery; and B. the use of specific minimisation measures and/or working practices; and (viii) prepare a plan for works incorporating the matters in (iii) which the Consent Holder shall include in the CEMP under Condition GC.7. (c) If the oystercatcher nest located off the point between Sorrento Bay and Lowry Bay is confirmed by a suitably qualified ecologist to be occupied by a breeding pair or the presence of eggs or chicks, then during November no Construction Works shall occur within 100m of the nest while it is so occupied. If the nest is so occupied at other times of the year, Construction Works within 100m shall occur under the advice of a suitably qualified and experienced ecologist as to the use of specific machinery and specific minimisation measures and/or working practices. (d) If the oystercatcher nest located off the point between Sorrento Bay and Lowry Bay in (c) has resulted in chicks being hatched, then no Construction Works within the oystercatcher managed works zone (refer to Appendix 1) shall occur within the months of December and January unless a suitably qualified ecologist has determined that the chicks have not survived or can fly. If non-flying oystercatcher chicks are present within the oystercatcher managed works zone (refer to Appendix 1) during February then Construction Works within the oystercatcher managed works zone (refer to Appendix 1) shall occur only if a suitably qualified and experienced ecologist determines that work with specific machinery and specific minimisation measures and/or working practices can proceed without endangering the chicks. [Amended from previous EM.1C]
	N/A	<i>Bird Protection Plan – Pest Management Strategy</i>	

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EM.5	<p>The LPMP shall address the following matters:</p> <p>(a) Measures to minimise adverse effects on the Little Penguin population during construction, including that:</p> <p>(i) Two Little Penguin detection dog surveys, or a detection method approved by a Little Penguin expert appointed by the Consent Holder, must be undertaken in January prior to the Commencement of Construction in each bay. The purpose is to identify active Little Penguin burrows and nests within the construction area of each bay. No Construction Works shall occur in an area not surveyed in accordance with this provision; and</p> <p>(ii) The GPS coordinates for all active burrows and nests identified in (i) must be recorded;</p> <p>(b) A protocol for managing construction effects on Little Penguins will be prepared to avoid direct effects on nesting and moulting Little Penguins. The protocol will include measures to ensure that formerly active burrows and nests will not be reoccupied so that Constructions Works can proceed. The protocol will be prepared by a Little Penguin expert appointed by the Consent Holder;</p> <p>(c) A programme for monitoring Little Penguins within or adjacent to the construction area during the Construction Works proportionate to the scale of the works in that area and the number of burrows and nests to determine whether any reasonably practicable steps can be undertaken by the Consent Holder to further reduce adverse effects, including steps provided for in the HEP (refer Conditions EM.7 to EM.9);</p> <p>(d) Staff and contractor training;</p> <p>(e) Identification of specific areas where Little Penguin and dog control signage would be beneficial to reduce the risks of adverse effects on Little Penguins; and</p> <p>(f) Opportunities to enhance Little Penguin habitat through detailed design, including:</p> <p>(i) Potential seawall design opportunities to restrict road access for Little Penguins through penguin passage elements; and</p> <p>(ii) Potential rock rip rap design opportunities to include key holes for Little Penguin nests.</p> <p><i>Advice note: The handling of protected wildlife will require permits to be obtained from the Department of Conservation under the Wildlife Act 1953.</i></p> <p>[LPMP replaced in 5 February version by BPP. See EM.3C and EM.4A in 5 February version]</p>	EM.5	<p>The Consent Holder shall prepare a Pest Management Strategy, to form part of the BPP, aimed at providing pest management in:</p> <p>(a) primarily, the four bird protection areas specified in Conditions EM.6 to EM.6E (and, if utilised, the potential revegetation area (Condition EM.2(d)) south of Bishops Park as shown in Appendix 1); and</p> <p>(b) secondly, the adjacent Eastern Bays coastal environment affected by the Construction Works.</p> <p>The purpose of the Pest Management Strategy is to identify appropriate locations and types of pest management measures and opportunities to utilise the \$60,000 allocated in Condition EM.1, including working with existing pest management programmes in the adjacent Eastern Bay communities.</p> <p>The Pest Management Strategy shall as a minimum:</p> <p>(c) Identify times of year and locations where litter and pests may be an issue and link with Conditions EM.7 and LV.7, and (d) below;</p> <p>(d) Cover the full length of the Shared Path, with more intensive actions for the protection areas and any identified areas in (c);</p> <p>(e) Identify times of year to focus pest management (e.g. when chicks are hatching);</p> <p>(f) Include strategies describing how the applicant will engage and educate the community on the presence of birds and the impact of pests on these birds through signage and community outreach programs in Condition EM.9; and</p> <p>(g) Establish mechanisms to report annually during the period of pest management to the community and the Manager, Environmental Regulation on the success of the Pest Management Strategy.</p> <p>Any outcomes from reporting on the success of the Pest Management Strategy under (g) above shall be applied, as appropriate, to future pest management by revising the Pest Management Strategy so that over time processes and responses to minimise effects on coastal avifauna as a result of pest animals are refined and improved.</p> <p>[Amended from previous EM.1B(a)]</p>
	N/A	<i>Bird Protection Plan – bird protection areas</i>	
EM.6	<p>Any outcomes from monitoring under Condition EM.5(c) shall be applied, as appropriate, to future Construction Works by revising the LPMP so that over time processes and responses to minimise effects on Little Penguins are refined and improved. The results of the monitoring shall be provided to the Little Penguin Interest Group and the Manager, Environmental Regulation, Wellington Regional Council within 1 month of completion.</p> <p>[Refer to new EM.4C in 5 February conditions]</p>	EM.6	<p>The Consent Holder shall establish, utilising the up to \$300,000 allocated in Condition EM.1, protection areas in general accordance with Appendix 1 at the following indicative locations:</p> <p>(a) an oystercatcher protection area at Sorrento Bay (Condition EM.6B);</p> <p>(b) a penguin protection area at Whiorau Reserve (Condition EM.6C); and</p> <p>(c) penguin and shorebird protection areas at:</p> <p>(i) Bishops Park (Condition EM.6D); and</p> <p>(ii) HW Shortt Park (Condition EM.6E).</p> <p>[Amended from previous EM.1B(b)]</p>
	N/A	EM.6A	<p>The bird protection areas set out in Conditions EM.6C, EM.6D and EM.6E shall include:</p> <p>(a) opportunities to enhance Little Penguin habitat within the protection areas, including providing and maintaining a minimum of 100 nesting opportunities across the three protection areas; and</p> <p>(b) opportunities for Shoreline Forager nesting where suitable.</p> <p>[Amended from previous EM.9(e)]</p>
	N/A	EM.6B	<p>The Sorrento Bay oystercatcher protection area shall include the following:</p> <p>(a) fencing of the boundaries in general accordance with Appendix 1 and as specified in the BPP with a minimum standard to keep dogs out on the landward (road) side;</p> <p>(b) screening, as appropriate, including through planting measures;</p> <p>(c) pest management measures in accordance with the Pest Management Strategy provided under Condition EM.5;</p>

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			<p>(d) A Planting Plan to outline areas of planting surrounding nesting opportunities, or the maintenance of vegetation-free areas as appropriate. The Planting Plan shall include as a minimum:</p> <ul style="list-style-type: none"> (i) The species that are proposed to be planted, the size of the plants and the density of planting; (ii) A timeline for the completion of the proposed planting; and (iii) Details of the maintenance and management of the planting and management of pest plants; <p>(e) signage identifying the protection area and its values; and</p> <p>(f) provisions as appropriate to respond to, and provide ecological resilience to, sea level rise.</p> <p>The following timeframes shall apply to the Sorrento Bay oystercatcher protection area:</p> <ul style="list-style-type: none"> (g) fencing and screening (as appropriate) must be completed within 3 months following the Commencement of Construction (see (a) and (b) above); (h) pest management measures must be installed and be operational within 3 months following the Commencement of Construction (see (c) above); (i) planting shall commence and be undertaken and completed in accordance with the timeframes specified in the Planting Plan (see (d) above); and (j) signage must be installed within 3 months following the Commencement of Construction (see (e) above). <p>[Amended from previous EM.9]</p>
	N/A	EM.6C	<p>The Whiorau Reserve penguin protection area shall include the following:</p> <ul style="list-style-type: none"> (a) fencing of the boundaries in general accordance with Appendix 1 and as specified in the BPP with a minimum standard to control dogs from accessing the protection area from the landward (road) side and a suspended rope barrier (or similar) allowing Little Penguins to safely pass underneath on the seaward side; (b) pest management measures, in accordance with the Pest Management Strategy provided under Condition EM.5; (c) A Planting Plan to outline areas of planting surrounding nesting opportunities or the maintenance of vegetation-free areas as appropriate. The Planting Plan shall include as a minimum: <ul style="list-style-type: none"> (i) The species that are proposed to be planted, the size of the plants and the density of planting; (ii) A timeline for the completion of the proposed planting; and (iii) Details of the maintenance and management of the planting and management of pest plants; (d) signage identifying the protection area and its values; (e) opportunities to enhance Little Penguin habitat within the protection area in accordance with Condition EM.6A; and (f) provisions as appropriate to respond to, and provide ecological resilience to, sea level rise. <p>The following timeframes shall apply to the Whiorau Reserve penguin protection area:</p> <ul style="list-style-type: none"> (g) fencing must be completed as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (a) above); (h) pest management measures must be installed and be operational as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (b) above); (i) planting shall be undertaken and completed in accordance with the timeframes specified in the Planting Plan (see (c) above); (j) signage must be installed as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (d) above); and (k) detailed design of habitat enhancement for the Little Penguins must be finalised, and nesting boxes must be installed, within 9 months following the Commencement of Construction (see (e) above). <p>[Amended from previous EM.9]</p>
	N/A	EM.6D	<p>The Bishops Park penguin and shorebird protection area shall include the following:</p> <ul style="list-style-type: none"> (a) fencing of the boundaries in general accordance with Appendix 1 and as specified in the BPP with a minimum standard to control dogs from accessing the protection area from the landward (road) side (unless through a gated public access strip) and a suspended rope barrier (or similar) allowing penguins to safely pass underneath on the seaward side;

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			<p>(b) pest management measures, in accordance with the Pest Management Strategy provided under Condition EM.5;</p> <p>(c) A Planting Plan to outline areas of planting surrounding nesting opportunities or the maintenance of vegetation-free areas as appropriate. The Planting Plan shall include as a minimum:</p> <ul style="list-style-type: none"> (i) The species that are proposed to be planted, the size of the plants and the density of planting; (ii) A timeline for the completion of the proposed planting; and (iii) Details of the maintenance and management of the planting and management of pest plants; <p>(d) signage identifying the protection area and its values;</p> <p>(e) retention of area(s) of marram grass located within the protection area;</p> <p>(f) pedestrian accessways through the protection area at selected points;</p> <p>(g) consideration of the presence of herpetofauna and maintaining areas of skink habitat within the protection area;</p> <p>(h) opportunities to enhance Little Penguin habitat within the protection area in accordance with Condition EM.6A;</p> <p>(i) opportunities to enhance Shoreline Forager habitat, including wooden poles providing further safe roosting habitats; and</p> <p>(j) provisions as appropriate to respond to, and provide ecological resilience to, sea level rise.</p> <p>In relation to the above matters, all plans for, and works undertaken within, the Bishops Park protection area shall ensure that erosion and wind-blown sand effects are avoided or minimised.</p> <p>The following timeframes shall apply to the Bishops Park penguin and shorebird protection area:</p> <p>(k) fencing (including rope demarcation) must be completed as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (a) above);</p> <p>(l) pest management measures must be installed and be operational as soon as reasonably practicable but no later than 18 months following Commencement of Construction (see (b) above);</p> <p>(m) planting shall be undertaken and completed in accordance with the timeframes specified in the Planting Plan (see (c) above);</p> <p>(n) signage must be installed as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (d) above); and</p> <p>(o) detailed design of habitat enhancement for the Little Penguin and Shoreline Foragers must be finalised and roosting measures must be installed as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (h) and (i) above).</p> <p>[Amended from previous EM.9]</p>
	N/A	EM.6E	<p>The HW Shortt Park penguin and shorebird protection area shall include the following:</p> <p>(a) fencing of the boundaries in general accordance with Appendix 1 and as specified in the BPP with a minimum standard to control dogs from accessing the protection area from the landward side and a suspended rope barrier (or similar) allowing penguins to safely pass underneath on the seaward side;</p> <p>(b) pest management measures in accordance with the Pest Management Strategy provided under Condition EM.5;</p> <p>(c) A Planting Plan to outline areas of planting surrounding nesting opportunities or the maintenance of vegetation-free areas as appropriate. The Planting Plan shall include as a minimum:</p> <ul style="list-style-type: none"> (i) The species that are proposed to be planted, the size of the plants and the density of planting; (ii) A timeline for the completion of the proposed planting; and (iii) Details of the maintenance and management of the planting and management of pest plants; <p>(d) signage identifying the protection area and its values;</p> <p>(e) opportunities to enhance Little Penguin habitat within the protection area in accordance with Condition EM.6A;</p> <p>(f) opportunities to enhance Shoreline Forager habitat, including wooden poles providing further safe roosting habitats; and</p> <p>(g) provisions as appropriate to respond to, and provide ecological resilience to, sea level rise.</p> <p>In relation to the above matters all plans for, and works undertaken within, the HW Shortt Park protection area shall ensure that erosion and wind-blown sand effects are avoided or minimised.</p> <p>The following timeframes shall apply to the HW Shortt Park penguin and shorebird protection area:</p>

Appendix A (30 November 2020) version		5 February 2021 version	
Ref	Condition	Ref	Condition
			<p>(h) fencing must be completed as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (a) above);</p> <p>(i) pest management measures must be installed and be operational as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (b) above);</p> <p>(j) planting shall be undertaken and completed in accordance with the timeframes specified in the Planting Plan (see (c) above);</p> <p>(k) signage must be installed as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (d) above); and</p> <p>(l) detailed design of habitat enhancement for the Little Penguin and Shoreline Foragers must be finalised and roosting measures must be installed as soon as reasonably practicable but no later than 18 months following the Commencement of Construction (see (e) and (f) and above).</p> <p>[Amended from previous EM.9]</p>
<i>Habitat Enhancement Plan [HEP replaced by BPP]</i>		<i>Rubbish and waste management</i>	
EM.7	<p>The Consent Holder shall prepare a HEP and submit this to the Manager, Environmental Regulation for certification in accordance with the requirements of Condition GC.5 prior to Commencement of Construction.</p> <p>[HEP replaced by BPP. See EM.3 in 5 February conditions]</p>	EM.7	<p>The Consent Holder shall undertake a six-monthly rubbish clean up along the shared path and its adjacent beaches which will involve two staff and a vehicle proceeding along the Project area collecting litter for 1 working day for the duration of this consent.</p> <p>[Amended from previous EM.1B(d)]</p>
EM.7A	<p>The HEP shall be prepared by a suitably qualified ecologist in consultation with the Little Penguin Interest Group and the Eastbourne Dunes Restoration Group.</p> <p>[HEP replaced by BPP. See EM.3B in 5 February conditions]</p>		N/A
	N/A	<i>Protection area review and reporting</i>	
EM.8	<p>The purpose of the HEP shall be to provide protection areas (as specified in Condition EM.1B and shown in Appendix 1) for the Little Penguin and Shoreline Forager populations.</p> <p>[HEP replaced by BPP. See EM.6 in 5 February conditions]</p>	EM.8	<p>The Consent Holder shall engage a suitably qualified and experienced ecologist to undertake reviews of the establishment of each protection area in Conditions EM.6B to EM.6E within the timeframe set out in Condition EM.8A.</p> <p>The purpose of the reviews is to identify if there are reasonably practicable measures the Consent Holder could implement to optimise the intended habitat in each protection area for Little Penguins and/or Shoreline Foragers (as relevant for the specific area) and if such measures are identified a timeframe for them to be implemented.</p> <p>Reasonably practicable in this condition relates to measures such as operational matters (including pest management timing/location within Condition EM.1(i)), design matters (such as improved signage or litter bin locations) and/or maintenance issues (such as replacement of damaged items or plantings) that can be implemented without additional consents). Reasonably practicable does not include the redesign and/or redevelopment of a protection area or the addition of new protection areas.</p> <p>[Added since 30 November version]</p>
	N/A	EM.8A	<p>The reviews in Condition EM.8 shall be undertaken, and a report provided to the Manager, Environmental Regulation within 3 months of:</p> <p>(a) 2 years from Commencement of Construction for the Sorrento Bay oystercatcher protection area (Condition EM.6B);</p> <p>(b) 2 years from the establishment of the Bishops Park and HW Shortt protection areas with regard to Shoreline Forager habitat (Conditions EM.6D and EM.6E); and</p> <p>(c) 5 years from the establishment of the Whiorau Reserve, Bishops Park and HW Shortt Park protection areas with regard to Little Penguins (Conditions EM.6C to EM.6E).</p> <p>[Added since 30 November version]</p>
	N/A	EM.8B	<p>Any reasonably practicable measures identified in the report under Condition EM.8 shall be implemented by the Consent Holder. The Consent Holder shall inform the Manager, Environmental Regulation when the measures have been completed.</p>

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Ref	Condition	Ref	Condition
			[Added since 30 November version]
	N/A	EM.8C	The review for the Sorrento Bay oystercatcher protection area (Condition EM.6B) shall include any relevant information obtained up until that date from the variable oystercatcher study under Condition EM.8D. [Added since 30 November version]
	N/A		<i>Variable oystercatcher study</i>
	N/A	EM.8D	The Consent Holder shall commission, utilising the up to \$30,000 allocated in Condition EM.1, a suitably qualified ecologist to lead a before and after study of variable oystercatchers in the Project area (the Eastern Bays from Point Howard to Sunshine Bay and including Windy Point) including the influence of the Project on variable oystercatchers and their behaviours. The study shall include recommendations (if any) in accordance with Condition EM.8C. The study shall be completed, and the results provided to the Manager, Environmental Regulation and made publicly available within 5 years of the Completion of Construction of the Project. [Amended from previous EM.1D]
	N/A		<i>Bird Protection Plan - education</i>
EM.9	The HEP must address and/or include the following within the penguin and shorebird protection areas (and the oystercatcher protection area where relevant): (a) fencing of the boundaries as shown in the plans in Appendix 1 with a minimum standard to keep dogs out; (b) pest management measures, using funding provided in Condition EM.1B; (c) a Planting Plan for revegetation or the maintenance of vegetation-free areas in accordance with (f) as appropriate, including details of species to be planted and areas planting will take place in; (d) signage identifying the relevant protection area to reduce the risks of adverse effects on Little Penguins and Shoreline Foragers; (e) opportunities to enhance Little Penguin habitat within the protection areas including providing and maintaining a minimum of 100 nesting opportunities across the three protection areas; (f) opportunities to enhance Shoreline Forager habitat in the protection areas, including wooden poles providing further safe roosting habitats; (g) provisions as appropriate to provide ecological resilience to sea level rise; and (h) timeframes for completing (as appropriate) the measures outlined in the HEP, including: (i) for the Whiorau Reserve penguin and shorebird protection area: A. fencing must be completed prior to Commencement of Construction (see (a) above); B. detailed design of habitat enhancement for the Little Penguin and Shoreline Foragers must be finalised, and nesting boxes and roosting measures must be installed, prior to Commencement of Construction (see (e) and (f) above); C. pest management measures must be installed and operational prior to Commencement of Construction (see (b) above); D. signage must be installed prior to Commencement of Construction (see (d) above); E. planting shall be undertaken in accordance with the timeframes specified in the Planting Plan (see (c) above); and (ii) for the Bishops Park and HW Shortt Park penguin and shorebird protection areas, and the Sorrento Bay oystercatcher protection area, the establishment process (ie the measures specified in A to E above) must commence prior to Commencement of Construction, and measures A to D above must be completed within six months following Commencement of Construction (and the planting in accordance with the specified timeframes in the Planting Plan). [HEP replaced by BPP. Refer to new conditions EM.6 – EM.6E]	EM.9	The Consent Holder shall carry out, utilising the up to \$15,000 allocated in Condition EM.1, a public educational campaign aimed at recognising, protecting, and raising public awareness of avifauna in the Project area, including variable oystercatchers. The campaign shall: (a) commence within 9 months of the Commencement of Consents; (b) continue for a minimum of 5 years; and (c) provide current information on variable oystercatchers within the Project area and how to minimise or prevent risks and threats to oystercatchers in the Project area. [Added since 30 November version]

