



# **Te Ara Tupua - Ngauranga to Petone Shared Path**

**Fast-Track Consenting Act comment**

Generation Zero

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## Executive summary

1. Generation Zero **strongly supports** Te Ara Tupua (the Project) and submits that the Panel **should approve the consent** under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the Act).

### **Generation Zero comments that:**

2. The Project has a range of benefits that are numerous and significant. This reflects that this exciting and unique Project is of high value with strong public support. Waka Kotahi (the Applicant) has understated some key benefits including the projected number of users, resilience benefits and cultural importance to mana whenua.
3. To the best of the knowledge available to us given the current ecological assessment, we conclude that the Project is not inconsistent with the New Zealand Coastal Policy Statement (NZCPS).
  - 3.1. It accords with the spirit of the NZCPS in recognising that some trade-offs are required in marine areas.
  - 3.2. Policy 10 (reclamation) is not breached due to no practicable alternative methods existing and the reclamation providing both significant regional and national benefits.
  - 3.3. Policy 11 (indigenous biodiversity) is not breached due to the and offsetting and compensatory measures of the Project which avoids and minimises the disturbance of sensitive habitats.
  - 3.4. However, the Applicant should go further to better align with the NZCPS. The Applicant should engage in more offsetting and compensation (e.g. new habitats, de-reclamation elsewhere) so the Project is in net-gain; i.e. it adds more habitats to the Project area.
  - 3.5. An independent review of the ecological assessment for this project should also be conducted, to make sure that there are no biases or underestimations in indigenous biodiversity and that mitigation can occur to the best of the Applicant's abilities.

4. Even if the Project is inconsistent with the NZCPS, the Panel should exercise its discretion and approve the consent anyway due to the significant Project Benefits and minimal degree of inconsistency with the NZCPS.
5. The Project is not inconsistent with the National Policy Statements on Fresh Water (NPS-FM) or Urban Development (NPS-UD). The Project arguably “gives effect” to these NPS by aligning strongly with their objectives and policies.
6. The Project is consistent with the Treaty of Waitangi and Treaty settlements. Through its partnership with Taranaki Whānui and Ngāti Toa Rangatira, and guided by the Mana Whenua Steering Group, the Applicant has appropriately recognised the deep connection of those iwi with the Project area. The Applicant should continue to engage in meaningful partnership to reflect the cultural values, history and mana of both iwi in the Project.
7. Additional conditions proposed are:
  - 7.1. Offsetting emissions from construction to make the Project carbon neutral.
  - 7.2. Conditions relating to accessible design to ensure segregation between slow and fast users. This is particularly important for a busy commuter route where conflicts at bridges and landings could pose safety issues, especially for children, disabled people and the elderly.

# Contents

<b>Executive summary</b>	2
<b>Project benefits</b>	5
<b>Project is not inconsistent with the NZCPS</b>	9
<b>The Panel should exercise their discretion and grant consent even if the Project is inconsistent with the NZCPS</b>	13
<b>Project gives effect to NPS-FM and NPS-UD</b>	13
<b>Project is consistent with the Treaty of Waitangi</b>	14
<b>Additional proposed conditions</b>	15

## Project benefits

1. This section outlines the main benefits (the Project Benefits) of the Project. It is meant to aid the Panel where it is permissible to take into account the Project Benefits. Generally, this section highlights that the Project Benefits are numerous and significant. It also argues that the Applicant has understated some key benefits including the projected number of users, resilience and cultural importance to mana whenua.

### **Economic benefits**

2. The Project is projected to bring significant economic benefits of approximately \$190 million.<sup>1</sup> These estimates reflect the substantial health benefits of greater active transport use and averted harm from road accidents. Intangible benefits will be generated by the improvement of community facilities (such as Honiana Te Puni Reserve and buildings belonging to the Wellington Rowing club) and several unquantified resilience improvements. Furthermore, the Project is expected to directly employ around 125 workers, with a further 334 workers indirectly employed.<sup>2</sup> As a result, the project aligns with the purpose of the Act by facilitating increased employment and supporting New Zealand's economic recovery from COVID-19.

### **Climate change mitigation (emissions reduction)**

3. A significant anticipated benefit of the Project will be the reduction of carbon emissions from less use of motor vehicles and a greater use of active transport via mode shift. Transport emissions make up approximately 21% of New Zealand's total GHG output, despite recent growth in EV usage.<sup>3</sup> As a result, increasing the modal share of trips that are via walking, cycling or micro mobility is critical to meeting our international and domestic climate obligations. The Project will also enable indirect emissions reductions, by supporting sustainable land-use patterns. Decreasing the excessive space dedicated to private vehicles in the Hutt and Wellington will reduce the embodied carbon of automobile transport.
4. In contributing to preventing excessive global warming of the planet, the Project will also aid in protecting natural environments and biodiversity worldwide. Increased global

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<sup>1</sup> Technical Report I, p33.

<sup>2</sup> Technical Report I, p34.

<sup>3</sup> NZ Greenhouse Gas Inventory (2020). Ministry for the Environment. [www.mfe.govt.nz](http://www.mfe.govt.nz)

temperatures will result in sea level rise, more frequent extreme weather events, disrupted food chains and ocean acidification, all of which impact on marine habitats.

### **Climate change adaptation and resilience**

5. The Project is crucial for protecting a regionally significant transport corridor. SH2 and the Wairarapa/Hutt Valley line provide a key regional transport link to the Hutt Valley, Wairarapa and beyond. It is one of only two land based corridors out of Wellington so is crucial to protect in extreme weather events or earthquakes.
6. The Project is a form of climate change adaptation which protects the transport corridor from sea level rise. This rise is already locked in by current emissions and likely to worsen with rising emissions. The transport corridor is already vulnerable to extreme weather events with the railway line periodically washed away, causing significant delays and economic losses. This will only increase in frequency and severity with sea level rise. The Project is designed to be resilient to rising sea levels and “future-proofed” by enabling the revetment and seawall structures to be raised as necessary.
7. The Project also provides resilience to seismic events. The transport corridor is situated in an extremely vulnerable location between steep cliffs and the harbour, all while residing on a major fault line.

### **Active transport**

8. Safety is a major concern with the current cyclepath. The small length of the protected section is narrow, of poor quality and right next to fast moving traffic. The bike lane on the Eastern side is only suitable for the most committed cyclists and has sadly claimed numerous lives over the years. There have been 81 crashes (minor, serious and fatal injuries) of crashes involved with cyclists, pedestrians or wheelchair/skateboard users. For just cyclists, there were four people that have died (1990, 2000, 2008 & 2020). There were 22 serious injuries, 41 minor injuries and 8 non-injuries to cyclists since 1980.<sup>4</sup>
9. The Project will reduce the likelihood of serious injury or death through cyclists not having to bike in the shoulder of SH2, a 100 km/h zone. But more critically, the current design is extremely unsafe and dissuades a massive number of potential cyclists from

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<sup>4</sup> Waka Kotahi/NZTA CAS tool query.

taking the route. Best practice is to design for everyone of all levels and abilities to enable maximum uptake. There is a huge amount of interested but concerned cyclists who will not ride this section currently due to safety concerns. Additionally, a safe pathway on the seaward side of the railway will allow pedestrians, disabled people and other users to enjoy this section of the harbour where they previously could not.

10. A safe pathway also provides a cheap and congestion free alternative to SH2 or even the train line. This improves access to jobs, education and other destinations for people who can not or do not want to use the train or SH2. This will create a more equitable transport system by providing for those users who do not own a vehicle: children, disabled, low income families and elderly.
11. More people walking and riding to their destinations will also increase community health. Active modes of travel are associated with lower rates of cardiovascular issues, obesity, cognitive decline and diabetes. These health benefits are given in Technical Reports I and V. As mentioned in the Technical Report V, “A lack of physical activity has been shown to be third to smoking and diet as modifiable risk factors in poor health.”<sup>5</sup> There are other benefits of physical activity such as improved mental health, muscle gain/strength and independence

**Applicant has significantly underestimated the future user numbers of the pathway.**

12. Current predictions of usage are an average of 1,812 visits (total of both directions) per weekday. The Applicant may be significantly underestimating the mode shift potential when this path is built. Traditional transport models often are poor at predicting usage when transformational shifts in access are provided, as this Project does.<sup>6</sup> Currently, only a very small proportion of the population feel safe using the existing bike lanes next to traffic. A safe and segregated pathway will release massive latent demand for walking and cycling. More people increase the perception of safety this can spread to other parts

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<sup>5</sup> Technical Report V, p 62.

<sup>6</sup> See, for example, Maldonado-Hinarejos, Sivakumar & Polak. Exploring the role of individual attitudes and perceptions in predicting the demand for cycling: a hybrid choice modelling approach. *Transportation* 41, 1287–1304 (2014). <https://doi.org/10.1007/s11116-014-9551-4>

of the network - creating a positive feedback loop.<sup>7</sup> As such, demand and uptake is often non-linear and often underestimated.

13. Other factors also point to usage being higher than projected: Decreasing battery prices, e-scooter prices, public perception and future carbon prices. The Project will allow for greater connectivity with the existing and proposed walking and cycling network. Other projects that will complement this project include the safer speed programme in Wellington CBD (speed limits reduced to 30 km/h in July 2020), other shared paths - for example the Great Harbour Way - and other cycleways such as the P2M cycleway. The Ngā ūranga ki pito-one shared path project is likely to create additional demand for growing the active modes network throughout both Wellington CBD and the Lower Hutt areas.

### **Network resilience**

14. By adding another path/section to the transport network, this Project makes the network more resilient. This ensures that if one part of the network is 'down' or closed (traffic accident, bus strike or rail network fault) this path will provide another option, building in flexibility. Transport systems are highly sensitive to extreme weather events and natural disasters so providing an additional option is very valuable.

### **Cultural value to mana whenua**

15. Through its partnership with Taranaki Whānui and Ngāti Toa Rangatira, and guided by the Mana Whenua Steering Group, the Applicant has appropriately recognised the deep connection of those iwi with the Project area, promoted their kaitiakitanga, and provided for mātauranga Māori to inform the development of the Project. The Project will enable mana whenua to reconnect physically with this culturally significant (but long inaccessible) section of Te Whanganui-aTara. Both Taranaki Whānui and Ngāti Toa Rangatira support this project and the inclusion of their stories, iconography and history along the pathway will benefit those iwi and help restore the mana of the harbour and the Crown as Treaty partner.

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<sup>7</sup> See Teschke K, Harris MA, Reynolds CCO, Winters M, Chipman M, Cripton PA, Cusimano MD, Babul S, Brubacher J, Chisholm D, Hunte G, Friedman S, Monro M, Vernich, Shen H. Bicyclists' Injuries and the Cycling Environment: The impact of route infrastructure. *American Journal of Public Health*. 2012; 102(12); 2336-2343; and Winters M, Davidson G, Kao D, Teschke K. Motivators and deterrents of bicycling: comparing influences on decisions to ride. *Transportation*. 2011; 38(1): 153-168.

### **Tourism**

16. Making this part of the coastline more accessible and enabling greater utilisation of the recreational spaces will likely also allow a greater number of people to enjoy the pleasant acoustic amenity of the area; another intangible but significant benefit. This will likely drive tourism and aquatic activities on the pathway.

### **Air Quality (Technical Report 11)**

17. The AEE details that there would be air quality benefits for those who use the existing cyclepath along SH2, as the new path would be further from the road vehicles and their air pollutants.
18. However, the new path would likely result in a reduction in road vehicles on SH2, as a greater proportion of drivers would instead use the path. The AEE does not mention that this reduction in road vehicles would also mean fewer air pollutants being emitted into the area, further benefiting users of the pathway and potentially also those that live and work in the area and surrounding hillside.

### **Noise and Vibration (Technical Report 12)**

19. With a reduction (or at least a slowed increase) in road vehicle use, there is potential for a discernible decrease in transport noise for the users of the existing cyclepath and for those that live and work in the area.

## **Project is not inconsistent with the NZCPS**

### **Legal Framework**

20. The first ground for declining a listed project is if, with or without conditions of consent, enabling the listed project would be inconsistent with any national policy statement, including the NZCPS.<sup>8</sup>

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<sup>8</sup> Sch 6, cl 34.

21. “Not inconsistent with” requires a lower degree of alignment than “give effect to”. The choice by Parliament of the term "not inconsistent with" indicates that a material degree of inconsistency is required for the Panel to be able to decline the Project.

**Preamble of NZCPS**

22. The preamble to the NZCPS highlights the complexities regarding the sustainable management of natural and physical resources in the coastal environment. Allowing people to access the coast provides significant societal benefits, there is a need for infrastructure to locate in that environment, and existing infrastructure can be susceptible to natural hazards (including those associated with climate change). The coast is also particularly important to mana whenua and the exercise of their kaitiaki role, and there is a need to preserve natural character and halt the decline in species, habitats, and ecosystems in the coastal environment.
23. The NZCPS recognises that trade-offs in coastal areas are needed to achieve social and economic benefits. The pathway is functionally required to be in the coastal marine area, the design does well to have a minimal net impact on sensitive areas and the Project Benefits are significant.

**24. Policy 10 (Reclamation)**

25. The Project is not inconsistent with Policy 10 (reclamation). Policy 10(1) seeks the avoidance of reclamation of land in the coastal marine area unless:
- (a) “land outside the coastal marine area is not available for the proposed activity;
  - (b) the activity which requires reclamation can only occur in or adjacent to the coastal marine area;
  - (c) there are no practicable alternative methods of providing the activity; and
  - (d) the reclamation will provide significant regional or national benefit".
26. Reclamation is necessary under both (c) and (d).
- 26.1. Under (c), there are no practical alternative methods of providing the activity. The existing cycleway is untenable due to safety concerns. The option for a pathway between SH2 and railway is too narrow. Moving the railway or SH2 or cutting into the cliffs present their own challenges due to expense, safety, disruption and

greater effects on other areas of biodiversity. Reclamation to achieve a path on the seaward side provides a wide safe pathway away from traffic, greater amenity for users, the ability to incorporate uranga/landings and significant resilience benefits. This is supported by previous public submissions and letters of support.

- 26.2. Under (d), the protection of SH2 and the railway line provides significant regional benefit by giving resilience to a busy state highway and railway line that moves many people and freight. It arguably also has a significant national benefit as one of only two land-based exits from Wellington City in case of an earthquake or major weather event. It also provides resilience to a road and railway that provide freight and passenger movements beyond the Wellington region.

**27. Policy 11 (Indigenous biodiversity)**

28. Section 11 of the NZCPS states: “avoid adverse effects of activities on... threatened species and indigenous species habitats” (part a) and “avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on” (part b).
29. Generation Zero believes, based on the ecological assessment, that the Project is successful at mitigating the effects of construction on the intertidal zone and the threatened avi-fauna that reside there. As such, with the wording of the Act in mind, the Project is not inconsistent with the NZCPS.
- 29.1. It is important to note that in order to protect Aotearoa’s indigenous biological diversity from ecological stressors caused by climate change (e.g. ocean acidification, sea level rise, oceanic warming<sup>9</sup>), we require a swift transition to a zero carbon economy which the Project enables.
- 29.2. There is an opportunity to make the newly modified environment beneficial for threatened seabirds, through the creation of offshore habitat which is inaccessible to humans, gyrones to promote the long term survival of the shingle beach, and penguin boxes (to be implemented using DOC’s guidelines for best ecological practice).

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<sup>9</sup> Law CS, Rickard GJ, Mikaloff-Fletcher SE, Pinkerton MH, Behrens E, Chiswell SM, Currie K (2018) Climate change projections for the surface ocean around New Zealand. *New Zealand Journal of Marine and Freshwater Research* 52:309–335.

- 29.3. Thorough effort been made to mitigate other effects, such as visual screening to protect seabird habitats, a “living sea wall” for the succession of benthic organisms, keeping dogs restrained to leads on the pathway, and educational material on the habitat shared with seabirds, which have all been included in the mitigation plan.<sup>10</sup>
- 29.4. The project has gone to great effort to reduce the reclamation of land as much as possible “Including six locations along the shared path in which there is a variation, to avoid breeding areas and foraging habitat”<sup>11</sup>
- 29.5. The ecological assessment has found that “Based on these overall levels of effects of the Project, there are no residual adverse effects requiring offsetting for indigenous vegetation, herpetofauna, freshwater and coastal avifauna”, and the ecological assessment has classified the effects of the project on the population of these seabirds as low for 7/17 species, and very low for 10/17 species.
- 29.6. Moreover, the ecological assessment has also stated “The magnitude of effect of cumulative loss of modified marine habitat edge is assessed as Low at the scale of the Wellington Harbour edge. In combination with High ecological values, the level of effect of cumulative loss of marine habitat is Low”<sup>12</sup>
30. Despite this, Generation Zero thinks that the offsetting and compensation by the Applicant could be increased to better be in proportion with the loss of biodiversity caused by the Project. Given the wording of the NZCPS being “avoid”, the applicant should seek to have the habitat in the Project area in “net-gain”. I.e. adding more new habitat than lost habitat. This would require investigating:
- 30.1. De-reclamation elsewhere in Wellington harbour.
- 30.2. Further adjusting the Project’s design to avoid habitat loss. The Project's current design “cuts in” using vertical seawalls at discrete locations, rather than the sloping revetment, to substantially avoid shingle beach habitats. Any design change should not materially reduce the functionality or resilience benefits of the Project.

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<sup>10</sup> See Page 95 of the [Te Ara Tupua Ecological Assessment](#)

<sup>11</sup> Page 94

<sup>12</sup> Page 111 of the [Te Ara Tupua Ecological Assessment](#)

- 30.3. The offsetting and compensation offered should increase, to be in proportion with the loss of habitat from the Project. This could involve more planting, offshore habitats and on-going support of sensitive areas.
31. An independent review of the ecological assessment for this project should also be conducted, to make sure that there are no biases or underestimations in indigenous biodiversity and that mitigation can occur to the best of the Applicant's abilities.

## The Panel should exercise their discretion and grant consent even if the Project is inconsistent with the NZCPS

32. Even if one of the grounds for declining is met, the Panel retains a discretion to approve a proposal. Clause 34 states that "a panel **may** decline (...) but only on the following grounds" (emphasis added) as opposed to "**must** decline".
33. As outlined in the section above, Generation Zero believes that Policy 11 of the NZCPS is currently complied with but further conditions and design choices could be made to better align with the wording of Policy 11. If the Panel finds that the Project is inconsistent with the NZCPS, it should exercise its discretion and approve the proposal anyway. This is due to the significant Project Benefits (outlined above) and the minor degree of possible non-compliance with the NZCPS.

## Project gives effect to NPS-FM and NPS-UD

### **NPS-FM**

34. Generation Zero agrees with the Applicant that the Project aligns with the NPS-FM and is more than "not inconsistent with" that directive. The culvert extensions and construction conditions to avoid sedimentation of the Hutt River are in alignment with the NPS-FM.

## NPS-UD

35. Generation Zero agrees with the Applicant that the Project strongly aligns with the NPS-UD and arguably reaches the threshold of “giving effect to” the directive. The project will help create “well-functioning urban environments”,<sup>13</sup> lower emissions and be resilient to climate change.<sup>14</sup> The Project enables people to get to jobs, amenities and enjoy recreation in a sustainable way - which encourages higher density living. The Project also increases the resilience of the existing transport corridor which is vital to the region and urban living.

## Project is consistent with the Treaty of Waitangi

36. The second ground for declining a listed project is section 6 of the Act, which requires all persons exercising powers under the Act to act in a manner that is consistent with the principles of the Treaty of Waitangi and Treaty settlements.<sup>15</sup>
37. Generation Zero agrees with the Applicant that the Project aligns with the Treaty of Waitangi and Treaty settlements. Through its partnership with Taranaki Whānui and Ngāti Toa Rangatira, and guided by the Mana Whenua Steering Group, the Applicant has appropriately recognised the deep connection of those iwi with the Project area, promoted their kaitiakitanga, and provided for mātauranga Māori to inform the development of the Project. The Project will enable mana whenua to reconnect physically with this culturally significant (but long inaccessible) section of Te Whanganui-a-Tara.
38. Generation Zero applauds the Applicant for their involvement of mana whenua and dedication to honouring the Treaty partnership. But we urge the Applicant to continue to involve and co-design the project (and maintenance) with both iwi going forward.

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<sup>13</sup> Objective 1.

<sup>14</sup> Objective 8.

<sup>15</sup> Sch 6, cl 34.

## Additional proposed conditions

### Offsetting construction

39. The Panel should require the Applicant to offset all emissions from construction. Despite the Project enabling low-carbon transport options, it also requires significant heavy vehicle movements and machinery to construct. In line with best practice, the emissions from construction should be offset at a carbon price appropriate to the social cost of New Zealand's emissions (not simply the underpriced ETS level).

### Accessibility

40. Generation Zero is a strong advocate for safe, separated pathways for cycling and walking that are pleasant to use and segregated from vehicles. Best practice is for these pathways to not be "shared" but separated between fast and slow users. This is particularly important for busy routes like the Project where cyclists will be wanting to go at top speed on a long commute. Fast users include cyclists, e-scooters and e-bikes. Slow users include walkers, prams and wheelchair users. Fast moving users can present a safety and comfort hazard to slow moving users like disabled people or the elderly. This is especially true at conflict sites and intersections. See Figure 1 below on the difference in speeds between users.

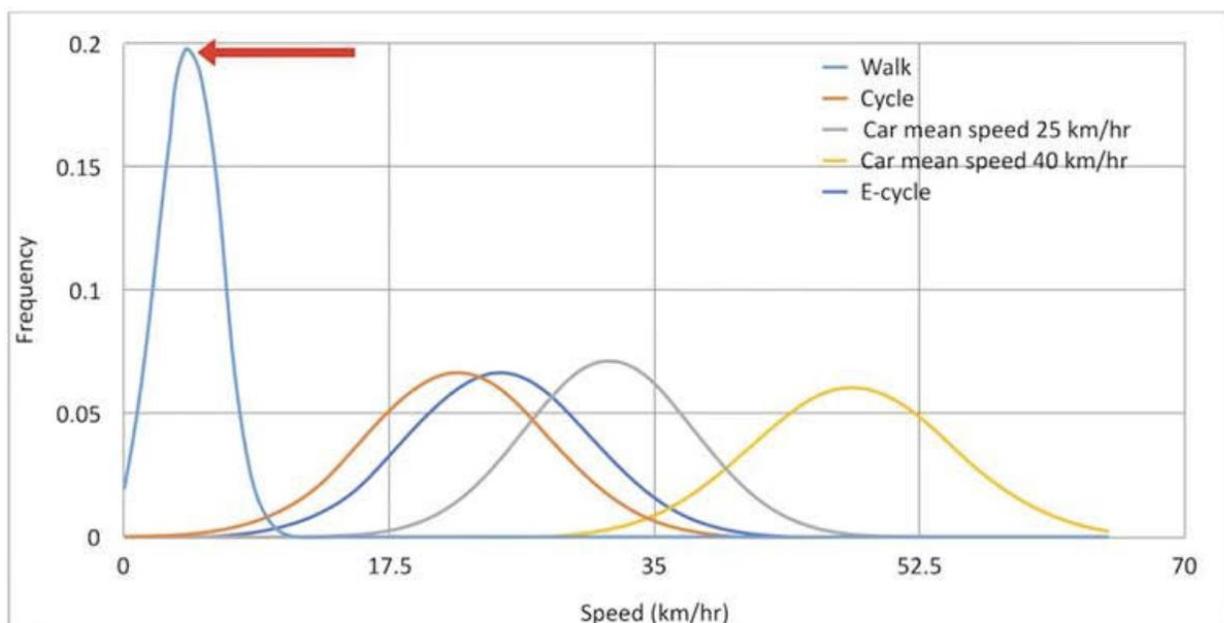


Figure 1.

41. Ideally, the pathway should be wide enough for a generous allocation of space for a bi-directional cycle way and wide footpath. The current proposed 1.5 pathway is too narrow based on the NZPPDG which recommends a 1.8m footpath as minimum standard.<sup>16</sup> With additional reclamation to widen the path not feasible for economic and environmental reasons, the Panel should require the applicant to ensure the design is as safe and segregated as possible. The current proposed cross section is good (see Figure 2), but the Applicant must also ensure that conflicts at intersections and on the two bridges (railway overbridge and Korokoro) are managed well by design that ensures the safety of vulnerable users. The accessible gradient of the bridge with flat rest spots is good but requires some more consideration. It must be accessible and safe for all users by encouraging separation and slower speeds on the descent while also not creating dangerous changes in gradient that can unsettle cyclists or e-scooters and normal speeds. Footpath surface is also an important consideration for accessibility.

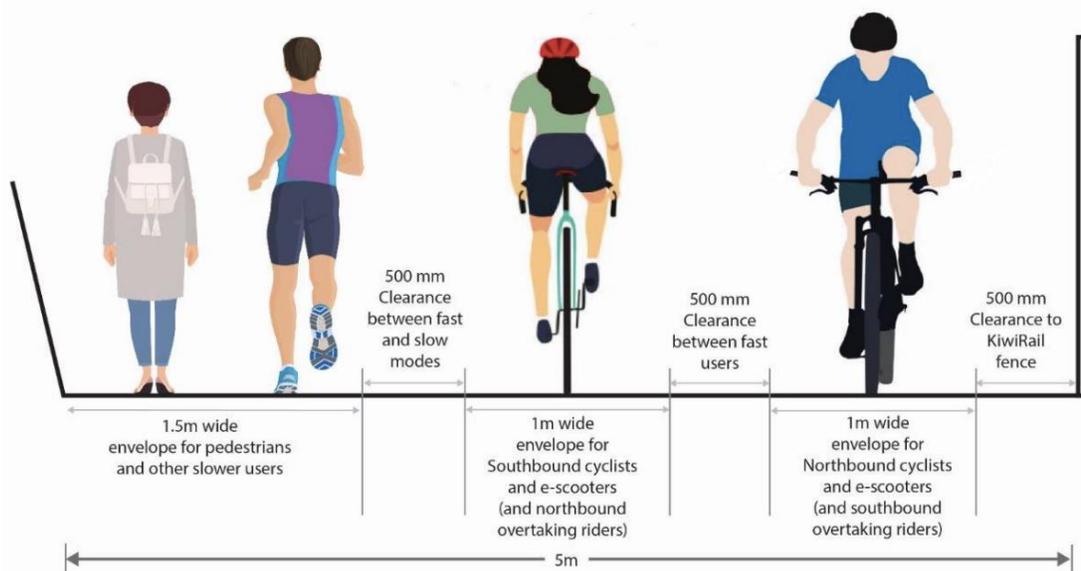


Figure 2.

42. Generation Zero agrees with the Applicant's design that includes rest spaces, adequate lighting, CCTV, fences and security measures. This could also include rain/sun shelters with bike parking, bike repair stations, e-bike charging facilities, and water fountains at both ends of the route.

<sup>16</sup> New Zealand Pedestrian Planning and Design Guide. <https://www.nzta.govt.nz/resources/pedestrian-planning-guide/>

43. We look forward to a detailed design that meets the accessibility needs of all users.