

Auckland Council
Finance and Performance Committee
By Email
18 July 2016

NORTH COTE
RESIDENTS'
ASSOCIATION

PO Box 36-386, Northcote, Auckland 0748



FREQUENTLY ASKED QUESTIONS

SkyPath

EXECUTIVE SUMMARY

Council's Finance and Performance Committee is scheduled to meet this coming Thursday July 21st, to consider and vote upon Council's underwrite of the SkyPath project, within the proposed context of a proposed PPP, which partnership is intended to enable the project.

Council's agenda for the meeting includes 130 pages of reports, all of which essentially and very firmly recommend that Councillors should vote in favour of the proposed underwrite and PPP.

This report seeks to bring Councillors attention to the basic issues that drive the proposed (or indeed any) underwrite proposition and the basics required for any successful PPP project.

For any underwrite to be manageable as to risk, and for any PPP to succeed, the following components of the proposal must be available at the time of financial commitment to it, at a very high level of certainty.

Patronage / Revenue

- The very well documented history of PPP failures world-wide, emphasises the direct correlation between over-optimistic patronage projections at the time of committing to such partnerships, and the failure of those ventures.
- Effectively, PPPs need guaranteed patronage to work and accordingly, they need guaranteed revenue to work.
- SkyPath has neither guaranteed patronage nor guaranteed revenue.
- SkyPath's patronage assessments are repeatedly described by Council as "*conservative*".
- That assurance is simply and very obviously not true.
- We request that you read this report's commentary regarding patronage, to see why.

Capital Cost

- If the capital cost of any PPP and underwritten venture is not known at high levels of certainty, both the PPP and its underwriter are at risk.

- If the omissions and unknowns in the proposed capital cost are significant, so is the underwriter's risk.
- We refer you to the following report's commentary regarding the many omissions and uncertainties that apply to the SkyPath's currently claimed capital cost.
- Although the developer's publicised capital cost of \$33M claims to include the cost of strengthening the Bridge to accommodate SkyPath's added structural loading, no reliance whatever should be placed in that assurance.
- That is to say, only NZTA can advise as to the cost required for Bridge strengthening but as yet, NZTA has not provided that advice and has formally confirmed that as yet, it cannot do so. NZTA's OIA response dated July 6th refers and is available upon request.

Operating Costs

- An essential ingredient to the cost / risk equation that drives all PPPs, is operating cost, the assessment of which must be reliably accurate.
- We refer you to this report's commentary on operating costs and contingent liabilities that are not included in Council's agenda data.
- That commentary explains why currently claimed operating costs (to the extent currently published) are seriously deficient.
- Unless those costs have been accounted for in the confidential data not revealed to us, SkyPath's currently claimed operating costs are deficient and accordingly, would expose the project's underwriter to very significant risk.

Operability

- Since SkyPath is a public facility which Council proposes to underwrite, assured safety of the public using the facility is required at a very high level of certainty.
- We refer you to the following report, which comments upon public safety issues, the current absence of basic safety planning for the venture and the liability consequences arising from the current status of the project's documentation and design.
- One of the assurances repeatedly provided in Council's agenda documents, is that NZTA will provide Council with its Licence to Occupy the Auckland Harbour Bridge.
- If that Licence does not materialise, SkyPath simply cannot be implemented.
- NZTA has confirmed that such Licence, if ever granted, could not be granted for approximately one year.

Public Opinion

- Although public support is not strictly necessary for Council's underwrite vote, public consultation on the proposed underwrite is, and that has not happened.
- It is also important that Councillors are not misled as to the level of opposition that exists regarding Council's stance on SkyPath.

- We freely acknowledge that for those who are not directly affected by SkyPath, and for those who know nothing about SkyPath's operational problems, and for those who find SkyPath's visual images and promises appealing, there is widespread support for Skypath.
- However, Council's Agenda reports seriously misrepresent the level of opposition that exists to SkyPath's implementation.
- We refer you to the sections in the following report that correct Council's reporting in this regard.
- In particular, Councillors should know that every community organisation, yachting club and residents' association directly affected by SkyPath, has formally notified the Environment Court of its opposition to SkyPath's implementation.
- Those organisations democratically represent more than 13,000 directly affected people and include RNZYS, WMUA, RYC, PCC, SMBA, HBRA, LSBPS, NPHPS and NRA.

Legality of Vote to Fund and Underwrite SkyPath

- We are advised that Council's intended vote to underwrite SkyPath, is contrary to Council's statutory obligations.
- We have made a legal submission to Council in this regard.
- We also hold considerable concern that ratepayers have not been advised that Council is expending considerable amounts of their rates supporting this private venture.
- Indeed, assurances to exactly the opposite effect have been publicly promoted by senior elected Council representatives, leaving the public incorrectly advised as to this issue.

This Report

- The body of this report follows, in a Question and Answer format.
- We trust the following material will clarify many issues that are overlooked in Council's Agenda reports, which reports could otherwise have been taken to inform Councillors regarding the current underwrite and PPP proposals.
- We bring Councillors attention to the "*Bike the Bridge*" video near the start of the report.
- That video shows exactly the patronage intensity currently approved by SkyPath's existing resource consent, and shows the patronage intensity required for Skypath's viability - **every summer weekend day** - permanently.
- That video helpfully explains in a simple but accurate way, why SkyPath's promised viability is unachievable.
- The video also illustrates and establishes the plain fact that SkyPath's currently approved patronage intensity could not possibly be accommodated at either of its landing sites in Northcote Point and Westhaven, or on SkyPath's pathway itself.

COUNCIL POLICY - Exposure to SkyPath Costs

Q1 *The Mayor has repeatedly stated and publicised the policy that if SkyPath cannot stand on its own feet financially and without burdening the City with costs, Council will not support it. Do those who object to SkyPath have any problem with that policy?*

A1 **No**, but we note that that policy and those criteria could never be met by SkyPath.

- Councillors are now being asked to underwrite SkyPath.
- SkyPath has been remorselessly promoted by its purportedly private developer, as a project that will be Auckland's most highly patronised venture in the first year of its operation, and one that will grow from that initial and instant position of pre eminence as a tourism and leisure attraction, at a rate that is two to six times faster than its obvious competitors. Council's patronage assessments show that SkyPath will be better patronised than the London Eye in its first year of operation and will enjoy more than twice London Eye's patronage in 20 years time.
- *"How bankable is that ?"* the promoters ask. Auckland Council's Governing Body of Councillors must now answer that question with their vote.
- Since there is no mention of doubt about the project's viability in the 130 page Agenda written in support of this vote by Council's overtly pro-SkyPath staff, the following paper sets out some of the many financial falsities upon which SkyPath's business case is based.
- Those falsities and Council's willing and lavish support of them, help to explain why ratepayers such as us, are facing rate increases this year, that are 60 times that of the nations residual inflation rate. Such outrageous outcomes never come about by chance.
- Usefully however, Council's agenda helps to explain the way such outcomes can happen and in Auckland's case, could continue to happen, and get worse.
- Auckland has been waiting 60 years for a viable pedestrian and cycling link across its harbour. This paper asks :
"Should Auckland Council build an unworkable, unsafe, short-term, white-elephant extravagance now, or would it be better to wait another few short years, to implement a safe and workable facility that achieved the same function SkyPath promises, but at no cost, safely and much better?"
- The viable option to SkyPath and the available solution to all of SkyPath's numerous unresolvable problems, can be readily delivered in conjunction with the Next Harbour Crossing. This paper briefly outlines how.

- Rather than being a fundamentally workable and safe proposition (as would be the on-bridge option described later in this paper), SkyPath is a short-term, inaccessible, grossly unsafe, multi-hundred million dollar extravagance whose only legacy will be certain financial and operational failure in the short term and in the long-term, will provide nothing better than the unnecessary trashing of two heritage and valuable suburbs, along with very considerable debt and liabilities to be met by the City's long-suffering ratepayers.
- And for what ? A purportedly private commercial tourism and leisure venture that is certain to fail financially, functionally and environmentally.
- The alternative solution we have been recommending for 3 ½ years, is certain to succeed financially, functionally and environmentally.
- The choice is : Very high risk / very high cost and unsafe VS no risk / no cost / safe and much better, but a short delay.
- So, what does Council's Governing Body prefer ? Gambling or Governance ? This is the sort of decision civic leaders always need to make properly, if the communities they represent are to thrive.
- It's your choice and you are asked to make it this Thursday, 21st July.
- All we ask is that you do so, but in an appropriately considered and properly informed manner.

Q2 *Do you have graphic material that illustrates the fundamental fatality in SkyPath's business case ?*

A2 **Yes**

- The linked ***Bike the Bridge*** video:
 - i. Illustrates the real-time effect of the patronage currently required for SkyPath's financial viability and the applicant's business case details we have been privy to.
 - ii. Shows exactly the patronage intensity intended on SkyPath and at Northcote Point **every summer weekend day**.
 - iii. Shows the patronage intensity currently approved by Council's current resource consent (namely 900 - 2000 patron uses per hour). The video shows the effects of approximately 1,300 patron uses per hour at Northcote, and approximately 2,000 uses per hour at Westhaven
 - iv. Proves beyond doubt, that SkyPath's currently approved patronage could not possibly be coped with either at its Northcote Point and Westhaven landing sites, or on the pathway itself.

- v. Rebut Council's 130 page Agenda recommendation to vote in support of SkyPath's PPP, because this video proves beyond doubt, that SkyPath's current business case will not and could not be achieved.
- This video can be accessed at :
<https://www.youtube.com/watch?v=OGUogEWJkII>

Q3 *Do you have graphic material that illustrates potential hazards regarding SkyPath's use and that indicate the likelihood of Council attracting contingent liabilities and negligence suits associated with SkyPath ?*

A3 **Yes.**

- One such link is entitled : ***Is SkyPath Safe*** -
<https://www.youtube.com/watch?v=5oW2iQef6Bg>
- This video illustrates the effects arising from inadequately considered crowd conduct, crowd panic, crowd management and crowd egress.
- These public safety hazards have been ignored by SkyPath's developer, its designers and its "expert" advisers, despite having been put on notice regarding them by NRA and other SkyPath commentators.
- Another related video titled ***Is SkyPath Safe - Cycling Accidents*** can be accessed at :
<https://www.youtube.com/watch?v=yNvnfgC-vck>

PPP PROPOSAL

Q4 *Do you consider the proposed SkyPath PPP proposal to be fatally flawed ?*

A4 **Yes.**

- All failed PPP ventures world-wide, had / have exactly the same flaws as SkyPath's proposed PPP, namely:
 - i. They all had over-pumped patronage assessments.
 - ii. They all had underwrite arrangements with publicly funded organisations, such as councils and governments.
 - iii. They were all funded by citizens who were uninformed of the liabilities they were unwittingly funding.
 - iv. Most, like SkyPath, had incomplete, unaudited, incorrect and misleading capital and running cost estimates, at the time the PPPs were entered into.
- All PPPs that do not have guaranteed or realistically established patronage, consistently fail.

- SP certainly does not have guaranteed patronage or revenue, as all 13 of its invited funders agreed.
- The gross over-pumping of SkyPath's patronage assessments, are explained and set out later in this paper.
- Where patronage is guaranteed, PPPs can work very well. Funding the Next Harbour Crossing via a PPP for instance, could be successfully implemented, because its patronage would be guaranteed and readily assessable as to quantum.
- Some widely publicised PPP failures were so large, as to cause even governments to be put under extreme pressure.
- Effective PPPs also require that the facility's management (which is characteristically assigned to the PPP) be undertaken by organisations with known expertise in the specialist areas under their management.
- In SkyPath's case and as the terms of its resource consent confirms, such management was to be assigned to the developer / Trust, which has no discernable track record, experience and expertise of having previously managed major tourism and infrastructure development, as its abundant planning and design inadequacies show beyond doubt.
- The Trust's track record includes having had a fraudster as one of its founding Trustees. That person has since been jailed for, amongst other things, defrauding Auckland Council - the same Council the Trust / developer wishes and needs to underwrite SkyPath.
- The Trust's track record includes its achievement of gaining *Charitable Trust* status, while one of its Trustees was knowingly defrauding Auckland Council.
- The Trust's track record also includes gaining widespread political support on the basis of layer upon layer of false assurances, and its habituation to releasing unfactual and misleading publicity.

Council's Cost Exposure via its Intended Underwrite

Q5 Council has repeatedly claimed that it is not exposed to any significant risk or financial exposure by its intended underwrite of SkyPath. Are you concerned about this assurance ?

A5 Yes

- Were Council to vote to support SkyPath's underwrite on July 21st, as is currently intended, it would be committing itself to the underwrite of a project regarding which none of the basics (capital cost, running costs, revenue, operability) are resolved, even in approximate terms.
- Nor can they be, until such time as NZTA completes its assessment process. That is likely to be approximately one year away, with reference to NZTA's advice. The cost

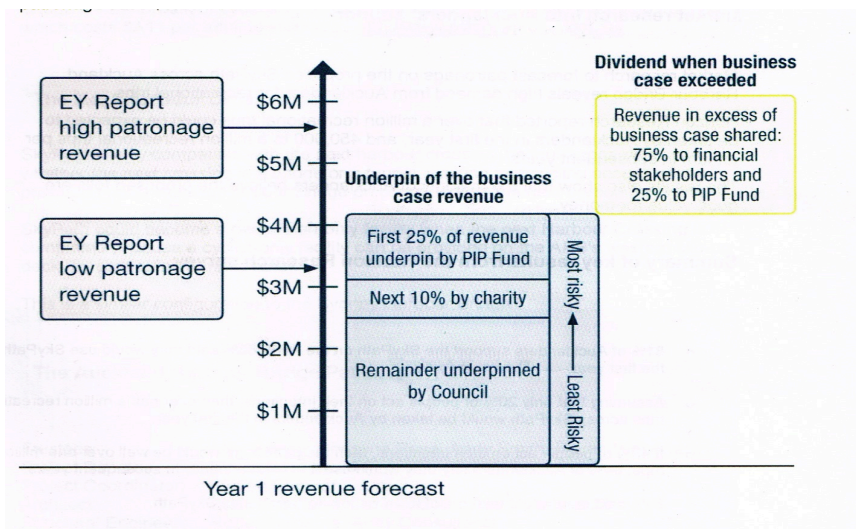
consequences arising from the completion of that evaluation are expected to be very significant indeed, but are currently and wholly unknown.

- The basis of Council’s claim that its risk is small, has to date been reliant upon the developer’s published claims regarding the underwrite structure, the patronage assessments Council paid for, and the developer’s cost claims.
- We hold analyses and data that satisfy us that all those cost components are currently and grossly incorrect, as particularised elsewhere in this paper.
- Our capital cost assessments are necessarily based on approximations and anecdotal evidence. However what we can say with certainty, is that Council’s OIA responses regarding its current exposure to SkyPath’s costs are both seriously misleading and also, omit very significant costs Council has contributed to the project’s implementation to date.
- Our capital and running cost assessments include a large range of significant cost elements generated solely by and for SkyPath, which Council has evidently not accounted for as such, or as yet.
- Our patronage assessments have been assessed thoroughly and have been scrutinised by experts, who confirm their validity. Those assessments characterise Council’s patronage assessments as grossly over-pumped.

Council’s Share of Underwrite Risk

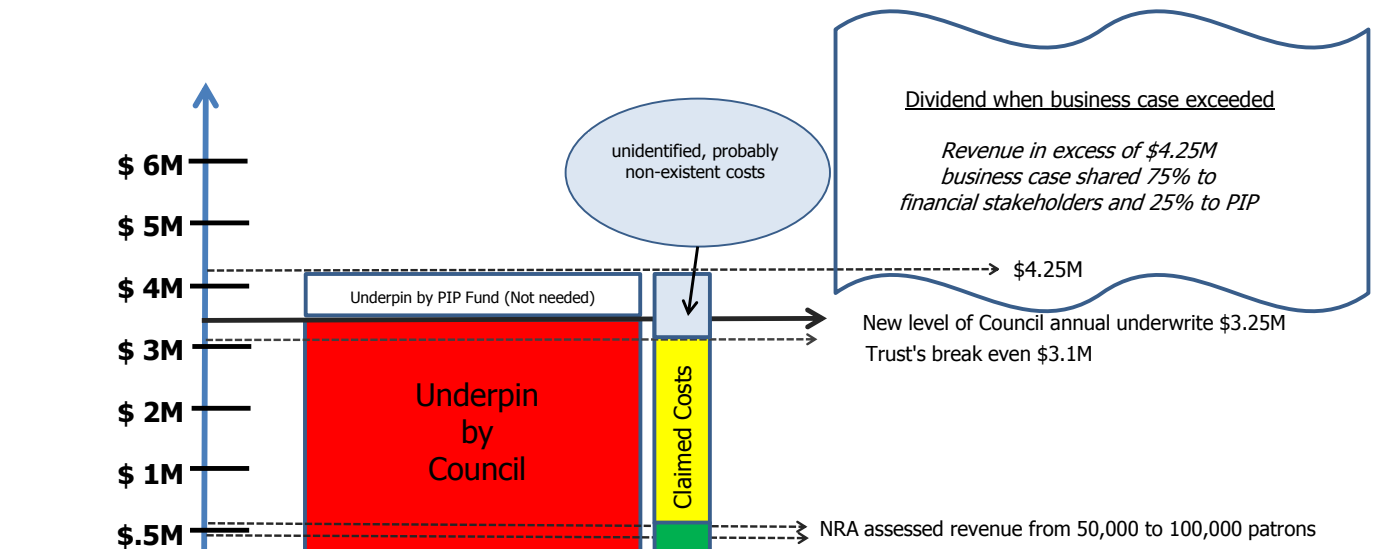
Q6 You say that the underwrite arrangement sought by the developer, leaves Council with all the risk, and leaves the developer’s financier with none of the risk.

A6 **Correct.**



Underwrite Graphic showing risk / benefit split - S & F Committee report February 2013

- The above graphic depicts the project's break-even point and proposed risk / profit split, as explained at the Strategy and Finance Report 26 February 2013.
- The claimed break-even point is shown at approximately \$4.2M, (approximately 820,000 patronage) which is approximately the Year 1 projected patronage at the time (and still is, very approximately), with profit-split above that break-even point.
- The graphic claims that the developer's financier takes the "riskiest risk" in the development and that Council's risk is effectively non-existent, because its level of underpin is well below the threshold of SkyPath's assessed low patronage and revenue.
- Later disclosures and negotiations show what appear to be the real intentions behind the proposed underwrite.



Graphic depicting later discovered and likely underwrite consequences

- This graphic shows that the previously claimed break-even point (\$4.2M) was evidently false, because the Trust's operational break-even point was later claimed by the Trust to be 600,000 patrons, or \$3.1M, not \$4.2M or 820,000 patrons. The North Shore Times article April 23rd, 2013 refers.
- In the meantime, Council had reportedly been convinced to move its underpin threshold up from \$2.5M to \$3.25 M, to coincide with the "low patronage revenue" assessment.
- The prevailing promise, was that Council's underwrite was still a "low-risk" underwrite, because the "low patronage" assessment was the lowest envisaged by the patronage assessors.

- However, when account is taken of the Trust's declared opex assessment of \$3.1M, this arrangement would leave Council to meet all the patronage shortfall risk, since the level of underwrite it agreed to, exceeds the Trust's (above-declared) break-even point by \$150K.
- This graphic also shows the effects of NRA's patronage expectations, which are based on weighted patronage assessments, assessed against the known performance of SkyPath's competitors and peer reviewed by experts, who agreed with NRA's assessment methodology and outcomes.
- On the basis of NRA's patronage assessment, Council's top-up requirement per annum would be \$2.734M to \$2.992M, derived from patronage ranging from 50,000 to 100,000 patron uses, which provide revenue ranging from \$0.258M to \$0.516M.
- The arrangement leaves the financier with no risk, and its full, unaudited revenue.
- The financier's stated and required interest charge-rate (nominated at 8% PA) is probably more than twice the interest rate at which Council can gain finance
- The financier obviously did a very good job of shielding its investors from exposure, and could be expected to be well pleased with this underwrite arrangement.
- The question following all that however is :
"What happens if the project's capex grossly exceeds the \$33M currently claimed ?"
- The answer, is that Council's cost exposure would worsen accordingly, and significantly.
- In essence and in summary :
 - It appears that the public explanation of the proposed underwrite is meaningless, because it is based on grossly incorrect and unsubstantiated statistics and assurances.*
 - Absent of realistic patronage revenue, realistic and validated capex and realistic, duly validated opex provisions, the underwrite structure and its consequential exposures remain unknown and accordingly, should not be committed to by council, until such time as these fundamentals are corrected and properly validated as highly reliable.*

Capital Cost (Capex) estimates

Q7 Do you consider the developer's cost estimates to be reliable ?

A7 **No.**

- The developer's / Trust's costs have hovered between \$28M to \$33M for the past three years, regardless of what facilities the proposal included or not and regardless of whether its construction was exotic fibre construction or aluminium.
- The above-referred and very disparate construction methodologies are rarely

equivalent as to capital cost.

- Exotic and carbon fibre costs are well known to be double to three times the cost of aluminium construction.
- The re-use of moulds for repeated componentry in the SkyPath construction is expected to result in some production economies but even so, the cost of the currently proposed carbon fibre construction will be very considerably more than the previously proposed aluminium construction.
- The developer claims that its estimated construction cost of \$33M includes the cost of Bridge strengthening. That claim is not credible.
- Nobody - including the applicant - yet admits to knowing what bridge strengthening costs will be, or even if that work is physically capable of implementation.
- The developer's costs omit pathway drainage and stormwater reticulation.
- That would thicken the pathway slab and would significantly complicate the SkyPath build and add to its weight (i.e. its dead load), which would need to be accounted for structurally, but has not as yet, to our knowledge.
- That in turn, could be expected to significantly increase the pathway construction cost.
- The developer's proposal excludes commercial toilet blocks required by the New Zealand Building Code. That will increase costs.
- The developer's proposal excludes noise and visual barriers near residences. Such barriers are expensive and would need to be extensive.
- The developer's costs exclude any carparking and bus manoeuvring areas which when installed, will not be free.
- The developer's costs do not account for the *AT Safe Cycle Route*, a necessary cost add-on required to service SkyPath's patrons, in whatever form it finally takes.
- *AT's Safe Cycle Route* has so far doubled in cost, from \$4M to \$8M, yet it is still no more than a very preliminary design proposal.
- The developer's costs ignore the necessary add-on cost of SeaPath, which is variously estimated by NZTA to range from \$33M to \$87M. The \$87M proposal is the only one that appears to be practicable and operable.
- Accommodation for emergency facilities and staff are currently ill-defined and accordingly, so are the cost provisions for them.
- If all the above costs were accounted for as SkyPath costs, as they should be, then they would attract interest on the added debt. At Morrison's interest charge of 8%, that would approximately double the above-added capex blowout, over the 25-year term of the project's viability assessments to date.
- Cumulatively, SkyPath's real costs are evidently heading to the multi-hundred million-

dollar mark, not merely the \$33M cost claimed to date.

- The developer's cost estimates have not been available for independent review, but need to be, since those costs represent public financial exposure, via the proposed SkyPath underwrite.
- NRA sought costings for its quantity surveyors' review three years ago, but has received nothing since.

Cost-in-use (Opex) Estimates

Q8 Do you consider the developer's cost-in-use estimates to be reliable ?

A8 No.

- The developer's reported operating costs allow for just two security personnel. Presumably one for each side of the facility.
- The *Bike the Bridge* event had two wardens every 25m on the bridge, to manage exactly the crowd density the Trust proposes and currently has consent for.
- That event had hundreds of wardens, all as assessed to be necessary, for the safety of the same crowd patronage currently consented and required for SkyPath's financial viability **every summer weekend day**.
- The Whangamata Beach Hop uses 200 wardens to guide just 1000 cars parading slowly through that township in the middle of the day.
- Accommodation of real opex provision, is expected to significantly alter the developer's claimed opex costs and accordingly, will significantly affect council's exposure, via its underwrite.

Council's Contingent Liabilities

Q9 Are you satisfied that Council has been adequately apprised of its contingent liabilities regarding SkyPath?

A9 No

- One such cost exposure, is the liability that Council would attract in the event of serious injuries or fatalities.
- Such liabilities could be expected to arise as a consequence of Council being an active promoter and partner of a facility, which is comprehensively non-compliant with Council's regulations that assure user safety.
- Under those circumstances, Council would likely be claimed to be negligently culpable, since Council has already been put on formal notice regarding such public safety hazards, and SkyPath's failure to deal with them.
- SkyPath's pathway design for instance, is grossly at variance with the applicable rules that govern pathway safety, in every respect. That position may prove to be

indefensible, in the event of negligence suits following accidents and possible fatalities.

- Another issue is whether SkyPath can withstand collision from standing rigging of large yachts and the superstructure of ships.
- The applicant's engineers have undertaken to provide proof of whether or not the SkyPath can deal with such eventualities, but has yet to do so.
- What we can say however, is that carbon fibre structures tend to shatter under impact and that the SkyPath pathway would be most unlikely to withstand impact from heavy vessels colliding into it at speed.
- Such collisions are frequent, as NRA has advised and proven.
- Ruptures in the pathway at such impact sites, could well leave patrons prone to falling through the pathway, onto the vessel that caused such rupture. The likelihood of injury in such event would be high. The likelihood of fatalities should not be dismissed.
- SkyPath's egress arrangements are grossly deficient in our view and also in our view, are unlikely to gain consent from the NZ Police and NZ Fire Service. Accidents or fatalities arising from inadequate egress arrangements, are likely to attract negligence claims against Council.
- We also refer Councillors to the videos noted at the beginning of this paper, regarding Council's exposure to major public safety issues (and therefore liability) arising from the crowds that SkyPath's current resource consent permits; regarding which no management plans exist or in reality could cope with, even were they to exist.

CONDUCT - of Council's vote

Legality of vote

Q10 Do you hold concern about the legality of Council's financing and underwrite of the SkyPath proposal ?

A10 Yes.

- SkyPath's underwrite is not included in Council's 10 Year Long Term Plan, as required by statute for all such Council investments.
- We have made a legal submission to Council on this topic.
- If SkyPath is not included in Council's 10-year plan, as appears to be the case, an amendment to that Plan would appear to be required.
- It would appear that Council would need to remedy the above-referred problem, before such time as it could legally vote to provide money to the developer and

before such time as Council could legally vote in support of the underwrite sought by SkyPath's financier.

- Such a process requires consultation with the community.
- Such consultation would take considerable time.
- To our knowledge, Council has not consulted thoroughly or otherwise on its proposed underwrite, nor provided opportunity for public and independent scrutiny of the contract documents.
- Council could not argue that its "*consultation*" has in any way related to its underwriting intention, because it plainly never has.
- If Council undertakes the proposed vote in support of its underwrite for SkyPath on July 21st, then serious consideration would be given to our seeking a Judicial Review of such decision.
- That would put the propriety of the above-referred process and vote under thorough scrutiny.

Council's Underwrite

Q11 *Do you consider Council's proposed underwrite vote to be appropriate?*

A11 **No.**

- Virtually any finance company and many individuals including most of our supporters, could readily raise the finance required for SkyPath, with the assured and full Council underwrite that is currently on offer to the developers' financier.
- Council's recently publicised project mismanagement and this project's mismanagement gives us no confidence in this Council's ability to undertake such negotiations either in the interests of its ratepayers or under confidentiality.
- Scrutiny is also required in our view, regarding underwrite negotiations being undertaken with just one party.
- Similar questions apply to the fact that the contractor has reportedly already been appointed, absent of tendering.
- In the three years we have been engaged with SkyPath, we have been forced to squander thousands of hours and millions of dollars attempting to get SkyPath's problems resolved, yet we are still spending time on issues that most proposals are required to have fully resolved in the first weeks of their planning. And we still have a long way to go.
- We consider that we have a statutory entitlement to be informed of what is being imposed upon us by Council's intended underwrite and ongoing financing of this purportedly private venture and its purportedly private financier.

- That is particularly so, since Council is extremely prone to major cost exposure and very significant contingent liabilities arising from many aspects of the SP proposal.

Confidentiality

Q12 *Are you concerned about the confidentiality under which Council's vote for financial support is being conducted ?*

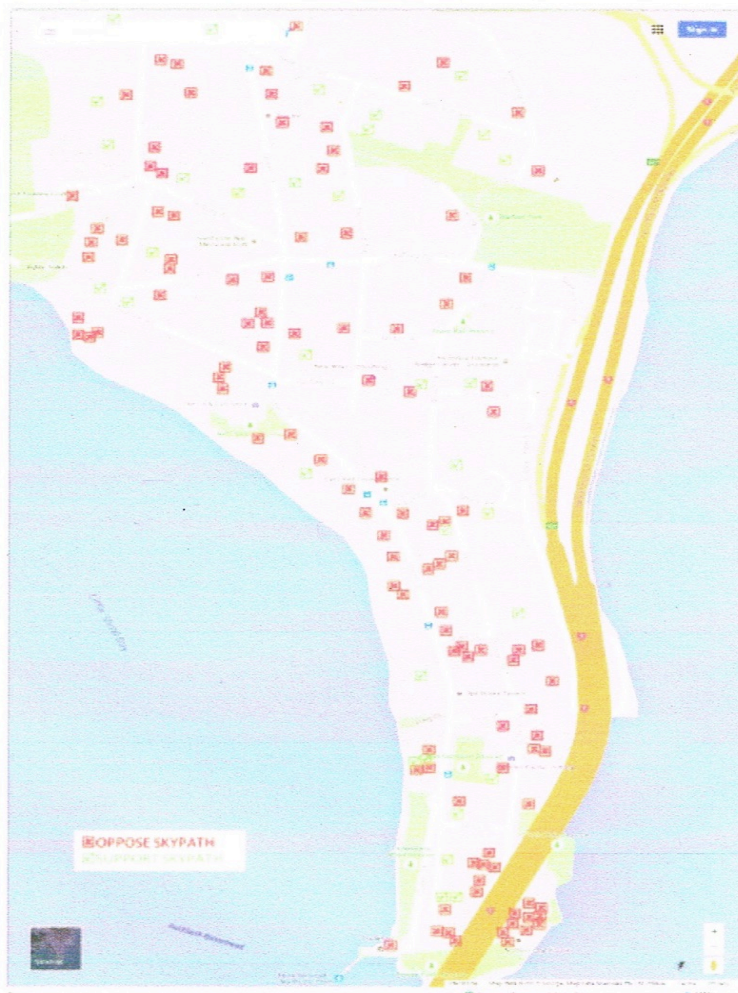
A12 **Yes.**

- Reviewing and voting on the intended underwrite and further financial top-ups under confidentiality is unacceptable in our view, because Auckland's ratepayers in general and the communities most affected by SkyPath in particular, would be left with no idea of and no influence over Council's undertakings, or the contingent liabilities attracted by the proposed underwrite under such an arrangement.
- Absent of Council's confidential data, we hold concern that Councillors may be misinformed or worse, regarding the project's facts.
- Many disinformative statements appear in the non-confidential Agenda, where it can be scrutinised, so how much else is included within the body of confidential data, is unknown and is of concern.
- For instance, in the (non-confidential) agenda for the May 26th meeting, Marguerite Pearson's report on Council's behalf, claims that the Next Harbour Crossing, if proceeded with, will be completed in the 2035 - 2045 decade.
- However, NZTA has unequivocally advised previously, that the Next Harbour Crossing **must** be completed by 2030, with reference to the vehicular loading the AHB can sustain.
- Government is committed to advancing the next harbour crossing as quickly as is practicable. Its publicity suggests completion dates as early as 2023 - 2025
- It would appear that Ms. Pearson's report unilaterally extended the sustainable life of the AHB and SkyPath, by something in the order of 15 to 22 years. Meanwhile, NZTA has restricted heavy traffic on the AHB five years early.
- If consented, SkyPath would unlikely be available for commissioning until 2019 (not this Xmas, as publicised recently by SkyPath's developer).
- On the above basis, SkyPath's likely operable period, if consented, is evidently likely to be approximately 4 - 11 years, not approximately 16 - 26 years, as Ms Pearson's report implied.
- We get a bit miffed when SkyPath's support versus opposition is reported in a skewed manner. For instance, Gen Zero's 11,000+, 30- second clicked votes were

all counted as support votes, yet when 2000 Northcote residents signed a petition in opposition to AT's so-called Northcote Safe Cycle Route, they were counted as one vote in opposition to the proposal.

- It was later found that many of Gen Zero's clicked supporters not only came from around the world, many didn't even know they had voted in support of SkyPath.
- Formal opposition to SkyPath has been notified and supplied to the Court, on behalf of every community organisation that is directly affected by SkyPath. Those organisations democratically represent more than 13,000 directly affected people and all have direct interests in close proximity to SkyPath's landings.
- The groups that formally object to SkyPath and who support NRA's legal objections to it are: Royal New Zealand Yacht Squadron, Westhaven Marina Users' Association, Richmond Yacht Club, Ponsonby Cruising Club, St Marys Bay Association, Herne Bay Residents' Association, Little Shoal Bay Protection Society, Northcote Point Heritage Protection Society and Northcote Residents' Association.
- Paragraph 18 of report 1 in the agenda for this Thursday's meeting states, *"in terms of individual submissions located close to the landing plazas, there was overall support for the project"*. The following was produced as evidence at the resource consent hearing and disproves the above-referred statement. The red squares are objectors. The green squares supporters.

SKYPATH SUMMARY OF SUBMISSIONS RECEIVED – NORTHCOTE POINT



Timing and Conduct of Council's Vote

Q13 Do you have concerns about the timing and conduct of Council's vote ?

A13 Yes

- We question how any Council could approve an underwrite for any proposal, purportedly private or otherwise, without firstly knowing what that proposal would cost (capex), and without also knowing its real revenue or its properly established operational (opex) costs.
- Neither Council nor anyone else currently knows at least one capex cost namely, the cost to strengthen the Bridge. Only NZTA can provide that cost and as yet, NZTA does not know that cost, nor even if that work can be implemented. Other capex cost omissions have been outlined previously.
- SkyPath's revenue is reliant upon patronage assessments that are not credible and obviously so, as outlined layer in this report.
- Absent opex allowances referred to earlier are significant and will not include every omission that needs to be accounted for, before the project's opex allowance could be claimed to be properly established.
- The Councillors voting on Council's forward cost exposure to SkyPath, may well be displaced by the electorate very shortly. That being so, it seems less than appropriate to burden future Council administrations with a project that has the high likelihood of delivering very significant future financial burdens and liabilities.
- Since many who know of SkyPath's problems (such as those groups that oppose it) consider that the Trust's and Council's management of the Sky path project to be akin to a Nigerian scam, such a vote may not be as well received as the developer's all pervasive, Council-funded PR would suggest.
- Had SkyPath been processed as the Council-funded project it actually is, it would not have been processed via the resource process but rather, by the *Notice of Requirement* process.
- That would have required appropriate consideration of the alternative approach we have been suggesting for 3 ½ years. That approach is outlined in the last section of this report.
- It is tempting to conclude that the timing of Council's underwrite vote, is an orchestrated attempt to provide the sitting Mayor with a legacy project - a legacy which, if it proceeds, is expected to achieve little more than adding significantly to Council's current and serious fiscal problems.

Consultation

Q14 *Do you consider that those who disagree with SkyPath have had equitable opportunity to be heard by Council ?*

A14 **No.**

- For literally years, Council has repeatedly provided the developer with extensive opportunities to put its case to Council's decision makers, while actively blocking objectors to the proposal, to do likewise.
- Council staff - whose support for SkyPath has been overwhelming - reportedly conducted a two-hour workshop with Council's Governing Body in favour of the SkyPath proposal and underwrite vote, the day prior to that Body's scheduled decision regarding Council's on-going financial commitment to and underwrite of the SkyPath proposal (on May 25th).
- We were then and are now allocated just five minutes, and had our original booking for this presentation postponed every month since last August, when the meeting was originally scheduled to take place.
- While our appearance before Council was progressively postponed, Council provided a \$450K top-up to the Trust, reportedly absent of appropriate accounting-line authority and evidently, in non-compliance with Council's statutory obligations.
- We, the people most affected by SkyPath, and the people who have spent the time necessary to understand the problems with it; sought a similar opportunity and 2-hour time allocation, to adequately acquaint the Governing Body with SkyPath's issues. That opportunity was refused.
- We trust that at least this data will be reviewed by Council's voting Councillors. After all, we had to sit through hours of repeated sales pitches from the Trust and its Council-paid partners and consultants, as part of the penance we were forced to pay, for joining Council's *SkyPath Working Group*.

Council's SkyPath Working Group

Q15 *Council has consulted with you via your involvement with the SP working group, has it not ?*

A15 **No.**

- Council's so-called "*SkyPath Working Group*" which objectors joined, was a Council-managed hoax, as the following explains.
- The *SkyPath Working Group*, was a forum in which we were subjected to orchestrated hours of repeated sales pitches from Council and its Council-funded advisers.
- We had already heard all those sales pitches, had already analysed them and had already found them to be grossly inaccurate and misleading.

- The only potentially positive outcome of our involvement with the *SkyPath Working Group*, was our production of the Council-accepted *Issues Register*, which identified 83 problematic issues with SkyPath, that had not been adequately resolved.
- Council and the Trust subsequently resolved none of those 83 issues, and in the two years since its release, did not pursue the resolution of those issues and did not consult with us at all regarding them.
- Instead of that, the applicant stripped out our commentary from the Register (without authority to do so) and presented it as “*evidence*” at the resource consent hearing.
- We subsequently became aware of the fact that that tactic successfully deceived a number of SkyPath’s supporters.

PATRONAGE

Q16 *Do SkyPath appellants know much about SkyPath’s likely patronage ?*

A16 **Yes. A lot.**

- Council’s patronage assessments are consistently and repeatedly referred to by Council and the developer as “*conservative*”. Those assessments claim that SkyPath will achieve the highest patronage of any Auckland attraction in its first year of operation and that it will grow at an averaged rate of 13.1% per annum over the first five years and 8.6% per annum, over its first 20 years of its operation. Table 1 at s3.2.2 of Council’s July agenda refers.
- Those patronage assessments claim that SkyPath could achieve up to 14,447 trips per day, every day of the year, in Year 5. Table 3 at s3.2.4 of Council’s July agenda refers.
- The averaged crowd at Eden Park each year, is between 13,000 to 18,000, depending on what is happening in the year.
- So, are these patronage assessments genuinely “*Conservative*” as claimed repeatedly by Council? We don’t think so. Council’s patronage assessments are grossly over-pumped and obviously so.
- NRA undertook an extensive 100+ page patronage assessment and provided it to Council more than 3 years ago.
- Our patronage assessments were drawn from weighted (and declared) comparisons with the known and recorded performance of SP’s known competitors.
- Council’s patronage assessments were generated from polled questions that posed blue-skies propositions put to people who had no idea either of SkyPath’s proposal, or its problems.
- The difference between the two assessments is essentially the difference between reality and blue-skies promises.

- Despite the fact that our assessment was comprehensive and its results validated by experts, Council never even acknowledged its existence and to our knowledge, completely ignored and buried it.

Q17 How did the results of NRA's patronage assessment compare with Council's ?

A17 NRA's patronage assessments produced patronage outcomes that were consistently and approximately 10% of Council's.

- The *tourism and visitor* component of SkyPath's market is claimed to account for 87.5% of SkyPath's peak patronage (which lasts all summer) but speciously so.
- The claimed patronage drawn from that allegedly huge market also generates all of SkyPath's problems, significantly including its financial viability problems, in the high likelihood that it fails to achieve the enormous popularity claimed by the patronage assessment; as common sense and our assessments confirm.
- Council's patronage split also confirms that SkyPath is not a significant transportation facility but rather, is primarily a *tourism and leisure* facility.
- The applicant's resource consent arguments do not acknowledge this awkward reality. Nor does its planning, which would work well enough for a patronage-starved neighbourhood pedestrian pathway, but fails comprehensively as a major tourism attraction.

Q18 Are you able to provide a summary of NRA's patronage assessments, compared with Council's ?

A18 The following summarises the comparative findings.

- Council's results claim that, at Year 1 of its operation, SkyPath will be more popular than the London Eye and more than twice as popular as the London Eye by Year 20.
- Council's results claim that SkyPath will be 25% more popular than the Waiheke ferries (including Waiheke's commuters), 60% more popular than SkyTower and 100% more popular than Milford Sounds.
- SP is inaccessible, has no parking, is unsuited to the fitness level of many tourists and is exposed to the weather. Accordingly and for about 1/3 of the year, SkyPath will be too hot, too cold or too windy or too wet to be well patronised as a tourism attraction. Apart from being a comparatively mediocre tourism attraction, it is also too narrow, too cramped and continuously too steep to be safe. These issues impact directly upon SkyPath's patronage and accordingly, they also impact seriously upon its real financial viability.

- None of SkyPath's obvious competitors suffer any of the above-referred disadvantages, yet Council claims that SkyPath beats the lot of them, and will grow at three to four times the growth rate enjoyed by all those competitors.
- Most of SkyPath's obvious competitors enjoy marked patronage increases in inclement weather. SkyPath's tourism and leisure patronage will collapse in bad weather.
- Council's results also claim that as a mature facility, SkyPath will be three times as popular as the Sydney Harbour Bridge on a per-capita basis, yet Sydney's pathways are safely separated, flat, free, link with high density areas on both sides, and are handy to World famous tourism attractions at both ends of the pathway. SkyPath enjoys none of those advantages.
- Accounting for SP's comparative disadvantages, we consider that SP will be approximately 1/3 as popular as the Sydney Bridge's pathways on a per-capita basis, not three times as popular. That represents a nine-fold difference, which is consistent with all the results our patronage assessments confirm.
- Council claims its patronage results are "*conservative*" or in other words, *under-estimated*. Plainly, the reverse is true.
- NRA, WMUA and SMBA and our peer reviewers consider Council's patronage assessments to be grossly over-pumped, for the apparent purposes of falsely claiming that SP is financially self-supporting, and to gain Council's underwrite.
- We consider that SkyPath's real patronage will be akin to the Pink Pathway at best, not the London Eye.
- NRA's results tally with observable reality and are fully reviewable. Council's do not and are not.

Q19 Are you alone in thinking that SP's patronage assessments are over-estimated ?

*A19 **No.***

- Reports available in 2013 when we first saw SP's details, showed that AT, NZTA and Ernst Young all considered that SP's patronage assessments were over-estimated.
- NRA's assessments were reviewed by both an experienced and respected auditor and by a very high profile statistician, both of whom agreed with our patronage assessments.

Q20 What is the effect of NZTA's patronage limitations for SkyPath ?

A20 NZTA's previous patronage restrictions delivered approximately 23.5% of SkyPath's currently consented peak patronage, which would collapse SkyPath's business case.

- The agenda for the July 21st meeting included the advice that NZTA's patronage restrictions are "*unlikely to impact on patronage revenue*". Attachment A, Business Report, p8, para 2 refers.
- Rather than that outcome however, the effect of NZTA's patronage restrictions, is to reduce patronage throughput from 2000 people per hour to approximately 470 people per hour. That could be expected to collapse SkyPath's business case. That in turn, is expected to have profound effects upon Council's underwrite exposure.
- NZTA's patronage limitations were on a downward sliding scale, to account for the progressively increasing weight of trucks carried by the Bridge.
- Council's patronage projections claim the reverse to be so. However, NZTA's patronage limitations prevent Council's projections from being achieved.
- NZTA's previous patronage limitations approximately halved over the first 20 Year period of SkyPath's operation. Council's patronage projections more than doubled over the same period.
- NZTA's previous patronage limitations started at approximately 600 people at any one time at the outset, and reduced to 350 people at any one time by Year 20 (or approximately 470 people per hour).
- SkyPath's consented user rate varies from 900 people per hour (Year 1) to 2000 people per hour (Year 20).
- Council's projected patronage every summer weekend day, all summer, is between 22,000 and 24,000 patrons by Year 20, whereas NZTA's patronage limit at that time, dictates maximum daily patronage of approximately 5,000 - 5,500.

NIMBY Allegation

Q21 *NRA and the other appellants have been described as NIMBYs. Are they?*

A21 ***Yes and No***

- **Yes**, to the extent that the applicant intends imposing its facility and patronage upon our backyards and neighbourhoods without any regard for either our neighbourhoods or Council's applicable planning regulations regarding zoning, parking, permitted use, amenity and environmental protection.
- Council's regulations purport to provide for Northcote Point's heritage protection and also purport to prevent such facilities as major tourism and commercial facilities located within the neighbourhood.
- It should be noted that the above issues are currently being dealt with by the Environment Court.

- **No**, with regard to the fact that directly affected associations and organisation that object to SkyPath account for well more than 13,000 people. 13,000 NIMBYs is by definition, an impossible proposition.
- Every Association and every organisation directly affected by SkyPath, has formally agreed with NRA's and HBRA's objection to SkyPath and our shared legal strategy.
- That grouping includes the RNZYS, WMUA, PCC, RYC, SMBA, HBRA, LSBPS, NPHPS, NPAG and NRA.
- Those Associations and organisations democratically represent well in excess of 13,000 people.
- **Every** group, club and Residents' Association directly affected by SkyPath, formally objects to it, despite the fact that Council's agenda documents claim the reverse is true.

Q22 *Is NRA against the idea of people being able to get across the Harbour on foot or cycle ?*

A22 **No.**

- NRA, all its co-appellants and all its associated objectors fully support the idea of getting across the Harbour on foot or cycle.
- That is why NRA suggested 3 ½ years ago, the means by which the same purpose SkyPath incorrectly claims to achieve, could be achieved, but properly.
- Our proposal achieves the same purposes as SkyPath, but does so in a manner that is readily accessible, highly functional, very cost effective, environmentally friendly, properly managed, in a form that provides safely separated pedestrian and cycle paths and in a way that does not impose upon or wreck any existing suburb.
- Put simply, our proposal works, whereas SkyPath does not and never could.

Our proposal

- Had Council treated SkyPath as the publicly funded proposal it is, its consenting process would have been the *Notice of Requirement* process, not the *Resource Consent* process.
- Had that been duly recognised, as would have happened had the reality of SkyPath's funding not been obfuscated, Council's "*independent regulatory arm*" would have been required to evaluate available alternative proposals, such as ours. The fact that that did not happen, raises serious doubt as to the required impartiality of Council's "*independent regulatory arm*" - doubt that was alarmingly added to throughout the resource consent process.

- Our proposal arises from and is linked to the implementation of the Next Harbour crossing, and is explained following :
 - As NZTA has confirmed, the Next Harbour Crossing will generate four redundant lanes on the existing Bridge.
 - That in turn, would readily allow two **safely separated** cyclist and pedestrian lanes on the bridge, in less than the full width required for vehicles, at no capital cost to the City and managed by people who know how to manage the Country's state highways - NZTA.
 - The remaining two+ lanes could be utilised by NZTA as bus or other express lanes.
 - If SkyPath is to become the city's most heavily patronised attraction, as repeatedly claimed and as financially relied upon by Auckland Council - on the basis of no credible evidence whatsoever - then the very large and necessary carparks for this tourism and leisure venture would be located on the hectares of available land at the head of Big Shoal Bay to the North and at the Northern end of Victoria Park to the South. These sites link directly to all the city's existing transportation services and infrastructure.
 - The facility would then be readily accessible to anyone either living in or visiting the city - by car, bus, taxi, tourism coach, cycle or foot.
 - Access to the facility would be easily and sensibly achieved, without wrecking any existing suburb.
 - The only costs attracted by this proposal, are carparking, bus parking and taxi stands - as required for all major tourism and leisure facilities - together with all the normal and attendant facilities required for major tourism and leisure facilities namely :
 - Toilets, ticketing, management, wardens, and emergency staff, complete with:
 - Emergency vehicles, emergency equipment and emergency facilities.
 - This alternative solution, which we have been recommending for 3 ½ years, is certain to succeed financially, functionally and environmentally.

The SkyPath problems solved by our proposal

- SkyPath is inaccessible, too cramped, palpably dangerous, and is mediocre at best as a tourism attraction, by comparison with its obvious competitors.
- SkyPath is a short-term, inaccessible, multi-hundred million dollar proposal which unnecessarily trashes two heritage and valuable suburbs.
- The SkyPath development and its designers have failed to recognise and accommodate any of the basic facilities that are necessarily and always needed for major tourism and leisure facilities.

SkyPath in context

- Since 87.5% of its peak patronage comes from tourism and leisure patronage, SkyPath is essentially a commercial tourism and leisure venture - not an “*essential*” transportation venture.
- As a transportation venture, SkyPath’s significance is minimal, accounting for fewer commuters in a year, than the Auckland Harbour Bridge caters for in a day - even at SkyPath’s grossly over-pumped patronage projections.
- SkyPath’s primary failure, is that it fails to recognise or accommodate what it claims to be namely - a very significant tourism and leisure facility.
- To be clear, we are against SkyPath because, as our extensive pleadings have explained, we consider SkyPath fails comprehensively - financially, functionally and environmentally.



Kevin Clarke

Chair, NRA Inc. SkyPath Appeal Committee