

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER

of the Resource Management Act
1991 (RMA)

AND

IN THE MATTER

of a direct referral application under
section 87G of the RMA for resource
consents for the necessary
infrastructure and related activities
associated with holding the America's
Cup in Auckland

BETWEEN

**PANUKU DEVELOPMENT
AUCKLAND**

(ENV-2018-AKL-000078)

Applicant

AND

AUCKLAND COUNCIL

Regulatory Authority

CASE MANAGEMENT MEMORANDUM OF COUNSEL FOR AUCKLAND COUNCIL

Dated: 17 July 2018

**BROOKFIELDS
LAWYERS**

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MAY IT PLEASE THE COURT:**1. INTRODUCTION**

- 1.1 This case management memorandum of counsel for Auckland Council (**Council**) relates to the direct referral application by Panuku Development Auckland (**Applicant**) under section 87G of the RMA, for resource consents for the necessary infrastructure and related activities associated with holding the America's Cup in Auckland.
- 1.2 A pre-hearing conference for this matter is scheduled for 10am, 18 July 2018, at the Environment Court in Auckland (**PHC**). Counsel for the Council have prepared this memorandum in consultation with counsel for the Applicant, to report on case management matters and outline topics for discussion at the PHC. Input has also been sought from section 274 parties in the limited time available, with any feedback received reflected in this memorandum.

2. REVISED TIMETABLE

- 2.1 The Court issued a decision on 10 May 2018 making various anticipatory directions and waivers in relation to the (then) proposed direct referral of this Application. The Court's decision confirmed dates for the PHC, for mediation, and for expert witness conferencing, and attached a draft timetable, which was described as "*a tentative indication of the timetable through to hearing in September 2018 (subject to further discussion at the pre-hearing conference)*".
- 2.2 We attach at **Appendix A** to this memorandum, a slightly revised version of that timetable.

Summary of further amendments to the timetable

- 2.3 The following further steps have been added to the draft timetable (shown in blue in **Appendix A**):
- a) Steps to be completed by **17 July 2018**:

¹ Paragraph 13(d) of the Decision.

- (i) A table listing section 274 parties' topics and sub-topics to be filed and served by the Applicant, including a brief statement of the Applicant's and Council's respective positions on those topics;
 - (ii) The filing of this case management memorandum;
 - b) Council is to provide a brief update on its position in relation to the section 274 party topics / sub-topics, following expert witness conferencing on **2 August 2018**;
 - c) The Applicant is likewise to provide a brief update on its position in relation to the section 274 party topics / sub-topics on **24 August 2018**. This date was originally scheduled to be Tuesday 21 August but as this is the same day section 274 party evidence is due to be filed the Applicant requests a period of time to digest that evidence before it is able to provide the update.
- 2.4 It is noted that the table referred to above in paragraph 2.3(a)(i) (which is being filed and served concurrently with this memorandum) is focused on issues raised by section 274 parties. It does not specifically address issues raised by non-section 274 parties, or areas of difference between the Applicant and the Council in relation to conditions (the Applicant and Council will continue to discuss those areas of difference).
- 2.5 In addition to the above additions, some minor and self-explanatory tracked amendments have been made to several existing steps (highlighted yellow in **Appendix A**).
- 2.6 Finally, there is presently no provision for a Statement of Issues in the timetable. It is acknowledged that the Court may be assisted by a brief and focused Statement of Issues following the exchange of all evidence. If so, the Applicant will prepare and file a brief Statement of Issues by 7 September 2018, following exchange of rebuttal evidence. Given the tight timeframe (between receiving rebuttal evidence and the commencement of the hearing) it is not realistic for the Applicant to agree the list with the section 274 parties but it has indicated that it will circulate a draft and provide an opportunity for comment back from parties before the Statement of Issues is finalised.

Directions sought

- 2.7 Subject to the above matters, and any matters raised at the PHC, the Council and the Applicant consider the timetable to be appropriate, and counsel respectfully ask the Court to confirm the revised timetable attached at **Appendix A**.

3. USE OF COURT'S WEBSITE FOR CASE MANAGEMENT

- 3.1 Counsel note that the Court has established a dedicated website for the Application. It is understood that this website will be employed for case management of the proceedings, with all memoranda, directions, evidence and other documents uploaded to that page.
- 3.2 The relevant link is: <https://www.environmentcourt.govt.nz/cases-online/americas-cup-direct-referral/>.
- 3.3 It would be useful to clarify at the PHC that all documents (e.g. memoranda, statements of evidence etc) in connection with the proceedings are to be filed and served in accordance with paragraph 12(e) of the Court's waivers and directions decision dated 10 May 2018, which is reproduced below for convenience:

(e) A direction that, unless hard copies are subsequently specifically

required to be filed and/or served by the Court, all other documents relating to the Application filed by any party may be:

(i) filed electronically with the Court by email, and

(ii) served electronically on Panuku and/or Council, as appropriate, by email (addresses above);

with service of all other parties deemed to be effected by the Court uploading the document(s) to its dedicated website / webpage.

- 3.4 Parties are encouraged to serve documents on the Applicant and the Council by at the addresses previously advised (americas.cup36@simpsongrierson.com for the Applicant and allan@brookfields.co.nz for the Council), rather than in hard copy.

- 3.5 The Court may wish to re-confirm at the PHC the appropriate email address(es) to use when filing documents with the Court (presumably: EnvironmentCourt@justice.govt.nz).

4. ELECTRONIC AND HARD COPY LODGMENT OF DOCUMENTS

- 4.1 Again, consistent with the direction referred to above, it is anticipated that any documents filed can (and ideally should) be lodged in electronic / soft copy only.
- 4.2 Some of the practicalities arising from working with electronic / soft versions of the CBD and evidence at hearing are addressed separately below at paragraph 9.10.
- 4.3 The hard copy material to be filed with the Court is limited to:
- a) One hard copy of the common bundle of documents (**CBD**); and
 - b) One hard copy of all evidence.

Common bundle

- 4.4 In accordance with the timetable, the Council filed an **initial** CBD with the Court on 13 July 2018. In addition to an electronic version of the CBD, a single hard copy of the initial CBD has been filed. The CBD was served on all section 274 parties via OneDrive link on the same day.
- 4.5 Counsel record the following matters in relation to the CBD:
- a) Both the electronic and hard copy versions of the CBD are fully paginated.
 - b) The index accompanying the electronic version of the CBD has been hyperlinked.
Please note: Any parties wishing to make use of the hyperlinking functionality must preserve the file structure in order to do so.

- c) The initial CBD contains all material relevant to the application, including copies of application itself, submissions, the section 87F report, relevant planning provisions, and other documents such as non-RMA plans and bylaws.
- d) While the initial CBD is fairly comprehensive, it is anticipated that some parties may refer to additional documents in their evidence. With this in mind, the draft timetable includes additional requirements for:
 - (i) Parties to supply copies of any extra documents referred to in their evidence in chief that are not in the initial CBD, when filing and serving their evidence;
 - (ii) Council to lodge an update to the CBD containing those documents.

Evidence

- 4.6 The evidence will be progressively filed by the Council with the Court in three tranches (soft copy only), as outlined in the draft timetable at **Appendix A**, so that the Court has sufficient time to pre-read evidence. Each tranche of evidence will be paginated.
- 4.7 The Council will file a single paginated hard copy of all evidence with the Court, in addition to a soft copy, on 6 September 2018.

5. LATE SUBMISSIONS

- 5.1 Eighty-three submissions were lodged, including two late submissions by Kawau Island Action Inc Society and Peter Lawn. Section 37 of the RMA allows a consent authority to waive any failure to comply with the time for lodgment/service of documents, such as submissions. Paragraph 6.2.3 of the section 87F report by Nicola Broadbent makes the following recommendation in relation to the two late submissions:

As the late submissions are similar in nature to other submissions received and were received within five working days of the submission period closing, it is recommended that the late submissions be accepted. ...

- 5.2 The Council respectfully proposes that the Court grants waivers in relation to both submissions, as recommended by Ms Broadbent. The Applicant agrees with this proposal.
- 5.3 Finally, it is noted that one submission (by Splice, submission #17) has been withdrawn.

6. THE PARTIES – PROPOSED WITNESSES

Section 274 Parties

- 6.1 The time period for filing notices under section 274 of the RMA closed on 16 July 2018. Section 274 notices have been received from 41 parties, as set out in **Appendix B** attached.
- 6.2 Three section 274 notices have been received from parties who were not submitters, and who rely on having an interest greater than the public generally:
- a) Ngāti Paoa Iwi Trust;
 - b) Te Kawerau Iwi Authority Inc;
 - c) Ngāti Te Ata Claims Support Whānau.

The first two parties in a) and b) above are represented by Rob Enright. The third party in c) is represented by McCaw Lewis (Aidan Warren).

Proposed Witnesses

- 6.3 Counsel for the Council have endeavoured to confirm proposed witness details with all section 274 parties. Where section 274 parties have confirmed their proposed witnesses, this is reflected in **Appendix B**. The Applicant's proposed witnesses are listed in **Appendix C**. The Council's proposed witnesses are listed in **Appendix D**.
- 6.4 As a general observation, while the Applicant and Council have identified fairly long lists of witnesses, it is anticipated that not all of these people may need to prepare evidence and become a witness, or if they do prepare evidence that witnesses may not ultimately need to be formally called at hearing. Subject to the Court's views, the

evidence of witnesses in non-contentious areas (by the time of the hearing) could be taken as read.

7. MEDIATION ARRANGEMENTS

- 7.1 The Court has directed that Court-assisted mediation is to take place on 19 - 20 July 2018 with Commissioners I Buchanan, R Dunlop and K Prime appointed as mediators. The mediation is to take place at Rydges Hotel on Federal Street.
- 7.2 The agenda for the mediation will of course be a matter for discussion between the parties and the Commissioners at the commencement of mediation. However, it is envisaged that the table referred to at paragraph 2.3 a) (i) above may be a useful starting point for identifying topics and sub-topics for discussion at mediation. The Applicant has proposed a draft agenda as part of the table filed concurrently with this memorandum, which has been prepared to reflect Commissioner / Mediator availability over the two days.

8. EXPERT WITNESS CONFERENCING ARRANGEMENTS

- 8.1 The Court has directed that expert witness conferencing is to take place on 25 July – 30 July 2018. The technical experts are scheduled to conference on Wednesday 25 – Friday 27 July 2018 and the planning witnesses on Monday 30 July 2018.
- 8.2 In place of 'will-say' statements, the experts are, by 24 July 2018, to produce an agreed statement of issues to assist with discussions at caucusing. As discussed further below, some early progress has been made by experts on draft Joint Witness Statements (**JWSs**) in certain areas and, where this is the case, it is suggested that a draft JWS could be lodged on 24 July instead of an 'agreed statement of issues'.

Groupings for conferencing

- 8.3 Ten groupings for expert witness conferencing have been identified, as follows:
- a) Ecology / coastal environment;
 - b) Coastal processes/hazards, engineering, stormwater & ITAs;
 - c) Landscape and visual effects;
 - d) Urban design;

- e) Noise and vibration;
- f) Traffic;
- g) Contamination (including NES: Soil and encompassing air discharges), Groundwater and Earthworks;
- h) Lighting;
- i) Navigation;
- j) Planning.

8.4 **Appendix E** identifies the witnesses for each grouping, based on the information available to the Council concerning section 274 parties' proposed expert witnesses at the time of preparing this memorandum.

8.5 A JWS template has been prepared and made available to expert witnesses. As noted above, some effort has already been directed at progressing preliminary expert discussions, where possible. This was seen as sensible given the tight timeframes involved. In some instances, it is understood that the relevant experts have been able to populate the JWS template with some basic information (e.g. issues to be discussed) so that the experts can make the best use of time at the Court-assisted conferencing sessions. In other instances, it is clear from those preliminary discussions that the Applicant and Council experts are substantially in agreement, and that they will be in a position to finalise JWSs without the need for Court assistance².

8.6 As matters stand, the expert topics broadly fall into one of two categories:

a) **Category A:** Areas in respect of which Court-assisted conferencing will be required between 25 and 30 July. The topics falling within this category are:

- Landscape and visual effects;
- Urban design;
- Noise and vibration;
- Traffic;
- Planning.

b) **Category B:** Other areas in respect of which generally only the Applicant and the Council are calling experts, and where good progress has been made in early discussions. In these areas, the Applicant and Council consider that JWSs can

² These are topics where there appear (at this stage) to be no section 274 party experts.

be finalised without the need for Court assistance. The topics falling within this category are:

- Coastal processes/hazards, engineering, stormwater & ITAs;
- Contamination (including NES: Soil and encompassing air discharges), Groundwater and Earthworks;
- Ecology / coastal environment;
- Lighting;
- Navigation*.

* In the case of navigation, three parties intend to call navigation expert evidence (the Applicant, Council and Sealink). Counsel for all three parties consider that the experts should be able to finalise a JWS without the need for Court assistance.

8.7 A draft schedule for Court-assisted conferencing of the 'Category A' topics, with potential dates and times, is attached for the Court's consideration as **Appendix F**. At this stage, Friday 27 July is proposed as a reserve day.

8.8 Counsel are aware of two witnesses with availability issues during the period allocated for conferencing:

- a) The Council's urban design witness, Rebecca Skidmore, will be overseas during that period. However, Ms Skidmore has already engaged in preliminary discussions with the other urban design experts, and will participate in the Court-assisted session by phone at 9am on 26 July.
- b) Kiwi's and Sanford's planning witness, Philip Brown, is also unavailable. However, counsel for those parties have confirmed that Mr Brown will provide his input in advance, and he can then confirm his agreement to the JWS remotely.

9. ARRANGEMENTS FOR HEARING

Dates and times

9.1 The revised timetable at **Appendix A** proposes a hearing on 10 – 21 September 2018 at the Environment Court in Auckland. Counsel consider it is prudent at this stage to reserve two full weeks of hearing time, however this could change following continued

discussions between the parties, mediation and expert conferencing, and counsel propose to provide the Court with an update on the hearing time required following the completion of those steps.

Formatting of Evidence

Generally

9.2 It is anticipated that all evidence will be:

- a) Provided by parties in soft copy (with the Council providing a single hard copy to the Court, as noted above), and ideally in high quality PDF format; and
- b) In accordance with the Court's Practice Note³ (see clause 4.15 onwards, and section 7.3, in particular); and
- c) In accordance with the following explanatory text on the Court's webpage for the Application⁴:

Evidence prepared for the case

The following section of the America's Cup case web page has been set up in part to enable exchange of draft statements of evidence amongst the numerous parties to the case, and lodgement of those drafts in Court. That has been done so as to enhance efficiency in the processing the case, and save cost for all concerned. It is important that parties and all other persons reading those materials understand:

- The statements are in draft only until the witnesses producing them have been sworn in during the hearing (scheduled for September 2018), and expressly confirm the accuracy of them.
- The statements are therefore not to be described by anyone as "evidence" in the case until that time.
- The statements might possibly change between the time of posting on the website, and the witness being sworn in at the hearing. For instance, it can be expected that aspects of them could change as a result of professional discussions in the programmed conferences of groups of expert witnesses and mediations amongst parties.
- The draft statements have not been read and considered by Judges and Commissioners of the Court, and will not be considered by them in any detail until the expert witness conferences facilitated by Commissioners (at which Commissioners do not themselves express opinions) and the later hearing by a 2 Judges and 3 Commissioners.
- The draft statements will be under the case management control of the Court once exchanged. As with statements circulated amongst parties in traditional hard copy form in other cases in the Environment Court, they are not available for analysis and discussion in the media, or social media, or otherwise than in the processing of the case by the Court in the usual way. If in doubt, any person should seek legal advice on the concept of the "*sub judice*" nature of Court proceedings.

³ <https://www.environmentcourt.govt.nz/assets/Documents/Publications/2014-ENVC-practice-notes.pdf>

⁴ <https://www.environmentcourt.govt.nz/cases-online/americas-cup-direct-referral/evidence-prepared-for-the-case/>

Council's evidence

9.3 Counsel for the Council consider it may be helpful to signal the proposed approach to presentation of the Council's evidence. The Council's witnesses have already prepared comprehensive reports as part of the overarching 'Section 87F Report'. The intention is that each Council expert's statement of evidence in chief will provide:

- A summary of the expert's qualifications and experience;
- Confirm the contents of her or his report, subject to any necessary amendments / update, e.g. following expert conferencing (without attaching the report);
- Provide a precis of her or his previous report / assessment of the Application;
- Comment briefly on any matters arising from the Applicant's evidence;
- Comment briefly on conditions and mitigation; and
- Provide a brief conclusion.

Rebuttal evidence

9.4 The timetable includes a step for filing rebuttal evidence on 4 September. To ensure that there is no confusion about the scope of this, from the Council's and Applicant's perspective it is intended that this encompass:

- a) Applicant rebuttal of Council and section 274 party evidence;
- b) Council rebuttal of section 274 party evidence;
- c) Section 274 party rebuttal of Council evidence or other section 274 party evidence.

9.5 It is anticipated that all rebuttal evidence will be brief, and should comply with clause 4.16(a) of the Court's Practice Note:

Rebuttal evidence should be confined to a response to matters raised by a witness called by another party, on topics not addressed in the evidence of the party seeking to call the rebuttal evidence, and which could not reasonably have been foreseen before the other party called that witness or produced his or her statement of evidence. ...

Pre-reading by the Court

- 9.6 It is assumed that the Court will endeavour to pre-read evidence, however counsel would be grateful if this could be confirmed at the PHC.

Order of case presentations

- 9.7 At the hearing, it is anticipated that the Applicant will present its case first, followed by the Council, section 274 parties in support and finally section 274 parties in opposition.

Site and locality inspection details

- 9.8 Subject to the Court's views, it is respectfully suggested that the hearing commence with the Applicant's opening, and that the Court then adjourns for a site visit. Alternatively, if it was practical to do so, it may be useful for the Court to undertake the visit in the week prior to the hearing.
- 9.9 Counsel for the Applicant and Council will liaise with the other parties in the lead up to the hearing over a proposed itinerary and file this with the Court the week before the hearing.

Practicalities relating to electronic CBD and evidence

- 9.10 Following recent liaison with the Court, it may be helpful for counsel to record their understanding of the arrangements proposed to ensure efficient managing of electronic documents during the course of the America's Cup hearing:
- a) Usually, witnesses are referred to hard copies of the evidence and CBD located behind the witness box when being questioned. While it is assumed that the single hard copy of the evidence and CBD will be available in the Court room as a 'back up', an alternative approach is proposed for this proceeding.
 - b) It is instead proposed that a screen / laptop be stationed in the witness box. This will be connected to all other screens in the Court room, and in turn to a laptop operated by junior counsel appearing for the Council, Claire Adams.

- c) Ms Adams will be tasked with ensuring that any evidence or CBD document being referred to by the Court or any party in the course of the hearing is shown on screen.

Other matters

9.11 Finally, it is anticipated that the Court may wish to address other matters at the PHC, including:

- a) Cross-examination; and
- b) Timing of transcript release during the hearing.

Dated this 17th day of July 2018



Matthew Allan / Claire Adams

Counsel for Auckland Council

APPENDIX A

Revised Timetable

NB: Boxes containing new or amended steps are shaded blue. Changes are tracked and shaded yellow.

| | |
|---|-------------------------------------|
| Lodge Revised Full AC36 Application | Friday, 13 April 2018 |
| Formal Acceptance of Application | Monday, 23 April 2018 |
| Public Notification of application | Monday, 30 April 2018 |
| Submissions Close | Monday, 28 May 2018 |
| Preparation of Council Report | Friday, 22 June 2018 |
| Notice of motion filed with Environment Court | Monday, 25 June 2018 |
| Initial Common Bundle of Documents | Friday, 13 July 2018 |
| Close of Interested Party Period | Monday, 16 July 2018 |
| Applicant, in co-ordination with Council, to file and serve table identifying s274 parties' topics and briefly recording Applicant's and Council's positions on those topics | Tuesday, 17 July 2018 (new step) |
| Council to file case management memorandum | Tuesday, 17 July 2018 (new step) |
| Pre-Hearing Conference | Wednesday, 18 July 2018 |

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|---|--|
| Mediation | Thursday 19 / Friday 20 July 2018 |
| Agreed Statements of Issues <u>by experts prior to conferencing</u> <u>[Or, alternatively, a draft JWS]</u> | Tuesday 24 July 2018 |
| Expert Conferencing (facilitated by Court) | Wednesday 25 July – Monday 30 July 2018: <ul style="list-style-type: none"> • Technical experts Wednesday –Friday • Planners on Monday (with benefit of technical experts' JWSs) |
| Council to file update on its position on section 274 party topics | Thursday, 2 August 2018 (new step) |
| Applicant Exchange of Evidence | Tuesday, 7 August 2018 |
| Applicant's Evidence Filed in Court, together with Joint Witness Statements (soft copy only) | Wednesday, 8 August 2018 |
| Section 274 Party and Council Exchange of Evidence (together with copies of any documents referred to that are not in the initial Common Bundle of Documents) | Tuesday, 21 August 2018 |
| Section 274 Party / Council Evidence Filed in Court (soft copy only) | Wednesday, 22 August 2018 |
| Applicant to file update on its position on section 274 party topics | Friday, 24 August 2018 (new step) |
| <u>Update to Common Bundle of Documents (soft copy and a single hard copy to the Courtenly)</u> | Monday, 27 August 2018 |
| Rebuttal Evidence Exchanged | Tuesday, 4 September 2018 |

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|---|--|
| Rebuttal Evidence Filed in Court (soft copy only) | Wednesday, 5 September 2018 |
| Hard Copy Copies of All Evidence and Common Bundle of Documents Filed in Court | Thursday, 6 September 2018 |
| Applicant to file Statement of Issues | Friday, 7 September 2018 (new step) |
| Hearing | Monday-Friday, 10 - 21 September 2018 |
| Indicative Decision Date | Mid-late October 2018 |

APPENDIX B
Section 274 Parties and Witnesses

NB: A dash (“-“) indicates that counsel for the Council have been unable to confirm details with the party in the time available.

| | Section 274 Party Name(s) | Proposed Witnesses |
|-----|---|--|
| 1. | Coralie van Camp | Party personally presenting submissions and/or evidence. |
| 2. | Viaduct Harbour Holdings Limited | One non-expert witness (probably Angela Bull, CEO), plus three experts: Ian Munro (urban design), John Parlane (traffic) and Vaughan Smith (planning). |
| 3. | Ngāti Whātua Orākei | Intend to call Ngarimu Blair (Ngāti Whātua), Andrew Brown (planning), Te Warena Taua (Te Kawerau), and Morehu Wilson (Ngāti Paoa). |
| 4. | Ngāti Paoa Iwi Trust | |
| 5. | Te Kawerau Iwi Authority Inc (NB: separate s274 notices, raising same issues. Ngāti Whātua Orākei was a submitter; Ngāti Paoa Iwi Trust and Te Kawerau Iwi Authority Inc seek status as parties with interest greater than public generally) | |
| 6. | The Conservatory | Submissions only – no witnesses. |
| 7. | Kiwi Property Group Limited | Company representative, John Parlane (traffic), Philip Brown (planner). |
| 8. | Firth Industries | Company representative, Mark Tollemache (planning), Leo Hills (traffic). |
| 9. | Auckland City Centre Residents’ Group | Submissions only – no witnesses. |
| 10. | The Crown | Potentially one non-expert witness. |
| 11. | Tug William C Daldy Preservation Society | Society has advised it will present submissions and may call one or two witnesses. |
| 12. | Sanford Ltd | Philip Brown (planning). |

| | | |
|-----|--|---|
| 13. | Sealink Travel Group New Zealand Ltd | Two non-expert witnesses: Mark Gibson – CEO, Sealink and a representative from the Great Barrier community. Up to 3 expert witnesses: Vincent Maurice – skipper, Sealink; Robert Hawkins, Nautical Consultant, Dunsford Marine Ltd; and an economist. |
| 14. | Kawau Island Action Incorporated Society | - |
| 15. | Emirates Team New Zealand | One non-expert witness. |
| 16. | Challenger of Record | One non-expert witness. |
| 17. | America's Cup Event Limited | One non-expert witness. |
| 18. | Royal New Zealand Yacht Squadron | Submissions only – no witnesses. |
| 19. | ASB | Potentially a corporate witness and traffic expert witness. |
| 20. | Willis Bond & Co | Submissions only – no witnesses. |
| 21. | Russell Hall / | - |
| 22. | Frances Stead (separate but identical notices) | |
| 23. | The Point Body Corporate | Three expert witnesses: Nick Rae (landscape/visual and urban design), Richard Finley (noise / vibration), David Haines (planning). |
| 24. | Combined Owners and Residents of Apartments in Sheds 19, 20, 22, 23 and 24 on Princes Wharf | Likely to call a representative of the group. |
| 25. | Ngāti Maru Rūnanga Trust | Counsel for these parties (Aidan Warren) advises as follows: <i>“a) At least 2 mana whenua witnesses per group;</i> <i>b) 1 planner for all groups (some may appoint their own planners)</i> <i>c) Author of the Generic Cultural Values Report (note there may be more than one report as some mana whenua may produce their own).”</i> |
| 26. | Te Ākitai Waiohua Waka Taua Incorporation | |
| 27. | Ngaati Whanaunga | |
| 28. | Ngāti Tamaterā | |
| 29. | Ngāti Tamaoho Trust | |
| 30. | Te Patukirikiri Iwi Trust | |
| 31. | Ngāti Te Ata Claims Support Whānau* | |
| 32. | Ngāi Tai ki Tāmaki | |
| | (NB: separate but identical notices. *All were submitters except for Ngāti Te Ata Claims Support Whānau | |

| | | |
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| | (whose s274 notice relies on an interest greater than the public generally)) | |
| 33. | Charlotte Fisher | Party personally presenting submissions and/or evidence. |
| 34. | The St Mary's Bay Association Inc | - |
| 35. | Auckland Theatre Company | Witnesses TBC by ATC. |
| 36. | Vector Limited | One expert witness: David Hay (planner). |
| 37. | Peter McCurdy | Party personally presenting submissions and/or evidence. |
| 38. | Hirepool Ltd | One non-expert witness. |
| 39. | Fu Wah New Zealand Limited | Submissions only. |
| 40. | Sail World NZ Ltd | - |
| 41. | Barry Jeffery | - |

APPENDIX C
Applicant's Witnesses

| | Witness Name(s) | Evidence Topic |
|-----|---|---|
| 1. | Rod Marler | Panuku Corporate |
| 2. | Russell Green | Emirates Team New Zealand |
| 3. | John Goodwin | Landscape and Visual |
| 4. | Gordon Moller | Architect |
| 5. | Graeme McIndoe | Urban Design |
| 6. | Kurt Grant | Alliance / Construction |
| 7. | Stephen Priestley | Coastal Processes / Coastal Hazards / Engineering / Stormwater |
| 8. | Phillip Ware | Contamination / Groundwater / Earthworks |
| 9. | Paul Musson | Fire and Evacuation |
| 10. | Joe Phillips | Traffic and Transport |
| 11. | John McKensey | Lighting |
| 12. | Craig Fitzgerald | Acoustics |
| 13. | Paul Kennedy | Coastal Environment |
| 14. | Geraint Bermingham | Navigational Safety and Utility |
| 15. | Tom Mayo | Events Management |
| 16. | Craig Jones | Legacy use and benefits |
| 17. | Jenny Polich (if required) | Hazardous substances / risk |
| 18. | One or more of the following: Vijay Lala, Nick Roberts, Karl Cook, Mark Vinall | Planning |

APPENDIX D
Council's Witnesses

| | Witness Name | Evidence Topic |
|-----|---|---|
| 1. | Dr Kala Sivaguru | Ecology / coastal environment |
| 2. | Sam Morgan | Coastal processes / hazards |
| 3. | Charlie Brightman | Geotechnical |
| 4. | Peter Kensington | Landscape and visual |
| 5. | Rebecca Skidmore | Urban Design |
| 6. | Gemma Chuah | Stormwater and ITAs |
| 7. | Jon Styles and potentially also Dr Matthew Pine | Acoustics and vibration |
| 8. | Rob Van der Munckhof | Hazardous substances / risk and contamination (NES: Soil) |
| 9. | Marija Jukic | Contamination discharges |
| 10. | Ahad Khan | Development engineering |
| 11. | Bronwyn Coomer-Smit | Traffic |
| 12. | Mitchel Tse | Traffic (Auckland Transport) |
| 13. | Richard Simonds | Groundwater |
| 14. | Glen Wright | Lighting |
| 15. | Christiaan Moss | Navigation (Deputy Harbourmaster) |
| 16. | Matt Byrne | Earthworks |
| 17. | Adrian Lamont | Aboriculture |
| 18. | Paul Crimmins | Air discharges |
| 19. | Myfanwy Eaves | Historic heritage |
| 20. | Nicola Broadbent | Planning |

APPENDIX E

Proposed Expert Witness Conference Groupings

| | Area of expertise | For Auckland Council | For Panuku Development Auckland | For section 274 parties |
|----|--|---|---------------------------------|--|
| 1. | Ecology / coastal environment | Dr Kala Sivaguru | Paul Kennedy | |
| 2. | Coastal processes/hazards, engineering, stormwater & ITAs | <ul style="list-style-type: none"> • Sam Morgan (coastal processes) • Charlie Brightman (geotech) • Ahad Khan (development engineering) • Gemma Chuah (stormwater & ITAs) | Stephen Priestley | |
| 3. | Landscape and visual effects | Peter Kensington | John Goodwin | Nick Rae (The Point apartments) |
| 4. | Urban design | Rebecca Skidmore | Graeme McIndoe | <ul style="list-style-type: none"> • Ian Munro (VHHL) • Nick Rae (The Point apartments) |
| 5. | Noise and vibration | <ul style="list-style-type: none"> • Jon Styles • Potentially also Dr Matthew Pine | Craig Fitzgerald | Richard Finley (The Point apartments) |
| 6. | Traffic | <ul style="list-style-type: none"> • Bronwyn Coomer-Smit • Mitchel Tse (Auckland Transport) | Joe Phillips | <ul style="list-style-type: none"> • John Parlane (VHHL, Kiwi) • Leo Hills (Firth) • Expert for ASB |

| | | | | |
|-----|--|---|---|---|
| 7. | Contamination (including NES: Soil and encompassing air discharges), Groundwater and Earthworks | <ul style="list-style-type: none"> • Richard Simonds (groundwater) • Matt Byrne (earthworks) • Marija Jukic (contamination) • Rob Van de Munckhof (NES) • Paul Crimmins (air discharges) | Phillip Ware | |
| 8. | Lighting | Glen Wright | John McKensey | |
| 9. | Navigation | Christiaan Moss (Deputy Harbourmaster) | Geraint Bermingham | Vincent Maurice and Robert Hawkins (Sealink) |
| 10. | Planning | Nicola Broadbent | One of more of Karl Cook, Vijay Lala, Nick Roberts, Mark Vinall | <ul style="list-style-type: none"> • Vaughan Smith (VHHL) • David Haines (The Point apartments) • Andrew Brown (Ngāti Whātua Orākei, Te Kawerau, Ngāti Paoa) • Mark Tollemache (Firth) • Philip Brown (Sanford, Kiwi) • David Hay (Vector) • At least one planner for the Mana Whenua Groups opposed to the proposal (represented by A Warren) |

APPENDIX F

Draft Expert Witness Conferencing Schedule

| Date / Time | Topic(s) | Experts |
|---|------------------------------|--|
| Wednesday 25 July 2018 (Room 1), 9am start | Noise and vibration | Applicant: Craig Fitzgerald Council: Jon Styles The Point: Richard Finley |
| Wednesday 25 July 2018 (Room 2), 9am start | Landscape and visual effects | Applicant: John Goodwin Council: Peter Kensington The Point: Nick Rae |
| Thursday 26 July 2018 (Room 1), 9am start | Traffic | Applicant: Joe Phillips Council: Bronwyn Coomer-Smit and Mitchel Tse (Auckland Transport) VHHL: John Parlane Firth: Leo Hills ASB: Expert TBC |
| Thursday 26 July 2018 (Room 2), 9am start | Urban design | Applicant: Graeme McIndoe Council: Rebecca Skidmore (calling in from overseas by phone) VHHL: Ian Munro The Point: Nick Rae |
| Friday 27 July 2018 Reserve Day | | |

| | | |
|-----------------------------------|----------|---|
| Monday 30 July 2018, 9am start | Planning | <p>Applicant: One or more of Karl Cook, Vijay Lala, Nick Roberts, Mark Vinall</p> <p>Council: Nicola Broadbent</p> <p>VHHL: Vaughan Smith</p> <p>The Point: David Haines</p> <p>Ngāti Whātua Orākei, Te Kawerau, Ngāti Paoa: Andrew Brown</p> <p>Firth: Mark Tollemache</p> <p>Kiwi / Sanford: Philip Brown*</p> <p>Vector: David Hay</p> <p>Mana Whenua Groups (opposed): at least one planner</p> <p>* NB: P Brown is unavailable on 30 July, but will endeavour to have input in advance.</p> |
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