

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

ENV-2018-AKL-000078

IN THE MATTER of the Resource Management
Act 1991 (**RMA**)

AND

IN THE MATTER of the direct referral of
applications for resource
consent for the necessary
infrastructure and related
activities associated with
holding the America's Cup in
Auckland

BETWEEN **PANUKU DEVELOPMENT
AUCKLAND**

Applicant

AND

AUCKLAND COUNCIL

Regulatory Authority

**EVIDENCE OF RUSSELL LENARD HAMILTON GREEN ON BEHALF OF
PANUKU DEVELOPMENT AUCKLAND
(EMIRATES TEAM NEW ZEALAND)
7 AUGUST 2018**

1. QUALIFICATIONS AND EXPERIENCE

- 1.1 My full name is Russell Lenard Hamilton Green. I am the Legal and Rules Advisor to Emirates Team New Zealand (**ETNZ**) and America's Cup Event Limited (**ACE**). As the representative team of the Royal New Zealand Yacht Squadron (**RNZYS**), ETNZ has sole responsibility for the conduct of the 36th America's Cup (**AC36**) defence, including the organisation of the event and has established ACE as the entity responsible for event management.
- 1.2 I have been a qualified World Sailing International Umpire since 1992, having adjudicated at two Olympic Games, various world championships and multiple events involving America's Cup Yachts.
- 1.3 I am currently a member of the World Sailing Race Officials and Match Race Committees and have twice been the manager of New Zealand sailing teams at the Olympics.
- 1.4 My previous America's Cup experience includes:
- a) 1992: Umpire and member of the Jury at the Louis Vuitton Cup;
 - b) 1995: Rules Advisor to Tag Heuer then the Challenger of Record Committee and Team New Zealand as the challenger;
 - c) 2000 and 2003 defence campaigns: Rules Advisor to Team New Zealand;
 - d) 2003 to 2007: Business manager of BMW Oracle for the 32nd America's Cup in Valencia; and
 - e) 2011 to present: Legal and Rules Advisor to ETNZ.
- 1.5 My current responsibilities include:
- a) Member of the ETNZ Exec Group;
 - b) All internal legal work for ETNZ and ACE;
 - c) Co-author of the Protocol with the Challenger of Record (**COR**);
 - d) Member of the team which negotiated the Host City Agreement;

- e) Responsible for all host city legal work and general advice; and
- f) Responsible for liaison with the COR on Protocol and Auckland Host City issues.

2. SCOPE OF EVIDENCE

2.1 I have been asked by Panuku Development Auckland (**Panuku**) to provide evidence in relation to key matters relating to ETNZ's requirements for hosting the AC36 in Auckland and have been authorised by ETNZ and ACE to give evidence on their behalf.

2.2 This statement of evidence covers the following matters:

- a) Status of preparations for AC36;
- b) Requirement for seven bases;
- c) Specific base requirements; and
- d) Design of buildings on bases and how long they will be needed.

3. PREPARATIONS FOR THE 36TH AMERICA'S CUP

3.1 The America's Cup, with its trophy being the oldest sporting trophy in the world, is internationally recognised as the pinnacle event for sailing, ahead of the Olympic Games. New Zealand has participated seven times as a Challenger and the RNZYS is the only club in the event's long history which has won the America's Cup twice as a Challenger. AC36 will be the third time RNZYS has been the Defender and the Cup involvement since 1983 has cemented the country's reputation as a great sailing nation known for its skilled sailors, innovative designs and the ability to manage winning campaigns on limited budgets.

Auckland as host city

3.2 The events in Auckland in 2000 and 2003 brought a lot of international visitors who were highly impressed with Auckland and New Zealand and there is now considerable international excitement at the event coming back to Auckland in the summer of 2020 / 2021. The earlier America's Cup events raised the profile of both Auckland and New

Zealand generally and displayed the enviable sailing conditions in Auckland. Many visitors, competitors, officials, media and other people from the sailing world were incredibly impressed with Auckland and New Zealand.

- 3.3 In part as result of this, there was considerable support for ETNZ in both San Francisco and then Bermuda, which was perceived as a “David and Goliath” contest.
- 3.4 Out of the process of the host city negotiations and dealing with the Government and Auckland Council we have a close working relationship with both focused on achieving the requirements for the event. All agencies involved are currently working hard to produce an outcome that meets the needs of teams and hosts a world class event to the highest international standards.

Decision to hold in 2021

- 3.5 In terms of the decision for Auckland to host the 36th America’s Cup in 2021 there are always a number of factors to consider when deciding on timing. This includes timing with other international events such as the Olympic Games, and also other World Cup events (like the Football World Cup). It is also important to consider the lead time for development of necessary infrastructure and to balance that against the fact that a longer cycle (periods between America’s Cup events) becomes more expensive to run campaigns (with personnel costs being the largest component in a team’s budget.)
- 3.6 After winning in 1995, a five-year gap before Auckland hosted the defence was considered longer than desirable but necessary, given the development in infrastructure that was needed (for example, the Viaduct). For AC36, ETNZ decided that having the challenger series starting in February 2021, and the America’s Cup Match in March 2021 balanced the various requirements. It factors in the Olympics to be held in August 2020, enabling sailors to compete at those games and then at AC36 in Auckland. Holding the event in 2021 provides time for the development of a new class of yacht with a foiling monohull replacing the AC 50 catamaran. It was also considered enough time to enable the development of the necessary infrastructure in Auckland. ETNZ would have preferred to host the Cup a year earlier but in practical terms decided it was too early and hence the 3.5 years between Bermuda (2017) and Auckland in 2021.

Class of Yacht

- 3.7 The decision on the class of yacht is a mutual agreement between the Defender and the COR. ETNZ had wanted to have a COR that had a credible history in the event, hence the choice of Luna Rossa, who in terms of the decision on the class of boat, were keen to return to monohulls. ETNZ also wanted to go back to a class that would see more sailor involvement compared with the foiling catamarans in Bermuda.
- 3.8 The catamarans were able to sail well in flat conditions in Bermuda but the conditions in Auckland are generally windier with a varying sea state and the flatter Bermuda type conditions cannot be guaranteed. Both ETNZ and the COR were also aware that after 35th America's Cup that the highspeed nature of racing was very attractive to the public. After assessing a range of options, it was decided that the class couldn't go back to the traditional displacement type monohulls. Instead a fast monohull capable of foiling has been chosen as the class, the design features two parallel weighted foils instead of a keel and will be a big, powerful and exciting yacht, which will be difficult to sail and a true test for the sailors.

4. ETNZ BASE IN VIADUCT EVENTS CENTRE

- 4.1 ETNZ has been in temporary accommodation at the property known as Site 18 (beside Silo Park) since it was relocated from its Halsey St base in late 2015 to accommodate development of the new Park Hyatt hotel.
- 4.2 As part of the host city negotiation, ETNZ was seeking a more permanent base to ensure continuity for the future. Under the host city appointment agreement ETNZ is able to lease the Viaduct Events Centre for at least two America's Cup cycles.
- 4.3 ETNZ will begin operating from the Viaduct Events Centre in October 2018. Initially ETNZ will occupy offices while the alteration works are undertaken to the northern part of the building to make it fit for purpose and able to house the yachts and a sail loft.
- 4.4 A key part of ETNZ's plans for the Viaduct Events Centre include the creation of a public innovation centre on the Ground Floor (at the southern end of building), potentially with Aotearoa, the Cup winning catamaran, on display. ETNZ is intending the innovation centre to be a destination for public visiting the CBD Race and anticipate it being the

heart of the village. It is also ETNZ's desire to have all the teams in close proximity to provide a village atmosphere and a destination people want to visit.

- 4.5 ETNZ's current temporary base and its office building at Site 18 is part of an old fuel depot with various logistical problems making it unsuitable as a Defender base. Problems include a current lack of depth for launching an AC 75 yacht and it would not be possible to have an innovation centre at that location. It has also now been announced that the site will be redeveloped as a super yacht serving facility ahead of 2021. The Viaduct Events Centre is therefore an ideal location for ETNZ's base from October 2018.

5. REQUIREMENT FOR SEVEN BASES

- 5.1 I am aware that some parties to the Court proceedings are challenging the need for seven bases, but I and ETNZ remain of the view that seven bases, with six for the challengers, need to be provided for as part of the development of the new infrastructure for the America's Cup in 2021.
- 5.2 No Defender can ever be sure how many entries there are going to be for an America's Cup event. This is particularly so when it is a new class of boat. From an early stage (after ETNZ won in Bermuda in July 2017) it appeared there would be three incredibly strong challengers and this has already materialised. These three are the COR (Luna Rossa), the New York Yacht Club (American Magic) and INEOS Team UK led by Sir Ben Ainslie and representing the Royal Yacht Squadron Racing.
- 5.3 In past America's Cups it was easy to challenge but then there was often a high drop-out rate once entry fees were due to be paid. For AC36 the Protocol requires payment of a \$1 million entrance fee on acceptance of the challenge by the COR. The initial entry period closed at the end of June 2018 at which stage the three current challengers were confirmed. The late entry period closes at the end of November 2018 with a further entry fee being required along with a performance bond from challengers. In short, this means that the past practice of yacht clubs lodging challenges and then seeking funding is no longer practical.
- 5.4 There are a number of other prospective challengers at the moment doing their best to raise the funding and enter the AC36 event. These groups are at various stages of the process. Whilst they mostly keep their interest confidential, as the Defender, ETNZ has

had direct contact with these groups and has been answering their various questions. Up until the time of writing this evidence ETNZ has been dealing directly with five further possible challengers. We are not expecting all of them to proceed and I cannot say with any certainty how many will. However, in our opinion, the worst thing we could do for the success of the event in Auckland would be to remove the opportunity for those teams from entering by not providing the infrastructure for a sufficient number of bases. The availability and cost of a base is always a key issue for challengers, as it has been for ETNZ when it has competed overseas.

5.5 While the final entry period closes on 30 November 2018, further late entries beyond that date can still be accepted by ETNZ and the COR amending the Protocol at any time before the event.

5.6 I also note that under the Protocol there is no rule preventing the exchange of design information. As has been a past convention, this means one of the existing teams can sell its design to a late competitor. As an example, ETNZ did this in San Francisco in 2013 to enable Luna Rossa to enter the competition at a late stage. ETNZ or any of the challengers may be prepared to sell their design to one or more challengers if it means they could compete in Auckland in 2021 and ETNZ has publicly stated its willingness to do this. The convention allows the new team to receive the standard design and then further refinement is up to the team / challenger itself. As a result, a late entry can still be competitive, even with a one boat campaign.

5.7 ETNZ is of the view that further late challenges remain a viable prospect and will continue to work with prospective challengers until the end of November and beyond if required, in an endeavour to achieve further entries.

5.8 The three teams that are confirmed have been allocated to the team bases as follows:

Hobson Wharf (Base B) - Luna Rossa

Base C - American Magic

Base D - Ineos UK

5.9 These are the three double bases (discussed further below) which can accommodate two boats. The way we see it working is that at least two of these challengers will want

to build their bases as soon as they are available (from August 2019). While any challenger never wants to disclose its strategy, we expect these challengers may want to train in Auckland over the summer of 2019/2020 so that they can spend as much time in the Auckland sailing conditions before the final summer and event.

- 5.10 I anticipate that later entries will be likely to build a single yacht. This is not necessarily a disadvantage, particularly as two boat testing by Challengers is prohibited. They can still be very competitive with a single boat campaign and the three remaining single bases will suit their purpose.
- 5.11 In summary, ETNZ remains confident that we will have late challengers and the ready availability of the three remaining bases in the later stages of discussions will be a critical factor in decision-making for all prospective challengers.

6. SPECIFIC BASE REQUIREMENTS

Infrastructure

- 6.1 ETNZ has worked closely with Panuku and the Ministry of Business, Innovation and Employment in relation to the design of the infrastructure and event requirements for Auckland to host the event in 2021. In addition to the number of bases, there are clear functional requirements for ETNZ and the other syndicates and the new infrastructure applied for as part of the resource consent applications is crucial to the successful holding of the Cup. As will be explained below, and further in the evidence of Mr Gordon Moller (on behalf of Panuku), the infrastructure provided for in the resource consent application is fit for purpose.
- 6.2 ETNZ has assisted in the development of the application for resource consents by providing information from an operational point of view in terms of what challenger teams will need. We based this on our own long experience as a challenger offshore, our knowledge of the new boat design. Initially ETNZ was going to be located at Hobson Wharf, so we had to work carefully through what our functional requirements would be. These requirements formed the basis for how the team base areas and sizes were derived (this is discussed further below).

- 6.3 There continue to be regular meetings between the Crown, ETNZ and Auckland Council entities (including Panuku), and the ETNZ Team Base Manager meets with the Alliance weekly.

Base and Building Requirements

- 6.4 I refer to the evidence of Gordon Moller who discusses the base, building and boat requirements in further details in terms of their size and dimensions. I confirm these remain correct in terms of the requirements for the teams that will challenge ETNZ.
- 6.5 Having said that, each team will have a range of different operational needs and budgets and I am already aware that one of the existing challengers wishes to construct a pre-fabricated base which will be designed so that it has a future use after its removal. I will deal further with the concerns of ETNZ in relation to design guidelines shortly.
- 6.6 All challengers will wish to accommodate guest and supporter hospitality during the event. This was the case for all bases in Auckland for the previous defences and for the bases overseas on every occasion ETNZ has been a challenger.

Calm water conditions

- 6.7 To host an America's Cup event, it is critical that the development creates a calm water space. Waitemata Harbour, on an isthmus, is known for its very changeable weather conditions. The position of the CBD waterfront on the southern side of the Harbour makes it particularly vulnerable to strong northerly wind conditions which also generate a significant sea state in the area of the Viaduct and Wynyard Point.
- 6.8 There is a need for calm water for launching and retrieval because the America's Cup boats are very light and fragile high-tech yachts. Any choppy or dangerous water conditions on the outside of the existing wharves are unsuitable for launching and retrieval of AC75 yachts. They are dry sailed which means they are launched into and retrieved out of the water every time they go sailing. They will never be left in the water overnight. In addition, there is the need for support boats to have access to the yard to unload technical equipment, provisions (including sails, computers etc) and people in safe calm conditions.

Yard operational requirements

- 6.9 During the periods when an America's Cup team is conducting operations in its base and yard it will be necessary for the yard to be closed to the public for safety and security reasons. The base buildings and yards are an integrated space. The yards are used for maintenance for chase / support boats, work on rigging etc. When the yachts are out on the water testing or racing it also has to be possible to retrieve a boat at very short notice in the event of emergency (such as breakages on the water). At no point during the periods when a syndicate is operating from a team base will it be appropriate to have public able to walk along the waterfront within the team's yard.
- 6.10 I note that the amenity and public access created by the project design will be as good as or better than we have seen in previous America's Cup events in Auckland. In 2003, there were no specific public areas and no race village. By comparison, the Race Village and the ETNZ base in the Viaduct Events Centre will be the heart of a vibrant America's Cup event in 2021.

7. DESIGN AND DURATION OF BUILDINGS ON SYNDICATE BASES

- 7.1 Under the terms of the host city agreement, challengers will be provided with the base area which will be asphalt and flat, and with services. They are each expected to build their own buildings that are suitable for the team's functional requirements. In each case teams will have a mobile crane on site for the launching and retrieval of boats.
- 7.2 I consider it important to highlight that all buildings will be designed to be temporary buildings (as also required by the proposed Conditions of Consent). The late entries will be on tight budgets and these will most likely be single boat campaigns with limited funds available. I expect these single bases on Wynyard Point to be more of the tent / container variety that has been seen in previous America's Cup events. ETNZ's own bases in both San Francisco and Bermuda were of this type.
- 7.3 In terms of how long base buildings are likely to be required for, it is helpful to consider the various scenarios. If ETNZ wins in 2021 it is likely to hold AC37 within a shorter period, say 2 years. In this situation I anticipate larger challengers would leave their bases in Auckland during that period (and train in Auckland over summer). For this

reason, ETNZ would strongly oppose any requirement that base buildings have to be removed after any successful Defence.

- 7.4 If ETNZ were unfortunate at some point to lose the Cup, then based on our experience overseas, it would be reasonable to require challengers' bases to be removed after any loss within six months. On the best case scenario, it would take 4 or more likely 5 years before the Cup was raced again in Auckland if ETNZ were to win it back again the next time (and new base buildings for challenger teams would be constructed at that time). The 90-day timeframe suggested by some submitters for removing bases is not realistic. In Bermuda ETNZ took six weeks to remove simple containers / tents structure. Six months would be more realistic to give time to repatriate or otherwise dispose of everything inside the base building or in the yard, and then to sort out a sale process of the building such as by tender and ultimately for any purchaser to remove the building. Usually within that time they should also know where the next event is to be held.
- 7.5 In terms of the design of buildings, ETNZ is very concerned by the draft version of the Design Requirements circulated following the expert urban design and landscape conferencing. While discussions are continuing between parties, ETNZ does not support or accept as fit for purpose the specificity of the Design Requirements document. In my view, the Design Requirements document does not reflect the reality that the buildings will be temporary and similar to the style of temporary buildings and bases erected in Auckland and seen in Bermuda. I consider the document as drafted appears to contemplate a permanent building, with significant cost involved whilst the challenger's whole aim is to focus on the sailing campaign (not the building), ironically with the primary intention of leaving New Zealand in 2021 with the Cup. While ETNZ accepts the Hobson Wharf base should be required to be designed to a higher standard given its location (although these requirements seem even too onerous and restrictive for Hobson Wharf), they certainly should not apply to those bases located on Wynyard Point adjacent to the residue of the tank farm and industrial activities. In my opinion the current draft version of the Design Requirements would be a barrier to entry for a team, right at a time when we are trying to get prospective challengers to enter.
- 7.6 ETNZ was relying on the Panuku experts to deliver a sensible set of design guidelines for the team bases and village and were happy with the design guidelines presented at the start of the mediation. However, without discussing it with us further, the experts then

all agreed a substantially different document and produced it at the end of the mediation without ETNZ/COR36 having a chance to comment on it.

7.7 ETNZ and the COR will present further evidence on this when we give separate evidence as section 274 parties, but I thought it best to mention the concern.

8. CONCLUSION

8.1 The infrastructure proposed in the applications for resource consent is necessary to enable Auckland to host a successful and world class America's Cup event in 2021. The three large double bases have already been allocated to challenger teams and ETNZ remains confident that we will have further challengers. The ready availability of a base in the later stages will be a critical factor in decision-making for these prospective challengers and we do not want to create any barriers for entry to these teams.

Russell Green

7 August 2018