

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
LIMITED**

(ENV-2018-AKL-000078)

Applicant

AND **AUCKLAND COUNCIL**

Regulatory Authority

**STATEMENT OF EVIDENCE OF PAUL CRIMMINS
ON BEHALF OF THE AUCKLAND COUNCIL**

(AIR DISCHARGES)

Dated 21 August 2018

**BROOKFIELDS
LAWYERS**

M C Allan
Telephone No. 09 979 2128
Fax No. 09 379 3224
P O Box 240
DX CP24134
AUCKLAND

1. INTRODUCTION

- 1.1 My full name is Paul Edward Crimmins.
- 1.2 My evidence is given on behalf of the Auckland Council (the **Council**) in its regulatory capacity in relation to the direct referral application filed by Panuku Development Auckland Limited (**Applicant**) seeking resource consents for the construction, occupation, use and maintenance of permanent and temporary infrastructure and undertaking of activities within the coastal marine area and on land, associated with the America's Cup (the **Application**). My evidence relates to the air quality aspects of the Application.

2. QUALIFICATIONS AND EXPERIENCE

- 2.1 I am employed as a Senior Specialist within the Contamination, Air & Noise Team of the Council's Specialist Unit at Graham Street, Auckland. I have been employed in this role since a restructure in October 2017 and in a similar senior specialist role since February 2013. I have ten years' experience in air quality related assessments.
- 2.2 I hold a Master of Science (First Class Honours) in Environmental Science from the University of Auckland (2018). I also hold Bachelors degrees of Science in Environmental Science and of Arts in Politics from the University of Auckland (2009). I am a member of the Clean Air Society of Auckland and New Zealand (**CASANZ**).
- 2.3 I have been directly involved with consenting and compliance for numerous air discharge permits, including many related to construction and infrastructure works. Some examples include:
- (a) Wynyard Quarter refurbishment works, including assessing discharges of odour and hazardous air pollutants from disturbing contaminated soils;
 - (b) Motorway construction works, including the Waterview Tunnel, the proposed East-West Link and the Northern Motorway Extension;
 - (c) The Central Rail Link construction works; and
 - (d) Numerous asphalt and concrete batching facilities throughout the Auckland region.

3. MY ROLE

- 3.1 I prepared a report¹ peer reviewing the air discharge aspects of the Application (**Report**). My Report was attached as Appendix S to the Council's section 87F Report by Nicola Broadbent. I reaffirm the contents and conclusions of my Report, subject to the matters noted below.
- 3.2 In preparing my Report and this evidence, I carried out a site visit on 24 June 2018 and have conducted numerous other visits to the area in a professional and personal capacity. In my previous involvement with works to upgrade streets and public spaces in the Wynyard Quarter area, I have specifically assessed the changing sensitivity of the Wynyard Quarter area with respect to air discharges (particularly odour and dust) as part of frequent site visits over the past eight years.
- 3.3 I participated in expert witness conferencing with the Applicant's expert, Phillip Ware, and was a signatory to a Joint Witness Statement (**JWS**) dealing with the air quality aspects of the Application dated 1 August 2018². The JWS was multi-disciplinary and involved a number of other Council experts on other topics³.
- 3.4 In preparing this evidence I have reviewed the following documents and reports:
- (a) The documents listed in paragraph 2.2 of my Report;
 - (b) The statement of evidence of Phillip Ware for the Applicant (Contaminated Land and Groundwater), and an updated draft Remediation Action Plan (**RAP**) dated 3 August 2018 attached to Mr Ware's evidence as Attachment A⁴;
 - (c) The statement of evidence of Kurt Grant for the Applicant (Construction Methodology), and the updated draft Construction Environmental Management Plan (**CEMP**) dated 3 August 2018 attached to Mr Grant's evidence as Attachment B⁵; and
 - (d) The statement of evidence of Karl Cook and Vijay Lala (Planning) for the Applicant, including Attachment A: Proposed Conditions of Consent (**Proposed Conditions**)⁶.

1 CB154, page 3944 onwards.

2 E27, page 1316 onwards.

3 Richard Simonds, Marija Jukic, Rob van de Munckhof, and Matt Byrne.

4 E14, page 0897 onwards.

5 E9, page 0311 onwards.

6 E19, page 1060 onwards.

4. CODE OF CONDUCT

- 4.1 I have read the Code of Conduct for Expert Witnesses (**Code**) outlined in the Environment Court's Consolidated Practice Note 2014 and have complied with it in preparing this evidence. I also agree to follow the Code when presenting evidence to the Court. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state that I rely upon the evidence of other expert witnesses. I also confirm that I have not omitted to consider material facts known to me that might alter or detract from my opinions.

5. SCOPE OF EVIDENCE

- 5.1 This statement of evidence covers the following:
- (a) A summary of my evidence (**Executive Summary**);
 - (b) A brief overview of the assessment of the regional air discharge aspects of the Application contained in my Report (**Assessment of the Application**);
 - (c) An overview of the outcome of expert witness conferencing, referring to the JWS where appropriate, and a brief response to the Applicant's evidence (**Update Following Expert Witness Conferencing / Response to Applicant's Evidence**);
 - (d) Comments on proposed conditions (**Conditions**); and
 - (e) Conclusions.

6. EXECUTIVE SUMMARY

- 6.1 The Applicant is seeking consent to discharge contaminants into air from construction activities associated with the development of infrastructure for the America's Cup.
- 6.2 In my opinion, the proposal's actual and potential air discharge effects on the receiving environment will be less than minor. Discharges of dust and odour can be adequately controlled using mitigation measures as detailed by conditions of consent and management plans so that offensive or objectionable effects do not occur beyond the boundary of the site.

- 6.3 I consider that the Proposed Conditions (dated 7 August 2018)⁷ adequately address air discharges.
- 6.4 I consider that the draft RAP (dated 3 August 2018)⁸ contains sufficient detail regarding potential discharges of odour and volatile organic compounds from the disturbance of contaminated soils. However, I consider that the draft CEMP (dated 3 August 2018)⁹ should be updated with further information regarding control measures for potential dust discharges. I outline the required changes in section 8 below.

7. ASSESSMENT OF THE APPLICATION

- 7.1 The Applicant is seeking consent to discharge contaminants into air as part of the proposed construction activities. In particular, there are potential air discharges arising from the disturbance of contaminated soils (predominantly odour) and the handling of cement and other general construction activities (dust).
- 7.2 Air discharges from earthworks not meeting the general permitted activity standards (contained in E14.6.1.1 and notably including a requirement that there be 'no offensive or objectionable' odour or dust beyond the site boundary) are a Restricted Discretionary Activity under Rule E14.4.1(A83) of the Auckland Unitary Plan – Operative in Part (**AUP**).
- 7.3 Air discharges from the storage and handling of cement in the 'High air quality – dust and odour area' are a Discretionary Activity under Rule E14.4.1(A77) of the AUP.
- 7.4 As detailed in section 5 of my Report, I consider that the potential discharges of dust and odour from the works can be mitigated by effective management processes so that offensive or objectionable dust or odour effects are not likely to arise beyond the boundary of the works areas.
- 7.5 Potential discharges of odour and volatile organic compounds are primarily associated with the proposed disturbance of soils that are likely to be contaminated with hydrocarbons based on the conclusions of the Preliminary Site Investigation. The presence and extent of hydrocarbon contamination shall be confirmed by further soil sampling to be undertaken as part of a Detailed Site Investigation prior to the commencement of works.

⁷ E19, Attachment A, page 1170 onwards.

⁸ E14, Attachment A, page 0847 onwards.

⁹ E9, Attachment B, page 0362 onwards.

- 7.6 Odour and volatile organic compounds are proposed to be monitored and mitigated by the RAP. The RAP is to be similar to those employed for other recent earthworks in Wynyard Quarter given the similar soil contamination profile to the Wynyard Point works area. I agree that these measures, informed by previous experience, are adequate to avoid potential health effects and offensive or objectionable odour effects on sensitive receptors such as the patrons and staff of restaurants in the vicinity of the works area.
- 7.7 The potential for discharges of dust is likely to be similar to other large-scale construction activities. I consider that the works do not present any unique challenges for controlling dust and note that previous mudcreting works undertaken throughout the Auckland waterfront area have not resulted in significant discharges of dust from the handling or storage of cement.
- 7.8 As detailed in section 6 of my Report, I consider that the actual and potential discharges of contaminants into air arising from the Application will comply with the Resource Management (National Environmental Standards for Air Quality) Regulations and the relevant objectives and policies of the AUP. Further, I consider that sections 105 and 107 of the RMA do not restrict the grant of the air discharge consent.
- 7.9 As concluded at paragraph 7.2 of my Report, I consider that an air discharge consent could be granted to the Application, subject to recommended conditions, as:
- (a) I consider that the actual and potential air discharge effects on the receiving environment are less than minor. Subject to the imposition of conditions, the effects can be adequately avoided, remedied or mitigated.
 - (b) Discharges of dust and odour can be adequately controlled using mitigation measures as detailed by conditions of consent and management plans so that offensive or objectionable effects do not occur beyond the boundary of the site. The sensitivity of the receiving environment to the potential air discharges will not be compromised given the application of appropriate on-site management techniques.
 - (c) Discharges of hazardous air pollutants are not expected to cause an exceedance of the relevant ambient air quality criteria as contained within the NES:AQ and the AUP. I consider that the proposed air discharges are consistent with the relevant provisions of the NES:AQ, and the AUP.

8. UPDATE FOLLOWING EXPERT WITNESS CONFERENCING / RESPONSE TO APPLICANT'S EVIDENCE

- 8.1 I was involved in multi-disciplinary expert witness conferencing in my capacity as an air quality expert. This JWS proposed some minor changes to the 27 July 2018 version of the proposed conditions of consent as discussed in section 9 below.
- 8.2 As summarised in the JWS, I agree that odour and other air discharges can be appropriately mitigated by controls within the CEMP and RAP so that significant air quality effects are not likely to arise from the construction works.
- 8.3 I have reviewed the draft RAP and draft CEMP (both dated 3 August 2018) appended to the evidence of Phillip Ware¹⁰ and Kurt Grant¹¹.
- 8.4 I consider that the draft RAP contains sufficient measures to monitor and mitigate potential discharges of odour and volatile organic compounds that may arise as a result of disturbing soil contaminated by hydrocarbons so that health effects and offensive or objectionable odour effects are not likely to arise. I note that the odour control measures within the RAP are similar to those that have successfully avoided significant odour effects during previous earthworks in the Wynyard Quarter area. These measures within the RAP may be updated based on further information regarding the scale of hydrocarbon soil contamination obtained by the proposed Detailed Site Investigation.
- 8.5 I consider that the draft CEMP requires some additional details regarding the limits, management and monitoring for potential discharges of dust in accordance with the requirements of proposed condition 33(t). I consider that sections 6.14 and 8 of the CEMP should be expanded to define a criteria/action level and routine monitoring procedures for dust to ensure that offensive or objectionable effects do not occur as a result of the Application. I note that there are multiple sources of dust associated with the Application, and therefore, I consider that dust controls are best included as a matter for the CEMP rather than only being included in the RAP relating to the disturbance of contaminated soils.

9. CONDITIONS

- 9.1 I agree with the Proposed Conditions attached to the evidence of Mr Lala and Mr Cook with respect to air discharge controls.

¹⁰ E14, Attachment A, page 0847 onwards.

¹¹ E9, Attachment B, page 0362 onwards.

9.2 As detailed by section 7 of my Report, I recommended several changes to the originally proposed set of Consent Conditions to appropriately manage and mitigate potential air quality effects, including those arising from the potential discharges of dust and odour.

9.3 As part of the JWS¹², I agreed with Mr Ware that proposed condition 33(t), relating to matters to be included in the CEMP, should be included to appropriately limit and control potential discharges of dust that may occur across the works area (including from the handling of cement). In the 7 August 2018 version of the Proposed Conditions, condition 33(t) reads:

33(t) Measures to monitor and minimise discharges of dust so that any offensive or objectionable effects are immediately identified and are mitigated.

9.4 I consider that this requirement for the CEMP is sufficient to control potential dust emissions so that significant effects are not likely to arise at any location beyond the works site.

9.5 The potential discharges of odour and volatile organic compounds are proposed to be controlled within the RAP by conditions 88(f) and 92:

88(f) Measures to monitor and mitigate discharges of odour, volatile organic compounds and asbestos (if required) during excavations, including criteria/action levels for triggering specific control and contingency measures

92 Excavation or soil disturbance in areas of known or potentially contaminated land shall be managed to minimise the generation of dust, asbestos, odour and volatile organic compounds and be carried out in accordance with the certified RAP.

9.6 I consider that these conditions are sufficient to minimise potential odour emissions that may arise from the disturbance of contaminated soils in the Wynyard Point area so that significant effects are not likely to arise at any location beyond the works site.

¹² E27, page 1316 onwards.

10. CONCLUSIONS

- 10.1 I consider that the actual and potential air discharge effects arising from the Application shall be adequately controlled, managed and mitigated by the Proposed Conditions (dated 7 August 2018), RAP and CEMP (both dated 3 August 2018) so that significant effects are unlikely to occur.
- 10.2 I consider that the draft RAP contains sufficient detail for the control of odour and volatile organic compounds that may arise from the disturbance of contaminated soils.
- 10.3 I consider that the draft CEMP should be amended to include further details regarding proposed criteria/action levels, controls, monitoring and contingency measures regarding the actual and potential discharges of dust from the wider works in accordance with proposed condition 33(t).

Paul Crimmins

21 August 2018