

**IN THE ENVIRONMENT COURT
AUCKLAND**

ENV-2018-AKL-000078

**TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKĀURAU**

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

AND

IN THE MATTER of direct referral of an application under s87G 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**

Applicant

AND **AUCKLAND COUNCIL**

Consent Authority

AND **Section 274 parties**

**STATEMENT OF EVIDENCE OF HEATHER MAY KIRKHAM
ON BEHALF OF THE CROWN**

21 AUGUST 2018

**Russell
McAugh**

B S Carruthers | M J Doesburg
P +64 9 367 8000
F +64 9 367 8163
PO Box 8
DX CX10085
Auckland 1140

1. INTRODUCTION

1.1 Panuku Development Auckland ("**Panuku**") has applied for resource consents to authorise the construction, occupation, use and maintenance of the permanent and temporary infrastructure in Freemans Bay necessary to host the 36th America's Cup ("**AC36 or Cup**") and to hold AC36 and successive America's Cup events to 2028 ("**Application**").

1.2 The Crown made a submission in support of the Application and filed a notice to join these proceedings as an interested party.

1.3 I am familiar with the Application and am authorised to give this evidence on behalf of the Crown.

Qualifications

1.4 My full name is Heather May Kirkham.

1.5 I have a BCom (Hons) / BA from Auckland University with majors in Accounting and Finance, and Economics respectively.

1.6 I have over a decade's experience working in the public sector, primarily at the Treasury, but more recently at the Ministry of Business, Innovation and Employment ("**MBIE**"). MBIE is the New Zealand government's lead business-facing agency, with the purpose of growing New Zealand for all. I also have nearly a decade's experience working in the corporate sector in corporate strategy and other areas.

1.7 My current role at MBIE is as a Policy Director in the Tourism and Economic Development branch. In relation to AC36, I led MBIE's involvement in the process to determine the level of Crown commitment to both Emirates Team New Zealand ("**ETNZ**") and in the infrastructure required to enable Auckland to host AC36; with due consideration to what it will generate in return. I am currently on the Board of the Wynyard Edge Alliance, which is the specially formed alliance of constructors, designers and owner-participants tasked with delivering the agreed infrastructure.¹

1.8 I am here representing MBIE, and not the Wynyard Edge Alliance.

¹ The Alliance consists of McConnell Dowell and Downer (the constructors), BECA and Tonkin & Taylor (designers) and owner-participants (Crown and Auckland Council Group).

2. SCOPE OF EVIDENCE

2.1 The Crown supports the Application and asks that consent be granted.

2.2 My evidence is structured to provide:

- (a) an overview of the Crown's involvement in AC36;
- (b) comment on the Wynyard Hobson proposal;
- (c) an outline of the importance of mana whenua engagement; and
- (d) conclusions.

3. AN OVERVIEW OF THE CROWN'S INVOLVEMENT

Background and context

- 3.1 MBIE is responsible for New Zealand Major Events. New Zealand Major Events works alongside the events sector to support New Zealand's growing reputation as an attractive destination for major events of global significance, such as the Cup. To date, they have invested in a wide range of events including the Men's Cricket World Cup 2015, the FIFA U20 Men's Football World Cup 2015, the World of Wearable Art, the New Zealand Men's and Woman's Golf Opens, and the World Masters Games 2017.
- 3.2 Having won the 35th America's Cup in Bermuda in 2017, ETNZ won the rights to host a series of regattas that will lead to the defence of AC36 in Auckland in 2021.
- 3.3 MBIE was involved very soon after ETNZ won the 35th America's Cup in June 2017, in negotiating the terms of an initial \$5 million funding of ETNZ to ensure that it could continue to pay the salaries of the team in the immediate aftermath of its win. This ensured it could keep the core team together and provide a strong platform to start planning for its defence.
- 3.4 A sizable investment is required to ensure that Auckland is able to host the Cup, and to therefore allow Auckland and New Zealand to maximise the opportunities presented by the Cup defence. This included the planning and development of facilities, working with organisations to deliver AC36 and planning associated events.

4. THE WYNYARD HOBSON PROPOSAL

The Wynyard Basin proposal

- 4.1 On 15 January 2018, Panuku lodged an application for resource consents for what was termed the Wynyard Basin proposal. That application proposed the establishment of Americas Cup bases in and around Wynyard Basin, along part of Auckland's City Central waterfront. AC36 was to be centred around Hobson Wharf and the Halsey Street Extension Wharf, and the surrounding waterspace ("**Basin Proposal**").
- 4.2 Notably, the Basin Proposal included wharf extensions to:
- (a) Hobson Wharf of approximately 74 metres in width (north-south) and 100 metres in length (east-west), totalling approximately 7,400m²;
 - (b) Halsey Street Wharf of approximately 74 metres in width and 220 metres in length, totalling approximately 16,280m²; and
 - (c) Wynyard Wharf, to infill the 18 metre gap between Wynyard Wharf and Brigham Street over a length of 250 metres.
- 4.3 The Crown had serious concerns with the Basin Proposal, particularly due to the significant amount of encroachment into the Waitematā Harbour.
- 4.4 While not all environment costs can or should be valued in dollar terms, it was important to the Crown that consideration be given to the loss of amenity; in this instance, incursion into the Waitematā Harbour. At present there is no consistent method for identifying and quantifying impacts on amenity values of developments such as those proposed, and the Government intends to address this in national direction on quality intensification as part of the Urban Growth Agenda over the next 18 months.
- 4.5 In the absence of a nationally recognised method, an example of how this could be approximated in dollar terms is to use property values of adjacent land. The Basin Proposal included wharf extensions of approximately ~24,000 m². Using a proximate land value average of \$3,500/ m², the Basin Proposal would have a cost of \$84 million. The potential cost of the loss of amenity (using this value, or an alternative cost or assessment framework) was not taken into consideration for the Basin Proposal. In the Crown's view, some consideration around loss of

amenity value should have been taken into account, and should be in respect of future proposed intrusion into the harbour.

- 4.6 While the Crown was supportive of ETNZ and New Zealand's hosting of AC36 in Auckland in 2021:
- (a) There was concern that other viable land-based alternatives had not been fully explored that could otherwise minimise the extent of new structures in the Waitematā Harbour required in order to host AC36.
 - (b) The Crown was cognisant of the time pressures involved to consent and construct the necessary infrastructure to host AC36 in time for 2021, as well as seeking to ensure that the proposed infrastructure was "fit for purpose" and would allow delivery of a world class event.
 - (c) The Crown was acutely aware that in order for New Zealand to successfully host AC36, a solution needed to be found that met the objectives of a number of parties, including the New Zealand public.
- 4.7 The Crown's focus, as set out in its submission on the Basin Proposal, was for appropriate consideration to be given to:
- (a) providing value for New Zealand's taxpayers and Auckland's ratepayers;
 - (b) the practicable options for minimising adverse effects on the environment (including effects of development in the Waitematā Harbour);
 - (c) creating a legacy environment that is available to local communities as public space and remains adaptable for the hosting of future events; and
 - (d) delivering a world class event.
- 4.8 This remained the Crown's focus as it explored, along with Panuku, other land-based alternatives to find a solution under a compressed timeframe.

Investigating land-side alternatives

- 4.9 During the first quarter of 2018, we continued to investigate other options around Wynyard Point, Halsey Street Extension Wharf and Hobson Wharf.
- 4.10 I understand that during Panuku's initial investigation into options and configurations for hosting AC36, the key barriers to considering a landside option on Wynyard Point included the cost of ending existing lease arrangements early, contamination and the removal of hazardous facilities.
- 4.11 As part of its investigations, we engaged with the existing leaseholders on land at Wynyard Point to determine if land could feasibly be made available for AC36 infrastructure. As a result, parameters around the event location and design began to crystallise with more certainty. Key changes included:
- (a) ETNZ advising the minimum base requirement had reduced from eight bases to seven bases (meaning the ultimate proposal would only require four double bases and three singles);
 - (b) the consenting issues associated with the use and development of contaminated land had been explored in greater detail (resulting in a better understanding of the nature of the contamination);
 - (c) positive negotiations with some of the hazardous facilities leaseholders to vacate the south-eastern part of Wynyard Point prior to their leases expiring; and
 - (d) as a result of hazardous facilities exiting, the ability to better manage the risks associated with development near the facilities.
- 4.12 The investigation and various alternative options were informed by and evaluated against the public submissions received on the Basin Proposal (including the likes of Stop Stealing Our Harbour and Viaduct Harbour Holdings Limited).
- 4.13 In February 2018, the key alternative option being considered by the Crown was the Halsey Point option. It involved an extension of Halsey

Wharf for two double bases and development of up to five bases on the south-eastern side of Wynyard Point, but no extension to Hobson Wharf.

- 4.14 At the same time, there was ongoing parallel engagement on the Halsey Point option with mana whenua, the wider Auckland Council group, ETNZ, landowners, tenants and other key stakeholders. A number of operational requirements were still being worked through when ETNZ raised the potential relocation of ETNZ into the Viaduct Events Centre (removing the need to construct one of the double bases) and assessed it as viable. This removed the need to accommodate two double bases on an extended Halsey Wharf, and instead Hobson Wharf could be extended to cater for one double base. If chosen, the reduced incursion into the harbour would be approximately 7,400m² (versus approximately 24,000m² proposed under the Wynyard Basin Proposal).
- 4.15 This was the genesis of the Wynyard Hobson proposal.

The solution – Wynyard Hobson

- 4.16 The final proposal, which was brought forward in the Application, involves a 74 metre extension of Hobson Wharf for one double base, conversion of the existing Viaduct Events Centre on Halsey Wharf for one base, and the development of up to five bases landside on Wynyard Point ("**Wynyard Hobson**"). There would be no extension of Halsey Wharf (other than for breakwaters).
- 4.17 Of all options explored, the Wynyard Hobson Proposal:
- (a) required the least amount of development into the Waitematā Harbour, significantly reducing the significant potential cost to amenity value;
 - (b) was the least expensive option overall (even without taking into account the savings of the potential cost to amenity value, which could be over \$50 million); and
 - (c) enabled a strong positive legacy (with a range of possible uses during and after the resource consent term).
- 4.18 The Wynyard Hobson proposal was approved for lodgement by Auckland Council, and supported by ETNZ and the Crown on this basis.

- 4.19 That, however, has not been the end of consideration of alternatives. Since lodgement, ongoing investigations have continued into the plausibility of acquiring additional land-based sites to further reduce the requirement to encroach into the harbour. There has also been further consideration as to *how*, or *if* the infrastructure could be phased differently so that Hobson Wharf would only be built if required by the number of syndicates challenging for the Cup.
- 4.20 Given the immense time pressure on the construction of the infrastructure, and ETNZ's requirement for the three double bases to be ready by mid-to-late 2019 for early arriving syndicates, these further investigations have not resulted in a plausible alternative to building the Hobson Wharf extension.
- 4.21 Having been involved in options analysis, investigation and engagement with parties over a 9 month period, I support the view of the Crown that the Wynyard Hobson proposal is the best option for delivering a fit for purpose and world class event space. I consider that it will generate a range of benefits for Auckland and New Zealand, while limiting adverse effects on the environment (including the extent of incursion into the Waitematā Harbour), within the constraints that we face.

World class event space

- 4.22 The Crown's overriding objective is for Auckland and New Zealand to host a world class event that generates economic, social and cultural benefits for Auckland and New Zealand, as well as having a positive impact on national identity and pride. I support the view of the Crown that the Wynyard Hobson proposal will provide for a world class event space having enduring benefits for Auckland and New Zealand.
- 4.23 There are two key components to this objective:
- (a) The space must be fit for purpose, and provide for up to seven syndicates (including ETNZ in the Viaduct Events Centre).
 - (b) The space must be conducive to hosting world class events, both in the 10 year term (sought for the consent) and into the future.
- 4.24 In relation to the first point, it is important that there are as few barriers as possible to teams entering AC36 (and future events). This includes enabling smaller teams to enter, and teams to enter later.

- 4.25 In relation to the second point, a key goal is to ensure that the infrastructure provided also enables future America's Cup events, or similar events using harbour-side space, without the need for further development to extend into the Waitematā Harbour. In short, the Crown does not want to see Auckland in this position again in 15 years' time as a result of Wynyard Point and/or the wharves being developed in a manner that forecloses the future hosting of similar events.
- 4.26 As such, the Crown has proposed a condition of consent, requiring the consent holder to prepare a Legacy Use Options Plan. The purpose of the Legacy Use Option Plan is to identify options of future use that retain the ability for events of a similar scale to be hosted in Auckland in the future, without requiring new infrastructure to be built in the Waitematā Harbour. Panuku has agreed to this condition, and the Crown understands it is widely supported by the parties.

5. MANA WHENUA ENGAGEMENT

- 5.1 The Crown is committed to ongoing proactive engagement with mana whenua to ensure that the delivery of AC36 accurately reflects the wishes and intentions of all key stakeholders, and shows the appropriate respect to the Waitematā Harbour as taonga.
- 5.2 As recorded in the submission, the Crown is keen to ensure that mana whenua are provided opportunities for ongoing engagement post the grant (if any) of consent.
- 5.3 The resource consent (if granted) is just one part of the package of works required to deliver a successful event and enduring benefits for Auckland and New Zealanders. Overlooking the entire AC36 programme is the Joint Chief Executives Group. A significant amount of work and effort has gone in to setting up the governance framework, with the Joint Chief Executives Group now constituting two Crown representatives (with an option for a third), four representatives from the Auckland Council Group, representation from America's Cup Event Limited (the ETNZ-related company responsible for delivering the AC36 events) and four mana whenua representatives. This group is tasked with overseeing, providing direction for and governing the whole AC36 programme.
- 5.4 The consent process is therefore just one part of a wider process of mana whenua engagement and involvement regarding the hosting of AC36. Separate from the requirements of the final wording of the conditions (if

consent is granted), there are numerous opportunities for ongoing consultation and engagement with mana whenua.

6. CONCLUSIONS

6.1 On behalf of the Crown, I record the view that the Application:

- (a) has been planned and designed in a way that appropriately avoids, remedies or mitigates any adverse effects on the environment. The Crown recognises the importance of the Waitematā Harbour, appreciates that the community and iwi value its qualities and attributes in various ways, and acknowledges that how the Waitematā Harbour is used and managed is an important issue. In particular, the Crown supports the reduced extent of incursion into the Waitematā Harbour required to accommodate the America's Cup syndicate bases, which will reduce the costs of loss of amenity, as compared to alternative options. While not all environmental costs can or should be valued in dollar terms, the dollar value properly attributable to the substantially lessened intrusion is tens of millions of dollars in this instance;
- (b) will have positive effects for Auckland and New Zealand, including on the local and national economy;
- (c) will establish and preserve public open space with direct access to the Waitematā Harbour, providing a legacy environment that is available to local communities as a public space yet remains adaptable for the hosting of future events;
- (d) will provide a stage for the America's Cup to showcase New Zealand as a host country capable of delivering world class events; and
- (e) will provide a platform to achieve the reputational, cultural and national pride benefits that hosting an event of this kind delivers.

6.2 The Crown supports the grant of consent to the Application.

Heather Kirkham

21 August 2018