

**BEFORE THE ENVIRONMENT COURT
AUCKLAND**

ENV-2018-AKL-000078

IN THE MATTER

of the Resource Management Act 1991

AND IN THE MATTER

of direct referral of an application for resource consent 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

Regulatory Authority

**WITNESS STATEMENT OF MARK THOMAS GIBSON (FOR SEALINK TRAVEL GROUP
NEW ZEALAND LIMITED, A S.274 PARTY)**

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The logo for Lowndes Jordan, featuring a stylized 'L' and 'J' intertwined, with the text 'Lowndes Jordan' below it.

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WITNESS STATEMENT OF MARK THOMAS GIBSON (FOR SEALINK TRAVEL GROUP NEW ZEALAND LIMITED, A S.274 PARTY)

1. I, **Mark Thomas Gibson**, chief executive officer, of Auckland, state:

My Role

2. I am the CEO of Sealink Travel Group New Zealand Limited (**Sealink**). I have been the CEO of the company for two years and 3 months and have authority to give evidence on the company's behalf.

3. In my position I am responsible for all aspects of the business. These include financial performance, operations, health and safety and customer satisfaction. Health and safety is high priority for our business. Maritime Operations encounter risks unique to the environment we operate in encompassing, people, other operators, weather and an ever increasing volume of traffic in the Auckland Harbour. Ensuring compliance and safe navigational protocols are absolutely critical for our continuing operation. The customer component is also extremely important as a commercial operation maintaining performance and loyalty is vital to our future. There is also an inherent obligation to service and look after the needs of the Hauraki Gulf communities. There is regular interaction with these communities regarding what are seen as essential services and the development of tourism.

Background

4. Sealink (previously known as Subritzky Shipping Services) commenced operations in 1960. It has grown since then to own and operate a fleet of five specialist ferries carrying vehicles, passengers, freight, heavy road machinery and bulk supplies for the Hauraki Gulf islands. The company has approximately 145 employees and provides a lifeline to Great Barrier, Waiheke and other Hauraki Gulf Islands that are often reached by charter services.

5. Sealink also operates a fleet of four fast catamaran passenger only ferries on commuter services to and from Central Auckland and Pine Harbour Marina.

6. Sealink also operates a logistics business. This effectively consolidates and delivers all freight ranging from small consignments like supermarket boxes to full trailer loads of building supplies, to both Waiheke and Great Barrier Island.

This is an essential part of enabling commerce and business to operate on both Islands with our Ferry services being the key link.

Terminals

7. Sealink has its headquarters and a ferry terminal at the south eastern corner of Wynyard Point at 11 Brigham Street/Wynyard Wharf (**Wynyard Terminal**). It currently occupies this site under licence from Panuku Development Auckland Limited (**Panuku**) and has the right to remain until November 2024.
8. It has access rights under a License Agreement from Auckland Transport (**AT**) to access and use the Half Moon Bay site (**HMB Terminal**) and waterspace for the operation of its vessels.
9. It has rights under arrangements with AT to use berthing facilities at Kennedy Point on Waiheke and Tryphena and Port Fitzroy on Great Barrier. It also has rights via AT to use berthing facilities at the main Auckland ferry terminus and at the Pine Harbour Marina in respect of its passenger only services between those points.

Nature of Vehicle Ferry Operations

10. Sealink is the only scheduled operator of vehicular passenger and freight ferry services between Auckland and Great Barrier and Waiheke Islands, making its ferries an essential service in the lives of the residents and businesses on the islands.
11. Great Barrier services are operated by “Island Navigator” from the Wynyard Terminal, only, to and from Tryphena and Port Fitzroy on Great Barrier. Waiheke services are operated by “Seabridge” and Seaway II” from the Wynyard Terminal to Kennedy Point on Waiheke.
12. Vehicle ferries are also operated from the HMB Terminal to Kennedy Point.
13. Vessels are also available for charter work in the Hauraki Gulf when not required for scheduled services.
14. Subject to seasonal variations, we regularly run up to five daily return services from Wynyard to Waiheke and up to two return trips seven days per week to Great Barrier from the Wynyard Terminal. During the peak season of October – April continuity of service is critical. This amounts to in excess of 1,500 vessel

movements per year. Again, subsequent to seasonal variations, we regularly operate up to 12 daily return services from HMB to Waiheke. This amounts to in excess of 4,300 vessel movements per year from HMB with services operating hourly.

15. Our vessels regularly carry dangerous goods as cargo, including loaded LPG and petrol/diesel road tankers. All of Great Barrier's fuel supplies are delivered via our Wynyard Terminal and most of the Waiheke supplies. It should be noted that there is no electricity on Great Barrier and the carriage of fuel is necessary for the operation of generators and essential services such as Ambulance and Fire response. Additionally we carry heavy machinery enabling infrastructure repairs and maintenance for Great Barrier and Waiheke. This can be for routine maintenance and emergency response following weather or natural disaster
16. Whilst it might be possible to provide a modest increase in services from the HMB Terminal to Waiheke (using vessels which already operate from that terminal) in place of the services from the Wynyard Terminal, it is not possible to simply replace all of the Wynyard Terminal to Waiheke services. Neither "Seabridge", used to service Waiheke from the Wynyard Terminal, nor "Island Navigator", used to service Great Barrier, can operate from Half Moon Bay due to vessel design, operational and draft issues.

AC36 and FFIFR and subsequent Hobson/Wynyard Applications

17. Since around November 2017 Sealink has been engaging with Panuku Development Auckland Limited (**Panuku**) regarding Panuku's proposed arrangements to accommodate the 36th Americas Cup to the extent that they affect Sealink. Panuku advised that as a result of Emirates Team New Zealand winning the America's Cup, waterfront development would need to take place around the Wynyard Basin and that this would necessitate the relocation of Sealink's Wynyard Terminal operations. However there was little direct/detailed discussion with us about alternative locations.
18. On 12 December 2017 I wrote to Panuku expressing broad support for its ferry relocation proposal but recording that Sealink did not want to prejudice its position to continue with our commercial operation in the immediate area.
19. Subsequently Panuku made resource consent applications for:

- 19.1 the establishment of a facility (the Ferry and Fishing Industry Relocation Facility (**FFIRF**)) for the relocation of the of the Auckland Fishing Fleet and Sealink to the western side of Wynyard Point (**FFIRF Application**) BUN60313923; and
- 19.2 the development of syndicate base infrastructure, event infrastructure and associated activities for the 36th America's Cup regatta (**AC 36 Application**) BUN60313877.
20. The joint effect of those proposals was to require that Sealink relocate to a new site to the north east of the Firth concrete batching plant in Hamer Street on the Western side of Wynyard Point. Whilst in principle Sealink has no particular difficulties with the land side aspects of that location, the fact the site is located in the main channel into Westhaven marina, gives rise to serious health and safety and navigation safety concerns. Operational plans will need to be established with all stakeholders of the Westhaven precinct including the Harbour Master to ensure safe operation. In the apparent absence of any consideration having been given to such issues and there being no demonstration by Panuku as to how the FFIRF proposal could be amended (or some alternative location could be confirmed) that would avoid, remedy or suitably mitigate those significant adverse safety effects, Sealink felt obliged to oppose those applications.
21. Following the lodgement of submissions, in which we identified significant safety issues with the original location, the FFIRF Application was put on hold; but the process continued, again with the assumption that Sealink would be relocated. At that time also, the AC 36 application was replaced by the current Hobson/Wynyard Application (BUN60318372) (**Hobson/Wynyard Application**). In the absence of any advances in relation to the issues set out in its AC36 and FFIRF submissions, Sealink considered it necessary to also oppose the Hobson/Wynyard Application.
22. Following lodgement of our submissions opposing the various applications, another possible site to the north of the Silo Park Marina area and Titan Marine Engineering at the old Sanford slipway and south of the Firth plant has become available (**Sanford Site**) and discussions with Panuku have focussed on this site. There are a number of issues to be addressed with this site, including in relation to navigation safety.

23. Before it can be used, any new facility needs to be designed, consented and built. Until a new location becomes available for use, Sealink needs to remain where it is. Based on Panuku's current timeframes, it has become clear that there is likely to be a significant gap (in the region of six months) between the time Panuku wants Sealink to move from its present location until a new facility becomes available.
24. If Sealink is prevented from conducting continuous operations from its Wynyard Terminal that will obviously be detrimental to Sealink's business. More importantly it will, in a very real way, adversely impact the lives of Waiheke, and more particularly Great Barrier, residents who will be deprived an essential service. I say more particularly Great Barrier because, given the characteristics of the vessels Sealink operates, Great Barrier can only be serviced from the Wynyard Terminal.

Requested conditions

25. Following recent negotiations, Panuku and Sealink have been able to agree a set of conditions which would adequately address Sealink's concerns regarding access to the Wynyard Terminal during the construction period of the works proposed for the Hobson Wynyard Basin, prior to the relocation of Sealink to a new site.
26. A copy of those conditions is attached as Appendix 1. They reflect the terms of the Joint Witness Statement- Navigation Safety" dated 26 July 2018. Sealink seeks the Court's approval of these conditions. Subject to the proposed conditions being approved by the Court, Sealink is otherwise supportive Panuku's application.

Conclusion

27. If the conditions now sought by Sealink and agreed with Panuku are approved by the Court then Sealink is able to support development of the Hobson Wynyard Basin area in the manner sought in the Hobson Wynyard Application. Subject to approval of those conditions I believe that, with reasonable co-operation between the parties, Sealink's operations can be safely maintained until its relocation in a manner which is sufficient to ensure that Sealink can continue to serve its customers and in particular the residents of Great Barrier and Waiheke who rely on us on a day to day basis.

Dated: 2018

MT Gibson

Appendix 1: Proposed Conditions Agreed Between Sealink and Panuku**Restrictions on Breakwater Construction for Ferry Navigation in Situ**

- 45C. Construction of the proposed breakwater extending east from Wynyard Wharf (shown as Breakwater Structure 1 on Beca Civil Drawing Number 3233847-CA-4101 Rev E) shall only proceed on the basis that the construction footprint (including barges/tugs etc.) (**Footprint**), shall not impede the passage of ferries. In practice this means construction activity for the Wynyard breakwater (shown as Breakwater Structure 1 on Beca Civil Drawing Number 3233847-CA-4101 Rev E) is constrained to the approximate length of the planned breakwater. The Footprint may at times extend further; provided it can be withdrawn as required to ensure that the passage of ferries is not impeded. A protocol governing extension and reduction of the Footprint shall be included in the NSMP.
- 45D. Except with Sealink Travel Group Limited's (**Sealink**) prior written approval, construction of the Halsey Street extension wharf breakwater (east-west finger shown as Breakwater Structure 2 on Beca Civil Drawing Number 3233847-CA-4101 Rev E) shall not be commenced until the existing Sealink ferry ramp facility has been removed. This does not include the proposed base element (immediately adjacent to the Halsey Street Wharf and shown as Breakwater Structure 3 on Beca Civil Drawing Number 3233847-CA-4101 Rev E), provided the construction activity of the proposed base element is completed before construction of Breakwater Structure 1 commences or is carried out from the shore or from the east, or otherwise the Footprint can be withdrawn as required to ensure that the passage of ferries is not impeded. A protocol governing how Breakwater Structure 3 is to be constructed shall be included within the NSMP. This shall include, in particular, details as to how and when the construction footprint will be withdrawn to ensure that the safe passage of ferries is not impeded.
- 46A. The consent holder shall establish a Navigation Safety Management Plan for on-water construction activities (**NSMP**). The objectives of the NSMP are to:
- a) Provide for efficient operation of the waterspace affected by construction;

- b) Provide a safe environment for all water users;
- c) Ensure water users are appropriately notified of construction activities and any changes to the operation of the waterspace affected by construction;
- d) Ensure safe navigation access to berths is maintained for vessels at all times as far as practicable to enable continued operations by Sealink (Wynyard Terminal), Sanford and the wider commercial fishing fleet (AFPL) prior to their respective relocation, subject to ensuring that the requirements of conditions 45C and 45D are met at all times;
- e) Maintain safe navigation for and access to other berth holders and water space users; and
- f) Ensure access to and from the Outer and Inner Viaduct Harbour is maintained for vessels at all times as far as practicable.

46Aa. To the extent that the NSMP relates to the restrictions in Conditions 45C and 45D or to otherwise managing the effects on Sealink's operations, the NSMP shall be prepared in consultation with Sealink.

47. The consent holder shall notify the Auckland Harbourmaster, Sealink, Sanford, Auckland Fishing Port Limited, the Viaduct Harbour Marina Manager (via Viaduct Harbour Holdings Limited) and Ports of Auckland Ltd Harbour Control, of the location of the marine works and the proposed date of Commencement of Construction in the CMA at least twenty (20) working days prior to the proposed start date.

49. The consent holder shall notify the Auckland Harbourmaster, Sealink, Sanford, Auckland Fishing Port Limited, the Viaduct Harbour Marina Manager (via Viaduct Harbour Holdings Limited), Ports of Auckland Ltd Harbour Control, and the Land Information NZ (LINZ) Hydrographic Office in writing of the date of completion of works in the CMA within ten (10) working days of the completion of the last activity involving wharves and pontoons.