

ENV-2018-AKL-000078: America's Cup Application
Mediation – Draft Structure based on issues raised in Section 274 Notices (incorporating Council update as at 2 August 2018 in red)

Key Topic	Sub-Topic	Section 274 party (submitter reference #)	Summary of Relief Sought by Interested Parties	Summary of Applicant's response / position	Summary of Council's response / position 2 August 2018 updated comments shown in red
Consent Duration	Timing of removal of buildings generally	Auckland City Centre Residents' Group (#15) Frances Stead (#29) Russell Hall (#30) The Point (#39)	<ul style="list-style-type: none"> Consider blanket 10 year timeframe is unnecessary and propose 5 + 5 year term Consent should be limited to 2021 defence only Seeks above wharf structures removed within 90 days of completion of AC36 	<ul style="list-style-type: none"> 10 year consent is sought to cover various scenarios including ETNZ winning AC36, AC37 and hosting AC38 in Auckland. New condition proposed (Panuku Condition 6) that Bases B-G will be removed 6 months after any loss of the Cup during the 10 years (but without preventing a replacement base being constructed if won and hosted back in Auckland within 10 year period). 	<ul style="list-style-type: none"> The rationale for a 10 year term (to allow for hosting of AC36, AC37 and AC38) is sound. The new condition proposed by the Applicant appears to be an appropriate response to the concerns raised. <p>No change.</p>
Construction Effects / Management Plans	Use of management plans generally	VHHL (#33) Kiwi Property Group Limited (#71)	<ul style="list-style-type: none"> Concerns regarding reliance on management plans 	<ul style="list-style-type: none"> Draft Construction Management Plans were circulated to Council and all submitters for comments on 6 July 2018. Panuku would like to discuss detailed amendments to the draft management plans at mediation. An update will be provided on construction methodology and design details that have been confirmed. 	<ul style="list-style-type: none"> A management plan-based approach is supported. The section 87F report proposes some improvements to the construction management plan conditions (Appendix U). <p>Council continues to support the management plan-based approach. Good progress made on draft management plans through mediation process.</p>
	Water quality	St Mary's Bay Association Inc (#82)	<ul style="list-style-type: none"> Concerns that increased land and water traffic will result in increased stormwater collection and run-off 	<ul style="list-style-type: none"> Proposed conditions and draft Erosion and Sediment Control Plan provide measures to address these concerns. 	<ul style="list-style-type: none"> Council's stormwater report (Appendix G) indicates that the proposed stormwater quality regime is feasible for the site and the effects of stormwater discharging to the receiving environment will be suitably mitigated. <p>No change.</p>
	Noise / vibration	VHHL (#33) Kiwi Property Group Limited (#71) Princes Wharf Group (#48) (relating to Hobson Wharf only) ASB (#78) The Point (#39) <u>Willis Bond & Co (#79)</u>	<ul style="list-style-type: none"> Concerns regarding potential construction effects 	<ul style="list-style-type: none"> Matters addressed in draft Construction Noise and Vibration Management Plan and proposed conditions 	<ul style="list-style-type: none"> Council's noise and vibration report (Appendix H to s87F report) proposes amendments to conditions (e.g. lowering noise standards for the project and including project standards for vibration) to ensure effects will be adequately mitigated. <p>Council supports the revised set of construction noise and vibration conditions agreed at Expert Witness Conferencing on the topic of noise and vibration.</p>
Construction Effects / Management Plans cont....					

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	Traffic (including pedestrian safety, carparking and access to properties)	VHHL (#33) Kiwi Property Group Limited (#71) Willis Bond & Co (#79) Firth Industries (#55) ASB (#78) Hirepool Limited (#8) Auckland Theatre Company (#74) Fu Wah New Zealand Limited (#49)	<ul style="list-style-type: none"> Concerns regarding potential construction effects Carparking availability for workers at and visitors to permanent Wynyard Quarter businesses 	<ul style="list-style-type: none"> Matters addressed in draft Construction Traffic Management Plan. Suggest a transport workshop with all interested parties to work through details. 	<ul style="list-style-type: none"> The CTMP is the appropriate mechanism for addressing these effects. Council traffic report (Appendix M to s87F report) proposes some improvements to the conditions. Proposal for a transport workshop is supported. <p>No change. Good progress made on draft management plans, including CTMP, through mediation process.</p>
	Identification of stakeholders in conditions	VHHL (#33) Kiwi Property Group Limited (#71) ASB (#78) Vector Limited (#5) The Point (#39) Auckland Theatre Company (#74) <u>Willis Bond & Co (#79)</u> <u>Hirepool Limited (#8)</u>	<ul style="list-style-type: none"> Seeks inclusion in conditions as a key stakeholder 	<ul style="list-style-type: none"> In terms of construction effects Panuku considers opportunity to be involved in preparation of construction management plans through Court process removes the need for conditions requiring stakeholder consultation. See updated CLG condition 44A-44D. 	<ul style="list-style-type: none"> The section 87F report proposed amendments to condition 36 to list various parties as stakeholders, and also proposed CLG conditions. Council understands applicant supports CLG approach, and that applicant proposes that: all submitters/s274 parties be invited to participate; that CCOs will also have the opportunity to be involved; and that the CLG will have input into key draft management plans. Council considers post-construction management plans, and material amendments to construction management plans, would benefit from stakeholder input through CLG. <p>Council supports the proposed CLG conditions discussed at mediation (44A to 44D), and also the 'feedback loop' condition (17A).</p>
Event	Integration with existing activities (including access to properties)	VHHL (#33) Kiwi Property Group Limited (#71) Frances Stead (#29) Russell Hall (#30) ASB (#78) Auckland Theatre Company (#74) <u>Willis Bond & Co (#79)</u> <u>Hirepool Limited (#8)</u>	<ul style="list-style-type: none"> Concerns regarding integration with existing activities, open spaces and pedestrian routes 	<ul style="list-style-type: none"> Matters to be addressed in Event Management Plan. Panuku will discuss matters to be covered in draft management plan at mediation. 	<ul style="list-style-type: none"> Agree EMP is the appropriate mechanism for addressing these matters. <p>No change.</p>

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Event cont...	Noise	ASB (#78) The Point (#39) Fu Wah New Zealand Limited (#49)	<ul style="list-style-type: none"> Concerns regarding potential effects during event phase 	<ul style="list-style-type: none"> Matters to be addressed in Event Noise Management Plan. Panuku will discuss matters to be covered in draft management plan at mediation. 	<ul style="list-style-type: none"> Agree that EMP should have a noise management plan component. Council noise report proposes condition wording. Council supports the requirement for a Noise Event Management Plan, with condition wording as discussed at the noise / vibration and planning Expert Witness Conferences (NB: outstanding issues remain re crowd noise and low frequency controls as explained in noise / vibration JWS).
	Traffic and parking	Willis Bond & Co (#79) ASB (#78) Auckland Theatre Company (#74) Fu Wah New Zealand Limited (#49) Firth Industries (#55) Hirepool Limited (#8)	<ul style="list-style-type: none"> Concerns regarding potential effects during event phase 	<ul style="list-style-type: none"> Matters to be addressed in Event Traffic Management Plan. Panuku will discuss matters to be covered in draft management plan at mediation. 	<ul style="list-style-type: none"> Agree the EMP is the appropriate mechanism for addressing these event-related issues. Council traffic report (Appendix M to s87F report) proposes amendments to EMP transport-related conditions, and improvements to Syndicate Staff Travel Plan conditions. Council supports conditions requiring an Event Transport Management Plan (and notes that the applicant has prepared a draft plan).
	Public access / connectivity	Kawau Island Action Incorporated Society (#81)	<ul style="list-style-type: none"> Opposes any restrictions on public access within the CMA or waterfront and seeks public access in front of syndicate sites 	<ul style="list-style-type: none"> Public access will be provided throughout the event area except where closure / restrictions are required for operational / safety purposes. 	<ul style="list-style-type: none"> While there will be some reduced connectivity (e.g. as result of closing of southern portion of Brigham St), the proposal will result in a number of additional spaces to access the water's edge following construction. Council's urban design report (Appendix F to s87F report) proposes some amendments to conditions to maximise public access. No change.
Legacy Issues	Any other legacy issues not relating to Hobson Wharf	Sail World NZ Ltd / Richard Gladwell (#51) St Mary's Bay Association Inc (#82) ASB (#78) The Crown (#41)	<ul style="list-style-type: none"> Seeks a long term plan to facilitate the hosting of future America's Cups Use of land and roading on Wynyard Point that has been earmarked for public park and other public recreational uses Extent to which proposal addresses legacy of America's Cup infrastructure for the area 	<ul style="list-style-type: none"> The 10 year duration of consent sought provides the correct balance between providing certainty for future events, but not preventing the long-term use of the Wynyard Point land for the intended outcome. 	<ul style="list-style-type: none"> Agree with applicant's response. Also the application is sought for a 10 year term; relief seeking a longer term is beyond scope. Council supports Crown proposal for a Legacy Use Options Plan (conditions 198B – 198D).

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Cultural Issues	<u>Mana Whenua support for proposal</u>	Ngāti Whatua Orakei (#40) Ngāti Paoa Iwi Trust (n/a) Te Kawerau Iwi Tribal Authority Incorporated (n/a) The Crown (#41)	<ul style="list-style-type: none"> Support for proposal subject to cultural offsetting and proposed consent conditions 	<ul style="list-style-type: none"> Panuku wishes to discuss the revised Condition 22 with all Mana Whenua parties. 	<ul style="list-style-type: none"> Section 87F report recommends that continued engagement occurs with mana whenua via an amended version of the mana whenua engagement condition (condition 22). Council supports thrust of proposals for more detailed mana whenua conditions (new conditions 5 to 5F, replacing condition 22).
	<u>Mana Whenua concerns with process and proposal</u>	Te Ākitai Waiohū Waka Taua Incorporation (#37) Ngāti Maru Runanga Trust (#58) Ngaati Whanaunga Incorporated Society (#38) Ngāti Tamaterā (#46) Ngāti Tamaoho Trust (#50) Te Patukirikiri Iwi Trust (#56) Ngai Tai ki Tamaki (#54) Ngāti Te Ata Claims Support Whanau (n/a)	<ul style="list-style-type: none"> Concerns regarding engagement with Mana Whenua in process to date and recognition of Mana Whenua Effects on cultural values / interests Proposed Condition 22 	<ul style="list-style-type: none"> The concerns and potential effects on Mana Whenua have been taken into account in the more limited development envisaged by the Wynyard Hobson scheme, the emphasis on ecology and water quality and other matters of concern, the avoidance of reclamation and further mitigation through proposed conditions. Panuku wishes to discuss the revised Condition 22 with all Mana Whenua parties. 	
Design of Base Buildings		VHHL (#33) Challenger of Record 36 SRL (#80) Royal New Zealand Yacht Squadron (#77) Team New Zealand Limited (#75) America's Cup Event Limited (#76)	<ul style="list-style-type: none"> Concerns regarding process where it is proposed to depart from Moller Architects base designs Seek flexibility around use of bases and design envelope 	<ul style="list-style-type: none"> Amended condition 24 achieves the right balance between need for certainty and need to provide flexibility for final design (see Panuku Conditions 23 and 24). 	<ul style="list-style-type: none"> With some amendments to condition 24 and the Guidelines (see Council's urban design report, Appendix F), Council agrees that condition 24 strikes the right balance. Urban design (including landscape) expert witnesses still caucusing on revised conditions 23-25A and new 'Design Requirements' at the time of updating this document.

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Hobson Wharf and Base B	Functional need for extension v structures in the CMA	Coralie van Camp (#4) VHHL (#33) Auckland City Centre Residents' Group (#15) Frances Stead (#29) Russell Hall (#30) St Mary's Bay Association Inc (#82) Princes Wharf Group (#48) The Point (#39) Charlotte Fisher (#20)	<ul style="list-style-type: none"> Considers all syndicates could be accommodated on land and no need for 74m extension Concerns regarding size of extension Issues as to height and bulk of Base B 	<ul style="list-style-type: none"> Panuku evidence will demonstrate functional need for 74m extension for double base that has been allocated to Luna Rossa (Challenger of Record) Visual / urban design evidence in support of 74m extension and Base B building 	<ul style="list-style-type: none"> Wynyard-Hobson scheme minimises wharf extensions compared with earlier scheme. Effects of Hobson wharf extension minor and acceptable. Potential more than minor legacy visual effects for some apartments identified in Council landscape/visual effects report (Appendix E to the s87F report), and condition proposed to address this. <p>No change.</p>
	Need for 10m public access	VHHL (#33)	<ul style="list-style-type: none"> Suggests northernmost 10m could be removed or provided by way of a temporary structure 	<ul style="list-style-type: none"> Need for 10m public access on new extension for event and desirable also for legacy. Minimal impact of the 10m from landscape/urban design perspective; and access desired at wharf level and permanent (as noted above), and safety/lack of utility concerns with pontoons. 	<ul style="list-style-type: none"> Presently unclear what the specific impact of the 10m is, and how feasible VHHL's suggestion of a temporary alternative is. The 10m is proposed to be publicly accessible. Council urban design report (Appendix F) notes this is positive and removal of public access in this area would not be an improved outcome. <p>No change. Council's view (and as recorded in the landscape JWS) is that from a landscape and visual effects perspective the suggested removal of the northern 10m portion of the Hobson Wharf Extension would not alter the level of effects to any more than a very limited extent.</p>
	Legacy	VHHL (#33) Auckland City Centre Residents' Group (#15) Princes Wharf Group (#48) The Point (#39)	<ul style="list-style-type: none"> Concerns over future use of extension 	<ul style="list-style-type: none"> Panuku evidence will demonstrate there are strong legacy benefits and opportunities for use. The AUP provides certainty and a framework for legacy use. 	<ul style="list-style-type: none"> Again, potential more than minor legacy visual effects for some apartments identified in Council landscape/visual effects report (Appendix E to the s87F report), and condition proposed to address this. <p>No change.</p>

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New structures in Wynyard Wharf South Waterspace	Potential visual effects when new breakwaters, wharves, balustrades and superyachts are viewed from North Wharf	The Conservatory (#42) Kiwi Property Group Limited (#71)	<ul style="list-style-type: none"> • Opposes impact on harbour views from North Wharf • Concerns regarding impact on viewshafts • Visual amenity and urban design in the vicinity of the ASB Building 	<ul style="list-style-type: none"> • Panuku has visual / urban design evidence that these effects will be low and temporary view obstruction by boats currently occurs through the fishing and ferry boats in this area. 	<ul style="list-style-type: none"> • The outlook from North Wharf will change as a result of the proposal. • However, the Council landscape/visual effects report (Appendix E) indicates this change will not be adverse because the new elements in the view (e.g. safety from fall balustrades, breakwaters and large vessels) are all expected in this environment. • Overall, level of visual amenity experienced from North Wharf will remain unchanged. <p>As above, while the character will change, a good level of amenity will be maintained. It is anticipated that the new 'Design Requirements' document (still under discussion by urban design and landscape experts) will provide greater detail and certainty about the edge treatment requirements.</p>
Relocation of Existing Activities	Displacement during construction and event	Tug William C Daldy Preservation Society (#18) Sail World NZ Ltd / Richard Gladwell (#51) Sanford Limited (#69) Sealink Travel Group New Zealand Limited (#47) Peter McCurdy (#26)	<ul style="list-style-type: none"> • Concerns regarding displacement during construction with no alternative berthage or viable alternative option • Considers potential for significant effect on fishing industry operations • Seeks protection and preservation of Auckland's maritime heritage and preservation of berthage for heritage vessels 	<ul style="list-style-type: none"> • Panuku is already in discussions with operators who will be displaced and considers their relocation is a commercial matter that should be addressed outside of the mediation process. However, it is willing to discuss the proposals further with parties at mediation if that would assist. 	<ul style="list-style-type: none"> • Acknowledge that these side discussions will involve commercial considerations. • In the case of the fishing industry, where temporary relocation is proposed, the section 87F report proposes conditions 199 and 200 in Appendix U requiring a management plan to manage the process. Council will continue to discuss the need for these conditions with relevant parties. <p>Following further discussions with parties, Council considers that conditions 199 to 201 no longer required. Council supports amendments to condition 46A to ensure that the Navigation Safety Management Plan for on-water construction activities addresses continued operations by Sealink, Sanford and the wider fishing fleet prior to relocation.</p>
	Relocation of fishing industry	St Mary's Bay Association Inc (#82)	<ul style="list-style-type: none"> • Change to character of the area with temporary relocation of fishing industry 	<ul style="list-style-type: none"> • The proposal is to relocate the fishing industry during the event period only, with the operators returning to the Wynyard Wharf South Waterspace after AC36. 	<ul style="list-style-type: none"> • As above, in the case of the fishing industry, where temporary relocation is proposed, the section 87F report proposes conditions 199 and 200 requiring a management plan to manage the process. Council will continue to discuss the need for these conditions with relevant parties. <p>As above.</p>

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Risk Issues		<u>ASB (#78)</u> <u>Team New Zealand Limited (#75)</u> <u>St Mary's Bay Association Inc (#82)</u> <u>Firth Industries (#55)</u>	<ul style="list-style-type: none"> Concerns relating to activities being located in the vicinity of the Stolthaven North site ETNZ seeks increase to maximum number of people on Bases C-G to 500 per base Terrorism and security risk 	<ul style="list-style-type: none"> Panuku's expert advice confirms that risk matters arising from the continued operation of the Stolthaven North site are appropriately addressed through the buffer provided by the link road and the new concerns raised in section 274 notices are appropriately considered in the Sherpa Report. Increasing the number of people allowed at Bases C-G to 500 does not alter the conclusions or recommendations in the Sherpa Report. Terrorism and security concerns are being appropriately addressed. 	<ul style="list-style-type: none"> Council's Hazardous substances report (Appendix I) indicates that risk matters are appropriately addressed, subject to the recommendations in the applicant's various reports, and condition changes to address e.g. evacuation in the event of a toxic vapour release from the Stolthaven North site. Council's expert, Rob van de Munckhof, is yet to review the update to the Sherpa report concerning allowing up to 500 people at Bases C-G. <p>Council supports the various amendments to the hazardous substances risk-related conditions outlined in JWS by Rob van de Munckhof and Jenny Polich, including allowing up to 500 people at Bases C-G.</p>