

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**

(ENV-2018-AKL-000078)

Applicant

AND

AUCKLAND COUNCIL

Regulatory Authority

**MEMORANDUM OF COUNSEL FOR AUCKLAND COUNCIL
IN RESPONSE TO THE COURT'S FURTHER MINUTE CONCERNING
ARRANGEMENTS FOR THE HEARING**

Dated: 6 September 2018

**BROOKFIELDS
LAWYERS**

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MAY IT PLEASE THE COURT

1. This memorandum responds to the Court's Further Minute to the Parties Concerning Arrangements for the Hearing dated 4 September 2018 (**Minute**), which directed counsel for the Council to:
 - a) File an updated version of Appendix A attached to the Applicant's memorandum dated 3 September 2018 by today with input from the parties as to which witnesses they wish to question, and which not; and
 - b) Provide the Court with an estimate of hearing time required.

Auckland Theatre Company

2. Counsel for the Council have just been advised that the Auckland Theatre Company's concerns have been resolved with the Applicant. It is understood that counsel for the ATC, Marija Batistich, will file a memorandum shortly confirming the position. The cross-examination table has been amended to reflect this.

Cross-Examination

3. An updated version of Appendix A listing those witnesses who parties intend to cross-examine is **attached** to this memorandum as **Appendix A**.
4. In relation to paragraph 6 of the Court's Minute, it is noted that there is no proposal by any party to cross-examine either Josephine Peita or Martin Te Moni.

Estimate of Hearing Time

5. Having liaised with other parties, and reviewed the cross-examination list, counsel for the Applicant and the Council estimate that approximately three days hearing time is required, including a half day site visit and the Applicant's reply.
6. Counsel record that discussions are continuing with some parties, and it is possible that the above estimate of hearing time may reduce further.

7. Finally, two parties have asked that specific matters of timing be raised with and, if possible, accommodated by the Court as follows:

- a) The solicitors for Sealink request that Sealink's *"opening is scheduled for Monday, or Tuesday before midday as Mr Matheson has to travel on Tuesday afternoon for another Environment Court hearing out of Auckland on Wednesday?"*
- b) Coralie van Camp advises that she is *"still planning to attend next week but would need either Tuesday or Wednesday free for a family commitment. The other four days set aside for Court."*

DATED the 6th day of September 2018



Matthew Allan / Claire Adams
Counsel for Auckland Council

APPENDIX A

Witnesses parties intend to cross-examine

Notes:

1. This table incorporates feedback received at the time of finalising the memorandum.
2. Witnesses who parties intend to cross-examine at the hearing are shaded blue.

Panuku Development Auckland Ltd

Witness	Cross-examination required?	Parties intending to cross-examine
Rod Marler (Panuku Corporate)	Yes	Mana Whenua in Opposition
Fiona Knox (Corporate – Options Analysis and Engagement)	Yes	Mana Whenua in Opposition
Russell Green (Emirates Team New Zealand)	No	
Grant Calder (America’s Cup Event Management)	No	
Gordon Moller (Architect)	No	
John Goodwin (Natural Character, Landscape and Visual Amenity)	No	
Graeme McIndoe (Urban Design)	No	
Craig Jones (Event Legacy)	No	
Kurt Grant (Construction Methodology)	No	
Joe Phillips (Traffic and Transport)	No	
Craig Fitzgerald (Noise and Vibration)	No	
John Mckensey (Lighting)	No	
Stephen Priestley (Infrastructure and Coastal Processes)	No	
Phillip Ware (Contaminated Land and Groundwater)	No	
Paul Musson (Fire Safety and Evacuation)	No	
Paul Kennedy (Coastal Environment)	Yes	Mana Whenua in Opposition
Geraint Bermingham (Maritime Safety and Utility)	No	
Jenny Polich (Risk)	No	
Karl Cooke / Vijay Lala (Planning)	Yes	Mana Whenua in Opposition

Auckland Council

Witness	Cross-examination required?	Parties intending to cross-examine
Dr Kala Sivaguru (Ecology / Coastal Environment)	No	
Sam Morgan (Coastal Processes)	No	
Ross Roberts (Geotechnical)	No	
Peter Kensington (Landscape and Visual)	No	
Rebecca Skidmore (Urban Design)	No	
Gemma Chuah (Stormwater and ITAs)	No	
Jon Styles (Acoustics and Vibration)	No	
Rob Van de Munckhof (Hazardous substances / Risk and Contamination (NES: Soil))	No	
Marija Jukic (Contaminant discharges)	No	
Ahad Khan (Development Engineering)	No	
Bronwyn Coomer-Smit (Traffic)	No	
Mitchel Tse (Traffic – Auckland Transport)	No	
Richard Simonds (Groundwater)	No	
Glen Wright (Lighting)	No	
Christiaan Moss (Navigation)	No	
Matt Byrne (Earthworks)	No	
Adrian Lamont (Arboriculture)	No	
Paul Crimmins (Air discharges)	No	
Myfanwy Eaves (Historic Heritage)	Yes	Mana Whenua in Opposition
Nicola Broadbent (Planning)	Yes	Mana Whenua in Opposition Coralie van Camp

Section 274 Parties

Witness	Cross-examination required?	Parties intending to cross-examine
Coralie van Camp	No	
Frances Stead	No	
<i>Sail World NZ Ltd</i>		
Richard Gladwell	No	
<i>The Crown</i>		
Heather Kirkham	Yes	Mana Whenua in Opposition
<i>Challenger of Record America's Cup 36</i>		
Mirko Groeschner	Yes	VHHL (in the event that the witness attends the hearing in person or by video / telecom link)
<i>Emirates Team New Zealand Ltd, America's Cup Event Ltd and Challenger of Record America's Cup 36</i>		
Patrick Clifford (Architecture)	No	
<i>Emirates Team New Zealand Ltd and Challenger of Record America's Cup 36</i>		
Russell Green	No	
<i>The Combined Owners and Residents of Apartments in Sheds 19, 20, 22, 23 & 24, Princes Wharf (Princes Wharf Group)</i>		
David Ramsay	No	
<i>Sealink Travel Group New Zealand Ltd</i>		
Bob Hawkins (Nautical)	No	
Mark Gibson (Corporate)	No	
<i>Auckland Theatre Company</i>		
Lester McGrath (Corporate)	No	
John Parlane (Traffic)	No	
<i>Viaduct Harbour Holdings Ltd</i>		
Angela Bull (Corporate)	No	
John Parlane (Traffic)	No	
Ian Munro (Urban Design)	No	

Vaughan Smith (Planning)	No	
<i>Sanford Ltd</i>		
Colin Williams (Navigation)	No	
Philip Brown (Planning)	No	
<i>Body Corporate 199318 (The Point)</i>		
Richard Finley (Noise and Acoustics)	No	
<i>Tug William C Daldy Preservation Society</i>		
Keith Ingram	No	
<i>Evidence of Mana Whenua in support</i>		
<i>Ngāti Whātua Orākei Whaia Maia Ltd and supporting Mana Whenua</i>		
Ngarimu Blair	No	
Professor David Williams	No	
Dr Malcolm Patterson	No	
Andrew Brown (Planning)	Yes	Mana Whenua in Opposition
<i>Ngāti Paoa Iwi Trust and supporting Mana Whenua</i>		
Morehu Wilson	No	
<i>Te Kawerau Iwi Tribunal Authority Inc and supporting Mana Whenua</i>		
Edward Ashby	No	
<i>Evidence of Mana Whenua in opposition</i>		
<i>Te Ākitai Waiohū</i>		
Karen Wilson	No	
<i>Ngaati Whanaunga</i>		
Martin Te Moni	No	
<i>Ngaati Te Ata Claims Support Whaanau</i>		
Marian Smith and Josephine Peita	No	
<i>Ngāti Tamaoho</i>		
Dennis Kirkwood	No	
<i>Ngāi Tai ki Tāmaki</i>		
Zaelene Maxwell-Butler	No	
<i>On behalf of Mana Whenua in opposition</i>		
Luke Faithful (Planning)	Yes	Panuku Mana Whenua in Support