

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

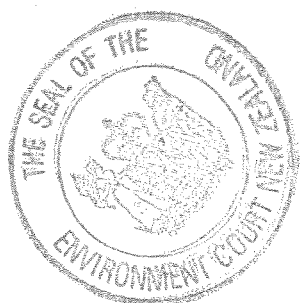
IN THE MATTER of the Resource Management Act 1991
AND of direct referral of an application for
resource consent for the necessary
infrastructure and related activities
associated with holding the America's Cup in
Auckland
BETWEEN PANUKU DEVELOPMENT AUCKLAND
LIMITED
(ENV-2018-AKL-000078)
Applicant
AND AUCKLAND COUNCIL
Regulatory Authority

**MINUTE OF THE ENVIRONMENT COURT REGARDING THE STRUCTURE AND
CONTENT OF DRAFT CONDITIONS OF CONSENT
(20 August 2018)**

[1] In the course of pre-reading the evidence lodged thus far, members of the Court have considered the 7 August version of the Applicant's proposed conditions of consent, (appended to the evidence of Mr Cook and Mr Lala).

[2] The following comments while focused on the draft conditions, are not to be taken as indicating any pre-determination as to whether consent will issue.

[3] While we note that considerable progress has been made by the parties in refining the conditions following caucusing led by Commissioner Ross Dunlop, we consider that there remain some inherent difficulties. These should be sorted out sooner rather than later, and as collaboratively as possible. Naturally the process should continue to be led by the applicant and the council. The following paragraphs raise the main concerns identified by us at this juncture, without going in detail into each and every draft condition. Others will be found throughout the document and should be attended to.



Overall management of the entire operation from commencement through to dis-establishment

[4] There are numerous conditions and management plans for a large number of separate but inter-related activities. This raises a primary question of the means by which integrated management of the project (and all its parts) will be achieved. There is no specific indication in the conditions as to how the Applicant intends to do this and while there is the prospect of this mentioned in Mr Calder's evidence for the event management phase¹ this is not reflected in the conditions and there does not seem to be a similar regime mentioned for the construction phase.

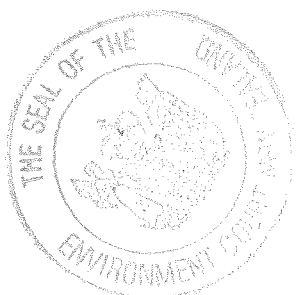
[5] Given the scope of the project and its complexity both in terms of conditions and number of management plans and sub-plans (around 25), an overall project management "war room" approach may be needed, run by someone with seniority and full over-view.

[6] We suggest that a condition requiring such an arrangement as a consent holder's overall obligation be spelled out at the front end of the conditions. In addition, this condition should probably include a reporting mechanism to assist the Council with compliance monitoring.

Terminology and differentiation of "Event" and individual events in conditions

[7] The definition of "Event" in the Definitions describes the entire Event (the actual America's cup sequence of activities from 'site ready' in November 2020 to the end of pack-out and surrender of the site to the Council 14 April 2021). Throughout the conditions this same term is used to describe various individual events which take place within the timeframe of the "Event". This confuses the requirements in the conditions for the planning and management for the "Event" and the Individual Events which take place within the "Event". There needs to be a separate definition for Individual Events (or an even less confusing title), with the conditions being amended accordingly. The new definition for an Individual Event (or equivalent) needs to cover the period from preparation for the event, the event itself and the activities required to clean up after the event (i.e.. set-up to pack-out).

¹ Calder, EIC at [4.7].



Advice notes which should be conditions

[8] Some Advice Notes should be conditions, as an example, the Advice Note under Condition 80:

Advice Note: *Should the earthworks be completed or abandoned, bare areas of earth shall be permanently stabilised against erosion. Measures may include:*

- The use of mulching;
- Top-soiling, grassing and mulching of otherwise bare areas of earth;
- Aggregate or vegetative cover that has obtained a density of more than 80% of a normal pasture sward; and

The on-going monitoring of these measures is the responsibility of the consent holder. It is recommended that the consent holder discuss any potential measures with the Council's monitoring officer who will guide you on the most appropriate approach to take. Please contact the Team Leader Compliance Monitoring – Central for more details. Alternatively, please refer to Auckland Council Guideline GD05, Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region.

[9] The Advice Notes in the conditions should be reviewed and where directive, recast as conditions.

The Infrastructure definition excludes Syndicate Bases

[10] This raises the question as to whether the infrastructure on the bases is covered by the consents. This needs to be clarified through the definitions.

Conditions and management plans

[11] The format of the conditions has been carried out in a formulaic way including objectives and an expectation of what should be included in the relevant plan and with many of the conditions not including the mandatory requirements set out in the MPs. There are two issues which require attention:


- Some of the Objectives would be better framed as conditions
- Mandatory requirements in the draft management plans which should be in the conditions



[12] A typical example where we have attempted to illustrate the nature of the redraft required to the wording of the conditions in tracked changes is attached as **Appendix A**.

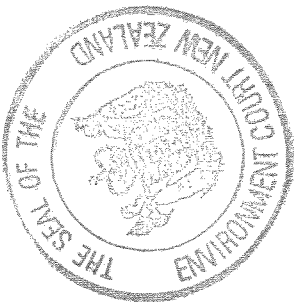
[13] With respect to mandatory requirements in the Management Plans, typical examples are Section 8.1 of the CNVMP which requires that construction noise levels "shall be monitored"; Section 8.2, how construction vibration "shall be" monitored; Section 8.3 which requires building condition surveys to be undertaken. These are all mandatory requirements and should be included in the conditions.

[14] A revised set of conditions dealing with these issues, should be lodged at the earliest opportunity this week, and served on all parties.



LJ Newhook

Principal Environment Judge



Appendix A

~~Construction Staff Travel Plan~~

~~108. The consent holder shall encourage and promote travel by public transport, walking and cycling and to minimise private vehicle travel during the Infrastructure construction period by:~~

~~Providing car or van pooling from outside the Wynyard Precinct or City Centre~~

~~Providing staff with information on preferential parking locations and rates for those ride sharing;~~

~~Providing construction staff with information about recommended cycle and pedestrian routes to/from the construction sites;~~

~~The provision of secure cycle parking and storage facilities (for personal items) on the construction sites; and~~

~~Providing staff with information on public transport to and from the construction sites.~~

~~— prepare a **Construction Staff Travel Plan (CSTP)** for the Infrastructure construction. The consent holder shall submit the CSTP to the Team Leader Compliance Monitoring – Central for certification that the CSTP gives effect to the objectives in Condition 107 and complies with the requirements in Condition 108. The CSTP shall be in general accordance with the Draft Construction Staff Travel Plan as referenced in **Annexure B**.~~

~~— The objectives of the CSTP are to encourage and promote travel by public transport, walking and cycling and to minimise private vehicle travel associated with construction.~~

~~— The CSTP shall include:~~

~~of any car or van pooling from outside the Wynyard Precinct or City Centre;~~

~~Providing staff with information on preferential parking locations and rates for those ride sharing;~~

~~Providing construction staff with information about recommended cycle and pedestrian routes to/from the construction sites;~~

~~The provision of secure cycle parking and storage facilities (for personal items) on the construction sites; and Providing staff with information on public transport to and from the construction sites.~~

~~109 To give effect to the requirements of condition 108 the consent holder shall prepare a **Construction Staff Travel Plan (CSTP)** in general accordance with the Draft Construction Staff Travel Plan as referenced in **Annexure B**.~~

~~110 The consent holder shall submit the CSTP to the Team Leader Compliance Monitoring – Central for certification that the CSTP gives effect to the objectives in Condition 107 complies with conditions 108 and 109, and complies with the requirements in Condition 108.~~

