

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2018-AKL-000078

I MUA I TE KOOTI TAIAO O AOTEAROA

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

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

Respondent

**NOTICE OF NGĀTI WHĀTUA ORĀKEI WHAIA MAIA LIMITED WISH TO BE
PARTY TO PROCEEDINGS**

06 July 2018

Rob Enright
Barrister
Magdalene Chambers
Level 1, Stanbeth House
28 Customs Street East
Britomart
Auckland CBD
Email: rob@publiclaw9.com
Phone: +64 21 276 5787

TO: The Registrar
Environment Court
AUCKLAND

1. **NGĀTI WHĀTUA ORĀKEI WHAIA MAIA LIMITED (NGĀTI WHĀTUA ORĀKEI)** gives notice under section 274 of the RMA that it wishes to be a party to these proceedings:
 - *Panuku Development Ltd v Auckland Council* (ENV-2018-AKL-000078) **(the Appeal)**.
2. The proceedings are for direct referral to the Environment Court of an application under s87G RMA for resource consents for construction, occupation, use and maintenance of permanent and temporary infrastructure and undertaking of activities within the coastal marine area and on land associated with the America's Cup (**proposal**).¹
3. Ngāti Whātua Orākei made a submission on the proposal; and (as predominant mana whenua) has an interest in the proceedings greater than the interest that the general public has.
4. Ngāti Whātua Orākei is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
5. Ngāti Whātua Orākei is interested in the proceeding in its entirety.
6. Ngāti Whātua Orākei is interested in the following particular issues:
 - Ngāti Whātua Orākei asserts that it has predominant mana whenua relationship with the Waitematā, for historic and contemporary reasons identified in its submission. Ngāti Whātua Orākei historically exercised mana whenua in the Tāmaki Isthmus from at least the 1700s, and continues to do so. Mana whenua is an aspect of tikanga Māori that broadly aligns with the Pakeha concept of territorial rights and authority over land. Ngāti Whātua Orākei gained mana whenua in its primary area of interest via raupatu and ahi kā – continuous occupation.

¹ Identified in the Environment Court's decision at [2018] NZEnvC098.

- It is interested in the impacts of the proposal on Part 2 RMA values (to the extent relevant under *King Salmon* principles) and corresponding provisions in the relevant planning instruments, especially NZCPS, HGMPA² and regional planning provisions. This includes s5 RMA wellbeing, matters of national importance under s6(e) RMA, exercise of kaitiakitanga under s7(a), and relevant Treaty principles under s8 RMA (including active protection of taonga and maintenance or protection of relevant Treaty relationships).
 - Other matters as identified in its submission; including Ngāti Whātua Orākei's historic and contemporary relationship with the Waitematā, ancestral lands and taonga.
7. Ngāti Whātua Orākei supports the proposal in its entirety, subject to cultural offsetting and proposed consent conditions identified in its submission. For clarity, this represents a change in position from the neutral stance originally identified in Ngāti Whātua Orākei's submission.³
 8. Proposed consent conditions should include (in particular) establishment of a mana whenua Māori/Polynesian cultural centre within the footprint of the proposed extension to Hobson Wharf and/or waterfront surrounds as a legacy project to recognise and celebrate Ngāti Whātua Orākei's, and Nga Iwi o Tamaki's mana whenua relationships,⁴ with the Waitematā and the wider Pacific.⁵
 9. Ngāti Whātua Orākei agrees to participate in mediation or other alternative dispute resolution of the proceedings.

² Hauraki Gulf Marine Park Act, as deemed coastal policy statement.

³ At [3.3]

⁴ Defined at [3.10] of the submission.

⁵ Reflecting [3.7] of the submission:

"3.7 Ngāti Whātua Orākei requests that the legacy and cultural identity of America's Cup 36 be addressed in two specific ways:

- a) cultural design to be incorporated in the bases and their buildings, as well as in the urban design fabric of the neighbourhood;
- b) a permanent Maori/Polynesian Cultural Centre as a lasting legacy appropriate to both the America's Cup and the cultural heritage of Tamaki Makaurau should be established (most likely on Halsey Wharf or Hobson Wharf or Queens Wharf) for the development of a Maori Cultural Centre."

Dated this 6th day of July 2018



R B Enright
Counsel for Ngāti Whātua Ōrākei Whaia Maia Ltd

Service details:

Ngāti Whātua Ōrākei Whaia Maia Ltd

Attention: Andrew Brown, Planning Manager

[Address]

m: 027 5300566

e: andrewb@ngatiwhatuaorakei.com

Information copy to Counsel Acting:

Rob Enright

Barrister

e: rob@publiclaw9.com

m: 021 276 5787