

**Before the Environment Court at Auckland**

**ENV-2013-AKL-000174**

**In the Matter**

of the Resource Management Act 1991

**And**

**In the Matter**

of Notice of Motion under Section 87G  
requesting the granting of resource consents to  
Waiheke Marinas Limited to establish a Marina  
at Matiatia Bay, Waiheke Island, in the Hauraki  
Gulf

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**Memorandum on behalf of Waiheke Marinas Ltd  
Dated 22 April 2015**

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**May it please the Court:**

1. The decision of the Court dated 15 April 2015 with respect to the application by DMI that proposed changes by WML were out of scope is:
  - a. The change to the proposal involving deletion of the car park and its prospective replacement at tentatively identified optional sites elsewhere is out of scope of the application as originally brought and notified. The Court has no jurisdiction to consider this aspect further.
  - b. WML is to advise the Court and parties in writing within 7 days of the date of the decision as to how it wishes to proceed.
2. The amendments proposed to the coastal structures were not challenged by DMI.

**WML's decision as to how it wishes to proceed**

3. WML wishes to resume the hearing. Amendments proposed to the coastal structures (as set out in the memorandum dated 15 December 2014) will be retained subject to changes consequential on the Court's decision of 15 April 2015.
4. A description of the amended proposal is set out below. WML's view is that this amended proposal does not raise any issue as to scope.

**Proposed Marina design**

5. The amendments proposed to coastal structures outside of those that related to the relocation of the car parking respond to various issues that arose during the hearing and comments of the Court on 24 October 2014 indicating that WML might consider proposing a smaller and reshaped marina (the Court's

comments in this regard being explicitly on the basis that no final views had been reached as to whether there should be a marina or should not).

6. In summary, those amendments are:
  - a. Breakwater Form amendment– as described in paragraph 11 – 13 of the 15 December 2014 memorandum (which included creating a curve within the structure to move away from the linear lines of the breakwater within the original proposal);
  - b. Breakwater Length amendment – as described in paragraph 14 of the 15 December 2014 memorandum (which results in the structure being removed from the existing ferry channel access way);
  - c. Berth Layout amendment– as described in paragraph 15 – 16 of the 15 December 2014 memorandum (which results in the reduction in the overall length of the piers and in particular A pier);
  - d. Berth Number reduction– as described in paragraph 16 of the 15 December 2014 memorandum (which reduces the overall berth numbers from 160 to 112);
  - e. Removal of Seabed Dredging – as described in paragraph 21 – 22 of the 15 December 2014 memorandum;
  - f. Deletion of the Reclamation – because seabed dredging is no longer proposed a reclamation will not be proceeded with. The amended proposal is the alternative option of creating a parking deck structure;
  - g. Marina Footprint – the overall marina footprint has been reduced as a result of the amendments made above.

The size of the reduction in overall footprint will be recalculated taking into account the proposed parking deck structure;

- h. Services – will be incorporated into the parking deck;
- i. Rubbish and Recycling Bins – remain in the general locations proposed within the parking deck design previously before the Court;
- j. Construction Methodology – will not change from the methodology suggested to build the parking deck, other than the duration of the construction phase will be reduced;
- k. Public Access – Access for the public will remain generally as proposed in the initial design;
- l. Consent Conditions – amended proposed conditions of consent were provided with the 15 December 2014 memorandum. These will need to be revised to take into account the implications of the Court’s 15 April 2015 decision.

### **Parking deck**

- 7. As indicated above, in light of the Courts decision on jurisdiction and WML’s decision not to undertake dredging (the material dredged from the seabed was to form the core of the reclamation), WML proposes to provide for car parking associated with the marina on a suspended parking deck.
- 8. The proposal before the Court during the (partially completed) hearing last year sought a reclamation or a suspended parking deck. The suspended deck provided for 55 car park spaces. The deck structure will now be reduced in size. That is because the reduction in berth numbers proposed through the amendments made during the adjournment for the marina

results in (applying the agreed ratio of berths to carparks) a reduced number of carparks – 39 car park spaces are now proposed.

9. WML is working with its consultants to finalise an amended suspended deck design and update relevant documentation. A new set of plans showing the reduction in size of the amended parking deck will be provided to the Court and the parties.

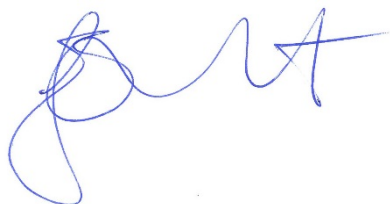
#### **Documentation to be lodged**

10. A package of revised plans, visualisations and draft proposed conditions of consent was lodged with the Court along with the 15 December 2014 memorandum. In addition to revised plans, revised visual viewpoint simulations for a number of locations will now be prepared showing the reduced size deck structure. The draft proposed conditions of consent will be revised.

#### **Proposed way forward**

11. WML proposes lodging amended documentation by Friday 22 May.
12. At the time WML verbally advised the Court of the amendments proposed (late October 2014), the Court had yet to hear the evidence of Mr Langwell (traffic) and Mr Serjeant (planning) on behalf of DMI.
13. WML respectfully submits the only additional evidence required will be from the landscape architects (Mr Pryor, Mr Brown, Mr Scott and Ms Gilbert), and that an appropriate way forward would be for the Court to utilise the practice it has already followed in this case, and call all of those landscape witnesses at the same time.
14. WML proposes a conference between the Court and the parties regarding arrangements and timing for resumption of

the hearing.

A handwritten signature in blue ink, appearing to be 'J Brabant', written over a horizontal line.

**Jeremy Brabant**

Counsel for Waiheke Marinas Limited

Date: 22 April 2015

**To:**  
The Registrar

**Copy to:**  
Auckland Council (Matthew Allan – by email)

Direction Matiatia incorporated (Kitt Littlejohn and Matthew Casey  
QC – by email)

Auckland Transport (Nicky McIndoe – by email)

Ngati Paoa Iwi Trust (Robert Enright – by email)

Thomas Greve and Kristin Lewis (Brianna Parkinson – by email)