

BEFORE THE ENVIRONMENT COURT

ENV-2009-AKL-

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of an appeal pursuant
to clause 14 of the First
Schedule to the Act

BETWEEN AUCKLAND CITY
COUNCIL

Appellant

AND AUCKLAND
REGIONAL COUNCIL

Respondent

**NOTICE OF APPEAL AGAINST DECISIONS ON A PROPOSED
PLAN CHANGE TO THE AUCKLAND REGIONAL PLAN: COASTAL**

TO: The Registrar
Environment Court
AUCKLAND

1. **Name of applicant:**

Auckland City Council (**City Council**) made submissions and further submissions, in relation to Proposed Plan Change 3 to the Auckland Regional Plan: Coastal (**Proposed Plan Change 3**).

2. **Name of authority:**

The decision was made by Auckland Regional Council (**Regional Council**)

3. **Date of receipt of the decision:**

On or about 29 November 2008.

4. **Description of the subject-matter of the decision and specific provision, omission, or part of decision on submissions being appealed:**

4.1 Proposed Plan Change 3 proposes amendments to the Auckland Regional Plan: Coastal relating to the coastal marine area (the water space and wharves) around Wynyard Quarter in Auckland city. In particular it applies to Port Management Areas 2 and 4A

4.2 The City Council's submissions and further submissions supported Proposed Plan Change 3 and also sought refinements to adopted methods to provide for better integration with the City Council's Proposed Plan Modification No: 4 (**District Plan Change**) and Proposed Variation No 33 which apply to the adjacent land named Wynyard Quarter

4.3 In its decisions on submissions the Regional Council accepted, accepted in part and rejected the City Council's submissions

4.4 This appeal relates to:

(a) The amendments made to the public notification rule in relation to buildings on the Halsey Street Extension Wharf;

(b) The amendments made to parking restrictions on the Halsey Street Extension Wharf;

(c) The balance between port and other activities in the coastal marine area around Wynyard Quarter;

(d) The amendments made to the rules relating to structures on the Halsey Street Extension Wharf;

(e) The amendments made to the policies relating to Te Wero Bridge; and

(f) The amendments made to provisions relating to activities on Wynyard Wharf.

5. Reasons for appeal:

5.1 The City Council submits that the decision:

- (a) Is inconsistent with the purposes and principles of the Resource Management Act 1991 (RMA);
- (b) will not allow the City Council to fulfil its functions, duties and powers under the RMA; and
- (c) is otherwise inconsistent with the relevant provisions of the RMA, including (but not limited to) sections 30, 32, and 63 to 68.

In respect of the specific issues which are the subject of this appeal and without derogating from the generality of the above, the City Council's reasons for appeal are as follows:

Marine Events Precinct – Public notification

5.2 When notified, rule 25.5.33B of Proposed Plan Change 3 provided that applications for restricted discretionary activities were to be considered without public notification or the need to serve notice of the application on affected persons

5.3 However the Regional Council, relying on submission number 50/4 by Audry van Ryn seeking that the Regional Council "keep consulting with the public on the details of development", amended rule 25.5.33B to exclude buildings on the Halsey Street Extension Wharf

5.4 The Commissioners were concerned that the rule as notified would preclude public notification of any application for the Marine Events Centre and considered it appropriate for the Regional Council to consider whether it should serve notice of an application for a restricted discretionary activity "when an application is received rather than limiting that decision in the plan". Consequently, rule 25.5 33B of Proposed Plan Change 3 now provides the following:

"Applications for restricted discretionary activities, other than applications under rule 25.5.29, shall be considered without public notification in accordance with Section 94D(2) of the RMA, unless in the opinion of the ARC there are special circumstances justifying public notification in accordance with Section 94C(2) of the RMA."

- 5.5 Rule 25.5.29 relates to applications to erect new structures or buildings (or alter or extend existing structures or buildings) on the Halsey Street Extension Wharf.
- 5.6 The City Council believes that the exclusion of buildings on the Halsey Street Extension Wharf from this general rule applying to all other restricted discretionary activities is unjustified and arbitrary.
- 5.7 In addition, an issue arises as to jurisdiction. It is an established legal principle that the Regional Council only had jurisdiction to grant relief that was within the scope of the submissions it received in relation to Proposed Plan Change 3. However the decision to exclude the Halsey Street Extension Wharf from the public notification provisions was not within the scope of the submission expressly relied upon.
- 5.8 Submission 50/4 relates to a desire for general public consultation in respect of the redevelopment of Wynyard Quarter as a whole, and does not raise the issue of public notification, either in a general sense or in respect of the Marine Events Centre. As such the Regional Council lacked jurisdiction to make the decision because it was not within the scope of this submission.
- 5.9 In any event, public notification of the Marine Events Centre is not necessary as the potential effects of the development have already been extensively identified and analysed. Accordingly the amendments made to rule 25.5.33B cannot be justified.

Marine Events Precinct - Event Parking

- 5.10 Proposed Plan Change 3 as notified provided in clause 25.5.14 that temporary events were permitted subject to a number of conditions, including that:
- "i vehicle parking on Halsey Street Extension Wharf, Western Viaduct Wharf and North Wharf shall be ancillary to port activities or use of existing buildings and the wharves shall not be used for general public car parking"*
- 5.11 In its submissions, the City Council sought amendments to Proposed Plan Change 3 to incorporate carparking ratios that are consistent with those proposed in the District Plan Change. This submission was accepted in part.
- 5.12 In response to concern from submitters regarding carparking on wharves, the Regional Council has amended Proposed Plan Change 3 by amending clause 25.5.13(g) to provide for a maximum number of 50 carpark spaces on the Halsey Street Extension Wharf as a permitted activity. Clause 25.5.14 provides that temporary events complying with this carparking restriction will also be permitted activities.
- 5.13 However pursuant to clause 25.5.33A temporary events that do not comply with clause 25.5.14 (i.e. temporary events requiring more than 50 carparks) will be a restricted discretionary activity.
- 5.14 The City Council accepts the need to limit permanent carparking within Wynyard Quarter, and in particular on the Halsey Street Extension Wharf, and supports clause 25.5.13(g) and the provision of a maximum number of 50 carparks on the Halsey Street Extension Wharf as a permitted activity.
- 5.15 However the City Council is concerned that the limit of 50 carparks for temporary events is unduly restrictive, and giving restricted discretionary status to all events requiring more than 50 carparks is inappropriate. The Marine Events Precinct on the Halsey Street Extension Wharf, and in particular the events held there, will be one

of the major public attractors in Wynyard Quarter and the impact of this restriction on the Marine Events Precinct was not analysed by the Regional Council.

- 5.16 Moreover extensive traffic analysis has been carried out and has confirmed that the potential traffic effects of the Marine Events Precinct do not justify such a restriction
- 5.17 Provided that public access is maintained around the perimeter through the public accessways, it would be more appropriate to allow the parking for exhibitors and staff associated with temporary events as a permitted activity without restriction. Parking for members of the public attending the event would not satisfy this standard, and is therefore not part of the permitted activity. This limit would not unduly constrain events in the Marine Events Precinct

Marine Events Precinct – balance between activities

- 5.18 A number of submissions on Proposed Plan Change 3 raised concerns regarding the effects that the operation of the Marine Events Precinct would have on the marine and fishing industries. In its further submissions the City Council opposed those submissions, and emphasised that while it understood the importance of the marine and fishing industries within the locality it was opposed to undue restrictions being placed on the operation of the Marine Events Precinct
- 5.19 In its decision the Regional Council has made a number of changes to Proposed Plan Change 3 to give greater emphasis to the role of port activities.
- 5.20 In particular, changes were made to the following clauses:
- (a) Issue 25.2.4;
 - (b) Objective 25.3.3;
 - (c) Rule 25.5.31(c);
 - (d) Objective 28.3.2;
 - (e) Objective 28.3.3;

- (f) Objective 28.3.11;
- (g) Objective 28.3.12;
- (h) Policy 28.4.15;
- (i) Policy 28.4.17; and
- (j) Policy 28.4.21

5.21 The City Council accepts that port activities, and in particular the marine and fishing industries, will play a vital role in Wynyard Quarter, and require consideration when introducing new activities as a result of amendments made by Proposed Plan Change 3 (and the District Plan Change).

5.22 However the City Council is concerned that the amendments made by the Regional Council are unnecessary and overly onerous. They give inappropriate weight to the role of these activities at the expense of events and public activities. The operation of the Marine Events Precinct and structures that support public access will be unreasonably compromised by Proposed Plan Change 3 as amended.

5.23 Changes to Proposed Plan Change 3 are necessary to ensure that the appropriate balance between port activities and events in the Marine Events Precinct is struck.

Marine Events Precinct – Building coverage

5.24 As notified, clause 25.5.29 of Proposed Plan Change 3 provided that the erection or placement of any new structure or building (and the alteration, extension or reconstruction of any existing lawful structure or building) on Halsey Street Extension Wharf is a restricted discretionary activity, provided that the building:

- "a. complies with the conditions for permitted activities in Rule 25.5.13, and
- b. is located within the building platform area shown on Plan Map Series 2, Sheet 7A; and
- c. no more than 60% of the building platform area shown on Plan Map Series 2, Sheet 7A, is covered by structures or buildings "

- 5.25 The Marine Events Centre has been designed to comply with the coverage control of 60% set out in (c) above. However when the architectural detailing and public facilities are taken into account, the proposed building exceeds this control. At the Regional Council hearing the City Council sought amendments to this rule to exclude the architectural detailing such as roof overhangs, colonnades, balconies and viewing decks from the coverage calculations as they are lightweight structures that do not generally add to the bulk of the building.
- 5.26 However in its decision the Regional Council did not make any amendments to this provision.
- 5.27 Although the issue was not raised by the City Council's submissions, it was raised at the hearing (and supported by the Regional Council's reporting planner) and the City Council considers that the change should have been made under Schedule 1 Clause 16 of the Act as an alteration of only minor effect. Given the considerable separation distance to the nearest neighbour, the effect of excluding such structures from the coverage calculation is considered to be negligible.
- 5.28 An amendment of the nature sought by the City Council would be consistent with the Auckland Regional Plan: Coastal definition of "Gross Floor Area" which specifically excludes external balconies. The City Council considers that this amendment is necessary in terms of plan clarity and consistency and will ensure that the Auckland Regional Plan: Coastal can be more effectively administered.

Te Wero Bridge

- 5.29 Policy 28.4.11 of the Proposed Plan Change 3 recognises that the development of Te Wero Bridge to link Wynyard Quarter and Quay Street is appropriate, subject to it achieving a number of outcomes set out in the policy.

5 30 A number of submissions raised concerns regarding the effects that the operation of Te Wero Bridge would have on the marine and fishing industries. In its further submissions the City Council opposed those submissions, and emphasised that while it understood the importance of the marine and fishing industry within the locality it was opposed to undue restrictions being placed on the operation of Te Wero Bridge.

5 31 The Regional Council sought to give Proposed Plan Change 3 a clear policy direction and made substantial amendments to policy 28.4.11 to ensure it "contains all the elements that would need to be assessed if an application for consent for a bridge is made" As such, policy 28.4.11 has been extensively amended to read:

"A bridge to link the Eastern Viaduct to Jellicoe Street shall will be considered appropriate where it contributes to a high quality urban maritime environment and meets the following outcomes:

a the bridge contributes to the pedestrian character and urban amenity of the Viaduct Harbour and Wynyard Quarter by:

i providing safe and pleasant pedestrian and cycle access east and west across the Viaduct Harbour; and

ii creating linkages to other accessways around the Viaduct Harbour; and

iii not causing significant adverse effects on the use and enjoyment of Te Wero Island as an area of pedestrian-oriented public space; and

iv ensuring any bridge movement, lighting or vehicle traffic will not cause significant adverse effects on the amenity values of surrounding land or water uses; and

b the bridge is designed and operated to provide for:

i vessel access to and from the inner Viaduct Harbour without undue delay; and

ii navigation and berthage by the existing range of vessels in the inner Viaduct Harbour; and

iii any reduction in berthage area to be minimised as far as practicable; and

iv convenient and easily accessible systems for communicating with vessel users regarding scheduled and unscheduled bridge opening/closing; and

v appropriate lighting, navigation aids, safety systems and fail-safe mechanisms; and

- c *the ongoing viable use of the Viaduct Harbour (particularly the marine events precinct) to accommodate port activities and marine events, such as boat shows and internationally recognised boating events such as the America's Cup event, is maintained; and*
- d *the bridge has a high quality design that enhances the character of the Viaduct Harbour; and*
- e *the bridge enables design allows for future use for local passenger transport services to and from the Wynyard Quarter; and*
- f *the bridge does not provide for any private vehicle access (including taxis and coaches), other than for emergency services; and*
- g *the bridge has no more than minor adverse effects on coastal processes including sedimentation within the Viaduct Harbour "*

5.32 The City Council is concerned that a number of these amendments (namely the amendments to the introductory sentence, 28.4.11(a)(iv) and 28.4.11(f)) are too restrictive and provide a level of detail that would be more appropriately dealt with during the resource consent process for Te Wero Bridge.

5.33 The deletion of the word "urban" in the introductory sentence of the policy and the inclusion of "maritime", is a significant change, the impacts of which have not been fully analysed by the Regional Council. The policy should be amended to refer to "urban", rather than "maritime" environments, as in the notified version.

5.34 The City Council is also particularly concerned by the inclusion of 28.4.11(a)(iv) which provides that Te Wero Bridge must meet a number of outcomes including:

Ensuring any bridge movement, lighting or vehicle traffic will not cause significant adverse effects on the amenity values of surrounding land or water uses; and

- 5.35 The Regional Council has not fully considered the constraints this policy amendment will place on the design and operation of Te Wero Bridge. This amendment should be deleted
- 5.36 The amendment made to 28.4.11(f) is also inappropriate and unnecessarily restrictive.
- 5.37 In any event, the changes outlined above cannot be justified in light of the potential effects of Te Wero Bridge, which have been carefully identified and will be fully addressed as part of the resource consent application. These amendments should be deleted, as set out in the following section of this appeal.

Wynyard Wharf

- 5.38 As notified, Proposed Plan Change 3 made provision for buildings on Wynyard Wharf as a restricted discretionary activity and for use of the wharf for non-port activities as a permitted activity. This approach was used because development is considered desirable and necessary to activate the wharf.
- 5.39 However in response to concerns raised in submissions about buildings being located on Wynyard Wharf, the Regional Council has made substantial changes to Proposed Plan Change 3 which have the effect of significantly reducing the level of development on Wynyard Wharf
- 5.40 These changes include:
- (a) Amendments to issue 25.2.4;
 - (b) Amendments to objective 25.3.3;
 - (c) Amendments to rule 25.5.9;
 - (d) Amendments to rule 25.5.12;
 - (e) Amendments to rule 25.5.13;
 - (f) Deletion of rule 25.5.30;
 - (g) Amendments to rule 25.5.31;
 - (h) Introduction of rule 25.5.40B;
 - (i) Introduction of rule 25.5.42B;

- (j) Amendments to principal reasons for adopting 25.7.10;
- (k) Amendments to anticipated environmental result 25.8.6;
- (l) Amendment to objective 30.3.5;
- (m) Amendments to policy 30.4.13;
- (n) Amendments to policy 30.4.14; and
- (o) Removal of the building platforms on Wynyard Wharf shown on Map Series 2 Sheet 7A

5.41 These amendments place undue emphasis on the ongoing use of the wharf for dangerous goods and port related activities, at the expense of public use activities and structures which will be significantly restricted as a result of these amendments.

5.42 However public use activities and structures play an important part in ensuring the vibrancy and activation of Wynyard Wharf. Agreement has been reached with the current wharf owners to the effect that the northern half of the wharf and the public realm parts of the southern half of the wharf will be owned by the City Council and be made available for public use. Activities and structures necessary for such public use need to be provided for in a balanced and integrated manner to enable such future public use to be established.

5.43 The City Council accepts that some use of the wharf is presently required by dangerous goods and port activities. However amendments should be made to the provisions listed above to ensure a more appropriate balance is struck between public activities and structures and the use of the wharf for dangerous goods and port activities.

5.44 Amendments are also necessary to ensure consistency within Proposed Plan Change 3. There needs to be an alignment of the provisions relating to activities and buildings so that consents for temporary structures or permanent public use structures are provided for in a consistent manner.

5.45 In addition, greater clarity is required in respect of dangerous goods. Rule 25.5.9 provides that public recreation activities and facilities will be permitted activities on Wynyard Wharf "if the wharf is no longer

functioning as a dangerous goods wharf". However the use of the wharf for dangerous goods activities is expected to reduce incrementally and Rule 25.5.9 makes no provision for public recreation activities and facilities, where *some*, but not *all*, of the wharf is used for dangerous goods activities. This is unreasonable and requires amendment.

6. Relief sought:

- 6.1 The City Council seeks the following relief (or relief to similar effect) (additions to the decision version are shown as underlined and deletions to the decision version are shown as strikethrough):

Marine Events Precinct –public notification

- (a) Amend rule 25.5.33B as follows:

Applications for restricted discretionary activities, ~~other than applications under rule 25.5.29,~~ shall be considered without public notification or the need to serve notice of the application on affected persons in accordance with Sections 94D(2) and 94D(3) of the RMA, unless in the opinion of the ARC there are special circumstances justifying public notification in accordance with Section 94C(2) of the RMA

Marine Events Precinct -- Event Parking

- (b) Amend rule 25.5.14 as follows:

The temporary events, and associated structures and buildings, in Rules 25.5.11 - 25.5.12 are permitted subject to the following further conditions

- i vehicle parking associated with a temporary event should not exceed the limits in Rule 25.5.13 is only available for exhibitors and/or staff associated with the event and does not restrict public access over the public accessways illustrated on Plan Map Series 2, Sheet 7A.*

Marine Events Precinct – balance between activities

- (c) Amend issue 25 2 4 by returning to the notified version as follows:

The use of some Port Management Areas is changing from traditional port uses toward more varied commercial use, as well as providing for public use and enjoyment. The transition in uses in some Port Management Areas is linked to corresponding changes to adjacent land uses. This transition needs to be managed to ensure coordination between changes on the land and in the coastal marine area, and to avoid conflicts between different activities in the coastal marine area and between land uses and water based activities. ~~The introduction of new activities also places pressure upon port activities which have a functional need to be adjacent to the coastal marine area and cannot relocate inland.~~

- (d) Amend objective 25 3 3 as follows:

To provide for the use and development of Port Management Areas for appropriate non-port related activities, including public access, entertainment, commercial uses and other marine related purposes, ~~where these uses do not have significant adverse effects on the on-going retention and efficient operation of port activities~~

- (e) Amend rule 25.5 31(c) by returning to the notified version as follows:

the extent to which the structure or building enables or affects the operation or development of port activities, (including the fishing industry) and marine events on Halsey Street Extension Wharf, Western Viaduct Wharf, North Wharf, Wynyard Wharf and in the water area surrounding these wharves; and

- (f) Amend objective 28 3 2 as follows:

To maintain and where practicable enhance public access, use and enjoyment of the coastal marine area in Port Management Areas 2A and 2B, recognising that any enhancement needs to maintain public safety ~~and not unduly restrict the operational requirements of port activities.~~

- (g) Amend objective 28.3 3 as follows:

To ensure that navigation and berthage in Port Management Areas 2A and 2B is maintained and where practicable

~~enhanced, and is not unduly restricted by an inappropriate location or number of structures, to provide for a wide range of recreational and commercial vessels, including maritime passenger transport and fishing industry operations.~~

- (h) Amend objective 28.3.11 by returning to the notified version as follows:

To provide for the continued use of the coastal marine area to the east of Halsey Street and north of Madden Street (including the Halsey Street Extension Wharf and Western Viaduct Wharf and water space adjacent to the wharves) as a marine events precinct, while maintaining the use of the berthage around the wharves for port activities

- (i) Amend objective 28.3.12 by returning to the notified version as follows:

To ensure that buildings and other structures on the Halsey Street Extension Wharf are designed and located to contribute to the wharf's key role in a marine events precinct, and in particular are suitable to use for marine events and associated vessel servicing, are of a design that reflects their maritime use and location, and maintain the visual amenity of the Viaduct Harbour, and do not unreasonably compromise the ongoing use of the wharf for port activities.

- (j) Amend policy 28.4.15 as follows:

The Halsey Street Extension Wharf, Western Viaduct Wharf and the coastal marine area to the east of Halsey Street and north of Madden Street shall be provide for the continued operation of port activities while also being recognised as a marine events precinct focused on public entertainment and events. Priority shall be given to the operation of the wharves and berthage facilities for major boating events such as the America's Cup. Any use or development that has more than minor adverse effects on the use of this area for port activities or for marine events shall be avoided.

- (k) Amend policy 28.4.17 as follows:

The use of buildings or berthage and water space in the marine events precinct for non-marine events or other non-port related activities shall be subsidiary to not preclude marine events and shall not be of a scale or frequency that would adversely affect the ongoing use of this area for marine events or prevent its use as an America's Cup facility, nor compromise its use for port activities.

- (l) Amend policy 28.4 21 as follows:

Vehicle parking on the Halsey Street Extension Wharf and the Western Viaduct Wharf shall be provided in a manner that either does not affect its functioning as a marine events precinct, ~~or the operation of port activities~~, and the wharves shall not be used for general public carparking.

Marine Events Precinct – Building coverage

- (m) Amend rule 25 5 29(c) as follows:

No more than 60% of the building platform area shown on Plan Map Series 2, Sheet 7A, is covered by ~~structures or buildings~~ (excluding publicly accessible areas, roof overhangs, colonnades, canopies, balconies and any features designed for public use such as viewing platforms, balconies, access ramps and stairs).

Te Wero Bridge

- (n) Amend the introductory sentence of policy 28.4 11 by returning to the notified version as follows:

A bridge to link the Eastern Viaduct to Jellicoe Street shall ~~will be~~ considered appropriate where it contributes to a high quality urban maritime environment and meets the following outcomes:

- (o) Delete policy 28.4.11(a)(iv)

- (p) Amend policy 28.4 11(f) by returning to the notified version as follows:

the bridge does not provide for ~~any~~ private vehicle access ~~(including taxis and coaches)~~, other than for emergency services; and

Wynyard Wharf

- (q) Amend issue 25.2.4 as outlined in paragraph 6 1(c) above.

- (r) Amend objective 25.3.3 as outlined in paragraph 6 1(d) above.

- (s) Amend rule 25.5.9 by returning to the notified version as follows:

On Wynyard Wharf (following the grant and commencement of a resource consent for a Comprehensive Area Structure Plan for the adjacent land) the following activities, if the wharf is no longer functioning as a dangerous goods wharf, public recreation activities and facilities, such as seating, toilets and information boards, not including any associated structures or buildings:

- a. restaurants, cafes, take away food and food hall activities; and
- b. retail activities; and
- c. office activities; and
- d. entertainment facilities; and
- e. information centres; and
- f. public recreation activities and facilities, such as seating, toilets and information boards.

- (t) Amend rule 25.5.12 by returning to the notified version as follows:

Temporary events, including associated structures and buildings, on Wynyard Wharf if the wharf is no longer functioning as a dangerous goods wharf, following the grant and commencement of a resource consent for a Comprehensive Area Structure Plan for the adjacent land.

(NB: For the purposes of this rule, a "Comprehensive Area Structure Plan" is a structure plan prepared in accordance with the Auckland City District Plan (Central Area Section). This rule applies once the Comprehensive Area Structure Plan has been granted consent by the Auckland City Council and has commenced under the Resource Management Act 1991.)

- (u) Amend rule 25.5.13(d)(iv) by returning to the notified version as follows:

- iv. Port Management Area 4A: 9 metres above existing wharf deck level on Wynyard Wharf and 15 metres above mean sea level in other areas; and

- (v) Re-introduce rule 25.5.30 by returning to the notified version as follows:

The erection or placement of any new structure or building on Wynyard Wharf, and the alteration, extension or reconstruction of any existing lawful structure or building on Wynyard Wharf, that:

a complies with the conditions for permitted activities in Rule 25.5.13; and.

b is located within the building platform area shown on Plan Map Series 2, Sheet 7A.

- (w) Amend rule 25.5.31 by returning the introductory sentence and clauses (c) and (e) to the notified version as follows:

The ARC will restrict the exercise of its discretion under Rules 25.5.29 and 25.5.30 to the following matters:

c the extent to which the structure or building enables ~~or affects~~ the operation or development of port activities, (including the fishing industry) and marine events on Halsey Street Extension Wharf, Western Viaduct Wharf, North Wharf, Wynyard Wharf and in the water area surrounding these wharves; and

e the effects on public accessways on Halsey Street Extension Wharf, and Western Viaduct Wharf and Wynyard Wharf identified on Plan Map Series 2, Sheet 7A;

- (x) Delete rule 25.5.40B;

- (y) Delete rule 25.5.42B;

- (z) Amend principal reason for adopting 25.7.10 by returning to the notified version as follows:

Policy 25.4.14, Rules 25.5.9, 25.5.12, 25.5.13, 25.5.14, 25.5.30 – 25.5.33, 25.5.37, 25.5.42, ~~25.5.42B~~ and Appendix J

Activities in Port Management Area 4A will change as the bulk liquid storage facilities on the adjacent land are vacated or provided elsewhere in the region. While these facilities continue to operate, Wynyard Wharf and the adjacent water space will be used for the transfer of bulk hazardous substances. ~~The wharf will continue to provide for port activities but their nature is likely to change to more of a focus on activities such as fishing industry operations and maritime passenger transport, as well as providing for the transfer of non-hazardous goods.~~ The rules also recognise and provide for the redevelopment of the wharf area for ~~limited~~ commercial, entertainment, recreational and public access purposes in order to integrate with the changes in land use at Wynyard Quarter. The emphasis on future uses in the coastal marine area is enabling public access and

~~enjoyment of the area. Limits are placed on the scale and bulk of buildings on Wynyard Wharf in-~~ In order to provide for public access, amenity values and views, limits are placed on the scale and bulk of buildings on Wynyard Wharf.

- (aa) Amend anticipated environmental result 25 8 6 as follows:

~~An integrated change in use of the coastal marine area at Wynyard Quarter that provides for an appropriate range of port activities, including marine and fishing industries and where appropriate, the development of appropriate limited non-port related commercial and entertainment activities, and for increased public use and access to Wynyard Wharf and North Wharf.~~

- (bb) Amend objective 30 3 5 by as follows:

~~To recognise and to provide for future changes in the use of Port Management Area 4A, from the transfer of bulk liquids and hazardous substances to other port activities, commercial and entertainment activities, public space, use and enjoyment and limited commercial and entertainment activities.~~

- (cc) Amend policy 30 4 13 by returning to the notified version as follows:

~~Wynyard Wharf shall be recognised as a future area of port activities, including, fishing industry, and maritime passenger transport, with limited commercial and entertainment activities that shall operate in a manner that enables and enhances public use and enjoyment of the wharf.~~

- (dd) Amend policy 30 4 14 by returning to the notified version as follows:

Use and development of Wynyard Wharf shall

- a *have a strong maritime character that complements the wharf setting; and*
- b *be of a size, bulk, appearance and design that complements the maritime context of the area and the existing or future planned land uses on Wynyard Point, and does not adversely affect the amenity of the coastal environment; and*

- ~~b2~~ be located on the southern half of the wharf and not adjacent to the proposed open space at the northern end of Wynyard Point; and
- c be located in general accordance with the building platforms ~~outside the view shafts shown on Plan Map Series 2, Sheet 7A so that views are maintained~~
- i from the north end of Daldy Street to the coastal marine area; and
 - ii from the proposed open space at the northern end of Wynyard Point to the Viaduct Harbour and Waitemata Harbour; and
 - iii ~~from the proposed lanes between Brigham Street and Hamer Street, across the wharf to the coastal marine area and city skyline; and~~
- d create an environment that emphasizes high quality public access and amenity; and
- e provide seating, ramps, landings, shelter, landscaping and public facilities which are attractive, do not obstruct access, and functionally encourage public use; and
- f not restrict public access along the eastern and northern sides of the wharf, other than as temporary restrictions required for port activities or events, and contribute to the public nature of the wharf environment and access to the water's edge; and
- g provide effective visual and pedestrian linkages between the wharf and land, with well spaced buildings and multiple accessways joining the wharf to the land that align with the road and pedestrian route network; and
- h ensure sufficient space is available for ~~port activities, including fishing industry operations~~; when there is a lack of capacity on North Wharf, Halsey Street Extension Wharf or Western Viaduct Wharf; and
- i ensure there is sufficient space to accommodate ~~water maritime passenger~~ transport connections; and
- j limit vehicle parking to only that directly associated with ~~port activities and ancillary services~~; providing for loading, short-term ancillary and disabled parking, to minimize vehicle movement on the wharf and maintain not detract from the amenity of the area.

- (ee) Amend Map Series 2 Sheet 7A by reinstating the building platforms on Wynyard Wharf, as shown in the notified version.

General

- (ff) Any further or other relief that may be appropriate and any consequential amendments needed to give effect to the above.

- (gg) Costs.

7. Documents attached:

- 7.1 A copy of the submission
- 7.2 A copy of the further submission
- 7.3 A copy of the relevant decision
- 7.4 A list of names and addresses of persons served with a copy of this notice.

DATED at Auckland this 20 day of February 2009



W S Loutit/B S Carruthers
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Advice to recipients of copy of notice of appeal

How to become a party to the proceedings

If you wish to be a party to the appeal, you must lodge a notice in form 33 with the Environment Court within 30 working days after this notice was lodged with the Environment Court.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38)

**How to obtain copies of documents relating to the appeal*

The copy of this appeal served on you does not attach the appellants submissions or the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington or Christchurch.