

Under Part 1 of the Judicature Amendment Act 1972

<u>IN THE MATTER</u>	Of the Resource Management Act 1991
<u>BETWEEN</u>	<u>URBAN AUCKLAND – THE SOCIETY FOR THE PROTECTION OF AUCKLAND CITY and WATERFRONT (INCORPORATED)</u>
	Plaintiff
<u>AND</u>	<u>AUCKLAND COUNCIL</u>
	First Defendant
<u>AND</u>	<u>PORTS OF AUCKLAND LIMITED</u>
	Second Defendant
FIRST AFFIDAVIT OF HEATHER RUTH SHOTTER IN SUPPORT OF URBAN AUCKLAND 31 MARCH 2015	
Solicitor for Plaintiff: Mr Geoffrey Hardy Madison Hardy ADDRESS Ph: (09) 3790200 Fax: (09) 3790504	Counsel for Plaintiff: Julian Miles QC Richmond Chambers Ph: (09) Fax (09) Email:

I **Heather Ruth Shotter**, Executive Director of Auckland, swear:

Introduction

- 1 My full name is Heather Ruth Shotter. My qualifications and experience as a business executive are attached in Schedule 1. In summary I have 20 years professional experience. I have a degree in Commerce and Administration from Victoria University Wellington.
- 2 I am the Executive Director of Committee for Auckland. I am authorised to make this affidavit on behalf of the Committee for Auckland.
- 3 The Committee for Auckland Limited, (**the Committee**) an independent, not-for-profit organisation, was established with the aim of making Auckland one of the world's great places to live, work and play. The Committee undertakes a range of short and longer term projects that promote positive social and economic development. Members, who join voluntarily, have an opportunity to make a positive contribution to the city and region. A list of members is included in my Annexure "HS1" (produced below). It includes corporate entities such as the major banks, Airport, Fonterra, Fuji Xerox, consultancies including the major accounting practices, creative agencies and other professional services, District Health Boards and notable businessmen and businesswomen. Current membership includes Auckland Council and various Council Organisations. The Committee is therefore broadly representative of a number of business and corporate interests that are passionate about Auckland's future direction.
4. The Committee for Auckland provides the connections and partnerships where business, government and non-government organisations as well as community groups come together to promote cross-sector engagement around key issues. The Committee's strength is in the collective support of its members to advance Auckland as a dynamic and exciting place to live and work. All activities and projects undertaken by the Committee have a relentless focus on outcome so Auckland can deliver the greatest benefits to its growing population.
5. The focus of this affidavit is on the issue of special circumstances, as these apply to Ports of Auckland Ltd's (**POAL's**) expansion within the waterfront and inner

Waitemata Harbour. My understanding is that Council had the opportunity to publicly notify the B2 and B3 resource consent applications to extend Bledisloe Wharf, on the basis of “special circumstances”. ‘Special circumstances’ is undefined but responds to context, and involves unusual but not necessarily unique circumstances where it is appropriate to have public input.¹

- 6 The Committee’s position is that there are special circumstances and the B2 and B3 applications should have been publicly notified. There is a great deal of public debate, and policy work, that has been done in relation to future and best use of POAL’s occupation of the inner Waitemata Harbour. The Committee has actively participated in this debate, and has prepared several reports highlighting public interest in the very issue of extending POAL’s footprint into the Waitemata Harbour. Auckland Council and POAL are well aware of this debate, ongoing for a number of years. It is therefore a matter of surprise that special circumstances were not considered to exist. I produce below two reports prepared by the Committee, which speak to the public policy debate on POAL’s expansion plans.

Special Circumstances

7. I understand that the issue of ‘special circumstances’ was addressed in the consultant planners’ report, by Ms Halpin. Ms Halpin did not consider that there were special circumstances warranting notification of the B2 and B3 resource consent applications as additions and alterations to existing port related infrastructure and stormwater discharges from these new structures are ‘common place’:

“new structures to support port related activities and the discharges from these new structures are relatively common place and an expected development within this busy commercial port environment in order to improve on-going efficiency and safety within the port. As such, the making of applications for structures relating to marine and port activities and their related discharges cannot be described as out of the ordinary”.

8. Commissioner decisions to approve the B2 and B3 applications were broadly

¹ The B2 and B3 resource consents are described in the evidence of Owen Burn.

consistent with Ms Halpin's report on this issue.

9. I make no comment on the issue of stormwater discharges. However, as noted, there is significant policy argument relating to POAL expansion within the harbour. Public access to and use of the waterfront and inner Waitemata Harbour has long been an important issue. POAL should not have been granted resource consent to the B2 and B3 wharf extensions without opportunity for public input and debate in relation to the location, size and scale of the structures, potential opportunities for enhanced public access, and environmental effects generated.

Three Waters Report

10. Annexed marked "HS1" is the "*Three Waters: Auckland as a Maritime City*" report prepared by Committee for Auckland in April 2013. The report highlights the importance of coordinated management, so that we can maximize public use and enjoyment of our three Harbours: Kaipara, Manukau and Waitemata. The report addresses opportunities, issues and trade-offs for the three Harbours and recommendations to support coherent management. It addresses the three key ways in which we use our Harbours: to live, work and play. POAL expansion is explicitly addressed.

11. The report notes that our domestic and international identity is based around our three Harbours. Our Harbours make Auckland unique among large modern cities. Managing access to our Harbours, with a growing population, is an important issue. An estimated 300,000 Aucklanders fish in our Harbours, but many more enjoy the recreational and amenity aspects. At pp28-29, the report refers to Port expansion plans. It states:

"Ports of Auckland has, and continues to be, a dominant activity on the Auckland waterfront. A busy and thriving port is an essential part of the economic vitality and vibrancy of the waterfront.

..There has been vigorous debate in recent years about the Ports' role in supporting both Auckland and New Zealand's economic aspirations and its suitability for meeting anticipated freight demand over the next 30 years.

Ports of Auckland presently occupy about 77ha, increasing to 79ha in 2016. It has recently unveiled two further options for port expansion..

..The expansion plans are highly controversial and the division of views across Auckland is well represented within the Committee's own membership. However, there is consensus that there should be no further major reclamation.."

12. The report speaks for itself in terms of the scale of public debate over POAL expansion. While the report highlights plans for reclamation, the policy debate is not limited to reclamation and includes the B2 and B3 extensions, representing a first step towards reclamation. The scale of public interest, highlighted by the report, confirms in my view that special circumstances apply to the B2 and B3 extensions.

Covec Discussion Paper

13. In 2012, Committee for Auckland commissioned Covec, a well regarded economics and public policy consultancy, to prepare a discussion paper on "Future Scenarios for the Port of Auckland". This is annexed marked "HS2."

14. The Covec report considers three scenarios for the future of POAL on the CBD waterfront. The Executive Summary identifies these options as:

***"No change:** Retention of the cargo port on the CBD waterfront, with no significant change to its current footprint and activities.*

***Transformation:** Release of the cargo port land in the CBD for alternative uses, such as such as for public, residential and commercial activities. This would require use of other ports and infrastructure to handle cargo and/or construction of a new port near to Auckland.*

***Expansion:** A significant increase in the activities and footprint of the cargo port in the Auckland harbour."*

15. Covec assessed the benefits and costs of each option. It identified potentially significant benefits as well as significant costs in the transformation option, with .further work needed to determine if benefits exceedcosts. Covec concluded that it

was ,unlikely that the benefits of the expansion scenario would exceed the costs, from a national perspective.

16. As with the Three Harbours report, the Covec Report speaks for itself in terms of the scale and significance of public debate over future expansion plans by POAL.
17. Council would have had corporate knowledge of these reports, when assessing the B2 and B3 resource consent applications. The reports highlight that special circumstances apply to POAL expansion into the Waitemata Harbour, central to the identity of Aucklanders. The Committee for Auckland supports the economic importance of POAL to the region (and New Zealand) but any decision to expand the footprint of POAL has consequential effects for other uses of the Harbour. That debate should have taken place publicly over the B2 and B3 extensions, and not behind closed doors.
18. The Committee for Auckland met with POAL in February 2015. The Committee indicated to POAL that it did not support future reclamation plans for Bledisloe Wharf, associated with the B2 and B3 extensions.

Conclusions

19. The failure to publicly notify the B2 and B3 resource consent applications is to the detriment of Auckland. Waterfront and water space in the Inner Waitemata Harbour is one of the most prominent and visible urban locations in the Auckland region. Public debate over competing uses of this scarce resource is of vital importance.
- 20.. Since its inception, Committee for Auckland, within the means of its members, has pursued its objectives to making Auckland a superior city to live, work and play and that Auckland as a whole is developed in a way that it can gain an international reputation as an attractive metropolitan destination.
21. Council should have accurate and detailed information available to it. That is the opportunity that was denied in deciding to grant B2 and B3 resource consents without public notice.

SCHEDULE 1

Heather is Executive Director of the Committee for Auckland and has had a successful career in the corporate sector, having spent 12 years at SKYCITY Entertainment Group, as General Manager New Zealand Operations and Group Marketing across Australasia.

Her career has also included tenures at Telecom New Zealand and Shell Oil New Zealand.

Before joining Committee for Auckland, Heather was the Executive Trustee of the New Zealand Breast Cancer Foundation, spearheading the development of a new strategic plan to support improved revenue and new investments in rehabilitation and wellbeing for women with breast cancer.

Heather is a former trustee of the Auckland Arts Festival, board member of New Zealand's Health Quality and Safety Commission, and former trustee of Tourism Auckland, The Tourism Association of New Zealand and Director of New Zealand Post.