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**THE ENVIRONMENTAL IMPLICATIONS  
OF AN APPLICATION TO  
DEVELOP THE VIADUCT BASIN, AUCKLAND**

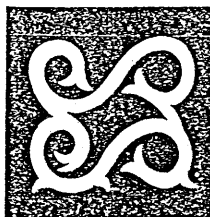
A Report prepared for the  
Parliamentary Commissioner for the Environment

March 1990

Parliamentary Commissioner  
for the Environment  
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# 1 INTRODUCTION

## 1.1 The America's Cup Competition

The Mercury Bay Boating Club Inc has lodged an appeal against the decision of the Appellate Division of the US Supreme Court to award the America's Cup to the San Diego Yacht Club. This latest appeal was before the Court of Appeals of the State of New York starting on 8 February 1990. The decision is expected towards the end of March 1990.

If the decision favours the Mercury Bay Boating Club, the America's Cup Competition is planned to be sailed in the Hauraki Gulf. It is likely that the competition in the Hauraki Gulf will occur in March 1992. This will be preceded by a World Championship Series in March/April 1991. Syndicates competing in the America's Cup Competition are expected to also compete in the World Championship Series and some syndicates are likely to remain in Auckland during the intervening period.

Facilities to accommodate the organization of the competition, the competing syndicates and their respective support infrastructures, and the large number of visiting craft, are therefore needed by October/November 1990 according to the Macro Study Report prepared by Development Management Resources Consultants Ltd for the Minister for the America's Cup, the Hon Mike Moore.

## 1.2 Special Legislation

The Government recognized the short time-frame available if facilities were to be available in time for New Zealand to host the World Series and the America's Cup, in the event that the Cup was awarded to the Mercury Bay Boating Club by the State of New York Court of Appeals.

Parliament enacted the America's Cup (Planning) Act 1989 "*to enable certain consents required in connection with facilities reasonably necessary for the conduct of the America's Cup, or reasonably necessary to enable participation in the America's Cup, to be obtained expeditiously,*" according to the long title of the Act.

The Act sets up the America's Cup Planning Authority (ACPA) to determine whether any proposal or facility or proposed facility in respect of which an application has been made, meets the criteria set out in the Act; and, if it considers that the proposal or facility or proposed facility does meet those criteria, to determine whether the consents sought should be granted.

Applications to the ACPA must be "*accompanied by an environmental impact assessment in respect of the proposal or facility or proposed facility which shall have regard to the matters set out in section 17 of the Environment Act 1986*" (s. 14 (3)(f)).

Objections and submissions are to be lodged with the ACPA and the Parliamentary Commissioner for the Environment (PCE). The PCE is also granted the right to be present and be heard at hearings of the ACPA.

### 1.3 The Application

The Ports of Auckland Limited, Fletcher Development & Construction Limited and Turners & Growers Limited (the Joint Venture) have concluded that the Viaduct Basin area can provide the necessary facilities for hosting the World Series and America's Cup Competition.

The Joint Venture lodged an application with the ACPA on 20 December 1989 for consents necessary to enable the development of the Viaduct Basin under the America's Cup (Planning) Act 1989, in order to:

- a) *meet the needs of the 1992 America's Cup event, including the preceding World Series;*
- b) *provide a stimulus for the redevelopment of adjacent waterfront areas;*
- c) *meet port-related needs, particularly those of the fishing industry;*
- d) *provide improved opportunities for the public enjoyment of and access to the harbour;*
- e) *maintain or enhance environmental conditions in the area and elsewhere.*

The consents sought and the usual control agencies are as follows:

- maritime planning consents for a scheme change under section 109, and an exception under section 110 of the Town and Country Planning Act 1977: Auckland Regional Council
- variation to proposed third review of the District Scheme under section 47 of the Town and Country Planning Act 1977: Auckland City Council
- thirteen water rights for discharges related to the reclamation and relocation of stormwater discharge points under section 21 of the Water and Soil Conservation Act 1967: Auckland Regional Water Board
- two reclamation authorities under section 175 of the Harbours Act (1950): Order in Council on the recommendation of Minister of Conservation with the approval of the Minister

of Transport for one, and joint recommendation of both ministers for the other

- subdivision of the seabed title under sections 275 and 279 of the Local Government Act 1974: consent by Minister of Local Government for areas below MHW and by Auckland City Council for areas above MHW
- dispensation from esplanade reserve requirements under section 289 of the Local Government Act 1974: Auckland City Council with the consent of the Minister of Conservation.

The Joint Venture have not lodged an application under section 178 of the Harbours Act 1950 with respect of the reclamations. According to the EIA (p. 13) this will be done at a later date.

#### 1.4 Parliamentary Commissioner's Role

The America's Cup (Planning) Act provides for the involvement of the PCE but is silent on the specific role which the PCE must play. In view of the above, the PCE has interpreted her role and functions under the America's Cup (Planning) Act as being within the scope of s.16 of the Environment Act.

The PCE has therefore decided to:

- i) assess and comment on the process set up by the America's Cup (Planning) Act;
- ii) examine the EIA and comment whether the matters listed under s.17 of the Environment Act have been adequately addressed and advise the ACPA accordingly;
- iii) analyze submissions received, summarise the main issues raised and bring these to the attention of ACPA;
- iv) comment on measures which could mitigate environmental impacts.

## 2 THE PROCESS

- 2.1 The process set up by the America's Cup (Planning) Act is summarized in Table 1. To date, the proposal to develop the Viaduct Basin has barely proceeded half way through the process. However, an earlier application to extend the Westhaven Marina has now been heard by the ACPA and it is possible to examine the process and reflect on its adequacy and effectiveness when compared with the normal consent processes and the objectives of the AC(P) Act.

**TABLE 1****SUMMARY OF THE PROCESS SET UP BY THE AMERICA'S CUP (PLANNING) ACT**

	<b>ACTION</b>	<b>TIME ALLOWED</b>	<b>BY WHOM</b>
1	Application for consent (s. 15)	-	applicant
2	Decision whether application meets criteria (s. 16)	as soon as practicable	ACPA
3	Notification of acceptance and service on bodies listed (s. 17)	forthwith	ACPA
4	Public notice and call for objections and submissions (s. 18)	forthwith	ACPA
5	Lodging of objections and submissions (s.18)	not less than 10 working days after public notice	affected parties general public
6	Start of hearing of the application (s. 20)	not less than 10 working days after closing date for submissions	ACPA
7	Notice of decision (s. 25)	as soon as practicable	ACPA
8	Application for variation/cancellation, of conditions, restrictions, etc (s. 28)	Any time after consent granted	applicants and/or statutory authorities
9	Call for submissions on applications for variation	not more than 5 working days	applicants and/or statutory authorities
10	Hearing on application for variation etc, if necessary (s. 28)	same procedure as above	ACPA
11	Decision on application for variation etc, (s. 28)	as soon as practicable	ACPA
12	Appeal on 7 or 11 above (s. 29)	5 working days after notification of decision	any party to any hearing
13	Hearing of Appeal (s. 29)	priority over any other matter	Planning Tribunal

## 2.2 Consultations by Parliamentary Commissioner for the Environment

In order to ascertain how the process is perceived by those involved, PCE consulted a number of organizations as follows:

Ministry for the Environment, Auckland Regional Office  
 Department of Conservation, Auckland Regional Office  
 Auckland City Council, Planning Department  
 Auckland Regional Council, Planning Department  
 Auckland Regional Water Board  
 Department of Labour Auckland Dangerous Goods  
 Inspectorate  
 Auckland Civic Trust  
 Messrs Simunovich Fisheries Limited  
 Messrs Polar Products Limited  
 St Mary's Bay Community Association  
 Ministry of Transport, Auckland Regional Office  
 Freeman's Bay Community Committee  
 Auckland City Council Dangerous Goods Inspectorate  
 America's Cup Planning Authority Secretariat  
 Solicitors for the Applicants  
 Interim America's Cup Office  
 Environmental Protection Authority of Western Australia,  
 Perth

## 2.3 Time Constraints

The Environmental Protection Authority of Western Australia informed PCE that Western Australia did not enact special legislation to speed up the consents and approvals process. Apparently, the America's Cup Office in Western Australia co-ordinated the processing of applications and there was a commitment by control agencies to deal with these expeditiously. This arrangement proved sufficient.

The shortened time scale under the New Zealand legislation has been the most difficult single aspect of the process to date. Staff resources of control agencies are stretched and environmental, civic and other special interest groups and organizations have invariably found the time allowed to be inadequate for meaningful participation in the project. The majority still managed to send in a submission. However, it would seem that time did not allow for any research and none of the submissions and objections received by PCE contain the results of study or information gathering - issues are merely raised in a general and unspecific manner.

In the case of one organization, the Freeman's Bay Community Committee, it was not even able to meet in time to consider making a submission because of the holiday period (which this year in Auckland tended to run on to the Commonwealth Games).

Participation for such voluntary groups is never easy but this time they felt completely defeated by the rush.

The difficult time-frame was referred to repeatedly at the Westhaven hearing and the PCE Office itself found that there was insufficient time to adequately check some technical matters.

#### 2.4 Consultation and Information by the Applicant

In the absence of the usual available time, consultation and information assumed paramount importance within the process. The EIA (pp 7-8) provides a list of parties consulted. Similarly, Annex 1 in the EIA documents an approach made by the Joint Venture on 25 August to 77 parties identified as likely to be interested in the proposal. These efforts are laudable.

On 8 September 1989 PCE wrote to the Ports of Auckland Limited as one of the Joint Venture Partners suggesting *"meetings take place with interested agencies, the public and the tangata whenua before any applications are lodged with the ACPA"*. PCE noted that *"given the compressed planning framework and shortened time for consents, the environmental impact assessment process would benefit from an opportunity for feedback on proposals by these groups prior to any formal applications being made."* The PCE also offered to attend these meetings to outline her involvement in the process.

The majority of those spoken to by PCE confirm that there have been many opportunities for participation; most, but not all, commend the applicants for the communication channels which remained available; few, if any are entirely happy with the way in which their input has been incorporated into the final proposal; and a minority have the view that the process of consultation and information transfer has not been effective at all.

#### 2.5 Control Agencies

The process for considering applications under the AC(P) Act alters the role of the control agencies and their staff. The control agencies in this case relinquish their consenting powers to the ACPA. The professional staff who normally would provide the prime source of advice to the control agencies are now removed from this relationship and their advice can only reach the decision makers through the channel of a team of consultants.

As can be seen from Table 1, the current process has only progressed to stage 6. It is worth noting that stages 8 to 11 can be invoked at any time by one or more of the control agencies to remedy any problems that may arise as a result of the shortened time scale and resultant haste.



## 2.6 The America's Cup Planning Authority

The extent of communication and consultation between the ACPA and the PCE has been most satisfactory. It has been possible for the PCE to meet with and tender advice to the group of consultants engaged by the ACPA to audit the application. In tendering this advice to the consultants, the PCE summarized matters noted under s.17 of the Environment Act and indicated what they needed to look for in their audit of the EIA.

If the impacts of the proposal were only temporary and reversible, the shorter time period and urgency provided by the AC(P) Act would have been more tolerable. However, since the proposed development is permanent and with long-term implications, decisions on the application might have serious consequences for the environment.

The ACPA must ensure that its decisions and any conditions attached to them are also capable of enduring for the long-term.

## 2.7 Conclusions on the Process

The expeditious treatment of applications and the lack of delay provided by this process is welcomed. The generally comprehensive approach of the process would have been rendered more effective had consents under section 178 of the Harbours Act been sought under the current application.

It would seem that the tight time constraints were a problem for most. The efforts of the Joint Venture in consulting and informing the public and those affected, compensated only partly for this. Compared with the usual consent process the current one has suffered due to haste.

# 3 ENVIRONMENTAL IMPACT ASSESSMENT

## 3.1 Availability

Every application for consent under the AC(P) Act must "*be accompanied by an environmental impact assessment in respect of the proposal or facility or proposed facility which shall have regard to the matters set out in section 17 of the Environment Act 1986*" (s 15 (3) (f)).

Copies of the application which according to s. 17 must be served on a number of organizations and individuals, must be accompanied by all supporting documents including the EIA. The EIA is also to be included in the documents which are made available for inspection and for purchase by those who are interested.

As far as PCE can ascertain, the EIA was advertised and made available as required. It might have been more helpful to those affected and the general public had the application and supporting documents been made available for inspection at locations other than the ACPA office though the act does not require this. Public libraries, City Council offices and community centres could have been used for this purpose.

### 3.2 Scope

According to section 15(3) (f) of the America's Cup (Planning) Act, the EIA *"shall have regard to the matters set out in section 17 of the Environment Act 1986."* These can be summarized as -

- any potential threat to ecosystems or ecological values;
- implications for landscape, aesthetic, archaeological, cultural, historical, recreational, scenic and scientific values;
- impact on fishing grounds or other resources which are part of the heritage of the tangata whenua;
- the effect on communities of people;
- likely pollution, hazards.

In considering the above, the effects and impacts must be seen in both a short term and long term context, directly and indirectly, as well as cumulatively.

The EIA clearly spells out what it sets out to cover (p 4). It then outlines the structure that is followed, describes the consultation process to date, provides justification for the application to proceed under the AC(P) Act and outlines the consents required.

Subsequent sections describe the current situation, document the demand for America's Cup facilities and the need to redevelop the Viaduct Basin, describe the proposal and its construction method and assess the environmental impacts of the proposal.

The EIA considers briefly some aspects of operations management and copies of the applications for consent filed with the ACPA are appended to the EIA for easy reference.

The format of the EIA is reasonably easy to follow and while some parts are lacking in detail, the content touches on all the usual aspects of an environmental impact assessment or report.

### 3.3 Analysis of EIA

Table 2 summarizes the PCE analysis of the EIA in terms of the matters noted under section 17 of the Environment Act.

TABLE 2 : ANALYSIS OF THE EIA IN TERMS OF THE MATTERS  
NOTED UNDER S.17 OF THE ENVIRONMENT ACT 1986

S.17	MATTER	THREAT FROM	LIKELY IMPACT	EXISTING ENVIRONMENT	IMPACTS IDENTIFIED	GENERAL CONSIDERATION ADEQUACY	MITIGATION MEASURES PROPOSED	COMMENT
(a)	maintenance and restoration of ecosystems	dredging, reclamation, water quality	reduced species, toxicity, smothering	p.60 2.14	p.137 7.5 p.162 8.11 p.165 8.11.22	Adequate consideration. Separate report deals adequately with the expected impacts.	p.164 8.11.19 improve water quality programme p.165 8.11.33 propose surveillance	Existing ecological values not high. Net result of proposal long-term could be an improvement as long as water quality is maintained.
(b)	landscape ... aesthetic ... scenic value	reclamation, buildings, roads	views lost, land/water interface, character loss	p.54 2.13	p.156 8.7	Adequate consideration. Separate report deals fully with visual values and scenic quality.	p.152 8.6.6 provision of viewshatts p.160 8.7.8 aim to reflect existing character	Viaduct Basin is currently very run-down - some parts are derelict - proposal is opportunity to enhance the visual values.
(b)	archaeological, cultural, historical value	development, excavation, redundancy	demolition, loss of prominence, loss of function	p.49 2.12.20	p.143 8.1	Adequate consideration. Decision to demolish all existing buildings except Tepid Baths needs further consideration. Possibility of artifacts within Basin tip.	p.143 8.1.3 archaeologist to be available	May be more desirable to assess which existing buildings could be retained and woven into fabric of ultimate development.
(b)	recreational value (public access)	demolition, development	loss of access, loss of quality, lost open spaces	p.77 2.20	p.126 7.2.1	Adequate consideration. However plans are not secure because of land tenure - no secure commitment.	p.151 8.6.4 and 8.6.5 provision of public access and public open spaces	Concept plan is fine, however there is no firm commitment and anything could happen in the future.
(c)	heritage of the tangata whenua	nil	nil	p.143 8.2	nil	Adequate consideration. Separate report by Ngati Whataua Tamaki Makaurau provides assurances that proposal has no negative impacts for tangata whenua or other Maori.	p.143 8.2 provision for Waka Tawa and ongoing consultation p.167 8.15 and 8.16	
(d)	effects on communities of people (fishing industry)	development, relocation, lower priority than synodicates	disruption, displacement, lost investment, traffic disruption	p.91 4.0 p.165 8.13 p.144 8.3	p.166 8.14 p.129 7.3 p.137 7.5 p.162 8.11	Inadequate detail on how the significant impacts on current occupiers and users of the Basin are to be dealt with and minimised.	p.166 8.13.3 discuss to relocate p.166 8.14 relocate p.145 8.3.3 modified roading network	Impact on current occupiers and users possibly underestimated.
(e)	pollution (water)	sediment and silt, contaminants, stormwater	lower water quality, discoloration, standards exceeded	p.61 2.14.8	p.129 7.3 p.137 7.5 p.162 8.11	Measures to reduce impact only address silt and suspended contaminants. Inadequate consideration of dissolved contaminants.	p.138 7.7 settling ponds p.163 8.1.13 manage dredging and reclamation to minimise sediment suspension. No spoil dumping. Adequate dilution.	Requires monitoring and review plans for stormwater discharges to ensure assimilative capacity is not exceeded.
(e)	pollution (noise)	dredging, reclamation, traffic	noise increase in intensity, frequency and duration	p.41 2.11	p.149 8.5	Adequate consideration. Separate report addresses problems and concludes that noise can be kept within set limits.	p.151 8.5.10 standards to be complied with	This issue may need to be re-opened if residential development took place within Basin in the future.
(e)	hazardous substances	development increased public densities	loss of access	p.76 2.19	167 8.17	Not discussed at any length but probably adequately.	p.167 8.17.4 claim that Halsey Street reclamation will provide screen and vehicles = positive impact	Relying on actions of other agencies to implement recommendations of study.
(f)	long term, cumulative impacts	stormwater, traffic, development, sewer overload	lower water quality, congestion, general env. quality, water quality	p.117 6.2.13 p.44 2.12.15	p.161 8.10	Too early to quantify some of the long-term, cumulative impacts.	p.162 8.10.6 removal of 85m of Western Viaduct to improve circulation of water	Without proper quantification and accepted levels, consents should only be conditional to monitoring, and reviewable.

{page numbers refer to EIA}

The PCE applied s.17 to the proposed development and identified the threats that were likely to arise from various aspects of the development, as well as the possible impacts involved (columns 3 and 4).

The analysis then noted whether and to what extent the EIA described the existing environment, resources and other values which could be impacted (column 5), and whether the EIA had adequately identified the potential impacts (column 6). Comments to this effect are to be found in column 7.

The measures proposed in the EIA to mitigate against the identified impacts are also listed in Table 2 (column 8), which also carries brief comments summarizing the PCE viewpoint (column 9). These comments are expanded upon in the discussions that follow.

### 3.5 Conclusions on the Adequacy of the EIA

Copies of the EIA could have been made available more widely for public inspection.

The EIA addresses all matters set out in section 17 of the Environment Act with the exception of the long-term impacts of the proposal.

## 4 **SIGNIFICANT ISSUES**

### 4.1 Submissions Received

PCE has received 48 submissions, 46 directly and 2 through ACPA, on the proposal to develop the Viaduct Basin and its environs. Of the 48 submissions 5 were in support, 4 were in the form of comments and 39 were against some aspect of the proposal. All but 8 submissions were received by the closing date - 31 January 1990. A full list of those who made submissions is found in Table 3.

At least 17 of those who made submissions are owners or occupiers of land in the Viaduct Basin area or vicinity. Nine submissions were from special interest groups (environmental, residents, industrial), while 4 were from control agencies. Ten submissions came from organisations closely involved with the fishing industry.

### 4.2 Issues raised in Submissions

An analysis of the issues raised in submissions and objections appears in Table 4. There were 12 issues or clusters of issues, 8 relating to matters noted in s. 17 of the Environment Act and therefore of direct interest to PCE.

**TABLE 3 - LIST OF THOSE WHO MADE SUBMISSIONS OR LODGED OBJECTIONS WITH PCE**

NO	INTERESTED PARTY	STANCE	DATE RECEIVED
V1	Postbank Limited	Support	18 January
2	Cable Price Downer Ltd	Object	24 January
3	Independent Bulk Storage Ltd	Object	26 January
4	Simunovich Fisheries Ltd	Object	26 January
5	Ministry of Transport	Comments	29 January
6	Caltex Oil (NZ) Ltd	Object	29 January
7	G & B Campbell	Comments	29 January
8	Royal Forest and Bird Protection Soc	Object	30 January
9	Auckland Regional Council	Object	30 January
10	Kia Ora Seafoods Ltd	Object	31 January
11	St Mary's Bay Association (Inc)	Object	31 January
12	Mace Development Corp Ltd	Object	31 January
13	Australian Mutual Provident Soc	Object	31 January
14	NZ Fishing Industry Board	Object	31 January
15	NZ Railways Corporation	Object	31 January
16	Polar Products Limited	Object	31 January
17	Tower Corporation	Object	31 January
18	Colonial Mutual Life Assur Soc Ltd	Object	31 January
19	Greenpeace NZ Inc	Object	31 January
20	Sanford Ltd	Object	31 January
21	Bayswater Marina Limited	Object	31 January
22	Civic Trust Auckland	Object	31 January
23	Fletcher Fishing Ltd	Object	31 January
24	V H Farnsworth Ltd	Object	31 January
25	Mercury Bay Boating Club Inc	Support	31 January
26	Northern Comm Fishermen's Society	Object	31 January
27	Ministry of Agriculture & Fisheries	Object	31 January
28	L Anthony Watkins	Object	31 January
29	Auckland City Council	Object	31 January
30	Auckland Regional Water Board	Object	31 January
31	Maruia Society Inc	Object	31 January
32	Brierley Cromwell Property Ltd	Object	31 January
33	Street Properties Partnership	Support	31 January
34	A Foster & Company Ltd	Support	31 January
35	Polperro Corporation Ltd	Object	31 January
36	Mainzeal Group Ltd	Object	31 January
37	Albert & Federal Family Trust	Object	31 January
38	Kensington Swan	Object	31 January
39	Pride of Auckland Partnership	Object	31 January
40	John Derek Taylor	Object	2 February
41	Auckland Gas Co Ltd	Comments	5 February
42	New Zealand Fire Service	Comments	2 February
43	Rainbow Yacht Charters Ltd	Object	31 January
44	Pacific Terminals Ltd	Object	7 February
45	St Matthew's In-the-City	Object	12 February
46	Auckland Maritime Museum Trust Bd	Support	12 February
47	Auckland Inshore Comm Fish Assoc Inc	Object	12 February
48	Gaze Burt	Object	16 February

TABLE 4 - ISSUES RAISED IN SUBMISSIONS AND OBJECTIONS TO THE PCE AND FREQUENCY

	ISSUES & MATTERS RAISED IN SUBS	SUBMISSION NUMBERS	SUB TOTAL	%	IMPACTS OR AREAS OF CONCERN
Matters from Section 17 Environment Act	ecological values	4,5,8,11,19,22, 26,27,30,31,35, 36,37,38,39,43	16	33	dredging, extent of reclamation, pollution impacts
	landscape, aesthetic, scenic values	1,9,12,18,21,23 25,26,33,34,35, 36,37,38,39,43, 44,46,47	19	39	existing run-down condition of Basin
	archaeological, historical, cultural values	9	1	2	Tepid Baths Lifting Bridge
	recreational values	4,7,8,9,12,19, 22,29,31,35,36, 37,38,39,43,48	16	33	Pedestrian access public open spaces esplanade reserve
	communities of people	2,3,4,5,6,8,9, 10,12,13,14,16, 17,19,20,23,24, 26,27,31,35,36, 37,38,39,43,44, 45,47,48	30	62	existing users & occupiers fishing industry, traffic spiritual needs
	water quality and pollution	4,5,8,9,11,19,22, 26,27,30,31,35, 36,37,38,39,43	17	35	dredging stormwater, water circulation
	noise	19	1	2	construction
	hazardous substances and public safety	6,8,9,19,42	5	10	dangerous goods area, emergency access
Other Matters	justification under AC(P) Act	2,3,8,10,11,17 19,21,24,28,29, 31,32,44	14	29	not essential for AM Cup uncertainty
	town planning matters type & intensity of development	2,3,4,8,10,11, 12,13,14,15,16, 17,18,19,20,21, 22,23,26,29,31, 32,35,36,37,38, 39,40,43,44	30	62	District & Maritime Scheme mix of development
	Harbour Edge legislation	5,13,14,16,18, 20,22	7	14	relationship, timing
	Lack of detail	10,12,14,20, 26,30	6	12	impact assesement, mitigation measures

Competition. This is confirmed in the EIA with the acknowledgement that the developments are necessary to ensure the economic viability of the project and that they will not be undertaken in time for the Cup Competition but likely to be completed over a period of about 15-20 years dependent on market demands (EIA p 114).

Submissions suggest that the developments required for the Cup Competition could justifiably be consented to under the AC(P) Act, given the degree of urgency. [Note: District Planning Scheme changes were the subject of action in the High Court brought by some of the objectors. The Court decision (still subject to any appeals) required ACPA to desist from hearing this aspect of the application.]

#### 4.5 Dredging and Water Quality

The extent of the reclamation and the amount of dredging proposed was a matter of concern to 35% of those who made submissions. This is also a matter of interest to PCE as it affects water quality, pollution and impact on ecological values.

The Joint Venture is aiming to achieve a balance of excavation and fill to avoid the need for dumping (EIA p 137). This is primarily an economic consideration since it may, after proper comparative assessment, be more desirable on ecological grounds to dump the dredgings at sea or on land. In the current proposal it is very difficult to determine which activity is driving the other.

The impact of dredging (a permitted use in the Viaduct Basin) on ecosystems and water quality is potentially high. This is particularly so when the sediments concerned are as polluted as those of the Viaduct Basin (EIA p 61 and Bioresarches Ltd report p 61). The Joint Venture recognize the concern and the proposal includes measures to mitigate against this impact.

It is proposed to place a geotextile fence across the northern end of the Lighter Basin *"to prevent any pollutants spreading to the Viaduct Basin"* (EIA p 137). While some pollutants, namely particulate and adsorbed elements, will be captured by the geotextile curtain, dissolved and fine suspended fractions will not be and the concentration of various contaminants emanating from these works needs to be controlled. It is also advisable to develop contingency plans to deal with unexpected problem situations.

The proposal to construct settlements ponds to treat the water from polluted, excavated and dredged material (EIA p 138) will only go part of the way towards alleviating the problem. Only particulate and adsorbed pollutants will be removed while dissolved and suspended elements such as ammonia, lead, tributyl tin, mercury and sulphides

will require further treatment if they are to be removed from the discharge water. In this connection, PCE does not agree with the EIA (p 63) that dilution is a solution and stresses the need for removal of the pollutants from the discharge stream. This is particularly as a result of the uncertainty expressed by the ACPA consultants in their audit (Report 2 and 3) on the sediment quality from the Lighter Basin, the quality of the old landfill material proposed for excavation, and the performance of the settlement ponds.

#### 4.6 Reclamations

Ultimately, the most effective way of reducing the impacts of dredging and reclamation is to adhere to the spirit of the Auckland Regional Planning Scheme which, according to the EIA (p. 24), states "that reclamation for commercial, industrial, recreational or tourist development should be avoided unless it can be demonstrated that it is **in the public interest**, that there is **no practicable alternative** site on existing land, and that the proposed use has a functional need to be **adjacent to the coast**." (my emphasis)

These sentiments are repeated in the Waitemata Harbour Maritime Planning Scheme which states (s. 6.6.3):

*"All reclamations shall be exceptions to the scheme and shall be evaluated against the following criteria:-*

- (i) *The objectives and policies of the scheme*
- (ii) *The purpose of the reclamation*
- (iii) *Whether the proposed use has an operational need for a harbour location*
- (iv) *An examination of alternative proposals for the use not involving reclamation*
- (v) *Impacts on the amenities of adjoining land*
- (vi) *The extent of the reclamation*
- (vii) *The impact upon tidal flows, navigation, water quality, erosion and sedimentation*
- (viii) *Impact on ecological values*
- (ix) *Impact on visual qualities of the harbour*
- (x) *Impact on recreational activity*



- 5.7 A distinction needs to be made between those parts of the proposal that are required for the America's Cup and those that are not. The latter should not be considered under the AC(P) Act but should await the enactment of the Auckland Harbour Edge Bill.
- 5.8 The dredging plan which should be submitted when seeking consents under section 178 of the Harbours Act must contain contingency plans to deal immediately with any lack of performance by the geotextile curtain or the settling ponds. PCE will advise the Ministers of Transport and Conservation accordingly.
- 5.9 None of the 3 reclamations proposed satisfy the criteria of either the Auckland Regional Scheme or the Waitemata Harbour Maritime Planning Scheme and consents should therefore be declined.
- 5.10 In view of the uncertainty surrounding water movements and flushing rates, stormwater outfalls should be removed from the Viaduct Basin. Furthermore, before being discharged, stormwater should be subjected to catchpits and sumps to remove all litter and similar macro-pollutants.
- 5.11 In the interest of providing for public access in perpetuity, the Joint Venture must provide or obtain a commitment to the restoration of pedestrian access across the Western Viaduct.
- 5.12 Negotiations between the Joint Venture and the Auckland City Council on public open spaces should work towards the maximum amount of public open space. This requires agreements with some current occupiers of land; land rather than cash as the reserve contribution for urban subdivision; and the upholding of esplanade reserve obligations where applicable.

## 6. DOCUMENTS CONSULTED FOR THIS STUDY

Port of Auckland Limited (1989) The Viaduct Basin: Environmental Impact Assessment. Report containing: Statutory Applications, Supporting Information, Environmental Impact Assessment.

Development Management Resources Consultants Ltd (1989) America's Cup Auckland New Zealand - Macro Study. A Report for the Minister for the America's Cup, Hon. Mike Moore, MP.

NSW Department of Planning (1989) Western Reclamation Area Risk Assessment Study, Auckland, New Zealand. Prepared for the Auckland City Council, Auckland Harbour Board and the Auckland Regional Authority.

Bioresearches Ltd (1989) The Effects of the Proposed America's Cup Developments on Marine Habitats. Prepared for Ports of Auckland Ltd and Fletcher Construction Ltd.

Department of Conservation (1989) A Preliminary Assessment of the Lighter Basin Area of Auckland's Waterfront in respect of the Archaeological Sites that may be threatened by the Proposed America's Cup Venue Development.

Deloitte Haskins & Sells (1989) Untitled report on financial model and projections.

McDermott Miller (1989) Viaduct Basin Redevelopment: Implications for the Fishing Industry.

McDermott Miller (1989) Viaduct Basin Redevelopment: Economic Impact Assessment.

LA4 (1989) Viaduct Basin Environmental Impact Assessment: Visual and Landscape Assessment.

Murray-North Partners (1989) Viaduct Basin Developments Traffic Impacts.

Clinton Bird (1989) the Viaduct Basin Environmental Impact Assessment: Urban Design Assessment.

Terra Aqua Consultants (1989) Freeman's Bay Redevelopment - Dredging and Foundation Investigation.

Fletcher Challenge Ltd (1989) A Return to the Auckland Waterfront (Project 90).

Fletcher Development and Construction Ltd (1989) Findings - Conclusions drawn by the Project '90 Redevelopment Study of the Auckland waterfront. A submission to the Minister of Local Government.

Ngati Whatua Tamaki Makaurau Ltd (1989) A Cultural Impact Assessment of the Westhaven Marina and Viaduct Basin Development.

Government of Western Australia (1987) Master Record of the Government's Role in Australia's Defence of the America's Cup 1987.

