

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991

AND an appeal under clause 14(1) of Schedule 1
 of the RMA

BETWEEN PINE HARBOUR MARINA LIMITED
 (ENV-2018-AKL-000148)

 Appellant

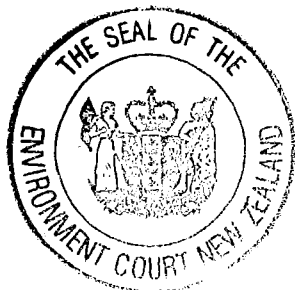
AND AUCKLAND COUNCIL

 Respondent

Principal Environment Judge L J Newhook sitting alone under s 279 of the Act
In Chambers at Auckland

CONSENT ORDER

- [A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:
- (1) the appeal is allowed subject to the amendments set out in Appendix 1 to this order;
 - (2) the appeal is otherwise dismissed.
- [B] Under s 285 of the Resource Management Act 1991, there is no order as to costs.



REASONS

Introduction

- [1] This appeal concerns a decision of Auckland Council in respect of a submission lodged by Pine Harbour Marina Limited (**PHML**) on Proposed Plan Change 4: Corrections to technical errors and anomalies in the Auckland Unitary Plan Operative in part (**PC4**).
- [2] The key objective of PC4 to the Auckland Unitary Plan Operative in part (**AUP**) is to correct technical errors and anomalies within the AUP (except for the regional coastal plan provisions). PC4 is the first 'administrative' plan change to the AUP.
- [3] PHML's appeal on PC4 relates to various provisions in Chapter 1431 - Pine Harbour Precinct (Pine Harbour Precinct) of the AUP. PHML is a landowner within the Pine Harbour Precinct.
- [4] The Pine Harbour Precinct provisions in the AUP are intended to reflect the planning regime that applied to land within the Precinct under Chapter 17.15 - Pine Harbour Marina of the legacy Auckland Council District Plan - Operative Manukau Section 2002 (Legacy Plan).
- [5] Following discussions, the parties have agreed that PHML's appeal can be settled by consent. Specifically, the parties have agreed that the appeal can be disposed of by amending two development standards in the Chapter 1431 - Pine Harbour Precinct provisions.
- [6] The first amendment proposed by the parties is to Standard 1431.6.4 in Chapter 1431 - Pine Harbour Precinct. The second amendment to the Pine Harbour Precinct provisions proposed by the parties is to Standard 1431.6.7 Yards. Clause (3) of Standard 1431.6.7.
- [7] In making this order the Court has read and considered the appeal and the joint memorandum of the parties dated 20 December 2018.
- [8] The Pine Harbour Parade Residents Action Group gave notice of its intention to become a party to the appeal under s 274 of the Act, and has signed the memorandum of the parties setting out the relief sought.



[9] No other person has given notice of an intention to become a party under s 274 of the Act.

[10] The Court is making this order under s 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

(a) All parties to the proceedings have executed the memorandum requesting this order.

(b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Resource Management Act 1991, including in particular Part 2.

Order

[11] Therefore, the Court orders, by consent, that Standard I431.6.4. and Standard I431.6.7. in Chapter 1431. Pine Harbour Precinct of the Auckland Unitary Plan Operative in part are amended as set out in **Appendix 1** to this Consent Order.

[12] The appeal is otherwise dismissed.

[13] There is no order for costs.

DATED at Auckland this *21st* day of *December* 2018




L. J. Newhook
Environment Judge

APPENDIX 1: PROPOSED AMENDMENTS TO THE AUCKLAND UNITARY PLAN OPERATIVE IN PART

New text is shown as underlined and deleted text as ~~strikethrough~~

Amend Standard I431.6.4. Threshold condition in Chapter 1431. Pine Harbour Precinct, as follows:

I431.6.4. Threshold condition (ground floor or above adjacent footpath)

- (1) For sub-precincts D and E the minimum must be 0.5m and the maximum is 1.25m.

Amend Standard I431.6.7 Yards in Chapter 1431. Pine Harbour Precinct, as follows:

I431.6.7. Yards

- (1) Buildings within sub-precincts B – G must meet the following yard setback requirements as outlined in Table I431.6.7.1 below.
- (2) For garages within sub-precincts B and C, the front yard setback requirement is 0.5m from the building frontage and 5m minimum setback from the front boundary.
- (3) The separation distance between balconies or windows of primary living spaces in directly opposing buildings within sub-precincts D and E must be greater than 20m and must otherwise be not less than 15m. Facades with no glazing must be greater than 10m apart.
- (4) Buildings within sub-precinct G must not be located beyond the building restriction line as identified on Pine Harbour: Precinct plan 1.

Table I431.6.7.1 Yards

Yard	Sub-precinct					
	B	C	D	E	F	G
Front yard set back	Minimum – 2m Maximum – 5m Also see standard I431.6.7(2)	Minimum – 2m Maximum – 5m Also see standard I431.6.7(2)	Minimum – 0m Maximum – 1m	Minimum – 0m Maximum – 1m	Minimum – 0m Maximum – 1m	0m
Rear yard set back	Minimum – 8m	Minimum – 8m	See standard I431.6.7(3)	See standard I431.6.7(3)	NA	See standard I431.6.7(4)

