

AUCKLAND UNITARY PLAN INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

IHP Conference Outcomes

Topic:	Conference on Framework Plans
Panel:	Judge David Kirkpatrick Jan Crawford Peter Fuller Greg Hill Paula Hunter John Kirikiri Des Morrison Stuart Shepherd
IHP Officers:	Phill Reid Julie McKee
When:	Monday, 13 April 2015
Where:	Environment Court, Hearing room 2.01, Level 2, 41 Federal Street, Auckland CBD
Time:	2:00pm – 2:25pm

Panel's Recommendation

The Panel requests that parties interested in this matter inform Auckland Council (via Matthew Gribben) of their interest and that Council progress its application for a declaration with some urgency.

The Panel would like any declaration to be focused on matters before it as much as possible. As well as provisions of the Resource Management Act, the Panel would like Council to ensure that the Court considers the relevant provisions under the Local Government (Auckland Transitional Provisions) Act 2010.

1. Background

The Auckland Unitary Plan Independent Hearing Panel (the 'Panel') sought independent legal advice on the vires of the Unitary Plan provisions for framework plans. This advice was received from Dr Somerville and can be found [here](#).

2. Purpose of the meeting

The Panel extended an opportunity for parties to provide written correspondence in relation to this independent legal advice. The Panel received written material from the following:

- Auckland Volcanic Cone Society Incorporated
- The National Trading Company of New Zealand Limited
- Mr Karl Schweder
- City Works Depot Site Limited
- Fletcher Construction, Tamaki Redevelopment Company and Kauri Timber Limited
- Ngati Whatua Orakei Whai Rawa Limited
- Auckland Council

The written correspondence can all be found on the website [here](#).

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3. Auckland Council's presentation

Mathew Gribben represented Council at the meeting and gave a summary of Council's position. The Council will be progressing all the current framework plan provisions based on Chapter G (Ms Dimery's rebuttal evidence). Council will seek a declaration of the Court on this matter and does not believe any hearings will need to be delayed in the meantime.

4. Presentation from other parties

The following parties spoke at the meeting. A summary of their comments / questions and the Panel's response is provided below.

Ngati Whatua Orakei Whai Rawa Limited represented by Mr Daniel Clay

Framework plans are an inherent part of Quay Park for the hearing on topic 050 City Centre in May 2015. Depending on the outcome of any declaration, the Panel may need to re-hear some matters. Acknowledge it is a Council application to the court, but it would make more sense for questions to be put together by relevant parties. Mr Clay seeks that incentive aspects and vires of non-complying activity status should be included within the declaration.

The Panel would commend a joint set questions being prepared for the declaration application. The Panel also noted that there is nothing stopping other parties from lodging an application for a declaration.

Mr Karl Schweder

Mr Schweder agreed with the proposed approach to seek a declaration, and feels it is important that a definite position is arrived at prior to mediation and hearings on the precincts. The declaration should not be restricted by eliminating some things that Council proposes. In paragraph 4 of Council's memorandum, it refers to large sites as if framework plans were only for large sites - there are precincts where that is not the case.

The Panel agreed that it would like to have clarity before advancing through the hearings, however, the timeframes do not allow for this. If you wish to be a party to the application, you should make that known to Auckland Council.

Tram Lease Limited and Viaduct Harbour Holdings Limited and Viaduct Harbour Management Limited represented by Mr Trevor Daya-Winterbottom

Mr Daya-Winterbottom's client has submission points in Wynyard Quarter which are to be heard at the topic 050 City Centre hearing next month.

The Panel confirmed that when hearing topic 050 City Centre, and particularly Wynyard Quarter and Quay Park, it will be interested to hear about methods. Parties can raise jurisdictional issues at the hearing, but the Panel suggests they do not spend too much time on this issue.

Tabled material

The following parties tabled material for the Panel to take into consideration at the meeting.

- The National Trading Company of New Zealand Limited
- Auckland Volcanic Cones Society Incorporated

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5. Panel's response

The Panel would like any declaration to be focused on matters before it as much as possible. Whichever forum the Council chooses to go to (Environment Court or High Court), as well as provisions of the Resource Management Act, the Panel would like Council to ensure that the Court considers the relevant provisions under the Local Government (Auckland Transitional Provisions) Act 2010 as well.

The Panel would be happy to release Dr Somerville if required to support the declaration proceedings.

The Panel would like the questions put by Council to the Court to be framed so that, should the Court rule ultra-vires, it could put forward what changes need to be made to make them vires.

The Chairperson indicated that the Principal Environment Judge would be willing to convene a judicial conference to assist the parties to arrive at framed up declaration proceedings.

The Panel requests that parties interested in this matter keep in touch with Auckland Council (via Matthew Gribben) about progress and that Council keeps the pace moving on this declaration.

6. Parties attended

An attendance record has not been completed for this meeting. Other parties who spoke at this meeting have been recorded in section 5 above.