

IN THE MATTER of the Resource Management Act
1991 and the Local Government
(Auckland Transitional Provisions)
Act 2010

AND

IN THE MATTER of the Proposed Auckland Unitary
Plan ("PAUP") and procedures
established under the relevant
legislation to address the
submissions and further
submissions processes in relation
to the PAUP following notification of
it by the Auckland Council

**MEMORANDUM OF COUNSEL ON BEHALF OF AUCKLAND COUNCIL
AND HALDANE TRUST AND MAKGILL BROTHERS**

MAY IT PLEASE THE PANEL:

1. INTRODUCTION

- 1.1 This joint memorandum of counsel is filed on behalf of Auckland Council and Haldane Trust and Makgill Brothers.
- 1.2 Prior to the prehearing meeting for Topic 033 and 034, Mr Makgill, counsel for Haldane Trust and the Makgill Brothers (the Submitters), filed a memorandum of counsel seeking that:
 - (a) The submission points regarding overlays and rules should be reallocated to the Hearing Topic most closely related to the operative zoning of the Submitters land (i.e. Rural and Coastal Settlement).
 - (b) Submissions pertaining to the appropriate zoning of the Submitters' land need to go to mediation and hearing prior to submissions on overlays and rules.
- 1.3 Mr Makgill's memorandum described how the zoning of the Submitters' land was agreed through Environment Court mediation (following a 6 year planning process) that small parcels of each of the Submitters' land should be provided for as Village Zone under the Operative District Plan.

This agreement was sealed by an Environment Court consent order on 5 August 2010 (ENV-2006-AKL000960 and ENV-2006-AKL000998).

- 1.4 The Submitters' submissions state that the proposed zoning of part of the Submitters' land in the PAUP as Mixed Rural "resile[s] from the planning outcomes arrived at under the consent order".

2. DISCUSSION AMONGST THE PARTIES

- 2.1 Prior to the prehearing meeting the Submitters and Council representatives were able to meet and discuss the Submitters' concerns and requested directions. As a result, Mr Makgill informed the Panel that Council and the Submitters would file a joint memorandum following further discussions.
- 2.2 Since the prehearing meeting Mr Makgill has provided Council with additional information and Council officers have undertaken further investigations as to the merits of the submission points raised, particularly the proposed rezoning of part of the Submitters' land. Officers have focused, in particular, on whether a cartographic or administrative error may have resulted in the zoning in the PAUP failing to take into account the relevant Environment Court consent order.
- 2.3 The consent order provided for a split zoning of the land but this apparently has not been incorporated into the Operative Auckland District Plan: Franklin Section.
- 2.4 Mr Makgill understands from discussions with Council's previous solicitors (Simpson Grierson) that notwithstanding the consent order, Plan Change 14 to the Operative Plan had not been made fully operative at the time of notification of the PAUP. This is the explanation that was offered to Mr Makgill by those solicitors in September 2013 as to why the split zoning was not shown under the Operative Plan at that time.
- 2.5 Council is continuing to investigate whether such an error has been made and will advise the Submitters by 12 December 2014 to confirm the result of its investigations.
- 2.6 Council does not agree with the Submitters' request that submission points regarding the deletion of the SEA overlay from the Submitters' land should wait until after the zoning has been determined.
- 2.7 The Submitters do not oppose Council's approach to the hearing of SEA overlays in relation to their land provided the Council by 12 December 2014:
 - (a) Clarifies whether it has made an error in not reflecting the Operative zoning of the Submitters' land on the PAUP planning maps, or
 - (b) Produces the evidence and s 32 evaluation report prepared prior to notification, pursuant to clause 5 of the First Schedule of the Resource Management Act, setting out the reasons for the Council's departure from the Environment Court's consent order.
- 2.8 Mr Makgill has separately suggested that submissions from all landowners in Orura Bay on similar topics might be considered together. Council agrees with this approach, in principle, and this would be consistent with the management of submissions on the RUB which have been grouped according to geographic location.

3. NEXT STEPS

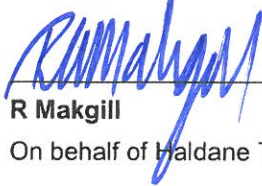
- 3.1 Council will advise the Submitters of the result of its investigations by 12 December and the Submitters and Council intend to file a further joint memorandum on the requested rezoning by 19 December 2014.

Dated 5 December 2014



J P Hassall / M Gribben

On behalf of Auckland Council



R Makgill

On behalf of Haldane Trust and Makgill Brothers