
BEFORE THE AUCKLAND UNITARY PLAN INDEPENDENT HEARINGS PANEL

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, Framework
Plans (Topic 004 Chapter G
and Topic 003 Chapter A)

**RESPONSE ON BEHALF OF FLETCHER CONSTRUCTION DEVELOPMENTS, TAMAKI
REDEVELOPMENT COMPANY AND KAURI TAMAKI LIMITED TO THE OPINION OF DR
ROYDEN SOMERVILLE QC IN RELATION TO FRAMEWORK PLANS**

27 March 2015

 **Simpson Grierson**
Barristers & Solicitors

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MAY IT PLEASE THE PANEL

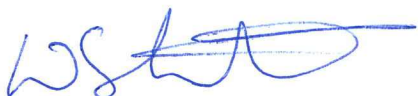
1. We act for Fletcher Construction Developments (**FCD**), Tamaki Redevelopment Company (**TRC**) and Kauri Tamaki Limited (**KTL**).
2. We refer to the advice received by the Independent Hearings Panel (**IHP**) on 13 March 2015 from Dr Royden Somerville QC regarding his assessment of the *vires* of Proposed Auckland Unitary Plan (**PAUP**) provisions for framework plans (the **opinion**). The IHP has indicated that it is open to correspondence from parties in regards to the opinion. Should any be received, a judicial conference will be convened on 13 April 2015. We wish to attend any upcoming Judicial Conference on this issue.
3. FCD, TRC and KTL support the use of framework plans. Our clients believe that framework plans promote comprehensive and integrated planning in such a way as to best achieve the purpose of the Resource Management Act 1991.
4. Our clients' view is that the opinion, while signalling an array of apparent problems with framework plans, fails to provide or detail any possible solutions to alleviate the legal concerns.
5. Our clients also have concerns over a number of the responses set out in the opinion, including the responses provided to questions 4 and 5.
6. In terms of question 4, Dr Somerville QC may have misunderstood how the mechanism for increased development potential works. Increased development potential can include factors such as increased height, density and coverage, while at the same time improving public links and public amenity benefits by enabling coordinated and integrated planning.
7. The increased development potential is contained explicitly in the Precincts for the areas and as such, is transparent as submitters can assess the effects of the increased development potential through the PAUP process.
8. Therefore, concerns around the lack of transparency of the provisions that provide for increased development potential are, with respect, misplaced.

9. Regarding question 5, again the advice appears to misunderstand the provisions proposed.
10. It seems clear that it has never been the intention that the PAUP will enable framework plans to apply to land other than that owned by the applicant. It is of course possible to have framework plans that cover a number of properties, but this will involve either a number of owners party to an application; or will be approached on the basis of limited notification or written approval.
11. The opinion refers to precincts such as Bayswater Marina and Riverhead South where an application for a framework plan can encompass the entire precinct, with no reference to ownership. However, in most instances where the framework plan provisions apply to precincts, this will be manageable as the sites have single, or at most a few, owners.
12. We respectfully disagree with Dr Royden Somerville QC's view on this point.

Summary

13. Overall, it is preferable that framework plans remain a tool able to be utilised in appropriate locations.
14. FDC, TRC and KTL remain of the view that framework plans are an essential part of the PAUP and parties should be given full opportunity to discuss and rectify any remaining issues around these provisions.
15. We look forward to discussing this issue further at the upcoming Judicial Conference.

DATED the 27th day of March 2015



W S Loutit / J O Donnelly

Counsel on behalf of Fletcher Construction Developments, Tamaki Redevelopment Company and Kauri Tamaki Limited