

CASE STUDY OF A SIDE AGREEMENT FOR INFRASTRUCTURAL DEVELOPMENT, PAPA KURA

BRIEF DESCRIPTION

- To provide for growth pressures, rural land identified for urban growth needed to be re-zoned quickly. Financial contributions would be needed from the developers of the land to fund necessary infrastructure. In the absence of sufficient rules in the Papakura District Plan to require financial contributions from the developers, the council reached an agreement with them on how these would be funded.

SUMMARY OF SITUATION

The 1999 Auckland Regional Growth Strategy anticipated an additional one million people to be accommodated within the Auckland Region by 2050. The strategy allocates considerable growth to the Papakura area which takes the form of new settlements in Takanini and Hingaia as well as intensification of the existing Papakura Town Centre and urban area.

In February 2000, Papakura District Council commenced a structure plan/charette process designed to identify the constraints and opportunities of the Takanini land and the objectives of the community and development sector in establishing an overall framework for the planned growth and development. The structure plan was approved in draft form by Council in May and adopted in November 2000.

An area comprising some 164ha of rural land became the subject of plan changes to provide for urban growth. Applications for plan changes to the Auckland Regional Policy Statement and the Papakura District Plan were lodged. However, Papakura needed to secure funding for infrastructural development so that the costs did not fall upon ratepayers. A plan change to introduce financial contributions over the whole district was likely to take a long time to become operative. The District Council lodged a submission opposing the plan changes as negotiations with the primary land owner worked towards an agreement. Agreements with all the landowners within the area were signed during the course of the hearings.

PROCESS USED

- The main land-owner developer was involved in the consultation process for the structure plan so was fully aware of the services which would be required and why. Other smaller land-owners took part.
- Discussions on an agreement commenced before the plan change was notified
- An agreement in principle with the primary land owner was reached at an early stage but the details were not worked through until the middle of the hearings.

- A submission from the Council, opposing the plan change, was used as a lever to further progress the negotiations and set a timeframe for their completion.
- This final agreement with the main land owner set the standard for the agreements reached with the other smaller land owners within the plan change area.

The model for the agreement is being improved and adapted for the next plan change at Hingaia where a greater number of owners are involved in the proposed development of the area.

OUTCOME

The agreement encapsulates an on-going relationship between the Council and the land owner. It covers the usual provisions for financial contributions: who pays, when they pay and inflation adjustments. It provides for:

- a term of 10 years
- a list of Council's obligations including keeping a record of the number and location of lots developed and credits to the developer
- a list of the land owners' obligations including:
 - developing the subject land in accordance with the staging annexed to the agreement and in accordance with an indicative reserve layout plan
 - compliance with resource consents
 - substantial advance payment for off-site ponds and pipes for storm water retention and reticulation
 - reserve contributions
 - planting of street trees (specifics on size, spacing, and maintenance)
 - vesting of works
- financial contributions based on a model which assigns contributions on a per household unit basis
- termination of the agreement if the plan change is withdrawn or disallowed by the Environment Court
- dispute resolution procedures including arbitration as a last resort
- a memorandum of encumbrance registered against the certificates of title

The plan change to urban zoning in the Papakura District Plan and the plan change to the Auckland Regional Policy Statement to extend the Metropolitan Urban Limits were granted by the respective Councils. References have halted final resolution. These references have been lodged by parties who are outside the area agreed to be included in this stage of urban development.

LESSONS LEARNT

- ✓ Developing an early working relationship between the council and land owners within an area earmarked for development can assist innovative, mutually satisfactory solutions to be found.
- ✓ As both parties were motivated to reach a conclusion because of development pressures and land-holding cost, this made a significant difference to the swift progress.

- ✓ Mitigation for adverse environmental effects cannot all be addressed through RMA processes, particularly if their provision is complex.

FOR FURTHER INFORMATION

The Council's negotiation team includes Garry Maskill, the Director Planning & Regulation. His email address is gmaskill@papakura.govt.nz.