

**BEFORE THE INDEPENDENT HEARINGS PANEL APPOINTED BY THE
WESTERN BAY OF PLENTY DISTRICT COUNCIL**

UNDER The Resource Management Act 1991

IN THE MATTER of a Notice of Requirement by Western Bay of Plenty
District Council for Active Reserve, Ōmokoroa

**STATEMENT OF EVIDENCE OF JEFFREY PETER HEXTALL ON BEHALF
OF WESTERN BAY OF PLENTY DISTRICT COUNCIL (AS REQUIRING
AUTHORITY) - PLANNING**

28 AUGUST 2023

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INTRODUCTION

1. My name is Jeffrey Peter Hextall.
2. I hold a Bachelor of Regional Planning (Hons) from Massey University.
3. I am a Full Member of the New Zealand Planning Institute.
4. I have over 30 years' experience as a professional planner including being planning and design manager at private consultancies and as policy and consents manager at local authorities. My expertise and experience of particular relevance to this project includes:
 - (a) project lead on the initial development of the TECT All Terrain Park including development of a specific planning zone;
 - (b) a former local authority manager in charge of open space and reserves policy including reserve management plans;
 - (c) development of recreational assessments for local authorities and private companies; and
 - (d) processing of Notices of Requirements, and as lead planner in requesting Notices of Requirements.
5. I am the Director and Principal Planner at Environmental Consultants Organization (ECO) Limited. As part of this position, I provide a range of planning and related services to both private and public organisations ranging from planning policy, project design, to resource consents.
6. I have been engaged by Council to prepare the Notice of Requirement and subsequent project support inputs. I have also been engaged by Council to provide expert planning and related inputs to Proposed Plan Change 92 – Ōmokoroa and Te Puke Enabling Housing Supply and other Supporting Matters (PC 92). I confirm I have read the s42A report considering the Notice of Requirement, dated 9 August 2023.
7. To the extent that my evidence involves the provision of any opinion of an expert nature, I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023 and I agree to comply with it. I confirm that the issues addressed in this statement of evidence are within my area of expertise, except where I state I am relying on the

specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from my expressed opinion.

SCOPE OF EVIDENCE

8. My evidence covers the following:
 - (a) Notice of Requirement Background;
 - (b) Comments on submissions;
 - (c) Comments on s42A Report.

NOTICE OF REQUIREMENT BACKGROUND

9. Ōmokoroa is one of the main growth areas in the western Bay of Plenty sub-region and has been the subject of various stages of development to provide for the urban expansion of the peninsula. The Council in conjunction with the community has been progressing the development of a structure plan for the next planned stage of development (Stage 3) and related District Plan changes for a number of years prior to the public notification of PC 92, which included the subject area.
10. The Notice of Requirement concerns land located at 7 Prole Road, 452 Ōmokoroa Road, 454 Ōmokoroa Road, 468 Ōmokoroa Road, 474 Ōmokoroa Road, and 476 Ōmokoroa Road (the Sites). PC 92 and the supporting Ōmokoroa Structure Plan includes the Sites. The latter identifies the Sites as Active Reserve and the former provides for the change of zoning from Future Urban to Medium Density Residential which is consistent with adjacent zoning.
11. To safeguard the area required for the Active Reserve a Notice of Requirement was publicly notified at the same time as the Plan Change.
12. The Notice of Requirement application provides full detail of the statutory requirements including background, site details, nature of the proposed work, nature of the proposed conditions that would apply, assessment of effects, alternative site assessment, need for the designation, resource consents required and consultation prior to lodgement. A copy of the application is attached to this evidence as Appendix A.

13. This evidence should be read in conjunction with the Notice of Requirement application. I will not repeat the application assessment here, but to summarise:
- (a) The notice of requirement is necessary to create an Active Reserve to provide for the social and cultural wellbeing of the current and future occupants of Ōmokoroa;
 - (b) Adverse effects arising from traffic movement, noise, earthworks, and built form (visual) can be appropriately avoided or controlled through designation conditions;
 - (c) The Notice of Requirement is generally consistent with the relevant planning and policy documents;
 - (d) A comprehensive assessment of alternative sites, routes and methods was undertaken, with the proposed site being the most appropriate location.
14. It is noted that the s 42A Report also contains a thorough summary of the above.

COMMENTS ON SUBMISSIONS

15. Six submissions were received on the Notice of Requirement. Two were in support (one being conditional on an Archaeological Authority being obtained prior to development) and four in opposition. The latter are all land owners who are affected by the Notice of Requirement. The s 42A Report contains a submission summary table¹ and includes as Attachment 2 a full copy of the submissions.
16. Of the submissions in support, the Ōmokoroa Country Club seek the confirmation of the Notice of Requirement while Heritage New Zealand Pouhere Taonga support the Notice of Requirement subject to an Archaeological Authority being obtained prior to development. The Requiring Authority confirms that this will be sought prior to any site development with more detailed engagement with local iwi/hapū planned subject to the Notice of Requirement being confirmed.

¹ At page 8.

17. The submissions in opposition are made by parties with interests in three of the properties affected by the Notice of Requirement.
18. M & R Jacobs (The Garden Early Childcare Centre) and D & P Cummins (Rascal Holdings) made submissions in regard to 7 Prole Road as business owners and property owners respectively. They have sought that either the property be excluded from the Notice of Requirement or a suitable alternative location for the childcare centre be funded.
19. The location of the subject property and details of the associated resource consent for a childcare facility is detailed in the Notice of Requirement application.² This is an existing business that is consented for a maximum of 45 children and 8 FTE staff operating between 7.30am to 6.00pm, Monday to Friday (excluding public holidays).
20. As stated in the submissions the facility provides a useful and established facility and there are potential synergies with other activities being established in the area e.g., proposed schools. Consideration was had to the landowner's request to continue to provide for the facility within the Active Reserve, but this was difficult to achieve without compromising the future development.
21. TDD Limited own 474 Ōmokoroa Road. They have sought the provision of a masterplan of the reserve development and the confirmation of the timing of works and requested consultation on timing, process and land acquisition.
22. The location and description of the subject property and details of the associated resource consents for a storage shed facility are detailed in the Notice of Requirement application.³ The resource consent has an expiry date of 18 May 2026.
23. The notified Notice of Requirement included a very provisional concept plan. This plan has since been updated and it is understood that the updated version has been provided as a s 42A Addendum.
24. The concept plan is in draft at this stage to inform active reserve requirements and to provide a better understanding of the possible park

² At [23].

³ At [26].

development. Completion of the concept plan will be undertaken as a separate community consultation exercise. The evidence of Geoff Canham provides further details in regard to the draft concept plan and related level of service matters.

25. A Giles (Trustee) is a part owner of 468 Ōmokoroa Road. This property contains the Ōmokoroa Caravan and Motorhome Park. The resource consent for the Caravan Park operation has an expiry date of 27 August 2034.⁴
26. That submission raises a number of legal matters which will be addressed in the legal submissions supporting the Notice of Requirement. No relief is clearly specified in the submission although the intent appears to be to seek the withdrawal of the Notice of Requirement over 468 Ōmokoroa Road.
27. As described in the s 42A report,⁵ matters concerning land acquisition are dealt with through the PWA process and are not part of the Notice of Requirement process. Due to the number of properties involved and the significant cost associated with the land purchase, the Council has developed a land acquisition strategy subject to the confirmation of the Notice of Requirement.
28. The land acquisition strategy, including process and timing matters, is explained further in the evidence of Annelie Badenhorst. The concerns of submitters in relation to land acquisition matters will be addressed through that process.

COMMENTS ON S42A REPORT

29. I have read the S42A Report and agree with the findings and support the recommendation.
30. I consider the proposed “Draft Designation Conditions” to be generally appropriate. To provide greater clarity it is recommended to more explicitly document the requirement for an Outline Plan pursuant to Section 176A of the Resource Management Act 1991 prior to works commencing. The proposed conditions reference an outline plan on a number of occasions

⁴ Additional description of the subject property and details of the associated resource consents for the operation of the Caravan Park can be found in the Application at [24].

⁵ At [12.2].

however I recommend that a new heading could be included before the heading “Building height and location” followed by additional wording as follows:

“Outline Plan

Prior to any works being undertaken to give effect to the Notice of Requirement excepting provisional works such as soil sampling and geotechnical investigative works, an Outline Plan pursuant to Section 176A of the Resource Management Act 1991 shall be submitted to the territorial authority in general accordance with the matters following. The Outline Plan may be provided in stages as may be required noting that the first stage may deal with bulk earthworks and related matters prior to the finalised built form being fully designed.”

31. The above suggestions recognise that some preliminary minor works may be required to inform design decisions such as geotechnical testing and contaminated site sampling. It can be noted that prior to any of those works being actioned it is the intent of the Requiring Authority to obtain an appropriate archaeological authority.
32. The progression of bulk earthworks will require alignment with regional resource consent requirements and involve specific consultation with tangata whenua (including Pirirakau and Ngati Taka). As such it is considered appropriate to recognise that bulk earthworks may be undertaken prior to the final building and associated design being completed. Accordingly, it is recommended to explicitly identify that a staged Outline Plan approach is acceptable.

Jeffrey Peter Hextall (BRP Hons)

28 August 2023