

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

IN THE MATTER of the Resource Management Act
1991 (**RMA**)

AND

IN THE MATTER of Proposed Plan Change 92 to the
Western Bay of Plenty District Plan
First Review - Ōmokoroa and Te
Puke Enabling Housing Supply and
Other Supporting Matters (PC 92)

**STATEMENT OF EVIDENCE IN REPLY OF TE TAUNUTANGA O
WAIKATO(TAUNU) MANIHERA ON BEHALF OF WESTERN BAY OF
PLENTY DISTRICT COUNCIL (PLANNING)**

SECTION 12 – SUBDIVISION AND DEVELOPMENT

APPENDIX 7 – STRUCTURE PLANS

6 SEPTEMBER 2023

CooneyLeesMorgan

ANZ Centre
Level 3, 247 Cameron Road
PO Box 143
TAURANGA 3140
Tel: (07) 578 2099
Partner: Mary Hill
Lawyers: Kate Stubbing / Jemma
Hollis
kstubbing@clmlaw.co.nz
jhollis@clmlaw.co.nz

INTRODUCTION

1. My name is Te Taunutanga O Waikato (Taunu) Manihera
2. My qualifications and experience are detailed at page 6 of the Introduction section of the Section 42A Report for PC 92 dated 11 August 2023 (the **s42A report**).
3. As also recorded in the section 42A report , 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 REPLY EVIDENCE

4. I prepared the following sections of the section 42A report:
 - (a) Section 4B – Transportation, Access, Parking and Loading
 - (b) Section 12 – Subdivision and Development
 - (c) Appendix 7 – Structure Plans
5. I have reviewed the following statements of evidence provided in support of submissions and in response to the section 42A report:
 - (a) Fire and Emergency - Nicola Hine
 - (b) Bay of Plenty Regional Council – Marlene Bosch
 - (c) Bay of Plenty Regional Council – Mark Townsend
 - (d) Bay of Plenty Regional Council – Sue Ira
 - (e) Bay of Plenty Regional Council – Kathy Thiel-Lardon
 - (f) Bay of Plenty Regional Council – Nathan Te Pairi
 - (g) Jace Investments and Kiwi Green – Richard Coles
 - (h) Kainga Ora – Susannah Tait

- (i) Mike and Sandra Smith – Richard Coles
 - (j) North Twelve Limited Partnership – Shae Crossan
6. My evidence in reply addresses matters raised in the written evidence circulated on behalf of the submitters as it relates to the topics that I addressed in the section 42A report. For some topics there was no written evidence received from submitters, or any written evidence received from submitters was in support, so I have not addressed that topic further in this statement of reply evidence.
7. I cover the following sections in this statement and also note some corrections on page 22 and 23:
- (a) Section 12 – Subdivision and Development (pages 6 to 15)
 - (b) Appendix 7 – Structure Plans (pages 16 to 22)

BAY OF PLENTY REGIONAL COUNCIL EXPERT EVIDENCE

8. Marlene Bosch, Mark Townsend, Sue Ira, Kathy Thiel-Lardon and Nathan Te Pairi have all provided expert evidence on behalf of Bay of Plenty Regional Council. The evidence of the Regional Council responds to the recommendations under Topics 1, 11, 19 and 20 of the report for Section 12 – Subdivision and Development. The evidence of each expert is also interrelated and ultimately refers to Mr Te Pairi's evidence for the relief sought.
9. I have summarised the substantive points of each expert below. For the purposes of my reply evidence, I have considered the Bay of Plenty Regional Council expert evidence under each topic discussion.
- (a) Ms Bosch highlights the challenge with the Resource Management Act 1991 (**RMA**), which allows subdivision and earthwork consents to be obtained prior to any consents required for the discharge of stormwater or contaminated stormwater. The evidence supports the s42A report recommendation for Rule 12.4.5.17 as it provides an integrated management approach between the structure plans, district plans and the comprehensive stormwater consents. It will also enable stormwater management to be appropriately considered during the processing of a

subdivision application. Ms Bosch however requests the addition of an explanatory note to Rule 12.4.5.17 as proposed within Mr Te Pairi's evidence. The explanatory note encourages joint preparation and lodgement of district and regional resource consent applications.

- (b) Mr Townsend generally has not raised any opposition to the s42A report recommendations. He has however noted a necessary change to the Stormwater Management Guidelines for Te Puke which was included within Appendix 4 of the Plan Change 92 section 32 report. The change replates to Appendix 4, Page 69 and the first bullet point which states that "Impermeable pavement will also be encouraged." This should be changed to "Permeable pavement will also be encouraged". This is because the intention is to encourage soakage wherever possible. Mr Townsend has also noted that the original submission point does not appear to be covered in the reports for s42A, assuming the Stormwater Management Guidelines site outside of the District Plan. For the purpose of clarifying the matter, I agree with the suggested change of Mr Townsend. Noting the Stormwater Management Guidelines sit outside of the District Plan, I would support the Panel recommending that Council make the requested amendment as a separate action outside the PC92 process.
- (c) Ms Ira supports Council's preparation of the Ōmokoroa Stage 3 Catchment Management Plan (CMP) and highlights the importance of implementing this CMP when managing the effects of stormwater within the Ōmokoroa Stage 3 Structure Plan Area. Ms Ira supports the s42A report recommendation for Rule 12.4.5.17, subject to amendments to Section 12 and 14A which are requested within Mr Te Pairi's evidence. Section 14A matters have been responded to within the reply evidence of Mr Clow and Mr Hextall.
- (d) The core of Ms Theil- Lardon evidence relates to Bay of Plenty Regional Council's submission point 25.18. The submission point had highlighted that stormwater discharges from within sub-catchment N1 (in Ōmokoroa), pose a risk to KiwiRail infrastructure which is already susceptible to flooding. Additional stormwater

discharge may exacerbate the risk, particularly where stormwater discharges are assessed on a development by development basis, and there is no analysis of cumulative effects. Ms Theil-Lardon reiterates the recommendation that a catchment wide hydraulic analysis of sub-catchment N1 be commissioned prior to any subdivision or development occurring, so to identify any risk, and any mitigation measures.

(e) Mr Te Pairi generally supports the s42A report recommendations on Section 12 Objectives and Policies (Topic 1) and Rule 12.4.5.17 (Topic 11) however has sought further amendments as outlined in the below bullet points:

- Policy 12.2.2.7, first bullet point, and addition of the words below in *italics* and **RED**. The additions are recommended by Mr Te Pairi as they reflect the risk based approach promoted by Objective 31 of the Regional Policy Statement and provide more detail on the “receiving environment” which is a term that is undefined by the District Plan.

“Avoid increased flooding effects on the receiving environment including people, property and, to ensure no increases in risk to people and buildings”

- Policy 12.2.2.7, fourth bullet point, and addition of the words in *italics* and **RED**. The additions are recommended by Mr Te Pairi so that the policy specifies the method for demonstrating how subdivision and development demonstrate consistency with a catchment management plan.

“Demonstrate consistency with, or achieve better outcomes than, the objectives, methods and options of the relevant Catchment Management Plan through stormwater management plans”

- Rule 12.4.5.17(a) and addition of the words in *italics* and **RED**. The changes are recommended to qualify the undefined term

“receiving environment” and to align with the requested changes to policy 12.2.2.7.

“Be designed for attenuation of the 50% and 10% AEP critical storm events to predevelopment peak stormwater discharge and the 1% AEP critical storm event to 80% of the pre-development peak discharge except where it can be demonstrated that there will be no increased adverse flood effects on the receiving environment and, avoids increases in flooding risk on people and property”

- Rule 12.4.5.17 and the addition of the below explanatory note in *italics*. The purpose of the explanatory note is to support the Bay of Plenty Regional Council’s original submission on ‘integrated management’, where they wish to promote joint resource consent applications to Regional and Territorial Authorities.

“The concurrent preparation and lodgement of resource consent applications to the District and Regional Councils is recommended to implement the integrated management outcomes anticipated by the relevant Catchment Management Plans through Rule 12.4.5.17 relating to subdivision stormwater management plans”

10. I address these matters further under the relevant sections and topics below.

SECTION 12 – SUBDIVISION AND DEVELOPMENT

TOPIC 1 – 12.2.1 OBJECTIVES, 12.2.2 POLICIES AND 12.3.5 – MATTERS OF DISCRETION

11. As noted above, Mr Te Paire supports recommended changes to policy 12.2.2.7, however has requested changes to the first bullet point by adding the words in **RED**.

*“Avoid increased flooding effects on the receiving environment including people, property and, **to ensure no increases in risk to people and buildings**”*

12. I do not support the requested change to bullet point 1. The threshold of “no increased risk” is potentially one which is unachievable, as there will always be an element of risk and a change in risk. I am also concerned that requested change narrows the scope of decision making such that reasonable management or mitigation of effects in the usual sense is not a consideration. The requested relief could therefore preclude subdivision and development which otherwise be appropriate.

13. I have reviewed objective 31 of the Regional Policy Statement (RPS) which Mr Te Pairi’s evidence refers to (page 7, para 33), to understand the risk based approach of the policy. The objective reads:

*Avoidance **or mitigation** of natural hazards by managing risk for people’s safety and the protection of property and lifeline utilities*

14. Although the objective refers to avoidance, it also encourages the management of natural hazard risk through mitigation. This philosophy is also supported by policies within the RPS that provide more detail on the risk based approach to Natural Hazards (Policy NH 1B, NH 2B). The risk based approach of the RPS also acknowledges that it is appropriate for subdivision and development to occur on land where there is a low natural hazard risk (Policy NH 3B and 4B). This is quite different to the outcomes sought in the submitters’ written evidence, which would preclude any increases of risk, regardless of whether the risk is low. Given this, I do not agree that objective 31 supports an “no increase in risk” based approach.

15. The other key point raised by Mr Te Pairi is that the term “receiving environment” is undefined by the plan (page 7, para 33). Whilst I agree that is the case, it is my view that recommended objective 12.2.2.7 qualifies what the receiving environment through the **bold and underlined** words below, without restricting it to such matters. I would prefer a policy which generally describes the receiving environment, rather than one which rigidly defines it. This would allow flexibility in assessment for unanticipated scenarios.

*Avoid increased flooding effects on the receiving environment **including people, property and buildings**;*

16. Further relief is also sought by making an amendment to the fourth bullet of policy 12.2.2.7 by adding the words in RED. The additions are recommended by Mr Te Pairi so that the policy specifies the method for demonstrating how subdivision and development demonstrate consistency with a catchment management plan (page 7, para 34).

*“Demonstrate consistency with, or achieve better outcomes than, the objectives, methods and options of the relevant Catchment Management Plan **through stormwater management plans**”*

17. I consider the requested change to policy 12.2.2.7, fourth bullet point, to be beyond the purposes of an objective, which is generally a goal orientated provision. In my view the additional words are better suited to a **method** that is implemented via a rule. The method is already captured in recommended Rule 12.4.5.17 and the relevant text is copied below.

The information required in (a) and (b) above shall be provided in the form of a Stormwater Management Plan (SMP).

For the purpose of this rule:

“Catchment Management Plan” refers to a document which outlines objectives, methods and options relating to stormwater management for a catchment (including its sub catchments) and includes catchment management plans prepared in accordance with the conditions of a Comprehensive Stormwater Discharge Consent issued by the Bay of Plenty Regional Council and/or catchment management plans which Council has otherwise adopted.

“Stormwater Management Plan” refers to a report that details stormwater management for a proposed subdivision and/or development area and includes sufficient detail to satisfy the stormwater information requirements and stormwater provision under Section 12 of the District Plan, including Rule 12.4.5.17.

18. In conclusion, I do not support the requested relief to policy 12.2.2.7.

TOPIC 8 – RULES 12.4.4.2 (TABLE 1) AND 12.4.4.4(E)(V) – ROAD RESERVE AND PAVEMENT WIDTHS FOR PRIVATEWAYS

19. Ms Hine has provided expert evidence in support of the submitter Fire and Emergency New Zealand (FENZ). The evidence refers back to submission point (18.9), which requested changes to the design criteria under Rule 12.4.4.2 (Table 1) for roads and accessways. The relief sought included an increase in the minimum width for formed carriageways, maximum access gradients, and minimum vehicle crossing width. The rationale behind Fire and Emergency's requests for changes to the rule are to enable emergency response through sufficient access and facilitate the fastest set-up of equipment to put water on the fire.
20. This matter has been discussed in the s42A report and I did not support the requested relief. More detail on this topic can be found at pages 20 to 22 of Section 12 and the key points in summary are:
- The minimum standards requested by the submitter were consistent with Rule 12.4.4.2 (Table 1) for accessways or roads which served 3 or more Lots/Units.
 - The minimum standards requested by the submitter were inconsistent with Rule 12.4.4.2 (Table 1) for accessways or roads which served 1 – 2 Lots/Units.
 - A landowner subdividing an existing residential sized property into two lots has a number of constraints to manage due to existing site features and the 'retrofitting' nature of infills. Increasing the ROW road reserve width requirement would be less enabling and could force many infill subdivisions into being non-complying.
 - It is also important to note that these ROWs are limited to a maximum 35m in length, meaning that fire appliances can park on the road or berm and provide suitable hose coverage to a rear dwelling.

- For the suggestion of hardstand at the mid-point passing area, Council's requirements as part of the design/construction process for a mid-point passing bay would be for this area to be hard surfaced as required in the Development Code and therefore I do not see the need to add to table 1 under Rule 12.4.4.2.
 - The submission also seeks clarification that private way passing bays be in hard stand and that the length is measured from the road frontage. For the suggested additional wording to define the 70m length starting point "from the road frontage", in practice this is where council already require measurement from and the I do not see the need to include this wording in the table.
21. Whilst I do appreciate the intent of FENZ to seek better access for emergency response, it is my view that this needs to be balanced with enabling urban intensification outcomes anticipated through this process. In a general sense, the limitations appear to only be relevant only to 1 to 2 lot developments, which are only anticipated through infill development, which can at times be constrained. Increasing the minimum access width will add to the level of constraint, and possibly reduce realisation of urban intensification of brownfield areas.
22. Where a non-compliance with the access standards is proposed, resource consent for a restricted discretionary activity will be required under Rule 12.3.4 of the District Plan. The matters of discretion is broad and includes *the actual or potential adverse effects arising from the particular non-compliance, having regard to the extent and nature of the non-compliance*. Through this process, access for emergency vehicle is within the matters of discretion and in my view is relevant matter which Council routinely considers in assessing applications.
23. I therefore reiterate the above key points in this response to Ms Hines evidence and retain my original view that the relief sought is not supported.

TOPIC 9 – RULE 12.4.4.4(C) – ACCESS ONTO ŌMOKOROĀ ROAD AND PROLE ROAD

24. Ms Tait has provided expert evidence in support of the submitter Kainga Ora (KO). The evidence refers back to an original submission point

(29.12), which requested changes to Rule 12.4.4.4(c) to enable access to Prole Road and Ōmokoroa Road by land which may otherwise be landlocked, which would inhibit development potential. A restricted discretionary activity pathway was requested.

25. This matter has been discussed in the s42A report and further detail on this topic can be found on pages 23 to 25 of Section 12. Changes have been recommended to enable a restricted discretionary activity pathway for appropriate direct access (temporary or permanent) to Ōmokoroa and Prole Road. However, the recommendation also included Rule 12.4.4.4(c)(iii) clause 5, which requires prior written approval from Council for any direct access, otherwise resource consent was required for a non-complying activity. The intent of clause 5 is to strengthen control over inappropriate access in a manner that is consistent with the current District Plan (namely Rule 4B.3.4). Ms Tait has requested the deletion of clause 5 (at page 71, paragraphs 18.2 and 18.3 of her evidence).
26. Ms Tait correctly points out that that the report makes comparisons to the approach of Rule 4B.3.4, and correctly identifies that this rule relates to strategic roads only, and this is a hierarchy that does not apply to Prole Road and Francis Road . I acknowledge that Prole Road and Francis Road are not strategic roads, however the roads have strategic importance, including:
 - Prole Road and Francis Road are primary carriageways which will collect a majority of traffic generated within Stage 3 of the Ōmokoroa Structure Plan Area;
 - Controlling direct access to Prole Road and Francis Road is necessary to ensure the roads operate efficiently and safely. Inappropriate access may lead to congestion or safety effects.
 - Controlled direct access to Francis Road is important to achieving a continuous landscape buffer which is intended to manage the industrial/residential interface outcomes along Francis Road.
27. I would therefore recommend retention of clause 5 under Rule 12.4.4.4(c)(iii) as recommended within the s42A report.

**TOPIC 11 – RULE 12.4.5.17 – STORMWATER IN ŌMOKOROĀ AND TE PUKE
IN THE MEDIMUM DENSITY RESIDENTIAL, COMMERCIAL AND
INDUSTRIAL ZONES**

28. Mr Coles has provided expert evidence in support of the submitter Jace Investments and Kiwi Green. The evidence refers back to an original submission point (58.14), which requested that the rule not be applied to existing infrastructure that had already been designed to provide stormwater treatment and attenuation during a climate adjusted 1% storm event for a sub-catchment which the Ōmokoroa Town Centre is located within. The reason for this is to avoid a requirement for a change to the recently constructed infrastructure and create an unnecessary financial burden. Mr Coles evidence requests changes to Rule 12.4.5.17 which ensures recently constructed infrastructure (and proposed infrastructure) is recognised. The evidence is not clear on the specific relief sought (page 10, para 24).
29. This matter has been discussed in the s42A report and more detail on this topic can be found at pages 31 and 35 of Section 12. In summary, I did not support the requested change as I agreed with a further submission from the Bay of Plenty Regional Council (FS67.6) which pointed out that upgrades to existing stormwater infrastructure may be required in the future to meet consent conditions, presumably those of a current or future Comprehensive Discharge Consent .
30. I do not change my view on this matter. No additional reason has been offered by the expert beyond the original submission point. For clarity however, it is the expectation of Council (as the current asset owner) that no changes to existing infrastructure will be required until the asset is nearing its end of life and/or Council have applied to renew any required consents or permissions. This is also subject to sub-catchment modelling being an accurate reflection of actual stormwater management needs for the sub-catchment. Accordingly I consider there to be a low likelihood of any upgrades being required in the short term.
31. Bay of Plenty Regional Council have requested a further amendment to Rule 12.4.5.17(a). This is outlined in Mr Te Pairi's evidence and includes the addition of the words below in RED.

“Be designed for attenuation of the 50% and 10% AEP critical storm events to predevelopment peak stormwater discharge and the 1% AEP

critical storm event to 80% of the pre-development peak discharge except where it can be demonstrated that there will be no increased adverse flood effects on the receiving environment and, avoids increases in flooding risk on people and property”

32. As stated in paragraphs 11 to 13 of this reply evidence, I do not support any change which infers there shall be “no increases in risk”. The same reasons and view apply to the amendments requested for Rule 12.4.5.17(a).
33. However, Rule 12.4.5.17(a) does not qualify the term “receiving environment” in the same way as policy 12.2.2.7. For consistency, I recommend adding the below words in BLUE:

Rule 12.4.5.17(a)

“Be designed for attenuation of the 50% and 10% AEP critical storm events to predevelopment peak stormwater discharge and the 1% AEP critical storm event to 80% of the pre-development peak discharge except where it can be demonstrated that there will be no increased adverse flood effects on the receiving environment including people, property and buildings.”

TOPIC 19 – RULE 12.4.11 – ŌMOKOROĀ STRUCTURE PLAN – REQUEST FOR INTEGRATED MANAGEMENT FOR STORMWATER EARTHWORKS AND SUBDIVISION

34. Mr Te Pairi’s evidence has requested an additional explanatory note which promotes joint resource consent applications to Regional and Territorial Authorities (page 10 and 11). This is supported by Ms Bosch and is consistent with submission point 25.13 except that the original submission point was seeking a rule. The relief sought has been changed to an explanatory note as a rule to this effect, would fetter Council’s decision making authority under Section 91 of the RMA.
35. The relief sought reflects the submitters view on how ‘integrated management’ is best achieved. The requested explanatory note is copied below:

“The concurrent preparation and lodgement of resource consent applications to the District and Regional Councils is recommended to

implement the integrated management outcomes anticipated by the relevant Catchment Management Plans through Rule 12.4.5.17 relating to subdivision stormwater management plans”

36. Whilst I agree integrated management is a requirement of overarching planning documents, I do not share the same view that this necessitates concurrent preparation and lodgement of resource consent applications to regional and district councils. I have discussed my views on pages 62 and 63 of the Section 42a Report and make no changes. The explanatory note is not supported for the reasons already stated.

TOPIC 20 – 12.4.11 – ŌMOKOROĀ STRUCTURE PLAN - REQUEST FOR NEW RULE TO PROTECT RAILWAY INFRASTRUCTURE FROM STABILITY AND FLOODING

37. Ms Theil- Lardon’s evidence relates to Bay of Plenty Regional Council’s submission point 25.18, which sought to include a rule that required subdivision and development contributing to sub-catchment N1 to undertake a detailed hydraulic assessment to identify potential effects on KiwiRail assets.
38. Ms Theil-Lardon’s evidence reinforces the concern set out in the submission, and explains that the cumulative stormwater effect of subdivision and development in sub-catchment N1, on KiwiRail infrastructure, has not been fully addressed. Ms Theil-Lardon recommends that a catchment wide hydraulic analysis of sub-catchment N1 is commissioned prior to any subdivision or development occurring. Mr Te Pairi has recommended a joint discussion between KiwiRail, BOPRC and WBOPDC be held, and further information provided to the panel on this matter (page 4).
39. This matter has been discussed in the s42A report and more detail on this topic can be found at pages 64 and 65. The key points on the s42A report are:
- (a) KiwiRail have not made any submissions on this particular item. Due to this I do not support the joint discussion suggestion of Mr Te Pairi. I also confirm that I am not aware of KiwiRail approaching Council separately to discuss this issue.

- (b) Council acknowledges that there is a need for the catchment wide hydraulic assessment. The need for this information is specified by the DRAFT Ōmokoroa Stage 3 Catchment Management Plan, where its requirements are able to be enforced should recommended Rule 12.4.5.17 be accepted and should the conditions of the forthcoming Comprehensive Stormwater Discharge Consent (CSC) for Ōmokoroa include such a requirement.
 - (c) My view is that the assessment is best delivered when the detailed engineering design for engineered stormwater wetland N1 is undertaken, which is intended to capture and manage all stormwater from sub-catchment N1. At the same time, the capacity of the culvert beneath the KiwiRail assets will also be assessed at the same time.
- 40. In responding to the evidence, I have sought advice from Council Utility Engineers on this point. Council Utility Engineers support the views expressed in the s42A report. The difference in opinion appears to be around timing and when the assessment is required. Council Engineers' view is that the appropriate timing of the assessment is when engineered stormwater wetland N1 is to be delivered. I concur with this view.
- 41. Mr Te Pairi states (at paragraph 5 of his evidence) that the hydraulic assessment is essentially a risk assessment and that this should be primarily addressed through structure planning, but still linked to the CSC. Mr Te Pairi's view highlights the symbiotic relationship between structure planning and the CSC. I therefore understand the necessity for consistency between the two process.
- 42. In this case, the recommended amendments to Rule 12.4.5.17 aim to enable implementation of a the DRAFT Ōmokoroa Stage 3 Catchment Management Plan that is relevant to both the structure plan and CSC. By virtue of Rule 12.4.5.17, the CSC recommendations are able to implemented inclusive of the need for a hydraulic assessment for sub-catchment N1. I
- 43. Relying on the Council Utility Engineer views, the opinions in the s42A report, and the relevance of the CSC and detailed design processes, I do

not make any further recommendations on the need for a sub-catchment N1 hydraulic assessment as part of Plan Change 92.

APPENDIX 7 – STRUCTURE PLANS

TOPIC 2 – ŌMOKOROA ROADING

44. Mr Coles has provided expert evidence in support of the submitter Jace Investments and Kiwi Green. The evidence refers back to an original submission point (58.10), which requested the addition of a road connection to the Ōmokoroa Structure Plan – Roading & Walkway / Cycleway Infrastructure map. The road connection would extend from Prole Road, through Lot 1 DPS 68314 and Lot 1 DPS68314 (owned by the Ministry of Education) to the Ōmokoroa town centre. Mr Coles' evidence assumes MoE do not want the link road as it will consume too much education land, therefore it is recommended to remove the structure plan road linkage. Jace still believe this connection is an important link providing resilience to the road network and reducing pressure on the Prole and Omokoroa Road intersection (page 13, para 36).
45. This matter has been discussed in the Appendix 7 s42A report and more detail on this topic can be found at pages 7 and 8. In summary, I did not support the addition of the road as Lot 1 DPS 68314 and Lot 1 DPS68314 (owned by the Ministry of Education) is designated (D250). Due to the designation Council is unable to make a structure plan road a mandatory requirement for this site, as this would contradict the powers afforded to a requiring authority under section 176(2) of the RMA.
46. In addition to the above, I have reviewed the designation decision for the Ministry of Education Site. A copy of this decision is attached to my evidence as Attachment A. The designation does not include any conditions which require the provision of such a road. Accordingly the Ministry of Education is well within their consented right, to develop their land without provision of such road connection. I still maintain this view and make no changes to my recommendations.
47. As identified in the s42A report, a walkway/cycleway from Prole Road to the Ōmokoroa town centre (via the Ministry of Education land) was included in the notified version of Plan Change 92 as this reflected other agreements between the Ministry of Education and Council. The notified

version of the Ōmokoroa Structure Plan – Roading & Walkway / Cycleway Infrastructure map did not propose any road connection. The s42A report recommended retaining the cycleway and walkway as no opposing submissions had been received. For the purpose of clarity, I confirm I have not recommended the removal of any proposed structure plan road link.

TOPIC 4 – ŌMOKOROA WALKWAYS/CYCLEWAYS

48. Mr Coles has provided expert evidence in support of the submitters Mike and Sandra Smith. The evidence refers back to an original submission point (50.6), which requested an adjustment to a proposed cycleway which crossed the western corner of 476E Ōmokoroa Road (Lot 2 DP454121). The submission requested that the cycleway was realigned such that it was located adjacent to the future State Highway 2 interchange alignment.
49. Mr Coles has requested the similar relief again noting that the future development of the Smith's land will be for lifestyle lots and will have a cul de sac head within the subdivision. Access is constrained and it is likely that only a narrow road formation may be necessary to serve the subdivision and potentially no room for a cycle thoroughfare. An alternate alignment maybe to follow the stormwater reserve that Council already has designated, and which connects to structure plan road O-0.3-2.1 which is included within the recommended Ōmokoroa Structure Plan – Infrastructure – Roading and Walkaway Cycleway Map. This would maintain the residential amenity values when future Rural Residential subdivision is developed on the Smith's property and avoid expensive capital works to create a wider road on the steeper portion of their land.
50. This matter has been discussed in the Appendix 7 s42A report and more detail on this topic can be found at pages 16 and 17. In summary, I did not support a change to the walkway/cycleway alignment in the western corner of 476E Ōmokoroa Road but not as requested by the submitter. Alignment with the future State Highway 2 interchange is not considered to be an appropriate response because a cycleway in this location may impact opportunities for the possible state highway 2 realignment and interchange project. The Council's designated stormwater pond is likely to be within the project realignment area also.
51. In further discussion with Council staff, it is also considered that the proposed alignment is a safer outcome as it connects to a public road,

rather than having a cycleway/walkway follow a state highway project and through an area which may not be regularly occupied. I therefore retain the views expressed in the s42A report and make no changes to my recommendation.

52. Mr Coles does express a concern of extra costs to the submitter in the formation of any access which accommodates the cycleway/walkway. The project is shown on the Ōmokoroa Structure Plan and budget for the delivery of walkway/cycleways is included within the corresponding infrastructure schedules.
53. In my view any additional cost to the land owner can be managed through financial compensation to the landowner for delivery of a project (OR provision of land for the project) shown on a structure plan, in accordance with proposed Rule 12.4.11.6.

TOPIC 7 – TE PUKE WASTEWATER

54. Mr Crossan has provided expert evidence in support of the submitter, the North Twelve Limited Partnership. Mr Crossan's evidence raises concern with transparency and purpose of new wastewater projects which are recommended within the Te Puke Structure Plan. The concern is that the new projects are not necessary for the current Te Puke population projection of 13,000, but rather relate to future population growth to 16,500. Further detail on the nature of the concerns can be found within paragraphs 28 to 31 of Mr Crossan's evidence.
55. Mr Crossan is also seeking clarification on the reason for 60% of the project cost being funded via financial contributions, and 40% being funded through rates. Further detail on the nature of the concerns can be found within paragraph 32 of Mr Crossan's evidence.
56. The two matters above relate to submission point 47.10, which has been discussed in the Appendix 7 s42A report (refer to page 34). The s42A report advised that modelling was undertaken which identified a need for upgrades to provide the appropriate level of service for growth, and for also maintaining existing levels of service. The costs were then reflected in the recommended infrastructure schedules and the apportionment of funding source

57. I have further reviewed the Section 32 Report, in particular Appendix 4 - (Infrastructure Assessment Reports) to understand what information has already been notified. In my opinion the following documents are relevant to this matter and include related information:
- (a) Report 14 – *Te Puke Intensification – Wastewater Modelling (refer to page 55 to 66 of Appendix 4)*.
 - (b) Report 16 – *Te Puke Intensification Infrastructure Report (Wastewater, Stormwater, Water)*.
 - (c) Recommended *Te Puke Structure Plan - Plan Change 92 Infrastructure - Three Waters Infrastructure*
58. Mr Crossan expects population growth beyond 13,000 will be accommodated within potential new structure plan areas (refer to para 30 of his evidence), presumably being those shown within the plans appended to Report 14. Related to the Report 14 plans is also Figure A within the same report. Figure A depicts assumptions for the discharge locations for existing and possible structure plan areas.
59. Comparing Figure A discharge locations to the location of recommended Te Puke wastewater projects as shown on the *Te Puke Structure Plan - Plan Change 92 Infrastructure - Three Waters Infrastructure*, I note the following:
- The structure plan does not provide for wastewater infrastructure in the vicinity of potential new structure plan areas near Te Puke Quarry Road, Landscape Road or western of Seddon Street.
 - A number of projects would only serve existing infill areas or existing greenfield areas, which are proposed to be intensified via plan change 92, and have no relationship to the potential structure plan areas.
 - Infill area examples include WWINT-3A, to WWINT3B, WWINT3C, and WWINT4 which are projects located entirely within the existing infill area. There is no potential structure plan area upstream of these projects.
 - Greenfield examples include WW-1A, WW-1B, WWSP-1A and WWSP-1B which would serve the western catchment of MacLoughlin

Drive. There is no potential structure plan area upstream of these projects.

60. I do observe that WW-2, WWSP-2, WWINT1, WWINT 2 and WWSP-3 are downstream of potential structure plan areas, however the projects are also downstream of existing infill and greenfield areas. I have sought advice from Council's Utilities Engineer on these projects to understand the driver for these projects and whether any capacity has been allowed for a population beyond 13,000. I am advised as follows:

- WWSP-2 – The project was identified through the *Te Puke Intensification Wastewater Modelling* report prepared by Aurecon in June 2022 (Plan Change 92, Appendix 4, Report 14) and includes the upgrade of a pipe from 150 dia to 225 dia. The project is directly attributable to intensification anticipated by Plan Change 92. However Council's Engineer does advise that the upgraded pipe is likely to have more capacity than needed for plan change 92, and support future growth. Allowing for additional capacity now will avoid the need to replace the infrastructure early in its lifecycle, if a decision to increase population beyond 13,000 occurs in the future.
- WWSP-3 – The project intends to cater for the proposed Seddon Street greenfield site and includes the upgrade of a downstream pipe from 150 dia to 250 dia. The project is attributable to intensification anticipated by Plan Change 92 and is to be 60% developer funded, and 40% funded from financial contributions. The upgraded pipe is expected to include some capacity for future growth. Similar to the above, this has a financial benefit by avoiding replacement costs on infrastructure early in its lifecycle.
- WWINT-1 – The project included an upgrade of wastewater infrastructure from Station Road to Stock Road. On review, this project does not correlate with any proposed growth and therefore it is recommended the project be deleted.
- WWINT-2 – relates to the upgrade of the existing main inlet pipeline to the Te Puke waste water treatment plant (WWTP). I am of the understanding that the Te Puke WWTP is currently at capacity and requires an upgrade to cater for population growth to 13,000, as enabled by plan change 92. As part of the upgrade, the inlet pipe needs to be replaced. Of note, the Te WWTP upgrade design allows

for a second stage, that will support population growth above 13,000. The second stage has not been included within the proposed infrastructure schedules.

61. Having regard to the above, I would support the deletion of Te Puke Wastewater Projects WWINT-1 from the structure plan and from the corresponding infrastructure schedule on the basis that it is not linked to the intensification of Plan Change 92.
62. I do not support the deletion of any other project, including WWSP-2, WWSP-3 and WWINT-2 on the basis that the projects are directly attributable to the intensification proposed by Plan Change 92.
63. With regard to funding allocations, I am advised that the 40% rates funding relates to assets to be upgraded, which are approximately 40% through their lifecycle. I also note Council has explained its rationale within Appendix 4 of the s32 report, pages 132 and 133. For the ease of the panel, this is copied below and I rely on this explanation as a response to Mr Crossan's evidence.

It is proposed a 40%/60% rates/financial contribution split be applied to all wastewater upgrades. This split is based on the age of the infrastructure (approximately halfway through its life) and cost to upgrade to a larger size.

TOPIC 8 – ŌMOKOROA WASTEWATER

64. Mr Coles has provided expert evidence in support of the submitter Jace Investments and Kiwi Green. The evidence refers back to an original submission point (58.9), which requested the extension of structure plan item WW9 to the boundary of the Ōmokoroa Town Centre and the inclusion of a pump station and rising main which serves the Ōmokoroa Town Centre and the Ministry of Education land holdings. The submission also requested the projects be funded through financial contributions (page 15, para 38 to 40).
65. This matter has been discussed in the Appendix 7 s42A report and more detail on this topic can be found at pages 37 and 88. In summary, I supported the extension of WW9 and inclusion of the request pumpstation on the relevant structure plan map, however my view is that these projects

do not warrant being funded via financial contributions because the suggested pump station and rising main will not provide a wastewater infrastructure benefit to the wider catchment. The benefit is specific to the Ōmokoroa town centre and Ministry of Education landholdings only. I further noted that the additional infrastructure is not critical for wastewater reticulation to these sites as other options do exist, but rather provided an opportunity for more efficient servicing of the Ōmokoroa Town Centre and Ministry of Education land holdings. For example, I understand that the Ministry of Education site can connect to infrastructure in Prole Road. I am also aware that the Town Centre can connect to infrastructure via Ōmokoroa Road.

66. Mr Coles has reiterated the view that the projects warrant being funded by financial contributions as there is no difference from any other pump station proposed throughout Ōmokoroa. Referring back to the discussion in the Section 42a report and paragraph 64 above, the key point of difference in my view is that the projects are not critical to the realisation of the Ōmokoroa Town Centre or the Ministry of Education activities. Accordingly I make no changes to the recommendations of the s42A report.

Corrections

68. Following publication of the section 42A report I noticed that an attachment had not been included. The attachment relates to supporting maps which provide context to recommendations within the s42A report, namely the reports on Section 21 (Industrial Zone) and Section 24 (Natural Open Space Zone). The supporting maps provide a more detailed depiction of changes recommended for specific properties and the maps are now provided for the benefit of the panel and submitters as **Attachment F – Supporting Maps**
69. Attachment A (Recommended Changes to District Plan Maps) was published with two maps which are not intended to form part of the District Plan Maps. The maps include:
- The map entitled **“Ōmokoroa Medium Density Residential – Area Specific Overlays”**. The map is intended to be included within the District Plan Rules, specifically **Section 14A –**

Ōmokoroa and Te Puke Density Residential. The map is withdrawn from Appendix A on the basis that it is still included within Section 14A but included within **Attachment F – Supporting Maps**.

- The map entitled **“Ōmokoroa Stage 3 Development Sequencing, Indicative Timeframes and Yield Areas”**. This map is intended to inform infrastructure planning and is a living document which adapts to the actual pace of development. The intention was to include this map in **Attachment F – Supporting Maps** (as referenced in paragraph 68 above). The map has been relocated to this attachment.
70. A correction has also been noted for the map entitled “Ōmokoroa Medium Density Residential – Area Specific Overlays”. Annotations relating to the legal description of properties were omitted. The legal description is quite important to the implementation of recommended provisions for Section 14A, which in some cases are property specific. Section 14A has been updated and the amended map has been included within **Attachment F – Supporting Maps**.
71. Submissions from Pete Linde requested a change in location to a roundabout shown on the structure plan maps. The roundabout is located within Prole Road and is proposed to provide access to 60 Prole Road. Council are working through an engineering design for the roundabout and the Section 42A Report (in response to Pete Linde’s submission) supported an update to the Structure Plan to match the current engineering design detail. The updated maps were not available when the Section 42A Report was published and are now included in the updated **Attachment A – Recommended Changes to the District Plan Maps**.

T Manihera Rebuttal Evidence

Attachment A – Ministry of Education Notice of Requirement Decisions



3 February 2021

Kahurangi Tapsell
Environmental Consents Contractor
Western Bay of Plenty District Council

Via Email: kahu.tapsell@westernbay.govt.nz

Dear Kahu

Decision by the Minister of Education on a Requirement to designate land at 426 Omokoroa Road, Omokoroa (Section 1 SO 545999) for Educational Purposes .

On 9 October 2020, the Minister of Education (the Minister) served on Western Bay of Plenty District Council (the Council/WBOPDC), a Notice of Requirement to designate land at 426 Omokoroa Road, Omokoroa (Section 1 SO 545999) for “Educational Purposes”.

In correspondence dated 20 January 2021, the Council made its recommendation to the Minister under section 171(2) of the Resource Management Act (the Act/RMA). The recommendation of the Council was received by the Minister’s agent on 26 January 2021. The Council has recommended that the designation be confirmed without modification and subject to the conditions included the Council’s Recommendation Letter.

Pursuant to s172(1) of the Resource Management Act 1991 (the Act), the Minister accepts in full the Council’s recommendation for the following reasons:

1. The designation is reasonably necessary for achieving the objectives of the Minister and will provide for future educational needs within the Omokoroa catchment, providing for the growing community’s social, cultural and economic well-being.
2. The works enabled by the designation are consistent with Part 2 of the Act in that they will promote the sustainable management of natural and physical resources.
3. The designation and associated conditions will avoid, remedy or mitigate adverse environmental effects associated with any works.



The designation shall be included in the Western Bay of Plenty District Plan as set out in Attachment 1 attached to this decision.

Yours sincerely,



Rita Sweetapple
Acting Regional Infrastructure Manager – Central North
Under delegated authority from the Minister of Education
T: 07 8587136
E: gary.anaru@education.govt.nz

cc. Deb Taylor, Senior Delivery Manager, Acquisitions and Designations

Enc.

Attachment 1 – Designation (including conditions) to be included in Operative Western Bay of Plenty District Plan

Attachment A: Designation (including conditions) to be included in Operative Western Bay of Plenty District Plan

1. Update Appendix 5 – Schedule of Designations

Designation No.	Map Reference	Authority	Designated Purpose	Location
TBC	TBC	Ministry of Education	Educational Purposes	Section 1 SO 545999

2. Update District Plan Planning Maps – Map U63

Delineate the designation on Planning Map U63 over the land legally described as Section 1 SO 545999

3. Conditions

Purpose

1. 'Educational Purposes' for the purposes of these designations shall, in the absence of specific conditions to the contrary:
 - a. Enable the use of the facilities on the designated site by and for the educational benefit of school age students (i.e. years 0 to 13) regardless of whether they are enrolled at an institution located on that designated site.
 - b. Enable the provision of early childhood education in school facilities.
 - c. Enable the provision of supervised care and study opportunities for students outside school hours in school facilities.
 - d. Enable the provision of community education (e.g. night classes for adults) outside school hours in school facilities.
 - e. Include but not be limited to the provision of academic, sporting, social and cultural education including through:
 - i. Formal and informal recreational, sporting and outdoor activities and competitions whether carried out during or outside school hours;
 - ii. Formal and informal cultural activities and competitions whether carried out during or outside school hours;
 - iii. The provision of specialist hubs and units (including language immersion units and teen parenting units) for students with particular educational requirements or special needs;
 - iv. Enable the use of facilities for purposes associated with the education of students, including school assemblies, functions, fairs and other gatherings whether carried out during or outside school hours;
 - v. Enable the provision of associated administrative services; car-parking and vehicle manoeuvring; and health, social service and medical services (including dental clinics and sick bays); and
 - vi. Enable housing on site for staff members whose responsibilities require them to live on site (e.g. school caretakers) and their families.

Height in relation to boundary

- Any new building or building extension (excluding goal posts and similar structures) shall comply with the height in relation to boundary controls from any adjoining land zoned primarily for a residential purpose, or zoned for an open space/outdoor recreation purpose.

Building restriction line

- Buildings and structures shall be setback 30 m from the north western boundary adjoining the gully as outlined in the geotechnical assessment prepared by Beca Ltd entitled 'Omokoroa School Sites Due Diligence – Preliminary geotechnical assessment report', reference 4286480 and dated 6 June 2019, unless superseded by a subsequent geotechnical assessment.

Noise

- The operation of the school shall comply with the following noise limits at the boundary of any site zoned primarily for a residential purpose, or in the case of a rural zone, at a point 20 m from the façade of any dwelling, or the site boundary, whichever is closest:

Time period		Sound level not to be exceeded	
Day	Hours	LAeq	LAmx
Monday to Saturday	7am to 10pm	55dB	n/a
Sunday	9am to 6pm	55dB	n/a
At all other times and on public holidays		45dB	75dB

These noise limits do not apply to noise from school sports and school recreational activities occurring between 8am and 6pm Monday to Saturday.

Noise levels shall be measured and assessed in accordance with the requirements of NZS 6801: 2008 'Measurement of Environmental Sound' and NZS 6802:2008 'Environmental Noise'.

Noise from construction shall not exceed the limits recommended in, and shall be measured in accordance with, New Zealand Standard NZS 6803:1999 'Acoustics – Construction Noise'.

Additional on-site car parking – schools

- Following the establishment of the school, on-site car parking for additional development shall be provided for the school at the rate of two carparks per new classroom or classroom equivalent, except where Council accepts, on the basis of a specifically commissioned parking study by an appropriately qualified engineer and/or transportation planner, that a lesser level is appropriate. For the avoidance of doubt, this condition shall only apply where there is a net increase in the number of classrooms or classroom equivalents.

Additional on-site car parking – early childhood education (preschool)

- Following the establishment of the early childhood education facility, on-site car parking for additional development shall be provided at the rate of one car park per every 10 children the facility is licensed or designed to accommodate, plus one per

each full time equivalent staff member required for the license or design capacity of the centre, except where Council accepts, on the basis of a specifically commissioned parking study by an appropriately qualified engineer and/or transportation planner, that a lesser level is appropriate. For the avoidance of doubt this on-site parking requirement is in addition to any car parking required for the School.

Vehicle access

7. Any vehicle access to the site provided from Prole Road shall be provided in accordance with the recommendations of the transportation assessment prepared by Stantec entitled 'Omokoroa school notice of requirement', reference 310203639 and dated 19 May 2020, unless superseded by a subsequent transportation assessment. In the event that vehicle access is provided from an alternative to Prole Road, a supporting transportation assessment shall be provided with the Outline Plan application. No vehicle access shall be obtained from Omokoroa Road.

Travel plan

8. Within six (6) months of the school opening, the requiring authority shall, through the School Board of Trustees, develop a Travel Plan which provides specifically for measures to reduce vehicle dependence, including walking school buses, car pooling, the encouragement of the use of public transport, and the encouragement of walking and cycling. This Travel Plan shall also specifically address the following matters:
 - a. Safe access to the entry points of the school. Features such as Kea Crossings or Zebra Crossings should be specifically considered.
 - b. Measures to separate vehicle entry and pedestrian/cyclist entries.

This Plan shall be developed in consultation with Western Bay of Plenty District Council and shall be revised at the time of submitting each subsequent Outline Plan of Works relating to increased student capacity.

Construction management plan

9. A construction management plan (CMP) shall be submitted with the outline plan of works. The CMP shall, as a minimum, address dust, sediment, traffic management and noise matters.

Outline plan

10. That an outline plan of works shall not be required for:
 - a. Any internal building works other than those that result in a net increase in the number of classrooms or classroom equivalents;
 - b. General building maintenance and repair work, including but not limited to, re-painting, re-cladding and re-roofing;
 - c. Installing, modifying and removing playground furniture and sports structures (e.g. goal posts);
 - d. Amending any internal pedestrian circulation routes/pathways;
 - e. Installing, maintaining or repairing any in ground infrastructure services such as stormwater, sewerage and water lines and connections, including any ancillary earthworks;
 - f. Provision of landscaping and gardens provided it does not conflict with any designation condition or alter landscaping required as mitigation as part of an outline plan for other works; or

- g. General site maintenance and repair work, or boundary fencing otherwise permitted by the District Plan.
- h. Temporary classroom buildings that do not result in an increase in the number of students the school is master planned for.

Lapse date

- 11. The designation shall lapse on the expiry of a period of 10 years after the date is included in the District Plan in accordance with section 184(2) of the Resource Management Act 1991 unless:
 - a. It is given effect to before the end of that period; or
 - b. The Council determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection.

ADVICE NOTES

- 1. In the event any archaeological site(s) or koiwi is unearthed during construction, the Ministry will implement a comprehensive accidental discovery protocol that includes reporting to hapu and iwi within whose rohe the discovery occurs, closing the area of the site where the discovery occurs until such investigation and actions required by the hapu, iwi, Heritage New Zealand – Pouhere Taonga, New Zealand Police and other relevant authorities are completed.
- 2. The requiring authority is advised that the Omokoroa structure plan is under review and the final approved layout may introduce implications for infrastructure, vehicle access and parking for the future school site that will need to be considered as part of the 'Outline Plan of Works'. On this basis, pre-consultation with Western Bay of Plenty District Council and Bay of Plenty Regional Council is encouraged so that the planned education facilities can be adequately accommodated within the revised structure plan.
- 3. It appears from the application reports that extensive cut and filling is proposed. As part of the subsequent OPW, Council expects robust reporting and drawings depicting the extent of earthworks to be supplied, including any proposed retaining walls.
- 4. Council will not allow wastewater discharge to either the 300mm rising main or 225mm gravity main on Omokoroa Road. Under the Structure Plan council proposes to install a pump station on Prole Road to receive wastewater from this area (including the school). Structure Plan construction starts in the year 2021-2022.
- 5. Council accepts that the proposed pump station for the school remains private. Further consultation with Council is required regarding vesting of wastewater pipework and the connection to the school to the Council network.
- 6. Council accepts that proposed discharge to the existing gully at the north of the site for the primary stormwater flows. However, the Ministry may need to gain consent from the downstream property owners and demonstrate that they are not adversely affecting the downstream owners.
- 7. Existing Stormwater Easement 'A' is an extension of an easement that runs from Omokoroa Road and through the 'JACE Investments' site. This easement protects the discharge from a stormwater culvert that serves the western berm area of Omokoroa Road. It is one of several culverts performing the same task. Council advise that as part of the Omokoroa Road upgrading, these culverts will be

intercepted and become redundant with all flows re-directed by kerbing to the eastern side of Omokoroa Road and into the stormwater network that ultimately drains to the new stormwater pond mentioned above. At that time the Ministry could apply for the easement to be cancelled.