

BEFORE THE IHP

TOPIC: Proposed PC 92 - Enabling housing supply to the Western Bay of Plenty District Plan

UNDER the Resource
Management Act 1991

IN THE MATTER of submissions and
further submissions

BETWEEN BAY OF PLENTY
REGIONAL COUNCIL

Submitter

A N D WESTERN BAY OF
PLENTY DISTRICT
COUNCIL

Respondent

STATEMENT OF REBUTTAL EVIDENCE OF NATHAN TE PAIRI

DATED: 6 September 2023

PLANNING

1.0 **SUMMARY**

1.1 This statement responds to the evidence filed on behalf of:

- (i) Submitter 31: N and M Bruning
- (ii) Tauranga Urban Task Force (and others¹)
- (iii) Submitter 58: Jace Investments & Kiwi Green
- (iv) Submitter 29: Kainga Ora

1.2 For the avoidance of doubt, no further changes are sought to the relief in **Appendix 1** of my primary statement.

2.0 **INTRODUCTION AND SCOPE**

2.1 My name is Nathan Te Pairi. I have prepared primary planning evidence for the Regional Council to Plan Change 92 (“**PC 92**”). I have the qualifications and experience set out in my primary evidence dated 25 August 2023.

2.2 This rebuttal statement of evidence has been prepared in accordance with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023.

2.3 Where relevant, I have reviewed the proposed changes and opinions in each of the respective statements above in 1.1.

¹ See [1.10] of Mr Colliers Statement – TDD limited; Vercoe Holdings Limited; and Brian Goldstone.

3.0 **RESPONSE TO SUBMITTERS**

Tauranga Urban Task Force and others

Rule 12.4.5.17(a)

- 3.1 Amendments² are sought to delete Clause (a) of Rule 12.4.5.17 in favour of relying on design standards in the CSC (comprehensive stormwater consents) for stormwater attenuation. I do not support the suggested deletion.
- 3.2 This is because CSC do not strictly bind third parties such as private landowners or developers. As such, I do not consider it is appropriate to rely solely on CSCs to manage cumulative stormwater effects for PC 92.
- 3.3 As discussed in my primary evidence, an integrated approach is necessary to complement catchment management planning processes for stormwater management.
- 3.4 To this end, I support the inclusion Clause (a) of Rule 12.4.5.17 as recommended in s.42a report and evidence of Marlene Bosch and Susan Ira for the Regional Council.
- 3.5 In my view, this would implement s.31 of the RMA and related provisions of the RPS and NPS-FM. Otherwise, I note Mr Collier supports the inclusion of 12.4.5.17(b).

Policy 14A.2.2.13

- 3.6 I do not support the changes to Policy 14A.2.2.13 to utilise the existing natural landform to include references to where it is practicable³ in this policy method.
- 3.7 This undermines the directiveness of the Policy and related provisions in the Plan to minimise land disturbance through

² See [10.1] of Mr Collier's statement

³ See [17.1] of Mr Collier's statement

land development processes in Chapter 14A. In my view, an assessment of practicability is a matter which can be considered on a case-by-case basis and should not be an overarching consideration in the Policy.

Submitter 31: N and M Bruning

- 3.8 Mr Collier for the submitter considers the inclusion of the NOS zone is beyond the scope of s.80E. This legal matter is responded to in the legal submissions for the Regional Council.

Submitter 58: Jace investments and Kiwi Green

- 3.9 Mr Cole states⁴ that a comprehensive stormwater consent has been granted for the Jace Investments Land – 404 Ōmokoroa Road.
- 3.10 This is incorrect⁵ and, as explained in the s.32 report, the Western Bay of Plenty District Council (WBOPDC) are in the process of applying for a new comprehensive stormwater consent for Ōmokoroa, including Stage 3. I also note a permanent discharge consent has not yet been granted for the site⁶.
- 3.11 Therefore, I do not understand why Mr Cole considers a special circumstance would apply to this site. In response, I consider Rule 12.4.5.17 remains an appropriate method to manage stormwater on the subject site and elsewhere in Te Puke and Ōmokoroa.

Submitter 29: Kainga Ora

Chapter 14A: Revised Significant Issue Statements

⁵ See **Appendix 1**: see email from Marlene Bosch to Nathan Te Pairi

⁶ Ibid

3.12 I do not support the view that amendments⁷ are justified to remove references to modification of landforms⁸. Landform modification is invariably an influencing factor in the consideration of stormwater management and effects on receiving environments. Resultantly, I consider these matters should be considered in a holistic manner to achieve integrated outcomes. In my view, S.80E(b)(iii) of the RMA provides scope for such balanced outcomes to occur.

Objective 14A.2.1.7

3.13 As set out in my primary statement, to better achieve integrated management outcomes, land-use provisions in Chapter 14A are supported to complement to Chapter 12 (subdivision and development). Therefore, I do not support the deletion of this objective which would undermine an integrated approach.

3.14 By contrast to Kainga Ora's view⁹, stormwater management is appropriately addressed in the rule framework (See – 14A.7.1(i)) in addition to other methods (see below) to manage the effects of stormwater.

Policy 14A.2.2.7

3.15 I oppose the suggested deletion of Policy 14A.2.2.7 to require integrated assessments.

3.16 In my view, this is a crux Policy. The s.42a report specifically addresses the basis for the policy approach¹⁰

⁷ [9.5] of Ms Tait's statement

⁸ [Section 42A Report - Attachment B - Recommended Changes to District Plan Provisions \(westernbay.govt.nz\)](https://www.westernbay.govt.nz/section-42a-report-attachment-b-recommended-changes-to-district-plan-provisions)

⁹ [9.14] of Ms Tait's statement

¹⁰ Last para. Pg. 25 of Topic 6 (SECTION 14A - ŌMOKOROĀ AND TE PUKE MEDIUM DENSITY RESIDENTIAL) - [General Manager - Saturday, 31](#)

and I support these reasons, including the view that it implements Objective 1, 4 and 5 of Chapter 14A and Objective 1 of the NPS-UD. From a planning perspective, I also support the range of matters¹¹ identified in that Policy.

- 3.17 Kainga Ora suggest the requirement for infrastructure to adequately service developments is clearly articulated in Section 12 of the Plan. While I agree with that statement in part, development may still be 'density led' in advance or, separate to, subdivision processes enabled under Chapter 12. Therefore, I consider it is appropriate to retain the policy (and other related provisions in Chapter 14A) in response to how development may occur and, for integrated management reasons.
- 3.18 Further, and by contrast to Kainga Ora's view, I consider the Policy clearly provides for further direction in addition to Policies 14A.2.2.1, 14A.2.2.3 and 14A.2.2.5 to implement the overarching objectives (1, 4 and 5) and, Objective 1 of the NPS-UD.
- 3.19 I also support the retention of the Policy to inform the assessment of default activity status of discretionary (see the effect of Policy 14A.7.1.9) under s.104 of the RMA. Deletion of the Policy would undermine the ability of the council to decline vacuous or inappropriate proposals.

Policy 14A.2.2.13 (natural landform and earthworks)

- 3.20 I do not support the suggested deletion of this Policy for similar reasons identified above in 3.12.
- 3.21 To reiterate, landform is an influencing factor in the management of stormwater and effects on the receiving

[December 2022 \(westernbay.govt.nz\)](https://www.westernbay.govt.nz)

¹¹ multi model options, public interface, development layout, service areas, earthworks

environment – this is the basis of Rule 12.4.5.17 and the NEW Explanatory Note recommended in my primary evidence¹² that suggests the effects of stormwater, subdivision and earthworks be considered together.

- 3.22 Further, I also support retention of the Policy to support assessment under s.104 of the RMA and, to decline vacuous or inappropriate proposals (see the effect of Policy 14A.7.19¹³).

Policy 14A.2.2.14 (impervious surfaces)

- 3.23 I oppose the suggested deletion of this Policy. The reasons (and related issues) for adopting a comprehensive approach to stormwater management is addressed extensively in the evidence of Susan Ira and in the statement of Mark Townsend the Regional Council.
- 3.24 Further, I consider the Policy is an appropriate response to revised Significant Issue 6, particularly in the case of Te Puke where holistic stormwater management approaches are required including specific limitations on impervious surface coverage.
- 3.25 I also support retention of the Policy to enable appropriate assessment under s.104 of the RMA and, to decline vacuous or inappropriate proposals (see the effect of Policy 14A.7.19¹⁴).

¹² See the Table in **Appendix 1**

¹³ in considering an application for a Discretionary or Non-Complying Activity, Council's assessment shall include but is not limited to the following ...

¹⁴ in considering an application for a Discretionary or Non-Complying Activity, Council's assessment shall include but is not limited to the following ...

Matters of Discretion

- 3.26 As noted in my primary statement, I support¹⁵ the amendments to 14A.71(l) in particular for integrated management reasons re-iterated above.
- 3.27 14A.7.1(l) provides for critical stormwater management matter¹⁶ to be considered at the detailed design stage. In my view, this is a crux method that supports the wider integrated stormwater management framework in PC 92. Therefore, I recommend it be retained as per the s.42a report.
- 3.28 I also support the retention of 14A.7.1(m) to ensure earthworks are considered through land-use processes and; matters of discretion relating to earthworks and stormwater management (14A.7.10 (g), (h)¹⁷) for the reasons identified in 3.12 above and elsewhere to support the integrated management of stormwater effects on receiving environments and infrastructure capacity.
- 4.0 **Corrections**
- 4.1 Disregard references to the *natural and built* receiving environment in paragraphs 31 and 65 of my primary statement.
- 4.2 For avoidance of doubt, the relief sought in **Appendix 1** of my primary statement is complete and correct.

Nathan Te Pairi

6 September 202

¹⁵ And therefore oppose the outcome sought by Ms Tait.

¹⁶ Includes water sensitive urban design, management of overland flow paths, attenuation to pre-development levels and flood risk management.

¹⁷ See [9.82] of Ms Tait's statement.

Appendix 1: Email from Marlene Bosch

Consents



Marlene Bosch
To Nathan Te Pairi

You replied to this message on 4/09/2023 3:29 pm.

Reply Reply All Forward

Mon 4/09/2023 3:29 pm

Hi Nathan

I have had a look on our system for the property at 404 Ōmokoroa Road. Jace Investments hold a resource consents (RM21-0008) for earthworks, disturbance of contaminated land and the temporary discharge of treated stormwater associated with the earthworks activity associated with the development of a new town centre.

Kiwi Green hold a separate resource consent (RM18-0382) for a groundwater take for irrigation, frost protection and equipment washdown.

There is no consent for the permanent stormwater discharge from the new land use being the town centre property. Western Bay District Council have applied for a Comprehensive stormwater discharge consent (RM22-0616) for the Ōmokoroa Peninsula. This application is still being processed, so there is currently no consent that covers the permanent discharge from the development.

I hope this answers the question.

Marlene Bosch

Principal Advisor, Consents

Bay of Plenty Regional Council Toi Moana

P: 0800 884 880 **DD:** 0800 884 881

E: Marlene.Bosch@boprc.govt.nz

M: 021 243 8261 **W:** www.boprc.govt.nz

A: PO Box 364, Whakatāne 3158, New Zealand

Thriving together – mā te taiao, mā ngā tāngata

From: Nathan Te Pairi <Nathan.TePairi@boprc.govt.nz>

Sent: Thursday, 31 August 2023 4:12 pm

To: Marlene Bosch <Marlene.Bosch@boprc.govt.nz>

Subject:

Kia ora Marlene,

Could you please confirm if Jace Investments land identified in the above submission has received a discharge consent or any other consents in response the statements set out in Paragraph 24. of this Statement of Evidence.

Many thanks in advance,
Nathan

