

**IN THE MATTER** of an appeal pursuant to Schedule 1,  
Clause 14(1) of the Resource  
Management Act 1991

**Dorr Bell Limited**, a registered New Zealand Company,

**Appellants**

**AND** **Western Bay of Plenty District Council**,  
as Territorial Authority,

**Respondent**

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**NOTICE OF APPEAL ON BEHALF OF DORR BELL LIMITED AGAINST  
DECISION ON PROPOSED PLAN CHANGE 75**

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TO: The Registrar  
Environment Court  
AUCKLAND

1. Dorr Bell Ltd (“**Dorr Bell**”) appeals against part of the decision of the Western Bay of Plenty District Council (“the Council”) on Proposed Plan Change 75 related to Te Puke Floodable Areas and Area 3 Structure Plan Review (PC 75).
2. The Appellants made a submission on PC 75.
3. The Appellant is not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991.
4. The Appellants issued the decision on 29 April 2017 (“the Decision”) and the Appellant received notice of the decision on 1 May 2017.
5. The Decision was made by Western Bay District Council:
  - a. The parts of the decision that this appeal relates to are:
    - i. The Structure Plan for Te Puke Area 3 Infrastructure (as identified on Structure Plan 8.2 and District Plan Map U 129)
    - ii. rule related to Structure Plan and non-compliance Rule 12.4.9.4
    - iii. Removal of Medium Density residential zone
    - iv. Removal of proposed reserve TP3-3
6. The reason for this Appeal and relief sought are as follows:

## REASONS AND SCOPE OF APPEAL:

1. The plan change decision:
  - (i) will not promote the sustainable management of resources;
  - (ii) will not achieve the purpose of the Resource Management Act 1991 ("**the RMA**");
  - (iii) is contrary to Part 2 and other provisions of the RMA;
  - (iv) will not meet the reasonably foreseeable needs of future generations by enabling growth;
  - (v) will not enable the social, economic and cultural well-being of the Te Puke community;
  - (vi) does not represent the most appropriate means of exercising the Western Bay of Plenty District Councils District Council's ("**Council**") functions, having regard to the efficiency and effectiveness of other available means and some of the changes proposed are therefore not appropriate in terms of section 32 and other provisions of the Act.
- (a) The PC 75 provisions have poor alignment with the District Plan objectives and policies. Any changes to stormwater floodable areas and stormwater management should await the outcome of the Comprehensive stormwater consent application to the Regional Council for Te Puke, to ensure an integrated approach.
- (b) There are a number of changes proposed to Te Puke Area 3 Infrastructure (as identified on Structure Plan 8.2 and the District Plan Map U129) which affect Dorr Bells land and its future development plans.
- (c) In particular the location of road access to service Dorr Bells land and the provision and location of stormwater infrastructure. In addition, it is noted that an area of medium density residential was located on Dorr Bells land has been removed as part of the Plan Change.
- (d) Dorr Bell oppose therefore the following changes to the Structure Plan / Planning Map:
  - The location of RD11 and WS4 (roading and water). The location of this road is not in an optimal position and does not promote for efficient subdivision and development.
  - Stormwater ponds as shown should be removed, due to lack of proper modelling or design, no designations, and no subdivision impact fee funding(SIF funding).These should be left to Regional Consent processes.
- (e) Council is proposing to remove the proposed reserve TP3-3. Dorr Bell are opposed to the removal of the reserve and future urban

zoning of the reserve area. Dorr Bell consider that (as indicated in the Council's own Section 32 analysis) such a change would be premature, until the need for the reserve is finalised. Proper Section 32 analysis needs to be completed to confirm that the reserve is not required. Dorr Bell consider at this stage that sufficient information is not available to change the status of the reserve. The Reserve will provide significant amenity and recreation opportunities for the Te Puke community.

- (f) Part of Dorr Bells land along the northern boundary is zoned Medium Density Residential. The Section 32 analysis does not address the removal of this Medium Density zone on Dorr Bells land. The Section 32 analysis only addresses the medium density residential zone directly north of the proposed active reserve. Dorr Bell oppose the removal of the Medium Density Residential zone as it affects their land, as it reduces the ability to provide a range of residential housing types and lot sizes.
- (g) As well as proposing to remove the Medium Density Residential Zone, the Council is introducing a maximum average lot size of 650m<sup>2</sup> as an activity performance standard. Dorr Bell oppose this as it reduces the ability to provide a range of lot sizes and residential living outcomes. As part of the Section 32 analysis, the need for a maximum average lot size has been justified based on development at Omokoroa. However, the Te Puke market is significantly different to Omokoroa, and a range of lot sizes is desirable in so long as the Overall yield targets under the RPS are met. Proper s.32 analysis and consultation with the development community is required in relation to this change. Smaller sites can be achieved by retaining the Medium Density zone and enabling a variety of residential development to occur.

**.Relief Sought:**

- a. That the plan change be approved with:
  - i. Necessary amendments to address the concerns set out above.
  - ii. Such further other relief or other consequential amendments as considered appropriate and necessary to address the concerns set out above.

**7. Annexures**

The following documents are attached to this Notice of Appeal:

- a. A copy of Dorr Bell Ltd submission (Appendix A);
- b. A copy of the relevant parts of the Decision (Appendix B);
- c. A list of names and addresses of persons to be served with a copy of this notice (Appendix C).



DATED

2017

K Barry-Piceno, Counsel  
On Behalf of Dorr Bell Ltd



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**ADDRESS FOR SERVICE:**

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**ADVICE TO RECIPIENTS OF COPY OF NOTICE OF APPEAL**

*How to become party to proceedings*

You may be a party to the appeal if you made a submission on the matter of this appeal.

To become a party to the appeal, you must,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

If you are a trade competitor of a party to the proceedings, your right to be a party to the proceedings in the court may be limited (*see* section 274(1) and Part 11A of the Resource Management Act 1991).

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (*see* form 38).

\*How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission and (*or or*) the decision (*or* part of the decision) appealed. These documents may be obtained, on request, from the appellant.

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Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

APPENDIX A

Copy of Dorr Bell's submission



## APPENDIX B

Copy of the Relevant Parts of the Council Decision

## APPENDIX C

Names and addresses of persons to be served with a copy of this notice\*:

1. Jason Gregory Gamble
2. Orchard Trust
3. Alan Jefcoate Lee
4. Puketaha Ltd
5. Grant Eynon
6. Colin Eynon
7. Michael Montgomery
8. Dave Harwood
9. A. Lee
10. Redwood trust
11. S. McKinistry and G Rodger

\*Address details to be filed as yet to be received from Council