

Western Bay of Plenty District Council

Minutes of Meeting No. DP3 of the District Plan Committee held On 1 August 2018 in the Council Chamber, Barks Corner, Tauranga commencing at 9.30am

Present

Commissioner Alan Withy (Chairperson), P Mackay, D Marshall, M Murray-Benge, J Scrimgeour, and M Williams

In Attendance

R Davie (Group Manager Policy, Planning and Regulatory Services), P Martelli (Resource Management Manager), T Clow (Senior Policy Analyst Resource Management), and F Sweeney (Democracy Management Advisor)

Others

Mayor G Webber. As listed in the minutes, P Lusby (Submitter) and E Conroy.

Commissioner's Introduction

The Chairperson opened the Hearing and introduced the staff and Councillors present. He noted his approach to the process and advised that there would be no cross-examinations and all questions needed to be put through the Chair.

DP3.1 **Introduction of Plan Change 81 - Omokoroa Industrial Zone Review - Section 32 Report**

The District Plan Committee considered the Section 32 report from the Resource Management Manager dated January 2018, and at the invitation of the Chair the Resource Management Manager gave a verbal overview of the Plan Change.

In response to questions he advised as follows:

- The right of way was a private matter for the land owners and was currently under discussion between the affected parties.
- The issues about the right of way were mostly around access through the industrial zone.

DP3.2 Summary Report - Submissions to Plan Change 81

The District Plan Committee received the summary of submissions and further submissions as circulated with the agenda.

DP3.3 Hearings

The Chairperson invited submitters present to provide their evidence.

DP3.3.1 Submission 3 and Further Submission 8 - Phillip and Lois Crapp

Russell de Luca and Timothy Richardson appeared on behalf of Phillip and Lois Crapp, who were also in attendance. Mr de Luca had pre-circulated his evidence which was taken as read. Mr Richardson Tabled Item 2 and read further evidence.

In response to questions Mr Richardson advised as follows:

- If there was dispute over alternative access, Council had powers to designate access under the District Plan, which was difficult for the Crapps, as one landowner, to enforce with other landowners. It was suggested that there be a formal mediation process to address the current right of way issues.
- The current situation was that consultation to date had not achieved an outcome and there was a need to find a way forward.

Mr de Luca read the summary of his pre-circulated evidence, highlighting issues in the Section 32 report. He emphasised concerns with the lack of agreement, to date, between landowners in regard to the provision of alternative access for the right of way. He emphasised his view that Council facilitate a mediation process prior to any decisions on Plan Change 81.

In response to questions he advised as follows:

- He had no issue with the remainder of Plan Change 81, only the right of way.
- The existing right of way cutting through the Industrial Zone would inhibit the development of the Industrial Zone.
- Council had to make a decision on Plan Change 81, and if this was done, in the absence of a mediated solution, the landowners would have the option of taking this matter to the Environment Court, which would then require mediation.

Mr Crapp advised he did not want the right of way circling the residential development and as there was already one through the development they did not want any more. In his opinion, there was only one way and that was along the boundary. He also noted that he supported mediation.

In response to a question, the Resource Management Manager advised that the District Plan did not specifically state where the right of way should go, but it had always been acknowledged that it was not practical to have the right of way going through the Industrial Zone.

The Chair suggested that the parties present could discuss with the Resource Management Manager the potential for a mediation during today's proceedings.

DP3.3.2 **Submission 2 - Mike and Sandra Smith**

Mike and Sandra Smith were in attendance, Tabled Item 3 and read further evidence. In response to questions they advised as follows:

- It would not be an issue to have the right of way along the boundary.
- Their bedroom was on the boundary, but they thought they could agree on a right of way with mediation.
- There should be a buffer between Light Industrial, and Residential development in particular, taking consideration of noise issues emanating from a Light Industrial Zone and their affect on residential properties.
- Their particular concern was the type of industrial zone on the boundary.
- They agreed to mediation on the right of way, and wanted a Special Purpose Zone. A Light Industrial Zone did not go far enough to address their concerns.
- They understood that there would be a green waste facility established in the zone

The Resource Management Manager reiterated that the Plan Change specified which activities were eliminated from a Light Industrial Z one. And a green waste facility would not be established in this zone.

The Resource Management Manager agreed to assist the parties to address the potential for mediation.

10.30 a.m. The Hearing was adjourned for morning tea.

10.50 a.m. The Hearing was reconvened.

The Resource Management Manager reported that during the adjournment the parties had agreed that they supported a Council initiated mediation process, with the District Plan Committee Chair as the Mediator, given that he was so qualified and also had full knowledge of the Plan Change.

The Chair outlined the process of mediation for all present.

DP3.3.3 Submission 5 - Tim Laing and Louise Laing

Louise Laing spoke on behalf of herself and her husband and noted that they had not been aware that Council had changed the zoning without consultation.

She noted that if Council wanted Omokoroa to be a place for people to 'live, work and play' there needed to be proper rules in place. Access was a priority for residents, and it was in the Council's interest to get this issue sorted out, perhaps through mediation.

It was important to them that their visitors did not have to travel through an Industrial Zone to get to their property. They were concerned about the risk to their property values, the effect on their lifestyle and potential safety risks for their children. They would like Council to consider extension of the Light Industrial Zone to protect the adjacent residents.

Mr Laing advised of his experience when younger of working in a panel beating establishment and the effects he had noted at the time on a neighbouring property. He showed some photographs of the current development of the industrial site and the right of way to their property, noting the options for right of way access. He noted that they were concerned that if there were no controls in place things would just happen. He showed pictures of current industrial developments with particular note of how they looked, with the current developments looking piecemeal at the entrance to Omokoroa.

Mr and Mrs Laing supported mediation, and a Plan Change that would put adequate controls in place for all parties. In response to questions they advised as follows:

- Their preferred access would be Options 6 or 7.
- In the future, their children would have to walk out to Omokoroa to catch the bus and currently this would be through the industrial area.

In response to a question, the Resource Management Manager advised that a requirement for a ten metre landscape area around the perimeter of the zone was part of the Plan Change.

DP3.3.4 Submission 7 - Janine Birch

Janine Birch noted that she supported all that her neighbours had said, and she sought a conclusion as soon as possible. She did note her objection to having a refuse station in this area. She supported options 6 or 7 for the right of way and considered the spine road should be avoided. She supported the mediation proposal. She noted her house overlooked the estuary.

DP3.3.5 Submission 6 - Philippa Lusby

Mr and Mrs Lusby noted that they supported all that had been said to date by their neighbours. In response to a question, they advised they had two exits, one being through the Crapp's land.

DP3.4 Right of Reply on Behalf of Council

The Resource Management Manager thanked the landowners for their attendance and the number of meetings held prior.

He noted that there could have been further consideration concerning the right of way at the time of Plan Change 69. He believed that mediation should now be pursued.

He also noted in relation to the submissions made today, that the Committee may wish to consider reducing hours of operation in the light industrial zone.

In response to questions he advised as follows:

- He believed that mediation should occur in the first instance before the Committee continued to consider its recommendations in respect of Plan Change 81.
- Council would need to be a party in the mediation and should bear the costs of the mediation.
- Option 6 was the cheaper and easier access, and the Prole Road access would depend on the amount of traffic forecast to the properties in their future development. Exit on to Prole Road would require a roundabout.
- The next part of structure planning currently underway would look at further development of the area between the Industrial Zone and the estuary.
- There was no specific timeline for the Prole Road roundabout but this was currently on the 10-year horizon.
- There was criteria on landscaping in the District Plan for buffer zones.

Chairperson's Concluding Comments

The Chairperson suggested that at this point in time it was appropriate to adjourn the hearing, and for a plan for mediation to be prepared and circulated to the parties. This could happen expediently, and the hearing could be reconvened pending the results of the mediation, which could occur within the next two to three weeks.

It was noted that some other adjacent landowners should also be involved in the mediation, and that this would be arranged by the Resource Management Manager.

The Hearing was formally **adjourned** at 11.35 a.m.

Western Bay of Plenty District Council

**Minutes of Meeting No. DP3 of the District Plan Committee
held in the Council Chamber, Barks Corner, Tauranga
Reconvened on 12 June 2019, commencing at 9.30 a.m.**

Present

Commissioner Alan Withy (Chairperson), P Mackay, D Marshall, M Murray-Benge, J Scrimgeour, and M Williams

In Attendance

P Martelli (Resource Management Manager), and Barbara Clarke (Senior Governance Advisor)

Formal Closure of Hearing

Commissioner Withy noted for the record, that he had formally closed the evidential part of the Hearing on 10 May 2019 via a 'minute' that had been circulated to all parties. He noted that the Committee was now in a position to enter into confidential deliberations.

DP3.5 **Receipt of Evidence**

Resolved: Williams / Marshall

THAT submissions and further submissions to Plan Change 81 be received and it be noted that the hearing of submissions is now closed.

Local Government Official Information and Meetings Act

Exclusion of the Public

Schedule 2A

Resolved: Mackay / Murray Benge

THAT the public be excluded from the following part of this meeting namely:

- *Deliberations on Plan Change 81 - Omokoroa Industrial Zone Review*

The general subject to each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<i>General subject of each matter to be considered</i>	<i>Reason for passing this resolution in relation to each matter</i>	<i>Ground(s) under Section 48(1) for the passing of this resolution</i>
<i>Deliberations on Plan Change 81 – Omokoroa Industrial Zone Review</i>	<i>THAT the public conduct of the relevant part of the proceedings of the meeting would likely result in the disclosure of information for which good reason for withholding would exist.</i>	<i>To enable the Committee to deliberate in private on its decision as a right of appeal lies to a Court or Tribunal against the final decision of the Committee in these proceedings.</i>