

**MINUTES OF WESTERN BAY OF PLENTY DISTRICT COUNCIL
POLICY COMMITTEE MEETING NO. PP21-3
HELD IN THE COUNCIL CHAMBERS, BARKES CORNER, TAURANGA
ON TUESDAY, 6 JULY 2021 AT 9.00AM**

1 PRESENT

Cr M Gray (Deputy Chairperson), Cr G Dally, Cr M Dean, Cr J Denyer, Cr M Grainger, Cr A Henry, Cr M Murray-Benge, Cr A Sole, Deputy Mayor J Scrimgeour, and Cr D Thwaites

2 IN ATTENDANCE

R Davie (Group Manager Policy Planning and Regulatory Services), E Watton (Policy and Planning Manager), P Martelli (Resource Management Manager), B Williams (Strategic Property Manager), T Miller (Senior Policy Analyst Resource Management), J Rickard (Senior Policy Analyst), T Rutherford (Policy Analyst), G Payne (Strategic Advisor), C Lim (Engagement Specialist), and B Clarke (Senior Governance Advisor)

3 APOLOGIES

APOLOGIES

RESOLUTION PP21-3.1

Moved: Cr D Thwaites

Seconded: Deputy Mayor J Scrimgeour

That the apologies for absence from Cr Marsh and Mayor Webber, and the apologies for lateness from Cr Dally, Cr Dean, Cr Henry and Cr Murray-Benge be accepted.

CARRIED

4 CONSIDERATION OF LATE ITEMS

Nil.

5 DECLARATIONS OF INTEREST

Nil.

6 PUBLIC EXCLUDED ITEMS

Nil.

7 PUBLIC FORUM

PUBLIC FORUM ADJOURN MEETING

RESOLUTION PP21-3.2

Moved: Cr A Sole

Seconded: Cr J Denyer

That the meeting adjourn for the purpose of holding a Public Forum.

CARRIED

A. Subject: Ōmokoroa Structure Plan – Stage 3 Consultation Process

Mr David Partington, owner of 429A Ōmokoroa Road, Tabled Item (1), which he read in full. He also spoke to a Powerpoint Presentation (including photographs). Mrs Sandra Partington attended in support.

Scope of Presentation

- Key criteria of Rural Residential Zoning;
- Objectives of residential development;
- Policies of residential development.

Key Points

- He was disappointed with the Ōmokoroa Structure Plan Stage 3 consultation process.
- His property adjoined the large carpark on Ōmokoroa Road east of Prole Road, and had been zoned Future Urban for many years. His expectation was that it would become Urban due to encroaching urbanisation and Council's zoning objectives and policies.
- He objected to the proposed rezoning of his land under Ōmokoroa Structure Plan Stage 3, to Rural Residential, as the result would be that he could not dispose of surplus land by subdivision.
- His property of 5171m² had been a good lifestyle block years ago, but the progressive development of this part of Ōmokoroa meant that was no longer the case.
- Directly across Ōmokoroa Road, primary/secondary schools were planned, and to the south of nearby Prole Road a major recreation area with an aquatic centre was planned.
- The lower portion of his property fell within 400m of the proposed new town centre, and within 50m of new dense subdivisions.

9.05am Cr Henry, Cr Dally and Cr Murray-Benge entered the meeting.

- Increased road noise and light pollution had taken away the tranquillity of what was once a rural setting. They had installed garden walls and double glazing, but their property no longer enjoyed a 'rural' environment.
- The proposed rezoning created a hard boundary between the development of existing farmland and a kiwifruit orchard, which had been zoned Residential (development of 500 sections), and the adjacent five properties proposed to be zoned Rural Residential. The boundary appeared arbitrary.
- Those five properties were in a unique position due to their size and location, as they were essentially residential properties with generous sized gardens, and were not rural or commercial.
- At the public engagement meeting he attended, he had raised his concerns with Council staff, who recognised his argument and the effects of urbanisation surrounding them, although they indicated the reference to 'rural' was somewhat misleading (or similar).

9.10am Cr Dean entered the meeting.

- He was concerned that Council staff may have an entrenched view on the decision to rezone his property as Rural Residential. It had been suggested by staff that his land may be unsuitable for development, but the portion for subdivision was flat contour and this was not the case.
- Detailed written submissions had been filed with Council. One specific to his property, and the other on behalf of the five neighbouring properties adjoining the new subdivision. A formal response had not yet been received.
- Staff had advised that the five properties with mature trees and gardens served an aesthetic purpose as a "greenbelt" behind the new development.

- He had two or three plots of land that would make generous sections of approximately 1000m², but they could not be developed under a Rural Residential zoning, because that required lots of 3000m² to 4000m².
- He would welcome an independent review of his feedback. He was concerned that Stage 3 was being 'fast tracked' and this may limit independent consideration of concerns. Small landholders did not have the resources to dispute Council's decisions in a court of law.

In response to questions of clarification, Mr Partington advised as follows:

- They had moved into their property two and a half years ago on return from overseas.
- His property was zoned Future Urban when he purchased. No explanation had been given as to why their property would be rezoned to Rural Residential, which he considered to be "going backwards" to rural. With the expansion happening, he anticipated that they would be encapsulated by residential properties.
- The line being drawn was between "the old and the new". He had no objection to most of the development in the area, or to the 500 houses that would be developed next to his property, but there needed to be an evaluation of the five houses adjoining the boundary, because they had different circumstances. Some of his neighbours wanted to put one or two houses on their land, but could not under the rezoning that was proposed.
- He sought an independent review of the Rural Residential zoning of Stage 3, and questioned how that could happen within the process, e.g. the Environment Court or the dispute resolution procedure.

Through the Chairperson, the Group Manager Policy, Planning and Regulatory Services provided clarification in relation to process as follows:

- The opportunities to connect with the community in relation to the Structure Plan process so far, were not the formal consultation phase but were engagement opportunities and were very informal in that regard. If Mr & Mrs Partington had attended those opportunities, they would recall that Elected Members had been present during those engagement efforts. The formal consultation phase would happen shortly.
- She wished to convey an assurance that staff were technical advisors to the Council. Certainly, they were Town Planners with a special suite of skills and expertise, but the ultimate 'decision makers' sat around the Council 'table'. Council's Elected Members had, for many years, been involved in making key decisions around the shape of the Structure Plan and the Residential rules as it had emerged to this point, and they would continue to do so.
- The Policy Committee, with a membership of all Councillors, was the committee that would make the decision to formally notify the Structure Plan or Plan Change, and it was anticipated that would occur in or around August 2021. Following that, there was a formal Resource Management Act 1991 (RMA) process that enabled Mr & Mrs Partington and other effected people to make a formal submission to that consultation process.
- In response to Mr Partington's reference to 'stream lining or fast tracking', it was correct that the Policy Committee would be considering a report during this meeting, on the matter of endeavouring to approach the Minister for the Environment with a view to utilising the Streamlined Planning Process (SPP) available under the RMA. That process still enabled community participation and enabled effected people to make their submission, but the ultimate decision to adopt the Plan Change rested with the Minister for the Environment. There were no opportunities to appeal to the Environment Court, but there was a volume of 'decision making' before that point.
- Bearing in mind this was Public Forum, and not an opportunity for debate, once Council made the decision to formally notify its Plan Change, undoubtedly, Mr & Mrs Partington's submission, along with all submissions to the Plan Change during formal consultation, would be considered by Council.

- No decisions had yet been made. Options had been canvassed with the community. The final 'decision makers' were the Elected Members, informed by the technical advice they received from staff. Any assertion that staff had an "agenda" was refuted, they did not. Staff took their direction from Elected Members. It was a reciprocal arrangement with Elected Members and staff were 'duty bound' to support Elected Members with robust advice.

Mr Partington thanked the Group Manager for her clarification, noting it was reassuring.

In response to questions of clarification from Elected Members and Mr Partington, staff advised as follows:

- It was important to make the distinction that the material provided by Mr and Mrs Partington today was not a formal submission in the 'RMA sense', albeit that they had indicated their 'position'. The Council had not yet formally notified the Plan Change, which was the next step it needed to make. It could not notify dates for a formal consultation period to occur until it did. Notifying the Plan Change was the next step that Council would be making. It was not anticipated that notification would occur until in or around August 2021.
- The 'position' that Mr and Mrs Partington had indicated was considered to be feedback at this time, but could eventually be included in a formal submission during the formal consultation phase, if they desired. Staff would need to consider the implications of this feedback, and ultimately it would be for Elected Members to consider during the process.
- If the Plan Change was notified and still showed a proposed Rural Residential zoning over Mr and Mrs Partington and their neighbours' properties, that would not preclude them from making a formal submission during the process.
- There was a whole process to go through. If Council was successful in its request to the Minister to use the SPP, then there were no appeals to the Environment Court.
- The Council would need to make a decision based on all of the submissions received during the process.
- It was Council's right to pursue the opportunity to utilise the SPP, but it was the Minister who would make the final decision as to whether the SPP could be utilised by Council.

Mr and Mrs Partington were invited to stay to hear the agenda item on the Ōmokoroa Structure Plan following Public Forum. The Group Manager Policy, Planning and Regulatory Services advised that she would be available to meet with them to discuss the matter further, if they wished.

The Chairperson advised that Public Forum must now conclude so that the Committee could continue with agenda business.

PUBLIC FORUM MEETING RECONVENED

RESOLUTION PP21-3.3

Moved: Cr A Sole
Seconded: Cr A Henry

That the meeting reconvene in formal session at 9.30am.

CARRIED

8 PRESENTATIONS

Nil.

9 REPORTS

9.1 ŌMOKOROA PLAN CHANGE UPDATE

The Committee considered a report from the Senior Policy Analyst Resource Management, who **Tabled Item (2)**, titled 'Summary of Submissions' and **Tabled Item (3)**, titled 'Full Submissions', which had been circulated to the Committee prior to the meeting.

The Resource Management Manager gave an introductory overview, noting the following:

- As was apparent from the Public Forum speaker this morning, the part of the process that Council was going through currently was an interesting one and there were two parts to it:
 - The first was the Plan Change itself, which Council would eventually adopt to formally notify and seek formal submissions on;
 - The other was the matter for consideration in the report before the Committee today, which was basically about what process Council was going to use to do this eventual Plan Change.
- In due course, staff would report back to the Committee seeking approval for a Plan Change to notify, but that was not today's task.
- Some of an initial draft Plan Change would be discussed, but it was, by no means, the final draft Plan Change. This was because, should the Committee agree to apply to the Minister to utilise the Streamlined Planning Process (SPP), Council must provide, at the least, a draft version of the Plan Change to attach to the application, knowing it was not the final version.
- The Minister also expected Council, in due course, to adopt the Plan Change for notification, and this could be in August or September 2021 when the Committee was available.
- Today, the focus was the Streamline Planning Process that staff had discussed with Elected Members before, much more than the detail or the content of the Plan Change.
- It would be useful to determine today, the preferred option for the Active Reserves adjoining Ōmokoroa Road, to provide a sense of direction for staff in terms of finalising the Plan Change.

The Senior Policy Analyst Resource Management introduced the report, noting the following key points:

- There were three key aspects to consider with regard to the report before Elected Members for consideration today. The consultation Summary of Submissions had been provided as a tabled item; the report recommendation sought a decision on Option 1 or Option 2 for Active Reserves (sports fields) for the purpose of notifying the Structure Plan; and sought a decision on the Streamlined Planning Process (SPP) being recommended.
- The SPP had been spoken about in detail in previous meetings. Key aspects were highlighted as follows:
 - The SPP was an option available to Council, under the RMA, to carry out a Plan Change;
 - The Plan Change process proposed, through the SPP, was similar to the Schedule 1 Plan Change RMA process Council would normally carry out. The key differences were that Council was not planning to have a 'further submissions' process, and there was no appeals to the Environment Court at the end of the process.
- The reasons the SPP was considered to be appropriate, and this must be covered off in the report to the Minister, which was yet to be accepted, were:
 - Ōmokoroa had been consulted on many times over the last several years. This last round of informal engagement that had been completed was the third engagement with that community;
 - The consultation process being proposed was still a rigorous and robust one.

- There would still be a hearing, with Independent Commissioners and possibly Elected Members on a Commission panel.
- It was considered that what was being proposed with the SPP would actually enable a fair and robust process for consideration of such matters, as had been raised in Public Forum this morning.
- There was a table in the report showing the steps in the process and set out what Council was proposing to give to the Minister. It included the usual consultation process; public notification; and the public hearing process.
- A 'Technical Review' had been proposed, to provide further confirmation to Submitters that Council was able to make the changes to the decision before it went back to the Minister.
- Another important step was to utilise a pre-hearing dispute resolution process. That would provide the opportunity to have discussions with Submitters to try to arrive at solutions prior to the hearing. In this sense, there were steps within a SPP that would enable more discussion and resolution prior to a hearing.
- The Hearing Panel report would go to the Minister, along with copies of all submissions, and the Minister would make the final decision on the Plan Change.

In response to questions, the Committee was advised as follows:

- The engagement process that had just been completed, had highlighted to the Ōmokoroa community the use of the SPP, and that the final decision would rest with the Minister.
- Council would have a rigorous and robust consultation process with the SPP. There was desire and a need to provide housing in Ōmokoroa. If using the standard Schedule 1 process under the RMA, the Plan Change was unlikely to be completed until March 2023.
- The delayed upgrading of the Ōmokoroa State Highway/intersection and the Ōmokoroa Plan Change were two quite separate issues. Looking at the roading history, Transit NZ, in 1999 and in 2002, put in place the Notice of Requirements and Designations to four lane from Tauranga to Ōmokoroa. Transit NZ's traffic modelling at the time, showed that those upgrades would be likely to be needed around 2015. Based on those bodies of work and decisions, Council committed to Ōmokoroa as a growth area in 2002 and had invested significant sums of money. If Council stopped development at Ōmokoroa now, because of the condition of the intersection and State Highway, it would still need to recoup significant sums of money that would have been paid for by development. That would place a severe burden on ratepayers at Ōmokoroa to take up that financial burden. Council could not afford to stop development at Ōmokoroa, based on the decisions it had already made.
- In terms of the SPP, one benefit was the speeding up of the process. The reasons why the Government had offered this process were worth considering. In discussions with counterparts in other councils and from research, other councils were utilising the SPP process. There was the question of how much value was added by involving the Environment Court to resolve issues afterwards. Enabling a pre-hearing dispute resolution process was considered a better way to manage issues for all parties concerned.
- The Environment court was often viewed as a "blunt" process and it should be noted that the majority of appeal cases were settled at mediation. The SPP had been provided by the Government as a preferred mechanism for resolving issues. When the reform agenda progressed, it was anticipated that there would be less emphasis on Environment Court processes.
- It was the responsibility of the District Plan Committee Elected Members, or the Independent Commissioners if no Elected Members were on the panel, to ensure that all Submitters received a fair hearing. This applied to any consultative procedure undertaken by Council.
- In terms of wastewater in the Rural Residential zone, there had been no feedback on that matter at all during engagement.
- The debate before the Committee now, was in relation to the matters raised in the agenda report for consideration only. The matters that had been raised during the Public Forum needed to be brought back to the Committee within the Plan Change proper. It was not appropriate today, to debate those matters now.
- There was nothing proposed to take to the Minister yet. Council needed to propose to adopt its Plan Change in August 2021. This paper was about the process to utilise for the Plan Change. It had been discussed on several occasions.

Staff had been involved in discussions with the Ministry of the Environment to prepare for this. Elected Members were requested to focus on the substance of what the report included, rather than matters raised in Public Forum. This was about process, and in August 2021 it would be about the substance of the Structure Plan. That debate did not need to impact this decision here and now.

- There was no question that Submitters would get a fair hearing, should Council adopt the SPP process.
- In relation to the Tauriko West boundary change, for clarification, the change to the Regional Policy Statement Urban Limit Line for Tauriko West was progressed using the SPP process. The Boundary was processed under different legislation. The SPP that moved the Urban Limit Line was concluded within six months. The boundary adjustment came after it.
- The gestation of this Plan Change had been a long time in the making. The desire to use the SPP was largely in response to the dire need that the sub-region finds itself in, in terms of the need for housing and the need for land for housing. That had been talked about many times around the SmartGrowth table. There had been an unfavourable decision from Waka Kotahi/NZ Transport Agency in relation to the State Highway, which still needed further debate around the Council table, but not today.
- The low significance assessment in the report related to the decision asked to be resolved today. This was primarily to approach the Minister seeking his approval to use the SPP. All Plan Changes at this latter phase were assessed as low significance, because all of the risks were outlined in the statutes, rather than the wider issues. When the final Structure Plan was brought back to adopt, the significance could change at that time.
- The reason preference was sought on the reserves at this time was because Council was obliged to provide the Minister with a draft Structure Plan, which may be subject to change, but must be provided with the application to utilise the SPP. Whichever option preference was made, it would have implications on work on part of the Structure Plan going forward, so the earlier the preference, the more direction was clarified for staff to do that work.
- The fundamental purpose of this paper was about permission to pursue the direction from Elected Members up to this point, and seek formal consent from the Minister to utilise the SPP, broadly outlined in the paper itself. Council had engaged the community in relation to its preferred option for a reserve.

The Chairperson advised that the recommendation would be dealt with 'in parts'.

RESOLUTION PP21-3.4 – PART 1

Moved: Cr M Grainger

Seconded: Cr M Murray-Benge

1. That the Senior Policy Analyst's report dated 6 July 2021 titled 'Ōmokoroa Plan Change Update' be received.

CARRIED

RESOLUTION PP21-3.5 – PART 2

Moved: Cr A Sole

Seconded: Cr J Denyer

2. That the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.

CARRIED

Cr Henry voted against the motion and requested that her vote against be recorded.

IN RELATION TO PART 3 OF THE REPORT RESOLUTION

In response to questions, staff advised as follows:

- The decision today did not mean that Council was actually implementing the Plan Change.
 - The direction that would come back from the Minister would be quite definitive about how the process was to be applied. In terms of timing, that would also come down to the nature of the Plan Change. If there were concerns about roading delays, that may trigger a decision that the Plan Change would not come into effect until a determined time or until certain action occurred. Council should be mindful about the fact that it may then have to start the whole process again.
 - Regardless of Council's decision in relation to the Plan Change, there were other ways that development could be progressed by way of resource consent. If, for example, Council chose not to progress the Plan Change, or to slow it down in August 2021, there would be significant applications lodged for resource consent for non-complying activities and they would need to be assessed on that basis.
 - The Minister would receive a full report of all Submissions received by Council. The reporting was similar to the Schedule 1 process where everything was encapsulated and the Minister would have a full copy of all documentation and materials.
-

RESOLUTION PP21-3.6 – PART 3

Moved: Cr J Denyer

Seconded: Cr M Dean

3. That Council applies to the Minister for the Environment to use the Streamlined Planning Process, in accordance with Section 80C of the Resource Management Act 1991, to process and adopt the Ōmokoroa Structure Plan and associated rules.

CARRIED

IN RELATION TO PART 3 OF THE REPORT RESOLUTION

A division was called and was recorded as follows:

For the motion: Cr Dally, Cr Dean, Cr Denyer, Cr Grainger, Cr Gray, Cr Henry, Cr Sole, and Deputy Mayor Scrimgeour.

Against the motion: Cr Murray-Benge and Cr Thwaites.

Absent: Cr Marsh and Mayor Webber

The motion was declared carried.

IN RELATION TO PART 4 OF THE REPORT RESOLUTION

In response to questions, staff advised as follows:

- The Omokoroa campsite (Holiday Park) owners and residents had raised balanced views in their feedback about what was happening in the community currently. Staff had met and had discussions with them, and had also had discussions with Council's property advisor. Although discussions on the property side had been initiated, this was a much broader issue than a simple spatial planning issue. There were some possibilities that could occur. Some options may be subject to property negotiations or, potentially, land swap. However, there was a period of up to ten years to address this matter before Council would need that land.
In terms of Option 1 (in relation to Active Reserves) being included as part 4 of the report recommendation, from an 'in principle' point of view, the reason staff were asking at this stage was not only to gain an indication required for lodging the application with the Minister, but also because time was needed to be prepare a more final proposed plan to notify. Whichever Option the Elected Members chose had implications on other parts of the Structure Plan.
- Option 1 was the preferred option for Active Reserves.
- The majority of the feedback received from the residents of the Holiday Park was in opposition and they preferred Option 2. Council received sixteen pieces of feedback from others in support of Option 1, and the reasons for that support covered various things, including the connectivity of the school and Town Centre. Considering feedback from the Holiday Park as 'one piece' of feedback, then the preferred option, overall, would be Option 1.
- Both Option 1 and Option 2 went out to the community recently, and these were shown throughout the engagement period as 'equal options'. There was no preferred option declared, however, analysis was provided to support 'pros and cons' for each, for balanced information.
- The reason staff sought direction from Elected Members on Active Reserves, was that Council needed to provide an overall Master Plan approach to show to the Minister. Without having clear direction on Option 1 and Option 2, it was still showing 2 possibilities. If a preferred option was not proposed for sports fields and included in the application to the Minister, there were implications on other pieces of strategic work within the Structure Plan. It should be kept in mind that this was for notification purposes and that Council would still be seeking feedback on a proposed option.
- In Council's discussions with the Ministry of Education, they had confirmed that the school would be primary and secondary years. The school land was somewhat undersized, so from the Ministry perspective, the preference was for Option 1, which would enable the Active Reserve to be utilised for sports.
- It appeared the school was included in the Government budget for September 2021.
- In relation to asbestos mentioned in submissions, testing for this had been undertaken. There was none found in the grounds but there was some in the sheds, which would have to be removed. Council had discussions with the Ministry, who were well aware of the situation.

RESOLUTION PP21-3.7 – PART 4

Moved: Cr M Dean

Seconded: Deputy Mayor J Scrimgeour

4. That, for the purpose of notifying the Ōmokoroa Structure Plan the Active Reserves, Option 1 adjoining Ōmokoroa Road, is included on the Structure Plan as the preferred option for Active Reserve.

CARRIED

9.2 DRAFT CCTV MANAGEMENT PLAN

The Committee considered a report from the Policy Analyst. The Strategic Property Manager introduced the report, noting the following key points:

- The report outlined the proposed Management Plan for the CCTV process.
- Staff had been in discussions with NZ Police, who were interested in participating in the process.
- Elected Members had indicated they wished to be involved in the process.
- Staff would view the CCTV facility at Tauranga City Council later that day.
- It was proposed that the Strategic Property Manager would coordinate the process. A CCTV Management Panel would deal with all the applications, and would likely comprise of some Councillors, NZ Police representatives and the Strategic Property Manager.
- The Panel may decide which applications were a priority, and there would be consideration of context. The Panel would bring all recommendations to the Council for decisions.

In response to questions, Staff advised as follows:

- Through the Elected Members' Long Term Plan discussions, in consideration of the Issues and Options Paper, which were quite detailed, the preference was that the Operational costs (OPEX) would be funded through Council, but there was a desire not to stop Community Boards from procuring CCTV cameras, if they were prepared to fully fund them, and if Council considered them to be part of the District network. They would still require permission from Council to procure the camera, but funding should not a barrier if they wished to fully fund through the life of the camera.
- In terms of the timing for the process to be open, Staff were moving to initiate this as quickly as possible, and were aware of the interest. Now this was approved, an application form was being prepared for use and the information would be brought to Council for consideration. Once that had occurred, there would be some form of advertising to ensure people knew that they could make applications.

Elected Members expressed gratitude to Staff for their work on the project.

RESOLUTION PP21-3.8

Moved: Cr M Murray-Benge

Seconded: Cr M Grainger

1. That the Policy Analyst's report dated 6 July 2021 titled 'Draft CCTV Management Plan' be received.
2. That the report relates to an issue that is considered to be of medium significance in terms of Council's Significance and Engagement Policy.
3. That the Policy Committee adopts the CCTV Management Plan set out in Attachment One, of the agenda report, to be effective from 7 July 2021.

CARRIED

9.3 SUBMISSIONS ON BEHALF OF COUNCIL

The Committee considered a report from the Senior Governance Advisor.

RESOLUTION PP21-3.9

Moved: Cr M Grainger

Seconded: Deputy Mayor J Scrimgeour

1. That the Senior Governance Advisor's report dated 6 July 2021 titled 'Submissions on Behalf of Council' be received.
2. That the following two submissions are received by the Policy Committee and the information is noted:
 - a) He Pou a Rangi – Climate Change Commission Draft Advice to Government [dated 26 March 2021] - (Attachment 1 of the agenda report); and
 - b) Submission on the Tauranga City Council Long Term Plan 2021-2031 [dated 4 June 2021] – (Attachment 2 of the agenda report).

CARRIED

10 INFORMATION FOR RECEIPT

Nil.

The meeting closed at 10.45am.

Confirmed as a true and correct record by Council on 12 August 2021.