

BEFORE THE HEARING PANEL

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

AND

IN THE MATTER of Proposed Change 43 to the Taupo District Plan

**STATEMENT OF EVIDENCE OF WARREN LADBROOK
ON BEHALF OF ADVANCE PROPERTIES GROUP LIMITED**

September 2023

Introduction

1. My name is Warren Ladbrook, and I am a director of Advance Properties Group Limited (**APGL**). I am also a director and beneficial shareholder of a number of other commercial and residential property development and investment entities, and until very recently a director (with APGL a Shareholder) of Quest Apartment Hotels (NZ) Limited, a national accommodation brand. Neither I, nor APGL, (nor Caboo Properties Limited as referred to in the section 42A report in this matter) have a direct or indirect interest in the Mega Mitre 10 Taupo business.

Submissions

2. APGL made a submission in this matter on 8 December 2022, with a further submission on 5 April 2023. Both of those submissions are repeated and confirmed here in their entirety. Note the dates referred to in paragraph 6 below (5 and 22 May 2023) are subsequent to these submission dates.
3. The 9 August 2023 Statement of Evidence of Joanne Lewis is provided in support of the APGL submissions and is supported in its entirety.
4. The Synopsis of Legal Submissions of Matthew Lawson of Lawson Robinson, Barristers and Solicitors submitted 8 September 2023 is provided in further support of the APGL submissions and is supported in its entirety. The attachment referred to in note 4 of those submissions is also annexed to this statement as Appendix One.

Commercial Advantage

5. The section 42A report in this matter appears to allege that either I and/or APGL are a "Trade Competitor", and/or "contravene the provisions in the RMA". This is strongly refuted. I note that no similar allegation appears to be made about TIEL as Registered Proprietor of Area 7 and a submitter in this matter. The report should instead (but fails to) respond to the issues validly raised.
6. As stated in paragraph 108 of the section 42A report, the LUC application for (inter alia) a potential Bunnings store was lodged 3 May 2023. It was not until 22 May 2023 that I was made aware of the application, or indeed any aspect of Bunnings interest in Area 7. The APGL submissions were, and remain, on the basis of the issues raised therein, and as expanded further in this statement and supporting submissions.

7. APGL is not concerned with Bunnings and any potential relocation they propose. Indeed, Proposed Change 43 is for the very purpose of providing Bunnings (and other permitted uses) options to (re)locate if they so wish. APGL is however concerned with the history and current planning and legal status of Area 7, with reference in particular to the East Urban Lands (**EUL**) masterplan, LUC (reference 080142) and Consent Notice (annexed to this statement as Appendix Two).

East Urban Lands

8. The EUL planning process was extensive (and no doubt expensive!) and thorough, and provided a robust and forward thinking planning framework for a significant part of the Taupo urban catchment. It was not a simple site specific planning process, but weaved together a multitude of proposed uses and amenities, intended to serve Taupo for the foreseeable future.
9. A large proportion of the development envisaged has now been completed or is underway, generally spreading north and south from the centre of the EUL lands. It would be logical for the Campus Precinct to be one of the last areas to develop, as the population of the Taupo catchment increased (and it is submitted largely because of benefit of the residential components of the EUL masterplan). It is my understanding that Taupo District Council consider the EUL LUC has been “given effect to” (for example, refer first paragraph under “Resource Consent V Plan Change” in the TDC Meeting Minutes annexed to this statement as Appendix One), and if so, even if the Consent Notice was removed the EUL LUC would require variation for any change of use.
10. The EUL masterplan outlines the rationale, objectives and evidence supporting the uses proposed for the Campus Precinct. Of particular note, section 5.9 of the EUL masterplan states that the Campus Precinct would (and it is submitted here, should) “become an economic driver for the wider Taupo District and another attraction for the town”. Industrial uses do not achieve these intended objectives, and no alternative locations are proposed in Proposed Change 43 to achieve them. It is submitted that it would denigrate the good work done by all involved in the EUL master planning and consenting process to discard the masterplan as it relates to Area 7 without a proper and complete review process.
11. I was born and raised in Taupo, and while I do not presently live in Taupo, I hope to do so again in the future. Regardless, I have a strong ongoing interest in the development and future of Taupo and its surrounds.

Taupo Industrial Estate Limited (TIEL)

12. TIEL representatives met with Taupo District Council representatives on or about 10 March 2021. Minutes of that meeting are annexed to this statement as Appendix One. These minutes become public as part of TIEL's LUC application in respect of Area 7 for the establishment of a Bunnings and other food and gas uses, lodged on or about 3 May 2023 as referred to above.

13. The Council officers at the meeting appear to have formed a view that the EUL LUC and Consent Notice were largely irrelevant to TIEL's proposal, other than as an impediment to overcome. It is submitted that the parties to the meeting intended to go through the charade of Proposed Change 43 as it related to Area 7 for a predetermined outcome. This is extraordinary given the acknowledgement of Taupo District Council referred to in paragraph 9 above, and more particularly (as referred to in the section 42A report) given none of the numerous Taupo District Council higher level planning documents/strategies (such as the 2018 District Growth Strategy TD2050, and earlier 2006 and 2011 Structure Plans) have ever indicated Area 7 as suitable for industrial purposes.

14. Further, Taupo District Council has allowed what can only be described as significant and substantial earthworks to be carried out on the Area 7 lands over the last three months, presumably by TIEL, in anticipation of its proposed LUC application. The application has not been processed, these hearings not completed, and the EUL Consent Notice is still active and applicable.

Summary

15. It is submitted that the rezoning of Area 7 at 189 Napier Road should not proceed in terms of Proposed Change 43 to the Taupo District Plan.

Warren Ladbrook**12 September 2023**

Appendix One

TDC Meeting Minutes 21 March 2021

Meeting Notes (CONFIDENTIAL)

Subject: Bunnings Pre application meeting 189 Napier Road

Present:

Taupo District Council:		Applicant: Bunnings	
Heather Williams	Resource Consents Manager	Gareth Moran	Planner- Barker & Associates
Roger Stokes	Development Engineer	Marianne Mackintosh	Legal- Tompkins Wake
Bryson Huxley	Senior Transportation Officer	Mark Wright	Ryan's business partner
Louise Wood	Senior Resource Consents Planner	Ryan George	Waipa Civil
Karen Murray	Development Adviser	Jonny Schick	apologies

Date: 10 March 2021

Location: BNZ Business Centre, Taupo (1-2PM)

Agenda

1. Introduction to the project and the site
2. District Plan status
3. Status of the Master Plan and existing consent notice,
4. Key issues – traffic, amenity, servicing, geothermal
5. Iwi
6. Resource consent v plan change
7. General feedback from Council in terms of out of zone activities in Taupo. How have previous consents been dealt with.

Key Takeaways

- 1. Expectation of process is a Cancellation of the Consent Notice in relation to the activities needing to be in accordance with the Masterplan land use consent with a concurrent application for the land use activity (Trade supplier) under the Rural Environment zoning.**
- 2. Services will need to be extended for water and wastewater. Stormwater generally through soakholes on site.**
- 3. Major traffic generator so link into the roading network from a safety perspective. Providing options to link into future roading network that will link site through to Lake Terrace so customers from south don't need to always go onto Napier Road to enter site.**
- 4. Planning provisions of the Rural Environment are generally permissive for retail activity and no limitations on earthworks or vehicle movements but size and scale of building in relation to lot size is more restrictive than the Industrial Environment.**

Contacts:

- 1. Flash Sandham: Commercial Manager, Taupo District Council : fsandham@taupo.govt.nz; 027 432 1077 (as adjoining land owner and holder of the masterplan consent)**
- 2. Provide the contact details for iwi reps.**
 - a. Tuwharetoa Maori Trust Board: notifications@tuwharetoa.co.nz
 - b. Statutory Acknowledgments (Te Kotahitanga o Ngati Tuwharetoa): patai@tknt.maori.nz

1. PROPOSAL:

Introduction from Ryan.

Bunnings have closed a few sites but see an opportunity for growth in Taupo. Three potential sites of which one is Taupo. Like to go aggressively against Mitre 10 so colocation is a factor. Spent six months trying to get the property and have gone unconditional since Monday and getting a Heads of Agreement with Bunnings around lease etc shortly.

Just needing to keep it confidential given commercial competition.

Very general site plan:



2. Planning: EUL Consent and Consent Notice

Process?

1. Cancel consent notice with application for new consent at the same time
2. TDC did this for Hillary Outdoors consent- cancel consent notice and new consent (Kinloch)

The Consent Notice currently reads:

Consent Notice:

*The consent holder shall register a consent notice pursuant to Section 221 of the Resource Management Act 1991 on the title of **Lot 2** to read as follows: **Direct vehicle access onto Napier Road is not permitted.***

Development including further subdivision, building and any change of use is required to demonstrate compliance with the approved East Urban Lands landuse consent Masterplan reference 080142 granted on 9 June 2009 for the area described as "The Campus".

RESOURCE CONSENT V PLAN CHANGE

Louise explained the background of the Masterplan. Especially if it has been given effect to- TDC consider this to be the case and currently have approved consents for the area adjoining Lake Terrace for commercial (Penny Homes) and an application in progress from the Neil Group which have both applied for changes to the land use consent to update/ alter elements of the master plan for their respective precinct areas.

Masterplan was for Council land with the intention that Council would also be the land developer but Council has stepped away from that now and providing development blocks to the market to be developed in accordance with the Masterplan OR in agreement with the consent holder to undertake changes (via section 127 or 221(3) depending on timing of the superlot staged subdivision).

In terms of timing the Penny Homes application was a section 127 to the land use consent given the titles hadn't settled so it was a joint application with the consent holder (TDC).

Private Plan Change or RC? Still doesn't get rid of the Consent Notice. Plan Change not supported given Consent Notice and where the District Plan review is at.

Marianne considers the land use consent to have an expiry date. Regardless, the view is to run the Discretionary consent as a Rural activity and apply to remove the Consent Notice (i.e., cancellation), at the same time.

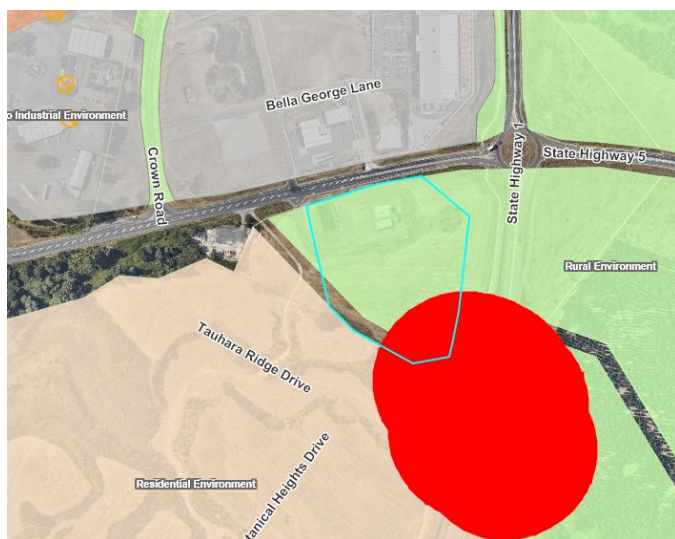
New land use consent that supersedes the existing land use for the area and takes it out of the Masterplan.

Note from TDC that the cancellation to the Consent Notice would have to be tied specifically to the proposed land use consent and not open to other activities such as a supermarket given the underlying Rural Environment is very permissive in terms of retail activities and non-restrictive to vehicle movements. Potentially a variation to the CN rather than a cancellation, could mean a new condition preventing any 'standard' retail activities from occurring on the site??

Zoning: Rural with Hot Ground

Lot 1 0.4676ha

District Plan Zoning: Green is Rural, Grey is Industrial (Taupo), Pink is Residential, Red is Hot Ground Hazard



Blue line is a segregation strip: Not a front boundary so can be treated as an “other” boundary



Rural Environment (4b)

Height	10m
Maximum Building Coverage	2.5% aggregate total building or 1000m ² whichever is more restrictive
Minimum Building Setback- Front	25m
Minimum Building Setback- All other	15m 25m from Residential Environment boundary
Signage	2m ² total face area in one sign per allotment

Hot Ground- depends on heat reading

4e.12.2

Any structure excluding network utility lines, cables, pipelines, (including support structures) and roads, located within the Hot Ground Hazard Area where the soil temperature* on the allotment, at a depth of 1m below the ground surface is between 10°C and 40°C above the Ambient Temperature.

- i. which complies with the Performance Standards of the Environment within which it is located;
- ii. which is not identified as a discretionary activity within another part of this Plan; and
- iii. which does not exceed 75% total coverage** of the allotment,

is a **controlled activity**.

District Plan Definitions:(Section 10)

Retail – means the use of land or buildings where goods and/or services are offered or displayed to the general public for sale, hire or use, but excludes offices. Retail includes, activities such as: food and beverage outlets, **trade suppliers**, yard based activities and service stations; and services such as: airline and entertainment booking services, customer banking and postal facilities, hairdressing and beauty services, art galleries and picture framing, printing services and real estate and travel agency services.

Trade Supplier – A Business engaged in sales to businesses, and may include sales to the general public, but wholly consists of sales in one or more of the following categories:

- Automotive and marine supplies;
- **Building supplies;**
- **Garden and landscaping supplies;**
- Farming and agricultural supplies;
- Hire services (excluding hire of books, DVD and video); and
- Office furniture, equipment and systems supplies.

General comments:

Out of Centre retailing of this nature not opposed in Planning Instruments- but the existing consent is for quite a different proposal. The Campus is Education, Business Park, Industry, Education and Research

- Access- Right of Way- no direct access from Lot 2
- Discretionary for signage, height, building setbacks

No new roads or subdivision

No controls on colour but Rural Environment is restrictive on signage (as opposed to Industrial which is quite permissive). Note NZTA have commented and restricted signage visible from ETA. Signage definition relates to visible from a public space so from any roads/ reserves.

Need to carefully consider the interface with the adjoining Residential Environment but also what is envisioned under the Masterplan for adjoining land and potential reserve sensitivity effects from lighting, traffic, hours of operation etc.

3. KEY ISSUES – traffic, servicing, geothermal, earthworks, development contributions

- **TRAFFIC (Bryson)**

Need to know the traffic movements intended for the site. No problems with the main ETA roundabout. Main concern for Bryson is the entry to the site and safety.

The key traffic input for the access through to the masterplan residential area.

A future connection onto the new traffic route so all traffic doesn't need to go onto Napier Road.

Any upgrades? Proposing a double lane at the moment into the site- don't want to see an offset to the Service Station so as proposed directly opposite is best.

Mainly a private vehicle generator. Once the land opens for residential it would likely need some consideration for cycling and walking and especially given there are some amenity activities such as cafes on the opposite side of Napier Road.

With NZTA the maintenance boundary ends just outside the island on Napier Road.

Roger- future intention of the Crown Road intersection to be a roundabout allowing access then all the way through to Lake Terrace in the future. Future proofing for an access- especially for trailers and other users in the future.

Is there a possibility to enlarge the current easement A to enable that option into the future roading. Needs to show that future roading is not precluded to the intended future roading shown in the EUL. Approach Council to get a right to get first right of refusal to be able to establish an access link.

Future options into the area directly from Lake Terrace will be right in front of the site.

Contact: Flash Sandham (TDC)

- **SERVICING (Roger Stokes)**

The site has no water or wastewater. Own firefighting currently with the water pond and was beginning to be developed as a showcase of alternative technology.

Sewer is down by the Crown Road intersection- Council would probably prefer a gravity main.

Water- Mitre 10 have a 300mm main pipe and long term plan has an easement for laying that up to a reservoir. Large in order to get a good fireflow for types of activities. FW5 type of firecell and needs unimpeded flow near a reservoir. For Mitre 10 where they are it is at their risk to have not met the required fireflow.

There is capacity to hook into water and sewer.

Once we get the new reservoir up SH5 it would create a new feed area and up the pressure.

Stormwater- disposed of on site for up to 100year for M10. In particular given the De Bretts system area down to the lake.

Big drilled soakholes and managing the soakage. This site does go in a slightly different direction and catchment but need to be aware of how it flows down the gully and across the roads further down.

Base on disposing on site.



Servicing: Green: Stormwater, Red- Wastewater, Blue- Water

- **EARTHWORKS**

About 3000m³ to develop. Be aware of dust and implications on the State Highway. Need to have water on the site before doing earthworks so that there is no problem with dust.

- **GEOHERMAL**

Need to check with Contact re the encumbrance.
Check the Tauhara Geothermal Consent.
Hot Ground Hazard rules.

- **DEVELOPMENT CONTRIBUTIONS**

This area isn't currently in the DC area so will need to pay to connect. DC Policy is about to go out for consultation but that wont change things for this site. From 1 July it looks like this area is planned to be included in the DC area as we have a capital works programme for the reservoir now to include this. Given M10 are close by we have some good data on the information for this. Would pay transportation, two waters.

4. IWI

Check the statutory acknowledgement- this is above ground so not likely to affect that.
Provide the contact details for iwi reps.

Parts of the Masterplan to consider:

5. Already provides for an area of Commercial/ Retail activity
6. Already has permission for very high buildings

5.9 The Campus

The Campus is a major mixed use educational and business park environment. It is the primary gateway to Taupo from the East Cape and the Bay of Plenty, and as such, highlights some of the industry and technology that lies behind the Taupo economy.

This is a Campus in the true sense of the word, providing a destination environment that to a degree is almost self-driven. It will be a destination not only for Taupo, but also for the wider Region, and has potential to generate international interest. The Campus will contain its own residential / visitor accommodation and limited retail functions although its primary focus remains industry, education and research.

The Falls Hotel and Conference development can almost be viewed as an existing component of this precinct. It also will develop and strengthen links with the Hospital for research and educational opportunities.

5.9.1 Core Components

- 1 Mixed Use Centre
- 2 Visitor Accommodation
- 3 Landscaped Car Parking
- 4 Gully Walkway and Cycleway Network
- 5 North-South ETA Walkway/cycleway
- 6 Landscape Gateway Feature Industry and Research Centre
- 7 Polytechnic Institute / University/ Private Educational Facility
- 8 Inter-related Business Park, Sports Field, Gymnasium



Campus Commercial Area

The Campus is the major commercial area within the EUL and is viewed as district-level employment/education node featuring:

- Offices
- Education
- Recreation
- Industrial
- Research
- Visitor accommodation

This area may also include limited amounts of:

- Convenience retail
- Showrooms
- Delicatessens and specialist food outlets
- Specialist retail – optometrists, pharmacy etc.
- Café and restaurant
- Entertainment
- Banks

Because retail is considered a support function to this precinct it has a maximum cap of 2000m².

Commercial, Retail and Community Land Use Guidelines

All retail, commercial and community uses in EUL can only occur in the mixed-use area and/or adjacent to the arterial roads and collector roads.

Commercial

TDC District Plan describes Commercial Activities as:

“Commercial Activity/Event – (Surface of the Water) any activity, whether temporary or permanent, involving payment, exchange or other consideration involving 10 or more participants in any one seven day interval.”

In EUL, commercial means any non-retail use providing business services of any kind to the general public. The total commercial space including retail is capped at 18,510m² as illustrated within the masterplan.

Retail

TDC District Plan describes Retail Activities as:

“Retail – (parking requirement) the use of land, a building or parts of a building where goods are sold or displayed for sale, by retail, or are offered for hire.”

The EUL development supports this description. Retail uses are capped at 7000m² as per the economic advice on a sustainable level.

The EUL development also supports the more detailed breakdown of commercial and retail functions provided within the ANZSIC codes (Australia New Zealand Standard Industrial Classifications):

Retail – classification G

Commercial – classifications H-Q



Appendix Two

EUL Consent Notice

View Instrument Details



Instrument No 10534555.3
Status Registered
Date & Time Lodged 08 September 2016 18:32
Lodged By Hollman, Karyn Elizabeth
Instrument Type Consent Notice under s221(4)(a) Resource Management Act 1991



Affected Computer Registers **Land District**
640869 South Auckland

Annexure Schedule: Contains 2 Pages.

Signature

Signed by Karyn Elizabeth Hollman as Territorial Authority Representative on 08/09/2016 06:28 PM

*** End of Report ***



In the Matter of the Resource Management Act
1991

And

In the Matter of Resource Consent Application
RM160098

CONSENT NOTICE

Pursuant to Section 221 of the Resource Management Act 1991

To: The District Land Registrar
South Auckland Land Registration District

TAKE NOTICE that the land described below is subject to conditions in relation to a subdivision consent as follows:-

Description of Land

All that piece of land containing 3.4514 Ha being Lot 2 DP 499406, (South Auckland Registry),

will be subject to the following conditions:

Conditions

Direct vehicle access onto Napier Road is not permitted.

Development including further subdivision, building and any change of use is required to demonstrate compliance with the approved East Urban Lands landuse consent Masterplan reference 080142 granted on 9 June 2009 for the area described as "The Campus"

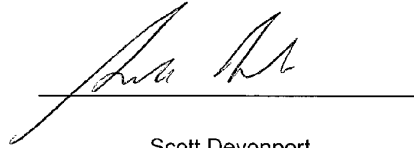
AND THAT you are hereby requested to register the same pursuant to Section 221 of the Resource Management Act 1991.

DATED this 6th day of July 2016.

SIGNED for and on behalf of

THE TAUPO DISTRICT COUNCIL

by way of delegated authority to the
Consents and Regulatory Manager:
Finance, Building & Infrastructure pursuant
to Section 34 of the Resource
Management Act 1991.

A handwritten signature in black ink, appearing to read 'Scott Devonport', is written over a solid horizontal line.

Scott Devonport
Authorised Officer