**IN THE HIGH COURT OF NEW ZEALAND**

**AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA**

**TĀMAKI MAKAURAU ROHE**

**CIV:** **CIV-202X-XXX-XXX**

**In the matter of XXXXX**

**BETWEEN XXXXX,** of XXXXXX

**First** **Plaintiffs**

**AND XXX,** of XXXX

**Second Plaintiff**

**AND XXXXX** of XXXX

**First Defendant**

**AND XXXX** of XXXXX

**Second Defendant**

**BRIEF OF EVIDENCE OF PETER DESMOND BATES**

**Dated XX XXXXXX 202\_**

***Solicitor for Counsel for the***

**[Cover page intituling to be prepared by the lawyer – the below information is only to assist]**

I, Peter Desmond Bates, originally of Auckland, registered valuer, land economist and director of Bates Resolution Ltd, **say [OR] solemnly and sincerely affirm:**

**Introduction**

1. I have been engaged to appear as an expert witness by the XXXX, Mr/Mrs/Dr XXXX and XXXX Limited. **[Can include reference to being: by way of reply evidence in response to the valuation evidence submitted by XXXX dated XXXX].**
2. I have been asked to provide my expert opinion on the XXXXX value of the property at XXXX, being Record of Title XXXX, (**Property**) as at XXXX. (our reference XXXXXXP.
3. My understanding is that the salient issues to be addressed by my evidence are…. / In background, …….

**Expert Witness Engagement**

1. I have read and am familiar with the code of conduct for expert witnesses as set out in Schedule 4 to the High Court Rules **[OR]** as proscribed by the Chair of the Weathertight Homes Tribunal **[OR]** … **[insert jurisdiction]** and I agree to comply with it. **[For all matters, except HCNZ, we request counsel email us a current copy of the relevant expert’s code for our file.]**
2. Other than working on this matter, I have no known association with the parties. Therefore, I consider myself to be independent.
3. I consider that the matters on which I express an opinion lie within my field of expertise.
4. My qualifications and experience as an expert are set out in the document which is **annexed and marked ‘A’.**

**Documents and Sources Considered**

1. For the purpose of providing my expert opinion, I have been provided with and considered the following documentation: **Legal team to list documents to be considered and number of pages.**
	1. XXXX (XX pages).
	2. XXXX (XX pages).
2. I have considered the following further sources of information:
	1. CoreLogic Property Guru
	2. Land title records from Land Information New Zealand
	3. Local Government websites and records
	4. My historic database records as previously supplied by Headway Systems, REINZ statistics through PropertySmarts and Quickmap as well as real estate agencies, private parties and private advertisements.

**The Property**

1. XXXX

**Valuation Process**

1. XXXX

**Analysis**

1. XXXX

**Reconciliation of Issues**

1. XXXX

**Conclusion**

1. XXXX

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Peter Desmond Bates**

**Affirmed** at , this day of 202\_, before me:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge OR Registrar OR Justice of the Peace OR Solicitor of the High Court of New Zealand OR Commonwealth Representative (the latter per s2 and s10 Oaths and Declarations Act 1957 (NZ)) OR per s11 of that Act: Oaths, affirmations, and declarations made outside New Zealand.

**This is a true copy of the exhibit marked “A”**

**referred to in the affirmation**

**of Peter Desmond Bates affirmed at \_\_\_\_\_\_\_\_\_\_\_\_**

**this \_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_ 202\_**

**before me:**

**Qualifications and Experience of Peter Desmond Bates**

1. Over the last 25 years I have gained extensive experience in the real estate sector. I have valued, for the public and private sectors, throughout New Zealand (NZ) and its outlying islands and advised and valued internationally. I undertake and review independent valuations of complex property rights, for evidence and dispute resolution, within the Commonwealth and Common Law world.
2. My professional standing includes:
	1. Registered Valuer NZ
	2. Registered Valuer Queensland
	3. Associate Member, NZ Institute of Valuers
	4. Member, NZ Association of Economists
	5. Member, Law and Economics Association of NZ
	6. Senior Member of the Property Institute of NZ
	7. Associate Member, Arbitrators and Mediators Institute of NZ
	8. Professional Member, Resolution Institute
	9. Admitted Lawyer, Supreme Court of Queensland, Australia
	10. Barrister and Solicitor, High Court of NZ (former NZLS PLS and ADLSI member)
	11. Associate Management Accountant, Institute of Certified Management Accountants (CPA status pending in 2024).
3. My academic qualifications, studies and commendations include:
	1. Bachelor of Business Studies, Massey University (2003), double major: Valuation - Property Management and Business Law.
	2. Post Graduate Certificate in Business (Property and Dispute Resolution), Massey University (2008).
	3. Diploma in Arts in Humanities and Social Sciences, Massey University (2011).
	4. Certificate in Business endorsed in Dispute Resolution, Massey University (2011).
	5. Bachelor of Laws, Auckland University of Technology (2013), with Dean’s List commendations for top student in: Law and Economics, Current Issues in Land Ownership and Legal Ethics.
	6. The Property Council of NZ Prize for academic achievement in property law (2013).
	7. Institute of Professional Legal Studies Certificate (2013), awarded Merit in Litigation Drafting.
	8. In 2024, I am completing a Master of Laws in Dispute Resolution and Litigation, University of Auckland. I was awarded First in Class for International Arbitration.
4. My professional appointments and elections include:
	1. Appointed NZIV-PINZ Financial Advisers Act Committee member, and contributor to submissions to Select Committee for the Financial Advisers Act (NZ) (2008 and 2009).
	2. Elected to serve on the Auckland Branch Committees of both the NZIV and PINZ (2009 - 2011).
	3. Appointed by the NZIV President (in 2011), to advise Inland Revenue as an expert on valuation of subdivision and block land development in Auckland (around 20 forensic assessments).
	4. Seminar presenter and guest lecturer, for example at: the NZLS, Auckland University of Technology, and, Massey University, as well as organising and presenting the Bates-Massey University Seminars 2010 and 2013 (c. 250 professional attendees).
	5. Elected Law and Economics Association of NZ National Executive Committee Member (2016-2017).
	6. Multiple appointments by orders of the Federal Circuit Court of Australia as a sole Court Expert (marina interests, individual properties, and for NZ portfolios in Northland, Auckland and the Waikato).
	7. Multiple appointments as an arbitrator of valuation matters (Arbitration Act 1996, NZ).
	8. Appointed by the NZIV (in 2016) as the author of submissions and as representative to Select Committee, LINZ, NZLS and ADLS, regarding the Land Transfer Bill (NZ) which directly resulted in significant amendments to the Bill.
	9. Appointed by the NZIV (2017) as the author of submissions and was the representative to the Ministry of Business Innovation and Employment, regarding the Unit Titles Act (NZ) review.
	10. In 2017 - 2019, I accepted the roles of Technical Director of Valuations (Land and Buildings) and Principal of Beca, which is a New Zealand company which had 75 professional disciplines and around 3,500 employees across the world.
5. I have valued a wide variety of property types, including: luxury high value clifftop and beachfront residential, subdivision blocks, institutional portfolios, high-rise apartment complexes through all stages of development, lifestyle blocks, childcare and medical centres, commercial, industrial and retail properties.
6. My experience includes many unusual valuation projects: a leasehold heliport, bridges, courts, hospitals, public assets, half a bridge, injurious effects of taking subterranean land rights, cross-lease and unit title disputes, seabed, mixed use land, air space, easements and land covenants, infrastructure, military and governmental portfolios (such as: The Ministry of Justice Courts portfolio, Corrections, Councils, Nelson Marlborough DHB, and water utilities), schools, religious venues, marinas, golf courses, cemeteries, licenses to occupy, landslip land and other defective real estate, such as with compliance and weathertightness issues, and valuations particular to historical land, planning, land use and economic research for cases involving early settler gravesites, Māori middens, and economic influences such as the Muldoon Government era rent freezes (NZ).
7. I have extensive experience in practice, and as a former Massey University tutor and lecturer, with a wide range of ‘bases’ of valuation, including: market value, market value differential, market rental, ground rent, life interest, fair value, special value, compensation value (monetary equivalence of loss suffered), indemnity value, reasonable price, forced sale price, replacement, re-instatement, demolition and inflation estimates.
8. In addition to acting as an arbitrator, I regularly prepare expert valuation evidence to inform mediations, negotiations and hearings, including professional regulatory and disciplinary matters (real estate agents and lawyers), arbitration, tax disputes, rating objections, the Tenancy Tribunal, Family / District Court, Weathertight Homes Tribunal, High Court, parliamentary select committees, and other Commonwealth and Common Law Courts such as:
	1. The High Court of The Cook Islands, Land Division
	2. The Australian Tax Office
	3. Australian Federal Court
	4. The Courts of Boston, Massachusetts, United States of America.

**This is a true copy of the exhibit marked “B”**

**referred to in the affirmation**

**of Peter Desmond Bates affirmed at \_\_\_\_\_\_\_\_\_\_\_\_**

**this \_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_ 202\_**

**before me:**

**Photographs of the Property**

|  |  |
| --- | --- |
|  |  |
|  |  |
|  |  |

**This is a true copy of the exhibit marked “C”**

**referred to in the affirmation**

**of Peter Desmond Bates affirmed at \_\_\_\_\_\_\_\_\_\_\_\_**

**this \_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_ 202\_**

**before me:**

**This is a true copy of the exhibit marked “D”**

**referred to in the affirmation**

**of Peter Desmond Bates affirmed at \_\_\_\_\_\_\_\_\_\_\_\_**

**this \_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_ 202\_**

**before me:**

**Sales Comparisons**

Due to the nature of land economics and statistical market analysis we have obtained and relied upon, in good faith, statistics and information from various sources including government departments and database systems. We consider the sources we utilise to be reliable for our valuation purpose. However, we cannot undertake any liability for inaccuracy in information supplied to us where such information can reasonably be expected to be correct given the relevant circumstances. Accordingly, the below market information should be viewed as a guide.

Sales data referred to below has been combined from a range of sources including information obtained directly from real estate agencies and historic advertising records.

We have investigated sales of other properties in the location and note the following, in particular: