

Original Issue: 30 March 2023

Ammended Version: 12/05/2023 – Question 28 removed.

## **RC13924L – Tinex Group Limited, 245 Te Puna Station Road – Request for Further Information**

In order to continue processing the resource consent RC13924L for 245 Te Puna Station Road ('the Site'), Te Puna, the further information detailed below is required. This information is required to better understand the nature of the proposal, the effects the proposal will have on the environment, or the ways in which any adverse effects may be mitigated.

Pursuant to Section 92(1) and (3) of the Resource Management Act 1991 ("RMA") Western Bay of Plenty District Council (WBDC) requests the following information.

### **TRANSPORTATION**

The application includes an assessment of transport effects and a supporting Transportation Assessment Report (TAR).

We have determined that the accessway standard required by Rule 12.4.16.2.d.ii, for a Diagram D "Moderate Use Access Standard" from the Transit Planning Policy Manual, in fact means the equivalent of today's Diagram E standard. The Diagram D standard drawing that was included in the District Plan when it became Operative in June 2012 is the same drawing as today's Diagram E. The application proposes that for the proposed industrial activity, a lesser standard of a Diagram A accessway without opposite road widening is acceptable.

The following further information is required to directly address the proposed departure from the required accessway upgrade to "Diagram D".

1. Please supply tracking curves to show how the access is used by the vehicles expected to use it. If the vehicles can't enter or exit the site in one continuous forward motion, the access must be changed so that the expected vehicles can achieve this.
2. In order to consider whether omitting widening opposite the access could result in crashes, the volume of through traffic needs to be quantified along with a clear statement of the daily HCV and Light vehicle traffic expected to use the site. Due to the possible closure of Te Puna Station Road, we are arranging surveys to quantify the new traffic distributions and speed profile – the results are expected in 3-4 weeks. Either these can be used by the applicant, or the applicant may choose to

provide their own survey data sooner. Also, please clarify in one statement how many HCVs and how many Light vehicles are expected each day.

3. For the accessway upgrade, it is unclear whether any physical works are required for this upgrade. Please clarify and provide a preliminary design drawing prepared by a suitably qualified civil engineer.
4. The AEE rules assessment considers that the activity is compliant with Rule 4B.4.5 (loading path and space dimensions), 4B.4.6 (on-site manoeuvring), and Rule 4B.4.7 (parking and loading requirements). However, no evidence to support this has been provided. Please provide drawings including vehicle tracking curves to demonstrate the Site and proposed lease areas can accommodate loading, manoeuvring, and parking suited to the proposed industrial activities and associated vehicle types.
5. The application seeks a dispensation from the requirement (21.4.1.g) to seal the internal parking, access, and manoeuvring areas, but provides no justification or assessment of the effect of this non-compliance. Please provide, having regard to potential dust effects in particular.
6. Please demonstrate that the Te Puna Station Road/Te Puna Road intersection accommodates tracking for the expected vehicles (including but not limited to trucks carrying swimming pools and trucks carrying houses). Where these vehicles have to swing out into the opposing lane or cut across the opposing lane/s, please detail how public safety is maintained and what TTM is used.
7. Please confirm the daily number of left and right turning HCVs expected to turn out of Te Puna Station Road and provide an assessment of the effect this has on the chip seal surface.

### **PROPOSED INDUSTRIAL ACTIVITIES:**

Section 3.0 provides a brief outline of the four proposed industrial activities to operate at the site. Further detail is required:

8. A & J Demolition and Total Relocations – the activity involves storage and renovation of relocatable houses. What ‘renovation’ activities will occur? For instance, will this include any paint stripping, water blasting, or other such activities that could generate adverse effects such as noise, contamination, dust, or spray drift?
9. Compass Pools – does any pool maintenance occur on site? If so, what environmental risks would be associated with that and how can they be managed?

10. Earthmover Tyre Services – are there any special storage and/or firefighting requirements necessitated by the National Environmental Standard for Storing Tyres Outdoors, or the NZ Firefighting Code? If so, how can the activity comply with these?
11. Will any relocatable homes or pools be transported to/from site during the night when there is less traffic on the roads (as is common practice for wide loads)? How will the landowner ensure that tenants stick to the consented operation hours?
12. Are any hazardous substances to be stored on site and if so, please assess against Chapter 9 of the District Plan.
13. Will the activities involve any welding? If so, please assess against Chapter 4C.3.
14. What activity is proposed on that part of the site surrounding the Daniel's dwelling, and is this also storage or a depot?
15. To ensure ongoing amenity and compliance by tenants, we recommend that a Site Management Plan be prepared by a qualified environmental professional which outlines methods to manage dust, sediment tracking, lighting, storage of solid waste, odour, aerosols, and spray drift from industrial activities. This should also cover noise management, and any methods required to maintain stormwater quality. Whilst this can be conditioned, we request that a draft SMP is provided as further information, to demonstrate how industrial tenancies will be managed by the landlord to ensure effects on local amenity remain within the scope of permitted and consented effects.

### **DISTRICT PLAN RULES/RESOURCE CONSENTS:**

The application has provided an incomplete or inaccurate assessments against the District Plan. It is my assessment that many of the non-compliances relate to the proposed out of sequence use of the site for industrial activities prior to development works being completed.

For many of the rules, reliance has been placed on the development works resource consent applications (RC12979 and RC13474), with the statement "In accordance with (Will comply)". Council cannot treat some rules as being complied with for activities that relate to a different consent application (unless the applicant opts to have these applications processed together, i.e. bundled).

Council agrees with the applicant's assessment that resource consent is required for the following:

- Rule 21.3.12: Development and Subdivision that is not in general accordance with the Te Puna Business Park Structure Plan (Non-complying activity);

- Rule 12.4.162 (a): Commencement of industrial activity prior to the required upgrade of the Te Puna Station Road / SH2 intersection.
- Rule 12.4.16.2 (d): Commencement of industrial activity prior to upgrade of the site accessway to Diagram D standard (applicant is proposing an interim upgrade to a modified Diagram A standard).
- Rule 12.4.16.3 (a): Non-vesting of landscape, and stormwater features.
- Rule 12.4.16.3 (a): Commencement of industrial activity prior to the overland flowpath/wetland planting being completed.
- 12.4.16.5 (a): Non-compliance with water supply requirements (upgrade of water pipe).
- 4B.4.10: Non-compliance with the requirement to permanently seal all loading, and parking areas.

But in addition, Council considers that the following additional non-compliances will also apply to the proposed industrial activities:

- 12.4.16: Out of sequence use of the site before staged development has been completed.
- 12.4.16.2 b): Commencement of industrial activities prior to completion of upgrade to Te Puna Station Road / Te Puna Road intersection.
- Rule 12.4.16.3 a): Commencement of industrial activities prior to completion of all of the required planting and bunding around the Business Park Boundary (we have identified a planting gap on the western boundary adjacent to Mr Daniel's residential yard, and there is no bund in front of the dwelling. Further there are inconsistent comments in the landscape and noise assessments regarding height of existing bunds).
- Rule 12.4.16.3 a): Commencement of industrial activities prior to completion of all of the required secondary planting (two rows of mix of natives and exotics) between tenancies.
- 12.4.1 a): Site Suitability – Non-compliance with the requirement for every site within the development to have a building site suitable for any approved activity, free from inundation.
- 12.4.10.1: Stormwater disposal systems including treatment – Non-compliance with the requirement to provide stormwater system.

The following Subdivision and Development rules will not be complied with prior to the operation of industrial activity at the site and are therefore additional reasons for the non-complying activity status pursuant to Rule 21.3.12 (in relation to development being an inherent pre-requisite to operation of industrial activities at the site):

- 12.4.4.2: Road reserve and carriageway widths – relevant standard is Local Road in Industrial Zone. No upgrade to the existing private internal road is proposed.
- 12.4.9.1: Internal road not provided in the general location shown on the structure plan and not in accordance with road width requirement.
- 12.4.9.1 (a): Stormwater management reserves and access thereto (note creation of reserves was intended to occur in conjunction with subdivision).

- 10.4.10.6: All developments to demonstrate how surface flows will be managed, and including improvement in stormwater quality.
16. Please review the above list additional lists and confirm whether the applicant also seeks non-compliance with these rules; or alternatively how compliance can be achieved.

#### **NOISE:**

17. The noise assessment provided was prepared at a time when concrete crushing activity was operating at the site. We understand this activity has ceased and is not proposed to continue. In addition, the assessment report notes that at the time of site visit (January 2021), it was not possible to undertake residual noise measurements due to use of reverse squawkers and road works occurring nearby. Please review whether the noise measurements should be undertaken again to measure the noise generated by the actual activities proposed (and currently operating at site under stay of abatement).
18. Please review the need to update the noise assessment based upon the actual height of existing bunds, any additional bunding proposed (and / or fencing) that may be required to achieve compliance with the bunding/screening height requirements of Appendix 7; and/or to mitigate noise and visual effects on adjacent sites.
19. Depending on the response to 16 and 17 above, the noise modelling may also need to be updated.
20. The assessment states that in the opinion of the author, special audible characteristic are 'not required for any of the activities currently being undertaken on site'. Please provide further technical justification in support of this statement, especially given that should the adjustment be applied, the daytime levels would not comply.
21. Night-time noise level predictions appear to be based on moving a single house from the centre of the site (Total Relocations tenancy). Please clarify if house moving is proposed at night. And if so, also model the noise generated from any other tenancy areas where night time moving may be proposed.
22. Please provide a Noise Management Plan for the specific activities proposed. We recommend that you also review s92 response review comments provided for RC13474L on February 7, 2023, and address any matters that would be applicable to the proposed industrial activities (operation for two years).

#### **LANDSCAPE AND VISUAL EFFECTS:**

23. The Landscape Management Plan requires the following additions/clarifications:

- a) Whether the proposed planted widths/number of rows comply with the Appendix 7 requirements. (Note – Due to some confusion amongst applicants, Council is preparing a memorandum clarifying the correct interpretation of Appendix 7 planting/bunding requirements and will circulate this within the next 5 working days.)
  - b) Whether the existing bunds comply with the minimum height requirements, or whether some fencing may also be required to achieve compliance or to mitigate effects (particularly adjacent to 177 Te Puna Station Road).
  - c) Whether planting and bunding is proposed on the Stage 4 area that is currently occupied by the Daniel's dwelling, and as required on the Structure Plan?
  - d) Provide a plan that can be stamped that captures only the landscape activities proposed for this application (and including key measurements).
24. The application states that the temporarily stored houses and swimming pool shells will meet the reflectivity requirement of rule 21.4.1 (d) – reflectivity. However, no evidence to verify this has been provided. Please provide further assessment against this rule.
25. The Environment Court (interim decision, Decision A 016/2005) provided assessment of the benefits of the required overland flowpath/wetland corridor with regard to enhancement of amenity values (s7 C RMA). At para [65] the court discussed how establishment of the wetland (prior to commencement of industrial activity) was viewed as integral to the purpose of achieving sustainable management: *“the establishment of a wetland can be seen as a positive environmental move, whether it is regarded as environmental compensation, mitigation or the enhancement of indigenous wetlands”*. In light of this, please provide further commentary on the potential effects that commencement of industrial activity prior to the wetland corridor being fully established may generate. This should also take account of the illegal filling in the area where this corridor was to be established.
26. Please update the Landscape Effects Assessment (LEA) to carefully examine the difference between the proposed activities (and including above noted non-compliances) of this industrial activity application, compared to the existing (legal) environment. Where necessary, and in addition to the District Plan rules, guidance should be taken from the Environment Court decisions (interim and final) to inform the existing environment assessment.
27. The LEA provides representative viewpoints to the site from selected locations. Whilst we understand obtaining access to every potentially affected property may not be possible, there are some possible gaps in the assessment of who may be affected (and to what degree). No Zone of Theoretical Visibility (ZTV) mapping is provided. Please provide a ZTV or Viewshed analysis map which identifies where the site can be seen from. Note: High Resolution Lidar Data is available from the Council, which would enable a high-resolution digital surface model (inclusive of trees and buildings) to be prepared and interrogated for this purpose. Please contact Heather Perring.

28. The LEA provides assessment of effects on particular properties (with assessment using the 7-point scale from Te Tangi a Te Manu). The rating system used is consistent with the recommended 7-point scale contained within Te Tangi a te Manu – Aotearoa New Zealand Landscape Assessment Guidelines, however, the terminology used is drawn from the now superseded Best Practice Note Landscape Assessment and Sustainable Management 10.1.

The updated rating system is identified below:

Document	Effect Rating						
Te Tangi a te Manu - Aotearoa New Zealand Landscape Assessment Guidelines	Very Low	Low	Low - Moderate	Moderate	Moderate-High	High	Very High
Act/Policy	Threshold						
RMA	Less than Minor	Minor	More than Minor		Significant		

A summary of the identified visual effect ratings is contained in the table below, as well as the equivalent Te Tangi a te Manu rating, RMA threshold rating and notification recommendations (provided by the reviewer).

Viewpoint	Rating Provided	Te Tangi a te Manu Rating (Equivalent Rating)	RMA Effect Threshold Rating	Notification
A	Low	Low-Moderate	Minor	Required
B	Low	Low-Moderate	Minor	Required
C & Ca	Very Low to Negligible	Low to Very Low	Less than Minor	Not Required
D	Very Low to Negligible	Low to Very Low	Less than Minor	Not Required
E	Very Low	Low	Less than Minor to Minor	Required
H & I	Low	Low-Moderate	Minor	Required
J, K & L	Low to Very Low	Low to Low-Moderate	Minor	Required
M	Low	Low-Moderate	Minor	Required
N	Very Low to Negligible	Very Low to Low	Less than Minor	Not Required

Please confirm the effect ratings for each potentially affected property (taking into account the other relevant questions within this further information request), and corresponding RMA effects and notification ratings.

**Note: This question has been removed from the request as it was included by error.**

### CULTURAL EFFECTS:

We have received commentary from Pirirakau Incorporated Society (Julie Shephard, Pirirakau), and from hapu group Te Uho O Ngati Taka Trust (Bob Leef, Ngati Taka).

Both groups request that you engage in formal and meaningful consultation. A copy of Ngati Taka's written statement is attached for your information.

In regard to the above, please provide the following:

29. An assessment of cultural effects. This may take the form of a Cultural Impact Assessment – you should discuss this with mana whenua (Pirirakau).
30. An assessment of the proposal against the Pirirakau Hapu Management Plan 2017 and the Nga Taonga Tuku Iho Pirirakau Environment Plan 2004.
31. Consideration of the attached commentary from Ngati Taka regarding the setback of activities from the Hakao Stream.
32. An updated assessment against Part 2 RMA as it relates to cultural effects and having regard to para [68] of the Interim Environment Court decision (A 016/2005).

### **NATURAL HAZARDS RISKS**

33. Please provide an assessment of flooding on the subject land, and whether such flooding presents a significant risk to people or property associated with the industrial use. This assessment should consider depth, duration, and frequency.

### **STORMWATER MANAGEMENT**

34. The stormwater assessment provided is lacking in technical evidence. Please provide:
  - e) calculations to demonstrate that the stormwater impact from the current users on the overall catchment is minimal.
  - f) Topographic Plans showing the existing land contours/spot heights, and overland flow paths.
  - g) Additional information that further qualifies the statement that *“from the discharge location, the flows disperse across the full site area such that mitigation of the additional flow is considered to occur prior to exiting the individual yard site”*.
35. Please provide an assessment of the effects of the proposed industrial activities and structure plan departures as they relate to stormwater, on the quality in the surface water receiving environment, particularly the Hakao Stream.

### **WATER SUPPLY:**

36. The application provides conflicting information regarding whether a water connection already exists at the site – please clarify.
37. The application states that water supply will be provided by water tanks. Please confirm what size and quantity of tanks will be required for each proposed industrial activity, and how this will meet the NZFS requirements for firefighting supply.
38. Please also demonstrate how the water supply will be adequate for management of dust (if sealing of the private way, parking and loading areas is not proposed).

## OTHER AUTHORISATIONS

39. The Bay of Plenty Regional Council have provided referral comments as attached. Please provide written confirmation from Regional Council on whether the proposed activities are either permitted or require resource consents.

## AFFECTED PARTIES / NOTIFICATION

40. Please provide an updated assessment of potentially affected parties and notification steps taking account of any adjustments to the application (that stem from this further information request), and including consideration the number of non-compliances and the degree of non-compliance with the required sequencing of activity in Te Puna Business Park.

We note that in the final summation of Interim Decision of the Environment Court decision to grant the private plan change application, Judge Smith emphasised that *"In particular, we consider that the granting of this change would avoid ad hoc development in this area, which has the potential to derogate from the values of the area without providing appropriately for amenity issues"* [para 122], Decision No A 016/2005.

We consider that the Environment Court was clear that a comprehensive and integrated approach to development of the Business Park was intended, with sequencing and prerequisites to operation of industrial activity indoctrinated in the rules, so as to avoid ad hoc activity.

## STATUTORY ASSESSMENT

41. Please provide an assessment against the National Policy Statement for Freshwater Management, taking into account any relevant matters raised in this further information request, by Regional Council, or Iwi.
42. Please provide assessment of the following Objectives and Policies:
  - h) Chapter 12 – Subdivision and Development;
  - i) Chapter 8 – Natural Hazards;
  - j) Chapter 4 – Amenity;
  - k) Chapter 4B – Transport.
43. Review and revise (if required) the Gateway Test assessment because of the questions and responses for this s92 letter.

### **Please Note:**

This information is required to enable the Council to better understand the nature of the activity in respect of which the applications for a resource consent is made, the effect it will have on the environment, or ways which any adverse effects may be mitigated.

In accordance with S92A, within 15 working days of this letter please;

- a) provide the information; or
- b) confirm in writing to Council that the applicant agrees to provide the information; or
- c) confirm in writing to Council that the applicant refuses to provide the information.

Pursuant to section 92A(1) Council must notify any application under section 95(c) where either the information has not been provided or where the applicant has not confirmed or refused to provide the information within 15 working days of this letter.

Council will defer processing of the application at this time, and resume processing when satisfied the requested information has been provided in full.



Heather Perring  
Senior Planning Consultant

ATTACHMENTS:

- Referral Response, Ngati Taka, by email, 5 March 2023.
- Referral Response, Bay of Plenty Regional Council, by email, 10 March 2023

**From:** Bob Leef <bobleef42@gmail.com>

**Sent:** Sunday, 5 March 2023 8:17 pm

**To:** Nanci Butler <Nanci.Butler@westernbay.govt.nz>

**Subject:** Re: RC13924L - Resource Consent Application for Comment

Kia Ora Nanci,

There are issues with this application which requires formal consultation in this case. We do not agree with this proposal.

Te Puna Station/Clarke Road area, including Pukewhanake is of historical and cultural significance and deserves higher respect than a general dumping ground. Pukewhanake was an active Pa site where our ancestors lived for many years, we want to uphold the cultural significance of this.

Initially Barry Daniels and co-developers said that the intention for this area was going to be a professionally developed rural-oriented business park, open storage was not the proposed purpose.

There is a mandated 20 metre setback from any waterway for commercial activity. Barry's leased lots and tenants are within 5 metres in some places. He has drawn on the site plan that he's attached a 10 metre setback on the stream side of the property, but this is from the boundary and not the stream. The stream needs to be drawn in and accounted for.

Barry Daniels was also required to move drains on Te Puna Station Road into his property and maintain them, yet this has not been done. He has not complied with the conditions of his present resource consents. It would be a poor reflection of process to consider his application.

In regards to the logistics of this plan, it simply would not work. Te Puna Station Road is built on old kauri logs through the former salt marsh, these are all former wetlands. Large trucks carrying tyres and buildings in this area is not safe. Two trucks can barely pass each other due to the narrow road, and one would need to swing across both lanes in order to access the properties.

In light of the extreme weather events causing flooding, water levels reached Barry Daniel's yard. Considering the proximity to the Wairoa river, this demonstrates an inappropriate site for any commercial activity. Especially important to note that NO stormwater infrastructure has been built.

Current stormwater plans involving three developers collectively are still under investigation, and resolving this is proving complex. Please refer to Nick Barnes' BOPRC and Heather Perring's WBOPDC. NO commercial activity and no resource consent for any activity should be considered until the appropriate infrastructure is planned, built, and tested. This demonstrates why the Agreed Statement of Facts and Environment Court Ruling requires all environmental mitigation must be in place prior to any commercial activity.

The overland flow path and wetlands that are to be developed were a key part of the zone change. This is only now being discussed as part of the stormwater management to be built as per the above point. No commercial activity was allowed to be on any site until all the infrastructure and environmental protection and enhancement is in place.

Environmental protection was stipulated in the form of wetlands and managed stormwater, air quality, noise contamination, etc. It was and is required for:

Respect for the Whenua and Rohe, Tupuna, and all history and ecology.

Blending of this Business Park with the rural surroundings of Te Puna, is why the commercial activity is required to be rural oriented - for the use and benefit of the locals.

To further demonstrate the commitment of the Environment Court Ruling to the rural aesthetic is that all buildings on the site must be painted recessive rural colours - neither tyre storage nor the relocatable building renovations on-site meet this rural aesthetic standard.

Furthermore, this application is accompanied by reports that are out of date:

Appendix C Traffic November 22, written prior to the landslips by the river, closing Te Puna Station Road "for the foreseeable future". It also refers to Te Puna Road and Te Puna Station Road upgrades having been completed - this is now acknowledged in the current mediation, as being inadequate.

Appendix B Site plan fails to draw the Hakao Stream in, or show the required distance (20 metres) from waterways. It also fails to show where roadside drains are required to be repositioned inside boundaries.

Appendix D Waka Kotahi. Written prior to the landslips by the river closing Te Puna Station Road "for the foreseeable future".

Appendix E written July 2020. Joint statement - now out of date for traffic as per the above comment.

Appendix F does not include any pictures of the neighbouring properties, and includes irrelevant photos of driveways on adjacent roads. There are no pictures included of recent extreme flooding events or of the persistent flooding currently sitting on neighbouring properties, causing massive damage since mid-2022.

Appendix H 24 November 2022 is out of date. Superseded by the current complex revise that is being undertaken by BOPRC and WBOPDC.

In conclusion, due to the above reasonings, I do not agree with nor support the Resource Consent for commercial activity on 245 Te Puna Station Road.

Nga Mihi Nui

Bob Leef

Ngati Taka Hapu.