Hello, my name is Drew Cowley and I am a resident of Te Puna who is directly impacted by this illegal and unconsented development.

Firstly, I would like to state that I fully support Western Bay District Councils Heather Perring in her recommendation to decline this resource consent.

I do feel that some points that Ms Perring has stated as minor impact are in fact not minor.

Point 163 that the operations do not have to meet the “ODP water supply requirement” are not minor as others must meet this standard and therefore is unacceptable. The area is surrounded by rural residential, orchards and lifestyle blocks. You would not accept sub-optimal fire systems in any other commercial operation. The Risk of a fire little lone a tire fire and there being insufficient firefighting capability contaminating surrounding orchards, homes and the environment is not less than minor.

Wastewater points 164 through 167 that port-a-loo’s are acceptable, this is not acceptable, this area is considered a high wind area and should these Port-a-loos be blown over effluent entering the adjacent waters is not acceptable, given Ms Perring has already noted run off quality questions this further adds to potential pollution of the waterways.

Point 207 which states “Overall, I am satisfied that the effects from noise are likely to be no more than minor” I disagree, originally the noise levels were to be set at rural level as requested by the developers during the 2005 rezoning through the courts. These have increased with the 2012 District Plan Zone change/consolidation and we are often disturbed by loud continuous machinery noises from this area. This is not less than minor to those of us who live nearby due to lack of bunds and planting to mitigate noise.

I endorse Priority Te Puna demonstrating that traffic affects are more than minor, and in fact often dangerous for the community and those who work or use these areas to connect to the cycleway (Tauranga to Omokora) and walking area on Te Puna Station Road

As indicated, I am not to simply read my submission as I am to take it as read, however before I summarise my points as why I object to this application and therefore ask it be declined, I would like to address 2 points made by the applicant.

Firstly, the applicant has often said they were not aware of all the requirements/prerequisites, this simply cannot not true. The applicant along with the other two land owners who make up the area known as the Te Puna Rural Business Park specifically asked for the zone change and when it was declined appeal to the Environment Court. During this appeal when it was likely the appeal may be turned down the Applicants including this applicant went away and revised their proposal to include several further conditions. Ultimately these changes swayed the Court to allow the plan change with these and other Conditions, very specific prerequisites, very specific mitigation requirements to ensure as little impact as possible on the Environment, Community and Amenity.

The 2012 District Plan update which changed some of those conditions, in many cases lessening them to the dismay of the community, still had several very specific prerequisites, very specific mitigation requirements to ensure as little impact as possible on the Environment, Community and Amenity.

My question is, then how can the applicant say they are not aware of them all? It was theirs and the other owners of the properties that make up the Te Puna Rural Business Park that requested these to get their plan change. These requirements are the applicants own doing. If anything, the District Plan Update of 2012 made it easier for them, higher noise levels, no longer having to be 20 metres from any waterway or pond (including those in the structure plan). These are the applicants own doing!

Secondly, POINT 191 page 38 of Shae Crossan reply to Heather Perring’s summary

“In a somewhat unique way of looking at precedent, in my view, the circumstances giving rise to the need for this application actually sets a clear precedent of what an applicant should not do, rather than something that is encouraged in the context of ensuring that any pre-requisite planning requirements are met before you commence an activity on site. The 39 applicant is not in a privileged position through the making of this application, having spent time and significant financial resources through environment court and hearing processes. Rather than being some sort of advert for a way forward, the precedent is a warning to seeking consents in advance or complying with the relevant structure plan conditions.”

I was shocked by this statement, as I read this, he is saying do first ask for approval later even if you already agreed to the conditions through the courts do not worry about it. Everyone should be able to do as they please then ask for retrospective consents or not at all until the community complains enough the council serves abatement notices. Mr Crossan states the applicant spent “significant resources through the environment court and hearing process” but so too did the community and council who objected to the plan change in the first place. By saying this the applicant also acknowledges they are aware of the Court Ruling and goes to support my first point, they were always fully aware of their requirements but chose to ignore them FOR Financial gain.

Financial gain that has now been occurring from unconsented illegal activities since 2016, where has all this money gone, believed to be more than $200,000 pa presently. You wouldn’t build a new housing development without meeting all the prerequisites and consents approved, so why should this be any difference. And yes, to Mr Crossin’s last sentence this is a warning to all that you are legally obliged to seek consents in advance or are required to comply with the relevant structure plan conditions PRIOR to doing any work. Is that not the RULE/LAW so things are done properly so as to not harm the Environment, Community and amenity, like everyone else normally does? So why this exception considering the time the applicant has had to comply, some 18 years.

In Summary on my submission:

- The bunding, perimeter planting, stormwater ponds and overland flow path that shall be established prior to any development of industrial or commercial development within the zone has not occurred as required to protect the environment, community and amenity.

- In the original zone change and agreed to by the applicant where a yard is adjacent to Te Puna Station Road that yard shall be a minimum of 20 metres from the road boundary of the site or from any waterway or pond (including those in the structure plan) and 10 metres from any common boundary with a Rural zone property – this is not happening and operations are happening inside the setback with hard fill. The applicants' own maps show they are operating inside these limits.

- Impact fees have not been paid. Most PAC payments have also not been paid. Any other developer would have to pay these upfront, why is an exception being made?

- As identified in the original zone and Court Ruling that though these are three properties they are to be treated as one for requirement thus an integrated structure plan (Annexure A) of the Court Ruling has not been provided or implemented. This is also in the District Plan

- Unconsented fill of unknown origins has been put on the site including in the overland flow path which the applicant is also seeking a retrospective Resource Consent for RC13474 as well as a waiver of some of the Structure Plan requirements. This has currently been lodged and is being processed by WBOPDC (RC12979). These both go to intent to show the applicant has no intentions of living up to the promises given to the Courts and Community during the court hearing originally or even the lesser requirement of the Structure Plan.

- All the above items were agreed by the applicant to get the plan change through originally.

- This application and RC13474 also show that this applicant prefers the option of do now and ask for forgiveness later (Retrospective Consents) and hope that all can be forgiven. Hoping that he will not need to undo what is done purely for what appears financial gain, not what is best for the Environment, Community and Amenity of the whole area.

- Previous illegal activity carried out by the applicant and his tenants, that being concrete crushing has potentially contaminated the soil such that the council has noted a potential HAIL (Hazardous Activities and Industries) warning for the area. The Applicant potentially contaminated the area and is effectivity wanting to just cover this up when they should be made to make good the land and soil. Proper investigations need to be carried out for this and other damage/contamination caused by any of the non-compliant unconsented activities and made good if found, **prior** to any further relief or consents given. Simply saying they have no plans to disturb this area cannot be accepted as the applicant has a history of not complying. Heavy truck movements, moving buildings on this area can create dust clouds thus triggering a hazardous cloud.

- The courts allowed this plan change with all the restrictions and mitigating requirements to meet Appendix C 2. Objective of ensuring development within the Te Puna Industrial Business Zone is compatible with the amenity values of the neighbouring rural environment. Which was to be incorporated and is in Section 7. “Industrial” of the District Plan. This has not occurred.

- With Climate change, extreme weather events are more frequent, the applicant has had 18 years to implement proper stormwater management, yet properties within the Te Puna Business Park flood as well as those up the valley, yet none of the recent events that have caused this flooding have been said to be of the scale of a 100 year ARI critical duration event which the business park as a whole is required to manage and fully mitigate.

- The wetlands have not been created and vested into the council, though council says as there has been no subdivision this cannot happen. Subdivision was not a criterion for these to have to be developed or for that matter vested into council. Again, this must happen **prior** to commencement of any industrial or business activity within the zone by all three participants in the Te Puna Rural Business Park.

- Overall, this applicant has shown nothing but contempt for the Environment, Community, Council and Amenity of the area with repeated non-compliant and unconsented activities, never trying to be remotely aligned to the Court Ruling and District plan when he is called on it. A plan he initiated.

- Due Diligence: Any business/tenants should do this prior to investing or setting up business just like everyone else in the community who invests in this area either to live or work. Saying it is too hard/costly to do is not an excuse as all the information is readily available from council. This illegal activity has degraded the community who was here prior to them. Instead, the costs have fallen on the community who have had their land damaged, and face daily traffic safety concerns. Meanwhile the Applicant is earning more than $200K PA from these unconsented activities.

- This illegal activity has taken its toll on me personally, as I never know what will happen next, what further damage will occur to my property, what additional costs I will incur to try to fix/mitigate the cost and damage that should not be happening. I have spent the last five years constantly concerned and worrying about this, it has impacted my quality and enjoyment of life significantly. Due to extra cost, we do not do the things we most enjoy anymore, we are stuck wondering what next? We are stuck spending money on mitigating things we were promised would be taken care of through proper development of this area. Our investment in our property and the environment is being eroded for pure financial gain by this developer. Damage that can never be fully repaired

and will only get worse especially if it is allowed to continue unchecked.

- Our adult children since going off to further their education absolutely hate coming home, as this is all they hear us talking about and the impact it is having on our lives, and thus their enjoyment of their family home. Literally they cannot wait to leave and return to their studies, this is what we are living with, it is impacting us as a family as well as physical property damage.

- Why 18 years later is the applicant now saying, he needs this non complying activity approved to pay for what is required, they have continually minimised their impact and obligations. They have effectively been operating illegally in one form or another for 6 or more years already, where has this income been spent? They even stated that remediation is needed to neighbouring properties due the damage caused, but no mention of compensation or how this remediation will occur. If given another two years what guarantees do I/we have that all promised mitigations/requirements will be put in place. There are none! We will just get continuous delays and further after that fact resource consent applications endlessly..

- Another two years of uncertainty on top of the already 6+ years we have been battling to get what was promised 18 years ago will destroy any hope of being able to simply enjoy our home.

- The applicant seems to be using the system in a vexatious manner to wear down opposition, to impose cost, and time on the community for which the community has already spent thousands of dollars and hundreds of hours. The Environment Court recognised this and imposed these conditions for a reason, not only as they were to protect the Community, Environment, and Amenity, but because the developers themselves recognised they had to, to get the plan change in the first place. These are not new conditions or conditions considered to be too strenuous, they are the conditions they asked and agreed too, in fact now somewhat diluted by the 2012 Zoning rationalisation.

- The damage done needs to be undone and the controls and mitigations put in place prior to any decision made with respect to any Commercial or Business activity.

- **Given all the above the application must be Declined. If not, what message are we sending to anyone else in the whole district “Do what you want and when caught ask for retrospective approval?” This can only lead to further damage of our environment, communities, property, roads, and overall quality of life, and severe cost to Council and Rate Payers. It will also lead to further ad hoc development for purely financial gain.**