

Resource Consent RC13924L

Good afternoon.

Firstly we have been asked to state our position as regards the Council Officers report.

1. I 100% support the overall submission and recommendation by WBOPDC to decline this Resource Consent.
2. I'm here speaking from a personal perspective, but to be honest I'm actually here for so many other people. People that I have gotten to know through the impact of this site over the last 5 years. My cognisance was raised when we needed to sell our property 5 years ago for job-related reasons. We were unable to sell our property, with interested buyers citing the uncertainty of what was unfolding 'down the valley' as too big a risk to take on.
3. Yes it was a scruffy site but we knew there was proper plan in place. I started looking into what was actually going on and we have been dealing with it ever since. The list of the people, who I have come to know and who are affected in so many ways is too long to name them all, there are hundreds. I am here for the now elderly Colin Hyde whose weather board house looks directly over the site, Im here for Sam and Macarena and little Emilio who live directly to the south, I'm here for Tony and Jan who breathed airbourne silica for months, Diana Sarah Neville Jaz, Wendy, Shona, Hannah and Nga, Debbie, Paul, Jo and Peter, Kelly and Bevan, Donna and Greg, I endorse the voice of Billy and Tommy as mana whenua, the list goes on and on.
4. Sarah Rice is speaking for Priority Te Puna, and as she is covering traffic, roading and safety impacts, including wide-load vehicles on rural roads. Impacts and concerns that are felt by the whole community,
5. Sarah is also covering crucial environmental concerns, including tenants' past record of environmental care, leaching concerns, and, the absence until now, of water quality monitoring. I endorse and enforce what Sarah will cover tomorrow.
6. I support the community's concern that the strict and detailed conditions of the 2005 zone change have not been well protected in the District Plan processes. Every single issue or challenge that is being identified now, 18 years later, was clearly identified in the zoning process in 2005.
Notwithstanding the 2009- 2012 processes, which resulted in this zone being changed from Industrial as a Rural subzone to sit within the Industrial category The Environment Court Decision and Agreed Statement of Facts remains a vital key

document. It was a process Mr Daniel was intimately involved in and in which he and the other developers made very specific commitments to get their zone change accepted.

7. While we are here at the beginning, I also want to say that I actively advocate the preservation and respect for cultural value across the Pukewhanake Pa site and supporting area. It's a site that has suffered degradation in past decades that would not be tolerated today.
8. The chapter I'm focusing on are stormwater issues and related Geotech concerns, that support my submission. These impact and add complexity to the whole site including the roading.
9. There is nothing about the impacts of this site or the activities on it.

10. I've lived with my family in Te Puna for nearly eight years. Living in a rural area had long been our hard-earned goal.
11. Instead been an absolute nightmare with the influence of Mr Daniels' non-compliant development of his site.
12. Our lives in our house are typified by chronic long-term stress. Stress caused by the following:
 - Our property is directly physically affected by the earthworks he's done.
 - The uncertainty and total unpredictability, have been the worst, caused by ad hoc development.
 - Hundreds of hours, and associated lost work time, and lost family time and focus have been used to advocate that the rules the applicant signed up to are upheld.
13. We understood, as a family, that there was a Rural Business Park zone down the valley from the property we purchased and we did our due diligence, in 2015. The District Plan has a site map and we had no reason to believe this site would ever be used for anything other than a professionally developed site that blended with the local rural environment.

14. We understood that actually, Te Puna Business Park zone would be positive in many ways to provide rurally compatible services such as stock feed outlets, nurseries, maybe rural machinery servicing, local produce outlets, cafes and maybe some storage of the types of products consistent with those. We could see from the site plan that landscaping had been well-considered and we were familiar with business parks being well-designed in an environmentally conscious way. This site has caused us many sleepless nights.

15. Mr Daniel's application is for his property in the zone, but the infrastructure requirements are by their nature integrated and codependent for the whole zone. Stormwater flows from one property to the next towards the river and harbour. Road capacity and safety for each operator are cumulative.

16. Therefore, solutions for stormwater and roading, as identified in 2005, absolutely, from a totally practical perspective have to be planned, presented, and approved for the whole zone PRIOR to any commercial activity on the site.

17. Upholding of professional consenting and logically staged development from site analysis, with Geotech, and integrated stormwater then roading and provision of services, PRIOR to any commercial activity is the normal way we see sites develop.. We are all familiar with development like as the Tauriko industrial zone and also the nearby Teihana residential development.

18. Lawyers in the recent Tinex abatement hearing summarised what we believe: non-compliant activity undermines Planning and Regulation everywhere. If every developer followed the process that has unfolded here what kind of country would we live in?

19. What we have now is so far from the intent of the 2005 Environmental Court Zone change that it is unrecognisable.

20. I Refer you to evidence, **Evidence 1. Environment Court decision A 0 6/2005. as provided Points 45,116 and 117. Which all talk about what was envisaged for this zone.**I would like to highlight further point 116 second sentence onwards which reads:

(116) We now come to the question of the general provisions of the Act and meeting the single purpose of that Act. We have concluded that the zone now envisaged is something different to either a Rural or Industrial zone. In our view, it would better fit as a subzone of the Rural zone rather than an Industrial zone in its own right. This is on the basis that although activities within it

have a more industrial flavour the zone, nevertheless, is defined by its effects. It is intended that this area fit within and remain compatible with the rural area.

21. **On to Stormwater** In my submission I have included photos of the valley underwater.

Refer please to **Evidence 2** This inundation perpetuated for months, building up more and more from January 2022, to being majorly constantly inundated from around June July 2022. This was in normal weather conditions and further exacerbated by heavy weather events.

Photo of Te Hakao Valley taken August 2022. Show where water should go to the culvert at the easy. You can see areas of unconsented fill, failure to fulfill prerequisite stormwater infrastructure, and failure to develop the Overland Flow Path and Wetlands for amenity protection and enhancement. Long-term saturation killed soil life, and created an anaerobic stinking environment. Killed grass and haylage crops. Flooding was finally alleviated when action was taken in March this year to let water out via 297 Te Puna Sation Rd.

22. Stormwater infrastructure should have been developed way back when the very first lot of fill was put in, way before 2012, when Mr Daniel surrendered his consent with BOPRC, right back in 2005 immediately after the 2005 zone change, because he had already been filling for some time.

23. Just to revisit that this was identified early we'll now have a look at **Evidence 3. Site Plan**. This site plan has been consistent from 2005, and is the same as still seen on

the current district plan. Note here the 3 hectares dedicated to the overland flow path and wetlands, whole zone bunding and planting. It was all right there. There's no excuse.

24. **With reference to my Evidence 4.** Which are quotes from Mr Daniels' own consultant referring to unlawful fill and remedial works.

The need for remedial works are acknowledged by Stephen Bos, engineer for the applicant, who in those quotes for the abatement hearing in July says **further modelling works are currently underway to identify potential remedial works that will result in upstream water levels being lowered.** Watching multiple properties being absolutely devastated over many months, undoing years of environmental improvement and hard work, is incredibly stressful.

We/I strongly disagree with Mr Bos's thoughts that this is all irrelevant to this particular Consent application. Failure to do correct works PRIOR to commercial activity has caused these problems. The platform itself acts as an enormous dam. Mr Daniel is making significant income from his non-compliant tenants whilst multiple properties have been and are still severely damaged, with no immediate plan of action. He has absolutely failed to improve stormwater or the environment in anyway, by failing to develop the wetlands Overland flow path. The degradation of the valley at so many levels the polar opposite of what was offered up as an asset to the community in 2005.

25. **Evidence 5.** Aerial photos

Photo 1 shows this site in the context of the valley, and clearly the lack of wetlands and flow path.

Photo 2 image is provided by Stephen Bos, Engineer for Barry Daniel. The red line shows the extent of earthwork/ fill consented by BOPRC. That was the consent that was surrendered in 2012. It is estimated at approximately 140,000 cubic meters. The

Balance of the fill, approximately 41,000 meters to the west of the red line are unconsented,

Stormwater must pass get around or through this platform to exit the valley in the northeastern corner where culverts go under the road. It can't get there. I note the Overland flow path needs to be, obviously, at a **lower** elevation than the property to the south.

Below: Google Earth 2023 205-245 Te Puna Station Rd.





Evidence 6. Set-back rule from Environment Court Ruling

Prerequisite setbacks from waterways and maintenance plans were clearly described in the 2005 Environmental Court Ruling, and accepted by the developer. Failure to adhere to these I believe has contributed to environmental degradations, and certainly a lack of enhancement. Mr Daniel has cribbed every available square meterage of leasable site at the expense of the environmental protection and enhancement. We will see a photo further on of damage to the Hakao because of that.

(85) Proposed Rule 7.3.4(q)(ii) provides for yard setbacks of five metres from the road boundary and ten metres from a common boundary with a Rural zone property. We have concluded that there should be a significantly greater setback from Te Puna Station Road and therefore would add to that provision (if it is otherwise appropriate for the change):

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

I believe the lot fences need to be pulled out, the fill banks battered back for stability and proper riparian planting margin, stability and maintenance access.

Geotech and hydrological What hasn't been addressed here yet is the geotechnical environment.

1. Te Puna translates as the Springs. Te Hakao Valley is characterized everywhere by subsurface waterways and springs. Therefore, groundwater and the interruption of that by compacted fill has to be considered.
2. In its very original state, the catchment discharged across the wide delta, across Tahataharoa salt marsh and found its way into the harbour, both overland and through the soft alluvial silt. Beneath the surface. There are literally underground waterways. How do I know that – because springs pop up in the middle of flat paddocks.
3. Early on construction of the road and the railway embankment has compressed earth layers somewhat in a west-to-east corridor leaving the main point of obvious discharge as the culvert on the eastern side of the Business Park under Te Puna Station Rd. The mauri, the ground water AND the stormwater was first interrupted at that time, forcing the water towards the only exit- the culvert under Station Rd. Now the monolith of a platform with a lack of infrastructure is like a cork in a bottle. Refer again evidence 5 photo 2

4. Evidence 7 Opus Report Appendix F This was commissioned by the three developers themselves in 2002. charts
5. It was clearly identified in 2002 Opus Report that the geotechnical conditions of this former salt marsh would require specifically engineered development. (I note the specific locations of the bore holes are not mapped but described somewhat, all except bore holes 1,2 and 10 are in this south side of Te Puna Station Rd. ground water moves, or at least used to move through these silts. It now backlogs.
6. The Opus Geotech report notes:

- the very low-lying nature of the site with groundwater at or just below surface level.
- That fill already deposited to a depth of around 2m contained ‘appreciable amounts of concrete’, leading to variable compatibility. (This was Noted in the Environment Court Ruling as ‘unsupervised earth and rubble fill’.)
- That very soft saturated silts and bluish-grey clay lenses, with negligible material strength, to depths varying between 8 through to 12+ meters.
- That there will be specific engineering requirements for road access and formation due to the geo-tech conditions.
- The report summarises that detailed geotechnical design and construction works must be carried out for each stage of development.

7.

- I. I ask how much Geotech analysis was done in the creation of this platform?

- II. I note that no external monitoring of fill has been carried out. Mr Daniel has detailed that he alone was witness to fill.

- III. I note that required **any** road widening would involve considerable Geotech engineering based on the local conditions.

- IV. That legally required drain relocation is implicated in the road widening plans. These issues that should have been dealt with PRIOR to commercial operation are many and complex.

- V. I note that No measurement of the impact of this site on groundwater flow has been evaluated. The current activities sit on a platform constructed from unmonitored material, in an ad hoc manner, over deep soft estuarine silts.

Only a thorough geotechnical, environmental investigation by a qualified hydro geomorphologist can establish the integrity of the platform and the affects the fill has had on ground water behavior.

- VI. I also note that the portion of Te Puna Station Rd adjacent to the river, also sits on similar floodplain and saturated compressible silts. If that road should re-open,

I question sustainable use by Heavy Commercial Vehicles from the Tinex site, and endorse vibration concern expressed by mana whenua as regards protection of the Pukewhanake Pa site from further slips.

8. Setback: We have looked at a little already. The roadside drain has not been relocated to within the site's legal boundaries as required.

The setback from waterways as we have mentioned already Hakao stream in particular, 20m required in the 2005 zone change has not been applied. The fill is currently collapsing into the stream and drains.

Evidence 8: Bank collapse

Photo 1 of Stream, 21/08/23 at the southern end of Tinex

Photo 2 and 3 Roadside bank collapse as will be further discussed by Sarah Rice.

Stormwater just cannot get around or through this site.

1. I believe the current activities, established without adherence to district plan prerequisite requirements should be removed as investigations and any potential remediations are undertaken.
2. Where this valley once provided a valuable service as a floodplain to receive water from the surrounding 600ha catchment, filter, and slow release into the harbour it is now choked due to lack of compensatory stormwater provision. The careful land care and management activity of other flood plain neighbours is completely undermined.
3. On the 26 Sept this year I looked at the volume of water that goes down this catchment. Data from the BOPRC website.

Rainfall measured at Odey Rd up in the ranges behind Te Puna in the previous 48 hours was 74.5mm.

Total rainfall over the 600ha catchment 447,000 cubic meters NB that was for the preceding 48 hours only.

Yearly rainfall at Odey Rd was 2617mm, being 15,702,000 cubic meters in our 600ha catchment.

That needs to go through this stream and overland flow path per annum out under Te Puna Station Rd

Evidence 9 Photos of flooding. Just flicking through some more photos.

1. View from 110 Te Puna Station after Anniversary weekend. The Tinex site blocking water from exiting the valley.
2. View from Te Puna Station Rd. Anniversary weekend 2023. The land was already increasingly inundated for months so had no capacity to absorb, filter and release.
3. Te Puna Station Rd Anniversary weekend 2023. It was later closed to all traffic as levels rose higher. Add ground water, and Geotech conditions and the road itself is vulnerable.
4. View from my property towards the Business Park. Jan 2023.
5. Water levels on pasture 17 December 2022. Water coming down the catchment flooding up farm drains and stagnating in pasture.
6. Tree damage showing the water line up their trunk from months of inundation. Many trees, trees natives and exotics which are suited to this landscape, have died. This represents years of growth and investment to replace. Soul destroying.

Summary:

4. This park was clearly stipulated to be developed as an integrated business park, notwithstanding the three separate owners. There were and are clear prerequisites for infrastructure in the District Plan, and as committed to in the initial zone change. Complete failure to proactively adhere to those obligations has had huge detrimental effects on the community the Environment Court 2005 sort to protect. The ongoing drawn-out nature of the process is having massive economic costs on neighbours not only in property damage but impact to work hours, career and life

focus. As prior Sarah will cover traffic danger and environmental degradation. Neville will speak to Cultural degradation.

5. Additionally, this incremental ad-hoc approach to development is having massive toll on the ratepayers, and financial resource of the Western Bay of Plenty from investigating complaints and compliance officer time to massive cost for consultants and legal fees for this never-ending process. Upholding of the regulatory process, insistence on robust proactive environmental protection and enhancement, and a culture of developers being held to high standards I uphold is necessary to avoid endlessly drawn-out processes and environmental degradation along the way.
6. I do not think Mr Daniel can fulfill all his remedial works and obligations within the two year Consent period requested.