

BEFORE HEARING COMMISSIONERS
IN THE WESTERN BAY OF PLENTY DISTRICT

UNDER THE Resource Management Act 1991 (“Act”)
IN THE MATTER OF RC13924L an application for resource consent to authorise four existing industrial activities within part of the Te Puna Business Park structure plan area, for a term of two years
BETWEEN **TINEX GROUP LIMITED**
Applicant
AND **WESTERN BAY OF BAY OF PLENTY DISTRICT COUNCIL**
Consent authority

Before a Hearing Panel: Rob van Voorthuysen (Chair), James Whetu (Commissioner)

REPLY EVIDENCE OF HEATHER PERRING (42A Reporting Officer) – Further response to questions raised in the Hearing.

1. This statement provides further response to questions raised by Commissioners at the hearing, specifically questions raised following the presentation of my reply statement.

Change of paint markings at ‘the intersection’ and proposed condition 5:

2. At para 70 of my Reply evidence, I stated that Mr McLean can best speak to the process that would be necessary, but I understand that the works could be undertaken by the applicant (in order to avoid condition 5 being ultra vires). Mr McLean has advised as follows:
3. *I understand that the Commissioner Van Voorthuysen has sought clarification on the process by which an external party may seek Council approval to remove existing road markings and replace them with new road markings.*

The process to be followed is the same for any party proposing to undertake works within the road corridor. I have attached a guidance document produced by WestLink that lists out the steps that must be followed. WestLink are Council’s agent and have been authorised by Council to receive Corridor Access Requests

(CAR) and issue Works Access Permits (WAP). No works may be undertaken in the road corridor without a WAP.

Prior to issuing the WAP WestLink and/or Council staff will review the proposed marking changes and instruct changes as appropriate. The methodology proposed for removing the existing markings will also be reviewed to ensure that 'ghost' markings do not pose a hazard to road users. The relevant legislation is the Local Government Act, Clause 357.

4. Mr McLean has also provided a copy of the Local Road Network Guidelines for CAR Applications Using Submitica as At 5-3-2015 for your information. This is provided as **Attachment 1**.
5. I will work with Mr Crossan to revise the draft condition to reflect the above process.

Industrial setback from waterways:

6. In relation to para 77 of my Reply evidence, Commissioner Van Voorthuysen requested that I confirm whether there are any industrial activity setbacks from waterways within the District Plan.
7. I have carefully looked at the District Plan, I can confirm that there is no rule requiring a specific setback for industrial activity from waterways. The only setbacks in the Industrial Zone chapter that apply to the site are those listed at para 77 of my Reply Evidence. However, as pointed out in the hearing, I have proposed consent condition 15:

THAT no buildings (relocatable dwellings) or pool shells will be stored within the following boundary setbacks:

- (a) From the southern and eastern site boundary – 10m;
- (b) From the northern (road-side) boundary – 20m.

8. I understand that the applicant is willing to accept these setbacks.
9. I note that it is possible that the Regional Plan may contain Riparian Margin rules that may govern how close such activity could occur to the Hakao Stream, but that should be confirmed with Regional Council by the applicant.
10. I also note that Chapter 5 of the Operative District Plan covers the Natural Environment, and although this Chapter generally relates to identified/mapped

Significant Natural Areas and Ecological Features, the explanatory statement does provide that:

The Natural Environment Section relates to the areas marked on the District Planning Maps and listed in Appendix 1 as Significant Ecological Features but can be used as a guide for assessing other ecological sites through the resource consent process. Any activity assessed under the Natural Environment Section also needs to be assessed under the relevant rules that apply to the underlying zone.

11. The Chapter contains a number of Objectives and Policies that seek to manage the natural environment within the District and appear to incorporate matters that would fall within Part 2 RMA (including s6(a) and (d) RMA). I set out those objectives and policies, which could be considered relevant to the question of proximity of industrial activity at the site to Te Hakao:

Objective 5.2.1.3 *Preservation of the natural character of the District's coastal environment (including the coastal marine area), rivers, lakes, and their margins.*

Objective 5.2.1.4. *Preservation of wetland and riparian areas and where practicable the enhancement or restoration of the values and function of degraded wetland and riparian areas.*

Policy 5.2.2.9. *The adverse effects of inappropriate subdivision, use and development on the natural character of the coastal environment, wetlands, rivers, lakes, and their margins should be avoided. Where avoidance is not practicable, such effects should be appropriately remedied or mitigated.*

12. In terms of rules, there do not appear to be any rules in this Chapter that apply to the Site or Te Hakao Stream. That may be explained by Section 5.3 (Applicability) of the Plan, which states:

These rules apply to features of ecological significance. Refer to the Planning Maps for location and Appendix 1 for further details.

13. Te Hakao Stream is not listed feature of ecological significance. As such, there are no rules in this Chapter that apply to the Site or Te Hakao Stream, which would require a setback of the industrial activity from the waterway, but I consider the above objectives and policies to be relevant to the question raised by the Commissioners.

14. As an aside, I would acknowledge that for the first application (which is not before the Commissioners to determine), Council's reserves department has expressed a very strong desire to establish an esplanade reserve alongside Te Hakao Stream (which could be achieved via the Esplanade rules within the Subdivision and Development Chapter); and I understand that Mr Daniel is open to discussing possible vesting of land for this purpose.

Water Financial Contribution Waiver:

15. Regarding the water financial contribution waiver discussed at para 93 of my Reply evidence, I recommend that the advice which Mr Crossan reported from a telephone conversation with Mr Paul van den Berg be verified with Mr van den Berg.
16. I have appended Mr van den Berg's full reply email on this question, as **Attachment 2**. The key content of the reply is as follows:

I am Western Bay of Plenty District Council's Infrastructure Engineer – Water.

- Shae Crossan phoned me on 19th September. At no time during the conversation did Shae:
 - Name a client
 - State that this was in regard to a limited consent
 - State that this was in regard to a pending Hearing
 - State that this was in regard to a water requirement Condition 23 of any named document.
 - Shae enquired about the water supply in Te Puna Station Road for the "Industrial Park" lots.
 - Shae is correct in that I stated the conversation was held without prejudice, as I was discussing the water supply network without plans to refer to.
 - I said that the existing water main in Te Puna Station Road is a 100mm dia' AC (asbestos cement) main, and the main in Te Puna Road which feeds Te Puna Station Road is a new 200mm dia' PE (polyethylene) water main therefore the water main could be upgraded if required, depending on how much water the Industrial Park customers required.
 - We also discussed the option of "on-site storage tanks" as an alternative means to provide for fire-fighting and potable water demand capacity for the site.
 - I said to my knowledge that I am ***NOT*** aware of a requirement to upgrade the main within the Structure Plan, but the main would be replaced sometime in the future as part of Council's Renewals Plan but not in the near future.
17. After reviewing this response from Mr van den Berg I revise my opinion expressed

at para 93 regarding the waiver of a water financial contribution as follows (deletions in strike-out and additions underlined):

Regarding the recent change to the application for waiver of the water financial contribution, I do not find the same issue exists. Rule 12.4.16.5.b provides flexibility, allowing payment when requested by Council on approval of any subdivision, building or resource consent or required as a condition thereof. Given that Council's Water Network Engineer has reportedly confirmed to Mr Crossan that the ability to upgrade the reticulated pipe in Te Puna Station Road is ~~not~~ feasible in the short term, but is not in Council's near future renewals plan, I ~~accept~~ consider that a contribution is unwarranted for this application, proportional to the area of the site being utilised. As such I recommend retention of the Water contribution as originally included in condition 23. ~~However I do recommend that this advice is verified by Mr van de Berg in writing prior to making a decision on this application.~~

Stormwater Discharge and s15 RMA

18. On the matter of permanent stormwater discharge and whether s15 RMA is relevant to the application, and after discussion with Regional Council, I wish to correct my answer to that question. In regard to the drains being man-made, this means that the drains are not classed as Rivers under the RMA, and as such any physical structures in them such as the proposed culvert replacement would not trigger the Regional Plan (or NES-FW culvert regulations). However, discharges from those construction works, and/ or permanent stormwater discharge from the site to the drains where it may enter water is still a relevant matter under the Regional Plan. Regarding Mr Crossan's statement at para 54 of his evidence, upon a fresh reading and in light of the above, I believe this statement only confirms that the physical works do not trigger a regional consent. It does not appear to address the question of possible discharge consent. I recommend further clarification/comment on this matter be provided in the applicant's right of reply.



Heather Perring

Senior Consultant Planner

On behalf of Western Bay of Plenty District Council.

13 October 2023

Attachments:

1. Local Road Network Guidelines for CAR Applications Using Submitica as At 5-3-2015
2. Email from Mr Paul van den Berg.

To Whom It May Concern

GUIDELINES for the submission of WBOPDC Local Road **Utilities (e.g. power, water, gas, telephone) and Non-Utilities (e.g. events, tree removal, subdivision work or other work in Road Reserve)** CARs (Corridor Access Requests) through the Submitica website as at 5-3-2015.

The key steps for making a CAR submission are as follows:

1. Create a user access and log into the Submitica website and enter the CAR Submission Details On-Line

The web site is at: <http://www.submitica.co.nz>

Create a user account with Submitica if you have not done so before.

- Ideally the Contractor doing the actual physical works should be making the on-line CAR submission on behalf of the Client or Utility Operator. In some cases the Traffic Management service provider can make the submission if they have all the information required.
- For large scale project works, we encourage the Utility Operators or Applicant to make the on-line submission. Ensure the full contractor details are provided.
- TMP providers will be providing their contractor or clients electronic copies of the agreed TMP to upload.

Complete the submission steps through Submitica - this is done by drop box selections

- Ensure you include full contact details of the applicant, Utility Operator, Contractor and Traffic Management provider involved in doing the work.
- When completing the 'details section' use 'lay person non-technical' language to describe the work
- For significant jobs, describe the detailed work methodology for each phase of the work.

Useful Tip #1 – Check out the training videos on the Submitica website if you are unclear on how to make the submissions.

Useful Tip #2 – When making a CAR submission additional participants (i.e. Traffic Management Providers or Civil Contractors) can be included which will allow those participants to see the CAR submission when logged into Submitica.

Please note that at this stage Submitica requires a TMP to be uploaded with the CAR submission. WBOPDC and WestLink BOP accept this is not possible in all situations and suggests a document 'TMP to be submitted' is uploaded. A TMP can be uploaded at a later stages. Note-Works Access Permits (WAPs) will not be issued without an approved TMP therefore applications will be put on hold until a TMP is uploaded.

2. Upload a Detailed Plans and a Cross-Section Drawing of the Proposed Works

Once the CAR has been made through Submitica, Plans, TMPs and other documents can be uploaded against this CAR either at the time of the initial submission or at a later date.

Note that the CAR submission cannot be signed off by the Corridor Manager until all the documents detailed below have been received, reviewed and approved by the network auditor.

In addition to indicating the proposed indicative location of the works on the Submitica website two additional detailed drawings are usually required to be uploaded as follows:

- Detail Plan(s)* (birds eye view) – needs to show the full extent of the work including the total length of the works on the State Highway. The actual new work should be highlighted/shaded or shown in a different colour from the surrounding existing utilities. The distance to the nearest side road from the

start /end of the works should be shown on the drawing (+/- 2m). Larger jobs will require multiple plans and should be Auto-Cad drawn. Marked up photograph drawings can be utilised to clarify positions.

-*Cross section Plan(s)* – to show the level of the proposed facility in relation to the existing pavement surface and berm. The minimum depth of all services is generally 1m under the road formation (this includes sealed surface, shoulders, water tables and kerbs). All services are to cross the road at right angles transversely. No open trenching or mole ploughing in the - strictly directional drilling or thrusting. The cross-section(s) drawing for small utility jobs may be hand drawn.

-The Corridor Manager may waive the requirement for the upload of the above drawings if the submission is for minor small scale utility works generally involving maintenance or minor amendments to existing infrastructure.

Maximum A3 size (not A2 or A1) A4 Size is acceptable provided the job details can be clearly read. All drawings shall be sequentially numbered. All drawings detailed below can be on one page provided the job details can be clearly read. Show your Reference number/Contract Number on the drawings.

Useful Tip #3 – Make the most of WBOPDC Council Aerial photographs at <http://mapi.westernbay.govt.nz/SilverlightViewer/?Viewer=Public> and Google Street View photos to include with plans.

3. Upload the TMP (Traffic Management Plan)

Uploading of the TMP should preferably occur with or soon after the initial CAR submission. The TMP shall be prepared and executed by an approved Traffic Management Provider qualified for the COPTTM Level of Local Road that the TMP pertains to.

The Approved By TMC/Engineer Box in the TMP Proforma must be signed off by a person familiar with the site & proposed works and COPTTM qualified for the Level of road the TMP pertains to. The TMP preparer cannot sign off this box.

Note that the CAR submission cannot be approved by the Corridor Manager until the TMP is received and approved by the network TMC.

You will know you have generated a CAR if you get an e-mail back from no-reply@ramm.co.nz telling you so. **(Useful tip #4 – Do not delete emails from no-reply@ramm.co.nz as they contain very useful information for each individual CAR).** If for some reason you do not wish such a CAR to proceed then simply advise either Phillip Barnes, Ron Raikes or John Broughton (Network Auditors) via e-mail to tm@westlinkbop.co.nz and delete CAR in the Submitica system.

3. Manage the Corridor Access Request

When the Corridor Manager is satisfied all requirements have been met a Works Access Permit (WAP) will be issued. This also comes via the no-reply@ramm.co.nz email address. This email contains two important links to advise notification of Work Start and Work End for the works. This replaces the Works Completion Notification (WCN) form.

Note that work that is not completed remains the Applicants responsibility and has not entered any Warranty Period. Ensure the Work Start and Work End notifications are completed. This is done by clicking the link within the approval email or logging onto Submitica.

Support assistance for Submitica is available from RAMM support on 0800 256 832 or 09 475 0500 or support@ramm.co.nz

Regards,



Phillip Barnes | Network Engineer | WestLink Bay of Plenty

Phone +64 7 577 4680 | Mobile +64 21 914 764 | Fax +64 7 579 5689 | Email phillip.barnes@westlinkbop.co.nz
58 Taurikura Drive, Tauranga 3112, New Zealand. PO Box 747, Tauranga 3140, New Zealand www.westlinkbop.co.nz

Please note the change in details.

Inroads expired on 31 October 2014 along with the PBC-01 contract.

WestLink Bay of Plenty was launched on 1 November 2014 with the new ONMC contract.

From: Paul van den Berg
Sent: Thursday, 12 October 2023 1:44 pm
To: Heather Perring
Cc: Natasha Ryburn; Nanci Butler; EJ Wentzel; James Abraham
Subject: RE: RC13924L - Tinex hearing - water supply query

Hi Heather,

Thank you for your email, with regards to the telephone conversation I had with Shae Crossan on 19th September.

My response for the Commissioner's request for confirmation in writing of that conversation, and to Shae's evidence written below, is as follows;

I am Western Bay of Plenty District Council's Infrastructure Engineer – Water.

- Shae Crossan phoned me on 19th September. At no time during the conversation did Shae:
 - Name a client
 - State that this was in regard to a limited consent
 - State that this was in regard to a pending Hearing
 - State that this was in regard to a water requirement Condition 23 of any named document.
- Shae enquired about the water supply in Te Puna Station Road for the "Industrial Park" lots.
- Shae is correct in that I stated the conversation was held without prejudice, as I was discussing the water supply network without plans to refer to.
- I said that the existing water main in Te Puna Station Road is a 100mm dia' AC (asbestos cement) main, and the main in Te Puna Road which feeds Te Puna Station Road is a new 200mm dia' PE (polyethylene) water main therefore the water main could be upgraded if required, depending on how much water the Industrial Park customers required.
- We also discussed the option of "on-site storage tanks" as an alternative means to provide for fire-fighting and potable water demand capacity for the site.
- I said to my knowledge that I am ***NOT*** aware of a requirement to upgrade the main within the Structure Plan, but the main would be replaced sometime in the future as part of Councils Renewals Plan but not in the near future.

This is my recollection of our conversation.

Ngā mihi | Kind regards,

Paul van den Berg

Infrastructure Engineer Water

Kaipukaha Wai



Western
Bay of Plenty
District Council

For our
people

E paul.vandenberg@westernbay.govt.nz

P 07 571 8008 | FP 0800 926 732

1484 Cameron Road, Greerton, Tauranga 3112

From: Heather Perring <Heather.Perring@westernbay.govt.nz>
Sent: Thursday, October 12, 2023 12:40 PM
To: Paul van den Berg <Paul.vandenBerg@westernbay.govt.nz>
Cc: Natasha Ryburn <Natasha.Ryburn@westernbay.govt.nz>; Nanci Butler <Nanci.Butler@westernbay.govt.nz>
Subject: RC13924L - Tinex hearing - water supply query

Hi Paul,

I understand you have been discussing with Tash the matter of what was discussed with Shae Crossan by telephone on 19th September 2023, regarding water supply and a potential water financial contribution waiver.

The Commisioners have requested that by the end of this week we provide confirmation in writing of that conversation and as follows from my hearing evidence:

Regarding the recent change to the application for waiver of the water financial contribution, I do not find the same issue exists. Rule 12.4.16.5.b provides flexibility, allowing payment when requested by Council on approval of any subdivision,

building or resource consent or required as a condition thereof. Given that Council's Water Network Engineer has reportedly confirmed to Mr Crossan that the ability to upgrade the reticulated pipe in Te Puna Station Road is not feasibly in the short-term, I accept that the contribution is unwarranted for this application. However I do recommend that this advice is verified by Mr van de Berg in writing prior to making a decision on this application.

Here is what Shae said in his evidence:

With respect to the water requirement in Condition 23, I have held a without prejudice discussion with Council Senior Water Utility Engineer Mr Paul van der Berg on a without prejudice basis on 19th September 2023. Mr Van de Berg confirmed that he was aware there was a requirement to upgrade the water supply in Te Puna Station Road within the Structure Plan, however he noted that this is not within any of Council's current plans or asset management plan a schedule of works for the coming years. Given this consent has a limited timeframe of two years and the activities are low water users coupled with the fact that the existing water network cannot prove firefighting capacity/pressure, I consider that a water financial contribution is not required and this part of the condition can be deleted.

I have tried to call you to discuss – please call me back on the number below.

Thanks

Heather

Heather Perring

Senior Consultant Planner

Kaimahere Matua Whakaae ā-rawa



E heather.perring@westernbay.govt.nz

P 021 619 602

1484 Cameron Road, Greerton, Tauranga 3112

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