

**BEFORE HEARING COMMISSIONERS
IN THE WESTERN BAY OF PLENTY DISTRICT**

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| UNDER THE | Resource Management Act 1991 (“ Act ”) |
| IN THE MATTER OF | 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 |

STATEMENT OF EVIDENCE OF SHAE CROSSAN

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

INTRODUCTION

Background, qualifications and experience

1. My full name is Shae Matenga Crossan.
2. I am a Director and Planner at Stratum Consultants Limited, a multidisciplinary planning, surveying, and engineering company operating throughout the Bay of Plenty. I oversee the planning and resource management work within the practice and have 18 years work experience. The Company operates within the Bay of Plenty, and I have personally worked within the Bay of Plenty and for Stratum Consultants Limited since 2008.
3. I hold the qualifications of Bachelor of Geography (2003) and Masters of Regional & Resource Planning (2005) from the University of Otago. I am a full member of the New Zealand Planning Institute.

4. I have experience with several planning projects in the wider Bay of Plenty area including various subdivision and landuse activities and Regional consenting matters (water takes, discharge consents, earthworks consents, contaminated soils matters) within the rural, residential, industrial and commercial sectors.
5. I also have significant policy experience, working on District Plan reviews and Plan Changes for both Council and private parties, private plan changes and in more recent times IPI Plan reviews across a number of consenting authorities.
6. I have been involved with resource consenting matters on the subject site and as the applicants Planning Consultant since 2021. This has included preparation of resource consents relating to compliance with the Te Puna Business Park Structure Plan, a retrospective earthworks consent and preparation of the current application to legitimise four existing activities on the site.
7. I have also been involved in Environment Court mediation regarding abatement notices the site is subject, Joint Witness Conferencing on stormwater matters and preparation and presentation of planning evidence at the recent Environment Court hearing regarding the abatement notices in August 2023.
8. I am very familiar with the subject site and surrounding environment having visited it on a number of occasions over the last two years.

Purpose and scope of evidence

9. The purpose of my evidence is to address planning matters and provide my planning opinion on the application at hand. I respond to planning matters raised by the Councils Reporting Officer, Ms Heather Perring in her s42A report.
10. I have prepared this evidence to help answer the key planning questions relating to the Application. In particular, I summarise the nature and significance of effects (drawing upon the information in the applicant's specialist reports and expert evidence), and I provide my assessment of the relationship of the proposal with the provisions of the relevant planning instruments, as well as section 104D, section 104 and Part 2 of the Act.

11. In addition, I have reviewed the provisions of the planning instruments that I consider are relevant to the proposal as detailed in the application. These include the National Policy Statement for Freshwater Management, the National Environmental Standard for Assessing Soil Contaminants in Relation to Human Health, the Operative Regional Policy Statement, the Operative Regional Natural Resources Plan, and the Operative Western Bay of Plenty District Plan. I will address these where relevant within my evidence.
12. I have concluded that granting consent to the proposal, in the round, will not be contrary to the relevant objectives and policies of the planning instruments that relate to the core contested issues to be considered for the Application, i.e. Transportation Effects, Landscape & Visual effects
13. I have relied on the expert evidence and reporting of Mr Bruce Harrison (Transportation), Mr Stephen Bos (Stormwater Quality & Access Construction), Mr Jon Styles (Noise), Mr Oliver May (Landscape & Visual and Planting), and Mr Steven Joynes (Flooding) to draw some of the conclusions I have made.
14. I have also relied on the evidence and discussions from Mr Barry Daniel, one of the Directors of Tinex Group Limited on relevant background matters that occurred prior to my involvement with the site and project.
15. To note, I have also held verbal discussions with Ms Marlene Bosch, Principal Consents Advisor of the Bay of Plenty Regional Council as to Regional Council consenting requirements around the site access upgrade and Mr Paul van den Berg, Western Bay of Plenty District Council Senior Water Network Engineer as to water supply within Te Puna Station Road. I will expand on these discussions in my evidence.

Expert witness code of conduct

16. I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's 2023 Practice Note. While this is not an Environment Court hearing, I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

SUMMARY OF EVIDENCE

17. In summary, I have concluded the adverse effects of the proposal are no more than minor overall. I consider that overall effects from the proposed development can be appropriately mitigated by conditions of consent.
18. Whilst there is an acknowledgement that the activities have established without a resource consent, a resource consent is being sought and overall, my planning opinion is that the activities are not contrary to the relevant objectives and policies of the plan and the relevant planning framework.

BACKGROUND

Proposal

19. The proposal is set out in the application documents and within Ms Perring's s42A Report. To summarise, the proposal seeks a temporary consent for a period of two years for the following activities to operate on the site located at 245 Te Puna Station Road:
- (a) A & J Demolition¹ (House and Construction Material Storage and renovations)
 - (b) Compass Pools Storage (Swimming Pool Shell Storage)
 - (c) Total Relocation House Transporters (House Storage)
 - (d) Earthmover Tyre Services (Heavy Machinery Tyre Storage)

Zoning

20. Ms Perring has set out in her s42A report the background of the zoning of the site and how this has been established through the original private plan change process, environment court appeal and decision and subsequent District Plan review through Paragraphs 40 – 48. I largely agree with the process that Ms Perring's outlines, however, consider some of the opinions that she expresses, such as the applicant having "intimate" involvement with the Court processes and their awareness of matters "agreed" should be treated with some caution, as she was not involved with the process at

¹ Noting that A&J have sister or subsidiary companies operating on their site under the A&J umbrella.

the time. Mr Barry Daniels, one of the applicants expand on this further in his evidence. I also note that at times she places reliance on an Agreed Statement of Facts that was put forward as part of the Plan Change process. I understand that it is questionable as to whether this Statement of Facts actually still imposes obligations outside those that found their way into the District Plan. I have primarily relied on the District Plan requirements in my assessment, as they currently exist.

Engagement, Earthworks & Development History

21. In late 2020, Stratum Consultants Limited were engaged by the applicant to assist with the preparation of a land use consent to authorise industrial activities that the landowner had allowed to locate, as tenants, onsite at the Property.
22. At that time, earthworks had already occurred to establish areas for use by individual tenants. I understand that the applicant had proceeded with earthworks at various points in time from 2002, originally under a Bay of Plenty Regional Council Consent, and then on the understanding that the earthworks were permitted under the Regional Plan, complying with a permitted standard under the regional plan of 5,000m³ over 1 ha per year. Unfortunately, the applicant had not realised that resource consent was required from at least 2012 under the Operative Plan for WBOPDC, for earthworks exceeding 5m³ within an identified floodable area (which the Property falls within). It does not appear as if WBOPDC had raised issues with the earthworks occurring at the time that they were being undertaken.
23. I was not closely involved at the start of Stratum's involvement but have become more involved as time has progressed.
24. When I became involved with the project, the four activities subject to the current resource consent application were located on the site. I understand that earlier, a larger tyre storage operation has been located on the site also but had since been removed. A concrete crushing operation within the A & J Demolition tenancy on the site had also ceased.

Structure Plan and Earthworks Resource Consent Applications

25. From late 2020 to early 2021, various meetings and correspondence occurred with WBOPDC, and the landowner engaged various specialists and obtained independent reports to support a land use consent to authorise departures from some of the requirements of the Te Puna Business Park Structure Plan. In June 2021, a land use consent (RC12979) was submitted to WBOPDC.
26. In late June 2021, WBOPDC put the application on hold pursuant to s91 of the RMA until an application for “retrospective” consent was lodged in respect of the aforementioned earthworks that had been undertaken without WBOPDC consent. This error had only come to light during the processing of land use consent RC12979.
27. In early July 2021, WBOPDC issued a “draft” s92 request and general comments on the land use application RC12979. From that point, until June 2022, the landowner engaged external consultants to complete a traffic assessment, landscape management plan, flooding assessment, and undertake additional stormwater investigations in respect of the unconsented earthworks.
28. In April 2022, the landowner submitted an application for retrospective earthworks to WBOPDC (RC13474).
29. In May 2022, an Abatement Notice was issued, requiring by 1 November 2022 that the landowner cease:

... using the property at 245 Te Puna Station Road, Te Puna, for any industrial activity (including, but not limited to, as a storage facility for swimming pools, as a storage facility for relocatable homes, as an earthmoving tyre company depot, and as a demolition company depot).
30. With five and a half months to comply, and both consent applications (land use and earthworks) in train, the landowner was hopeful of making good progress towards authorising the current activities by the required 1 November 2022 date.
31. In June 2022, WBOPDC issued a formal s92 request on the land use and earthworks consent applications. In my opinion, this required significant additional information that had not been signalled in the earlier “draft” s92 request. It was inevitably going to take some time to respond to, and the

applicant did not wish to refuse the information request, as that would have triggered mandatory public notification of the applications. While the Council's decision on notification cannot be pre-empted, I am of the opinion that, at most, limited notification might be required. So, refusing to provide all the information (some of which I consider to be unnecessary) was not a favoured option for the landowner.

32. A response was submitted to the formal s92 request from Council in October 2022, however further clarification has been sought from Council on some matters and this is still being further worked through. The bulk of clarification information is fundamentally in relation to stormwater/flooding and transportation and involves all three Te Puna Business Park owners and Council and is complex. However, solutions are emerging. I am confident that technical matters will be agreed.

Existing Use Consent Application

33. As a way to focus on the existing activities (to which the Abatement Notice proceedings relate) and legitimise them as soon as possible, on behalf of the applicant, I prepared the subject resource consent application seeking to allow the existing activities to operate on the site for an interim period of two years until the wider structure plan requirements were consented and constructed. I remain confident that consent applications RC12979 and RC13474 can be consented within that time period. They will then authorise both the current and future activities on the site, and so the temporary consent application that is being sought through this process will no longer be necessary.
34. In order to try to "speed up" the processing of the application and resolve arguments around potentially affected parties, the appellant made a request to publicly notify the application in April 2023 and advised Council that it would not be responding to certain parts of the s92 request.
35. In my opinion, the applicant has done everything that it can to have this application heard as soon as possible.
36. In the meantime, an appeal against the Abatement Notice was heard by the Environment Court (at the end of July 2023). No decision has yet been issued.

37. From what I heard at the recent Environment Court hearing from both the applicant and the tenants through their evidence, is that the application and obtaining consent for the existing activities is vitally important to both parties.
38. From the applicant's point of view, I understand that the income they derive is being used to fund consultant works and will also assist with the entrance upgrading to the site, payment of Financial Contributions and creation of the structure plan overland flow paths necessary for their wider structure plan application – all of which have significant costs.
39. From the two tenants that I heard give evidence in the Environment Court on behalf of A & J Demolition and Total House Relocations, I understand that the site is critically important to these operators continuing in business given the lack of affordable, available space elsewhere within the district and continued employment of staff.

STATUS OF THE APPLICATION

40. The application is a Non-Complying Activity under 21.3.12(d) of the Operative District Plan for development proceeding ahead of meeting all obligations of the Te Puna Business Park Structure Plan. I agree with Ms Perring on this and there is no debate on the overall activity status.
41. I do not agree with the inference Ms Perring makes at Paragraph 79 of her evidence that consent could also be required as a non-complying activity under Rule 4A.1.4 of the District Plan for activities that are not considered by the plan. The activities are activities in my view that are envisaged within the Industrial Zone. Regardless, it is a somewhat moot point and does not change the substantive assessment required as a Non-Complying Activity under 21.3.12(d) and the relevant provisions of the Act. All relevant effects require consideration, and the threshold tests of section 104D need to be met.
42. Ms Perring has set out a detailed list of the relevant consents triggered. I largely agree with these.
43. As Ms Perring notes in paragraph 28 of her report, I confirm that an additional resource consent is triggered by earthworks associated with the

access upgrade, the details of which have only relatively recently been confirmed. Rule 8.3.3(c) of the District Plan requires consent as a Restricted Discretionary Activity for an exceedance of 5m³ of earthworks within a floodable area. Further to the Commissioners Direction on 12 September 2023, I have made a separate assessment of those provisions as attached at **Attachment 1**, and discuss the effects of this within my evidence below.

44. The relevance of Performance Standard 12.4.167.2.b, which relates to the upgrade of the Te Puna Station Road/Te Puna Road intersection, is a significant point of difference between myself and Ms Perring as she notes at paragraph [82] of her report. Whilst compliance/non-compliance with the performance standards would not change the overall activity status, it is important in terms of transportation as set out in the evidence of My Bruce Harrison, which I will discuss in detail later in this evidence. I elaborate on this below.
45. Rule 14.4.167.2.b as set out in the District Plan refers:
- b. **To mitigate the impact on the Te Puna Road/Te Puna Station Road Intersection:**
- Prior to commencement of any industrial or business activity on the Te Puna Business Park land, the Te Puna/Te Puna Station Road intersection must be upgraded to include provision for left turn and right turn movements or similar traffic management alternatives. Written evidence is to be provided to Council that the design and construction of the intersection upgrade, or similar traffic management alternatives, is to the satisfaction of the Council's Group Manager Infrastructure Services.
46. Contrary to Ms Perring's assertion at her paragraph [82], the provision does not specifically require or default to automatically requiring a right turn bay, but rather provides more generally for "left turn and right turn movements or similar traffic management alternatives". In my opinion, this provision – in the form adopted into the District Plan –leaves room for other measures to be undertaken to satisfy that requirement. As a planner, I consider it best or common practice to apply what the Plan says. If the Council had required a very specific treatment, then it should have said so, and if the Council is concerned that it does not reflect what is intended, then it has had plenty of time to advance a plan change to update the provision. I explain below what upgrades have occurred and how the Council had previously agreed that the requirement of the Plan had been met.

47. It is evident from aerial photography that works were undertaken at the intersection to provide left and right turn movements from Te Puna Station Road onto Te Puna Road sometime between 2012 and 2014. Refer images below:



Image 1: Te Puna Road/Te Puna Station Road Intersection with no left/right turn provision (Source: WBOPDC GIS 2023)



Image 2: Te Puna Road/Te Puna Station Road Intersection with left turn/right provision from Te Puna Station Road to Te Puna Road (Source: WBOPDC GIS 2023)

48. Accordingly, as a matter of fact, there has been provision for left and right turn movements installed at the intersection.
49. The Council also confirmed that the necessary improvements had been undertaken in the Agreement dated 21 July 2020:
- E. The Te Puna Road/Te Puna Station Road intersection has been upgraded by Council which satisfies the requirements of District Plan clause 12.4.16.2(b).
 - F. The roading improvements remaining that are required to enable the Industrial Area to develop is the traffic calming on Clarke Rd.
50. This was reiterated in an email from Council's Resource Management Manager Phillip Martelli at the time on 23 May 2019 (**Attachment 5**) that stated (emphasis added):
- ...Council has undertaken the traffic assessment of Te Puna Station Road/SH2 intersection. The current performance of the intersection meets the requirements of the District Plan. The Te Puna roundabout meets the requirements for that intersection upgrade, and the Te Puna Road/Te Puna Station Road intersection has been upgraded. The roading improvements remaining that are required to enable the industrial area to develop is the traffic calming on Clarke Rd (apart from your own internal road entranceways onto Te Puna Station Road). As discussed with each of you previously, Council has investigated the option of Council arranging for these traffic calming requirements, and recouping the costs from yourselves. This traffic calming is a requirement of the District Plan, and must be in place prior to you as landowners being able to give effect to the Industrial Zone.
51. The applicant has relied on this advice from Council to date, in forming its understanding that the roading works associated with this intersection had been completed and that, in fact, all structure plan roading requirements excepting the individual site accesses had been met. This is a significant point in terms of any suggestion that the applicant has proceeded on a cavalier or dishonest basis in allowing the activities that consent is being sought for to establish at the time they did. Mr Daniel will provide further evidence as to the circumstances relating to the establishment of the activities and what he was told by the Council at the time.
52. Returning to Performance Standard 12.4.167.2.b, in my opinion, based on the above evidence, the requirements of Performance Standard 12.4.167.2.b have been satisfied. It may be that different requirements were intended, but that is not what the Plan says. If there is a deficiency in the Plan and what it says isn't what was intended, then the Plan should be corrected via a Schedule 1 RMA Plan Change process.

53. A further assessment of the District Plan provisions I have undertaken is included within the original application and documents and further information response (Attachment 1 and Attachment 3 of the s42A report).
54. With regard to paragraph [31] of Ms Perring's report, I have assessed the proposed culvert installation and earthworks associated with the accessway upgrade against the Bay of Plenty Regional Council Natural Resources Plan. My assessment is that these works are permitted under this plan (Bed of Water Chapter and Land Management Chapter) due to the fact that the works and culvert are to be undertaken within a drain (roadside of farm drain) which is not classed as a water body and earthworks volume and area meets the permitted level threshold. I subsequently spoke to Ms Marlene Bosch, Principal Advisor – Consents via telephone on the 19th September 2023 who confirmed my assessment.
55. With regard to contaminated soils matters, as directed by the Panel's 12 September 2023 minute, the applicant has engaged Mr Alan Woodger (Senior Environmental Scientist) of BCD Group to undertake soils samples and analysis from the accessway area. The results from that analysis and a summary letter are attached as **Attachment 2**. In the same attachment, I have also included an assessment whereby I consider that: either the National Environmental Standard for Assessment Soil Contaminants in relation to Human Health (NESCS) does not apply; or the works can be undertaken as a permitted activity under the NESCS due to meeting the permitted activity conditions. Based on Mr Woodger's analysis and information, I am also of the view that based on the results the land is not defined as contaminated land under the Regional Natural Resources Plan and would not trigger any consents under that plan.

STATUTORY CONSIDERATIONS REQUIRED BY THE ACT

56. While I wish to avoid repeating provisions of the Act and the District Plan that are identified in Ms Perring's s42A report, to establish the basis of my opinions it is necessary for me to summarise the Act assessment requirements under which the application is to be considered.
57. The application is determined to be a Non-Complying activity under the Operative District Plan. The proposal is therefore to be assessed against Section 104D of the Act, in addition to Sections 104 and 104B.

58. Section 104 requires that consideration of the application shall, subject to Part 2, have regard to:
- (a) the actual and potential effects on the environment of allowing the activity;
 - (b) Relevant provisions of the National Policy Statement for Freshwater Management, the National Environmental Standard for Freshwater, the National Environmental Standard for Assessing Soil Contaminants in Relation to Human Health, the Regional Policy Statement, the Regional Natural Resources Plan, and the Operative WBOPDC District Plan; and
 - (c) any other matter considered relevant and reasonably necessary to determine the application.
59. The section 104 assessment is also subject Part 2 of the Act. I disagree with Ms Perring's position at paragraph [297] of her s42A report that it is not necessary to consider the application against Part 2. This is because there is debate as to whether the District Plan anticipates activities being consented ahead of the Structure Plan requirements being met, and, the fact that this is a retrospective consent, on a temporary basis. I note that despite saying that she has considered Part 2, Ms Perring provides no detail in her report as to how she has done so. I consider the proposal against Part 2 specifically below.
60. Applying Section 104D of the Act, commonly referred to as "the gateway test", a resource consent for a Non-Complying activity may only be granted if either:
- (a) The adverse effects of the activity on the environment will be minor; or
 - (b) The application is for an activity that will not be contrary to objectives and policies of the District Plan.
61. For the purposes of this evidence, I consider the most relevant planning instruments to be the National Policy Statement for Freshwater Management, , the National Environmental Standard for Assessing Soil Contaminants in Relation to Human Health, the Regional Policy Statement,

the Regional Natural Resources Plan, and the Operative WBOPDC District Plan;

SUBMISSIONS

General

62. Ms Perring has included a detailed summary of the submissions received in respect of the application in her s42A report. I agree with her summary of the number and content of the submissions received. I further note, however, that while there are a large number of submissions, many of these submissions are pro-forma type submissions from families including children. It is the content that is important and not a weight by numbers situation in my view. I am aware that there was something of a “Facebook campaign” to encourage submissions to be made.
63. I will comment on the key matters arising from the submissions below, although note, where these relate to effects of the activity, that these are largely addressed in my effects assessment below, along with the evidence of the experts in relation to traffic, landscape and visual effects, noise and stormwater.

Compliance & Structure Plan

64. As a matter of clarity, a number of submissions raise issue with the business park and the underlying zoning as a whole. Revisiting the zoning of the site or its change from a Rural Business Park to an Industrial zoning is not something that is a matter of consideration for this application for resource consent, and to be considered would need to be subject to a plan change process.
65. Furthermore, the compliance history of the applicant, as Ms Perring also notes, is not something that should be used in a punitive manner in respect of this retrospective resource consent application. The focus should, in my opinion, be on the effects of the activities, as well as the objectives and policies, without any additional “past compliance overlay”.
66. There also is some angst amongst submitters in opposition that the applicant has (allegedly) done “nothing” to meet the structure plan over the preceding 18 years since the development was authorised by the

Environment Court. In my opinion, even if true, this is irrelevant from a planning perspective. A District Plan allows certain activities to be undertaken, on specified conditions. It does not compel a landowner to advance works at any particular time, rather it sets the framework for how they are to be undertaken when they are undertaken. Furthermore, as a matter of fact, the applicant has been making progress with various requirements of the District Plan, including the undertaking of significant planting and bunding on the site. Mr Daniel has also advised me that they have paid in the order of \$110,000.00 towards the Clarke Road traffic calming and had understood – based on the Council's representations – that all traffic matters external to the site had actually been resolved a discussed earlier.

67. In all reality, despite it being 18 years since the business park was authorised, in my view it was very unlikely that anything would have been able to proceed prior to the State Highway 2/Te Puna Road roundabout being constructed in any case and, due to the scale, cost and complexity of this project the business park owners would likely have always been dependant of Waka Kotahi (formerly NZTA) to complete these works. As I have noted previously the applicant has been working on consenting these activities since 2020.

Stormwater & Flooding

68. Many submissions raise issues with respect to flooding in the wider catchment in relation to the effect of unlawful earthworks undertaken on the site.
69. Flooding matters and unlawful earthworks are being addressed as part of the applicants first and second resource consent applications. The activities subject to this application are located on lawfully earthworked land and as demonstrated by the stormwater experts for both the Council and the applicant, the activities sought as part of this application have a minimal impact in stormwater runoff from the site.

Transportation

70. With regard to traffic, mitigation is proposed that will alleviate safety issues at the site access and also the use of Clarke Road by heavy vehicles which has been raised in many submissions.

71. Whilst I acknowledge that some heavy traffic results from the applicant's site, I note that there are other activities operating in the nearby vicinity that generate heavy traffic including a large civil contractors yard and activities occurring on another business park zone property. Some of these other activities, as I understand it, are not authorised and so should not technically be considered as part of the existing environment. In any event, it is not solely the applicant's heavy vehicles utilising the roading network.

Water Quality & Pollution

72. I understand that dust complaints generated at the site previously arose from a concrete crushing operation undertaken as part of A&J's operations, but since that operation has ceased, I am not aware of any significant dust issues arising.
73. In terms of water quality, I cannot confirm this at this point but expect to be able to confirm that at or prior to the hearing once water quality sampling is received.

Cultural Matters

74. A number of submissions also raise concern with cultural effects on the nearby Pukewhanake pa and within the local waterways.
75. At the time the application was lodged and as part of the s92 process, attempts at consultation had been attempted but were unsuccessful with Pirirakau Tribal Authority ("Pirirakau"), however engagement did occur during the submission timeframe and a site meeting was undertaken, with Mr and Mrs Daniel, Ms Shepard of Pirirakau and myself attending.
76. Pirirakau subsequently provided a submission in support of the application subject to certain conditions of consent being imposed as set out in the s42A report. I note that the applicant accepts these conditions of consent (which are contained within the draft set of conditions) and the applicant has proffered these as Augier conditions.
77. My understanding is that the Pirirakau Tribal Authority and the author of the Pirirakau Assessment of Cultural Effects (PACE) report, Ms Julie Shepard, are the mandated representatives for Pirirakau for planning and environmental matters. This has been the case for a number of years for

other applications I have dealt with in this local Te Puna area with both WBOPDC and BOPRC. I have relied on this PACE assessment with respect to my opinion on the cultural effects and required mitigation for the activities.

Concluding comments on submissions

78. It is my opinion that the issues raised in the submissions have been adequately dealt with in the application, by Ms Perring in her Section 42A Report and further addressed through this hearing process by the evidence provided today. The relevant Resource Management Act issues raised in submissions are further addressed in my assessment of effects below.

ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

79. With regard to effects of the activities, in my view the key environmental effects relating to the activities are transportation and site access matters, landscape and visual impacts, noise, stormwater (quantity, flooding, quality) and cultural matters.
80. The principal matter in contention according to Ms Perring that has a more than minor effect is transportation and access.
81. Other matters that require some further clarification include landscape and visual impacts, stormwater (flooding and quality) and cultural matters. I will also address the effects of the access upgrade, associated earthworks and culvert installation as the information I now have available was not available to Ms Perring at the time of her writing her s42A report.
82. I do not consider that it is necessary in this instance to address in detail those effects that are largely agreed in Ms Perring's report with respect to stormwater quantity, noise, and services (wastewater, potable water, electricity supply, telecommunication and internet). I am happy to answer questions or clarify any points on these matters if required by the commissioners.
83. At the time of preparing this evidence I am awaiting the outcome of water quality testing from the subject site and as such I cannot offer an opinion on that matter at this time. I expect these results will be available by the hearing and I will be able to address that matter at that time.

84. The Act's definition of effects also includes positive effects and I consider the following positive effects should be considered in the context of the proposal if the application is to be granted. These include:
- (a) Payment of roading financial contributions towards the future upgrade of Te Puna Station Road;
 - (b) A partial upgrade of the site entrance to comply with the requirements of the structure plan which also improves vehicle safety at the site access;
 - (c) Additional infill planting to achieve the intention of structure plan planting mitigation.
 - (d) The continued operation of the existing onsite business which economically and socially support the applicant, the business owners and the staff associated with those activities;
 - (e) The use of Industrial zoned land which is in high demand and short supply across the District and Tauranga City for Industrial use.
 - (f) Cultural awareness and engagement with PTA through the provision and recognition of the PTA PACE report
 - (g) An upgrade of the vehicle access culvert which is part of the current wider stormwater solution for flooding in the catchment and the Te Puna Business Park;
 - (h) An improvement of the pavement markings and functionality of the Te Puna Road/Te Puna Station Road intersection;
 - (i) Formalisation of a Noise Management Plan for the site;
85. While there is an argument that some of these matters (and more) need to be undertaken anyway, to allow development generally under the Structure Plan, the reality is that the grant of consent will ensure that they are undertaken, and soon.
86. In contrast, I understand from discussions with the applicant that, should it not be successful with the grant of this resource consent and the activities

cease and leave site, then the applicant may not have the necessary funding to advance many of the above measures (and others relating to overall compliance with the Structure Plan), at least in the short term, and so achieving those positive effects will be delayed, if not lost.

Transportation

87. As set out in Ms Perring's s42A Report, based on Mr Calum Mclean's and Ms Justine Wilton's concerns with safety at the Te Puna Road/Te Puna Road intersection, she considers that effects of the activities on these two areas cannot be adequately mitigated and therefore are of a more than minor nature.
88. In reply to the concerns raised by Mr Mclean and Mr Wilton, Mr Bruce Harison has provided a detailed response in his transportation evidence to these concerns.
89. Of particular note at the outset, Mr Harrison states at paragraph 31 of his report:
- "As a reality check to these issues, while I understand that traffic from these existing activities is not part of the "existing environment" in a planning sense, the factual situation is that the traffic from these activities has been occurring and utilising this intersection for the last 3-4 years, without any crash history. It is therefore not a hypothetical situation as is the case in a normal resource consent process where assumptions are made. The level of activity occurring as a result of the activities for which consent is being sought has been happening in the real world, cumulative to all of the other traffic making that same right-hand turn into Te Puna Station Road, and there do not appear to have been any issues arising. This gives me some additional comfort in allowing those activities to continue, in addition to my assessment against the standards"
90. I agree, whilst in a planning sense, unlawful activities do not form part of the existing environment per se, factually, the traffic generated from the site has been surveyed by Mr Harrison and has been utilising the site accessway and Te Puna Road/Te Puna Station Road for some years, without any recorded or identified crashes.
91. I agree that whilst traffic safety is extremely important, in my view the actual effects of this traffic can therefore be better considered, rather than a theoretical assumption of what "might" happen through design assumptions.

Te Puna Station Road/Te Puna Road intersection

92. It would seem to me that regardless of whether or not the structure plan requires a right-hand turn bay at this intersection, from a traffic engineering perspective both Council experts and Mr Harison agree that a right-hand turn bay would be the best solution for the intersection. I understand from Mr Harrison that a right-hand turn bay would, or should, be in place at the intersection now, regardless of any additional business park traffic. On this basis this would ordinarily be a matter for the Council to address, as a responsible road controlling authority.
93. As Ms Perring notes in her report, and is also agreed by Mr Harison, the detailed design, approvals, and construction of a right-hand turn bay at this intersection would be substantial and would take at least 1 – 2 years to complete. Mr Harrison also notes that there are other impediments to simply being able to construct this such as the acquisition of land to accommodate the extended roading width and the rail bridge to the north of the intersection. Based on my experience with land acquisitions associated with roading works and works in and around rail corridors, I would agree that this would not likely be feasible within the two-year period that the consent is sought for.
94. I note that Mr Harison also states that sight distances are a vital part of safety at intersection as follows at paragraphs 28 and 29 of his evidence:
28. As I have done with the entrance to the site, I have checked the relevant sight line distances and standards. The Austroads "Guide to Road Design" recommends, for a design speed of 80 km/h, a safe intersection sight distance of 181 m. In constrained locations, a lesser distance of 133 m is however permitted. The available sight distances to the south are between 134 m and 159 m.
29. Accordingly, while the available sight distances are less than what would normally be provided in a green-field situation, I do not consider the lack of a right turn bay to present a significant safety issue. People will have enough time, travelling at 80km/h, to see a vehicle stopped to turn, and to then be able to slow down, and stop. They do this every day, in response to all vehicles waiting to turn into Te Puna Station Road, not just those generated from the existing activities subject to this application.

95. It is not specifically clear to me from a review of their reports as to whether Mr McLean and Ms Wilton have assessed sight distance compliance as part of their report in their safety concerns.
96. As Mr Harrison states in his evidence (paragraph 32), he is of the view that the pavement marking upgrade proposed will improve the existing intersection for all traffic, not just the traffic generated by the subject site.
97. I agree with Mr Harrison's concluding statement at paragraph 34, which to me seems to be a logical and sensible conclusion.
34. Overall, my opinion remains that the safety of the Te Puna Station Road/Te Puna Road intersection, particularly with the amended pavement markings, will not be materially compromised by the traffic from the current existing site activities. Put another way, the removal of the traffic from the current existing site activities will not appreciably improve the current situation. Or put another way still, if the traffic from the site is assumed to not be occurring, its" introduction" will not appreciably increase risk such that they should be not allowed.

Site Access

Entrance Standard

98. As I understand it having reviewed Ms Perring's s42A report, concern still remains around the proposed Waka Kotahi Planning Diagram D upgrade for the site entrance, particularly around matter of road widening opposite the entrance.
99. I note that as detailed in Mr Harison evidence (paragrah30) there appears to be some confusion around Mr McLean's comment of what access upgrade should be required (i.e. a full intersection) based on vehicle movements calculated as a total number of equivalent car movements (ECM's). Mr Harison explains in detail (paragraphs 40 – 42) the difference between Council calculations and the calculations required under the Waka Kotahi Planning Policy Manual. The overall result is a significantly lesser number of ECMs than Mr McLean calculated.
100. Mr Harrison also explains (paragraph 44) that the Waka Kotahi criteria for accessway standards are also based on a rural State Highway situation, and that this does not directly correlate to Te Puna Station Road, which is classified as a local road under the District Plan.

101. In Mr Harrison's view, the Waka Kotahi Standard proposed is the most suitable type of access given the roading environment and traffic generated from the existing activities.
102. Based on Mr Harrison's analysis, my opinion is that the proposed access standard is suitable to safely and efficiently accommodate the traffic to and from the site.

Widening Opposite Entrance

103. The road widening opposite the entrance (or its requirement or not), is another matter of disagreement between Council Roading experts and Mr Harrison.
104. As Mr Harrison sets out, the primary purpose of the road widening is to allow for a vehicle travelling eastwards along Te Puna Station Road to pass a stationary vehicle stopped to turn into the site.
105. At paragraph 50 of his evidence, Mr Harrison outlines the required sight distance requirements and notes that the entrance location readily meets these. In his opinion "People will have plenty of time, travelling at 80km/h, to see a truck stopped to turn, slow down, and stop". In plain terms, as I understand it, rather than principally being a safety issues Mr Harison sees this as more of a level of service issue (paragraph 52).
106. In terms of actual risk and safety, at paragraph 51 Mr Harrison states:
51. So, while I consider the safety risk to be low there is always a risk that someone having to slow or stop for an obstruction anywhere (which could be anything from a turning truck to a stalled car, to a tree branch or something that has fallen off the back of a trailer) is (say) distracted and is not able to stop in time. All risk can never be avoided.
107. Having considered Mr Harrison's assessment above, it would seem to me that given the sight distances available (the entrance is on a straight piece of road) and given the low number and frequency of vehicles entering the site that at most, the non-provision of road widening might result in an infrequent "inconvenience" to users of Te Puna Station Road. In my view this does not constitute a more than minor effect.

Lack of Sealing

108. As Ms Perring notes in her report, Mr McLean raises concerns around the tracking of metal and debris from the metalled site access and metalled and safety effects associated with this.
109. Mr Harison has addressed this in his evidence, noting the proposed sealing of the access will alleviate this. An additional length of sealing of internal access is proposed and included in the proposed access upgrade condition of consent. This total length, inclusive of the vehicle accessway is proposed as 30m from the edge of the Te Puna Station Road carriageway. Based on the existing length of material tracking measured by Mr Harrison on site, I consider this will appropriately mitigate this potentially adverse traffic safety effect.

Clarke Road & Wairoa Bridge Underpass

110. I support Ms Perring's proposed conditions 10(b) and 10(c) which will limit heavy vehicles utilising Clarke Road and travelling to and from the site from using the Wairoa bridge underpass (should Te Puna Station Road be reopened to allow this access). As Mr Harrison notes in his evidence, the applicant can however only control their tenant's traffic and not that of other businesses in the area.

Planning Conclusion of Traffic & Access

111. Traffic to and from the site has been surveyed, is actually existing and is very low, given the type of activities operating and infrequent vehicle use.
112. Regarding traffic and access, the vehicle access to the site is proposed to be upgraded in accordance with Waka Kotahi PPM Diagram D. This access upgrade has been proffered to Council as part of the application and based on the evidence of Mr Harison can safely accommodate the traffic generated by the existing activities without any significant public safety risk.
113. Subject to the paint marking provisions as recommended by Mr Harrison at the Te Puna Road/Te Puna Station Road intersection, I am also of the opinion that traffic from the existing site activities can be accommodated within this intersection.

114. Relying on the findings of the Harrison Transportation assessment and the evidence of Mr Harrison, I am of the opinion that traffic and access effects can be mitigated to be minor.
115. In forming this view, I have carefully considered the evidence of the Council's transport experts. In my opinion, they are being unduly conservative – as I understand it, the RMA does not require “no risk”, and they are placing too much weight on the Structure Plan requirements as Council interprets them (particularly for the Te Puna/ Te Puna Station Road intersection) rather than taking a more real world and approach specific to the activities at hand, where there is a track record to consider.

Landscape and Visual

116. The application and further information submitted to Council included a Landscape & Visual Effects Assessment (LVEA) and Landscape Management Plan (LMP), both prepared by Boffa Miskell.
117. Mr Oliver May of Boffa Miskell has provided evidence in response to Ms Perring's s42A report and Council's peer reviewer, Mr Dave Mansergh.
118. The key issues are the visual effects of the existing activities and mitigation of these, including planting undertaken and screening of the swimming pools shells stored on the site which do not meet the required reflectivity standard of the District Plan.
119. As assessed in the LVEA, the character of the site is heavily modified by the earthworks that have been undertaken on site, bunding installed and the activities that have established on the site and on adjoining and adjacent sites. Having visited the site on a number of occasions the landscaping and bunding provides a significant visual buffer along the Te Puna Station Road frontage, while the landscaping planted within the site will continue to mature and establish.
120. As set out in paragraph 102 of Ms Perring's report, Mr Mansergh agrees that the landscape mitigation is generally consistent with the structure plan in terms of the location of planting, but differences exist in the configuration of planting. The main difference is the species and the depth of planting.

121. As set out in the application, the LVEA and LMP demonstrate that significant planting and bunding has been undertaken across the site. As also detailed, the species planted are native trees which was at the request of Pirirakau Tribal Authority, when the applicant consulted with them on planting within the overland flowpath area as required by the structure plan.
122. I understand from Mr May, that the key difference between native and exotic trees species is the length of time that each will take to develop to maturity, with native species generally having a slower growth rate.
123. I note that there is some debate between Mr Mansergh and Mr May on the level of effect, due to the stage of “establishment” of the planting.
124. In Mr May’s opinion, as set out in his evidence (paragraph [24]), whether or not the landscape effect is low or low-moderate, would still only equate to a minor effect using the Te Tangi a te Manu conversion scale.
125. In terms of establishment, which is also raised by Ms Perring at paragraph 107 of her report in terms of delayed mitigation of effects, Mr May states at paragraph [25] of his evidence:
- “...there is no Structure Plan requirement to have such planting reach sufficient height to better screen from the more elevated locations before such development occurs”
126. I agree with Mr May that the structure plan does not define “established”, and therefore, in my view, once landscaping is planted, that would be all that is required in terms of visual effects mitigation required by the structure plan.
127. I agree with Ms Perring’s overall conclusion that landscape and visual effects can be mitigated to a minor extent.
128. I acknowledge the requirement for a Landscape Implementation Plan as suggested by Ms Perring as a condition of consent. However, based on Mr May’s evidence (paragraph 31), an additional four rows of planting along the southern boundary would be adequate to provide landscape mitigation rather than a condition requiring a full 10m planted strip. Mr May considers that the additional four rows of planting will achieve a depth of 10m once established. I note that this should only also be required as to the southern boundary of the Compass Pools and Earthmover tyre services yards subject to this application rather than the full southern boundary of

the site. Accordingly, I have recommended an update to this condition in the conditions section of this evidence.

129. I agree with the proposed screening requirement for the Compass Pools site but consider that this should only be on the southern and western perimeter of the site, rather than the full perimeter as the northern and eastern perimeter are internalised to the site and generally screen but the other existing activities. I also rely on Mr May's opinion that a 4.5m screen is satisfactory and that a 6m high is unnecessary as set out in his evidence (paragraph 28).
130. In terms of the protection of mitigation planting, I agree with Mr May in that the requirement for a 3m setback from planting would seem excessive and result in a substantially reduced useable area for each of the existing yards. Based on Mr May's evidence, a 1m setback is appropriate and I have recommended this change to the subject condition in the conditions section of my evidence. As Mr May also notes, any damaged or dead plants would need to be replaced as required and as such I have recommended an additional condition to this effect.

Stormwater

131. With regard to stormwater, there are three key matters to be addressed, those matters being:
- a. Stormwater Quantity
 - b. Stormwater Quality

Stormwater Quantity

132. As set out in Ms Perring's report, there is agreement between Council's stormwater expert and the applicant's stormwater expert that there will be no adverse effect of increased stormwater runoff generated by the existing activities on site. I agree with Ms Perring's conclusion that stormwater quantity effects are minor.

Stormwater Quality

133. At the time of writing this evidence, I cannot confirm any further information on water quality as sought within Ms Perring's report through paragraphs

179 - 181. I can confirm that the applicant has engaged Mr Alan Woodger, Senior Environmental Scientist of BCD Group to undertake water sampling and analysis. The collection of water discharged from the site depends on rainfall, and I understand that samples were collected over the weekend of 23 September 2023 and are now with the lab for analysis. I intend to provide further information and assessment on this once I have that in hand prior to the hearing.

134. I do note however, that if quality issues do arise at the discharge location, there are various measures that can be implemented to mitigate water quality, and in my opinion there is a limited risk that any water quality issue will not be able to be mitigated.
135. In terms of the issues with tyre storage raised by Ms Perring, I note that I have previously provided an assessment against the National Environmental Standard for Outdoor Tyre Storage and can confirm that the tyre storage operation on site is fully compliant with the permitted provisions. I note that legislation does not require tyres to be stored on a concrete pad as suggested by Ms Perring, and given the legislation is new environmental specific legislation, has considered overland runoff and groundwater infiltration through its required setbacks to water bodies and groundwater, consider such a requirement to be unnecessary.
136. At paragraph 160 of her report, Ms Perring questions the information that I provided in respect of tyre storage and the reference to the FENZ guideline. I can confirm that information was contained with a consultation document for the Outdoor Storage of Tyres (page 15) prepared by the Ministry for the Environment and attached to me evidence as Attachment 4.

Earthworks & Construction at Vehicle Entrance

137. The three key issues identified needing to be addressed in relation to the vehicle access upgrade, as identified by the Commissioners direction (Minute 2) and in Ms Perring's report are:
- c. NESCS Assessment
 - d. Construction Effects including Erosion & Sediment Control

e. Potential Flooding Effects on 177 Te Puna Station Road from
New Culvert

NESCS Assessment

138. I have undertaken an assessment of the proposed works against the NESCS which is attached as Attachment 2.
139. As I have stated earlier in this evidence, the applicant has engaged Mr Alan Woodger, Senior Environmental Scientist of BCD Group to undertake soil sampling and analysis at the site of the proposed entrance. This is also attached at Attachment 2.
140. Overall, per my assessment and based on Mr Woodger's findings, I conclude that the proposed works do not require an additional consent under the NESCS as they are either permitted, or the NESCS is not applicable.
141. As Mr Woodger's assessment indicates, the level of contaminants has little to no risk to human health or the environment.
142. According to my opinion, any contamination-related effects of the accessway upgrade are minor.

Construction Effects including Erosion & Sediment Control

143. In his evidence, Mr Bos has described the culvert installation methodology and supports the requirement of a condition of consent for an erosion and sediment control plan to be provided.
144. Mr Bos, a very experienced civil engineer, considers in his evidence that Ms Perring's requirement for a construction management plan or traffic management to be provided as a condition of consent is unnecessary given the proposed works are relatively minor and can be undertaken over a short time period. Traffic management is dealt with through a separate roading process with Council. Accordingly, I suggest that the relevant conditions to this effect as proposed by Ms Perring can be deleted which I will address in the conditions section of my evidence.
145. Relying on the evidence of Mr Bos, I consider that construction and earthworks effects at the entrance can be mitigated through the provision

of an erosion and sediment control plan and effects of this activity will be minor.

Potential Flooding Effects on 177 Te Puna Station Road from New Culvert

146. Per the request of Ms Perring, the applicant has commissioned Dr Steven Joynes (who has been involved with the flood modelling for the overall site and Te Puna Business Park), to ascertain potential flooding impacts on the downstream property at 177 Te Puna Station Road.
147. As per the evidence of Dr Joynes, the replacement culvert results in an 11mm increase over and above the existing situation during a 10-year flood event, and a 1mm increase during the 100-year flood event. The replacement culvert also results in an increased duration of flooding during both events.
148. Due to this increased effect, the applicant has consulted with and obtained the written approval of the owner of 177 Te Puna Station Road, who accepts this change. A copy of the written approval is attached here as Attachment 3.
149. Accordingly, the effects of this flood level of the increase are accepted by the owner of 177 Te Puna Station Road and can be discounted.

Noise

150. Regarding noise, based on the findings of the Styles Group acoustic assessment and Mr Jon Styles' evidence that noise is able to meet the permitted activity standards of the District Plan, I am of the opinion that this results in an anticipated noise level for the zoning and therefore minor effects. An updated Noise Management Plan has been prepared and proffered as a condition of consent to ensure noise related activities are managed (i.e., any forklifts not using tonal alarms).
151. I note that Council's expert agrees with Mr Styles findings.

Services

152. Regarding wastewater, electricity, and telecoms services there is no disagreement as to what is proposed.
153. With regard to potable water supply, I note that Mr Daniel has advised that the existing activities are each provided with water via the existing site connection.
154. Regarding water supply for firefighting purposes, I note that Ms Perring's report states (paragraph [156]) that Council's Water Network Engineer, Mr Van de Berg has accepted the proposal for fighting water supply be provided in tank storage from the existing water reticulation and there would be no requirement for the water supply upgrade as required by the structure plan.
155. I note that Ms Perring has proposed a condition for fighting water supply confirmation which I generally accept.
156. I agree with Ms Perring that servicing effects can be mitigated via conditions. In my view service effects are less than minor.

Cultural Effects

157. As I have noted earlier in my evidence, I have relied on the PACE assessment prepared by Pirirakau Tribal Authority with respect to my opinion on the cultural effects and required mitigation for the activities.
158. I note that the applicant has preferred the conditions of the PACE report and I support their inclusion as does Ms Perring.
159. I acknowledge there is still a gap in water quality matters that also have a relationship to cultural submissions, and I will be in a position to address this and any mitigation required at the hearing, once the water sample results are received and analysed.

Overall opinion on effects

160. Relying on the applicants expert Transportation, Landscape & Visual, Noise and Stormwater evidence along with personal observations of the site and its surrounds, it is my opinion that any potential adverse effects of

the proposal will be no more than minor overall, and effects can suitably be mitigated subject to the proposed suite of recommended conditions.

161. Whilst there is a gap in water quality assessment, I am confident that if there is a problem identified with this then suitable mitigation can be implemented to manage water quality effects.
162. In my view, based on the information available the first arm (effects leg) of the Section 104D "Gateway test" is met and the application can therefore be considered for assessment under s104 RMA.

PLAN AND POLICY PROVISIONS

163. In this section of my evidence, I comment on the provisions of the relevant planning instruments and provide my opinion with respect to the consistency of the proposal against them. In this case, I consider the relevant instruments to be:
- f. The Regional Policy Statement ("**RPS**")
 - g. The Regional Natural Resources Plan ("**RNRP**")
 - h. The Operative Western Bay of Plenty District Plan ("**ODP**")
 - i. The National Environmental Standard for Assessing Soil Contaminants in Relation to Human Health ("**NESCS**")
 - j. The National Policy Statement for Freshwater Management ("**NPS-FM**")
164. I have set out what I believe to be the relevant objectives and policies in the original application, the further information provided, and Ms Perring has also covered these in detail in her report. I will expand on the assessment of these where necessary, however, to avoid repetition I do not consider it necessary to provide detailed further assessment where I agree with Ms Perring.
165. Regarding the NESCS, I consider that the proposal is fully consistent with this document. Accordingly, I consider no further assessment is necessary.

166. My assessment of the RNRP Plan also indicates no consenting requirements and therefore no further assessment of this is necessary.

Operative District Plan

167. In terms of the ODP, I assessed what I considered the relevant Industrial Zone objectives and policies with a view that the activities are consistent with the intentions of the objectives and policies. I have also further assessed the objectives and policies relating to transportation, natural hazards and subdivision and development. I am of the view that the application is not contrary with the objectives and policies. This is opposed with Ms Perring's view that the application is contrary or repugnant to the objectives and policies of the ODP "in the round". Ms Perring makes this statement at [244] of her s42A report, following her assessment against the various policies, but does not clearly identify which ones she considered the application to be "contrary or repugnant to". From her analysis, this appears to be due to "inconsistency" with infrastructure requirements and traffic safety. In particular, I isolate below, the objectives and policies that she considers the application to be "inconsistent with".
168. My first observation is, however, that "inconsistent" doesn't in my opinion or understanding equate to being "contrary to". As I understand it, the requirement is to be "repugnant to" or "opposed to". Being inconsistent with doesn't seem to me to equate being "repugnant to" or "opposed to". So, I am not sure how finding multiple "inconsistent with" elevates the assessment to being "repugnant to" or "opposed to". It may be that Ms Perring considers that because of the number of objectives and policies that she finds the application to be "inconsistent with" elevates the application to being "contrary to" the objectives and policies as a whole.
169. Ms Perring's opinion also appears to be heavily influenced by an approach that appears to require all the Structure Plan requirements to be in place, as a matter of principle, rather than to respond to the effects of the application itself; or to consider the application to relate to a small first stage of the Business Park development. Her view is also heavily reliant on her findings as to effects.
170. I provide comments after each of her "inconsistent" findings below (in italics):

Objective 21.2.1(4): The equitable provision, extension and/or upgrading of infrastructure with sufficient capacity to cater for future development within the Zone and in accordance with applicable structure plans to be funded by all development within the structure plan area.

➤ Inconsistent – the application seeks departures from equitable infrastructure requirements such as transportation upgrades, stormwater infrastructure, water, power, etc.

Comment: In my opinion, the application provides for appropriate infrastructure relevant to the effects of those activities. For example, the applicant's evidence is that the site entrance upgrade is appropriate for the limited number of traffic movements generated. All stormwater experts agree that water quantity is not an issue, and subject to confirmation, water quality is not an issue. The activities are already well-served in terms of water supply. So I do not see how the application can be contrary to this objective.

Objective 21.2.1(5): The protection of sensitive environments downstream of industrial areas from the adverse effects of infrastructure required to service such areas.

➤ Inconsistent – the application does not protect the sensitive freshwater environment downstream from adverse effects associated with not providing stormwater infrastructure.

Comment: As noted above, the stormwater experts agree that water quantity is not an issue, and water quality is being confirmed. From a practical perspective, it is hard to see how, given the nature of the activities, that there would be any difference in downstream effects were the activities to no longer operate. Granting consent also provides a mechanism for monitoring and ensuring that appropriate standards are met. This would not be possible without a consent.

Policy 21.2.2(1): Provide industrial areas within the District close to established urban centres that provide for a wide variety of industrial activities to establish.

➤ Inconsistent – due to the limited infrastructure provided the site only attracts a limited range of industrial activity types, i.e. outdoor storage depots.

Comment: As noted above, the stormwater experts agree that water quantity is not an issue, and water quality is being confirmed. From a practical perspective, it is hard to see how, given the nature of the activities, that there would be any difference in downstream effects were the activities to no longer operate. Granting consent also provides a mechanism for monitoring and ensuring that appropriate standards are met. This would not be possible without a consent.

Policy 21.2.2(5) Industries should be located in areas where they can be adequately serviced by existing infrastructure or provide new infrastructure so as to ensure adverse effects can be mitigated, remedied or avoided including through financial contributions.

➤ Inconsistent – the application seeks departures from infrastructure and servicing requirements such as transportation upgrades, stormwater infrastructure, water upgrade, power, and from payment of the water contribution.

Comment: In my opinion, the infrastructure upgrades proposed as part of the application, together with what has been provided already, address the effects of the activities to which the application relates. Proportional financial

contributions are also to be paid in respect of transport. But since it is understood that the Council is no longer providing any water supply upgrades, no financial contributions are proposed for those activities.

Objective 4B.2.1(1): To provide an integrated, efficient, safe and sustainable transportation network that supports the social and economic wellbeing, and land use pattern of the sub-region as defined in this District Plan and that maintains or enhances the regional strategic linkages.

➤ Inconsistent – for the reasons outlined in the AEE above, effects on transport safety are more than minor, and therefore the activity is contrary to this objective.

Comment: The position on this objective will depend on the findings in respect of traffic safety issues. At present, I prefer the evidence of Mr Harrison on these matters, for the reasons given above, and so do not consider the application to be contrary to this objective.

Objective 4B.2.1(2): To provide for more efficient land use, development and subdivision of existing areas in a way that recognises and integrates with the functions of different road types, transport modes and the defined transportation network.

➤ Inconsistent – the activity is not well integrated with the road type, different transport modes and the transportation network. The accessway upgrade is insufficient to address the narrow width of Te Puna Station Road, and generally the local roads are not highly suitable for the wide loads and heavily laden trucks associated with the site.

Comment: As above, the position on this objective will largely depend on the findings in respect of traffic safety issues. In respect of providing for different transport modes, I do not consider that to be a relevant matter for these industrial activities. They necessarily involve vehicle use. Accordingly, I do not consider the application contrary to this objective.

Policies 4B2.2:

➤ inconsistent with all parts of the policies that refer to transport safety and provision of multi-modal transport. I accept that due to the relatively low volume of traffic generated that effects on network efficiency are minimal.

Comment: As above, I do not consider the application contrary to these policies, for the same reasons.

Objective 12.2.1(2): Subdivision and development is planned in an integrated manner and provided with the necessary infrastructure and services to ensure that the land is able to be used for its intended purpose.

➤ Inconsistent – limited infrastructure and servicing is proposed to support the industrial activity. This means that the land is only able to be used for a limited range of industrial land uses.

Comment: In my opinion, the application is supported by this objective. The activities were developed in an integrated way over a small part of the site, including after planting and other mitigation anticipated by the Structure Plan. While the application does not consider "re-use" or different tenancies, that does not mean that the infrastructure provided does not enable the land to be used for the purpose to which the application relates (which is a subset of the various activities anticipated on site).

Objective 12.2.1(3): Infrastructure and services are designed and constructed to minimum standards which will result in improved environmental outcomes without significant additional cost to the community.

➤ Inconsistent – limited infrastructure and servicing is proposed to support the industrial activity. The accessway upgrade does not meet minimum Council standard as opposite widening is not proposed. No stormwater infrastructure is proposed. The applicant proposes to use Te Puna Road / Te Puna Station Road for heavy vehicles without adequately mitigating the existing intersection deficiencies related to safety.

Comment: I do not consider the application contrary to this objective, for the same reasons as given above. The infrastructure and servicing required is appropriate to the activities proposed, and will not impose any cost to the community.

Objective 12.2.1(4): Sufficient infrastructure capacity is provided to ensure the efficient and equitable provision of services to all land in the catchment.

➤ Inconsistent - limited infrastructure and servicing is proposed to support the industrial activity.

Comment: I do not consider the application contrary to this objective, for the same reasons as given above. The infrastructure and servicing required is appropriate to the activities proposed.

Objective 12.2.1(6): Subdivision and development that minimises the effects from stormwater run-off.

➤ Inconsistent - No stormwater management is proposed, thus the effects from runoff are not adequately addressed.

Comment: I do not consider the application contrary to this objective, for the same reasons as given above. Stormwater effects will be managed appropriately.

Policies 12.2.2(2)-(9):

➤ I consider the application to be inconsistent with all these policies for the reasons described in the AEE section and Objectives above.

Comment: I do not consider the application contrary to these policies, for the same reasons as given above.

171. Stepping back from this detail, whilst some development infrastructure that is envisaged by the structure plan or subdivision and development objectives and policies is not yet in place, due to the discrete nature of the activities and very low level of generated effects this infrastructure is not required, based on the findings of the specialist reports and experts through their evidence.
172. Based on the evidence of Mr Harison, the actual traffic safety risk is low.
173. I refer to Mr Harrison's evidence (paragraph [23]) where the honourable Judge Semple at the recent Environment Court hearing for the abatement notices explored with Mr Harrison the idea that in particular, the traffic measures required by the structure plan were designed to mitigate the fully developed business park. In this case, the current activities are approx.

1.5ha of the overall business park, whereas the business park has a total area of approximately 30ha.

174. The application seeks consent for effectively a small stage (5% of the overall business park area) to operate for a period of 2 years.
175. In my view, this must be taken into account in terms of what the relevant objectives and policies are trying to achieve. I agree that for the entire development of the business park, certain currently unimplemented requirements need to be met. However, due to the discrete nature of these activities, in my opinion this application is not contrary or repugnant to the provisions as Ms Perring suggests.
176. I note that the applicant is working towards satisfying the majority of infrastructure requirements as part of their wider applications and acknowledge that they will rely on a further non-complying consent to do this, which is by no means guaranteed.
177. However, there is a time limit proffered by the applicant in this case. They have acknowledged that they must act and have been acting to fulfil relevant requirements or seek departures where necessary. It is a reality that if consent is granted for this application, and they have not met requirements within the two-year period sought, that the activities will not be able to continue beyond that point. There is therefore a finite timeframe for this consent.
178. Overall, I retain my opinion that the application as proposed is not contrary or repugnant to the relevant objectives and policies of the District Plan, on a fair appraisal as a whole.

National Policy Statement for Freshwater Management

179. I have previously provided an assessment against the NPS-FM and stand by that assessment.
180. Ms Perring, in her report, places a high level of weighting in improvements in water quality. I will need to reserve my further opinion on this matter until the stormwater quality results are available and will provide further assessment on this point prior to, or at the hearing.

Regional Policy Statement

181. Ms Perring's opinion is that the proposal is not consistent with the relevant Urban & Rural Growth Management Policies, and at the time of her report was unable to make an assessment on relative policies pertaining to soil disturbance and natural hazards due to the information available at that stage.
182. Based on the information I have provided in this evidence I consider that the application is consistent with the soil disturbance provisions and the natural hazard effect (flooding) on the property is accepted by the affected person.
183. With regard to the relevant Urban & Rural Growth policies, Ms Perring refers to, I believe that these are adequately covered in the District Plan infrastructure and transportation objectives and policies I have assessed above, and in my opinion and for the reasons I have identified with the circumstances of this application, they are not inconsistent with the intention of this overall framework.

Overall opinion on provisions of planning instruments

184. In my opinion, overall, when assessing the proposal against the gamut of relevant objectives and policies in the relevant planning instruments, the proposal is, on balance, not contrary or repugnant to the objectives and policies as a whole due to the reasons outlined.
185. Effects of the activity can be suitably mitigated which uphold the intention of the relevant objectives and policies. Accordingly, in my opinion it would be appropriate to grant consent giving due consideration to provisions of the planning instruments.

SECTION 104C OTHER MATTERS

Precedent

186. As a non-complying activity, it is important that the matter of precedent is addressed. Precedent is a concern that similar applications for consent should be dealt with in a similar way. It is not an effect on the environment but may be a matter for Council to consider under the "any other relevant matters" aspect of section 104.

187. As I understand it, granting consent to a non-complying activity has no precedent effect in the strict sense as each application has its own particular set of circumstances and characteristics in relation to location, topography, access, drainage, surrounding land use, etc. The RMA requires applications to be considered on their own merits. The extent of influence that this proposal might have on other applications will entirely depend on the similarities and the timing with respect to the District Plan assessment.
188. This proposal seeks retrospective consent for a small number of industrial activities on land that has been zoned for such development. The non-complying status is generated by provisions in the District Plan requiring structure plan requirements to be met, prior to the establishment and operation of any industrial activities. Granting consent to this application will not prohibit other development in this zone, will utilise land zoned for such purposes, and does not create adverse amenity, traffic, landscape and visual, natural hazard or other effects that are either accepted or will be mitigated via measures imposed as a condition of consent.
189. The fact that the land is zoned for such purposes is an important point in my view. It differs, to say a situation where an industrial use is proposed in a rural or residential zone and could operate in perpetuity of a consent was granted. In the case of this application, a limited timeframe is sought and based on the expert evidence I have relied upon, effects of the activities will be suitable mitigated during its period.
190. I acknowledge that other business park owners may be watching what happens with interest. However they will have they will have their own circumstances, issues, effects and considerations to make before applying for a similar application. Even by applying, an application of that sort would be a Non-Complying activity and Council would still have the same ability to authorise or decline a consent as there is the ability to with this consent application.
191. 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

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.

192. For the reasons above, I disagree with Ms Perring that a precedent effect is created, and this application can be distinguished from any new application that may be lodged.

Plan Integrity

193. The RMA has made provision for non-complying activities which by their nature do not comply with rules of the Plan. It is therefore not the rule which is the critical consideration. Section 104 requires that there is an assessment against the objectives and policies, i.e., what is it that the rules are trying to achieve. The rules are not an integral part of objectives and policies but may be one mechanism for establishing consistency with objectives and policies.

194. Whilst the proposal does not comply with the “rules”, it is my opinion that this is a minor and temporary situation. As I have identified before, there is a certain end to this activity if consent for the wider development is not obtained.

195. Proceeding ahead of all structure plan required pre-requisites does not prejudice or prevent other parties from developing their land within the zone and the relevant matters requiring fulfillment through a structure plan are not prevented through the consent application at hand.

196. Given the scale of the existing activities and the temporary timeframes sought, I consider that this is of minimal consequence in terms of the overall development.

OFFICERS REPORT

197. I confirm that I have read Ms Perring’s Section 42A Report. Overall, I disagree with her recommendation to refuse consent to the application.

198. I have discussed the points of contention and where I agree/disagree with Ms Perring's in the preceding assessment of affects and assessment of relevant planning instruments.

CONDITIONS

199. Although Ms Perring's recommendation is to refuse the application, I largely agree with the set of conditions she has proposed should the commissioners decide to grant consent to the application. I have tracked minor changes to these and attached these as **Attachment 6**. I summarise my suggested changes to the conditions as outlined below.
200. With respect to Condition 1, the Noise Management Plan, Landscape Management Plan and Access Layout Plan references will need to be updated to match the current version of those documents.
201. Condition 4 – Based on the advice of Mr Harrison 25 vehicles per day is considered an appropriate number.
202. Conditions 6, 10, 11, 12, 14, 18 and 24 all refer to certain requirements having to be met within a time period from the grant of consent. In my opinion this should be replaced with the word commencement of consent. This is because, should the consent be appealed, the reality is that the consent would not commence, and the applicant would not be subject to any requirements until the appeals were resolved. I note in passing that this was one advantage that the applicant saw of having conditions imposed as part of the abatement notice appeal. That may still be the case, but there is no certainty in that regard until there is a decision.
203. Condition 5 – I suggest a minor amendment to working days rather than weeks for consistency across the conditions.
204. Condition 7 – As per Mr Harison's evidence, a 30-metre length of the internal accessway and entrance shall be sealed to prevent metal and debris from tracking onto Te Puna Station Road.
205. Condition 9 – As per the evidence of Mr Bos, amend condition to remove construction management and traffic management requirements. Remove requirement for BOPRC to confirm consent requirements as addressed in

my evidence there are no consenting requirements. Remove requirement to provide RAP under the NESCS due to compliance with this.

206. Condition 10 – amend working day reference for consistency across the conditions
207. Condition 11 – minor wording change to reflect My Mays proposal for four rows of additional planting along the southern perimeter of the Compass Pools yard and Earthmover Tyre Service yard.
208. Condition 13 – amendment to landscaping protection and management condition require 1m setback, removal of bollard requirement and inclusion of 6 monthly survey and maintenance clause.
209. Condition 14 – amend screen requirement to 4.5m rather than 6m as detailed in the evidence of Mr May, and amend to ensure only applies to western and southern perimeter of compass pools yard.
210. Condition 17 – remove requirement to extend water supply to the tenants as the applicant has confirmed that these already exist.
211. 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 den Berg on a without prejudice basis on 19 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 works for the coming years. Given this consent has limited timeframe of two years and the activities are low water users coupled with the fact that the existing water network cannot provide firefighting capacity/pressure, I consider that a water financial contribution is not required and this part of the condition can be deleted.

CONCLUSION

212. In this evidence I have provided my opinion in relation to the Section 104 assessment requirements of the Act. I have relied on the specialist reports and evidence prepared by Mr Bruce Harrison, Mr Stephen Bos, Mr Jon Styles, Mr Steven Joynes and Mr Oliver May to conclude that overall, any potential adverse effects will be no more than minor. In addition, I have

concluded that potential effects generated by the proposal can adequately be mitigated.

213. I have concluded that while the proposal is not directly aligned with some objectives and policies, that overall and on balance the proposal is not contrary the objective and policy framework of the relevant planning instruments.
214. I consider that the proposal is able to meet both limbs of Section 104D of the Act. The proposal can therefore be assed under section 104 and consent granted.
215. It is my opinion that the Proposal is consistent with Part 2 of the Act. In that regard, I note that:
216. Section 6(e) matters are resolved with the support from Pirirākau. Pirirākau involvement in the updating of the planting and its implementation is part of how their relationship with the land has been recognised.
217. In respect of section 7 matters, section 7(a) is also resolved with support from Pirirākau. Allowing consent is also an efficient use of the land, in accordance with section 7(b). Section 7(c) amenity values consistent with the zone are being maintained and enhanced by the existing planting, and the additional planting and screening proposed. In a similar way, the section 7(f) requirements are also met.
218. Section 8 is also respected with the additional Augier commitments that the applicant has given to Pirirākau.
219. Returning to section 5, the ultimate purpose of the Act, I consider that the proposal will provide for social, economic, and cultural well-being as intended by the Act.
220. Overall, it is therefore my opinion that granting consent to the proposal is able to meet the sustainable management purpose of the Act.

25 September 2023

Shae Crossan

Attachment 1 – WBOPDC District Plan – Earthworks Assessment

To: Heather Perring
WBOPDC

From: Shae Crossan
Stratum Consultants Limited

Date: September 23, 2023

TINEX Group Limited – 245 Te Puna Station Road, Te Puna (RC13924L)

Assessment of Earthworks in Floodable Area

As has been established in the processing of the application RC13924L, the proposed access to the site, including the replacement of the existing 450mmØ culverts with an 1800mmØ culvert triggers the requirement for an additional resource consent for an exceedance of 5m³ under Rule 8.3.3(c)(i) of the Operative District Plan as a Restricted Discretionary Activity.

The Earthworks to facilitate the access will involve approximately 114m³ of cut and fill associated with the culvert replacement, while an additional 106m³ of filling is required to fill the embankment areas to widen the access splays.

The relevant assessment criteria for earthworks in a floodable area is set out under 8.5.1.3(a) of the District Plan. 8.5.1.3(b) is not relevant as this relates to finished floor levels of buildings which is not applicable.

8.5.1.3 Floodable Areas and Coastal Inundation Areas

- a. The effect of the proposed activity (including its location and design) on the capacity of ponding areas and function of overland flow paths.*

Assessment:

The proposed culvert upgrade is part of the current solution for the resolution of the wider structure plan flooding management. The access upgrade is required to better accommodate the traffic generated by the existing activities.

The replacement culvert will more efficiently convey water from upstream to the Hakao Stream, to the east of the site thus improving the flow of water within the existing roadside drain.

Dr Steven Joynes, has prepared expert evidence and undertaken hydrological modelling of the culvert with respect to potential downstream flooding effects on the adjoining property at 177 Te Puna Station Road. The modelling shows there is an 11mm increased flood level on this property in a 10 year flood event and a 1mm flood increase during a 100 year flood event. There is also an increased flood duration on the property at 177 Te Puna Station Road.

The applicant has obtained the written approval of the owners of the property at 177 Te Puna Station Road. The flood effect is thereby accepted by the owner.

Mr Stephen Bos has recommended that an erosion and sediment control plan be required as a condition of consent and has described the construction methodology in expert evidence which is anticipated to be completed over a short timeframe.

Summary

We trust this provides clarification on the additional consent required for the earthworks and culvert upgrade in the floodable area.

Yours faithfully,

Stratum Consultants Limited

A handwritten signature in black ink, appearing to read 'Shae Crossan', with a long horizontal flourish extending to the right.

Shae Crossan
Planning Director
P: 07 571 4500
E: shae.crossan@stratum.nz

Attachment 2 – NESCS & BOPRC Assessment and BCD Soil Investigation Report

To: Heather Perring
WBOPDC

From: Shae Crossan
Stratum Consultants Limited

Date: September 23, 2023

TINEX Group Limited – 245 Te Puna Station Road, Te Puna (RC13924L)

Assessment of National Environmental Standard for Assessment Soil Contaminants in Relation to Human Health (NESCS)

The direction issued by the Hearings Commissioner minute dated 11 September 2011 is as follows:

Further to this matter the applicant has been directed to undertake soil sampling in the vicinity of the proposed earthworks site under the National Environmental Standard for Assessing and Managing contaminants in Soil to Protect Human Health (NESCS) and to provide these results prior to the hearing. This sampling is to be conducted by a qualified environmental scientist in accordance with NESCS guidelines, and the results are to be assessed against the NESCS regulations to confirm whether a resource consent for disturbance of contaminated soils will or will not be required; and whether any consent may also be required from the Bay of Plenty Regional Council related to contaminated soils.

Further to the above direction, the applicant has commissioned BCD Group to undertake soil sampling within the area of the proposed vehicle access upgrade to the site where earthworks will be undertaken. The testing and reporting were undertaken by Senior Environmental Scientist Alan Woodger of BCD Group.

A copy of the testing results and a brief summary report prepared by BCD Group is **attached**.

As noted in the report, testing as undertaken for asbestos, heavy metals, Total Petroleum Hydrocarbons (TPH), and Polycyclic Aromatic Hydrocarbons (PAH).

The results indicate that no asbestos was detected. TPH and PAH were below human health guidelines. All heavy metals were below human health guidelines; however, concentrations of zinc only were reported above naturally occurring background levels.

Assessment of NESCS

The first requirement is to ascertain whether or not the land is a "piece of land" as determined under the NESCS.

The site is not identified on the BOPRC Landuse register as a recorded HAIL site.

Whilst the northern area of the A & J Demolition yard was previously utilised for concrete crushing which is identified as G6 – waste recycling on the MFE HAIL list, no works associated with the access upgrade are located within this area of the site. There is no evidence of any potential land contaminating activity being undertaken on the accessway area subject to the proposed earthworks.

Based on the results of the contamination testing, there are no soils constraints above human health guidelines, however concentration of zinc are slightly above naturally occurring background levels.

A proposal is only required to be assessed under the NESCS if it is a "piece of land". Based on the above assessment, no contaminating activities have been undertaken in the accessway area and it is not therefore a piece of land.

Accordingly, I consider that NESCS is not applicable.

If the above step is not accepted due to the background concentrations of Zinc, an assessment of the proposal is undertaken against the permitted activity standards of the NESCS as follows.

Permitted Activities

Disturbing soil

(3) Disturbing the soil of the piece of land is a permitted activity while the following requirements are met:

- (a) controls to minimise the exposure of humans to mobilised contaminants must—***
- (i) be in place when the activity begins:***
 - (ii) be effective while the activity is done:***
 - (iii) be effective until the soil is reinstated to an erosion-resistant state:***

Comment:

Erosion and sediment controls will be put in place for the duration of works until the works are completed and stabilised. Dust from the earthworks can be controlled via the use of a sprinkler from the existing site water supply.

(b) the soil must be reinstated to an erosion-resistant state within 1 month after the serving of the purpose for which the activity was done:

Comment:

The works are expected to take 1 – 2 weeks to complete and the surface will be sealed once completed.

(c) the volume of the disturbance of the soil of the piece of land must be no more than 25 m³ per 500 m²:

Comment:

Whilst I am not of the opinion that the land is a "piece of land", the proposal can meet the requirement.

Whilst the works will partially be undertaken within the legal road reserve (which has a significant area that cannot be calculated), by utilising the area of the subject site containing the existing activities the volume of earthworks can comply as follows:

Total Volume of Proposed Earthworks Works – 220m³

Total Existing Activities Site Area – 15,600m²

Total Volume of Permitted Works – 780m³

d) soil must not be taken away in the course of the activity, except that,—
(i)for the purpose of laboratory analysis, any amount of soil may be taken away as samples:
(ii)for all other purposes combined, a maximum of 5 m³ per 500 m² of soil may be taken away per year:

Comment:

No soils will be removed from site, all excavated material will be re-used within the accessway.

(e) soil taken away in the course of the activity must be disposed of at a facility authorised to receive soil of that kind:

Comment:

No soils will be removed from site, all excavated material will be re-used within the accessway while additional imported fill will be limited to suitable cleanfill.

(f) the duration of the activity must be no longer than 2 months:

Comment:

As stated above, the activity is expected to take 1 – 2 weeks to complete.

(g) the integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.

Comment:

Not applicable in relation to the current proposal.

As demonstrated above, if the site area of earthworks was determined to be a "piece of land", the proposed earthworks can be undertaken a permitted activity under the NESCS.

Assessment of BOPRC Regional Natural Resources Plan (RNRP)

The RNRP list the radiation or disturbance of contaminated land as a Restricted Discretionary Activity under DW R25 (Rule 35).

Contaminated land is defined in the RNRP as:

"Contaminated Land – A location at which hazardous substances in soil, groundwater or surface water occur at concentrations above the background levels of those substances in the surrounding environment and where assessment indicates that those substances pose, or are likely to pose, an immediate or long-term hazard to human health or the environment."

In terms of the subject activity, whilst zinc is indicated a being slightly above naturally occurring background level, the BCD Group assessment indicates that all concentrations of potential contaminants are below human health and environmental guidelines and that the environmental guidelines adopted represent a protective limit for an ecologically sensitive environment.

Accordingly, it is not considered that there is any risk as an immediate or long-term hazard to human health or the environment and the land is not defined as contaminated land accordingly.

Thus, in my opinion a resource consent for the disturbance of contaminated land is not required under the NESCS.

Summary

We trust this provides sufficient clarification on contaminated land matters as required by the commissioners direction.

Yours faithfully,

Stratum Consultants Limited

A handwritten signature in black ink, appearing to read 'Shae', with a long horizontal flourish extending to the right.

Shae Crossan

Planning Director

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E: shae.crossan@stratum.nz

22 September 2023

Stratum Consultants
Level 1, 29 Grey Street
Tauranga



Attention: Shae Crossan

Revision: 2

Dear Shae,

RE: Soil Characterisation Assessment: 245 Te Puna Station Road, Te Puna

1 INTRODUCTION

BCD Group has been engaged by Stratum Consultants to undertake a soil characterisation assessment for the access way at 245 Te Puna Station Road, that is to be upgraded. The purpose is to guide the reuse or offsite disposal of soils excavated as part of the proposed works.

2 SCOPE

BCD were engaged to characterise soils within an access way which is to be upgraded. To characterise soils four investigation locations were undertaken on either side of the access way with samples collected into the walls of the accessway at the near surface (0.3m) and deeper in the soil profile. No samples were collected through the centre of the driveway area due to the compaction of the hardfill within this area and the ongoing use.



Figure 1. The site (red) (source: [LINZ CC BY 4.0 @ - Bay of Plenty 0.1m Urban Aerial Photos \(2023\) & others 2020-2022](#))



3 ENVIRONMENTAL SOIL SAMPLING

Soil sampling was undertaken to identify potential contaminants within a formed entrance way, it is understood that the entrance way was formed using uncontrolled fill material. To identify potential contaminant within the fill, Laboratory analysis was undertaken based on a suite of analytes commonly elevated within uncontrolled fill. The following analysis was undertaken on the soil samples collected:

- Asbestos.
- Heavy Metals.
- Total Petroleum Hydrocarbons (TPH).
- Polycyclic Aromatic Hydrocarbons (PAH).

3.1 Assessment Criteria

Based on the commercial/industrial landuse on the site the following assessment criteria were adopted for the site.

- MfE 2011 CLMG No 2. Hierarchy and Application in New Zealand of Environmental Guideline Values in New Zealand ME 1072.
- The Ministry for the Environment (MfE) National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health, 2011 (NES). Table B2 and B3 Commercial industrial landuse.
- Schedule B(1) Guideline on Investigation Levels for Soils and Groundwater, National Environment Protection Measure (NEPM, 2013) protection level HIL D.
- Background soil concentrations values taken from Manaaki Whenua Landcare Research, Predicted Background Soil Concentrations (95 Pred). <https://iris.scinfo.org.nz/data/>.
- 2019_updated_R10-4-Development-of-soil-guideline-values-for-the-protection-of-ecological-receptors. Ecologically sensitive environment with fresh Zinc and copper.

3.2 Laboratory Results Summary

3.2.1 Asbestos

Six of the eight samples collected were analysed for asbestos Presence/absence, no asbestos was detected in any sample. Therefore, samples comply with human health guidelines.

3.2.2 Heavy Metals

All samples were analysed for a 7 heavy metal suite. All samples contained concentrations of heavy metals within adopted human health and environmental guidelines. Concentrations of zinc were reported above expected background concentrations in all samples, concentrations of lead were reported above expected background concentrations in two samples.

3.2.3 Total Petroleum Hydrocarbons

All samples were analysed for TPH. All samples contained concentrations of TPH within human health and environmental guidelines. Four of the eight samples analysed contained concentrations of TPH below Laboratory limits of Reporting (LOR), the four samples collected from the upstream side of the culvert contained low concentrations of TPH in the C15-C36 carbon bands all within the adopted human health guidelines.

3.2.4 Polycyclic Aromatic Hydrocarbons

All samples were analysed for PAH. All samples contained concentrations of PAH below adopted human health and environmental guidelines. Six of the eight samples contained low concentrations of PAH analytes.

4 CONCLUSIONS

Based on analysis for commonly encountered contaminants within fill material, all concentrations of potential contaminants were reported below human health and environmental guidelines. Environmental guidelines adopted represent a protective limit for an ecologically sensitive environment. Maximum concentrations of potential contaminants were not significantly above expected background concentrations.

5 LIMITATIONS

This document is prepared by BCD Group Limited (BCD) for Stratum Consultants (the Client) for the limited purposes described in this document. BCD accepts no liability of the document is used for a different purpose or if it is used or relied on by another person. Any such use or reliance will be solely at their own risk.

This report has been prepared by BCD on the basis of information provided by Stratum Consultants and others third parties. BCD has not independently verified the information and has relied upon it being accurate, complete, and sufficient for use by BCD in preparing the report. BCD accepts no responsibility for errors or omissions in, or the currency or sufficiency of the provided information.

This document has been prepared based on observations of the site vicinity, review of third-party information. The soil samples were analysed by an analytical laboratory for selected analytes. The site conditions as described in this document have been interpreted from and are subject to this information and its limitations and accordingly BCD does not represent that its interpretation accurately represents the full site conditions.

Laboratory test results provide an approximation of the concentration of the tested analytes and are subject to the inherent limitations of the laboratory techniques used for the tests. Interpretations of subsurface conditions including contaminant concentrations are not guaranteed at distance away from the specific points of sampling.

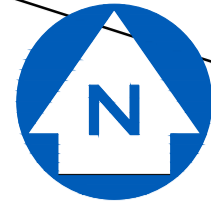
Prepared by:



Alan Woodger
Senior Environmental Scientist
BCD Group Ltd

Attachments

Investigation Location Plan
Laboratory Summary Table
Laboratory Certificates



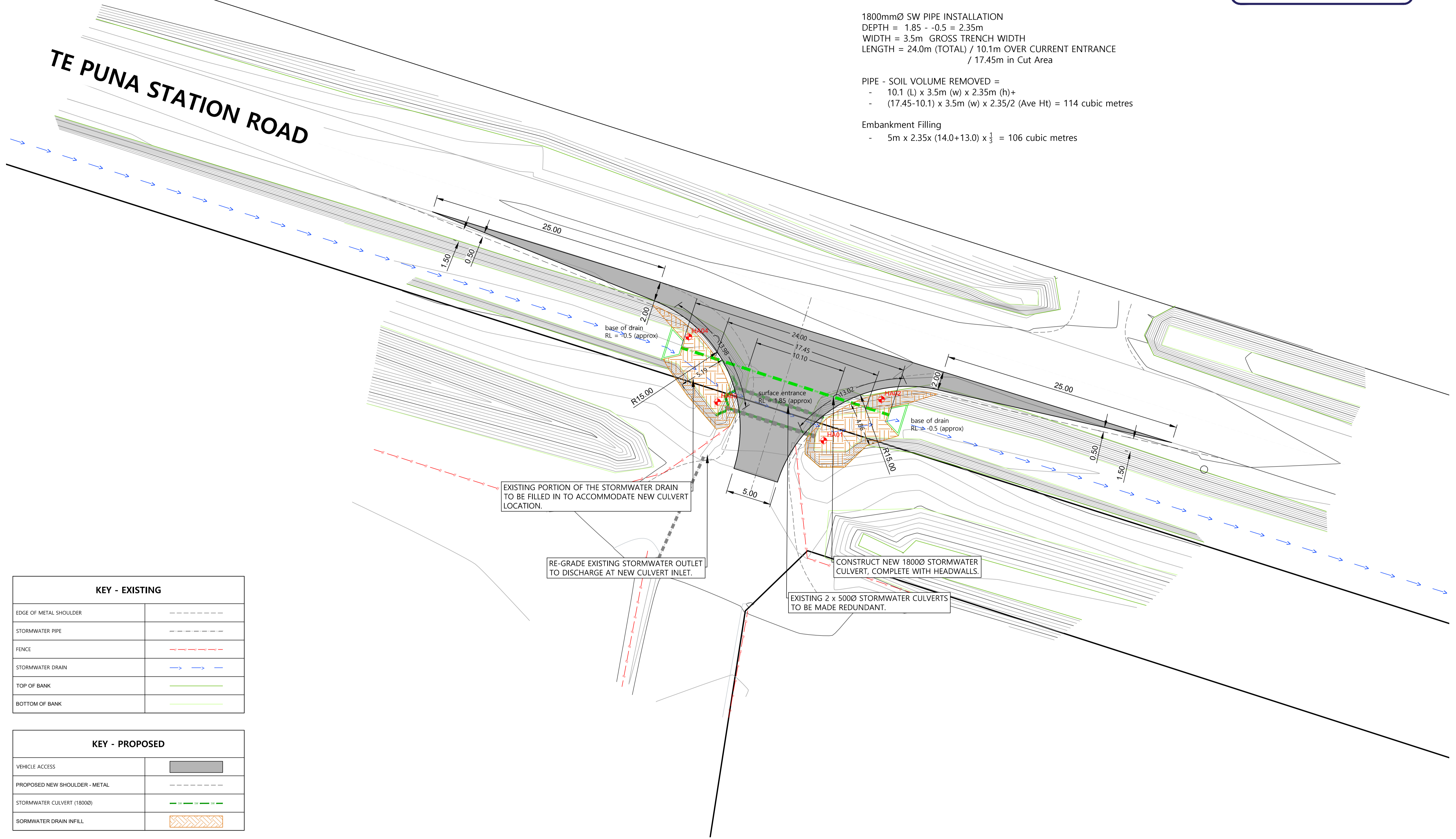
**INFORMATION ONLY
NOT FOR ISSUE**

TE PUNA STATION ROAD

1800mmØ SW PIPE INSTALLATION
 DEPTH = 1.85 - -0.5 = 2.35m
 WIDTH = 3.5m GROSS TRENCH WIDTH
 LENGTH = 24.0m (TOTAL) / 10.1m OVER CURRENT ENTRANCE
 / 17.45m in Cut Area

PIPE - SOIL VOLUME REMOVED =
 - 10.1 (L) x 3.5m (w) x 2.35m (h) +
 - (17.45-10.1) x 3.5m (w) x 2.35/2 (Ave Ht) = 114 cubic metres

Embankment Filling
 - 5m x 2.35x (14.0+13.0) x 1/3 = 106 cubic metres



EXISTING PORTION OF THE STORMWATER DRAIN TO BE FILLED IN TO ACCOMMODATE NEW CULVERT LOCATION.

RE-GRADE EXISTING STORMWATER OUTLET TO DISCHARGE AT NEW CULVERT INLET.

CONSTRUCT NEW 1800Ø STORMWATER CULVERT, COMPLETE WITH HEADWALLS.

EXISTING 2 x 500Ø STORMWATER CULVERTS TO BE MADE REDUNDANT.

| KEY - EXISTING | |
|------------------------|-----------|
| EDGE OF METAL SHOULDER | --- |
| STORMWATER PIPE | --- |
| FENCE | - - - - - |
| STORMWATER DRAIN | → → → → → |
| TOP OF BANK | — — — — — |
| BOTTOM OF BANK | — — — — — |

| KEY - PROPOSED | |
|-------------------------------|-----------|
| VEHICLE ACCESS | █ |
| PROPOSED NEW SHOULDER - METAL | --- |
| STORMWATER CULVERT (1800Ø) | — — — — — |
| STORMWATER DRAIN INFILL | ▨ |

| No. | Date | Drawn | Approved | Issue/Revision |
|-----|----------|-------|----------|--------------------------------|
| A | 29.05.23 | JB | TH | FOR INFORMATION ONLY |
| B | AUG 23 | SB | SB | CULVERT / BATTER VOLUMES ADDED |
| | | | | |
| | | | | |
| | | | | |

TINEX GROUP Ltd
 245 TE PUNA STATION ROAD
 TE PUNA

INDUSTRIAL DEVELOPMENT
 LOT 2 DP22158
 PROPOSED ACCESS LAYOUT (SITE 1)

| | |
|-------------|-----------------|
| Drawing No. | 423022-CIV-D001 |
| Sheet No. | 02 |
| Issue | B |
| A1 SCALE: | 1:200 |

Stratum
 CONSULTANTS
 OFFICE: TAURANGA CONTACT: 07 571 4500



245 Te Puna Station Road: Sample Results Summary
23-1432

| Sample Location Date Depth (m) | TP01 | | TP02 | | TP03 | | TP04 | | Expected Background ² | NES Commercial ³ | Petroleum Guidelines ⁵ | Ecological Guidelines ⁹ |
|-----------------------------------------------------------|------------|------------|------------|------------|------------|------------|------------|------------|-------------------------------------|--------------------------------|--------------------------------------|---------------------------------------|
| | 14/09/2023 | 14/09/2023 | 14/09/2023 | 14/09/2023 | 14/09/2023 | 14/09/2023 | 14/09/2023 | 14/09/2023 | | | | |
| Heavy Metals, Screen Level | | | | | | | | | | | | |
| Total Recoverable Arsenic | 8 | 14 | 4 | 4 | 6 | 5 | 5 | 6 | 18.7 | 70 | - | 26.7 |
| Total Recoverable Cadmium | 0.14 | 0.13 | < 0.10 | < 0.10 | < 0.10 | 0.18 | 0.16 | 0.17 | 0.29 | 1,300 | - | 1.79 |
| Total Recoverable Chromium | 8 | 7 | 6 | 5 | 6 | 4 | 7 | 6 | 15.5 | 6,300 | - | 115.5 |
| Total Recoverable Copper | 14 | 8 | 10 | 10 | 9 | 8 | 17 | 14 | 23.5 | 10,000 | - | 48.5 |
| Total Recoverable Lead | 17.5 | 10.3 | 14.3 | 15.2 | 12.8 | 11.5 | 16.6 | 18.7 | 17.2 | 3,300 | - | 72.2 |
| Total Recoverable Nickel | 4 | < 2 | 2 | 2 | 2 | 2 | 4 | 3 | 9.5 | 4,000 ⁴ | - | 17.5 |
| Total Recoverable Zinc | 69 | 42 | 43 | 42 | 48 | 74 | 69 | 77 | 62.9 | 400,000 ⁴ | - | 112.9 |
| Polycyclic Aromatic Hydrocarbons Screening in Soil | | | | | | | | | | | | |
| Total of Reported PAHs in Soil | < 0.4 | < 0.4 | < 0.3 | < 0.4 | 0.4 | < 0.4 | 1.2 | 0.6 | - | 4,000 ⁴ | - | - |
| 1-Methylnaphthalene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 | < 0.015 | < 0.014 | < 0.015 | - | - | - | - |
| 2-Methylnaphthalene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 | < 0.015 | < 0.014 | < 0.015 | - | - | - | - |
| Acenaphthylene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 | < 0.015 | < 0.014 | < 0.015 | - | - | - | - |
| Acenaphthene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 | < 0.015 | < 0.014 | < 0.015 | - | - | - | - |
| Anthracene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 | < 0.015 | 0.016 | 0.018 | - | - | - | - |
| Benzo[a]anthracene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | 0.014 | < 0.015 | 0.06 | 0.023 | - | - | - | - |
| Benzo[a]pyrene (BAP) | 0.02 | < 0.015 | < 0.013 | 0.022 | 0.037 | < 0.015 | 0.119 | 0.049 | - | - | - | - |
| Benzo[a]pyrene Potency Equivalency Factor (PEF) NES | < 0.033 | < 0.036 | < 0.031 | < 0.032 | 0.056 | < 0.035 | 0.185 | 0.077 | - | 35 | 11 | 2.8 |
| Benzo[a]pyrene Toxic Equivalence (TEF) | < 0.033 | < 0.036 | < 0.031 | < 0.032 | 0.056 | < 0.035 | 0.184 | 0.076 | - | - | - | - |
| Benzo[b]fluoranthene + Benzo[j]fluoranthene | 0.033 | < 0.015 | < 0.013 | 0.034 | 0.055 | 0.016 | 0.164 | 0.077 | - | - | - | - |
| Benzo[e]pyrene | 0.025 | < 0.015 | < 0.013 | 0.023 | 0.043 | 0.016 | 0.097 | 0.053 | - | - | - | - |
| Benzo[g,h,i]perylene | 0.026 | < 0.015 | < 0.013 | 0.023 | 0.068 | < 0.015 | 0.189 | 0.082 | - | - | - | - |
| Benzo[k]fluoranthene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 | < 0.015 | 0.041 | 0.02 | - | - | - | - |
| Chrysene | < 0.014 | < 0.015 | < 0.013 | 0.014 | 0.02 | < 0.015 | 0.061 | 0.029 | - | - | - | - |
| Dibenzo[a,h]anthracene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 | < 0.015 | 0.023 | < 0.015 | - | - | - | - |
| Fluoranthene | 0.03 | < 0.015 | < 0.013 | 0.039 | 0.039 | < 0.015 | 0.12 | 0.063 | - | - | - | 7.6 |
| Fluorene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 | < 0.015 | < 0.014 | < 0.015 | - | - | - | - |
| Indeno(1,2,3-c,d)pyrene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | 0.037 | < 0.015 | 0.145 | 0.058 | - | - | - | - |
| Naphthalene | < 0.07 | < 0.08 | < 0.07 | < 0.07 | < 0.07 | < 0.08 | < 0.07 | < 0.08 | - | - | 190 | - |
| Perylene | < 0.014 | < 0.015 | < 0.013 | < 0.013 | 0.015 | < 0.015 | 0.036 | 0.018 | - | - | - | - |
| Phenanthrene | < 0.014 | < 0.015 | < 0.013 | 0.018 | < 0.014 | < 0.015 | 0.028 | 0.018 | - | - | - | - |
| Pyrene | 0.032 | < 0.015 | < 0.013 | 0.038 | 0.045 | < 0.015 | 0.144 | 0.07 | - | - | - | - |
| Total Petroleum Hydrocarbons in Soil | | | | | | | | | | | | |
| C7 - C9 | < 20 | < 30 | < 20 | < 20 | < 20 | < 20 | < 20 | < 30 | - | - | 120 | 66 |
| C10 - C14 | < 20 | < 20 | < 20 | < 20 | < 20 | < 20 | < 20 | < 20 | - | - | (1,500) | 45 |
| C15 - C36 | < 40 | < 40 | < 40 | < 40 | 42 | 59 | 92 | 51 | - | - | NA | 300 |
| Total hydrocarbons (C7 - C36) | < 80 | < 90 | < 80 | < 80 | < 80 | < 80 | 98 | < 90 | - | - | - | - |

Notes:

- All results in mg/kg.
- Background soil concentrations values taken from Landcare Research - Background soil concentrations of selected trace elements and organic contaminants in New Zealand - 2015
- Criteria from Table B2 and B3, Appendix B of the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations (NESCS, 2011): Commercial/Industrial outdoor worker (unpaved).
- Criteria from "Schedule B(1) Guideline on Investigation Levels for Soils and Groundwater, National Environment Protection Measure (NEPM, 2013). Table 1-A Health Investigation Levels for soil contaminants (mg/kg) - Commercial/Industrial use.
- Guideline value (from NESCS, 2011) is for Chromium VI.
- Values from Guidelines for Assessing and Managing Petroleum Hydrocarbon Contaminated Sites in New Zealand (MfE, 2011) - Tier 1 guidelines for a commercial/industrial land use, all pathways SAND at <1m a(Tables 4.11 and 4.14). Sand has been selected as the guideline soil type as it is most conservative soil type representing soils observed on site during the investigation.
- NA indicates contaminant not limiting as estimated health-based criterion is significantly higher than that likely to be encountered on site.
- Brackets denote values exceed threshold likely to correspond to formation of residual separate phase hydrocarbons.
- Ecological Soil Guideline Values (Eco-SGVs) from Manaaki Whenua Landcare Research 2022, Exploring the implementation of ecological soil guideline values for soil contaminants. Ecologically Sensitive environment with Fresh copper and zinc.

Certificate of Analysis

Page 1 of 2

| | | | | |
|-----------------|--------------------------------------------------------------------------------------------|--------------------------|----------------------|-------|
| Client: | BCD Group Limited | Lab No: | 3365549 | A2Pv1 |
| Contact: | Alan Woodger C/- BCD Group Limited PO Box 13276 Tauranga Central Tauranga 3141 | Date Received: | 15-Sep-2023 | |
| | | Date Reported: | 18-Sep-2023 | |
| | | Quote No: | 126443 | |
| | | Order No: | 23-1432 | |
| | | Client Reference: | Te Puna Station Road | |
| | | Submitted By: | Alan Woodger | |

Sample Type: Soil

| Sample Name | Lab Number | As Received Weight Presence / Absence Testing (g) | Dry Weight Presence / Absence Testing (g) | <2mm Subsample Weight Presence / Absence Testing (g dry wt) | Asbestos Presence / Absence from Presence / Absence Testing | Description of Asbestos Form Presence / Absence Testing |
|-------------|------------|---------------------------------------------------|-------------------------------------------|-------------------------------------------------------------|-------------------------------------------------------------|---------------------------------------------------------|
| TP01-0.3 | 3365549.1 | 153.2 | 117.3 | 54.7 | Asbestos NOT detected. | - |
| TP01-1.0 | 3365549.2 | 175.2 | 114.6 | 53.1 | Asbestos NOT detected. | - |
| TP02-0.3 | 3365549.3 | 205.4 | 159.2 | 57.5 | Asbestos NOT detected. | - |
| TP02-1.0 | 3365549.4 | 207.6 | 153.2 | 53.7 | Asbestos NOT detected. | - |
| TP03-1.0 | 3365549.6 | 538.8 | 349.1 | 52.9 | Asbestos NOT detected. | - |
| TP04-0.3 | 3365549.7 | 508.5 | 377.8 | 58.1 | Asbestos NOT detected. | - |

Glossary of Terms

- Loose fibres (Minor) - One or two fibres/fibre bundles identified during analysis by stereo microscope/PLM.
 - Loose fibres (Major) - Three or more fibres/fibre bundles identified during analysis by stereo microscope/PLM.
 - ACM Debris (Minor) - One or two small (<2mm) pieces of material attached to fibres identified during analysis by stereo microscope/PLM.
 - ACM Debris (Major) - Large (>2mm) piece, or more than three small (<2mm) pieces of material attached to fibres identified during analysis by stereo microscope/PLM.
 - Unknown Mineral Fibres - Mineral fibres of unknown type detected by polarised light microscopy including dispersion staining. The fibres detected may or may not be asbestos fibres. To confirm the identities, another independent analytical technique may be required.
 - Trace - Trace levels of asbestos, as defined by AS4964-2004.
- For further details, please contact the Asbestos Team.

Summary of Methods

The following table(s) gives a brief description of the methods used to conduct the analyses for this job. The detection limits given below are those attainable in a relatively simple matrix. Detection limits may be higher for individual samples should insufficient sample be available, or if the matrix requires that dilutions be performed during analysis. A detection limit range indicates the lowest and highest detection limits in the associated suite of analytes. A full listing of compounds and detection limits are available from the laboratory upon request. Unless otherwise indicated, analyses were performed at Hill Labs, 28 Duke Street, Frankton, Hamilton 3204.

| Test | Method Description | Default Detection Limit | Sample No |
|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------|
| Asbestos in Soil | | | |
| As Received Weight Presence / Absence Testing | Measurement on analytical balance. Analysed at Hill Laboratories - Asbestos; 101c Waterloo Road, Christchurch. | 0.1 g | 1-4, 6-7 |
| Dry Weight Presence / Absence Testing | Sample dried at 100 to 105°C, measurement on balance. Analysed at Hill Laboratories - Asbestos; 101c Waterloo Road, Christchurch. | 0.1 g | 1-4, 6-7 |
| <2mm Subsample Weight Presence / Absence Testing | Sample dried at 100 to 105°C, weight of <2mm sample fraction taken for asbestos identification if less than entire fraction. Analysed at Hill Laboratories - Asbestos; 101c Waterloo Road, Christchurch. | - | 1-4, 6-7 |
| Asbestos Presence / Absence from Presence / Absence Testing | Examination using Low Powered Stereomicroscopy followed by 'Polarised Light Microscopy' including 'Dispersion Staining Techniques'. Analysed at Hill Laboratories - Asbestos; 101c Waterloo Road, Christchurch. AS 4964 (2004) - Method for the Qualitative Identification of Asbestos in Bulk Samples. | 0.01% | 1-4, 6-7 |
| Description of Asbestos Form Presence / Absence Testing | Description of asbestos form and/or shape if present. | - | 1-4, 6-7 |



This Laboratory is accredited by International Accreditation New Zealand (IANZ), which represents New Zealand in the International Laboratory Accreditation Cooperation (ILAC). Through the ILAC Mutual Recognition Arrangement (ILAC-MRA) this accreditation is internationally recognised. The tests reported herein have been performed in accordance with the terms of accreditation, with the exception of tests marked * or any comments and interpretations, which are not accredited.

These samples were collected by yourselves (or your agent) and analysed as received at the laboratory.

Testing was completed on 18-Sep-2023. For completion dates of individual analyses please contact the laboratory.

Samples are held at the laboratory after reporting for a length of time based on the stability of the samples and analytes being tested (considering any preservation used), and the storage space available. Once the storage period is completed, the samples are discarded unless otherwise agreed with the customer. Extended storage times may incur additional charges.

This certificate of analysis must not be reproduced, except in full, without the written consent of the signatory.

A handwritten signature in purple ink, appearing to be 'Dexter Paguirigan', written in a cursive style.

Dexter Paguirigan Dip Chem Engineering Tech
Laboratory Technician - Asbestos

Certificate of Analysis

Page 1 of 5

| | | | | |
|-----------------|--------------------------------------------------------------------------------------------|--------------------------|----------------------|------|
| Client: | BCD Group Limited | Lab No: | 3365233 | SPV2 |
| Contact: | Alan Woodger C/- BCD Group Limited PO Box 13276 Tauranga Central Tauranga 3141 | Date Received: | 15-Sep-2023 | |
| | | Date Reported: | 19-Sep-2023 | |
| | | Quote No: | 126443 | |
| | | Order No: | 23-1432 | |
| | | Client Reference: | Te Puna Station Road | |
| | | Submitted By: | Alan Woodger | |

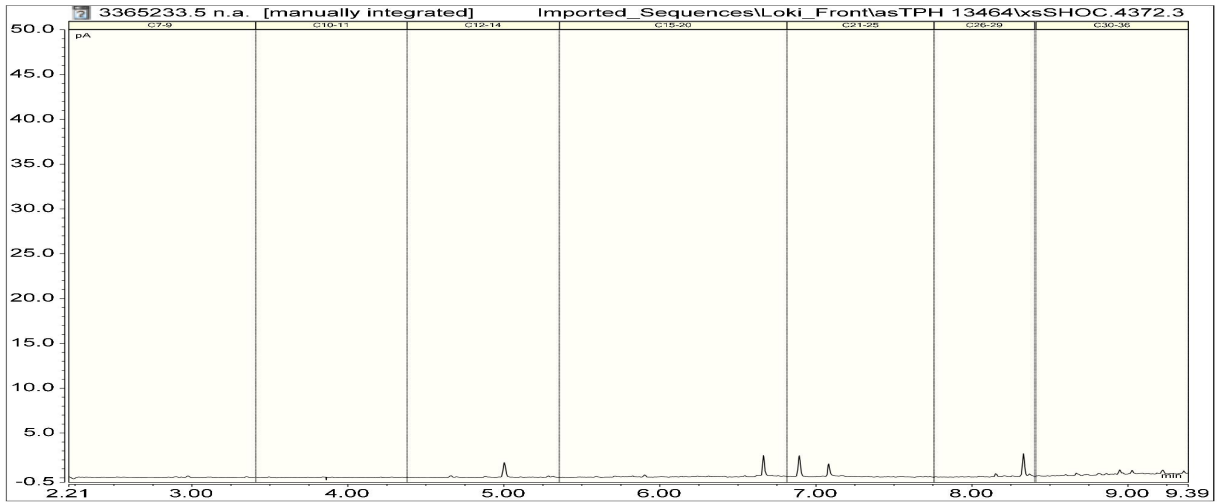
| Sample Type: Soil | | | | | | |
|---------------------------------------------------------|----------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| Sample Name: | | TPS01 - 0.3 14-Sep-2023 | TPS01 - 1.0 14-Sep-2023 | TPS02 - 0.3 14-Sep-2023 | TPS02 - 1.0 14-Sep-2023 | TPS03 - 0.3 14-Sep-2023 |
| Lab Number: | | 3365233.1 | 3365233.2 | 3365233.3 | 3365233.4 | 3365233.5 |
| Individual Tests | | | | | | |
| Dry Matter | g/100g as rcvd | 72 | 65 | 78 | 74 | 72 |
| Heavy Metals, Screen Level | | | | | | |
| Total Recoverable Arsenic | mg/kg dry wt | 8 | 14 | 4 | 4 | 6 |
| Total Recoverable Cadmium | mg/kg dry wt | 0.14 | 0.13 | < 0.10 | < 0.10 | < 0.10 |
| Total Recoverable Chromium | mg/kg dry wt | 8 | 7 | 6 | 5 | 6 |
| Total Recoverable Copper | mg/kg dry wt | 14 | 8 | 10 | 10 | 9 |
| Total Recoverable Lead | mg/kg dry wt | 17.5 | 10.3 | 14.3 | 15.2 | 12.8 |
| Total Recoverable Nickel | mg/kg dry wt | 4 | < 2 | 2 | 2 | 2 |
| Total Recoverable Zinc | mg/kg dry wt | 69 | 42 | 43 | 42 | 48 |
| Polycyclic Aromatic Hydrocarbons Screening in Soil* | | | | | | |
| Total of Reported PAHs in Soil | mg/kg dry wt | < 0.4 | < 0.4 | < 0.3 | < 0.4 | 0.4 |
| 1-Methylnaphthalene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 |
| 2-Methylnaphthalene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 |
| Acenaphthylene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 |
| Acenaphthene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 |
| Anthracene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 |
| Benzo[a]anthracene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | 0.014 |
| Benzo[a]pyrene (BAP) | mg/kg dry wt | 0.020 | < 0.015 | < 0.013 | 0.022 | 0.037 |
| Benzo[a]pyrene Potency Equivalency Factor (PEF) NES* | mg/kg dry wt | < 0.033 | < 0.036 | < 0.031 | < 0.032 | 0.056 |
| Benzo[a]pyrene Toxic Equivalence (TEF)* | mg/kg dry wt | < 0.033 | < 0.036 | < 0.031 | < 0.032 | 0.056 |
| Benzo[b]fluoranthene + Benzo[j] fluoranthene | mg/kg dry wt | 0.033 | < 0.015 | < 0.013 | 0.034 | 0.055 |
| Benzo[e]pyrene | mg/kg dry wt | 0.025 | < 0.015 | < 0.013 | 0.023 | 0.043 |
| Benzo[g,h,i]perylene | mg/kg dry wt | 0.026 | < 0.015 | < 0.013 | 0.023 | 0.068 |
| Benzo[k]fluoranthene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 |
| Chrysene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | 0.014 | 0.020 |
| Dibenzo[a,h]anthracene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 |
| Fluoranthene | mg/kg dry wt | 0.030 | < 0.015 | < 0.013 | 0.039 | 0.039 |
| Fluorene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | < 0.014 |
| Indeno(1,2,3-c,d)pyrene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | 0.037 |
| Naphthalene | mg/kg dry wt | < 0.07 | < 0.08 | < 0.07 | < 0.07 | < 0.07 |
| Perylene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | < 0.013 | 0.015 |
| Phenanthrene | mg/kg dry wt | < 0.014 | < 0.015 | < 0.013 | 0.018 | < 0.014 |
| Pyrene | mg/kg dry wt | 0.032 | < 0.015 | < 0.013 | 0.038 | 0.045 |

| Sample Type: Soil | | | | | | |
|---------------------------------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| Sample Name: | TPS01 - 0.3 14-Sep-2023 | TPS01 - 1.0 14-Sep-2023 | TPS02 - 0.3 14-Sep-2023 | TPS02 - 1.0 14-Sep-2023 | TPS03 - 0.3 14-Sep-2023 | TPS03 - 0.3 14-Sep-2023 |
| Lab Number: | 3365233.1 | 3365233.2 | 3365233.3 | 3365233.4 | 3365233.5 | 3365233.5 |
| Total Petroleum Hydrocarbons in Soil | | | | | | |
| C7 - C9 | mg/kg dry wt | < 20 | < 30 | < 20 | < 20 | < 20 |
| C10 - C14 | mg/kg dry wt | < 20 | < 20 | < 20 | < 20 | < 20 |
| C15 - C36 | mg/kg dry wt | < 40 | < 40 | < 40 | < 40 | 42 |
| Total hydrocarbons (C7 - C36) | mg/kg dry wt | < 80 | < 90 | < 80 | < 80 | < 80 |
| Sample Name: | TPS03 - 1.0 14-Sep-2023 | | TPS04 - 0.3 14-Sep-2023 | | TPS04 - 1.0 14-Sep-2023 | |
| Lab Number: | 3365233.6 | | 3365233.7 | | 3365233.8 | |
| Individual Tests | | | | | | |
| Dry Matter | g/100g as rcvd | 68 | 75 | 67 | | |
| Heavy Metals, Screen Level | | | | | | |
| Total Recoverable Arsenic | mg/kg dry wt | 5 | 5 | 6 | | |
| Total Recoverable Cadmium | mg/kg dry wt | 0.18 | 0.16 | 0.17 | | |
| Total Recoverable Chromium | mg/kg dry wt | 4 | 7 | 6 | | |
| Total Recoverable Copper | mg/kg dry wt | 8 | 17 | 14 | | |
| Total Recoverable Lead | mg/kg dry wt | 11.5 | 16.6 | 18.7 | | |
| Total Recoverable Nickel | mg/kg dry wt | 2 | 4 | 3 | | |
| Total Recoverable Zinc | mg/kg dry wt | 74 | 69 | 77 | | |
| Polycyclic Aromatic Hydrocarbons Screening in Soil* | | | | | | |
| Total of Reported PAHs in Soil | mg/kg dry wt | < 0.4 | 1.2 | 0.6 | | |
| 1-Methylnaphthalene | mg/kg dry wt | < 0.015 | < 0.014 | < 0.015 | | |
| 2-Methylnaphthalene | mg/kg dry wt | < 0.015 | < 0.014 | < 0.015 | | |
| Acenaphthylene | mg/kg dry wt | < 0.015 | < 0.014 | < 0.015 | | |
| Acenaphthene | mg/kg dry wt | < 0.015 | < 0.014 | < 0.015 | | |
| Anthracene | mg/kg dry wt | < 0.015 | 0.016 | 0.018 | | |
| Benzo[a]anthracene | mg/kg dry wt | < 0.015 | 0.060 | 0.023 | | |
| Benzo[a]pyrene (BAP) | mg/kg dry wt | < 0.015 | 0.119 | 0.049 | | |
| Benzo[a]pyrene Potency Equivalency Factor (PEF) NES* | mg/kg dry wt | < 0.035 | 0.185 | 0.077 | | |
| Benzo[a]pyrene Toxic Equivalence (TEF)* | mg/kg dry wt | < 0.035 | 0.184 | 0.076 | | |
| Benzo[b]fluoranthene + Benzo[j] fluoranthene | mg/kg dry wt | 0.016 | 0.164 | 0.077 | | |
| Benzo[e]pyrene | mg/kg dry wt | 0.016 | 0.097 | 0.053 | | |
| Benzo[g,h,i]perylene | mg/kg dry wt | < 0.015 | 0.189 | 0.082 | | |
| Benzo[k]fluoranthene | mg/kg dry wt | < 0.015 | 0.041 | 0.020 | | |
| Chrysene | mg/kg dry wt | < 0.015 | 0.061 | 0.029 | | |
| Dibenzo[a,h]anthracene | mg/kg dry wt | < 0.015 | 0.023 | < 0.015 | | |
| Fluoranthene | mg/kg dry wt | < 0.015 | 0.120 | 0.063 | | |
| Fluorene | mg/kg dry wt | < 0.015 | < 0.014 | < 0.015 | | |
| Indeno(1,2,3-c,d)pyrene | mg/kg dry wt | < 0.015 | 0.145 | 0.058 | | |
| Naphthalene | mg/kg dry wt | < 0.08 | < 0.07 | < 0.08 | | |
| Perylene | mg/kg dry wt | < 0.015 | 0.036 | 0.018 | | |
| Phenanthrene | mg/kg dry wt | < 0.015 | 0.028 | 0.018 | | |
| Pyrene | mg/kg dry wt | < 0.015 | 0.144 | 0.070 | | |
| Total Petroleum Hydrocarbons in Soil | | | | | | |
| C7 - C9 | mg/kg dry wt | < 20 | < 20 | < 30 | | |
| C10 - C14 | mg/kg dry wt | < 20 | < 20 | < 20 | | |
| C15 - C36 | mg/kg dry wt | 59 | 92 | 51 | | |
| Total hydrocarbons (C7 - C36) | mg/kg dry wt | < 80 | 98 | < 90 | | |

3365233.5

TPS03 - 0.3 14-Sep-2023

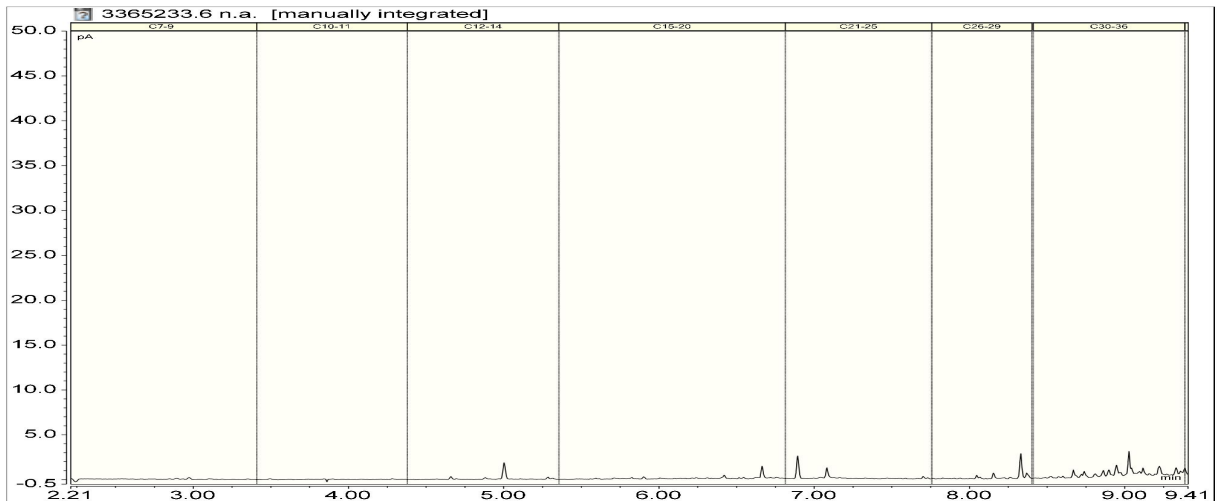
Client Chromatogram for TPH by FID



3365233.6

TPS03 - 1.0 14-Sep-2023

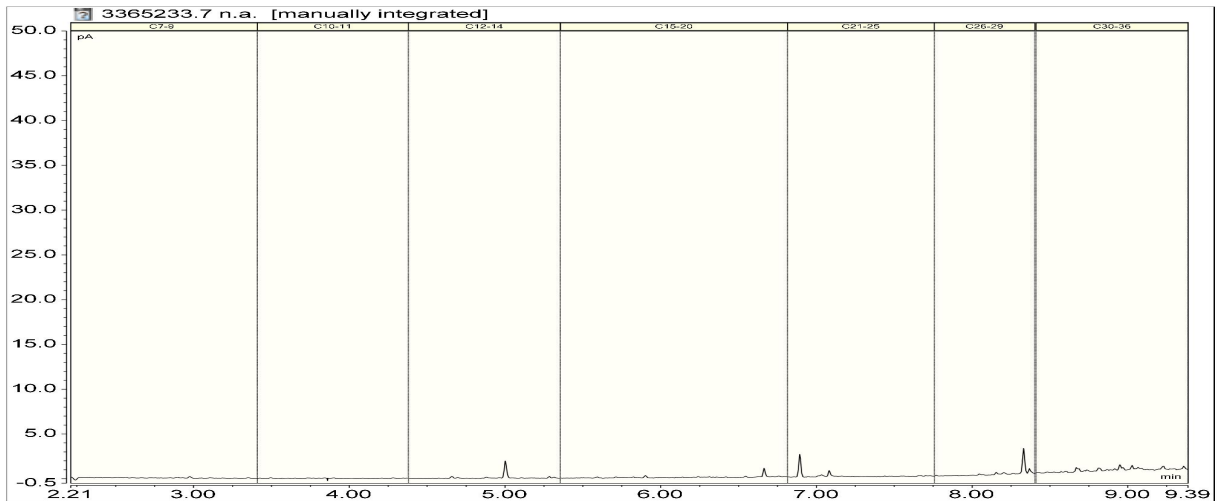
Client Chromatogram for TPH by FID



3365233.7

TPS04 - 0.3 14-Sep-2023

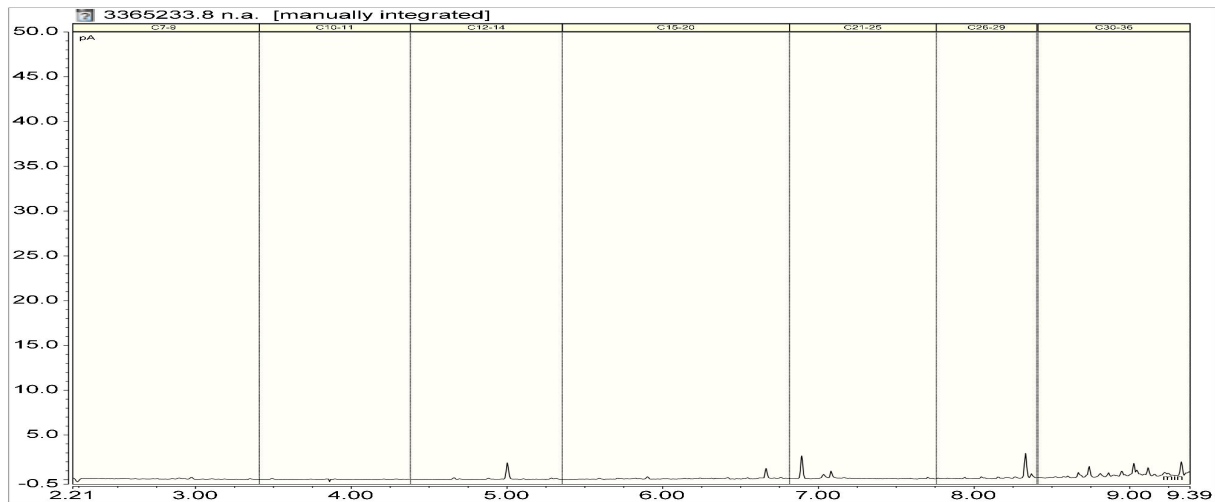
Client Chromatogram for TPH by FID



3365233.8

TPS04 - 1.0 14-Sep-2023

Client Chromatogram for TPH by FID



Analyst's Comments

TPS04 - 1.0 received broken in transit. Sample salvaged and put in a new jar. Some volatile loss may have occurred.

Summary of Methods

The following table(s) gives a brief description of the methods used to conduct the analyses for this job. The detection limits given below are those attainable in a relatively simple matrix. Detection limits may be higher for individual samples should insufficient sample be available, or if the matrix requires that dilutions be performed during analysis. A detection limit range indicates the lowest and highest detection limits in the associated suite of analytes. A full listing of compounds and detection limits are available from the laboratory upon request. Unless otherwise indicated, analyses were performed at Hill Labs, 28 Duke Street, Frankton, Hamilton 3204.

Sample Type: Soil

| Test | Method Description | Default Detection Limit | Sample No |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------|
| Individual Tests | | | |
| Total of Reported PAHs in Soil | Sonication extraction, GC-MS/MS analysis. In-house based on US EPA 8270. | 0.03 mg/kg dry wt | 1-8 |
| Dry Matter | Dried at 103°C for 4-22hr (removes 3-5% more water than air dry) , gravimetry. (Free water removed before analysis, non-soil objects such as sticks, leaves, grass and stones also removed). US EPA 3550. | 0.10 g/100g as rcvd | 1-8 |
| Benzo[a]pyrene Potency Equivalency Factor (PEF) NES* | BaP Potency Equivalence calculated from; Benzo(a)anthracene x 0.1 + Benzo(b)fluoranthene x 0.1 + Benzo(j)fluoranthene x 0.1 + Benzo(k)fluoranthene x 0.1 + Benzo(a)pyrene x 1.0 + Chrysene x 0.01 + Dibenzo(a,h)anthracene x 1.0 + Fluoranthene x 0.01 + Indeno(1,2,3-c,d)pyrene x 0.1. Ministry for the Environment. 2011. Methodology for Deriving Standards for Contaminants in Soil to Protect Human Health. Wellington: Ministry for the Environment. | 0.024 mg/kg dry wt | 1-8 |
| Benzo[a]pyrene Toxic Equivalence (TEF)* | Benzo[a]pyrene Toxic Equivalence (TEF) calculated from; Benzo[a]pyrene x 1.0 + Benzo(a)anthracene x 0.1 + Benzo(b)fluoranthene x 0.1 + Benzo(k)fluoranthene x 0.1 + Chrysene x 0.01 + Dibenzo(a,h)anthracene x 1.0 + Indeno(1,2,3-c,d)pyrene x 0.1. Guidelines for assessing and managing contaminated gasworks sites in New Zealand (GMG) (MfE, 1997). | 0.024 mg/kg dry wt | 1-8 |
| TPH Oil Industry Profile + PAHscreen | Sonication extraction, GC-FID and GC-MS/MS analysis. Tested on as received sample. In-house based on US EPA 8015 and US EPA 8270. | 0.010 - 70 mg/kg dry wt | 1-8 |
| Heavy Metals, Screen Level* | Dried sample, < 2mm fraction. Nitric/Hydrochloric acid digestion US EPA 200.2. Complies with NES Regulations. ICP-MS screen level, interference removal by Kinetic Energy Discrimination if required. | 0.10 - 4 mg/kg dry wt | 1-8 |
| Total Petroleum Hydrocarbons in Soil | | | |
| Client Chromatogram for TPH by FID | Small peaks associated with QC compounds may be visible in chromatograms with low TPH concentrations. QC peaks are as follows: one peak in the C12 - 14 band, the C21 - 25 band and the C30 - 36 band. All QC peaks are corrected for in the reported TPH concentrations. | - | 5-8 |
| C7 - C9 | Solvent extraction, GC-FID analysis. In-house based on US EPA 8015. | 20 mg/kg dry wt | 1-8 |
| C10 - C14 | Solvent extraction, GC-FID analysis. Tested on as received sample. In-house based on US EPA 8015. | 20 mg/kg dry wt | 1-8 |

| Sample Type: Soil | | | |
|-------------------------------|---------------------------------------------------------------------------------------------------|-------------------------|-----------|
| Test | Method Description | Default Detection Limit | Sample No |
| C15 - C36 | Solvent extraction, GC-FID analysis. Tested on as received sample. In-house based on US EPA 8015. | 40 mg/kg dry wt | 1-8 |
| Total hydrocarbons (C7 - C36) | Calculation: Sum of carbon bands from C7 to C36. In-house based on US EPA 8015. | 70 mg/kg dry wt | 1-8 |

These samples were collected by yourselves (or your agent) and analysed as received at the laboratory.

Testing was completed between 15-Sep-2023 and 19-Sep-2023. For completion dates of individual analyses please contact the laboratory.

Samples are held at the laboratory after reporting for a length of time based on the stability of the samples and analytes being tested (considering any preservation used), and the storage space available. Once the storage period is completed, the samples are discarded unless otherwise agreed with the customer. Extended storage times may incur additional charges.

This certificate of analysis must not be reproduced, except in full, without the written consent of the signatory.



Kim Harrison MSc
Client Services Manager - Environmental

Attachment 3 – Written Approval – 177 Te Puna Station Road

Written approval of affected persons

(Resource Management Act 1991, Section 95D)



Applicant details:

Full name: Tinex Group Limited
Address of proposed activity: 245 Te Puna Station Road, Te Puna
Brief description of proposed activity: Installation of New 1800mm Culvert (Refer Attached Evidence of Dr Steven Joynes)

Affected persons:

Full name(s): William Phillips & Natalia Phillips
Address for Service: 177 Te Puna Station Road, RD 6, Te Puna 3176
Address of property (if not as above): _____
Legal description: Lot 1 DP 22158
Tick as applicable: Owner(s)/Occupier(s) Owner(s)
Occupier(s)

Please note:

- Council will require separate written approval(s) from the occupiers of the affected property as well as from the legal owners.
- Evidence of ownership/authority to sign may be required.
- All owners are required to sign this form or for multiple owned properties Council requires all trustees to sign unless written evidence is provided that authorises a trustee to sign on behalf of the trustees.

Please read carefully before signing

You should only sign below if you fully understand the proposal, and if you support or have no opposition to the proposal you have been asked to consider. Council will not accept conditional approvals. If you have conditions on your approval, these should be discussed and resolved with the applicant directly.

1. I/We have been given a copy of the evidence of Dr Steven Joynes and understand the flooding level increase and flood duration increase as a result of the installation of the new 1800mmØ culvert at the entrance to 245 (205) Te Puna Station Road

2. I/We confirm that we have completed the following:

Copy of Evidence of Dr Steven Joynes signed Yes No (Note: Resource Consents Only)

3. I/We understand and accept that once I/we give my/our approval the Council cannot take account of any actual or potential effect of the activity and/or proposal upon me/us when considering the application and the fact that any such effect may occur shall not be relevant grounds upon which the Consent Authority may refuse to grant the application.

4. I/We understand that at any time before the final decision is made on the application, I/We may give notice in writing to the Council that this approval is withdrawn, under S104(4) of the Resource Management Act 1991.

5. I/We have read and fully understand the full extent of the proposal and have read and agree with what is stated in Notes 1-4 above.

Signed: _____

Dated: 22.9.23

Guide to Consents of Affected Persons

(Section 95D Resource Management Act 1991)

Why are consents of affected persons sought?

The primary purpose of a resource consent applicant obtaining a written approval from potentially affected persons is to increase the chance that where the Environmental effects are likely to be minor Council may decide that the application can be processed on a non-notified basis. For a consent to be non-notified Environmental effects must be no more than minor and written approvals of adversely affected persons must be provided.

- Any effects on those persons giving written approval shall not be taken into account when determining if the Environmental effects are minor. This may allow an application that would otherwise have more than minor adverse effects, to fall into the minor category and potentially be non-notified.
- Where the effects are no more than minor but there are still adversely affected persons, the application would require to be notified unless those persons written consents were obtained.

Accordingly obtaining the consent of affected persons is an important and necessary part of the resource consent application procedure.

Identification of affected persons

It is important to recognise that while some people and organisations may have an interest in a proposal, they may not be affected. Some form of adverse effect on a person must be apparent for their written approval to be considered necessary. Potentially affected persons include both owners and occupiers of land.

Council may disregard only those adverse effects that will certainly be trivial (less than minor) or which are only a remote possibility.

Obtaining written approval

Council has produced this form for recording the consent of affected persons. The form makes it clear that the affected persons are acknowledging.

- That the persons have been given details of the full and final proposal including a copy of the application form, assessment of environmental effects, and plans and that they have confirmed that they have signed and dated such information.
- That the persons understand and accept that once approval has been given the Council cannot take account of any actual potential effects of the activity upon those persons when considering the application and the fact that any such effect may occur shall not be relevant grounds upon which the Council may refuse to grant the application.
- That the persons understand that at any time before the final decision is made on the application they may give notice in writing to the Council that the approval is withdrawn.

Unconditional consent

Council has no responsibility to ensure that the demands or "conditions" of an affected person are satisfied; rather it is the responsibility of the applicant. Council will not accept an approval form that has been returned with conditions imposed and instead the form will be returned to the applicant for resolution.

The applicant may then be required to again consult or negotiate to obtain unconditional approval. There is additionally a range of methods available to the applicant, including letters of undertaking, or more formal methods such as deeds or agreements.



Office use only:

Copy of application form signed and provided

Yes No

Copy of AEE signed and provided

Yes No

Site plan signed and provided

Yes No Not required

Property file of activity _____ Property file of affected person(s) _____ (owner(s) only)

Accepted by Planner: Yes No

Signature _____

**BEFORE HEARING COMMISSIONERS
IN THE WESTERN BAY OF PLENTY DISTRICT**

UNDER THE Resource Management Act 1991 ("**Act**")

IN THE MATTER OF 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

STATEMENT OF EVIDENCE OF STEVEN JOYNES

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

INTRODUCTION

Background, qualifications and experience

1. My full name is Steven Joynes.
2. I have over 35 years' experience in developing, utilising and managing water modelling projects.
3. I was awarded a PhD in Computational Hydraulics in 1988, and started Hydraulic Modelling Services Ltd in 1992. I established Golovin in 2008. This company is dedicated to best-practice methods in water modelling which includes the development of the *Modelling Policy Statement*, peer review structures and training programmes.



4. I was the inaugural Chairman of the Modelling Special Interest Group within Water New Zealand for two years.
5. At least 95% of my work is flood modelling to establish the impact of development in order for applicants to apply for a Resource or Building consent. I have completed over 550 projects in the past 15 years from individual houses, industrial plants and large subdivision. I have taught flood modelling software methodologies and processes to over 400 engineers in public courses and for in-house consultants.
6. My background involvement for the applicant has largely been in respect of its first two resource consent applications, which relate to the overall Te Puna Business Park structure plan compliance and earthworks that have been undertaken on site. My focus has been to hydrologically model stormwater/flooding scenarios incorporating different works that might be advanced by the three different landowners within the Te Puna Business Park area. This has involved undertaking detailed modelling of various flooding scenarios and mitigations, attending expert witness conferencing (arising out of the abatement notice proceedings, but focused on issues beyond the existing activities to which the abatement notice relates), together with follow up conferencing and engagement with the applicant's planner and the other two business park owner's consultants.

Purpose and scope of evidence

7. In respect of this current application to authorise the existing activities on site, the applicant has asked me to model any flooding impacts (particularly on the property at 177 Te Puna Station Road) of an 1800mmØ culvert that is proposed to replace the two existing culverts 450mmØ, as part of a vehicle accessway upgrade to the site. The reason that this has been proposed is because an 1800mmØ culvert "upgrade" is one part of the likely package of solutions that will be advanced to resolve wider stormwater management issues. It makes practical sense to undertake that upgrade now, if the entrance is to be upgraded, rather than to have to open up any recently completed works later as part of the wider solution.
8. The flood model used has been developed over the past 2 years or so to include as much detail required to reflect the existing situation and consented activities. The flood model has been informally peer reviewed



by Council consultants with their requested improvements implemented. This included the use of a tidal boundary with climate change adjustment.

9. I have analysed existing land terrain and inserted the 1800mmØ culvert as required during both a 10-year and 100-year rainfall event. The 10-year storm is for the more frequent event and lower level and more likely to be noticed.

Expert witness code of conduct

10. I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's 2023 Practice Note. While this is not an Environment Court hearing, I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

FLOOD MODELLING

Hydrological Impact of 1800mmØ Culvert

11. The addendum below shows the water level hydrograph for 177 Te Puna Station Road. At this location the water levels change for the 10-year storm is **11mm** in an existing depth of 1.29m. The corresponding results for the 100-year storm is **1mm** and 1.9m. Note that these depths are for climate change rainfall and 1m sea level rise and may not have previously been experienced.
12. The increase in culvert flow for the 100-year storm is from about 0.8m³/s to 1.6m³/s. However, this has minimal impact on downstream water levels because the flooding is widespread across multiple drainage channels.
13. It is estimated that the duration of flooding above the existing peak is 3.5 hours in the 10-year storm. For the 100-year storm it is 15 minutes.
14. For context and with no storm flows, 177 Te Puna Station Road will flood to about 1m deep due to sea level rise anyway. The proposed culvert provides a benefit because the inflow tide can move upstream easier and decrease tidal levels by 100mm. The present culverts will cause a restriction.



15. In terms of the effect of this increase/decrease, I understand Mr Crossan will address this in his planning evidence.

CONCLUSION

16. As described in this evidence I have modelled the impact of the proposed 1800mmØ culvert.
17. As above and the worst-case, the impact at 177 Te Puna Station Road is 11mm higher water due to the proposed culvert in the 10-year storm.
18. I am happy to assist the Panel further should it have any queries.

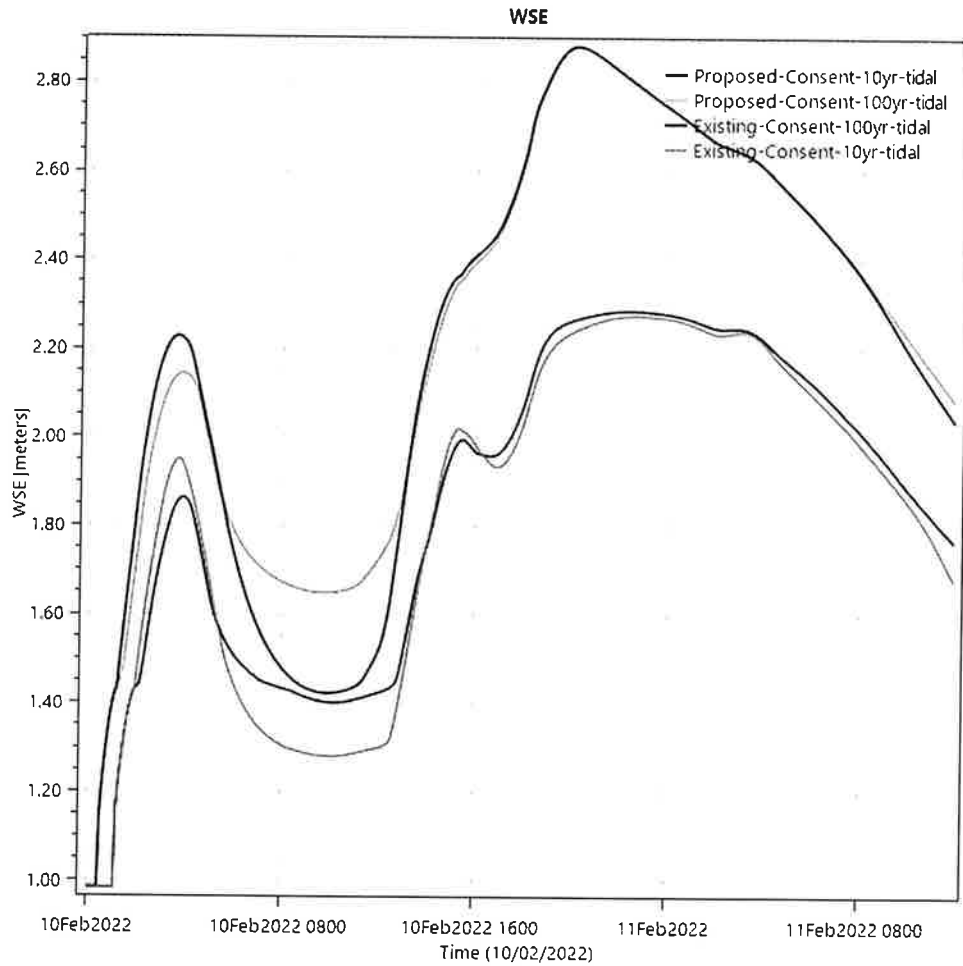
22 September 2023

Dr Steven Joynes



ADDENDUM

Water level change at the site, 10- and 100-year storm with twin 450mm pipes (existing) and 1800mm culvert (proposed)



Attachment 4 – MFE Outdoor Storage Consultation Document



Ministry for the
Environment
Manatū Mō Te Taiao

A PROPOSED NATIONAL ENVIRONMENTAL
STANDARD FOR THE

Outdoor Storage of Tyres

CONSULTATION DOCUMENT

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Ministry for the
Environment
Manatū Mō Te Taiao



Making Aotearoa New Zealand
the most liveable place in the world

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Message from the Minister

This proposed new regulation to control storage of waste tyres is part of a broader package of measures to address this environmental problem.

New Zealand produces approximately 5 million waste, or end of life, tyres each year. The majority of these end up in uncontrolled stockpiles, landfills or are illegally disposed of. These tyres produce leachate contaminants like heavy metals, pose a fire risk, and can support significant rodent or mosquito populations as well as damaging the aesthetics of communities.



There are currently no national regulations to manage the outdoor storage of tyres. We are repeatedly seeing cases around New Zealand of abandoned tyre stockpiles having to be disposed of by councils at public expense. It would be possible for each of our councils to put rules into their district plans to control such activities, but a more efficient approach is national regulation. This is consistent with the Government's direction on a range of environmental issues like telecommunications, aquaculture, forestry, pest control, and stock exclusion from waterways.

This straightforward regulation simply requires a council consent for significant outdoor stockpiles of tyres. This gives the council the opportunity to put in place site appropriate conditions to manage the environmental issues, and to require a bond to protect ratepayers from a potential future liability.

The intention behind this proposed regulation is to also drive the tyre industry towards more sustainable recycling and disposal options. As part of this package, funding from the Government's Waste Minimisation Fund (WMF) is being provided towards a significant investment in infrastructure with the waste industry to collect and shred end-of-life tyres. A funding arrangement has also been entered into with Golden Bay Cement to install machinery to enable millions of tyres per year to be used in the manufacture of cement. WMF funding is also being provided to other potential end-of-life tyre uses such as in road and cycleway surfacing, floor underlay, fuel and construction products.

We welcome feedback on this proposed National Environmental Standard through this consultation document. Our objective is to reduce the risk of environmental harm from the stockpiling of waste tyres and to support the development of more environmentally sound recycling and disposal options.

Hon Dr Nick Smith
Minister for the Environment

Section 1: Background

About this consultation

The Government is considering developing a national environmental standard (NES) under the Resource Management Act 1991 (RMA) to control the activity of outdoor tyre storage.

Anecdotal evidence suggests outdoor tyre storage is a common activity in New Zealand. However, there are risks if tyres are not stored in an appropriate way.

Currently, there are no national regulations that relate specifically to the storage of tyres. The rules for storing tyres are determined by regional and district councils under the framework of the RMA and bylaw powers under the Local Government Act 2002. The Government is considering how best to manage the risks of harm to the environment, human health, and local communities from storing tyres and is seeking feedback on the proposal to develop an NES under the RMA for this purpose.

We are seeking information from local government, businesses and the public on the proposal to develop an NES, so we can better understand the costs and benefits of the proposed intervention.

This consultation only seeks information on the proposal to develop an NES. It does not seek information on how best to increase tyre recycling in New Zealand. In October 2015, the Government targeted the Waste Minimisation Fund towards growing markets for recycled tyre products. This Government initiative is directed at increasing New Zealand's rate of end-of-life tyre recycling.

Submissions close at 5.00 pm on Friday 4 August 2017. Information on how to make a submission, including questions to guide your feedback, is included in [section 5](#).

Previous government action on tyres

For decades New Zealand has faced problems with the recycling and storage of used tyres. In recent years the Government has considered how best to address both of these issues.

In May 2014, the Government released a discussion document to consult on four waste streams for potential government intervention, including tyres. It asked whether these are the right waste streams for potential government intervention and whether any of these products should be declared priority products requiring a product stewardship scheme to be developed and accredited under the Waste Minimisation Act 2008.

For all waste streams identified, including tyres, the majority of submitters were supportive of these products being the focus of potential government intervention. Many submitters wanted regulations to be developed to create a 'level playing field' for managing these product waste streams, but also wanted to make sure any mandatory product stewardship schemes are well designed.

Following the Government's consultation it was determined that before introducing regulation more analysis was needed to understand the barriers to end-of-life tyre recycling in New Zealand. The Ministry for the Environment commissioned KPMG to undertake an investigation into on-shore waste tyre recycling. KPMG's report determined that a principle barrier to the recovery of end-of-life tyres for recycling in New Zealand is the limited markets for recycled tyre products.

In light of the KPMG report, the Government in October 2015 targeted the Waste Minimisation Fund towards growing markets for recycled tyre products. This Government initiative is directed at increasing New Zealand's rate of end-of-life tyre recycling. Successful projects from this funding round will begin over the course of 2017 and 2018. Growing markets for recycled tyre products addresses the economics of used tyre recycling; however, the initiative does not address the risk associated with storing tyres outdoors.

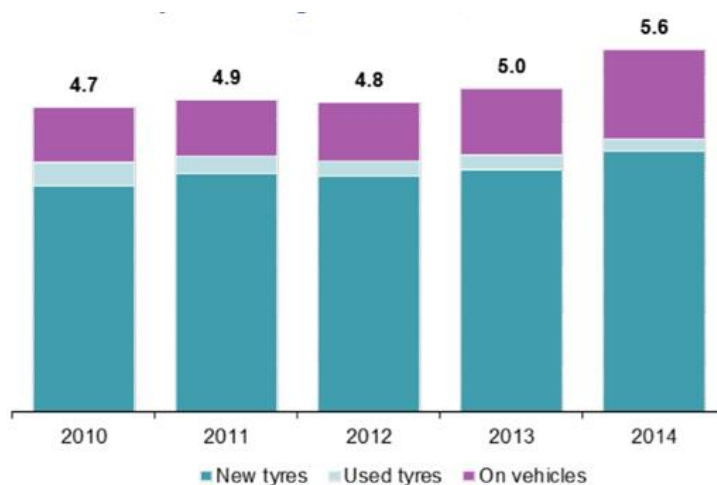
Section 2: The problem with storing tyres

What are end-of-life tyres?

End-of-life tyres (ELTs) are used tyres that are not or cannot be reused for their originally intended purpose and are not re-treaded. The term tyres in this document refers to all pneumatic (air filled) tyres for cars, motorcycles, trucks, buses, off-road vehicles, aircraft, and certain solid tyres (forklifts), but not bicycle tyres.

Approximately four million car and one million truck and other ELTs are generated annually in New Zealand. Due to increased vehicle kilometres the supply of ELTs in New Zealand is increasing. For example, between 2010 and 2014 the total number of tyres entering New Zealand increased by 22 per cent (KPMG, 2015).

Figure 1: Number of tyres entering New Zealand, in millions



Source: KPMG Waste Tyres Economic Research: Report 3 (2015) p14.

Research suggests an estimated 30 per cent of ELTs are being exported, used for agricultural purposes, or recycled, with the remaining 70 per cent being disposed of to landfill, stored on land, or otherwise unaccounted for (KPMG, 2015).

The risks with storing tyres

Storing tyres outdoors poses a risk of harm to the environment, human health, and local communities. For example:

- Fires – tyre piles represent a risk of significant adverse effects from fire. Tyres do not spontaneously combust but can be ignited accidentally or deliberately and can be difficult to extinguish (depending on the size, location and formation of the pile). Tyre fire smoke and run-off contains a range of toxic and carcinogenic compounds, including dioxins, furans, mercury and lead, which can require evacuation of nearby downwind residential areas and contaminate soil and water supplies (Firecone, 2004).
- Pests – large tyre piles can become a human health risk by creating breeding grounds for mosquito and rodent species that may spread diseases. New Zealand currently has few mosquitoes capable of carrying serious diseases, and those that exist do not appear to breed in tyres (Firecone, 2004). However, alien mosquito species capable of carrying serious diseases (such as dengue fever) that are known to breed in tyres are relatively

frequently discovered near ports and at the border (Ministry for the Environment, 2014 and Firecone, 2004). These risks are likely to increase as the effects of climate change become more prevalent.

- Discharge of contaminants – inappropriate storage of tyres can result in leaching of toxic materials into soil and occasionally groundwater. The concentration of leaching is specific to storage time and local conditions. The longer a tyre pile is exposed, the more contaminants will be released, particularly in damp conditions. Contaminants that can leach from tyres include cadmium, lead, aluminium, manganese and zinc (Kim, 2004). Laboratory tests suggest that leachate from tyres may be toxic to some fish species (such as rainbow trout), invertebrates and algae (MWH, 2004).
- Financial liability – illegal dumping and abandonment of tyre stockpiles can create a large financial liability for removing the tyres or cleaning up the site. Removal of illegally dumped tyres has cost councils and landowners from \$8,000 to \$100,000, depending on the amount of tyres and location (Firecone, 2004).
- Visual and amenity impacts – large piles of tyres are unsightly for neighbours and communities in general and can impact on the pleasantness and aesthetic coherence of an area. Large tyre piles can also have negative impacts on New Zealand’s clean green image. Tyre piles can also increase vermin (as noted below) which can have an adverse effect on the amenity of an area.

The storage of tyres in New Zealand

New tyres / useable tyres

New / useable tyres are a valuable commodity that can retail for between \$50 and \$400 each. Because these tyres are valuable there are more incentives for the owner of the tyres to store them in a protected way. For example, new and useable tyres are likely to be stored in a secure environment such as a warehouse, distribution centre, or retail facility that is not easily accessible by the general public. Storing the tyres in this way minimises the risk of harm occurring by reducing amenity effects and the risks of fire or contaminant leaching.

Outdoor tyre storage

Anecdotal evidence suggests that in New Zealand it is common to stockpile used and end-of-life tyres with the intent of future reuse or reprocessing. The most typical form of temporary storage for large volumes of end-of-life tyres is in outdoor tyre stockpiles that are normally uncovered. These stores typically have limited security measures and can be more easily accessed by the general public than new tyre warehouses.

Anecdotal evidence suggests individuals and small businesses are the most likely to become involved in the activity of stockpiling end-of-life tyres. End-of-life tyres are often stockpiled because:

- stockpiling provides a cheap method of disposal and an opportunity to reduce business costs
- individuals hope the economic value of end-of-life tyres will increase in the future, and thereby store tyres in anticipation of this (waste banking)
- individuals store end-of-life tyres to use as a feedstock supply for future tyre recycling technologies (as mentioned previously tyre recycling in New Zealand faces economic barriers).

Outdoor tyre stockpiling is an issue if storage practices are insufficient to mitigate the risk of adverse effects. As tyres reach an end-of-life state they lose their commodity value. This decreases the incentive to store end-of-life tyres appropriately and increases storage risks as described previously.

There is a risk that introducing the proposed NES may result in an increase in illegal dumping of waste tyres due to increased compliance costs. The cost of remediating dumped tyres would fall on councils and/or private landowners. However, existing tyre stockpiles would not be affected if the effects of the activity remain the same or similar in character, intensity, and scale due to the existing use rights exemption under s10 of the RMA.

Illegal dumping of tyres on both private and public land has also been a reported problem. The cost of dumping tyres illegally is seldom borne by disposers but rather those who have responsibility for the affected land.

There are provisions in place through the Litter Act 1979 to prohibit illegal dumping. However, we understand that it is difficult for councils to identify illegal dumpers and councils have limited resource and capacity to address illegal dumpers. The fines associated for dumping under the Litter Act 1979 do not provide a sufficient disincentive for dumping or sufficient compensation to cover the clean-up cost and prosecution (being a maximum of \$5,000 for an individual or \$20,000 for a body corporate).

The proposed NES would not affect tyres disposed of to land (for example, to cleanfills and landfills). Disposal of waste to land in this manner is likely to be subject to a resource consent which should either ensure that tyres are not permitted to be disposed of on the site, or that the adverse effects of their disposal are adequately managed.

Section 3: Our proposal for managing the storage of tyres

Problem definition

The supply of used and end-of-life tyres (ELTs) in New Zealand is increasing. There are limited markets for resource recovery of tyres once they have reached the end of their useable life. Collectors and retailers are incentivised to store and dispose of used tyres in the cheapest way possible to increase commercial margins. As a result, research suggests the majority of used tyres in New Zealand are disposed of in non-levied landfills, stockpiled or illegally disposed of.

Whilst the RMA provides a framework for local government to establish rules to control tyre storage, these options have been, and continue to be, underutilised. Rules that do exist create variation in both content and enforcement. As a result, operators can exploit gaps in regulatory settings by moving used tyre stockpiles between regions. These settings create difficulties for agencies when implementing and enforcing controls, and hinder the collection of information to understand the activity.

These market and regulatory drivers lead to the stockpiling of used and end-of-life tyres. This will increase in future with the growing supply of tyres. Outdoor tyre stockpiles pose risks to the environment, human health, and local communities due to the risk of fire, amenity effects, leaching of contaminants, pest breeding, and stockpile abandonment. The risks a tyre stockpile poses increases with the size of the pile.

Tyres stored indoors have the benefit of being more secure, covered, and not in public view and therefore do not present the same adverse effects and risks.

The Government has already taken steps to address the lack of markets for used tyres through the Waste Minimisation Fund, with funded projects implemented in 2017/2018. However, we are certain that this measure alone will not address the core risks identified to the environment, human health, and local communities as it only addresses the market component contributing to increasing used tyre stockpiles.

Tyre stockpiles are likely to still exist or develop even if markets for ELTs develop. Therefore, the regulatory gap identified above remains the outstanding driver leading to the development of tyre stockpiles.

Objectives

The objectives identified seek to address the adverse effects on the environment and risk of harm to human health and to local communities from the activity of outdoor tyre storage.

The primary objectives of the proposed regulation are to provide certainty that:

- the risks of harm to the environment, human health, and local communities from storing tyres outdoors are appropriately managed
- outdoor tyre storage practices are consistently managed across New Zealand, removing gaps in regulatory settings which create perverse incentives to move tyres between regions.

In assessing options against these objectives it is also desirable that the regulation meets the following secondary objectives:

- measures are easy to understand for councils and operators
- measures are able to be implemented and enforced
- measures provide a way to collect information about outdoor tyre storage.

National direction under the Resource Management Act 1991

To achieve the Government's objectives we are proposing to develop a national environmental standard (NES) under part 5 of the Resource Management Act 1991 (RMA).

The RMA is New Zealand's main piece of legislation that sets out how we should manage our environment. The RMA was created to achieve a more coordinated, streamlined, and comprehensive approach to environmental management.

In general, decisions under the RMA about land and resource use are made by local government (regional councils, unitary authorities, and city and district councils). However, the RMA also allows central government to provide direction on specific national, regional or local issues, using a range of tools.

We consider that the problem of outdoor tyre storage, the objectives of the project, and our proposed solution are aligned with the overarching purpose of the RMA to promote the sustainable management of natural and physical resources. The proposed NES allows for the continuation of tyre storage activities to enable people and communities to provide for their economic well-being while avoiding and mitigating adverse effects on the environment from this activity.

What are national environmental standards?

National environmental standards are legally enforceable regulations made under part 5 of the RMA. They provide certainty by setting out national requirements for particular activities. An NES can prescribe technical standards, methods or requirements for land use and subdivision, water take and use, use of the coastal marine area, discharges, and noise matters. They can also require monitoring, particularly if the standard is aimed at improving the environment.

An NES is a regulation that can control activities directly and independently of regional or district rules. An NES may also prescribe the way councils manage activities and resources, including classifying activities, prescribing methods, or monitoring requirements. However, councils can impose stricter standards through the rules in their plans if the NES specifically states they can do so.

The proposal

We are proposing to develop an NES to manage the risks presented by outdoor tyre storage. In doing so we want to acknowledge that the adverse effects increase when the quantity of tyres stored increases.

The proposed NES would affect district and city councils.

An NES for the outdoor storage of tyres could be comprised of the following controls.

Table 1: Proposed controls for storing tyres outdoors

| Tyre volume | Control |
|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Small quantities of tyres stored outdoors less than 200m ³ | No controls included in the NES, therefore tyre piles of this size would be a permitted activity without standards. However, consent authorities would retain the ability to impose more stringent controls in their district plans. |
| 2. Large quantities of tyres (200m ³ and above) | <p>Classified as a discretionary activity. Before undertaking this activity a resource consent must be obtained from the consent authority, which may include conditions as set by that authority.</p> <p>We consider it would be appropriate for direction to be provided to consent authorities on areas to consider when assessing a resource consent application including, but not limited to:</p> <ul style="list-style-type: none"> • the layout of proposed storage piles (including height of the piles and distance from property boundaries and buildings) • the location of the site • mechanisms for the control of stormwater • mechanisms proposed for fire management (such as security requirements and water supply) • mechanisms for the control of vermin and insects • the duration for which the activity is to be undertaken • the visual and amenity effects of the proposal • whether a bond under section 108 of the RMA is appropriate. |

Giving direction to consent authorities on the issues to be considered in a consent application would give certainty to territorial authorities about what they need to consider when assessing applications and also give applicants an idea of the issues they need to cover in their applications.

The NES would also expressly allow district and city councils to include stricter controls in their district plans.

Any additional conditions imposed by councils could directly address the environmental risks of this activity by including location restrictions, fire prevention, and minimisation of fire spread requirements and/or ground cover requirements (to reduce effects of leaching).

The proposed NES would automatically apply to all district and city councils and would override any existing conflicting plan provisions. Consent authorities would put the proposed NES into practice when making resource consent decisions and then enforce it.

The introduction of the proposed NES would not require councils to update their district plans to become effective; however, they may choose to do so, including by ‘piggy backing’ the desired changes into another plan change. Implementing an NES saves councils the cost of undertaking a plan-change process and any potential submitters the cost of submitting on proposed local plan changes. National regulation through an NES would provide certainty for operators storing tyres across multiple regions and would also allow for consistent gathering of information.

Due to existing use rights under the RMA, an NES would not apply to existing tyre stores, provided the effects of the activity are the same or similar in character, intensity, and scale to those which existed before the NES became operative.

Before the release of this consultation document, a range of regulatory and non-regulatory options were considered as part of the Ministry for the Environment’s regulatory impact analysis. The regulatory impact analysis considers the development of an NES under the RMA to be the most targeted and effective intervention to manage the risks with storing tyres.

The effects of the proposed regulation, including the affected activity type, are discussed in [Section 4](#) of this document.

Section 4: Effects of the proposed National Environmental Standard

This section considers the effect that the proposed National Environmental Standard (NES) would have on the New Zealand public, including councils, businesses, iwi authorities, and consumers. It is framed by the activities in scope and a suggested timeframe for entry-into-force of the proposed regulatory framework.

We want **your feedback** to inform the process of making regulations. We have provided specific questions under each of the subheadings of this section (activities in scope, and timeframe) to guide your feedback.

What activities would be in scope of the proposed National Environmental Standard?

Activities in scope

The proposed NES would affect individuals / businesses differently depending on the volume of tyres that are being stored outdoors on a property. Tyre stores that are larger than 200m³ would require a resource consent from the local council as a discretionary activity (such consent could include conditions set by council).

We estimate that a volume of 200m³ tyres is equivalent to approximately 2500 standard passenger tyres (EPUs) (loosely stacked) or 3800 EPUs (laced). Draft New Zealand Fire Service advice recommends that individual tyre piles do not exceed 360m³. The proposed NES takes a precautionary approach by setting threshold at which consent is required at 200m³ or above.

Tyre storage

We consider that 'storage or storing tyres' is the action or method of storing something for future use. Under the proposal a tyre would be deemed to be stored when it is present on a property. There would not be any timeframes that need to be met before 'storage' is triggered.

State of tyres

The NES would apply to tyres in all states for example, whole, chipped, shredded.

Outdoor storage

We consider outdoor storage is when tyres are not stored in a building which includes walls on all sides and a roof. Should this proposal proceed, further detail would be incorporated in the drafting of the NES.

Activities out of scope

Any tyre stores of less than 200m³ would not be subject to the proposed NES. This threshold is anticipated to exclude small tyre stores for legitimate purposes (such as tyres used for silage cover) which present a reduced level of risk. This level of tyre storage would become a permitted activity without standards by default as it is not specially mentioned in the NES.

Questions

1. Do you agree with the Government's proposal to develop a national environmental standard to control the activity of storing tyres outdoors? Why/why not?
2. Do you agree with the proposed definition of tyres (all pneumatic (air filled) tyres for cars, motorcycles, trucks, buses, off-road vehicles, aircraft, and certain solid tyres (forklifts), but not bicycle tyres)? Why/why not?
3. Do you think the proposed volume threshold of 200m³ is appropriate? Why/why not?
4. Do you agree with the Government's proposal to classify outdoor tyre stores of more than 200m³ as a discretionary activity under the Resource Management Act 1991 (instead of a restricted discretionary activity)? Why/why not?
5. Are you aware of any activities that may involve the storage of tyres outdoors which should be exempt from this proposal? If so, what are they and why should they be exempt?
6. Do you think it is appropriate to provide direction to consent authorities when processing consents in the NES? What do you think of the matters proposed to be considered in table 1 in this consultation document?

Questions for the tyre industry

7. Do you currently store tyres outdoors? If so, how many?
8. Do you anticipate the introduction of the NES would have either positive or negative impacts for you or your business? If yes, please explain.
9. Do you anticipate the introduction of the NES would have a cost impact on you or your business? If yes, please explain.

Questions for local government

10. Do you consider the proposal to be workable in practice, that is, would your organisation be able to issue consents, monitor activities, and enforce the proposed NES?
11. What additional conditions do you consider should be mandated, if any, by the NES?
12. Do you have any additional information about the impacts from storing tyres on the environment, economy or communities?

Timeframe

The Government proposes that, should the proposed NES be developed under part 5 of the RMA it could enter into effect by mid-2018.

Should this proposal proceed, upon entry-into-force, the activity of storing more than 200m³ of tyres would be classed as a discretionary activity.

Any persons seeking to undertake this activity must obtain a resource consent, and if these regulations are breached the enforcement mechanisms of the RMA would apply.

The proposed timeframe would enable the Government to undertake the necessary policy decisions and processes, and would provide businesses, consumers and regional and district councils with enough lead-in time to prepare for entry-into-force of the NES.

We consider this to be a reasonable amount of time for any individuals and businesses that currently store or plan to store tyres outdoors to plan for the proposed requirements.

Questions

13. What are your views on the Government's proposed timeframe for entry-into-force of the NES under part 5 of the RMA?
14. Are there any issues about the proposed timeframe for entry-into-force of the NES that the Government should consider?
15. Are there any ways the Government could help businesses, consumers and local government to prepare ahead of the regulations' entry-into-force?

Section 5: Consultation process

How to make a submission

The Government welcomes your feedback on this consultation document. The questions posed throughout this document are a guide only and all comments are welcome. You do not have to answer all the questions.

To ensure your point of view is clearly understood, you should explain your rationale and provide supporting evidence where appropriate.

You can make a submission in three ways:

- use our online submission tool, available at www.mfe.govt.nz/consultation/proposed-national-environmental-standard-outdoor-storage-of-tyres. This is our preferred way to receive submissions
- download a copy of the submission form to complete and return to us. This is available at www.mfe.govt.nz/consultation/proposed-national-environmental-standard-outdoor-storage-of-tyres. If you do not have access to a computer, a copy of the submission form can be posted to you
- write your own submission.

If you are posting your submission, send it to A Proposed National Environmental Standard for the Outdoor Storage of Tyres, Ministry for the Environment, PO Box 10362, Wellington 6143 and include:

- the title of the consultation (A Proposed National Environmental Standard for the Outdoor Storage of Tyres)
- your name or organisation
- postal address
- telephone number
- email address.

If you are emailing your submission, send it to tyre.submissions@mfe.govt.nz as a:

- PDF
- Microsoft Word document (2003 or later version).

Submissions close at 5.00 pm on Friday 4 August 2017.

Contact for queries

Please direct any queries to:

Email: tyre.submissions@mfe.govt.nz

Postal: A Proposed National Environmental Standard for the Outdoor Storage of Tyres,
Ministry for the Environment, PO Box 10362, Wellington 6143

Publishing and releasing submissions

All or part of any written submission (including names of submitters) may be published on the Ministry for the Environment's website, www.mfe.govt.nz. Unless you clearly specify otherwise in your submission, the Ministry will consider that you have agreed to have your submission and your name posted on its website.

Contents of submissions may be released to the public under the Official Information Act 1982 if requested. Please let us know if you do not want some or all of your submission released, stating which part(s) you consider should be withheld and the reason(s) for withholding the information.

Under the Privacy Act 1993, people have access to information held by agencies about them. Any personal information you send to the Ministry with your submission will only be used in relation to matters covered by this document. In your submission, please indicate if you prefer we do not include your name in the published summary of submissions.

References

Firecone. 2004. *Management of End-Of-Life Tyres*. Wellington. (Commissioned by the Ministry for the Environment).

Kim, Nick. 2004. *Potential contamination from tires (tyres): PAH leaching update*. (Prepared for Environment Waikato).

KPMG. 2015. *Waste Tyres Economic Research: Report 3*. (Commissioned by the Ministry for the Environment).

Ministry for the Environment. 2014. *Priority Waste Streams for Product Stewardship Intervention: A discussion document*. Wellington: Ministry for the Environment.

MWH New Zealand Limited. 2004. *End of Life Tyre Management: Storage Options*. Dunedin. (Commissioned by the Ministry for the Environment).

Attachment 5 – WBOPDC Email Regarding Roding Requirements

Shae Crossan

From: Barry and Beth Daniel <tinex@xtra.co.nz>
Sent: Tuesday, August 1, 2023 7:20 AM
To: Lara Burkhardt
Cc: Shae Crossan; James Gardner-Hopkins
Subject: Fwd: Clarke Road Traffic Calming
Attachments: Clarke Rd Traffic Calming - Te Puna Station Rd Intersection.pdf; Clarke Rd Traffic Calming - Mid Block Treatment.pdf

Sent from my iPad

Begin forwarded message:

From: Phillip Martelli <Phillip.Martelli@westernbay.govt.nz>
Date: 23 May 2019 at 3:17:00 PM NZST
To: tinex@xtra.co.nz, denise.bax25@gmail.com, Grant Overton <grant@overseaslogistics.co.nz>
Subject: Clarke Road Traffic Calming

Hi all

Council has undertaken the traffic assessment of Te Puna Station Road/SH2 intersection. The current performance of the intersection meets the requirements of the District Plan. The Te Puna roundabout meets the requirements for that intersection upgrade, and the Te Puna Road/Te Puna Station Road intersection has been upgraded. The roading improvements remaining that are required to enable the industrial area to develop is the traffic calming on Clarke Rd (apart from your own internal road entranceways onto Te Puna Station Road). As discussed with each of you previously, Council has investigated the option of Council arranging for these traffic calming requirements, and recouping the costs from yourselves. This traffic calming is a requirement of the District Plan, and must be in place prior to you as landowners being able to give effect to the Industrial Zone.

Council engaged Aurecon Consultants to prepare plans and costings. The plans are attached. The total cost is \$256,450. This is proposed to be allocated to each property based on the net land area that would be available for development accounting for the likes of land lost for stormwater management and landscaping. The allocation would be as follows:

| Landowner | Gross Area | Net Area | \$ per |
|-----------|------------|----------|-----------|
| | Ha | Ha | Net Area |
| Overton | 7.221 | 5.5488 | \$62,325 |
| Bax | 11.1014 | 8.3465 | \$93,749 |
| Daniel | 12.2043 | 8.9364 | \$100,375 |
| Total | 30.5267 | 22.8317 | \$256,450 |

Initial discussions we had were around the money being repaid as development occurs, as happens with financial contributions. However Council does not have a budget for this work, so the project needs to be funded up front. Our suggestion is that 50% is paid on signing an MOU to proceed, and

the remaining is paid on completion of the work, and prior to any development occurring. This will be conditional on all three landowners signing the MOU.

The process from here is as follows:

Landowners provide feedback on the design and above funding repayment proposal.
Agreement is reached on the design and funding proposal. If agreement is not reached, the project does not proceed.

The agreed traffic calming design (not funding) is discussed with the landowners on Clarke Road.

The traffic calming measures are finalised.

MOU is drawn up and agreed to by the industrial landowners and Council. First payments made.

Physical works are undertaken.

Final payments made.

Industrial development is able to commence.

Can I have your feedback by 7 June please.

If you have any queries do not hesitate to contact me.

Regards

Phillip Martelli

Resource Management Manager
Kaiwhakahaere Penapena Rawa

P 07 571 8008 • DD 07 579 6682 • M 027 482 8060
Barkes Corner, Greerton, Tauranga
Private Bag 12803, Tauranga Mail Centre, Tauranga 3143
E phillip.martelli@westernbay.govt.nz
www.westernbay.govt.nz



Te Kaunihera a rohe mai i nga Kuri-a-Whare ki Otamarakau ki te Uru

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Attachment 6 – Applicants Proposed Conditions

General

- (1) THAT the industrial use activities at Lot 2 DP 22158 (ReT SA22C/188) be undertaken in accordance with the resource consent application and assessment of environmental effects prepared by Stratum Consultants Ltd and entitled *Resource Consent for Industrial Activities within the Te Puna Business Park Structure Plan Area, Tinex Group Limited, 245 Te Puna Station Road, Te Puna*, filed as A514379 and dated 8 February 2023, and further information responses, including the following:
- a) Existing Site Plan, Lot 2 DP22158, 245 Te Puna Station Road, Drawing No. 423022-T-P-D001, Sheet 01, Issue A, prepared by Stratum Consultants, dated 23 November 2022.
 - b) Activity Area Plan, 245 Te Puna Station Road, Tinex Group Ltd, Drawing No. 423022-PLN-D001, Sheet ~~NO.~~ 11, Issue B, prepared by Stratum Consultants, dated 10 May 2023.
 - c) Assessment of Noise Effects, Te Puna Industrial Zone Activities, 245 Te Puna Station Road, prepared by Styles Group, dated 27 April 2023.
 - d) Noise Management Plan, 245 Te Puna Station Road, prepared by Styles Group, dated ~~22 September 2023~~ 27 April 2023.
 - e) Landscape Effects Assessment, Te Puna Station Road, prepared by Boffa Miskell, dated 12 May 2023.
 - f) Landscape Management Plan (Revision B), prepared by Boffa Miskell, dated 1 ~~June~~ 4 May 2023.
 - g) Tinex Group Existing Activities, Te Puna Station Road, Te Puna, Transportation Assessment Report, prepared by Harrison Transportation, dated November 2022.
 - h) Industrial Development, Lot 2 DP22158, Vehicle Tracking Layout, Drawing No. 423022-CIV-D001, Sheet No. 1, Issue A, prepared by Stratum Consultants, dated 11 May 2023.
 - i) ~~Proposed Access Layout (Site 1), Site Access & Revised Road Drainage Culvert~~, Drawing No. 423022-CIV-D001, Sheet 02, Issue ~~A_C~~, prepared by Stratum Consultants, dated ~~23 September~~ 29 May 2023.
 - j) Existing Site Usage Memorandum – Stormwater Queries, Tinex Group Ltd, 245 Te Puna Station Road, Prepared by Stratum Consultants, dated 31 May 2023
 - k) [Add any other relevant documents or plans that are tabled in evidence from the applicant].

Activities and notice to tenants

(2) THAT the activities authorised by this consent shall be limited to the following activities operating at the same or similar character, intensity, and scale as at the date of the consent being approved:

- A & J Demolition (House and Construction Material Storage {and renovations})
- Compass Pools Storage (Swimming Pool Shell Storage)
- Total Relocation House Transporters (House Storage)
- Earthmover Tyre Services (Heavy Machinery Tyre Storage)

(3) THAT a copy of this consent be provided by the owner of the site to each of its tenants undertaking the above activities.

Note: as a land use consent, this consent attaches to and runs with the land and its terms must be met by both the owner and occupiers (ie tenants) of the site.

Transportation

(4) THAT the maximum number of vehicles a day shall be limited to 25 vehicles per day.

(5) That within ~~3 weeks~~ 15 working days of the commencement of the consent approval, the paint markings at the Te Puna Road / Te Puna Station Road intersection shall be modified in accordance with the detail shown on the following plan: Industrial Development, Lot 2 DP22158, Vehicle Tracking Layout, Drawing No. 423022-CIV-D001, Sheet No. 1, Issue A, prepared by Stratum Consultants, dated 11 May 2023. Confirmation of completion shall be provided to Council's General Manager Transportation within 5 working days of completion.

(6) THAT within 40 working days of the commencement of the consent approval that the proposed upgrade to the vehicle entrance to serve the proposed activity be constructed generally in accordance with drawing 423022-CIV-D001, Sheet 02, including sealing, to a modified Diagram D (Waka Kotahi Planning Policy Manual) standard.

(7) To prevent debris tracking from within the site onto Te Puna Station Road, within 40 working days of consent approval, sealing shall be extended within the site private way for a minimum distance of ~~40~~ 30m from the edge of the Te Puna Station Road carriageway to and a minimum width of ~~5m~~ to be determined after hearing evidence ~~from the edge of the site entrance sealing.~~

Construction and Earthworks

~~(7)~~(8) THAT earthworks to upgrade the site accessway/entrance and to replace the culvert within the road-side drain shall not exceed 120m³ of cut and 110m³ of fill.

~~(8)~~(9) THAT prior to commencing works to upgrade the accessway (including culvert replacement), an erosion and sediment control plan demonstrating how the construction work will be in accordance with the Bay of Plenty Regional Council "Erosion and Sediment Control Guidelines for Land Disturbing Activities 2010/01, a Draft Construction Methodology shall be submitted to the Council's Development Engineering Manager – (Resource Consents) for approval. Works shall not commence until Council confirms in writing that the plan methodology is satisfactory. ~~The Construction Methodology shall~~plan shall also cover the following:

~~(a) Erosion and sediment control plans demonstrating how the construction work will be in accordance with the Bay of Plenty Regional Council "Erosion and Sediment Control Guidelines for Land Disturbing Activities 2010/01".~~

~~(b) Confirmation from the Regional Council that the works are either a permitted activity, or that any required resource consent has been granted. [delete if deemed to be unnecessary]~~

~~(c) A traffic management plan demonstrating how traffic will still be able to gain access to the site during construction, and how public traffic in Te Puna Station Road will be managed.~~

~~(d) A Remedial Action Plan for the safe disturbance of contaminated soils in accordance with the National Environmental Standard for Managing Contaminants in Soil for Human Health (NES-CS) [delete if deemed to be unnecessary]~~

~~(e) Proposed construction period and hours of operation.~~

Site Management

~~(9)~~(10) THAT within 20 working days ~~4 weeks of~~ of the commencement of the consent~~consent issue~~, a Site Management Plan (SMP) shall be submitted to Council's Resource Consents Manager for approval. The SMP shall outline:

(a) Responsibilities and roles for implementation of this resource consent, including for tenants.

(b) That all tenants operating under this consent shall ensure that their delivery staff and contractors shall not use Clarke Road for any heavy vehicle access to and from the site.

(c) That all tenants operating under this consent shall ensure that their delivery staff and contractors shall not use the Wairoa Bridge underpass to travel to or from the site; and shall travel to the site via Te Puna Road.

(d) The operating hours of the site.

- (e) That any lighting installed shall adhere to the District Plan permitted activity requirements.
- (f) That there shall be no welding, vehicle re-fueling, or storage of hazardous substances unless these activities are undertaken in conjunction with the required relevant Industry Standards. –
- ~~(f)~~(a) _____ Methods for dust suppression during dry weather periods, and for regular replenishment of gravel within the private way and yards to minimise mud.
- (g) Methods for managing solid waste storage on site, including screening from adjacent sites. No dumping or rubbish or material, and no stockpiling of potentially contaminated soils.
- (h) That all activities shall be carried out in accordance with the approved Noise ~~M~~management Plan.
- (i) Methods for preventing spills, asbestos or other potential contaminants from entering the road-side drains, air, and or from contaminating soil. Can delete if stormwater testing confirms discharge is clean
- (j) Maintenance requirements of any on-site infrastructure, including any sealing.
- (k) Methods for preventing offensive odour beyond the site boundaries, associated with the on-site ~~portaloos~~portaloos.
- (l) The potential consequences of not operating the site in accordance with the management plan, i.e. likely enforcement action from Council.

Landscaping and Screening

~~(10)~~(11) Within six months of the commencement of consent ~~being granted~~ that a detailed landscape implementation plan (LIP), following the recommendations contained within the Landscape Effects Assessment (LEA) and the Landscape Management Plan (LMP) prepared by Boffa Miskell Ltd (Dated 1 ~~June~~ 2 May 2023) be prepared for the site and submitted to Council for certification. The LIP shall include the following:

- (a) Identification of all existing planting/areas of planting within the site.
- (b) The location of any new planting or enrichment planting required to achieve the level of mitigation identified in the LMP.

~~(c) An additional four rows of planting shall be undertaken along the southern perimeter of the Compass Pools and Earthmover Tyre Service yards. Planting along the southern boundary of the site shall be a minimum width of 10m in accordance with the requirements of the Te Puna Business Park Structure Plan – Perimeter Planting Cross Section~~

~~(d)~~(c) A schedule of species to be used including botanical name, common name, size at time of planting, spacing, height at maturity and quantity.

~~(e)~~(d) The type and location of plant protection (to prevent damage to the planting from activities within the site).

~~(11)~~(12) All supplementary planting shall be implemented within 6 months of the date of commencement of consent and maintained for the duration of the consented activities in accordance with the recommendations contained within the LMP.

~~(12)~~(13) Protection shall be provided to all mitigation planting to ensure accidental damage (including root damage and soil compaction) from activities within the site does not occur. Materials and/or products shall not be stockpiled, within 13m of any internal boundary planting and/or internal roadscape planting or beneath their driplines (whichever is the greater). Vehicles shall not be driven within 13m of internal boundary planting and/or internal roadscape planting or beneath its dripline (whichever is the greater). A six monthly survey of planting shall be undertaken for the duration of the consent and any dead or diseased plants shall be replaced.

~~Advice Note: Protection devices such as barriers and/or bollards should be placed in high-risk areas to prevent damage or loss of the mitigation planting, soil compaction or root damage. Internal boundary planting and internal roadscape planting include all planting identified in these areas by the LMP.~~

~~(13)~~(14) Within 4 weeks of the consent commencing approval, a 4.56m high black 70% block-out horticultural shade cloth fence be erected around the western and southern perimeter of the site occupied by Compass Pools. This fence shall be maintained by the consent holder for the duration of the consent such that it does not have any holes, gaps, or tears, and must achieve a minimum height of 4.5 6m at all times.

Setbacks

~~(14)~~(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.

Tyre Storage

~~(15)~~(16) All tyre storage (Earthmover Tyre Services) shall comply with the requirements of the National Environmental Standard for Storing Tyres Outdoors (NES-STO) including:

- (a) No greater than 100m³ of tyres stored at any one time;
- (b) Maximum height of stacks/ piles – 3m high;
- (c) Setback at least 20m from the northern (true left) bank of the Hakao Stream.

Water Supply

~~(16)~~(17) THAT reticulated water shall be supplied to each of the four tenancy areas via the existing 20mm piped connection from Te Puna Station Road.

~~(17)~~(18) THAT within 60 working days ~~three months~~ ~~[review in hearing]~~ of the commencement of the consent approval, confirmation shall be provided to Council’s Resource Consents Manager that the site is adequately serviced with water for fire-fighting in accordance with the New Zealand Fire Service Firefighting Water Supply Code of Practice or an alternative means of firefighting capability as determined as suitable by Fire & Emergency New Zealand.

Hours of operation

~~(18)~~(19) THAT hours of operation for the existing on-site activities are to be between 6AM-6PM, Monday-Friday and 7AM – 1PM Saturday, provided that house relocation to and from the Total Relocation and A & J Demolition yards may occur outside these hours.

Noise

~~(19)~~(20) The earth bunds existing at the time consent is granted must be maintained along the northern, eastern, and southern site boundaries at all times. The locations of the constructed bunds must be in accordance with the application site plans, and heights shall be confirmed on the Landscape Implementation Plan required by condition 11.

~~(20)~~(21) Cumulative noise generated by all activities on the site shall not exceed the following limits, as per the Western Bay of Plenty District Plan:

| Receiver | Time Period | LAeq, dB | LAFmax, dB |
|---------------------------------------------------------------------------------------------------------|----------------------------------------------|----------|------------|
| At any point within the boundary of any other property within an Industrial Zone | Daytime 7:00 am – 10:00 pm | 65 | n/a |
| | Night-time 10:00 pm – 7:00 am | 65 | 85 |
| At any point within the notional boundary of any dwelling in a Rural Zone or Rural Residential Zone; or | Monday to Saturday 6:00 am – 10:00 pm | 55 | n/a |
| | Sunday and Public Holidays 9:00 am – 6:00 pm | | |

| Receiver | Time Period | LAeq, dB | LAfmax, dB |
|--------------------------------------------------------------------------------------------|--------------------|----------|------------|
| At any point within the boundary of any property within a Residential or Future Urban Zone | At all other times | 45 | 70 |

Sound levels should be measured in accordance with the requirements of NZS 6801:2008 Measurement of Environmental Sound and assessed in accordance with the requirements of NZS 6802:2008 Assessment of Environmental Sound.

~~(21)~~(22) A Noise Management Plan (NMP) shall be implemented at all times, to ensure that cumulative noise emissions from all activities on the site are mitigated and managed to ensure compliance with the limits in Condition 21 above. The NMP shall be made available to Council upon request.

Financial contributions

~~(22)~~(23) THAT upon receipt of an invoice from Council, the consent holder shall within ~~40 working days~~ 4 weeks of the commencement of this consent make payment of FINCO's on a pro-rata basis for ~~[water and]~~ roading as follows:

Transportation – 1.56ha x \$50,043.47 = \$78,067.80 + GST

~~[Water – 1.56ha x \$50,043.47 = \$78,067.80 + GST]~~

Duration

~~(23)~~(24) THAT the duration of this resource consent shall be for two years from the ~~commencement of consent. date of grant.~~

Cultural

~~(24)~~(25) No less than five working days prior to undertaking any physical works the consent holder shall invite a representative of Pirirakau hapu on site to undertake cultural monitoring and karakia/blessing. Evidence of this invitation shall be kept and provided to the Western Bay of Plenty District Council within 48 hours of a request.

~~(25)~~(26) On discovery of any unrecorded sites of archaeological importance on site, work shall cease immediately, and the consent holder shall notify a Pirirākau hapū representative and the Western Bay of Plenty District Council as soon as possible.

~~(26)~~(27) If tuna (eels) are discovered on site during earthworks ~~[or within stormwater devices or treatment ponds],~~ work in that area is to cease and a Pirirākau representative is to be contacted for the purposes of seeking their advice on the safe removal and transfer of the tuna off the site into a safer habitat. ~~[may be ultra vires, i.e. requires an action of a third party].~~

Advice Notes

(i) *The applicant has undertaken to work with Pirirākau, WBOPDC and other*

agencies to facilitate cultural interpretation mediums in relation to the Hakao restoration cultural offset mitigation.

- (ii) The applicant has also undertaken to record Pirirākau recommended names of any newly created roads in accordance with the WBOPDC road naming policy.*
- (iii) In relation to condition 26 above, Heritage New Zealand shall also be contacted within 24 hours of any discovery.*