

**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 OLIVER MAY

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

INTRODUCTION

Background, qualifications and experience

1. My full name is Oliver Thomas Adam May.
2. I am an Associate Principal Landscape Planner & Architect at Boffa Miskell, a leading multidisciplinary planning, landscape and urban design company operating throughout the Country.
3. I hold the qualifications of BA (Dual Honours Bachelor of Landscape Architecture with Town and Regional Planning, completed in 2009) and MLA (Master of Landscape Architecture, completed in 2011) both from the University of Sheffield, United Kingdom. I am a Graduate member of the New Zealand Institute of Landscape Architects and a Chartered Member of the Landscape Institute, United Kingdom (since 2017).
4. I have approximately 12 years' experience in the landscape architecture field. I have previously worked for landscape architecture and engineering

consultancies in the United Kingdom and New Zealand. In these roles I have provided technical advice and consultancy services for a wide range of clients around New Zealand, including local authorities, land developers, and the infrastructure and power sectors. I previously worked as a Landscape Architect and Landscape Planner for Mott MacDonald, consultancy services for 7 years on major infrastructure projects in the United Kingdom, Ireland and the Middle East.

5. My experience includes the production of detailed designs and Landscape and Visual Effects Assessments for large infrastructure projects including; the expansion and upgrade of motorways, new motorways, industrial parks, flood alleviation schemes, water treatment plants and residential developments.
6. I have significant experience in the implementation of landscape remediation and management plans, as well as in the preparation of visual simulations and photomontages within rural landscapes.

Expert witness code of conduct

7. 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.

Background to this project

8. I confirm that I prepared the Landscape & Visual Effects Assessment dated 24 January 2023 to support the application for the existing activities. In advance of preparing that assessment I visited the site on 29 November 2022.
9. I have also prepared a response to landscape and visual effects queries from Western Bay of Plenty District Council ("**Council**") as part of the response to the s92 request on the existing activities application. The s92 response included a Zone of Theoretical Visibility analysis map, and further assessment of the existing activities and their effects. In response to [24]

of the s92 request, an additional memo “Evaluation of existing on site Light Reflectance Values and potential mitigation” dated 2 June 2023 was produced to address effects related to the non-complying Light Reflectance Values swimming pool shells. This memo advises that a 4.5m high shade screen along the western boundary of the Compass Pools lot will adequately mitigate effects in relation to the swimming pool shells.

10. After consultation with Mr Mansergh, peer reviewer for Council, it was determined that [28] of the s92 request did not relate to this assessment. Accordingly, this comment was not addressed. Otherwise, I had considered the s92 request to have been satisfied, through an updated Landscape Effects Assessment dated 12 May 2023 and s92 Landscape & Visual Response.
11. My assessment has been informed in part the Landscape Management Plan prepared by my colleague, Blair Clinch, at Boffa Miskell, together with the actual landscaping installed by the applicant on site. The latest version of the Landscape Management Plan is dated 12 May 2023. I was last onsite on 12 September 2023.
12. I understand that the original Landscape Effects Assessment dated 24 January 2023, the updated Assessment dated 12 May 2023, s92 Landscape & Visual Response, and the Landscape Management Plan dated 11 May 2023 are all before the Panel.
13. **Attached** to this evidence is a series of photographs taken from my recent site visit from surrounding properties. These properties were agreed between Mr Mansergh and myself as appropriate to arrange to visit, to affirm whether the effects ratings within the assessment can be relied upon. They were:
 - (a) 86B Te Puna Road;
 - (b) 112 Te Puna Road;
 - (c) 110 Te Puna Road;
 - (d) 138 Te Puna Road;
 - (e) 177 Te Puna Station Road; and

- (f) 159 Clarke Road.

Purpose and scope of evidence

- 14. The purpose of this evidence is to:
 - (a) confirm my assessment of the landscape and visual effects associated with the existing onsite activities occurring at the Property; and
 - (b) respond to the peer review of the Council/ Council's s42A report.

Confirmation of Assessment

- 15. In terms of landscape effects, I believe that Rural Character of the site has been reduced due to the land modification that has occurred and the activities that have been established both on the subject site but also on the adjoining and adjacent Te Puna Business Park sites. Further change will occur as the Structure Plan development proceeds, however that character is consistent with what is envisaged by the zoning. The planting and bunding implemented to date in my opinion provide sufficient landscape and visual mitigation to address the current relatively limited existing activities along the Te Puna Road frontage of the site and the north-eastern and south-eastern boundaries. However, as I explain below, I can agree that some additional mitigation (eg shade cloths) will further assist in providing mitigation of the pink pool bases in particular, and that some further planting would assist in achieving fuller compliance with the Structure Plan requirements in the longer term (but will add little or no material mitigation within the 2-year term of the proposed consent).
- 16. In my Landscape Effects Assessment, I have considered the visual effects of the existing activities from publicly accessible vantage points to the north, south, east and west of the site. In summary I have concluded that the visual effects from the north, east and south of the site are neutral to low adverse, which corresponds to a less than minor effect in RMA terms.
- 17. Regarding visual effects from the west, there are two elevated properties (110 and 138 Te Puna Road) overlooking the site and due to their elevation. After further investigation and analysis on site it is determined that , it is not possible to completely screen the activities or overall site from

these locations. The inability to screen the structure plan from elevated properties is recognised in the Environment Court interim decision (Decision A 016/2005) at paragraphs [16], [72] and [73] as detailed in the Landscape Effects Assessment.

18. The landscape planting undertaken to date along the external boundaries sufficiently integrates the existing activities, with the exception of the non-complying LRV pool shells as discussed in the memo listed above. The existing planting undertaken will provide further mitigation over time as it establishes. It is recognised may take three to five years to provide the ultimate screening that the Structure Plan (and now the Landscape Management Plan) anticipates. Within the two year term of the consent, the mitigation will further increase, and start to approach the fuller mitigation that the Structure Plan intended in the long term (but not as a prerequisite to activities commencing). It is considered that there is a low adverse effect on the property at 110 Te Puna Road. Although not included in the original assessment, after visiting the property at 138 Te Puna Road, I consider that the level of effects will be similar (and no worse) than the effects experienced at 110 Te Puna Road. As a result I consider that effects on this property will also be low adverse. which correlates to a less than minor adverse effect.

Response to Mr Mansergh's peer review and the s42A Report

19. Mr Mansergh and I are generally agreed on most matters, and I therefore do not need to respond in detail. I note that he agrees that my assessment is in accordance with best practice and meets the requirements of Schedule 4(2)(3)(c) of the RMA. I will therefore focus on where our opinions differ.
20. Mr Mansergh suggests in his peer review that my assessment should include an assessment of temporary effects as well as overall landscape and visual effects.
21. I am generally in agreement in principle with Mr Mansergh regarding the change in effects level as initial planting reaches a greater height. I also agree that this would result in any temporary effects being rated at one level higher, ie that "very low" would go to "low" and "low" would go to "low-moderate".

22. I note that even if this were the case, that this would still equate to minor effects only, using the Te Tangi a te Manu conversion scale:



Figure 1: Te Tangi a te Manu determination of minor against the 7-point effects scale

23. I also note that these temporary effects of concern to Mr Mansergh appear to be from the time between planting being undertaken and the planting being “fully established”. The determination of when planting is considered to be “established” is not clearly defined within the Te Puna Structure Plan. However, 2.5.4.9 Subdivision or Development Standards and Terms clause (d) Landscape and Stormwater Management states:

The area of the planted land around the Zone boundary, the area of land subject to the Te Puna Station Road roadscape planting, and the stormwater ponds and overland flow path/wetland as shown in the Te Puna Rural Business Park Zone Structure Plan shall all be established and vested in Council prior to commencement of any industrial or business activity within the Zone.

24. Clause (e) Maintenance Programme & Costs further states that:

the approved three-year landscaping maintenance programme shall be determined from the date on which a Section 224 Certificate is obtained under the Resource Management Act 1991 or the planting undertaken, whichever is the latter.

25. Reading of these two clauses together indicates to me that “establishment” would precede the start of the three year maintenance period requested in clause (d). This is to say that “establishment” occurs at the completion of the planting and bund construction. There is no further determination of a level of plant maturity or growth required before industrial activity can take place. I also note that the Structure Plan does not require planting of “large” or specimen trees, and that it is standard practice to use a (lesser) grade that has a greater chance of establishing on site.
26. As a result, I do not consider it a requirement under the Structure Plan to consider temporary effects between planting and the eventual mature height of planting. In any event, I have made my assessment of effects on the basis of what exists in the environment, and the effects will only lessen over the two-year term of the proposed consent.

27. Although it is agreed that the planting that has occurred does differ to some extent from the original Te Puna Business Park Structure Plan, in my opinion, if the planting had been undertaken to the original specification it would have provided very little screening value at the time of initial planting (despite at that point that the whole site would have been available for industrial uses). Furthermore, the 2005 Environment Court decision does not provide any other performance criteria, in terms of height of planting for example prior to industrial activity taking place.
28. I also disagree that a 6m shade cloth screening of the Compass Pools site is required. As discussed in my memo addressing the effects of the non-compliant LRV finishes to pool shells, a 4.5m shade cloth would more than address effects on an interim basis, rather than trying to replicate final mitigation from planting that should eventually reach 6.0m in height. I do concur that a 70% block-out horticultural shade cloth would be an appropriate screening material in this context.
29. I note that the draft condition 14 as proposed by Ms Perring in her condition set requires the shade cloth to be erected around the perimeter of the Compass Pools site. In my opinion, this is only required along the western and southern perimeter. The eastern perimeter is largely screened from the east by the bund, planting and the intermediary dwellings stored on the other tenancies, whilst the roadside bund and planting screen the site from the north, save for a glimpsed view through the entranceway. I understand Mr Crossan will address this change in his evidence and proposed set of conditions.
30. To achieve the intentions of the Te Puna Business Park Structure Plan I also concur that planting should be increased along the southern perimeter of the Compass Pools and Earthmover Tyre Service yards. Considering the extent of the planting undertaken to date I consider that an additional 4 rows of planting are provided to increase the depth of planting to reach an eventual 10m planting buffer when canopies have spread in maturity. Based on my observations on existing planting along the southern boundary, I am of the opinion that the additional four rows of planting across a 5-6 m planted area will provide the 10m planted buffer screening envisaged by the Te Puna Business Park Structure Plan. The eventual width of planting will be confirmed during the production of the LIP.

31. Given the temporary nature of the consent (2-years), this additional planting will not mitigate the effects of the existing activities further in this period, but will assist in meeting the intent of the Structure Plan. This will require an amendment to the LIP clause which I understand Mr Crossan will address in his evidence.
32. Ms Perring has also proposed a condition requiring protection of the planting as set out below:
- 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 3m of any internal boundary planting and/or internal roadscape planting or beneath their driplines (whichever is the greater). Vehicles shall not be driven within 3m of internal boundary planting and/or internal roadscape planting or beneath its dripline (whichever is the greater)
- 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.
33. Firstly, I consider that a 3m setback is overly restrictive and would significantly reduce the area available within the existing tenancies. I consider that a 1m setback from planting would adequately protect the planting and suggest that the 3m requirement be amended.
34. Secondly, I do not consider that bollards or barriers are necessary. It is not in the applicant's interest to spend time and money on planting for them to then simply not care for it, it is inherent that they will need to maintain and protect it including advising tenants of their responsibility to protect the landscaping. Any damaged or dead plants will need to be replaced as required
35. Finally, I note, in particular, the owner of 159 Clarke Road appears to have undertaken vegetation clearance which had created a viewshaft into the site, as shown below (see Figure 2). The applicant, Mr Daniel, notes that this only appears to have been undertaken in the last 2-3 weeks, and ahead of my site visit with Council staff and Mr Mansergh:



Figure 2: Recent clearance by the owner of the owner of 159 Clarke Road

36. Although this clearance has opened up views into the site. This viewshaft is considered within the context of potential for 9m permitted height of buildings allowed within this zone. I also note that the Te Puna Business Park Structure Plan does not rely on vegetation outside of the site boundary for screening and it is anticipated that even with fully mature boundary planting, short to middle distance views of industrial activity would be available from this property.
37. As previously discussed, it is accepted that proposed boundary planting would not be able to screen views into the site, if the site was developed to its full extent. In short, the existing screening planting around this property will provide a much greater level of screening than the original Structure Plan in the short and long terms.

25 September 2023

Oliver May

Representative photographs from surrounding properties

Figure 2: View from outside the residence at 159 Clarke Road. View of existing activities within the site are limited to the area of recent vegetation clearance.



Figure 3: View from 56E Te Puna Road. No direct views are available of the existing activities



Figure 4: View from 86B Te Puna Road. Glimpsed views are available of the existing activities



Figure 5: View from the property at 110 Te Puna Road.



Figure 6: View towards the site from land to the east of the residence at 112 Te Puna Road. The site is not visible from the residential property.



Figure 7: View towards the site from the residence at 138 Te Puna Road.



Figure 8: View towards the site from the residence at 177 Te Puna Road.

