

Appendix 1

**Subject:** FW: Summary notes Te Puna Business Park  
**From:** Miriam Taris <Miriam.Taris@westernbay.govt.nz>  
**Date:** 9/8/2020, 9:38 AM  
**To:** "acowley@xtra.co.nz" <acowley@xtra.co.nz>  
**CC:** Bev Cain <cain-monk@xtra.co.nz>, "peter@lochheaddesign.co.nz" <peter@lochheaddesign.co.nz>, Rachael Davie <Rachael.Davie@westernbay.govt.nz>, Gary Allis <Gary.Allis@westernbay.govt.nz>, Charlene Page <Charlene.Page@westernbay.govt.nz>

Good morning Alison

Here are my notes from the meeting, as you requested.

**Meeting topic :** Residents concerns regarding Te Puna Business Park

**Date:** Thursday, 3 September 2020 @ 9:00am in the Chief Executive's office

**Attendees:** Peter Lochhead, Alison Cowley, Bev Cain, Councillor Margaret Murray-Benge, Chief Executive, Miriam Taris; Deputy Chief Executive, Gary Allis; GM Policy, Planning & Regulatory Services, Rachael Davie

**Notes:**

1. Following introductions, Miriam invited the residents group to speak to their concerns.
2. Bev began by outlining the history to the business park, including the Te Puna residents' participation in the Environment Court process. In particular, Bev was concerned at a number of the activities occurring on site and made reference to the concrete crushing and tyre storage operations. In her view the concrete crushing activity was hazardous both to the environment and to human health because of the risk of silica dust. She noted that although there appeared to be a system in place to water down the crushed concrete no one had ever seen it being used despite repeated dust issues. Bev was also of the view that concrete dust (and silica) would be entering and contaminating nearby waterways. Bev went on to query how these activities could be considered permitted under the District Plan and commented that in her view these types of activities were never what was contemplated by the Environment Court [and the agreed list of permitted activities]. In relation to the storage of tyres Bev was concerned at the fire risk they posed not only within the site but to adjacent sites as well. She spoke of how long tyre fires can burn and the nature of the toxins discharged. In Bev's view the storage of tyres posed a very real risk to surrounding Te Puna horticultural activities. Bev remains concerned that Mr Daniel's will never be in the financial position to develop and/or complete the Te Puna Business Park to the standard envisaged by the Environment Court process (and structure plan).
3. Rachael briefly explained that the BOPRC had issued an abatement notice in relation to the tyres and that it was our understanding that from the week beginning 7 September a tyre baling machine will appear on site to bundle the tyres before they are decanted from the site. Rachael then explained that it was her understanding BOPRC believed the fire risk to be mitigated once the tyres are baled because of the associated density.
4. Alison then outlined her research in relation to the definition of a 'business park' and pointed out Tauriko Business Estate as an example and also included some Auckland references. In her view the activities occurring on site were not consistent with the broad expectation of a business park. Instead it was 'dirty' industry and not consistent with what was envisaged through the Environment Court process. Alison spoke about how the activity occurring within the Te Puna Business Park was negatively affecting her property value. Alison also raised general concern that the intent of the Environment Court judgment had not been fulfilled particularly in terms of the mitigation measures (earth bunds, planting, wetland etc).
5. Peter spoke to the Waikato Regional Council publication on the storage of tyres. He referenced an

- existing consented activity which is not complying with the conditions of consent (in particular, truck washdown facilities).
6. Rachael then provided some context to the activities occurring on site and in particular whether they were 'permitted'. She described how the activities could be considered to fit within one or more of the permitted activity types but that to be permitted, an activity must comply with all of the permitted activity performance standards. Rachael said that in relation to the activities occurring within the Te Puna Business Park, staff were not necessarily convinced that each of those activities complied with all of the applicable performance standards.
  7. Rachael also described that while the EC judgment required the Te Puna Business Park to be included in the then District Plan as a rural sub-zone, that through the District Plan review process (2009-2012), a rationalisation of zones across the District meant that the Te Puna Business Park became subsumed within the Industrial Zone (with the intent of the EC judgment remaining intact). This was a Schedule 1 RMA process that enabled full public participation.
  8. There was discussion around the fact that Council had sought two legal opinions to understand what legal enforcement remedies were available. That advice was very technical in nature and would not be released publicly. It was explained that the 'trigger' for implementing the mitigation measures envisaged by the Structure Plan (earthbund, fencing, planting etc) was 'subdivision and development', with development having a specific definition within the District Plan that could not be construed to include 'activities' on the site.
  9. Rachael advised that the best course of action for Council to pursue was an Enforcement Order under the RMA which would need to be applied for from the Environment Court. When asked what the likely timeframe would be, Rachael indicated anywhere between 3 to 6 months. In the meantime, Council staff would continue discussions with Mr Daniels and in this regard, Rachael noted that Mr Daniels had been very cooperative up to this point. Noting the recent article published in the Lizard News, Rachael did request confidentiality in relation to the proposed legal process as this was not something we had even signalled to Mr Daniels yet and Council required further legal advice to confirm the nature and extent of the remedies sought under the Enforcement Order.
  10. Peter expressed concern that BOPRC and WBOPDC did not appear to be collaborating in relation to the issues with this site and he suggested that it would be useful for BOPRC to get onboard with the court process. Rachael explained that issues regarding dust (discharges to air) and water contamination (discharges to water) are the jurisdiction of BOPRC and would likely require evidence (through testing) that there was a causal nexus between what was occurring on site and water quality or air quality issues. In this regard the BOPRC might choose to pursue a different enforcement approach to WBOPDC but there was general agreement that closer collaboration was necessary.
  11. Meeting ended.

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**From:** [acowley@xtra.co.nz](mailto:acowley@xtra.co.nz) <[acowley@xtra.co.nz](mailto:acowley@xtra.co.nz)>

**Sent:** Monday, 7 September 2020 4:45 pm

**To:** Miriam Taris <[Miriam.Taris@westernbay.govt.nz](mailto:Miriam.Taris@westernbay.govt.nz)>

**Cc:** 'Bev Cain' <[cain-monk@xtra.co.nz](mailto:cain-monk@xtra.co.nz)>; 'Peter Lochhead' <[peter@lochheaddesign.co.nz](mailto:peter@lochheaddesign.co.nz)>

**Subject:** Summary Te Puna Business Park

Hi Miriam,

Thank you for your time Thursday,

I wanted to clarify a couple of things and briefly summarise so as to have confidence that we are all interpreting things the same.

We (Te Puna residents Te Puna Heartlands representatives) highlighted the concerns of the community over hodge podge activity in the Business Park, with particular emphasis at this particular time on the serious health and safety aspects of tyre storage and concrete grinding.

We emphasised the concerns in the community over the *lack* of implementation by the developer of the following as depicted on the original plan and as stipulated in the Environment Court Ruling:

- Professionally planned and planted landscaping,
- Professionally engineered earth Bunds, set in the correct location
- Drainage planning and implementation
- The wetlands,
- Maintenance of road scape
- Compliance around truck washing facilities, lack thereof leading to slippery roads.

We noted that what we have is more closely related to a dumping ground than a Business Park.

We expressed concerns that the INTENT of the Environment Court ruling seems to have become diluted in the Councils interpretation and reiteration with district Plans.

We heard that the process through 2008-2012 to rationalise the number of zoning categories had seen this fall into the Industrial category. WE noted however that this development is still subject to special conditions.

Where we differed in approach is our understanding as to whether concrete crushing is "Storage" or 'Activity'.

And we also differed in our belief that it is "Activity" that should spark compliance to the above mitigating environmental development. Rachel suggested that it is only 'subdivision or building' that would necessitate setting those landscaping requirements into action.

We did not establish 100% alignment between what resident's believe should be happening, that the Environment Court Ruling must be honoured as the key reference point, and Rachel's statement that only subsequent District Plans now hold weight.

At the end, and with no time to establish any detail, Rachel advised that the WBOPDC is launching a legal case against the developer.

Margaret asked what the time frame is. Rachel advised that it will take around 3 months to get to court. Please verify if I understood that right?

What we did not ascertain was *what the DC is actually seeking as an outcome from that legal action?*

Can you please clarify more specifically what the Council's direction is with this further action. We need this clarity so as to be confident that the community has really been heard.

Particularly as you asked us to refrain from involving media to highlight our concerns lest it interfere with the legal process. We feel effectively gagged but don't even know what it is you will seek in any court action. I'm sure you can understand, with the history of this development why 'blind faith' is not an option for neighbours.

We advised that we will be seeking a meeting with the Regional Council and we urged that Regional Council and District Council please to work together for an efficient and collated outcome.

We asked that minutes of the meeting or a summary be sent through to us. Can you please add the clarifications as noted above – we would be most grateful.

As we progress in our understanding of the legalities around this we would like to add that we have looked at the wording of the Operative District Plan, as amended 2008 and note especially

2.5.1 Zone Statement which speaks concisely to minimising adverse effects on the neighbouring rural environment.

And the additional permitted activities in 21.3.3 both of which refer specifically to Te Puna Business Park as a zone that *still differs* from other 'industrial zones'.

It is becoming clear to us that the changes made in 2008-9 did a massive disservice to the residents of the area, perhaps without enough of them being aware of the horrendous implications of the District Plan revision. I implore you all to look at the bigger picture for Te Puna as a valuable asset to the District sandwiched between the Tauranga City and fast developing 'golden child' that is Omokoroa. A toxic, unsightly dump cannot randomly evolve in such a heavily populated and productive location.

Regards  
Alison Cowley

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## Residents block plan to build 81 apartments

Ben Leahy

Auckland residents claiming an 81-apartment development in the city's north will ruin their suburb's character and turn it into a "cesspit of crime" have won their bid to stop its construction.

A panel of planning officials recently denied developer Bentley Studios permission to build the Beach Haven apartments on the corner of Cresta Ave and Beach Haven Rd.

Bentley Studios had hoped to build four three-storey blocks in an area zoned for single houses.

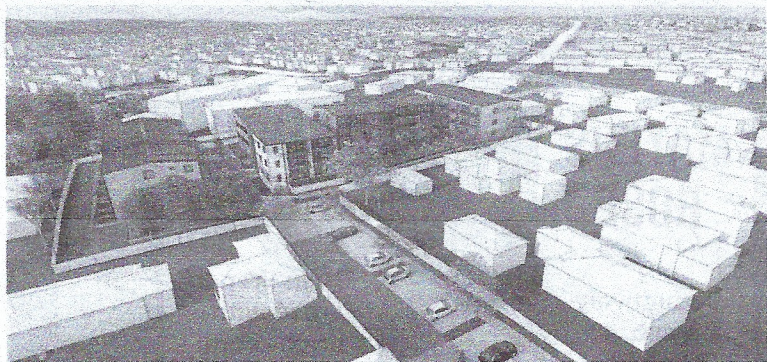
The 7147sq m site – which has three dwellings on it – would have featured studio and one- and two-bedroom units.

However, the project has faced fierce opposition from locals and the planning commissioners ultimately agreed the apartments would change the suburban character in a way that could set a precedent.

"The planned character of the single house zone is one of predominantly one or two-storey buildings 'within a generally spacious setting,'" the commissioners said.

"If the subject site is developed as proposed, that area of single house zone cannot realistically be said to be predominantly in accordance with the planned character."

Bentley Studios director Leon Da-Silva told a media outlet he thought



Designs for the Beach Haven apartments on the corner of Cresta Ave and Beach Haven Rd.

the commissioners hadn't given his project a fair hearing by listening to public opinion over the opinions of experts.

About 180 residents held a January meeting in which they formed a group to oppose planning approval for the project.

That helped mobilise residents and others to make 167 submissions against the project's resource consent application, while 16 submissions supported it.

"Cheap, poorly planned, unattractive and hastily-considered proposals are a recipe sure to extinguish what is left of the Kiwi suburban lifestyle we once all aspired to," one resident wrote in a submission.

Another said Beach Haven had become "cesspit for crime and unsocial behaviour", saying the "giant complex" looks "horrid" and would be built "in the middle of family housing".

The submissions also complained the project's height and size were far outside what was permitted in the area and worried it would cause traffic gridlock on narrow roads, strain wastewater systems, leading to run off on beaches, reduce privacy and increase noise.

The Kaipatiki Local Board also opposed the development, saying it had "serious concerns".

"This proposal came as such an outrageous shock to the community (a blindside just before the Christmas/New Year break), that in a short space of time, opposition to the proposed development escalated, culminating in a public meeting on 19 January 2023 attended by 180 concerned local residents," the board wrote.

"These residents were not opposed to development at the site, but very concerned at the unexpected scale of the proposal, the inadequate local infrastructure and the numerous breaches of the Unitary Plan."

But the commissioners ultimately believed the project's design was outside of the Unitary Plan's guide for the area, meaning it could set a precedent for other such developments to be approved in breach of the plan.

Da-Silva told Stuff the company was "licking its wounds" after the shock decision.

He had spent three years trying to get consent for affordable homes and was prevented by residents "living in \$2 million houses".

# Beach Haven Cresta Ave apartment fight: Residents win battle to stop apartment complex

By Ben Leahy

6 Sep, 2023 01:51 PM 4 mins to read

Auckland residents claiming an 81-apartment development in the city's north will ruin their suburb's character and turn it into a "cesspit of crime" have won their bid to stop its construction.

A panel of planning officials recently denied developer Bentley Studios permission to build the Beach Haven apartments on the corner of Cresta Ave and Beach Haven Rd.

Bentley Studios had hoped to build four three-storey blocks in an area zoned for single houses.

The 7147sq m site, which currently has three dwellings on it, would have featured studio and one and two-bedroom units.

However, the project has faced heated opposition from locals.

The planning commissioners ultimately agreed, during a recent consent hearing, the apartments would change the suburban character in a way that could set a precedent.

"The planned character of the single house zone is one of predominantly one or two-storey buildings 'within a generally spacious setting'," the commissioners said.

"If the subject site is developed as proposed, that area of single house zone cannot realistically be said to be predominantly in accordance with the planned character."

Bentley Studios director Leon Da-Silva told a media outlet he thought the commissioners hadn't given his project a fair hearing by listening to public opinion over the opinions of experts.

But local opinion has been strongly against the proposal.

About 180 residents held a January meeting in which they formed a group to oppose planning approval for the project.

That helped mobilise residents and others to make 167 submissions against the project's resource consent application, while 16 submissions supported it.

“Cheap, poorly planned, unattractive, and hastily-considered proposals are a recipe sure to extinguish what is left of the Kiwi suburban lifestyle we once all aspired to,” one resident wrote in a submission.

Another said Beach Haven would become a “cesspit for crime and unsocial behaviour”, saying the “giant complex” looks “horrid” and would be built “in the middle of family housing”.

The submissions also made regular complaints the project's height and size are far outside what is permitted in the area and worried it would cause traffic gridlock on a narrow road, strain wastewater systems, leading to runoff on beaches, reduce privacy and increase noise.

A number of those making submissions also complained about the character and look of social houses being built in Beach Haven, saying these are ruining the suburb's character.

The Kaipatiki Local Board also made a submission opposing the development, saying it had “serious concerns”.

“This proposal came as such an outrageous shock to the community (a blindside just before the Christmas/New Year break), that in a short space of time, opposition to the proposed development escalated, culminating in a public meeting on January 19, 2023, attended by 180 concerned local residents,” the board wrote.

“These residents were not opposed to development at the site, but very concerned at the unexpected scale of the proposal, the inadequate local infrastructure and the numerous breaches of the Unitary Plan.”

During the hearing, the commissioners agreed with council evidence there was sufficient street parking and wastewater system capacity to handle the development.

They also agreed the height of the apartments would only cause minimal loss of sunlight to neighbours.

But the commissioners ultimately believed the project's design was outside of the Unitary Plan's guide for the area, meaning it could set a precedent for other such developments to be approved in breach of the plan.

Da-Silva told Stuff the company was "licking its wounds" after the shock decision.

He said he's spent three years trying to get consent for affordable homes and was prevented by residents living in \$2 million houses.

"We could accept the decision if we felt that we had been given a fair crack, but the commissioners seem to have listened to residents over the expert opinions of the professionals."

Labour MP for Northcote Shanan Halbert said the panel's decision was a "good test" of the ability of planning laws to "uphold good design standards".

"It's vital that developers strike the right balance between design and scale, and that investment is put in place in our growing community," he said.