

Environmental Monitoring Reference

The Te Puna Community have long experience with monitoring concerns for Consents and Zone conditions not being upheld in Te Hakao Valley.

A meeting was held between community members, Priority Te Puna, Te Puna Heartlands and BOPRC staff Rueben Fraser and Trudy Richards June 13 2024. The community left that meeting knowing that BOPRC capacity to monitor Consent conditions, compliance and zoning obligations and compliance is just not there.

At that meeting Compliance Team Leader Trudy Richards stated emphatically that they simply do not have the resources to monitor compliance and that the onus is on the community making complaints.

A letter to Fiona McTavish CEO BOPRC, May 3 2024, highlighted the vast volume of complaints lodged and correspondence from the Te Puna community to BOPRC over environmental issues particularly over the last five years.

The following is an essential record to demonstrate the implications of these issues.

1. BOPRC issued a Resource Consent for fill to Barry Daniel, Tinex,205-245 Te Puna Station Rd, in 2004.
2. The Business Park was rezoned in the 2004-2005 Environment Court process. We understand that WBOPDC was the agency dealing with this, however the Regional Council still had the responsibility for both the fill consent and the environmental protection of the waterways.
3. BOPRC did not ensure Barry Daniel worked within the Environment Court Ruling to develop stormwater infrastructure, overland flow path, and wetlands PRIOR or even concurrently to fill being brought in. BOPRC should have begun working with WBOPDC at the point of the ruling to ensure environmental protections were in place.
4. Between 2005-2011 WBOPDC and BOPRC failed to enforce any of the strict conditions imposed by Judge Smith in 2005. There was NO development of an integrated stormwater system and No upgrades of culverts under TPSR and no fulfillment of obligations to hapu. We understand that all water care and environmental care is the responsibility of Regional Council
5. Massive earthworks were underway and continued with over 126,000m³ of fill between 2003 and 2011. Finally in 2011 Abatement notices were issued by BOPRC for failure to abide by some conditions of his Consent and Barry Daniel surrendered his Fill consent in 2011. Please refer to the BOPRC Abatement notice to Daniels in 2011.
61858 - 2011-04-14 - 2011 A015 Abatement Notice - BoPRC Notice of Action Nee...
6. Barry Daniel then continued to bring in Fill from 2012 despite surrendering his BOPRC RC Consent and having no further Consent. We note that Earthworks in a Floodable area are covered in the WBOPDC District Plan 8.3.3 (c)(ii) and limited without consent to 5m³ per annum. At no point did anyone from BOPRC come to check that Barry Daniel was behaving appropriately despite Barry Daniel telling the enforcement officer (Mike Caldwell) that he intended to keep on filling. In other developments, we see identification of vulnerable species, stormwater engineering, and stormwater quality protection as standard. Here we have seen none of this.

7. LIDAR assessment 2023 shows that an additional 77,101m³ - 84,6753 was added between 2012 and 2020. The Councils allowed this to happen despite having the Consent surrendered by the property owner. This work tramples on the mana of the whenua and tramples on the mana of Judge Smith's Environment Court Ruling 2005. The damage to mana causes deep hurt to Pirirakau. We reiterate the cultural sensitivity of this location for Pirirakau and Iwi of Tauranga Moana.
8. The consequence of that failure was the interruption of regular stormwater flow towards the harbour, and groundwater backlog on the upper valley properties.
9. The 20m setback from waterways as specified in the 2005 Environment Court Ruling was never complied with. Again, as this ruling was to do with waterways, we see it as BOPRCs responsibility to manage. This setback would have served to give good stream bank protection, access for enhancement and maintenance. Instead, the fill was pushed right to the stream, resulting in steep stream banks that have eroded. Fill from the site has fallen into the Hakao Stream. This has caused flooding on upstream properties, which in turn has resulted in a great deal of both stream bank and topsoil erosion and all that material has further clogged the stream with silt between 2C Armstrong all the way down to Te Puna Station Rd. Once vibrant flora and fauna is severely diminished. This has impacted the valley increasingly since the first fill began.
10. In the Environment Court Decision A16/2005 the planning and completion of all stormwater infrastructure, including drain relocation, culvert upgrades, roading and site entrance ways, development of overland flow path and 3ha of wetlands plus relevant planting and setbacks from all water must be in place for the whole Business Park PRIOR to any development. Again, as this includes wetlands and stormwater we believe that BOPRC has been missing in action for decades.
11. With regard to Bay of Plenty Regional Council (BOPRC), there appears to be a huge lack of understanding of the situation and examples of lack of coordination between the Councils cannot be accepted.
12. Despite continual complaints to WBOPDC and BOPRC from 2019 and questions about lack of compliance with the District Plan regarding Stormwater, the required 3ha of Wetlands and the Overland flow path, nothing was done by BOPRC until Dec 2023. In Dec 2023 an abatement notice was issued by BOPRC asking for a plan to reduce water levels to 2012 levels. (See Abatement Notice). We believe that this abatement notice falls short because it simply states the following.

Clause 3 "you must undertake works to reduce flooding on properties neighbouring 245 Te Puna Station Rd to 2012 levels..."

It does not identify the crucial wetlands and overland flow path that were promised to mana whenua and which were to provide environmental, ecological and rural amenity balance to the development. There has been no acknowledgment at any time by BOPRC of the 2005 zone change conditions or any efforts to enforce rules or protect the environment. until 2023 The abatement notice is far too little far too late.

13. The 2005 zone change condition stipulated:
Construction of detention ponds and associated works (design capacity to fully mitigate the 100 yr ARI critical duration event). These are subject to both detailed design to be approved by the District Council, and to resource consent from the Regional Council. PAC \$110,000.
We hold that flood risk must be fully mitigated to the level stated, and the baseline water table must be reduced to prefill levels and include all aspects of stormwater management specified in 2005, including the culvert upgrades to flow under Te Puna Station Rd as identified in 2005. We are now dealing with 2024 climate conditions and

any stormwater design must reflect that. The Kauwae Runga are adamant fill must be removed and the wetlands developed.

■ RA23-00186 Take Action Abatement Barry Care Daniel.pdf

Please see in the following link our communications to Regional Council regarding the Dec 2023 Abatement notice.

<https://docs.google.com/document/d/1uumMvVcYEwvP46k1I1FnfxYLBA00ThYlqN3UBjTsew/edit?usp=sharing>

We thank Cormac for his recent diligence but again as a community we feel that as a BOPRC response, this is way too little way too late.

14. There is no integrated stormwater development of the site as a whole, as is required. There are 3 developers within the business park. There is a requirement to develop an INTEGRATED plan. Why are councils 19 years after a court decision still considering individual resource consent applications. We do not believe any Resource Consents at all can be issued for Te Puna Business Park until a full investigation and integrated stormwater and remedial environmental enhancement is completed.
15. The toll on the community and mana whenua has been immense. Having to repeatedly advocate for environmental compliance and ecological protection has been a full-time job for some neighbours for years. One neighbour was fined for attempting to clear silt from the blocked flooded eroding stream, another was issued an abatement notice for trying to alleviate stagnant flooding that had sat for months over neighbouring paddocks in 2022. How can BOPRC see fit to take such prompt action against regular community members but fail to hold the developers to the same rigorous standards for 2 decades?
16. Failure to enforce protections for, or enhancement of, the environment leaves the community dumbfounded. This enhancement was fundamental to the reluctant agreement of Peter Rolleston for Pirirakau in the 2005 Court process.
17. eDNA samples taken by Priority Te Puna show endangered and at-risk species. Repeated approaches to BOPRC from 2019 onwards for leadership and correction of negligence have failed to produce results on the ground to date. Numerous staff have visited, viewed photos, and recorded impacts to the catchment, and describe the situation as 'complicated'. We have so many issues with this. Firstly how come it took a community group to find the threatened species? Surely this is the responsibility of Regional Council. Secondly, It's not complicated. It's exactly what Regional Councils are tasked to deal with. The only thing that makes it complicated is that BOPRC have not monitored and cannot explain why they have let the developers get away with lack of environmental care for as long as they have.
18. WBOPDC and BOPRC have failed to work together over this site. An example of this is on the Overton site where there is a ban on any discharge to air activity. BOPRC assisted Overton in getting better filters so they could continue their discharge to air operation. Another example was when AJ Demolition were concrete crushing on the site. Where were BOPRC to monitor run off into the waterways? The community worked so hard to ensure environmental protection that BOPRC should have been providing. In the 2023 environment court hearing between WBOPDC and TINEX, run off issues were covered but no representative of BOPRC was present. Again the community had to pick up the slack and become storm water and environmental advocates. Community members had to cross examine developers about their storm water provisions.

Unbelievable. The protection offered by the 2005 Environment Court Decision has not been fully understood jointly by all staff at Councils who need to work together better.

This context above is vital to understand now TPIL is seeking Resource Consent and to potentially develop the Overland Flow path through the TINEX site.

As a community we can see how this would be at first glance an attractive option to the Regional Council in the light of lack of capacity to manage issues associated with this Business Park.

Alison Cowley (Chair PTP)
Sarah Rice (Secretary PTP)
Diana Honeybone (Treasurer PTP)
Neville Bidois (Kaumatua - Kauwae Runga Pirirakau and PTP)
2/7/24