

**Bay of Plenty Regional Council and Western Bay of Plenty District Council  
DIRECTIONS OF THE COMMISSIONERS  
Te Puna Industrial Limited**

**Introduction**

- [1] At the conclusion of the Hearing on Thursday, 11 July 2024, we adjourned the proceedings and indicated that we would issue a procedural Direction setting out the further information that we considered necessary to enable us to make our decisions on the applications lodged by Te Puna Industrial Limited (TPIL).
- [2] We also advised that we would set out timeframes for the necessary further steps (including any expert conferencing) relating to that information.
- [3] We provided a draft Direction to TPLI and the two councils for comment. We have had regard to the comments received when finalising this Direction.
- [4] We have set out the necessary information required under a number of headings.
- [5] We appreciate that some of the matters may already be addressed in existing documentation or reports that are before us and if so that documentation should be provided and the precise location of the information within the documentation should be highlighted.
- [6] TPIL may of course provide additional information that is not specified in this Direction should they consider that would assist our decision-making process.

**Flooding and Stormwater**

1. Confirmation of the area (including showing this on a plan similar to drawing 013) to be filled to 3.0m MVD RL in what we understand will be the first stage of development;
2. A description of any works (if any) that will be undertaken in the 2.21 ha 'Future Development Area' prior to it subsequently being filled to 3.00m MVD RL;
3. Either specification of a minimum fill level for the 'Future Development Area' that is to be achieved prior to its use for industrial activities, or the process that will be followed to establish that fill level;
4. Confirmation that TPIL seeks to omit any bunding along Te Puna Station Road. This should include cross-sections showing the intended development profile from the edge of the roading seal to the useable area of the raised fill platform that will host the ContainerCo operation located to the east of the new accessway and industrial activities to the west of the new accessway;
5. Calibration of the flood model (if possible) using available photography and flood levels from recent significant flood events;
6. Following calibration, provision of the estimated level of accuracy of any modelled flood levels. In the absence of suitable calibration data, confirmation of model performance through a validation approach to observed flooding from recent (post 2012) events;
7. Further flood modelling that assumes antecedent waterways that are not dry (but are full – referred to as 'baseflow') at the commencement of all modelled rainfall events;
8. Confirmation that the upper northern catchment above the railway referred to by Submitters Mr Williams and Mr Lochhead has been included in the modelling. This includes the catchment above the 'railway culvert' referred to by the two Submitters;
9. Confirmation that a consistent approach has been adopted for the use of rainfall data in the flood modelling;
10. Confirmation of the datum (we assume MVD) that is consistently used for all flood modelling results;
11. Long-sections and cross-sections of the stormwater flow paths through the Site and the OLFP from the start of the southern drain (including the culvert that conveys water under Te Puna Station Road from the OLP site) to the confluence of the proposed OLFP located on the Tinex

property with the southern roadside drain. This is to include the precise intended location of the roadside drain within the TPIL Site;

12. Confirmation of the planting that will be undertaken in the OLFP located on the Tinex property and the effects of any planting (once fully established) on the hydraulic performance of the OLFP and modelled flood levels. This is to include the assumed Mannings N roughness for the OLFP;
13. Confirmation of the effects of the proposed landscape planting on flood flows and levels in the area where it is now proposed to omit the roadside bunding along Te Puna Station Road. This should include reference to the density of planting and growth of foliage and the estimated Mannings N roughness used for the planted area.
14. Confirmation of the engineering feasibility of installing either a third Teihana Road culvert, or alternatively a box culvert that would replace the existing two culverts;
15. Confirmation of the effect of tidal backflow (the combination of Wairoa River flow and sea state) on modelled flood levels having regard to the operation of the southern roadside drain and the flap gated culvert where the southern roadside drain crosses under the eastern end of Te Puna Station Road;
16. If 'Option 2' (the OLP runoff being directed down the northern roadside drain) is sought to be enabled in conditions of consent, confirmation that this option is feasible from an engineering and geotechnical perspective and that it has been modelled taking into account the intended width and depth of that drain and backwater and tidal matters;
17. Confirmation of the freeboard that would be required for any buildings on the area intended to be filled to 3.0m MVD RL;
18. Description of the intended width and grade of internal stormwater swales within the TPIL Site. It should also be demonstrated how these swales will be constructed within the filled platform;
19. Either confirmation that the internal swales will cater to the 100-year ARI or documentation of the overland flow paths that will be used to convey stormwater internal to the Site when the swales overtop in ARI events greater than they are designed for;
20. Documentation (narrative text and associated plans and cross-sections) of the location, size, layout and performance of the permanent stormwater pond, including if it will be constructed on fill that has been raised to 3.0m MVD RL or if it will be located on land that is not filled (as indicated in drawing 013), that it fits into the Site, will not impede the flow of stormwater from the OLP site through the TPIL Site and into the OLFP, and is consistent with flood modelling outcomes, including any implications of the groundwater table;
21. Description of the outlet control to be used on the permanent stormwater pond and how that will be managed to achieve 80% of pre-development outflow from the area of the Site to be serviced by the pond if a reduction in pre-development flows is shown to be necessary for flood management purposes;
22. An explanation of how the permanent stormwater pond works in consideration of joint probability events in accordance with the BOPRC Hydrological and Hydraulic Guidelines 2012 Table 4.4;
23. Advice on whether the permanent stormwater pond will be over-topped by floodwater external to the pond in a 100-year ARI event and if so, what affect that would have on the re-suspension of sediment within the pond and the continued operation of the pond;
24. A plan showing the extent of exacerbated flooding (namely any flooding that occurs over and above both the current legal existing environment and the existing physical environment) on the JMC and OLP sites on the northern side of Te Puna Station Road during all modelled flood events;
25. Documentation of the depth and extent of flow/ponding and velocity of flow from the north across Te Puna Station Road resulting from the proposed development (compared the existing legal existing environment and the existing physical environment);

26. An assessment of the duration of flooding on Te Puna Station Road as set out above and the risk associated with access to and from the TPIL site and for traffic along Te Puna Station Road;
27. Confirmation that a final level of 3.0m MVD RL for the area to be used for industrial activities is appropriate taking into account all of the above matters, including the accuracy of the flood modelling and the need for freeboard;
28. All flood modelling results (10/50/100 ARI events) should assume two existing environment scenarios: 1) with the unauthorised Tinex fill in situ, and 2) with it removed;
29. A comprehensive development plan for the Site showing the layout and staging of development and the associated stormwater management infrastructure (internal swales, roadside drains, stormwater pond(s) and OLFP) and modelled flood inundation within the Site at each stage of development; and
30. Further caucusing of the stormwater and flooding experts (including Mr Kernot) once the above information is compiled and the production of a JWS outlining areas of agreement and disagreement.

### **Visual Amenity Mitigation**

1. A clear description of the proposed planting along Te Puna Station Road taking into account the removal of previously required bunding on the Te Puna Station Road boundary, including the intended timing of the planting and specification of proposed species that are suited to the ground conditions. The description should include a dimensioned plan and cross-section showing the plant spacing, plant height and spread at the time of planting and at plant maturity. The cross-section should show the finished ground levels of the planting areas relative to the finished fill level of the development area, adjacent drains and the modelled flood levels.
2. Confirmation of the height of the remainder of the proposed perimeter and inter-lease planting (at time of planting, after 2 years and at plant maturity) relative to the finished level of the development area;
3. Confirmation of whether a 'horticultural screen' (shade cloth screen) will be used to mitigate the visual effect of the elements of the ContainerCo operation that do not meet the colour and reflectivity performance standards of the District Plan and if so, its location, colour and height;
4. Details of the intended electric gantry crane (particularly its height) and any associated visual amenity effects arising from its use, including whether the intended planting and/or horticultural screen (if one is used) will shield the crane;
5. Confirmation of whether additional planting will be used to screen the proposed workshop and if so its location, species and intended mature height; and
6. Confirmation of the maximum number of containers to be stored on the ContainerCo site and the maximum height of the container stacks.

### **Traffic Safety and Rooding**

1. Confirmation of the anticipated truck movements (to and from the Site) associated with Site development earthworks with all combinations of the use or not of the on-site borrow pit and fill from the Tinex site;
2. Confirmation of anticipated operational vehicle movements (split into heavy vehicles and other) for all intended stages of Site development;
3. Written confirmation that the intersection of Te Puna Station Road and Te Puna Road will be upgraded with a right turn bay prior to the importation of fill or preload material to the Site;
4. An assessment of the implications of the gradient of Te Puna Station Road on heavy vehicles turning out of that road onto Te Puna Road and any mitigation measures proposed to address any adverse effects of that gradient;

5. A description of any measures to be implemented on Te Puna Road (south of the intersection with Te Puna Station Road) to mitigate the effects of Site generated heavy vehicle traffic on pedestrian and cyclist safety;
6. A description of any traffic management measures and other works proposed to maintain traffic safety during the construction of the Site access, including during any preloading;
7. If necessary, updated descriptions (narrative text, plans and cross-sections) of the intersection of Te Puna Station Road and Te Puna Road and the proposed new accessway into the Site, taking into account the above matters.

### **Geotechnical and Earthworks**

1. Confirmation of the level of the proposed fill (for the development area) for the Site that formed part of the public notification of the applications and any subsequently revised fill level that was proposed prior to the current fill level of 3.0m MVD RL being selected;
2. Documentation of the sequence of engineered fill and pre-load material that will be used to form the platform for the proposed industrial activities;
3. Details of the calculations used to estimate the compacted earthwork quantities including engineered fill, preload, and bunding together with the estimated loose fill volumes from off site (outside of Structure Plan Area), cut volumes from proposed OLFP on the Tinex site and potential borrow area on Applicant's land. These should relate to the development area shown in response to our question 1 under the 'Flooding and Stormwater' heading and be provided for both the notified fill level, any subsequently modified fill level, and the currently selected fill level of 3.0m MVD RL;
4. Plans and cross-sections of the final format of the intended borrow pit, including details of any planting proposed (or other methods) to maintain slope stability on the borrow pit site;
5. A stability assessment of the slopes beyond the Site's south-western boundaries, accompanied by drawings (plans and cross sections) showing any proposed slope stability methodology to be used. The stability assessment should include possible effects of the borrow pit excavation;
6. Drawings (plans and cross sections) and narrative detailing the proposed works and construction sequencing to widen Te Puna Station Road and form the Site access. The drawings should include areas and depths of fill, open drains, any proposed retaining structures, and any preload embankments or other geotechnical works in sufficient detail that effects on road safety can be assessed;
7. Calculation and assessment of static settlements beneath Te Puna Station Road and within the road corridor which may result from fills and any preloading placed along or near the road as part of forming the new accessway. The assessment should include a detailed discussion of potential effects on properties to the north of the road, the road itself, the southern and northern roadside drains, the Council wastewater and water pipes, and other utilities within the road corridor, along with any proposals to maintain those services;
8. Description of the extent and frequency of expected maintenance works along Te Puna Station Road both during earthworks and construction (to be undertaken by the Applicant), and post earthworks completion (to be undertaken by Council).

### **Noise and Lighting**

1. A plan showing the precise extent of the proposed ContainerCo operation and its constituent components;
2. Confirmation of the maximum number of reefer containers that will be stored on the Site along with an explanation of how many of these will be 'powered on' at any one time and how that might vary across a 24-hour period;
3. Confirmation of whether or not there will be sandblasting or grinding of containers and if so, if that has been factored into the noise modelling;

4. Confirmation of the intended hours of the operation for both the earthworks phase and the operation of industrial activities, including whether or not either activity will occur on Sundays and public holidays;
5. Provision of a plan showing the location and intended height of the containers to be used to 'shield' the reefer containers; and
6. Details of what (if any) artificial outside lighting is proposed to enable any operation of the Site during hours of darkness. Confirmation of whether any further consents are required if artificial lighting requirements do not meet the performance standards of the operative District Plan.

### **Wastewater and Stormwater Treatment**

1. Confirmation of the intended maximum number of staff that will be on Site for each stage of development and the toilet/sanitation facilities that will be provided at each stage (including for those staff and whether that involves 'port-a-loos' or preferably more sophisticated 'prefab/containerised' type toilet facilities and holding tanks);
2. Confirmation of the waste (liquid and solid) that will be produced in the intended workshop and how that waste will be treated and managed;
3. Confirmation of the intended nature of any container washdown operations and how associated wastewater will be treated and managed;
4. Confirmation of the areas within the ContainerCo site from which stormwater will be treated by a proprietary gross pollutant trap that is suitable to treat stormwater for contaminants such as total petroleum hydrocarbons and heavy metals, prior to discharging that stormwater to the swales and permanent stormwater pond.
5. Details of the intended pump out frequency of any wastewater holding tanks (including from toilet/sanitation facilities, the intended workshop and container washdown facilities).

### **Ecological**

1. Confirmation by a suitably qualified ecologist of the ecological significance (if any) of the vegetation that would be removed from the area to be used for the borrow pit, along with any mitigation or offsetting measures for the loss of that vegetation; and
2. Confirmation of the intended area of wetland creation (including locational plans), both during Site earthworks and thereafter.

### **Archaeological**

1. Confirmation of the scope and timing of any General Authority application that TPIL intends to make to Heritage NZ for earthworks on site, along Te Puna Station Road, and at the Te Puna Road and Te Puna Station Road intersection.

### **Pirirākau Tribal Authority**

- [7] We strongly recommend that the Applicant undertakes further consultation directly with the Pirirākau Tribal Authority (by initially contacting the Authority Secretary Jacqui Rolleston-Stead including by way of email to: [secretary@pirirakauinc.co.nz](mailto:secretary@pirirakauinc.co.nz)) regarding the effects of the proposal on the cultural values and interests of Pirirākau and specifically consult with the Authority regarding any conditions that TPIL intends to offer to avoid, remedy or mitigate any adverse effects.
- [8] We request that the results of any such consultation be documented and provided to our Hearing Administrator, including areas of agreement and disagreement.

### **Packaging of Information**

- [9] We request that the above information is collated into one comprehensive 'package' along with any additional narrative considered appropriate by the applicant. This does not preclude TPIL from undertaking further discussions and caucusing with experts engaged by the councils prior to all of the information being obtained and collated.

[10] We request that the collated 'information package' is provided to us via our Hearing Administrator.

### **BOPRC and WBOPDC**

[11] Within 10 working days of the date of this Direction we request that the Councils provide documentation (narrative text, plans or aerial photographs) to ourselves and the Applicant outlining any unauthorised activities (earthworks and industrial activities) currently occurring within the Structure Plan area.

[12] Within 10 working days of the date of this Direction we request that the WBOPDC provides precise details of the FINCO conditions of consent (with an accompanying rationale) that it now considers to be appropriate for the Site.

[13] We request that the WBOPDC confirms at their earliest convenience whether or not Te Puna Station Road will be widened (and if so when), whether any widening will include a shared path (and if so its dimensions and location) and whether or not Te Puna Station Road will remain closed from beyond Clarke Road to its intersection with SH2.

### **Section 42A Report Addendum and Submitter Comments**

[14] We request that at the same time that the Applicant provides the collated 'information package' to us, it also provides it to the Councils and the Submitters who appeared at the Hearing.

[15] Submitters who receive the 'information package' may provide any written comments on the 'information package' to our Hearing Administrator, provided that occurs within 10 working days following their receipt of the 'information package'. Submitters are not to repeat any information that was provided during the Hearing.

[16] Within 20 working days of the above 'information package' being provided to us by the Applicant, we request that the councils prepare and circulate Section 42A Report addendums addressing their updated advice to us on the scale of adverse effects arising from the proposal and whether or not the proposal (inclusive of proposed mitigations) is contrary to the operative provisions of the District Plan and whether or not it is consistent with any relevant regional plans.

### **Applicant's Reply**

[17] Within 10 working days of the Section 42A Report addendums being circulated we request that the Applicant provides their written Reply submissions to the Hearing Administrator. We grant leave for the Reply submissions to include statements from technical experts in response to any technical matters raised in Submitter comments or the Section 42A Report addendums.

[18] The Reply submissions are to include suites of consent conditions for the WBOPDC consent and the BOPRC consents. The condition suites should be developed in consultation with the Section 42A Report authors and any areas of disagreement clearly outlined. Where there are areas of disagreement both TPIL and the Section 42A Report authors are to document their preferred condition wording with reasons. Areas of disagreement may include conditions recommended by the Section 42A Report authors that are not accepted by TPIL.

[19] The conditions should avoid duplicating conditions in the WBOPDC and the BOPRC consents.

[20] A full suite of revised plans and drawings that are to be referenced in the conditions is to be provided.

[21] Any draft management plans that have been prepared to date and are to be referenced in the conditions are to be updated and provided along with the suites of conditions.

[22] All significant criteria or standards that limit the nature and scale of the earthworks, construction and operational activities should be included in conditions and not in management plans.

[23] As a minimum any conditions relating to management plans should detail the objectives of each management plan, the plan's minimum contents, the conditions of consent that the plan is intended to describe compliance with, who will be consulted in the preparation of each plan, and whether or not there is a draft management plan that is intended to be referenced in the conditions prior to it being updated and provided to the Council(s) for certification.

- [24] The conditions should require each management plan to be certified by the relevant Council and set out a process to be followed for that certification.
- [25] The conditions should set out a process (including Council re-certification) for any amendments to a management plan.

**Timeframe extensions**

- [26] The Section 42A Report authors and the Applicant may seek extensions to the above working day timeframes if they consider that to be necessary to enable them to provide us with full and final, clear and concise information.

**Adjournment**

- [27] Upon receipt of the Submitter comments and Section 42A Report addendums referred to above, we will decide whether or not we need to reconvene the Hearing to pose questions to any party prior to the Applicant preparing their Reply submissions.
- [28] If the Hearing is reconvened, we do not anticipate receiving verbal presentations from Submitters or technical experts as we anticipate that any Submitter comments and the Section 42A Report addendums (including technical appendices) will be clear and concise on their face.
- [29] Upon receipt of the Applicants' Reply submissions we will decide whether or not we need to reconvene the Hearing to pose questions to the Applicant and their experts.
- [30] Following either the receipt of the Applicant's Reply submissions (if there is no reconvened Hearing) or after the conclusion of any reconvened Hearing to address the Applicant's Reply submissions, we will issue a combined Decision report that sets out discrete decisions relevant to each Council.



Rob van Voorthuysen (Chair)  
**On behalf the Independent Commissioners**  
23 July 2024