



Western Bay of Plenty
District Council

Head Office Barks Corner, 1484 Cameron Rd, Greerton, Tauranga
Private Bag 12803, Tauranga Mail Centre, Tauranga 3143
Ph 07 571 8008 (24 hours) - F 07 577 9820
Freephone 0800 WBOPDC - 0800 926 732
E customerservice@westernbay.govt.nz
www.westernbay.govt.nz

03 March 2020

Barry Daniel
245 Te Puna Station Road
RD 6
Tauranga 3176

Dear Mr Daniel

Abatement Notice Resource Management act 1991

Please find attached an Abatement Notice issued under section 322 (1)(a)(i) of the Resource Management Act 1991.

You are advised that if you carry out any of the activities that are prohibited by this abatement notice, further enforcement action may be taken. Pursuant to the Act, you are liable to criminal prosecution, the maximum penalty for which is imprisonment for a term not exceeding 2 years or a fine not exceeding \$300,000.

You have the right to appeal this notice as outlined in the advice notes of the Abatement Notice.

If you have any concerns or questions regarding the content or nature of the notice and your right of appeal, it is recommended that you seek legal advice in this regard.

Yours sincerely

Mark Keaney
Senior Compliance Officer



Abatement Notice



Section 324

Resource Management Act 1991

TO: **Barry Care DANIEL**
245 Te Puna Station Road
RD 6 Tauranga 3176

1. Western Bay of Plenty District Council gives notice that you must cease the following action:

Development of the property at 245 Te Puna Station Road for any industrial or business activity.

2. The location to which this abatement notice applies is:

245 Te Puna Station Road, Te Puna (as shown on the attached aerial photograph).

3. You must comply with this abatement notice within the following period:

Immediately.

4. This notice imposes the following further conditions:

Western Bay of Plenty District Council compliance officers will, from time to time, undertake inspections to check whether you are complying with the Resource Management Act 1991 and this abatement notice.

5. This notice is issued under:

Section 322(1)(a)(i) of the Resource Management Act 1991.

6. The reasons for this notice are:

Background

Barry Daniel, Beth Daniel and GI Finlay Trustees Limited are the legal owners of 245 Te Puna Station Road, Te Puna which has the legal description Lot 2 Deposited Plan 22158 and is shown in the aerial photograph attached to this notice (the **property**).

The property is shown on the Western Bay of Plenty District Plan (**Plan**) maps as being in an industrial zone known as the "Te Puna Business Park" and containing land that is subject to a flood hazard overlay.

Section 12.4.16 of the Plan provides that the Te Puna Business Park shall be developed in accordance with the Te Puna Business Park Structure Plan in Appendix 7 of the Plan. None of the requirements of the Te Puna Business Park Structure Plan have been satisfied yet.

Section 12.4.16 of the Plan sets out a number of staged infrastructure requirements that must be satisfied before any development can take place at the property. Most of these have not yet been completed. For example:

1. There are five roading requirements set out in clause 12.4.16.2, only two of which have been completed.
2. There are two requirements set out in clause 12.4.16.3 relating to landscape planting and stormwater management, neither of which have been completed.
3. There is one requirement set out in clause 12.4.16.5 relating to water supply, which has not been completed.

Development is defined in the Plan as "any work that involves the disturbance and/or an excavation of the land surface ...".

Rule 21.3.12(c) of the Plan provides that development that is not in general accordance with the relevant structure plans and their stated servicing requirements, including any staged infrastructure requirements is a non-complying activity and therefore requires a resource consent. The Council has no records of any resource consent being granted to allow any of these activities at the property.

Inspection on 31 October 2019

Following a complaint, Council officers inspected the property on 31 October 2019 and found that development of the property has occurred. Soil and grass has been stripped and sections of the property levelled. Gravel has been installed. Dirt drains have been excavated and the property divided into 12 separate fenced sections. There is a sign advertising "INDUSTRIAL FENCED YARDS FOR LEASE".

Given that a resource consent is required for development of the property pursuant to rule 21.3.12 of the Plan, but no resource consent has been issued expressly allowing this activity, I have reasonable grounds to believe, and am of the opinion that you are contravening Rule 21.3.12 of the Plan.

IMPORTANT NOTES – PLEASE READ

If you do not comply with this notice, you may be prosecuted under section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stayed as explained below).

You have the right to appeal to the Environment Court against the whole or any part of this notice. If you wish to appeal, you must lodge a notice of appeal in form 49 with the Environment Court within 15 working days of being served with this notice.

An appeal does not automatically stay the notice and so you must continue to comply with it unless you also apply for a stay from an Environment Judge under section 325(3A) of the Resource Management Act 1991 (see form 50). To obtain a stay, you must lodge both an appeal and a stay with the Environment Court.


You also have the right to apply in writing to Western Bay of Plenty District Council to change or cancel this notice in accordance with section 325A of the Resource Management Act 1991.

Western Bay of Plenty authorised the enforcement officer who issued this notice. Its address is:

Western Bay of Plenty District Council, Barks Corner, Cameron Road, Tauranga
Private Bag 12803, Tauranga; Telephone: (07) 571 8008

The enforcement officer is acting under the following authorisation:

A warrant issued on 18 November 2019 by Western Bay of Plenty District Council pursuant to section 38 of the Resource Management Act 1991.


Signature of enforcement officer – Mark Keaney
Date: 03 March 2020