

# Abatement Notice



Section 324  
Resource Management Act 1991

TO:

**Te Puna Industrial Limited**  
c/o PKF Tauranga Limited  
23 Brown Street  
Tauranga 3110

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

Development of the property at 297 Te Puna Station Road for any industrial or business activity.

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

297 Te Puna Station Road, Te Puna (as shown on the aerial photograph attached at Appendix 1).

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:

Te Puna Industrial Limited is the legal owner of 297 Te Puna Station Road, Te Puna which has the legal description Part Lot 3 Deposited Plan 22158 and Section 2-3 Survey Office Plan 61751, and is shown in the aerial photograph attached to Appendix 1 of this notice (the **property**). Colin Booth is the sole director of Te Puna Industrial Limited.

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

Section 12.4.16 of the Plan provides that Te Puna Business Park shall be developed in accordance with the Te Puna Business Park Structure Plan in Appendix 7 of the Plan (**Structure Plan**), a copy of which is attached at Appendix 3 of this notice. None of the requirements of the Structure Plan have been satisfied.

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, i.e.:

1. The requirements in clause 12.4.16.2(d), (e) and (f) relating to traffic/roading have not been addressed.
2. The landscape planting and stormwater management requirements in clause 12.4.16.3 have not been completed. This includes the requirements to establish the boundary planting as shown in the Structure Plan, to establish secondary planting as shown in the Structure Plan and to establish earth bunds as shown in the Structure Plan.
3. The requirement set out in clause 12.4.16.5 relating to water supply 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. Western Bay of Plenty District Council (**Council**) has no records of any resource consent being granted to allow development at the property.

### **Inspections on 16 November 2021 and 22 January 2022**

Following a complaint, I, Mark Keaney, a Council enforcement officer, inspected the property on 16 November 2021 and on 21 January 2022 and found that development of the property is underway. In two separate locations at the property soil and/or grass has recently been excavated to create level sections. Photographs showing these areas of development are attached at Appendix 4 of this notice.

#### **Consenting background**

A resource consent was issued by the Council to the previous property owners in 2000 that authorises the establishment of a rural contractor's depot at the property. However, that resource consent does not expressly allow:

1. The earthworks I found at the property in November 2021 and January 2022.
2. Development of the property that is not in accordance with the Structure Plan.

On 13 January 2022 Te Puna Industrial Limited lodged a resource consent application for the property with the Council. That application seeks land use consents for the establishment and operation of yard-based industrial activities at the property, with associated earthworks and discharge to water, to give effect to the Te Puna Business Park Structure Plan. In the application Te Puna Industrial Limited stated it intended to develop and let the first stage of leases within the industrial-zoned property and to carry out earthworks to prepare and form the lease areas. In the application Te Puna Industrial Limited acknowledged that the development of the property was a non-complying activity under the Plan and the most prominent trigger for resource consent under the Plan was due to infrastructure departures from the Te Puna Business Park Structure Plan.

That application is currently on hold pending a response by Te Puna Industrial Limited to the Council's request for further information under section 92 of the RMA.

No other resource consents have been issued or sought in relation to the property.

#### **Conclusion**

Accordingly, 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.

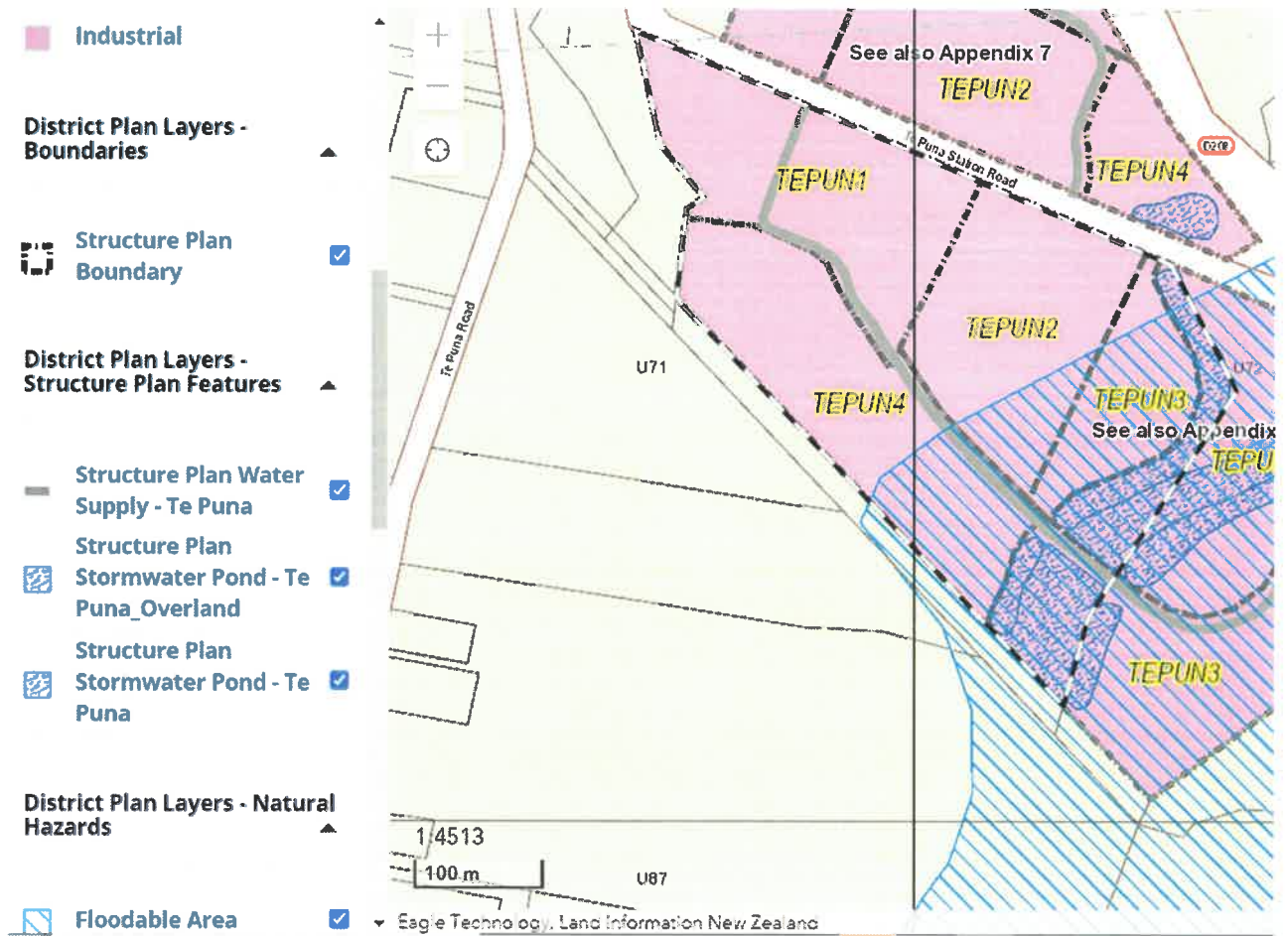
  
Signature of enforcement officer – Mark Keaney  
Date: 29 March 2022

**Appendix 1 – Aerial photograph of property (highlighted in yellow)**

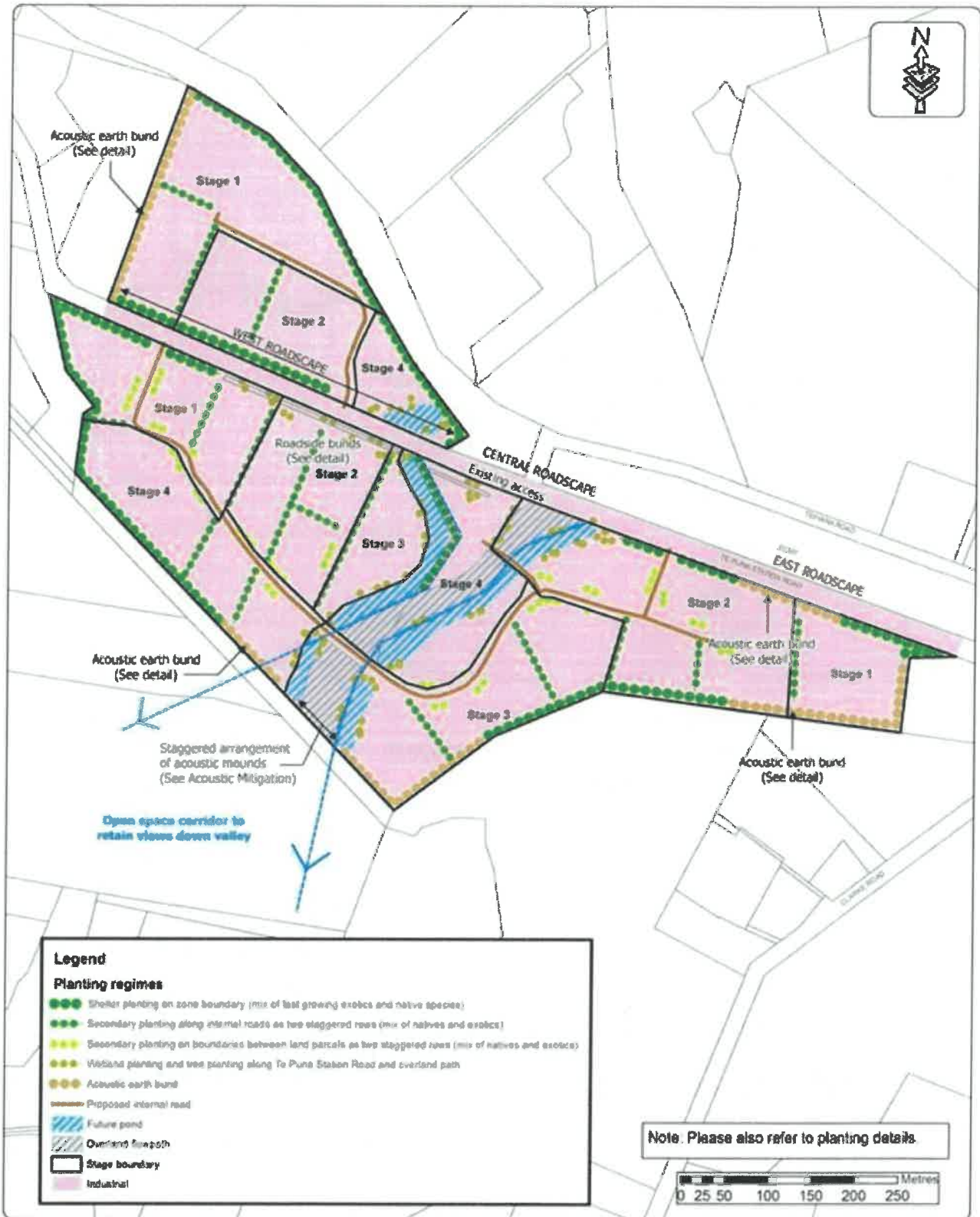


**Site Location Plan - 297 Te Puna Station Road, Te Puna**

Appendix 2 – Aerial photograph of property from Western Bay of Plenty District Plan maps

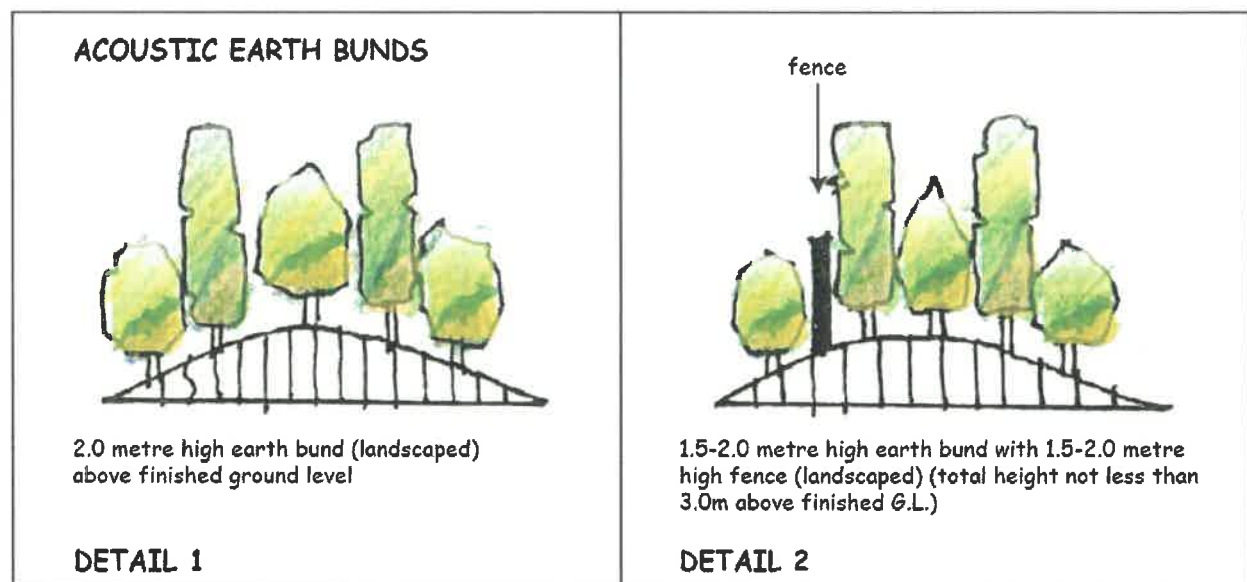
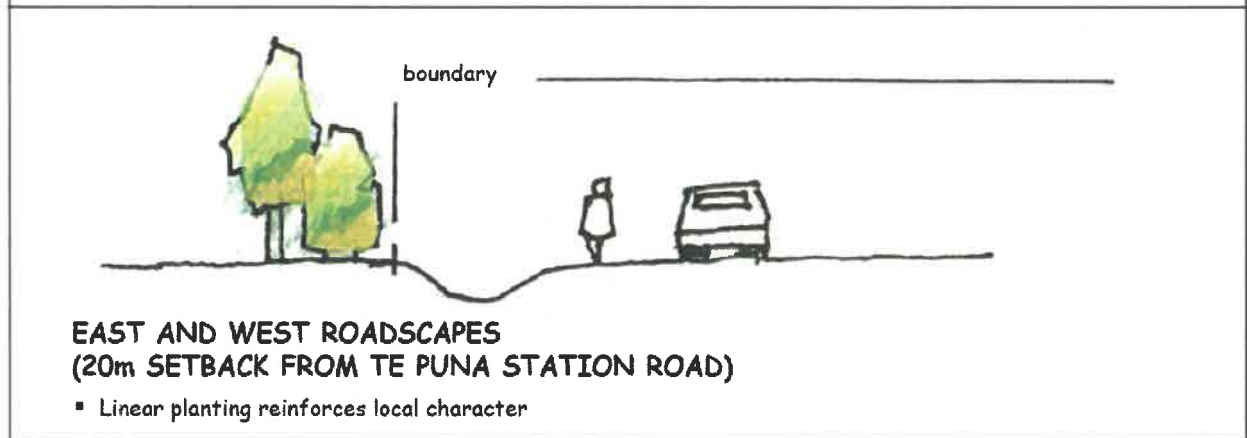
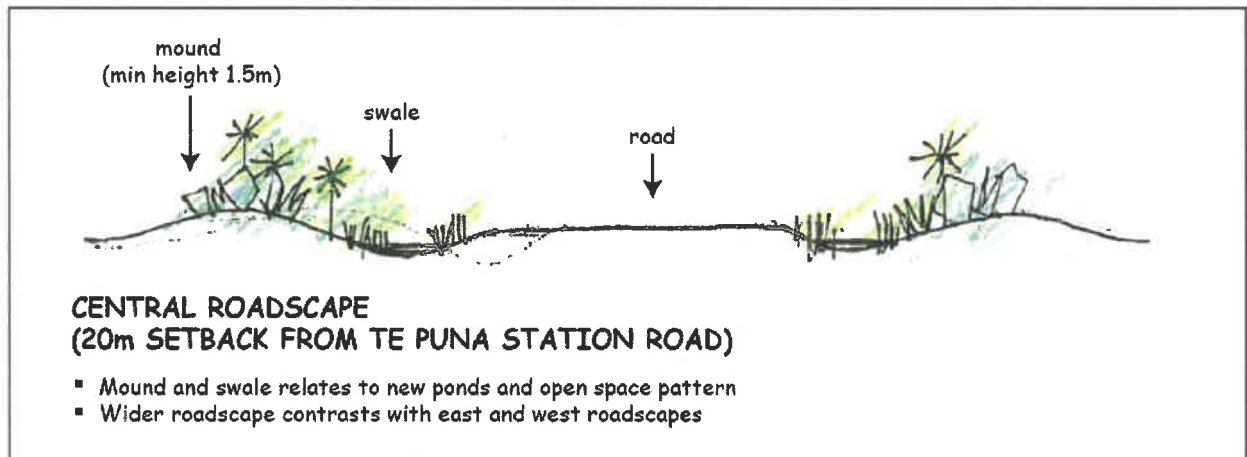


Appendix 3 – Te Puna Business Park Structure Plan (Appendix 7 of District Plan)



## TE PUNA STATION ROAD PLANTING SECTIONS

(Planting to comply with sightline requirements at access points onto Te Puna Station Road)



**Appendix 4 – Photographs of development areas**



