

Cottam, Rachel

---

From: Tim Walsh <tim@novogroup.co.nz>  
Sent: Thursday, 6 July 2023 8:41 am  
To: Cottam, Rachel  
Cc: Ben Owen; Higgins, John; Richard Peebles; Jorgensen, Craig; Lowe, Paul  
Subject: RE: RMA/2022/3611 - Request for further information 320A Cumnor Terrace  
Attachments: Letter to Tim Walsh regarding Portlink application.pdf; FW: Portlink Stages 6,7 and 8 - Tree Report

Follow Up Flag: Follow up  
Flag Status: Flagged

Hi Rachel

In respect of the 'acoustic' matters below, I note that Braeburn Property Limited has consistently maintained (pre and post application) that the matter of compliance of existing activities with District Plan noise standards is not relevant to the resource consent application. In relation to Rule 6.1.5.2.1 (Zone noise limits outside the Central City) the application states the following:

*noise from the proposal and activities occurring on site comply with relevant noise standards in the District Plan. The applicant leases the site to several tenants. Those tenants are required by way of the lease agreements to "comply with the provisions of all statues, ordinances, regulations and by-laws". This includes the District Plan noise standard.*

Despite this, Council requested an assessment noise rules compliance in relation to proposed industrial activity. The applicant's reply was that the:

*applicant maintains its position that compliance with District Plan noise standards can be assumed. Put another way, the applicant is not applying for consent to authorise existing or future industrial activities within the site to exceed the District Plan noise standards. As set out in the application, the site is leased to several tenants. Those tenants are required by way of the lease agreements to "comply with the provisions of all statues, ordinances, regulations and by-laws" – the District Plan noise standards included.*

*Despite the above, Pinnacle Group (the company that currently leases the yards closest to residential neighbours) has engaged an acoustic engineer (Powell Fenwick) to determine whether its operations comply with the District Plan noise standards. Pinnacle Group has advised the applicant (and Council) that it will provide a report on the matter to Council in mid-April this year at the latest. If compliance is demonstrated, that will be the end of the matter. If non-compliance is identified, Pinnacle Group will apply for resource consent to authorise the activity. This is clearly the tenant's responsibility, not Braeburn Property Limited.*

At no point has Council explained why it considers the noise compliance matter is relevant to the current application. Yet, questions regarding compliance with noise standards continue to be directed to the applicant. I consider that Council's approach to the matter is incorrect, a view that is supported by the applicant's solicitor as per the attached letter.

Pinnacle Group has supplied the noise compliance assessment to Council and that has generated the questions in the email below. Questions 1, 3, 4 and 5 relate to the compliance matter and therefore should be directed to Pinnacle Group – which I have already done. In terms of questions 2, 6, 7 and 8, please see my response below in red.

In terms of the 'arborist' matter, the applicant does not understand how a technician arborist could assist given the subject trees have already been removed. Please see attached emails from 14 April 2022 on the matter. The first email is from the Clive Baddeley of CCL (the site contractor) in response to a request from Council (via Yvonne

McDonald). It contains an arborist report recommending three trees be removed and others pruned. Mr Baddeley says that he will "await further instructions". The second email is simply a FYI to the landowner. As far as I am aware, there is no written confirmation from Council that the tree removal was approved. I understand those instructions were passed on at a site meeting. In any case, I do not consider this matter has any bearing on the resource consent application.

In terms of the 'ecology' matter, this will be addressed within the applicant's response to Mr Head's visual effects peer review (prior to close of business on 21 July). I note that the applicant considers the bund should remain and that the exercise of its removal would cause ecological damage. This will be a matter for the independent commissioner to decide.

Don't hesitate to contact me should you have any questions.

Best regards

**Tim Walsh**

M: 027 267 0000



---

From: Cottam, Rachel <Rachel.Cottam@ccc.govt.nz>  
Sent: Friday, May 26, 2023 11:07 AM  
To: Tim Walsh - Novo Group <tim@novogroup.co.nz>  
Cc: Ben Owen <ben@peeblesgroup.co.nz>; Higgins, John <John.Higgins@ccc.govt.nz>; Richard Peebles <richard@peeblesgroup.co.nz>; Jorgensen, Craig <Craig.Jorgensen@ccc.govt.nz>; Lowe, Paul <Paul.Lowe@ccc.govt.nz>  
Subject: RMA/2022/3611 - Request for further information 320A Cumnor Terrace

Hi Tim,

The noise report and tree assessment have been assessed by our relevant specialist and I note a further request for further information is required. This is discussed further below.

Acoustic

Our acoustic engineer has reviewed the application and has further questions about the report and modelling – see below:

- 1. The introduction section mentions noise from refrigerated containers as a source from the site. It does not re-appear in the modelling section. Will many refrigerated containers be operating from the site, and if so how will this impact on the predicted noise levels (including at night-time)? If there will be a number of these operating from the site they should be accounted for, and the assumptions made clear as it could contribute appreciably to overall noise emissions.*
- 2. We have been provided with a summary of nearby resident complaints which mentions that container impacts (with each other and the ground) along with reversing beepers are a particularly distinctive part of noise from the site. This type of noise may not be well captured by the District Plan  $L_{Aeq}$  noise limit. Can maximum noise levels from these type of events on the site be provided (including if they occur at height), along with commentary on the character of the noise and whether it warrants a penalty for impulsiveness or tonality. We note that as a discretionary activity, wider noise effects can be considered, not just compliance with the Plan limits.*

The District Plan at Policy 16.2.3.2 is concerned that the residential amenity adjoining industrial zones is not adversely affected, but also recognises that amenity may be of a lower level than other residential areas. Effects relating to the

noise generated by industrial activities adjacent residential activities are managed by way of the noise standards in the Plan. Therefore, provided industrial activities within the application site comply with the noise standards, the particular character of noise generated by those activities must be accepted at the interface of an industrial zone (i.e. noise of an industrial character comes part and parcel of living adjacent an industrial zone).

3. *Residents also mention that variation in noise levels can occur depending on how gentle operators are with the placement of containers. Can PFC provide comment on whether this may have any impact on their assumptions and predicted noise levels?*
4. *The contour in figure 5.1 does not appear to be a complete representation of the proposal (for example it shows noise contours extending to the south-west, where figure 1.1 shows a barrier). Can PFC provide a complete set of contours which represents overall noise emissions from the site, including all proposed mitigation? Ideally this would show contours down to 45 dB  $L_{Aeq}$ , and be zoomed out so noise emissions towards Ferry Road can be seen.*
5. *We have several other questions about the detail of the modelling as follows:*
  - a. *What gap size has been allowed between containers, and how does this relate to the grid size used to generate the contours? Figure 5.1 also shows a large gap in the north-east corner of the barrier. Is this intended?*
  - b. *Is there any "at height" contribution in the modelling, for example from containers being stacked at height?*
  - c. *Hoists are shown operating close to the barrier. Have PFC investigated whether there is any difference in the amount of screening and therefore predicted noise levels if they operate further back on the site?*
  - d. *The PFC report notes that "modelled reflections from other container stacks within the yard (in from the perimeter) and found that they do not significantly impact calculated noise levels at residential properties." Can PFC provide more detail on what level of increase "not significant" means, and how they have modelled this. In our experience SoundPlan modelling using ISO 9613 has limitations in the way it accounts for complex reflections in "semi-reverberant" spaces.*
6. *There appears to be another container yard operating from the same site, which operates 24/7. Can PFC provide comment whether there may be cumulative noise implications from similar activities operating on the same site? It may not be easy for residents to make distinction between these separate operations from a noise effects perspective.*

I assume the other container yard is NZexpress. The original RFI referenced this operation for the fact that it is partially located within the 11m height limit area. Council asked the applicant to identify all relevant non-compliances and relevant effects including noise. The response was that we understand that the NZexpress activities comply with the District Plan noise standards (noting that these activities are located further from any residential zoned properties compared to Pinnacle Group activities). If Council considers that NZexpress maybe non-compliant with the Plan noise standards, it should approach NZexpress directly.

7. *Residents have raised concerns that traffic noise levels have increased since container walls have been installed due to reflections off the barrier. Can PFC provide an assessment which quantifies any likely change in level or character?*

This matter would only be an issue in respect of the resource consent application if locating buildings and/or outdoor storage items 13-16 metres into the ODP Greenspace area (as proposed) caused a noticeably different effect compared to the permitted location. Sam Jackson from Powell Fenwick has advised the applicant that the difference

between the proposal and a permitted scenario is so slight that it would not register on their noise modelling software. On that basis, I consider any adverse effects in terms of traffic noise reflection to be de minimis.

8. Residents mention that vibration from containers being moved can be felt. Can PFC provide commentary on this aspect of the proposed activity?

According to Mr Jackson, low frequency sound waves have the potential to rattle glazing in older houses, and that it is highly unlikely that vibrations from container placement would carry that distance through the ground. In any case, I make the following points:

1. Effects of low frequency sound waves (or vibration) of the proposal would be substantially similar to those generated by permitted activities, and
2. This is the type of effect that Policy 16.2.3.2 recognises as contributing to lower levels of residential amenity near the interface of industrial areas.

The specialist are also potentially going onsite to complete their assessment. It may be beneficial for a meeting between the acoustic specialists to discuss aspects of the proposal further if needed.

### Arborist

The arborist has got back to me last week and have requested the following information:

*While I acknowledge that an arborist has provided some details, we would generally require advice to come from a technician arborist, especially when it comes to decisions around removal.*

A list of technician arborists can be found on our website:

<https://ccc.govt.nz/consents-and-licences/resource-consents/resource-consent-activities/general-rules-and-information/protected-trees-and-guidelines>

*I understand that there is some urgency for this and I will ensure it is prioritised once we receive feedback from their technician arborist.*

It would be good to get this sorted as part of the RFI response however I note that this is not likely to affect the notification process.

### Ecology

I have met with the ecologists on discussing whether the south bund is acceptable. Their comments are summarised below:

*"The specialists consider that a bund located within Esplanade Reserve land, particularly on the south west creates adverse effects for ecology and ecological habitat and should be removed for the following reasons:*

- *It will make it difficult to create a viable or successful riparian buffer in this area with the bund present in any form;*
- *Landscape vegetation planted at ground level (as per the original and natural ground level for the site) are likely to establish, and be more successful/reach suitable heights, as opposed to being planted at an elevated height on an artificial bund;*
- *While the bund material may not be contaminated, if it is cleanfill, it may be unlikely to contain a suitable proportion of natural topsoil for establishing vegetation to its full potential/scale;*
- *While the northern bund is not ideal, it is noted that ecology effects need to be balanced with visual and acoustic impacts;*
- *If the south west bund remains it creates an unacceptable effect in terms of ecology"*

The herpetologist has noted that salvage could occur along the northern boundary which may resolve the issue with re-establishing the area with less dense vegetation in this area. I would recommend that the herpetologists meet to discuss this further.

I note that if the soil material in the south west area is confirmed to suitable for growing plants, it could be used along the northern boundary bund.

If you would like to discuss anything further, let me know and I will give you a call.

Thanks,

## Rachel Cottam

Senior Planner  
Planning Team 5

-  03 941 8650
-  Rachel.Cottam@ccc.govt.nz
-  Te Hononga Civic Offices, 53 Hereford Street, Christchurch
-  PO Box 73013, Christchurch 8154
-  ccc.govt.nz



---

From: Tim Walsh - Novo Group <[tim@novogroup.co.nz](mailto:tim@novogroup.co.nz)>  
Sent: Thursday, May 11, 2023 11:53 AM  
To: Cottam, Rachel <[Rachel.Cottam@ccc.govt.nz](mailto:Rachel.Cottam@ccc.govt.nz)>  
Cc: Lowe, Paul <[Paul.Lowe@ccc.govt.nz](mailto:Paul.Lowe@ccc.govt.nz)>  
Subject: TRIM: RE: RMA/2022/3611 - Request for further information 320A Cumnor Terrace

Hi Rachel

In response to item 5, please find attached the as-built plans for the haul road. As per the application, some minor earthworks are required in the area shown in this plan "to bury the haul road, to provide a bed of topsoil for planting, and regrade towards the river".

As of now, the applicant has responded to items 1 (via Pinnacle Group), 3 and 5. I'll give you an update on item 2 ASAP. As discussed previously, item 4 will be best resolved following a site meeting. Rob (surveyor) and Ben (applicant rep) can meet you at the site next Wednesday or Thursday morning anytime between 9.30am and 12pm. Does that suit?

Best regards

**Tim Walsh**

M: 027 267 0000



---

From: Tim Walsh - Novo Group  
Sent: Wednesday, April 19, 2023 2:55 PM  
To: Cottam, Rachel <[Rachel.Cottam@ccc.govt.nz](mailto:Rachel.Cottam@ccc.govt.nz)>  
Subject: RE: RMA/2022/3611 - Request for further information 320A Cumnor Terrace

Hi Rachel

In response to item 3, I've attached an aerial showing the three trees that were removed in accordance with the arborist report (Tree A = Blue, Tree B = yellow, Tree C = red). Work is underway to respond to the other further information items.

Best regards

**Tim Walsh**

M: 027 267 0000



---

From: Cottam, Rachel <[Rachel.Cottam@ccc.govt.nz](mailto:Rachel.Cottam@ccc.govt.nz)>  
Sent: Tuesday, April 11, 2023 12:05 PM  
To: Tim Walsh - Novo Group <[tim@novogroup.co.nz](mailto:tim@novogroup.co.nz)>  
Cc: Lowe, Paul <[Paul.Lowe@ccc.govt.nz](mailto:Paul.Lowe@ccc.govt.nz)>; Higgins, John <[John.Higgins@ccc.govt.nz](mailto:John.Higgins@ccc.govt.nz)>; Weston, Tracey <[Tracey.Weston@ccc.govt.nz](mailto:Tracey.Weston@ccc.govt.nz)>; Ward, Sean <[Sean.Ward@ccc.govt.nz](mailto:Sean.Ward@ccc.govt.nz)>; Jorgensen, Craig <[Craig.Jorgensen@ccc.govt.nz](mailto:Craig.Jorgensen@ccc.govt.nz)>; Ben Owen <[ben@peeblesgroup.co.nz](mailto:ben@peeblesgroup.co.nz)>; [richard@peeblesgroup.co.nz](mailto:richard@peeblesgroup.co.nz); Rob Howe <[rob.howe@woods.co.nz](mailto:rob.howe@woods.co.nz)>; Chris Greenshields <[chris@dcmurban.com](mailto:chris@dcmurban.com)>  
Subject: RMA/2022/3611 - Request for further information 320A Cumnor Terrace

Hi Tim,

Hope you are well and had a good break. I have spoken to most of the specialists in terms of the RFI response. We do require some further information which I have listed below. I have also provided some feedback and required changes needed to application to allow some components to be considered acceptable from the specialists. If the applicant does not agree to this, please can you outline this and detail the reasoning as we can provide this to the commissioner for the notification/substantial decisions.

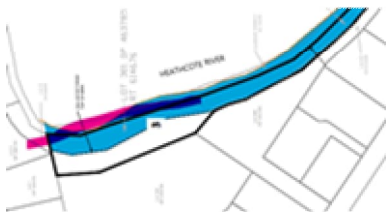
My understanding is that there is no further information required from Jeremy Head and he is currently writing up his assessment.

Further information

1. As acknowledged previously, a noise assessment will be provided later this month;
2. Council officers still require a detailed site investigation to be provided for haulage routes and bund material. The environmental officer has provided the following comments:

*"Although CCL have undertaken sampling of crushed material they cannot be considered fully independent as they are developing the site and they are not contaminated land experts. We cannot be sure of the location that sampling has been taken from to give us confidence in any particular area. I also note their lack of information regarding the ACM stockpile and what happened to it. Given the ACM discovery last year there is a concern that material containing asbestos has been included in the concrete crushing and I would still like to see a DSI completed by a contaminated land expert, for the land to be vested in Council."*

3. In terms of the arborist report provided, it is unclear where the location of the trees are. Please can this be identified on a hand annotated aerial map. Once I have this, I can send this through to the arborist for comment.
4. We require a finished levels plan for Lot 305. The channel you have mentioned in your RFI response at 75/81 Kennaway Road is illegal and all industrial lots should be draining directly to Kennaway Road. We need to obtain confirmation that Lot 305 is not draining into 75/85 Kennaway Road to determine the next compliance steps.
5. We need a further as-built of the remainder of the haulage route fill highlighted in pink below. The current as built only shows levels up to the first flush wetland and not the start of the haulage route. Please ensure the landscaping plan also starts at the start of the haulage route entrance.



Further comments and amendments required

### Landscaping



The ecologists are relatively happy with the proposed landscaping plan subject to the comments below. There may be some detailed conditions in terms of landscaping. The bird habitat needs to be extended to the H in the Heathcote river as shown above however the lizard habitat can remain as proposed on the plans. In terms of the haulage route, the area will be sheet/shaped to flow gently to the river (sloped 2% to the top of the bank) and will require the illegal channel to be filled as part of these works.

The main concern is the south west bund. The Parks Team do not accept the south west bund due to the crushed concrete material and the uncertainty of the contamination are the reasons. They will be recommending that this is removed as it a liability to Council. It is noted the northern bund is required for mitigation and the acceptance of this bund will depend on the contamination levels found in this area. This bund may also need to be replaced with topsoil to ensure it is suitable for planting. It is considered that 300mm topsoil is not suitable for larger vegetation establishment. If the applicant were to accept the removal of the south west bund, this would resolve the footpath issue in this area. It is recommended that a 2m crusher dust footpath is setback 2-3 metres from the internal boundary along the south western reserve's length.

I anticipate that the applicant may not agree to all the recommendations or viewpoints of Council therefore if you could provide commentary of what the applicant agrees with and does not, it will assist with my recommendation report.

### Consent notice

We propose that instead of the consent notice being cancelled, that it is changed to include the following:  
*Stormwater runoff from roofs (not including shipping containers) in a 10% ARI storm shall discharge directly to the Heathcote River via a conveyance system separated from roading and hardstand runoff.*  
*All roof flows in excess of the 10% ARI will discharge to the vegetated swales*

Council stormwater officers do not want untreated water from shipping containers going directly into the waterway. This is due to the material of the shipping containers (including the paint and any other coating required for the maintenance of the containers). In the event industrial buildings are established onsite, the consent notice is still required. Happy to discuss this further. The remainder of the consent notices I am happy for them to be removed.

Happy to discuss these points further with you.

Thanks,

## Rachel Cottam

Senior Planner  
Planning Team 5



03 941 8650



Rachel.Cottam@ccc.govt.nz



Te Hononga Civic Offices, 53 Hereford Street, Christchurch



PO Box 73013, Christchurch 8154



ccc.govt.nz



---

From: Tim Walsh - Novo Group <[tim@novogroup.co.nz](mailto:tim@novogroup.co.nz)>

Sent: Friday, 24 March 2023 9:14 am

To: Cottam, Rachel <[Rachel.Cottam@ccc.govt.nz](mailto:Rachel.Cottam@ccc.govt.nz)>

Cc: Lowe, Paul <[Paul.Lowe@ccc.govt.nz](mailto:Paul.Lowe@ccc.govt.nz)>; Higgins, John <[John.Higgins@ccc.govt.nz](mailto:John.Higgins@ccc.govt.nz)>; Weston, Tracey <[Tracey.Weston@ccc.govt.nz](mailto:Tracey.Weston@ccc.govt.nz)>; Ward, Sean <[Sean.Ward@ccc.govt.nz](mailto:Sean.Ward@ccc.govt.nz)>; Jorgensen, Craig <[Craig.Jorgensen@ccc.govt.nz](mailto:Craig.Jorgensen@ccc.govt.nz)>; Ben Owen <[ben@peeblesgroup.co.nz](mailto:ben@peeblesgroup.co.nz)>; [richard@peeblesgroup.co.nz](mailto:richard@peeblesgroup.co.nz); Rob Howe <[rob.howe@woods.co.nz](mailto:rob.howe@woods.co.nz)>; Chris Greenshields <[chris@dcmurban.com](mailto:chris@dcmurban.com)>

Subject: TRIM: RE: RMA/2022/3611 - Request for further information 320A Cumnor Terrace

Morning Rachel

The Esplanade Ecological Principles Plan in Appendix 1 had the bird habitat and visual mitigation planting areas mixed up in the version I sent last night. Follow the [link](#) to download the correct version.

Best regards

**Tim Walsh**

M: 027 267 0000



---

From: Tim Walsh - Novo Group

Sent: Thursday, March 23, 2023 8:59 PM

To: Cottam, Rachel <[Rachel.Cottam@ccc.govt.nz](mailto:Rachel.Cottam@ccc.govt.nz)>

Cc: Lowe, Paul <[Paul.Lowe@ccc.govt.nz](mailto:Paul.Lowe@ccc.govt.nz)>; Higgins, John <[John.Higgins@ccc.govt.nz](mailto:John.Higgins@ccc.govt.nz)>; Weston, Tracey <[Tracey.Weston@ccc.govt.nz](mailto:Tracey.Weston@ccc.govt.nz)>; Ward, Sean <[Sean.Ward@ccc.govt.nz](mailto:Sean.Ward@ccc.govt.nz)>; Jorgensen, Craig <[Craig.Jorgensen@ccc.govt.nz](mailto:Craig.Jorgensen@ccc.govt.nz)>; Ben Owen <[ben@peeblesgroup.co.nz](mailto:ben@peeblesgroup.co.nz)>; [richard@peeblesgroup.co.nz](mailto:richard@peeblesgroup.co.nz); Rob Howe



<[rob.howe@woods.co.nz](mailto:rob.howe@woods.co.nz)>; Chris Greenshields <[chris@dcmurban.com](mailto:chris@dcmurban.com)>  
Subject: RE: RMA/2022/3611 - Request for further information 320A Cumnor Terrace

Hi Rachel

Please follow the [link](#) to download the RFI response. Let me know if you have any trouble accessing the document.

I'll give you a call to discuss.

Best regards

**Tim Walsh**

M: 027 267 0000



---

From: Cottam, Rachel <[Rachel.Cottam@ccc.govt.nz](mailto:Rachel.Cottam@ccc.govt.nz)>  
Sent: Wednesday, 18 January 2023 9:28 am  
To: Tim Walsh - Novo Group <[tim@novogroup.co.nz](mailto:tim@novogroup.co.nz)>  
Cc: Lowe, Paul <[Paul.Lowe@ccc.govt.nz](mailto:Paul.Lowe@ccc.govt.nz)>; Higgins, John <[John.Higgins@ccc.govt.nz](mailto:John.Higgins@ccc.govt.nz)>; Weston, Tracey <[Tracey.Weston@ccc.govt.nz](mailto:Tracey.Weston@ccc.govt.nz)>; Ward, Sean <[Sean.Ward@ccc.govt.nz](mailto:Sean.Ward@ccc.govt.nz)>; Jorgensen, Craig <[Craig.Jorgensen@ccc.govt.nz](mailto:Craig.Jorgensen@ccc.govt.nz)>; Ben Owen <[ben@peeblesgroup.co.nz](mailto:ben@peeblesgroup.co.nz)>; [richard@peeblesgroup.co.nz](mailto:richard@peeblesgroup.co.nz)  
Subject: RMA/2022/3611 - Request for further information 320A Cumnor Terrace

Hi Tim,

I just left you a voice message. Please find attached the request for further information for the application at 320A Cumnor Terrace. The RFI points are in terms of the visual assessment, subdivision matters (consent notices, reserves), cultural values, noise, environmental health and ecology.

Once you have had a read through, happy to have a face to face, teams meeting or a phone call to go through the points in detail. It may be beneficial for a round table meeting with all specialists at some point also.

Attached is an addendum which should be read alongside the RFI, this contains preliminary advice from the specialists. A previous ornithology assessment have also been attached for your reference.

Thanks,

**Rachel Cottam**

**Senior Planner**  
Planning Team 5



-  03 941 8650
-  [Rachel.Cottam@ccc.govt.nz](mailto:Rachel.Cottam@ccc.govt.nz)
-  Te Hononga Civic Offices, 53 Hereford Street, Christchurch
-  PO Box 73013, Christchurch 8154
-  [ccc.govt.nz](http://ccc.govt.nz)



This electronic email and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed. The views expressed in this message are those of the individual sender and may not necessarily reflect the views of the Christchurch City Council.  
If you are not the correct recipient of this email please advise the sender and delete the email.



This electronic email and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed. The views expressed in this message are those of the individual sender and may not necessarily reflect the views of the Christchurch City Council.  
If you are not the correct recipient of this email please advise the sender and delete the email.



This electronic email and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed. The views expressed in this message are those of the individual sender and may not necessarily reflect the views of the Christchurch City Council.  
If you are not the correct recipient of this email please advise the sender and delete the email.



27 June 2023

Tim Walsh  
Senior Planner  
Novo Group Limited

From: Jo Appleyard  
Direct: +64 3 353 0022  
Mobile: +64 27 444 7641  
Fax: +64 3 365 4587  
Email: jo.appleyard@chapmantripp.com  
Ref: 100552396/3452-2869-1235.2

## By Email

Dear Tim

### **BRAEBURN PROPERTY LIMITED: APPLICATION IN RELATION TO 320 & 320A CUNMOR TERRACE**

- 1 You have asked for our opinion on whether compliance by tenants of Braeburn Property Limited (*Braeburn*) with noise standards in the Christchurch District Plan (*District Plan*) is relevant to Braeburn's current resource consent application.

#### **Summary**

- 2 For the reasons set out below, we consider that compliance by tenants of Braeburn with noise standards in the District Plan is **not** relevant to Braeburn's current resource consent application. Any compliance issue is a matter for enforcement to be dealt with through compliance action taken by the Council or by the tenant/s applying for resource consent to authorise the activity.

#### **Background**

- 3 Braeburn has applied for resource consent to authorise a boundary adjustment and associated vesting on an esplanade reserve, as well as resource consent to authorise various activities within the Landscape and Stormwater Area (Green Space) shown on the Portlink Industrial Park Outline Development Plan (RMA/2022/3611).
- 4 We understand that the relevant background concerning the 'noise' aspect of the Council's processing of the application is that:

- 4.1 Braeburn is not seeking resource consent to breach the District Plan limits. Noise was addressed in the application as follows:<sup>1</sup>

We note that noise from the proposal and activities occurring on site comply with relevant noise standards in the District Plan. The applicant leases the site to several tenants. Those tenants are required by way of lease agreements to "comply with the provisions of all statutes, ordinances, regulations and by-laws". This includes the District Plan noise standard.

- 4.2 the Council nevertheless requested an assessment regarding compliance with noise rules;

---

<sup>1</sup> Subdivision and land use resource consent application prepared for Braeburn Property Limited (December 2022) at [35]



- 4.3 in response, Braeburn explained that it considers compliance with noise standards can be assumed, and reiterated that it is not applying for consent to authorise activities on the site to exceed the District Plan noise standards;
- 4.4 for completeness, Braeburn's tenant that leases the yards closest to residential neighbours (Pinnacle Group) engaged an acoustic engineer, Mr Jackson of Powell Fenwick, who provided an assessment of its compliance with the District Plan noise standards (*Noise Assessment*);
- 4.5 the Council's noise expert has queried a number of aspects of the Noise Assessment. Braeburn has responded to questions that are relevant to the present application and directed questions related to compliance matters to Pinnacle Group;
- 4.6 Braeburn has also explained that if there are any non-compliances, Pinnacle Group intends to apply for resource consent to authorise the activity.

**Relevance of compliance to the current application**

- 5 The Council does not need to assess components of an activity for which no resource consent is required.<sup>2</sup> The District Plan process has already determined that certain noise limits are acceptable in the Industrial Park Zone. Further, in setting those noise limits the District Plan can be seen as reflecting an anticipation that that level of noise is likely to occur in the relevant Zone.
- 6 The Council is entitled to ask for information to reach a view on whether Braeburn's proposal will result in the noise standards in the District Plan that apply to the site being exceeded.
- 7 However, the Council's apparent concerns regarding compliance matters arising from other entities activities are not relevant to Braeburn's application. If a tenant is breaching the noise standards (which may or may not be the case), compliance action may be required by the Council. Alternatively, as above, the tenant can apply for resource consent to authorise the activity.

Yours sincerely

Jo Appleyard  
Partner

---

<sup>2</sup> *Nash v Queenstown Lakes District Council* [2015] NZHC 1041 at [73]-[74].

### Arborist Contact Information

Arborist: richard atkinson			
Professional Qualifications: (e.g. ISA Certification No.) level 4 advanced			
Company Name: elite trees			
Company Address: 264 russley rd			
City:	christchurch	Province:	Postal Code:
Phone Number:	0274695160	Email Address:	nicky@elitetrees.co.nz

### Property Owner Contact Information

Property Owner Name: c/o clive @ccl T			
Property Address: kennaway drive			
City:		Province:	Postal Code:
Phone Number:	0274904898	Email Address:	

Is this property subject to any other application?  Yes  No

Note that approval of other applications including building permits, private approaches and pool enclosure permits are required before a Distinctive Tree Permit can be issued by City Staff.

## Tree Information

Tree Species:	English Oak (Quercus robur)
Tree Diameter (in centimeters at 1.2 meters from the ground):	
Tree Condition (include health, structural integrity, and vigour):	front 3 trees tree A has over 40 percent dead wood in my opinion it is not healthy also looks like a lot of soil movement around it could be what has upset it i recommend it be removed as it's dead branches are very dangerous tree B also has a lot of dead wood and a big tear out creating a wound going into stem of tree in my opinion tree B is also dangerous and should be removed. tree C is the smallest of group and has grown under another big oak causing the top 45 percent to die out and is now starting to effect the bigger Oak so in my opinion it needs to be removed to save the bigger Oak and keep it healthy.
Arborist's Recommendation(s):	my recommendation is the the 3 dieing oaks be removed and the rest of Oaks in the grove have a formative prune.
Tree Location on Property (description, map, or sketch):	tree A - blue tree B - yellow and tree C - red

Cottam, Rachel

---

From: McDonald, Yvonne <Yvonne.McDonald@ccc.govt.nz>  
Sent: Wednesday, 16 March 2022 2:25 pm  
To: Rob Howe; Clive Baddeley  
Subject: Trees in basin area portlink

Team,

On another job existing trees were to be retained but

- There have been extensive earthworks within the subject trees Structural Root Zones<sup>1</sup> (SRZ) and Tree Protection Zones<sup>2</sup> (TPZ).
- There was no indication on site of any suitable tree protection measures.
- The works have caused both direct root damage and soil compaction (soil compaction has adverse effects on tree root growth and function).

So these nice big trees are now sick and are going.

I am anxious that the same is going to happen at portlink.

Please pre-empt this by getting an arborist to assess the trees against CCC criteria so protection can be installed where needed to promote healthy specimens at vesting.

Yvonne

Get [Outlook for iOS](#)

\*\*\*\*\*

This electronic email and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed.

The views expressed in this message are those of the individual sender and may not necessarily reflect the views of the Christchurch City Council.

If you are not the correct recipient of this email please advise the sender and delete.

Christchurch City Council

<http://www.ccc.govt.nz>

\*\*\*\*\*

Cottam, Rachel

---

From: Rob Howe <rob.howe@woods.co.nz>  
Sent: Wednesday, 7 June 2023 1:31 pm  
To: Tim Walsh  
Subject: FW: Portlink Stages 6,7 and 8 - Tree Report  
Attachments: CCLNZ\_20220414\_080220.pdf; Screenshot\_20220414-072000\_Maps.jpg; CCLNZ\_20220414\_081344.pdf; Trees in basin area portlink



### Rob Howe

Associate Surveyor

BSURV, MNZIS, Licensed Cadastral Surveyor

+64 3 378 1780 | +64 27 500 4142

rob.howe@woods.co.nz

[woods.co.nz](http://woods.co.nz)



This email is confidential. If you are not the intended recipient, notify the sender and/or Woods immediately. Woods (Wood and Partners Consultants Ltd) accepts no liability for the content of this email, or for the consequences of any actions taken on the basis of the information provided unless that information is subsequently confirmed by a duly signed letter.

*Visit our website to learn more about what we do and how we do it.*



From: Rob Howe <rob.howe@woods.co.nz>  
Sent: Thursday, April 14, 2022 10:15 AM  
To: Ben Owen <ben@peeblesgroup.co.nz>  
Subject: FW: Portlink Stages 6,7 and 8 - Tree Report

Hi Ben

FYI on the trees.

We will wait to hear back from CCC, but looking likely that 3 need to be removed and the others need to be pruned.





Rob Howe

Surveyor

BSURV, MNZIS, Licensed Cadastral Surveyor

+64 3 378 1780 | +64 27 500 4142

[rob.howe@woods.co.nz](mailto:rob.howe@woods.co.nz)

[woods.co.nz](http://woods.co.nz)



This email is confidential. If you are not the intended recipient, notify the sender and/or Woods immediately. Woods (Wood and Partners Consultants Ltd) accepts no liability for the content of this email, or for the consequences of any actions taken on the basis of the information provided unless that information is subsequently confirmed by a duly signed letter.

*Visit our website to learn more about what we do and how we do it.*



From: Clive Baddeley <[clive@cclnz.com](mailto:clive@cclnz.com)>

Sent: Thursday, 14 April 2022 8:20 am

To: Rob Howe <[rob.howe@woods.co.nz](mailto:rob.howe@woods.co.nz)>; McDonald, Yvonne <[yvonne.mcdonald@ccc.govt.nz](mailto:yvonne.mcdonald@ccc.govt.nz)>

Subject: Portlink Stages 6,7 and 8 - Tree Report

Rob and Yvonne,

Please find attached tree report from Elite trees on the condition of the Oak trees within the proposed reserve at Portlink together with a quote for carrying out the work.

We await your further instruction.

Kind Regards,

Clive Baddeley



CCL CONSTRUCTION CONTRACTING LTD

PHONE: 0800 225 285

MOBILE: 027 490 4898

EMAIL: [clive@cclnz.com](mailto:clive@cclnz.com)

WEB: [www.cclnz.com](http://www.cclnz.com)

*This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please delete it immediately.*

--