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Wellington Regional Council Plan Change 1 – Natural Resources Plan

Submission

1. Submitters Details

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2. Introduction

Rosco Ice Cream Ltd (Rosco) holds a head lease over the site at 30 Benmore Crescent, Manor Park (Sec 1 SO 493901 held in Record of Title 738223 = 13.2121 ha). The property is owned by Te Runanga O Toa Rangatira Inc. Rosco are currently developing the site with earthworks under GWRC and LHCC resource consents to create useable platforms on the site. Rosco has also applied for further consents to LHCC to construct new private roading and upgrade the nearby public roading, as well as to install civil infrastructure (water supply, sewage & stormwater disposal) that would support development of the site.

Additionally, Rosco has entered into an agreement to sub lease a large portion of the site (5.78 ha) to Waste Management NZ Ltd to establish and operate a resource recovery park. Accordingly, Waste Management NZ Ltd have also applied for resource consent to LHCC for the proposed resource recovery facility.

3. Unplanned Greenfield Development Maps

Rosco opposes the inclusion of the site at 30 Benmore Crescent within the HCC unplanned greenfield area as shown on Map 89.

The site is currently zoned General Rural in the LHCC District Plan. However, the Draft District Plan Review recently released by LHCC for consultation, proposes to rezone the site as General Industrial.

As outlined in the introduction, the site has been subject to resource consents and is currently subject to additional resource consent applications (including by Waste Management NZ Ltd for a resource recovery park). Therefore, while GWRC may view the site as an unplanned development area, the owners, Rosco and LHCC have been involved in planning for the development of the site for the last three years.

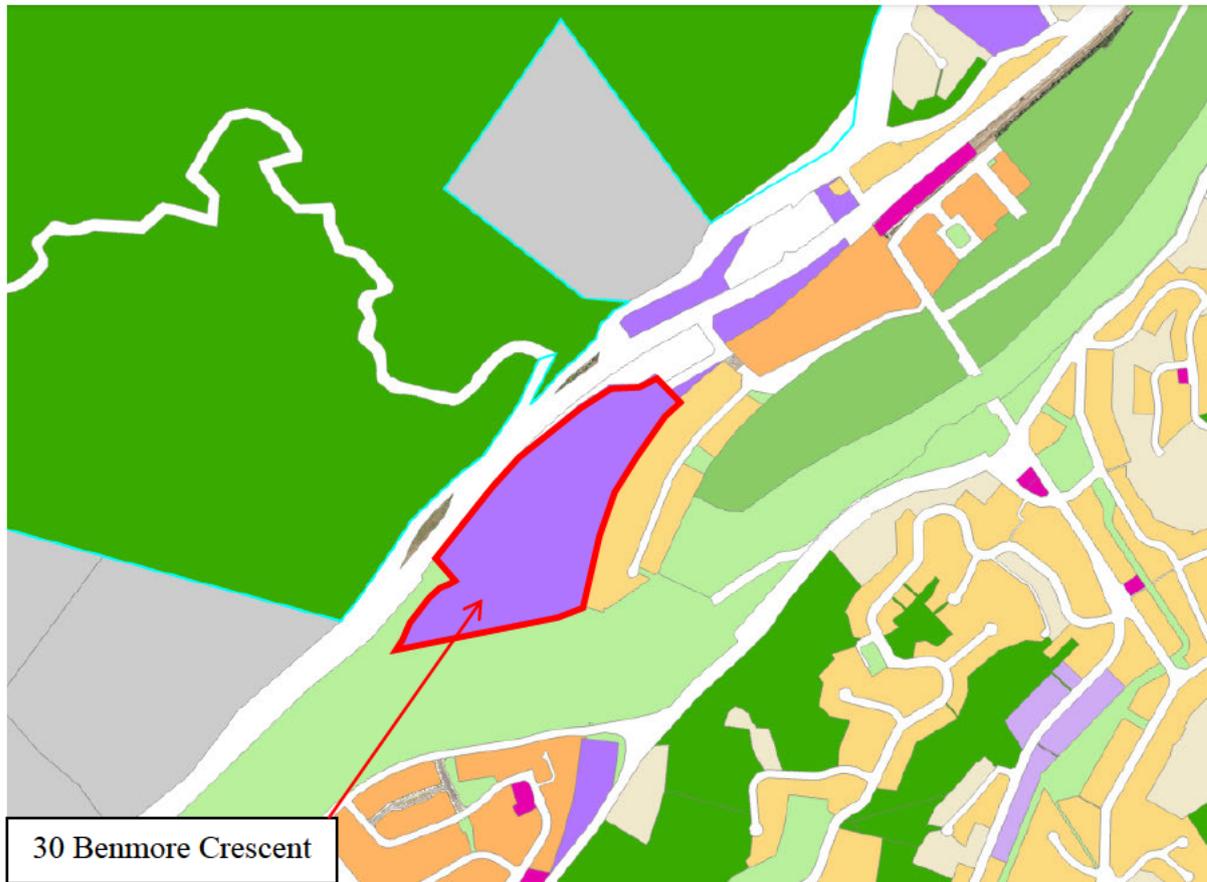


Figure 1: Proposed General Industrial Zone from Draft District Plan Review (HCC Online Maps)

4. Definitions

Earthworks

Rosco opposes the definition of “*earthworks*” that relates to the Te Whanganui-a-Tara and Te Awarua-o-Porirua Whaitua.

The proposed definition removes all reasonable exceptions from the current definition and only excludes gardening, cultivation and post holes.

Rosco requests that the original definition is retained for all whaitua.

Greenfield development

Rosco requests that a definition of “*greenfield development*” is included.

Presumably a greenfield development is the development of an existing grassed property (mapped as ‘planned/existing urban area’) with no existing impervious surfaces, where the development also includes provision of new roads to be vested and new sewage and stormwater infrastructure to be vested.

High risk industrial or trade premise

The definition relates to activities that store, use or generates contaminants or hazardous substances that are exposed to rain. The key points of this definition are that the activity involves contaminants / hazardous substances and that these are exposed to rain. As the definition requires exposure to the weather, Rosco conditionally supports the definition.

Rosco seeks the addition of an exception to be added to the end of the definition – as follows:

However, where these activities are contained within buildings, full covered or fully bunded to prevent discharge of stormwater from the hazardous substance / contaminants, they are excluded from the definition.

Hydrological control

The definition of *hydrological control* relates to the management of the flow and volume of stormwater from a site so that the discharge replicates natural processes. This definition also needs to be read in conjunction with the proposed definition of *hydrological controls* in Change 1 to the Regional Policy Statement (RPS).

The proposed definition in the RPS requires the volume of stormwater discharged from a developed infill / brownfield site to be reduced as far as practicable so that the discharge is not more than if the site was an undeveloped grassed site.

This means that, for an already developed site, the existing use rights that a site should enjoy for its current discharge are lost. Consequently, Rosco opposes the definition.

As various permitted activity rules refer to a requirement to utilise hydrological controls as a permitted standard, the use of the term as far as practicable suggests that a discretion has to be exercised in order to determine if an activity is permitted or not. While the intention is understood, that best endeavours should be used to achieve a reduction in stormwater runoff from existing sites that are redeveloped, such discretion creates uncertainty for applicants and therefore is not appropriate for a permitted standard. From a practical perspective, who would determine whether a proposal achieves a suitable reduction of stormwater runoff that is as far as practicable. Would applicants have to engage in pre-application review processes or lodge an application for a certificate of compliance (s139 RMA) to obtain ‘approval in principle’ for all developments? Additionally, what criteria would be taken into consideration when determining if a proposal for hydrological control is appropriate? For example, can financial constraints be taken into consideration?

Rosco proposes the following definition:

*The management of a range of stormwater flows ~~and volumes~~, and the frequency and timing of those flows ~~and volumes~~, from a site or sites into rivers, lakes, wetlands, springs, riparian margins, and other receiving environments **that reduces the existing stormwater flows by 50% in a way that replicates natural processes** for the purpose of reducing bank erosion, slumping, or scour, to protect freshwater ecosystem health and well-being.*

Impervious surfaces

Rosco supports the definition of impervious surfaces.

In particular, the exclusions are supported. However, Rosco submits that technical guidance should be provided on the detail of how to achieve porous/permeable paving and the reticulation/storage systems required for water collection and reuse.

Redevelopment

Rosco supports the definition of redevelopment. In particular, the exclusions are supported.

Stormwater

Rosco supports the definition of stormwater. In particular, the exclusions are supported. However, it is noted that there appears to be a typographical error referring to rules in sections “8.2 and 9.2”, which should refer to sections 8.3 and 9.3.

Stormwater treatment system

Rosco supports the definition of stormwater treatment system. In particular, the inclusions for the use of infiltration trenches and proprietary devices are supported.

5. Policy WH.P2

This policy seeks to manage activities to achieve target attribute states and coastal water objectives. One of the stated policy methods is to prohibit unplanned greenfield development. Consequently, Rosco opposes this policy to prohibit unplanned greenfield development.

Rosco requests that the policy is amended to restrict discharges from unplanned greenfield development.

6. Policy WH.P11

This policy seeks to manage stormwater discharges from high risk industrial or trade premises.

Rosco supports the policy and notes the requested changes to the definition of high risk industrial or trade premises are consistent with the policy.

7. Policy WH.P14

Policy WH.P14 is to do with the discharge of stormwater from new or redeveloped impervious surfaces. This policy requires hydrological controls and also stormwater treatment systems. The stormwater treatment systems are to achieve treatment of 85% of the mean annual volume of stormwater from the site. Rosco opposes this policy.

The policy does not specify at what rate/frequency the treatment is to be achieved. The average annual rainfall for Wellington (2013 – 2022) is approximately 1.3m (Stats NZ). Thus every 1m² of impervious area generates 1.3m³ of stormwater runoff per year. It is not clear from the policy whether the stormwater treatment system is to accommodate the annual rainfall at once, or whether the treatment is achieved over a daily, weekly or monthly period.

Rosco submits that the design and sizing of a stormwater treatment system should be based on the average weekly rainfall.

8. Policy WH.P16

Policy WH.P16 is to do with the discharge of stormwater from new unplanned greenfield development areas. This policy seeks to avoid all stormwater discharges to water from unplanned greenfield development (as mapped). Rosco opposes this policy.

Rosco considers that an avoidance policy is too restrictive to be applied to such large areas of the City, even if they are non-urban. A minimisation policy would be more appropriate.

9. Rule R128

Rule R128 was originally promulgated to reduce the need to obtain permits for minor structures needed in the bed of a watercourse/lake provided the works met the general standards. The proposed changes significantly reduce the scope of activities that would be permitted. Consequently, Rosco opposes the changes to this rule.

Rosco requests that the operative rule R128 is retained.

10. Rule WH.R13

Rule WH.R13 makes the discharge of stormwater from impervious surfaces associated with new unplanned greenfield development areas a prohibited activity.

Rosco opposes the prohibited activity status and considers that there should be an ability to seek a regional consent for the discharge. Particularly where the territorial authority supports a development, including via a plan change process. Consequently, Rosco submits that rule WH.R13 should be a non-complying activity, which would ensure a full assessment of any such proposal, including a policy assessment.

11. Rules WH.R6 & WH.R7

These rules provide for stormwater discharges from impervious areas of between 1,000m² and 3,000m² as a controlled activity (subject to conditions). Rule WH.R6 applies to greenfield areas, while WH.R7 applies to existing urbanised properties. As there is no definition of greenfield development, there is uncertainty as to which rule would apply to a development. Thus reinforcing Rosco's submission that there is a need for a definition of greenfield development.

12. Rule WH.R23

Rule WH.R23 permits earthworks of up to 3,000m², subject to conditions. Condition (iv) prevents any discharge of sediment from the earthworks to water (including via the stormwater network). Similarly, condition (v) requires the use of erosion and sediment control measures to prevent a discharge.

Rosco opposes these restrictions that no sediment can be discharged from a site during earthworks. While it is common practice to utilise erosion and sediment control measures during an earthworks operation, it would be near impossible to guarantee that site development could prevent any and all discharges of sediment from the site in all weather events.

Therefore, a more pragmatic measure for the limit of sediment that can be discharged is necessary. That is, either cross reference to the permitted standards under rule WH.R3; or some other practical measurement of the amount of sediment in stormwater runoff could be used. For example, WCC typically uses a water clarity measurement of 100mm to be required before further treatment is necessary for the stormwater runoff.

13. Rule WH.R24

Rule WH.R24 applies to earthworks exceeding 3,000m² and makes these works a restricted discretionary activity subject to conditions.

Rosco submits that this rule should include a non-notification clause.

14. Schedule 30 (Financial Contributions)

Schedule 30 sets out the rationale and costs of a financial contribution for greenfield development relating to the construction of new systems to treat stormwater for residual contaminants. Rosco opposes the contribution calculations outlined in Part D of Schedule 30.

In particular, Rosco opposes the inclusion of a financial contribution for non-residential greenfield development (Table D2) for the Whaitua Te Whanganui-a-Tara.

The basis for the financial contribution is outlined in the report “*Environmental effects offsets: Estimating financial contributions FINAL*” by GHD dated 24 August 2023.

The GHD report notes at the executive summary that:

An estimated 88 hectares of roof, roading and hardstand cover is expected to be built out in non-residential greenfield areas over around 30 years, all of it in Te Awarua-o-Porirua. [emphasis added].

Consequently, there does not appear to be any basis for charging a financial contribution on non-residential greenfield development within the Whaitua Te Whanganui-a-Tara. Again, we re-iterate that a definition of greenfield development is required.

While no non-residential greenfield development is anticipated in Whaitua Te Whanganui-a-Tara, the GHD report recommends to impose a financial contribution in any event, and at the same rate as for Te Awarua-o-Porirua Whaitua.

If no non-residential greenfield development is anticipated in Whaitua Te Whanganui-a-Tara, it would be unlikely that the consent authority would allocate any budget in their long-term plans for the offsetting works required. Therefore, the imposition of a financial contribution would not be able to satisfy s111 RMA.

Additionally, the calculation of the financial contribution for non-residential development under Part D does not specify what area of the development is used for the calculation. Part D states:

Financial contributions shall be calculated per EHU for residential greenfield development (Table D1), or per 100m² for non-residential greenfield development and new roads/state highways (not in direct support of a greenfield development) (Table D2).
[emphasis added]

The measurement of “per 100m²” is not specified. Is this based on the site area, the developed area or the impervious area? It is noted that the GHD report refers to “roofs, roading and hardstand areas (approximated as 70% of a site).

Rosco submits that the calculation should be:

Financial contributions shall be calculated per EHU for residential greenfield development (Table D1), or per 100m² of impervious area for non-residential greenfield development and new roads/state highways (not in direct support of a greenfield development) (Table D2).

15. Summary of Decision Sought

That the Council accepts these submission points and amends the provisions of Plan Change 1 to the Natural Resource Plan as outlined in our submission.

16. Hearing

Rosco wishes to be heard in support of this submission.

17. Joint Submission

Rosco would consider presenting a joint case at a hearing.

18. Trade Competition

Rosco could not gain an advantage in trade competition through this submission.

Signature of person making submission.



A D Gibson

..... Date 15 / 12 / 2023

On behalf of Rosco Ice Cream Ltd