

13 March 2024

SLR Ref No.: Section 92 Response Letter

Attention: Karla Putt

Consultant Planner

On behalf of the South Waikato District Council

Email: karla.putt@stratum.nz

SLR Project No.: 880.V16170.00001

Dear Karla,

**RE: Response to s92 Further Information Request - Resource Consent
Application RM240001 – Tahua Partners Limited– 69A Main Road, Tirau**

This letter serves as a response to the Section 92 further information request received in regards to the abovementioned resource consent application being processed by yourself on behalf of the South Waikato District Council (SWDC).

The request for further information was received via a letter from the South Waikato District Council (Council) entitled “Resource Consent Application RM240001, Tahua Properties Limited – Request for Further Information (s92 RMA)” and dated 16 February 2024.

This letter addressed each request for further information as outlined in your letter, however for ease of reference we have grouped our response to each discussion points.

This letter should be read in conjunction with the documentation attached to this letter and the revised Assessment of Environmental Effects Report (AEE) which has been updated to address minor inconsistencies with the application as lodged.

**National Environmental Standard for Assessing and Managing
Contaminants in Soil to Protect Human Health**

In response to s92 Item 1:

A copy of the Waikato Regional Council (WRC) HAIL report for the site is provided in Attachment 1. The HAIL report confirms that the WRC do not have any records of HAIL activities occurring on the site.

We have also obtained the HAIL reports from WRC for the immediately adjoining sites (67 and 69 Main Road) which does not identify any HAIL activities having occurred on the site. Copies of these HAIL reports can be provided on request.

We have obtained a HAIL report from WRC for the BP service station across the road from the subject site which is provided in attachment 2. The WRC records outline that the following HAIL activities are being or have been undertaken on the site:

- F: Vehicle refuelling, service and repair
- F4: Motor vehicle workshops
- F7: Service stations

- G4: Scrap yards including automatic dismantling and wrecking

The HAIL report does not identify that any spills have occurred on the site associated with the abovementioned HAIL activities, therefore it is highly unlikely that hazardous substances would have migrated to the subject site at a sufficient quantity that could be a risk to human health or the environment. Accordingly, HAIL activity *H. Any land that has been subject to the migration of hazardous substances from adjacent land in sufficient quantity that it could be a risk to human health or the environment* is not considered to be applicable to the subject site.

The NES-Contaminated Land is applicable if the subject site is identified as a 'piece of land' in which:

- A HAIL activity is being or has been undertaken on it; or
- It is more likely than not that a HAIL activity is being or has been undertaken on it.

The HAIL report from WRC confirms that no HAIL activities are recorded as currently or historically being undertaken on the subject site. Furthermore, a review of the historic aerial imagery for the site (refer to Attachment 3) determines that the subject site previously formed part of the Tirau Primary School which was established in the 1880s. A schoolhouse was historically located on the subject site and was removed from the site at some time between 1966 – 1978, at which time a new standalone dwelling and ancillary buildings were established on the site.

Between 2013 - 2015, a new garage, concrete access and parking area was constructed in the location of the old schoolhouse and this work involved excavation and the installation of retaining walls to create a flat building platform. Information relating to the garage construction is provided in Attachment 4.

Whilst there is no evidence to confirm that lead paint was/was not utilised for the exterior of the schoolhouse, any potential soil contamination would have been localised to the immediate schoolhouse footprint. It is more likely than not that any lead-contaminated soil would have been displaced or removed from the subject site when the dwelling and garage were constructed and therefore any subsequent risk to human health is limited.

For the above reasoning, it is considered that the subject site does not constitute a 'piece of land' under the NES-Contaminated Land.

The applicant is happy to offer a consent condition requiring soil sampling to occur prior to construction works to confirm that any soil removed from the site is directed to an appropriate facility, should lead be present. Furthermore, the proposed development will be 94% impervious and otherwise include landscaping for visual purposes (not gardening), therefore any subsequent risk to human health is further reduced.

Accordingly, no further information is required in regards to the NES-Contaminated Land.

Burger King Building Plan

In response to s92 item 2:

An indicative floor plan for the Burger King restaurant is provided in Attachment 5, which shows the proposed entrance, front of house (customer facing) area, bathrooms and back of house area which will be staff only and include a rubbish and recycling storage area. Please note that this floor plan is indicative only and may be subject to change. The finalised floor plan for the Burger King restaurant will be provided a building consent stage.



Deliveries

In response to s92 items 3 and 8:

Deliveries will occur outside of operating hours, specifically between the hours of 2am – 5am. Deliveries will occur approximately two times per week and both Burger King and Starbucks will be serviced by the same truck/delivery due to the goods/products being sent from the same warehouse/depot operated by the applicant. Delivery trucks will have a tail lift and pallets will be moved with a pallet jack from the main carpark to either the Starbucks coffeehouse or Burger King restaurant.

The rationale for the delivery period is to ensure that the deliveries occur when the carpark is empty to ensure that the delivery truck has sufficient manoeuvring space and to avoid deliveries from interrupting the experience of customers accessing the Burger King and Starbucks on the site.

The AEE has been updated to reflect the above information.

Waste Management

In response to s92 items 3 and 8:

Recycling and rubbish will be stored within storage rooms/areas contained within the Starbucks coffeehouse and Burger King restaurant buildings until collection. The storage rooms/areas will be of a sufficient size to fully contain rubbish and recycling in between pickups to avoid rubbish and recycling from being stored outside or visible to the public.

The applicant has clarified that a private contractor will be engaged to collect rubbish and recycling. There will be approximately two rubbish and two recycling collections per week. The Starbucks coffeehouse and Burger King restaurant will be serviced by the same rubbish and recycling collection trucks.

Given that a private contractor will be utilised for rubbish collection, the applicant will not have control over when collection may occur, therefore this application does not seek to restrict rubbish collection to specific time periods, noting that waste collection will be timed, as much as is practicable, to be outside of peak times to minimise disruptions for customers.

The applicant will be in communication with a private waste management firm to confirm the rubbish collection services required, including facility around the type of vehicles engaged to attend to the collection of refuse and recycling within the site.

The AEE has been updated to reflect the above information.

In regards to grease trap(s), the applicant owns and operates many fast-food restaurant and drive-throughs throughout New Zealand and are well practiced in the servicing and maintenance protocols for grease traps. To our knowledge and as discussed at the pre-application meeting with SWDC, grease traps are not a relevant matter to be addressed at resource consent stage and is instead subject to a separate approval process detailed in the SWDC trade waste bylaw. Therefore, we do not consider grease traps to be a relevant consideration to this application. Notwithstanding, Tahua Partners Limited will ensure that the appropriate trade waste approvals are in place prior to operating the proposed activity.

Transportation

In response to s92 item 3:

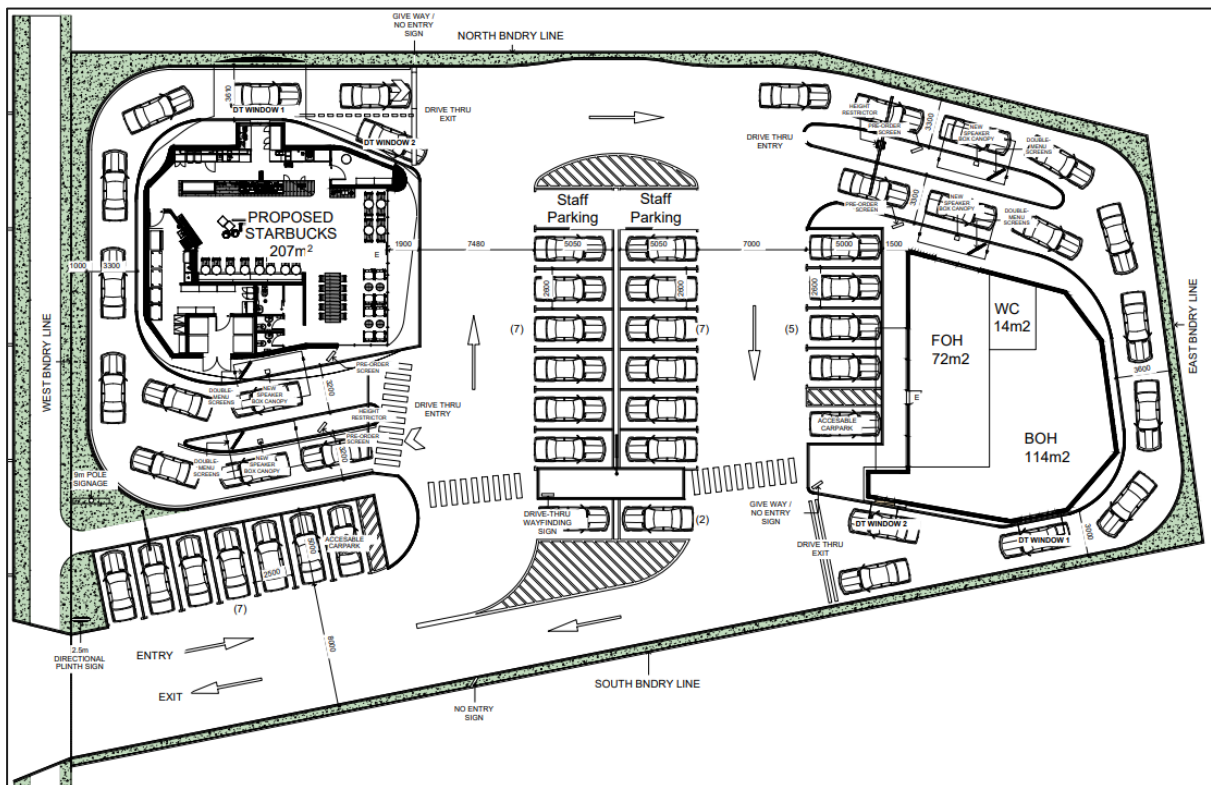
An updated Integrated Transportation Assessment (ITA) is provided in Attachment 6. The ITA provides additional commentary with regards to deliveries, rubbish and recycling collection, staff carparking, and mitigating conflicts between vehicles reversing out of the first



two carparking spaces at the site entry and vehicles entering the site from Main Road. To summarise:

Staff parking: two allocated staff carparking spaces are proposed within the central parking area as shown in Figure 1 below. The staff parking spaces are considered adequate for the proposal, particularly given that a large proportion of staff are expected to comprise of the local community in which employees are likely to walk to and from work or be dropped off. Furthermore any additional staff parking demand can be adequately provided via the on-site parking spaces.

Figure 1: Site Plan showing location of staff carparking spaces (source: Applicant)



Deliveries: As detailed above, deliveries are to occur outside of operating hours due to the carpark being empty during this time and to minimise disruption to customers. The ITA provides tracking curves for delivery vehicles which demonstrates that the internal access within the site provides adequate manoeuvring for delivery vehicles so that the vehicles can loop around the internal access and exit in a forward direction. The ITA does recommend that delivery vehicles are restricted to right-in and right-out movements which will form a consent condition. The ITA determines that the proposed deliveries will occur in a safe and efficient manner that will not give rise to adverse effects on pedestrian amenity or the adjoining roading network.

Rubbish collection: As detailed above, rubbish collection is to occur via a private contractor via a small rubbish truck. The ITA provides tracking curves for a small rubbish truck which demonstrates that a truck can safely loop around the internal access and exit in a forward gear without impacting on customer vehicles. The ITA determines that rubbish trucks can safely and efficiently enter or exit the site via a left or right turn and that overall rubbish collection will not give rise to adverse effects on pedestrian amenity or the adjoining road network. Furthermore, it should be noted that rubbish trucks are fitted with safety features



such as sensors and cameras which further ensure that the safety of pedestrians is maintained at all times during rubbish collection.

Two carparking spaces near site entry: The ITA demonstrates that there is sufficient space for vehicles utilising the first two carparking spaces at the site entry to reverse out of the carpark and exit the site in a forward manner. In terms of potential conflicts with vehicles entering the site, the ITA notes that:

“a queuing space of approximately 10m is provided between the first parking space into the site and the live lane on Main Road. This space is sufficient to allow at least two vehicles to queue while a parked vehicle is able to reverse out. The time required for a vehicle to reverse out of a parking space is unlikely to exceed 20 seconds and therefore it is unlikely that more than two vehicles would arrive on site within this time frame. Entry into the site will require vehicles to turn into the vehicle crossing and the speed hump 2m into the site access will cause vehicles to enter the site at slower speeds. Therefore, parked vehicles reversing out proximate to the site’s entry is unlikely to conflict with through traffic along SH1.”

Overall, the ITA concludes that subject to conditions being imposed with regards to delivery vehicles and installing a speed bump 2m inside the property boundary, CKL conclude that there are no traffic engineering or transport planning concerns to prevent approval of the proposed development.

Engagement with Waka Kotahi

In response to s92 item 3:

A copy of the resource consent application and ITA was sent to Waka Kotahi NZ Transport Agency (Waka Kotahi) who are currently reviewing the documentation. Waka Kotahi have indicated that due to their high workload, there are likely to be delays in obtaining their comments on the proposal.

As the applicant is seeking that the application is publicly notified, Waka Kotahi will have the opportunity to make a submission on the proposal. Therefore, it is considered that the application can proceed to public notification without first requiring Waka Kotahi comment on the proposal.

Noise

In response to s92 item 4:

Please refer the response letter and amended Acoustic Assessment prepared by SLR as attachments 7 and 8. The response letter provides a breakdown of the source data has been calculated for the predicted nighttime levels outlined in Table 8 of the Acoustic Assessment. It is considered that the source data utilised to inform the Acoustic Assessment and subsequent AEE is accurate and robust.

The response letter outlines that the acoustic experts do not consider that a condition restricting the volume of external speakers is necessary in order to mitigate the noise effects of the proposal. However, should the Council consider that a condition is necessary, the following wording is proposed:

Speaker box noise levels shall not exceed a sound pressure level of 61 dB LA_{eq(30secs)} at 2m, at all times. The set up of the speakers shall include calibration of the noise levels to ensure this limit is met.



It is the opinion of the acoustic experts that the abovementioned noise limit is appropriate and achievable.

In addition to the above, the AEE has been updated to clarify that:

- Construction noise levels are expected to be compliant with the noise levels specified in the South-Waikato Operative District Plan, subject to temporary acoustic screening being erected along the north, east and southern site boundaries which forms part of this application.
- Subject to the erection of acoustic fencing along the north, east and southern boundaries, the proposal will comply with the daytime noise limits specified in the South-Waikato Operative District Plan. The proposal incorporates a 1.8m acoustic fence along the north, east and southern boundaries which forms part of this application.
- The proposal is predicted to infringe the night-time noise limits specified in the South-Waikato Operative District Plan by 2 dB at the most exposed locations within the adjoining Tirau Primary School and Tirau Community Church. The Acoustic Assessment notes that this infringement is considered negligible as it would be imperceptible when compared to compliant noise levels and the adjoining site uses are unlikely to be occupied at night (10pm – 7am).

Landscaping

In response to s92 item 6:

Please refer to the updated landscaping plan provided in Attachment 9 which takes into account the recommended updates to the landscaping proposed, namely:

- 0.5m spacings are provided being the *Libertia* grasses;
- The *Nikau* palms have been removed and replaced with *Titoki* and *Hebe*;
- *Hebe* are proposed in clusters of three;
- *Pratia* ground cover has been replaced with *Coprosma Kirkii* which is frost hardy to reduce the amount of groundcover dieback in winter;
- *Rengarenga* (*Arthropodium*) has been removed from the plant palette; and
- The *Corokia* 'Genty' Ghost is proposed which is a silvery cultivar and will create visual interest.

It is considered that the abovementioned changes to the landscape concept is appropriate for the site and will enhance onsite and streetscape amenity.

Stormwater Flooding Management

In response to s92 item 5:

Please refer to the cover letter, revised Civil Engineering Report and revised plan sets prepared by DHC Structural/Civil and provided in Attachments 10 – 12. To summarise, the proposed development will retain the same entry and exit point for the overland flowpath and the convenience of the overland flow has been incorporated into the design of the development. Flows from the existing 450mm pipe will be redirected through the site via the



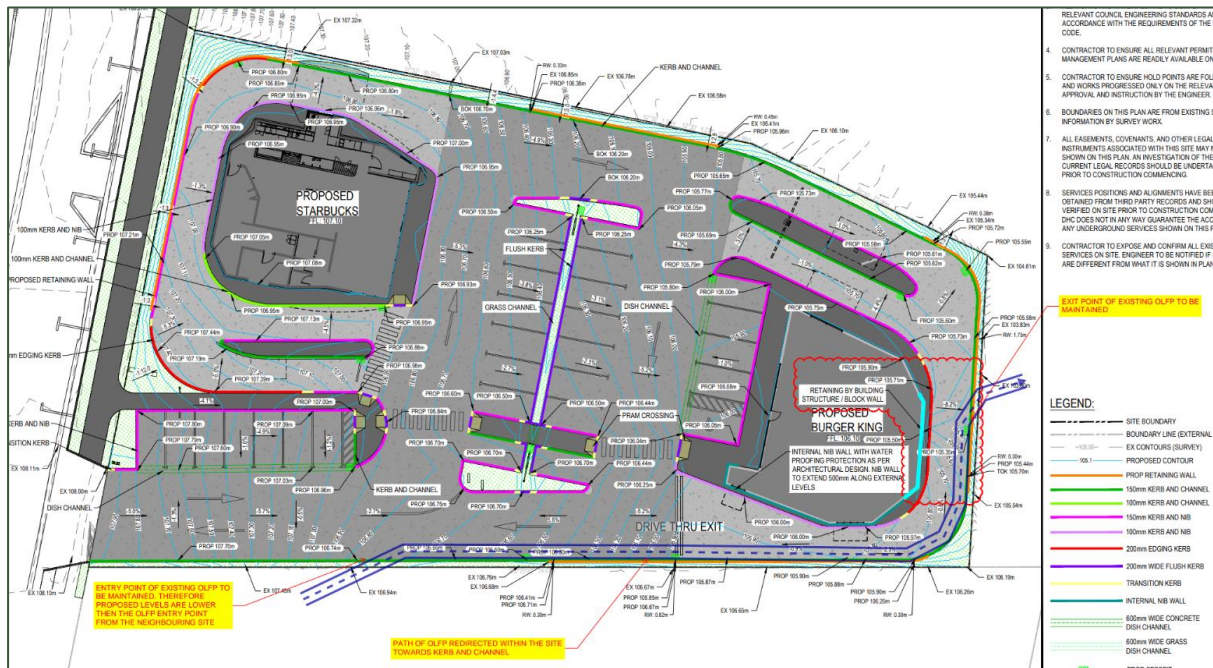
kerb and channel running along parallel to the southern boundary of the site as shown in Figure 2 below. The proposed contours of the carparking area will direct flows towards the kerb and channel and away from the Burger King restaurant building.

In regard to stormwater management, stormwater mitigation is proposed by way of underground stormwater detention tanks which will detain and release stormwater into the reticulated stormwater network at pre-development flow rates which will ensure that the proposal does not give rise to downstream effects associated with increased impervious surfaces. The proposed drainage plan in Attachment 12 shows the indicative stormwater location and design of the private stormwater management infrastructure. The detailed stormwater management design will be provided at building consent stage for the development.

In regard to effects on the upstream catchment, DHC Structural/Civil outline that the CCTV survey identified that there is no connection between the stormwater infrastructure at 67 Main Road (eastern adjoining site) and the subject site. Accordingly, the existing stormwater pipe within the subject site is not servicing any upstream catchment and will therefore have no effect on upstream catchments.

Overall, it is considered that the proposed development will be appropriately designed to manage stormwater and flooding to the extent that any adverse effects on the downstream catchment will be less than minor.

Figure 2: Sketch showing redirection of overland flowpath through site (source: DHC Structural/Civil)



Cumulative Effects Assessment

In response to s92 item 7:

An assessment of the cumulative effects of the proposal on the Tirau community has been requested and is provided below.

The AEE provides an assessment of the actual and potential adverse effects of the proposal, specifically effects on character and amenity, the transportation network, construction, operational noise, lighting, odour and retail distribution effects. The AEE also addresses the positive effects of the proposal. The AEE determines that the proposal will give rise to at most minor adverse effects on the environment. Cumulatively, these effects are not considered to result in significant adverse effects on the Tirau community for the following reasons:

- The site forms an isolated pocket of residential land surrounded by a school, community church and service station. The change in use of the land to a commercial use will not undermine the land use pattern sought in the district plan nor give rise to an undue expansion of the town centre.
- The design and scale of the development is sensitive to its location within Tirau, the buildings are single level and designed to be interesting and sympathetic to the overall theme of the town. The proposal will not undermine the established character of development within Tirau.
- As detailed in the retail distribution effects assessment, the proposed development will not necessarily detract from the existing commercial premises but will attract those travelling north or south through Tirau to stop in at the Starbucks coffeehouse and Burger King restaurant that would not have otherwise stopped.
- The proposal will result in positive effects on the community through providing additional employment opportunities for the community and attracting travellers to stop in Tirau that would not have otherwise stopped.

Furthermore, it is our understanding that the South Waikato District Council have taken a favourable view to the applicant's submission to the Draft Growth Plan for Tirau. The submission sought that the Mixed-Use zoning and town centre extent be extended to include both the subject site and Tirau Community Church in recognition of the site's isolated residential use in the context of its non-residential neighbours (community church, local primary school and BP service station), opportunities for the site to enhance potential retail offerings within the town centre, and the site's proximity to SH1 which makes the land better suited for business activities rather than residential.

Additionally, the applicant acknowledges that the community will have an interest in the proposed development which is the rationale for seeking public notification of the application. This process will enable the Tirau community to provide their views of the proposal for consideration by the applicant and councils through the hearings process.

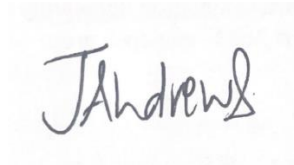
We trust that this information satisfies the request for further information and that the application can be publicly notified as soon as possible.



If the Council is of a different view on this matter or would like to discuss further, please do not hesitate to get in contact with us.

Kind regards,

SLR Consulting New Zealand



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Attachments:

- 1) WRC HAIL Report for 69A Main Road, Tirau
- 2) WRC HAIL Report for BP Service Station, Tirau
- 3) Historic Aerial Imagery of 69A Main Road, Tirau
- 4) Garage Construction Documentation
- 5) Indicative Burger King Floor Plan
- 6) Revised Integrated Transportation Assessment
- 7) SLR Acoustics Team S92 Response Letter
- 8) Revised Acoustic Assessment
- 9) Revised Landscape Plan
- 10) DHC – Structural/Civil Cover Letter
- 11) Revised Civil Report
- 12) Revised Civil Engineering Plan Sheets

