

BEFORE HEARING COMMISSIONERS
IN THE WESTERN BAY OF PLENTY DISTRICT

UNDER THE Resource Management Act 1991 (“Act”)
IN THE MATTER OF RC13360L an application for resource consent to authorise development works departures and the operation of industrial activities within part of the Te Puna Business Park prior to all pre-requisite requirements being met.
BETWEEN **TE PUNA INDUSTRIAL LIMITED**
Applicant
AND **WESTERN BAY OF BAY OF PLENTY DISTRICT COUNCIL**
Consent authority

Before a Hearing Panel: Rob van Voorthuysen (Chair), James Whetu (Commissioner), and Fraser Cambell (Commissioner).

REPLY EVIDENCE OF HEATHER PERRING (42A Reporting Officer) – Further response to questions raised in Minute 5.

1. This statement provides further response to questions raised by Commissioners during hearing adjournment, specifically Minute 5, paras [12] and [13].
2. A timeframe extension was granted to respond to the question raised at para [11], with that response now being due on Friday 9th August 2024 in accordance with Minute 6.

Para [12]: Request that WBOPDC provides precise details of the FINCO conditions of consent (with an accompanying rationale) that it now considers to be appropriate for the Site.

3. The 42A report recommended the following consent conditions that pertain to the payment of Financial Contributions (FINCOs) as relevant to development and enablement of Te Puna Business Park

Financial contributions:

4. THAT upon receipt of an invoice from Council, the consent holder shall within 40 working days of the commencement of this consent make payment of FINCO's on a pro-rata basis for roading and water as follows:

Transportation: **\$450,540.93** + GST

Water: **\$305,779.00** +GST

A formula for calculating the Transportation and Water FINCOS was also provided (not repeated here). I did not read or hear any evidence at the hearing from the Applicant or their experts that disputed the formula, so take it as accepted.

5. The applicant's Planner Mr Murphy addressed the timing of the FINCO payments in his Evidence in Chief (27 June 2024) at Para 11.3 (h) (i) through (m). I provided some part reply evidence to these points at the hearing (paras 88 – 93).
6. At para 80 of my reply, I agreed with Mr Murphy on the timing of the payments, but that the relevant consent conditions should also make it clear that payment is due prior to commencement of industrial activities. As such, I have provided updated conditions to reflect this. One point of difference however is that Mr Murphy has suggested that the timing of the water payment be "*once supply of potable and fire-fighting water reticulated supply to the site boundary*" is confirmed; I recommended at s42A condition 16, that confirmation of water supply should be provided for each tenancy area, rather than to the Site boundary. I maintain this position, as it is important that the water supply is extended to each tenancy of the site, rather than only to the site boundary. Taking all the above into account, I have proposed two separate FINCO conditions, rather than one combined condition as was originally proposed.
7. Regarding the Transportation FINCO, there is significant disagreement between Council and the applicant. However, the applicant has not sought a departure from Rule 12.4.16.2.e.i, nor provided an assessment of the effects of any such departure. Council maintains the position conveyed during my part reply evidence hearing that the transportation payment required by Rule 12.4.16.2.e.i. is likely to be necessary to mitigate effects of the activity on the local roading network, and that it is separate and additional to any applicant funding of the upgrade of the Te Puna Road/ Te Puna Station Road intersection. Council is however committed to continue discussions with TPIL regarding funding of the intersection upgrade.
8. To elaborate, whether the transportation payment would be required to fund any widening of Te Puna Station Road or not, the funds would still (at least in part)

be necessary for road consumption caused by the heavy traffic generated by the Site. In this regard it is useful to refer back to the Statement of Facts agreement between Council and the Te Puna Business Park plan change proponents (this SoF is appended to the Interim Environment Court Decision and re-attached here for convenience). Section 7 of the SoF covered local roads, with sub-clause (d) stating:

To mitigate the impact of the traffic generated by the development of the zone on the existing road network (mid-block), a financial contribution shall be collected at the time of each development in accordance with Councils financial contributions policy and rules applying at the time. The fee will be imposed on the basis of area of land developed for Industrial Business use. This fee covers the impact of heavy vehicle loads on the local roads, in terms of the increased strength of pavement required; the reduced life of the existing pavement; the possible changes to the pavement recycling regime; and a contribution to the widening of the roads to address the existing deficiency.”

9. It is clear that the intention was that the contribution would be required for pavement consumption and upgrades. However, it should also be noted that under Council’s current financial contributions policy, road consumption is normally only charged for the *“for the road on which the proposed out of zone activity will take place”*. This is partly due to the fact that heavy vehicle fuel excise and Road User Charges partly subsidise Council’s maintenance and renewal programmes via the National Land Transport Fund and National Land Transport Plan. Accordingly, it may be appropriate that this is factored into the final FINCO transportation condition. Council can report back on a final position on this within the final set of recommended conditions which will be provided in accordance with Minute 5 directions.
10. I note that for each FINCO condition, the relevant quarter/year inflation adjustment should be confirmed at the time of finalising consent conditions. I consider the applicable timing for adjustment should be at the date of a decision being made.
11. **Updated Recommended Consent Conditions:**
 - THAT prior to commencement of industrial or business activity on the site, and within 40 working days of confirmation being provided to Council of water supply in accordance with condition [insert relevant water supply confirmation condition reference number] the consent

holder shall make payment of a water FINCO on a pro-rata basis of net developable site area occupied as follows:

Water: \$[xxx,xxx.xx] +GST

Formula: (\$20,052 / net developable area, adjusted from Q4 2002 – Q[x Year]) / occupied tenancy area.

- THAT prior to commencement of industrial or business activity on the site, and within 40 working days of certification of the Travel Management Plan required by [insert relevant consent condition reference number], the consent holder shall make payment of a transportation FINCO on a on a pro-rata basis of net developable site area occupied as follows:

Transportation: \$[xxx,xxx.xx] +GST

Formula: \$29,545 / net developable area, adjusted from Q4 2002 – Q[x Year].

Heather Perring



Principal Consultant Planner

On behalf of Western Bay of Plenty District Council.

06 August 2024