

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 26 to the Operative Waipā
District Plan

**STATEMENT OF EVIDENCE OF TONY GRANT QUICKFALL
(FINANCIAL CONTRIBUTIONS)
Dated 4 August 2023**

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1. INTRODUCTION

- 1.1 My full name is Tony Grant Quickfall and I am the Manager of District Plan and Growth at Waipā District Council (the Council) until 1 September 2023. After 6 September 2023, I will be working as Group Manager Regulatory and Growth at Ōtorohanga District Council. I am presenting this evidence with the agreement of both councils for the purpose of continuity and to close out my involvement in Plan Change 26 (PC26).

My qualifications and experience were set out in my Statement of Evidence dated 20 December 2022. I provide this evidence in my capacity as Manager District Plan and Growth. In doing so I draw on my 28 years' planning experience. My experience includes writing policy and rules, reporting on development contributions and financial contributions, and implementing/administering financial and development contributions both as a council staff member and a consultant.

2. SCOPE OF EVIDENCE

- 2.1 In this statement of evidence, I address the following matters relating to the proposed financial contributions provisions of PC26:
- (a) The policy basis for Council applying financial contributions;
 - (b) Overview of Council's use of financial contributions;
 - (c) Overview of Council's Development Contributions Policy; and
 - (d) How Council intends to apply financial contributions in respect of the additional intensification enabled by the medium density residential standards (MDRS).

3. EXECUTIVE SUMMARY

- 3.1 The Waipā District Plan Section 18 (Financial Contributions) is proposed to be amended as part of PC26. These amendments broadly include:
- (a) Minor clarification and improvements.
 - (b) The addition of a new contribution relating to Te Ture Whaimana based on effects of unplanned intensification.
 - (c) The addition of a new contribution relating to urban amenity based on effects of unplanned intensification.
- 3.2 Council's general funding model is that "growth pays for growth" and that the existing Waipā ratepayers and community should not generally incur the costs of new or additional growth. This revolves around equitable distribution of costs, with those who most benefit from the growth, funding the costs of that growth.
- 3.3 While development contributions are taken under the Local Government Act 2002 (LGA) to develop infrastructure and services arising from planned growth and development, financial contributions are a mechanism for augmenting or topping up funding shortfalls based on adverse effects generated by unplanned development.
- 3.4 The administration of the financial contributions is proposed to be set out in Council's Development Contribution Policy (DCP), which is being updated as part of the current Long Term Plan. The revised DCP will be consulted on in the first half of 2024 and come into force on 1 July 2024.
- 3.5 Council views financial contributions as a legally legitimate and socially and financially valid mechanism to manage the effects of unplanned development, including unplanned intensification. Subject to amendments recommended by Council's experts and accepted by the Panel, the Council endorses the proposed changes to Section 18.

4. POLICY BASIS FOR FINANCIAL CONTRIBUTIONS

4.1 The Panel will be aware of the legislative changes around the ability for councils to take financial contributions under the Resource Management Act 1991 (RMA):

- (a) Inserted in the 1991 Act;
- (b) Proposed to be repealed 2017 (Resource Legislation Amendment Act 2017);
- (c) Reinstated 2019 (Resource Management Amendment Act 2019);
and
- (d) Updated 21 December 2021 (Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (Amendment Act)).

4.2 Local Government New Zealand provided a helpful summary in respect of financial contributions in their submission to the Resource Management Amendment Bill 2019¹ (my emphasis added):

The proposal to remove financial contributions from the RMA [RLAA 2017] is underpinned by the assumption there is duplication with development contributions (under the LGA02). On the contrary, financial contributions and development contributions serve different purposes. The proposal to remove financial contributions is misguided.

4.3 The purpose of financial contributions is also helpfully described on the Ministry for the Environment's "Quality Planning" website² (my emphasis added):

Financial contribution conditions either require a contribution of money or land, or can be a combination of the two (s108(9)). Financial contributions can assist with the costs of providing infrastructure for

¹ <https://www.lgnz.co.nz/assets/Uploads/feb301adeb/LGNZ-Submission-on-the-Resource-Management-Amendment-Bill-7-November-2019.pdf>

² <https://www.qualityplanning.org.nz/node/928>

developments and providing for the recreational needs of the community. Funds can also be used to provide upgraded or additional servicing or to acquire or enhance land or assets for recreation and community purposes. Councils must specifically use these monies collected for the purposes they are intended.

Financial contributions can be taken to provide off site 'offset' mitigation, eg, where the adverse effects of replacing a bridge on a riverbed habitat cannot be avoided or satisfactorily mitigated, a financial contribution could be used to improve the riverbed habitat elsewhere as part of a wider riverbed restoration programme.

Financial contributions are not the same as development contributions. Development contributions are authorised under the Local Government Act 2002 through long term council community plans (LTCCP) or conditions of consent attached under s220. Such contributions are based on a new development's demand on council's network infrastructure, which can include community infrastructure, open space and reserves. Great care is needed to ensure that a financial contribution is not imposed on a development for the same purpose as a development contribution.

- 4.4 I have included these quotations as the Panel will be aware that there continues to be some confusion around the purpose and use of financial contributions. As one specific example, I was advised by a developer's engineering consultant in late 2022, in very certain terms, that financial contributions are "unlawful".
- 4.5 The Operative Waipā District Plan (the District Plan) retained its financial contributions provisions (Section 18) through the various legislative changes, but in practice has only applied the provisions in a few specific instances over that time.
- 4.6 Following the Amendment Act, it was apparent to Council that unplanned intensification would inevitably lead to pressures on infrastructure capacity (subsequently supported by modelling evidence). It was also apparent that there could be unplanned effects on the Waikato and Waipā Rivers and their catchments, and on urban amenity, from unplanned intensification.

- 4.7 Accordingly, Council resolved to use the discretion within the Amendment Act (RMA section 77T) to retain all of Section 18 (Financial Contributions) and to review and augment these with additional policy clarification and new contributions to avoid, remedy, mitigate, compensate or offset the effects of intensification on the rivers (under Te Te Ture Whaimana) and also on urban amenity.
- 4.8 It is also, in my view, a relevant consideration that the Amendment Act does not restrict or link financial contributions to only being applied to qualifying matters. This reflected Parliament's acknowledgment that unplanned intensification could have effects on infrastructure capacity, beyond what is planned under the LGA development contributions regime. The intention was to enable councils to fund *the effects of* unplanned growth and intensification, through the application of financial contributions, unencumbered from being restricted just to qualifying matters.
- 4.9 Pulling these aspects together provided the basis for Council's proposed changes to Section 18, as part of PC26.

5. COUNCIL'S USE OF FINANCIAL CONTRIBUTIONS

- 5.1 Financial contributions were introduced into the Waipā District Plan under the first generation plan in 1997 (as Section 13). These were carried through into the current District Plan (Section 18) during the 2017 full plan review.
- 5.2 Following reinstatement of financial contributions into the RMA, Section 18 was "ready to go" and did not need any changes. This was helped by the contributions under Section 18 being based on formulae rather than a prescribed amount.

- 5.3 To my knowledge, Council has applied these contributions once since reinstatement in 2019, to take a financial contribution of money from a quarry activity for an off-site, “downstream” intersection upgrade (2.2km from the quarry entrance). This upgrade was directly related to an increase in quarry traffic. This financial contribution was imposed as a consent condition, and the imposition of the condition itself was not contested. My recollection was that the applicant at the time accepted the need for an intersection upgrade directly attributable to increased quarry traffic, and agreed that financial contributions were the appropriate mechanism for an effects offset and mitigation. The consent holder did dispute the amount of contribution, with an agreement subsequently being reached and the condition updated to reflect this.
- 5.4 Council continues to assess whether financial contributions are appropriate on a case by case basis, and we consider this remains a valuable “tool” in Council’s regulatory ability to manage effects, both for activities which trigger a resource consent, and for permitted activities.

6. COUNCIL’S DEVELOPMENT CONTRIBUTIONS POLICY

- 6.1 To illustrate the different purposes for which development contributions are used, I also provide a brief overview of the Council’s Development Contributions Policy (DCP).
- 6.2 Council’s first DCP was adopted in June 2006, when Council decided to principally fund the growth related costs of development via development contributions under the LGA, rather than relying solely on financial contributions under the RMA. The DCP was subsequently revised during each Long Term Plan cycle in 2009, 2012, 2015, 2018, 2021 and now in 2024. Development contributions for larger developments (e.g. growth cells) are often agreed through negotiated, formal and legally binding Development Agreements that set out apportionment of

funding and timeframes, underpinned by separate Infrastructure Works Agreements.

- 6.3 The LGA requires a DCP to be reviewed at least once every 3 years using a consultation process. The current DCP is being reviewed in 2023-2024 as part of the Council's Long Term Plan process, with the bulk of the review work being done during 2023. Statutory consultation under the LGA will take place in the first half of next year with the revised DCP taking effect 1 July 2024. Provisions are being drafted as part of this review to integrate the financial contribution linkages with PC26.

7. HOW COUNCIL INTENDS TO APPLY FINANCIAL CONTRIBUTIONS UNDER PC26

- 7.1 In this section of my evidence, I will address how Council intends to apply the financial contributions under PC26, in particular:
- (a) The application of financial contributions to permitted activities;
 - (b) The administration of financial contributions;
 - (c) The purpose of the new residential amenity contribution; and
 - (d) The purpose of the new Te Ture Whaimana contribution.

Financial contributions for permitted activities

- 7.2 Given the enabling and permitted context of the Amendment Act, Council has taken the opportunity to include provisions for taking financial contributions for permitted activities (development). The purpose for this is self-explanatory, in that permitted intensification which is unplanned can have significant effects (on the provision of infrastructure and water take and discharges) which may require management.

Incorporation of the MDRS in the District Plan enables significantly greater residential development to occur as permitted activities.

- 7.3 The mechanism for taking financial contributions for permitted developments is set out in Section 18. For permitted activities, financial contributions will be required prior to either the grant of building consent or the grant of service connection, whichever comes first. In the event of non-payment for permitted activities, the building consent and/or service connection will be withheld.

Administration of financial contributions

- 7.4 I would like to comment on administration of the financial contributions. Under the operative and proposed rules, Council takes financial contributions, but may also administer or distribute the funds (land, money, or a combination), on behalf of other entities, for the purpose for which they were taken. As stated above, our financial processes around financial contributions are being reviewed as part of the DCP (to include financial contributions). These processes will align with PC26 to ensure efficient and effective administration of any contributions that are taken. While a submission from Waikato Tainui on PC26 seeks to delegate administration and application of financial contributions to iwi, the administration process does not form part of PC26 and my understanding is that this is outside the scope of considerations for the Panel. That aside, the Council is open to discussing with Waikato Tainui if, or how, delegated administration might work in practice. Our intention is that this would be reflected in our updated DCP.

Residential amenity contribution

- 7.5 The purpose for this contribution is set out in Section 18. By way of broad summary, this seeks to avoid, mitigate, remedy, offset or compensate the adverse effects of intensification on urban amenity.

- 7.6 The kind of adverse effects this financial contribution seeks to address include:
- (a) Effects on reduced levels of service of the provision of open spaces (e.g. parks and playgrounds) arising from increased density and subsequent increased demand on open spaces and related infrastructure.
 - (b) Effects on the visual amenity of streetscapes arising from densification of built form (increase in building bulk and building height).
 - (c) Increasing public spaces to compensate or offset the adverse effects of reduced private outdoor/open spaces and vegetation, arising from increased on-site development and built form.
- 7.7 A practical example (which is now supported and strengthened by the National Policy Statement for Indigenous Biodiversity (NPSIB)), is a monetary contribution to increase the vegetation cover of streets and public spaces, or a land contribution for additional public space. Both these contributions would offset the adverse effects from increased density / urbanisation on public spaces. With the NPSIB introducing a target of 10% indigenous biodiversity in urban areas, this contribution is a practical mechanism to not only manage effects of intensification but to (now also) give effect to the NPSIB.

Te Ture Whaimana contribution

- 7.8 Similarly, the purpose of this contribution is set out in Section 18. The underlying policy basis revolves around the significance of Te Ture Whaimana (a National Policy Statement equivalent which takes precedence over other national policy statements if there are conflicts).

This is set out in my prior statement of evidence and I understand is not in dispute.

7.9 Again by way of broad summary, these contributions are to avoid, remedy, mitigate, offset or compensate the adverse effects from intensification on the Waikato and Waipa rivers and their tributaries.

7.10 The kind of adverse effects that are captured within this contribution include:

- (a) Effects on the integrity and effectiveness of stormwater systems;
- (b) Discharge effects;
- (c) Effects of increased water abstraction; and
- (d) Increase in effects arising from the exercise of Council's regional water and discharge consents for urban infrastructure, and potential non-compliances requiring a review of these regional consents and/or their conditions.

7.11 Practically, these contributions could include for example:

- (a) A monetary contribution to increase planting for the purposes of stormwater flow attenuation and management (which I note may also give effect to the NPSIB).
- (b) A contribution in land to enable Council to expand the stormwater attenuation network (again, giving effect to the NPSIB).
- (c) Or a combination of land and money for planting.

- 7.12 Council, in reviewing its DCP, will also look at mechanisms for involving and engaging with mana whenua iwi in the administration of any financial contributions under Te Ture Whaimana.

8. CONCLUSIONS

- 8.1 Council has taken the opportunity under the RMA and the Amendment Act to “strengthen” its financial contributions provisions, as one of the tools available to manage the effects of unplanned/increased intensification. In my view this is entirely appropriate with Parliament providing this as a legitimate mechanism for Councils to use, so as to enable the kind of intensification outcomes that are sought under the Amendment Act.
- 8.2 There is an inevitable dilemma around trying to quantify contributions when the intensification that triggers these contributions is itself not quantifiable. Modelling and assumptions provide a reasonable basis for the contributions, and Council’s economic expert will cover this in their evidence. I would urge the Panel to apply the pragmatic approach intended by the legislation (noting the RMA purpose and basis for financial contributions does not envisage or require accurate costings), and to avoid falling into a rabbit hole of quantifying the unquantifiable.
- 8.3 Finally, the implementation of the NPSIB from August 4 is, in my view, something of a game changer. The purpose and very outcomes sought through the amenity and Te Ture Whaimana contributions are now strengthened by, directly aligned with, and in my view give effect to, new national policy.

Tony Quickfall
Dated 4 August 2023