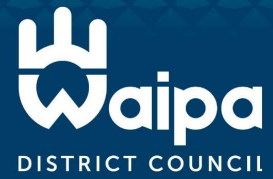


# RMA HEARINGS PANEL REPORT



**To:** Independent Hearings Panel

**From:** Damien McGahan, Principal Aurecon and Melissa Needham, Manager,  
Aurecon on behalf of the Waipā District Council

**Subject:** **Addendum (1) to Section 42A Hearing Report on Proposed Plan Change 26  
(Section 18 Financial Contributions)**

**Date:** 31 August 2023

**Hearing Date:** 20 September 2023

## 1. INTRODUCTION

- 1.1.1. This addendum to the Section 42A report for Plan Change 26 (Section 18 Financial Contributions) has been prepared in response to matters raised by submitters in their evidence.
- 1.1.2. All additional amendments are in **red** in this report and in **Appendix A – Recommended track change amendments to Plan Change (Section 18 Financial Contributions)**.

### 1.2. RESPONSE TO WAIKATO REGIONAL COUNCIL EVIDENCE

- 1.2.1. Ms Craven from the Waikato Regional Council provided a letter to the Hearings Panel dated 11 August 2023 following the release of the Section 42A report.
- 1.2.2. This letter confirmed that the Regional Council supports the recommendations made in the Council's Section 42A report in relation to Waikato Regional Councils original submission points on the financial contribution provisions in Section 18 of PC26.
- 1.2.3. The letter also confirmed support for the assessment undertaken in respect of the National Policy Statement for Indigenous Biodiversity and the rules in PC26 which give effect to the NPS-IB.

#### **Recommendation**

- 1.2.4. Support for the Section 42A report recommendations relating to the submission points by the Waikato Regional Council is acknowledged.
- 1.2.5. No additional amendments to the PC26 provisions are recommended.

### 1.3. RESPONSE TO KĀINGA ORA EVIDENCE

- 1.3.1. Mr Liggett on behalf of Kāinga Ora provided evidence to the Hearings Panel dated 18 August 2023 on the recommendations in the Section 42A report for PC26 on Section 18 – Financial Contributions.
- 1.3.2. In summary Kāinga Ora requested in the first instance that:
  - The Section 18 provisions in PC26 are withdrawn and a separate plan change that deals with the issue comprehensively rather than being limited to the new residential dwellings in the Medium Density Residential Zone is pursued.
- 1.3.3. Secondly, Kāinga Ora requested that if the proposed provisions are to be adopted the following matters are addressed as a minimum:
  - The 'circumstances when financial contributions may be taken' sections relating to the residential amenity (18.5.2.1) and Te Ture Whaimana (18.5.2.6) financial contributions should be clarified to provide certainty when contributions will and will not be required.
  - A consenting pathway be established in the Medium Density chapter cross-referencing the relevant financial contribution provision (permitted rule status followed by restricted discretionary rule status for non-compliance with the permitted standard).

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- Policy 18.4.2.8 (Cumulative effects) be amended to refer to ‘intensification’ rather than ‘additional population growth’.
- That rule 18.5.1.6(e) be amended as follows to avoid ambiguity of intent:  
18.5.1.6(e)     Any infrastructure works **required under Rule 18.5.1.6** and **not** otherwise funded via **Council’s Development Contributions Policy** **Policy are excluded**.

### **Assessment**

- 1.3.4. In relation to Kāinga Ora’s first request for the financial contributions part of PC26 to be withdrawn in its entirety and dealt with in a separate comprehensive plan change this submission point has been addressed in the Section 42A report (sections 10.5.6 to 10.5.9; 10.6.6 to 10.6.7 and 10.6.14 to 10.6.15) and the new financial contributions are recommended to be retained. It is acknowledged that the focus of the amendments proposed to Section 18 by PC26 is limited generally by the focus of PC26 overall to implement the MDRS. As outlined in the Section 42A report (section 7.2.2) financial contributions are a discretionary tool specifically provided for in the housing intensification legislation.
- 1.3.5. I have considered Kāinga Ora’s specific requests in turn below.
- 1.3.6. I support the request that the ‘circumstances when financial contributions may be taken’ sections relating to the residential amenity (18.5.2.1) and Te Ture Whaimana (18.5.2.6) financial contributions should be clarified to provide certainty when contributions will and will not be required. It is intended that the contributions will be taken for all new dwellings built in the Medium Density Zone for the residential amenity financial contribution and Medium Density and Commercial Zones for the Te Ture Whaimana financial contribution.
- 1.3.7. I support a consenting pathway been established for the new financial contributions with a permitted activity status followed by restricted discretionary activity status when the permitted standard is not met. The district wide chapters, which Section 18 is part of, are already cross-referenced in every zone. This will necessitate a minor change to Section 21 of the Plan (Assessment Criteria and Information Requirements) also, which is also outlined below.
- 1.3.8. I support Policy 18.4.2.8 (Cumulative effects) be amended to refer to ‘intensification’ rather than ‘additional population growth’ as this better describes the effects been managed by this policy.
- 1.3.9. It is agreed that rule 18.5.1.6(e) be amended to avoid ambiguity of intent. The numbering of these provisions should also be slightly altered as it is noted that there are currently two 18.5.1.6 (a) and (b).

### **Recommendation**

- 1.3.10. The following amendments in **red** are recommended in response to the requests in the evidence by Kāinga Ora, as outlined in **Appendix A**:

- Amend 18.5.2.1 as follows:

**Rule - Circumstances when financial contributions may be taken** (65.24) (32.15)

18.5.2.1 ~~Costs will be recovered for all new dwellings in the Medium Density Residential Zone. where it is necessary to avoid, remedy or mitigate the adverse effects, including the cumulative adverse effects, of medium density residential development to maintain and improve residential amenity in public open spaces and streetscapes.~~ (32.15)

- Amend 18.5.2.6 as follows:

**Rule - Circumstances when financial contributions may be taken** (32.15)

18.5.2.6 ~~Costs will be recovered for all new dwellings in the Medium Density Residential Zone or the Commercial Zone. where it is necessary to avoid, remedy or mitigate the adverse effects of medium density residential development on the water quality and/or the minimum flows of the Waikato and Waipā Rivers and their catchments.~~

- Add the following after 18.5.2.5:

Activities that fail to comply with residential amenity financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity.

Discretion will be restricted to the following matters:

- The extent to which the proposal is consistent with the objectives and policies in Section 18 (financial contributions).
- The extent to which the proposal complies with the performance standards in Section 18 (financial contributions), and the reasons for non-compliance.
- The effects that the development will create in relation to the residential amenity financial contribution.
- The mitigation measures or the value of other contributions provided in relation to the residential amenity financial contribution.

- Add the following after 18.5.2.9:

Activities that fail to comply with the Te Ture Whaimana financial contribution rules and/or performance standards will require a resource consent for a restricted discretionary activity.

Discretion will be restricted to the following matters:

- The extent to which the proposal is consistent with the objectives and policies in Section 18 (financial contributions).
- The extent to which the proposal complies with the performance standards in Section 18 (financial contributions), and the reasons for non-compliance.

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- The effects that the development will create in relation to the Te Ture Whaimana financial contribution.
  - The mitigation measures provided, or the value of other contributions provided in relation to the Te Ture Whaimana financial contribution.
- 
- Amend 21.1.18 as follows:  

21.1.18            **Financial Contributions**

There are no specific Financial Contributions assessment criteria. Please refer to [the matters of discretion in section 18 - Financial Contributions.](#)
  
  - Amend Policy 18.4.2.8 as follows:  

Policy – Cumulative effects

18.4.2.8            Requiring financial contributions for new residential development to address an equitable share of offsetting adverse cumulative effects that accelerated intensification and/or additional population growth has on public streetscapes, public open spaces, and river networks and their catchments. (32.15)
  
  - Amend 18.5.1.5(e) as follows:  

18.5.1.6            To avoid, ...

~~(c)~~ (32.15) These costs will include:

    - ~~(a)~~ (i) Where an existing network/system/supply (32.15) is available, the cost of connection with the existing system;
    - ~~(b)~~ (ii) Where an existing network/system/supply (32.15) is available, but the capacity of the system is inadequate to meet the additional generated demand, the cost of connection and capacity upgrading of the existing system;
    - ~~(c)~~ (iii) Where an existing network/system/supply (32.15) is available, but the network requires capacity upgrades or network improvements to ensure the connection does not compromise the network, the costs of those capacity upgrades or network improvements; and
    - ~~(d)~~ (iv) Where an existing network/system/supply (32.15) is not available, the cost of extending the network/system/supply; (32.15)
    - ~~(e)~~ (v) Any infrastructure works required under Rule 18.5.1.6 and not otherwise funded via Council's Development Contributions Policy are excluded. (32.15)

**1.4. RESPONSE TO RETIREMENT VILLAGES ASSOCIATION OF NZ INC. AND RYMAN HEALTHCARE LTD EVIDENCE**

1.4.1. Evidence has been provided by Mr Akehurst on behalf of the Retirement Villages Association of NZ Ltd and Ryman Healthcare Ltd.

1.4.2. In summary Mr Akehurst requests that:

- The residential amenity financial contribution charge is amended to reflect the specific characteristics of retirement villages and charges are amended to:
  - \$65/independent unit (retirement village).
  - No more than \$13 for a care unit / memory unit / assisted living suite.
- The Te Ture Whaimana financial contribution is reconsidered in its entirety as a financial contribution (as opposed to rates), and only the portion of expenditure that specifically relates to any additional negative effects of new housing (over and above existing housing) results in a financial contribution charge.

1.4.3. Mr Akehurst also raises concerns with the risk of ‘double dipping’ by recovering the same costs through financial contributions and development contributions or rates.

1.4.4. Mr Akehurst raises points on the existing three waters and transport financial contributions and requests retirement village specific rates for these charges.

**Assessment**

1.4.5. Mr McIlrath has provided rebuttal evidence (dated 1 September 2023) in response to the evidence of Mr Akehurst.

1.4.6. Mr McIlrath concludes in his evidence that the application of specific retirement village demand ratios for the residential amenity and Te Ture Whaimana financial contributions is not easily transferable to the potential retirement village developments that may occur due to differing configurations, timing, and scales (paras 23 and 30). In addition to this, Mr McIlrath notes that the discount factor is available for the financial contribution calculation (para 30). Mr McIlrath recommends that development be considered on a case-by-case basis against the financial contributions as proposed (para 30).

1.4.7. In relation to potential for ‘double dipping’ Mr McIlrath has also addressed this in his rebuttal evidence and concluded that differentiation between the financial contribution and development contribution regimes is built into the financial contribution calculation process but has also acknowledged that this matter will require checking in each case as it is a known area of concern (para 31).

1.4.8. In relation to the existing financial contributions that have not been amended by PC26 (three waters and transport) as outlined in the Section 42A report (sections 10.9.6 and 10.9.7) these contributions are only used in very specific development circumstances. For the reasons outlined above attributing retirement village specific demand ratios for these very specific, targeted and limited use charges is also not supported.

1.4.9. In response to Mr Akehurst’s evidence Mr McIlrath has recommended an amendment of the discount factor wording in the residential amenity and Te Ture Whaimana formulas to clarify the

use of the discount factor which is not intended to address any overlaps with development contributions as this is dealt with before estimating the financial contribution (paras 27 and 28). This amendment is supported.

- 1.4.10. It is noted that the residential amenity and Te Ture Whaimana financial contributions are collected for new dwellings. The definition of ‘dwelling’ under the Plan is set out below and would apply to self-contained units in retirement villages that contain a kitchen or kitchenette but would not apply to individual care units or bedrooms. They may be assessed as one dwelling collectively under this definition if there is one shared kitchen, unless there are multiple kitchens.

**‘Dwelling’** means any SELF CONTAINED BUILDING, whether permanent or temporary, that is occupied or designed to be occupied, in whole or in part, by a single household for the purposes of a RESIDENTIAL ACTIVITY and in each case contains one KITCHEN, and may include a KITCHENETTE. DWELLING includes any PRINCIPAL DWELLING, SECONDARY DWELLING and FARM WORKER DWELLING.

### **Recommendation**

- 1.4.11. The following amendments in **red** are recommended in response to the requests in the evidence by Mr Akehurst, as outlined in **Appendix A**:

- Amend the discount factor wording in the residential amenity and Te Ture Whaimana financial contribution formulas (sections 18.5.2.3 and 18.5.2.7) as follows:

$F =$  discount factor to account for development specific attributes or the value of other contributions (i.e., land for reserves, but excluding development contributions) for the same purpose (32.15)

## **1.5. OTHER AMENDMENTS TO THE RECOMMENDED TRACK CHANGE AMENDMENTS TO PC26 (FINANCIAL CONTRIBUTIONS)**

- 1.5.1. Following completion of the Section 42A report and plan change text two omissions have been noted in the plan change text. The Te Ture Whaimana financial contribution was limited, following submissions, to the Medium Density Residential Zone and Commercial Zones only. This was communicated in the headings of the contribution preceding sections 18.5.1.8 and 18.5.2.6. Upon review the heading preceding 18.5.1.8 only refers to the Medium Density Residential Zone and not the Commercial Zone. It is recommended that the headings be aligned to indicate that the Te Ture Whaimana financial contribution applies to both the Medium Density Residential Zone and the Commercial Zone as recommended in the Section 42A report.
- 1.5.2. The revised residential amenity financial contribution, as outlined in Mr McIlrath’s evidence (section 4.13), refers to the financial contribution and an additional charge for one tree for every new dwelling at a cost of \$500 per tree. The addition of the \$500 for the tree planting was omitted from the revised residential amenity financial contribution. It is recommended the formula be amended to include the tree charge.
- 1.5.3. Following lodgement of the Section 42A report, the evidence by Mr McIlrath was amended to include a worked example for calculating a financial contribution. It is recommended that a worked example be included in the Section 18 plan change provisions as an advice note to assist calculating the contributions.

**Recommendation**

1.5.4. The following amendments in **red** are recommended, as outlined in **Appendix A**:

- Amend the heading preceding section 18.5.1.8 as follows:

Te Ture Whaimana (~~applies to all developments across all zones~~ the Medium Density Residential Zone and the Commercial Zone only) (32.15)

- Amend the residential amenity financial contribution (18.5.2.3) as follows:

18.5.2.3 The financial contribution ~~collected~~ for residential amenity shall be the total of A and B as follows based on the following calculation to a maximum amount of ~~\$1,300~~ \$1,800 per dwelling:

A – Financial contribution charge = (FC \* n) \* F

where:

FC = financial contribution per dwelling (\$1,300)

n = number of new dwellings

F = discount factor to account for development specific attributes or the value of other contributions (i.e., land for reserves, but excluding development contributions) for the same purpose (32.15)

B – Tree charge = \$500 per dwelling



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- Add the following worked example as an advice note at the end of Section 18 as follows:

Advice note:

### Worked Example

A worked example follows. It demonstrates the steps in calculating the Te Ture Whaimana and Residential Amenity financial contributions using a hypothetical example with the following key assumptions:

- 10-unit intensification development.
- Both Te Ture Whaimana and Residential Amenity contributions apply.
- Two (existing) dwellings are credited.
- The developer is providing (volunteering) their own riparian planting.

Item		Te Ture Whaimana	Residential Amenity	
			Residential Amenity	Tree
FC-rate	$FC_{rate}$	1,500	1,300	500
Units	b	10	10	10
Credits (for existing dwellings)	c	2	2	2
Relevant dwellings	$n = (b-c)$	8	8	8
Unadjusted FC	$e = FC_{rate} * n$	12,000	10,400	4,000
Discount factor <sup>1</sup>	F	60%	0%	n/a
Financial contribution charge to recover	$FC_{Charge} = e * (1-F)$	4,800 (x)	10,400 (y)	4,000 (z)
	<b>SUM</b> (x + y + z)		<b>19,200</b>	
1 - Based on development attributes and developer's activities				

## 2. CONCLUSION AND RECOMMENDATION

- 2.1.1. That the additional information contained in this addendum be taken as an update to the Section 42A report dated 28 July 2023 prepared for PC26 (Section 18 - Financial Contributions) on behalf of the Wāipa District Council.
- 2.1.2. PC26 is recommended to be amended as set out in **Appendix A** of this addendum.

Report prepared by:



**Damien McGahan**  
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**Melissa Needham**  
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Report reviewed and approved by:



**Tony Quickfall**  
**Manager – District Plan and Growth**

## Appendix A

Recommended track change amendments to Plan Change (Section 18 Financial Contributions)  
(additional changes shown in **red**)