

**Report to Statutory Management Committee**

Date: 15 January 2016

Councillors

**WHANGANUI DISTRICT COUNCIL**

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<b>Subject:</b>	<b>Section 42a Officers Report – response to evidence</b> <b>Proposed Plan Change 40 – Financial Contributions</b>
<b>Meeting Date (reconvened):</b>	<b>11 February 2016</b>
<b>Prepared for Chief Executive by:</b>	<b>Rachael Pull</b>

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**1.0 SUMMARY**

- 1.1 Council is presently reviewing the District Plan in phases. This Plan Change is relates to the provisions for Financial Contributions.
- 1.2 The purpose of Proposed Plan Change 40 (PC40) is to amend the District Plan provisions relating to financial contributions in accordance with the Local Government Act Amendments 2014 to be specific on what financial contributions can be collected for and how the amounts are calculated.

**2.0 INTRODUCTION**

- 2.1 This Plan Change is one of a series of changes proposed as part of Phase 6 of the wider District Plan review which also address district wide matters and archaeological sites protection.
- 2.2 The Local Government Act 2002 and Resource Management Act 1991(RMA) allows councils to charge financial contributions as a way of mitigating adverse effects. Financial contributions are an option available to councils and developers as a way of mitigating adverse effects of activities. It is proposed that they could be collected for adverse effects on infrastructure, heritage or outstanding natural landscapes. They cannot be collected when Horizons, the NZ Transport Agency or another department of Council have already collected a payment for the specified purpose.

**3.0 PROCESS TO DATE**

**3.1 Consultation**

Consultation was undertaken in accordance with clause 5 of the 1st Schedule of the RMA. A full summary is in the hearing report.

**3.2 Hearing**

During the hearing on 30 October 2015 the Statutory Management Committee determined that the hearing shall be adjourned after hearing the verbal submission of Reuters Construction Limited, GJ Gardiner Homes and



Attrill Development Ltd. During this adjournment, the Council and the submitter would discuss the implications of the Plan Change in relation to subdivision and see if a resolution could be reached.

Council planners Brenda O'Shaughnessy and Stacey Bell met with the submitter, Lance Attrill and interested developers at Council on 10<sup>th</sup> December to discuss the issues raised in the submission.

The key point of discussion was the application of financial contributions to subdivision developments. Council planners clarified that the intent of the Plan change is to enable financial contributions to apply to subdivision developments in zones where the proposed development is not anticipated. To be clear, subdivision in the Residential zone at a residential scale (at least 400m<sup>2</sup> site area per allotment) would not be liable for financial contributions. However a similar proposal in any other zone would be liable for a contribution to the provision of infrastructure services as such services would not have been anticipated by Council in planning and maintaining its infrastructure network. Any actual contribution would relate directly to the anticipated effects on the network.

The submitter expressed concern that infrastructure costs to be charged by Council are estimated to be around \$30,000 per section in some areas, according to preliminary reports in the Springvale Structure Plan commissioned by Council Infrastructure. The developers present agreed that this was cost prohibitive, as such costs could not be absorbed in the land price in the Whanganui context.

Concern about availability of suitable land was also raised by developers Alex Sigley and Bernie Reuters. They felt more greenfield land needed to be earmarked for residential development in order to sustain the viability of doing business in Whanganui.

The discussion acknowledged these difficulty, but Council planners noted that the costs for extending the network needed to be funded. It was appropriate that such costs be funded by those who cause and benefit from the expenditure. If that means that certain areas are not feasible for residential development. This is an example of the market at work, and encourages developers to make decisions based on real costs and effects.

Council planners suggested that other areas may conversely become relatively affordable for development as a result of identification of true infrastructure costs. Such areas may include the inner urban areas between the River and Victoria Ave where services are available, zoning is residential and redevelopment or infill opportunities exist. Infill development may also become relatively affordable.

The concern raised about lack of suitable land available for residential development, is affected in a potentially positive way, if developers are



prepared to acknowledge the true costs of developing sites and move to consider sites within the Residential zone or work with Council to identify areas where infrastructure can be relatively cost effectively extended in future. This can be achieved either with financial contributions or developer agreements as at present.

The focus of the submitter's Hearing presentation was on the complexity of the proposed formulas, and the lack of certainty about what financial contribution fees might actually be for a development. However, the subsequent meeting with Council planners did not focus on the complexity of the proposed formulas, rather the focus of the submitter and developers in attendance at the meeting was to avoid the application of contributions at all to land the submitter seeks to develop and to understand where contributions would and would not be applied.

#### **4.0 OUTCOME**

##### **4.1 Officers Comments**

After reviewing the comments of the submitter and the Council documentation regarding Development Contributions I am recommending a clarification of Plan Change 40 to specifically state that subdivision is excluded from Financial Contributions. The reasons for this viewpoint are discussed below:

- i. The 10 Year Plan 2015-2025 states that Council will use a range of tools to reflect the true cost of providing network infrastructure for growth in place of Development Contributions. The status quo of using developer agreements is consistent with this policy.
- ii. Developer agreements are for off-setting the cost of growth. Financial Contributions are for mitigating adverse effects, not growth. While these two funding mechanisms are for different things, it is obvious from the submission that there is the potential for confusion and uncertainty. One of the reasons for the recent change to the Development Contribution Policy was to make Whanganui a favourable place for developers. Therefore the status quo of using developer agreements is consistent with Council's intentions.
- iii. Submission 1 states that having Financial Contributions potentially apply to subdivision would create too much risk and uncertainty for developers. This is not 'business friendly' and against community expectations and the Leading Edge Strategy 2015.
- iv. Subdivision technically causes no adverse effects as it only creates boundary lines on paper. Adverse effects are caused by the land use that occurs after the subdivision.
- v. Financial Contributions are an option to deal with adverse effects that are unexpected, such as an activity that is not provided for in a zone.



Subdivision is an expected activity in every zone as therefore the effects are understood and provided for in most circumstances. Therefore Financial Contributions are not the best tool to use for subdivision, but still relevant for potential land use activities.

- vi. It is indicated by Central Government that Financial Contribution legalisation will be reviewed in the next 5 years. Therefore this will be a medium term solution which allows Council to review and further consult in the future as to how effective this is.

## 4.2 Officers Recommendation

That the following changes are made to Chapter 20 as a result of submission 1:

### Chapter 20 FINANCIAL CONTRIBUTIONS

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In the local context, the impacts of development have the potential to impose a cost on the community in the form of adverse environmental and amenity effects, in addition to the need to provide network infrastructure to service development. Financial contributions provide a mechanism for internalising the costs of development to those who benefit, removing both monetary and non-monetary adverse effects on the wider community.

Whanganui District Council will only apply financial contributions to land use activities and not subdivision, as subdivision is an expected and provided for activity in every part of the District. Council prefers to work with developers utilising tools such as Developer Agreements to attribute infrastructure costs of development appropriately to those who benefit directly.

The consideration of the use of financial contributions as a method of achieving the purpose of Part 2 of the Act however is not limited to mitigating adverse effects on the existing community. Providing for the use of financial contributions within the Whanganui District Plan also benefits the development community by providing certainty and enabling a partnership between Council and developers in providing for the mitigation of adverse effects; maintaining and enhancing the attributes of our town that support livelihoods.

### 20.1 OBJECTIVES

20.1.1 To ensure positive effects on the environment are achieved to offset any adverse effects of ~~subdivision or~~ development.

### 20.2 POLICIES

#### 20.2.1 Provision of Infrastructure

Financial contribution to mitigate adverse effects will be in accordance with the following:



- a. The extent that the activity creates an adverse effect that could be offset by a financial contribution to achieve the objectives and policies of this plan.
- b. The extent to which the financial contribution avoids, remedies or mitigates any on-site and off-site adverse environmental effects caused by any subdivision, use or development not anticipated in the relevant zone.
- c. The extent to which the positive environmental effects relating to a type of infrastructure off-set the adverse environmental effects.

### **20.2.3 Purpose of contributions**

1. Financial contributions may be considered on a case by case basis to mitigate or remedy adverse effects created by the need to upgrade or extend public infrastructure for the subdivision, use or development of land not anticipated in the relevant zone or non-compliance with performance standards relating to:
  - a. Infrastructure
  - b. Outstanding natural landscapes; or
  - c. Built heritage
2. Financial contributions may be taken in the form of cash, land, works or a combination of these.
3. Contributions shall only be used to address the specific adverse effects for which they are taken. The Council shall generally ensure that a financial contribution is used to fund mitigation activities as close as reasonably possible to the site where the adverse effects occur, or at one or more similar sites where the adverse effects occur, provided the community of benefit is generally the same.
4. Financial contributions shall not be taken where this would result in a duplication of payments already made for that specific purpose either to the Horizons Regional Council, the New Zealand Transport Agency or Whanganui District Council.
5. Financial Contributions shall not be taken for effects related to subdivision.



#### **20.2.4 Level of Contributions**

1. Financial contributions to mitigate adverse effects generated on or off-site will be determined following consideration of:
  - c. The extent to which the financial contribution avoids, remedies or mitigates any on-site and off-site adverse effects caused by the subdivision, use or development not anticipated in the relevant zone;

#### **5.0 Section 32 Evaluation**

- 6.1 The Act requires that when a Council undertakes a plan change that it produce a report evaluating the costs and benefits of primary options considered. This is known as a Section 32 evaluation.
- 6.2 A re-evaluation will be required by s32AA of the Act as amendments are proposed as a result of submission 1.