

Report to Statutory Management Committee

Date: 12 October 2015

Councillors

WANGANUI DISTRICT COUNCIL

Subject: **Section 42a Officers Report**
Proposed Plan Change 40 – Financial Contributions

Meeting Date: **29th October 2015**

Prepared for Chief Executive by: **Rachael Pull**

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.

RECOMMENDATIONS (Of the Statutory Management Committee)

That the Council:

1. receives the report.
2. adopts the Decisions Report including the evaluation required under section 32 of the Resource Management Act 1991.
3. accepts, accepts in part or rejects the submissions as set out in Section 7 of the Report for the reasons given.
4. adopts Proposed Plan Change 40 to the Wanganui District Plan.

Appendices:

1. **Copy of the Public Notice**
2. **Submissions Received**
3. **Proposed Financial Contribution provisions**
5. **Section 32 Evaluation**
6. **Background Report**

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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 PROPOSED PLAN CHANGE

3.1 Purpose

The purpose of PC40 is to identify when a financial contribution is appropriate and outline how a contribution will be calculated. It can only be collected to offset an adverse effect after other methods have been considered. The funds must be used by Council to address the adverse effect identified.

3.2 Background Research

The Local Government Act Amendments 2014 identified that financial contributions could only be collected when there are clear policies identifying the activities and costs in the District Plan. The operative District Plan does not meet this requirement.

A report outlining potential activities and formulas for calculating financial contributions was developed and is attached as Appendix 6. From this report the proposed objectives and policies for financial contributions were determined.

4.0 PROCEDURAL MATTERS

4.1 Consultation Summary

Consultation with a range of stake holders, in accordance with the requirements of Schedule 1, was undertaken as part of formulating the proposed Plan change.

Consultation undertaken:

- 3 September 2014 a background document and survey on the current financial contributions provisions were posted online. This link was promoted at the Home and Living Show 2014, in the newspaper and in newsletters, and in emails to identified stakeholders.

- 13 March 2015 Council presented to the Business Group an idea on the proposed provisions for financial contributions (amongst other topics). The Business Group attendees were added to the stakeholder list.
- 27 March 2015 A draft version of the financial contribution provisions were put online for comment. This was advertised via email and letter to the identified stakeholders and at the Rivertraders Market on 28 March 2015. Feedback closed on 14 April 2015.
- A letter and email was sent to stakeholders affected by PC40 advising that Council would be notifying PC40 on 30 May 2015.
- Notification of all parties required by clause 5, 1st Schedule RMA following Council's decision to notify.

4.2 Key Statistics

PC40 was publicly notified in accordance with Clause 5 of the 1st Schedule of the RMA on 30 May 2015, with the period for submissions closing on Tuesday 30 June 2015. A copy of the public notice is included as Appendix 1.

A total of 3 submissions, were received at the close of submissions. Copies of submissions received are included in Appendix 2.

All submissions received were summarised and the decisions requested by submitters were publicly notified in accordance with Clause 7 of the First Schedule of the RMA. The further submission process closed on Friday 31 July 2015. **No further submissions were received.**

5.0 STATUTORY AND LEGISLATIVE FRAMEWORK

5.1 Resource Management Act 1991

Section 74 of the Act requires the Council to change the District Plan in accordance with its functions under Section 31, the purpose of the Act in section 5 and the other matters under sections 6, 7 and 8.

Territorial authorities have the following functions under the Act:

31 Functions of territorial authorities under this Act

1. *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
 - a. *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources.*

- b. *The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of –*
 - iii. *the maintenance of indigenous biological diversity;*
- 2. *The methods used to carry out any of the functions under subsection (1) may include the control of subdivision.*

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined:

5(2) In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:

- a. *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b. *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- c. *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In accordance with Section 5 of the RMA, PC40 has been developed with a focus on avoiding, remedying or mitigating adverse effects of activities.

Further guidance and direction on the way in which resources are to be managed is provided in sections 6, 7 and 8 of the RMA.

Section 108 of the Act provides for the imposition of financial contributions in accordance with the purposes specified in the plan as follows:

108 Conditions of resource consents

(1) Except as expressly provided in this section and subject to any regulations, a resource consent may be granted on any condition that the consent authority considers appropriate, including any condition of a kind referred to in subsection (2).

(2) A resource consent may include any 1 or more of the following conditions:

- a. *subject to subsection (10), a condition requiring that a financial contribution be made*

...

(9) In this section, financial contribution means a contribution of—

- a. *money; or*

- b. land, including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent), but excluding Maori land within the meaning of Te Ture Whenua Maori Act 1993 unless that Act provides otherwise; or*
- c. a combination of money and land.*

(10) A consent authority must not include a condition in a resource consent requiring a financial contribution unless—

- a. the condition is imposed in accordance with the purposes specified in the plan or proposed plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect); and*
- b. the level of contribution is determined in the manner described in the plan or proposed plan*

Financial contribution provisions must be developed in accordance with section 102 and 106 of the Local Government Act 2002.

5.2 National Policy Statements and Environmental Standards

There are no National Policy Statements or National Environmental Standards relevant to this Plan change.

5.3 Regional Policy Statement and Regional Plan (the One Plan)

The One Plan contains provisions for financial contributions. The only requirement on territorial authorities is that any proposed financial contributions do not cover the same matters as the One Plan. The One Plan may collect financial contributions for the following purposes:

- * Infrastructure
- * Aquatic ecosystems and rivers
- * Indigenous biological diversity
- * Public access to and along the coastal marine area, lakes and rivers

While it is intended that this Plan change will allow for collecting financial contributions for infrastructure, it is unlikely that financial contributions would be charged for the same infrastructure as Horizons. However, Policy 18-3(da) requires that any financial contribution takes into account other financial contributions made to prevent duplicate charging. This is also incorporated into the Plan change.

Therefore, for the purposes of this evaluation, it is considered that the proposed District Plan provisions relating to financial contributions have given effect to the regional documents.

6.0 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. (Refer to Appendix 5)

6.2 A re-evaluation has not been completed as required by s32A of the Act as no amendments are proposed as a result of submissions.

7.0 SUBMISSION ANALYSIS

The following are the assessment of submissions and further submissions with recommendations by the Planning Officer.

7.1 Submitter Name: Reuters Construction Limited, GJ Gardiner Homes and Attrill Development Ltd

Submission No: [1.1pc40](#)

Summary:

Oppose the proposed plan change. The proposed plan change is not transparent and disadvantages the developer.

Decision Sought:

A more transparent policy that has certainty of costs for the development including costs of upgrades or compensation for additional work.

7.2 Submitter Name: Wanganui Federated Farmers of New Zealand

Submission No: [3.1pc40](#)

Summary:

Supportive of the proposed plan change. We note that this option gives greater certainty to developers along with a greater tool set of options to apply to recover contributions.

Decision Sought:

Retain as drafted.

7.3 Officer Comments:

Both these submissions relate to the changes made to the financial contributions section as a result of the Local Government Act (LGA) amendments. The LGA states that financial contributions can only be collected if the reasons for collecting them and the formulas used are clear and set out in the Plan. The proposed Plan change sets out clear circumstances for when financial contributions can be collected and states that it is only one method for mitigating adverse effects. Therefore the concerns of Submitter 1 have been addressed through this Plan change as the new provisions limit financial contributions to only the items listed and can only be calculated using the formulas in the policy. The majority of costs of

development are managed through other methods such as developer agreements, now that development contributions have been removed.

7.4 Officer Recommendations:

That Submission 1 from Reuters Construction Limited, GJ Gardiner Homes and Attrill Development Ltd be **rejected**.

That Submission 3 from Wanganui Federated Farmers of New Zealand be **accepted**.

No amendments are recommended as a result of these submissions.

7.5 Submitter Name: Transpower New Zealand Limited

Submission No: [2.1pc40](#)

Summary:

Neutral to proposed plan change. This plan change should not affect public infrastructure as it is not liable for financial contributions.

Decision Sought:

The addition of a statement to the effect that the development of public infrastructure is not subject to financial contributions.

7.6 Officer Comments:

The submitter is correct in that financial contributions cannot be collected for public infrastructure. By specifically stating the types of effects that will generate a financial contribution, it is made clear that there is no circumstance in which a contribution would be collected for Transpower assets. Therefore a specific statement is not required.

7.7 Officer Recommendations:

That Submission 2 from Transpower New Zealand Limited be **accepted in part**.

No amendments are recommended as a result of this submission.