

Summary Statement, Melissa Needham 20 September 2023

1. Tēnā koutou, thank you for the opportunity to present the Section 42A report for plan change 26 on behalf of the Waipā District Council.
2. My name is Melissa Needham and I work for Aurecon as a Senior Planner.
3. I request that the Section 42A report and Addendum 1 to the Section 42A report be taken as read and am happy to answer any questions the panel may have on these.
4. I will provide a brief overview of prehearing engagement with submitters and Addendum 1 to the Section 42A report as this describes the current issues raised and in contention for Section 18 of plan change 26. I will then respond directly to the requests to amend the plan change 26 text provisions by RVA and Ryman in their legal submission.

Overview of key documents

5. As outlined in the s42A report the key documents that the Section 18 Financial Contributions give effect to include the following.
6. The Resource Management Act which enables local authorities to make a rule requiring a financial contribution for any class of activity other than a Prohibited Activity and outlines what a financial contribution must specify (s77E).
7. The National Policy Statement for Urban Development (NPS-UD) that includes Objective 6 that outlines that local authority decisions on urban development that affect urban environments should be *integrated with infrastructure planning and funding decisions*.
8. The National Policy Statement for Indigenous Biodiversity (NPS-IB) which was developed to help protect and maintain NZ's unique biodiversity in the terrestrial (land) environment. Since the RMA was introduced, all Council's have had to protect areas with significant native biodiversity. The NPS-IB introduces criteria for identifying and managing areas of significant native biodiversity to ensure a consistent approach is applied across Aotearoa. It is assessed that the new financial contributions will assist Council to achieve the policy direction of the NPS-IB in particular Policies 13 and 14 which seek the restoration of indigenous biodiversity and for local authorities to promote an increase in indigenous vegetation cover in both urban and non-urban environments especially the Te Ture Whaimana contribution.
9. In addition, the s42A report assessed the NPS-IB against all of PC26 as the NPS came into effect in August 2023, approximately a year after notification of the plan change. This assessment found that the NPS-IB strengthened the basis for a number of rules in PC26 including the 20m SNA setback, limiting maximum building coverage to 40% on sites within the River / Gully Proximity Overlay and the requirement for residential dwellings at ground level to provide a landscaped area using native vegetation (minimum 30% of the developed site) within the River / Gully Proximity Overlay.
10. In addition to these documents as outlined in the section 42A report Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River (Te Ture Whaimana) was developed by the Waikato River Guardians Establishment Committee, iwi and communities of the Waikato River catchment. The Vision and Strategy is the primary direction setting document for the Waikato River including its catchment which includes most of the Waipā District. Te Ture Whaimana has significant statutory weight, including

status as a National Policy Statement. Furthermore, Te Ture Whaimana prevails where there is any inconsistency with any other national policy statement or national planning standard.

11. Te Ture Whaimana sets a Vision which is supported by a number of specific objectives and strategies. The intent of Te Ture Whaimana is a central focus on restoring and protecting the Waikato River and its contributing catchment along with the enhancement of sites, fisheries, flora and fauna. There are specific directives regarding the restoration and protection of the health and wellbeing of the river, the relationship of Iwi with the river, the restoration of water quality and the adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River.
12. The Te Ture Whaimana financial contribution carries out the intent of Te Ture Whaimana by requiring funding for new residential dwellings in the MDRZ and Commercial Zone for projects that will provide riparian enhancement; wetland / creation / protection / restoration / enhancement; erosion control measures; ecological / biodiversity; public access improvements to the Waikato River and its tributaries; weed control measures; sediment reduction measures; and education.

Pre-hearing Engagement

Kāinga Ora

13. Online meeting with Mark Thode (Campbell Brown); Tony Quickfall; Damien McGahan and Melissa Needham (Council) on 26 July.

Waikato Tainui

14. Online hui on with Jaedyn Falwasser and Te Makarini Mapu (Waikato Tainui); Tony Quickfall; Damien McGahan and Melissa Needham (Council) on 26 August.
15. Verbal then email offer (September 4) to meet again prior to hearing to discuss plan change further. No further meeting was needed by Waikato Tainui.

Retirement Villages Association of NZ Inc. and Ryman Healthcare Ltd

16. Economic expert conferencing between Mr McIlrath and Mr Akehurst. Joint Witness Statement prepared (14 September).

Addendum

Waikato Regional Council

17. Ms Craven from the Waikato Regional Council provided a letter to the Hearings Panel dated 11 August 2023. This letter confirmed that the Regional Council supports the recommendations made in the Section 42A report. The letter also confirmed support for the assessment undertaken in respect of the National Policy Statement for Indigenous Biodiversity and the rules in plan change 26 which were assessed to give effect to the NPS-IB.

Kāinga Ora

18. Mr Liggett on behalf of Kāinga Ora provided evidence to the Hearings Panel dated 18 August 2023.
19. In summary, first Kāinga Ora requested that the Section 18 provisions in plan change 26 be withdrawn and a separate plan change that deals with the issue comprehensively

rather than being limited to only new residential dwellings in the Medium Density Residential Zone be pursued. This request is recommended to be rejected. The new financial contributions are recommended to be retained because financial contributions are a discretionary tool specifically provided for in the housing intensification legislation and Waipā consider these critical to manage the identified actual and potential effects associated with unplanned growth enabled by the MDRS.

20. Secondly Kāinga Ora have requested that if the proposed provisions were to be adopted that four amendments be made to them. These proposed amendments are recommended to be supported in the addendum report and are summarised as follows.
21. The 'circumstances when financial contributions may be taken' sections relating to the residential amenity (18.5.2.1) and Te Ture Whaimana (18.5.2.4) financial contributions be clarified to provide certainty when contributions will and will not be required. This amendment is supported. 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 the Medium Density and Commercial Zones for the Te Ture Whaimana financial contribution.
22. A consenting pathway be established for the new financial contributions with a permitted activity status followed by restricted discretionary activity status when the permitted standard is not met (following rules 18.5.2.3 and 18.5.2.6). This amendment is also recommended to be supported. The district wide chapters, which Section 18 is part of, are already cross-referenced in every zone. This amendment also necessitates a minor consequential change to Section 21 of the Plan (Assessment Criteria and Information Requirements) to reference the new matters of discretion.
23. That the cumulative effects Policy (18.4.2.8) be amended to refer to 'intensification' rather than 'additional population growth' as this better describes the effects being managed by this policy. This amendment is supported.
24. That Rule 18.5.1.6(e) be amended to avoid ambiguity of intent and refer to the specific rule in question. This amendment is supported. The numbering of these provisions is also recommended to be slightly altered as there are currently two rules 18.5.1.6 (a) and (b).

Retirement Villages Association of NZ Inc. and Ryman Healthcare Ltd (RVA/Ryman)

25. Mr Akehurst on behalf of RVA/Ryman provided evidence to the Hearings Panel dated 24 August. Mr McIlrath has provided rebuttal evidence (dated 1 September 2023) in response to the evidence of Mr Akehurst.
26. Mr Akehurst requested three amendments or concerns with the Section 18 provisions, in summary Mr Akehursts requests follow.
27. That the residential amenity financial contribution charge is amended to reflect the specific characteristics of retirement villages and charges are amended to be \$65/independent unit (retirement village) and no more than \$13 for a care unit / memory unit / assisted living suite.
28. In response to this request 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.

In addition to this, Mr McIlrath notes that the discount factor is available for the financial contribution calculation.

29. It is also noted in the addendum that the residential amenity and Te Ture Whaimana financial contributions are collected for new dwellings. The definition of 'dwelling' under the Plan applies 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.
30. Mr Akehurst also requested that 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. This request relates to concerns with the risk of 'double dipping' by recovering the same costs through financial contributions and development contributions or rates. Mr McIlrath has also addressed this point 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.
31. Lastly Mr Akehurst has requested retirement village specific rates be applied to the existing three waters and transport financial contributions. In response to this request it is noted that the methodology for the existing financial contributions have not been amended by plan change 26 (three waters and transport) and these contributions are only used in very specific development circumstances. For the reasons outlined previously attributing retirement village specific demand ratios for these very specific, targeted and limited use charges is also not recommended to be supported.
32. 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. This amendment is supported.

Legal submissions for RVA/Ryman

33. Further to the evidence of Mr. Akehurst the legal submission for RVA/Ryman dated 15 September 2023 requests specific amendment to the text of Section 18. Some of these requests correspond with the requests by Mr Akehurst and as outlined above are not supported, including the addition of rule 18.4.2.7A to include retirement village specific ratios; and in addition, that retirement villages will not be charged the residential amenity or Te Ture Whaimana financial contribution.
34. Amendments are also requested to one of the introductory paragraphs to Section 18 (18.1.2.2) and that a Policy (18.4.2.5A) is added that reference Section 200 of the Local Government Act 2002 (LGA). These requests are not supported as they do not appear to reflect the provisions that are outlined in Section 200 of the LGA (Limitations applying to requirement for development contribution). It is acknowledged that the use of the phrase *'to supplement development contributions for the same purpose where the development contributions are insufficient.'* in the introductory paragraph may be misleading and implies financial contributions and development contributions can be

taken for the same purpose. I support amending this paragraph as follows and as outlined in the updated tracked change version of the PC26 text (v4).

18.2.2 Financial contributions are distinct from, and in addition to, Council's Development Contributions Policy and provide Council with an alternative method to obtain contributions to manage effects required as a result of growth. **Either** financial contributions will be used on their own, or in addition to ~~supplement~~ development contributions ~~for the same purpose~~ where the development contributions are insufficient to fully avoid, remedy, mitigate or compensate for the adverse effects of the activity. **Table 18.1** below sets out the application of both development and financial contributions.

35. The other requested amendments to Section 18 (18.2.3 and 18.4.2.7) are not supported as they are viewed as a method to further assess the fairness of the contributions on a case-by-case basis. The intention is that the contribution itself will not be tested in each case it is applied, rather the development specific attributes will be assessed on a case-by-case basis (discount factor).

Other amendments

36. Following completion of the Section 42A report and plan change text three omissions were noted in the plan change text.
37. Firstly, the Te Ture Whaimana financial contribution was limited, following submissions, to the Medium Density Residential Zone and Commercial Zones only. 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 (28 July 2023).
38. Secondly, the revised residential amenity financial contribution 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 calculation. It is recommended that the residential amenity financial contribution calculation be amended to include the tree charge.
39. Lastly, following lodgement of the Section 42A report, the evidence by Mr McIlrath was amended to include a worked example for calculating a hypothetical financial contribution. It is recommended that a worked example be included in the Section 18 provisions as an advice note to assist calculating the contributions.
40. In addition to these noted omissions, it is noted that the consenting pathway added to the new financial contributions as requested by Kāinga Ora (following rules 18.5.2.3 and 18.5.2.6) should also have been added to the existing financial contributions as they now also apply to permitted activity status developments. I support similar consenting pathways been added following rules 18.5.2.9, 18.5.2.12, 18.5.2.15, 18.5.2.18 and 18.5.2.21 as outlined in the updated tracked change version of the PC26 text (v4).