

18 August 2023

Attn: Independent Hearing Panel on Proposed Plan Change 26,  
Waipā District Council,  
Private Bag 2402,  
Te Awamutu

By Email to: *Steve Rice* [steve@riceres.co.nz](mailto:steve@riceres.co.nz)

**RE: KĀINGA ORA – HOMES AND COMMUNITIES SUBMISSION ON FINANCIAL CONTRIBUTIONS AS PART OF PROPOSED PLAN CHANGE 26 – RESIDENTIAL ZONE INTENSIFICATION (HEARING SESSION THREE)**

- 1.1 Kāinga Ora – Homes and Communities (“**Kāinga Ora**”) lodged a submission on Waipā District Council (“**the Council**”) Proposed Plan Change 26 – Residential Zone Intensification (“**PC26**”).
- 1.2 The Kāinga Ora submission on PC26 opposed the financial contributions chapter as-notified. Kāinga Ora has reviewed the Council’s Section 42A Report (‘s42A Report’) dated 04 August 2023 on Financial Contributions as part of PC26.
- 1.3 An amended set of financial contribution provisions has been put forward by the reporting planner within the S42A report.
- 1.4 Kāinga Ora remains of the view that the preferable approach at this stage would be to withdraw these provisions and embark on a separate and more considered process involving input from interested parties. That process should consider the application of any financial contributions in addition to those that already exist in the plan on the full range of activities rather than being limited to the new residential dwellings within the Medium Density Residential Zone. Further, and notwithstanding the breadth of the statutory powers for financial contributions, Kāinga Ora thinks it is preferable to apply

financial contributions when in fact there is any adverse effect being addressed. To do otherwise imposes an additional cost on development which may comprise the extent to which housing demand is met in the District.

1.5 However, Kāinga Ora acknowledges the work Council has done in refining the provisions and considers that a number of amendments respond to issues raised within its primary submission. In particular:

- (a) Clarification that monies collected for the purpose of giving effect to Te Ture Whaimana, may be distributed groups associated with the Waikato River Authority; and
- (b) Exclusions to the levying of financial contributions where (in the case of three waters infrastructure) a development contribution is already required for the same purpose.

1.6 Notwithstanding the above, Kāinga Ora remains concerned that there is a level of ambiguity within the proposed provisions (as-amended) that creates uncertainties around:

- (a) *when* the financial contributions will be triggered / applied;
- (b) whether a consenting pathway exists should an applicant seek to challenge a contribution;
- (c) effects of intensification; and
- (d) the three waters/transport infrastructure network.

1.7 While Kāinga Ora considers the preferable approach at this stage would be to withdraw the provisions and notify a plan change which deals with the issue comprehensively, if the proposed provisions are to be adopted, Kāinga Ora considers the following matters need to be addressed as a minimum.

#### **RULE – CIRCUMSTANCES WHEN FINANCIAL CONTRIBUTIONS MAY BE TAKEN**

1.8 The above rule-heading applies to the respective MDRZ financial contributions under 18.5.2.1 (public open spaces and streetscape) and 18.5.2.6 (Te Ture Whaimana). Section 77E(2)(c) of the RMA specifies the requirements around rules relating to financial contributions.

- 1.9 Kāinga Ora is concerned that the proposed rules remain ambiguous around whether Council will in-fact require a contribution for all development within the MDRZ or at its general discretion. This is particularly so where the rules reference where contributions *'may'* be taken, and *'where it is necessary to avoid, remedy or mitigate the adverse effects of medium density residential development'*.
- 1.10 The above uncertainty appears to contradict the general rule under 18.5.1.5 which notes (perhaps more explicitly) that contributions *'will be required for development as follows'*. However, it remains to be seen whether this is for all development (permitted or otherwise).
- 1.11 Kāinga Ora therefore suggests that the provisions be clarified to ensure that, if there is in fact a discretion that will be applied by the council in the requirement for financial contributions, that there is clarity around the circumstances when they would *not* be required. Should the intention be that *all new dwellings* in the MDRZ will be subject to contributions, then the respective rules should simply state this intent, and remove the discretionary wording outlined in paragraph 1.5 of this evidence above.

#### **CONSENTING PATHWAY**

- 1.12 Following on from the above, Kāinga Ora notes there are a range of 'rules' and 'performance standards' dealing with financial contributions; however, unlike the usual consenting framework where there is a permitted rule and standard followed by a Restricted Discretionary rule for non-compliance with the permitted standard. Kāinga Ora request that such a rule be included within the Medium Density chapter, cross referencing the relevant Financial Contributions provision.

#### **POLICY 18.4.2.9 – EFFECTS OF INTENSIFICATION**

- 1.13 Kāinga Ora also notes that under Policy 18.4.2.8, financial contributions are proposed to be required for addressing cumulative effects of *"... new residential development to address an equitable share of offsetting adverse cumulative effects that accelerated and/or additional population growth has on public streetscapes, public open spaces, and river networks and their catchments. (32.15)*
- 1.14 Kāinga Ora questions whether additional population growth is an appropriate metric, where it has been acknowledged in the Waikato District Council IPI process that implementation of the MDRS does not of-itself lead to *population growth*, but a change in the form and location of where projected growth will occur. Kāinga Ora suggests that

reference to 'intensification' would better-describe the effects being managed through this policy, which also aligns with the evidence and justification provided in the evidence of Mr Tony Quickfall (for Waipa District Council).

#### **RULE 18.5.1.6 – THREE WATERS/TRANSPORT INFRASTRUCTURE NETWORK**

1.15 Rule 18.5.1.6(e) has been amended (in blue) following notification (notified as 18.5.1.3(c)(v)) as follows:

*(e) Any infrastructure works ~~not~~ otherwise funded via Council's Development Contributions Policy ~~are excluded~~. (32.15)*

1.16 This amendment has created uncertainty through the use of open ended language that could be understood as a requirement to fund infrastructure works generally rather than only infrastructure works that are required to address 18.5.1.6(a)-(b).

1.17 To avoid any ambiguity of the intent of the provisions, Kāinga Ora seeks the provision 18.5.1.6(e) is amended (in red) as:

*Any infrastructure works ~~required under Rule 18.5.1.6 and not otherwise~~ funded via Development Contributions Policy ~~are excluded~~.*

#### **CONCLUDING STATEMENT**

1.18 Kāinga Ora thanks the Panel for its time and acknowledgement of the issues raised in Kāinga Ora submission. Should you have any questions in relation to the matters outlined above, please do not hesitate to contact the Kāinga Ora Development Planning team.

  
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