

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 26 to the Operative Waipā  
District Plan

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**OPENING LEGAL SUBMISSIONS OF COUNSEL FOR WAIPĀ DISTRICT COUNCIL FOR  
FINANCIAL CONTRIBUTIONS HEARING  
Dated 15 September 2023**

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**TOMPKINS | WAKE**

Wendy Embling (Wendy.Embling@tompinkswake.co.nz)

Westpac House  
Level 8  
430 Victoria Street  
PO Box 258  
DX GP 20031  
Hamilton 3240  
New Zealand  
Ph: (07) 839 4771  
tompinkswake.co.nz

1. **INTRODUCTION**

1.1 These Opening Legal Submissions are submitted on behalf of Waipā District Council (**the Council**) in respect of Section 18: Financial Contributions of Proposed Plan Change 26 to the Operative Waipā District Plan (**PC26**). PC26 is an Intensification Planning Instrument (**IPI**) under section 80E of the Resource Management Act 1991 (**the Act**).

1.2 The substantive hearing of PC26 was held from 26 April to 2 May 2023. As a result of Direction #10, submissions relating to Financial Contributions (Section 18) were proposed to be heard jointly with submissions relating to Financial Contributions (Chapter 24) of Proposed Plan Change 12 to the Operative Hamilton City District Plan (**PC12**). Following a request for deferral of the hearing of PC12, Direction #16 provided for a separate hearing for PC26.

1.3 In respect of financial contributions, these opening legal submissions will address:

- (a) The legal framework for financial contributions under the Act;
- (b) The relationship with development contributions;
- (c) The changes proposed to Section 18: Financial Contributions by PC26; and
- (d) Issues raised by submitters in submissions and evidence.

1.4 In addition, these opening legal submissions will address:

- (a) The National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB); and
- (b) Report on consultation following the April/May hearing of PC26.

2. **FINANCIAL CONTRIBUTIONS UNDER THE RMA**

2.1 Financial contributions have been provided for in the RMA since its first enactment in 1991. However, they have enjoyed a turbulent ride with their repeal signalled by the Resource Legislation Amendment Act 2017, and the

repeal itself repealed by the Resource Management Amendment Act 2019. As a result, many district plans do not contain financial contributions provisions and, where they do, they are often used infrequently.

- 2.2 Rather than forming part of Part 5 of the RMA relating to district plans, the provisions relating to financial contributions have, until recently, been contained in Part 6 relating to resource consents. In particular, section 108 contains the following relevant provisions:

**Section 108 - Conditions of resource consents**

- (1) Except as expressly provided in this section and subject to section 108AA and 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.

- 2.3 The financial contributions provisions have recently been revived by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**Amendment Act**) which inserted the following new sections into the Act:

**Section 77E – Local authority may make rule about financial contributions**

- (2) A local authority may make a rule requiring a financial contribution for any class of activity other than a prohibited activity.
- (3) A rule requiring a financial contribution must specify in the relevant plan or proposed plan—
  - (a) the purpose for which the financial contribution is required (which may include the purpose of ensuring positive effects on the environment to offset any adverse effect); and
  - (b) how the level of the financial contribution will be determined; and
  - (c) when the financial contribution will be required.
- (4) To avoid doubt, if a rule requiring a financial contribution is incorporated into a specified territorial authority’s district plan under section 77G, the rule does not have immediate legal effect under section 86B when an IPI incorporating the standard is notified.
- (5) In this section and section 77T, financial contribution has the same meaning as in section 108(9).

**Section 77T – Review of financial contributions provisions**

Each specified territorial authority may, if it considers it appropriate to do so, include financial contributions provisions, or change its financial contributions provisions (as applicable) in the district plan, and, if it does so, may notify them in the IPI required to be notified in accordance with section 80F.

2.4 While section 77E is new, it is consistent with the requirements that were already contained in section 108(10) in terms of identifying the purpose of financial contributions and how the level of contribution will be determined. The addition of the requirement to identify when the financial contribution will be required reflects that financial contributions can now be imposed in respect of permitted activities and, in these circumstances, cannot be imposed as a condition of a resource consent.

2.5 As a result, I submit that the existing case law on financial contributions is relevant to the Panel’s evaluation of the financial contributions in PC26.<sup>1</sup>

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<sup>1</sup> While previous case law may be helpful in terms of the general approach to financial contributions, and the requirements of section 108(10), care should be taken when considering specific sections as there have been a number of amendments to the relevant sections of the Act since 1991.

- 2.6 Sections 108(10) and section 77E(3(a)) do not limit the purposes for which financial contributions may be taken, but specifically include the purpose of ensuring positive effects on the environment to offset any adverse effects. The word “effect” is defined broadly in section 3 of the Act, and specifically includes cumulative effects:

In this Act, unless the context otherwise requires, the term **effect** includes –

- (a) any positive or adverse effect; and
- (b) any temporary or permanent effect; and
- (c) any past, present, or future effect; and
- (d) any cumulative effect which arises over time or in combination with other effects – regardless of the scale, intensity, duration, or frequency of the effect, and also includes –
- (e) any potential effect of high probability; and
- (f) any potential effect of low probability which has a high potential impact.

### 3. **RELATIONSHIP WITH DEVELOPMENT CONTRIBUTIONS**

- 3.1 Financial contributions are separate from councils’ ability to require payment of development contributions under the Local Government Act 2002 (**LGA**). Development contributions have a prescriptive process under the LGA which involves preparation of a Development Contributions Policy (**DC Policy**) including consultation under the LGA.<sup>2</sup> Development contributions must comply with the principles and processes set out in Subpart 5 of Part 8 of the LGA.<sup>3</sup> In general, development contributions provide for planned growth, such as the infrastructure required to establish a new greenfield subdivision.

- 3.2 While development contributions have a separate process, it is important to note the following relationships between the two processes:

- (a) Section 200 of the LGA prevents the taking of a development contribution for a matter already addressed by a financial contribution (or other funding source).

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<sup>2</sup> Section 106 of the LGA.

<sup>3</sup> Sections 197AA to 207 of the LGA.

- (b) The prescriptive requirements for development contributions under Subpart 5 of Part 8 of the LGA do not apply to financial contributions. However, as acknowledged by Mr McIlrath and Mr Akehurst, the principles that contributions be fair, equitable and proportionate provide important guidance for financial contributions.<sup>4</sup>
- (c) The financial contributions (as provided for in the District Plan) are required to be summarised in the DC Policy (s106(2)(f) of the LGA).<sup>5</sup>

3.3 The Council's DC Policy is currently being reviewed, and consultation will take place in the first half of 2024. Any changes to Section 18 as a result of PC26 will therefore be reflected in the new DC Policy to come into force on 1 July 2024.<sup>6</sup>

#### 4. **CHANGES PROPOSED TO SECTION 18: FINANCIAL CONTRIBUTIONS BY PC26**

4.1 As authorised by sections 80E(1)(b)(i) and 77T of the Act, the Council considered it appropriate to change its financial contributions as part of PC26.

4.2 The Council did not undertake a comprehensive review of its financial contributions in Section 18. Instead, the Council focussed on the potential effects of the additional intensification enabled by the medium density residential standards (**MDRS**) in making the following key changes:

- (a) Enabling financial contributions to be taken for permitted activities, as enabled by s77E, as the MDRS provides for more opportunities for residential development to occur as a permitted activity;
- (b) Requiring a new financial contribution for the purpose of restoring and protecting the Waikato and Waipā rivers and their catchments,

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<sup>4</sup> Paragraphs 6.2 and 6.3 of the Statement of Evidence of Mr McIlrath dated 4 August 2023. Paragraphs 2.1(a) and (b) of the Joint Witness Statement – Economics dated 14 September 2023.

<sup>5</sup> While s106 of the LGA appears to have been amended by the Natural and Built Environment Act 2023, clause 85(2) of Schedule 1 to the Natural and Built Environment Act 2023 provides that “Until the relevant provision in this Act is in force or applies in relation to the relevant region, the amended provision must be read as if the amendment had not been made.”

<sup>6</sup> Paragraph 6.3 of the Statement of Evidence of Mr Quickfall dated 4 August 2023.

to address the objectives of Te Ture Whaimana o Te Awa o Waikato – Vision and Strategy (**Te Ture Whaimana**); and

- (c) Requiring a new financial contribution for the purpose of avoiding, remedying, mitigating or offsetting adverse effects on residential amenity.

4.3 In addition to these key changes, PC26 clarified the purposes of the existing financial contributions, as required by section 77E of the RMA. However, no changes were proposed to the methodology for determining the existing financial contributions relating to three waters, transport or heavy vehicles. Accordingly, the methodology for existing financial contributions was not considered in the Council’s section 32 report or accompanying technical reports. For this reason, I submit that any submissions which seek changes to existing financial contributions in the District Plan do not meet the tests in *Clearwater*, and fall outside the scope of PC26.<sup>7</sup>

4.4 I note that section 80E(1)(b)(i) does not impose any restrictions on the scope of an IPI to address financial contributions, so that any limit on scope arises from the standard tests in *Clearwater*, rather than from the scope of an IPI under s80E.

#### **Financial contributions for permitted activities**

4.5 Amendments are proposed to Section 18 to enable financial contributions to be required for permitted activities. While these amendments are clearly authorised by s77T, and are not opposed in submissions on PC26, it is helpful to clarify how this will be achieved in practice.

4.6 Each of the financial contributions in Section 18 contains a rule entitled “Rule – Timing of calculation and payment.” The existing rule provides that a financial contribution shall be calculated at either the time of subdivision

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<sup>7</sup> *Clearwater Resort Ltd v Christchurch City Council* AP 34/02, 14 March 2003, Young J.

or resource consent. PC26 proposes to amend each of these rules to provide that a financial contribution shall be calculated at the earliest possible time of subdivision, resource consent or "building consent, in which case a financial contribution calculated shall be paid prior to the issue of consent."<sup>8</sup>

4.7 These rules are performance standards which apply to the activity rules throughout the District Plan. As a result, any failure to comply with the performance standard will change the activity's status in the District Plan.

4.8 In response to the written statement of Mr Liggett for Kāinga Ora Homes and Communities (**Kāinga Ora**), the Council's s42A Addendum proposes an additional provision to clarify that activities that fail to comply with the performance standards will require resource consent as a restricted discretionary activity.<sup>9</sup> In these circumstances, section 37 of the Building Act 2004 will require the Council to issue a certificate preventing any building work from proceeding until the resource consent is obtained.

#### **New financial contribution for residential amenity**

4.9 PC26 proposed a new financial contribution which seeks to avoid, remedy, mitigate or offset adverse effects on residential amenity. The purpose of the residential amenity contribution is to provide streetscape and urban open space improvements or expansions in response to the additional residential development enabled by the MDRS.

4.10 The potential effects of intensification on parks, reserves and street trees were addressed in the evidence of Ms McElrea for the Council at the April/May hearing of PC26, and in the evidence of Mr Quickfall.<sup>10</sup> The MDRS enables more dwellings to be constructed on each site as well as reduced yards, thereby resulting in less private open space for recreation and fewer

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<sup>8</sup> Rules 18.5.2.5, 18.5.2.9, 18.5.2.11, 18.5.2.14, 18.5.2.17, 18.5.2.20, and 18.5.2.23.

<sup>9</sup> Section 1.3 of the s42A Addendum.

<sup>10</sup> Paragraph 6.28 of the Statement of Evidence of Ms McElrea dated 24 March 2023; Paragraph 7.6 of the Statement of Evidence of Mr Quickfall dated 4 August 2023.

large mature trees. The public sphere, including the streetscape, will therefore become increasingly important.

- 4.11 The Council's DC Policy is focussed on the provision of streetscapes and reserves relating to greenfield development as these can be planned and implemented as part of the structure planning process. However, the MDRS enables greater residential intensification within the existing urban extents of Cambridge, Te Awamutu and Kihikihi and may result in adverse effects on, or demand for, streetscapes and public open spaces which cannot be planned as part of the Council's DC Policy.

#### **New financial contribution for the purpose of Te Ture Whaimana**

- 4.12 PC26 also proposes a new financial contribution to give effect to the objectives of Te Ture Whaimana and its requirement for restoration and protection of the Waikato and Waipā Rivers and their catchments. The Environment Court has recognised that giving effect to the objectives of Te Ture Whaimana requires a proportionate contribution towards the "betterment" of the river.<sup>11</sup>
- 4.13 The purposes of the financial contributions are to provide for matters such as riparian enhancement; wetland creation, protection, restoration or enhancement; erosion control measures; ecological/biodiversity measures; public access improvements to the river; weed control measures; sediment reduction measures; education; restoration, protection or enhancement of waahi tapu and sites of significance.
- 4.14 The potential effects of intensification on the Waikato and Waipā Rivers and their catchments were addressed in the evidence of Ms McElrea and Mr Chapman for the Council at the April/May hearing of PC26, and in the

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<sup>11</sup> *Puke Coal Ltd v Waikato District Council* [2014] NZEnvC 223 at paragraph [92].

evidence of Mr Quickfall.<sup>12</sup> An increase in intensification within the existing urban extents of Cambridge, Te Awamutu and Kihikihi provides challenges for the Council's responsibilities to identify, protect and restore open space values, including biodiversity, mana whenua, historic heritage, recreation and amenity values as they relate to the rivers.

- 4.15 These challenges are more significant in light of the additional obligations now imposed on Council by the NPS-IB, particularly Policies 13 and 14 which seek the restoration of indigenous biodiversity and require local authorities to promote an increase in indigenous vegetation cover both in urban and non-urban environments.

#### **Proposed methodology**

- 4.16 The evidence of Mr McIlrath for the Council addresses the proposed methodology for the new residential amenity and Te Ture Whaimana financial contributions.
- 4.17 As recognised by the Environment Court, to meet the requirements of section 108(10), *"a plan must in some way, either broadly prescriptive or narrowly prescriptive, specify the method (in a non-technical sense) in which a financial contribution can be determined."*<sup>13</sup>
- 4.18 The proposed financial contributions are required to address unplanned residential development that is enabled by the mandatory introduction of the MDRS. As addressed in evidence at the hearing in April/May, and in the evidence of Mr McIlrath,<sup>14</sup> one of the challenges for the Council is that it is not possible to predict when or where intensification will occur or what form it will take. As a result, the methodology for financial contributions needs to enable assessment of the adverse effects on a case by case basis. Mr

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<sup>12</sup> Paragraph 5.4 of the Statement of Evidence of Ms McElrea dated 24 March 2023; Paragraph 8.17(b) of the Statement of Evidence of Mr Chapman dated 24 March 2023; Paragraph 7.10 of the Statement of Evidence of Mr Quickfall dated 4 August 2023.

<sup>13</sup> *South Port New Zealand Ltd v Southland Regional Council* C91/2002 at [28]

<sup>14</sup> Paragraph 7.2 of the Statement of Evidence of Mr McIlrath dated 4 August 2023.

McIlrath has therefore proposed a formula which will enable consideration of the number of additional dwellings being provided, as well as any mitigation being proposed as part of the development. The use of a formula approach will retain the flexibility to assess financial contributions on a case by case basis.

- 4.19 However, the Council acknowledges the value of certainty to landowners regarding the costs to be incurred in any residential development. As a result, Mr McIlrath has proposed that for the new residential amenity and Te Ture Whaimana contributions, a maximum amount per dwelling be specified in the rule. This maximum has been developed based on a number of example projects, as explained by Mr McIlrath in his evidence.<sup>15</sup>
- 4.20 I submit that the combination of a formula and a maximum amount ensures that the financial contribution retains enough flexibility to be assessed on a case by case basis, while providing the certainty of an upper limit.

## 5. ISSUES RAISED BY SUBMITTERS

- 5.1 A total of 15 submissions and 2 further submissions were received on the proposed changes to Section 18. Of these, 7 submissions generally or partially supported the changes proposed in PC26.<sup>16</sup> A number of issues were raised in submissions and further submissions. These were comprehensively reviewed in the Council's section 42A Report and a number of amendments proposed to Section 18.
- 5.2 All submitters on Section 18 of PC26 were invited to attend an expert conference in July 2023 (initially planned to be held in conjunction with PC12). The only attendee at the expert conference was Mark Thode on behalf of Kāinga Ora.

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<sup>15</sup> Paragraphs 7.4 to 7.11 of the Statement of Evidence of Mr McIlrath dated 4 August 2023.

<sup>16</sup> Paragraphs 10.1.1 and 10.3.1 of the s42A Report.

- 5.3 A pre-hearing meeting was also held between Council and representatives of Waikato Tainui in August 2023.
- 5.4 The following submitters have provided evidence in advance of this hearing:
- (a) On 11 August 2023 Hannah Craven, Senior Policy Advisor at Waikato Regional Council (**WRC**) provided a letter to be tabled at the hearing;
  - (b) On 18 August 2023 Brendon Liggett, Manager – Development Planning at Kāinga Ora Homes and Communities (**Kāinga Ora**) provided a written statement to the Panel; and
  - (c) On 24 August 2023 Greg Akehurst provided evidence on behalf of the Retirement Villages Association and Ryman Healthcare Limited (**RVA/Ryman**).
- 5.5 At the Panel’s request, Mr McIlrath and Mr Akehurst held an expert conference on 14 September 2023, and have provided a Joint Witness Statement (Economics) (**JWS**).

#### **Waikato Regional Council**

- 5.6 The WRC has confirmed that it supports the responses to their submissions set out in the Council’s s42A Report in respect of financial contributions.

#### **Waikato Tainui**

- 5.7 The submission by Waikato Tainui raised questions regarding the administration of funds that are collected for the Te Ture Whaimana contribution.<sup>17</sup> Section 111 of the Act provides that:

Where a consent authority has received a cash contribution under section 108(2)(a), the authority shall deal with that money in reasonable accordance with the purposes for which the money was received.

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<sup>17</sup> The submission by Waikato Tainui is addressed in section 10.6 of the s42A Report, particularly paragraphs 10.6.8 to 10.6.11.

5.8 While the Council is responsible for administering the funds for the purposes for which they have been received, the administration of financial contributions may include partnerships with Waikato Tainui and the Waikato River Authority. This is proposed to be specifically recognised in the advice note following rule 18.5.1.8. The Council is open to engaging with Waikato Tainui as to how this may work in practice.

### **Kāinga Ora**

5.9 The written statement of Mr Liggett for Kāinga Ora acknowledges the work the Council has done in refining the provisions as a result of submissions.<sup>18</sup>

5.10 Mr Liggett also requests some specific amendments to the provisions to improve their certainty and workability. These amendments are supported in the Council's s42A Addendum.<sup>19</sup> In particular:

- (a) The "circumstances when financial contributions may be taken" in rules 18.5.2.1 and 18.5.2.6 should be amended to provide certainty regarding when contributions will be required;
- (b) As described in paragraph 4.8 above, a consenting pathway as a restricted discretionary activity is proposed where the permitted standard is not met;
- (c) Policy 18.4.2.8 should be amended to refer to "intensification" rather than "additional population growth"; and
- (d) Rule 18.5.1.6(e) should be amended to remove any ambiguity.

### **RVA/Ryman**

5.11 The evidence of Mr Akehurst for RVA/Ryman considers that retirement villages should pay only a proportion of the financial contribution for residential amenity, to reflect the specific demand characteristics of retirement villages.

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<sup>18</sup> Paragraph 1.5 of the written statement of Mr Liggett dated 18 August 2023.

<sup>19</sup> Section 1.3 of the s42A Addendum.

- 5.12 As explained in Mr McIlrath’s rebuttal evidence, the proposed formula provides for calculation of the residential amenity financial contribution on a case by case basis.<sup>20</sup> This will enable consideration of the specific demand characteristics of the proposed retirement village, as villages can differ in configuration, timing and scale. The Council’s s42A Addendum also acknowledges that the application of financial contributions to “dwellings” will mean that care units (rather than independent units) within a retirement village are not separately charged for financial contributions.<sup>21</sup>
- 5.13 In my submission, it is not appropriate for the Panel to pre-determine the specific demand characteristics of future applications for resource consent for retirement villages as, based on the evidence presented by RVA/Ryman in the April/May hearing of PC26, retirement villages can vary considerably in respect of matters such as the proposed scale of the village, the combination of independent units and care units, the landscaping and open space proposed as part of the village, and the location of the village in relation to existing or planned public reserves.
- 5.14 In the case of *Adams v Thames-Coromandel District Council* the Environment Court considered a request for a case-specific financial contribution in the district plan.<sup>22</sup> It declined to include the rule on the basis that:<sup>23</sup>

The scheme of the Act is that a territorial authority may make general rules about calculation or assessment of financial contributions in its district plan, but the application of those rules to particular cases is to be decided on specific resource-consent applications. So the sufficiency of the vesting of a reserve, and of planting and other works required, is not to be determined in a particular case by a rule, nor judged on a reference. The extent of the financial contribution required in a particular case, and the credit to be given for land to be vested as reserve and for works provided, are to be assessed in deciding conditions to be imposed on resource-

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<sup>20</sup> Paragraphs 23 and 30 of the Rebuttal Statement of Evidence of Mr McIlrath dated 1 September 2023. Mr Akehurst has agreed that FCs are an appropriate mechanism to help fund the effects of growth; and that the mechanics and calculation methodology used to derive Waipā District Council’s FCs are appropriate in paragraphs 2.1(c) and (d) of the JWS.

<sup>21</sup> Paragraph 1.4.10 of the s42A Addendum.

<sup>22</sup> A033/2004.

<sup>23</sup> *Ibid*, at paragraph [17].

consent application. They are to be assessed in accordance with general rules in the plan.

- 5.15 Mr Akehurst has made similar requests for retirement village specific reductions from the existing three waters and transport financial contributions in Section 18. As outlined in paragraph 4.3 of these submissions, PC26 did not propose any changes to the existing methodology for financial contributions; accordingly I submit that the submissions by RVA/Ryman on these financial contributions are out of scope of PC26.
- 5.16 Mr Akehurst also raises concerns regarding the potential for “double-dipping” by recovering the same costs through development contributions and financial contributions. As explained by Mr McIlrath, this is specifically recognised in the methodology for the new financial contributions and will be reviewed on a case by case basis.<sup>24</sup>

## 6. NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY 2023

- 6.1 In Direction #18 the Panel recognised that the NPS-IB had been released and became operative on 4 August 2023, and that the Panel must take it into account in the current IPI processes. Any party to PC26 wishing to provide submissions or evidence in respect of the NPS-IB was directed to do so as part of the timetabling for this hearing.
- 6.2 The NPS-IB is addressed by the Council’s s42A authors in section 4.2 of the s42A Report. The objectives and policies of the NPS-IB and some of the implementation policies have immediate effect. Regional biodiversity strategies and identifications of significant natural areas (SNAs) in district plans will need to be implemented by regional and local authorities over the next 10 years.

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<sup>24</sup> Paragraphs 28 and 31 of the Rebuttal Statement of Evidence of Mr McIlrath dated 1 September 2023. Matters relating to the relationship between financial contributions and development contributions are agreed at paragraph 2.2 of the JWS.

- 6.3 PC26 is considered to give effect to the NPS-IB by including modifications to the MDRS to accommodate the protection of biodiversity corridors, significant indigenous vegetation and significant habitats of indigenous fauna as qualifying matters in the Medium Density Residential Zone through the following rules:
- (a) On sites adjoining an SNA, a setback of 20m is proposed along the boundary of the SNA for two or more dwellings (Rule 2A.4.2.6(f));
  - (b) On sites located within the River/Gully Proximity Qualifying Matter Overlay the maximum building coverage must not exceed 40% of the net site area (Rule 2A.4.2.8.1); and
  - (c) Within the River/Gully Proximity Qualifying Matter Overlay a residential dwelling at ground floor level must have a landscaped area of a minimum of 30% of a developed site with native plants (which can include the canopy of trees regardless of the ground treatment below them) (Rule 2A.4.2.24A).
- 6.4 In addition, as noted at paragraph 4.16 of these submissions, the new financial contributions for residential amenity and Te Ture Whaimana will also contribute to giving effect to the NPS-IB, particularly Policies 13 and 14 which seek the restoration of indigenous biodiversity and the promotion of an increase in indigenous vegetation cover within urban and non-urban environments.
- 6.5 The letter from Ms Craven for the WRC supports the setback from SNAs (Rule 2A.4.2.6(f)) and the requirement for additional landscaping within the River/Gully Proximity Qualifying Matter Overlay (Rule 2A.4.2.24A) and agrees that these provisions give effect to the NPS-IB.
- 6.6 The Council is not aware of any further evidence being submitted regarding the NPS-IB.

**7. REPORT ON CONSULTATION**

7.1 In paragraph 12.6 of the Closing Submissions of counsel for Waipā District Council dated 19 May 2023 I advised that the Council proposed to conduct an information campaign to inform the Waipā community of the proposed changes to the Commercial Zone proposed as part of PC26. Paragraph 12.7 proposed that, while feedback would not be formally requested, any feedback received would be collated and reported to the Hearing Panel by August 2023. The Council now takes this opportunity to confirm that no feedback has been received.

**8. EVIDENCE**

8.1 Evidence for the Council will be given by:

- (a) Tony Quickfall, previously Manager of District Plan and Growth at Waipā District Council. As Mr Quickfall is no longer at the Council, Mr Tony Coutts is also available to answer questions of the Panel. Mr Coutts provided evidence at the April/May hearing of PC26.
- (b) Lawrence McIlrath, Director of Market Economics.
- (c) Council's section 42A authors: Damien McGahan, Principal, Aurecon NZ Ltd and Melissa Needham, Senior Planner, Aurecon NZ Ltd.

Signed this 15<sup>th</sup> day of September 2023



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W J Embling  
Counsel for Waipā District Council