BEFORE THE HEARING PANEL

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of Proposed Plan Change 12 to the Operative Hamilton City District Plan

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STATEMENT OF EVIDENCE OF CLARE PHILIPPA DOUGLAS

(FINANCIAL CONTRIBUTIONS)

Dated 26 June 2024

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INTRODUCTION

1. My full name is Clare Philippa Douglas.

2. I hold the position of Senior Planner within the City Planning Unit of Hamilton City Council (**HCC**).

3. I hold the qualification of a Bachelor of Social Science from Waikato University. I have had 14 years' experience in both Resource Consenting and Policy Planning roles in Local Government and consultancy within New Zealand.

4. As part of my current role, I have been involved with the preparation and drafting of Plan Change 12 (**PC12**) over all topics as well as a number of other plan changes.

CODE OF CONDUCT

5. My role in preparing this evidence is that of a policy planner. I am familiar with the Code of Conduct for Expert Witnesses (Environment Court Practice Note 2023) and although I note this is a Council hearing, I agree to comply with this code. The evidence I will present is within my area of expertise, except where I state that I am relying on information provided by another party. I have not knowingly omitted facts or information that might alter or detract from opinions I express.

SCOPE OF EVIDENCE

6. The purpose of this evidence is to:

    a) Provide an overview of the background to the financial contributions components of PC12 (**Financial Contributions provisions**);

b) Highlight what I consider to be the key issues raised by submitters and provide a recommended new set of provisions; and

c) Consider the Financial Contributions provisions set out in PC12 in light of the requirements of the Resource Management Act 1991 (**RMA**) (Part 2 and s32), and the higher order planning instruments and the Operative District Plan (**ODP**).

7. This evidence is structured as follows:

a) Summary of evidence;

b) Background;

c) Scope of Plan Change;

d) Summary of the notified PC12 Financial Contributions provisions;

e) Recommended changes to notified provisions;

f) Statutory considerations;

g) Relevant policy statements and plans; and

h) Conclusion.

EXECUTIVE SUMMARY

8. Section 77E and 77T of the RMA allows HCC to include a rule to incorporate financial contributions in the District Plan to offset the effects of the increase in density.

9. The notified version of PC12 included deleting the existing Financial Contributions Chapter of the Plan and replacing it with new and more

directive provisions relating to financial contributions.

10. I have reviewed the submissions and have recommended a number of amendments to the notified Financial Contributions provisions to reflect relief sought in submissions. A summary of the submissions and my recommendations are contained within **Appendix B.**

11. In addition, since preparing my recommendations and the draft provisions I have given further consideration to the developers' need for cost certainty. I recommend that a maximum amount be added to the formula. For the Te Ture Whaimana purpose, I recommend a maximum charge of $2000 per PUD, and for the Residential Amenity purpose, I recommend a maximum charge of $3400 per PUD.

12. The provisions are consistent with the relevant National Policy Statements, National Environmental Standards and the Waikato Regional Policy Statement (**WRPS**) in Appendix 3.1 of the s32 report – Relevant statutory provisions, planning instruments, strategies and plans.

13. HCC made a submission on the Financial Contributions provisions proposed under PC12. I agree with the submission and have recommended changes to the provisions accordingly.

14. The recommended Financial Contributions provisions are efficient and effective and consistent with the RMA by ensuring sustainable management in relation to the effects from the increase in density on Residential Amenity, Te Ture Whaimana and Infrastructure.

BACKGROUND

Financial Contributions

15. Financial contributions are provided for in Chapter 24 of the ODP.

16. Since the provisions were made operative in 2017, they have not been utilised as HCC has relied on Development Contributions to fund growth.

17. In December 2021 the Resource Management (Enabling Housing Supply) Amendment Act (**Amendment Act**) was passed into law. The Amendment Act introduced a suite of amendments to the RMA and the National Policy Statement on Urban Development (**NPS-UD**).

18. Section 77E of the RMA now provides the ability for HCC to require a financial contribution for any activity other than a prohibited activity. Previously financial contributions could only be collected through the resource consenting process, whereby a condition of consent could be imposed under RMA s108(2). The fundamental difference is that financial contributions can now be collected for permitted activities – that is all developments that do not require resource consent.

19. HCC has taken the opportunity to strengthen its Financial Contributions provisions under PC12, ensure they are fit for purpose and are legally enforceable.

20. As Hamilton continues to intensify and becomes more urbanised, environmental protection, community and social infrastructure must keep pace with the rate of change, yet mechanisms to identify and fund this softer infrastructure are lacking.

21. Through PC12, HCC proposes changes to Chapter 24 that will offset the adverse effects of the scale of intensification enabled by the plan change

and will fund the installation of soft infrastructure necessary for growing communities and assist in HCC giving effect to Te Ture Whaimana.

Notification and Directions

22. PC12 was publicly notified in August 2022 for 30 working days with further submissions in November 2023.

23. Since submissions closed, the following has occurred in relation to financial contributions:

    a) A Joint Themes and Issues Report was provided by Waipā District Council, Waikato District Council and HCC on 15 December 2022. This included comment on the financial contributions aspects of PC12 (Hamilton City) and of PC26 (Waipā);

    b) A Joint Opening Hearing was held in Hamilton from 15 to 17 February for the purpose of providing a strategic overview of the Waikato IPIs for the Hearing Panel;

    c) Following the joint hearing, Direction 9 was issued by the Hearing Panel for all submissions on Chapter 24: Financial Contributions of PC12 to be heard jointly with submissions on Section 18 of PC26 to the Waipa District Plan, at the end of the hearing of PC12;

    d) Waipa's District Council's hearing was held in April and May 2023. A Panel direction was issued in relation to PC26 that the Financial Contributions provisions would be heard separately from HCC due to delays with HCC's timetable. The Panel's recommendations on PC26 were received on 15 March 2024;

    e) On 29 June 2023, HCC requested to defer the hearing on PC12 until later in 2024 due to revised flood hazard modelling underway; and

f) In August 2023, the Minister agreed to HCC's request for an extension of the decision on PC12 to December 2024.

PLAN CHANGE 12 NOTIFIED PROVISIONS

24. The Financial Contributions provisions in the notified version of PC12:

a) Proposed to delete the existing chapter and replace it with provisions related to three general purposes that financial contributions will be used for. That being:

i. Streetscape and amenity enhancement;

ii. Giving effect to Te Ture Whaimana objectives; and

iii. Renewal and connections of local network infrastructure.

b) Calculated financial contributions based on number of bedrooms for residential developments and Gross Floor Area (**GFA**) (per $100m^2$) for non-residential developments; and

c) Used equity conversion factors to represent the differences in relative effect between residential, commercial, retail and industrial developments; and

d) Calculated financial contributions using a universal citywide catchment.

RECOMMENDED CHANGES TO THE NOTIFIED PROVISIONS

Overview

25. In total, 349 submissions were received for PC12. This translates to 2490

individual submission points. Of these, 41 submissions (74 submission points) relate directly to the proposed amendments to the Financial Contributions Chapter.

26. I have broken the submissions into themes and my analysis and reasoning for my recommendations is attached in **Appendix B**.

27. The common concerns raised by submitters relate to:

    a) Financial contributions should not be charged for non-residential uses;

    b) There needs to be a distinction between greenfields and brownfields development;

    c) Remove renewal charges;

    d) Issues with the calculation methodology;

    e) Potential double dipping with funding; and

    f) Charging to give effect to Te Ture Whaimana is unclear and Waikato-Tainui should have oversight.

28. All concerns raised by submitters are assessed in **Appendix B**.

Recommendations:

29. As set out in **Appendix B** the key changes I recommend to the notified Financial Contributions provisions are as follows:

    a) Remove financial contributions charges for non-residential activities;

    b) Remove renewal charges;

c) Include capped financial contributions values;

d) Remove the bedroom-based approach and charge on 1 PUD/dwelling;

e) Allow collection of financial contributions for acquiring land for new parks and the maintenance of parks;

f) Include a provision to enable HCC to apply a discount where mitigation measures undertaken as part of development have contributed to the purposes of financial contributions; and

g) Include a purpose to offset adverse effects on infrastructure not captured by development contributions.

30. Other smaller changes are recommended in **Appendix B**.

31. A copy of the recommended changes to Chapter 24 Financial Contributions and the associated appendix are attached in **Appendix A**.

General structure and calculation

32. Following the recommended amendments, financial contributions will be used for:

a) Three waters and transport network connections;

b) Residential amenity; and

c) Giving effect to Te Ture Whaimana objectives.

33. The financial contributions charge for Three Waters and Transport connections will be charged at 100% recovery of actual costs.

Residential Amenity and Te Ture Whaimana

34. The financial contributions for residential amenity and Te Ture Whaimana is calculated by distributing the total projected cost of capital spending over 10 years equitably between developments in the city.

35. The contribution any development might be required to pay is calculated based on the following components:

    a) The number of Projected Unit of Demand (**PUDs**). Dwellings and non-residential GFA projections for the next 10 years are derived from the NIDEA 10-year projections (high) and the 2018 Waikato Integrated Scenario Explorer (**WISE**) forecasts.

    b) The PUD cost. The total capital spending over 10 years for the two identified purposes of financial contributions (being residential amenity and Te Ture Whaimana) is split equally amongst the PUDs over the same period to calculate the PUD cost.

    c) The formula to be used to calculate a financial contribution is:

$$\text{Number of PUDs} \times [\text{PUD Cost}]$$

36. As at the date of this evidence, the total quantum of the capital and operational expenditure for Te Ture Whaimana and residential amenity is not known, although at the time of preparing PC12, over a 10 year period the amounts were estimated to be approximately $44M for Te Ture Whaimana, and approximately $36M for residential amenity. This corresponded to an estimated charge of around $1700 per PUD for Te Ture Whaimana, and $3000 per PUD for residential amenity.

37. In the current draft provisions, due to uncertainty, these total estimated costs are not identified. I acknowledge that without these amounts

recorded in the ODP, developers cannot apply the calculation methodology to determine the total financial contributions. I recommend that either these amounts be recorded in the ODP, or if that is not possible, the calculation formula set out in Appendix 18 be amended to record a maximum financial contribution for each purpose.

38. I am advised that the above capital and operation costs were based on 2021 estimates which are now outdated. To update them it is recommended to inflate these costs by the overall producer price index of 14% to $53.3M for Te Ture Whaimana and $41M for residential amenity in order to provide a more accurate, and current cost estimate. Based on these updated estimates, a maximum capped rate can be set using the formula in Appendix 18. On this basis I recommend that the maximum financial contribution be set at $2000 per PUD for the Te Ture Whaimana purpose, and $3400 per PUD for the residential amenity purpose, excluding GST. I note that the lower rate for Te Ture Whaimana, despite the higher estimated costs, is due to it being recovered against residential and non- residential development. Whereas the residential amenity charge is only attributed to residential development.

39. An inflation factor will also be added to the maximum capped rate annually based on the Producers Price Index Outputs rate provided by Statistic New Zealand.

40. I acknowledge that the recommended capped maximum rate is not reflected in the Financial Contribution provisions provided on 27 May 2024. These provisions will be updated and provided for the hearing.

Administration of financial contributions

41. For developments not requiring resource consent, financial contributions will be payable on the earlier of either building consent or service connection.

42. For permitted activities, issue of building consent and authorisation of service connection will be withheld until the financial contribution payment is received.

43. Developments requiring resource consent will be required to pay financial contributions as set out in the conditions of consent.

44. Financial contributions required as a condition of subdivision consent will be payable prior to issue of 224C Certificate. Financial contributions required as a condition of land use consent will be payable as specified in the consent condition.

45. HCC will do a special assessment where developers can demonstrate they have already completed the matters required for financial contributions. Possible remissions will be determined on a case-by-case basis and be dependent on the extent to which a developer offsets the effect on site.

Hamilton City Council Submission

46. HCC made a submission to its own plan change in relation to financial contributions including:

    a) Request to clarify whether the contributions include GST;

    b) Amend Appendix 18 to incorporate the cost of recognising, protecting, enhancing, and commemorating historic resources and sites of significance;

    c) Amend the policy framework of Chapter 24 and Appendix 18 so that it is clear that the Plan can require a financial contribution for the purposes of acquiring land for new parks

and the maintenance of parks; and

d) Include a general rule that enables HCC to utilise its discretion when calculating the level of financial contribution required; and include a provision that clearly articulates the application of the financial contribution rules to greenfield development areas.

47. My analysis of all submissions, including the HCC submissions is included in **Appendix B**. The costs of recognising, protecting, enhancing, and commemorating historic resources and sites of significance have not been specifically included. This topic is captured under Te Ture Whaimana and residential amenity and can therefore be charged for. I support making the changes outlined in a), c) and d) above.

STATUTORY CONSIDERATIONS

48. The statutory requirements relevant to PC12 are outlined in Appendix 3.1 of the s32 report. The plan change contains all the necessary information and assessments in terms of clause 22 of Schedule 1 to the RMA. The purpose and reasons for the Plan Change have been outlined in the s32 report and supporting documents.

Sections 74 and 75

49. Sections 74 and 75 of the RMA set out the matters to be considered by a territorial authority, and the contents of district plans. Section 74 is concerned with having regard to and ensuring consistency with any regional policy statements or regional plans, management plans and strategies under other Acts.

50. PC12 has been prepared under the requirements of s31 and s32 with the appropriate analysis being carried out.

Section 77E

51. Section 77E of the RMA sets out when a rule relating to financial contributions can be included. The rules must include:

    a) The purpose for the financial contribution (may be for the purpose of ensuring positive effects on the environment);

    b) How the financial contribution will be determined; and

    c) When the financial contribution will be required.

52. The recommended provisions meet the requirements set out in s77E.

Section 77T

53. The ability for HCC to levy financial contributions to address effects of residential intensification was specifically provided for in HSAA through the inclusion of s77T of the RMA.

Section 31

54. Section 31 of the RMA sets out the functions of a territorial authority with respect to integrated management and the control of actual and potential effects. In preparing the Plan Change, HCC has given effect to these functions.

Section 32

55. Section 32 requires an evaluation of the proposed objectives and provisions of the plan change. A detailed s32 analysis has been undertaken for PC12. The requirements of that provision and the s32

evaluation undertaken for PC12 are addressed in Part 2 of the s32 report.

Relevant Policy statements and Plans

56. PC12 has been assessed against the relevant National Policy Statements, National Environmental Standards and the WRPS in Appendix 3.1 of the s32 report. My recommendations on the Financial Contributions Chapter continue to be consistent with the assessment in the s32 report. In particular, the financial contributions continue to be consistent with:

    a) The Amendment Act;

    b) NPS-UD;

    c) Te Ture Whaimana; and

    d) WRPS.

CONCLUSION

57. In conclusion, the financial contributions are consistent with s77E and s77T of the RMA in relation to making a rule on financial contributions.

58. The Financial Contributions provisions are considered to be more efficient, effective and more optimal than the existing operative planning provisions or alternatives. The s32 assessment demonstrates that the proposed policies and methods are the most appropriate for giving effect to the WRPS and implementing the objectives identified in the ODP and for achieving the purpose of the RMA.

59. The recommended Financial Contributions provisions are considered to reflect sustainable management and the optimal outcome to address a range of resource management issues for the city including the effect

increased density has on residential amenity, Te Ture Whaimana and infrastructure.

Clare Phillipa Douglas

26 June 2024

APPENDIX A – Officers' Recommended Amendments to PC12 Provisions

A full set of the recommended amendments to provisions is available on HCC's external PC12 web page.

https://hamilton.govt.nz/property-rates-and-building/district-plan/plan-changes/plan-change-12/

APPENDIX B – Response to Submissions

Plan Change 12 – Intensification Planning Instrument

APPENDIX B
HCC RESPOSNSE TO FINANCIAL CONTRIBUTION SUBMISSIONS

Prepared by: Clare Douglas
Authorised by: Mark Davey – City Planning Manager, Hamilton City Council

1.0 Introduction

This report has been prepared to:

- assist the Independent Hearings Panel ("IHP") in making their recommendations on the submissions and further submissions on PC12 that are relevant to financial contributions (FC's); and
- provide submitters with an opportunity to see how their submissions have been evaluated by Council, prior to the hearing.

This report uses 'key themes' to group and address matters raised in submissions and further submissions.

The report includes officer recommended responses to submission points and, where appropriate, proposed amendments to PC12.

1.0 Scope of Report- Relevant Plan Change Provisions

This report considers submissions and further submissions received in relation to Chapter 24 Financial Contributions.

3.0 Statutory Requirements

PC12 was supported by a section 32 evaluation report titled 'PC12 – Enabling Housing– Section 32 Evaluation Report, dated August 2022 ("the Section 32 Report"). The Section 32 report was accompanied by 17 supporting documents that formed appendices to the Section 32 report.

The Section 32 Report and supporting assessment suite has been evaluated and is considered generally robust and thorough and suitable for supporting PC12.

4.0 Overview of Submissions Received

The following table provides an overview of the submissions made on the Financial Contribution Chapter.

Total number of submitters	41
Total number of submission points	74 *Including 24 in opposition, 18 in support and 34 supporting in part*
Total number of submitters who wish to be heard	31
Total number of further submission points	82

7.0 Key Themes and Issues

The following emerging themes have been identified.

1. Removal of non-residential financial contribution charges.
2. The citywide approach to FC's as they apply to greenfield development.
3. Remove renewals charge.
4. Issues with the calculation methodology.
5. Potential double dipping with funding.
6. Charging to give effect to Te Ture Whaimana is unclear.
7. General opposition to use of development contributions

8. General support use of financial contributions
9. Other matters

The submissions on these topics are grouped together and assessed in the below table.

The recommendations on the Financial Contribution provisions have been drafted with input from the Growth Funding and Analytics Unit of Council whose role includes drafting and managing the Development Contributions Policy.

Theme 1- Removal of non-residential financial contribution Charges
Several submissions have been made which oppose the non-residential financial contribution charges. These submissions are summarised as follows: • Out of scope with the residential intensification plan change (Submission 163.5, 240.1, 281.14, 332.1). • The financial contributions disproportionately impact commercial land (Submission 163.5, 175.1, 240.1). • Retail activities do not generate effects on the Waikato River (Submission 240.1). • Using vehicle movements to establish demand is inappropriate given the blurred relationship between use of retail outlets vs residential growth (Submission 163.5, 175.1, 240.1). • Opposition to Te Ture Whaimana financial contributions for non-residential development in Te Awa Lakes precinct due to positive amenity effects which give effect to Te Ture Whaimana (Submission 249.7) • No feasibility analysis undertaken for use of financial contributions on non-residential activities (Submission 163.5, 175.1).
Submission points relating to theme
163.5, 175.1, 240.1, 249.7, 281.14, 332.1
Further submission relating to theme
364, 366, 382, 531, 549, 570
Analysis
The notified provisions include financial contribution charges for non-residential activities. Several submissions were in opposition to these charges. PC12 is a change relating to residential intensification. The non-residential financial contributions are out of scope with the IPI. The use of FCs should be confined to offsetting the effects stemming from the increase in residential densities. Despite this it is recommended that non-residential growth projections still be included in the calculation of Te Ture Whaimana to acknowledge the impact that non-residential development has on such projects. This will not result in charging of non-residential financial contributions. This results in lower Te Ture Whaimana financial contributions for residential developments than if non-residential growth projections were excluded. On this basis, HCC recommend accepting all of the above submissions and removing financial contributions for non-residential activities through PC12.
Recommended Changes
• Remove financial contributions charges for non-residential activities and amend the rules to retain the non-residential growth projection calculation. • Remove definition of non-residential development.

Theme 2- The citywide approach to FCs as they apply to greenfield development.

Several submissions have been made which oppose financial contributions in Greenfield Areas.

These submissions can be summarised as follows:

- FC's should not be charged on Greenfields areas (181.6, 243.9).
- FC's should be fully recovered in brownfields areas which are responsible for the adverse environmental effects (107.4, 278.1).
- FC's are more suited to brownfield where the developer focuses solely on work on one property and the funds are needed to retrofit/upgrade existing infrastructure to meet demand (Submission 181.6).
- Current approach provides no recognition of substantial costs greenfield developments face through direct provision of infrastructure and streetscape amenity (Submission 181.6, 243.1, 243.9, 278.1).
- Alter definition of greenfield to clearly identify relevant areas (Submission 243.1).
- No FC's should apply in Rotokauri North as all effects resulting from the development have been addressed by either Development Contributions and/or the private development agreement (Submission 241.36).
- No FC's should apply in Peacockes Precinct (Submission 243.9).
- The methodology to mitigate the effects of intensification seeks to share the costs of intensification in brownfields areas with greenfield areas, despite greenfield areas receiving little or no benefit from these works (Submission 325.1, 278.1).
- Financial contributions should not be required in respect of amenity or Te Ture Whaimana in Te Awa Lakes precinct, a master planned community which creates positive amenity effects; and gives effect to Te Ture Whaimana, including for betterment (Submission 249.7).
- Include a rule that enables Council to utilise its discretion when calculating the level of financial contribution and articulates the application of the financial contribution rules to greenfield development areas (Submission 270.23).
- The objective stating the purpose of financial contributions should be amended to emphasise that these should only be required to avoid, remedy or mitigate adverse effects of a development that cannot be appropriately managed on-site (Submission 160.27).

Submission points relating to theme

107.4, 160.27, 181.6, 241.36, 243.9, 243.1, 249.7, 270.23, 278.1, 325.1

Further submission relating to theme

362, 371, 373, 378, 412, 418, 476

Analysis

The notified financial contribution provisions proposed that developments paid the same FC, irrespective of whether the development was in the Infill or Greenfield catchment.

Submissions highlight that in greenfield subdivisions, developers already provide infrastructure, stormwater mitigation measures, and streetscape amenity, and therefore charging for greenfield is a form of "double dipping" by the Council. They argue that greenfield development should not be used to subsidise infill development and that the costs incurred by greenfield developers to mitigate adverse environmental effects should be recognized and accounted for separately.

Developers in the Greenfield catchment that can demonstrate they have already contributed to matters covered by financial contributions through on-site works or Private Developer Agreements will be entitled to an offset of FCs by way of remission. This will be written into the Financial Contribution Policy, be determined on a case-by-case basis and be dependent on the extent to which

a developer offsets the effect. It is recommended to include a rule in the provisions that enables Council to use its discretion to apply a discount when calculating the level of financial contribution required. This is not recommended to be limited to greenfield as there may be other cases in brownfield where matters covered by financial contributions are sufficiently provided for onsite. The recommended rule aligns with the Waipa District Council. On this basis I recommend that the following submissions be accepted in part 107.4, 181.6, 241.36, 243.9, 249.7, 270.23, 278.1, 243.9, 325.1.

One submitter requested that the definition of greenfield should be altered to clearly identify relevant areas. This is impractical given that a greenfield area will no longer be greenfield when it is developed. This would mean constant updates to the District Plan would be needed. I recommended that submission 243.1 be rejected.

One submitter has requested amendments to emphasise that FC's should only be required to avoid, remedy or mitigate adverse effects of a development that cannot be appropriately managed on-site. The matters covered by financial contributions including (three waters/transport network connections; parks/reserves/open space network; and streetscape amenity) can only be managed on site on large developments. Financial contributions are only taken where effects cannot be avoided or satisfactorily mitigated on site. It is considered appropriate that this submission (160.27) is accepted.

Recommended Changes

- Inclusion of the wording where 'cannot be appropriately managed on-site'.
- Include a provision to enable Council to apply a discount where mitigation measures undertaken as part of development have contributed to the purposes of Financial Contributions.

Theme 3- Remove renewals charges

Several submissions have been made which oppose network infrastructure renewals. These submissions are summarised as follows:

- In relation to three waters/transport network improvements and capacity upgrades, financial contributions are only appropriate as a mechanism where there is insufficient capacity at the point of connection, to service the development and any effects of the development cannot be managed on site (Submission 107.4, 160.269, 160.277, 160.282, 160.275)
- Contribution towards network renewals is similar to what is required through DC's rather than being bespoke contribution that is tailored to address the particular upgrade requirements associated with development, the rate needs to be dynamic and responsive to the effect of capacity rather than a flat rate. Amend 24.4.3b to clearly state destination of funding (Submission 160.284)
- The capacity upgrades are deceptively referred to as "Network Renewals" in an attempt to distinguish the assumed costs of capacity upgrades from the costs allocated of growth identified in the DC Policy (Submission 107.4).
- Arbitrary cost allocation to renewals (Submission 107.4).
- Proposed definition of renewal defies common logic and general understandings of term 'renewal' (Submission 107.4).
- The infrastructure renewal FC has been constructed to transfer costs from future infill development to greenfield development in a manner that is unrelated to the adverse environmental effects that can be attributed to greenfield development (Submission 107.4).
- Unclear how Three Waters/Transport infrastructure will differ from growth related capital expenditure (Submission 332.1)

- Opposes FCs as they are largely due to inadequate infrastructure (Submission 343.64)

Submission points relating to theme

107.4, 160.276, 160.269, 160.275, 160.282, 160.284, 332.1, 343.64

Further submission relating to theme

383, 531, 531, 579

Analysis

There are a large number of submissions opposing the network renewal component of the notified financial contributions provisions.

The notified definition for network renewals is the '*repair and replacement of existing network components due to age and wear and tear, so that new and additional development can connect to the network without causing adverse effects on the network'.*

Over time local infrastructure networks wear out and requires renewal. Renewal costs are prompted by new development within a particular area.

To ensure the much-needed upgrades are occurring at the local level, it was proposed to collect part of the cost of renewing local network infrastructure through FCs in the notified version PC12.

The renewals component was included in the notified financial contributions provisions as that component is not claimed through the DC Policy. As renewals are not claimed through development contributions, there is no overlap between financial contributions and development contributions.

However, to ensure there is no overlap with DC's and for clarity it is recommended to remove renewals and just refer to connections where 100% of recovery of costs incurred by Council will need to be paid. On this basis it is recommended that the following submissions be accepted 107.4, 160.269, 160.277, 160.282, 160.284 160.275, 332.1, 343.64.

Recommended Changes

- Remove renewal charges.
- Remove definition for network renewals.

Theme 4- Issues with the calculation methodology

Several submissions have been made relating to the calculation methodology for financial contributions. These are summarised as follows:

- The calculations employ meaningless projections with no merit in relation to asset replacement and maintenance (Submission 341.5).
- Clarification on the figures and what locations these apply to (Submission 265.59).
- Concern that FC's will not be enough to offset effects as well as provide betterment of the River (Submission 236.23).
- Contribution needs to be dynamic and responsive to the effect of capacity rather than a flat rate (160.284, 160.279)
- Clarification of use of GST in the charges (Submission 270.24).
- Council undertake a full review of the efficiency and effectiveness of spending existing revenue before seeking new revenue streams (Submission 181.6).
- Review the cost allocations associated with the Te Ture Whaimana (including consideration of the environmental degradation attributable to all historical development in Hamilton) and reset the Te Ture Whaimana FC charge accordingly (Submission 107.4).

- Review the cost allocations associated with the Streetscape FC to take reasonable and appropriate account of the benefits to be enjoyed by existing residential development and reset the FC charges accordingly (Submission 107.4).
- Rate payers should not be financially liable, concern that developers will not cover the costs (Submission 341.5, 128.2, 128.7).
- Request for consultation of fees (Submission 137.2).
- Operational costs should be factored into FC's (Submission 245.4).
- Make calculation transparent and compliant with national standards (128.7).
- Concern that FC's will not be sufficient to offset effects and provide betterment of the awa (Submission 236.23).

Submission points relating to theme

107.4, 128.2, 128.7, 137.2, 160.279, 160.284, 181.6, 236.23, 245.4, 265.59, 270.24, 341.5

Further submission relating to theme

370, 373, 413, 520, 531, 579, 579

Analysis

Several submissions were made in opposition to the calculation methodology for financial contributions.

Capped values

The notified provisions included a calculation methodology with financial contribution values.

The total quantum of the capital and operational expenditure for Te Ture Whaimana and residential amenity is not known, although at the time of preparing PC12, over a 10 year period the amounts were estimated to be approximately $44M for Te Ture Whaimana, and approximately $36M for residential amenity.

Projects and to a lesser extent growth projections, which are the drives of the FC charge/unit are likely to change over Long-Term Plan (LTP) periods going forward. References to specific dollar values mean Council is limiting its ability to recover actual FC project costs in the future via an unintentional cap.

However, without a maximum capped rate, there would be no certainty for developers on what costs are going to apply to their development.
It is recommended to get the final Financial Contribution cost based on projects identified in the LTP, however a maximum capped financial contribution rate is also recommended.

The above capital and operation costs were based on 2021 costs. It is recommended to inflate these costs by the overall producer price index of 14% to $53.3M for Te Ture Whaimana and $41M for residential amenity in order to provide a more accurate maximum capped rate. On that basis I recommend that the maximum be set at $2000 per PUD for the Te Ture Whaimana purpose, and $3400 per PUD for the residential amenity excluding GST. Annual inflation will also be added to the capped rate. The following methodology to calculate the financial contributions is recommended.

a. The financial contribution charge be calculated by distributing the total projected cost of capital spending over 10 years equitably between developments in the city.
b. The contribution any development might be required to pay is calculated based on the following components:
    i. The number of Projected Unit of Demand (PUDs). Dwellings and non-residential GFA projections for the next 10 years are derived from the NIDEA 10-year projections (high) and the 2018 Waikato Integrated Scenario Explorer (WISE) forecasts.

ii. The PUD cost. The total capital spending over 10 years for the identified purposes of financial contributions be split equally amongst the PUDs over the same period to calculate the PUD Cost.

c. The formula to be used to calculate a financial contribution can be described as:

$$Number\ of\ PUDs \times [PUD\ Cost]$$

The PUD cost will need to be worked out through the LTP. This has not been included within the current 2024 LTP but incorporation of the recommended provisions in the District Plan will leave this option available for future LTPs.

This approach will enable Council to recover the full actual cost of the impact of development going forward from those who create the effect.

Use of the LTP to set costs will ensure projections are accurate and it is clear how the financial contributions are calculated. Use of the LTP will ensure that all revenue streams are considered.

The LTP is a transparent process which goes through consultation.

A submitter has asked for clarification on the use of GST (270.24). The formulas are GST exclusive. A comment to this effect has been included in the calculation methodology.

General infrastructure provision from ODP

The ODP includes the following purpose for financial contributions:

> *To offset the adverse effects of subdivision and development on infrastructure not otherwise addressed by Council's Development Contributions Policy under the Local Government Act 2002.*

It is recommended to include this purpose to enable Council to mitigate specific effects of a particular development on infrastructure outside of the broad effects covered by Te Ture Whaimana, Residential Amenity and Threewaters/Transport Connections. This will assist in meeting submissions relating to concerns about financial contributions not being sufficient to cover effects.

Remove bedroom based approach

In the notified version of the plan the FC charge was based on the number of bedrooms a dwelling had. The more bedrooms a dwelling had, the higher the FC charge.

An equity conversion factor (based on transport conversion factors from the DC Policy) was used to ensure that a higher demand generating development paid more.

Following review of submissions and consideration of the methodology Council accepts that transport conversion factors from the DC Policy may not be the best proxy for effect on the environment under the RMA.

It is proposed that the bedroom-based approach be removed, and FC charges be based on 1 PUD/dwelling. This method will ensure that larger residential developments that have a greater effect on the physical and natural environment will pay a larger contribution.

The proposed change will result in an increase in charges for one-bedroom dwellings and a small increase in charges for two-bedroom dwellings. Dwellings with four or more bedrooms will have a reduced charge.

This approach aligns with the approach adopted by Waipa for Proposed Plan Change 26.

Definitions

I recommend amending a number of definitions (including 'bedroom' and 'gross floor area' and include a definition for 'projected unit of demand (PUD)') due to the change in approach in the

calculation methodology. I also recommend deleting the definition on 'development' as this is already adequately covered in the District Plan.

On the above basis it is recommended that the following submissions be accepted 107.4, 128.2, 128.7, 137.2, 160.284, 160.279, 181.6, 236.23, 245.4, 265.59, 270.24, 341.5.

Recommended Changes

- Remove specific FC cost and replace with capped FC value.
- Amendments to calculation methodology.
- Remove bedroom-based approach and charge on 1 PUD/dwelling.
- Remove definition of 'bedroom' and 'gross floor area' and include definition for 'projected unit of demand (PUD)'.
- Include general infrastructure purpose from the Operative District Plan.
- Include a statement that the formulas are exclusive of GST.

Theme 5- Potential double dipping with funding *(not otherwise captured in Theme 2 and 3)*

Several submissions have been made which oppose financial contributions as they are already covered by Development Contributions or alternative funding sources.

These submissions are summarised as follows:

- Costs already recovered through Development Contributions and rates (Submission 181.6, 240.1, 266.36, 281.14, 330.134, 325.1).
- Need explanation of how the relationship between FC's and DC's will be managed and implemented (Submission 266.36, 281.14).
- No clear identification on what is effects mitigation (FC's) and what is for growth (DC's) (Submission 266.36, 281.14).
- Alternative sources of funding for infrastructure upgrades such as Nature in the City Programme or the infrastructure acceleration fund not considered.
- Exclude areas where there are negotiated private development agreements in place (Submission 181.6, 329.7).
- Council needs to look at how it is spending its money and whether it is the most efficient and effective use of funds before increasing revenue (181.6)

Submission points relating to theme

181.6, 240.1, 249.7, 266.36, 281.14, 330.134, 325.1

Further submission relating to theme

372, 376, 379, 381, 384

Analysis

There are a number of concerns around double dipping of funding between development contributions, financial contributions and rates.

Development contributions are collected under the Local Government Act. They fund the cost of new and upgraded infrastructure for new development and growth.

Financial contributions are collected under the Resource Management Act. The purpose of Financial Contributions is to avoid, remedy, mitigate or compensate for adverse effects, or ensure positive effects on the environment to offset adverse effects from new development.

Financial contributions and development contributions cannot be collected for the same things[1].

The proposed financial contribution provisions do not cover the same matters captured by development contributions. The proposed provisions include an exemption to works funded via Council's Development Contribution Policy. As I stated in Theme 4, a change is recommended to the calculation methodology to remove costings from the provisions. Specific details on how and where this money will be spent will be worked through the LTP process. This process will show clear separation between what the development contributions and financial contributions are to be used for. Ensuring that development contributions and financial contributions are not collected for the same thing is a legal requirement and a specific provision on this does not need to be included in the provisions of the District Plan.

While money is currently collected through rates this is not sufficient to offset the effects of new development. The shift to collect financial contributions ensures that there is an additional funding source available to offset the effects. Alternative forms of funding available will be considered through the LTP process. The changes give Council the ability to charge financial contributions if needed.

Submitters (181.6 and 329.7) have requested to exclude areas where there are negotiated private development agreements in place. As stated in Theme 2 this will be possible through a remission once the financial contributions policy is in place. I recommend including a rule giving Council discretion to make this intention clear.

Based on the above, I recommend that the following submissions be accepted in part: 181.6, 240.1, 266.36, 281.14, 330.134, 325.1, 266.36, 281.14, 266.36, 281.14.

Recommended Changes

Inclusion of rule that enables Council to use its discretion when calculating the level of financial contribution required.

Theme 6– Charging to give effect to Te Ture Whaimana is unclear.

There are a number of submissions which oppose the FC related to Te Ture Whaimana as it is unclear who will administer and have oversight of the fund which will give effect to Te Ture Whaimana. The submissions are summarised as follows:

- Not clear why and how FCs are required to give effect to Te Ture Whaimana (Submission 281.14).
- Unclear who will administer and have oversight of the fund for these contributions. Further clarity is required on who will make the decision on the purpose for which the financial contribution will be applied to. As a JMA partner, it is appropriate for Waikato-Tainui to be included in the decision-making for this purpose (236.19).
- The Section 32 analysis for financial contributions implies that the fund will go to the Hamilton City Council 'Nature in the City' programme. This fund is related to biodiversity and does not seek to give effect to Te Ture Whaimana. Delete FC in its entirety until a specific policy is developed to address Te Ture Whaimana (160.269, 160.278).
- The approach does not acknowledge the role that the Waikato River Authority plays in the management of the Waikato River, and the ties between that authority and local iwi through board representation. Redraft when a specific policy is developed to address Te Ture Whaimana appropriately in consultation with Waikato-Tainui and the Waikato River Authority (160.283, 160.281)

[1] Section 200 of the Local Government Act- Limitations applying to requirement for development contribution.

- The financial contribution purposes applied to give effect to Te Ture Whaimana should not be limited to the costs listed in Residential Development 24.4.2 (a)(i)(B) as there may be other purposes that mana whenua deem more appropriate for a specific development or area (Submission 236.22).

Submission points relating to theme

Relevant Submissions: 160.269, 160.278, 160.281, 160.283, 236.19, 236.22, 281.14

Further submission relating to theme

370, 520, 531, 579, 579, 584

Analysis

One submitter (281.14) has said that it is not clear how and why FC's are required to give effect to Te Ture Whaimana. Te Ture Whaimana o te Awa o Waikato/ The Vision and Strategy for the Waikato River (Te Ture Whaimana) is the primary direction setting document for the river. All territorial authorities must give effect to Te Ture Whaimana in their planning documents. The financial contributions will be taken to offset effects from new development and ensure that development does not contribute to the degradation of the River. The financial contributions will be taken for:

- Riparian enhancement;
- Wetland creation/protection/restoration/enhancement;
- Erosion control measures;
- Ecological/biodiversity enhancement;
- Public access improvements to the Waikato River, including its tributaries;
- Weed control measures;
- Sediment reduction measures;
- Waikato River/Te Ture Whaimana education;
- Restoration/protection/enhancement of waahi tapu and sites of significance.

The specific uses will be worked through the LTP process. It is recommended to amend the wording in the provisions slightly for clarity to make it clear that the FC's are in addition to the other steps on three waters infrastructure taken in the District Plan to provide for restoration and protection of the Waikato River.

Submitters are unclear who will have oversight of the fund for these contributions (236.19) and have requested that the provisions be redrafted when a specific policy is developed to address Te Ture Whaimana appropriately in consultation with Waikato-Tainui and the Waikato River Authority (160.283 and 160.281).

How the money is to be spent will go through a separate policy and LTP process. These processes will go through consultation with Waikato Tainui and the River Authority. It is important to include the ability to charge for FC's in the District Plan now to ensure that when a policy is in place, Council can immediately begin charging. Any change to this would delay off-setting effects on the Waikato River further and risk not meeting the objectives of Te Ture Whaimana for the betterment of the Waikato River. It is therefore recommended that Submissions 160.283 and 160.281 be rejected.

One submitter has concerns with the fund going to 'Nature in the City' programme which was implied in the s32. This is because this fund is related to biodiversity and does not seek to give effect to Te Ture Whaimana. The 'Nature in the City' programme was used to calculate funds required in the notified version as it was an established Council programme. It is important to note, Council cannot include something in the LTP that is a project of another organisation. As per Theme 4 of this

report it is now recommended to remove the costings for the financial contribution and instead provide the methodology for calculation with a maximum capped rate. It will need to be worked through the LTP process to show what the funds would be specifically used for, which will need to directly offset the effects on Te Ture Whaimana. It is therefore recommended that submissions 160.269 and 160.278 be rejected in part.

One submitter has commented that the financial contributions should not be limited to the costs listed in the bullet points above as there may be other purposes that mana whenua deemed more appropriate for a specific development or area. It is recommended that this submission (236.22) be accepted, and the provisions be amended to say 'costs not limited to'.

Recommended Changes

- Remove specific FC cost.
- Amend to say 'costs not limited to' in the charging of Te Ture Whaimana FC's.
- Include additional clarity on other aspects of the Plan which give effect to Te Ture Whaimana.

Theme 7- General opposition to use of development contributions

There are a large number of submissions which generally oppose financial contributions. These are summarised below:

- Council does not appear to have attributed any benefits of the planned expenditure to existing residential development located in the existing brownfield areas of Hamilton. As a consequence, the Council is essentially using FCs to generate additional revenue in the first instance and then to transfer costs to future residential development for the benefit of existing ratepayers (Submission 107.4).
- Opposition to the inclusion of a financial contribution relating to parks/reserves/open space network and streetscape amenity. Change in character and amenity associated with this plan change is not considered to be of an adverse nature that is required to be offset through monetary payments (Submission 160.277, 160.28).
- Recommend the use of transparent, beneficiary pays alternative funding models, such as targeted rates, asset recycling or Special Purpose Vehicles for funding of three waters and transport infrastructure (Submission 166.15).
- Financial burden to developers to pay both FC's and DC's, will drive up prices of new homes (Submissions 297.3, 257.1).
- Putting cost on developers is unfair when others will benefit. In particular changes to Te Ture Whaimana and Streetscape Amenity benefit all Hamilton residents but will be borne by future development (Submissions 310.26, 310.25)
- Reduction in viability of some projects (Submission 181.6)
- Tax pays for development either through rates or a premium on the property (11.4)

Submission points relating to theme

11.4, 107.4, 160.28, 160.277, 166.15, 260.28, 181.6, 257.1, 297.3, 310.25, 310.26

Further submission relating to theme

375, 516, 531, 534, 579, 580

Analysis

Submitters stated that Council does not appear to have attributed any benefits of the planned expenditure to existing residential development located in the existing brownfield areas of Hamilton; putting cost on developers is unfair when others will benefit. In particular changes to Te Ture

Whaimana and Streetscape Amenity benefit all Hamilton residents but will be borne by future development.

The financial contribution charge is calculated by distributing the total projected cost of capital spending over 10 years equitably between new developments in the city. Financial contributions would not be required to off-set effects if there were no new developments. Other maintenance and upgrades not directly required to off-set the effects of development are covered by rates. Council needs to rely on a number of sources of funding to function effectively. It is therefore fair that new development pays the financial contribution. I recommend that Submissions 107.4, 310.26 and 310.25 be rejected.

There are submissions relating to the reduction in viability of development and the potential to drive up house prices. A capped rate is recommended so that Developers are given certainty on what charges they may face with their project before they begin. Future charges will be set out in the LTP. We are just incorporating the methodology and any costs will come through a future LTP which may be a number of years away. Therefore, it is recommended to reject in part Submissions 181.6, 297.3 and 257.1.

There is opposition to the inclusion of a financial contribution relating to parks/reserves/open space network and streetscape amenity as change in character and amenity associated with this plan change is not considered to be of an adverse nature that is required to be offset through monetary payments. The financial contributions for residential amenity will be used to offset the effects from the increased density allowed under PC12. This is for things like additional street trees to offset the additional built form; additional park benches; additional bike parks; expansion and upgrades to existing parks to cope with the increased number of users expected. It is recommended that this submission (160.277 and 160.28) be rejected as off-setting the adverse effects from the increase in residential development density is in accordance with Section 77E of the Resource Management Act.

Another submission requests the use of transparent, beneficiary pays alternative funding models, such as targeted rates, asset recycling or Special Purpose Vehicles for funding of three waters and transport infrastructure. It is recommended that this submission (166.15 and 11.4) be rejected for the purposes of this Plan Change as Council is using the method available through the Resource Management Act.

Recommended Changes

Changes recommended through other identified themes.

Theme 8- General support to use of financial contributions

A large number of submissions generally support the use of financial contributions. Submitters support developers paying, not rate payers. One submitter supports due to funding being needed from a range of sources.

Submission points relating to theme

69.5, 91.11, 107.2, 109.6, 160.4, 160.268, 160.274, 167.3, 191.3, 195.3, 225.4, 226.5, 235.59, 235.62, 235.6, 235.61, 254.4, 261.5, 276.28, 326.49.

Further submission relating to theme

358, 363, 365, 367

Analysis

No further analysis needed.
Recommended Changes
Changes recommended through other identified themes.

Theme 9- Other matters
There were several other submissions on individual topics not covered above. These are summarised as follows: - Request for additional policy and rule that does not require community housing providers to pay FC's (Submission 287.16 and 287.17). - Land vested in Council for the purposes of giving effect to Te Ture Whaimana should be exempt from further development (Submission 236.2). - The financial contribution rate is insufficient, seeks contributions to police, schools, gully restoration and green space (Submission 205.2). - There should be flexibility in timing for payment of FC including payment post construction during the 223/224c stage (Submission 325.1). - Amend the policy framework of Chapter 24 and Appendix 18 so that it is clear that the Plan can require a financial contribution for the purposes of acquiring land for new parks and the maintenance of parks (Submission 270.22). - Consistency of approach between districts needed in determining financial contributions for the purposes of giving effect to Te Te Whaimana (236.21). - Provide a specific regime for retirement villages (Submission 330.134) - Submission by KO to set a trigger in the General Rules for when to apply financial contributions. (Submission 160.272). - Submission by KO to amend the policies to enable payment to be made either prior to the issue of a Code of Compliance under the Building Act or prior to the issue of the s224c certificate where subdivision consent has been sought (Submission 160.271). - Incorporate the cost of recognising, protecting, enhancing, and commemorating historic resources and sites of significance (Submission 270.2 and 270.19).
Submission points relating to theme
160.271, 160.273, 205.2, 236.2, 236.21, 260.2, 270.19, 270.22, 287.16, 287.17, 325.1
Further submission relating to theme
357, 368, 380, 413, 520, 584, 531, 579
Analysis
A submitter requested that financial contributions not be applied to Community Housing. A potential remission for Community Housing will be considered in the financial contributions policy and will be a decision for elected members. I therefore recommend that submission points 287.16 and 287.17 be rejected. A submitter has requested an option to pay FC's at the 223/224c stage for subdivision. It is recommended that Submission 325.1 be accepted and to include a provision to allow payment of FC's prior to issuing of 224c certificate. A submitter has asked that financial contributions cover police, schools, gully restoration and green space. Schools and police are funded by central government and not at local level. The draft provisions already capture parks, reserves, open space network and streetscape amenity. An amendment is recommended to the draft provisions to delete the wording enhancement and

improvements in order for Council to also use the money for acquiring land for new parks and the maintenance of parks.

I note that the reserves component of development contributions goes towards new parks/playgrounds, sports parks, and things formally designated as reserves. FCs will cover upgrading parks to account for higher density/ and less space at home. This is likely to include additions to existing reserves. It will also cover things like planting out gullies.

On this basis it is recommended that Submission 270.22 be accepted, and Submission 205.2 be accepted in part.

Waikato-Tainui have submitted that land provided as a financial contribution for the purposes of achieving Te Ture Whaimana be exempt from further development or that Waikato-Tainui has oversight and participate in decision-making as to the purpose that land is used for. All projects that the financial contributions contribute to need to be included within the LTP. This is a separate process that is managed by Council in consultation with stakeholders. I therefore recommend that submission 236.2 be rejected.

In response to the submission (236.21) requesting alignment across the region in determining financial contributions for Te Ture Whaimana, hearings were held on the Waipa District Council provisions in September 2023. The independent hearing panel (IHP) recommendations were received on 15 March 2024.

I have reviewed the IHP Financial Contributions provisions. Hamilton Cities approach is similar to Waipa District Council in relation to the matter of Te Ture Whaimana. Hamilton City's proposed objectives, policies, timing of payment (including before granting of building consent for Permitted Activities), including a capped FC value, what is included under Te Ture Whaimana Contributions and vesting of land is the same as Waipa District Council. A submitter has requested that a specific regime for retirement villages is used that takes into account their substantially lower demand profile compared to standard residential developments. Financial contributions are calculated based on the degree of their effect rather than demand. A residential unit in a retirement village will have the same effect as a residential unit elsewhere. A remission may be available if it can be shown that works required for financial contributions have been undertaken as part of development of the Retirement Village. A general rule to this effect is recommended to be included in the financial contribution chapter. On this basis it is recommended that Submission 330.134 be rejected in part.

One submitter (160.272) requested to set a trigger in the General Rules for when to apply financial contributions. This is recommended to be rejected as there is no trigger for three waters/transport infrastructure network and instead it is on a case by case basis with 100% recovery of actual costs incurred by Council to be collected. The trigger for collection for Residential Amenity and Te Ture Whaimana is included in the calculation methodology. I note that this is consistent with Waipa DC's approach.

One submitter requested to amend the policies to enable payment to be made either prior to the issue of a Code of Compliance under the Building Act or prior to the issue of the s224c certificate where subdivision consent has been sought. The circumstances when financial contributions are required are set out in the general rules and it is unnecessary to be specifically repeated in the policy. It is therefore recommended that Submission 160.271 be rejected.

One submitter (270.2 and 270.19) has requested to incorporate the cost of recognising, protecting, enhancing, and commemorating historic resources and sites of significance as the costs weren't

available to staff at the time of notification but are now. A specific dollar amount for FC's has been removed. These matters are adequately captured in the purposes of Residential Amenity and Te Ture Whaimana and costs can be identified through the LTP.
Recommended Changes
• Delete 'enhancement' and 'improvement' wording of parks/reserves/open space network; and streetscape amenity financial contributions. • Include a provision to allow payment of FC's prior to 224c being issued. • Inclusion of rule that enables Council to use its discretion when calculating the level of financial contribution required.