Mr Wilson, Answers to Questions on Financial Contributions

Hearing Stream 7A

Paragraph or Plan reference	Question
Para 65	**The intent of your recommendation is understood, but the Panel has some concerns at the uncertainty of creating a new rule FC-R2 specific to the SPZ(KN) which is the same as FC-R1 save for the following clause, which appears quite unusual, and uncertain as to how it will be applied, i.e: "To implement the objectives for the SPZ(KN), Council will exercise particular discretion in how it applies this rule"** **Do you have any comment on whether FC-R1 could be retained as applying to all relevant zones, but with a relevant Matter of Discretion developed to allow for appropriate assessment of applications within the SPZ(KN)?** With financial contributions assessments, Council's general intent is to ensure that applicants are not placed within a resource consent process unless necessary. This means that an assessment of the rule in respect of an application occurs prior to a consent being required. If no financial contributions can be assessed as being required, based on that rule framework, no consent process begins. Thus discretion is always applied in assessing the particulars of any application that might trigger the requirement for financial contributions. An alternative approach would be to adopt a singular rule for all zones, but to express the SPZ(KN) through a policy.
Para 67	**Please evaluate that part of the Retirement Villages Association of NZ submission point (and other retirement industry submitters) who have sought a**

	specific retirement village regime. Our review of your assessment in 8.2.2 is that it is limited to the interface with development contributions. Yes, as the submission sought to avoid "double dipping". In the case of a retirement industry specific regime, this would likely occur as part of any assessment of that particular resource consent application and the demands, assessed objectively, that this would place upon the district's services and infrastructure. I note that my proposed controlled activity status provides for such a bespoke consideration in the context of any activity, and that this may be better for the retirement industry than using potentially subjective categories and wording in a permitted activity rule to determine compliance with it. For instance, the FCs (as with DCs) enable site-specific consideration and context. An example is the roading FCs, which are calculated on specific vmpd, which in the case of a retirement village would provide them an opportunity to show that they are generating less than has been provided for (as retirement home residents are less likely to own motor vehicles).
Para 75	**You have agreed that "the relationship between financial contributions and development contributions requires clarification", also noting that this is clarified in the s32 Report. However, you have recommended rejecting the submission seeking such clarification. Is there some text that can be introduced into the PDP (e.g. in the Introduction Section of this Chapter) to assist with clarifying the relationship between DCs and FCs?** The following wording is provided:

	~~Section 108 of the~~ Resource Management Act 1991 ~~empowers a Council to impose financial contributions on resource consents in accordance with the purposes specified in a plan and at a level determined in a manner described by the plan.~~ ~~Council is proposing to work through a review process to determine whether financial contributions will be required going forward. As part of this process Council will consult with key stakeholders and community, review funding options and look at amending this chapter at a later date as part of a variation to the~~ District Plan~~.~~ Financial contributions are collected by councils to address adverse effects of development that cannot be otherwise avoided, remedied or mitigated. Financial contributions can be used to cover the proportioned cost of the provision of infrastructure, such as upgrading or replacement of infrastructure to service higher capacity; and/or to offset adverse effects on the environment. Financial contributions may be imposed for the purpose of promoting the sustainable management of natural and physical resources. Section 77E of the RMA enables a council to require a financial contribution for any class of activity other than prohibited. The general circumstances where financial contributions may be required include: to address the statutory exemption of the Crown from the provisions of the Local Government Act 2002 by taking financial contributions for subdivision and/or development by the Crown; To enable the ongoing collection of, and potential review, of existing consent conditions that require a financial contribution; To take financial contributions for reserves, other than esplanade reserves; To offset the adverse effects of subdivision and development on infrastructure not otherwise addressed by Council's Development Contribution Policy under the Local Government Act 2002; and To offset any adverse effects on the environment from intensive development and new subdivisions.

	In section 108(9) of the RMA, financial contributions mean a contribution of: **money; or** **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** **a combination of money and land.** **The provisions in this chapter are consistent with the matters in Part 2 – District Wide Matters - Strategic Directions and give effect to matters in Part 2 – District Wide Matters - Urban Form and Development.** I consider that the "**To offset the adverse effects of subdivision and development on infrastructure not otherwise addressed by Council's Development Contribution Policy under the Local Government Act 2002; and**" statement covers the interface between DCs and FCs.
Para 91	**Given the fairly widespread and fundamental opposition to the FC provisions, can you please elaborate on whether these notified provisions are in use elsewhere in NZ and/or have been subject to other Plan Review processes.** These provisions are essentially the same as within the operative Waimakariri District Plan, as set out here: https://waimakariri.isoplan.co.nz/eplan/rules/0/28/0/0/0/72. However, these are not commonly used.. They are also consistent with the operative Hurunui District Plan: https://dp.hurunui.govt.nz/eplan/rules/0/21/0/0/0/175 Christchurch City proposed financial contribution as part of its IPI (PC14), however, their IHP found that to be outside of the scope of an IPI, and recommended that it occur under a new Schedule 1 process instead.

Para 96	**This sentence does not appear to be complete.** This should state: "Kainga Ora [77.2] consider that FC-O1 does not adequately and clearly specify the purposes for which financial contributions, and request to remove the objective as notified."
Para 137	**You have said you consider Kainga Ora's relief is acceptable, in respect to the payment of a financial contribution prior to the issue of a code of compliance certificate; however, you have not suggested an amendment in this regard. Is this because you have recommended a controlled activity status? If you were to include this wording, please set out how you consider it would be vires or enforceable.** I ultimately did not include this wording for a number of reasons: It is not always enforceable by Council, as in the case of alternative building authorities, Council would not necessarily know of Code of Compliance completion to be able to trigger it. In the context of a permitted activity status, Council may also not be able to undertake the assessment required to consider it prior the code of compliance. It is a cart-before-the-horse approach. In practice, a permitted activity status could not be determined before the building was built. It could not be determined at the usual PIM stage. It was this issue that ultimately had myself recommending the controlled activity status instead of a list of trigger points under other legislation. Under a controlled activity status, one outcome could be that the monies are paid prior to the

	issue of a code of compliance, but in the case of Kainga Ora as an alternative building authority, this would not be appropriate (it may be appropriate for cases when Council is the building authority).
Para 142	**Please set out which submission point you are relying on to recommend that the rule be amended to have a controlled activity status. Would submitters to Variation 2 be aware that there was potential for the activity status to change from the summary of submissions?** Kainga Ora [77.6] and Bellgrove [66.5] provide me with scope to make this recommendation, as they seek certainty on the process to be followed. I consider that more certainty is provided by a controlled activity status than the notified permitted activity status. I note that the controlled activity status is the same as the financial contributions provisions in the operative District Plan. **Please set out what the consequences of amending the activity status would be, as it appears to the Panel that a resource consent would now be required where there are more than 2 units proposed on a site. Have you reviewed how DCs are taken without requiring a resource consent and whether it is possible to align with those processes?** The operative Waimakariri District Plan requires this as of now, however, when the rules are applied to any particular application, they are rarely triggered in respect of smaller residential infill scenarios. DCs are assessed on the larger applications at subdivision stage, applied accordingly, and paid by the developer. DCs are set under the Local Government Act, are issued prior to code of compliance for permitted activities.
Para 143	**You state:** ***However, I cannot agree with the wording to alter the***

	threshold for triggering contributions from two units as notified to three units. Assuming the MDRS, three units at three storeys each is up to 9 dwellings per parcel, which could impose a substantial loading on services, and depending on location, may require financial contributions. **The Panel's understanding of the MRDS is that it permits a maximum of three dwellings per site and separately permits a maximum building height of 11m + 1m for a pitched roof, both as a permitted activity, and therefore would not permit nine dwellings on one site. Please set out your understanding of the MDRS and if the Panel are correct, please reconsider your assessment.** **In addition, please comment on the submitter's point regarding Council should be planning for the permitted level of development, i.e.** ***Rule FC-R1(1) should apply to more than three residential units, on the basis that the MDRS permit up to 3 units per site and this level of development should be planned for by Council in terms of infrastructure requirements and funding ...*** The Panel is correct, as it is up to 3 residential units per site, which may be multi-level dwellings. What I was trying to recognise was that there may be effects of a substantial increase in population per site, with a consequential effect on services. 2 units aligns with the primary and secondary (minor residential unit/granny flat) dwellings that were catered for in design considerations. Three units per section is a new consideration, and not normally considered in sizing pipes etc. The exception to this are large sections that can be subdivided.
Para 154	**You state:** ***The Kainga Ora wording for payment to occur prior to the issue of the s224c certificate is acceptable to me, however, I note that social housing does not necessarily require the issuing of a s224c certificate, and Council***

	itself may not be the building authority, so there may be no visibility over it. **Please explain this comment, as this rule is specific to subdivision activities. Would social housing that does not involve subdivision be captured by rule 1?** In the case of new social housing that occurred as a result of subdivision, no, as it would be theoretically possible under a permitted activity framework for Council to have no trigger to apply the rule. Under Rule 1, in a permitted activity framework, the same situation would also occur, as with Kainga Ora as an alternative building authority, Council would not necessarily know that the building work was being undertaken to undertake the assessment. However, in the context of the controlled activity status, the wording is not needed, and my recommendation is that it should be amended as follows: Activity status: CON Where: 1. more than two new allotments are created; 2. a financial contributions assessment has been completed in accordance with FC-S1; and 3. all monies calculated under FC-S2 to FC-S4 are paid
Para 155	**You state: However, and as above, I cannot agree with the wording to alter the threshold for triggering contributions from two units as notified to three units. Assuming the MDRS, three units at three storeys each is up to 9 dwellings per parcel, which could impose a substantial loading on services, and depending on location, may require financial contributions. Please explain how this is relevant to the subdivision rule.** As I explained above, I am anticipating the increase in population. There are different entry points to assessing financial contributions – it may come as a result of subdivision, and it may also come as a result of land use,

	however the end effect is the same, more people placing greater demands on services.
Para 183	**You state that your recommended amendments to FC-S2 will clarify the relationship with development contributions, as similar to the changes you have recommended to FC-S1. However, the changes to FC-S1 are quite different and do not appear to provide such clarification. Please elaborate on this.** At para 183 I stated: **"**For Kainga Ora I have recommended changes to clarify the relationship with development contributions, similar to above under FC-S1." FC-S1 sets out the assessment methodology, which is independent of any demarcation from development contributions. My recommendation at para 183 should not be written as "similar to above under FC-S1".