11. Financial Contributions

Explanatory statement

Growth in the District needs to be supported by infrastructure provided at appropriate levels of service. If growth is not managed in an integrated manner, including the provision of infrastructure, the levels of service may fall short of the needs of growth or Council funds may need to be spent in an unplanned, ad hoc and inefficient manner.

Integration of the Council's funding strategy with growth management is critical to make certain that funds are spent in the most effective manner possible. Part of the funding strategy is to also ensure that those who require the expenditure pay accordingly. Financial contributions from development are seen as a key part of that strategy to make sure that new development is not subsidised by existing ratepayers.

While it is acknowledged that development in the District has positive effects, it also has the potential to adversely affect the environment (including people and communities) in a number of ways. Some of these effects cannot be adequately avoided or mitigated on a site by site basis. Rather, they need to be addressed through the provision of new or improved infrastructure. In some parts of the District, the community has already provided infrastructure ahead of development, and measures to avoid or mitigate future effects are thus already in place.

The types of adverse effects on the environment associated with new development that are best addressed through integrated provision of infrastructure include:

(a) wastewater – effects on the environment including property, people and their health, amenity, social and cultural values through pollution of soil, ground and surface water, and the coastal area including beaches and seafood; and through odour.

(b) stormwater – effects on property, human life and health, and amenity and cultural values through flooding, siltation, erosion, and pollution of waterways and coastal water.

(c) water supply – effects on health, fire safety, amenity, economic and cultural wellbeing through adequacy and quality of supply.

(d) transportation - effects on access, mobility and safety, and social, cultural and economic wellbeing through inadequate standards for the level of use.

(e) recreation – effects on wellbeing of people and communities and cultural and amenity values through inadequate or inappropriate provision of open space and facilities.

New development may also have adverse effects on indigenous vegetation and habitats of indigenous fauna through inadequate protection of and provision for biodiversity.

Infrastructure financial contributions are calculated in accordance with approved development programmes. For some these will be established through structure plans which include schedules of works that list work to be undertaken, timing, and funding (particularly developer versus Council). These schedules are contained in Appendix 7. For areas not covered by structure plans, there are schedules of works for the respective infrastructure and these are contained in the respective Asset Management Plans. The relevant details from the schedules are the inputs to the formulae contained in the District Plan to calculate the financial contributions.

The financial contributions for ecological protection are figures which can only be reviewed through a change to the District Plan.

Other financial contributions are calculated in accordance with formulae set out in the District Plan. The schedules of works, and hence the actual amounts payable, are able to be updated each year through the LTCCP and/or Annual Plan process under the Local Government Act. This is to reflect up-to-date costs, including actual expenditure, and any necessary changes in timing due to actual changes in the timing or patterns of growth. Financial contributions can also be reviewed through a plan change under the RMA.

A financial contribution can be imposed as a condition of a resource consent. The rules specify the level of financial contribution based on a residential or rural lot or dwelling. For other activities requiring consents, the Council may require that a financial contribution be paid as a specific condition of consent. The basis for determining the appropriate level of contribution will generally be the “household equivalent”. Household equivalent is a derived figure for the purposes of calculating financial contributions. It is based on a “typical” dwelling and what impact it will have on infrastructure requirements such as water use and vehicle movements per day.

Financial contributions imposed as a condition of consent at the time that a resource consent for a subdivision, development or new activity is granted are paid directly to the Council as the relevant condition of consent provides. The potential for a timelag between the imposition of a financial contribution condition and the payment of the contribution (up to eight years for a subdivision) can mean a significant reduction of the actual amount of the contribution because of the effect of inflation and cost escalations on the value of land and the schedules of works, unless the amount is able to be adjusted to reflect actual values and costs at the time of payment. It is the time of giving effect to the resource consent that is relevant to Council as this is the time when the consented activity has an impact on the infrastructure. To ensure that the financial contributions collected reflect the actual costs of infrastructure provision, contributions which are not paid in full within 12 months from the commencement of the consent will be adjusted in accordance with current values and the updated schedules of works. This is to reflect the actual inputs to the formulae for financial contributions applicable at the time of payment, and will be those as stipulated in the Annual Plan current at the time of payment.

Council is aware that financial contributions may cumulatively impact on the community because the levy(s) may be so high as to act as a disincentive to growth. Whilst Council’s funding policy is based on cost recovery, there needs to be flexibility to cater for situations where the pursuit of such policy is clearly not in the wider community interest. To provide flexibility in dealing with such situations, as part of its Annual Plan process the Council may resolve to reduce or waive any particular financial contribution that would normally be charged during that year.

Similarly Council may use the Special Consultative Procedure of the Local Government Act or the plan change process under the RMA. Challenges to the application of the formulae (such as the applicability of the household equivalent to a particular application) will be addressed through the resource consent process. Challenges of a philosophical nature need to be directed to Council as a matter of policy (such as an affordable housing development). Applicants have the ability under the former to lodge an objection under the RMA, and on the latter to approach the appropriate policy committee of Council.

11.1 Significant issues

1. Subdivision and the associated intensification of development and land use activity have the potential to adversely affect the environment. This can be particularly significant when cumulative adverse effects are created over time.

2. Growth in the form of new development and new activities creates the need for the provision of new or upgraded infrastructure.

3. The potential exists for the costs of providing new or upgraded infrastructure to be allocated in a manner disproportionate to the benefits received by the existing community and new end users.

4. Full cost recovery of infrastructure may act as a disincentive to growth in a manner detrimental to existing communities.

5. There may be pressure for development to occur ahead of the Council's ability to provide infrastructure.

6. Delays in the payment of financial contributions set through the resource consent process can impact on the funding of infrastructure.

11.2 Objectives and policies

11.2.1 Objectives

1. Protection of the natural and physical environment and the social, economic and cultural wellbeing of people and communities from the potential adverse effects of new or intensified development.

2. The provision of adequate funding for and efficient utilisation of the District's infrastructure.

3. A financial contributions strategy which ensures that financial contributions are charged on the basis of covering the community's costs of providing infrastructure.

4. A financial contributions strategy which is responsive to the social, environmental and economic needs of the community.

5. Timing of development commensurate with the ability to make appropriate provision for infrastructure.

11.2.2 Policies

1. Actual or potential adverse effects on the natural and physical environment which would otherwise be created by new or intensified development should be avoided, remedied or mitigated through the use of financial contributions and other appropriate measures.

2. The effects of new and intensified development on infrastructure in the District should be mitigated through expenditure of financial contributions.

3. The costs of infrastructure should be allocated in an equitable manner over both existing and new users so as to ensure that such costs are not borne unfairly by the wider community.

4. Calculations to assess infrastructure requirements should be based on the level of service needed to meet peak demand.

5. Calculations shall not seek to do more than recoup costs actually incurred in respect of expenditure to provide infrastructure to deal with the effects of growth including, where appropriate, the costs of financing such infrastructure over time.

6. Where appropriate, contributions should be levied differentially to reflect the particular circumstances applying to different parts of the District.

7. Provision should be made for the updating of inputs to the calculation of financial contributions through the consent and LTCCP/Annual Plan process to reflect actual and up-to–date estimated costs of the provision of infrastructure.

8. The actual or potential effects of applying financial contributions should be regularly reviewed and where an identified wider community detriment or a detriment to a particular sector of the community would be created, the particular financial contribution that would otherwise be payable should be reduced or waived (as appropriate).

9. Where appropriate, financial contributions that would otherwise be payable should be reduced or waived in recognition of specific environmental protection or enhancement measures proposed to be undertaken.

10 Where appropriate, consideration will be given to the reduction or waiver of financial contributions for recreation and leisure that would otherwise be payable in recognition of an historic oversupply of recreation and leisure land.

11. Provide a mechanism whereby a financial contribution can be taken to address or offset localised effects outside any approved development programme, or in lieu of works that would otherwise be undertaken by a consent-holder.

12. The full costs of required infrastructure and services should be paid when subdivision and development requires such provision outside an approved development programme.

13. Developers who fund infrastructure ahead of time in an approved development programme should be refunded only at the time that development funds become available.

11.3 Rules

11.3.1 Interpretation

For the purposes of these rules:

(a) infrastructure includes water, wastewater, stormwater, transportation and recreation and leisure facilities;

(b) where financial contribution calculations are based on a formula referring to dwellings or household equivalent and the activity is not a dwelling, the calculation shall be based on a derived household equivalence, taking into account the likely use of services and facilities by that activity.

Except that:

Section 11 shall not apply where the need for the activity to obtain a resource consent arises solely from the provisions of Sections 5, 6 and 7 of this Plan.

11.3.2 Application of financial contributions

(a) With regard to any resource consent which is granted subject to a condition imposing a financial contribution, that condition shall provide for the amount of any financial contribution to be set as follows:

(i) The resource consent condition shall specify a financial contribution amount in dollars (for all contributions other than those for recreation and leisure) or as a percentage of land value (for contributions in respect of recreation and leisure) that may be paid in full within 12 months of the date of commencement of the consent.

Provided that

Contributions not paid in full within 12 months of the consent commencing shall be subject to Rule 11.3.2(a)(ii).

(ii) Any financial contribution which is not paid in full within 12 months from the date of commencement of the consent shall be adjusted so that the amount of the financial contribution required by the resource consent shall be the amount calculated in accordance with the relevant formulae in Rule 11.3.4.(a) using the current market value of the land at the date of payment and in Rules 11.3.4.(b), (c) and (d) using the updated inputs to those formulae as set out in Council's Annual Plan current at the date of payment.

(b) Unless specified otherwise in the rule to which a particular contribution relates, financial contributions will be charged in respect of:

(i) additional lots created by subdivision which will qualify for the erection of a dwelling or that provide for the establishment of a commercial or industrial activity, as a Permitted or Controlled Activity.

(ii) all land use consent applications for new or intensified land use activities.

(c) This Section shall not apply to network utilities in relation to the subdivision or development of a utility site where the site is not staffed and does not require connection to Council's wastewater, stormwater or water supply.

(d) Reductions and waivers

(i) In accordance with Objective 11.2.1.4 and Policies 11.2.2.8, 11.2.2.9 and 11.2.10 above Council may reduce or waive in part or in whole for a specified period or for a particular activity, any financial contribution (including a particular part(s) of the formula contained in 11.3.4) that would otherwise be charged in order to avoid or mitigate an identified detriment to the wider community or an identified detriment to a particular sector of the community that warrants attention in the better fulfilment of the RMA's purpose. Assessment criteria include:

- the quantum of the contribution(s) and the market's ability to pay.

- significant increases in the contribution(s) from one period to the next (or through the introduction of a new or revised financial contribution) that may create inequities or hardship.

- The extent that any specific environmental protection or enhancement measure requires recognition, including measures under Rule 11.3.4(d)

Any such reduction or waiver shall be implemented through the Annual Plan process, the Special Consultative Procedure of the Local Government Act, or the plan change process under the RMA.

(ii) With regard to specific applications for resource consent for additional dwellings on multiple owned Maori land, consideration will be given to the following criteria in addition to those listed in (i) above with respect to the recreation and leisure financial contribution:

- size and cost of the dwelling being constructed
- location of the property and the associated land value, extent of previous undertakings, or gifting of land or other tangible assets
- applicability of the LTCCP Outcomes.

(iii) With regard to specific applications for resource consent where:

(a) a financial contribution for recreation and leisure is payable under Rule 11.3.4(a), and

(b) an historic oversupply of reserve land is shown by the applicant to have occurred in relation to the same applicant or their successor in title, consideration shall be given to a reduction or waiver of the financial contribution as assessed having regard to the following criteria:

- the suitability of the excess land contributed for meeting Council's current recreation and leisure requirements for the catchment; and
- the land value of the excess recreational and leisure land calculated at the time of granting the resource consent; and
- the quantity of financial contributions for recreation and leisure assessed under Rule 11.3.4(a) at the time of granting the resource consent.

<u>Provided that</u>

This discretion shall only be considered where:

(a) the applicant supplies conclusive evidence that

- they are the successor in title in respect of the parent land contributing the excess land; and
- the amount of excess land contributed for recreation and leisure purposes exceeds 1ha as assessed at the time of the application, and

(b) the application is made within ten years of the commencement of the initial consent that created the excess.

11.3.3 Infrastructure required outside of current Council programme

Council may decline consent to any application for a Discretionary or Non-Complying Activity where the activity will create the need for infrastructure that is not available or where any existing infrastructure is inadequate in the following circumstances:

(a) The required new or upgraded infrastructure is not programmed for construction by Council in the current financial year, and

(b) The financial contribution calculated under the District Plan will not cover the full cost of the works in question.

Provided that Council may grant consent where the applicant agrees to provide the necessary new or upgraded infrastructure, subject to the following (as applicable):

(a) The infrastructure shall be in accordance with a Council-approved infrastructure development programme;

(b) The applicant may be required to pay the full cost of providing the service including the provision of any necessary land, full design and installation costs, and any additional costs in upgrading reticulation and/or treatment facilities to provide adequate capacity;

(c) The usual financial contributions calculated under the District Plan shall be payable;

(d) Where a consent holder pays for or provides such a service that is included in the LTCCP, the additional cost attributable to serving land or development not subject of the resource consent in question will be refunded at the time that development necessary to fund the servicing of that other land has occurred and thus the funds have become available.

11.3.4 Financial contribution formulae

(a) **Recreation and leisure**

Application – this rule applies to all development in the District, except to activities (excluding dwellings and accommodation facilities) in the Commercial and Industrial Zones which shall not pay a recreation financial contribution.

The financial contribution for reserves and recreational facilities shall be a land or monetary contribution (or combination thereof) equivalent to a maximum of seven and a half percent of the current market value of the additional lots created. It is based upon the cost of the works and land needed to provide for the future growth in the District as listed in the LTCCP and shall be calculated annually using the following formula:

$$\frac{(CP/L)}{AV} \times \frac{100}{1} = \text{Percentage of land value} = \text{Financial Contribution per additional subdivided lot or household equivalent}$$

Where

CP = Value of additional capacity projects remaining to be funded in the planning period of the LTCCP. (Note this includes the situation where Council has previously incurred capital expenditure in a prior year but there has been a shortfall of funding or where there has been an excess of income over planned expenditure. Interest is included in this figure).

L = Number of estimated dwellings remaining during the planning period.

AV = Average value of lots created in the previous year.

and that:

(i) the land value input to the formula is the land value at the time the financial contribution is paid if that payment occurs more than 12 months after the consent commences;

(ii) in the case of a new rural lot the area of land valued shall be limited to an assumed 2000m² house site within such a lot;

(iii) where agreement between the Council and the applicant cannot be reached the current market value shall be as assessed by a registered valuer acceptable to both parties, subject to the costs of obtaining such valuation being met by the applicant;

(iv) any remaining dispute arising from the above shall be determined in accordance with Section 357A of the RMA;

(v) the Council shall consider a Maori Reservation set aside under Sections 338 and 440 of the Maori Land Act 1991 (Te Ture Whenua Maori) in lieu of a reserves contribution;

(vi) The Council shall retain full discretion as to whether to accept money or land as payment of the required financial contribution.

(b) **Transportation**

(i) Application – this rule applies to all development in the District and is applied on the basis of the following catchments:

- Rural and minor settlements - this is a single catchment and includes the Rural 1, 2, and 3 Zones and all minor settlements not classified as Urban Catchments below.
- Urban catchments - there are separate catchments for the urban zoned areas of Waihi Beach, Katikati, Omokoroa (including the whole of the Stage 2 Structure Plan area), and Te Puke.
- Strategic Transportation - this is District-wide.

(ii) The Transportation financial contributions shall be calculated using the following formula:

$$\frac{(CP\text{-}S) - (EP\text{-}S) + I}{L} = \text{financial contribution per additional subdivided lot or household equivalent}$$

Where:

CP= value of development projects for future Transportation related works during the planning period

EP= value of development projects for that portion of the Transportation related works required to meet the existing level of service

S= the subsidies to be received for Transportation works within the planning period

L= dwellings and household equivalents estimated during the planning period.

I = Interest cost based on Capital expenditure less Revenue

Note: the inputs to the formula will be updated annually through the LTCCP/Annual Plan process to reflect changes in costs and timing. Any financial contribution that is not paid in full within 12 months of the commencement of the resource consent shall be subject to adjustment under Rule 11.3.2(a)(ii).

(c) **Water Supply, Wastewater, and Stormwater**

Financial contributions for water, wastewater and stormwater shall apply to the defined catchment or area of benefit for the infrastructure concerned and shall be calculated using the following formula:

$$\text{Financial contribution per additional subdivided lot or household equivalent} = \left\{\text{value of additional capacity for future dwellings and household equivalents}\right\} + \left\{\text{Value of existing surplus capacity}\right\}$$

$$= \left\{\frac{(AC\text{-}FR\text{+}I)X}{L}\right\} + \left\{\frac{NV}{(L+E)}\right\}$$

Where:

AC = share of additional capacity and increased level of service for future dwellings and household equivalents. This is calculated by the cost of new project(s) which provide additional capacity, plus project(s) that provide an increased level of service to existing dwellings and household equivalents, and for future dwellings and household equivalents times percentage share that relate to future dwellings and household equivalents.

FR= Estimated future rates contribution from future dwellings and household equivalents of interest on loan financing the project(s) included in AC above.

I = Interest on cost of loan over life of project(s) assessed at Council's current cost of borrowing as defined in the LTCCP.

X = Long term inflation adjustment as defined in the LTCCP.

NV = Residual value of existing infrastructure based on optimised depreciated replacement cost less outstanding loans.

L = Number of estimated future dwellings and household equivalents within the area of benefit of the infrastructure based on growth projections (updated annually through the Annual Plan process to reflect actual and revised forecast).

E = Number of existing dwellings and household equivalents within the area of benefit of the infrastructure.

Note: the inputs to the formula will be updated annually through the Annual Plan process to reflect changes in costs and timing. Any financial contribution that is not paid in full within 12 months of the commencement of the resource consent shall be subject to adjustment under Rule 11.3.2(a)(ii).

Provided that the following household equivalents shall apply:

(i) Stormwater

In all zones the household equivalent is equaled to one (1) except for Commercial and Industrial Zones where 300m^2 of developable land equates to one (1) household equivalent (developable land is any land that has potential to be used for building, hard stand and parking or access purposes).

This rule shall not apply where the stormwater from the activity is:

- fully managed on-site by the activity, and
- use is not made of public infrastructure, including open watercourses.

(ii) Water and wastewater

The household equivalent is equal to one (1) except for the following activities where the number of household equivalents will be determined by specific assessment:

- fastfood outlets/takeaways, restaurants, catering facilities and the like

- service stations with car wash facilities
- accommodation and recreational facilities including hotels, motels, community centres and Marae
- process manufacturing including coolstores and packhouses
- garden centres and nurseries
- butcheries
- drycleaners and laundromats
- education facilities
- hospitals and laboratories
- crematoriums and mortuaries
- concrete plants and yards
- waste handling facilities.

The household equivalent for water is measured at $0.6m^3$ per household per day with an assumed occupancy rate of 2.7 persons per household. The household equivalent for wastewater is calculated at a factor of 0.85 of the water usage.

(d) **Ecological protection**

(i) Financial contributions for ecological protection and or enhancement shall be a monetary contribution of $464 + GST (2008/09) per lot or dwelling as determined by the circumstances set out hereunder, such contribution to be adjusted annually in accordance with the Consumer Price Index through Council's Annual Plan and Budget:

<u>Except that</u>

The ecological financial contribution shall be doubled for subdivision and development occurring within the Park Road East Esplanade in Katikati.

(ii) Ecological financial contributions will be charged on subdivisions in respect of additional lots created by subdivision where such lots will qualify for the erection of a dwelling as a Permitted or Controlled Activity.

Provided also that Council may consider the reduction or waiver of these financial contributions where legally binding environmental protection or enhancement measures have already been or are proposed to be undertaken on the property concerned in conjunction with the principal activity. In such cases the principal activity (subdivision or land use) shall be deemed to be a Restricted Discretionary Activity in respect of the environmental protection or enhancement measures concerned. Such measures shall be the subject of a report and recommendations from an appropriately qualified independent person acceptable to Council.

(e) **Rangiuru Business Park**

(i) As set out below, financial contributions shall be payable for subdivision and development in the Rangiuru Business Park to pay for trunk infrastructure as identified in the Structure Plans and the associated financial contribution schedule in Appendix 7.

(ii) The financial contribution shall be in accordance with the approved financial contribution schedule (specified dollar amount per square metre of site area so used), adjusted annually to reflect updated construction cost estimates or completed project costs, and the financing costs (based on the 90 day bank rate [BKBM FRA rate] plus 1.5%).

(iii) The financing costs are to be charged quarterly in arrear on the last day of March, June, September and December in each year on the actual capital expenditure at the start of the quarter as approved in the schedule less the financial contributions received during the quarter.

(iv) In addition further financing costs (based on the 90 day bank rate [BKBM FRA rate] plus 1.5%) resulting from the assumed average delay of three years between the setting of financial contributions and their receipt are to be charged annually on 1 July on:

(a) the capital expenditure as approved in the Schedule

(b) the financing costs calculated as in (ii) and (iii) above.

The financial contribution schedule including the holding costs are indicative only. The actual financial contributions will reflect the actual construction costs to be determined at the time resource consents commence, taking into account the amounts listed in the financial contributions schedule and any relevant costs listed in the Council's Annual Plan.

If, as a consequence of any amendments to the capital works programme, the allocation between public/network and developer benefit needs to be updated, this may also occur through the Annual Plan process (excluding those items listed under "1.00 Roading infrastructure", where the "public/network" contribution will remain at 0%).

(v) "Site area":

- excludes the areas set aside for trunk infrastructure as identified on the Structure Plan, such as local purpose reserves (stormwater), local purpose reserves (amenity), pedestrian/cycle access, collector and entrance roads, and the Tauranga Eastern Motorway interchange.

- includes the area of all local and private roads and other infrastructure not specifically required by the Structure Plans.
- the total net developable area is 148ha.

In respect of development, "site area" relates to the total area of the lot or the total area of the tenancy area in which the development is located.

For the Seeka site being Lots 1 and 2 DPS 3521 the site area shall exclude the developable area shown on Plan 011318-S-R400 Rev A in Appendix 6 - Financial Contribution Calculations of the Private Plan Change Request - Metroplex Rangiuru Business Park Volume 1 November 2005

(vi) The financial contribution is payable at the time of subdivision or development, whichever happens first. Where a financial contribution has already been paid at the time of subdivision in respect of any land, there shall be no further contributions payable at the time of development. Where a financial contribution has already been paid at the time of development in respect of any land, there shall be no further contributions payable at the time of any subsequent subdivision.

(vii) Financial contributions at the time of subdivision are payable at subdivision completion stage (ie. Section 224 application). Financial contributions at the time of development are payable at building consent stage or at the time land is used for Rangiuru Business Park purposes.

(viii) In respect of the Rangiuru Business Park, where Council does not expect to be able to fund much of the trunk infrastructure needs for the foreseeable future, financial contributions from developers shall be collected by Council and paid directly to any prior developer or agency which has funded trunk infrastructure services in accordance with the financial contribution schedule and the Structure Plans.

(f) **Te Puke West Industrial Area**

(i) In addition to the financial contributions payable pursuant to Rule 11.3.4, excluding roading and stormwater, financial contributions shall be payable for subdivision and development in the Te Puke West Industrial Area to pay for infrastructure as identified in the Te Puke West Schedule of Financial Contributions contained in Appendix 7.

(ii) The Te Puke West financial contribution shall be in accordance with the Schedule (specified dollar amount per square metre of site area), adjusted annually to reflect updated construction cost estimates or completed project costs, and the financing costs (based on the 90 day bank rate [BKBM FRA rate] plus 2%).

(iii) The financing costs are to be charged quarterly in arrear on the last day of March, June, September and December in each year on the actual capital expenditure at the start of the quarter as approved in the schedule less the financial contributions received during the quarter.

(iv) In addition further financing costs based on the 90 day bank rate (BKBN FRA rate) plus 2% resulting from the assumed average delay of three years between the setting of financial contributions and their receipt are to be charged annually on 1 July on:

- the capital expenditure as approved in the Schedule;
- and the financing costs calculated as in (ii) and (iii) above.