Before: the Kapiti Coast District Council Hearings Panel

District Plan Review: Chapter 12 Financial Contributions

Under	the Resource Management Act 1991 (‘RMA’ or ‘Act’)
In the matter of	a submission by the New Zealand Transport Agency (submitter number 457) on the Proposed District Plan
and	
in the matter of	Chapter 12 – Financial Contributions

Primary statement of evidence of Robert Arnold Harris for the NZ Transport Agency

Dated 9 September 2016

Introduction

1. My full name is Robert Arnold Harris. I am a Principal Planner within the Central Region Planning and Investment Group of the New Zealand Transport Agency (Transport Agency).

2. My background and qualifications have been presented in an earlier brief of evidence on matters contained in Chapter 11.

3. I confirm that I have the authority to give evidence on behalf of the Transport Agency.

Code of Conduct

4. I have read the Environment Court's Code of Conduct for Expert Witnesses and agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my areas of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I understand the Code of Conduct requires me to assist the Hearings Panel impartially on matters within my expertise, and not to advocate for the Transport Agency.

Scope of evidence

5. My focus today is on Financial Contributions in Chapter 12 of the Proposed District Plan (PDP). My evidence will focus on:

   a. The Transport Agency's submission;

   b. Comment on the section 42A (s.42A) report[1] and associated memos to the Transport Agency's submission.

   c. A response to the position taken in the s.42A Report;

   d. Summary and conclusion.

The Transport Agency's submission

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[1] Proposed Kapiti Coast District Plan 2012, section 42A report: Part B – Chapter 12.1, Financial Contributions – Chapter 12,General and District-wide Provisions

6. In its original submission the Transport Agency, among other things, requested that the PDP:

> *"include mechanisms for funding State highway infrastructure … required to support development, including provisions for developers to make equitable contributions."* [2]

Also on page 1, the submission stated a key objective to be –

> *"address the impact of development on existing and proposed transport infrastructure".*

7. On page 9 of the submission it stated that:

> *"the NZTA notes that the Council identifies "increased demand for commercial development at the [Expressway] interchange" as a specific resource management issue for access and transport. The NZTA submits that this issue needs to be captured more widely in the Proposed Plan provisions …"*

8. On page 19 of the submission it stated that:

> *"The NZTA supports the approach taken in the Proposed Plan (Policy 11.8) to align development with the investment to be made in infrastructure. However to strengthen this provision, the financial contributions provisions need to be amended to explicitly enable the taking of financial contributions for State highway works."* and
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> *"Of particular concern to NZTA are the effects of development on the safe and efficient functioning of the State highway network, including, but not limited to local road connections to the State highway."*

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[2] NZ Transport Agency Submission on the Kapiti Proposed District Plan, page 1

9. Also on page 19 of the submission it stated that:

> *"The Proposed Plan have a separate section for State highway financial contributions in section 12.1 … that states the purpose for a financial contribution towards State highway works, and a methodology for determining the level of contribution."* and that:
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> *"The Council develop an equitable contribution methodology to be included in the proposed Plan regarding the taking of financial contributions for new State highway infrastructure."* [In practice this would largely be the connections to State highway or <u>fixing matters within local roads that affect the State highway</u>]

10. It requested on page 20 of the submission, that section 12.1 include the following (or similar) purpose statement:

> *"Providing for new, or contributing to the upgrade of existing, State highway infrastructure … required as the result of traffic effects from development or subdivision."*

11. As part of the reasoning offered the submission stated that;

> *"The NZTA expects that increased demands on State highway infrastructure will be borne by the development in a timely manner."*

12. The submission distinguished between two different scenarios: (a) where works are programmed by the Transport Agency [note this includes works that it co-funds]; and (b) where works have not been programmed.

13. In the former case it is envisaged that the development will bear a proportion of the costs and any costs relating to the bringing forward of the works that can be attributed to the development. In the case of (b) scenario the development is envisaged as

bearing the full costs of the infrastructure given that it would in itself be the predominant trigger for the infrastructure works.

14. The submission, in short, asked the Council to consider apportioning costs of development based on the nature and level of the real effects of development on existing and planned infrastructure.

15. The evidence presented thus far on behalf of the Transport Agency on Chapters 11 and 6 suggests that further development in and around Kapiti Road, Ihakara Road, the Airport Zone and the Central Business District is likely to affect the efficiency and safety of the local network, including both the state highway and the local road components that connect to it – for example:

> *"Extensive land development scenarios around Paraparaumu will overwhelm* <u>*the network*</u> *and lead to poor levels of service in peak periods including Saturdays if no mitigation measures are undertaken"* [3]

16. The evidence you have also previously considered includes a statement that:

> *"Ensuring acceptable levels of service on* <u>*the network*</u> *will require infrastructure upgrades and new infrastructure to be carefully matched to the quantum, type and distribution of development. This requires trip number based thresholds to be put in place to enable the effects and mitigation of development to be assessed ahead of the full impact on the local network"* [4]

17. In other words assessment of effects of development should relate to the planning and funding of future works on the District

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[3] Primary Statement of evidence Chapter 6: A Brennand paragraph 11
[4] Primary Statement of evidence Chapter 6: A Brennand paragraph 11

transport network, which includes state highways. As the Transport Agency's original submission stated:

> *"The provisions of this Plan [should] ensure that activities which create demands on community infrastructure [including the State highway network] pay their fair share …"* [5]

18. Finally the Transport Agency's submission asked *"why proposed policy 12.1.3 has no ability to collect financial contributions for public transport"*[6] an important component of the transport network.

19. The Transport Agency's approach in promoting the use of financial contributions has been relatively considered and proportionate. It has focused on the PDP being able to set contributions for works on the connectors and development that impact on the state highway; it wants a policy that deals with District road issues that in turn would affect the efficient operation of the entire network; and it would also wish to see coverage for public transport which is a component of the District transport system.

The s.42A response

20. The response to the Transport Agency submission in the s.42A report and supporting memos can be summarised in the following:

    a) There are no existing funding arrangements between Council and the Transport Agency;

    b) The National Land Transport Programme sets out the sources of funds for state highway investment[7];

    c) There is no link to the state highway network from the current development contributions policy [8];

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[5] NZ Transport Agency Submission on the Kapiti Proposed District Plan, page 20
[6] NZ Transport Agency Submission on the Kapiti Proposed District Plan, page 20
[7] At paragraph 83

d) The state highway network is funded by the Crown not Council;

e) The state highway network in the district is relatively simple and there is relatively little overlap and/or integration with the local network[9]

f) There are several key state highway intersections providing access, but primarily it provides part of a national link into Wellington;

g) At a high level it may be possible to allocate a percentage [development derived] allocation based on increased commuting into Wellington, but as everyone contributes to the funding of the state highway network through taxation, it is unclear how equitable that would be for Kapiti people and businesses[10];

h) The Council also set conditions on consent for development to deal with the adverse effects of development, which from a council perspective is an appropriate method of dealing with impacts of development[11] ;

i) The Council may use either development contributions under the Local Government Act 2002 (LGA)or financial contributions under the RMA, but not both for the same development, same purpose and at the same level and intensity of development;

j) The Resource Legislation Bill currently in progress is proposed to phase out the ability of councils to charge financial contributions, with a proposed five year transition period – though some uncertainty was expressed as to whether that would occur;

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[8] Proposed Kapiti Coast District Plan 2012, section 42A report: Part B – Chapter 12.1, Financial Contributions – Chapter 12,General and District-wide Provisions, paragraphs 82 & 83; Appendix 2 Memorandum on Financial Contributions, paragraph 1.5

[9] Appendix 2 Memorandum on Financial Contributions, paragraph 1.5

[10] Appendix 2 Memorandum on Financial Contributions, paragraph 1.5

[11] Proposed Kapiti Coast District Plan 2012, section 42A report: Part B – Chapter 12.1, Financial Contributions – Chapter 12,General and District-wide Provisions, paragraph 85

k) The Council is planning a review of its Development Contributions policy to coincide with the next review of its long term plan with respect to structures, although it should be noted not apparently public transport as this isn't included in the definition of infrastructure[12];

l) The Transport Agency has not provided sufficient justification as to why the state highway network justifies specific reference above and beyond any other form of infrastructure[13].

21. The authors of the s.42A report recommended that the Transport Agency's submission be rejected.

22. In this next section I will respond to the above arguments and the position taken by the s.42A report authors to reject the Transport Agency's submissions on this topic.

The Transport Agency response to the position taken in the s.42A report

23. The purpose of promoting financial contributions is as a tool to support the safe and efficient operation of the wider transport system (including public transport) where development places specific demands on the safety and efficiency of its parts. I agree that it is not a tool to be applied everywhere.

24. In preparing its initial submission and in the preparation and delivery of evidence on the PDP, the approach by Transport Agency was to treat the operation of the Kapiti transport network as a network, not discrete sections of infrastructure defined by who controls which part.

25. The function of the state highway is not only for commuting to Wellington and back, it provides a more complex service. Development related effects on the state highway, particularly

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[12] Proposed Kapiti Coast District Plan 2012, section 42A report: Part B – Chapter 12.1, Financial Contributions – Chapter 12,General and District-wide Provisions, paragraph 87

[13] Proposed Kapiti Coast District Plan 2012, section 42A report: Part B – Chapter 12.1, Financial Contributions – Chapter 12,General and District-wide Provisions, paragraph 87

via the interchanges, typically occur through demands referred from development accessing local arterial or connector roads.

26. The intention of the Transport Agency in supporting a financial contributions policy in its initial submission, including for funding local public transport, was therefore to support the proposition that developers should contribute appropriate costs towards upgrades that reflect their level of contribution towards a real issue.

27. The transport impacts that should be avoided, remedied, or mitigated are usually generated by activity based trip generation on local roads and at the intersection of State highway and local roads. Perhaps this message wasn't clear enough in the submission, but I hope I have made this point clearly. The purpose of promoting the taking of effects based contributions under a financial contributions policy is still essentially a resource management one.

28. The authors[14] are incorrect in saying there are no existing arrangements or agreements between the Council and the Transport Agency. The three yearly funding programme under the National Land Transport Programme is the basis for most the Transport Agency subsidies for works on local roads as well as funding the state highway component.

29. Currently the level of subsidy for local works and services managed by the Council is 47%. This is to rise to 51% by 2023/24. The Government via the Transport Agency therefore funds the majority of roading work in the District via in part an agreement with the Council.

30. Projected budget allocations for transport (both capital and operational expenditure) in the current long term plan are predicated on local transport subsidies. For example, $8.7m is allocated for the Kapiti/Ihakara Link Road in year 6 of the current plan on the assumption of such subsidies. There are

[14] Appendix 2 Memorandum on Financial Contributions, paragraph 1.5

also other crossovers in terms of transport interests detailed below.

31. The land transport funding process is increasingly based on integrated models like the One Network Road Classification (ONRC) model, a strategic model that assists in prioritising works across organisational boundaries. The one network approach tends to reduce the importance of distinctions between Road Controlling Authorities as it incorporates funding criteria based on linkages and integrated planning concepts.

32. I note that revocation arrangements also fall into agreements between the organisations to cooperate in the integration of transport planning across boundaries. A process is currently in progress to agree on the handover of parts of the existing State highway adjacent to the Paraparaumu township once the Expressway is. This is sometimes referred to as an "Alliance structure".

> *"The Council and NZTA agreed to a series of objectives as the basis for advancing consideration of the Kapiti Expressway under an Alliance structure."*[15]

33. Funding for many transport items derives from two sources in the partnership between central and local government, not one. The local share in part comes from rates and in part from development levies (potentially both development and financial contributions), with the largest proportion coming from rates.

34. Where significant expenditure may be triggered by higher trip generating activities it is inherently fairer for those activities to share some of the burden and thereby reduce some of the impact on the rate and taxpayer. It also provides the Council with more financial scope to plan works in partnership with the Transport Agency, an important consideration where the community may be financially constrained.

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[15] NZ Transport Agency submission on PDP, Page 12

35. While the Council presently allocates generic development levies based on subdivision under its development contributions policy under the LGA, this policy is District wide with respect to transport levies. It is therefore a relatively blunt instrument and does not pick up on the localised effects of development with any degree of precision, particularly for developments that lead to higher levels of trip generation and are not fully predictable at the subdivision or initial Plan Change stage.

36. This is, in part, why the Transport Agency supports the use of a more targeted approach of financial contributions based on Gross Floor Area (GFA) and occupation triggers. A financial contribution policy linked to development thresholds has the potential to more precisely target the adverse effects on transport of development at specific localities.

37. It is noted that the potential for using resource consent conditions to offset adverse effects under s108(2)(a) of the RMA is disallowed unless there are provisions that provide for it in a District Plan and mechanisms to set the level (s.108(10). If the Council wishes to respond more precisely to circumstances of development in managing adverse effects it arguably requires a financial contributions mechanism in its PDP.

38. In saying this I also wish to distinguish between the transport effects of residential development where it is relatively easy to understand and quantify traffic effects at the subdivision stage and those arising from commercial development potential where the precise nature of development and its effects are usually unclear until the resource consenting or building and occupation phases of development. We need to keep in mind that businesses vary considerably, along with their traffic generating effects.

39. This uncertainty as to adverse effects on the state highway, either directly or indirectly, via its connectors, is compounded in areas such as the Airport Zone where it is still unclear as to what development will occur, when and in what proportion. We do not have a final structure plan and the future market for

commercial and industrial land in the zone is unknown. Commercial subdivision is also not an accurate guide to adverse transport effects on its own given that multiple business activities may share single lots under a variety of leasehold arrangements.

40. A standard district wide approach under a development contributions policy (with levies subject to appeal) therefore cannot in my opinion target large or uneven demands in the same way that it can for the more predictable residential, or even rural, activity.

41. The incorporation of a financial contributions policy and rule that focuses on demand induced by commercial development should therefore be regarded as a complement to the present development contributions policy rather than as a duplicate.

42. One method of constructing a reliable rule would be to base it in the existing Household Unit Equivalents (HUE)[16] approach used in the current policies, but based on a formula that includes *commercial GFA x activity thresholds*. It would be simple enough in that we know what individual activities tend to produce in terms of traffic movements. For example, warehousing, large format retailing and industrial. Anthony Brennand covers this briefly in his Chapter 12 evidence for the Transport Agency on trip generation.

43. The contribution triggers could also be set to operate at either the building consent stage or where a change in use or new use requires a traffic assessment under a rule in the Plan. To avoid redundancy and overlap however I suggest that the Council development contribution policy be adjusted during the next annual Planning process[17] to limit it to residential development with respect to transport levies.

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[16] 500m2/HUE

[17] Any changes however made to the policy however are made specifically to that policy and not under the Annual Plan itself

44. A contingency clause set into the PDP based financial contributions policy and rule would then ensure that it does not become operational until the two were no longer in conflict. This would also guarantee that coverage of some sort would be maintained at all times. I note that the period required to alter policy under the LGA tends to be shorter.

Summary and conclusion

45. The position of the Transport Agency based on the above argument is that:

a) The state highway is part of a wider network that cannot be isolated from the local road network and the effects of local development. There are sometimes adverse effects caused by development on the state highway component of that network.

b) The Transport Agency supports the use of financial contributions policy in the PDP because it is an effects based resource management tool, one which unlocks the potential for equitable contributions from those who generate adverse effects on the whole roading network, including the state highway;

c) The function of the state highway is not necessarily just for commuting to Wellington and back again, as it offers a more complex provision for movement within the District and is naturally part of a network. Equally funding mechanisms cannot be seen in isolation as the Council and the Transport Agency work together at a variety of levels to ensure integrated planning and funding of needs based transport solutions, including public transport.

d) The local transport share is largely made up of rates and development contributions, but predominantly from rating. Without an ability to levy development for its effects, Council policy on this matter is arguably inequitable for the rate payer. Overall it leaves the

Council (and Transport Agency) with fewer resources to plan ahead and respond to rapid development.

e) The existing provision for transport development contributions is a blunt instrument that does not target growth areas of hard to predict growth. Financial contributions could easily be applied to fund new and upgraded infrastructure and services where development is likely to impact on the state highway network, directly or indirectly;

f) I consider a financial contributions policy to be a more appropriate tool for commercial development than for residential because it is more able to deal with development uncertainty and development extremes, whereas development contribution policy under the LGA has less utility in this area.

g) The imposition of a financial contributions policy would necessarily go hand in hand with an amendment to the existing development contributions policy in the long term plan during the related annual planning process in order to separate residential development levies from the commercial and avoid duplication.

46. For the reasons set out above I consider that the further submissions on the Transport Agency's primary submission not be supported. I would be happy to answer questions.

Robert A Harris

9 September 2016