



Proposed Timaru District Plan Section 42A Report: Financial Contributions and Appendix 7

Report on submissions and further submissions

Author: Andrew Willis

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List of Submitters and Further Submitters Addressed in this Report

Original Submission

Submitter Ref	Submitter Name	Abbreviation
42	Timaru District Council	TDC
54	Steve Dale & Anthony Dale	Steve Dale & Anthony Dale
60	Milward Finlay Lobb	Milward Finlay Lobb
66	Bruce Speirs	Bruce Speirs
174	Rooney Holdings Limited	Rooney, et al
191	GJH Rooney	
249	Rooney Group Limited	
250	Rooney Farms Limited	
251	Rooney Earthmoving Limited	
252	Timaru Developments Limited	
212	Venture Timaru	Venture Timaru
229	Kāinga Ora - Homes and Communities	Kāinga Ora

Further Submitters

Submitter Ref	Further Submitter Name	Abbreviation
11	Gerald Morton	Gerald Morton
12	Steve Fraser	Steve Fraser
19	Waitui Deer Farm Limited	Waitui Deer Farm Limited
20	Terrence John O'Neill, Aileen Kathryn O'Neill, C&F Trustees 2006 Limited	Terrence John O'Neill, Aileen Kathryn O'Neill, C&F Trustees 2006 Limited
27	Holly Renee Singline and RSM Trust Limited	Holly Renee Singline and RSM Trust Limited
30	Chris and Sharon Mcknight	Chris and Sharon Mcknight
31	Karton and Hollamby Group Limited T/A Stonewood Homes South Canterbury Limited	Karton and Hollamby Group Limited T/A Stonewood Homes South Canterbury Limited
32	Bruce Selbie	Bruce Selbie

Submitter Ref	Further Submitter Name	Abbreviation
33	Ford, Pyke, Andrews Talbot, Wilkins & Proudfoot, Craig, Mackenzie	Ford, Pyke, Andrews Talbot, Wilkins & Proudfoot, Craig, Mackenzie
51	OSA Properties Limited	OSA Properties
54	Steve and Anthony Dale	Steve and Anthony Dale
60	Millward Finlay Lobb	Millward Finlay Lobb
156	Royal Forest and Bird Protection Society for New Zealand Inc	Forest and Bird
167	Brouchs Gully Development Limited	Brouchs Gully Development
229	Kāinga Ora – Homes and Communities	Kāinga Ora
252	Timaru Developments Limited	Timaru Developments Limited
261	Davis Ogilvie (Aoraki) Limited	Davis Ogilvie
268	McCutcheon, Tarrant, Sullivan, Sullivan and Ellery	McCutcheon, Tarrant, Sullivan, Sullivan and Ellery
278	Rooney Group Limited, Rooney Holdings Limited, Rooney Earthmoving Limited and Rooney Farms Limited	Rooney Group Limited, Rooney Holdings Limited, Rooney Earthmoving Limited and Rooney Farms Limited

Abbreviations Used in this Report:

Abbreviation	Means
APP7	Appendix 7 – Financial Contribution
Council	Timaru District Council
DIS	Discretionary
FC	Financial Contribution
FC chapter	Financial Contributions chapter
FC Policy	Financial Contributions Policy
NC	Non-Complying
ODP	Operative Timaru District Plan
PDP	Proposed Timaru District Plan
RDIS	Restricted Discretionary
RMA	Resource Management Act 1991

1. Introduction

1.1 Experience and Qualifications

1.1.1 My name is Andrew Willis. I hold the qualifications of Bachelor of Science in Ecology and a Masters of Science in Resource Management (an accredited planning degree). I am a full member of the New Zealand Planning Institute (NZPI) and former NZPI deputy chair. I have almost 30 years' experience working as a planner for local and central government (in New Zealand and the UK), as well as planning consultancies. I have been the director of Planning Matters Limited (a town planning consultancy) since its inception in 2012. My relevant work experience for this s42A report includes, amongst other matters:

- Updating the Financial Contributions (FC) chapter and Appendix 7 (APP7) of the Proposed Timaru District Plan (PDP);
- Drafting / co-drafting or updating the Strategic Directions, Natural Hazards (NH), Transport, Coastal Environment (CE), Industrial, Stormwater and Energy and Infrastructure and Drinking Water Protection (DWP) PDP chapters;
- Hearing submissions (as an independent hearings commissioner) on various chapters of the proposed Selwyn District Plan (SDP) and proposed plan changes to the Mackenzie District Plan (MDP).

1.1.2 I was not the original author of the FC chapter and APP7 (and the relevant s32 report), however I did evolve these in response to stakeholder comments on the draft chapters.

1.1.3 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2023, and that I have complied with it when preparing this report. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearing Panel.

1.2 Purpose and Scope of this Report

1.2.1 The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on these topics and to make recommendations in response to those submissions, to assist the Hearing Panel in evaluating and recommending on the submissions.

1.2.2 This report is prepared under section 42A of the RMA in relation to:

- The FC chapter;
- APP7 – Financial Contribution.

1.2.3 This report considers the submissions and further submissions that were received in relation to the above topics. It includes recommendations to either retain provisions without amendment, delete, or amend the provisions, in response to these submissions. All recommended amendments are shown by way of strikeout and underlining in **Appendix 1** to this Report, or, in relation to mapping, through recommended spatial amendments to the mapping. Footnoted references (in **Appendix 1**) to the relevant submitter(s) identify the scope for each recommended change.

1.2.4 The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

1.3 Supporting Evidence

1.3.1 The expert evidence, literature, legal cases or other material which I have used or relied upon in support of the opinions expressed in this report includes the following:

- Various chapters within the PDP;
- The evidence of Andrew Dixon contained in **Appendix 3**;
- The Operative District Plan (ODP);
- The Council's Long Term Plan; and
- The Council's Revenue and Financing Policy.

1.4 Procedural Matters

1.4.1 There are no outstanding procedural matters.

2. Topic Overview

2.1 Summary of Relevant Provisions of the PDP

2.1.1 This section of the report provides a brief summary of the notified PDP provisions relevant to the topics covered.

The Financial Contributions Chapter

2.1.2 The FC chapter contains district-wide provisions that cover the situations where the Council will take financial contributions for development.

2.1.3 Financial contributions are contributions of money and/or land that councils can require from developers as a resource consent condition or permitted activity standard under the RMA. Financial contributions can only be taken when the purpose of the contribution is

specified in a District Plan and the level of the contribution is determined in accordance with the plan.

Appendix 7 – Financial Contribution

2.1.4 APP7 contains further information on when, why and how the Council will take financial contributions in relation to:

- water;
- stormwater;
- wastewater;
- roading;
- open space; and
- recreation.

2.2 Background to the Relevant Provisions

2.2.1 As with other chapters of the PDP, the review of these chapters involved: the identification of issues; community consultation via a discussion document; the development of provisions through collaboration amongst the Council's technical working group; community feedback on these through the draft Plan; and incorporation of updates responding to these comments reflected in the final PDP.

2.2.2 The key issues are identified in the supporting s32 report, which also identifies the relevant higher order statutory framework.

3. Overview of Submissions and Further Submissions

3.1.1 The full list of submission points addressed in this report are set out in **Appendix 2**. Overall, there were:

- 10 original submissions on the FC chapter and 37 further submissions.
- 22 original submissions on APP7 and 68 further submissions.

3.1.2 The submissions received on the chapters were diverse and sought a range of outcomes, with the key issues set out in the table below. These issues are assessed in the 'Analysis and Evaluation of Submissions' section of this report.

ISSUE NAME	SUMMARY OF ISSUE	POSITION OF SUBMITTERS
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Level of detail	The FC chapter and App 7 need amending to ensure the purpose for which financial contributions are required is more clearly and comprehensively set out, in accordance with s77E of the Amendment Act.	Some submitters seek to provide further information and clarity on the purpose of the financial contributions, including in relation to infrastructure and facilities and retrospective infrastructure upgrades.
FCs for growth	The financial contributions should only be for the cost of new or upgraded infrastructure over and above what would have been routine upgrade and replacement work.	Some submitters seek to narrow the focus of financial contributions to growth only.
4% contribution per residential lot vs \$500 for Open Space	The proposed 4% financial contributions for open space and recreation is a significant increase from \$500 which is payable under the ODP.	Some submitters seek to retain the ODP's approach of a flat fee financial contributions that is affordable and facilitates subdivision and development.
Grandfathering existing FCs for already approved subdivisions	Approved subdivisions are proposed in the context of the ODP's financial contributions requirements which are now proposed to be amended.	Two submitters consider allowance needs to be made for approved subdivision consents issued by the Council before the District Plan is fully operative.

4. Relevant Statutory Provisions

4.1.1 The assessment for the PDP includes the matters identified in sections 74-76 of the RMA. This includes whether:

- it is in accordance with the Council's functions (s74(1)(a));
- it is in accordance with Part 2 of the RMA (s74(1)(b));
- it will give effect to any national policy statement or operative regional policy statement (s75(3)(a) and (c));
- the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (s32(1)(a)); and

- the provisions within the plan change are the most appropriate way to achieve the objectives of the District Plan (s32(1)(b)).
- In addition, assessment of the PDP must also have regard to:
- any proposed regional policy statement, and management plans and strategies prepared under any other Acts (s74(2));
- the extent to which the plan is consistent with the plans of adjacent territorial authorities (s74 (2)(c)); and
- in terms of any proposed rules, the actual or potential effect on the environment of activities including, in particular, any adverse effect.

5. Statutory Instruments

5.1.1 The s32 reports for the chapters covered in this report set out the statutory requirements and relevant planning context for these topics. Given this, I have not repeated the relevant provisions from the higher order planning framework here. However, I have referred to them where relevant in response to submissions.

6. Analysis and Evaluation of Submissions

6.1 Approach to Analysis

6.1.1 This report covers one chapter and its related appendix. These are addressed in turn in both the body of the report and in Appendices 1 and 2.

6.1.2 The submissions raised both general and provision-specific issues. Given the small number of submissions I have addressed these in turn. All the recommended changes in response to submissions for each provision are collated and shown in **Appendix 1**.

6.1.3 For each identified topic or provision, I have considered the submissions that are seeking changes to the PDP in the following format:

- Matters raised by submitters;
- Analysis;
- Conclusions and recommendations, including recommended amendments to the PDP; and
- A s32AA evaluation, where relevant and at a level of detail appropriate to the changes being proposed.

6.1.4 Clause 10(2)(b), Schedule 1 of the RMA provides for consequential changes arising from the submissions to be made where necessary, as well as any other matter relevant to the PDP arising from submissions. Consequential changes recommended under clause 10(2)(b) are footnoted as such.

6.1.5 Clause 16(2), Schedule 1 of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. Any changes recommended under clause 16(2) are footnoted as such.

6.1.6 Further submissions have been considered in the preparation of this report, but are not specifically mentioned because they are limited to the matters raised in the original submissions and therefore the subject matter is canvassed in the analysis of the original submission. Further submissions are not listed within **Appendix 2**. Instead, recommendations on the primary submissions indicate whether a further submission is accepted or rejected as follows:

- Where a further submission supports a primary submission and the primary submission is recommended to be accepted, or where a further submission opposes a primary submission and the primary submission is recommended to be rejected, the further submission is recommended to be accepted;
- Where a further submission supports a primary submission and the primary submission is recommended to be rejected, or where a further submission opposes a primary submission and the primary submission recommended to be accepted, the further submission is recommended to be rejected;
- Where a further submission supports or opposes a primary submission and the primary submission is recommended to be accepted in part, then the further submission is recommended to be accepted in part.

6.2 Provisions where no change is sought

6.2.1 All the FC chapter and APP7 provisions were submitted on, with submitters seeking change.

7. Financial Contributions chapter

7.1.1 In this section I have addressed the submissions in the following order: general; objectives; policies; rules.

7.2 Financial Contributions – General

7.2.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Venture Timaru	212.6

Kāinga Ora	229.55, 229.56
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Submissions

- 7.2.2 Venture Timaru considers that it is important when apportioning financial contributions between developers and the council that the percentage of public versus private benefit appropriately considers the long term economic and social benefits to the district and sub-region that the particular development brings - many of which will be realised over future years not just the term during or immediately post the development occurring. No specific relief was sought.
- 7.2.3 Kāinga Ora [229.55] supports the use of financial contributions in principle and understands the need for them as a tool to enable the Council to take monetary contributions at the time of development to pay for (or mitigate) the additional effects/demands of land use intensification on infrastructure that is not already programmed to be undertaken through the Council's Long Term Plan (or are already funded through (for example) rates). However, the submitter has concerns about the lack of clarity, certainty and evidence as to the costs of financial contributions to developers and considers there needs to be a very clear nexus in the PDP between a financial contribution and the environmental effect the contribution is to mitigate. The submitter considers there needs to be clarity around costs and how these will be calculated and proportioned, and greater clarity in how financial contributions will be implemented. They seek the following:
- Delete all provisions of the FC chapter¹, including related Appendix 7;
- And
- Amend the financial contributions provisions to ensure the purpose for which financial contributions are required is more clearly and comprehensively set out, in accordance with S77E of the Amendment Act.
- 7.2.4 In a related submission on APP7, Kāinga Ora [229.56] considers the notified financial contributions provisions do not adequately and clearly specify the purpose for which financial contributions are required, as required by s77E of the Amendment Act. The submitter requests that APP7 should clearly outline how financial contributions are calculated, and not just identify when they may be required. The submitter considers that APP7 provides insufficient clarity and certainty to plan users. Kāinga Ora seeks to delete APP7 and all related provisions from the FC chapter; and amend APP7 to ensure it is more clearly and comprehensively set out, in accordance with S77E of the Amendment Act.

¹ The Kāinga Ora submission also individually sought the deletion of FC-O1, FC-O2, FC-P1, FC-P2, FC-P3, FC-R1, FC-R2, FC-R3, APP7 1.0 and APP7 2.0.

Analysis

- 7.2.5 Regarding the Venture Timaru submission, I agree that it is important when apportioning financial contributions that the percentage of public versus private benefit appropriately considers the long term economic and social benefits to the district and sub-region that the particular development brings. I consider this is incorporated in FC-O2 which seeks that development contributes “fairly and equitably” towards the costs and in APP7(4)(a) where it states that the financial contribution payable shall be the full actual cost of any new infrastructure additions or modifications to the existing water supply system, stormwater system, wastewater system or road infrastructure/network that are required to mitigate the expected effects of the development minus the value of any benefit of those additions or modifications that will accrue to the public or other properties as determined by the Council. Accordingly, I recommend that this submission is accepted, noting no specific relief was sought.
- 7.2.6 Regarding the Kāinga Ora submissions, RMA s77E(2) states that:
- 2) A rule requiring a financial contribution must specify in the relevant plan or proposed plan—
- (a) the purpose for which the financial contribution is required (which may include the purpose of ensuring positive effects on the environment to offset any adverse effect); and
- (b) how the level of the financial contribution will be determined; and
- (c) when the financial contribution will be required.
- 7.2.7 In my opinion the combined FC chapter and APP7 do specify the purpose for which financial contributions will be required (which is for water, stormwater, waste water, roading and open space and recreation purposes as set out in APP7). I also consider APP7 specifies when the financial contribution is payable under 1.0(3)² and 2.0(3).³ However, I consider that there is less clarity across the FC chapter and APP7 around how the level of financial contributions will be determined for water, stormwater, wastewater and roading. I therefore agree with the submitter that there is a lack of clarity and certainty as to how financial contributions will be calculated and apportioned to developers for these services.
- 7.2.8 I note that in his evidence, Mr Dixon (attached as **Appendix 3**) considers that the financial contributions rules were drafted to comply with s77E(2) and that the rules provide the method for setting the financial contribution, whereas the Financial Contributions Policy (FC Policy) provides the factual detail for planned growth capex.⁴ The FC Policy is reviewed

² For a subdivision the financial contribution is payable before a certificate under 224 of the RMA is issued; and for a building, before the building consent is issued; and for an activity with no building, before the activity commences; and for a building that does not need a building consent, before the building is occupied.

³ For a subdivision the financial contribution is payable before a certificate under 224 of the RMA is issued; for a residential unit or a visitor accommodation, before building consent is issued.

⁴ Overview section of Mr Dixon's evidence.

every three years (s 106(6) LGA 2002), and is required to provide specifics on growth capex, the proportional allocation of funding and justification, as well as separately identifying these funding streams to different activities. For Timaru's situation, the planned growth capex is limited to different Development Areas (DAs) and some growth capex in respect of open space and recreation. Mr Dixon considers that the FC chapter introduction should be amended to clarify this link by adding the following text:

The Financial Contribution rules apply in conjunction with the Council's Financial Contributions Policy, which is in the Revenue and Finance Policy and part of the Council's Long-Term Plan. The Financial Contributions Policy provides regular (triennial) updates on the Council's growth capex intentions, detail and justification on the proportional allocation of this funding stream, as well as separately identifying the activities and funding allocations – as required by s 106 of the Local Government Act 2002.

- 7.2.9 I agree with Mr Dixon and recommend that the FC chapter is amended as set out above. I also consider there is merit in amending PC-P1(4) to refer to the Council's Financial Contributions Policy.
- 7.2.10 I have reviewed the ODP and note it contains more detail on how the costs are determined for water, stormwater, wastewater and roading and which remains relevant for the PDP. In addition, I note that there is additional detail for open space and recreation matters in the ODP for how financial contributions will be determined and spent for specific development areas such as Geraldine Downs, Washdyke and the Temuka North West. Accordingly, I recommend amendments to APP7 1.0 and 2.0 to include additional detail from the ODP on how financial contributions are calculated and spent. I also recommend that FC-P2 is amended and a new policy (FC-P4) is added to more clearly implement the objectives, stating why a financial contribution is required (for infrastructure and environmental reasons). As a consequential change, the matters of discretion for FC-R1, FC-R2 and FC-R3 also require amending to refer to infrastructure and environmental effects for when a financial contribution is not paid. The policy amendments are shown below, while the matters of discretion changes and additional text to App7 (which is extensive) are shown in **Appendix 1**. Accordingly, I recommend that these submissions are accepted.
- 7.2.11 In respect of the financial contributions rules for non-DA development (FC-R1 and where relevant FC-R3), given this development's unplanned nature, Mr Dixon considers that the rules and APP7 (as amended) provide sufficient and expected clarity and certainty. To the extent district wide growth capex features in future LTPs, the Financial Contributions Policy will either specify this, or allocate this as unplanned financial contributions towards this growth capex. This however will be undertaken as required under s106 of the LGA 2002, as part of the triannual review of the Revenue and Finance Policy. As set out in Mr Dixon's evidence, in terms of the nexus between a financial contribution and an environmental effect, the intention reflected in APP7 is that financial contributions will effectively be required to pay for the additional demand created by a proposed development.

Conclusions and recommendations

7.2.12 I recommend that the submissions from Venture Timaru [212.6] and Kāinga Ora [229.55] and [229.56] are accepted.

7.2.13 Amend the FC chapter introduction as follows:

[...]

The Financial Contribution rules apply in conjunction with the Council's Financial Contributions Policy, which is in the Revenue and Finance Policy and part of the Council's Long-Term Plan. The Financial Contributions Policy provides regular (triennial) updates on the Council's growth capex intentions, detail and justification on the proportional allocation of this funding stream, as well as separately identifying the activities and funding allocations – as required by s 106 of the Local Government Act 2002.

7.2.14 Amend FC-P1(4) as follows:

FC-P1 Taking of financial contributions

[...]

4. is spent within a timely manner or in accordance with an infrastructure development strategy or financial contributions policy;

7.2.15 Amend FC-P2 as follows:

FC-P2 Financial contributions for infrastructure and facilities

Financial contributions will be used to mitigate the adverse effects of new and intensified development on infrastructure and meet the additional needs for public infrastructure and facilities that arise from the activity and shall include financial contributions taken for: [...]

7.2.16 Add a new policy to the FC chapter as follows:

FC-P4 Financial contributions for adverse environmental effects

Financial contributions shall be used to avoid, remedy or mitigate adverse effects on the natural and physical environment which would otherwise be created by new or intensified development.

7.2.17 Amend APP7 as set out in **Appendix 1** to include greater clarity on how financial contributions are determined for water, stormwater, wastewater and roading and to refer to area-specific requirements for open space and recreation.

7.2.18 In terms of a s32AA assessment, my suggested amendments do not change the approach to taking financial contributions, rather, they provide additional detail on how these will be determined. This is more efficient because people have increased certainty about how they

will be calculated. The proposed additional detail will appropriately respond to submissions, until the Financial Contributions Policy is reviewed and updated. As such, I consider that the original s32 continues to apply.

7.3 Financial Contributions – Objective O1 - Funding

- 7.3.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TDC	42.43

Submissions

- 7.3.2 TDC considers this objective is incomplete, and as such, does not convey the intended meaning, which is essential to ensure alignment with policies and rules of this chapter, as required by section 75(1) RMA. They seek the following amendments:

Timaru District's infrastructure, open space and recreation facilities are funded to meet the demands generated by subdivision, land use and development and to ensure subdivision, land use and development do not compromise the quality of service provided to existing users.

Analysis

- 7.3.3 In my opinion, FC-O1 as drafted seeks that infrastructure, open space and recreation facilities are funded to meet the demands arising from subdivision, land use and development and that they do not compromise the quality of service provided to existing users. The extra text proposed by the submitter helps to clarify that it is the subdivision, land use and development that should not compromise the quality of service provided to existing users. I consider this additional text is useful to more accurately state the desired outcome. Accordingly, I recommend this submission is accepted.

Conclusions and recommendations

- 7.3.4 I recommend that the submission from TDC [42.43] is accepted.

- 7.3.5 I recommend that FC-O1 is amended as follows:

Timaru District's infrastructure, open space and recreation facilities are funded to meet the demands generated by subdivision, land use and development and to ensure subdivision, land use and development does not compromise the quality of service provided to existing users.

- 7.3.6 In terms of a s32 assessment, I consider this recommended change simply clarifies the original intent of the objective and therefore the existing s32 continues to apply.

7.4 Financial Contributions – FC-P2

- 7.4.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Rooney Holdings Limited	174.62
GJH Rooney	191.62
Rooney Group Limited	249.62
Rooney Farms Limited	250.62
Rooney Earthmoving Limited	251.62
Timaru Developments Limited	252.62

Submissions

- 7.4.2 The listed submitters oppose FC-P2 as the policy is not specific enough in relation to meeting the needs for additional infrastructure that arise from the activity. The submitters consider the wording is open and unclear and it appears a contribution should only be taken where there is a demonstrated need arising from the activity. They seek to amend FC-P2 for infrastructure and facilities to provide clarity.

Analysis

- 7.4.3 In my opinion FC-P2 does not attempt to provide all the detail required in terms of meeting the needs for additional infrastructure that arise from an activity and I consider such detail would sit uncomfortably within a policy. This extra detail is included in APP7. APP7 is referenced in the rules (e.g. FC-R1 PER-1) but not in FC-P2, nor the objectives and policies generally. To clarify the link to APP7, I recommend that APP7 is referenced in the FC chapter introduction.
- 7.4.4 I note that I recommended adding a clause in FC-P2 in response to Kāinga Ora [229.55] to “mitigate the adverse effects of new and intensified development on infrastructure”. I consider this change also responds in part to these listed submitters as it provides greater clarity on what is required in relation to additional infrastructure. Accordingly, I recommend that these submissions are accepted in part

Conclusions and Recommendations

- 7.4.5 I recommend that the submissions from Rooney Holdings Limited [174.62], GJH Rooney [191.62], Rooney Group Limited [249.62], Rooney Farms Limited [250.62], Rooney Earthmoving Limited [251.62], Timaru Developments Limited [252.62] are accepted in part.
- 7.4.6 Amend the FC chapter introduction as follows:

[...]

This chapter should be read in conjunction with APP7 Financial Contribution, which contains additional detail on why, when and how financial contributions are required and calculated.

7.4.7 In terms of a s32AA assessment, I consider that the original s32 evaluation continues to apply as this change simply cross references to the related APP7.

7.5 Financial Contributions – FC-R3

7.5.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Bruce Spiers	66.61

Submissions

7.5.2 Bruce Spiers considers that FC-R3 should be moved into the Subdivision chapter of the PDP.

Analysis

7.5.3 I understand that Bruce Spiers has made similar submissions across a number of PDP chapters to shift subdivision rules into the subdivision chapter. In his s42A report Mr Boyes considered whether to shift FC-R3 in response to this submission.⁵ Mr Boyes acknowledged that there is no guidance provided within the National Planning Standards regarding provisions relating to financial contributions and considered that this rule is better kept within the separate FC chapter with other related financial contributions rules. On that basis he recommended that this submission is rejected. I accept Mr Boyes advice on this submission. I consider that in this instance FC-R3 is better located within the FC chapter as it is a specialist chapter relating to when and how financial contributions are required. Accordingly, I recommend that this submission is rejected.

Conclusions and recommendations

7.5.4 I recommend that the submission from Bruce Spiers [66.61] is rejected.

7.5.5 No amendments are recommended.

7.6 Financial Contributions – Other matters

7.6.1 In addition to the recommended changes to the FC chapter identified above, I consider further changes are necessary to make the chapter more workable. These changes can be made under the scope of the Kāinga Ora [229.55] submission seeking the whole chapter be deleted and replaced. Alternatively, they can be made under clause 16(2) where they fix a clear error or clause 10(2)(b) where they are consequential to other changes.

⁵ Section 42A Report by Mr Boyes, titled Subdivision and Development Areas, dated 11 December 2024, paragraph 7.1.21

- 7.6.2 Firstly, I recommend that a reference to “visitor accommodation” is included in FC-R2 for clarity, and consistency with FC-R1. Visitor accommodation occurs in a “residential unit”, however it is not always clear if “residential unit” includes “visitor accommodation” as they are separately defined activities. In my opinion, this amendment can be made under clause 16(2).
- 7.6.3 Secondly, I consider that the activity statuses of FC-R1, FC-R2 and FC-R3 need amending as:
- the permitted activity status approach in FC-R1 is slightly troublesome as compliance with the activity standard (a financial contribution has been paid for open space and recreation purposes calculated in accordance with APP7 - Financial Contribution) is not sufficiently certain given land can be provided in lieu of money at the Council’s discretion. As such, an applicant may not be able to ascertain if they meet the permitted activity standard without the Council’s confirmation;
 - the controlled activity status approach in FC-R2 and FC-R3 without any change to a higher status for non-compliance with the controlled standard is problematic as it is not clear what happens if a financial contribution is not provided by a developer – the Council cannot decline a controlled activity. I understand that the conditions of consent requiring a financial contribution can be enforced, however I consider it clearer and more certain to not rely on the enforcement of conditions.
- 7.6.4 I therefore recommend that all three rules are amended to be permitted activities where a financial contribution has been paid as set out in a certificate provided by the Council, calculated in accordance with APP7 - Financial Contribution. The certificate approach will provide the necessary certainty for a permitted activity standard and if the financial contribution is not provided the activity defaults to a restricted discretionary activity which can be declined.
- 7.6.5 Thirdly, FC-R2 refers to “commercial buildings” whereas FC-O1 and FC-O2 refer to subdivision, land use and development, and development respectively, rather than just commercial development (and residential and subdivision). Additionally, while “commercial” is defined, arguments over whether an activity is commercial or industrial or a mixture of various non-residential activities, or indeed changes overtime is unhelpful when the rule is intended to capture new development that creates adverse effects on infrastructure and the environment. Accordingly, I recommend the term “commercial” is replaced with the term “non-residential” which captures the full range of activities. I consider this is more aligned with FC-O1 and FC-O2.
- 7.6.6 Fourthly, all the rules should exclude situations where a suitable financial contribution has already been paid as part of the development (the same development should not be considered twice). Accordingly, I recommend FC-R1, FC-R2 and FC-R3 are amended to enable a financial contribution requirement to be excluded if appropriate.
- 7.6.7 Finally, I consider there is value in including additional matters of discretion to enable the consideration of the possibility of a financial contribution being provided at a later date in a

further stage of a project (where this will be secured by way of consent notice or legal agreement), contrary to the payment timing requirements in APP7, and considering whether there is the provision for ongoing and secured public access that is considered to be part of a strategic network over private land where it otherwise would not occur.

7.6.8 I have set these changes out in **Appendix 1**.

7.6.9 In terms of a s32AA assessment, I consider that the original s32 assessment continues to apply as these changes amend the application of the financial contributions rules rather than substantively change when, how or why they are calculated and required.

Conclusions and recommendations

7.6.10 I recommend that the FC-R1, FC-R2 and FC-R3 are amended as set out in **Appendix 1**.

7.6.11 In terms of a s32AA assessment, I consider these changes better give effect to FC-O1 and FC-O2 as they broaden the application of the rules consistent with the objectives and make the rules more workable. I consider that the additional matters of discretion are pragmatic additions to provide greater flexibility when financial contributions are not paid. Overall, I consider the amendments are the most appropriate to achieve the purpose of the Act

7.7 APP7 – Financial Contribution – 1.0 Water, Stormwater, Wastewater and Roding

7.7.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TDC	42.68
Rooney Holdings Limited	174.63, 174.64
GJH Rooney	191.63, 191.64
Rooney Group Limited	249.63, 249.64
Rooney Farms Limited	250.63, 250.64
Rooney Earthmoving Limited	251.63, 251.64
Timaru Developments Limited	252.63, 252.64

Submissions

7.7.2 TDC considers it is important for APP7 to be very clear about the purpose for which the Council will seek financial contributions. It considers clause 4(d) in 1.0 Water, Stormwater, Wastewater and Roding requires minor amendments to ensure this outcome is achieved. TDC also notes the need to future proof the PDP and seeks to change references in the PDP to the "Council's" three waters infrastructure. They seek the following amendments:

[...]

4. The financial contribution payable shall be:

- a) The full actual cost of any new infrastructure, additions or modifications to [...]; or
b) Where changes, additions, or modifications, have been made

[...] [...]

d) For any costs associated with the following in relation to a and b, which arise due to the development:

i. Design, surveying and consenting;

ii. Acquisition of land. [...]

- 7.7.3 As a general submission on 1.0, Rooney Holdings Limited, GJH Rooney, Rooney Group Limited, Rooney Farms Limited, Rooney Earthmoving Limited, Timaru Developments Limited (174.63, 191.63, 249.63, 250.63, 251.63, 252.63) oppose the drafting of APP7 1.0 in its current form. They consider that the drafting of APP7 should specify more details especially in relation to financial contributions for retrospective infrastructure upgrades. These should only include the cost of what is over and above what would have been routine upgrade and replacement work. The submitters consider that works the Council has previously undertaken in preparation for additional growth should be clearly documented to specify the direct and indirect benefit of the works. The submitters consider the Council should keep a detailed record of the costs incurred for that work and should ensure that the contribution ceases to be collected once the cost of the works has been recovered.
- 7.7.4 The submitters consider the Council should not apply the producer price index (PPI) for construction outputs for work that has already been completed as developers should not be levied a contribution in “today’s” money for “yesterday’s” work. The PPI should only be applied to future work where the costing has been set and the contribution levied on that work. The submitters consider that contributions levied for roading should be taken from all the land that benefits that road, not just properties that have frontage to that road (a collector road for example will service and benefit a much wider area than a local road that is not a thoroughfare). The submitters consider that roading contributions should not include amenity items such as street furniture, and items in relation to general compliance matters, fences and charging stations. The Council needs to provide a clear link between the direct benefit to the developer and indirect benefit to the community. The submitters consider that APP7 1.0 needs to provide sufficient certainty to show compliance with the Resource Management Act 1991 and the Local Government Act 2002. They seek that APP7 is redrafted.
- 7.7.5 Rooney Holdings Limited, GJH Rooney, Rooney Group Limited, Rooney Farms Limited, Rooney Earthmoving Limited, Timaru Developments Limited (174.64, 191.64, 249.64, 250.64, 251.64, 252.64) oppose APP7 1.4.a specifying the “full actual cost”. The submitters consider that an equitable share would be a more appropriate term especially as financial contributions for infrastructure are predominately taken retrospectively. The submitters consider that even if infrastructure upgrades are triggered directly as a result of an activity, that activity should not bear the full cost of the upgrade as other future activities may also

benefit. The submitters consider the current wording of APP7 1.4 is open ended and enables the Council to recover 100% of any infrastructure upgrades it considers necessary. The submitters seek to amend APP7 to make it clear that any infrastructure contribution will be an equitable share of the full cost of any upgrade required as a result of the development.

- 7.7.6 For clarity, I note that I earlier recommended changes to APP7 1.0, as set out in **Appendix 1**, in response to Kāinga Ora [229.56].

Analysis

- 7.7.7 Regarding the TDC submission, I consider that the requested additional text helps to clarify the meaning of the provision. Regarding changing references to the "Council's" three waters infrastructure to future proof the PDP, I note that this matter was considered under TDC [42.8] in my Energy and Infrastructure, Transport and Stormwater s42A report where I recommended (in paragraphs 6.57.9 and 6.57.15) that the abbreviation of "the Council" should be amended to include the successors of the Council for infrastructure management. Accordingly, I recommend that the submission is accepted.
- 7.7.8 Regarding the various Rooney .63 submissions about retrospective contributions where the additional capacity has been created "in anticipation of future development", based on Mr Dixon's evidence (under this submission), I understand that TDC's intention, as reflected in APP7, is that financial contributions will only be required where additional capacity has been created in anticipation of future development. It is not intended that financial contributions will be required for routine upgrades or replacement that is not related to the growth arising from the development.
- 7.7.9 Regarding whether to levy developers a contribution in "today's" money for "yesterday's" work (under APP7 1.4(c)(i), which uses the PPI to address increased costs between calculation and collection) as set out in Mr Dixon's evidence (under this submission and topic heading), this submission appears to be based on a misunderstanding that the Council intends to apply PPI to, in effect, charge for an asset's present value, rather than its actual cost. This is not intended, or available under the proposed rules. Rather, the provision enables the Council to cover the increase in costs which will have taken place between the time the financial contribution is calculated and the time the contribution is payable in order to pay for the works to be undertaken.
- 7.7.10 Regarding the submitters' request that roading contributions be taken from all the land that benefits that road, not just properties that have frontage to that road, in my opinion this is already provided for under 1.0(4) as the Council can consider the value of any benefit that will accrue to other properties. Mr Dixon (under this submission and topic heading) also notes the intention, reflected in APP7, is that financial contributions reflect an equitable contribution of parties toward costs, so that if a new road benefits others (not just those with road frontages), that should be reflected in the contribution. I consider it appropriate that roading contributions should include amenity items such as street furniture where

these respond to an adverse effect as set out under FC-O2. Mr Dixon also notes this in his evidence under this submission and topic heading.

- 7.7.11 Regarding the concerns that: costs should only be for growth, rather than “routine upgrade / replacement”; that works that the Council has previously undertaken in preparation of additional growth should be clearly documented to specify the direct and indirect benefit of the works; and that the Council should keep a detailed record of the costs incurred for that work, I consider these are a matter for the Financial Contributions Policy and LTP. I consider that an advisory note in APP7 would be helpful to explain this relationship and accordingly I recommend that these submissions are accepted in part.
- 7.7.12 Regarding the various Rooney .64 submissions seeking a “equitable share” as opposed to the “full actual cost”, I consider that APP7(1)(4)(a) already provides for an equitable share as this clause requires the “full actual cost...minus the value of any benefit...that will accrue to the public or other properties.” As such, the clause already provides for an equitable share to be taken. Accordingly, I recommend that this submission point is rejected.

Conclusions and recommendations

- 7.7.13 I recommend that the submission from TDC [42.68] is accepted.
- 7.7.14 I recommend that the submissions from Rooney Holdings Limited [174.63], GJH Rooney [191.63], Rooney Group Limited [249.63], Rooney Farms Limited [250.63], Rooney Earthmoving Limited [251.63] and Timaru Developments Limited [252.63] are accepted in part.
- 7.7.15 I recommend that the submissions from Rooney Holdings Limited [174.64], GJH Rooney [191.64], Rooney Group Limited [249.64], Rooney Farms Limited [250.64], Rooney Earthmoving Limited [251.64] and Timaru Developments Limited [252.64] are rejected.
- 7.7.16 Add the following advisory note to the start of APP7:

Advisory note: the Council's Financial Contributions Policy, which is in the Revenue and Finance Policy and part of the Council's Long-Term Plan contains additional information on financial contributions funding.

- 7.7.17 Amend clause 1.0(4) as follows:

[...]

4. The financial contribution payable shall be:

- a) The full actual cost of any new infrastructure, additions or modifications to [...]; or
b) Where changes, additions, or modifications, have been made [...]

[...]

d) For any costs associated with the following in relation to a and b, which arise due to the development:

[...]

- 7.7.18 In terms of a S32AA assessment, I consider the original s32 continues to apply as these changes simply provide greater clarity to the provisions and do not change their meaning or intent.

7.8 App 7 - Financial Contribution – 2.0 Open Space Recreation

- 7.8.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Rooney Holdings Limited	174.65
GJH Rooney	191.65
Rooney Group Limited	249.65
Rooney Farms Limited	250.65
Rooney Earthmoving Limited	251.65
Timaru Developments Limited	252.65
Millward Finlay Lobb	60.57
Steve Dale & Anthony Dale	54.12

Submissions

- 7.8.2 Rooney Holdings Limited, GJH Rooney, Rooney Group Limited, Rooney Farms Limited, Rooney Earthmoving Limited and Timaru Developments Limited oppose a 4% contribution for open space due to it being a significant increase from \$500 which is payable under the ODP. The submitters state that a 4% contribution on a \$300,000 section is \$12,000 alone before any infrastructure contributions are added and that such a contribution will either increase the cost of sections, adding to affordability issues, or make many developments uneconomical. The submitters seek to amend APP7 2.0 to retain the ODP approach of a flat fee contribution that is affordable and facilitates subdivision and development.
- 7.8.3 Millward Finlay Lobb, and Steve Dale & Anthony Dale consider an allowance needs to be made for approved subdivision consents issued by the Timaru District Council before the District Plan is fully operative. They seek the following amendments:

2.0 Open Space Recreation

[...]

2. The financial contribution shall be payable when a development is a:

- a. subdivision resulting in additional allotments for residential purposes; or
- b. a residential unit (other than a replacement of an existing residential unit); or
- c. a visitor accommodation (other than a replacement of an existing visitor accommodation).; or

d. For any subdivision consent approved by the Timaru District Council prior to the District Plan being fully operative any open space contribution shall be in accordance with that subdivision consent approval.

7.8.4 For clarity, I note that I earlier recommended changes to APP7 2.0, as set out in **Appendix 1**, in response to Kāinga Ora [229.56].

Analysis

7.8.5 Regarding the various Rooney submissions, I appreciate that 4% is a significant increase over \$500. However, as set out in Mr Dixon's evidence (under this submission) compared to other similar Councils the amount is moderate, and the proposed increase is fair and reasonable, noting the amounts specified below as examples:

- Mckenzie District Council - 5%
- Ashburton - 5%
- Waitaki - 7.5%
- Waimate - 5%

7.8.6 I accept Mr Dixon's advice. Accordingly, I recommend that these submissions are rejected.

7.8.7 Regarding the Millward Finlay Lobb, and Steve Dale & Anthony Dale submissions, whilst I consider it appropriate to apply the ODP financial calculations until the equivalent PDP provisions become operative, I note that financial contributions are calculated at the time of subdivision consent approval and would be a condition of the approved subdivision consent, and that the PDP cannot retrospectively change the consent conditions. Given this, I do not consider this addition is necessary. Accordingly, I recommend that these submissions are rejected.

Conclusions and recommendations

7.8.8 I recommend that the submissions from Millward Finlay Lobb [60.57], Steve Dale & Anthony Dale [54.12] are rejected.

7.8.9 I recommend that the submissions from Rooney Holdings Limited [174.65], GJH Rooney [191.65], Rooney Group Limited [249.65], Rooney Farms Limited [250.65], Rooney Earthmoving Limited [251.65], and Timaru Developments Limited [252.65] are rejected.

7.8.10 No changes are recommended.

8. Conclusions

8.1.1 Submissions have been received in opposition to the FC chapter and associated APP7.

8.1.2 Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the PDP should be amended as set out in **Appendix 1** of this report.

8.1.3 I consider that the recommended amended objectives and provisions are the most appropriate means to achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2, and otherwise give effect to higher order planning documents.

Recommendations:

8.1.4 I recommend that:

- a. The Hearing Commissioners accept, accept in part, or reject submissions (and associated further submissions) as outlined in **Appendix 2** of this report; and
- b. The PDP is amended in accordance with the changes recommended in **Appendix 1** of this report.

Signed:

Name and Title	Signature
Andrew Willis Consultant Planner	