

18 July 2019

**Response - Official Information Request**

I refer to your request for information received on 8 July 2019. Your request has been considered under the Local Government Official Information and Meetings Act 1987 (LGOIMA) and I provide the following information.

**Financial Contributions and Development Contributions are legally defined under legislation RMA 1991 and LGA 2002, respectively. In what ways has HDC defined financial contributions in the draft and final documents for Financial Contributions Policy 2015 that differ from the legal definitions above.**

The legal definitions for development contributions and financial contributions are as follows -

Section 197(2) of the Local Government Act 2002 (LGA) defines development contributions as:

*"a contribution -*

- (a) provided for in a development contribution policy of a territorial authority; and*
- (b) calculated in accordance with the methodology; and*
- (c) comprising -*
  - (i) money; or*
  - (ii) land, including a reserve or esplanade reserve (other than in relation to a subdivision consent), but excluding Māori land within the meaning of [Te Ture Whenua Maori Act 1993](#), unless that Act provides otherwise; or*
  - (iii) both"*

Section 108(9) of the Resource Management Act 1991 (RMA) defines financial contributions as a:

*"...contribution of -*

- (a) money; or*
- (b) land, including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent), but excluding Maori land within the meaning of [Te Ture Whenua Maori Act 1993](#) unless that Act provides otherwise; or*
- (c) a combination of money and land."*

Horowhenua District Council's (Council's) Financial Contributions Policy does not differ in terms of how it defines financial contributions compared to the RMA definition. While the Financial Contributions Policy does not specifically include the definition of financial contributions, this Policy was developed in accordance with the LGA and RMA and Section 2 of the Policy references section 108(9) of the RMA.

**How, on what basis, has Financial Contributions been changes to include funding future capital expenditure caused by growth, when the legal definition is for mitigation environmental damage caused by development?**

For the purpose of clarification the legal definition of financial contributions is outlined above (section 108(9) of the RMA) and this definition does not refer to mitigation of environmental damage caused by a development.

Section 108(10)(a) of the RMA requires financial contributions to be imposed in accordance with purposes specified in a plan or proposed plan and also make reference to them “...including the purpose of ensuring positive effects on the environment to offset any adverse effect.”

As you are aware, while Council has a Financial Contribution Policy the Horowhenua District Plan does not make provision for financial contributions and therefore they are not currently charged.

In terms of how financial contributions are utilised more generally by other local authorities they are used to remedy or mitigate the adverse effects of subdivision and development, including the effect of growth on infrastructure and the need to fund increased capacity of that infrastructure. Financial contributions as a mechanism are effectively used to offset or compensate for an adverse effect.

Section 2 of Council’s Financial Contributions Policy outlines what financial contributions are. This section also indicates how Council anticipates financial contributions would be used, being:

- To compensate for the situation where development leads to a demand for additional infrastructural services or leads to the deterioration of the existing infrastructure; and
- As a means to avoid, remedy or mitigate adverse effects of activities on the environment caused by the development.

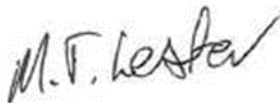
This is consistent with how they are intended to use under the RMA. If Council had progressed with a plan change and amended the District Plan to provide for financial contributions then the Financial Contribution Policy including section 2 would have guided the development of the plan change.

If you have any queries regarding this information please contact David McCorkindale, Group Manager Strategy & Development on 06 366 0999 or email: [davidbm@horowhenua.govt.nz](mailto:davidbm@horowhenua.govt.nz)

Horowhenua District Council publishes responses to Local Government Official Information and Meetings Act 1987(LGOIMA) requests that we consider to be of wider public interest, or which relate to a subject that has been widely requested.

To protect your privacy, we will not generally publish personal information about you, or information that identifies you. We will publish the LGOIMA response along with a summary of the request on our website. Requests and responses may be paraphrased.

Yours sincerely



Mark Lester  
**Group Manager Corporate Services**