

9 September 2022

Attn: Development Planning Unit
Waimakariri District Council
Private Bag 1055
Rangiora 7440

Submission sent via email: developmentplanning@wmk.govt.nz

**KĀINGA ORA – HOMES AND COMMUNITIES SUBMISSION ON
VARIATION 2: FINANCIAL CONTRIBUTIONS TO THE PROPOSED
WAIMAKARIRI DISTRICT PLAN UNDER CLAUSE 6 OF SCHEDULE 1
OF THE RESOURCE MANAGEMENT ACT 1991**

This is a submission on Variation 2: Financial Contributions (“V2”) from Waimakariri District Council (“the Council” or “WDC”) on the Proposed Waimakariri District Plan (“the Proposed Plan” or “PDP”):

The specific provisions of the proposal that this submission relates to:

Variation 2: Financial Contributions in its entirety.

This letter and the table attached is Kāinga Ora submission on V2.

The Kāinga Ora submission is:

1. Kāinga Ora Homes and Communities (“**Kāinga Ora**”) is a Crown Entity and is required to give effect to Government policies. Kāinga Ora has a statutory objective that requires it to contribute to sustainable, inclusive, and thriving communities that:
 - a) Provide people with good quality, affordable housing choices that meet diverse needs; and
 - b) Support good access to jobs, amenities and services; and
 - c) Otherwise sustain or enhance the overall economic, social, environmental and cultural well-being of current and future generations.

2. Because of these statutory objectives, Kāinga Ora has interests beyond its role as a public housing provider. This includes a role as a landowner and developer of residential housing and as an enabler of quality urban developments through increasing the availability of build-ready land across the Canterbury Region including the Waimakariri District.
3. Kāinga Ora therefore has an interest in V2 and how it:
 - i. Gives effect to the National Policy Statement on Urban Development (“**NPS-UD**”) and The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (“**the Amendment Act**”);
 - ii. Minimises barriers that constrain the ability to deliver public housing, affordable housing, affordable rental and market housing and
 - iii. Provides for the provision of services and infrastructure and how this may impact on the existing and planned communities, including Kāinga Ora housing developments.
4. The Kāinga Ora submission points and changes sought in V2 are as follows and set out in **Appendix 1**:
 - i. In principle, **Kāinga Ora supports and understands the need for Financial Contributions (“FC”)** as a tool or mechanism to enable 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 Council’s Long Term Plan (or are already funded through Development Contributions (‘DC’) and/or rates). The financial contributions provisions have been written as a direct consequence of the Amendment Act.
 - ii. Kāinga Ora notes that where existing infrastructure is nearing or at capacity, the appropriate Council response to this issue is to increase public investment where needed rather than to constrain and restrict otherwise appropriate development. Kāinga Ora notes that development in urban areas may necessitate additional public investment in the expansion of the three waters and transport infrastructure, and/or creation of new public open spaces and reserves, and the cost for such expansion and creation needs to be considered along with the proposed development/s.

- iii. However, **Kāinga Ora seeks that there needs to be a very clear nexus between a FC and the environmental effect the FC is to mitigate in the Proposed Plan.** In some urban areas, residential intensification could have an effect (potentially adverse) on infrastructure that is reaching capacity. Kāinga Ora generally supports FC being collected to offset or mitigate such effects that are not otherwise already catered for by planned and funded infrastructure upgrades, but only where there is a clear and publicly accessible evidence base relating to the infrastructure capacity (see submission points further below) and certainty to the likely or approximate costs that will reduce the cause and effect.
- iv. Kāinga Ora appreciates that introducing a new FC framework is a complex plan drafting task. However, **Kāinga Ora considers and seeks that the rule framework for FC needs to be clear and concise in such that the assessment of any FC payable is easily understood by all potential plan users (i.e., laypeople). Kāinga Ora opposes the proposed provisions as currently notified and the application of the proposed rules will not be easily understood.** The mechanics of how the rules work, the language, terminology and additional processes needed to support the provisions are unclear and lack transparency and in Kāinga Ora view requires amendment. In reviewing V2, Kāinga Ora finds the assessment calculation process is complex, undertaking the calculations will require significant work by Council staff, and most likely, the interpretation and application of the proposed rule framework will create 'gaps and room for individual discretion and inconsistency.
- v. **Kāinga Ora proposes and seeks a number of amendments to the rule framework in Appendix 1,** however, it wishes to express that it has been challenging to make such suggested amendments to the proposed rules because they are difficult to understand and the calculation and assessment process is complicated and unclear. **Kāinga Ora seeks a more simplified rule package that gives certainty over how, when and what quantum of contributions will be required in V2 and the Proposed Plan.**
- vi. Kāinga Ora also opposes the proposed FC provisions as they do not provide certainty about which areas of the Medium Density Residential Zone (MRZ) have existing and significant infrastructure constraints (i.e., locations that are affected). Furthermore, the s32 evaluation assessment does not contain any sufficient and detailed breakdown assessment of where and which infrastructure is reaching capacity or is constrained. **Kāinga Ora suggests and seeks that the rules in V2 should be supported by an online mapping tool or calculator or similar,**

that provides plan users with greater clarity and certainty to which geographies FC will likely apply to and how they will be calculated.

- vii. Kāinga Ora has found that the s32 assessment also does not provide any specific details or examples of the likely cost of FC per unit/site. The s32 assessment notes that an estimate of the levies cannot be calculated until development begins, however, the cost analysis part of the s32 assessment has concluded that *“the economic impact on the persons responsible for paying will be a relatively minor effect when compared to District-wide benefits received, as well as benefits to that person gained from development”*. Such a conclusion cannot be drawn without quantifiable evidence of the likely costs of FC. The fact that potentially significant cost elements have not been made available in V2 and its supporting material is concerning and impacts on the ability for Council to elicit informed submissions. The lack of understanding of the approximate costs of land development (or FC) create significant uncertainty for property owners and residential developers including Kāinga Ora. **Kāinga Ora seeks that transparency on a FC (whether potential or true and factual) should be made clear and be capable of determination at any stage in the development process, including prior to land acquisition and/or consent application being submitted.** This is critically important.
- viii. Kāinga Ora has concerns that any requirement for potential developers to check water, sewer network, stormwater and roading capacity prior to planning new development will create uncertainty for developments and effectively give Council a right of veto for developments that are otherwise provided for and potentially permitted by the District Plan. Kāinga Ora queries why, if Council has the information on network capacity, that it does not make it available now to the public via interactive maps on the Council website, or online contributions calculators rather than requiring developers to check with Council directly on a case-by-case, enquiry or application basis. Kāinga Ora considers that this will lead to significant resourcing and time delays (which have not been anticipated by Council) associated with obtaining feedback from, or providing a response to Council. Council will need to address these issues in order to effectively and efficiently implement any new financial contribution provisions proposed in V2. **Kāinga Ora seeks that the information on infrastructure network capacity is made available to the public via interactive maps on the Council website, or online contributions calculators.**

- ix. While Kāinga Ora considers that FC are a more immediate solution to addressing the potential adverse effects on infrastructure resulting from residential intensification that hasn't currently been planned for in the Council's LTP; the more appropriate Council response to this issue is to increase public investment where needed rather than to constrain otherwise appropriate and required housing development in the region. Over time, the necessary infrastructure upgrades required to enable the residential intensification in Waimakariri will be planned for and included in the LTP and the need for FC will reduce and otherwise be funded through Development Contributions ("DC") and/or other means.
- x. The s32 analysis considers that the addition of the words 'equitable' and 'reasonable' set the tone that the FC collected will be calculated at a fair and sensible rate. Kāinga Ora queries whether there is a process for, or a right of objection to, the FC assessment calculations particularly on permitted development. Acknowledging that where imposed as a consent condition these can be objected to under s357 of the RMA as no such process applies to permitted development. From a natural justice perspective, it is important that FC calculations are clear, consistent, and easily understood by all and plan users have the opportunity to contest such calculations in appropriate circumstances. **Kāinga Ora seeks removal of FC to permitted development and / or the introduction of an objection process.**
- xi. Kāinga Ora queries how cumulative effects are addressed in the provisions and how costs will be proportioned across multiple sites equitably. For example, if several sites within a block dependant on the same infrastructure upgrade are being developed at the same time, will the one that 'broke the camel's back' be charged FC and the others contribute nothing? Will FC be determined on a first in first served or priority basis and if so is this first to get a land use resource consent, or a building consent, or a subdivision resource consent? These examples are not exhaustive but illustrate Kāinga Ora's concerns in ensuring that the charging of FC is equitable and proportional across the district. **Kāinga Ora seeks amendments to clarify these processes and provisions as part of V2.**
- xii. Kāinga Ora notes that FC could be seen as a potential barrier to development if not appropriately drafted to address the above points. **Kāinga Ora seeks ongoing involvement in discussions with Council regarding FC and seeks that the Council test-run a number of development proposals through an amended FC calculation assessment to see what issues may arise and identify solutions and processes to improve or fix those issues as part of V2.**

5. The changes requested are made to:
- i. Ensure that Kāinga Ora can carry out its statutory obligations;
 - ii. Ensures that the proposed provisions are the most appropriate way to achieve the purpose of the Resource Management Act 1991;
 - iii. Reduce interpretation and processing complications for decision makers so as to provide for plan enabled development;
 - iv. Provide clarity for all plan users; and
 - v. Allow Kāinga Ora to fulfil its urban development functions as required under the Kāinga Ora–Homes and Communities Act 2019.
6. The changes sought from Kāinga Ora are noted above and in **Appendix 1**.

Kāinga Ora not a trade competitor:

7. Kāinga Ora does not consider it can gain an advantage in trade competition through this submission. In any event, Kāinga Ora is directly affected by an effect of the subject matter of the submission that: adversely affects the environment; and does not relate to trade competition or the effects of trade competition.

Kāinga Ora seeks the following decision from Waimakariri District Council:

8. That the submission points above and those outlined in **Appendix 1**, are addressed by the Council, including such further, alternative, or consequential relief as may be necessary to fully achieve the relief sought in this submission.

Kāinga Ora wishes to be heard in support of their submission.

9. Kāinga Ora seeks to work collaboratively with the Council and wishes to discuss its submission on Variation 2 to address the matters raised in its submission.
10. If others make a similar submission, Kāinga Ora would be willing to consider presenting a joint case with them at a hearing.



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Appendix 1: Decisions sought ‘Variation 2: Financial Contribution’

The following table sets out the amendments sought to Variation 2: Financial Contributions and also identifies those provisions that Kāinga Ora supports.

Table 1

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
Part 2 - District Wide Matters/ General District Wide Matters					
FC - Koha pūtea - Financial Contributions					
1.	FC - Koha pūtea - Financial Contributions	All provisions	Support in part	In principle, Kāinga Ora supports and understands the need for Financial Contributions (FC) as a tool or mechanism to enable Council to take monetary contributions at the time of development to pay for (or mitigate) the additional effects/ demand of a development and that are not already programmed to be undertaken through Council's Long-Term Plan (and are therefore already funded through Development Contributions ('DC') and/or rates). However, Kāinga Ora has a number of concerns as identified in that part of its submission preceding Table 1 about the lack of clarity and certainty as to the costs of FC to developers. In Kāinga Ora's view, there needs to be greater transparency about costs and how these will be calculated and proportioned, and greater clarity in how FC will be implemented.	Amend the provisions to provide greater clarity and certainty to plan users of the costs and implementation of FC.

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
2.	FC - Koha pūtea - Financial Contributions	Introduction to FC chapter	Support in part	Whilst generally supported, the introductory section to the chapter needs to clearly state that FC are required where the costs of development are not otherwise covered by development contributions or other funding sources available to the Council.	Amend the provisions as follows <i>Financial contributions are collected by councils to address adverse effects of development that cannot be otherwise avoided, remedied or mitigated. Financial contributions can be used to cover the proportioned cost of the provision of infrastructure, such as upgrading or replacement of infrastructure to service higher capacity; and/or to offset adverse effects on the environment, <u>where such costs are not otherwise addressed by any other funding source available to the Council.</u></i>
3.	FC - Koha pūtea - Financial Contributions	Objective FC-O1 Infrastructure impacts	Oppose	Whilst the objective appropriately seeks that development 'equitably contributes' towards the remediation or mitigation of effects on Council infrastructure, it does not adequately and clearly specify the purpose for which FC are required, as required by s77E of the Amendment Act.	Delete FC-O1 as notified and amended to ensure the purpose for which FC are required is more clearly and comprehensively set out, in accordance with s77E of the Amendment Act.
4.	FC - Koha pūtea - Financial Contributions	Objective FC-O2 Environmental Effects	Oppose	FC-O2 is opposed for the same reasons expressed above in regards to FC-O1.	Delete FC-O2 as notified and amend to ensure the purpose for which FCs are required is more clearly and

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
					comprehensively set out, in accordance with s77E of the Amendment Act.
5.	FC - Koha pūtea - Financial Contributions	Policy FC-P1 Provision of Infrastructure	Support in part	Consistent with submission point 2, this provision needs amendment to clearly state that FC are required where unplanned infrastructure upgrades and associated costs are not otherwise covered by development contributions or other funding sources available to Council. As worded, the policy may unnecessarily require FC for infrastructure upgrades that are ‘ahead of the scheduled maintenance/replacement program’ but which might otherwise be catered for in the Council's Development Contribution policy or by other funding sources (e.g. developer agreements or developer funded infrastructure) in a way that makes a FC unnecessary. Accordingly, the proposed amendments provide greater clarity and scope to consider wider sources of funding.	Amend FC-P1 as follows: <i>Financial contributions are required where housing intensification, subdivision, and development or both have an adverse environmental effect on existing infrastructure, which requires capacity increases, upgrades or other modification to the infrastructure</i> <i>ahead of the scheduled maintenance/replacement program, or outside the scope of scheduled maintenance/replacement programme where such upgrades and costs are not otherwise addressed by Council's Development Contributions Policy or other funding sources available to the Council.</i>
6.	FC - Koha pūtea - Financial Contributions	Policy FC-P2 Acquisition of Land	Oppose	Kāinga Ora expect that the land requirements for new road reserve, stormwater reserve, or council infrastructure generally would be planned and provided for through the LTP process.	Delete FC-P2 in its entirety.

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
				To the extent that this policy might otherwise be intended to provide for the acquisition and vesting of land as an alternative source of funding, the relief sought in Kāinga Ora's submission on FC-P1 above would provide for this as an 'other funding source available to the Council'.	
7.	FC - Koha pūtea - Financial Contributions	Activity Rules FC-R1 Medium Density Residential Zone - New Residential Units	Support in part	Kāinga Ora broadly supports the intent of the rule as notified, subject to its requested relief for rules FC-S1 to FCS4 (to which rule FC-R1 relates). However, Kāinga Ora seeks that: a. Rule FC-R1.1 be amended to apply to more than three residential units, on the basis that the MDRS permit up to 3 units per site and this level of development should be planned for by Council in terms of infrastructure requirements and funding; and b. Rule FC-R1.3 be amended to specify that FC be paid prior to the issue of a Code Compliance Certificate under the Building Act, to ensure such payments are not premature.	Amend FC-R1 as follows: <i>Activity status: PER</i> <i>Where:</i> 1. <i>there are more than two <u>three</u> residential units per site;</i> 2. <i>a financial contributions assessment has been completed in accordance with FC-S1; and</i> 3. <i>all monies calculated under FC-S2 to FCS4 are paid, <u>prior to the issue of a Code Compliance Certificate under the Building Act 2004.</u></i>

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
				c. Make consequential amendments as required to V1, including as a minimum, the deletion of all other infrastructure assessment matters applying to land use consent applications for more than 3 units (noting this will otherwise be addressed by rule FC-R1). In the alternative, such applications should refer to rule FC-R1.	Make consequential amendments as required to V1, including as a minimum, the deletion of all other infrastructure assessment matters applying to land use consent applications for more than 3 units.
8.	FC - Koha pūtea - Financial Contributions	Activity Rule FC-R2 All Zones – Subdivision	Support in part	Kāinga Ora seeks amendments to the rule, consistent with its submission on FC-R1.	Amend FC-R2 as follows: <i>Activity status: PER</i> <i>Where:</i> 1. <i>there are more than two <u>three</u> allotments are created;</i> 2. <i>a financial contributions assessment has been completed in accordance with FC-S1; and</i> 3. <i>all monies calculated under FC-S2 to FCS4 are paid, <u>prior to the issue of a completion certificate under section 224c of the Resource Management Act 1991.</u></i>
9.	FC - Koha pūtea - Financial Contributions	Financial Contribution Standards FC-S1:	Oppose	In principle, Kāinga Ora supports the inclusion of an assessment methodology for FC.	Amend FC-S1 comprehensively in order to provide clarity and certainty in accordance with the comprehensive

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
		Assessment Methodology		However, FC-S1 as notified provides no certainty or transparency to plan users. Among other things, FC-S1 provides no certainty as to the spatial extent/scope of a Financial Contribution Calculation Assessment, how the costs in FC-S1.1a-e will be determined, whether such costs will be determined or confirmed independently of Council, or to what extent they can be reviewed or contested in the event of disagreement with an Assessment. Accordingly, FC-S1 provides little or no certainty to plan users as to the potential implications of the Financial Contribution Calculation Assessment to development, including the potential magnitude of any resulting FC. Kāinga Ora also note that FC-S1 as notified does not refer to FC-S2 to FC-S4, despite these provisions being integral to FC-S1.	submission points set out preceding Table 1 of Kāinga Ora's submission, and in accordance with the reasons expressed in this submission point.
10.	FC - Koha pūtea - Financial Contributions	Financial Contribution Standards FC-S2: Financial Contribution Calculation for Water, Wastewater and Stormwater	Oppose	Consistent with its submission on FC-S1, Kāinga Ora supports the intent of this provision but has concerns with the lack of clarity and certainty in the provision as notified. Among other things, Kāinga Ora considers that FC-S2 to FC-S4 should be amended to:	Amend FC-S2 comprehensively in order to provide clarity and certainty in accordance with the comprehensive submission points set out preceding Table 1 of Kāinga Ora's submission, and in accordance with the reasons expressed in this submission point.

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
				a. Provide a consistent methodology for determining FC across all forms of infrastructure, to the extent possible. For example: i. Assessing whether infrastructure upgrades are already allowed for within the Council's Development Contributions Policy and only charging FC on upgrades not allowed for. ii. Only charging the proportion of FC needed to service the proposed development (e.g. accounting for cumulative effects on infrastructure, but not disproportionately charging FC to those who may be the first to trigger an infrastructure upgrade). b. Provide specific calculations, to the extent possible (e.g. per FC-S4.1.c). c. Provide specific circumstances where FC will not be charged (e.g. per FC-S2.1.d).	

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
				d. Provide details as to who undertakes the assessment (e.g. per FC-S3.1.d) and the process for dispute resolution. e. By reference to an external document or resource provide an 'online calculator' or similar tools to enable plan users to readily assess FC.	
11.	FC - Koha pūtea - Financial Contributions	Financial Contribution Standards FC-S3: Financial Contribution Calculation for Acquisition and Vesting of Land	Oppose	Consistent with its submission on FC-P2, Kāinga Ora expect that the land requirements for new road reserve, stormwater reserve, or council infrastructure generally would be planned and provided for through the LTP process. To the extent that this policy might otherwise be intended to provide for the acquisition and vesting of land as an alternative source of funding, the relief sought in Kāinga Ora's submission on FC-P1 above would provide for this as an 'other funding source available to the Council'.	Delete FC-S3 in its entirety.
12.	FC - Koha pūtea - Financial Contributions	Financial Contribution Standards FC-S4: Financial Contribution Calculation for Rooding	Oppose	The FC provisions will apply when more than two (notified version) or three (Kāinga Ora relief) dwellings are developed on a single site. It is Kāinga Ora's view that FC-S4 should only apply where the scale of development requires road upgrades.	Amend FC-S4 comprehensively in order to provide clarity and certainty in accordance with the comprehensive submission points set out preceding Table 1 of Kāinga Ora's submission, and in accordance with the reasons expressed in this submission point.

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
				Consistent with its submission on FC-S1, Kāinga Ora supports the intent of this provision but has concerns with the lack of clarity and certainty in the provision as notified. Among other things, Kāinga Ora considers that FC-S2 to FC-S4 should be amended to: a. Provide a consistent methodology for determining FC across all forms of infrastructure, to the extent possible. For example: i. Assessing whether infrastructure upgrades are already allowed for within the Council's Development Contributions Policy and only charging FC on upgrades not allowed for. ii. Only charging the proportion of FC needed to service the proposed development (e.g. accounting for cumulative effects on infrastructure, but not disproportionately charging FC to those who may be the first to trigger an infrastructure upgrade).	

ID	Section of Plan	Specific Provision	Support/Support in Part/Oppose	Reasons	Relief Sought
				b. Provide specific calculations, to the extent possible (e.g. per FC-S4.1.c). c. Provide specific circumstances where FC will not be charged (e.g. per FC-S2.1.d). d. Provide details as to who undertakes the assessment (e.g. per FC-S3.1.d) and the process for dispute resolution. e. By reference to an external document or resource provide an 'online calculator' or similar tools to enable plan users to readily assess FC. As a general comment, Kāinga Ora considers that FC-S4 as notified provides greater certainty and clarity (as to the calculation methodology) that FC-S2 or FC-S3. Whilst further amendments are considered necessary, in accordance with its submission, Kāinga Ora considers that FC-S4 offers a useful starting point for such amendments.	

