HGI Plan Review: section 32 report for Financial contributions

1.0 Executive summary

This report summarises the evaluation undertaken by the council of financial contributions in terms of section 32 of the Resource Management Act.

The main conclusions are:

- That financial contribution provisions be used as a means of mitigating adverse effects of subdivision and development.
- That financial contributions be collected for the purposes of open space, infrastructure, community amenities and environment or heritage.
- That financial contributions apply to subdivision consents and land use activities and consents.
- That the appropriate level and form of contribution be levied according to the purpose.
- The council has discretion to reduce or waive financial contributions.

2.0 Introduction

2.1 Purpose of this report

This report is to meet the section 32 requirements of the Resource Management Act.

2.2 Proposed plan provisions

The plan provisions for financial contributions outline the issues, objectives and policies. Financial contributions can be imposed for the purposes as outlined in the plan.

The purposes for which financial contributions can be taken are:

- Open space
- Infrastructure
- Community amenities
- Environment or heritage

Financial contributions are payable in respect of subdivision and land use activities classified as permitted, controlled, restricted discretionary, discretionary or non-complying activities.

The level and form of open space financial contributions on subdivision is based on 7.5% of the value (money or land) of each additional site created. On land use activities and consents, where the value of work exceeds $100,000, payment of money is based on 7.5% of the total value of work.

The level of infrastructure financial contributions that may be payable on "planned infrastructure projects" identified in the Long Term Council Community Plan or a council asset management plan, will be determined by reference to the share of capacity that subdivision or development will take up. The form can be money or land.

Infrastructure financial contributions may also be payable on "unplanned infrastructure projects" not identified in the Long Term Council Community Plan or a council asset management plan. The level will be determined by reference to the extent to which the subdivision or development creates the need to undertake expenditure, will not exceed 90% of the cost of the local infrastructure project. The form can be money or land.

Community amenities financial contributions may be payable where subdivision or development involves the uptake of capacity provided by one or more community amenity projects identified in the Long Term Community Plan or council asset management plan. The level of contribution will be determined by reference to the share of that capacity that the subdivision or development will take up. The form can be money or land.

Environment or heritage financial contributions may also be payable. The council may require a fair and reasonable contribution based on the amount of land, cost of work, necessary to avoid, remedy or mitigate the adverse effects generated by subdivision or development. Contributions will be assessed on a case by case, project by project basis.

Assessment criteria for considering a reduction or waiver as part of an application shall be taken into account by the council when assessing whether to impose the maximum contribution or less than the maximum. Assessment criteria is provided in for each type of financial contribution.

Permitted activities will require a restricted discretionary activity application to consider a reduction or waiver of financial contribution.

2.3 Consultation

This section of the report briefly outlines the consultation that the council has undertaken to date and identifies any issues raised of particular relevance to financial contributions.

2.3.1 Consultation to date

The council undertook consultation in 2005 in preparation for drafting the proposed Plan.

Initial consultation

The main consultation period was from April to July 2005. Consultation during that period consisted of:

- public meetings, workshops, nga hui, and one on one meetings
- a photographic exercise on Waiheke
- inviting written feedback on a consultation document which contained issues and options papers on a wide range of topics.

Focus groups

At the close of consultation, the council analysed the feedback forms received. From these, key issues were identified that subsequently became topics for focus groups on Waiheke. The four topics for the focus groups were:

- landscape
- transport
- sustainability
- future planning (including subdivision, growth, and providing for business activity).

An additional workshop was also held on Great Barrier to give a further opportunity to discuss issues raised through the feedback forms.

Telephone survey

The council commissioned an independent research company to undertake a phone survey in late 2005. The survey was of a randomly selected sample of 1002 on-island residents and off-island ratepayers of Waiheke, Great Barrier and Rakino. The questionnaire used for the survey was designed to get responses on the key issues that had emerged from the consultation process and stakeholder feedback.

The survey provided a means of canvassing the views of a wide range of people who may not have been previously involved in the consultation process.

Consultation with other stakeholders

During the preparation of a proposed plan, the council has also consulted with the following parties:

- the Auckland Regional Council (‘ARC’)
- the Department of Conservation (‘DOC’)
- tangata whenua
- network utility authorities
- Ministry for the Environment (MfE).

Public notification

Notification of the Plan provides an opportunity for further public participation through the formal submission and appeal process.

2.3.2 Issues raised during consultation

The issues raised in consultation relevant to financial contributions were varied and included:

1. Financial contributions for transport improvements such as integrated multi-modal transport systems to support development such as public transport infrastructure (ferry/bus), footpaths, walking improvements, safer cycling, road safety retrofits, road capacity improvements.
2. Status quo.
3. Review of financial contributions in light of case law, best practice and RMA amendments.
4. Financial contributions for sharing the costs of growth.
5. Financial contributions to be taken for walkways, parks and coastal access taken during subdivisions.
6. Development (developers) should pay for additional services.
7. Financial contributions should be taken for stated purposes.
8. Existing community may not want further growth or increased rates.

In terms of issue 1, the revised financial contributions section makes provision for taking financial contributions for the purposes of providing new or upgrading infrastructure such as roads, transportation infrastructure and utilities. The purpose would have sufficient scope to consider taking financial contributions for the infrastructure improvements outlined in the feedback.

In terms of issue 2, where the retention of the current provisions is sought, this is discussed in option 1 under section 4.2 of this report.

Issue 3 requested that the financial contributions chapter be reviewed in light of case law, best practice and RMA amendments. This approach has been adopted as it was considered that the operative provisions do not reflect the changes that has evolved in RMA practice in recent years. This is further discussed in detail in option 1.

Issue 4 sought the taking of financial contributions for growth. This is in effect a development contribution policy under the Local Government Act 2002. This was considered but currently the council has not taken the steps to develop a development contribution policy which considers the costs of growth for the gulf islands. The council will be investigating the feasibility of development contributions for the islands under the Local Government Act 2002. Any development contributions applicable to the islands will not necessarily replace financial contributions and it is expected that some financial contribution provisions will remain in the district plan even if development contributions are implemented on the islands. In addition, the costing of projects has not been completed on the gulf islands. Furthermore, under a development contributions regime, income and expenditure has to be linked and made explicit prior to instigating any development contributions regime.

Feedback also sought the taking of financial contributions for walkways, parks and coastal access taken during subdivisions. This is supported and the purposes for which financial contributions can be taken is clear that financial contributions can be taken for:

- creating open spaces (including recreation areas, visual buffers and amenity areas)
- adding capacity to or other wise enhancing existing open spaces, (including recreation areas, visual buffers and amenity areas)
- giving public access to coastal areas, reserves, bush areas or areas of special character.

Feedback was also received where development (developers) should pay for additional services. The provisions provide for a range of purposes and also sets the level and form of contribution. Development could be liable for a combination open space, infrastructure, community amenities and environment or heritage financial contributions. It is considered that development should avoid, remedy or mitigate the adverse effects of subdivision on the environment. Taking of financial contributions is one means of achieving this. The level and form of contribution must be reasonable, fair and equitable for providing open space, infrastructure, community amenities and protecting environmental or heritage feature in the islands, having regard to the effects generated by subdivision and development.

In terms of issue 8, financial contributions are to be taken for the stated purposes as outlined in clause 6.4.1 of the plan. They are collected for the various purposes and put into separate accounts. The funds collected are not put into a consolidated fund. The provisions in the financial contributions require the funds to be collected and spent in accordance with the purpose for which they were collected.

The issue of growth and the associated effects has been an ongoing debate among the island communities. The financial contribution provisions is one mechanism for dealing with the associated effects of growth. Where growth does occur, the provisions will enable the council to levy an appropriate level and form of contribution to avoid, remedy or mitigate the adverse effects of subdivision and development. Rating is separate and is not related to financial contributions.

3.0 Resource management issues and objectives

3.1 Issues

In terms of financial contributions, the council has identified the following significant resource management issues which need to be addressed in the plan:

1. How to avoid, remedy or mitigate adverse effects of subdivision and development on the environment of the islands, including open space, infrastructure, community amenities and environment and heritage.

2. How to apportion costs in an equitable and just manner so that the costs of mitigating and remedying adverse effects from subdivision and development are paid by those generating the effects.

3. How to collect and spend financial contributions in a fair, efficient and transparent way.

3.2 Objectives

Financial contribution objectives:

- *To avoid, remedy or mitigate the adverse effects of subdivision and development on the environment.*

- *To ensure that financial contributions are imposed equitably on subdivision and development in the islands.*

- *To have a transparent system for collecting and spending financial contributions for the benefit of the islands.*

Open space objective:

- *To provide for the public open space needs of communities in the islands.*

Infrastructure objective:

- *To ensure that the physical infrastructure of the islands is able to cater for additional demand generated by new residents and businesses.*

Community amenities objective:

- *To ensure that community amenities on the islands are able to cater for additional demand generated by new residents and businesses.*

Environment objective:

- *To provide opportunities to safeguard and protect important natural habitats and other environmental qualities and values through the use of financial contributions.*

Heritage objective:

- *To provide opportunities to safeguard and protect important heritage qualities and values through the use of financial contributions.*

4.0 Statutory requirements under Part II, sections 31, 32, 72 and 76 of the Resource Management Act

Section 31 sets out the council's functions for the purpose of giving effect to the Act. The council's functions include:

> (a) The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:
>
> (b) The control of any actual or potential effects of the use, development or protection of land…

Section 72 states as follows:

> The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.

Section 74(1) of the RMA states as follows:

> A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32, and any regulations.

The following provisions of section 76 are also relevant:

> (1) A territorial authority may, for the purpose of –
>
> (a) Carrying out its functions under this Act; and
>
> (b) Achieving the objectives and policies of the plan, -
>
> include rules in a district plan.
>
> …
>
> (3) In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities, including, in particular, any adverse effect.

In achieving the purpose of the Act, the council must carry out an evaluation under section 32 of the RMA before publicly notifying a district plan or a plan change. Section 32(3), (3A) and (4) state as follows:

> (3) An evaluation must examine –
>
> (a) the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
>
> (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives
>
> (3A) This subsection applies to a rule that imposes a greater prohibition or restriction on an activity to which a national environmental standard applies than any prohibition

or restriction in the standard. The evaluation of such a rule must examine whether the prohibition or restriction it imposes is justified in the circumstances of the region or district.

(4) For the purposes of the examination referred to in subsections (3) and (3A), an evaluation must take into account –

(a) the benefits and costs of policies, rules, or other methods; and
(b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

The statutory requirements, including section 32 matters, are assessed below under the following headings:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act
- Whether the policies, rules, or other methods are the most appropriate for achieving the objectives
  - having regard to their efficiency and effectiveness
  - taking into account the benefits and costs of policies, rules, or other methods
  - taking into account the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

4.1 The extent to which each objective is the most appropriate way to achieve the purpose of the Act

4.1.1 The purpose of the Act

Section 5 states that the purpose of the Act is ‘to promote the sustainable management of natural and physical resources’. Section 5(2) states:

(2) In this Act, “sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Environment is defined in Section 2 of the RMA as including:

(a) Ecosystems and their constituent parts, including people and communities; and
(b) All natural and physical resources; and
(c) Amenity values; and
(d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters:

Section 6 of the RMA identifies matters of national importance, which need to be recognised and provided for in achieving the purpose of the Act. The matters of particular relevance to financial contributions are identified below:

Clause		✓
(a)	The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development	✓
(b)	The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development	✓
(c)	The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna	✓
(d)	The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers	✓
(e)	The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga	✓
(f)	The protection of historic heritage from inappropriate subdivision, use, and development	✓
(g)	The protection of recognised customary activities	

Section 7 deals with ‘other matters’ which, in achieving the purpose of this Act, persons exercising functions and powers under the Act shall have particular regard to. The matters of are of particular relevance to financial contributions are identified below:

Clause		✓
(a)	Kaitiakitanga	
(aa)	The ethic of stewardship	
(b)	The efficient use and development of natural and physical resources	✓
(ba)	The efficiency of the end use of energy	
(c)	The maintenance and enhancement of amenity values	
(d)	Intrinsic value of ecosystems	✓
(f)	Maintenance and enhancement of the quality of the environment	✓
(g)	Any finite characteristics of natural and physical resources	
(h)	The protection of the habitat of trout and salmon	
(i)	The effects of climate change	
(j)	The benefits to be derived from the use and development of renewable energy	

Section 8 provides that in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi).

4.1.2 Appropriateness in achieving the purpose of the Act

Objective 6.3.1
To avoid, remedy or mitigate the adverse effects of subdivision and development on the environment.

The objective is necessary as it is specifically directed at addressing the most significant adverse effects of subdivision and development in the gulf islands, namely open space, infrastructure, community amenities and environment or heritage. If the gulf islands is to be sustainably managed, it is crucial that these four aspects be addressed in the plan. The use of financial contributions is one way and an important and effective way of ensuring that the purpose of the RMA is achieved. In addition, the four identified matters are readily identifiable and measurable.

In assessing objective 6.3.1 as discussed above, it is considered appropriate in terms of sections 5, 6(a)(b)(c)(d)(e)(f) and 7(d)(f).

Objective 6.3.2

To ensure that financial contributions are imposed equitably on subdivision and development in the islands.

In order to use financial contributions to avoid, remedy or mitigate the adverse effects of subdivision and development equitably, it is important to apportion costs to the sources of effects generated. By identifying the specific effects to which contributions will be spent, the issue of sustainability is linked to equity in the apportionment of costs. It is considered that all subdivision and development to varying extents generate effects on the environment. In an environment like the gulf islands where subdivision and development can range quite extensively to which they use land, it is considered that all subdivision and development generate effects on the environment. For example the generation of people as result of new subdivision and development will result in:

- the need for the development and improvement of public open space;
- the improvement of existing roads, transportation infrastructure and where applicable utilities;
- the need to provide or upgrade existing community amenities such as community halls, and libraries;
- the need to protect environments such as ecosystems, indigenous vegetation and significant habitats for fauna and heritage values.

All subdivision and development in the gulf islands will benefit from a positive and functioning public environment. Therefore, it is considered fair for subdivision and development to pay an equitable contribution towards the need of providing or improving the above identified amenities in the gulf islands.

In assessing the objective 6.3.2 as discussed above, it is considered appropriate in terms of sections 5, 6(a)(c)(d)(e)(f) and 7(b)(d)(f).

Objective 6.3.3

To have a transparent system for collecting and spending financial contributions for the benefit of the islands.

In order to ensure public confidence in collecting and spending financial contributions, the council will adopt accounting principles so that all money collected for the various purpose will be held in separate accounts and not be put into a consolidated account. The RMA makes it clear that the money can only be spent for the purposes identified in clause 6.4.1 of the plan for which it was collected and it is considered that a mechanism be instigated and considered essential for achieving the purpose of the Act. In addition, no financial contributions will be used for operational items such as maintenance. Such expenditure will be paid for by general rates.

In assessing objective 6.3.3 as discussed above, it is considered that it is appropriate in terms of sections 5, and 7(b).

Objective 6.5.1
To provide for the public open space needs of communities in the islands.

Further subdivision and development in the gulf islands will have the effect of introducing new buildings and activities. This will result in an increase in the demand of public open space and this is considered to create adverse effects which need to be addressed. Virtually all subdivision and development will increase the number of people in the gulf islands particularly on Waiheke. This will mean that more public open spaces will have to be developed and acquired to ensure that the public environment in the gulf islands will remain attractive to its users.

GBI is unique in that there is already substantial public open space primarily owned and administered by the crown (Department of Conservation). Notwithstanding this, the council will still like to ensure the creation of public walkways, pedestrian links to give public access to coastal areas, reserves, bush areas or areas of special character.

In assessing objective 6.5.1 as discussed above, it is considered that it is appropriate in terms of sections 5, 6(d) and 7(b)(f).

Objective 6.6.1
To ensure that the physical infrastructure of the islands is able to cater for additional demand generated by new residents and businesses.

Further subdivision and development will result in an increase in people and activities which generate additional traffic and place pressure on the roading system and transportation infrastructure e.g transport shelters. Where the effects are considered to be adverse, it is considered appropriate to remedy or mitigate these by levying financial contributions to address particular effects generated by particular subdivision and development, such as upgrading of intersections, road widening etc. Furthermore the levying of a financial contribution can be used for other infrastructure such as park and ride facilities.

In assessing objective 6.6.1 as discussed above, it is considered that it is appropriate in terms of sections 5, and 7(b).

Objective 6.7.1
To ensure that community amenities on the islands are able to cater for additional demand generated by new residents and businesses.

Further subdivision and development will result in an increase in people and activities. As a result there will be an increased demand and pressure on community facilities such as community halls, and libraries. Where the effects are considered to be adverse, it is considered appropriate to remedy or mitigate these by levying financial contributions to address these particular effects generated by subdivision and development to provide new or upgrade existing facilities.

In assessing objective 6.7.1 as discussed above, it is considered that it is appropriate in terms of sections 5, and 7(b).

Objective 6.8.1

To provide opportunities to safeguard and protect important natural habitats and other environmental qualities and values through the use of financial contributions.

Objective 6.8.2
To provide opportunities to safeguard and protect important heritage qualities and values through the use of financial contributions.

Further subdivision and development has the potential to create adverse effects on the environment and heritage features and values. Additional subdivision and development can potentially increase pressure to develop marginal areas within a subdivision or development area in close proximity to areas of natural habitats or heritage features. There is the possibility of altering these areas or features or even destroying them altogether. Notwithstanding the council's powers to schedule such items, there maybe instances where such areas or features have been inadvertently missed, do not meet the rigorous criteria for scheduling or have been made inaccessible by landowners. This is particularly relevant to Great Barrier Island where the council has not had the opportunity to identify and schedule features and items of environment and heritage value. Therefore it is considered that any environment or heritage financial contribution payable be determined on a case by case basis.

In assessing objectives 6.8.1 and 6.8.2 as discussed above, it is considered that it is appropriate in terms of sections 5, 6 (a)(b)(c)(f)and 7(d)(f).

4.2 Whether the policies, rules, or other methods are the most appropriate for achieving the objectives

Policies and rules

The proposed policies for objective 6.3.1 are:

1. By identifying the adverse effects which may be addressed by requiring a financial contribution.

2. By selecting an appropriate mix of financial contributions to adequately address each of these identified effects.

3. By using financial contributions to recover a fair contribution towards the cost of addressing these effects.

Policy 1 is appropriate in that it requires the council to identify the adverse effects associated with subdivision and development. Increased subdivision and development and the resulting effects have been discussed in section 4.1.2 of this report. In summary, subdivision and development will result in an increase in people and place further demand for the following public amenities:

- public open space
- infrastructure (roads, transportation infrastructure, utilities)
- community amenities
- environment or heritage protection

It follows that policy 2 requires the council to determine the mix and type of financial contribution to address the identified effects. These types of financial contribution are listed above.

Policy 3 is appropriate as it is specifically directed at addressing the adverse effects of subdivision and development identified on the gulf islands, namely open space, infrastructure, community amenities and environment or heritage protection. If the gulf islands are to be sustainably managed, it is essential that these aspects be addressed in the plan. The use of financial contributions is an important and effective way of ensuring that the purpose of the RMA is achieved. It enables the council to assign the cost of subdivision and development on the gulf islands to those specific effects generated. The council has an obligation to ensure that this occurs. The RMA allows the council to collect financial contributions to achieve objective 6.3.1.

The proposed policies for objective 6.3.2 are:

1. By using the programmes and cost estimates outlined in the Long Term Council Community Plan or Council asset management plans to estimate the likely future costs of growth.

2. By identifying the extent to which subdivision and development requires the Council to incur expenditure not anticipated in the Long Term Council Community Plan or Council asset management plans, to address localised adverse effects.

3. By using financial contributions to recover from new residents and businesses a fair contribution towards the costs of growth generally, and the costs of addressing the localised adverse effects they generate.

Policy 1 enables the council to utilise the LTTCP which is a 10 year financial document developed to assist the council in achieving its vision in the strategic plan. In addition the council can also utilise asset management plans. These documents provide programmes and a list of the council assets by type and the approximate cost estimates for providing future council assets and as part of the process, council consults with the community to finalise future projects.

Policy 2 and 3 assists the council by providing for unplanned works not anticipated by the council. This is usually a result of a subdivision or development where it is of such a scale that the council needs to incur additional expenditure to remedy or mitigate these effects. This is particularly relevant for infrastructure. These provisions also allows the council to levy financial contribution for unplanned infrastructure projects by levying up to 90% of the cost of the local infrastructure project.

It is also anticipated that the council will need to establish a process whereby it can apportion the costs of addressing the localised adverse effects as result of subdivision and development as opposed to the costs of growth.

The use of financial contributions can also be used to address these effects by requiring new subdivision and development to contribute to planned projects where these have been identified. Where subdivision or development involves the uptake of capacity in identified projects, the council can determine the financial contribution payable by reference to the share of that capacity that the subdivision or development will take up.

The proposed policies for objective 6.3.3 are:

1. By applying financial contributions in a just and consistent way to all new subdivision and development which generates effects that need to be avoided, remedied or mitigated.

2. By accounting for all money contributions collected for various purposes, in separate accounts.

3. By spending money contributions in reasonable accordance with the purposes for which they have been collected, as specified this Part.

4. By reporting the income and expenditure of financial contribution accounts through the Annual Plan.

Policy 1 enables the council to apply financial contributions on subdivision and development in a fair and consistent manner that allows the gulf islands to be managed in a sustainable way. It also requires the adverse effects of these activities to be avoided, remedied and mitigated. The use of value of land and value of development as a basis for determining financial contributions towards acquiring public open space is considered appropriate in assessing the effects of subdivision and development on public open spaces. A correlation exists between the value of land and development and the effect of people that use public open space resulting from subdivision and development.

For planned projects in both infrastructure and community amenities it is considered that the use of identified projects in the LTTCP or council asset management plans is appropriate as it gives a good indication of cost and future timeframe as to when the project will be provided. As result, where any subdivision or development may be liable for infrastructure or community amenities financial contribution, the uptake of capacity and the level of contribution will be determined by reference to the share of capacity that the subdivision or development will take up.

For unplanned projects (specifically infrastructure), where projects have **not** been identified in the LTTCP or council asset management plan, it is appropriate that the council can levy a level of contribution to the extent to which the subdivision or development (relative to other subdivision or development) creates the need to undertake the expenditure, but shall not exceed 90% of the cost of the local infrastructure project. In this particular case, the level of contribution payable is entirely appropriate as the LTTCP and asset management plans will not have anticipated such a large scale subdivision or development in its long term programme of works.

For environment or heritage financial contribution, the level of contribution is determined on a case by case basis. It is considered that this is entirely appropriate due the complexities of identifying and assessing environment and heritage features. It is also considered that both the developer and council may see this mechanism as a way of allowing subdivision or development to proceed while at the same time safeguarding the natural and heritage values of the islands.

Policies 2 and 3 require the council to ensure that the financial contributions collected be kept in separate accounts for the purposes for which they were collected. This also applies to expenditure where the money can only be spent for the purpose for which it was collected. A transparent system for collecting and expenditure will enhance the public's confidence in this mechanism.

Policy 4 is a follow on in terms of good accounting practice for record keeping of any financial contributions collected and spent during the financial year. As mentioned above, such processes ensure public confidence in the management of financial contributions.

The proposed policies for objective 6.5.1 (open space) are:

1. By requiring all residential, commercial and industrial subdivision and development on the islands to contribute to the gulf islands public open space either by way of money or land or a combination of both.

2. By using money contributions to purchase and develop new public open space, or add capacity to, or otherwise enhance, existing public open space.

3. By assessing financial contributions on the basis of the likely additional demands for public open space generated by subdivision and development.

Policy 1 requires that all residential, commercial and industrial development contribute to open space. In particular, the policy is further refined by the rule 6.5.2.1 which requires subdivision of land (as defined in the RMA) that create new sites and brings more people onto the gulf islands thereby creating additional demand for open space. In this instance, this is limited boarding house or hostel, accommodation for retired, elderly or disabled people, visitor accommodation, tourist complex or multiple dwellings.

This rule also applies to commercial and industrial subdivision and development as it is considered that these activities also generates residents, visitors, employees, shoppers and tourists, people involved in servicing activities etc. These will place demands on the gulf islands public open spaces and are considered to constitute adverse effects which need to be addressed.

In applying a level for subdivision it is considered appropriate that a payment of money based on 7.5% of the value of each additional site created. This is a level deemed appropriate by council where the council projects in its plans for open space of attaching monetary values of the land to be acquired or the cost of projects for improving the open space network. This is particularly relevant given the cost of acquiring land on the market. Furthermore, 7.5% is considered justified considering the historic reserve contribution levels in the Local Government Act and the level of certainty it provides for developers.

Additionally, the council may require land (rule 6.5.2.7) in lieu of money, which will be determined on a case by case basis. Final discretion remains with council. In this instance it is considered that council can determine the form of financial contribution. The council would like to ensure that any land that is available as part of the public space network on the islands be taken as the opportunity arises.

For land use activities and consents, financial contributions may also be taken in the form of money, land or both. The level required is where the value of work exceeds $100,000, the council may require a payment of money based on 7.5% of the total value of work "Value of work" is further defined in the plan. The use of value of development as a basis for determining financial contributions towards public open spaces is considered appropriate in assessing the effect of development on public open spaces. A positive correlation exists between the value of a development and the effect of people using that development which in turn creates the need for public open space. The $100,000 value is a threshold considered appropriate given the historic nature of reserve contributions for development in the Local Government Act.

The rules also provide for contributions to be paid less than the maximum amount payable to be considered as part of a consent. In assessing this, four criteria will be considered by the council and have been stated in clause 6.5.2.4 of the plan. It is considered that these criteria are appropriate in reducing or waiving any financial contribution in that they:

- consider the whether the subdivision or development will be of benefit either to the physical or natural environment or local community having regard to the extent to which it protects environmental or heritage feature as part of the overall development
- whether the subdivision or development generates demand for public open space
- have regard to the development and land use activities in the area
- the use of other mechanisms to avoid, remedy or mitigate adverse effects (i.e. section 108(2)(c) of the RMA.

Permitted activities are required to apply for a consent to reduce or waive the contribution payable, based on *New Zealand Development Group* case and legal advice.

It is also considered that taking of financial contributions be taken at the time of subdivision prior to the issue of a section 224(c) certificate under the RMA or for land use activities and consents, prior to the issue of necessary building consents under the Building Act 2004.

Exemptions are also provided for when subdivisions, land use consents and activities are exempt from open space financial contributions. These circumstances are listed under clause 6.5.2.6 of the plan. It is considered that these circumstances are justified where previous contributions have been paid, the creation of sites and provision of network utility services which help provide for the economic and social well being of the community i.e. special purpose sites and voluntary amalgamation of sites within the previous 10 years.

The proposed policies for objective 6.6.1(infrastructure) are:

1. By adopting a long-term perspective, through the Long Term Council Community Plan and Council asset management plans, to ensure adequate provision of infrastructure for the Islands

2. By providing sufficient resources, through the Annual Plan, to ensure that the infrastructure demands of new subdivision and development are met in a timely and orderly manner.

3. By requiring new subdivision and development to contribute to the costs of planned increases in the capacity of infrastructure such as roads, transportation infrastructure and utilities (such as stormwater systems, and community based wastewater systems).

4. By assessing financial contributions on the basis of the likely adverse effects on, or additional demand for, infrastructure.

5. By identifying the extent to which new subdivision and development requires the Council to incur additional expenditure on infrastructure not anticipated in the Long Term Council Community Plan and Council asset management plans, to address localised adverse effects.

6. By requiring new subdivision and development to contribute to the costs of providing unplanned infrastructure required to address localised adverse effects.

Policy 1 has been discussed previously above where for planned projects in infrastructure, it is considered that the use of identified projects in the LTTCP or council asset management plans is appropriate as it gives a good indication of cost and future timeframe as to when the project will be provided. As result, where any subdivision or development generate adverse effects on infrastructure, may be liable for infrastructure financial contribution, the uptake of capacity and the level of contribution will be determined by reference to the share of capacity that the subdivision or development will take up. It is considered that the use of this policy is appropriate for achieving the objective. This is further reinforced through the annual plan process in policy 2 where the council outlines it capital expenditure required to fund capital works and financial contribution projects where these have been identified.

Objective 6.6.1 is also given effect to by policies 3, 4, 5 and 6 where subdivision and development are required to contribute towards the cost of infrastructure such as roads, transport infrastructure and utilities. This is done through rule 6.6.2.2 where the provisions allow for financial contributions payable on planned infrastructure projects identified in the LTTCP or council asset management plans.. Where a financial contribution is payable for planned projects, the level payable will be determined by reference to the share of that capacity that the subdivision or development will take up. Where a subdivision or development generates adverse effects requiring council to incur expenditure on projects not identified, a financial contribution may be required up to 90% of the cost of the local infrastructure project. This method of separating out planned and unplanned projects is considered the most appropriate because it allows the council to undertake financial costing of planned projects which can be fully recovered and related to any adverse effects of subdivision or development. Alternatively, the council can recover up to 90% of the cost of a local project that is unplanned where a subdivision or development generates adverse effects and creates the need for the council to undertake expenditure. Notwithstanding this rule, the council also has the ability to impose a condition on a resource consent under section 108(2)(c) to avoid, remedy or mitigate the adverse effects of the subdivision or development.

The rules also provide for contributions to be paid less than the maximum amount payable to be considered as part of a consent. In assessing this, three criteria will be considered by the council and have been stated in clause 6.6.2.2 of the plan. It is considered that these criteria are appropriate in reducing or waiving any financial contribution in that they:

- have regard to the development and land use activities in the area
- consider the whether the subdivision or development will generate demand or adverse effects on infrastructure
- the use of other mechanisms to avoid, remedy or mitigate adverse effects (i.e. section 108(2)(c) of the RMA.

Permitted activities are required to apply for a consent to reduce or waive the contribution payable, based on *New Zealand Development Group* case and legal advice.

It is also considered that taking of financial contributions be taken at the time of subdivision prior to the issue of a section 224(c) certificate under the RMA or for land use activities and consents, prior to the issue of necessary building consents under the Building Act 2004.

Exemptions are also provided for when subdivisions, land use consents and activities are exempt from open space financial contributions. These circumstances are listed under clause 6.6.2.4 of the plan. It is considered that these circumstances are justified where previous contributions have been paid, the creation of sites and provision of network utility services which help provide for the economic and social well being of the community i.e. special purpose sites and voluntary amalgamation of sites within the previous 10 years.

The proposed policies for objective 6.7.1 (community amenities) are:

1. By adopting a long-term perspective, through the Long Term Council Community Plan and Council asset management plans, to ensure adequate provision of community amenities for the Islands

2. By providing sufficient resources, through the Annual Plan, to ensure that the community amenities demand of new subdivision and development are met in a timely and orderly manner.

3. By requiring new subdivision and development to contribute to the costs of planned increases in the capacity of community amenities.

4. By assessing financial contributions on the basis of the likely adverse effects on, or additional demand for, community amenities.

Policy 1 has been discussed previously above where for planned community amenities projects, it is considered that the use of identified projects in the LTTCP or council asset management plans is appropriate as it gives a good indication of cost and future timeframe as to when the project will be provided. As result, where any subdivision or development generate adverse effects on community amenities, may be liable for infrastructure financial contribution, the uptake of capacity and the level of contribution will be determined by reference to the share of capacity that the subdivision or development will take up. It is considered that the use of this policy is appropriate for achieving the objective. This is further reinforced through the annual plan process in policy 2 where the council outlines it capital expenditure required to fund capital works and financial contribution projects where these have been identified.

Objective 6.7.1 is also given effect to by policies 2, 3, and 4, where subdivision and development are required to contribute towards the cost of community amenities. This is done through rule 6.7.2.2 where the provisions allow for financial contributions payable on planned community amenities projects identified in the LTTCP or council asset management plans. Where a financial contribution is payable for planned projects, the level payable will be determined by reference to the share of that capacity that the subdivision or development will take up. This method is considered the most appropriate because it allows the council to undertake financial costing of planned projects which can be fully recovered and related to any adverse effects of subdivision or development. Notwithstanding this rule, the council also has the ability to impose a condition on a resource consent under section 108(2)(c) to avoid, remedy or mitigate the adverse effects of the subdivision or development.

The rules also provide for contributions to be paid less than the maximum amount payable to be considered as part of a consent. In assessing this, three criteria will be considered by the council and have been stated in clause 6.7.2.2 of the plan. It is considered that these criteria are appropriate in reducing or waiving any financial contribution in that they:

- have regard to the development and land use activities in the area
- consider the whether the subdivision or development will generate demand or adverse effects on community amenities
- the use of other mechanisms to avoid, remedy or mitigate adverse effects (i.e section 108(2)(c) of the RMA.

Permitted activities are required to apply for a consent to reduce or waive the contribution payable, based on *New Zealand Development Group* case and legal advice.

It is also considered that financial contributions be taken at the time of subdivision prior to the issue of a section 224(c) certificate under the RMA or for land use activities and consents, prior to the issue of necessary building consents under the Building Act 2004.

Exemptions are also provided for when subdivisions, land use consents and activities are exempt from open space financial contributions. These circumstances are listed under clause 6.7.2.4 of the plan. It is considered that these circumstances are justified where previous contributions have been paid, the creation of sites and provision of network utility services which help provide for the economic and social well being of the community i.e special purpose sites and voluntary amalgamation of sites within the previous 10 years.

The proposed policies for objective 6.8.1 are:

1. By accurately identifying, on a project by project basis, important habitats and other natural features which may be threatened or compromised by a subdivision, development or inappropriate activity.

2. By providing policy mechanisms, such as environmental compensation, which allow developers and subdividers to remedy or mitigate any adverse effects from their proposals through the use of financial contributions.

3. By identifying and coordinating environmental protection and enhancement projects which have a reasonably direct relationship with these identified adverse environmental effects.

4. By using financial contributions collected against identified environmental effects to fund or contribute towards these related environmental projects.

The proposed policies for objective 6.8.2 are:

1. By accurately identifying, on a project by project basis, important heritage features which may be threatened or compromised by a subdivision, development or inappropriate activity.

2. By providing an opportunity, through the use of financial contributions, for developers and subdividers to protect important heritage features which may be under some threat from their proposals.

3. By using financial contributions collected for heritage reasons for the protection of the heritage features.

The above policies and the rules in clause 6.8 are considered the most appropriate for achieving the objectives. As previously mention in this report, additional subdivision and development can potentially increase pressure to develop marginal areas within the subdivision or development in close proximity to areas of natural habitats or heritage features. There is the possibility of altering these areas or features or even destroying them altogether. Notwithstanding the council’s powers to schedule such items, there maybe instances where such areas or features have been inadvertently missed, do not meet the rigorous criteria for scheduling or have been made inaccessible by landowners. Therefore it is considered that any environment or heritage financial contribution payable be determined on a case by case basis. In this instance, through the use of financial contributions, an opportunity exists where an environment area or heritage feature could be protected by mutual agreement between the council and developer at the time of subdivision or development.

The rules also provide for assessing a fair and reasonable contribution for environment or heritage purposes based on the amount of land, cost of work to avoid, remedy or mitigate adverse effects generated by subdivision or development. As stated above, assessment will be determined on a case by case basis due to the unique nature and characteristics of each site. In particular, there maybe sites on the gulf islands that have not been identified or scheduled in the plan and the rules provide a mechanism for the council to assess each subdivision or development application individually. A number of factors have been identified which will be taken into account when assessing the level of contribution. These are stated in clause 6.8.3.2 of the plan and it is considered that these factors will assist the council in determining the appropriate amount of contribution either in land or money.

Permitted activities are required to apply for a consent to reduce or waive the contribution payable, based on *New Zealand Development Group* case and legal advice. However, the council does not anticipate every site to have an environment or heritage feature.

It is also considered that taking of financial contributions be taken at the time of subdivision prior to the issue of a section 224(c) certificate under the RMA or for land use activities and consents, prior to the issue of necessary building consents under the Building Act 2004.

The following options are the main alternatives which the council has considered as a means of achieving the objectives:

- Option 1. Retain the operative plans policies and rules as a means of achieving the objectives.
- Option 2. Do nothing. No financial contribution provisions.
- Option 3. Development contributions policy. Develop a development contribution for the gulf islands.
- Option 4. Proposed provisions.

4.2.1 Option 1

- Option 1. Amended operative provisions. Retain the operative plans policies and rules with amendments to reflect changes to the RMA as a means of achieving the objectives

Benefits	Costs
Simple method of levying financial contributions. Readily understood by the public and developers and creates certainty.	Current approach dos not adopt a particularly 'effects based' approach to the calculation of subdivision and development. Does not represent current RMA best practice.
Current practice works well.	Provisions could be vulnerable to environment court challenge. The council could lose all financial contributions for the gulf islands resulting in increased costs for the council to fund 100% of the cost of project work.
	Potentially less revenue for the council in the long term.
	Hard to quantify 'the actual costs.'

The risk of acting or not acting

The risk of acting on this option is a risk to council in terms of:

- Legal-there does not seem to be a sufficient link between the method of calculating a financial contribution and the actual demand created by subdivision or development. In particular:
- Whether the charged based 10% of the value additional allotments is the most appropriate way of achieving the requirement that FC's be imposed equitably, particularly as a land value based approach does not correlate well to demand or effects (with the exception of open space)
- Whether it is appropriate to charge commercial developments in the same way as residential developments, especially given their different demand characteristics
- Whether the calculation methodology is an appropriate way of "avoiding, remedying, or mitigating any adverse effects of activities on the environment".

If a challenge to the amended (updated RMA changes) provisions was successful the council could potentially lose all financial contribution provisions in the HGI plan. Initially, the council could rely upon the operative provisions (as the current baseline), but these provisions could not be used once the proposed plan was made operative. Alternatively if there was no challenge to the plan provisions (either because the levels were low or the community did not recognise their vulnerability) there could be individual application challenges which could be costly. It should also be noted that the challenge could come from those in the community who consider the provisions are set too low i.e. believe council could seek more.

In the short term, the amended (updated RMA changes) provisions will recover approximately the same amount or slightly more than the proposed provisions (option 4-see section 4.2.4 of this report). However, over the long term, the proposed provisions will recover more funds as the council develops projects that have been costed. Provided that stormwater and transport assets are included, the proposed financial contribution approach will exceed the revenue from the operative provisions. Therefore, potentially the council may lose out in the long term when it comes to recovering financial contribution costs.

4.2.2 Option 2

Option 2. Do nothing. No financial contribution provisions.

Benefits	**Costs**
Less administration costs for the council	Council would be expected to pay full costs for providing public goods such as roading, public open space and stormwater infrastructure etc as a result of subdivision and development
	Degradation in the provision of public services
	Developers do not pay their fair share of financial contributions
	Potential for increased rates

The risk of acting or not acting

The risk of acting on this option is a risk to council in terms of:
Cost-if the council does not recover any cost from subdivision or development, the council will be expected to pay the full cost of providing public services such as public open space, transportation infrastructure etc. This is considered inequitable since any adverse effects resulting from subdivision or development are required to be avoided, remedied or mitigated. Developers should be apportioned costs in an equitable manner so that the costs of mitigating and remedying effects are paid by those generating the effects. Without financial contribution provisions, the council loses the ability to apportion costs to those generating effects.

In the long term, the council would have to pay the full costs of providing public services, which could result in increased rates or user pay charges to obtain the necessary finances to acquire and improve public services.

4.2.3 Option 3

Option 3. Development contributions policy. Develop a development contribution for the gulf islands.

Benefits	**Costs**
Project costs can be apportioned to developments accurately for growth related projects	Council costs and substantial time to accurately cost and apportion projects and projected growth on the islands.
Income and expenditure has to be linked and made explicit prior to instigating any development contribution regime	No council decision has been made as whether development contributions are feasible on the islands
Transparency in the process which is a benefit for both developers and the council.	Council needs to undertake a feasibility study of the islands to ascertain if a development contribution policy is justified on the gulf islands.

Benefits	Costs
Integrates well with the council asset management plans	Insufficient funds could mean the 'vision' for the islands is not realised.
Growth can be funded	
Flexibility. Development contribution policy is easy to update when more information is available.	
Development levy charges are set and less variable which provides more certainty.	

The risk of acting or not acting

The risks of acting on this option are as follows:

- Council requires to undertake further project costing. This involves substantial council time and cost to accurately cost and apportion the projects. There is a risk to council that no development contributions will be taken if the council cannot complete the costing and apportioning of projects, since any contribution taken is reliant on this work. There is the possibility that some council asset planning divisions do not have sufficient resources to undertake this work.

- The council will also need to undertake a feasibility study to ascertain if a development contribution policy is justified for the islands. This is a further cost to the council that could potentially bring uncertainty for the community as to what policy (financial contribution or development contribution) the council wants to undertake.

The risk of **not** acting on this option are as follows:

- The council will not be able to apportion developments accurately for growth related projects. In this instance, the council may not be recovering the amount of contribution to the maximum potential.

- Loss of transparency in the process that could lead to a lack of confidence in council processes.

- Potential loss of funds for growth related projects to fund any future growth on the islands.

- A lack of flexibility. If a development contribution policy was not enacted, there is the potential lack of flexibility. For example, the council could substitute certain types of development contribution for a financial contribution e.g. roading, provided that all growth related projects have been accurately costed and apportioned.

- Less certainty on the contributions levied. Development contributions are set and therefore less variable. Financial contributions have the potential to be more variable as adverse effects have to be identified as part of the resource consent process so that any financial contribution can be apportioned to avoid, remedy or mitigate these effects.

4.2.4 Option 4

Option 4. Proposed provisions.

Benefits	**Costs**
Flexible. Each type of financial contribution maybe substituted by a development contribution policy in the future.	Council costs and substantial time to accurately cost and apportion projects and projected growth on the islands.
An increase in contributions for infrastructure (roading, transport infrastructure, although this may be offset by a reduced amount for open space	In the short term, council may take less contributions until council has identified and costed projects (open space, infrastructure, community amenities)
A clear transparent process for taking and spending financial contributions	
Separate accounts for each type of financial contribution	
Each type of financial contribution is levied according to any adverse effects generated by a subdivision or development	

The risks of acting on this option are as follows:

- Council requires to undertake further project costing. This involves substantial council time and cost to accurately cost and apportion the projects. There is a risk to council that no financial contributions for infrastructure and community amenities will be taken if the council cannot complete the costing and apportioning of projects, since any contribution taken is reliant on this work. There is the possibility that some council asset planning divisions do not have sufficient resources to undertake this work.

- In the short term, the council may take less financial contributions than the operative provisions until the council has identified and costed projects. This is particularly relevant for open space, infrastructure and community amenities where projects have to be identified and costed. Environment and heritage will be determined on a case by case basis as part of the subdivision or development. In the long term, there will be more funds for the council (particularly infrastructure) to help mitigate or remedy the effects of subdivision or development.

The risks of not acting on this option are as follows:

- Council will be reliant on the operative provisions, which legally is not a particularly 'effects based' approach to calculating financial contributions. The proposed provisions could also be subject to challenge, but it is considered that the methodologies adopted are more defensible than the operative provisions.

- Alternatively, if there was no challenge to the plan provisions (either because the levels were low or the community did not recognise their vulnerability) there could be individual application challenges which could be costly. It should also be noted that the challenge could come from those in the community who consider the provisions are set too low i.e. believe council could seek more.

- In the short term, the operative provisions will recover approximately the same amount or slightly more than the proposed provisions. However, over the long term, the proposed provisions will recover more funds as the council develops projects that have been costed. Provided that stormwater and transport assets are included, the revised financial contribution approach will exceed the revenue from the operative provisions. Therefore, long term the proposed provisions will potentially gain more revenue for the council as a whole. For each type of contribution, the amount of revenue will vary according to the nature and type of subdivision or development and any adverse effects that it generates.

  It should be noted, that this conclusion does have a speculative component and is dependent on Auckland City's growth spending. It is also an indicative assessment that has **not** included detailed consideration of specific projects. In addition, it has **not** been considered that financial contribution charges that would result from the revised provisions could be sustained by the growth community. Most importantly, detailed analysis would be required before this can be translated into actual financial charges.

4.2.5 Conclusion

The above analysis of options 1-3 has concluded that the costs of undertaking these options outweigh any benefits. Therefore they are not the most effective or efficient method of addressing the issues for financial contributions within the gulf and consequently are not the most appropriate method of achieving the objectives.

Overall, the environmental, social and economic benefits of undertaking option 4 outweighs any costs which may result.

Therefore, option 4 is the most effective and efficient method of addressing the issues within the land unit and consequently is the most appropriate method of achieving the objectives.

4.3 Whether the proposed rules assist the council to carry out its function of control of actual or potential effects of the use, development or protection of land

The proposed objectives, policies and rules will allow council to carry out its functions under section 31, 72, 74(1) and76 of the act, because they:

- achieve integrated management of the effects of the use, subdivision and development of land
- provide for the council, a means of avoiding, remedying and mitigating effects of subdivision and development of land
- ensure that developers pays an equitable apportion of costs to avoid, mitigate and remedy adverse effects from subdivision and development
- adequately identify a mix of financial contributions to address identified effects
- are the most appropriate way to achieve the purpose of the act.

5.0 National planning documents

5.1 National and NZ coastal policy statements

Section 75(3) of the RMA states:

> (3) A district plan must give effect to –
>
> (a) any national policy statement; and
>
> (b) and any New Zealand coastal policy statement; and
>
> …

The objectives, policies and rules for financial contributions give effect to the general principles (1)(2)(8)(10)(11) and policies 1.1.1-1.1.4, 3.1.3, 3.2.2, 3.2.3, 3.5.1-3.5.3, of the New Zealand Coastal Policy Statement(1994), attached as **appendix A** by:

- enabling the council to acquire financial contributions to contribute to open space and links particularly to coastal areas, and the protection of environment and heritage features
- allowing the use financial contributions to avoid, remedy or mitigate adverse effects on the coastal environment from subdivision or development
- enhancement of public access to and along the coastal area by the use of financial contributions.

5.2 Hauraki Gulf Marine Park Act 2000

Section 9(3) of the Hauraki Gulf Marine Park Act 2000, requires the council to ensure that:

> … any part of a district plan that applies to the Hauraki Gulf, its islands, and catchments, does not conflict with sections 7 and 8 of this Act.

Section 7 recognises the national significance of the Hauraki Gulf and Section 8 provides management direction for the Gulf. Section 10 of the Act requires that sections 7 and 8 be treated as a New Zealand coastal policy statement under the RMA. Sections 7 and 8 are attached as **appendix B**.

The objectives, policies and rules for financial contributions give effect to sections 7 and 8 of the HGMPA in that they are consistent with section 7(1)(2). In particular, the provisions for financial contributions allow the gulf island community to provide for their social, economic, recreational and cultural well-being.

The provisions are also consistent with section 8. The financial provisions enable the council and community to:

- avoid, remedy or mitigate effects of subdivision and development on public open space, infrastructure, community amenities and environment or heritage
- enhance public open space, infrastructure, community amenities and protect environment or heritage to enable the community to provide for their social, economic, recreational and cultural well being.

6.0 Regional planning documents

6.1 Regional policy statement

Section 75(3) of the RMA states:

(3) A district plan must give effect to –

…

(c) any regional policy statement.

The objectives, policies and rules for financial contributions give effect to:
objectives 2.5.1(1)(2)(5)(6) and policies 2.5.2(1)(6), 2.6.1(1)(vi);
objective 3.3(1)(2) and policies and methods 3.4.1, 3.4.2(2);
objective 4.3(1)(iii) and policies and methods 4.4.1(2)(vi), 4.4.2(7);
objective 6.3 and policies and methods 6.4.1, 6.4.2(3);
objective 7.3 and policies and methods 7.4.4 (1), 7.4.5, 7.4.7(1), 7.4.8(1), 7.4.10(1)(2)(ii)(iii)(iv)(ix), 7.4.13, 7.4.14(5)
by:

- recognising that subdivision and development has adverse effects on the environment;
- financial contributions has an important role in avoiding, remedying or mitigating effects of subdivision and development;
- the council has recognised that subdivision and development has adverse effects on public open space; infrastructure, community amenities and environment or heritage.

The relevant sections are attached as **appendix C**.

6.2 Regional plan

Section 75 (4) of the RMA states:

(4) A district plan must not be inconsistent with –

…

(c) a regional plan for any matter specified in section 30(1).

The objectives, policies and rules for financial contributions are not inconsistent with, the:

- Auckland Regional Plan: Coastal,
- Auckland Regional Plan: Air, Land and Water
- Auckland Regional Plan: Sediment Control

The Auckland Regional Plan: Air, Land and Water has a separate chapter for financial contributions. The plan requires financial contributions for the following purposes:

- maintenance of public access to and along the margins of wetlands, lakes and rivers
- significant unavoidable effects on aquatic ecosystems, the habitat of aquatic biota, flow regimes, or riparian margins
- offsetting significant unavoidable adverse effects

Assessment guidelines are provided to determine whether or not to impose a financial contribution and the type and value of any contribution.

The provisions provided in the Regional plan complement and are consistent with the purposes and provisions in the proposed financial contributions section of the plan.

The Regional Plan: Air, Land and Water chapter on financial contributions is attached in **appendix C.**

7.0 Other documents

Essentially Waiheke – A Village and Rural Communities Strategy is a non statutory strategic document which sets out a community approved framework for Waiheke's development. It was adopted by council in 2000 after extensive consultation with the Waiheke community.

The five central principles of Essentially Waiheke are:

- principles of environmental protection
- principles of economic development and employment
- principles of strong communities
- principles to protect and enhance Waiheke's character
- principles of location.

The objectives, policies and rules for financial contributions are consistent with these principles and the underlying aims, strategies and actions within the document because the provisions:

- Reinforce the mechanisms for implementing the principles outlined in Essentially Waiheke.
- Mechanisms outlined in the document are financial contributions, annual plan and long term council community plan (LTCCP).

The Rakino Way has also identified financial contributions as a way of:

- protecting land with high environmental value;
- provide for the provision of public access to reserves, coastal areas, bush areas or areas of special character, and for the creation of open space, recreation areas, visual buffers, and amenity areas.

In this respect, the proposed financial contributions are consistent with the principles of The Rakino Way.

8.0 Procedures for monitoring

The council will monitor the effectiveness of the proposed provisions as a means of achieving the objectives and policies by:

- monitoring resource consents including the number of applications granted consent, compliance with consent conditions, and the effectiveness of those conditions
- monitoring complaints and enforcement actions
- undertaking surveys eg land use surveys, ecological surveys
- monitoring trends through analysing statistics (eg census, building consents)
- monitoring through the annual plan process to report on income and expenditure for financial contributions

9.0 Conclusions

Council has carefully considered all consultation received related to financial contributions and has incorporated alterations to the plan where it was considered appropriate.

Assessment of the objectives, policies and rules against the statutory requirements of Section 32 of the Act has established that:

- the objectives are the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8
- overall, the environmental, social and economic benefits of having the proposed objectives, policies and rules within the plan outweighs any costs which may result. Therefore these methods are the most effective and efficient method of addressing the issues within the land unit and consequently are the most appropriate method of achieving the objectives.
- the proposed objectives, policies and rules will allow council to carry out its functions under section 31, 72 and 74(1) of the act.
- the methods are consistent with the statutory national and regional planning documents and non statutory documents and other acts including:
    - New Zealand Coastal policy Statement
    - Hauraki Gulf Marine Park Act
    - Auckland Regional Policy Statement
    - Auckland Regional Plan: Air, Land and Water
    - Essentially Waiheke – A Village and Rural Communities Strategy
    - The Rakino Way

Appendix B

Hauraki Gulf Marine Park Act 2000

Section 7 states as follows:

Recognition of national significance of Hauraki Gulf

(1) The interrelationship between the Hauraki Gulf, its islands, and catchments and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands are matters of national significance.

(2) The life-supporting capacity of the environment of the Gulf and its islands includes the capacity—

- (a) to provide for—
  - (i) the historic, traditional, cultural, and spiritual relationship of the tangata whenua of the Gulf with the Gulf and its islands; and
  - (ii) the social, economic, recreational, and cultural well-being of people and communities:
- (b) to use the resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation:
- (c) to maintain the soil, air, water, and ecosystems of the Gulf

Section 8 states as follows:

Management of Hauraki Gulf

To recognise the national significance of the Hauraki Gulf, its islands, and catchments, the objectives of the management of the Hauraki Gulf, its islands, and catchments are—

- (a) the protection and, where appropriate, the enhancement of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments:
- (b) the protection and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:
- (c) the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:
- (d) the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:
- (e) the maintenance and, where appropriate, the enhancement of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand:
- (f) the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.

Appendix C

Relevant provisions from national and regional planning documents