



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Mark Morris, Senior Consent Planner, Subdivision

REFERENCE: RM050398

SUBJECT: **R W and I C ENRIGHT– REPORT EP05/08/08** Report prepared for 15 August Hearing

APPLICANTS

R W and I C Enright

PROPOSAL

Section 357 objection to Condition 1 of resource consent RM050398

LOCATION

221 Queen Street, Richmond

LEGAL DESCRIPTION

Lot 1 DP 8786 (CT 3B/216)

1. INTRODUCTION AND BACKGROUND

The property in question is 483 square metres and is situated on Queen Street, Richmond.

The property is zoned Central Business under the Proposed Tasman Resource Management Plan.

The property contains a two storey office building, that according to the application was constructed in the 1970s.

The building is separately tenanted, with one portion (lot 1) being occupied by the ASB Bank and the other portion (Lot 2) by the Style Fashion Boutique.

The applicant has applied for subdivision consent to create a separate certificate of title for each of the tenanted buildings.

The application was a controlled activity in that each of the lots complied with the minimum lot size of 200m² for infill subdivision.

Consent was issued on 24 June 2005.(Attachment 1)

On 18 July a Section 357 objection was received by Council objecting to the imposition of Development Impact levies (5.5% of the value of one allotment for reserves & community services) under Condition 1.

2. SECTION 357 OBJECTION

2.1 Condition 1 (Development Impact Levies)

Financial contributions are imposed on subdivision and development under Section 16.5 of the Proposed Plan. Since August 2003 this part of the Plan has been operative so the Transitional provisions under DP1 And DP2 no longer apply.

I have included a copy of 16.5 as attachment 2 to this report.

In 16.5.1 it sets out the "Circumstances where Financial Contributions will be imposed."

In paragraph 2 it states:

" Financial Contributions will be imposed when land is subdivided, and when buildings are constructed, to assist in managing the effects anticipated to be generated by the subsequent use of those allotments and buildings."

Council has chosen the subdivision stage to impose the Reserves & Community Services levy which is used to fund reserves and community development in the district and is an important part of Council's ability to provide infrastructural services to manage growth in the District.

Council imposes Reserves & Community Services levies on Commercial and Industrial developments on the basis that they do have an impact on Council services, usually in form of workers using Council parks and facilities such as libraries and sports facilities.

Council has deliberately chosen the subdivision stage to impose the levy rather than the building consent stage for the following reasons:

1. The reserves levy is based on a percentage of land value of each allotment. The subdivision stage is the best stage to determine this, where you have an very accurate defined area shown by survey, which would be less certain at building stage.
2. Because the levy is based on land value, the subdivision is the best stage to take this, because the developer is able to recoup that value more easily through the selling of the subsequent allotments.

It could be argued that subdivisions by themselves do not actually have any effects at all, the only effect being a few pegs in the ground and lines on a plan.

You could argue that "pegs don't read books", "use Council services" or "play soccer" and so there should be no conditions at all on subdivisions.

However the obvious truth is that subdivisions are generally associated with development, which do impose a demand on Council services. The issue here is, does it matter whether the commercial development happens before or after the subdivision?

I accept that generally subdivision happens before development and so the wording of 16.5 is generally couched in those terms. However we are talking about exactly the same development and associated effects. It just happens that in this case, subdivision happens after the building was erected.

In the last few years it has become increasingly common for developers and landowners to do their building work before the subdivision.

I don't have any problem with this, and in Salisbury Road alone, I have approved four subdivisions, all based around buildings that were already on the proposed allotments.

In all cases the Reserves Levy was imposed (and paid) on the additional allotments, even though they could argue that the "effects already exist" as with this application .

It would be blatantly unfair on the community, if land owners were able to build multiple buildings that create impacts on Council services and not have to pay reserves levies simply because at the subdivision stage the buildings are already established.

It would be like the Cross-lease loophole which used to exist prior to 1991, whereby a 999 year lease was considered not a subdivision and under the Local Government Act, Reserve Fund could only be imposed on subdivision.

The fact is there is a clear causal link between subdivisions/development and demand on Council services. It should not matter whether the subdivision comes before or after the building development.

It should not matter either, whether the dwelling was built 30 weeks before the subdivision or 30 years.

Section 16.5.3 (e) sets out the circumstances where Council may waive or reduce the levy.

Clause (iii) states as a possible reason:

"where an activity is to be established which will have no adverse impact on the environment, particularly the infrastructure, reserves or community services of the District"

With subdivisions, this clause applies to particular subdivisions that are related to an activity, that has no impact on Council infrastructure, such as a public utility lot. This subdivision, like many others, is associated with development that has an impact on Council services.

This clause is not a loophole that will allow people to build commercial buildings first and apply for subdivision later in order to escape the reserves contribution.

There would serious negative financial consequences if Council were to uphold this objection and allow a waiver, in that it would essentially allow landowners to erect additional commercial buildings and subdivide without the impact on Council Services being able to be mitigated.

If this objection was upheld, the integrity of the Financial Contributions system to manage development in relation to reserves and Community services would be severely undermined.

Therefore I recommend that the Section 357 objection be declined.

3. RECOMMENDATION

That Condition 1 remain unchanged.

M D Morris
Senior Consent Planner, Subdivision

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of the application lodged by
R W and I C ENRIGHT

For a resource consent and a decision under the provisions of Section 104 of the aforesaid Act

PROPOSAL

To subdivide Lot 1 DP 8786 (CT 3B/216) into two allotments, Lot 1 being 289 square metres net, and Lot 2 being 194 square metres.

Each of the allotments has existing commercial buildings that front on to Queen Street.

The property is situated at 221 Queen Street, Richmond and is contained within the Central Business Zone under the Proposed Tasman Resource Management Plan.

TASMAN RESOURCE MANAGEMENT PLAN AFFECTED RULES

Rule 16.3.5 (Controlled Activity, Central Business Zone).

DECISION

Acting under authority delegated from Council I can advise that consent to the proposed subdivision was approved under Section 104 of the Resource Management Act 1991 on 24 June 2005. This consent is subject to the following conditions:

1. Development Impact Levies

Development impact levies as set down in 16.5.2 and 16.5.5 of the Proposed Tasman Resource Management Plan are required on one allotment. The following will apply:

Reserves and Community Services

Payment of reserves and community service levy on one lot assessed at 5.5% of the value of the lot.

Valuation shall be by way of a special valuation undertaken by a registered valuer at the applicant's request and cost.

Please note that the valuation is based on the average value of the land value of both allotments.

2. Easements

Easements are to be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Tasman District Council or appurtenant to the appropriate allotment. Reference to easements is to be included in the Council resolution on the title plan.

3. Building Code

Provision of a written report from a suitably qualified person to allow Council to certify that both buildings comply with the provisions of the Building Code specified in Section 116(2) of the Building Act 2004. The Council's certification is required to satisfy Section 224(f) of the Resource Management Act 1991.

Advice Note

Council will not issue the Section 224(c) certificate in relation to this subdivision until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements which are the amount to be paid and will be in accordance with the requirements that are current at the time the relevant development contribution is paid in full.

This consent will attract a development contribution on one allotment in respect of roading, stormwater, wastewater and water.

REASONS FOR THE DECISION

1. The proposed subdivision is a discretionary activity under the Proposed Tasman Resource Management Plan.

The discretionary part of the subdivision is that the net lot size for Lot 2 is less than the minimum 200 square metres and does not comply with the 8 metre diameter circle rule required under Rule 16.3.5(b).

2. The proposed subdivision will effectively provide a separate title for each commercial tenancy. The applicant could have had complying subdivision, but this would have created a split title. The average lot size is well over 200 square metres. In the context of this subdivision application and the fact that the dwellings have already been approved under a previous building consent, the effects on the environment are no more than minor and no other parties are considered to be adversely affected by the proposal.
3. The proposed subdivision is not contrary to the policies and objectives of the Proposed Tasman Resource Management Plan, which seek to allow infill development of existing allotments in serviced townships that have an urban zoning.

4. The fact that the subdivision involves subdivision of an existing building , each to be on their own separate title, does not affect the financial contribution rules. These are based on any additional titles created by the subdivision. The LTCCP levies under the Local Government Act are not conditions of consent because they are imposed under the Local Government Act.

Dated at Richmond this 24th day of June 2005.

M D Morris
Senior Consent Planner, Subdivision

16.5 Financial Contributions

16.5.1 Scope of Section

This section establishes Council's ability to require payment of financial contributions as a condition of subdivision, building development, establishment of plantation forestry in a Groundwater Recharge Protection Area or a Surface Water Yield Protection Area, or resource consents for other purposes.

Financial Contributions

Financial contributions are contributions of land or money that Council may require to assist in managing adverse effects of activities. They can be obtained through conditions on permitted activities or on resource consents.

Financial contributions should be seen in perspective. They are a third level method for managing adverse effects of activities.

The first method is the obligation on an applicant for resource consent to adequately identify likely adverse effects of the proposed activity and to show how those effects will be managed. The second method is for Council, in considering the application, to identify any additional measures it can reasonably require the applicant or persons implementing the consent to carry out to manage effects, and to impose conditions to achieve that end. These may include requiring works and services to be carried out or provided.

Financial contributions are available to redress any residual effects management issues. Usually these will be matters that are more effectively or efficiently carried out by Council, than by individual developers or site users. Contributions would not normally be required for on-site work that a developer would be expected to carry out. They are more likely to be applied where a development creates or contributes to a need for the provision of, or improvements to, off-site facilities provided and operated by Council. These may include roading improvements; upgrades to reticulation or treatment facilities for water supply, or sewage or wastewater disposal; stormwater disposal; or development of reserves and other community facilities; where these cannot be achieved by the developer. They may also include water augmentation measures where adverse water yield effects of new plantation forest cannot be met through conditions on resource consents.

Financial contributions are one of the set of methods to manage effects in this Plan. They are not simply a tax on development. Financial contributions by themselves do not offset adverse effects: they allow some other measure to be purchased or implemented, to manage effects. They should not be taken unless they can be applied to a measure to manage identified effects.

Financial contributions are a method applicable to implementing any policy, or achieving any objective, of this Plan.

Circumstances where Financial Contributions will be Imposed

From 1 July 2004 onwards Council's Development Contributions Policy in its Long Term Council Community Plan prepared under the Local Government Act 2002 requires development contributions to be paid on subdivision and building development to contribute to the long term costs of provision of new or expanded road network, wastewater, water supply or stormwater services. Where Council has required development contributions for the same activity and service, Council will not require payment of financial contributions for any of these infrastructure services as a condition of subdivision or building development under the provisions of this section. This statement qualifies the purpose of financial contributions given below to apply after 1 July 2004.

Financial contributions will be imposed when land is subdivided, and when buildings are constructed, to assist in managing effects anticipated to be generated by the subsequent use of those allotments and buildings. They may also be imposed on resource consents for activities that generate effects that cannot be managed by the consent-holder but which can be managed through some Council facility or operation.

Because of the special circumstances of the Rural 3 and Rural 3A zones, and the need for financial contributions to provide for the adequate servicing of the area within these zones and adjacent areas to accommodate new residential development, financial contributions for roading, water supply and wastewater are applied in this area as a standard for all subdivision consents, and for buildings. This also applies in the Mapua and Waimea Inlet Rural Residential Zones and Services Contribution Areas at Mapua and Tasman, where improved servicing is needed to provide for existing and future development.

Purpose of Financial Contributions

Subject to the explanation above concerning the circumstances where financial contributions will be imposed, the primary purpose of financial contributions is to provide an additional step in implementing the principle that the instigators and beneficiaries of activities generating adverse effects should meet the costs of avoiding, remedying, mitigating or offsetting those effects. The complementary purpose is to minimise the extent to which the community at large would otherwise subsidise those activities by meeting the costs of managing any adverse effects they generate. These primary and complementary purposes include the following matters:

- (a) Infrastructure in Tasman District has generally been sufficient to cope with effects generated by the present community. There is a need to upgrade and extend existing services, and to provide new services, to ensure that effects of community growth and development are adequately managed. The cost of such services which is over and above that required by the existing community will be funded by the new subdivision and development that generate the demand.
- (b) The roading network serves the total community and must be maintained and upgraded on a District-wide basis, and will be funded in part by financial contributions. For that reason, a contribution to roading will be levied on all subdivision and development.

- (c) Wastewater reticulation, collection and disposal is designed to serve discrete urban areas. Properties that are unable to benefit from such services will not be required to contribute. They will, however, be required to make suitable provision for the disposal of wastewater independently, as required by any consent.
- (d) Water supply is also designed to serve identified urban areas. Properties that are unable to benefit from such systems will not be required to contribute.
- (e) No provision has been made for a general contribution for stormwater yet. When an assessment has been made of the effects of new growth and the need for stormwater management determined, provision for a contribution may be introduced through a plan change.
- (f) Reserves and community services are considered to be essential facilities for the wellbeing of the people of the District. New growth places a demand to upgrade existing services, to expand, and to develop new facilities. Reserves and community services throughout the District are available to the total community. The cost of enhancing such facilities will be funded in part by new subdivision and development.
- (g) Financial contributions are an appropriate means of addressing effects of activities that warrant measures such as:
 - (i) natural hazard mitigation;
 - (ii) maintenance, enhancement, protection, preservation or restoration of:
 - landscape and natural values;
 - amenity values;
 - habitats and ecosystems;
 - heritage values;
 - water, soil and air quality.

Financial contributions for these purposes may be applied on-site or off-site. Positive effects such as environmental compensation will be taken into account.

How Financial Contributions have been Set

The determination of the financial contribution for each component is derived from the cost of Council's ten-year strategy for infrastructure works, reserves and community services, and the estimated demand for new allotments and development. The amount of funding required is a direct relationship between the strategy and the demand. The amount to be covered as a financial contribution is set for approximately three years. A review through the annual Plan process will be undertaken every three years and, if required, the amount of the contribution required will be altered by a Plan Change.

For land subdivision, the financial contribution will be in two parts. The first will be a dollar value applied to providing, upgrading and extending infrastructure, including the roading network, wastewater and water reticulation, and the control and disposal of stormwater. The second will be a percentage of the land value of new allotments, applied to acquisition and development of land for reserves, and to the development and upgrading of community services.

For building development, the financial contribution will be a percentage of the value of the building work. It will be divided equally between infrastructural needs and those for reserves and community services.

In the Rural 3 and Rural 3A zones, Mapua and Waimea Inlet Rural Residential zones and in the Services Contribution Area at Mapua and Tasman shown on the planning maps, detailed analysis has been undertaken in relation to servicing costs to accommodate growth in accordance with the Plan provisions for the area. These are “end state” calculations based on the expected number of dwellings and a full services development programme, and will provide for roading upgrades and extensions, and provision of water supply and wastewater services over time to the Council’s standards. Because of this provision, financial contributions can be determined throughout the area with certainty, and applied as a standard to all controlled and discretionary subdivision in the Zones and Area. Where subdivision consents have already been granted, but building has not yet taken place, these will be required to make a contribution at a reduced rate, as they will also benefit from the Council-provided services in the longer term. In this area, financial contributions for roading, wastewater and water supply will be applied within the area and there will be no requirement for applicants to contribute to such services outside the area. However, the reserves and community services financial contribution applied elsewhere within the District will apply to this area.

Financial Contribution on Subdivision

16.5.2 Calculation of Financial Contribution on Subdivision (Except for Rural 3, Rural 3A, Mapua and Waimea Inlet Rural Residential Zones, and the Services Contribution Area)

Subject to subsection 16.5.1, and except as provided in 16.5.2AA, the Council may require, as a condition on subdivision consents, that a financial contribution of the amounts stated in Figure 16.5A is payable to the Council with respect to each allotment created by subdivision, less:

- (a) the number of any existing separate certificates of title pertaining to the land being subdivided which have resulted from a previous subdivision consent or equivalent approval;
- (b) any allotment which, by agreement, is to be vested in the Council or the Crown for a public purpose;
- (c) any allotment required by a condition of consent to be amalgamated with another allotment;

provided that the amount of contribution is to be read as having been adjusted annually by adding to the amount, the percentage increase that is the Cost Construction Index annual increase, applicable as at 1 July of each calendar year, and commencing on 1 July 2002.

Figure 16.5A: Financial Contribution – Subdivision Per New Allotment (Except for Rural 3, Rural 3A, Mapua and Waimea Inlet Rural Residential Zones and the Services Contribution Area)

Financial Contribution – Subdivision Per New Allotment	
Component	Contribution
Road Network	\$1,115
Wastewater Reticulation	\$546
Urban Water Supply	\$521
Stormwater Management	Nil
Reserves and Community Services	5.5% of value (<i>see Rule 16.5.5</i>)
Notes:	
(1) The financial contribution is the total of the items set out in Figure 16.5A.	
(2) The financial contribution assessed from Figure 16.5A is inclusive of GST.	
(3) “Reserve” means any land set aside by the Council for a public purpose other than an esplanade reserve or esplanade strip set aside or created under Section 230 of the Act or a reserve for utility purposes.	
(4) “Community services” means any service or facility provided by the Council for a public purpose and includes any associated work.	

16.5.2AA Financial Contributions on Subdivision in Rural 3, Rural 3A, Mapua and Waimea Inlet Rural Residential Zones and the Services Contribution Area

Subject to subsection 16.5.1, for each allotment created by subdivision in the Rural 3 and 3A zones, the Mapua and Waimea Inlet Rural Residential zones and the Services Contribution Area shown on the planning maps, less:

- (a) any allotment subject to an exemption under Rule 16.5.2(a), (b) and (c);
- (b) any allotment that is created to be used exclusively for open space, conservation or productive purposes which is secured by way of a legal instrument and which contains no building location area; and
- (c) any allotment that is to be used exclusively for the purpose of a network utility structure;

a financial contribution is paid to the Council of the amounts stated in Figure 16.5AA, provided that the amount is adjusted annually in accordance with the method set out in Rule 16.5.2.

The required contribution is payable prior to issue of a certificate under section 224 of the Act.

Figure 16.5AA: Financial Contribution – Subdivision Per New Allotment, Rural 3 and Rural 3A Zones, Mapua and Waimea Inlet Rural Residential Zones and the Services Contribution Area

Financial Contribution – Subdivision Per New Allotment	
Component	Contribution
Road Network (except as required in the following line)	\$7,950
Road Network in Rural 3 Zone located west of the Transit NZ designation for the Ruby Bay Bypass (D138) north of Gardner Valley Road	\$12,400
Wastewater Reticulation	\$7,540
Water Supply	\$9,110
Stormwater Management	Nil
Reserves and Community Services	5.5% of value (<i>see Rule 16.5.5</i>)

Notes:

- (1) The financial contribution is the total of the items set out in Figure 16.5AA.
- (2) The financial contribution assessed from Figure 16.5AA is inclusive of GST.
- (3) The financial contribution for water supply also includes a connection fee.
- (4) “Reserve” means any land set aside by the Council for a public purpose other than an esplanade reserve or esplanade strip set aside or created under Section 230 of the Act or a reserve for utility purposes.
- (5) “Community Services” means any service or facility provided by the Council (other than the infrastructure components itemised in this table) for a public purpose and includes any associated work.

Financial Contributions for New Plantation Forestry

16.5.2A Financial Contribution Terms for Establishment of Plantation Forestry

The establishment of new plantation forestry is subject to the following terms:

- (a) Council may require a financial contribution as a condition of resource consent:
 - (i) in the circumstances; and
 - (ii) for the purposes; and
 - (iii) to the level determined in the manner as follows:

Circumstances

The Council may require as a condition on a resource consent to establish plantation forestry, a financial contribution of money or land or a combination of these to mitigate the adverse water yield effects of plantation forestry in a Groundwater Recharge Protection Area or a Surface Water Yield Protection Area.

Purpose

To offset or otherwise avoid, remedy or mitigate the adverse water yield effects of plantation forestry by providing for water augmentation in affected catchments.

Manner for Determining Level of Contribution

Council will assess, firstly, the effects management measures to be undertaken by the consent holder, as incorporated in the particular application or imposed by other conditions of consent. Council will also assess whether it needs to undertake any residual measures to achieve the environmental outcomes required by the consent, and whether the consent holder should contribute to those measures.

The level of financial contribution required to achieve the purpose will be determined by assessing:

- (a) the area of plantation forest to be established; and
- (b) the extent to which water yield will be reduced as a result of the new forest; and
- (c) the extent to which the water affected is used for abstractive uses; and
- (d) the significance of any instream values and uses of the affected water body.

Note: The rule applies only to the establishment of new plantation forest, not re-establishment of existing forest.

Financial Contributions on Subdivision (cont'd)

16.5.3 Reductions, Waivers and Offsets of Financial Contribution on Subdivision (Except for Rural 3 and 3A Zones, including Rural 3A Closed Zone, Mapua and Waimea Inlet Rural Residential Zones, and the Services Contribution Area)

Subject to subsection 16.5.1:

- (d) The financial contribution will be reduced by the amount of the wastewater reticulation and urban water supply contributions where the proposed allotments cannot benefit from a Council wastewater reticulation system or a Council urban water supply system.
- (da) The financial contribution will be reduced by the amount of the Reserves and Community Services component where the proposed allotment is for a network utility function, provided that that facility will not result in any demand on reserves or community services.
- (e) The financial contribution may be waived or reduced where, upon request, the Council considers it fair and reasonable having regard to the particular circumstances. Circumstances which may warrant a reduction or waiver include:
 - (i) where work is or has been undertaken or services provided, by agreement between the Council and the subdivider, that are greater than those necessary to manage adverse effects arising from the subdivision;

- (iii) where an activity is to be established which will have no adverse impact on the environment, particularly the infrastructure, reserves or community services of the District;
- (iv) where work is or has been undertaken or land set aside that will result in substantial environmental compensation.
- (v) where the applicant has previously carried out work or provided services or land, with the agreement of Council, that exceeded the requirements that applied to an earlier subdivision, and the applicant has not been compensated by any other means.
- (f) The cash component of the financial contribution will be offset where, by agreement, work is or has been undertaken or services provided that would have been the responsibility of the Council, and the Council agrees that the value of the work or services is fair and reasonable.

16.5.5 Reserves and Community Services Component of Financial Contribution on Subdivision

The financial contribution for reserves and community services under Figure 16.5A and Figure 16.5AA is assessed as follows:

- (a) 5.5% of the total market value (at the time subdivision consent is granted) of all new allotments created by the subdivision, other than allotments exempted by Rule 16.5.2 from this calculation.
- (c) In assessing the value of any allotment, the valuation shall be based on the area of the allotment or a notional building site on each allotment of 2500 square metres whichever is the lesser.
- (d) If payment is not made within two years of granting of the resource consent, and unless the resource consent specifies otherwise, a revised valuation must be made and the contribution recalculated. The cost of any valuation shall be paid by the subdivider unless the resource consent specifies otherwise.
- (e) The financial contribution shall be adjusted to take account of any land set aside and vested for reserve purposes at the request of Council. The market value (at the time subdivision consent is granted) of any such land shall be deducted from the Reserves and Community Services component calculated from conditions (a) and (c) for the remaining allotments. Where the value of the land being set aside exceeds the amount calculated under conditions (a) and (c) for the remaining allotments, the difference shall be credited or paid to the subdivider. Except that the foregoing provisions of this rule shall not apply in cases where any legislation enables land to be set aside compulsorily and without compensation.

16.5.5A Non-Complying Activities (Reductions, Waivers and Offsets of Financial Contributions on Subdivision in the Rural 3 and Rural 3A Zones, Mapua and Waimea Inlet Rural Residential Zones, and the Services Contribution Area)

A reduction, waiver or offset of the financial contributions in Rule 16.5.2AA is a non-complying activity.

A resource consent is required and may include conditions.

Financial Contribution on Building Development

16.5.6 Permitted Activities (Financial Contribution on Building Development)

Subject to subsection 16.5.1, it is a condition on every permitted activity that a financial contribution

of the amounts stated in Figure 16.5B is payable to the Council for every development that requires a building consent under the Building Act 1991, except where:

- (a) the activity is a first dwelling on a single certificate of title; or
- (b) the activity is the replacement of a building by another building of similar character, intensity and scale erected on the same site as the replaced building; or
- (c) the activity involves a repair or renovation work to an existing building where any adverse effects are no greater than previously.

16.5.7 Resource Consents (Financial Contribution on Building Development)

Subject to subsection 16.5.1, the Council may require, as a condition on any resource consent, that a financial contribution of the amounts stated in Figure 16.5B be payable to the Council with respect to every development that requires a building consent under the Building Act 1991, except where:

- (a) the activity is a first dwelling on a single certificate of title; or
- (b) the activity is the replacement of a building by another building of similar character, intensity and scale erected on the same site as the replaced building; or
- (c) the activity involves a repair or renovation work to an existing building where any adverse effects are no greater than previously.
- (d) the activity is within the Rural 3 and Rural 3A zones, the Mapua and Waimea Inlet Rural Residential zones, and the Services Contribution Area, where Rule 16.5.10 applies.

16.5.8 Calculation of Financial Contribution on Development

Subject to subsection 16.5.1, in making the assessment from Figure 16.5B, the following shall apply:

- (a) The financial contribution shall be assessed as a percentage of the value of the building consent application lodged with the Council.
- (b) The financial contribution shall be determined by taking the total estimated value of the work as required for a building consent and applying each component of Figure 16.5B to that value. The contribution is the sum of the components.

\$250,000 will be calculated as: $(50,000 \times 0) + (150,000 \times 0.5\%) + (50,000 \times 0.25\%) = \875 .

Figure 16.5B: Financial Contribution – Building

Financial Contribution – Building	
Component	Contribution
Building Consent (\$0 to \$50,000 value)	0%
Building Consent (\$50,001 to \$200,000 value)	0.5%
Building Consent (above \$200,001 value)	0.25%
<p>Notes:</p> <ul style="list-style-type: none"> (1) The financial contribution is GST inclusive. (2) The building consent value is GST exclusive. (3) The financial contribution is for reserves and community services where a development contribution has been required for infrastructure services under Council’s Development Contributions Policy in its Long Term Council Community Plan prepared under the Local Government Act. Where this has not been required, the financial contribution is double the percentage contribution shown in the figure and is divided evenly between infrastructure services and reserves and community services. (4) The contribution due on a building should be identified separately from other contributions set for any resource consent for an activity that includes buildings. 	

16.5.9 Reductions, Waivers and Offsets of Financial Contribution on Building Development

Subject to subsection 16.5.1:

- (a) Where the development is on a vacant allotment created by subdivision consent given between 8 November 1974 and 25 May 1996, the financial contribution, calculated under Figure 16.5B, will be reduced by the amount of any reserves contribution paid in accordance with a condition imposed on the subdivision consent approval for that allotment. In no case will the amount be reduced below zero.
- (b) The financial contribution may be waived or reduced where, upon request, the Council considers it fair and reasonable having regard to the particular circumstances. Circumstances which may warrant a reduction or waiver include:
 - (i) where work is or has been undertaken or services provided, by agreement between the Council and the applicant, that are greater than those necessary to manage adverse effects arising from the activity requiring consent;

- (iii) where an activity is to be established which will have no adverse impact on the environment, particularly the infrastructure, reserves or community services of the District;
 - (iv) where work is or has been undertaken or land set aside that will result in substantial environmental compensation.
- (c) The financial contribution will be offset where land is set aside at the request of the Council and vested for reserve purposes. The market value of such land shall be assessed prior to the approval of the proposed development. This condition shall not apply to any esplanade reserve or any other land, required to be set aside by the Resource Management Act or any other Act with respect to an allotment less than four hectares in area.

16.5.10 Financial Contributions on Building Development in Rural 3 and Rural 3A Zones, Mapua and Waimea Inlet Rural Residential Zones and the Services Contribution Area

Subject to subsection 16.5.1:

- (a) For building development in the Rural 3 and Rural 3A zones, Mapua and Waimea Inlet Rural Residential Zones and the Services Contribution Area, financial contributions are paid as follows:

- (i) The exceptions in Rule 16.5.6(b) and (c) apply.
- (ii) Where the building is a first dwelling on a site and a financial contribution in respect of the site is not payable under Rule 16.5.2AA, the financial contribution for the building is calculated as follows:

75% of the Wastewater Reticulation contribution set out in Figure 16.5AA, except where any financial contribution for wastewater was made before 20 December 2003 at the time that the site was created by subdivision,

and

100% of the Road Network Contribution set out in Figure 16.5AA, less roading contributions made at the time that the site was created by subdivision, comprising any road network financial contribution and any direct contribution to a Council road that is external to the area of the subdivision proportioned on a per allotment basis, and

75% of the Water Supply Contribution set out in Figure 16.5AA, except where a connection fee has been paid to the Council, or where any financial contribution for water supply was made before 20 December 2003 at the time that the site was created by subdivision.

No Reserves and Community Services or Stormwater Management Contribution is payable. Notes (1) to (3) in Figure 16.5AA also apply and the amounts are adjusted annually in accordance with the method set out in Rule 16.5.2.

- (iii) Where the building is a second or subsequent dwelling on a single certificate of title, the financial contribution is calculated as for a subdivision in terms of Figure 16.5AA, and the annual adjustment in Rule 16.5.2 applies.

- (iv) Where the building is any other building, financial contributions payable are calculated under Rule 16.5.8.
- (b) Reductions, waivers and offsets of financial contributions set out in 16.5.9 do not apply.
- (c) The financial contributions are payable on the issue of a building consent.

Note: Where a land use consent for an activity is needed, a financial contribution in addition to that required for the building under this rule may be required as a condition of consent under Rule 16.5.12.

16.5.11 Non-Complying Activities (Reductions, Waivers and Offsets of Financial Contributions on Building Development in the Rural 3 and Rural 3A Zones, Mapua and Waimea Inlet Rural Residential Zones, and the Services Contribution Area)

A reduction, waiver or offset of the financial contributions in Rule 16.5.10 is a non-complying activity. **A resource consent is required** and may include conditions.

Financial Contributions on Resource Consent (Other than for Subdivision or Building)

16.5.12 Requirement for Financial Contribution on Resource Consent (Other than for Subdivision or Building)

Subject to subsection 16.5.1, the Council may require, as a condition on any land use consent that a financial contribution of money or land, or a combination of these, be made for the following purposes:

- (a) To avoid, remedy or mitigate any identified adverse effect on the environment that is attributable to the activity that is the subject of the consent.
- (b) To attain any defined positive effect on the environment, in order to offset any identified adverse effect attributable to the activity that is the subject of the consent.

[Items (c) to (f) deleted]

[Rule 16.5.13 deleted]

16.5.14 Financial Contribution (Limitations)

Subject to subsection 16.5.1, general conditions may be imposed requiring an applicant or consent-holder to carry out work or provide services, on or off site. Alternatively, financial contribution conditions may be imposed to meet the full cost of work or services being done by Council. Such work may include: the extension and upgrading of road formation and construction (including footpaths, berms, and kerb and channel), wastewater and water reticulation, stormwater management, and the provision of telecommunication and power systems, on land or roads in the vicinity.

Conditions, whether for works, services, or financial contributions, are limited to addressing adverse effects attributed to the subdivision, development or other activity requiring consent, to the extent that those effects need to be avoided, remedied, mitigated, or offset.

Where works, services or land are not available, nor likely to be available within a reasonable time scale, that are considered necessary to meet the needs of a proposed subdivision or development in order to avoid, remedy or mitigate actual or potential adverse effects on the environment; and the applicant will not accept the responsibility of providing such works, services or land, nor the money needed for Council to undertake them; the Council may refuse to grant resource consent.

[Rule 16.5.15 deleted]

16.5.16 Principal Reasons for Rules

Activities that involve considerable financing have the potential to greatly benefit the District, but also lead to a strain on infrastructure resources. Accordingly, only activities that are substantial (as determined by their value) or result in a significant change in character (e.g. rural to residential) require a financial contribution.

Financial contributions provide the opportunity and the ability to offset any adverse effects (including cumulative adverse effects) arising from resource use, where it is impossible or unreasonable, to avoid, remedy or mitigate those effects.

Provision has been made for Council to waive or offset part or all of any financial contribution, in order to avoid a disproportionate burden on subdividers and developers. However, these options should only be applied where the primary reason for financial contributions, which is to avoid a disproportionate burden on the community, is achieved.

Subdivision, use and development add traffic to the transport system; creating demand for new or upgraded routes, alternative routes, and provision for alternative forms of transport.

Subdivision, use and development impose demands on or for utility services, especially waste disposal, as well as demands for open space - reserves and sports facilities - and community services.

Impacts on natural and amenity values warrant preventive or remedial action, which may be on site or off site.

The rules include provision to reduce or waive financial contributions in circumstances where:

- a developer does more than is necessary to address adverse effects of the particular development;
- a development will have no adverse effect on the environment; or
- where the community gains significant environmental benefit from the development.

This could include setting aside land of significant conservation value, or other means of ensuring community benefit from land containing heritage buildings, specimen trees, archaeological sites, or indigenous flora or fauna.

In the Rural 3 and 3A zones, Mapua and Waimea Inlet Rural Residential zones, and the Services Contribution Area, financial contributions relate directly to the provision of infrastructural services (wastewater and water supply) and roading within the area, but the reserves and community services contribution will be applied both within and outside the area. The area is expected to experience considerable residential growth over the next two decades, the effects of which can not be sustainably managed without comprehensive infrastructure servicing provided by the Council. Within this area, financial contributions for subdivision apply as a standard for all new subdivisions, and slightly reduced contributions apply for new dwellings where a full contribution has not been paid at the time of subdivision. In this area, waivers or reductions of contributions will only be possible by resource consent.