

3.7 FINANCIAL CONTRIBUTIONS AND RESERVE REQUIREMENTS

3.7.1 - OVERVIEW

In addressing the issue of whether Council should obtain financial contributions from subdivision and development within the District, Council was mindful of the anomalies that had occurred in the past, and proposes that these should be avoided in the future.

Council is, however, clear in its attitude that development can have adverse effects and can place additional requirements on the infrastructure of services and reserves. Wherever possible these activities should contribute towards the provision of these facilities.

Council takes the view that the ratepayer alone, through the rating system, should not be expected to provide, upgrade and maintain this aspect of servicing from the traditional rating base and where there is an additional funding option that should be exercised in conjunction with rates.

Council is required by Section 108(9) of the Act to specify in this plan a maximum amount, which does not exceed a value determined in accordance with the Plan. A financial contribution must be made for the purposes specified in the Plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect).

The question that must be asked is how then does the Council predetermine a formula for financial contributions based on effects which are not known at the time of District Plan preparation, nor will they be known until such time as the nature of the activity is promoted.

Notwithstanding these difficulties Council still believes that it should approach this task in a positive and progressive manner and to this end intends to undertake a study of the recreational resources of the District in order to test the following requirements:

- (a) The foreseeable needs of future generations' recreational activities.
- (b) Whether intensification of settlement will have an adverse effect and will lead to a demand for additional recreational facilities and open space.

Until such time as the outcome of this study is known Council has proceeded on the basis of its reserve contribution being based on projected expenditure for reserve development within the whole of the District.

Council will undertake regular monitoring of this situation to ensure that the provisions of the District Plan continue to be relevant. Where it is found that this approach is out of date, a plan change would be initiated.

With respect to financial contribution to capital works the basis of contribution is set out in this section.

3.7.2 - OBJECTIVES

Objective FIN.1

To ensure that subdivision and development within the District contribute equitably to the existing infrastructures in proportion to the effect created on that infrastructure.

Objective FIN.2

To ensure that where appropriate, and to the extent that an adverse effect is created, subdivision and development make adequate provision for the recreational needs of the inhabitants of the District and for the protection, planting or replanting of any tree or other vegetation or the protection, restoration or enhancement of any natural or physical resource.

3.7.3 - POLICIES

Policy FIN.1

To make provision for reserve acquisition, improvement, and development, in a structured manner.

Explanation

In determining the basis of reserve requirements on any subdivision and development within the District, Council intends to follow the programme determined in the Reserves Development Report.

It is anticipated that this report will identify those reserves which require development expenditure and support a need for further capital and highlight those localities that are somewhat deficient in reserves.

Schedule 6.20 identifies Council's proposed development expenditure on Reserves throughout the District until the year 2004. This programme is likely to be modified as a result of the study to be undertaken.

(Refer Rule FIN.1)

Policy FIN.2

To require financial contributions towards the acquisition, improvement, and development of reserves, at the time of subdivision and development.

Explanation

The Act empowers the Council to require financial contributions in the form of cash, land (including esplanade reserves), works or services, or any combination of the above.

The type of contribution required has been determined by having regard to the existing level of reserve supply and the distribution of these reserves throughout the District.

Where cash-in-lieu of land is to be required as a financial contribution the amount is based on the cost of acquiring land (where necessary), plus the cost of enhancing the land for the intended purpose. For example, if the reserve were to be used for recreation, the financial contribution will enable development to a standard capable of accommodating the recreational requirements. If the reserve is to protect or maintain ecological values, the financial contribution may involve restoration of a site.

An analysis of existing reserve land has been undertaken, and estimated costings have been allocated to the development proposals relating to each reserve. This analysis has taken account of areas of land Council may intend to acquire for reserve purposes such as esplanade strips and the development proposed on reserves with the ten year planning period.

(Refer Rule FIN.1)

Policy FIN.3

To recognise those circumstances where additional Council costs may arise as a result of subdivision and development.

Explanation

Where Council is faced with additional administrative functions in creating, for example easements, or is required to liaise with other local authorities or network operators, or is faced with survey cost arising from an application, then it intends to recover those extra costs.

(Refer Rules FIN.1 and FIN.9)

Policy FIN.4

To establish and maintain a list of those rivers, lakes and streams for which provision for esplanade mechanism are a priority.

Explanation

The legislation sets out quite demanding requirements on a local authority for the creation of esplanade reserves, strips and access strips. In association with the Southland Fish and Game Council, has identified in Schedule 6.3 those localities where these esplanade mechanism will apply.

In most cases Council will require an esplanade strip but this policy can vary according to circumstances.

[Refer Rule FIN.6)]

Policy FIN.5

To make adequate provisions for reserves for local utilities, road and access ways.

Explanation

The subdivision of land in many cases creates a future need for public utilities especially in the form of future road or pedestrian access.

It is appropriate to make provision for these future requirements as a condition of consent.

(Refer Rules FIN.7 and FIN.8)

Policy FIN.6

To make provision for a financial contribution at the time of subdivision and development towards network utility services provided by Council.

Explanation

Subdivision and development does place cumulative pressure on network utility services.

In most cases Council has constructed sewer, stormwater and water systems including headwork facilities, for a finite design population or capacity.

Where the effects of any subdivision or development is shown to adversely affect those systems, then the charges identified in Rule FIN.7 will apply.

(Refer Rule FIN.7)

Policy FIN.7

To ensure that subdivision and development contribute to the costs of improving or forming legal roads and to the provision of off-street parking, to the extent that serves the subdivision or development.

Explanation

Council has within the District a large number of legal roads which are either unformed or formed to a relatively low construction standard.

Under Council's Roading Programme, specified roads are identified for upgrading within a strict budget priority. Council accordingly does not have the resources to upgrade roads on a random basis as a result of sporadic subdivision or development occurring in parts of District. Where Council believes a road needs upgrading to mitigate the adverse effects of a subdivision or development then the provision of Rule FIN.8 will apply.

(see Rule FIN.8)

Policy FIN.8

To make provision for a financial contribution towards reserves and network utility services provided by Council where developments have an adverse effect on either of these two facilities.

Explanation

Large development projects can place demands on facilities provided by Council, to an extent and within a timeframe not normally provided for in the annual plan funding process.

In order to recognise this possibility, this Plan provides the mechanism to allow development projects to contribute towards these facilities.

(See Rule FIN.10)

Policy FIN.9

To ensure that subdivision and development contribute equitably to the acquisition, improvement and development of reserves throughout the District.

Explanation

In establishing a planned expenditure from reserve acquisition and development over the life of this Plan, Council also believes it is appropriate to establish this level of contribution.

Historically, past calculations have relied on land value to determine the contribution. However under an "effects based" regime Council does not believe that land value should be an influencing factor.

It has accordingly used a different approach in determining its charges in Method FIN.2.

Policy FIN.10

Resource consents for subdivisions which involve only the development of a network utility which has no impact on other services or amenities are not subject to financial contributions under this section.

3.7.4 - METHODS AND RULES

Rule FIN.1 - General

Council may impose as a condition of a resource consent a condition requiring that a financial contribution be made to Council for any one or more of the following purposes:

- The acquisition, improvement and development of public reserves in the District.
- The protection, planting or replanting of any tree or other vegetation or the protection, restoration or enhancement of any natural or physical resource.
- The provision or improvement of sewage and storm water treatment and disposal systems and connections thereto.
- The provision and upgrading of public water and rural water supply systems and connections thereto.
- The provision and improvement of roading.
- The reimbursement of legal costs incurred by Council in providing easements, encumbrances, covenants and the like.
- The reimbursement of fees charged to Council by Government Departments, local authorities and the suppliers of public utilities.
- Survey work.
- The provision of public utilities.

Rule FIN.2 - When Contribution Payable

- (a) Financial contributions of money shall be paid as follows:
 - (i) In the case of a land use resource consent, prior to the commencement of the use.

- (ii) In the case of a resource consent for a subdivision, prior to the issue by Council of the certificate under Section 224 of the Act.
- (b) Financial contributions of land shall vest in the Council immediately upon the land being able to be vested.
- (c) Financial contributions of works and services shall be undertaken at the time specified by Council in the resource consent.
- (d) Except for a financial contribution of money for a resource consent for a subdivision, Council may, in its discretion and subject to such conditions (including the giving of a bond) as it sees fit to impose, defer the payment, vesting, or undertaking, of any financial contribution, or part of a financial contribution for such time as it stipulates.

Rule FIN.3 - Credits and Refunds

- (a) Where:
 - (i) A resource consent which includes a condition requiring a financial contribution lapses or is cancelled or surrendered in accordance with the provisions of the Act; or
 - (ii) The activity in respect of which the resource consent was granted does not proceed;

Council shall, on notice, pay or return to the person entitled in accordance with Method FIN.1 the financial contribution less a value equivalent to the costs incurred by Council in relation to the activity and its discontinuance **PROVIDED THAT** Council shall not pay for or credit the value of any work or services provided as a financial contribution before the Resource Consent lapses or is cancelled or surrendered or does not proceed.

- (b) When as a condition of a resource consent a financial contribution was made under Rule FIN.1 with respect to the provision of two or more household units on one allotment without subdivision and the allotment is subsequently subdivided to create separate allotments for those household units no further financial contribution shall be required.

- (c) Where a financial contribution is made for the provision of a particular work or service and Council subsequently resolves not to proceed with that work or to provide that service the financial contribution shall be refunded to that person entitled in accordance with Method FIN.1 **PROVIDED THAT** in the case of a financial contribution of money no interest whether accrued or not shall be paid.
- (d) Council may from time to time in its discretion allow the development of reserves or the provision of landscaping within a subdivision or development as a credit towards any financial contribution payable in respect of the resource consent for that subdivision or development.

Rule FIN.4 - Amount Payable

The maximum value of the financial contribution to be provided shall

- (a) Be calculated in accordance with the provisions of Section 3.7.4.
- (b) Be determined at the time the resource consent is granted.
- (c) Include the amount payable in respect of Goods and Services Tax.
- (d) Nothing in Section 3.7.4 shall require Council to impose a condition for a financial contribution of the amounts specified in those Rules.

Method FIN.1 - Administration

- (a) Council shall keep a register of all financial contributions made which shall contain the following information.
 - (i) The amount of the financial contribution.
 - (ii) The name of the person making the contribution and the date on which the financial contribution was made.
 - (iii) The purpose for which the financial contribution was imposed and made.
 - (iv) The name of the person entitled to any refund or credit.
- (b) In the case of financial contributions of money, Council shall deal with the money in accordance with the requirements of Section 223 F of the Local Government Act 1974 and in reasonable accordance with the purposes for which the money was received.

Method FIN.2 - Financial Contributions for the Acquisition, Improvement, and Development of Reserves

Any financial contributions for the acquisition, improvement and development of reserves required by Council shall be for money and may be used throughout the district except that in one or more of the following cases Council will give preference to the acquisition of land.

- Where as a result of the study of the recreational resources of the District there is shown to be a need for reserves in the locality and the land to be acquired is suitable for the reserve required in respect to size, location and topography.
- Where the acquisition of the land would have the effect of providing or enhancing significant landscape features or significant habitats for indigenous flora and fauna.
- Where the acquisition of the land would have the effect of protecting sites of historical or cultural significance.
- In the case of land in the Rural (including Transitional and Scenic) and the Coastal Resource Areas where the land is required alongside rivers, streams and lakes identified in the Plan as requiring esplanade mechanisms.

Rule FIN.5 - Basis of Contribution

Where Council has determined that provision shall be made for a financial contribution that contribution shall be calculated as follows:

(a) **Contribution of Money**

Where the resource consent is for residential, commercial or industrial purposes a minimum charge of \$465.00 shall be payable for each allotment being created in the case of a subdivision, or each pan unit (as defined in Rule FIN.7) being provided in the case of a land use.

This charge is subject to the following:

- Only one charge shall be payable for each dwelling house.
- Credit will be given for any financial contribution paid at the time of subdivision and/or a land use consent.

(b) **Land Contribution**

Where the subdivision and/or land use is for residential, commercial or industrial purposes and land is to vest as reserve the calculation shall be assessed at 10% of the land area of each allotment but shall not exceed a maximum contribution in any case of 60 m² per allotment.

In no case shall the area be less than 1,000 m² in a single parcel and the land shall be acceptable to Council for vesting for reserve purposes.

Rule FIN.6 - Esplanade Reserves and Esplanade Strips and Access Strips

1. **Requirement**

(a) That subject to the following subclauses;

- where any land adjoins any river or lake as defined by Section 230(4) of the Act and,
- where any allotment of less than 4 hectares is created when the land is subdivided or,
- an application for a resource consent is received

an esplanade reserve 20 m in width shall be set aside from that allotment along the bank of the river or along the margin of the lake as the case may be and shall vest in Council in accordance with Section 231 of the Act.

Where any reserve or road of less than 20 m in width already exists along the bank of the river or along the margin of the lake then additional land shall be vested in Council in accordance with Section 231 of the Act to increase the width to a minimum of 20 m.

(b) The provision of that reserve or road as set out in Clause (a)(i) shall apply to those rivers and streams identified on the Planning Maps and Schedule 6.3 of this District Plan as being rivers and streams to which esplanade mechanisms will attach.

(c) In any situation referred to in Clause (a)(i) above, or where an allotment greater than 4 hectares is created, Council may require an esplanade reserve or strip in those circumstances where reserves already exist adjacent to or in the general vicinity of the subdivision and the acquisition of an esplanade reserve or strip would complement or increase the width of that land already in public ownership.

Method FIN.3 - Assessment Criteria

In determining whether or not an esplanade reserve or strip will be required by Council in accordance with Rule FIN.6, or in considering an application for a waiver from the requirement for or reduction in the width of an esplanade reserve or strip Council shall have regard to the following matters:

- (a) Whether the varied width of the esplanade reserve or strip is such that:
- There is adequate public access to any river, lake or stream and their margins to enable the public to meet any social, recreational or cultural needs.
 - The natural environments of flora and fauna, and wildlife habitats in, on or surrounding the river, lake or stream, are not adversely affected.
 - Any significant archaeological/historical sites, as well as those sites of significant value to the takata whenua are protected from encroaching development.
 - Any adverse impacts on water quality are adequately mitigated.
 - The banks of any river, lake or stream can be adequately and efficiently maintained.
- (b) Any reduction in the required width of esplanade reserves may be permitted where:
- Topography or the location of an existing building dictates a practical boundary less than 20 m.
 - Reduction of part is offset with a compensatory increased width elsewhere.
 - For any stream, the purpose of the reserve can be met by a lesser width but shall be not less than 4 m.
- (c) Calculation of Contribution
- The basis of acquisition of land or its reservation for either esplanade reserve, esplanade strip or esplanade access strip shall be as set out in the Act.

Rule FIN.7 - Financial Contributions for Services

Sewerage and Water Systems

Financial contributions may be required in accordance with Rule FIN.1 if the activity in respect of which a resource consent is granted is required to be connected to an existing sewerage or public water system. A financial contribution of money shall be made calculated as follows:

(a) **Sewerage All Purposes (other than trade waste)**

- **Contribution per pan unit:**

Public asset value ÷ units charges

(b) **Public Water Systems**

- **Per Unit Lot:**

Public Asset Value ÷ unit charges at the time the application for resource consent is made.

- **Rural Water Supply Systems:**

Cost per Unit = Public Asset Value ÷ unit connections in system.

Public Asset Value means the value of the sewerage or water schemes as at 30 June in any year as fixed annually by Council and published in its Annual Report.

In calculating unit charges the following shall apply:-

Separately rateable residential properties = 1 unit charge.

Non-residential properties each pan = 1 unit charge.

Rule FIN.8 - Rooding

- (a) Where a subdivision of land or development within any part of the District fronts an existing legal road the following provision shall apply:

- (i) Where the road is formed, then unless that part of the road adjacent to the subdivision lying between the edge of the carriageway and the boundary of the road reserve has been developed to the standard specified in the Guide to Geometric Standards for Rural Roads NRB 1985 a berm upgrading contribution shall be required. Provided that the payment shall not be required where the berm is upgraded by the subdivider to the Council's standards.
- (ii) Where the road is unformed or is only a road reserve, the developer will pay the full cost of constructing the road from the nearest section of formed road of the required standard. Where the developer is able to show that other users will benefit from the construction in which case the cost of the construction shall be assessed and be borne by the developer and the Council in proportion that the expected development traffic usage and the non development traffic usage bear respectively to the total costs of construction.
- (iii) Where road widening or a segregation strip is required as a consequence of the subdivision or development then such land shall vest in Council as part of the subdivision or development.
- (iv) Where a road is already formed but the strength or width of the formation is inadequate for the extra traffic generated by the development, the developer shall pay the proportion of the cost of the upgrading that the extra traffic generated by the development bears to the total costs but in no case exceeding half of the cost.
- (v) Where other developers benefit from the road upgrading contribution paid by any developer within two years of the upgrade, Council may also require a contribution from those developers and will reimburse the first accordingly after deducting reasonable investigative and administrative costs.
- (vi) Contributions for activities that generate heavy traffic shall comply with Rule PRA.8. Council may require the registration of a caveat against the title of the land being developed to record the contribution requirement.

- (vii) Where the road adjoins the subdivision or development a financial contribution will be required to upgrade the road to the extent that it serves the land being subdivided or developed, but in no case shall the contribution exceed half the estimated cost of the work. (See Policy FIN.7)

Method FIN.4

(i) Assessment Criteria

In determining any resource consent application for a subdivision and/or development of land with respect to Rule FIN.8 above, regard shall be given to the following assessment criteria:

- (a) Any actual or potential adverse environmental effects including:
 - Air pollution, noise and waste of fuel arising from restrictions on the free flow of traffic.
 - Impacts on neighbourhood amenities and on safety arising from excessive traffic flows on local streets.
 - Impacts on the physical environment as a result of inappropriate road construction.
- (b) The integrity of the roading network, its economic provision and the equitable distribution of its costs including:
 - The provision of an integrated and effective roading hierarchy giving convenient access throughout the locality and to the rest of the District.
 - The extent to which a road meets local, district or regional traffic needs and the traffic impacts of the development on roads in neighbouring areas.
 - Ensuring financial equity between the various subdividers and developers contributing to the overall roading network and the availability of public funds.
 - Securing the efficient and economic use of existing roading facilities.
 - Avoiding uneconomic public investment in new roading facilities by making a reasonable proportion of the costs of such works a charge on development of new urban areas.

- The standard of existing road formation
- (c) The nature and location of the site and its proposed development and use with respect to the potential traffic generation relative to the existing and planned capacity of the roading network.

(ii) Calculation of Contribution

The contribution required under this rule shall be as determined by the Council using contract unit rate prices applying at the time of application. These prices are to be applied to which ever roading standard is appropriate being either Code of Practice for Urban Land Subdivision Bylaw 1993 or the Guide to Geometric Standard for Rural Roads NRB 1985.

Rule FIN.9 - Extraordinary Costs

Where a subdivision, land use or development gives rise to costs in excess of the normal processing requirements specified by Council's standard charges then the actual full costs incurred will be recovered as a condition of the consent

- Where the costs are for legal expenses incurred by Council to create easements, encumbrances or covenants etc.
- If they are fees incurred by an adjoining local authority or network operator in processing the application.
- Where Council is involved in survey costs as a direct result of the application.

Rule FIN.10 - Developments

- A financial contribution towards reserves and network utility services provided by Council shall be made on any development for administrative, commercial or industrial purposes. This provision shall apply where the development proposed exceeds a value of \$500,000.00.

Method FIN.5 - Assessment Criteria

In determining whether a financial contribution is applicable Council will have regard to any one or more of the following criteria.

- Whether any adverse effects from the development would be mitigated through a contribution to reserves or services.

- Whether the existing reserves or services are available to accommodate the development.
- Whether the existing reserves or services will require upgrading as a result of the development.
- Whether the development has any adverse effects on significant, habitats for indigenous flora and fauna, indigenous vegetation or sites of historical or cultural value.
- Whether the development has enhanced the environment by providing adequate amenity, open space and landscaping.

Method FIN.6 - Calculation of Contribution

Where Council is satisfied that a contribution should be applied for a development, the assessment shall not exceed 0.5% of the value for the development.

For the purpose of this Rule the value of the development means the estimated costs of the development including the cost of all improvements and fixed plant and machinery forming part of the development as determined by Council, but does not include the value of land comprised in the development determined as at the day on which the application for resource consent is made to Council.