

18 Financial Contributions

18.1 Scope and Background

Where the Regional Council grants a resource consent, it may impose a condition requiring that a financial contribution be made. The term “financial contribution” is defined in s108(9) of the RMA to mean a contribution of:

- (a) money,
- (b) land, including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent), but excluding Māori land within the meaning of the Maori Land Act 1993 unless that Act provides otherwise, or
- (c) a combination of money and land.

Under s108(10) of the RMA a consent authority must not include a condition in a resource consent requiring a financial contribution unless:

- (a) the condition is imposed in accordance with the purposes specified in the plan or proposed plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect), and
- (b) the level of contribution is determined in the manner described in the plan or proposed plan.

Prior to this Plan, the Regional Council had provisions in former regional plans enabling the imposition of financial contributions on activities in the coastal marine area (CMA) and on activities in the beds of rivers and lakes. At the time of writing this Plan, however, the Regional Council had never imposed a financial contribution on any consent.

To date, financial contributions have largely been used by Territorial Authorities as a mechanism for funding the **infrastructure** required as a consequence of land development (for example, roads, drainage, *public water supply** and parking). By contrast, financial contributions have only been used to a very limited extent by Regional Councils. This is not surprising as Regional Councils are usually able to impose other types of consent conditions to adequately avoid, remedy or mitigate adverse effects of those activities that they control. The need for a separate financial contribution does not usually arise.

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The Regional Council envisages making only limited use of financial contributions in the future. The policies that follow provide the Regional Council with the option of imposing financial contributions, should this be appropriate, on some resource consents. The policies below satisfy the requirements of the RMA regarding financial contributions, setting out:

- (a) situations when financial contributions may be required and the purpose of financial contributions,
- (b) the manner in which the level of contribution will be determined, and
- (c) matters to be considered by the Regional Council when deciding whether to impose a financial contribution, and how to use any financial contributions that are collected.

18.2

Policies

Policy 18-1: Situations when financial contributions may be required and the purpose of financial contributions

A financial contribution may be imposed as a *condition*[^] of consent for the following types of activities and for the following purposes:

- (a) **Infrastructure**[^] – A financial contribution may be imposed as a *condition*[^] of consent for the establishment, *maintenance*^{*}, alteration, *upgrading*^{*}, or expansion of *infrastructure*[^] and other physical resources of regional or national importance. The purpose must be to offset significant adverse *effects*[^] on the *environment*[^] by funding positive *effects*[^] of an equivalent or similar character, nature and scale as the adverse *effects*[^].
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- (b) **Aquatic ecosystems and rivers**[^] – A financial contribution may be imposed as a *condition*[^] of consent for any type of activity that has significant adverse *effects*[^] on aquatic ecosystems, fish passage, *river*[^] bank erosion, flow regimes or riparian vegetation, in circumstances where such adverse *effects*[^] will not be adequately avoided, remedied or mitigated. The purpose of the financial contribution must be to offset the adverse *effects*[^] by providing for the restoration or enhancement of aquatic ecosystems, fish passage, *river*[^] bank stability, flow regime or riparian vegetation in the general area affected by the activity or, where this is not practicable or desirable, in another location.
- (c) **Indigenous Biological Diversity**[^] – A financial contribution may be imposed as a *condition*[^] of consent for any type of activity that has significant adverse *effects*[^] on indigenous *biological diversity*[^] in circumstances where such adverse *effects*[^] will not be adequately avoided, remedied or mitigated. The purpose of the financial contribution must be to offset the adverse *effects*[^] by providing for the protection, restoration or enhancement of indigenous *biological diversity*[^] in a location with similar indigenous *biological diversity*[^] values.
- (d) **Public access to and along the coastal marine area[^] (CMA), lakes[^] and rivers[^]** – A financial contribution may be imposed as a *condition*[^] of consent for any type of activity that will restrict or prevent existing legal or lawful public access to or along the CMA, a *lake*[^] or a *river*[^], except in circumstances where such restrictions are necessary for public safety or are in accordance with the Environmental Code of Practice for River Works (Horizons Regional Council, June 2010). The purpose of the financial contribution must be to provide for alternative public access in the vicinity of the activity or at another similar location.

Policy 18-2: Amount of contribution

The amount of contribution must be an amount determined on a case-by-case basis by the Regional Council to be fair and reasonable. The amount must not exceed the reasonable cost of funding positive environmental *effects*[^] required to offset the net adverse *effects*[^] caused directly by the activity. For the purposes of this policy and Policy 18-3, the “net adverse *effects*[^]” means a reasonable assessment of the level of adverse *effects*[^] after taking into account:

- (a) the extent to which significant adverse *effects*[^] will be avoided, remedied or mitigated by other consent *conditions*[^],

- (b) the extent to which there will be positive environmental *effects*[^] of the activity which may offset any or all adverse *effects*[^], and
- (c) the extent to which other environmental compensation is offered as part of the activity which may offset any or all adverse *effects*[^].

Policy 18-3: Matters to be considered for financial contributions

The Regional Council must take into account the following matters when making decisions about the imposition and use of financial contributions.

- (a) The Council must place primary emphasis on requiring the adverse *effects*[^] of an activity to be adequately avoided, remedied or mitigated by way of other types of consent *conditions*[^]. Financial contributions, designed to offset or compensate for adverse *effects*[^], must for most applications only be considered as a secondary measure.
- (b) Financial contributions must not be used where the *effects*[^] of activities are generally consistent with the purpose of the RMA and the resource management objectives and policies in this Plan.
- (c) Financial contributions must be used where granting a consent subject to a financial contribution would be more effective in achieving the purpose of the RMA (including recognition of the social, economic and cultural benefits of the activity) and the resource management objectives and policies of this Plan, as opposed to declining consent or granting a consent without requiring a financial contribution.
- (d) Financial contributions must not be used where a more suitable revenue collection power is available to the Regional Council.
- (da) The Council must take into account any financial contribution levied by a *Territorial Authority*[^] for the activity requiring consent and the purposes to which that *Territorial Authority*[^] contribution will be put, in order to avoid the Regional Council and the *Territorial Authority*[^] collecting financial contributions for duplicate purposes.
- (e) The Council must take into account cumulative *effects*[^] in the financial contribution assessments under Policies 18-1 and 18-2.
- (f) The Council must generally ensure that a financial contribution is used to fund measures as close as possible to the *site*^{*} where the adverse *effects*[^] occur, or at one or more *sites*^{*} similar to that where the adverse *effects*[^] occur, having regard to the location of any affected community.
- (g) The Council does not intend that all net adverse *effects*[^] as defined in Policy 18-2 above must be fully offset in every case by way of a financial contribution.

Entire Chapter appealed by New Zealand Historic Places Trust ENV-2010-WLG-000147
and Property Rights in New Zealand Inc ENV-2010-WLG-000152
