

Section 2.14 Financial Contributions

Subdivision, land use and development can increase demands on infrastructure and of particular concern to the Council, is any increased pressure on roading and reserve infrastructure. The Resource Management Act enables the Council to require financial contributions through the resource management process, which can ensure that costs associated with the development, maintenance and upgrading of roading and reserves infrastructure, necessitated by subdivision, land use and development, are met by the developer. Costs attributed to the developer shall be fair and reasonable and reflect the actual adverse environmental effects that the subdivision, land use or development imposes on natural and physical resources. Financial contributions can offset adverse effects and relieve the burden on ratepayers to meet those costs. The Local Government Act also enables the Council to require development contributions for community infrastructure, network infrastructure and reserves. The reserve contribution framework is in both the Council's Long Term Plan (developed under the Local Government Act 2002) and District Plan (developed under the Resource Management Act 1991). However, the Council cannot 'double up' and impose contributions towards the same asset or infrastructure under both Acts. The Council's Long Term Plan outlines the circumstances where development contributions are required.

Objective FIN.1

The developer shall meet the fair and reasonable costs of developing, maintaining and upgrading roading infrastructure, necessitated by the subdivision, land use or development.

Objective FIN.2

Reserves managed by the Council are appropriately located and adequately developed and maintained to meet the needs of the community.

Policy FIN.1

Financial contributions shall be applied in a fair and equitable manner that:

1. Is financially transparent.
2. Reflects the adverse effects generated by the subdivision, land use or development.
3. Is complementary to the Council's other financial management policies.
4. Takes into account the Council's maintenance and operational obligations.
5. Takes into account any costs incurred in the taking, holding and allocating of the financial contribution, including, but not limited to:
 - (a) The reimbursement of legal costs incurred by the Council in providing easements, encumbrances, covenants and the like.
 - (b) The reimbursement of fees charged to the Council by Government Departments, local authorities and the suppliers of public utilities.
 - (c) Survey work.
 - (d) Any other administration fees.

Explanation: Subdivision, land use and development can give rise to significant adverse effects on the District's roading and reserve infrastructure. To ensure that the ratepayers interests are protected, the maximum financial contributions payable are the full actual monetary cost, but the actual amount levied must be determined on a case-by-case basis.

Policy FIN.2

Make provision for reserve acquisition, improvement and development, either via land or a financial contribution at the time of subdivision, land use or development.

Explanation: The Resource Management Act 1991 enables the taking of a financial contribution in the form of cash, land or any combination of these. The contribution is intended to go towards providing for public open space and recreation areas, including parks and sports fields, where this will effectively maintain or add to the quality and diversity of open spaces and recreation areas in the District.

Financial Contributions

The Zone sections of the District Plan apply in addition to any relevant district-wide rules such as those relating to financial contributions. If any of the Zone Rules detailed in the following sections are breached, the activity will require resource consent:

- Rural Zone - Section 3.1
- Urban Zone - Section 3.2
- Te Anau Residential B Zone - Section 3.3
- Industrial Zone - Section 3.4
- Fiordland/Rakiura Zone - Section 3.5.

Rule FIN.1 - General Rule

All Non-Complying and Discretionary Activity resource consents are subject to the potential imposition of a financial contribution in accordance with the financial contribution provisions A to E specified below.

Controlled and Restricted Discretionary Activity resource consents are subject to the potential imposition of a financial contribution only where specifically stated as a matter of control or discretion.

A Purpose of Financial Contributions

The Council may require financial contributions for the purposes of:

1. Offsetting the effects of a subdivision, land use or development on roading and reserve infrastructure.
2. To secure environmental compensation for adverse effects on roading and reserve infrastructure associated with the subdivision, land use or development that cannot be avoided, remedied or otherwise mitigated, so that a positive environmental outcome is achieved.
3. To add to the quality and diversity of open spaces and recreation areas available to communities within the District.

B Calculation of Financial Contributions

B.1 Roading Infrastructure

The maximum contribution required for the development, maintenance and upgrading of roading infrastructure that serve a subdivision, land use or development shall be 100% of the estimated cost provided that the actual contribution levied shall be a fair and reasonable contribution having regard to the following matters:

1. The current status and standard of the roading infrastructure both leading to and fronting the site and the adequacy of that roading infrastructure for its current and proposed use.

2. The benefit to the subdivision, land use or development arising from the improvement to the roading infrastructure relative to the benefit to existing users and other members of the public.
3. The standard and classification of the road required as a result of the subdivision, land use or development.
4. The expenditure required to meet this standard.
5. The use or likely future use of the road by other parties and the contributions (if any) to be made or already made by such parties.
6. The contributions made by central government or other agencies or organisations towards the development of the road and any contribution (if any) already made by the developer.
7. Any equitable contribution toward work for which a financial contribution has previously been taken where the developer will benefit from that work.
8. Development and upgrading costs shall be calculated as per the standards in the Southland District Council Subdivision, Land Use and Development Bylaw 2012.

Note: Roading infrastructure may include more than one road where these are significantly affected by the subdivision, land use or development.

Cost calculations and associated financial contributions payable should reflect the New Zealand Transport Agency's Construction Index. Due to the volatile nature of bitumen prices, costs can vary from the standard rate of inflation and if not taken into consideration can result in a significant shortfall for the Council.

B.2 Reserves

Reserve contributions shall be required as follows:

- 1A. Where existing reserves in the locality are unable to absorb the additional demand resulting from the proposed development then the following reserves contribution will be required:
 - 2% of the value of additional allotments, at the time of subdivision consent (either in cash or land equivalent, at Council's option) up to a maximum of 2% of the value of 1,000 m² of the land within each additional allotment.
- 1B. Where minor improvements to existing reserves in the locality would enable absorption of the additional demand resulting from the proposed development then the following reserves contribution will be required:
 - 1% of the value of additional allotments, at the time of subdivision consent (either in cash or land equivalent, at Council's option) up to a maximum of 1% of the value of 1,000 m² of the land within each additional allotment.
2. Cash equivalent of the value of 20 m² of land for each additional residential unit created, at the time of resource consent less any contribution made at the time of previous subdivision within the preceding 10 years.
3. Cash equivalent of the value of 4 m² of land for each additional 100 m² of new, net, non-residential, building floor area created in the Urban Zone, Commercial Precinct or Industrial Zone, at the time of resource consent, less any contribution made at the time of previous subdivision within the preceding 10 years.
4. Where the contribution is given as land, the location shall be suitable for the reserve purposes of the area and shall be no less than 1,000 m² in each separate title. Acceptance of land is at the discretion of the Council.
5. No reserve contribution shall be required for any allotment exceeding 4 hectares in area.

For the purposes of this policy, the land value used is to be the current market value, exclusive of GST, at the time of the application for consent or approval to connect to utility services.

Where an agreed current market value cannot be established by mutual agreement between the Council and the developer, then the value will be that established by a registered valuer agreed by both parties and jointly retained, with the cost of the valuation fees being shared equally by the Council and the developer.

C. Circumstances When Financial Contributions May Be Taken

The Council may require as a condition or conditions of a subdivision or land use consent the payment of financial contributions where the subdivision, land use or development necessitates the development, maintenance or upgrading of roading or reserve infrastructure.

1. Where any financial contribution is, or includes the payment of money, the Council may specify any one or more of the following in the conditions of the resource consent:
 - (a) The amount to be paid by the developer.
 - (b) How the payment is to be made, including whether payment is to be made by instalment and whether bonding or security can be entered into.
 - (c) When the payment is to be made:
 - (i) generally in the case of subdivision, prior to uplifting the Section 224 certificate; and
 - (ii) generally in the case of land use, prior to the consent being given effect to.
 - (d) If the amount of the payment is to be adjusted to take account of inflation¹ and if so, how the amount is to be adjusted.
 - (e) Whether any penalty is to be imposed for default in payment and if so, the amount of the penalty or formula by which the penalty is to be calculated.
2. Where any financial contribution is, or includes land, the Council may specify any one or more of the following in the conditions of the resource consent:
 - (a) The location and area of the land.
 - (b) The state the land is to be in prior to vesting in or transferring to the Council.
 - (c) The purpose of the land if it is to be classified under the Reserves Act 1977, or the general purpose of the land.
 - (d) When and how the land is to be vested in, or transferred to the Council. In the case of subdivision consent the land shall be vested on the deposit of the survey plan under Section 224 of the Resource Management Act 1991, or transferred as soon as the certificate of title or computer freehold register is available.

D. Review of Calculation of Costs

Where a developer requests that the calculation of costs be reviewed, any costs incurred in reviewing Council's cost calculations shall be met by the developer.

Note: If the Council agrees with the appeal on costs, then the Council will not charge for staff time spent in reviewing the calculation.

¹ Inflation to be determined by the NZTA Construction Index (or its appropriate successor) not the Consumer Price Index

E. Credits and Refunds

Financial contributions may be credited or refunded by the Council in circumstances where:

1. A resource consent which includes a condition requiring a financial contribution lapses or is cancelled or surrendered in accordance with the provisions of the Resource Management Act.
2. The Council does not undertake the works or infrastructure for which the contribution was required.
3. The Council does not utilise the contribution for the specified reserves purposes within 10 years.

The Council shall, on notice, pay or return to the person entitled to the financial contribution less a value equivalent to the costs incurred by the Council in relation to the activity and its discontinuance

PROVIDED THAT the 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. No interest will be paid.

The amount of any previous payment shall be deducted from the level of the financial contribution payable in respect of any subdivision or land use consent in the following circumstances:

1. Where the financial contributions previously paid was to provide capacity in roading and reserve infrastructure.
2. If a financial contribution has previously been paid to the Council in respect of a land use consent subject to an application for subdivision consent.
3. If a financial contribution has previously been paid to the Council in respect of a subdivision consent for the land subject to an application for a land use consent.

F. Administration

The Council shall keep a register of all financial contributions made which shall contain the following information:

1. The amount of the financial contribution.
2. The name of the person making the contribution and the date on which the financial contribution was made.
3. The purpose for which the financial contribution was imposed and made.
4. The name of the person entitled to any refund or credit.