

14 FINANCIAL CONTRIBUTIONS

The Local Government Act 2002 provides for the collection of Development Contributions to mitigate the effects of development on community infrastructure. Council has developed a comprehensive policy in the Long Term Council Community Plan which gives effect to the new legislative provisions. Apart from the retention of the esplanade areas and car parking provisions associated with non-residential activities in **Chapter 14**, Council considers that it is no longer necessary to collect any other financial contribution via the District Plan.

CONTEXT

A financial contribution is defined in the Act as a contribution of:

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

In order for the Council to require any financial contribution, it must, in its district plan:

- state the circumstances under which a financial contribution will be required; and
- state either the maximum amount that will be required, or state the means by which such a maximum can be calculated; and
- give the general purposes to which the contribution will be put.

Council's Development Contributions Policy addresses situations where subdivision and land use activities:

- (i) would result in increased demands on infrastructure services (including car parking specially associated with residential subdivision or activities); or
- (ii) would result in increased demand for reserves and recreational facilities.

There are two specific matters which are not addressed by the Development Contributions Policy, namely car parking associated with non-residential activities and esplanade areas.

The inclusion of financial contribution provisions which address car parking associated with non-residential activities and esplanade areas within the Plan is essential if the Council is to properly exercise its functions under the Act.

Where land is subdivided, used or developed in accordance with a designation, the Act provides that the provisions of the District Plan do not apply. This means that financial contributions are not payable.

Subdivision and development represent an intensification of land use and potentially affect the conservation of the environment and public access. Esplanade areas provide a means by which public access and/or conservation values can be assured. The development of esplanade areas along all rivers and streams is not always practicable. The Council's approach is to place emphasis on establishing esplanade reserves along the coast and particular rivers and streams, which have recognised recreation, public access and/or conservation values. These have been called Esplanade Priority Areas (and are shown on the **Zone Maps**). Esplanade areas can also be established where they meet the criteria under **Policy 14.4.10**.

The Esplanade Priority Areas (as shown on the **Zone Maps**) are incomplete and have only been assessed for the Kerikeri Structure Plan study area as at September 2005

14.1 ISSUES

- 14.1.1 Subdivision, use and development of land within the District creates additional demand on esplanade areas.

14.2 ENVIRONMENTAL OUTCOMES EXPECTED

- 14.2.1 The timely provision of adequate car parking associated with non-residential activities.
- 14.2.2 A comprehensive network of esplanade reserves, esplanade strips, access strips, Maori reservations and other protective mechanisms along the coast and along the margins of rivers and lakes to protect conservation values, provide public access and allow for recreational use of the areas.

14.3 OBJECTIVES

- 14.3.1 To ensure that financial contributions are for the purpose of meeting the capital expenditure necessary to meet the cost of providing non-residential car parking (where this cannot be provided by the applicant) to service the proposed subdivision or land use activity.
- 14.3.2 To provide for esplanade reserves, esplanade strips and access strips, collectively known as esplanade areas, upon subdivision.

14.4 POLICIES

- 14.4.1 Financial Contributions can be in money, land or a combination of the two.
Generally speaking:
- (a) money will be preferred where:
 - (i) the financial contribution relates to the provision of car parking associated with non-residential activities and there is insufficient room on the site for adequate car parking in accordance with the other provisions of the Plan, but sufficient suitable land is available in the vicinity for the Council to provide car parking to offset the on-site deficiency; or
 - (ii) the financial contribution relates to an esplanade area requirement and a waiver of, or reduction to, the amount of land required is granted provided that the value of cash and any land taken as an esplanade area requirement shall, together, not exceed the value of the esplanade area that would have been required if there had been no waiver or reduction.
 - (b) land will be preferred where:
 - (i) the financial contribution relates to esplanade areas including the access to them; or
 - (ii) the land proposed for the financial contribution has important natural, amenity, heritage or cultural values that should be protected.
- 14.4.2 That the Plan set out the means for the calculation of financial contributions where such contributions will be required as a condition on a resource consent.
- 14.4.3 That financial contributions shall be calculated in an open, accountable and rational manner.
- 14.4.4 That the amount and type of financial contribution required reflect the nature and degree of actual and potential external adverse effects that may result from the proposed subdivision or land use activity.
- 14.4.5 That where subdivision and/or development occurs in stages, and land required as a financial contribution is vested as reserve in advance of one or more stages, the calculation of financial contributions on subsequent stages be adjusted to recognise this.
- 14.4.6 That financial contributions for car parking associated with non-residential activities or esplanade areas be for the purpose of:
- (a) meeting the capital expenditure necessary to meet the cost of providing for car parking where this cannot be provided by the applicant; or
 - (b) meeting the capital expenditure necessary to meet the extra demand for esplanade areas generated by the proposed subdivision or land use activity.
- 14.4.7 That a financial contribution generally be required, either prior to, or at the time of, giving effect to a resource consent
- 14.4.8 That esplanade reserves or esplanade strips (as appropriate) be required where the land involved will serve one or more of the purposes of esplanade reserves and esplanade strips set out in s229 of the Act.
- 14.4.9 That Council identify riparian areas of high conservation and recreation value, as Esplanade Priority Areas, and give such areas priority when considering the provision of esplanade reserves on subdivision or development.
- 14.4.10 That alternatives to esplanade reserves, and strips be provided for where:
- (a) the purposes of esplanade reserves and strips can be adequately achieved by other means; or
 - (b) the protection of conservation values would be at odds with the provision for public access or public recreational use; or

- (c) provision for public access or public recreational use would be in conflict with cultural or spiritual values; or
- (d) setting aside land for an esplanade reserve or the creation of an esplanade strip would be at odds with the Council's responsibility under s6(e), s7(a) or s8 of the Act.

14.4.11 That the provision of an access strip be considered in the following circumstances:

- (a) where an esplanade reserve or esplanade strip is required, and the level of public access to that esplanade reserve or strip would otherwise be inadequate; or
- (b) where a requirement to provide compensatory benefits is considered, and it would be desirable to provide public access to reserves or other public land nearby.

14.5 METHODS

DISTRICT PLAN METHODS

- 14.5.1 Rules in the Plan relating to the payment of financial contributions and the inclusion of formulae for the calculation of the maximum amount of financial contribution required in the Plan.
- 14.5.2 Esplanade reserves or strips required where the land involved will serve one or more of the purposes set out in s229 of the Act and access strips to provide public access to these areas where this is appropriate.
- 14.5.3 Waivers and reductions of any required financial contributions may be considered where a heritage resource is being afforded permanent legal protection or the work being done is to conserve or restore its heritage values.

OTHER METHODS

- 14.5.4 Annual Plan budgeted expenditure to provide for specific works to improve/upgrade infrastructure.

14.6 RULES

14.6.1 ESPLANADE AREAS

- (a) The Council will require a financial contribution of an esplanade reserve or strip in the following circumstances:
 - (i) where lots less than 4ha in area are created along the edge of the coastal marine area, or along the bank of any river with a bed having an average width of 3m or more, or along the margin of any lake whose bed has an area of 8ha or more an esplanade reserve or strip will be required;
 - (ii) where lots 4ha or greater in area are created along the edge of the coastal marine area or along the bank of any river with a bed having an average width of 3m or more, or along the margin of any lake whose bed has an area of 8ha or more an esplanade reserve or strip may be required (s237F of the Act requires the Council to pay compensation to the landowner unless otherwise agreed between the parties that this is not necessary);
 - (iii) where any land use requires a resource consent for an activity or activities and the Council considers it necessary to require an esplanade reserve or strip for any of the purposes outlined in s229 of the Act, an esplanade reserve or strip may be required;
 - (iv) when considering whether to take an esplanade reserve or strip, and the location, type and extent of that reserve or strip, the Council shall give priority to riparian areas identified as an Esplanade Priority Area (as shown on the **Zone Maps**), or where they meet the criteria under **Policy 14.4.9**.

Note 1: As at September 2005, the Esplanade Priority Areas have only been identified in the Kerikeri area.

Note 2: When considering the taking of esplanade reserves or strips, the Council shall have regard for the provisions of s230 of the Act. If the relevant stream or river does not come within the definition outlined in s230(4) of the Act, the Council may approach the owner of the land in accordance with the provisions of s237B of the Act.

- (b) Where any financial contribution under this rule is in the form of land, esplanade strips will be preferred over esplanade reserves where:
 - (i) public access is not required at all times; or
 - (ii) land ownership is not so fragmented as to cause difficulties with management; or

- (iii) where survey or other costs associated with an esplanade reserve are excessive having regard to the proposal; or
 - (iv) where the edge of the water body involved is actively eroding or accreting.
- (c) Where the Council is reasonably satisfied that:
- (i) public access should be provided to any esplanade area; and
 - (ii) the provision of an access strip is a practicable and appropriate means of enabling public access;
- it may seek an access strip.

14.6.2 CAR PARKING CONTRIBUTIONS

Car parking requirements for various non-residential land use activities are as laid out in **Appendix 3C** in **Part 4**, except where in the opinion of Council it is not reasonable or practicable to make that provision on the site or sufficiently close to the site for constant use by vehicles in conjunction with the site, the Council may in lieu thereof accept the payment of a sum of money not exceeding the value of that area of the site that would have been required to satisfy the parking provisions in **Appendix 3C**.

Note: Council's Development Contributions Policy addresses the demand for additional car parking resulting from residential activities.

14.6.3 WAIVERS AND REDUCTIONS

- (a) Notwithstanding **Rule 14.6.1** the Council may, upon application and at its discretion, reduce or waive any required financial contribution, esplanade reserve or strip, after considering the following matters:
- (i) the purpose of the particular contribution;
 - (ii) the extent to which the proposed activity generates those adverse effects which the particular contribution provides for the mitigation or remediation of;
 - (iii) the extent to which measures, either on-site or elsewhere, are proposed or provided which achieve the purpose of the particular contribution (in perpetuity);
 - (iv) the history of previous financial contributions related to the site, including the amount of and reason for any previous contributions; and
 - (v) the extent to which any charge is fair and reasonable.
- (b) Notwithstanding **Rule 14.6.1** Council may, upon application and at its discretion accept an alternative to an esplanade reserve or strip after considering the following matters:
- (i) whether the situation is in accordance with one of the criteria set out in **Policy 14.4.10**; and
 - (ii) whether the mechanism is appropriate for achieving at least one of the purposes of esplanade reserves and strips as set out in s229 of the Act; and
 - (iii) whether a Maritime Exemption Area applies to the site; and
 - (iv) whether the riparian area, the subject of an esplanade reserve or strip, is identified as an Esplanade Priority Area (as shown on the **Zone Maps**) or where they meet the criteria under **Policy 14.4.9**.
- Note:** As at September 2005 Esplanade Priority Areas have only been identified in the Kerikeri area.
- (v) whether a subdivision or development has been staged and previous requirements for earlier stages have provided adequate esplanade reserves or strips.
- (c) Any application for a waiver of, or reduction to, the level of financial contribution required or alternative to an esplanade reserve or strip shall be considered as a discretionary activity.
- (d) Any application for a waiver of, or reduction to, the level of financial contribution required or for an alternative to an esplanade reserve or strip may be made without notification if it relates to a subdivision or land use activity for which notification is not required.
- (e) Where any person wishes to protect, conserve or restore a scheduled heritage resource, and in doing so is required to pay a financial contribution, consideration will be given to the reduction or waiving of that contribution.
- (f) The Council may decide, on application, that public areas may be provided in lieu of, or partially in lieu of, any reserves or financial contribution that is required in respect of the subdivision.