

## PART 8 - FINANCIAL CONTRIBUTIONS

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### Plan modification annotations - key



Indicates where content is affected by proposed plan modification x.  
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Indicates where the content is part of plan modification x, which is  
subject to appeal.

Underlined content to be inserted.

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## FINANCIAL CONTRIBUTIONS

### 8.1 INTRODUCTION

This Part deals with the objectives, policies, strategies and rules used regarding financial contributions. However, these provisions do not apply to the Viaduct Harbour Precinct where separate financial contributions apply (see Part 14.7). In order to assist the user of the Plan, cross references are made between the rules and policies for financial contributions and the relevant parts of the Plan where these apply.

The financial contribution provisions are intended to address the effects of developments in the Central Area. Financial contributions are used as a mechanism for achieving the Plan's objectives.

### 8.2 STATUTORY CONTEXT

The Resource Management Act allows the Council to collect financial contributions in certain instances.

Section 108 (2)(a) of the Act allows the Council to impose a condition requiring a financial contribution on any resource consent for any purpose specified in the District Plan.

Section 108 (9) outlines the various forms such contributions may take as follows:

- 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 the Maori Land Act 1993 unless that Act provides otherwise; or*
- c) *A combination of money and land.*

While the Council has wide powers to require a financial contribution as part of a development or other form of resource consent, the Act also places various responsibilities on the Council to identify and justify the purposes for which contributions are collected. The Council is also required to spend and administer funds received in a prudent and transparent way.

Section 108 (10)(a) requires the Council to identify in the Plan, the purposes for which financial contributions will be collected. Section 32 of the Act requires the Council to adequately justify all its objectives, policies and rules and to evaluate their effectiveness against alternative means.

Section 108(10)(b) requires that the level of contribution be determined in the manner described in the Plan.

Section 111 of the Act requires the Council to spend any money received as a financial contribution for the purposes for which it was collected and account for this money in the same way as other Council funds.

### 8.3 RESOURCE MANAGEMENT ISSUES

The objectives and policies in this Part are directed at addressing the following issues:

- a) The avoiding, remedying or mitigating of the significant adverse effects of development on the environment of the Central Area, including public services and infrastructure.
- b) The just and equitable apportionment of costs to ensure that the costs of mitigating and remedying significant effects resulting from development are borne by those generating the effects.
- c) The recognition of the benefits which the public can gain in the form of public open spaces, public pedestrian and streetscape facilities and other infrastructure in the Central Area.
- d) The recognition of the benefits and positive effects that new development may make to reinforcing the function of the Central Area and enhancing amenities.

### 8.4 RESOURCE MANAGEMENT OBJECTIVES AND POLICIES

#### 8.4.1 OBJECTIVE

***To avoid, remedy or mitigate the significant adverse effects of development on the environment in the Central Area.***

#### **Policies**

- a) By identifying the significant adverse effects which may be addressed by applying financial contribution policies.



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- b) By using financial contributions to recover a fair contribution towards the costs of addressing these effects.

### 8.4.2 OBJECTIVE

*To ensure that financial contributions are imposed equitably on all development in the Central Area.*

#### Policies

- a) By collecting financial contributions for the purposes of improving public spaces and streets in the Public Open Space 3 Precinct, and for developing public pedestrian routes.
- b) By collecting financial contributions for the purposes of improving the drainage system once provisions to this effect have been included in the Plan.
- c) By assessing financial contributions on the basis of the likely demands for public space, public pedestrian linkages and streetscape enhancements generated by development.
- d) By providing for exemptions from payment of financial contributions in those circumstances outlined in Clause 8.7.1.3.

### 8.4.3 OBJECTIVE

*To ensure that the Central Area's physical infrastructure is able to cater for users' needs.*

#### Policies

- a) By adopting a long-term perspective through the Strategic Plan, to ensure that the infrastructure is adequately maintained and developed.
- b) By providing adequate resources through the Annual Plan, to ensure that the infrastructure demands of new development are met in a timely and orderly manner.
- c) By requiring new development to contribute to the development of public spaces, public pedestrian routes and facilities through a financial contributions policy.
- d) By requiring new development to contribute to the development of the Central Area's drainage system through a financial contributions policy once provisions to this effect have been included in the Plan.

### 8.4.4 OBJECTIVE

*To have a transparent system for collecting financial contributions and monitoring the*

*expenditure thereof to the benefit of the Central Area and to encourage development in the Central Area by providing a reasonable financial contribution regime.*

#### Policies

- a) By applying financial contributions in a just and consistent way to all new developments which generate effects and which require mitigating or remedying.
- b) By accounting for all money contributions collected for various purposes, in separate accounts.
- c) By spending the contributions collected only for the purposes for which they have been collected and in strict accordance with the policies outlined in this Part.
- d) By reporting the income and expenditure of these accounts through the Annual Plan.

## 8.5 RESOURCE MANAGEMENT STRATEGY

### 8.5.1 THE PURPOSE OF FINANCIAL CONTRIBUTIONS

Financial contributions are an integral part of resource management strategy. They assist to mitigate and remedy the adverse effects of development. They can also provide significant public benefit through enabling the development of public spaces and other infrastructure such as drainage. These contributions will assist in ensuring that the Central Area's infrastructure is adequate to cope with development.

With the exception of the Viaduct Harbour Precinct (see Part 14.7), financial contributions are required in the Central Area Section of the Plan for the provision of public spaces, the development of public pedestrian routes to link with public open spaces, and the improvement or enhancement of public pedestrian facilities.

Development in the Central Area will place additional demands on the infrastructure while presenting opportunities to increase capacity to meet such demands. The Council is committed in its Strategic Plan to undertake a long-term investment programme for the Central Area's systems for drainage (which includes water provision and stormwater and sewerage systems) and for public spaces. It is required to manage the drainage infrastructure of the Central Area in such a way that the needs of its users can be met.



Stormwater and sewerage services will require significant levels of investment over the next decades to ensure their continuation and to cater for the growth in demand.

Developers and resource users should be aware of the true cost of their resource use or activity. The application of reasonable financial contributions to assist in the funding of investments will ensure that new development contributes to these costs and assists in the provision of infrastructure to service new development.

However the determination of a justifiable means of charging for effects on the drainage infrastructure has been constrained by the lack of detailed information on the system. It is envisaged that this could be included in the Plan as a variation once the necessary information has been assimilated and an appropriate mechanism devised to address this issue.

### **8.5.2 AVOIDING, REMEDYING AND MITIGATING SIGNIFICANT ADVERSE EFFECTS**

It is reasonable to assume that new developments in the Central Area will have an adverse impact on public spaces as a result of the introduction of new users.

It is becoming increasingly necessary to ensure that developers and resource users face the true cost of the effects generated by their developments.

The imposition of financial contributions is therefore seen as a means of remedying and mitigating the significant adverse environmental effects generated by development.

### **8.5.3 BEARING THE COST OF EFFECTS**

Provisions for financial contributions require that private developers incur part of the cost of avoiding, remedying and mitigating the significant adverse effects of development on the Central Area's public spaces, including the streetscape.

While benefits will accrue to users of both new developments and existing buildings, these provisions do not advocate retrospective charging. Apart from the pitfalls of such charging, it would not be feasible to ascertain the extent of past contributions made by former developers to the development of public spaces.

Neither does the Council believe it appropriate or practical to charge other users who will benefit from new public spaces, such as visitors and other user groups. However, given the broad benefits, it would not be fair to apportion

the total cost of developing public space on new development. The Council will bear most of the capital cost, but based on the fact that a new development implies the introduction of new users on a long-term basis, it is considered reasonable for the developer to contribute a proportion of the amount earmarked for public space development and public pedestrian facilities in the Central Area. A financial contribution of 1% of the value of work over \$0.25 million will be imposed.

The financial contribution by developers would go towards the acquisition and development of public spaces in the Central Area based upon the amount budgeted for by the Council for public projects. The figures used are those identified for capital projects which appear in the Council's Strategic and Annual Plans.

### **8.5.4 MAINTAINING A TRANSPARENT PROCESS**

The Act requires the Council to spend funds collected in the form of financial contributions only for the purposes for which they were collected and to account for this expenditure in accordance with the requirements of the Local Government Act 2002.

In the case of the Central Area, financial contributions will only be spent on identified capital works which involve the acquisition and development of public spaces.

No financial contributions will be made to operational items; the maintenance of public spaces is undertaken from the proceeds of rates. The rates which new development brings to the Central Area will likewise be expended on the maintenance of established and more recent public spaces and not on capital improvements.

A transparent system for collecting financial contributions and monitoring the expenditure thereof will enhance the public's confidence in this mechanism.

The Council will generally seek to spend financial contributions accrued from developments for commercial activities either in the Strategic Management Area (SMA) within which the development is located or, where the development is close up to an SMA boundary, in the adjacent streets, public spaces or sites of the adjoining SMA.

The Plan specifies rules which identify the financial contributions required to avoid, remedy or mitigate the significant adverse effects of development on the Central Area's public spaces.



## 8.6 ANTICIPATED ENVIRONMENTAL RESULTS

It is expected that the financial contribution provisions in this Plan will contribute to the avoiding, mitigating or remedying of the adverse effects of development in the Central Area.

The requirement for financial contributions from development in the Central Area is part of the Plan's strategy to reinforce the area's important economic and social function.

In particular it will ensure the provision of adequate public infrastructure enabling development within the Central Area without significant adverse effects on public spaces and pedestrian amenity, including the provision of adequate areas for both active and passive recreation and ready access to the harbour and community facilities.

## 8.7 RULES

### 8.7.1 FINANCIAL CONTRIBUTIONS FOR THE DEVELOPMENT OF PUBLIC SPACES

#### 8.7.1.1 Application

Financial contributions for the development of public spaces shall apply to all new development which is undertaken in the Central Area whether the activities are permitted, controlled, discretionary or non-complying.

Financial contributions are not levied for the refurbishment of existing buildings or for subdivision.

#### 8.7.1.2 Calculation

##### a) New development

Financial contributions from new development for the acquisition and development of public spaces, and the enhancement of public pedestrian facilities shall be paid in the form of money or land or both. The form of payment may be subject to negotiation but final discretion remains with the Council. The formula for calculating financial contributions payable on all

development for the purposes of developing public spaces in the Central Area is as follows.

##### i) Contributions in money

Where the financial contribution for the development of public spaces is to be made in money, the owner shall pay the Council a sum based on 1% of the value of work of the development, above \$0.25 million.

For the purposes of this Plan, "value of work" comprises development as defined in Part 16.

##### ii) Contributions in land

When the financial contributions for the development of public spaces is to be made in the form of land, the owner shall vest in the Council an area of land of equal value to a financial contribution calculated under (i) above and subject to "Exemptions" below. The value shall be fixed at or about the day on which the valuation is made for the purposes of ascertaining the amount of the contribution under this rule.

##### iii) Contributions in money and land

In circumstances where the required financial contribution is made as money and land, the financial contributions shall be assessed in terms of both (i) and (ii) above.

#### 8.7.1.3 Exemptions

Exemptions to the payment of financial contributions are provided for as follows.

##### a) Prior contributions paid

Where a financial contribution for reserve purposes has already been paid on a lot or development site in the previous ten years from the date of an application, this contribution will be taken into account when assessing contributions for the acquisition and development of public spaces in the Central Area.

In general the exemption provided under (b) will be based on the amount of financial contribution already paid. Under section 35 of the Resource Management Act 1991 the Council maintains a record of all financial contributions paid for the development of public spaces in the Central Area. Should there be no record of a payment on the Council's files then proof of payment of prior contributions rests with the owner or applicant for an exemption.

##### b) Demolition or removal of existing buildings

A credit for an existing development can be claimed where a development has been demolished from the development site within the previous five years from the date of an application. In such circumstances the amount of financial contribution payable is determined



by deducting the value of the demolished building from that of the new development and applying the contribution rate to the resultant difference.

This exemption shall only apply to permanent buildings and not to temporary buildings.

**c) Refurbishment of an existing building**

No financial contribution is payable on the refurbishment of an existing building. All alterations to a building that involve additions to the gross floor area of the building will be liable to pay financial contributions at the rate of 1.0% of the value of works of such additions above \$0.25 million (see Calculation above and definitions in Part 16).

**d) Network Utility Services**

**e) Port Precinct**

No financial contribution is payable on development associated with any permitted activity under rule 14.8.6 within the Port Precinct.

**f) Learning Quarter: Area 1**

No financial contribution is payable on the development of education activities as defined in Part 16 of the plan within the Learning Quarter.

**8.7.1.4 Timing of Payment**

Financial contributions shall be paid before the issue of the necessary building consents under section 35 of the Building Act 1991, provided that the Council may in appropriate circumstances accept a bond to defer the payment of the contribution until the Council issues either a building code compliance certificate or before commencement of the activity, whichever is the sooner. Such bond to be prepared at no cost to the Council and secured to the Council's satisfaction.

**8.7.1.5 Expenditure**

Financial contributions in money paid for the acquisition and development of public spaces will, for accounting purposes, be considered separately from the Council's rates and other revenue. These contributions will be accounted for in terms of the Council's responsibilities under section 111 of the Act and the Local Government Act 2002. In addition a separate report of the income and expenditure of financial contributions paid in money will be included in the Council's annual report.

Money contributions will be spent on the purchase of additional land for reserves and public pedestrian routes, and on the development and improvement of existing public spaces and public pedestrian facilities. They will not be used for maintenance or to fund projects located outside the Central Area.

The acquisition by the Council of individual areas of land for the purpose of developing public spaces in the Central

Area using financial contributions will occur as part of the Annual Plan process. The Council will, however, consider any opportunity to purchase additional land wherever opportunities arise. In determining the merit of further land purchases for reserves the Council will take account of the following factors:

- a) the criteria for the acquisition of reserves (sufficient size; suitably located; compatible with surrounding activities; low social and physical risks; cost of acquisition should be at or below professional valuation; justifiable maintenance costs);
- b) the level of provision of existing reserves;
- c) the existing and likely future level of development pressure.

**8.7.2 VIADUCT HARBOUR PRECINCT**

The financial contribution provisions contained in Part 14.7 shall apply for developments and subdivisions in the Viaduct Harbour Precinct.

**8.7.3 WYNYARD QUARTER**

The financial contribution provisions contained in Part 14.9 shall apply for developments in the Wynyard Quarter.

**8.8 REFERENCES**

Reference should also be made to the following parts of the Plan:

- Part 4 ..... Strategic Management Areas
- Part 5 ..... Activities
- Part 6 ..... Development Controls
- Part 7 ..... Noise, Signs and Lighting
- Part 8 ..... Financial Contributions
- Part 9 ..... Transportation
- Part 10 ..... Heritage
- Part 11 ..... Hazardous Facilities and Contaminated sites
- Part 12 ..... Network Utility Services
- Part 13 ..... Subdivision
- Part 14 ..... Precincts and Quarters
- Part 15 ..... General Rules/Designations
- Part 16 ..... Definitions and Interpretations

