

FC - Financial Contributions

[Amended 01 Sep 23 PC2]

Financial contributions are a contribution of money, *land*, or a combination of both, to address the specific *effects* generated by a land use activity or *subdivision*.

Financial contributions under this Plan may be required in respect of avoiding, remedying, mitigating or off-setting any adverse environmental *effects* on any or all of the following:

- *open spaces* and reserves;
- upgrading off-site *infrastructure*, before programmed works that will address any adverse environmental *effects* created by the proposed *development*;
- significant heritage and ecological features;
- *waahi tapu and other places and areas of significance to Māori*; and
- riparian margins.

The natural environment values, and historical and cultural values, and open space and recreation chapters of this plan provide further direction on where *financial contributions* may be payable.

Council will not require a further *financial contribution* where they have been previously taken in relation to:

- the same *development*;
- the same purpose; and
- the same level and intensity of *development*, and the same level of *effects*.

In addition to *financial contributions* under this Plan, Council also has a Development Contributions Policy under the Local Government Act 2002.

Council must not require a *financial contribution* if it has imposed a *development* contribution in relation to:

- the same *development*
- for the same purpose, and
- at the same level and intensity of *development*, and the same level of *effects*.

The converse also applies.

The Council takes development contributions in most circumstances rather than *financial contributions*.

As such *financial contributions* will generally only be required where the Development Contributions Policy does not apply or where the Development Contributions Policy does not address the type of adverse *effects* generated by the *development* or activity. A *financial contribution* may also be required when an applicant proposes to off-set or provide compensation for any adverse *effects* generated by the *development* or activity.

Note: where appropriate, the *Council* will seek the advice of the relevant *iwi authority* when

considering conditions related to *financial contributions*.

Note: The Council intends to move contributions for open space and reserves into its Development Contributions Policy. When that has occurred, the policies and rules requiring payment of a *financial contribution* for open space and reserve purposes will not be implemented and will be removed by way of a subsequent plan change. Until that time, the policies and rules relating to *financial contributions* for open space and reserves will continue to have legal effect and be implemented.

Note: Section 110 of the RMA applies when a land use, *subdivision* or *development* for which a *financial contribution* has been paid, does not proceed.

Strategic Context

The primary objectives that this chapter implements are:

- DO-O1 - Tāngata Whenua;
- DO-O3 - Development Management;
- DO-O8 - Strong Communities;
- DO-O13 - Infrastructure; and
- DO-O17 - Open Spaces / Active Communities.

DO-O1 Tāngata Whenua

To work in partnership with the *tangata whenua* of the District in order to maintain *kaitiakitanga* of the District's resources and ensure that decisions affecting the natural *environment* in the District are made in accordance with the principles of Te Tiriti o Waitangi (Treaty of Waitangi).

DO-O3 Development Management

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To maintain a consolidated urban form within existing urban areas and a limited number of identified growth areas, and to provide for the *development* of new urban areas where these can be efficiently serviced and integrated with existing townships, delivering:

1. urban areas which maximise the efficient end use of energy and integration with infrastructure;
2. a variety of living and working areas in a manner which reinforces the function and vitality of centres;
3. an urban environment that enables more people to live in, and more businesses and community services to be located in, parts of the urban environment:
 - a. that are in or near a *Centre Zone* or other area with many employment opportunities; or
 - b. that are well serviced by existing or planned public or active transport; or
 - c. where there is high demand for housing or for business land relative to other areas within the urban environment;

while accommodating *identified qualifying matters* that constrain development;

4. resilient communities where development does not result in an increase in risk to life or severity of damage to property from natural hazard events;
5. higher residential densities in locations that are close to centres and public open spaces, with good access to public transport;
6. management of development in areas of special character or amenity in a manner that has regard to those special values;

7. sustainable natural processes including freshwater systems, areas characterised by the productive potential of the land, ecological integrity, identified landscapes and features, and other places of significant natural amenity;
8. an adequate supply of housing and areas for business/employment to meet the needs of the District's anticipated population which is provided at a rate and in a manner that can be sustained within the finite carrying capacity of the District;
9. management of the location and effects of potentially incompatible land uses including any interface between such uses; and
10. urban environments that support reductions in greenhouse gas emissions and are resilient to the current and future effects of climate change.

DO-08 Strong Communities

To support a cohesive and inclusive community where people:

1. have easy access and connectivity to quality and attractive public places and local social and community services and facilities;
2. have increased access to locally produced food, energy and other products and resources;
3. have improved health outcomes through opportunities for active living or access to health services; and
4. have a strong sense of safety and security in public and private spaces.

DO-013 Infrastructure

To recognise the importance and national, regional and local benefits of *infrastructure* and ensure the efficient *development*, maintenance and operation of an adequate level of social and physical *infrastructure* and services throughout the District that:

1. meets the needs of the community and the region; and
2. builds stronger community resilience, while avoiding, remedying or mitigating adverse *effects* on the *environment*.

DO-017 Open Spaces / Active Communities

To have a rich and diverse network of *open space* areas that:

1. is developed, used and maintained in a manner that does not give rise to significant adverse *effects* on the natural and physical *environment*;
2. protects the District's cultural, ecological and *amenity values*, while allowing for the enhancement of the quality of *open space* areas;
3. supports the identity, health, cohesion and resilience of the District's communities; and
4. ensures that the present and future recreational and *open space* needs of the District are met.

The rules in this chapter apply to all land and activities in all *zones* unless otherwise specified. Provisions in other chapters of the Plan may also be relevant.

Policies

FC-P1 Provision of Reserves and Public Open Spaces

A *financial contribution* based on *Residential Unit Equivalent (RUE)* will be required for all granted *land use* and *subdivision* consents and as a requirement for permitted *land use* activities where it is determined they will increase the demand for reserves and public *open spaces* within the

District and a financial or development contribution has not already been taken for the same *development*, purpose, and at the same level and intensity of *development*.

Council will use the contribution for reserves and public *open spaces* to:

1. contribute to District-wide facilities, and
2. address deficits within the District, and
3. undertake improvements to existing reserves and public *open spaces*.

The level of *financial contribution* that is required reflects the demands on and costs of acquiring and improving reserves and public *open space* are as follows:

1. the urban *RUE* value provides for the achievement of Policies UFD-P7 and UFD-P8;
2. the Ōtaki urban *RUE* value, set at 67% of the Urban value, recognises the lower land values compared to the rest of the District; and
3. the rural *RUE* value, set at 50% of the Urban value, recognises that rural areas generally have less need for or immediate access to local and neighbourhood parks.

Council will apply credits in particular circumstances.

Explanation: The price of the contribution per *RUE* is based on August 2011 Quotable Value data.

FC-P2	Provision of Infrastructure
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A *financial contribution* may be required for any land use or *subdivision* application that results in the need to upgrade *infrastructure* beyond the *subject site* that the *resource consent* applies to. The extent and value of any particular *financial contribution* payable will be in proportion to:

1. the extent to which the *financial contribution* avoids, remedies or mitigates any on-site and off-site adverse environmental *effects* caused by the *subdivision*, *land use* or *development*.
2. the extent to which the adverse environmental *effects* of the *subdivision*, *land use* or *development* are off-set by the positive environmental *effects* of the type of *infrastructure*.
3. the amount of financial or development contribution already taken for the same *development*, purpose, and at the same level and intensity of *development*.

FC-P3	<i>Financial contributions</i> to offset or compensate for adverse <i>effects</i>	Added 01 Sep 23 PC2
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A *financial contribution* may be required for any land use or *subdivision* application to ensure positive *effects* on the *environment* are achieved to offset any adverse *effects* that cannot otherwise be avoided, remedied or mitigated.

Rules

FC-R1	Creation of a new <i>one-bedroom residential unit</i>
Permitted Activity	<p>Standards</p> <ol style="list-style-type: none"> 1. A <i>financial contribution</i> to the equivalent of 0.5 <i>RUE</i> shall be payable per each new <i>one-bedroom residential unit</i> as set out in FC-Table 1 and shall take into account any credits provided in FC-Table 1. 2. The <i>financial contribution</i> shall be payable:

	<ul style="list-style-type: none"> a. as a <i>condition</i> of consent for any <i>land use resource consent</i>; and b. prior to the commencement of construction for any relevant <i>permitted activity land use</i>.
FC-R2	Addition of new bedrooms to an existing <i>one-bedroom residential unit</i>
Permitted Activity	<p>Standards</p> <ol style="list-style-type: none"> 1. A <i>financial contribution</i> to the equivalent of 0.5 <i>RUE</i> shall be payable for the first additional bedroom calculated as set out in FC-Table 1 and shall take into account any credits provided in FC-Table 1. <p>Note: No additional <i>RUE</i> shall be payable above the first additional bedroom.</p> <ol style="list-style-type: none"> 2. The <i>financial contribution</i> shall be payable: <ul style="list-style-type: none"> a. as a <i>condition</i> of consent for any <i>land use resource consent</i>; and b. prior to the commencement of construction for any relevant <i>permitted activity land use</i>.
FC-R3	Creation of a new <i>residential unit(s)</i> (excluding <i>visitor accommodation</i> which is not <i>temporary residential rental accommodation</i>).
	<i>Measurement criteria</i> apply to activities under this rule.
Permitted Activity	<p>Standards</p> <ol style="list-style-type: none"> 1. A <i>financial contribution</i> to the equivalent of one <i>RUE</i> shall be payable per each new <i>residential unit</i> as set out in FC-Table 1 and shall take into account any credits provided in FC-Table 1. 2. The <i>financial contribution</i> shall be payable: <ul style="list-style-type: none"> a. as a <i>condition</i> of consent for any <i>land use resource consent</i>; and b. prior to the commencement of construction for any <i>permitted activity land use</i>. <p>Measurement Criteria:</p> <p>The <i>Residential Unit Measurement Criteria</i> must be followed when determining the number of <i>residential units</i>.</p>
FC-R4	<i>Subdivision of land</i> that results in the creation of an additional <i>allotment(s)</i>
Permitted Activity	<p>Standards</p> <ol style="list-style-type: none"> 1. A <i>financial contribution</i> to the equivalent of one <i>RUE</i> shall be payable per each new additional Record of Title (<i>allotment</i>) as set out in FC-Table 1 and shall take into account any credits provided in FC-Table 1. 2. The <i>financial contribution</i> shall be imposed as a <i>condition</i> of consent of any <i>subdivision</i> consent and: <ul style="list-style-type: none"> a. where money is to be taken, shall be payable prior to the issue of a certificate under Section 224 of the RMA. b. where <i>land</i> is to be taken, shall be vested on deposit of the survey plan.

	<p>Exceptions:</p> <p>This standard does not apply:</p> <ul style="list-style-type: none"> a. To the creation of <i>allotments</i> for a <i>network utility</i>. b. Where a title with an area less than 50m², provided that the title is for an <i>allotment</i> of a greater size forming part of the same <i>subdivision</i>.
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<p>FC-Table 1 - Contribution payable per Residential Unit Equivalent</p>		Residential and Working Zones	Residential and Working Zones - Ōtaki Urban Area	Rural Zone	
		One Residential Unit Equivalent	\$11,250 plus GST, as adjusted annually by the Consumer Price Index from 29 November 2012.	\$7,500 plus GST, as adjusted annually by the Consumer Price Index from 29 November 2012.	\$5,625 plus GST, as adjusted annually by the Consumer Price Index from 29 November 2012.
		Credits	<p>In calculating the number of RUE, the Council will:</p> <ul style="list-style-type: none"> a. apply credits where and to the extent that: <ul style="list-style-type: none"> i. there is pre-existing lawfully established demand on the <i>subject site</i>; and ii. a financial contribution(s) has already been paid for the same <i>subject site</i> and for the same activity, at the same level of intensity and the same level of effects; or iii. a development contribution has already been paid for reserves and public open space for the same <i>subject site</i> and for the same activity, at the same level of intensity and the same level of effects. <p>Note: This includes financial contributions or development contributions paid at the <i>subdivision</i> stage, applied as a credit towards the effect of subsequent <i>building activity</i>.</p> <ul style="list-style-type: none"> b. only apply credits for developments on the same <i>subject site</i>; c. not provide for credits to be transferred to another development; and d. not permit credits to be used to reduce the number of units of demand to less than zero e. not refund any credits 		
		<p>Explanation: The following are examples of credits that may be applicable:</p>			
	Prior development	New development	Financial contribution assessment	Credit for pre-existing demand	

			(taking into account any credit)	
	One title	Residential fee simple subdivision into 3 titles (two additional allotments)	2 <i>RUE</i> for the additional <i>allotments</i>	1 <i>RUE</i> credit for the original <i>allotment</i>
	<i>One-bedroom residential unit</i> , which had already had a 50% reduction in financial contributions	Add one or more new bedrooms	0.5 <i>RUE</i> for the addition	0.5 <i>RUE</i> credit for the existing development
	One house on an existing <i>allotment</i>	One additional <i>residential unit</i> , with or without subdivision.	1 <i>RUE</i> for the additional <i>residential unit</i> .	1 <i>RUE</i> credit for the existing <i>residential unit</i>
	Block of four flats on a single title	Convert to unit titles	Nil for the title conversion	4 <i>RUE</i> credit for the existing development

General Rules for Financial Contributions

[Added 01 Sep 23 PC2]

Introduction:

FC-R5 is a general rule that applies to all *financial contributions* that are imposed as a condition of consent under s108 of the RMA. FC-R6 and FC-R7 are rules that apply when the *Council* determines that it is appropriate to impose a *financial contribution* when considering a resource consent application under FC-P2 and / or FC-P3.

FC-R5	General requirements for payment of a <i>financial contribution</i>	Added 01 Sep 23 PC2
Permitted Activity	<p>Standards</p> <ol style="list-style-type: none"> 1. <i>Financial contributions</i> may, at <i>Council's</i> discretion, take the form of money or land or a combination of money and land. 2. <i>Financial contributions</i> shall not be imposed on a use, <i>development</i> or <i>subdivision</i> for the same purpose as a development contribution that: <ol style="list-style-type: none"> a. is required, or b. has been agreed through a development agreement, or c. has already been paid 	

in relation to that use, *development* or *subdivision*.

3. Where a *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 consent holder.
 - 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. In the case of *subdivision*, before issuing the section 224 certification.
 - ii. In the case of land use, before the consent is given effect to.
 - iii. If the amount of the payment is to be adjusted to take account of inflation and if so, how the amount is to be adjusted.
 - iv. 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.
 - d. Where a *financial contribution* is, or includes *land*, the *Council* may specify any one or more of the following in the conditions of the resource consent:
 - i. The location and area of the *land*.
 - ii. The state the *land* is to be in before it is vested for transferred.
 - iii. The purpose of the *land* if it is to be classified under the Reserves Act 1977, or the general purpose of the *land*.
 - iv. When and how the *land* is to be vested or transferred. In the case of *subdivision* consent the *land* shall be vested on the deposit of the survey plan under section 224 of the Act, or transferred as soon as legal certificate of title is available.

Note: where appropriate, the *Council* may seek the advice of the relevant *iwi authority* on these matters.
 - e. Where any *land* is to be vested as part of a *financial contribution* a registered valuer shall determine its market value at the date on which the resource consent (imposing the *financial contribution* condition) commenced under section 116 of the Resource Management Act 1991.

For the purposes of this standard, 'market value' has the same meaning as defined in the International Valuation Standard, as adopted by Australian Property Institute 2008 and Property Institute of New Zealand 2009, which is as follows:

'Market Value is the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.'

This standard does not apply to *land* that is to be vested in *Council* as a *financial contribution* in circumstances where the value of the *land* does not need to be determined.

	4. Security for compliance of resource consent conditions imposing <i>financial contributions</i> shall be in accordance with sections 108, 108A, 109 and 220 of the Act, further secured by deposits of money with the <i>Council</i> or by way of a bond or bank guarantee. Where appropriate, securities shall be registered against the relevant titles.	
FC-R6	Level of <i>financial contribution</i> payable, excluding reserves	Added 01 Sep 23 PC2
Permitted Activity	<p>Standards</p> <ol style="list-style-type: none"> 1. The level of contribution shall be up to 100% of the actual or estimated costs, or land necessary to provide for the “Reasons for <i>Financial Contribution</i>” specified in Table FC-Table2. 2. Actual or estimated costs may include: <ol style="list-style-type: none"> a. All reasonable costs incurred in providing the <i>infrastructure</i>. b. Any reasonable costs in avoiding, remedying or mitigating any adverse <i>effects</i> on the <i>environment</i> of providing or upgrading any <i>infrastructure</i>. 3. The level of <i>financial contribution</i> shall include any associated costs including but not limited to: <ol style="list-style-type: none"> a. The reimbursement of legal costs incurred by <i>Council</i> in providing easements, encumbrances, covenants and the like. b. The reimbursement of fees charged to <i>Council</i> by Government departments, local authorities and the suppliers of <i>infrastructure</i>. c. Survey work. d. Any fees incurred by an adjoining local authority or <i>network utility operator</i> in processing the application. e. Goods and Services Tax (GST). 4. The estimated or actual cost of <i>financial contributions</i>, whether provided or constructed by the <i>Council</i> or otherwise shall be calculated in accordance with the matters for consideration set out in Table FC-Table 2. 5. When determining the level of <i>financial contribution</i> payable, the <i>Council</i> will apply credits in accordance with FC-R7. 	
FC-R7	Credits and refunds, excluding reserves	Added 01 Sep 23 PC2

Permitted Activity	<p>Standards</p> <ol style="list-style-type: none"> 1. The <i>Council</i> will refund a <i>financial contribution</i> in accordance with 2 below where: <ol style="list-style-type: none"> a. A resource consent which includes a condition requiring a <i>financial contribution</i> lapses or is cancelled or surrendered without having been given effect in whole or in part, in accordance with the provisions of the Act. b. The activity in respect of which the resource consent was granted does not proceed. 2. <i>Council</i> shall, on notice, pay or return to the person entitled the <i>financial</i> 	
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	<p><i>contribution</i> less a value equivalent to the costs incurred by <i>Council</i> in relation to any associated administration costs, provided that <i>Council</i> shall not pay for, or refund the value of, any work or services undertaken by the <i>Council</i> before the resource consent lapsing/being cancelled/surrendered or otherwise not proceeding.</p> <p>3. Where a <i>financial contribution</i> is made and <i>Council</i> subsequently resolves not to proceed with that work or to provide that service, the <i>financial contribution</i> shall be refunded to the person entitled, provided that in the case of a <i>financial contribution</i> of money no interest shall be paid.</p> <p>4. The amount of any previous payment shall be deducted from the level of the <i>financial contribution</i> payable in respect of any <i>subdivision</i> or <i>land</i> use consent in the following circumstances.</p> <p>a. Where a previous <i>financial contribution</i> payment was made to provide an increase in capacity in <i>infrastructure</i> necessitated by the proposal.</p> <p>b. If a <i>financial contribution</i> has previously been paid in respect of a <i>land</i> use consent for <i>land</i> now subject to an application for <i>subdivision</i> consent, where both the previous and proposed contributions relate to the same <i>development</i> and same purpose.</p> <p>c. If a <i>financial contribution</i> has previously been paid in respect of a <i>subdivision</i> consent for land now subject to an application for a <i>land</i> use consent, where both the previous and proposed contributions relate to the same <i>development</i> and same purpose.</p> <p>Note</p> <p>1. <i>Council</i> shall keep a register of all <i>financial contributions</i> which shall contain the following information.</p> <p>a. The amount of the <i>financial contribution</i>.</p> <p>b. The name of the person making the contribution and the date on which it was made.</p> <p>c. The purpose for which the <i>financial contribution</i> was made.</p> <p>d. The name of the consent-holder entitled to any refund or credit.</p>
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FC-Table 2 - <i>Financial Contribution</i>	Basis of contribution payable	Reasons for <i>financial contribution</i>	Matters for consideration in determining level and / or nature of <i>financial contribution</i>
[Table added 01 Sep 23 PC2]	Water supply systems	<ul style="list-style-type: none"> • Where an existing supply is available, the cost of connection with the existing system; • Where an existing supply is available, but the capacity of the system is inadequate to meet the additional generated demand, the cost of connection and capacity upgrading of 	<ul style="list-style-type: none"> • Whether the new <i>infrastructure/</i> upgrade/extension is already contained in the Development Contributions Policy; • Whether other funding sources apply; • The quality and quantity of the supply or disposal; • The effect any additional

		<p>the existing system to meet the additional generated demand;</p> <ul style="list-style-type: none"> • Where an existing supply is not available, the cost of providing for the supply of water. 	<p>connections may have on the existing system, its users and/or on the quality and quantity of the supply or disposal;</p> <ul style="list-style-type: none"> • The age and value of the existing <i>infrastructure</i>; • The proximity and directness of the <i>effect</i>.
	Stormwater disposal services	<ul style="list-style-type: none"> • Where an existing outfall is available, the cost of connection with the existing <i>stormwater</i> system; • Where an existing outfall is available, but the capacity of the system is inadequate to meet the additional generated demand, the cost of connecting and capacity upgrading of the <i>stormwater</i> system to meet additional generated demand; • Where an existing outfall is not available, the cost of providing a <i>stormwater</i> system 	
	Wastewater disposal services	<ul style="list-style-type: none"> • Where an existing <i>wastewater</i> network and treatment plant are available, the cost of connection to them; • Where an existing <i>wastewater</i> network and treatment plant are available, but their capacity is inadequate to meet the additional generated demand, the cost of connection and capacity upgrading to meet the additional generated demand; • Where an existing <i>wastewater</i> network and treatment plant are not available, the cost of providing them. 	
	Transport <i>infrastructure</i> and access	<ul style="list-style-type: none"> • The costs of specific works needed to service the use, <i>subdivision</i> or 	<ul style="list-style-type: none"> • Whether the new <i>infrastructure</i>/upgrade/extension is

	<p><i>development and/or mitigate their effects.</i></p>	<p>already contained in the Development Contributions Policy;</p> <ul style="list-style-type: none"> ● Whether other funding sources apply; ● The current standard and estimated carrying capacity of the transport network the <i>subdivision, development or land use</i> will connect to; ● The current number of users of the <i>transport network</i> and the estimated increase in number of users as a result of the <i>subdivision, development or land use</i>; ● The sensitivity and location of activities adjoining the transport corridor and adjacent to the <i>subject site</i>; ● Sight distances and the presence of blind spots along adjacent transport corridors and the standard and adequacy of intersections; ● The need to improve the <i>transport network</i> to accommodate additional traffic generated (taking into account both type and numbers of traffic generated) by the <i>subdivision, development and/or land use</i>; ● The benefit to the <i>subdivision or land use</i> arising from the improvement to the <i>transport network</i> relative to the benefit to existing users and other members of the public; ● The estimated number of future users of the <i>transport network</i>, assuming degrees of
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			<p><i>development</i> and growth anticipated by the standards in the District Plan;</p> <ul style="list-style-type: none"> • The likely route from the site to key locations in the District.
	Offsetting and compensation <i>effects</i>	<ul style="list-style-type: none"> • The amount of money or <i>land</i> or both needed to offset or compensate for any adverse environmental <i>effects</i> that cannot otherwise be avoided, remedied or mitigated. 	