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Financial Contributions



17.1 Introduction

Where the Otago Regional Council grants a resource consent under the rules in this Plan for diversions, reclamations or dams, and for activities that adversely affect Regionally Significant Wetlands or regionally significant wetland values, it may impose a condition requiring that a financial contribution be made for the purposes specified in this chapter of the Plan.

The term “financial contribution” is defined in Section 108(9) of the Resource Management 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 the Maori Land Act 1993 unless that Act provides otherwise; or*
- (c) *A combination of money and land.*

Policies 6.5.6, 8.4.2 and 10.4.2A of the Plan outline the activities for which a financial contribution, or for which works or services, may be required.

Policies 6.5.6 and 8.4.2 require financial contributions, or works or services, for activities involving the diversion of water, reclamation or damming, to offset, remedy or mitigate unavoidable adverse effects on:

- (a) Any natural or human use value identified in Schedule 1;
- (b) The natural character of the water body;
- (c) Any amenity value supported by the water body; or
- (d) Any heritage value associated with any affected water body.

Policy 10.4.2A allows financial contributions to offset the adverse effects of activities on Regionally Significant Wetlands or regionally significant wetland values where the avoidance, remediation or mitigation of adverse effects is not adequate.

Works and services apply to remediation or mitigation activities, while financial contributions may apply to the offsetting of adverse effects that cannot be fully avoided or completely remedied or, in the Council’s opinion, adequately mitigated.

Financial contributions may be for various purposes including ensuring positive effects on the environment to offset any adverse effects. The provisions which follow are intended to reflect the requirements of Section 108(9) of the Resource Management Act and Clause 5 of Part 1 of the Second Schedule of the Act, and set out:

1. The circumstances when such contributions may be imposed;
2. The purposes for which such contributions may be required and used;
3. The manner in which the level of the contribution will be determined.

In addition to these matters, the chapter also specifies the assessment criteria to which the Council will have regard when deciding whether to impose a financial contribution,

the type and amount of any such contribution, and the general provisions that would apply.

In deciding on any financial contribution, the Otago Regional Council will take into account that requiring a contribution may not be appropriate in every case, even where there are adverse effects. Every resource consent application needs to be considered on a case by case basis as to the nature and extent of any contribution that may be required. The Otago Regional Council does not intend that environmental effects should be “fully mitigated” or fully compensated in every case. The actual amount of particular contributions will vary depending upon the circumstances.

In considering the use to which financial contributions may be put, the Otago Regional Council may consult special interest groups as it considers appropriate.

17.2 Circumstances, purpose and method of determining contribution amount

A financial contribution condition may be imposed on any resource consent in the circumstances and for the purposes set out below. Contributions may be in the form of land or money or a combination of these. Contributions of money to the Council must be used for the general purpose for which such contributions were taken.

The following provisions set out circumstances and purposes for which financial contributions may be imposed and used, and the method of determining the level of the contribution in each case.

17.2.1 To enable legal public access to and along the margins of lakes and rivers

Circumstances: Where legal public access to or along lake or river margins will be restricted by the activity for which a resource consent is granted, and the effects cannot be avoided.

Purposes: To offset such effects by providing money, land, or a combination of both for alternative legal public access.

Method of determining contribution amount:

The amount of the contribution will be determined having regard to the criteria set out in 17.3, but will reflect the actual cost of providing legal public access sufficient to offset adverse effects on such access.

17.2.2 To enhance amenity values on the margins of lakes and rivers

Circumstances: Where the activity, for which a resource consent is granted, occupies or adversely affects any part of a lake or river margin which contains facilities or space used by the public, and the effects cannot be avoided.

Purposes: To offset such effects by providing money, land, or a combination of both for public open space or public facilities at an alternative location within the lake or river margins, in the same general locality or serving the same general community (including a contribution to any public reserves).

Method of determining contribution amount:

The amount of the contribution will be determined having regard to the criteria set out in 17.3, but will reflect the actual cost of providing land to provide public open space or public facilities of a reasonably equivalent standard or extent to those which are adversely affected by the granting of the resource consent.

17.2.3 To maintain or enhance riparian vegetation or riparian habitat

Circumstances: Where the activity for which a resource consent is granted will, or is likely to, result in destruction or damage to riparian vegetation or habitats, and the effects cannot be avoided.

Purposes: To offset the loss of vegetation by providing money, land, or a combination of both to plant, transplant or maintain, new or existing vegetation elsewhere in the same general locality.

Method of determining contribution amount:

The amount of the contribution will be determined having regard to the criteria set out in 17.3, but will reflect the actual costs of the works and of providing land to provide for planting, transplanting or maintaining new or existing vegetation.

17.2.4 To enable landscaping or planting

Circumstances: Where the activity for which a resource consent is granted is likely to cause or contribute to adverse effects on the natural character of the lake or river, or the amenity values supported by it, and the effects cannot be avoided.

Purposes: To offset the adverse effects of land clearance, land disturbance and structures in a lake or river or its marginal area by providing money, land, or a combination of both for the purposes of landscaping or planting elsewhere in the same general locality.

Method of determining contribution amount:

The amount of the contribution will be determined having regard to the criteria set out in 17.3, but will reflect the actual costs of carrying out such works and of providing land sufficient to offset the adverse effects of the activity.

17.2.5 To protect the bed of a lake or river or its margins

Circumstances: Where the activity for which a resource consent is granted will, or is likely to, contribute to adverse effects on the bed or margins of a lake or river, and the effects cannot be avoided.

Purposes: To offset such effects by providing money, land, or a combination of both for works which protect the bed or margin of a lake or river, including maintenance and planting of vegetation, such as riparian protection and erosion protection works in the same general locality.

Method of determining contribution amount:

The amount of the contribution will be determined having regard to the criteria set out in 17.3, but will reflect the actual cost of works reasonably required to offset or reasonably compensate for such effects.

17.2.6 To protect, maintain or restore sites, buildings, places or areas of historic or cultural importance

Circumstances: Where the activity for which consent is granted will adversely affect a historic site, building, place or area or one of cultural or spiritual significance to Kai Tahu, in the bed of a lake or river, and the effects cannot be avoided.

Purposes: To offset such effects by providing money, land, or a combination of both for contributing to protection, maintenance or restoration of some alternative historic or cultural site elsewhere within lake or river margins in the same general locality.

Method of determining contribution amount:

The amount of the contribution will be determined having regard to the criteria set out in 17.3, but will reflect the actual cost of works and of purchasing land reasonably required to offset such effects.

17.2.7 To protect aquatic ecosystems or their habitat

Circumstances: Where the activity for which a resource consent is granted is likely to cause or contribute to adverse

effects on any ecosystem values, particularly those identified in Schedule 1A of this Plan, and the effects cannot be avoided.

Purposes: To offset the adverse effects of the activity by providing money, land, or a combination of both to protect ecosystem values or habitats beyond the area occupied by, or immediately affected by, the activity.

Method of determining contribution amount:

The amount of the contribution will be determined having regard to the criteria set out in 17.3, but will reflect the actual costs of works and of providing land sufficient to offset such effects.

17.2.8 To:

- (a) **Improve Regionally Significant Wetlands or regionally significant wetland values; or**
- (b) **Create or reinstate wetland habitat or wetland values.**

Circumstances: Where the activity for which consent is granted will have an adverse effect on a Regionally Significant Wetland or a regionally significant wetland value.

Purposes: To offset the effects of the activity by providing money, land or a combination of each, to:

- (a) Improve Regionally Significant Wetlands or regionally significant wetland values; or
- (b) Make alternative provision for any loss of Regionally Significant Wetlands or regionally significant wetland values beyond the area used or immediately affected by the activity.

Method of determining contribution amount:

The amount of the contribution will be determined having regard to the criteria set out in 17.3, but will reflect the actual costs of works and of providing land sufficient to offset such effects.

17.3 Financial contribution assessment criteria

17.3.1 In deciding whether or not to impose financial contributions and the types of contributions, the Otago Regional Council will have particular regard to the following matters:

1. The extent to which any unavoidable adverse effect resulting from the activity can and should be remedied or mitigated; and

2. The extent to which the applicant has made, or has undertaken to make, some form of compensation for such unavoidable adverse effect; and
3. The extent to which a financial contribution may offset any unavoidable adverse effect caused by or contributed to by the activity; and
4. The extent to which a contribution is required to achieve objectives and policies of this Plan; and
5. The extent to which a financial contribution can be applied as close as possible to the site where the adverse effects occur or, where this is not practicable, the extent to which those people or communities most directly affected can benefit from the positive environmental effects that result from the financial contribution; and
6. The reasonableness of the contribution and consistency with the purposes of the Resource Management Act; and
7. Any other financial contribution required by any other statutory authority with respect to that activity and the extent to which financial contributions have previously been made or facilities have been provided.

17.3.2 In deciding the actual value of the financial contribution required, the Otago Regional Council will have particular regard to:

1. The significance of the effects attributable to the activity;
2. Where such effects are contributed to by other activities, the extent to which those effects can be reasonably attributed to the activity for which consent is granted; and
3. The extent to which any positive effects of the activity offset any adverse effects; including facilities already provided.

17.3.3 In imposing a financial contribution the following general provisions will apply:

1. All financial contributions shall be GST inclusive.
2. Where the financial contribution is, or includes, a payment of money, the Council may specify in the condition:
 - (a) The amount to be paid by the consent holder or the methods by which the amount of the payment shall be determined;
 - (b) How payment is to be made, including whether payment is to be made by instalments;
 - (c) When payment shall be made;
 - (d) Whether the amount of the payment is to bear interest and, if so, the rate of interest;
 - (e) 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;
 - (f) 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.

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3. Where the financial contribution is, or includes, land, the value of the land shall be determined by the Council. In granting a consent the Council shall give reasons in its decision for its assessment of the value of the land.
4. Where the financial contribution is, or includes, land the Council may specify:
 - (a) The location and the area of the land;
 - (b) When and how the land is to be transferred to, or vested in, the Council.