

Development or Financial Contributions Policy

Introduction

Under section 102(2)(d) of the Local Government Act (2002) (LGA 2002) Bay of Plenty Regional Council (Council) is required to have a policy on development or financial contributions.

Only territorial authorities have the statutory ability to charge development contributions therefore Council cannot and will not be charging development contributions.

Council can make rules for financial contributions under the Resource Management Act section 77E.

Te Ture Whenua Maori Act

Under section 102(3A) of the LGA (2002) the policy on development or financial contributions must support the principles set out in the Preamble to the Te Ture Whenua Maori Act. Council supports these principles by:

- Considering the principles as part of making any rules for financial contributions.
- Considering the principles as part of any new or amended financial contributions rules.
- Considering the principles as part of assessing any financial contribution.

Financial Contributions

This policy summarises Council's specific policies for financial contributions. Council has a number of regional plans, four of which have provisions for charging financial contributions. These are:

- Operative Bay of Plenty Regional River Gravel Management Plan
- Operative Bay of Plenty Regional Coastal Environment Plan
- Operative Bay of Plenty Regional Natural Resources Plan
- Operative On-Site Effluent Treatment Regional Plan

The Regional Natural Resources Plan and On-Site Effluent Treatment Regional Plan have provisions for charging financial contributions that meet the Resource Management Act 1991 (RMA) requirements. Until the financial contributions provisions of the other plans are updated, Council will only require financial contributions under the Regional Natural Resources Plan and the On-Site Effluent Treatment Regional Plan.

When Council grants resource consent under the rules of either of these two plans, it may impose a condition requiring a financial contribution for the purposes specified in the plan.

The term 'financial contribution' is defined in Section 108(9) of the RMA to mean a contribution of:

- money, or
- 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 Te Ture Whenua Maori Act 1993 unless that Act provides otherwise, or
- a combination of money and land.

Under Section 108(10) of the RMA a consent authority must not include a condition in a resource consent requiring a financial contribution, unless:

- the condition is imposed in accordance with the purposes specified in the plan or proposed plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect), and
- the level of contribution is determined in the manner described in the plan or proposed plan.

Financial contributions may be required for various purposes, including to ensure positive effects on the environment to offset any adverse effects, and to mitigate adverse effects on the environment through use and development (environmental compensation).

Under section 106(2) of the LGA 2002, Council does not require financial contributions to fund any capital expenditure, to meet increased demand for community facilities resulting from growth.

The RMA requires Council to specify in any regional plan that makes provisions for requiring financial contribution:

- The circumstances when the contributions may be imposed
- The purposes for which the contributions may be required
- The manner in which the amount of the contribution will be determined
- Matters that the Council will have regard to when deciding whether to impose a financial contribution and how to use any financial contribution that is collected

The Operative Regional Natural Resources Plan

Provisions relating to the requirement for financial contributions under the Operative Regional Natural Resources Plan are set out in Appendix two of the plan. The circumstances when financial contributions may be imposed under this plan are:

Protecting aquatic habitats of indigenous species and trout

The purpose is to restore or enhance aquatic habitats at the site or to provide environmental compensation by restoring or enhancing aquatic habitat characteristics at another suitable location where avoiding, remedying or mitigating adverse effects at the site is not practicable or effective.

Protection of riparian vegetation

The purpose is to offset the loss of vegetation by planting, transplanting or maintaining new or existing vegetation, either at, or adjacent to, the site concerned or elsewhere in the same general locality.

Protection of wetlands

The purpose is to enhance another suitable wetland or similar habitat where such a wetland is available or create a new wetland at an appropriate site or enhance another part of the wetland that is adversely affected.

Protection of the environment from stormwater discharges

The purpose is to provide on-site or off-site mitigation measures, remediation works in other areas, or other appropriate works, including but not limited to riparian planting to mitigate the effects of the stormwater discharge.

Protection, restoration or enhancement of river and lake beds

The purpose is to mitigate or offset the adverse effects of the activity by protecting, restoring or enhancing river and lake beds, including but not limited to, maintenance and planting of vegetation, sediment replenishment, erosion protection works, fencing and including contribution to such measures elsewhere in the same general locality.

Protection of water quality from land use and discharges of contaminants to land

The purpose is to provide the retirement and vegetation of riparian areas, or other suitable measures, that will mitigate the effects of the activity on water quality.

Protection of lake water quality

The purpose is to mitigate or offset the increased export of nitrogen or phosphorous from the property by acquiring and retiring production land within the same lake catchment as the property or other nutrient management measures within the catchment.

General mitigation works

The purpose is to provide works on or adjacent to the site for the purpose of offsetting the adverse effects of the activity, including protecting, restoring or enhancing natural and physical resources elsewhere in the same general locality.

The financial contribution amount for the above will be determined by reference to the matters set out in the General Provisions section contained in Appendix two and will usually be sufficient to provide mitigation measures and/or remediation works.

Council will take into account a number of matters when making decisions about the imposition of and use of financial contributions. An assessment will be made on a case by case basis.

The Operative On-Site Effluent Treatment Regional Plan

Provisions relating to the requirement for financial contributions under the On-Site Effluent Treatment Regional Plan are set out in Chapter six of the plan. The circumstances when a financial contribution may be imposed under this plan are:

Protection of Water Quality from Discharges of Contaminants to land

Where a point-source discharge of contaminants to land is likely to cause or contribute, to adverse effects on the surface water quality of the surrounding environment.

The purpose is to provide for the retirement and vegetation of riparian areas, or other suitable measures, that will mitigate the effects of the activity on water quality.

Protection of Lake Water Quality

Where the discharge is within the affected catchment specified in a nutrient management programme, and the activity is likely to result in the export of nitrogen or phosphorus from the activity site, and on-site mitigation cannot otherwise be achieved.

The purpose is to remedy or mitigate effects (including cumulative effects) on the environment caused by the discharge of nutrients, including the discharge of nitrogen

or phosphorus into the affected catchment.

General mitigation works

Where the activity for which a resource consent is granted will cause or contribute to adverse effects on the environment, which will not be adequately mitigated by any of the types of contribution described elsewhere in the plan.

The purpose is to provide works for the purpose of off-setting the adverse effects of the activity, including protecting, restoring or enhancing natural and physical resources elsewhere in the same general locality.

The financial contribution amount is calculated by using the formula contained in section 6. The formula is provided to ensure that a financial contribution can be fairly calculated to remedy or mitigate the effects on the environment, caused by the discharge of contaminant and nutrients, in particular nitrogen into a Rotorua Lakes catchment. The formula is outlined below:

$\text{Dwelling occupancy} \times 15 \text{ gram per person per day} \times 365 \text{ days per year} / 1000 \times \text{dollar cost to remove 1 kilogram of nitrogen} \times \text{nutrient treatment factor}.$

Council will take into account a number of matters when making decisions about the imposition of and use of financial contributions. An assessment will be made on a case by case basis.

The Operative Regional Coastal Environment Plan

Provisions relating to the requirement for financial contributions under the Regional Coastal Environment Plan are set out in Schedule 11 of the plan. The circumstances when a financial contribution may be imposed under this plan are:

Protecting Aquatic Habitats of Indigenous Species

Where the activity for which a resource consent is granted is likely to cause or contribute to adverse effects on any ecosystem values (aquatic habitats of indigenous fish species and spawning areas).

To restore or enhance aquatic habitats at the site, or to provide an offset or environmental compensation by restoring or enhancing aquatic habitats characteristics at another suitable location where avoiding, remedying or mitigating adverse effects at the site is not practicable or effective. To provide for research and/or protection to enhance marine habitats.

Protection of Wetlands

Where the activity for which a resource consent is granted is likely to cause or contribute to adverse effects on any ecosystem, water quality, water quantity, soil conservation or

flood mitigation values of a wetland.

To:

1. Offset effects by enhancing another suitable wetland of similar habitat where such a wetland is available;
2. offset effects by creating a new wetland at an appropriate site; or
3. Enhance another part of the wetland that is adversely affected, including if appropriate, cost associated with maintaining the original size of the wetland.

Protection of the Environment for Stormwater Discharges

Where a resource consent is granted for an existing stormwater discharge that does not meet environmental standards in this Plan, where it is not cost-effective or practicable to upgrade existing stormwater system, and the discharge is likely to cause or contribute to adverse effects on any ecosystem, or water quality of the receiving environment.

To provide on-site mitigation or remediation measures, or works in other areas to mitigate or offset the effects of the stormwater discharge.

Protection of water quality for public use and kaimoana gathering

Where the activity for which a resource consent is granted is likely to cause or contribute to adverse effect on public use of the CMA or on kaimoana and related ecosystems.

To provide on-site mitigation or remediation measures, or works in other areas to mitigate or offset the effects of the discharges.

Protection, Restoration or Enhancement of beds or margins of harbours and estuaries

Where the activity for which a resource consent is granted is likely to cause or contribute to adverse effects on the bed or margins of a harbour or estuary.

To mitigate or offset the adverse effects of the activity by protecting, restoring or enhancing harbour or estuary beds and margins, including, but not limited to, maintenance and planting of vegetation, sediment replenishment, erosion protection works, fencing, and including contribution to such measures elsewhere in the same general locality.

Protection, Restoration or Enhancement of beds in the open ocean

Where the activity for which a resource consent is granted is likely to mine the seabed or cause or contribute to adverse effects on the benthic environment and/or water quality.

To provide off-site mitigation or remediation measures, or works in other areas to mitigate or offset the effects of the disturbances.

Public access to and along the coastal marine area (CMA)

Where the activity for which a resource consent is granted will restrict or prevent existing legal or lawful public access to or along the CMA, except where such restrictions are necessary in accordance with Policy 19(3) NZCPS.

To provide for alternative public access in the vicinity of the activity or at another similar location.

Exclusive occupation of space

To enhance public access or facilities in another similar location.

General Works

Where the activity for which a resource consent is granted will cause or contribute to adverse effects on the environment which will not be adequately mitigated by any of the types of contribution described elsewhere in this section.

To provide works for the purpose of offsetting the adverse effects of the activity, including protecting, restoring or enhancing natural and physical resources elsewhere in the same general locality.

Structures in the coastal marine area

Where the structure may cause a risk to navigational safety or public health and safety or cause adverse effects on the environment if abandoned, damaged or derelict.

To provide for:

1. The removal of abandoned or derelict structures;
2. The reinstatement of the environments; and
3. Any emergency repairs or rescue undertaken by the Regional Council on behalf of the consent holder in the event of any part of the structure breaking loose or causing a potential navigational hazard.

The financial contribution amount for the above will be determined by reference to the Matters to be Considered and General Provisions section in schedule 11 of the plan.

The amount of financial contribution must be an amount determined on a case-by-case basis by the Bay of Plenty Regional Council to be fair and reasonable. The amount must not exceed the reasonable cost of funding positive environmental effects required to offset the net adverse effects caused directly by the activity.

Regional River Gravel Management Plan

The Regional River Gravel Management Plan includes provisions for financial contributions but does not fully meet the RMA requirements. Council will not require financial contributions under this plan until the financial contributions provisions are updated through a plan review or change process.

Review of policy

In line with section 106(6) of the LGA 2002, Council's Policy on Development Contributions or Financial Contributions will be reviewed at least once every three years. The extent of public consultation will be determined in accordance with the LGA 2002 and Council's Significance and Engagement Policy.

Related policies

Significance and Engagement Policy