



NELSON CITY COUNCIL

guide to financial contributions provisions

in the Nelson Resource Management Plan

NOTE: The Financial Contributions provisions are the only operative section of the Nelson Resource Management Plan as of 2 July, 2004.

This Guide is not part of the Nelson City Resource Management Plan (the Plan), but is provided by the Council to assist potential developers and others understand the financial contributions provisions in the Plan, and how the Council will administer them.

In the event of any inconsistencies between the Plan and this document, the Plan will prevail.

The Guide will be updated when necessary.

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financial contributions

GF1 what are Financial Contributions?

Financial contributions are payments required of a subdivider, developer, or building owner at the time of obtaining a land use, subdivision, or building consent. They are intended to ensure that those who cause adverse effects on the environment associated with new development meet the cost of avoiding, remedying or mitigating these, rather than the community at large.

Contributions may be made, according to the particular circumstances of the development and the provisions of the Plan, in the form of money or land.

GF2 on what basis can the Council require financial contributions?

The Resource Management Act (RMA) provides that the community costs associated with activities such as additional subdivision and development, can be assessed and can be required to be paid in whole or in part as a financial contribution by the subdivider or developer. This is an effects-based approach, which means that the costs of growth are shared fairly between those who are undertaking the development and the wider community.

All Councils must consider the potential effects of new development on services such as parks, community facilities, drainage, roading, sewerage and water supply. If, for example, more and more individual houses were connected to a community sewage treatment system with limited capacity to treat the waste, long term environmental damage would occur. Similarly if water supply does not keep pace with the needs of new development, the environment will be adversely affected.

It is these servicing needs, and the potential environmental effects of not meeting them on a community basis, that the financial contributions provisions in the Plan address.

The RMA sets two fundamental requirements for the setting of financial contributions:

- 1. the contribution must assist in avoiding remedying or mitigating an actual or potential effect; and,*
- 2. the way the sum is calculated must be set out clearly in the Plan.*

GF3 what has to be set out in the Plan?

The RMA requires the Plan to make clear:

1. when a financial contribution is required
2. how the financial contribution is calculated
3. the purpose of the financial contribution (ie the effect the contribution is avoiding, remedying or mitigating)

The provisions are set out in Chapter 6 of the Plan. Chapter 6 must be read together with the rest of the Plan.

GF4 what is the reasoning behind the financial contributions in the Plan?

The Plan contains a number of general objectives and policies that “set the scene” for financial contributions. These include policy directions on efficient use of natural and physical resources, city development, and services.

In addition, the Plan has specific objectives, policies and rules for financial contributions. These are set out in Chapter 6.

The Council considers that a subdivider or developer should pay the following :

- All costs of all on-site works and services (e.g. internal roads, footpaths, and services).
- A fair share of the costs of connections to off-site services, including connecting roads and footpaths, or the widening or upgrading of roads and footpaths.
- A payment towards the costs of meeting any standards (such as car parking) which cannot be provided directly on the site and the Council has to provide elsewhere.
- A proportion of the costs to the community of providing any additional improved wider services that are necessitated by the additional development (including contributions to reserves and community services and to other city-wide infrastructure).
- In exceptional circumstances, money to offset adverse environmental effects, to be used on environmental compensation projects.

The last four bullet points above are the aspects that are included within the term ‘financial contributions’.

Most of the financial contribution is payable when land is subdivided. However a proportion is payable at the time of building development so that the total cost and responsibility is spread. This also means that a contribution is made where building takes place without subdivision.

GF5 where do financial contributions apply?

They apply across the whole City. It is considered that the Nelson City local authority area is sufficiently small and integrated, for costs and benefits to be equally shared across the whole area, rather than on the basis of smaller geographical areas.

For example, a contribution to roading, drainage, water supply, sewerage or community services paid by a developer in one part of the City will equally benefit someone living in a different part of the City, in that the community overall will achieve improved services. This reasoning also simplifies the taking and allocation of financial contributions, for developers and for the community as a whole.

GF6 how much are they?

Subdivision Consent

The financial contributions required when obtaining a consent for subdivision are:

1. a fixed cumulative flat-rate fee for services (made up of individual contributions for roads, solid waste, sewerage, water supply, and stormwater and flood prevention) of \$6,012.52 per lot¹, plus
2. 5.5% of land value for reserves and community services on subdivision.

Building Consent

A financial contribution is required based on 2% of the value of the building work, (above an exempt value of \$60,125 set in the Plan²) and includes both a contribution to works and services and a contribution to reserves and community services.

For residential developments, rebuilding works are also exempt. For example if a 100m² gross floor area dwelling is demolished and replaced with a new dwelling of 125m² gross area the financial contribution is payable on only the average cost of 25m² gross floor area. The average cost per square metre is calculated for each dwelling on a case by case basis by dividing the estimated value of the building work by the total gross floor area of the new dwelling (excluding garages, carports, retaining walls, sheds, outbuildings glasshouses, landscaping and similar non residential features).

The information needed to make the calculations are set out in Tables No1 and No 2 in Chapter 6 of the Plan.

Contributions Required for Industrial and Commercial Activities

A special provision applies to industrial and commercial users of large volumes of water, who may also make extensive use of the City's sewage facilities. These figures are shown in Table No 3 in the Plan and are based on a fee related to the size of pipe needed to supply the volume of water required.

GF7 how have the figures been worked out?

¹ and ² Note figure is index linked and will increase over time (see GF15).The figures now included in the Plan and this Guide have been updated as at the end of December 2003, and include the increases over the figures included in the Plan as publicly notified, on the basis of the December 2001 of the specific Statistics NZ GCPI index explained in GF15.

Nelson City Council, as with all local authorities, is required each year to develop an Annual Plan that includes details of income, expenditure, and specific objectives for the forthcoming year. This is too short a time to plan for major projects, and therefore the Council has developed a ten year strategy that sets out what the City's needs are likely to be over the next decade. Both documents are produced through public processes, with input through submissions.

As part of the strategy, assumptions have been made of key growth indicators such as population growth, housing changes, traffic increases and life-style expectations and changes, based on the experience of the last ten years.

The strategy also sets out the works and projects necessary to provide for the needs of the community, including anticipated growth over the next 10 years, and the estimated cost of the works at the date of the strategy review. It also sets an annual budget to achieve the necessary expenditure.

To establish a reasonable financial contribution for the 10-year period of the Resource Management Plan, the anticipated works and services which are directly related to growth have been identified within the context of the total works budget. These figures exclude all maintenance, and all improvements and upgrading that would have been required if no growth occurred.

The resulting figure was broken down on the basis of expected numbers of new lots from subdivision, and building work based on building values, to give the figures included in the financial contributions provisions in the proposed Resource Management Plan. These figures have since been updated on the basis of the Index – linking provisions in the Plan's rules, so that they are current at the time that the provisions come into effect.

Full details of the Council's financial plans, and the calculations leading to the setting of the level of financial contributions in the Nelson City Resource Management Plan, can be found in the three volumes that make up the Nelson City Council Ten Year Financial Plan 1998-2008.

While the ten year strategy is updated by the Council at least every three years, the financial contribution figures are fixed as a maximum in the Plan based on the strategy in place at the time that the Plan was being prepared.

The costs specified in the Plan can only be altered by formal plan change process.³

The Council will monitor the financial contributions provisions and change the Plan if the financial contributions become out-of-kilter with the real costs of new infrastructure.

GF8 do the required financial contributions cover all the costs?

³ Apart from the Index-linked changes incorporated in the Plan rules. See also GF22.

Not all costs of growth are covered by the financial contributions set out in the Plan. The share to be recovered from new development under the Plan's provisions is considered by the Council to be a fair and reasonable proportion of the total costs, on the basis that new growth brings with it benefits to the wider community as well as costs.

[Note: if the assumptions used in the ten year strategy prove to be an over estimate of growth the staging of projects may be delayed, or the Council may have to rely on loans or other sources of finance to meet community needs. The basic level of financial contributions will not need to be varied.]

GF9 what other options were considered?

The Council evaluated a range of alternative methods of funding new growth. These included general rating, differential rating, use of loans (to be paid for by future generations), full user-pays, restricting growth, past practice (under the Local Government Act) and the split of financial contributions and other funding which is now incorporated in the Resource Management Plan provisions. All have their advantages and disadvantages, but the Council considers the proposed split of developer contributions and community contributions incorporated in the Plan's financial contributions provisions to be the most appropriate.

GF10 how is the money to be spent?

The Council must carefully account for all financial contributions. This includes administering and accounting for separate funds for separate services.

Financial Contributions for Reserves and Community Services

The Council has a responsibility to provide for basic community recreation and open space needs. These have traditionally been provided through subdividers contributing land, or sometimes money, at the time of subdivision.

Under the new Plan, the contribution will be made in money, not land. This will allow the Council to buy and develop suitable land for open space and recreational purposes, and to contribute to the enhancement of a range of facilities and services, including new facilities. If the Council determines that a particular part of a subdivision is needed for open space (reserve) land, this will be shown on the scheme plan of subdivision, and the Council will purchase it at valuation.

The required contribution of 5.5% of the value of subdivided land (see Table 1 item 6 in the Plan), and 0.5% of building work (see Table 2 item 6 in the Plan) will be held in the Council's subdivision reserves fund to be spent on capital projects and land acquisition in accordance with the Council's policies.

Financial Contributions for Works and Services

The specified financial contribution per allotment of \$6,012.52⁴, and the 2% contribution on the value of building work is to be spent on the wider community networks of roads, sewerage, water supply and stormwater management, and associated facilities. This contribution is in addition to the works and services that a subdivider or developer may be required to provide, or pay for, to directly service an allotment or site, or to connect it to the wider city networks.

Additional contributions are required where a commercial or industrial development requires a major connection to the Council's reticulated water supply system.

Where all or some of the required parking cannot be provided on a site in accordance with the standards set out in Plan, a financial contribution may also be required to enable the Council to provide public car parks in the most suitable locations, determined by the Council. Such spaces will be for public use and will not be allocated to individuals.

The contributions are consolidated through a dedicated fund and spent on capital projects in accordance with the Council's policies. The money is not used for running and maintaining existing services.

GF11 when will land be accepted or required as a financial contribution?

In general most financial contributions will be in money, not land. There are, however three situations when land may be required or accepted by the Council.

1. Land for roads or other infrastructural services required for the proposed subdivision.

This applies where:

- as a condition of subdivision approval, a subdivider is required to construct a new road, walkway, or infrastructural services within the land to be subdivided; and
- the new road, walkway or other services are constructed to Council approved standards; and
- the new road or services subsequently vest in and are maintained by the Council.

In such circumstances the Council will accept the land in addition to (and not in substitution for) any other type of financial contribution, and compensation is not payable.

2. Land for road extensions or extension of other infrastructural services required to service any other land.

⁴ Index-linked (see GF15), as updated to December 2003.

Where the land to be subdivided is in the “services overlay” area as shown in the relevant planning maps, the Council may, as a condition of subdivision approval, require the subdivider to set aside land to provide for road or service extensions to adjacent land. In such circumstances there will be no requirement to form the road or connecting services beyond that which the Council determines is needed for the initial subdivision. The responsibility to form the road and extend the services will rest entirely with the subsequent developer.

Land required for future roads or services will transfer and be held by the Council as “local purpose (road) reserve to vest.” In some situations, land for utility services will be secured by way of an easement on the title. In other situations where the Council wishes to have an area of land managed in a specific way, alternatives to vesting or an easement, such as a covenant or consent notice, may be considered.

As with the land in 1, this land is in addition to, and not in substitution for, any other type of financial contribution, and compensation is not payable.

3. Land for reserves and community services.

In most instances the Council will require the financial contribution for reserves and community services to be in money, not land. Where land is required to satisfy demand for additional recreational facilities the Council will generally purchase such land at market value.

There may, however, be some circumstances where the Council will wish to accept suitable land within a subdivision as all or part of the financial contribution for reserves and community services. The criteria for suitability of land for reserves will be set out in the Council’s Parks and Reserves Asset Management Plans and in all cases the Council will approach and discuss with the subdivider the need for land for reserve purposes within the subdivision, and the desired location, shape and size of the reserve area.

Land required under the Resource Management Act for esplanade reserves will be in addition to, and not in substitution for any other type of financial contribution required under the Plan.

GF12 whose responsibility is it to extend or upgrade infrastructural services?

The following principles apply in providing infrastructure to service a subdivision:

1. it is the subdividers responsibility to provide and fund all services within the subdivision needed to service that subdivision. It is also the subdividers

- responsibly to extend all roads and services necessary to service the subdivision, where only the subdivided land will benefit.
2. within “services overlay” areas, the subdivider will be required, at his or her cost, to set aside land to provide for the future expansion of roads and services to service other land. The subsequent subdivider will need to extend the services and form all road extensions entirely at their cost.
 3. to facilitate logical and orderly development, the Council will progressively extend and upgrade public infrastructural services in accordance with the sequencing set out in the current ten year strategy (reviewed each 3 years). A subdivider can influence the sequencing of works by making a submission on the three yearly review of the strategy and, in some instances, through the Annual Plan submission process.
 4. where a person wishes to carry out a subdivision or development that relies on the extension of public services ahead of the programme in the current ten year strategy, the Council may agree to reprogram the public works provided that:
 - the subdivider/developer pays or enters into a binding commitment to pay to the Council all interest and other loan costs, including design and administration costs, until such time as the Council would have undertaken the work in accordance with the ten year strategy; and
 - the works are carried out to Council’s satisfaction, both in design and construction.
 5. where a person wishes to carry out a subdivision development which requires extension of infrastructural services not included in the Council’s ten year strategy, the Council should be approached to see if appropriate joint funding mechanisms can be agreed. The Council may, at its full discretion, decline such requests. If a request is declined, the developer may then need to fully fund the infrastructural work, or reach a private agreement with other landowners who may benefit.

The principles now included in the Plan and set out in this section of the Guide are different from those included in the Plan when first notified for public submissions, and then modified as a result of decisions on the submissions. In particular, there are now no circumstances where a subdivider will need to be reimbursed on the basis of financial contributions paid by subsequent development (unless by agreement in relation to 5. above).

GF13 what standards of construction need to be met?

If works and services have to be provided either on-site, adjacent to a site, or to connect to a road or service, these must be designed and built to meet the Council’s specified engineering standards or to other standards acceptable to the Council. If money is provided instead of the work being carried out, the cost will be based on actual construction costs to meet the required standard.

GF14 how are values determined?

Where financial contributions are based on values, the following will apply:

1. For reserves and community services at the time of subdivision, the Council will normally arrange a valuation by a registered valuer. The costs of the valuation will be paid by the subdivider. Alternatively the subdivider can provide their own valuation by a registered valuer.
2. For building development, the value will be assessed by the Council on the basis of building consent application information and any additional information the Council may request or obtain. In all cases, the Council reserves the right to assess the value in a fair and reasonable way.
3. Where the financial contribution for a subdivision is likely to be less than \$1,000, or by agreement between the Council and the subdivider, the Council may estimate the value of the land as a basis for assessing the financial contribution.

GF15 why is there a cost increase index provision?

The Resource Management Plan has a life of approximately 10 years. The Annual Plan is based on a three year horizon, and is reviewed annually.

The Council's ten year strategy is based on a 10 year vision, and will also be reviewed at least every three years.

The figures in the Resource Management Plan are the maximum in dollar or percentage values that the Council can require as a financial contribution. They can be waived or reduced in special circumstances set out in the Plan, but cannot be increased.

To avoid having to make Plan changes to reflect increased construction costs through time, and to maintain equity for subdividers over time, the financial contribution will be adjusted on the basis of Series Reference S2CB of the New Zealand Capital Goods Price Index, prepared on a national basis by Statistics New Zealand. The index included in the proposed Plan, the Works Consultancy Services Construction Cost Index (or more recently, the Opus CCI), has since been discontinued and the index now included is the "closest match" index available for construction costs.

Although the index is prepared and released quarterly, for certainty and ease of administration, the December quarter figure (once released) is applied for the whole of the following year.

Should this index be discontinued, an appropriate alternative index will be substituted by resolution of the Council.

GF16 what if a development is carried out in stages?

For both subdivisions and building there are a number of automatic exemptions such as the number of existing allotments and, for residential buildings, the replacement of existing building area. These apply whether the work is staged or not.

When a Financial Contribution is being taken for a building development, apart from the exemptions, only the first \$60,125 of value is not included in the calculation. This is so that small activities such as minimal house alterations and extensions, garages and garden sheds do not have to provide a financial contribution.

Beyond \$60,125, even if a development is staged, financial contributions must be paid on cumulative costs. These provisions are designed to prevent development being broken down into smaller stages as a means of avoiding paying financial contributions.

In general, it will be obvious when a building work or development is complete. In making its assessment, the Council will review work carried out on the site over the preceding five years. If there is a dispute, the decision will rest with the relevant Council officer, but an objection to the decision may be made under section 357 of the Resource Management Act.

Financial contributions for subdivision are paid regardless of staging. Where subdivision is staged over a number of years, the resource consent will specify any arrangements for staged payment of contributions.

If the original consent is later varied at the applicant's request, or an extension to the consent is sought, the provisions for financial contributions in the original consent will be reviewed and a reassessment will be made if there is a material change. If the variation is due to reasons beyond the applicant's control and unforeseeable at the time the consent was issued, such as for example the identification of an archaeological site, or unforeseen ground conditions arising from further geotechnical or hazardous substances investigations within the consented area which has resulted in a reduced number of lots, or where there is a lesser demand for services, the Council will continue to apply the financial contributions provisions that applied at the time of the original consent. If the review is due to a matter such as market preferences, or the applicant's own review of a suitable layout, then the Council will use the financial contributions provisions applicable at the time that the new layout receives consent.

GF17 do financial contributions apply to Permitted Activities?

Financial contributions can be applied to permitted activities (such as housing or commercial development that comply with all the standards in the Nelson Resource Management Plan) and to any activity which requires a resource consent.

A permitted activity is defined in Part I, 2 (1) of the RMA as:

an activity that is allowed by a plan without a resource consent if it complies in all respects with any conditions (including any conditions in relation to any matter described in section 108 or 220) specified in the plan.

While most subdivisions are controlled activities and require resource consents, most building is a permitted activity in terms of the Plan. However, new building can involve additional traffic and an increased requirement for services. Rather than assessing these effects on a one-by-one basis by requiring a resource consent for all new buildings, the Plan includes a permitted activity condition for financial contributions to cover these effects.

GF18 can financial contributions be reduced?

The Plan specifies those limited circumstances when financial contributions may be reduced:

1. as of right
2. by way of application or objection

It is important to note that personal circumstances will not be considered a valid reason for reducing financial contributions.

As of Right

These provisions are clearly set out in the Plan. For example where one or more of a list of services set out in Tables 1 and 2 are not supplied by the Council then there is a reduction as of right.

Contributions towards roading, reserves and community services are generally not included as possible exemptions. It is considered that these services are essential for the well-being of the whole community and are available for use by everyone. The construction of houses in rural locations increases demands on community services, as the people who live there will use highway networks and spend time elsewhere in the district working, shopping, attending school, or participating in leisure activities and taking the opportunity to use local community facilities and services.

There is an automatic exemption for a large water connection, where this is required for fire fighting purposes only as this is clearly in the community interests. There is

also an automatic exemption for some works relating to the provision and maintenance of network utilities.

Other specified exemptions to parts of the financial contributions include residential rebuilding works, subject to certain provisions, and works required to maintain or conserve a heritage building.

By Way of Application or Objection

The Plan provides that people can seek exemption from, or the reduction in, a financial contribution. This can be for any financial contribution (see also GF 20). Financial contributions have been calculated to reflect the actual cost of avoiding,

remediating or mitigating the adverse effects of development. Where there are situations which warrant a reduction, the Council may waive all or part of the contribution. The application will be treated as a restricted discretionary and non-notified application with discretion restricted to the following five aspects:

1. the significance of any adverse effects, and the extent to which the activity causes the effect
2. the extent to which the activity will benefit from district-wide community services in the long term
3. what is a fair and reasonable contribution
4. whether any land offered in lieu of payment for a reserves financial contribution is appropriately located and suitable for its intended purpose
5. the extent to which the activity is a special circumstance which itself will provide a particular benefit to the social and cultural well-being of the community.

In some situations an objection under section 357 of the RMA can be made to the amount of financial contribution. The same criteria will apply.

In seeking to reduce any financial contribution, the onus will be on the applicant to show that there is a genuine and valid effects-based reason to reduce the contribution normally required.

GF19 can financial contributions be increased?

Where a subdivision or development involves a resource consent, it is possible, on the basis of an analysis of actual or potential effects, that the Council may apply additional conditions that will have a cost implication. Occasionally, this may involve a further payment of money.

In general, however, the financial contributions should be regarded as a set sum of money that will be required as set out in the Plan.

GF20 how do I apply for a reduction?

Usually, the financial contribution will be applied in a standard manner as a condition of a resource consent, or as a standard requirement at the time of building consent. Some reductions and exemptions are automatic under the Plan – for example for network utilities, or where specific services are not provided. These exemptions will be taken into account at the time that the Council assesses the requirement for the financial contribution.

If a resource consent application has to be made for other reasons (the Plan requires a consent for every subdivision, for example), then a request that a reduction be made to the financial contributions normally payable will be assessed in the context of that application and no separate application is required.

If the activity is permitted (most buildings are permitted, for example) but there is an automatic financial condition relating to that development, a resource consent application will need to be made for a reduction in that financial contribution.

Every application requires payment of processing deposits and fees. This should be kept in mind, as even where a reduction is granted, it may be small. The costs of seeking consent may exceed the value of the reduction obtained.

If the decision on an application has been made by a Council officer acting under delegated authority, there is a right of objection under Section 357 of the Act, and a right to be heard by a Council Committee. If the financial contribution condition has been imposed by a Council Committee (for example as part of a group of conditions following a notified application hearing) the only recourse is an appeal to the Environment Court.

GF21 what are “Offset” contributions?

In some special circumstances, an activity may result in adverse environmental effects which can be offset by the payment of money to the Council to be spent directly on an environmental or community project. The project may be in a different part of the city (for example creating a new or improved habitat for a particular species), or be something that is beyond the ability of the applicant to achieve on-site.

A provision is included in the Plan to allow a developer or the affected community to suggest situations where this may occur. In such cases the Council will effectively be acting as a “broker” for the community.

GF22 what if the Council changes its mind on some major projects?

The ten year strategy that is the basis for determining the level of financial contributions will be regularly reviewed. It is possible that projects may be delayed, brought forward, or modified over time due to changes in growth rates, changed priorities or as a result of the public submission process. However it is not expected that there will be major changes to the Council’s overall financial strategy within the next ten years.

If new projects are proposed, or existing proposals brought forward for earlier implementation, that have the effect of increasing community costs and the Council wishes to recover some of these costs by increasing the level of financial contributions, then a Plan change is required. In such cases there are full public rights of submission and appeal.

GF23 when do these provisions come into effect?

The financial provisions as set out in the Plan only come into effect when the Plan becomes operative. The provisions in the proposed Plan have been the subject of

submissions which the Council has heard and made decisions on. However the Plan is not yet operative. This will only come about following the resolution of any references to the Environment Court on these provisions, through which process the Court may alter the provisions of the Plan.

In the meantime the financial contributions are those set out in the Local Government Act and the Council Officers can advise on what these are and in what circumstances they are payable.

GF24 what happens if I have already started my project?

If consents have already been obtained when the new provisions come into effect, then the contributions in the consent will apply. If the original consent is later varied at the applicant's request, or an extension to the consent is sought, the provisions for financial contributions in the original consent will be reviewed and a reassessment will be made if there is a material change. If the variation is due to reasons beyond the applicant's control and unforeseeable at the time the consent was issued, such as for example the identification of an archaeological site, or unforeseen ground conditions arising from further geotechnical or hazardous substances investigations within the consented area which has resulted in a reduced number of lots, or where there is a lesser demand for services, the Council will continue to apply the financial contributions provisions that applied at the time of the original consent. If the review is due to a matter such as market preferences, or the applicant's own review of a suitable layout, then the Council will use the financial contributions provisions applicable at the time that the new layout receives consent.

GF25 where can I get further information?

If you require further information on financial contributions when planning a development or subdivision, or in understanding the details of the specific provisions, please contact the planning and consents sections of the Council on 03 546 0200.