

IN THE MATTER

of the Resource Management Act
1991 ("the Act")

AND

IN THE MATTER

of an appeal under clause 14 of
the First Schedule to the Act

BETWEEN

MERIDIAN ENERGY LIMITED

ENV-2011-AKL-000250

Appellant

AND

KAIPARA DISTRICT COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Acting Principal Environment Judge L J Newhook sitting alone under section 279 of the Act
IN CHAMBERS at Auckland

CONSENT ORDER

Introduction

1. The Court has read and considered the appeal and the memorandum of the parties dated 15 May 2013.
2. There are no parties with an interest in the aspects of the appeal forming the subject of this order.



3. The Court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:
- (a) All parties with an interest in these proceedings have executed the memorandum requesting this order.
 - (b) All parties with an interest in these proceedings are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

Order

4. Therefore the Court orders, by consent, that the appeal is allowed to the extent that the Kaipara District Council is directed to amend the Proposed Kaipara District Plan as shown in the tracked red text in Annexure A to this Order.
5. This consent order resolves the appeal by Meridian Energy Limited in relation to Chapter 22 Financial Contributions of the Proposed Kaipara District Plan in its entirety.
6. There is no order as to costs in relation to this order.

DATED at Auckland this

21st

day of

May

2013

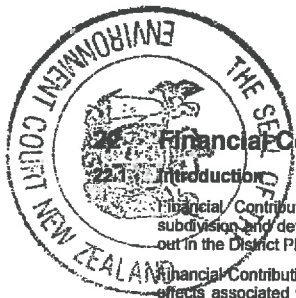


L J Newhook
Acting Principal Environment Judge





ANNEXURE A



22 Financial Contributions

22.1 Introduction

Financial Contributions are a mechanism adopted by Council to address the adverse effects of subdivision and development throughout the District, and also contribute to achieving the Objectives set out in the District Plan (assisting the District Plan to deliver Objectives 2.4.9 and 2.4.11 in Chapter 2).

Financial Contributions are imposed as Conditions of Consent, so that the costs of mitigating the off-site effects associated with subdivision and development do not fall inequitably upon the entire community. They are intended to impose upon the developer a fair share of mitigating the adverse effects resulting from development and new activity on the environment, particularly community and network infrastructure.

22.1.1 Development Contributions or Financial Contributions

Development Contributions

The Local Government Act 2002 requires Council to have a policy outlining how it intends to fund additional or new infrastructure which is required by growth. The Local Government Act 2002 provides for the collection of Development Contributions to fund a fair share of the cost of expanding the capacity of existing Council-owned infrastructure to cope with additional demand from new development or activity.

Council has developed a policy on Development and Financial Contributions in Kaipara's Future - Working Together (Council's Long Term Plan) which gives effect to the Local Government Act 2002.

Development Contributions under the Local Government Act 2002 are in addition to, and separate from Financial Contributions. Development Contributions under the Local Government Act 2002 are able to consider the wider impacts of multiple developments on the infrastructure of the District (cumulative effects). Financial Contributions under the Resource Management Act 1991, mainly consider the marginal impact of developments based primarily on an assessment of environmental effects.

Council has expressed a preference to take Development Contributions rather than Financial Contributions. It is Council's intention to progressively amend their Development Contributions Policy to include Development Contributions for additional Growth Areas as Structure Plans are developed for these Areas. These Development Contributions will focus on infrastructure requirements relating to roading, wastewater, stormwater, water supply and other community infrastructure.

Financial Contributions

Council considers that Financial Contributions will generally only be imposed in areas of the District 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. Applications will be assessed on a case-by-case basis to determine the adverse effects that the development or new activity generates.

Financial Contributions can be imposed under this District Plan in respect of the mitigation of effects on significant heritage and ecological features, riparian protection, roads, reserves, water supply, stormwater, sewerage and other network utilities. Insofar as Financial Contributions are concerned the definition of roads, transport networks and infrastructure provided in Chapter 24: Definitions does not include State Highways.

Development Contributions and Financial Contributions cannot be taken for the same purpose. For example, Financial Contributions will not be required to mitigate effects of subdivision and development on those arterial and collector roads that are already covered by Council's Development Contributions Policy.

22.2 Resource Management Act Requirements

Under Section 108 of the Resource Management Act 1991 Council is allowed to collect Financial Contributions in certain circumstances. Council can impose a condition requiring a Financial Contribution on any Resource Consent for any purpose specific in this District Plan (the contribution can be money, land or a combination of these).

Council is required to identify in the District Plan:

- The purposes for which Financial Contributions will be imposed;
- How the level of Contribution will be determined, and
- The general purposes for which Contributions may be used.

22.2.1 Purpose of Financial Contributions

Section 108(10)(a) of the Resource Management Act 1991 allows Council to require Financial Contributions, where necessary, to achieve one or more of the following purposes:

Financial Contributions assist the Council to mitigate the off-site effects of subdivision and development

Objectives 2.4.9 and 2.4.11

Council's Policy on Development and Financial Contributions is in Volume Two of Kaipara's Future - Working Together

Council will take Financial Contributions to address potential effects of activities not addressed through their Development Contributions Policy

- Creating open space (including recreation areas, visual buffers and amenity areas) through reserve contributions.
- Adding capacity to or otherwise enhancing existing open spaces (including recreation areas, visual buffers and amenity areas) through reserve contributions.
- Giving public access to coastal areas, reserves, bush areas or areas of special character through reserve contributions.
- Providing new, or upgrading existing, infrastructure such as Council-owned roads, transportation infrastructure and utilities (including stormwater systems and shared wastewater systems).
- Protecting or enhancing amenities, habitats, ecosystems, landscape features and archaeological heritage or cultural values.
- Avoiding, remedying or mitigating land use activity or subdivision impacts upon sensitive parts of the natural and physical environment.
- Providing new, or upgrading existing, community amenities (such as libraries, community halls, leisure facilities and public toilets).
- Creating a financial resource to be used for any of the above purposes.

number of reasons Council can take a Financial Contribution under the Resource Management Act

22.2.2 Categories of Infrastructure and Services

To assist in determining when a Financial Contribution will be required for infrastructure and services, these can be broken into two categories:

On-Site

These are the infrastructure and services internal to the subdivision or development. Council will require these to be provided by the developer, at their cost, to an acceptable standard (as per the Performance Standards in Part B or the Kaipara District Council Engineering Standards 2011). Generally, these facilities will be vested in the Council and will be required as a normal condition on Resource Consents.

Off-Site

Linkages - These are the facilities outside of the development required to connect the development site to existing Council-owned infrastructure or services. Generally, the total cost of these will be paid for by the developer, and will be required as a normal Condition of Resource Consents.

Where the development results in the need for an increase in capacity of existing facilities, but there will also be community benefits from outside the new area being serviced, a Financial Contribution will be required rather than the total provision of the service. This contribution will be required as a Condition on Resource Consents.

Infrastructure and Services - These are the facilities remote from the development, such as reserves, wastewater treatment systems, water treatment plants and the transport network. New subdivisions and developments incrementally add to usage and demand on such services.

The costs of mitigating the effects of increased usage and demand on community services and infrastructure will be recovered through a Financial Contribution in cash, payable to the Council, and imposed as a condition on Resource Consents.

22.3 How to Use This Chapter of the District Plan

This Chapter is intended to set out:

- 1) How Council's Policy on Development and Financial Contributions in Kaipara's Future will be implemented (the Methods) through the District Plan; and
- 2) How Council will apply Financial Contributions on Resource Consents.

In this respect, this Chapter identifies significant resource management issues and the Objectives, Policies and Methods employed by Council (through the District Plan and beyond) to address these issues.

Note that Issues, Objectives and Policies that apply to the District at large are contained in Chapter 2. Any Plan Change or application for Resource Consent for a Discretionary or Non-Complying Activity should also refer to these provisions. Issues, Objectives and Policies within each Chapter of the Plan are presented in no particular order of importance.

This Chapter contains Rules, Performance Standards and Assessment Criteria relating specifically to Financial Contributions. Additional Rules relating to the provision of infrastructure on subdivision and development are contained in the Zone Chapters.

In summary, once you have determined the Consent requirements for your activity / subdivision, you need to look at this Chapter to confirm what Financial Contributions you may be required to make. This is Step 4 in the process summaries provided in the relevant Zone Chapters of the Plan.

The "How to Use this Chapter" Figures (e.g. Figures 12-1 and 12-2), provide a summary of where Financial Contributions 'fit' in the Consent process



Financial Contribution Issues

New subdivision, land use and development can result in adverse effects on the District's natural and physical resources if additional demand for community and network infrastructure is not addressed either before or at the same time as this development.

The provision of adequate infrastructure and services is an essential part of the subdivision and development process. This includes roads, wastewater systems, stormwater systems, reserves and community facilities and water supply.

Community facilities including reserves, open spaces and recreational facilities play an important role in providing for the social, cultural and economic wellbeing of communities, and in off-setting adverse effects of growth and residential development by maintaining and improving amenity values and protecting natural and physical resources.

It is also important that the roading infrastructure is sustained at a level of service which provides safe, practicable and convenient travel for those using it and which mitigates any potential adverse effects on the road and its use on adjoining land.

Failure to provide for additional demand on other network utilities (wastewater, stormwater, water supply) can result in adverse effects on the health and safety of residents; flooding of neighbouring properties from stormwater run-off; or pollution of waterways or the coastal environment.

22.4.2 New subdivision, land use and development places increasing demands on infrastructure, public reserves and community facilities. If these adverse effects are not addressed through the District Plan there is the potential for the costs of providing such services and facilities to fall on the wider community.

If subdividers or developers are not required to pay for or mitigate the costs of adverse effects on the environment arising from their private development or new activity, Council will be required to fund the costs of this mitigation and the burden of payment will fall on the general ratepayer. See also Chapter 2, the zone Chapters (12 through to 16) and Chapter 20 of the District Plan.

Chapter 2,
Chapters 12-16
and Chapter 20

22.5 Financial Contribution Objectives

22.5.1 To ensure that the District's community and network infrastructure is able to cater for the additional demand generated by new subdivision and development and to avoid, remedy or mitigate adverse effects on the environment.

Issue 22.4.1

22.5.2 To ensure that subdividers and developers pay a fair and reasonable share of the costs of upgrading or providing new infrastructure, public reserves and community facilities to meet demand generated by the development.

Issue 22.4.2

22.5.3 To identify all the costs of providing community and network infrastructure generated as a result of subdivision or new land use activities and to determine the best way of funding this either before or at the time of development.

Issue 22.4.1 and
Issue 22.4.2

22.5.4 To identify opportunities for protecting or enhancing natural environmental and heritage values, where land use and development activities have adverse effects on these resources and values.

Issues in
Chapters 6 and
17

22.6 Financial Contribution Policies

22.6.1 By clearly identifying the adverse environmental effects of subdivision and development which may be addressed by requiring a Financial Contribution.

Objectives
22.5.1, 22.5.3
and 22.5.4

The provision of new infrastructure or additional capacity required to cater for the additional demand generated by new subdivision and development should be provided for either before or at the time of the development through a variety of mechanisms:

- Direct works by the subdivider or developer;
- Financial Contributions;
- Development Contributions; or
- Other funding mechanisms available to Council.

The District Plan Methods will clearly signal which adverse effects will be addressed through Financial Contributions.

22.6.2 By requiring subdividers and developers to meet the total cost of new off-site infrastructure or services associated with the development, including linkages and the costs of local upgrading of network utilities, where the additional infrastructure or service is required solely to serve the proposed subdivision or activity.

Objective 22.5.2

Where the new off-site infrastructure or service required will only serve the proposed subdivision or activity, it will be required to be provided as part of the subdivision or development rather than through a

Financial Contribution.

22.6.3 By requiring subdividers and developers to contribute towards any previous upgrading of off-site infrastructure and services when a new subdivision or activity will utilise excess capacity. Objective 22.5.2

Often improvements to Council-owned infrastructure and services are more effectively and efficiently done in large steps to provide for many connections. The resulting improvements may be designed to serve more than the capacity required by existing or proposed developments. For example, an entire road (or section of road), which serves a number of existing lots may be sealed. Where a new subdivision or activity uses this additional capacity, they may be required to contribute to the costs of this previous upgrading.

22.6.4 By ensuring that the amount of Financial Contribution required reflects the nature and degree of actual adverse environmental effects and the actual positive environmental effects associated with a proposed subdivision and/or development. Objective 22.5.2

Council will calculate the Financial Contribution required using a formula or other method which clearly sets out how the amount is related to the adverse effects of the development, and having regard to any actual positive effects of an activity and the extent to which such positive effects of an activity may offset any adverse effect arising from the activity.

22.6.5 Where additional capacity of network utilities is needed to mitigate the adverse effects of a development, subdividers or developers will be required to meet the proportion of these costs generated by the development. Objective 22.5.2

Subdividers and developers will be required to contribute on a pro-rata basis to the costs of providing new community infrastructure or services or additional capacity in existing systems.

22.6.6 By requiring developments to pay their fair and reasonable share of the costs of purchasing land for reserves or upgrading existing reserves. Objective 22.5.2

New developments generate an increase in demand for, and usage of, reserves, open space and public recreational facilities. All new developments will be required to contribute towards the costs of acquiring new, or upgrading existing reserves, open space or facilities, in accordance with Council's Reserves and Open Space Strategy (see also Chapter 20 of the District Plan).

Financial Contributions for reserves will only be used for the purchase and development of new reserves or for the improvement and development of existing ones. The maintenance of reserves and recreational facilities is funded through rates.

22.6.7 Where additional capacity of roads and transport networks are needed to be upgraded to accommodate new subdivisions or developments, developers will be required to meet the proportion of these costs generated by the development. Objective 22.5.2

Existing roads and transport networks which a development site can be connected to may need to have the road or associated carriageway criteria upgraded to ensure that it will have sufficient capacity to accommodate the additional traffic expected to be generated by the land use activities on the site. The Council will take a Financial Contribution towards upgrading existing local roads and transport networks. Collector and arterial roads will be covered by Development Contributions.

22.6.8 By requiring Financial Contributions to protect or enhance natural environments and heritage values where an adverse effect of an activity has been identified that has not otherwise been remedied or mitigated. Objective 22.5.4

Where it has been demonstrated that an activity will generate adverse effects on heritage and the natural environment, Council is able to take Financial Contributions for the purpose of the protection and enhancement of these values. However, it is also recognised that there may be an opportunity for another environmental contribution (rather than Financial Contribution) to be made to remedy or mitigate such adverse effects.

22.6.9 Where it has been demonstrated that a renewable energy activity will generate significant adverse effects on natural environments or heritage values these may be addressed by requiring a financial contribution for the purpose of mitigating those significant adverse effects that have not otherwise been remedied or mitigated. Objective 22.5.1

Renewable energy activities have the potential to generate significant adverse effects on natural environments or heritage values. It may be appropriate to address these by requiring financial contributions. Policy C1 of the National Policy Statement for Renewable Electricity Generation 2011 requires that when considering any residual environment effects, decision-makers shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected.



22.7 Methods

The above Policies will be implemented through the following Methods.

22.7.1 District Plan Methods

22.7.1.1 The use of Rules requiring Financial Contributions as a condition of Land Use or Subdivision Consents.

22.7.1.2 The use of Subdivision Rules, including Performance Standards and Assessment Criteria, relating to site size and dimensions, property access and provision of services.

22.7.1.3 The use of Growth Plans (Chapter 3A) to signal areas where additional capacity or new infrastructure is likely to be required in the future.

22.7.2 Other Methods

22.7.2.1 Policies in other relevant Council documents:

- Kaipara's Future – Working Together (Council's Long Term Plan);
- Asset Management Plans; and
- Reserves and Open Space Strategy.

22.7.2.2 Council-initiated Structure Plans for Growth Areas, which will include the investigation of amendments to the Development and Financial Contributions Policy to include new Development Contributions for community and network infrastructure.

22.7.2.3 Annual Plan allocation for Council purchase of land for reserves.

22.7.2.4 Council works and services relating to roads, water supply, sewage and stormwater disposal.

22.7.2.5 Liaison with The NZ Transport Agency regarding subdivision and development affecting state highways.

22.7.2.6 Liaison with the Northland Regional Council regarding opportunities to protect or enhance environmental values.

22.7.2.7 Educational material/guidelines that demonstrate methods for avoiding, remedying or mitigating potential adverse effects of subdivision and development.

22.7.2.8 Kaipara District Council's Engineering Standards 2011.

22.8 Financial Contribution Outcomes

22.8.1 The timely provision and/or upgrading of infrastructure and services to:

- Enable sustainable resource use; and
- Avoid adverse effects on the District's natural and physical resources and on the health and safety of residents.

Issues 22.4.1 and 22.4.2

22.8.2 The provision of network utilities capable of addressing the adverse environmental effects of subdivision and development in terms of wastewater treatment and disposal, stormwater treatment and disposal and water supply.

Issue 22.4.1

22.8.3 The provision of reserves, open space and recreational facilities to meet the needs of the District's communities in accordance with Council's Reserves and Open Space Strategy.

Issue 22.4.1

22.8.4 The provision of a District Transport Network (including roading) which is capable of meeting demand for transport from traffic generated from new subdivisions and developments in the District.

Issue 22.4.1

22.8.5 The provision of a transport infrastructure which is sustained at a level of service which provides safe, practicable and convenient travel for vehicles using it, and which mitigates any potential adverse effects of the road and its utilisation on adjoining land use activities.

Issue 22.4.1

22.8.6 The costs of providing and/or upgrading community infrastructure required to enable development are paid by those undertaking development.

Issue 22.4.2

22.8.7 Improved protection and enhancement of natural environments and heritage resources of the District through the use of Financial Contributions.

Issue 22.4.1

22.8.8 Significant adverse effects on the natural environments and heritage values of the District arising from renewable energy activities will be avoided, remedied or mitigated. Mitigation may include the protection and enhancement of natural environments and heritage resources of the District through the use of Financial Contributions.

Issue 22.4.1

22.9 Rules

Activities affected by this Section of the District Plan must comply both with the rules in this Chapter, and with the relevant Standards applying to the Zone in which the activity is located (see Part B – Land Use).

Remember you also need to consider whether a proposal complies with the Rules under the Zone Chapters.

22.9.1 Conditions of Resource Consents

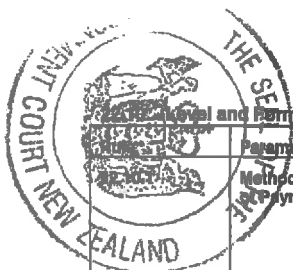
The Council may impose as a Condition of Consent, that a Financial Contribution be paid to Council for the purposes and amounts set out in Section 22.10 of this Chapter.

22.9.2 Discretionary Activities

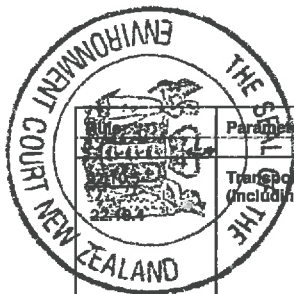
The following shall be Discretionary Activities in this Chapter:

- a) Any application for a waiver of, or reduction to, the level of a Financial Contribution required by Section 22.10 of this Chapter.

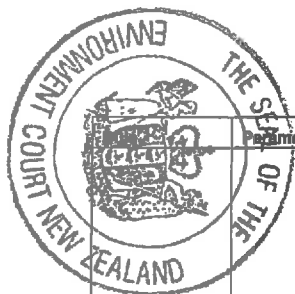
The Council may impose Conditions of Consent on a Discretionary Activity or it may refuse consent to the application. Applications for Discretionary Activities will be assessed against, but not restricted to, the Assessment Criteria listed in Sections 22.10 of this Chapter.



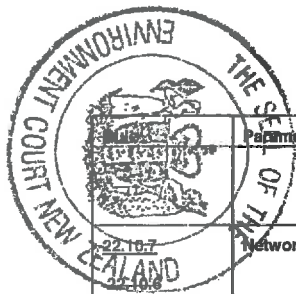
Level and Form of Financial Contribution Required		
Parameter	Application of Financial Contributions	Assessment Criteria
Method and Timing of Payment	<p>The following requirements relate to the method and timing of payment of Financial Contributions:</p> <ul style="list-style-type: none"> a) Contributions in the form of money as part of a <i>Subdivision</i> Consent must be paid, or completed, while Contributions in the form of land shall vest on the deposit of the survey plan under Section 223 of the Resource Management Act 1991, prior to the issue of a certificate under Section 224 of the Resource Management Act 1991. b) Contributions payable in any form in respect of a <i>development</i> must be paid prior to the uplifting of a <i>Building</i> Consent or where no Building Consent is involved, before the commencement of the activity. c) No contribution shall be payable if a contribution for the same purpose has already been paid in respect of that area of land. d) Where an activity does not proceed and the Consent lapses or is cancelled, the contribution shall be refunded in accordance with Section 110 of the Resource Management Act 1991, upon application by the person who paid the contribution. e) Where the <i>Council</i> has required a Financial Contribution for the purpose of specific work, it shall be obliged to carry out such work at the appropriate time. In the event that Council carries out the work at less cost than the contribution paid, the Council shall refund the balance to the person who paid the contribution. 	
22.10.2	<p>Significant Heritage or Ecological Features</p> <p>The <i>Council</i> may require a Financial Contribution towards the protection and/or enhancement of a significant heritage or natural feature as a condition of Land Use Consent or <i>Subdivision</i> Consent.</p> <p>Contributions may be in form of:</p> <ul style="list-style-type: none"> a) Cash; and/or b) Land. <p>And will be calculated on the basis of providing Council the financial means to undertake works to reinstate or re-establish adversely affected significant natural or heritage features (or to improve access and visibility to other heritage features to off-set unavoidable adverse effects such as loss of a heritage feature).</p>	<p>The <i>Council</i> will have regard to the following matters when assessing a Financial Contributions for significant heritage or ecological features in respect of <i>Subdivision</i> and Land Use Consents:</p> <ul style="list-style-type: none"> i) The degree of adverse environmental <i>effects</i> of the subdivision or land use on the significant heritage or ecological feature; ii) If ecological protection or enhancement measures have already been or are proposed as part of the subdivision or land use application within the general area affected by the activity, to mitigate any adverse effects on the significant heritage or natural feature; iii) The extent to which any or all adverse effects will be avoided, remedied or mitigated by other Conditions of Consent or environmental compensation offered as part of the activity; and iv) The positive effects of the activity and the extent to which these positive effects may offset any or all adverse effects of the activity.
22.10.3	<p>Renewable Energy Activities</p> <p>The <i>Council</i> may require a Financial Contribution towards the protection and/or enhancement of a significant heritage or ecological feature in respect of a renewable energy activity as a condition of the Land Use Consent.</p> <p>Contributions may be in form of:</p> <ul style="list-style-type: none"> a) Cash; and/or b) Land. <p>And will be calculated on the basis of providing Council with the financial means to undertake works to reinstate or re-establish adversely affected significant ecological or heritage features (or to improve access and visibility to other heritage features to off-set unavoidable adverse effects such as loss of a heritage feature).</p>	<p>The <i>Council</i> will have regard to the following matters when making decisions about the imposition and/or level of a Financial Contribution for the protection and/or enhancement of significant heritage or ecological features in respect of renewable energy activities:</p> <ul style="list-style-type: none"> i) The degree of significant adverse effects of the activity on any significant heritage or ecological feature; ii) If ecological protection or enhancement measures have been proposed as part of the activity within the general area affected or where this is not practicable or desirable in another location, to mitigate any significant adverse effects of the activity on the significant ecological feature; iii) The extent to which any or all significant adverse effects will be avoided, remedied or mitigated by other Conditions of Consent or environmental compensation offered as part of the activity; iv) The positive effects of the activity and the extent to which these positive effects may offset any or all adverse effects of the activity.
22.10.4 22.10.3	<p>Enhancement or Riparian Protection (Land Use Activities)</p> <p>The <i>Council</i> may require a Financial Contribution towards the protection or enhancement of riparian areas as a Condition of Land Use Consent where the public access, habitat or water quality values of these areas or adjoining lakes, rivers or coastal waters are likely to be adversely affected by the activity proposed, and no esplanade area exists.</p> <p>(1) Form of Financial Contributions</p> <p>Any Financial Contribution required for this purpose may be in the form of:</p> <ul style="list-style-type: none"> a) Cash; and/or b) Land adjoining water areas, to be protected by covenant or by vesting in a public body for riparian management purposes. <p>(2) Maximum Amount of Financial Contributions</p> <p>No requirement for Financial Contributions in cash or land for riparian protection as a Condition of Land Use Consent shall exceed the equivalent requirement which would be imposed for</p>	<p>The <i>Council</i> will have regard to the following matters when assessing Financial Contributions for riparian protection in respect of Land Use Consents:</p> <ul style="list-style-type: none"> i) The adverse environmental <i>effects</i> of the activity on adjacent lakes, rivers and coastal waters and their margins and any measures proposed to mitigate these effects; and ii) The importance of protection and enhancement of the riparian margin in relation to the values for which esplanade areas would be required if a Subdivision Consent, rather than a Land Use Consent, was being sought; iii) The extent to which any or all adverse effects will be avoided, remedied or mitigated by other Conditions of Consent or environmental compensation offered as part of the activity; and iv) The positive effects of the activity and the extent to which these positive effects may offset any or all adverse effects of the activity.



Parameter	Application of Financial Contributions	Assessment Criteria
Transport Networks (including roads)	<p>The Council may require a Financial Contribution in cash or land towards the establishment and/or upgrading of a Council road, service lane, as a Condition of Land Use Consent or Subdivision Consent. Such Contributions may be sought for the following purposes:</p> <ul style="list-style-type: none"> a) Where a new road, service lane or other transport linkage, is required to be set aside and/or formed to cater for new traffic movements arising from the proposed land use or subdivision; and b) Where an existing road, service lane or other transport link is required to be upgraded, including any additional land needed for road widening purposes, to cater for increased traffic movements arising from the proposed land use or subdivision. <p>A Financial Contribution will not be taken where a Development Contribution is taken under Section 200 of the Local Government Act 2002, for the same purpose.</p> <p>Form and Maximum Amount of Financial Contribution</p> <p>The Council will assess Financial Contributions for Transport Networks (including roads) on an application by application basis having regard to the traffic safety and efficiency effects of the proposed activity and the extent to which any adverse effects can be avoided, remedied or mitigated.</p> <p>Any Financial Contribution required as a Condition of Land Use Consent or Subdivision Consent may be in the form of:</p> <ul style="list-style-type: none"> a) Land to be set aside and vested in the Council for transport purposes; or b) A cash contribution paid to the Council for it to carry out specified works related to forming or upgrading a transport linkage (including roads). <p>(1) Contributions in Land</p> <p>Contributions in land may be required where one of the following circumstances exist:</p> <ul style="list-style-type: none"> a) A new road, service lane or other transport linkage is considered necessary to serve a proposed land use or subdivision; b) Part of an adjoining section of road or transport network has been formed outside the legal road reserve and it needs to be legalised as part of the proposed land use or subdivision; c) A corner splay or other similar works are necessary to improve driver visibility and associated traffic safety on a section of adjoining a proposed land use or subdivision; or d) Part of an adjoining section of road or Transport Network needs to be realigned to improve its safety and efficiency. <p>(2) Contributions in Cash</p> <p>Contributions in cash may be required where an existing road serving the proposed Land Use or Subdivision requires some upgrading to accommodate its anticipated traffic effects. Where a cash contribution is required to be paid to Council relating to the upgrading of any road or service lane, it shall be determined having regard to the existing traffic using the road, the additional traffic expected from the proposed subdivision or land use and Kaipara District Council Engineering Standards 2011.</p> <p>The Council will calculate the additional number of vehicle movements generated per day, taking into account the intended use of the lots/sites and any seasonal fluctuations in traffic. For residential subdivisions the Council will generally adopt an average of 8 vehicle movements per day for each new lot created.</p> <p>Any cash contribution will be determined based on the following formula:-</p> $\text{Estimated Cost of Road Upgrading} \times \frac{\text{Additional AADT}}{\text{Existing AADT} + \text{Additional AADT}}$ <p>Where AADT is the estimated annual average daily traffic for the section of road concerned.</p>	<p>The Council will have regard to the following matters when determining the level of a Financial Contribution for Roading:</p> <ul style="list-style-type: none"> i) The purpose of the contribution; ii) The extent to which the proposed activity generates those adverse effects for which the contribution provides mitigation; iii) The extent to which measures, either on-site or off-site, are proposed or provided which achieve the purpose of the contribution (in perpetuity); iv) The history of previous Financial Contributions related to the site, including the amount of and reason for any previous contributions; and v) The extent to which any charge is fair and reasonable.
22.10.6 22.10.5	<p>Reserves</p> <p>The Council may require a Financial Contribution in cash or land towards the establishment and/or upgrading of reserves and public open space areas as a condition of Land Use Consent or Subdivision Consent. Contributions in land may be sought for the following purposes:</p> <ul style="list-style-type: none"> a) Where land is required to be set aside and developed for the reserve or public open space use to cater for the recreational and open space needs of people associated with a 	<p>The Council will have regard to the following matters when determining the level of Financial Contributions for reserves:</p> <ul style="list-style-type: none"> i) The proximity of the land to existing reserves and public open space areas and the standard of facilities on such reserves and open space areas; ii) The nature of any important archaeological sites, historic or natural features on the land and the appropriateness of them



Parameter	Application of Financial Contributions	Assessment Criteria
	<p>proposed Land Use or Subdivision; and/or</p> <p>b) Where land is required to be set aside to protect a significant natural feature, <i>historic place</i> or <i>archaeological site</i>.</p> <p>(1) Form of Reserve Contributions</p> <p>The Council will assess Financial Contributions on an application by application basis having regard to the ecological, landscape and recreational public open space <i>effects</i> of the proposed activity and the extent to which any adverse effects can be avoided, remedied or mitigated.</p> <p>Any Reserve Contribution required as a Condition of Land Use Consent or Subdivision Consent may be in the form of:</p> <p>a) Land to be set aside and vested in the Council for reserve or public open space purposes; or</p> <p>b) A cash contribution to the Council for it to carry out works relating to developing or upgrading reserves or public open spaces in the District.</p> <p>In addition under Section 108 of the Resource Management Act 1991 the Council can require as a Resource Consent Condition works on any reserve or public open space. Such works may include but are not limited to the following:</p> <p>a) Fencing;</p> <p>b) Landscaping including grassing and tree planting;</p> <p>c) Provision of play equipment and other recreational facilities; and</p> <p>d) Provision of footpaths and walking tracks.</p> <p>(2) Maximum Amount of Reserve Contributions in Land</p> <p>No requirement to set aside land for reserve or public open space purposes shall exceed the following maximum amounts:</p> <p>a) Subdivision of land for Principally Residential Purposes or Rural Purposes where the lots can accommodate a residential <i>dwelling</i>:</p> <ul style="list-style-type: none"> - An area equivalent to 100m² for each additional lot or 5% of the value of each additional lot, except on lots of more than 4000m² where the contribution will be assessed on the basis of a 'nominal' 4000m² dwelling <i>site</i>; <p>b) <i>Development</i> of land for principally commercial or industrial purposes:</p> <ul style="list-style-type: none"> - An area equivalent to 100m² for each additional lot or 5% of the value of each additional lot; and <p>c) Subdivision of land for Principally Commercial or Industrial Purposes</p> <ul style="list-style-type: none"> - An area equivalent to 100m² for each additional lot or 5% of the value of each additional lot. <p>The Council may in some circumstances negotiate with an applicant to provide more land than the maximum reserve contribution specified above. This will be done on the basis of the Council paying for the additional land concerned and a proportionate share of the survey costs incurred. An applicant may also choose to gift a larger <i>reserve area</i> than that specified above.</p> <p>(3) Maximum Amount of 'Works as a Condition of Consent'</p> <p>Where the Council considers that a subdivision or development is adequately served by reserves and public open space areas (but not facilities and services thereon) or it is impracticable to provide such reserves or public open space areas, it may require a cash contribution in lieu thereof to be paid. No such cash contribution required under these provisions shall exceed the following maximum amounts:</p> <p>a) Subdivision of land for principally Residential Purposes or Rural Purposes where the lots can accommodate a residential dwelling 5% of the value of each additional lot, except on lots of more than 4000m² where the contribution will be assessed on the basis of a 'nominal' 4000m² dwelling site;</p> <p>b) Development of Land for Principally Residential Purposes 0.5% of the value of each additional dwelling unit or similar accommodation facility ; and</p> <p>c) Subdivision of Land for Principally Commercial or Industrial Purposes 5% of the value of each additional lot.</p>	<p>being formally set aside as part of a reserve or public open space;</p> <p>iii) The extent to which any archaeological, historic, ecological or other natural features are to be protected by way of covenants or other similar instruments and be made available for public use and enjoyment;</p> <p>iv) The nature of any landscaping and planting programmes proposed as part of the <i>development</i> or <i>subdivision</i> and the compliance with design concepts in accordance with any Council approved Design Guidelines;</p> <p>v) The extent to which any land area set aside would effectively complement or provide linkage to other reserves including <i>esplanade reserves</i> in the immediate vicinity; and</p> <p>vi) The nature of any previous reserve contributions made in respect of the land in excess of the maximum amounts specified in this performance standard.</p>



Parameter	Application of Financial Contributions	Assessment Criteria
Network Utilities	<p>(4) Maximum Amount of Reserve Contributions in Works</p> <p>No Resource Consent condition to carry out works on a reserve or area of public open space shall exceed the equivalent maximum amount permitted in land or cash.</p> <p>The Council may require a Financial Contribution towards the installation and/or upgrading of any network utility including sewerage, stormwater disposal and water supply as a Condition of Land Use Consent or Subdivision Consent. Such contributions may be sought in the following circumstances:</p> <ol style="list-style-type: none"> Where new network utilities are required to meet the needs of people expected to be employed and/or live on the lots or sites; and Where existing network utilities are required to be upgraded to meet the needs of people expected to be employed and/or live on the lots or sites. <p>Where network utilities are to be provided for or in connection with the construction of a building, then that work is controlled by the Building Act 1991.</p> <p>A Financial Contribution will not be taken where a Development Contribution is taken under Section 200 of the Local Government Act 2002 for the same purpose.</p> <p>(1) Form and Maximum Amount of Financial Contributions</p> <p>The Council will assess Financial Contributions on an application by application basis having regard to the environmental effects of the proposed activity and the extent to which any adverse effects can be avoided, remedied or mitigated.</p> <p>Any Financial Contribution required as a Condition of Land Use Consent or Subdivision Consent may be in the form of:</p> <ol style="list-style-type: none"> Land to be set aside and vested in the Council for sewage treatment, stormwater disposal, or water supply purposes; and A cash contribution to be paid to the Council for it to carry out specified works related to the installation or upgrading of a network utility. <p>Where a Financial Contribution is required toward the upgrading of any sewerage, stormwater or water supply service it shall be determined in the following manner:</p> $\text{Contribution} = \text{Estimated Upgrading Cost} \times \frac{\text{Additional Connections}}{\text{Total Design Connections}}$ <p>Where:</p> <ol style="list-style-type: none"> Estimated Upgrading Cost is the cost of upgrading an existing utility to serve a design number of service connections; Additional Connections is the number or equivalent number of additional Service Connections resulting from the Subdivision or Land Use Consent; and Total Design Connections is the total number of additional Service Connections that the additional utility capacity has been designed to serve. <p>No condition imposed under the above mentioned provisions shall require the carrying out of works or cash contributions which exceed the extent to which the network utility serves or is intended to serve the land use or subdivision.</p>	<p>The Council will have regard to the following matters when determining the level of a Financial Contribution for Network Utilities:</p> <ol style="list-style-type: none"> The purpose of the contribution; The extent to which the proposed activity generates those adverse effects for which the contribution provides mitigation; The extent to which measures, either on-site or off-site, are proposed or provided which achieve the purpose of the contribution (in perpetuity); The history of previous Financial Contributions related to the site, including the amount of and reason for any previous contributions; and The extent to which any charge is fair and reasonable.