

6.11 Financial contributions and bonds

6.11.1 Introduction

This chapter describes the circumstances, purposes, manner and matters that Environment Canterbury will have regard to when deciding whether to impose financial contributions and bonds.

6.11.1.1 Financial contributions

The term “financial contribution” is defined in section 108(9) of the RMA to mean “...a contribution of:

- (a) Money; or
- (b) Land, including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent), but excluding Māori land within the meaning of the Māori Land Act 1993 unless that Act provides otherwise; or
- (c) A combination of money and land”.

Further matters relating to financial contributions are contained in section 108(10) of the RMA. That section states, “a consent authority must not include a condition in a resource consent requiring a financial contribution unless-

- (a) The condition is imposed in accordance with the purpose specified in the plan [or proposed plan] (including the purpose of ensuring positive effects on the environment to offset any adverse effect); and
- (b) 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 for the purposes of ensuring positive effects on the environment to offset adverse effects and to mitigate adverse effects on the environment of use and development (environmental compensation).

6.11.1.2 Purpose

For the activities covered in Chapter 6, financial contribution provisions may be imposed on any resource consent given to activities that:

- (a) disturb, remove, damage, or destroy any plant or part of any plant (whether exotic or indigenous) or the habitats of any such plants or of animals in, on, or under the bed of any lake or river.
- (b) have an adverse effect on flood carrying capacity.

Where the adverse effect is on the habitats of plants or animals, financial contributions may be made for the purpose of improving river or lake bed habitats of plants or animals at another location. Where the adverse effect is on the flood carrying capacity of a water body, financial contributions may be made for the purpose of the maintenance or improvement of river control works in the same river rating district.

When considering the need for a financial contribution, Environment Canterbury will have regard to the assessment matters below. A financial contribution may not be appropriate in every case, even where there are adverse effects.

Every resource consent will be considered on a case by case basis as to the nature and extent of any contribution that may be required. Environment Canterbury does not intend that adverse environmental effects be fully mitigated or fully compensated in every case by way of financial contributions. The actual amount of any contribution will vary according to the specific circumstances of each activity and the application of the assessment matters below.

Financial Contributions may be in the form of money, land or a combination of the two. Where the adverse effect is on the habitats of plants or animals, contributions of money to Environment Canterbury shall be paid into the Environmental Enhancement Fund or other fund operated by Environment Canterbury and used for the general purpose for which such contributions are taken. Where the adverse effect is on the flood carrying capacity of a water body, contributions of money to Environment Canterbury shall be paid into the reserve funds of the relevant river rating district for expenditure on qualifying works in that district.

6.11.1.3 Assessment matters

In deciding whether or not to impose financial contributions, the types of contribution and their value, Environment Canterbury will have particular regard to the following assessment matters:

- (a) The extent to which any adverse effects on river or lake bed habitats of plants or animals or flood carrying capacity resulting from the activity can and should be remedied or mitigated instead by way of works or services carried out on or near the site.
- (b) The extent to which a financial contribution may offset or provide compensation to the community or environment for adverse effects caused or contributed to by the activity and not otherwise avoided, remedied or mitigated by the consent holder.
- (c) The extent to which a financial contribution would achieve the objectives and policies of this plan.
- (d) The necessity for establishing or continuing the activity.
- (e) The reasonableness of the contribution and consistency with the purposes of the Resource Management Act, and the relationship between the activity for which the consent has been granted and its effects; and
- (f) Any other financial contribution required by any other statutory authority with respect to the same adverse effects of that activity, as covered by (a) to (e).

In deciding the actual value of the financial contribution required, Environment Canterbury will have particular regard to:

- (i) The size and extent of the effects of the activity for which the consent is granted and that the contribution is in reasonable proportion to the significance of any adverse effects caused or contributed to by the activity.
- (ii) The extent to which any positive effects of the activity offset any adverse effects.

6.11.2 Bonds

Bonds may be imposed on a resource consent to ensure that one or more of its conditions are complied with. These could apply where Environment Canterbury considers that an adverse effect may continue or arise during the period of, or at any time after the expiry of, a resource consent. In such cases, a bond may be required. Such a bond will endure for an appropriate time, as considered necessary, to ensure that any adverse effect is avoided, remedied or mitigated.

In deciding whether or not to impose bonds, matters that Environment Canterbury will consider include the extent to which:

- (a) adverse effects can and should be avoided, remedied or mitigated;
- (b) other forms of compensation that have been or are being provided;
- (c) the activity can offset adverse environmental effects;

- (d) people and communities, most directly affected by the activity, are likely to benefit from any positive effects that may arise;
- (e) it is reasonable and consistent with the purposes of the Proposed NRRP.

In determining the amount of a bond, matters that Environment Canterbury will consider include what the actual cost would be to Environment Canterbury to meet resource consent conditions itself, in order to avoid, remedy or mitigate adverse effects in the event that a consent holder becomes unable to do so, or defaults from the resource consent conditions. It should be noted that bonds will not be appropriate, or imposed, in every case, even if there are adverse effects.