

## 3.8. FINANCIAL AND RESERVE REQUIREMENTS

### 3.8.1. OVERVIEW

In addressing the issue of whether Council should obtain financial contributions from subdivision and development within the District, Council was mindful of the anomalies that had occurred in the past, and proposes that these should be avoided in the future.

It is clear that development can have adverse effects, and places additional requirements on the infrastructure, services, and reserves. Wherever possible these activities should contribute a proportionate share towards the provision, upgrading and maintenance of these facilities.

Council takes the view that the rate payer alone, through the rating system, should not be expected to provide, upgrade and maintain these facilities from the traditional rating base and where there is an additional funding option, that option should be exercised in conjunction with the rating system.

Council must not include a condition in a resource consent requiring a financial contribution unless:

- a. the condition is imposed in accordance with the purposes specified in the plan, and
- b. the level of contribution is determined in the manner described in the plan.

A financial contribution must be *directly related to avoiding, remedying, or mitigating adverse effects on the environment and/or contribute to a positive effect which provides some compensation for an adverse effect on the environment caused or likely to be caused by the activity.*

The question that could be asked is how then does the Council predetermine a formula for financial contributions based on effects which are not known at the time of District Plan preparation, nor will they be known until such time as the nature of the activity is promoted.

Council prefers to take a more positive and general interpretation to this issue and considers that the maximum amount set (which does not need to be identified in monetary terms) would generally be based, at the highest envisaged level, with a discretion available to Council to reduce the amount payable when the effect is known and can be assessed against a particular set of criteria.

When the effect is clearly known (for example a main transport route is lost to inundation) there is no reason why Council cannot set the maximum amount as being the full cost of replacement. In such circumstances, Council would not exercise its discretion to make a contribution lower than the maximum amount.

With respect to the recreational resources, Council has studied the existing reserves of the District, and considers, on the whole, that the District is well served with reserves.

This point is best illustrated by Table 16 as follows:

**Table 16: Reserve Assessment**

Community	Population	Area of Reserve in/ha	Req at 4 ha/1000
Balclutha	4059	33.5833	16.2360
Tapanui	789	6.5383	3.1560
Owaka	405	7.5351	1.6200
Kaitangata	858	39.6676	3.4320
Milton	2019	22.6376	8.0760

Lawrence	507	32.8453	2.0280
Clinton	387	7.8357	1.5480
Waihola	-	11.3146	-
Stirling	306	2.7209	1.2240
Kaka Point	207	.4728	.8280

In addition to those reserves located in specific communities the Council administers reserves land throughout the District which total 2404 ha. That figure does not include any lands held or managed by the Department of Conservation or having other reserve status which is not administered by Council. Given the disproportionate amount of reserve land relative to population which Council currently administers and the amount of capital required to develop existing reserves, Council policy in the first instance is directed towards a cash calculation. Land will only be taken where there is an identifiable need or shortage such as in Stirling.

There are situations where a particular neighbourhood may be short of recreation and playground areas and land may also be required to protect some important natural features.

Council however, proposes to monitor this situation to ensure that the provisions of the District Plan continue to be relevant. Where it is found that this approach is out of date, a plan change would be initiated.

Council may also use financial contributions to protect significant wetlands, areas of significant indigenous vegetation, significant habitats of indigenous fauna and valued non-indigenous fauna and areas of cultural or historic value from the adverse effects of development.

This could take the form of scenic, scientific or historic reserves or may merely involve the use of covenants noted on the relevant certificate of title.

This section also establishes the basis for the contribution towards capital works and services (where these are appropriate) and sets out the circumstances where esplanade reserves or strips may be required.

### 3.8.2. THE ISSUES

Council considers the following issues give rise to the need to make provision for financial contributions within the District Plan

- **Subdivision and development can increase the use and pressure upon,**
  - (i) the roading network**
  - (ii) network utilities, and**
  - (iii) the District's recreation and community resources**
  - (iv) Public access to natural and physical resources**

**which can give rise to the inefficient use and development of these resources and subsequent unsustainable development.**

#### Explanation

Greater use of these resources increases the pressure to upgrade, and extend, and also results in greater maintenance costs. It can also lead to a decline in the quality of the service provided (for example, the deterioration. of road conditions).

- **Large scale development can have significant adverse effects on the ecosystems, landscapes, land forms, and communities of the District.**

Explanation

Large scale development can have numerous effects on the community and environment of the District. For example, large scale clearance or disturbance of native vegetation, inundation of land and communities through hydro-development, or large scale removal of top and sub soil (e.g. open caste mining).

### **3.8.3. OBJECTIVES AND POLICIES**

#### **OBJECTIVE FIN.1**

**To maintain an efficient and sustainable system of public. service resources.**

*(Refer Policy FIN.3)*

#### **OBJECTIVE FIN.2**

**To maintain an efficient and sustainable roading network.**

*(Refer Policy FIN. 4 and 5)*

#### **OBJECTIVE FIN.3 - EFFECTS NOT ABLE TO BE ADEQUATELY AVOIDED OR REMEDIED**

**To require financial contributions on development which generates adverse environmental effects that cannot be adequately avoided or remedied in physical terms to mitigate those adverse effects through the funding of compensation measures which off-set any adverse effects.**

#### **OBJECTIVE FIN.4**

**To maintain and enhance public access to and along the Coast, and the margins of the lakes and rivers of the District.**

*(Refer Policy FIN. 9 to 11)*

#### **OBJECTIVE FIN.5 - JUSTIFIABLE PROPORTION OF PUBLIC COST**

**To secure financial contributions on land use activities and subdivision activities which represent the cost imposed on the wider community as a consequence of the land use activity or subdivision activity.**

#### **POLICY FIN.1**

**To avoid, remedy or mitigate the adverse effects that subdivision and development can have on the District's recreational resources and community facilities through the use of financial contributions.**

### Explanation

Subdivision and development can have adverse effects on the recreational resources of the District, which could result in the unsustainability of such resources. Council considers the use of financial contributions as a necessary complement to the use of the general rate to mitigate these effects.

*(Refer Rule FIN. 1, 2, 7 to 10, and 12).*

## POLICY FIN.2

**To apply monetary contributions received in respect of reserves and community facilities to the acquisition, improvement and development of reserves and community facilities throughout the District.**

### Explanation

Applying contributions on a District wide basis is considered appropriate as in today's social environment people have greater mobility and utilise all parts of the District for their recreational and cultural needs. Reserves in different parts of the District provide different experiences. For example, the people in Pounaweia may wish to experience the inland climate and historic nature of Lawrence, while the people of Lawrence may wish to experience the seaside environment of Pounaweia.

Furthermore, development such as a new factory or increased production capacity in an existing factory, may occur in a particular location but may draw produce from outlying areas and therefore increases demands on reserves and facilities in those areas. For example, the extension of a Cheese Factory which leads to more products being required, may result in farms SO kilometres away taking on extra staff to increase production.

*(Refer Rule FIN. 2 and 7)*

## POLICY FIN.3

**To avoid, remedy or mitigate the adverse effects that subdivision and development can have on network utility services through the use of financial contributions.**

### Explanation.

Subdivision and development places cumulative pressure on network utility services. In most cases Council has constructed sewer, stormwater and water systems including headwork facilities, for a finite design population or capacity.

Where the effects of any subdivision or development is shown to adversely affect those systems, then a financial contribution will be required to mitigate these effects.

*(Refer Rule FIN. 9 arid 10)*

## POLICY FIN 4

**To avoid, remedy or mitigate the adverse effect that subdivision and development can have on public roads and carparking facilities through the use of financial contribution.**

### Explanation

Subdivision and development can adversely impact on roading and carparking in numerous ways. Roads may need to be widened, or upgraded to cope with the increased traffic. That increase in traffic, or the location of a private access road also raises the question of the effect on safety and efficiency of the existing roading network. In a like manner carparking facilities can also come under increased pressure.

*(Refer Rule FIN. 10 and Rule TRAN 6 page 78)*

## POLICY FIN.5

**To ensure that subdivision and development contribute to the costs of upgrading or forming legal roads, accessways and off street parking, to the extent that these facilities service the subdivision or development.**

### Explanation

Council has within the District a large number of legal roads which are either unformed or formed to a relatively low construction standard.

Under Council's Roading Programme, specified roads are identified for upgrading within a strict budget priority. Council accordingly does not have the resources to upgrade roads on a random basis as a result of sporadic subdivision or development occurring in parts of the District. Where Council believes a road needs upgrading to mitigate the adverse effects of a subdivision or development then the provision of Rule FIN.10 will apply.

Provision may also be required for pedestrian accessways, cycleways, and off-street parking facilities.

*(Refer Rule FIN. 10 and Rule TRAM 6 page 78)*

## POLICY FIN.6

**To ensure that subdivision and development adequately compensates for any significant adverse effects on the environment.**

### Explanation

As discussed in 3.8.2. *The Issues*, large scale development can have major consequences for both ecosystems and communities.

Where it can be shown that a significant effect will occur Council looks to financial contribution to compensate affected communities.

*(Refer Rule FIN. 12)*

## POLICY FIN.7

**To require that financial contributions be made at the earliest possible stage of the subdivision and/or development process except in circumstances where the adverse effect created by the subdivision and/or development will not be immediate but at some determinable point in the future, in which case financial contributions may only be required to be made at that time.**

### Explanation

Early payment of financial contributions enables necessary new facilities to be provided in advance of the customers creating a demand for these services. There are circumstances, however, when it is unreasonable to require financial contributions to be made at the time of granting consent (for example, where the adverse effect on a road may not occur until a later date due to the nature of the development). In these circumstances Council may utilise covenants, consent notices, and where possible the review of condition procedures, to ensure adverse effects generated at that later date are avoided, remedied or mitigated.

*(Refer Rule FIN. 3)*

## POLICY FIN.8

**To require financial contributions in those circumstances where additional Council costs may arise as a result of subdivision and development.**

### Explanation

Where Council is faced with additional administrative functions in creating for example easements, or is required to liaise with other local authorities or network operators, or is faced with survey cost arising from an application, then it intends to recover those extra costs.

*(Refer Rules FIN 1 and 11)*

### POLICY FIN.9

**To ensure that the development and subdivision of land maintains, and where practicable, enhances public access to and along the coast and the margins of the District's waterbodies by requiring provision for an appropriate level of public access, to be determined by the value of the resource (in terms of s229 of the Act); public safety; security needs; and other relevant matters, as a condition of resource consent.**

### Explanation

Maintenance and enhancement of public access to and along the margins of waterbodies and the coast is a matter of national importance by virtue of section 6 of the Act. Development and subdivision has the potential to compromise public access. Where this is a possibility resource consents will only be granted subject to appropriate provisions being made for access.

There may, however, be circumstances where access is not appropriate or necessary because the waterbody may have little ecological or recreational value, or for public safety or security reasons that override public access issues.

*(Refer Rule FIN. 8)*

### POLICY FIN.10

**To establish and maintain a list of those rivers, lakes and streams upon which esplanade mechanism may be required.**

### Explanation

The legislation sets out quite demanding requirements on a local authority for the creation of esplanade reserves, strips and access strips. After consultation with the Otago Fish and Game Council, D. O. C and O. R. C, Council has identified those localities where esplanade mechanisms may apply. The need for any such mechanisms will be determined in accordance with Policy FIN. 9.

In most cases where they are thought necessary, Council will require an esplanade strip but this policy can vary according to circumstances.

*(Refer Rule FIN. 8)*

### POLICY FIN.11

**Where an esplanade mechanism is deemed necessary, Council will require an esplanade strip except in the following circumstances where an esplanade reserve may be required:**

- **where an area of significant indigenous vegetation or habitat for indigenous fauna exists along the margin of the waterbody**
- **the waterbody is adversely affected by pollution or runoff from the adjoining land use**
- **where a site of archaeological or historical importance or of value to tangata whenua exists where the waterbody comprises an integral part of an outstanding natural feature or landscape**

- **where the waterbody forms part of those water catchments identified on the District Planning Maps**

Explanation

The need for an esplanade mechanism will be assessed in accordance with Policy FIN. 9. Where it is considered necessary, esplanade strips are considered to be the most appropriate mechanism (particularly in the rural environment) for a number of reasons. The land is not lost to the owner and no survey costs are involved (these can be quite substantial on large rural subdivisions). Conditions of public access can be regulated by the owner and Council, and the public can be excluded at particular times of the year (eg. lambing). Strips, as opposed to reserves, move with any movement of the waterbody. As ownership does not change, compensation payable would be minimal.

*(Refer Rule FIN. 8)*

<b>POLICY FIN.12 - FINANCIAL CONTRIBUTIONS MUST BE FAIR &amp; REASONABLE</b>
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**Financial contributions shall be:**

- (a) Justifiable in that they shall directly relate to avoiding, remedying or mitigating adverse effects on the environment and/or contribute to a positive effect which provides some compensation/relief for an adverse effect on the environment caused or likely to be caused by the activity.**
- (b) Of a proportion that is fair and reasonable and that takes into account –**
  - **the significance of the adverse effect to be generated**
  - **the duration of any adverse effect**
  - **the extent to which the design of the development or subdivision avoids, remedies, mitigates or offsets/compensates for the adverse effect any negotiated private agreements between the developer and affected parties**
  - **the extent to which another activity or developer contributes to the adverse effect**
  - **the positive effects of the activity on the environment, including the social and economic benefits to the community**
  - **the adverse effect on the public interest**

Explanation

Financial contributions charged on any resource consent must be fair and reasonable and they must not be used as a device to generate extra revenue for the Council. This is fundamental to any charge levied under this Plan. This policy sets out the matters that must be taken into account when assessing what a fair and reasonable contribution may be.

<b>POLICY FIN. 13 - EFFECTS NOT READILY QUANTIFIABLE</b>
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**To encourage developers to first deal with effects not readily quantifiable through:**

- (a) Negotiation and private agreement with affected parties and/or**
- (b) Through project design**

**before utilising financial contributions to offset/compensate for such effects.**

Explanation

The effects of some large scale developments are often not easily quantifiable in dollar terms. Council would prefer that such effects are dealt with through the consultation phase of any development resulting in improved project design or other measures taken to off set/compensate for significant adverse effects. If this cannot be achieved but consent is granted, then a financial contribution may be levied as a condition of consent.

## POLICY FIN.14 - FINANCIAL CONTRIBUTIONS FOR ROADING

The financial contribution required for upgrading roads that serve subdivision and developments shall be reasonable and equitable charge having regard to Policy FIN.12 and the following matters:

- (a) the current status and standard of the road both leading to and fronting the site, and the adequacy of that road for its current use
- (b) the standard and classification of the road required as a result of the subdivision/development the expenditure required to meet this standard
- (c) the use or likely future use of the road by other parties and the contributions (if any) to be made or already made by such parties
- (d) the contributions made by Government or outside organisations towards the development of the road, and any contributions (if any) already made by the subdivider or developer provided that after having considered these factors the maximum contribution required may be determined at 100% of the actual cost.

Provided that after having considered these factors the maximum contribution required may be determined at 100% of the actual cost.

### Explanation

Subdivision and development can have significant implications for the Districts roading infrastructure. To ensure the public's interest is protected, the maximum contribution payable when roads need to be upgraded has been identified as the full actual cost. However, the actual amount charged must be determined on a case by case basis given the particular circumstances affecting each development. This policy sets out the matters that will be relevant when determining an appropriate charge.

## POLICY FIN.15 - REFUND OF ROADING CONTRIBUTIONS

In circumstances where a roading contribution has been taken under Policy FIN.14 and an adjoining or nearby property owner/developer later benefits from the work carried out, Council may require that owner to make an equitable contribution to the previous upgrading work on any subsequent subdivision or development and in that event shall refund the owner/developer and/or Council, as the case may be, who paid the original cost of upgrading the road on a pro rata basis.

### Explanation

Council seeks to avoid a situation where the first subdivision or development on a road pays the full cost of upgrading that road, with later developments benefiting but not contributing to at cost Council believes this is an inequitable situation that must be remedied. Under this policy, subsequent developments benefiting from the original upgrading work shall be required to make an equitable contribution to that work, which will be refunded to the original contractor or Council, as the case may be.

## 3.8.4. RULES

### RULE FIN.1 CIRCUMSTANCES WHEN A FINANCIAL CONTRIBUTION MAY BE IMPOSED

Council may require that a financial contribution be made to Council as a condition of resource consent where that activity or development may have an adverse effect on –



- the recreational resources and facilities of the District, or
- public network utilities, including sewerage, stormwater, water and roading systems, or
- ecosystems, habitats, landscapes, land forms, or significant natural features including the natural character of rivers, lakes, the coast, and their margins, or
- amenity values, including visual amenity, or
- any other public services or facilities, including parking facilities, community centres, libraries etc., or
- where the adverse effects of the activity impose on Council or the community costs which are not covered by the points above,

and where any adverse effects described above have not been adequately avoided, remedied, mitigated or compensated by way of other means.

## **REASON**

The Act allows Council to charge a financial contribution on any resource consent and as a condition of any activity permitted by the Plan. Council considers the circumstances listed above, as possible situations where a financial contribution may be charged.

The rule also recognises that a financial contribution may not be necessary in those circumstances where the adverse effects described above have been adequately avoided, remedied or mitigated as part of the development.

With respect to any financial contribution imposed on a permitted activity, the extent and nature of the contribution must not be subject to any discretion on Council's part.

<p><b>RULE FIN.2 GENERAL PURPOSES FOR WHICH SUCH CONTRIBUTIONS MAY BE USED</b></p>
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Council may use financial contributions received for the following purposes;

- (a) the acquisition, improvement and development of public reserves and facilities in the District.
- (b) the protection, restoration or enhancement of any heritage item or site.
- (c) the protection, planting or replanting of any tree or other vegetation,
- (d) the protection, restoration or enhancement of any natural or physical resource including the margins of lakes, wetlands, rivers and the coast.
- (e) the protection, restoration or enhancement of any indigenous habitat
- (f) the provision or improvement of sewage and disposal systems and connections thereto
- (g) the provision and upgrading of public water and rural water supply systems and connections thereto
- (h) paying a proportional share of the capital cost, or debt owing on any public network utility affected by the activity .
- (i) the provision and improvement of roading, parking facilities, cycle and pedestrian access.
- (j) the reimbursement of legal costs incurred by Council in providing easements, encumbrances, covenants etc
- (k) the reimbursement of fees charged to Council by Government Departments, local authorities and the suppliers of public utilities
- (l) survey work incurred by Council
- (m) the provision of any other public utility or service
- (n) the replacement, or compensation for, any feature, facility, or other resource lost because of development.

## **REASON**

Utilising financial contributions for these purposes will enable Council to mitigate the adverse effects of development.

## RULE FIN.3 WHEN PAYABLE

- (a) Financial contributions of money shall be paid as follows:
- (i) In the case of a resource consent for land use, prior to the commencement of the use;
  - (ii) In the case of a resource consent for a subdivision, prior to the issue by Council of the certificate under Section 224 of the Act;
- provided that in circumstances where the adverse effect created by the development and/or subdivision will not occur until some time in the future, the Council may defer payment of the financial contribution through the use of covenants, bonds, consent notices, and where possible the review of conditions procedure.
- (b) Financial contributions of land shall vest in the Council immediately upon the land being able to legally vest.
- (c) Except as provided for in clause (a) above, financial contributions of money for services shall be paid at the time specified by Council in the resource consent, or prior to the issue of any building consent, whichever is the earlier.
- (d) In any case where the work in respect of which financial contribution is required will not take place for a significant period of time following the issue of the consent, the financial contribution will not be made payable until a reasonable period before the work is to proceed. In cases where this provision applies fixing of the amount of the financial contribution required may be delayed (where possible) pending a review of the conditions of consent at a time specified for that purpose in the consent.

## REASON

The implementation of a "user pays fair share" approach to facilities funding can be achieved either at the time development occurs, through contributions required at the subdivision or land use stage, or after development through various rating or user charge systems. If the costs of servicing growth are to influence the distribution and form of new development, then contributions are best required at the earliest stage possible in the development process. In this way more efficient provision and utilisation of facilities will be achieved and in the urban context consolidation of development encouraged. The earlier contribution conditions are imposed the greater likelihood there will be that the costs of meeting such contributions are spread equitably amongst all participants in the development process from the original seller of raw land to the final home buyer or end consumer. Early application also assists in enabling necessary new facilities to be provided in advance of the customers creating a demand for them.

There are circumstances, however, where it is not fair and reasonable to require works to be carried out following the issue of the resource consent (for example, where the nature of the development is such that the adverse effect on the road servicing the site will not occur until a significant period of time has elapsed). In these circumstances payment of the financial contribution may be deferred, and where possible and desirable the fixing of the charge will be deferred to enable a fair assessment of cost at the time the adverse-effect is created. A review of conditions will also enable the developer to have the opportunity to make submissions on the level of the charge imposed at that time to ensure it is fair and reasonable.

## RULE FIN.4 CREDITS AND REFUNDS

- (a) Where:
- (i) a resource consent which includes a condition requiring a financial contribution lapses or is cancelled or surrendered in accordance with the provisions of the Act; or
  - (ii) the activity in respect of which the resource consent was granted does not proceed

Council shall, on notice, pay or return to the person entitled in accordance with Rule FIN.6 (d) the financial contribution less a value equivalent to the costs incurred by Council in relation to the activity and its discontinuance **PROVIDED THAT** Council shall not repay or credit the value of

any work or services provided as a financial contribution before the Resource Consent lapses or is cancelled or surrendered or does not proceed.

- (b) When as a condition of a resource consent a financial contribution was made under Rule FIN.1 with respect to the provision of two or more household units on one allotment without subdivision and the allotment is subsequently subdivided to create separate allotments for those household units no further financial contribution shall be required.
- (c) Where a financial contribution is made for the provision of a particular work or service and Council subsequently resolves not to proceed with that work or to provide that service the financial contribution shall be refunded to that person entitled in accordance with Rule FIN.6(d) PROVIDED THAT in the case of a financial contribution of money no interest whether accrued or not shall be paid.
- (d) Council may from time to time in its discretion allow the development of reserves or works and the provision of landscaping or development of other recreational or community facility within a subdivision or development, as a credit towards any financial contribution payable in respect of the resource consent for that subdivision or development.

### REASON

Council considers it only fair that credits and refunds are given where appropriate. It is hoped that this will encourage development that recognises and provides the benefits of recreation and open space.

### RULE FIN.5 AMOUNT PAYABLE

The maximum value of the financial contribution to be provided shall

- (a) be calculated in accordance with Rule FIN.7 to 12.
- (b) be determined at the time the resource consent is granted.
- (c) include the amount payable in respect of Goods and Services Tax.
- (d) nothing in Rule FIN.7 to 12 shall require Council to impose a condition for a financial contribution of the amounts specified in those Rules.

### REASON

These rules do not require Council to charge a financial contribution but gives Council a discretion where there will be an adverse effect, in which case Council will then impose the appropriate contribution.

### RULE FIN.6 ADMINISTRATION

Council shall keep a register of all financial contributions made which shall contain the following information.

- (a) The amount of the financial contribution;
- (b) The name of the person making the contribution and the date on which the financial contribution was made;
- (c) The purpose for which the financial contribution was imposed and made;
- (d) The name of the person entitled to any refund or credit.

### RULE FIN.7 FINANCIAL CONTRIBUTIONS FOR THE ACQUISITION, IMPROVEMENT, AND DEVELOPMENT OF RESERVES

A financial contribution for the propose of acquiring, improving and/or developing reserves and recreational facilities throughout the district, may be imposed in the following circumstances:

- (a) As a condition of a permitted activity in the form of money where:

- (i) a multi-unit development occurs on a site that has either not previously paid a reserves contribution or has only paid one previous charge. Any charge made under this rule would be payable on each additional unit over and above the original charge (if any):
- (ii) a new dwelling is erected in a site that has not previously paid a reserves contribution.

A financial contribution of this nature will be required at the building consent stage of the development.

- (b) as a condition of a resource consent for any subdivision or development for residential, commercial or industrial purposes in the form of money except where the circumstances set out in (d) below apply, in which case land may be required.

Such a charge shall be payable on –

- Each allotment being created in the case of subdivision;
- Each additional dwelling unit in the case of multi-unit development or for a crosslease or unit entitlement;
- Each pan unit identified under Rule FIN.9(3) which is not covered by any of the circumstances above.

- (c) The level of a monetary contribution charged under (a) and (b) shall be determined in accordance with the following:

- (i) The maximum charge is to be calculated from the following formula -

Strategic Planning Budget

Max Charge = for Reserve Development (divided by)

6490 + Each Additional Dwelling and Dwelling Units per year

- (ii) The maximum charge may be reviewed where the land value can be shown to be less than \$5,000. In those cases the contribution shall be assessed at 10% of the land value (GST inclusive).
- (iii) Only one charge shall be payable for each dwelling house.
- (iv) Credit will be given for any financial contributions paid at the time of subdivision and/or a land use consent.
- (v) Credit will be given for the number of allotments capable of accommodating a dwelling that existed prior to the subdivision.
- (vi) The provision is not to apply to subdivision for the disposal of surplus dwellings or subdivision for network utility activities.

- (d) Land Contribution

The circumstances where land may be taken instead of money are as follows:-

- Where it can be shown that there is a need for reserves in the locality and the land to be acquired is suitable for the reserve required in respect to size, location and topography.
- Where the acquisition of the land, or the use of a covenant attached to the land, would have the effect of protecting outstanding natural features and landscapes and/or significant indigenous vegetation and significant habitats of indigenous fauna.,
- Where the acquisition of the land, or the use of a covenant attached to the land, would have the effect of protecting sites of historical or cultural significance.
- Where the acquisition of land will maintain and enhance public access to and along the coast and rivers, streams, lakes and other areas of public land.

Where the subdivision is for residential, commercial or industrial purposes and land is to vest as reserve, the calculation shall be assessed at 10% of the land area of each allotment but in no case shall be greater than 65 m<sup>2</sup> per allotment.

In no case where land is to vest for recreation purposes shall the area be less than 1,000 m<sup>2</sup> in a single parcel and the land shall be acceptable to Council for vesting for reserve purposes.

Where a reserve is required for other purposes (e.g. landscape protection, heritage site etc), the area of the land shall be no more than that which contains the site of importance to be conserved and a buffer zone to protect its values where this is necessary.

## **REASON**

As identified in 3.8.1. *Overview* Council's investigation into the recreational resources of the District revealed that, on the whole, the District is well served with Reserves. However, much of that reserve land is undeveloped, consisting of farmland or vacant residential sections. Consequently, money is required to upgrade and develop the, facilities to meet the recreational needs of the community:

Council, as part of its Strategic Planning, has determined that a sum of \$2.75 million in 1994 dollar terms is required over the next 10 years for Forward Planning for Reserve Development.

This has then been translated into a cost for dwelling house/unit based on the 1991 Census adjusted by the building permits subsequently issued.

The 1994 charge is accordingly fixed at a maximum of \$475.00 (GST inclusive). Any changes made to this charge will be done through the stated formula during the Annual Plan Process.

As stated in *Policy FIN. 2*, reserve contributions will be used throughout the District and this fact, together with the approach of generally taking money as opposed to land, has dictated that a set charge, based on Council's reserve expenditure programme, be imposed rather than a percentage of land value.

Council believes that there is little relationship between the value of land and the demand that a proposal places on reserves. Consequently, Council wishes to introduce a consistent charge which more adequately reflects the effects of a proposal on reserve requirements.

This rule also addresses a previous difficulty where multi-unit development via the cross-lease or unit titles legislation could not be charged reserve contribution. This was considered unfair as such development often created greater pressure on facilities because of the intensity of development. This matter has been rectified in those multi-unit developments where there is subdivision.

Where subdivision does not take place it is considered fair and reasonable that multi unit developments on a single title contribute the same as if the site was subdivided.

Where land is to be taken, Council has reduced the 120m<sup>2</sup> per allotment that was established by the Local Government Act, to 65 m<sup>2</sup> per allotment. The reason for this reduction is because more recent development has seen a decrease in the average sized residential section which has justified a reduction in charges. Reserves for heritage conservation purposes and the like would by necessity need to be of a size adequate to provide the appropriate protection.

### **(e) Rural Resource Area**

For the purpose of determining whether a reserves contribution is payable upon subdivision in the Rural Resource Area, an allotment whose size, shape, topography, soil quality or other characteristics, generally precludes it from productive uses, will be considered an allotment for residential, commercial or industrial purposes unless the subdivider can prove otherwise.

### **(f) Assessment Criteria - Waiver of Requirement**

Where Council is satisfied that the adverse effects of the subdivision or development have, been adequately mitigated the maximum figure specified may be reduced having regard to the following criteria:

- the provision shall not apply to an adjustment of boundaries where the land ownership does not alter;
- the land value of the new allotment is less than \$5,000.
- the nature of any previous reserve contributions made in land which at the time of subdivision were in excess of the maximum amounts specified in the District Plan.
- the nature and use of existing buildings on the site and the extent to which the effects of the subdivision have been mitigated;
- the extent to which any historic sites, wetlands and other natural features are to be protected by covenants or other similar means;
- the extent to which any esplanade reserves or esplanade strips which are to be created in excess of the 10 metre standard width;
- any access strips, service lanes or other forms of public access which are required to be created by the Council as part of the subdivision;
- the nature of any fencing, planting programmes, or other works proposed as part of the subdivision which will enhance any important historic sites, scenic features or wildlife habitats.

<b>RULE FIN.8 ESPLANADE RESERVES, ESPLANADE STRIPS AND ACCESS STRIPS</b>
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## 1. SUBDIVISION CONSENTS

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Where any land adjoins the coast, any river or lake as defined in Section 230(4) of the Act the following shall apply:

- (i) Where any allotment of less than 4 hectares is created when land is subdivided, an esplanade strip 10 metres in width shall be created within that allotment along the coast, the bank of the river or along the margin of the lake, as the case may be.
- (ii) Where a reserve or road of less than 10 metres width already exists along the coast, the bank of a lake, river or along the margin of a lake or river or a reserve or road of 10 metres, width previously existed but the position of the river or lake has changed then additional land shall vest to increase the width to a minimum of 10 metres.
- (iii) Where an allotment greater than 4 hectares is created, Council may require an esplanade reserve or strip in those circumstances where reserves already exist adjacent to or in the general vicinity of the subdivision and the acquisition of an esplanade reserve or strip would complement or increase the width of that land already in public ownership; or where such a reserve or strip may be necessary to provide for the purpose of Section 229 of the Act..
- (iv) Where an allotment greater than 4 hectares is created, Council may require an esplanade strip 10 metres in width on the coast and on those rivers, streams and lakes identified on the Planning Maps and Schedule 6.6 (page 302) of this District Plan as being rivers, streams and lakes to which esplanade mechanisms may be required, and in those water. catchment areas identified on the Planning Maps.
- (v) An esplanade reserve in substitution for an esplanade strip required under (a) to (d) above and/or an increase in the width of any reserve or strip may be required in the following circumstances:
  - where an area of significant indigenous vegetation or habitat for indigenous fauna exists along the margin of the waterbody
  - the waterbody is or may be adversely affected by pollution or runoff from the adjoining land use
  - where a site of archaeological or historical importance or of value to tangata whenua exists.
  - to protect water quality in sensitive catchments.
  - where a valued sports fishery exists.

- where valued public recreational hunting occurs.
- where adjoining topography is such that 10 metres is not sufficient to facilitate adequate physical access along the waterbody.

(vi) Council may

- reduce the width of this reserve or strip, or
- totally waive the requirements of (a) to (d) above,

if it is satisfied those standards and matters set out in 3. Assessment Criteria below are met:

(vii) With respect to any matter under (e) or (f), Council if it considers necessary, will request comments from the Department of Conservation, Otago Regional Council and the Otago Fish and Game Council on the importance of the water body.

## 2. RESOURCE CONSENTS

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Council may, in respect of any resource consent received, require the creation of an esplanade reserve or strip adjacent to any waterbody (artificial or natural) or wetland, as a condition of any resource consent in order to provide for those matters set out in Section 229 of the Act. The width of such strips shall be determined on a case by case basis.

## 3. ASSESSMENT CRITERIA

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(a) Waiver of Requirement

In considering whether to waiver to these requirements Council must be satisfied that:

- (i) Notwithstanding Section 229 of the Act, it would not be appropriate in the circumstances including (but not limited to) reasons of security, public safety, or minor boundary adjustments, for an esplanade reserve or esplanade strip to be required; or
- (ii) The land has little or no value in terms of the purposes specified in Section 229; or
- (iii) The purposes specified in Section 229 can be adequately provided by other means

(b) Variation in Width

(i) In determining whether or not to permit a variation in width of the reserve or strip, Council will consider the purpose of esplanade reserves and esplanade strips as set out in Section 229 of the Act and will also consider the following matters:

- whether there will be adequate public access to enable the public to meet any social, recreational or cultural needs.
- the effect on indigenous flora and fauna and valued non-indigenous wildlife habitats, in, on or
- surrounding the coast river, lake or stream.
- the existence of any significant archaeological/historical sites, as well as those sites of significant value to the tangata whenua.
- any adverse impacts on water quality.
- any effect on the stability of the banks of the river, lake or stream.
- the threat of natural hazard to adjoining properties.
- the effect on the natural functioning of the adjacent sea, river or lake.

(ii) Having regard to (i) above, any reduction in the required width of esplanade reserves or strips may be permitted where:

- Topography or the location of an existing building dictates a practical boundary less than 10m.
- Reduction of part with a compensatory increased width elsewhere.
- The purpose of the reserve or strip can be met by a lesser width but shall be not less than 5m.

#### 4. CLOSED ROADS

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Where any road that is to be stopped, adjoins the mark of mean high water springs of the sea, the bank of any river, or the margin of any lake then Section 345(3) of the Local Government Act shall apply.

*Note: See Method TRAN.1(i)(h) for the procedure to close roads.*

#### 5. VESTING OF LAKE AND RIVER BEDS

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Section 237A of the Act shall only apply when it is considered to be in the public's interest to do so.

- Matters of public interest may include, but are not limited to, the following:
  - where there is a need, or a potential need, to dredge the bed of the sea, lake or river for some public purpose
  - where there is the possibility of mineral and/or gravel extraction from the bed that may adversely effect the ecology of the river
  - where there is the potential need for public structures to be attached to the bed at some time in the future.

#### 6. ACCESS STRIPS AND ESPLANADE STRIPS

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Council may, from time to time, negotiate the creation of esplanade strips by agreement pursuant to Section 235 of the Act, and access strip easements pursuant to Section 237B of the Act.

Priority for any such negotiation undertaken in respect of esplanade strips will be given to those rivers shown on the Planning Maps as requiring esplanade mechanisms.

Any such negotiation undertaken in respect of access strips will only occur in circumstances where there is no existing or practical physical public access to any public reserve or esplanade strip.

#### 7. COMPENSATION

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Where the issue of compensation arises under 1 and 4 to 6 above, Council will consider the closing and transferring any unformed legal road traversing the subject property in lieu of compensation **provided that** any such road does not provide the only legal frontage; provide access to any area of public interest, or is likely to be formed in the foreseeable future.

#### REASON

The purpose of esplanade reserves and esplanade strips is set out in section 229 of the Act as follows:

- (i) To contribute to the protection of conservation values by in particular
  - maintaining or enhancing the natural functioning of the adjacent sea, river or lake, or
  - maintaining or enhancing water quality, or
  - maintaining or enhancing aquatic habitats, or
  - protecting the natural values associated with the esplanade reserve or esplanade strip, or



- mitigating natural hazards, or
- (ii) To enable public access to or along any sea, river or lake or
- (iii) To enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river or lake where that use is compatible with conservation values.

The utilisation of esplanade strips and reserves are considered by Council as an essential aspect of fulfilling its duties under sections 6 and 7 of the Act.

Ten metres has been adopted as the width for esplanade strips on the basis that such a width will provide adequate physical access in the best case scenario ie. where topography adjoining the stream facilitates easy physical access to and along that stream. Where this is not the case, Council has the ability to increase that width to ensure practical physical access is achieved.

<b>RULE FIN.9 FINANCIAL CONTRIBUTIONS FOR SERVICES</b>
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Financial contributions may be required where an activity, whether or not it requires a resource consent, is to be connected to an existing sewerage or public water system. Any such financial contribution shall be of money and shall apply where any subdivision or development occurs outside of the boundary of the areas defined in the District Plan as an Urban Resource Area and that subdivision wishes to connect to the existing systems of urban water and sewerage provided by the Council, then the cost of connecting to and extending these services shall be borne by the developer, determined on the following basis;

**(1) SEWAGE SYSTEM FOR RESIDENTIAL PURPOSES**

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Council may impose a maximum charge per additional connection calculated from the following formulation:

Maximum BV x .6 x 2

Contribution = (X x 2) + y

+ connection costs

where:

BV = Book Value of Scheme in Annual Accounts;

.6 = factor for 40% Government subsidy paid in original Scheme

X = connected consumers in area

y = non-connected consumers in original area for whom service is available.

The multiplier of 2 recognises that connected consumers hold 2 shares to pay for on-going maintenance.

**(2) SEWAGE SYSTEMS FOR INDUSTRIAL PURPOSES**

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The calculation shall be based on (1) above with the volume of trade waste being discharged into the system being converted to a household unit equivalent.

**REASON**

In looking at the capital contribution towards a sewage scheme Council has been conscious of the fact a number were constructed by way of lump sum payment by some property owners with the balance being by way of loan finance.

The scheme upgrade in Balclutha is a good illustration of this type of funding.

Council believes it is desirable and equitable for persons not forming part of the Scheme to contribute on a similar basis.

### (3) PUBLIC WATER SYSTEMS

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All connections to a public water supply shall be in accordance with the Clutha District Council's General Bylaw, Part 7 Water

#### **REASON**

Part 7 (water) of the Clutha District Council's General Bylaw applies to all water supplies under the care, control and management of the Clutha District Council. The purpose of the bylaw is to control the use of the water scheme and protect Council's ability to supply water safely and efficiently. It is not considered appropriate to repeat the contents of the Bylaw in the District plan. This provision merely highlights the need to comply with Council's bylaw on this issue.

### (4) MULTI UNIT DEVELOPMENT

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When any development occurs within the Urban Resource Area which increases the intensity of development on the site, that existed prior to the development, greater than 2 pan units, then the following shall apply:

- (i) The owner shall pay the contribution per pan unit for sewerage based on the formula provided under FIN. 9(1)
- (ii) The owner shall pay the contribution per unit for urban water based on the formula provided under FIN. 9(3)(a).

### (5) ASSESSMENT CRITERIA

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#### **WAIVER OF REQUIREMENTS**

When Council is satisfied that the mitigation of adverse effects on the systems justifies a reduction in the maximum figure calculated in accordance with the formula specified in Rule FIN.9(1)(2) and (3) then the extent of reduction shall be considered against the following criteria:

- the effect that greater utilisation will have on the economics of the existing system
- the priority given by Council to upgrading the system.
- the effect of other alternative systems
- the socio-economic effect that the imposition of full charge has on the community.

#### **REASON**

The legislation requires that Council specifies the maximum charge for financial contribution and identifies the formula used in assessing of the charge.

Council recognises that having fixed a maximum charge a determination must then be made on the effects of the subdivision or activity in the relevant systems.

Schedule 6.5 (page 301) sets out the depreciated book value that existed at the time of Plan preparation for the types of services identified, in order that the maximum charge may be calculated.

## RULE FIN.10 FINANCIAL CONTRIBUTIONS FOR ROADING

1. Where any subdivision or development has an adverse effect on any existing road or requires the provision of new roading the provisions of Rule SUB 1(d).D.4 (page 145) shall apply.
2. Where any subdivision/development occurs on a road that has been upgraded as a result of an earlier subdivision or development, a financial contribution may be levied.

The maximum contributions shall be an equitable proportion of the original costs of all works plus indexation based on the Works Construction Cost Index to meet inflationary costs over the intervening period.

This rule shall not have effect on subdivisions/developments that occur ten years after the original upgrading work took place.

Any contribution made under this rule shall be refunded to the original subdivider/developer or Council pro rata to their relative contributions.

## RULE FIN.11 EXTRAORDINARY COSTS

Where a subdivision, land use or development gives rise to costs in excess of the normal processing requirements specified by Council's standard charges such as,

- legal expenses incurred by Council to create easements, encumbrances, covenants, resource consents etc.
- fees incurred by some adjoining local authority or network operator in processing the application.
- Council survey costs as a direct result of the application.

then the actual full costs incurred may be recovered as a condition of approval.

## 3.8.5. ANTICIPATED ENVIRONMENTAL RESULTS.

1. Mitigation, or compensation for, environmental damage.
2. Provision of adequate recreational resources.
3. Sustainable development of public resources.
4. Public access to and along the coast, lakes, rivers, wetlands and their margins, will be maintained and enhanced.