

### 3. PROPOSED VARIATION 91: FINANCIAL CONTRIBUTIONS AND DEVELOPMENT CONTRIBUTIONS

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The purpose of this report is to recommend that the Council initiate Variation 91 - Financial Contributions and Development Contributions, to the Proposed City Plan. This variation alters the existing provisions relating to financial contributions under the Resource Management Act 1991 (RMA) and introduces new provisions relating to development contributions under the Local Government Act (LGA) 2002.

#### BACKGROUND

The Council has historically required those whose developments place new demands on the City's reserves and infrastructure services to make a fair contribution toward the expansion of those services.

The Council has historically done so by requiring contributions of land and/or cash within the provisions of the relevant legislation, ie the Local Government Act 1974 and more recently the Resource Management Act 1991. The Proposed City Plan was prepared in terms of the provisions of the RMA. It includes existing provisions to require financial contributions (of land and/or cash) for reserves (for public open space and recreation), network infrastructure (roading, water supply, sewerage and surface water management) and community infrastructure (public amenities in business areas), at the time of subdivision or development. However, these provisions have not become operative because the Council deferred decisions on submissions on them in 1999 in favour of a variation, the preparation of which was overtaken by amendments to the LGA 1974.

The more recently enacted Local Government Act 2002 provided an opportunity for the Council to use either the provisions of the RMA (financial contributions) or those of the LGA (development contributions) or a combination of both, to obtain cash or land from subdividers or developers. The Council has subsequently decided to establish its development contributions policy within the requirements of the LGA 2002, rather than under the financial contribution provisions of the RMA, because:

- The Council considered that this is the most efficient and effective mechanism for requiring contributions towards reserves and network infrastructure growth at the time of subdivision and development; and
- It better enables the Council to integrate this funding mechanism with forward planning for all Council funding for, and expenditure on, infrastructure and reserves growth.

The Council has now both prepared and approved, by way of the special consultative procedure as part of its Long-Term Council Community Plan (LTCCP), a Development Contributions Policy under which development contributions are required for the following:

1. Land and/or cash for reserves (for open space and recreation) at the time of subdivision, or the development of additional residential units.
2. Cash for the upgrading or development of network infrastructure (for water supply, wastewater, roading and other transport, and surface water management services) by way of city-wide infrastructure contributions, local cost-share areas and contributions for works adjacent to development/subdivision.
3. Cash for community infrastructure (to provide public amenities on Council land) at the time of additional, non-residential, building development.

#### NEED FOR VARIATION

The Council has decided that three financial contributions currently provided for in the Proposed City Plan will remain in it, because they do not fall within the scope of the LGA 2002 provisions for development contributions. These are:

1. Esplanade reserves and/ or strips at the time of intensification of residential or other building activity on a site, as though the development of the building was in conjunction with subdivision of the site. This contribution ensures, to the maximum extent possible, equality of esplanade provision irrespective of land tenure. Esplanade provision on subdivision is a statutory requirement under the RMA, with the onus of justifying lesser or non-provision of such land being placed upon the Council.
2. Heritage conservation contributions from any land use activity on a site where consent has been granted for the demolition or alteration of a protected heritage item under Part 10, Appendix 1 of the City Plan, where the land use activity involves the erection of a new building and/or additional floor space being added to an existing building, where the building consent value exceeds \$200,000. This cash contribution is to be used for purchasing, compensating owners, or restoring heritage items, recognising the importance of these features to the heritage, cultural wellbeing and amenity values of the City.
3. Cash-in-lieu of parking contributions where the physical provision of parking on site is impracticable. This cash contribution is to be used by the Council to acquire land and provide off-street parking in existing business areas where there is a large number of individual titles and fully developed sections, making it difficult to provide on site parking.

The City Plan also defines the nature and standard of works and services that are to be provided as part of a subdivision or development. These works and services are provided by the developer at their cost and, where the asset created is normally owned and maintained by the Council, they are transferred without charge into Council ownership. Development contributions for network infrastructure are for the installation or improvement of assets over and above the works and services required within the subdivision or development and are usually located beyond the development boundaries.

Proposed Variation 91 accordingly:

1. Amends the provisions of the Proposed City Plan to reflect the Council's recent decision to require development contributions for reserves, network infrastructure and community infrastructure, at the time of subdivision or development, under the LGA 2002 rather than under the RMA.
2. Corrects cross-references to the LGA to reflect the 2002 amendments to that Act.
3. Amends policies relating to the provision of network infrastructure services, at the time of subdivision or development, to provide for the payment of development contributions to the Council, when the Council will upgrade or provide the necessary services.
4. Amends the policy relating to the purposes of development contributions for reserves to be consistent with current practice widening the purposes to include the upgrading of existing parks, the provision of conservation parks or similar natural areas, and the provision of walking and cycling linkages in business areas.
5. Replaces the two separate policies, relating to the taking of cash or land financial contributions towards reserves (for open space and recreation), with one new policy which provides that either land or cash contributions will be required, depending on which will more effectively add to the quality and diversity of open spaces and recreation areas in the City.
6. Deletes all rules, and references to rules, in the Proposed City Plan which require financial contributions for reserves, network infrastructure and community infrastructure.
7. Adds an assessment matter for assessing the appropriateness of land to be required as reserves on subdivision consent, reflecting the existing policy on this matter.

## **CONSULTATION**

Both the 58 submitters to the original Proposed City Plan financial contribution provisions and 69 other interested parties (some of these interested parties may have also been submitters) have been kept informed and consulted with throughout the preparation of proposed Variation 91, both before and after enactment of the LGA 2002, and the Development Contributions Policy.

Prior to the first consultation meeting, both submitters and interested parties were contacted and asked whether they wished to be part of the consultation process or kept informed on development of the variation. Thirty-six individuals were subsequently invited to the first (pre-LGA 2002) consultation meeting on 13 June 2001, being 13 submitters and 23 other interested parties who advised that they wished to be consulted (three submitters and seven other interested parties advised that they wished to be kept informed only). Nine of the group the Council consulted with attended the meeting, at which their response was generally supportive.

All of the submitters and other interested parties who had previously advised that they wished to be consulted with or kept informed of progress, plus an update of the latter list, were advised of a subsequent (post-LGA 2002) consultation meeting with respect to development of the Development Contributions Policy on 29 October 2003. Ten of them attended the meeting, at which again their response was generally supportive.

During the period for submissions on the Long-Term Council Community Plan between 5 April and 6 May 2004, both submitters and interested parties were sent a reminder drawing their attention to the Development Contributions Policy included in the LTTCP. Eighteen submissions were received, most of which accepted the general thrust of the Policy but had particular concerns which were generally met by the Council as a result.

Submitters and interested parties were also given the opportunity to make written comments on the draft Variation 91 and its section 32 evaluation between 15 July and 6 August 2004. None were received.

## **PROPOSED VARIATION**

A copy of the proposed variation and section 32 evaluation is attached to this report.

### **Staff**

**Recommendation:** That the Regulatory and Consents Committee recommend to the Council that it publicly notify proposed Variation 91 to the Proposed City Plan pursuant to Clause 16A of the First Schedule of the Resource Management Act 1991.

### **Chairman's**

**Recommendation:** That the above recommendation be adopted.