

## 6. DEVELOPMENT CONTRIBUTIONS POLICY REVIEW: TERMS OF REFERENCE FOR WORKING PARTY

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### PURPOSE OF REPORT

1. The purpose of this report is to recommend to the Council, the form, membership and terms of reference of the Development Contributions Working Party, being established pursuant to resolutions of the Council on 12 and 30 June 2006.

### EXECUTIVE SUMMARY

2. The preferred format is as a working party rather than a formal subcommittee or committee of the Council. The suggested membership includes up to eight industry representatives and two elected members, plus Council staff in a reporting role. An independent facilitator/chairperson is also suggested.
3. The persons who are suggested for inclusion in the Working Party are named in the public excluded section of this report (to be separately circulated). All have been approached, are aware of the proposed terms of reference and are agreeable to their names going forward:
4. The following terms of reference for the working party are proposed:

#### **Goal**

*To review the basis, structure and application of the 2006-16 Development Contributions Policy as adopted by the Council on 30 June 2006, and, if appropriate, to recommend a revised policy for the Council to consider as part of an amended LTCCP in 2007.*

#### **Objectives**

- *To meet the above goal as resolved by the Council*
  - *To gain a mutual understanding of the Council's and the development industry's needs*
  - *To consider and reach a conclusion and recommendation on the following key issues:*
    - *Confirmation of growth and infrastructure demands*
    - *The principles of cost recovery, including allocation of costs to growth, the economic impacts of cost recovery options and assigning costs to beneficiaries (getting the balance of responsibility for payment right)*
    - *The methodology for the policy*
    - *The use of the policy to achieve strategic objectives*
  - *To report findings and recommended changes to the policy to the Council by the end of November 2006.*
  - *To ensure meaningful consultation with the development industry on any changes proposed to be recommended to the policy.*
5. In addition to the working party, staff are also continuing to address a range of technical matters that the policy also needs to consider. In particular these include the integration of the Banks Peninsula policy with the remainder of the policy.

### FINANCIAL AND LEGAL CONSIDERATIONS

6. Depending on the outcome of the review, there could be financial implications for the Council, should changes be made to the balance of who pays, and further transitional issues, remissions etc. The review will identify and report on such implications prior to the Council deciding on the issue.

7. While the 2006-16 DCP is considered to be legally robust, submitters to the policy did raise legal issues. The review will consider these and any changes to the document will be cognisant of these matters. The form and status of the working party has been guided by legal advice.

**STAFF RECOMMENDATIONS**

It is recommended that the Council:

- (a) Agree to the form and terms of reference for the Development Contributions Working Party as described above.
- (b) Appoint two Councillors to the working party
- (c) Appoint an independent chairperson, and development industry members to the working party as set out in the public excluded section of this report (to be separately circulated).

## BACKGROUND ON DEVELOPMENT CONTRIBUTIONS POLICY REVIEW

8. The 2006 Development Contributions Policy as published as Volume 2 of the draft 2006-16 LTCCP, was significantly different from the initial (2004) policy. It introduced new, more robust and sophisticated methodologies for calculating contributions, it extended the areas of collection to include transport and leisure facilities and it made changes to the charging regime for other network infrastructure. It also determined that, as far as possible, all the costs of growth should be met by the development community and for purposes of transparency did not provide for remissions to assist in achieving other Council objectives. The policy is aligned to the Council's 10 year Capital Programme for infrastructure as set out in the 2006-16 LTCCP.
9. This has resulted in significantly higher development contribution charges than for the 2004 policy. This has been of great concern to the development community, with in excess of 130 submissions being received to the draft 2006 policy. A detailed staff report (94pp) which summarised the issues raised by submitters, was presented to the hearing of submissions during the week 6-9 June 2006. The report included recommendations for a further review, involving a Council/industry working party, together with some adjustment and tweaking of the new policy, plus a one-year transition which would hold charges to rates generally in line with those of the 2004 policy. These recommendations effectively defused the situation for the period of the submission hearings.
10. The recommendations were adopted by the Council at its meetings on 12 June and 30 June 2006, as part of the consideration and adoption of the 2006-16 LTCCP. The resolutions included:

*“...the provision of a transitional remission that reduces the charges for development contributions to levels generally in line with those which would have been recovered under the 2004-14 Development Contribution Policy, in anticipation of establishment of a joint Council and development industry working party to review the basis, structure and application of this policy and, if appropriate, to recommend a revised policy that the Council can consider as part of an amended Long-Term Council Community Plan (LTCCP) in 2007.”*
11. The 12 June resolutions included an instruction to staff to establish the working party. Earlier (ie at the time of adopting the draft policy for consultation) the Council had also acknowledged the need to investigate an alternative to the previous remissions policy, in the form of an incentives package, and the June resolution also referred this to the proposed Working Party.

## OPTIONS FOR THE WORKING PARTY

12. There are a number of possible models which could be used, ranging from a large all-inclusive advisory group through to a formalised Committee or subcommittee of the Council:
  - (a) Advisory body comprising industry representatives and elected members supported by Council staff to assist in the review by identifying/agreeing on concerns, suggesting ideas, providing information, acting as a sounding board to proposals, and preferably reaching consensus, as they are developed by Council staff and consultants. This body could comprise about ten people - six-eight industry representatives and two Councillors together with staff support. The working party would report its findings directly back to the Council. While this seems quite a large group it is important that it is seen to be widely representative of the development industry. This group would need to also consult with the development community generally, perhaps with a recognised reference group. Because of the potentially wide divergence of views, an independent facilitator/chairperson may be desirable.

- (b) Similar to (a), but a smaller core group of two-three industry representatives and two Councillors supported by Council staff to undertake/oversee most of the work. A larger group would act as a reference group to be consulted at various stages of the work. While this arrangement may appear more efficient than the larger option (a), there is a risk of insufficient representation from the industry and consequent lack of buy-in to the work and findings of the working party.
- (c) A more formal body with status of special committee of Council - comprising both elected members and external appointees (industry representatives.) This model has been suggested by Simpson Grierson (SG), solicitors, on the basis that it may wish to seek officer reports, hear from members of the community and to make recommendations to the Council. As with other options wide consultation with the industry generally would be needed. The disadvantage of this model is its formality. Less structured working parties have worked well in the past, including carrying out the tasks identified by SG as appropriate for a committee or subcommittee. The matter has been discussed with the Legal Services Manager, who is comfortable with an advisory working party option.

#### **PREFERRED OPTION**

13. Option (a) is preferred and recommended.

#### **MEMBERSHIP/REPRESENTATION**

14. There has been considerable interest from the development industry in being represented on the working party but there is a need to keep the numbers to a manageable size and representative of a range of interests. This could include suburban residential (greenfields) (developer/investor), suburban industrial/commercial, central city residential, central city commercial/mixed use, legal advisor, architect/designer, surveyor.
15. While it is suggested that a maximum of eight industry representatives be included, stakeholders generally should be kept in touch with progress as the review proceeds.
16. It is suggested that the Council appoint two elected members.
17. Staff from relevant units across the Council at both managerial and technical support level have been identified to assist the working party and to undertake other tasks associated with the review of the policy.

#### **WORK PROGRAMME**

18. For the working party four main areas of concern/interest have been identified and it is proposed that for each of these areas, Council staff, together with consultants as necessary, initially prepare material for presentation to the working party at a series of focussed workshop sessions, as set out in the table below.

<b>Issue</b>	<b>Workshops</b>	<b>Intended Outcome</b>
A Confirmation of Growth and Infrastructure Demand	<ul style="list-style-type: none"> <li>• City Growth Predictions</li> <li>• Asset Management Plan Projections</li> <li>• Areas of recovery/Catchments</li> <li>• Reserves</li> </ul>	Agreement on future city needs and scope of services to be recovered through DCP
B Principles of Cost Recovery	<ul style="list-style-type: none"> <li>• Allocation of costs to Growth</li> <li>• Economic impacts of cost recovery options</li> <li>• Assigning costs to beneficiaries</li> </ul>	Recommendation on Principles of Cost Recovery

Issue	Workshops	Intended Outcome
C Methodology	<ul style="list-style-type: none"> <li>• Application of SPM model</li> <li>• Alternative allocation models</li> <li>• Transparency/fairness</li> <li>• Application of Credits</li> </ul>	Agreed model to calculate and apply DC calculations.
D Use of Policy to achieve Strategic Objectives	<ul style="list-style-type: none"> <li>• Incentives/ remissions</li> <li>• Transitional arrangements</li> <li>• Treatment of infrastructural partners</li> </ul>	Implementation options identified and agreed.
E Revised Policy	<ul style="list-style-type: none"> <li>• Consideration of Revised Policy</li> <li>• Modelling policy application</li> <li>• Sensitivity testing</li> </ul>	A revised policy document agreed, and impacts tested and understood.

19. In addition Council staff will be working on other elements of the review, including the integration of the Banks Peninsula section (currently Part B) of the policy. Following the completion of the work of the working party, the staff team will prepare a revised policy for consideration as part of an amended 2007 LTCCP.
20. At appropriate points during the process the working party will provide feedback to the wider industry group, particularly those earlier submitters who have expressed an interest in keeping in touch with the project.

#### **TIME FRAMES**

21. It is planned to submit the final report to the Council by the end of November 2006. To achieve this the following key milestones have been identified.
  - July 31 - report to Executive Team
  - By 7 August - confirm key support staff and commence work on projects, approach prospective WP members and Chairperson.
  - 10 August - report to Council and confirm members of working party
  - Mid August - first meeting of working party
  - Early October - progress report to Council seminar
  - Mid November- report findings to Council seminar
  - Late November - final report to Council