

## 6. DEVELOPMENT CONTRIBUTIONS POLICY REVIEW OMNIBUS REPORT

### REPORT A: INTRODUCTION AND BACKGROUND

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#### PURPOSE OF REPORT

1. The purpose of this report and that of the four reports which follow is to provide the Council with an update on the work undertaken since July 2006 in reviewing the Development Contributions Policy and to seek direction on the changes proposed to be made to the policy. This report is an introduction to and background for the following associated reports:
  - Report of the Development Contributions Working Party (Report B)
  - Staff response to the Working Party report (Report C)
  - Report on integration of Banks Peninsula DCP and changes proposed to presentation, format and content (Report D)
  - Public excluded report on some legal implications (Report E)
2. Decisions made by the Council in response to these reports will set the direction for the drafting of the revised Development Contributions Policy document, which will be presented to a Council seminar on 23 February 2007.

#### EXECUTIVE SUMMARY

3. This initial report sets out the background to the review, including the issues which saw the setting up of the Development Contributions Working Party and sets the scene for the independent report received from the working party, the staff response to its recommendations and the other work which has been undertaken in revising and updating the policy, including the integration of the former Banks Peninsula Policy. Each of the reports contains its own executive summary. This report also acknowledges the report of economic consultants, LECG, who were commissioned to review the DCP methodology and assess likely economic impacts of the policy. The LECG Executive Summary and recommendations are included as Attachment 1 to this report.

#### FINANCIAL AND LEGAL CONSIDERATIONS

4. Each report outlines the relevant financial and legal issues. A legal opinion received in respect of some aspects of the policy is discussed in the public excluded report. This report includes, as an attachment, independent advice from economic consultants, LECG, who were asked to comment on both the robustness of the methodology adopted in the policy and on the potential economic impacts of the increases proposed for development contribution charges. LECG concluded that the methodology is well-designed, but that the challenge will be to implement it correctly and consistently over time. Concerning economic impacts, the main findings were that the full implementation of the DC policy with the charges as proposed will lead to a slowdown of construction activity in the short to medium term. However, the report also indicates that the magnitude, duration and overall impact of this slowdown could be negated by other market forces. It included a range of recommendations to ensure that the operation of the policy is seamless and integrated. These recommendations are being taken into account by staff in preparing the revised policy document.
5. The process the Council must use to adopt the revised policy is the Special Consultative Procedure (SCP) under the LGA. This is required because a development contributions policy can only be amended as an amendment to the long-term council community plan (LTCCP) (s102(6)), and a local authority is required to use the special consultative procedure in making any amendment to its LTCCP(s93(5)).

6. The SCP process is set out in section 83. It requires preparation of a statement of proposal and a summary of the information in the proposal. When using the special consultative procedure for amendments to the LTCCP, the statement of proposal must include a draft of those parts of the LTCCP that are proposed to be amended, plus any consequential amendments (s84(2)).
7. The statement of proposal must be included in the agenda for a meeting of the local authority and must be made available for public inspection. The summary must then be circulated for consultation in accordance with section 89 and public notice must be given of the consultation being undertaken, advising where people can view copies of the summary and the full proposal. The public notice must also set out the time for submissions, which must not be less than one month from the date of the first public notice. Submitters must be sent written acknowledgement of their submission and be given a reasonable opportunity to be heard.
8. All submissions must be made available to the public, and, generally, all deliberations on the matter must take place at a meeting open to the public. Before making a decision the local authority can consider reports from officers or other persons.
9. The timing of this early part of the process is relatively tight:

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**Amended 2007 LTCCP Timetable**

20 December 06	First draft of plan completed
29 January 07	ET Review of amended LTCCP
23 February 07	Council seminar meeting on 07/08 plan – <i>to include early draft of DCP</i>
15 March 07	Council meeting to adopt draft annual plan 07/08
29 June 07	Council meeting to adopt amendment to LTCCP
30 July 07	Printed annual plan released

10. The Council needs to make a decision at its 8 February 2007 meeting regarding the various recommendations for amendments to the policy, so that a revised policy document, including full financial implications, can be completed by staff, for further discussion by the Council at the seminar on 23 February. Then, a final version of the revised policy can be prepared and formally adopted by the Council at its meeting on 15 March 2007, which will allow sufficient time for the making and hearing of submissions, before the policy is finally adopted by the Council on 29 June 2007 (effective date 1 July 2007).

**STAFF RECOMMENDATION**

It is recommended that the Council receive this report.

## BACKGROUND ON THE DEVELOPMENT CONTRIBUTIONS POLICY REVIEW

11. The 2006 Development Contributions Policy, 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.
12. 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 hearings 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.
13. 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.”*
14. 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 for the previous remissions policy, in the form of an incentives package, and the June resolution also referred this to the proposed working party.
15. The Council adopted terms of reference and a work programme for and appointed members to the working party at its meeting on 10 August 2006, and after receiving a number of requests, resolved at its meeting on 5 October 2006 not to increase the membership of the working party.
16. The working party, which was serviced by Council staff, met on nine occasions, and its Chairman, the Hon David Caygill, presented a progress report to the Council on 5 December 2006 and has submitted its independent report. This follows as Report B. Council staff comments on the report follow as Report C and Report E (public excluded).
17. To assist both the Council and the working party, economic advice was sought from consultants LECG. The full report “Economic Impact of Christchurch City Council 2006-2016 development contributions policy” is 88 pages in length, but is summarised in an executive summary which is attached to this report. A covering letter from the consultant also comments favourably on the Council's use of the working party as follows:

*“We have seen firsthand the challenges many local bodies face in attempting to balance a range of competing interests in pulling together their development contributions policy. Throughout this project we have seen the benefits of Christchurch City Council's approach of using a Working Group. To us as outsiders, this seems to have been a practical process whereby the council and development industry have fine-tuned the new policy together. You and your colleagues can be commended for continuing to see the way through this complex policy area with such far-reaching implications for Council and development community alike.”*

18. Because of the timing of the inclusion of Banks Peninsula District in Christchurch City (March 2006), it was not feasible to produce an integrated DCP covering the whole of the area of the "new" Council, and accordingly the DCP was produced in two Parts; Part A being the area of the "old" Christchurch City Council and Part B being the area of the former Banks Peninsula District Council, with the intention of publishing a revised, integrated DCP in 2007. At the time of preparation of this report that work is still in progress, the intention being to present a draft document to a Council seminar on 23 February 2007. This document will also incorporate changes to improve the presentation, format and contents of the revised DCP. An update report on these matters follows as Report D.
19. There are some legal issues which arise from some of the recommendations of the working party and staff proposals. These are referred to in general terms in the staff response report (Report C) but are considered in more detail in the publicly excluded report (Report E).

#### **OPTIONS**

20. The decision to review the DCP as adopted in June 2006 was agreed to by the Council at that time for two reasons:
  - (a) to allow the integration of the Banks Peninsula section DCP; and
  - (b) to consider changes to the plan as may be recommended by the Council/industry working party which it had resolved to establish.
21. The reports which follow will shape the revised policy, derived from the following streams of work:
  - The working party
  - The report of LECG economists
  - The Banks Peninsula DCP integration project
  - Corrections, new information and input from the Asset Unit and other Council staff
22. The work undertaken suggests a range of solutions to a variety of issues for the Council to consider. These variously offer technical improvements, changes in policy direction, and new ways of stakeholder communication and consultation. There is also a range of financial implications depending on the mix of options chosen. Direction from the Council on these matters will enable the revised policy to be completed and referred back to the 23 February seminar.

## **REPORT B:**

### **REPORT OF THE DEVELOPMENT CONTRIBUTIONS POLICY REVIEW WORKING PARTY**

#### **PURPOSE OF THE REPORT**

1. The purpose of this report is to inform the Council of the work of the Development Contributions Working Party and to recommend possible changes to the 2006-16 Development Contributions Policy approved by the Council in June 2006. This report has been prepared by and represents the views of the Working Party. Although Council officers and consultants have assisted the working party in its task, this is an independent report and does not necessarily represent the views of Council officers or its consultants.

#### **Executive Summary**

2. This report addresses the appropriate means of paying for the additional services and amenities the city will need as it grows. The report comes from the joint Council/Industry Working Party the Council established following its decision last year to increase development contributions (DCs). DCs are paid by developers (and ultimately by their customers) to cover the reserves, network infrastructure (roads, transport and water) and community infrastructure (land or assets for public amenities) required as a consequence of building or land subdivision.
3. The Council is permitted (but not obliged) to collect DCs from developers to cover the costs that their developments impose on the city's facilities and amenities. Not all growth is attributable to the actions of developers. The Council needs to identify clearly the portion of its capital works programme that is properly recoverable from developers and ensure that it is not using DCs to recover the costs of "natural" growth, i.e. growth that is not connected causally to new developments.
4. The Working Party considers that there is a need for ongoing dialogue between the Council and the development community. Each can learn from the other. In particular, the development community can provide intelligence on the likely ways in which the city might develop and how major capital works might be constructed or financed most cost-effectively. We recommend that the Council facilitate regular meetings to address these issues.
5. The Working Party has recommended a number of changes to the current DC Policy. In particular it has recommended a different approach to the calculation of DCs in respect of reserves. For many years these have been collected at the maximum allowed by the Local Government Act. This can sometimes deter development, e.g. in the central city, where land values are highest. The Working Party recommends instead the adoption of a cost-based approach to the assessment of DCs for reserves similar to that used to determine other forms of DC.
6. The Working Party also recommends a simplified system of calculating DCs based on the formula that all undeveloped residential lots should receive a credit of one household unit equivalent for all services/activities and reserves. We recommend a similar adjustment in relation to non-residential lots. We also recommend that the Council continue to resist the temptation to use its DC Policy to encourage social purposes like affordable housing or heritage buildings. Remissions or incentives for such (laudable) purposes often simply push up land values.
7. Several of our recommendations will help the development of the central city and high density developments generally, as the Urban Development Strategy supports. In particular the changes we recommend to the method of calculating reserve contributions, the new provisions for non-residential lots subdivided before 1 July 2004, and the allowance we recommend for small units should all assist the central city.

8. The Council is seeking to obtain a fair contribution to its capital works programme from those responsible for new property development, whilst at the same time ensuring that the level of such contribution does not deter development. But development does not take place in a vacuum. What happens elsewhere influences development here. The Working Party attempted to compare the City's DCs and rates with those levied by other councils. These are not easy comparisons to make - not least because of differences in the range of services provided, as well differences in methods of cost recovery. Further information is needed on these comparisons, as well as on the cost of the Working Party's recommendations.
9. The increased level of DCs the Council approved last year (before putting them on hold pending the Working Party) amounted roughly and on average to a doubling in the charges faced by developers (and their purchasers)<sup>1</sup>. This level of increase may well have an impact on the level of development, but the size of that impact is unclear as is the overall impact of the Working Party's recommendations. If a significant disparity with other councils remains or a significant impact on development is still a significant risk then the Council has three broad options: to proceed with the charges as planned, to settle for a lesser proportion of cost recovery, or to abandon the proposed increase. The Council could also spread any adjustment over a longer period of time. Each of these options will have implications for the level of rates faced by, and the services available to, Christchurch's existing and future residents.
10. The Working Party recommends that the Council re-evaluate the proposed level of DCs in the light of its commitment in the Urban Development Strategy to align its DCs with those of the other councils, the anticipated impact of its revised Policy on future development and the recommended ongoing discussions with the development community.

## **Recommendations**

11. **The Working Party endorses for action prior to the adoption of the 2007/17 LTCCP:**
  - **the LECG recommendation that the Council "obtain independent review of the level of costs allocated to growth for major projects in the future as a standard procedure, and take other steps to ensure that cost allocations for different projects are robust and consistent" and suggests its expansion to include a random sample of smaller projects (para 32); and**
  - **the Council's commitment in the draft Urban Development Strategy to align development contributions with those of the other councils (para 86)**
12. **The Working Party recommends that prior to the adoption of the 2007/17 LTCCP:**
  - 12.1 **The Council facilitate a regular series of meetings (we suggest three or four times a year) with the development community to allow for joint developer/Council review of the content, timing and progress of the Council's Capital Works Programme (para 36);**
  - 12.2 **It should be part of the responsibility of appropriate Council officers to liaise regularly with developers (para 38);**

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<sup>1</sup> This figure is very much an average. The Working Party was made aware of one example of a non-residential development where DCs would have increased by a multiple of 80. Many infrastructure charges have increased by a factor of 6, with significant increases in reserve contributions in the central city, for an example of which see para [59].

- 12.3 The availability of private developer agreements be more clearly acknowledged, and that clear guidelines be put in place as to when and how PDAs can be used (para 39);**
- 12.4 The Council ensure that only the costs attributable to new developments are recovered by way of development contributions. All growth factors not causally connected to new developments should be removed from the calculation of DCs (para 46);**
- 12.5 The DC Policy include an explanation of the factors and calculations used to convert business and other forms of development in to HUEs (para 52);**
- 12.6 Consideration be given to smaller units paying a lower development contribution on a sliding scale based on their floor area (para 53);**
- 12.7 The Council revisit the definition of “undeveloped” and “developed” in relation to vacant land (para 54);**
- 12.8 There be a clear process for determining the credits available in advance of demolition (para 55);**
- 12.9 The calculation of DCs in relation to reserves be brought into alignment with the rest of the DC Policy; and specifically that a similar “cost-based” approach to the calculation of DCs for reserves be adopted as for network and community infrastructure (para 63);**
- 12.10 The Council avoids including in its DC Policy any system of incentives or remissions for social purposes or to give effect to other Council policies. These should continue to be addressed by separate means (para 71);**
- 12.11 All undeveloped residential lots receive a credit of one HUE for all services/activities and reserves (para 81);**
- 12.12 Undeveloped non-residential lots subdivided before 1 July 2004 be entitled to a credit up to the value of any development they would have been entitled to pursue at that time, i.e. any development that would have complied with the relevant land-use zoning requirements (para 82);**
- 12.13 The Council should not use DCs to fund projects which were already funded prior to the 2004-14 DC Policy becoming operative (para 83)**
- 12.14 The Council should conduct further analysis of how its proposed DCs would compare to those in other districts, especially those closest to the city, i.e. Selwyn and Waimakariri Districts (para 93);**
- 12.15 The Council re-evaluate the proposed level of development contributions in the light of the Urban Development Strategy, the expected impact of its revised Policy on future development, and the ongoing discussions with the development community recommended above (para 107); and**
- 12.16 The Council actively promotes and publicises its new policy (para 108).**

## **Introduction**

13. This report concerns the most appropriate means of meeting the costs of the city's growth. Christchurch will grow – not because planners say so, but as present and future landowners develop their properties to accommodate those who seek to live in this attractive city.
14. There is no right means of paying for the growth the city expects over the next decade and beyond. The city could attempt to restrict development, through restrictive zoning or punitive levies on development. In that case development is likely to take place outside the city's boundaries. Or the city could choose to allow development, but to decline to invest in the amenities – transport, water, reserves – enjoyed by today's citizens. In that case the levels of service would fall, along with the city's reputation.
15. If the city intends, as the Council's current policies indicate, to meet current or higher levels of service for basic amenities such as transport, water and reserves, then the cost must be borne somewhere. To the extent that such amenities are provided to meet the needs that are created by new development, the law allows (but does not require) the Council to recover these costs from developers. In reality it is their customers, the purchasers of those developments, who will ultimately meet these costs.
16. Requiring developers to "contribute" in this way will affect the rate and extent of development - as would the alternative of imposing the costs of the city's growth on today's or future ratepayers. This report examines these options and makes recommendations in relation to them.

## **Background**

17. On 30 June 2006 the Council resolved to adopt a new Development Contributions Policy for 2006-16. Notably this policy would have had the effect of increasing the proportion of costs recovered by way of development contributions from approximately 40% of the cost of providing the "growth portion" of new city infrastructure to 100%<sup>2</sup>.
18. The increase in DCs that resulted from this and other proposed changes raised strong concerns from developers, in particular through the draft LTCCP submission process. More than 130 submissions were received, the vast majority from the "development community."
19. In approving the LTCCP on June 30 2006 the Council put into effect a twelve month freeze on the proposed DC increases. At the same time the Council agreed to establish a joint Council and industry working party.
20. The Council adopted terms of reference and a work programme for and appointed members to the Working Party at its meeting on 10 August 2006.
21. The following goals and objectives were established for the Working Party:

### **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.

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<sup>2</sup> The figure of 40% came from the summary of the DC Policy on the Council's web-site at 5/9/06. It was unclear whether this included the full value of reserves.



- 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 February 2007.
- To ensure meaningful consultation with the development industry on any changes proposed to be recommended to the policy.”

22. The Working Party comprised the following **members**:

Councillors: Garry Moore, David Cox, Anna Crighton, Bob Parker

Development Community:

Tim Carter – industrial, commercial and residential developer

Andrew Evans – architect

Warren Haynes – surveyor

Murray James – builder

Simon Mortlock – lawyer

Kim Sanders – greenfields developer

Tony Sewell – commercial and greenfields developer

Mark Weaver – commercial and industrial developer

Hamish Wheelans – greenfields developer

Independent Chair – David Caygill

23. The working party met on nine occasions, commencing on 5 September 2006. Seven of these meetings focussed on workshop sessions, usually of six or more hours duration. With the assistance of key Council staff and consultant Chris Jenkins of SPM Consultants Ltd, the earlier workshops focussed on improving members’ understanding of the principles behind development contributions and the methodology employed. Particular attention was paid to the factors influencing the Council’s capital works programme, the determination of the “growth” portion of capital works and the allocation of costs which leads to the DCP charges. The party also received independent advice from consultant economists (LECG) on the robustness of the methodology and on the economic impacts of determining DC charges. The latter workshops were devoted to finalising this report.
24. Throughout the workshops members were encouraged to raise issues and submit written questions on any matter related to the DC Policy. Questions were circulated to all members, together with the response from Council officers/consultants, for further discussion at the workshop sessions. Later workshops identified and worked through the key issues as seen by members. From these a range of options and suggested solutions or changes to the policy evolved.
25. The working party also issued three newsletters publicising the working party’s purpose and progress. In addition working party members were encouraged to liaise with their own contacts as a way of widening the circle of views considered and of informing a wider community of the issues and options under consideration. Numerous Council officers went to considerable lengths to assist the Working Party, which gratefully acknowledges this support.

### **Basis of development contributions**

26. The legal basis for collecting development contributions is set out in Appendix 1. In brief, a TA may (but is not obliged to) levy development contributions in respect of reserves, network infrastructure (roads and other transport, water, wastewater and stormwater) and community infrastructure (land or assets for public amenities) required as a consequence of a subdivision or other property development.

27. Before it can collect such contributions the TA must set out its policy in respect of development contributions in its LTCCP. This policy must set out the capital expenditure identified in the LTCCP that the TA expects to incur to meet the increased demand for community facilities resulting from growth. Although the Local Government Act uses the word “growth”, it does not define that term. It does however require the Council to identify the share of capital expenditure attributable to each unit of demand for an activity or facility by which the impact of growth has been assessed. In other words, it seems clear that there needs to be a direct connection between the impact of a development and the development contribution the developer is asked to pay<sup>3</sup>.
28. The working party examined each of these elements in turn, looking at the composition of the Council’s capital works programme and the methodology by which DCs have been calculated. The party also considered the application of DCs to the funding of reserves, and the remission of DCs as a means of achieving other policy objectives, such as the development of the central city. We also looked at certain transitional issues arising from the phasing in of the higher level of DCs the Council resolved to levy in its 2006-16 DC policy. This report now addresses each of these matters.

### Capital Expenditure

29. The process which ends in developers paying development contributions begins with the Council’s Capital Works Programme. In effect, this programme is the city’s development to which developers are required to contribute. Appendix 4 of the Council’s Development Contributions Policy sets out a schedule of the **intended** capital expenditure which relates to the growth the City anticipates over the next decade. The projects listed in the schedule have all been included in the 2006-16 LTCCP and are planned for implementation between 2006 and 2016. All, of course, involve either reserves, or network or community infrastructure. As we will see shortly (paras [40] to [46]), not all this expenditure is recoverable by way of development charge.
30. In addition to the new projects the Council intends to carry out to meet future needs, section 199 of the LGA allows a Council to collect DCs to recover the “growth component” of relevant projects that have **already** been funded to support the future community. (The Working Party examines the appropriateness of using DCs to recover this expenditure in paras [83] to [84]). Appendix 3 of the Council’s DC Policy lists these past projects that still have residual capacity in respect of which DCs are being collected.
31. As at July 2006, the Council’s capital programme base totalled \$262m, compared to \$47m in 2004. The increase is largely attributable to the higher proportion now sought to be funded from DCs, but is also partly explained by the inclusion for the first time of transport projects and leisure facilities (\$71m of the \$262m)<sup>4</sup>. There have also been changes in the composition of the programme as new projects, such as the sewer outfall, have been added.
32. Although the development community is vitally interested in the make up of (and progress of) the Council’s capital works programme, the Working Party did not review the Programme project by project. That would have been a considerable exercise. Instead we focussed on the processes which need to occur leading up to the setting of DCs. We noted that LECG, the economic consultants who reviewed the economic impact of the DC Policy, have recommended (amongst other changes) that the Council “*obtain independent review of the level of costs allocated to growth for major projects in the future as a standard procedure, and take other steps to ensure that cost allocations for different projects are robust and consistent.*”<sup>5</sup> **The Working Party endorses this recommendation and suggests its expansion to include a random sample of smaller projects.**

<sup>3</sup> The Working Party was aware of, but was unable to consider, the pending High Court decision concerning North Shore’s DCs, which may address this point.

<sup>4</sup> Report on Submissions on Volume 2 – Draft Development Contributions Policy (May 2006), p 65

<sup>5</sup> “Economic impact of Christchurch City Council 2006-2016 development contributions policy”, LECG, page 2

33. We recognise that the Capital Works Programme is updated each year as part of the Council's annual planning process. But an annual opportunity to make individual or even combined submissions in response to the Council's plans is both a limited and, inevitably, a constrained process. It provides only a limited opportunity to interact with the Council.
34. The Working Party's first recommendation is therefore that the Council consider providing greater opportunity for the development community to engage with the Council on the content, timing and progress of the Council's Capital Works Programme. Although all projects in the programme must necessarily have been part of the Council's LTCCP, not all will have the same certainty of proceeding. Some, for example, may be subject to obtaining external finance. Joint discussion would allow developers to better understand the rationale behind the programme. With their knowledge and experience of the city's needs, developers may be able to identify alternative means for the city to meet the impact of its future growth at lesser cost or with other advantages.
35. More importantly, the development community is likely to have greater knowledge of the precise ways in which the city is likely to develop – and the timing of particular developments. Such intelligence may well affect the timing of particular capital projects, potentially affecting the total cost of the programme and therefore the amount to be collected in DCs.
36. Accordingly, **the Working Party recommends that the Council facilitate a regular series of meetings (we suggest three or four times a year) with the development community to allow for joint developer/Council review of the content, timing and progress of the Council's Capital Works Programme.**
37. It may be that if the development community itself were organised around, for example, a well-resourced Property Council, that the Council might choose to recognise such a body as representative of the development community. In that case regular meetings between the City Council and the Property Council might meet the Working party's recommendation. In the absence of such a well-functioning body, however, we leave it to the Council and the development community to determine the best means of achieving greater dialogue. We stress however that such a dialogue needs to begin as early as possible and not await the outcome of our other recommendations.
38. We also observe that the gathering of intelligence as to developers' intentions should be part of the Council's responsibility towards developers and the wider community. Both the Capital Works Programme and the LTCCP need to be well-informed. In the Working Party's view **it should be part of the responsibility of appropriate Council officers to liaise regularly with developers.** Alternatively "area development officers" with such a function could be appointed. **We so recommend.**
39. We also note that Development Contributions are not payable where (and to the extent that) a developer agrees to provide facilities that would otherwise be the subject of development contributions. Such undertakings are currently encapsulated in Private Developer Agreements. The Working Party observed that at present the role and content of such agreements is not well understood, yet PDAs can provide an important means of advancing both Council policies and developers' objectives. Accordingly **we recommend that the availability of private developer agreements be more clearly acknowledged, and that clear guidelines be put in place as to when and how PDAs can be used.**

## **DC Methodology**

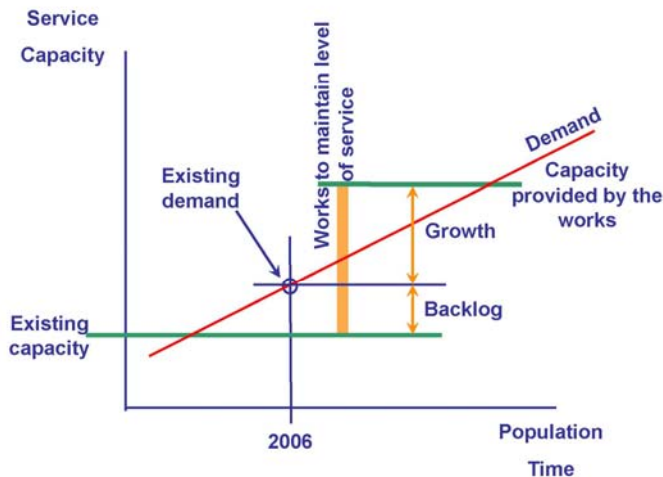
40. As the Working Party understands the current DC methodology, the anticipated costs of each project in the Council's capital works programme are divided between:
  - any third party funding that may be obtained,
  - the cost of renewal (where the project in whole or in part replaces existing infrastructure),

- backlog (where part or all of the project is needed to meet existing community demand at the current agreed levels of service),
- growth, i.e. the increment of cost required to meet the demand caused by new developments beyond that existing at the current agreed levels of service<sup>6</sup>.

Only this latter category may contribute to the aggregate sum collected as development contributions.

41: The following diagram illustrates the inter-relationship of these categories:

## Level of Service



42: An important point emerged from the Working Party’s examination of these cost categories: not all growth in demand for additional services/infrastructure stems from the actions of developers. Examples of “non-developer driven” growth include:

- the increased number of journeys travelled on city roads as the price of cars or petrol changes or social practices change;
- the growing impact of activities such as tourism and “export” education, which attract visitors to the city, not all of whom will be staying in new facilities;
- growth in demand from people living outside Christchurch but using the city’s existing services
- growth in existing household units via additions to existing dwellings/buildings.

Importantly, none of these examples meets the definition above of “backlog”, since they are not examples of expenditure to enable the **existing community** to meet the **current** agreed level of service. But nor are they examples of demand caused by new developments, i.e. new building or subdivision. In effect there is a missing category of cost driver whose costs need to be identified and allocated.

43. As an example of how the methodology currently works, consider the bus exchange expansion project. Appendix 4 of the DC Policy gives the total expected project cost as \$55m. \$29.1m is anticipated to be funded from third party subsidies, leaving \$25.8m to be funded by the local community. Of this, \$2.5m has been attributed to “backlog” and \$23.3m to “growth” (and hence chargeable through DCs). The proportions charged respectively to backlog and growth have been calculated by examining the level of service afforded by the existing bus exchange and that desired in 2016 (the end of the current LTCCP).

<sup>6</sup> In Section 3.3 and in Appendices 3 and 4 of the DC Policy there is also an “unallocated” category. It is unclear what this covers.  
Council Agenda 8 February 2007

44. The capacity of the existing bus exchange has been estimated to be reached at a system-wide patronage of some 13.8m passengers per year. This compares with the 2006 patronage of approximately 16m passengers, and an estimated patronage at 2016 of 36.5m passengers. In other words, from a level of service perspective, the existing bus exchange is already operating “over capacity”. Assuming that the expanded bus exchange will provide for at least 36.5m boardings, there is a current backlog of some 9.8% (calculated from  $(16 - 13.8)/(36.5 - 13.8)$ ), that should be funded by the existing community. The remainder of the need for additional capacity is seen as driven by the need to meet future growth in demand<sup>7</sup>.
45. Other examples were considered where the Working Party queried the appropriateness of developers paying more towards leisure and transport facilities, e.g. pools, libraries, and roads, than the proportion by which the city is growing. It is precisely such a question which we see the joint developer/Council meetings being able to pursue.
46. Currently (as the Working Party understands it) all costs that are not backlog, renewal or to be met from third party funding are allocated to “growth”, i.e. growth attributable to the actions of developers. But plainly all the increase in demand for new capital works cannot always be attributed to projected new property developments. In a project of this size, the impact of any misallocation of costs may not be trivial. Accordingly, apart from the independent review of cost allocations recommended by LECG, **the Working Party recommends that the Council itself ensure that only the costs attributable to new developments are recovered by way of development contributions. All growth factors not causally connected to new developments should be removed from the calculation of DCs.**
47. For several reasons the bus exchange expansion is a good example of the relevance of greater interaction with the development community. As a significant project with a significant impact on the level of DCs, developers are entitled to be confident that its costs have been correctly identified and allocated. Alternatives may also be worth considering. As a large project, with a high passenger throughput, there could be interest in building an expanded bus exchange in association with other, e.g. retail, development(s). It may well be that one or more developers could be interested in advancing such a proposal, at potential cost savings to the Council. Even if this were not to be the case, private developers with experience in large projects may well have insights to offer as to the most efficient means of designing, building and/or financing such a project, as well as its optimal timing.
48. The Council’s capital works programme reflects the investment the Council anticipates will be necessary to meet the agreed level of service, based on projected demand or growth in the city. This growth that the Council anticipates has been calculated using three categories:
- new residential households,
  - additional non-residential floor area, and
  - additional non-residential impervious surfaces.
49. The projection for household growth was made specifically for the City by Statistics NZ. This allowed for expected future fertility, mortality, net migration and changes in household patterns. A medium projection was used as the basis for DC assessments.

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<sup>7</sup> Note that the increased number of passengers (20.5m) can be compared to the expected increase in the population (approx 50,000 in the next 10 years), suggesting that much of the increase in passengers is likely to come from the existing population.

50. Schedule 13 of the LGA requires the Council to identify the share of expected capital expenditure attributable to each unit of demand, using the units of demand for the community facility or for separate activities or groups of activities, by which the impact of growth has been assessed. In the Council's DC Policy analysis, this unit of demand has been described as the Household Unit Equivalent. The separate categories of expected growth have been related to each other on the basis that a typical household is occupied by 2.7 people and has 450m<sup>2</sup> of impervious surface. The HUE equivalent for businesses is calculated by applying conversion equivalences based on average zone demand per activity. For example, 600m<sup>2</sup> of a business premise is estimated to consume the same water demand as a household.<sup>8</sup>
51. For the purposes of charging DCs the city has also been divided into separate areas of demand. Individual capital works projects are allocated to either local or city-wide areas of demand, depending on the nature of each project and the community it is required to serve. The whole city is treated as a single catchment in relation to water supply and conservation, wastewater treatment and transport. But separate, local catchments have been drawn up for reserves, wastewater collection, surface water management and leisure facilities.
52. From this analysis it is plain that many details of the charging methodology have a direct bearing on the development contributions assessed in respect of each development. Appendix 5 of the DC Policy sets out a series of conversion factors, whereby business and other forms of development are converted into HUEs based on the gross floor area of the proposed development. The basis for these figures is not always obvious, yet, once again, they may have a significant impact on the ultimate charges. At very least, **the Working Party recommends that the Policy include an explanation of these figures** – it being our view that the process of calculating DCs needs at all times to be transparent.
53. The system of converting the different categories of service demand into the common “currency” of HUEs is designed to ensure that different developments are treated fairly. Despite this, the Working Party noted at least one instance where the present system may work inequitably. This may occur because one HUE (or at least one household) is not always the same as another. A one bedroom unit may have an average occupancy of 1.2 people, whereas a four bedroom house may have an average of 3.6 occupants and generate a greater demand for facilities and infrastructure. The charges per HUE levied in each service catchment reflect the average demand across all HUEs (i.e. 2.7 people per HUE). In some circumstances – and the central city may be a good example - that may unfairly penalise small units. Accordingly, **the Working Party recommends that consideration be given to smaller units paying a lower development contribution on a sliding scale based on their floor area.**
54. **We also recommend that the Council revisit the definition of “undeveloped” and “developed” in relation to the treatment of vacant lots.** There are issues of both equity and interpretation in relation to vacant lots. Though vacant, they nevertheless generate rates. They have therefore contributed to Council's capital works. They should therefore not be assessed as though they have not yet made any contribution to the Council. In addition, the current DCP does not spell out when a vacant lot would be assessed as “developed”, which could result in a significantly different assessment than if a lot was deemed “undeveloped” before it was further developed.
55. And (since DCs are only levied on the **net** additional demand added to the city by any development), **we recommend that there be a clear process for determining the credits that are available in advance of any demolition.** Indeed the Working Party considers that it would be helpful if the Council were able to calculate the potential impact of such credits on request, in advance of the potential purchase of any built property.

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<sup>8</sup> Report on Submissions on Volume 2 – Draft Development Contributions Policy, p20  
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## Reserves

56. Section 203(1) of the LGA provides that DCs for reserves “*must not exceed the greater of – (a) 7.5% of the value of the additional allotments created by a subdivision, and (b) the value equivalent of 20 square metres of land for each additional household unit created by the development.*” This is a long-standing provision which predates the LGA 2002. Unlike some others, this Council’s policy has long been to collect “reserve contributions” at the maximum.
57. Indeed, as the Council’s 2004 DC Policy explained: “*contributions towards reserves within Christchurch City have been able to be required at a rate of at least 7.5% of the land being subdivided (cash or land) since the 1800s. In many circumstances, more has been able to be required (10% or 130m<sup>2</sup>). The Council has generally required the maximum allowable contribution to be provided for reserves in Christchurch City.*”
58. Nevertheless, the question needs to be asked, whether this policy (of always collecting DCs for reserves at the maximum allowable) is consistent with the Council’s stated aim in respect of DCs, to shift a more fair share of the cost (of growth) to developers **without discouraging development** (our emphasis). In the course of its work, the Working Party encountered a number of instances where the maximum reserve contribution, in particular when this was applied as the value equivalent of 20m<sup>2</sup> for each additional unit, effectively meant that a development was uneconomic and did not therefore proceed.
59. For example, the Working Party heard of a 12 storey, 126 additional residential unit development recently undertaken in the central city. The development occurred under the previous DC policy, and made a total contribution to reserves, water and wastewater services of \$407,000. As the policy currently stands, from 1 July 2007, the same development would be liable for a total charge of \$4,759,000. Of this latter sum, \$3.2m relates to reserve contribution assessed (at the higher of the two methods for assessing reserve contributions) on the basis of the value of 20m<sup>2</sup> of land per additional allotment. The remaining \$1.5m charge relates to network and community infrastructure (at \$10,574 per lot). The Working Party understands that faced with this additional impost such a development would now be most unlikely to proceed. Plainly it is neither equitable nor efficient for a Council policy to have the effect of discouraging development altogether, with the result that no DC at all is collected.
60. The Working Party is aware (from material supplied to the Council in response to submissions on the LTCCP) that 187 reserve projects are to be undertaken in the LTCCP period. These works cost around \$2.7m per year at present, rising to \$3.8m in 2016. They include both city wide works and ward areas where growth is occurring (parks landscaping, recreation facilities and children’s playgrounds). In addition between \$2.2 and \$2.9m per year is budgeted for the purchase of land for new parks. The value of land acquired from new greenfield subdivisions (for an average of eight new parks per year) is \$8m per year. Development work to grass and landscape new reserves makes up another \$600,000 per year. And the purchase of two new sports parks has been budgeted for 2009 and 2011, adding \$6m each year to the budget.
61. In all, the total reserve development expenditure planned over the next ten years is \$161m. The Council is collecting \$137m by way of the maximum reserve contribution, leaving a shortfall to be funded from other sources of \$24m. In other words, it might be argued that the Council is not “over-recovering” **in aggregate** by collecting the maximum reserve contribution allowed by the LGA. But to the extent, for example, that the reserves budget is spent on regional reserves, which also benefit those outside Christchurch, it is not reasonable that this cost be attributed solely to Christchurch developments and levied by way of DCs.

62. More importantly, by collecting the maximum in DCs for reserves from each and every development the Council is arguably departing from the core principles of sub-part 5 of part 8 of the LGA. This is because in automatically charging at the maximum rate it is no longer looking at the impact of each particular development, i.e. at the expenditure which is attributable to that particular development, or at least attributable to developments of that character in that particular catchment area.
63. As matters stand, the policy of collecting the maximum contribution for reserves from all developments sits awkwardly alongside the rest of the Council's DC Policy. The core of this policy is the causal link between new development and the resulting council expenditure. If this nexus is important for one part of the policy then it should surely apply to it all. Accordingly, **the Working Party recommends that the two policy areas be brought into alignment. Specifically we recommend the adoption of a similar "cost-based" approach to the calculation of DCs for reserves as for network and community infrastructure.** Using this approach, the total projected capital expenditure on reserves attributable to new development would be divided by projected HUE growth to derive a city-wide (or local, as the case may require) average contribution per HUE for reserves, in the same manner as for network and community infrastructure.
64. We note that such an approach would necessarily still be subject to the statutory maximum set out in s203 of the LGA, i.e. the 7.5% or 20 m<sup>2</sup> ceiling. That is, the Council would not be able to collect **more than** s203 allows if a "cost-based" calculation exceeded the statutory maximum. But where the "cost-based" or HUE-related calculation proved less than the current maximum, this would help ensure that some developments, such as some proposed in the inner city, would no longer be discouraged, as at present.

#### **The use of remissions or incentives with Development Contributions**

65. The DC Policy adopted in 2004 contained a number of features not present in the policy in 2006. In particular, the 2004 Policy listed a number of circumstances when the Council would give credit for or grant remission of development contributions:
- Development of reserves
  - Existing allotments and buildings
  - Surface water management
  - Esplanade reserves or strips
  - Retention of historic buildings, objects or places, vegetation/trees, natural/ecological or habitat values
  - The provision of art works in public places
  - The provision of social/affordable housing
  - The provision of elderly persons' housing
  - Central City housing

In contrast, the 2006 DC Policy says: *"This policy does not provide for any remissions or reductions to be applied for or granted, other than .. transitional remissions .."*<sup>9</sup>

66. In effect the Council was using the previous incentives or remissions from development levies as a means of encouraging certain policies that the Council favoured, such as the provision of affordable housing and the retention of historic buildings. The question which arises is: are incentives or remissions the most appropriate means of advancing such policies? For several reasons, the Working Party is of the view that the answer is "No".

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<sup>9</sup> Part A, para 6.6.3, page 28, Development Contributions Policy  
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67. In the first place, the greater the number and range of such remissions, the more complex the administration of DCs becomes and the less transparent to both participants and those outside the system.
68. More importantly, some at least of the previous incentives are unlikely to operate to the advantage of the developers they seek to encourage. This is likely to be the case where, as with the incentives to retain historic buildings or trees, it is obvious to a well-informed land-owner that any developer seeking to purchase their property for development will be entitled to receive such a credit. In that case the availability of the incentive is likely simply to push up the price at which the property changes hands. In other words the incentive will be capitalised into the land value (as with many agricultural and other incentives over the years).
69. If the Council wishes to advance particular social or other policies then it is important that it does so transparently and effectively. It may well seek to involve private developers in such activities. The erection of affordable housing is an obvious example. There is nothing to stop the Council from entering into such arrangements directly, either as separate transactions or as an adjunct to a proposed development. In that case however any financial arrangement between the Council and a developer should be regarded as a separate transaction and not part of the DC policy.
70. The Working Party is not suggesting that the kinds of policies the Council has previously sought to promote by way of DC remission are unimportant. On the contrary, all members of the Working Party understand and accept the importance of such objectives as the protection of heritage buildings and the development of the inner city. In the Working Party's view the Council **should** advance such objectives. In some instances changes to planning rules may be an alternative to the previous remissions. Other objectives may require some form of direct financial incentive. In that case however such assistance should, in our view, be transparent and not intertwined with the system of DCs.
71. It appears that the Council has already reached the same conclusions as the Working Party. Nevertheless, in case it is of assistance to the Council, the Working Party records its **recommendation that the Council avoids including in its DC Policy any system of incentives or remissions for social purposes or to give effect to other Council policies. Rather these should continue to be addressed by separate means.**

### **Impact on the Central City**

72. The Working Party was aware that the Council has a special concern for the impact of its policies on the central city. Indeed, part of the proposed Urban Development Strategy commits the Council to a further intensification of inner city development. There are sound reasons to support this objective.
73. Accordingly, the Working Party considered whether particular measures were needed to modify the impact of DCs in respect of the central city. We have already discussed (in paras [65] to [71]) the question of whether some explicit remission of DCs should be granted in respect of central city developments. For the reasons set out, especially the risk that such incentives would simply drive up the price of central city land, we do not favour this approach. Instead we would note that several of our recommendations are likely to be particularly advantageous to central city developments.
74. In particular the revised method of calculating reserve contributions is likely to remove a potentially severe penalty in the existing policy, when reserve contributions are applied to high value land, such as in the central city. Moreover, if reserve contributions are in future related to the actual needs (or planned works) in particular catchments, as for other forms of DC, then the central city may also receive some degree of relief – given that it is relatively well provided for in terms of reserves.

75. The change we have recommended to the calculation of DCs in respect of smaller than average units would also help many inner city developments. So too may the transitional provision in respect of undeveloped non-residential lots subdivided before 1 July 2004.

### **Transitional issues**

76. Several “transitional” issues arise as a consequence of this new policy. The question of whether there should be a further period of transition before the new level of charges is brought in, or whether they should be “phased in” in some way, is considered in paras [104] to [105]. First we turn to the set of questions concerning which properties the new policy applies to. In particular, how does the new policy apply to property acquired for development prior to the policy coming into force?
77. Both the 2004 and 2006 DC Policies gave credit for HUEs that developments merely replaced (on the footing that DCs should apply only to the extent that development creates **additional** demand for the city’s services/facilities). But what about the development of vacant or undeveloped land?
78. The present policy sets up a sliding scale for entitlement to what are termed “historic credits” (to distinguish them from the “actual credits” that arise when a developer makes payment of DCs at an earlier stage of a development, e.g. subdivision as compared to the later uplift of a building consent).
79. For any undeveloped lot created prior to 1 July 2004, credit to the value of 10% of a HUE applies for every year between the creation of the lot and 1 July 2004, up to a maximum of one HUE. In effect, the policy rewards or encourages those who have held on to undeveloped land for at least 10 years. The longer the lot has been undeveloped, the greater the credit. While the sliding scale this approach creates arguably recognises the rates that older vacant sites have paid, this system could easily be simplified.
80. Moreover, the current approach frequently catches people unawares. A private landowner, who has purchased an already subdivided lot with the intention of building on it, may well be surprised to discover a development contribution is payable on the uplift of a building consent. This would occur, for example, if the lot’s “historic credit” entitlement was less than one HUE.
81. In the Working Party’s view it would be both simpler and more equitable if the policy simply said: **“All undeveloped residential lots will receive a credit of one HUE for all services/activities and reserves.”** Similarly, looking forward, we recommend that all **new** undeveloped residential lots created on subdivision be assessed at 1 HUE per lot.
82. That leaves the question of how to treat undeveloped non-residential lots that were sub-divided prior to 1 July 2004. One answer would be similarly to allocate them a “DC credit” of one HUE per lot. In many instances however, a credit of just one HUE would be irrelevant or meaningless to a non-residential development. Nor would it recognise what the developer would have been entitled to do, as of right, before the 2004 DC policy was introduced. Accordingly, **the Working Party recommends that undeveloped non-residential lots subdivided before 1 July 2004 be entitled to a credit up to the value of any development they would have been entitled to pursue at that time, i.e. any development which would have complied with the relevant land-use zoning requirements.** These changes will help to clarify an area which up until now has not been straightforward to interpret. They may also be of particular assistance in relation to inner city developments.

83. One other “transitional” issue is the question of whether DCs should apply to “past” projects, i.e. capital works/amenities that have already been provided, but at a level of capacity sufficient to allow for the needs of a growing population. Section 199(2) of the LG Act specifically allows a council to levy DCs for this purpose. What is legally permitted may nevertheless not be reasonable. The question is should the Council be using DCs to fund projects which were approved and (at least in some instances) funded prior to the 2004-14 DCP becoming operative. We think not and **recommend** accordingly.
84. Once a system of DCs is operating they will at some point apply to past projects, in the sense that future developers will be asked to pay for works/activities which have been built/created at an earlier date but with capacity to meet future needs. If DCs were not applied in this way this would mean that different developments (in the same catchment area) could pay markedly different DCs depending on the timing of particular projects. This would be both administratively complex and inequitable (because similar developments would not be paying the same share of the development costs they were creating).
85. Accepting that at some point it is reasonable to collect DCs in respect of capital expenditure already incurred but with remaining capacity to accommodate growth, the question is: when should this begin? If the City accepts our recommendation in para [83] above then it will apply DCs only on in respect of projects built/provided from now on. This will in and of itself create a significant period of adjustment or phase-in to any higher level of DCs that the Council may in future adopt (bearing in mind our other recommendations).

#### **The approach of other Councils**

86. The Working Party spent some time examining how the City’s approach to DCs compares to that of other councils. Up until now the City has been under no formal obligation to consider the policies of other councils. That situation has changed with the recently proposed Urban Development Strategy. This strategy contains a commitment “to align development contributions and other development charges.” Even if that were not the case, in the Working Party’s view, several considerations suggest that such a comparison is not only relevant but essential.
87. In the first place, much development is mobile. That is, developers have a choice as to where they invest and build, just as residents generally have a choice as to where they purchase and settle. Differences in the cost of development have an impact on where development occurs. And clearly DCs form part of the cost of development. What is less clear is how significant this extra cost is. At what point would DCs make the difference between development occurring here or somewhere else?
88. Although it is impossible to answer this question definitively, the Working Party nevertheless examined the DC policies of several councils. Council staff provided information on the approach taken in Wellington and North Shore Cities and in Waimakariri and Selwyn District Councils. As one might expect, comparing like with like is not straight-forward. A simplified summary suggests:
- for commercial development, Christchurch City’s proposed charges (i.e. those proposed for 1/7/06, before the current discount) are comparable to those in Wellington City, and that both Christchurch and Wellington charge significantly less than North Shore, where charges vary considerably depending on the development’s land-use zoning;
  - for residential development, North Shore’s charges are broadly comparable to the City’s (i.e. some are lower and some higher). Wellington’s, on the other hand, are uniformly lower than the City’s for residential developments.

89. At its final meeting the Working Party briefly considered the position of Selwyn District. Unfortunately, though important, this comparison still proved elusive. On one analysis it appeared that charges in Leeston and Rolleston might typically be less than those in Christchurch, whilst those in parts of Prebbleton and especially in Tai Tapu would typically be higher than experienced in the City. Attached to this report as Appendix 2 is another comparison supplied by one developer on the basis of actual charges levied in relation to recent actual developments in and around Christchurch. These suggest that the City's levies are on average 40% higher than those in Selwyn and more than double those in Waimakariri. This difference reflects the difference in the capital projects and facilities for which funding is being sought as well as a difference in the proportion of these costs sought to be charged to developers, as well as in the basis of the charges.
90. To sum up, it is hard to draw clear conclusions from these comparisons. Moreover, it may be inappropriate to compare various councils' development charges without also comparing the relative burden of their rates. Taking rates into account in any comparison of development charges might better indicate both the overall pattern of costs faced by potential property purchasers as well as the potential for councils to shift costs in future from DCs to rates, or vice versa.
91. Any discussion of the relative attractiveness of development in one location around Christchurch rather than another also needs to bear in mind that Christchurch City, Selwyn and Waimakariri Districts and Environment Canterbury have all agreed to work together to shape the way that the wider metropolitan area develops. Amongst other objectives the Strategy seeks to influence the extent to which new development in and around Christchurch occurs by way of intensification as compared to new greenfields development.
92. In respect of development contributions the draft Urban Development Strategy released in November for public consultation has this to say. Under "Key Actions and Approaches" it proposes: *"to align development contributions (our emphasis) and other development charges using, wherever practicable, consistent growth assumptions and formulas."*<sup>10</sup> Clearly such an objective cannot be achieved unless the City, along with the neighbouring TLAs, takes into account in setting its development contributions, the level and structure of the DCs that its neighbours propose to charge and the differences in the nature and composition of their capital works programmes. At this point, as the Working Party understands it, the City has not done that. It is however a commitment that **the Working Party wholeheartedly endorses.**
93. We appreciate that this commitment will not be easy to meet. Certainly alignment is unlikely to be achieved overnight. There are significant differences in the services and facilities that are included in different charges, as well as in their basis of calculation. Nevertheless, because these differences affect the actions of developers and the choices of their clients, this exercise needs to be undertaken. And it needs to begin before the 2007 DCP is considered. Accordingly, the Working Party **recommends that the Council conducts further analysis of how its proposed development contributions would compare to those in other districts, especially those closest to the city, i.e. Selwyn and Waimakariri Districts.**

### The broad options

94. Before considering the basic choices facing the Council, it is worth recalling the scale of the issue that needs to be determined. In its current financial budget the Council expects to collect \$17.1m in development contributions (including the value of reserves provided in lieu of DCs). Next year, when the current "discount" disappears and the Council reverts to the higher charges it originally resolved to impose in 2006, the Council currently anticipates collecting \$28m in development charges. By 2010/11 this figure is expected to rise to \$30.5m. Plainly this is a significant increase.<sup>11</sup>

<sup>10</sup> The Urban Development Strategy and Action Plan for Greater Christchurch, November 2006, page 30

<sup>11</sup> Note: These figures differ from those given at the Council seminar on 5/12/06 (2006/7: \$9.09m; 2007/08: \$20.5m; 2010/11: \$30.8m), which were cash figures only and did not include the value of reserves vested in lieu of DCs.

95. In adopting the policy of collecting all the “costs of growth” by way of development contributions, the Council indicated that it had two broad objectives:
- *“to obtain from those responsible for development that places additional demands on the Council’s provision of infrastructure, reserves and community facilities a fair and reasonable contribution towards the expansion of those services; and*
  - *to ensure that the level of such contribution does not generally act to discourage development, recognising that the contribution will be influenced by the complexity of site works and that this may act to discourage development of a particular area (our emphasis).”*<sup>12</sup>
96. The Working Party suggests that there are several problems with these objectives. In the first place, the familiar yardstick of “fair and reasonable” is difficult to apply in practice. Ultimately it relies on a subjective judgement by the Council. One might ask, fair and reasonable compared to what? The alternatives, if DCs are not collected in this way? The cost already borne by others, such as ratepayers? Or the charges levied elsewhere? The Working Party agrees that the Council should behave in a manner that is “fair and reasonable” , but the question still remains: what does this mean?.
97. The second major difficulty relates to the Council’s second objective. The Working Party suspects that at the time the Council resolved to increase its DCs, the Council lacked good information as to the impact of higher DCs on development. As part of this review the Council commissioned a study by expert economic consultants, LECG. In summary, its report concluded: *“..that the Methodology in its current state meets economic efficiency criteria and is well-designed. ... The challenge will be to implement the Methodology correctly and consistently over time, by making defensible decisions about the rationale and purpose of new infrastructure projects, clearly showing that the costs being funded are indeed costs of development.”*<sup>13</sup>
98. In addition to this assessment the LECG made a number of suggested enhancements that could be made to the Policy over time to improve efficiency. For the sake of brevity these are not repeated here, but the Working Party would urge the Council to give these suggested changes careful consideration.
99. In the meantime, the Working Party would suggest that while the Council might well be able to regard its decision to increase DCs as not inconsistent with economic principles, that is not the same as being able to conclude that higher DCs won’t discourage development. At some point (and bearing in mind what others charge) increased DCs plainly will have that effect.
100. The Working Party also appreciates that if capital works aren’t financed from DCs then they will need to be paid for from rates or other sources of council revenue (either now or in the future). The only other alternative is to drop the projects from the Council’s programme – with the consequent impact on levels of service as the city grows. The Working Party appreciates that any discussion of a city’s rates or rating capacity almost immediately leads to controversy. Nevertheless, and without wishing to be in any way “political”, the Working Party feels compelled to note its assessment of the comparative position: namely that Christchurch’s City’s rates are in many instances less than those of other centres.
101. One final observation: the Working Party’s terms of reference describe the Council’s approach as one of *“assigning costs to beneficiaries”*. But the owners of new developments are not the only beneficiaries of a city’s growth or of the facilities acquired or erected to meet its growth. Even if residents in existing buildings pay for “their share” of new roads and reserves, they still benefit from a larger and more vibrant city and from the fact that it has a wider range of facilities as a consequence of having grown. Moreover, as we have illustrated, not all “growth” flows from new development. Hopefully the changes we have recommended to the cost allocation methodology will ensure in future that “natural” growth is separated from that induced by developers.

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<sup>12</sup> 2006, DC Policy, page 6

<sup>13</sup> “Economic impact of Christchurch City Council 2006-16 development contributions policy”, LECG, page 1.

102. Bearing all these points in mind the Working Party has reached this overall position. It has recommended a number of significant changes to the Council's policy. In particular it has recommended a new process of engagement with developers allowing for greater scrutiny of and input into the Council's capital works programme. In addition, the Working Party has recommended a number of changes to the DC Policy which should result in significant reductions in DCs in at least some instances. In particular, the introduction of a "cost-based approach" to the calculation of contributions for reserves, the simplified basis of calculating historic credits, and an allowance for small units should all be significant.
103. What the Working Party does not know is the gross value of these recommended changes. We asked the question, but the pressure of time (and doubtless the time of year) meant that we have had to finalise this report without knowing the financial significance of our recommendations. We assume however that the Council will seek this information before approving any such changes. Accordingly the Council will be able to assess whether the package of improvements we have outlined will significantly alleviate the "shock" of its proposed increase to 100% recovery of the impact of new development: the kernel of its 2006 proposed policy. If the changes we have recommended achieve this effect, well and good. If not, then the disparity with other councils is likely to remain, as will the question of whether the council can be confident that its higher level of charge will not discourage development. In that event the Council will need to consider making further changes.
104. In essence the Council must choose between the following broad options in relation to the revised capital works programme:
1. Maintaining the proposed increase in charges to capture 100% of the impact of new development in DCs as from 1/7/07;
  2. Increasing the charges, but by an amount that recovers less than 100%;
  3. Abandoning the proposed increases.
105. In addition, the Council has a choice as to timing. It could make either of the above changes abruptly or gradually. Obviously the greater the change proposed, the stronger the argument for considering allowing a longer period of adjustment (bearing in mind the adjustment that will already flow from our recommendation that already-funded projects be excluded).
106. In making the fundamental choice as to the basic level at which the charges should ultimately be set, the Council should, in the Working Party's opinion, take two prime factors into consideration. The first is the likely impact of its policy on the city's development. The second is how its approach compares to that of other councils. These factors are related. What other councils are doing compared to what the city does will in turn influence the pace and nature of development here. As it weighs these factors the Working Party expects the Council to be influenced by the value of the other changes we have recommended, and the ongoing advice of the development community, which we have also recommended the Council actively solicits.
107. Accordingly, **the Working Party recommends that the Council re-evaluate the proposed level of development contributions in the light of the Urban Development Strategy, the expected impact of its revised Policy on future development, and the ongoing discussions with the development community we have earlier recommended.**
108. Finally, **the Working Party recommends that** whatever the outcome **the Council actively promotes and publicises its new policy.** This deserves to be better understood than it is at present. The Council should ensure that those who will be affected by it are aware of what is proposed before it is introduced.

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for the Development Contributions Policy Review Working Party

## REPORT C: STAFF RESPONSE TO THE REPORT OF THE DEVELOPMENT CONTRIBUTIONS WORKING PARTY

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### PURPOSE OF REPORT

1. The purpose of this report is to provide a staff response to the findings and recommendations of the Development Contributions Policy Review Working party to assist the Council in making a decision on changes to the policy.

### EXECUTIVE SUMMARY

2. This report has been prepared following an examination of the report of the working party and in particular its 16 recommendations to the Council. Many of its findings and recommendations are considered to be appropriate and together with other changes identified by staff will considerably improve understanding and implementation of the DC Policy. There are a few instances where staff do not agree with the direction taken by the working party and these are canvassed in the report. In addition there are three significant areas; the proposed shift to a cost (HUE) based system for calculating reserve contributions (currently a flat 7.5% of land value), the alignment of methodologies across the UDS partners which staff consider set the right direction but which will need some time to implement with any degree of confidence, and the working party's request that the Council re-evaluate the cost of the policy to developers based on the other changes introduced. The latter is an area where the Council will need to make a policy decision once the improvements to the proposed policy have been tested and their fiscal impact calculated.

### LEGAL CONSIDERATIONS – GENERAL

3. Most of the recommendations of the working party do not raise any legal issues. There are no legal issues that arise from the proposals for more meetings with developers, etc, as this will be informal consultation carried out by the Council. It will be necessary for any formal consultation with developers to be carried out in accordance with the provisions of the Local Government Act 2002 (LGA02).
4. The recommendations that suggest there should be clarification of or expansion of information and definitions in the policy will only serve to improve the legal robustness of the policy, and are supported. Any specific changes suggested to be made to the policy will be reviewed by the Legal Services Unit before the draft policy comes back before the Council.
5. The recommendations which give rise to legal comment are:
  - the attribution of costs (*Recommendation 12.4*);
  - the proposals that the calculation of development contributions (DCs) in relation to reserves be brought into alignment with the calculation of network infrastructure and community infrastructure DCs, (*Recommendation 12.9*);
  - the undeveloped non-residential HUE credit (*Recommendation 12.12*);
  - the past projects (*Recommendation 12.13*); and,
  - the recommendations regarding alignment with other Council's DCs (*Recommendation 12.14*)
6. Legal considerations on these matters are incorporated with the staff response on each recommendation.

## **FINANCIAL CONSIDERATIONS – GENERAL**

7. Where applicable, the financial implications on the Council are indicated for each recommendation. Those, where known at this point, are added to each of the recommendations discussion below under the staff responses. A complete picture of the financial costs will be presented to the Council at the seminar on 23 February 2007, once staff have received direction by Council on the policy changes it wishes to pursue.
8. As a general statement, where the overall Council capital works programme remains unchanged any reduction in DCP income will necessitate a shift in costs and will result in a loading on rates over time. It is likely that any change will increase the amount of loan funding required, with debt servicing charged to ratepayers over time.
9. Several of the recommendations are accepted as a refinement of the method of calculation and whilst may result in a minor change in costs, are desirable to improve the efficiency, equity and clarity of the process.
10. While the detailed financial impact of the changes can only be known once the revised policy directions have been adopted by the Council, staff will endeavour to advise the Council at its meeting on 8 February of the implications of the recommendations presented. In some instances this will be as a range, rather than as a specific figure.
11. The penultimate recommendation of the working party is that the Council re-evaluate any charges once the proposed changes are costed in any event, and this reflects an ongoing issue around the "affordability" of the DC charges, even once the changes are enacted. This can only be done by the Council once the full impost of the revised policy is understood.
12. In addition to this the Council should be aware that the asset managers are reviewing the costs of projects signalled in last years LTCCP, checking the accuracy of previous project applications through the SPM model, and working on the Banks Peninsula section of the DCP to bring this into alignment with the main policy. Each of these elements will also drive some changes in costs, and these will be separately presented to the Council at its seminar in February

## **STAFF RESPONSE AND RECOMMENDATIONS TO COUNCIL**

13. Council staff have been involved in an advisory capacity with the working party as it has proceeded with its review task. The working party, under the very capable chairmanship of David Caygill, has been able to develop a good understanding of both the development community and the Council/wider community needs through what has been a very good interactive process. The outcome of this will be a much improved, and hopefully more generally acceptable Development Contributions Policy, with many of the ideas that have evolved being followed through into recommended changes to the policy document.
  14. It is intended that a revised policy statement and schedule of charges will be recommended to the Council for consideration in February. This will incorporate the changes generated by the review of the policy and other requirements including the revised asset expenditure programme and charge calculation, currently being completed by the Council asset managers.
  15. The working party report (Report B above) includes a number of recommendations relating to both process and content of the DC Policy. All the recommendations are requested to be enacted prior to the adoption of the amended DCP in 2007. In the following section the report highlights each working party recommendation, provides a staff response and makes a recommendation for the Council to adopt.
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**“11. The Working Party endorses the LECG recommendations:**

- **that the Council obtain independent review of the level of costs allocated to growth for major projects in the future as a standard procedure, and take other steps to ensure that cost allocations for different projects are robust and consistent and suggests its expansion to include a random sample of smaller projects” and**
- **the Council’s commitment in the draft Urban Development Strategy to align development contributions with those of the other councils” (Note: this matter is discussed in 12.14 below).**

Staff Response

An external review of the capital expenditure and DC calculation is possible, however the following should be considered:

- The scope of the review should address:
  - a review of the application of the methodology to selected projects to confirm the growth cost portion of the project with specific attention to the methodology’s requirement to identify the level of service and associated capacity/demand measures,
  - the application of the growth assumptions and consistent application of the funding model,
- But it should *not* include
  - the project rationale, timing, cost and delivery decisions. These are decisions of the Council.
- There will be a cost to mount a review, therefore the number of projects selected and frequency of review should be aligned to the three yearly LTCCP updates.
- The capital expenditure programme may not be available (before the LTCCP is developed) in time to support an external review. There is considerable pressure to meet the internal deadlines, let alone those external to the Council.

**Staff Recommendation:**

As part of the LTCCP programme, an audit step of key projects (plus a selection of other projects) be introduced to test the correct application of the methodology and cost allocation process.

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**“12.1 – The Council facilitate a regular series of meetings (we suggest three or four times a year) with the development community to allow for joint developer/Council review of the content, timing and progress of the Council’s Capital Works Programme”**

**“12.2 – It should be part of the responsibility of appropriate Council officers to liaise regularly with developers”**

Staff Response

Regular meetings with development industry representatives provide a good mechanism for maintaining and improving mutual understanding of needs and should probably be at staff level with appropriate reporting to elected members. The question of industry representation will need to be determined by the industry. Developers are key stakeholders and provided they are prepared to share their plans and desires these meetings should result in an improved capital expenditure programme, more aligned to the needs of land development and the demands on the infrastructure that will result.

It should be acknowledged that considerable liaison already occurs with individual developers through, for example, the Area Plan process, and that this should continue and be further advanced. The suggestion is to also establish a forum to discuss the Council’s wider strategic infrastructure programme. A greater shared understanding should result in improved efficiency in both the delivery of infrastructure and the uptake of investment and demand.

**Staff Recommendation:**

The Council accept the working party's recommendations and that staff be requested to implement these as appropriate.

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***“12.3 - The availability of private developer agreements be more clearly acknowledged, and that clear guidelines be put in place as to when and how PDAs can be used”***

Staff Response

The use of PDAs can be to the mutual advantage of the Council and the developer, and is supported. There may be some financial effects in that the Council may acquire vested assets instead of cash.. Any change, through a PDA, to the “standard” contribution may impact on capital and operational costs, both in respect of timing and amount, as part of the asset acquisition probably will not have been budgeted. However, a PDA, and any changes to the contribution, would only be agreed on the basis there are other benefits to the Council.

A PDA should not be perceived as a case by case bargaining tool, and should be seen as an opportunity for achieving certainty. Typical uses of PDAs relate to large scale or "special" developments where the "who does what" relationships are defined. Projects which may be considered suitable for a PDA include such things as developments undertaken at the airport by Christchurch International Airport Limited, or other major infrastructure activities. More clarity can be set down in the policy, but more detailed guidelines are likely to be developed outside of the policy document. Things that will be covered in a PDA are likely to include that HUEs may be settled or based on agreed demands, transactional matters will be agreed, timing of payments agreed, the impacts of the development on the capital works programme are understood and funding arrangements are agreed.

**Staff Recommendation:**

The Council accept the working party's recommendations and that staff be requested to implement this as appropriate.

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***“12.4 The Council ensure that only the costs attributable to new developments are recovered by way of development contributions. All growth factors not causally connected to new developments should be removed from the calculation of DCs”***

Staff Response

The SPM methodology as currently used by the Council was validated by LECG and accepted by the working party. It does already provide a process which identifies the new growth component of developments. Its correct application for the calculation of DCs excludes the increases in demand not caused by new development. Staff have conducted a detailed review of the application of the DC methodology to the capital programme. A number of revisions have been made to improve the robustness of the model's application.

From a legal perspective this recommendation seeks that the Council do something it is already legally required to do under section 199(1) of the LGA. (and which the SPM model does) However, it should be kept in mind that section 199(3) provides that the cumulative effects of a development, taken in combination with another development, can be considered in assessing the effects of a development on the demand for new infrastructure and reserves

**Staff Recommendation:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

***“12.5 - The DC Policy include an explanation of the factors and calculations used to convert business and other forms of development in to HUEs)”***

Staff Response

This should improve clarity and understanding and is supported. It is proposed that this additional information will be provided in the DCP itself and also through amendments to the supporting information currently made available at Council offices and on the internet.

**Staff Recommendation:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

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***12.6 Consideration be given to smaller units paying a lower development contribution on a sliding scale based on their floor area***

Staff Response

The rationale behind this recommendation recognises that smaller residential units consume/demand less than larger ones and a change along the lines suggested supports the intensification policies relating to the central city and the Urban Development strategy. The assistance of working party members in developing the proposal is acknowledged and will provide the basis for an appropriate change to the policy.

**Staff Recommendation:**

The Council accept the working party's recommendation and that staff be requested to refine the details and report to the 23 February seminar.

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***“12.7 - The Council revisit the definition of “undeveloped” and “developed” in relation to vacant land”***

Staff Response

This recommendation would improve clarity and provide certainty and is supported. This work needs to be completed in conjunction with changes to the DCP around demolished/destroyed buildings and requires a policy decision as to how long credits on previously developed vacant lots will survive.

**Staff Recommendation:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

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***“12.8 - There be a clear process for determining the credits available in advance of demolition”***

This recommendation is supported as it will enable the recording of credits while current demand is measurable reducing confusion and administrative effort when redevelopment occurs. It also provides certainty for land owners as to what credits are available under the DCP.

Transitional issues will remain for non-residential buildings demolished prior to implementation of this process and where there is not sufficient evidence to support an assessment of the previous demand on community facilities.

**Staff Recommendation:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

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***“12.9 - The calculation of DCs in relation to reserves be brought into alignment with the rest of the DC Policy; and specifically that a similar “cost-based” approach to the calculation of DCs for reserves be adopted as for network and community infrastructure”***

Staff Response

This suggestion has merit on several counts but is not without its challenges. There is a body of work to be completed to achieve this approach and to identify the possible cost recovery options but generally staff support this recommendation:

**HUE based advantages**

- Simplicity of calculation
- Is consistent with the calculation of infrastructure DCs
- Can be regionally determined achieving alignment between the capital spent in an area with the charges in that area
- Can be broken into component charges - that is a separate HUE charge for regional, local, metropolitan classifications.
- The nexus between DC and planned works would be more transparent
- More aligned with the UDS, gives ability to adjust charges in specific areas to achieve other policy objectives.
- The 20m<sup>2</sup> charge, currently applied in the Central City on apartment blocks, is inconsistent with the approach. Its removal would overcome an administratively complex and expensive charge that penalises high density residential development.

**HUE Based disadvantages**

- Establishing the non-residential equivalence factors for reserves will be complex, and is likely to result in a reduced contribution by business development to reserves (particularly local reserves)
- Loss of income as the charge to any development can only be the minimum of either the HUE charge of the 7.5%/20m<sup>2</sup> charge. High value developments may end up with a reduced charge. (this situation is anticipated only in a minority of developments)
- The present percentage based charge achieved a cost nexus between the parks land purchase and the value of land in the area served by the park. NB. it is possible to retain a percentage charge system even under a HUE based calculation to overcome this specific concern.
- Break with tradition and general understanding of the community
- Break from approach adopted by most Councils in NZ – though to be fair most Councils have adopted some modification of the % charge, most have some form of cap or reduction from the maximum. Some include a HUE based component.

From a legal perspective, the working party recommendation regarding the calculation of reserves DCs is supported. Further discussion of the legal issues around this are in the public excluded section of this report.

There is concern that the move to a HUE based system may significantly reduce income from development for reserve purposes. A more fundamental issue however is getting a transparent alignment between Council's anticipated reserves programme and its relationship to city growth, which is the working party's overriding concern. Once this is established ensuring a fair recovery mechanism that reflects the true cost of acquiring reserve land in different parts of the city will be required to ensure that Council retains an effective and fair reserves development programme.

The capital expenditure programme focused on growth will need to be more specific than in the past, in line with the calculation of assets. In any event the Council may need to adopt this approach for DC's. The work required to implement the charge has commenced but will take some time to complete. If the Council adopts this approach it is intended to have this available for consideration at the time it adopts the final 2007 DCP policy.

**Staff Recommendation:**

The Council accept the working party's recommendation of a move to cost based approach, and that details be further developed, including fee recovery options, to ensure that income from reserve contributions meets the needs of growth.

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***"12.10 - The Council avoids including in its DC Policy any system of incentives or remissions for social purposes or to give effect to other Council policies. These should continue to be addressed by separate means"***

Staff Response

These have been removed from the current policy, but the question of alternative incentives is still to be resolved. It should be noted that clearly stated and consistently applied reductions may be an appropriate technique in some instances, as may also a system of "transactions" in the case of negotiation for reserves, and that these are not considered to be "remissions".

**Staff Recommendation:**

The Council accept the working party's recommendation.

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***"12.11 All undeveloped residential lots receive a credit of one HUE for all services/activities and reserves"***

Staff Response

This suggestion is supported as it provides certainty and simplifies the DCP. As a result the administrative burden on council systems and staff and developers time is reduced. This change effectively removes the confusing "roll-back" provision where undeveloped residential lots created after 1 July 1994 received less than 1 HUE credit based on a sliding scale. As a result there is some lost opportunity to charge as up to 1HUE on those lots transitioning into the DCP 2006/16 methodology but still achieves the original intent of the policy for new lots going forward.

**Staff Recommendation:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

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***"12.12 Undeveloped non-residential lots subdivided before 1 July 2004 be entitled to a credit up to the value of any development they would have been entitled to pursue at that time, i.e. any development that would have complied with the relevant land-use zoning requirements"***

Staff Response

The impact of this recommendation is very far reaching, as it would require the Council to consider the value (in multiple HUEs) of any site, and to produce a credit for this value. This is in contrast to residential sites where the credit is fixed at 1 HUE per site. However unlike residential development the scope, scale and intensity of demand for identical industrial or commercial sites can vary considerably.

There is a concern that the policy, if accepted, would effectively exclude commercial and industrial development from paying DC's as the right to develop individual sites is not constrained by future subdivision because zone allowances are area based rather than lot based.

A zone based HUE credit is therefore not supported by staff, however some form of credit should be acknowledged. Instead it is proposed that all undeveloped non-residential lots receive 1 HUE credit per lot the same as undeveloped residential lots:

- This approach is aligned with further staff suggested change for non-residential subdivision assessments to a 1 HUE per lot charge from a zone based charge.
- Pre DCP 2006/16 contributions were largely the same dollar amount as residential lots so should not receive more than the residential credit of 1 HUE (lots created and assessed under DCP 2006/16 would be transitioned on HUEs actually paid for)
- It provides certainty of credits and charge for undeveloped lots.
- Simplifies entire credit and assessment process for staff and developers
- Eliminates confusing zone-based non-residential 'subdivision portion' and defers full charge to completion of build when full demand is created (more closely aligned to developer's cash flow).
- Addresses lack of pre-amalgamation DC credit history on Banks Peninsula by eliminating the "roll-back" provisions as per residential lots in 12.11

*Legal Implications* - The working party's suggestion confuses resource management concepts with the ability under the LGA to fund, in part, network infrastructure, community infrastructure and reserves (community facilities) from development contributions. Using the maximum zone allowance as the basis for whether or not a future development should pay any development contribution is not consistent with the need to examine the causal connection of the development; its effects on increased demand for community facilities. Different types of development, which would all be permitted in terms of the maximum allowable under the District Plan for that land, could have quite different "demands" in terms of the community facilities. From a legal perspective, this recommendation of the working party is not supported.

**Staff Recommendation:**

That all undeveloped non-residential lots receive 1 HUE credit per lot, i.e. the same as undeveloped residential lots:

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***"12.13 The Council should not use DCs to fund projects which were already funded prior to the 2004-14 DC Policy becoming operative"***

Staff Response

Appendix 3 of the DCP lists a number of past projects, i.e. Capital Development projects initiated prior to the policy becoming operative. The working party is of the opinion that where an earlier project was planned and initiated its funding was, prior to 2004, not anticipated to be sourced from Development Contributions, but from other sources. (There is an exception in the form of Cost Share Schemes which were an early form of direct development charge.) The working party considers that these projects should be excluded from the DCP.

Section 199(2) of the LGA is relevant in relation to this issue. Any reassessment of the current policy's Appendix 3 should be done in light of this section, which provides that a Council can require a development contribution to pay, in full or in part, for capital expenditure already incurred in anticipation of the development. This means that for any past projects the Council continues to collect development contributions for, the Council will need to show that it originally carried out/proposed the project in anticipation of development, and not for some other reason.

If the Council can meet this requirement in relation to the projects in Appendix 3, then it becomes a policy decision as to whether or not the Council considers it should remove some projects. The working party view is that the Council should remove most of the pre-2004 projects, because the Council would, at the time, have expected to fund these projects from sources other than DCs. The former cost shares are an exception to this.

**Staff Recommendation:**

That old cost shares be retained as past projects and other projects be reviewed, with those that are not clearly growth related to be removed.

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***“12.14 - The Council should conduct further analysis of how its proposed DCs would compare to those in other districts, especially those closest to the city, i.e. Selwyn and Waimakariri Districts.”***

Staff Response

This recommendation arises out of concern about the different (often lower) DC charges of the adjoining local authorities.. Further analysis has been undertaken, and this is described in the attached appendix. Although not explicit in the recommendation, the working party in its report sees the need for an alignment of methodology and charges for DCs. There are specific legal and financial implications that the Council needs to consider, and these are outlined below.

*Legal implications* – The primary legal issue in relation to the alignment of the Council’s DC charges with other Councils is whether the LGA requires the Council to consider what other Councils are charging for development contributions. Section 106(2)(c) requires the Council to explain, in terms of the matters required to be considered under section 101(3), why the local authority has determined to use development contributions (as well as any other funding sources) to meet its expected capital expenditure. Section 101(3)(b), in particular, requires the Council to consider “*the overall impact of any allocation of liability for revenue needs on the current and future social, economic, environmental, and cultural well-being of the community*”.

It is arguable that the amount charged by neighbouring Councils may have an effect on the amount or type of development carried out in the Christchurch district. If the Christchurch DC charges are high compared with neighbouring districts then that *may* discourage development in Christchurch which in turn may have an effect on the social and economic well-being of the community. It is possible therefore that some consideration of what other Councils are charging may be relevant in terms of section 101(3)(b). However, what other Councils charge is also just one factor that must be weighed against other considerations that come within section 101(3)(b), and the section 101(3)(a) factors.

Another issue concerns the meaning of “alignment” in the UDS. It should not be thought of as about alignment of the dollar values, but could appropriately be about the alignment of the Councils’ methodologies. The Council’s assessment of growth and its capital expenditure projects inform what the Council’s DC charge will be, in accordance with the methodology and other requirements of the LGA. This is likely to be different than other Councils, who will all have different growth in their districts, and different capital expenditure projects. However if the charges are to be aligned then it seems the Council would need to make some adjustments to its figures after the calculations have been made in accordance with the LGA methodology. Any such adjustment would be in the nature of an across the board remission, where the Council’s charge is higher than other Councils, or a loading of the charge, where it is lower. Any loading of charges is likely to be ultra vires, because section 203(2) sets the maximum charge the Council can make. In terms of a possible remission, the working party itself recommends that specific remissions are not appropriate in this policy, although it does recommend broad options to the Council at the end of their report, which includes the options of further transitional periods/phasing in of charges, and/or having the Council choose to recover less than 100%, both of which would also amount to an across the board remission. Legally, the Council can choose not to charge 100% and it can provide for remissions.

The Council should also note that there is a judicial review case which was heard by the High Court last year, relating to the North Shore City Council development contributions policy. A decision is expected shortly on that case, and it may provide direction in relation to the Council’s policy, and that of its neighbours, (although any decision may be appealed). The Legal Services Unit will report to the Council as soon as the decision is issued, on its implications for the Council’s policy.

*Financial Implications* - The CCC charges will come from the CCC capital expenditure programme and the policy assumptions and calculations.

If there was an alignment of the CCC charges with SDC or WDC, then it would be based on an assumption that either:

- our capital expenditure, assumptions and calculations are exactly the same (this is extremely unlikely), or
- The CCC remits or loads our charge to be the same as the other Councils.

As neither is possible or desirable, an alignment of the calculation methods (not the charge itself) may be possible and will be investigated by staff, however as the councils are so different in character and stage of community development, full alignment may not be feasible.

The desirability of achieving greater alignment between adjoining authorities has already been signalled in the proposed Urban Development Strategy. Achieving this will require considerable ongoing discussion and while desirable is not achievable prior to the adoption of the revised policy. It is considered that this process should be supported as part of the longer term implementation of the UDS, including greater alignment between the infrastructure, reserves and other investment by the UDS partners.

**Staff Recommendation:**

That the principle of improving the alignment of DCP methodologies of the City Council and its immediate neighbours be pursued as part of the implementation programme of the UDS.

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***“12.15 The Council re-evaluate the proposed level of development contributions in the light of the Urban Development Strategy, the expected impact of its revised Policy on future development and the ongoing discussions with the development community recommended above.”***

**Staff Response**

This recommendation from the working party summarizes a significant section of its report, but one that is more philosophically driven, in contrast to previous parts of the report which largely addresses specific technical changes to the policy or its mechanics. The recommendation also intuitively raises the issue of whether developers are the only beneficiaries of growth and therefore whether they expected to pay for 100% of the growth costs or whether, irrespective of the technical improvements to the policy, there is as the working party suggests, a wider benefit to the community of development which suggests that they should pay only a portion of the development related cost of growth. (See Para. 101-WP report). The working party has further endeavoured to address this in terms of an affordability argument and has presented within its report a number of broad options around the future policy. These are outlined in paras. 104-105 of its report, and are detailed below.

*“In essence the Council must choose between the following broad options in relation to the revised capital works programme:*

- *Maintaining the proposed increase in charges to capture 100% of the impact of new development in DCs as from 1/7/07;*
- *Increasing the charges, but by an amount that recovers less than 100%;*
- *Abandoning the proposed increases.*
- *In addition, the Council has a choice as to timing. It could make either of the above changes abruptly or gradually.”*

The overriding recommendation of the working party is as outlined at the beginning of this section, and invites Council to re-evaluate the development contribution in the light of:

- : The Urban Development Strategy (UDS)
- : the expected impact of its revised policy on future development
- : ongoing discussions with the development community

It is appropriate to take each of these in turn. The discussion on the previous recommendation (12.14) already addresses the issue of UDS alignment. This is not a step that can be taken lightly or quickly. The process of aligning methodologies will require some time to achieve, though the principle of consistency is supported by staff. Aligning the raw dollar values paid is not supported by staff nor is it a sensible way to treat development costs. The development contribution charges even within the city vary as to cost, based on future works and local catchments, so simplistically aligning the costs to either Selwyn or Waimakariri would undermine that principle within the policy. However, understanding the differences that developers may pay and how this might shape investment choices, is a very important element that Council will need to consider in setting its final charges.



Another key element is captured in the second point. That is, Council and the working party have yet to see the fiscal impact on the development contribution charges of the revisions proposed. As commented in Para. 103 of the working party report, the outcome of this may alter the development community's concern about the "cost to developers". This does of necessity imply a hoped for reduction in charges, which the wider community would need to pick up in some manner, but improved rigour in both the rationale and determination of any charges should at least make the development community more sympathetic to its validity, if not to its quantum.

The third area raised is that of ongoing discussions. Clearly this about developing a mutual awareness of the need for the Council's capital works programme and its ability to support and enable good development to occur in the city in a timely and cost effective manner. Once again a better understanding should lead to a better acceptance of the need to charge and the quantum of that charge.

However, in the light of each of these elements the working party still suggests that the Council needs to re-evaluate the charges, either by way of some reduction in the overall charge, some acceptance of a charge that is less than 100% of development driven growth and/or to accommodate one or more other factors (eg. the charges of neighbouring communities).

The essence of this invitation by the working party rests on its concern about the capacity or willingness to pay, and practically, on the perceived impact of the charges on development activity in the city. The LECG report did consider this aspect; and concluded that the charges proposed by Council would have a dampening effect on development, but that this would be limited in time, before the industry adjusted and recovered its confidence. This does seem to be the evidence of other centres, notably North Shore City.

Unfortunately there is no magic formula to achieve this position, which may be why the working party has asked that Council re-evaluate its charges, rather than recommend a specific change. This is a reasonable step. However, it is one that Council can only make once it sees the likely fiscal impact of the changes to the policy. To guide it in this decision it might be useful for Council to establish some ground rules to help that decision making. It is suggested that these could be as follows:

- That the Council recognises that the development contributions charges established do reflect an accurate appraisal of the cost of servicing new development within the city.
- That new development does cover wider benefits to the whole community of Christchurch, and needs to continue to be supported and encouraged.
- That the Council has a broad level partnership with the development community in achieving growth, but that growth needs to occur in a manner and at a level of service that reflects the broad community expectations established with the Christchurch community through its Long Term Council Community Plan (LTCCP).
- That the relative costs of development with adjoining authorities is of direct relevance to levels of investment and that changes should seek to ensure that market activity is supported in line with the agreed objectives of the UDS.
- That the Council balances the desire to maintain and encourage a level of new investment that is commensurate with the city's needs and expectations. While acknowledging that the distribution of costs to other parts of the community need to recognise that financial impact on the community as a whole.

It is suggested that the Council will ultimately need to consider the impact of the technical changes offered to the development contributions policy through this process and make a policy decision around the final level of charging to be adopted. This could include some form of general discount, a further stepped transition, or no change to its present position. It is suggested that this can only be made in the light of the information that will be presented at the seminar on 23 February 2007.

### **Staff Recommendation**

That the Council adopt the working party recommendation and request that staff prepare a proposal on the final 2007 charges, in the light of the financial change to the proposed DCP policy that arise as a consequence of the recommendations adopted with this report, and present to Council on 23 February 2007, taking into account the ground rules outlined above.

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***“12.16 The Council actively promotes and publicises its new policy”***

Staff Response

This will be done through the SCP consultation and through the DCP newsletter which has been updating some 300 stakeholders since the establishment of the working party

**Staff Recommendation:**

The Council accept the working party's recommendations and that staff be requested to implement this as appropriate.

**OVERALL STAFF RECOMMENDATIONS**

It is recommended :

1. That the Council congratulate and thank the working party for its hard work and excellent report.
2. That the Council adopt the staff recommendations as set out in the above report and as follows:

**11:**

As part of the LTCCP programme, an audit step of key projects (plus a selection of other projects) be introduced to test the correct application of the methodology and cost allocation process.

**12.1-12.2:**

The Council accept the working party's recommendations and that staff be requested to implement this as appropriate.

**12.3:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

**12.4:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

**12.5:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

**12.6:**

The Council accept the working party's recommendation and that staff be requested to refine the details and report to the 23 February seminar.

**12.7:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

**12.8:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

**12.9:**

The Council accept the working party's recommendation of a move to cost based approach, and that details be further developed, including fee recovery options, to ensure that income from reserve contributions meets the needs of growth.

**12.10:**

The Council accept the working party's recommendation.

**12.11:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

**12.12:**

That all undeveloped non-residential lots receive 1 HUE credit per lot the same as undeveloped residential lots.

**12.13:**

That old cost shares be retained as past projects and other projects be reviewed, with those that are not clearly growth related to be removed.

**12.14:**

That the principle of improving the alignment of DCP methodologies of the City Council and its immediate neighbours be pursued as part of the implementation programme of the UDS.

**12.15:**

That the Council adopt the working party recommendation and request that staff prepare a proposal on the final 2007 charges, in the light of the financial change to the Proposed DCP policy that arise as a consequence of the recommendation adopted with this report, and present to Council on 23 February 2007, taking into account the ground rules outlined above.

**12.16:**

The Council accept the working party's recommendation and that staff be requested to implement this as appropriate.

## REPORT D: FULL INTEGRATION OF BANKS PENINSULA INTO DCP AND CHANGES PROPOSED TO PRESENTATION, FORMAT AND CONTENT OF DCP

<b>General Manager responsible:</b>	General Manager Strategy & Planning, DDI 941 8177
<b>Officer responsible:</b>	Programme Manager – Liveable City
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### PURPOSE OF REPORT

1. The purpose of this report is to set out the background for the changes needed to fully integrate the Banks Peninsula-specific provisions in Part B of the DCP into a DCP applicable to both Christchurch City and Banks Peninsula and to preview the proposed alterations to the DCP's presentation, format and content.

### EXECUTIVE SUMMARY

2. The adopted 2006-16 DCP was prepared as a transitional document, pending the full integration of the Banks Peninsula development contribution provisions into it. Staff have been working in parallel with the working party to do this and, at the same time, making it more user-friendly in its presentation, format and content, while still meeting legal requirements.
3. DC charges should be considered as part of the wider capital expenditure and funding decision. In considering the DC catchments and impact on charges, comparison with the rating policy which has addressed this issue confirms a single community-wide catchment approach in respect of water and wastewater. In respect to the other activities, the significant issues are the lack of a DC charge for surface water management and the future impact of the Akaroa Harbour Basin water supply improvements at \$14.9m proposed capital expenditure (not yet in the DC charges). The report sections on the activities charged for contains discussions on the specific financial impacts.
4. Fully integrating Banks Peninsula in accordance with the Memorandum of Understanding (MOU) between the former Banks Peninsula District and the Christchurch City Councils satisfies the Council's intention to do so signalled last year, the public expectation raised accordingly and also results in a more legally robust DCP for the new City as a whole. The Local Government Commission (LGC) discussion of financial impacts following amalgamation concentrates on the impact on rates (which the decision expects will be lower in Banks Peninsula as a result of the merger with Christchurch), but does not specifically discuss development contributions or any potential impact on development contribution charges as a source of funding. The LGC decision concludes that Christchurch City Council can deal with the need to provide the additional infrastructure needed in Banks Peninsula (among other things), but does not comment on what means the Council would use to fund this. There are no legal issues that arise in relation to the restructuring and reformatting of the DCP.
5. With the nature of the Banks Peninsula water and wastewater schemes being entirely separate from each other and those in Christchurch City, some issues arise, with respect to selection of the growth catchments, which have very significant effects on the DC charges attributable to the growth component of the individual Peninsula communities. In order to inform a decision on how to define the growth catchments, an analysis has been carried out for a number of different catchment scenarios, producing different development contribution charges, for the different communities. Five different catchments scenarios were developed for all of the Water Supply, Wastewater Collection and Wastewater Treatment and Disposal activities, ranging from one universal catchment to a number of catchments based on separate supplies and schemes, including variations in-between. On balance, there seems to be both more positive and less negative outcomes from selecting the simplest option, option (1), in which all growth costs are spread across the entire growth community within the new City boundaries. This option provides the highest level of subsidy for the rural community projects, however the additional cost imposed on the bulk of development across the community from a universal approach is only a 4.3% increase (\$436). The definition of the reserve, surface water management and transport catchments do not raise the same issues and have been relatively straightforward to determine.

## FINANCIAL CONSIDERATIONS

6. The DC's applicable in Banks Peninsula (and elsewhere in the new City) are dependent on the scale and scope of capital expenditure proposed in the LTCCP and any past capital expenditure with residual growth capacity. The capital expenditure programme for the Peninsula is evolving following review of infrastructure needs. Secondly the Peninsula is not considered a significant growth area under the Urban Development Strategy and so the revenue flows from the application of DCs in the Peninsula are not considered significant when compared to the whole City.
7. In respect to water and wastewater, the primary driver for the significant capital expenditure on the Peninsula is to provide necessary services to the existing community, either through replacement of existing service components or extending the service to communities where the current, largely self sufficient services (septic tanks, etc), are inadequate from a public health perspective. Providing capacity for growth is a by-product, not the primary driver. As a consequence there needs to be a review of the charging policy to existing dwellings for the new connections (the Peninsula had connection charges in the order of \$6,700, whereas the former City had only minor lateral fees) and a consideration of the impact of enhanced services for those already connected. Significant connection charges may defeat the primary objective of converting to reticulated services. That discussion will be brought to the Council later in the year. DC charges should be considered as part of this wider capital expenditure and funding decision. The Council needs to consider the equity of:
  - minimal charges to new services for existing dwellings and significant DCs for new subdivisions in the same area; and
  - a (substantially) universal DC for the former City compared with a differentiated catchment areas for the Peninsula, each with their own charge.
8. In considering the DC catchments and impact on charges, comparison with the rate policy which has addressed this issue confirms a single community-wide catchment approach. This was outlined in the LGC review. The reorganisation scheme recommended "*an application of the Christchurch City Council rating system and policies, which take a district wide approach to areas of benefit*" (page 28, Reorganisation Scheme, August 2005). Alignment of charging policies is desirable.
9. The impact of revised charges has yet to be seen in the revenue from DCs as the transition has masked the impacts. The revision of the base charge for City Water and Waste to \$9,656 (at 100% recovery) and then an increase to \$10,092 for a universal charge is not a significant change. The alternatives of separate community-based catchments with charges up to \$54,000 will be challenged by some and may result in slower take up of services, thus defeating the objectives of extending the service. If the Council proceeds with the expanded services, a substantial take up by the community is desirable.
10. In respect to the other activities, the significant issues are the lack of a DC charge for surface water management and the future impact of the Akaroa Harbour Basin water supply improvements at \$14.9m proposed capital expenditure (not yet in the DC charges). The report sections on the activities charged for contains discussions on the specific financial impacts.

## LEGAL CONSIDERATIONS

11. There are no legal issues that arise in relation to the restructuring and reformatting of the DCP. This process will provide greater clarification to the DCP which, although this does not change its legal robustness, if it is more easily understood, it should reduce the risk of legal challenge that could arise out of any uncertainties.
12. The full integration of Banks Peninsula into the DCP, rather than retaining a Christchurch City-specific Part A and Banks Peninsula-specific Part B, is something that was signalled last year. However, no indication was given as to how the full integration would be put in place, in terms of the catchments and levels of development contribution charges, etc. Nevertheless, if that full integration does not take place, there is the potential risk of an argument being made of a legitimate expectation that it would be changed.

13. In addition, retaining the Banks Peninsula development contributions provisions in their current form for any further period of time may not satisfy the legal requirements for development contributions policies in the LGA, in particular the explanations and justifications required by Sections 101(3), 106 and 201. Over the past year, the Council has progressed its adoption of responsibility for the former Banks Peninsula District and in integrating the activities in both the City and Peninsula to become much more a single entity than when the DCP was adopted in 2006. As a result, the Council would find it difficult to justify, under the LGA, that it should keep a separate development contributions process and provisions for Banks Peninsula, when it can make any differentiations between the Christchurch City and Banks Peninsula activities by way of different catchments, as is considered necessary by the Council. Fully integrating Banks Peninsula, rather than keeping a Part B to the DCP, will also mean it benefits from becoming more legally robust, as is advised in respect of the recommended changes to the DCP.
14. Other matters to be considered in relation to the full integration of Banks Peninsula's development contribution provisions are the Local Government (Banks Peninsula District) Reorganisation Order 2005, the LGC findings and decisions in relation to the reorganisation, and the Memorandum of Understanding (MOU), entered into around the time of the reorganisation, between the former Banks Peninsula District and the Christchurch City Councils.
15. The Reorganisation Order contains provisions that require that existing public services provided at Lyttelton, Little River and Akaroa be retained for 5 years, but that the Christchurch City Council is not prevented from providing additional public services. It also provides that the Banks Peninsula LTCCP continues "*until such time as the Christchurch City Council amends its existing Long-Term Council Community Plan to provide for the Banks Peninsula Ward.*" This anticipates the integration of Banks Peninsula within the Christchurch City LTCCP (which includes the DCP). There is nothing that specifically relates to development contributions, or that existing levels for development contribution charges must be maintained.
16. The LGC's decision and findings on the Reorganisation Scheme proposal, and related documents, also contain no specific discussion of development contributions. Although there are statements about the funding of capex in both the LGC decision and the supporting financial and operational issues study, neither refers to development contributions as a source of funding. The financial study states that it assumes in its modelling, in relation to roading infrastructure, that "*either liquid assets, or debt, or depreciation reserve is used to fund the capex, and additional interest costs are funded from rates where new debt is raised*". The LGC discussion of financial impacts on the District concentrates on the impact on rates (which the decision expects will be lower in Banks Peninsula as a result of the merger with Christchurch), and does not discuss any potential impact on development contribution charges. The LGC decision concludes that Christchurch City Council can deal with the need to provide the additional infrastructure needed in Banks Peninsula (among other things), but does not comment on what means the Council would use to fund this.
17. The MOU includes commitments that the "*levels of service...[would be] ring fenced for five years from the date of reorganisation*". This statement appears to be aimed at not reducing levels of service; there is no express restriction on the improvement of levels of service. The potential changes in the level and type of DC charges as a result of the full integration of the DCP does not, of itself, affect existing levels of service. There is no commitment in the MOU that the DC charges will remain the same.
18. The MOU statement that "*in the interests of consistency and efficiency, the City Council's intention is over time to align services with those it provides for city residents*" appears to provide a mandate to the full integration, and potentially, for increasing levels of service to Christchurch City standards. However, the MOU also stated that "*the City Council appreciates that situations will arise where exact mirroring of existing city services may be impractical or inefficient and in such cases it intends to work with Peninsula communities to develop mutually acceptable and practical outcomes.*" This suggests that some Banks Peninsula-specific provisions may be appropriate in the revised DCP (the mirroring of charges, etc, may also be impractical in some cases), but that communication/consultation with Peninsula communities will occur in relation to the revised DCP. This will happen through the SCP process on the revised DCP and Annual Plan.

19. None of these documents require the Council to take any particular approach in determining appropriate catchments, and development contribution levels, for the Banks Peninsula areas. The Council must determine, after taking into consideration the various requirements of the LGA, what is appropriate for the whole of the City, including Banks Peninsula, in relation to its DCP.

#### **STAFF RECOMMENDATIONS**

It is recommended that :

1. The Council receive this information and adopt the proposals for the presentation, format and content changes recommended.
2. The Council agree to the full integration of the former Banks Peninsula development contribution provisions into the revised community-wide DCP as proposed.
3. That the following charging regime apply for the former Banks Peninsula area:
  - Water and waste – a single community-wide charge (Option (1) – Universal – see para 31 and the table below):
  - Transport – extending the common city-wide charge to the Peninsula;
  - Reserves - move to a cost-based approach, using local catchments with charges similar to those being developed in the City area; and
  - Surface water management – a separate Peninsula catchment, ( noting that there is no charge at this point as there is no capital expenditure proposed in the current LTCCP).

## BACKGROUND

### Full integration of Banks Peninsula into DCP

20. The adopted 2006-16 DCP states that it was prepared as a transitional document, "*pending the full integration of Banks Peninsula into the Council's strategic and operational planning within the next 12 months*" and was accordingly structured in two parts: Part A being the development contribution provisions specific to Christchurch City, and Part B, being those specific to Banks Peninsula.
21. Reviews of Part B of the DCP, the MOU between the Christchurch City and former Banks Peninsula District Councils and the former Banks Peninsula Proposed District Plan (BPDP) have been undertaken, none of which contain anything which will prevent the integration of Part B into Part A, to provide one DCP applicable to both Christchurch City and Banks Peninsula, while recognising any necessary policy differences.
22. Staff have also reviewed the capital works programme, existing and future capacity and demand, and the estimated costs of the Banks Peninsula projects therein to identify and allocate the growth component within appropriate catchments, to ensure that development contribution charges there are consistent with the methodology adopted for Christchurch City.

### Growth Catchments - Water Supply and Wastewater Collection, Treatment and Disposal

23. With the nature of the Banks Peninsula water supplies and wastewater schemes independently servicing small, individual communities, some issues arise, with respect to selection of the growth catchments, which have very significant effects on the DC charges attributable to the growth component of the individual Peninsula communities.
24. In developing the Christchurch City-specific Part A of the 2006-16 DCP, a decision was made to select a minimal number of growth catchments for both water and wastewater, resulting in a similar DC charge per Household Unit Equivalent (HUE) across the City.
25. However, the approach to these catchments over the new, wider community, is much less obvious, and a decision is required on the approach to adopt.
26. In order to decide the method of catchment definition for the calculation of their development contributions it is important to consider:
  - Who are the beneficiaries of the works being carried out; and
  - The ability of the beneficiaries to pay for the works.
27. Where there are separate water supplies or wastewater schemes the obvious primary beneficiary of any growth-related works carried out on them is the owner of any new house connected to them. If a flat rate for development contributions is applied across all supplies and schemes (which results from choosing a single, universal catchment) it could be argued that one supply or scheme is unfairly subsidising the development of another.
28. On the other hand, if the growth catchments are chosen to match the small, individual communities on Banks Peninsula, the growth cost per new connection for water supplies and wastewater schemes is very much larger than that for urban Christchurch, owing to the relatively large capital investment required and small number of projected new connections. If development contributions are set on such a basis, it could be seen as unaffordable or as discouraging development in these areas.
29. The decision about where to draw the boundaries is not just a spatial decision. Time is also a very important component. Expenditure on the Banks Peninsula schemes tends to be sporadic and the DCP can only consider works in the 10 year window of the LTCCP. The effect of highly disaggregated charges could have a perverse effect of shifting development away from areas where new infrastructure is provided to localities where no new charges are proposed. Where these localities subsequently require their own supplies or schemes to meet new growth-driven demand there will be no opportunity to recover these from established residents. Combining catchments together minimises these distortions and recognises that all areas will be progressively improved, albeit over a number of LTCCPs.



30. In order to inform a decision on how to define the growth catchments, an analysis has been carried out for a number of different catchment scenarios, producing different development contribution charges, for the different communities.
31. Five different catchments scenarios were developed for all of the Water Supply, Wastewater Collection and Wastewater Treatment and Disposal activities. These are described below:
- (1) Universal
 

One catchment for the activity, i.e. a universal rate for all new development no matter which supply or scheme a connection is made to. This option, as well as options (2) and (3), would even out any DC charges across the former City, for which the wastewater collection activity had been split into two catchments in the 2006-16 LTCCP.
  - (2) Grouped - Common Supplies and Schemes
 

Grouping of supplies and schemes where there are common areas of benefit, such as around Lyttelton and Akaroa Harbours in respect of wastewater disposal, i.e. in-between the universal and separate catchment approaches. This results in four catchments in total – Christchurch City (including Lyttelton water supply), Lyttelton, Akaroa and Little River.
  - (3) Grouped - Former Boundaries
 

Two separate catchments, Christchurch City and Banks Peninsula, based on the former Council boundaries.
  - (4a) Separate Supplies and Schemes – Variation 1
 

A separate catchment for every supply or scheme, including the Avon and Heathcote wastewater collection catchments, as per the 2006-16 DCP, which are based on the Major Sewer Upgrade works boundary. These are restricted by Statistics New Zealand (SNZ) area unit boundaries, which results in some anomalies arising from the growth catchment not exactly matching the hydraulic catchment. Also, the Wainui and Tikao Bay wastewater hydraulic collection catchments are unable to be separated owing to both being in the same SNZ mesh block. There are two different variations of this option for the water supply activity. Variation (4a) has Lyttelton Harbour Basin water supply included as part of the Christchurch City water supply, because it is physically connected to it.
  - (4b) Separate Supplies and Schemes – Variation 2
 

Same as above, except that Variation (4b) has Lyttelton Harbour Basin water supply included as a totally separate water supply.
32. The effects on the development contribution charges for each scenario are summarised below.
- (1) Universal
    - Same rate for all development;
    - All supplies and schemes cross-subsidise each other, as they do in Christchurch City;
    - The citywide approach results in only a 4.3% increase (\$436.00) over the charges otherwise faced by the majority future development;
    - Significant subsidy for development on Banks Peninsula compared to separately grouped catchments for Christchurch City and Banks Peninsula. This could enable growth in Banks Peninsula communities that would be less affordable under some of the other scenarios;
    - Connections to supplies and schemes that do not currently have works for growth planned will attract a DC charge; and
    - Smooths the financial impacts between different localities of individual improvement schemes to be funded over a number of LTCCP cycles.
  - (2) Grouped - Common Supplies and Schemes
    - Smooths the financial impacts between different localities of individual improvement schemes to be funded over a number of LTCCP cycles;
    - Groups of supplies and schemes cross-subsidise each other within broad community groupings;
    - Connections to supplies and schemes that do not currently have works for growth planned will attract a DC charge; and
    - Some extremely high DC charges result for some communities.

- (3) Grouped - Former Boundaries
- Smooths the financial impacts between different localities of individual improvement schemes to be funded over a number of LTCCP cycles;
  - Groups of supplies and schemes cross-subsidise each other;
  - DC charges for Banks Peninsula would be over twice those for Christchurch City; and
  - Connections to supplies and schemes that do not currently have works for growth planned will attract a DC charge.
- (4) Separate Supplies and Schemes
- Growth development required for the supply or scheme is paid for by those connecting to it;
  - Some extremely high DC charges result for some communities, which could discourage development in areas with high capital charges and low growth;
  - Developers may move outside the catchment areas and establish new developments (supplies, schemes and all) to avoid the charges, or preferentially develop in areas with no or low charges now, leaving the Council with the risks; and
  - A risk that the population will settle in the nil DC charge areas now and create a future distortion.
- (4a) Lyttelton Harbour Basin water supply a part of Christchurch City
- Developers in the former Christchurch City boundaries assist water supply developments in the Lyttelton Harbour Basin by \$341 per HUE.
- (4b) Lyttelton Harbour Basin water supply a separate water supply
- Development contribution charge for Water Supply in the Lyttelton Harbour Basin is very high at \$18,075 and may discourage development in this area. The balance of the charge (\$3,023), is the Lyttelton Sewer charge.

**Table: Examples of Total DC Charges under Different Catchment Scenarios for Water and Wastewater**

Area	2004-14 (pre-amalgamation) DC Charges	2006-16 DC Charges (no discount)	(1) Universal	(2) Grouped - Common Supplies & Schemes	(3) Grouped - Former Boundaries	(4a) Separate Supplies & Schemes	(4b) Separate Supplies & Schemes
ChCh City and Heathcote	\$1,647	\$6,559*	\$10,092	\$9,997	\$9,656	\$10,678	\$10,337
ChCh City and Avon	\$1,647	\$5,882*	\$10,092	\$9,997	\$9,656	\$9,630	\$9,290
Lyttelton	\$5,368	\$5,269	\$10,092	\$12,792	\$20,726	\$5,530	\$21,098
Akaroa**	\$16,868	\$16,868	\$10,092	\$6,432	\$20,726	\$412	\$412
Wainui			\$10,092	\$6,208	\$20,726	\$54,027	\$54,027
Little River			\$10,092	\$32,095	\$20,726	\$31,954	\$31,954

\* These charges were under predicted, owing to an incorrect household unit equivalent (HUE) conversion factor in the 2006-16 calculation model. The figure should have been approximately \$10,000. No under charging has resulted from this, as the DC charges were in any case discounted to the 2004-14 level.

\*\* The Akaroa water supply improvements project that is in the capital programme (\$14.9m) is **not** included in the DC model due to current lack of certainty on the project concept, although much of this will be attributable to backlog, not growth.

33. The outcomes shown in the above table assume that no change to current City rating policies will occur as a result of the amalgamation with Banks Peninsula. In particular, that no targeted rates areas or targeted capital charges will be introduced to fund the water and wastewater infrastructural projects planned for Banks Peninsula. That is, such projects will be funded through the rates revenue gathered across the entire new City. This is the 'default' position if no rating policy adjustments are made and is consistent with what happened with Christchurch local body amalgamation in 1989. It is also consistent with one of the key outcomes expected from the amalgamation, that capital projects for Banks Peninsula would become more affordable due to the wider rating base, as discussed under legal considerations above.

34. To illustrate with a specific example, a new wastewater reticulation and treatment system is both planned and necessary for the Wainui community, as the existing harbour discharge consent expires in 2009 and will not be renewed. Furthermore, old failing septic tank systems create potential health issues, particularly under the conditions that can occur with holiday homes. The estimate for these works is \$3.8m. With approximately 160 dwellings to be serviced within Wainui, a targeted rate would need to recover about \$24,000 per dwelling. By contrast the project will only need to recover about \$25 per dwelling if funded across the entire new City. This would only amount to approximately \$3.00 per ratepayer per annum.
35. Targeted rates or capital charges to fund such projects would negate the anticipated benefits of the amalgamation and would simply result in the communities being unable to pay for adequate infrastructure.
36. If a targeted rate approach was taken, there would be a modest reduction in the DC charges identified in the table above. This occurs to avoid double charging of new dwelling owners for a project through both the DC charge and a targeted rate.
37. In summary, the decision about which catchment option to select is not straightforward. On the one hand, considerations of transparency and a user pays ideology could lead towards favouring the options that separate out the catchments. Such a choice would be likely to prohibit growth in many of the Banks Peninsula communities. On the other hand, consideration of affordability, consistency with the anticipated outcomes from amalgamation with Banks Peninsula, consistency with the City rating policy that spreads the cost of capital works across the entire rating base and perhaps a long term view of what Banks Peninsula provides for Christchurch, including enabling growth where it is desired, would lead towards choosing an option that generally evens out the costs. From this perspective, while there is a certain attraction to option (2), because of the logic of grouping each harbour basin, and separate from the City, issues arise with the very high DC charge that remains with the Little River growth community. It seems perhaps unreasonable that they should be required to pay nearly three times the charge that any other growth community has to pay to enjoy similar levels of service. On balance therefore, there seems to be both more positive and less negative outcomes from selecting the simplest option, option (1), in which all growth costs are spread across the entire growth community within the new City boundaries. It must be acknowledged that this option provides the highest level of subsidy for the rural community projects, however the additional cost imposed over the bulk of the city's growth community is \$436 (4.36%). It is therefore recommended that option (1) be selected.

#### **Growth Catchments - Reserves and Surface Water Management**

38. Banks Peninsula DCs for reserves are currently in the 7.5% and 20m<sup>2</sup> scenario, but there is a cap due to the fact they had a small capital programme and considered disposing of some reserves. This cap equates to about a 2% recovery, based on the cost of trying to acquire land in the Black Point subdivision in Diamond Harbour for access to the beach, and to protect the hill top.
39. The intention will be to equate to and include reserves under the same scenario as the proposed Christchurch City's outer urban area catchment (subject to the Council's adoption of Report C within this omnibus report), which includes some of the hill suburbs and lower land-value, flat areas. Currently we have set up two catchment areas for Reserves on Banks Peninsula, being Akaroa and Lyttelton, and follow the Community Board areas as the capital programme Schedule F, that is each Board area is spending funds derived from previous Reserves DC % charges gathered in its area.
40. With surface water management, four catchments have been created for DC charges. These are Lyttelton, Northern Bays, Akaroa and Southern Bays, including Lake Ellesmere and Lake Forsyth. As there is **no** capital programme for new works currently in the budget they do not produce a DC charge.

## Growth Catchment - Transport

41. Staff have reviewed the capital works programme, existing and future capacity and demand, and the estimated costs of the Banks Peninsula projects to identify and allocate the growth component, to ensure that development contribution charges there are consistent with the methodology adopted for Christchurch City. For transport projects the same approach has been adopted as for Christchurch City, whereby only significant capital projects, with an identifiable growth component, have been included in works to be funded (in part) via development contributions.
42. This approach suggests that within the 2007-08 draft LTCCP, only a single major capital project (Inner Harbour Roading Improvements) could be legitimately charged (in part) to developers.
43. This project, with a current estimated cost of \$4.335m across the 10 years of the life of the LTCCP, consists of a variety of improvements around the inner harbour, between Lyttelton, Governors Bay and Diamond Harbour, together with the Governors Bay side of Dyers Pass.
44. The majority of the works targeted in the project are in fact for resolution of existing safety problems, and only \$1.5m of the above capital is currently anticipated to be expended on projects that have a capacity improvement component (e.g. passing bays) - and only a proportion of that can be charged to the growth community. When the estimated growth in the inner harbour is taken into account, the following usage of the inner harbour road is anticipated (note that this does actually vary depending on location, but the figures given are for overall usage):

User Group	Percentage of Total
External (City) Catchment	23%
Existing Harbour Community	69%
Future Growth	8%
<b>Total</b>	<b>100%</b>
Non-Growth	92%
Growth	8%
<b>Total</b>	<b>100%</b>

45. When project components are taken into account, along with anticipated usage, the total capital cost of the growth component to be charged through development contributions amounts to a total of only \$95,000. Whilst consideration was given to further disaggregating this cost by specific catchments (i.e. charging inner harbour growth for their greater use of the improvements), on balance the complexity of such a mechanism was not considered justified given the sum involved, and the (growth) cost has simply been distributed amongst the whole City Transport growth catchment, which consists of growth throughout Christchurch City along with the inner harbour settlements within Banks Peninsula.

## Variation to the Former Banks Peninsula Proposed District Plan

46. Having reviewed the BPDP in anticipation of fully integrating Banks Peninsula into the DCP, the need for a corresponding variation to the BPDP has been identified, to align it with the LGA 2002 and the (Christchurch City) Council's approach to development and financial contributions. This is to be prepared by City Plan staff for notification immediately after the amended 2006-16 DCP is adopted on 30 June 2007. A variation to the City Plan is also possible given recent staff discussions concerning whether the Council should reinstate in it the BPDP's ability to take financial contributions for off-site facilities, works and services arising from development not anticipated by the LTCCP.

## Changes Proposed to Presentation, Format and Content of DCP

47. Submissions received on the proposed 2006-16 DCP indicated some dissatisfaction with its format – a view reiterated to Council staff during informal discussions and, to an extent, shared by them. The review of the adopted 2006-16 DCP to integrate the Banks Peninsula development contributions provisions has provided an opportunity to make it more user-friendly in its presentation, format and content, while still meeting legal requirements.

48. In addition to reviewing other DCPs from around the country to identify best practice examples, staff sought advice from working party members via a brief survey on how the presentation, format and content of the DCP could be improved. Presentation wise, staff were interested in whether the DCP should remain as a separate volume of the LTCCP, in landscape layout and how readable it was, particularly given the limited use of tables and graphics. Format wise, staff were interested in whether the section topics and glossary of terms should be reordered. Content wise, staff were interested in whether the nature of section topics and the extent of background/contextual information and explanations were sufficient.
49. Survey responses were received from 7 of the 14 working party members. Although some of their advice conflicted, they generally agreed that:
- the DCP should remain as a separate volume of the LTCCP;
  - the operational provisions (those which assist developers to calculate and pay their development contributions) should be easily identified and located to the front of the DCP, followed by the substantive provisions (those which explain how the development contribution charges were arrived at), for those who choose to read them; and
  - the substantive provisions required elaboration to facilitate a better understanding by developers of the overall environment within which the DCP exists, how the development contribution charges were arrived at and why they are so different from those in the 2004-14 DCP.
50. The draft amended 2006-16 DCP has accordingly been re-formatted from one to two columns, consistent with Volume 1 of the LTCCP, and its contents re-ordered as illustrated in the following Attachment 1. All of its provisions, now under the headings of Introduction, Operation of policy, Substantiation of policy and Appendices, will be elaborated in accordance with LECG's, the working party's and the Council's recommendations as appropriate.