LOCAL GOVERNMENT ACT 2002
OUR COMMUNITY PLAN –CHRISTCHURCH OTAUTAHI 2006/16
DRAFT LONG TERM COUNCIL COMMUNITY PLAN FOR THE TEN YEAR PERIOD BEGINNING 1 JULY 2006

SUBMISSION BY NGAI TAHU PROPERTY LTD

TO: Christchurch City Council
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CHRISTCHURCH

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Christchurch

A. SUBMISSION BY NGAI TAHU PROPERTY LTD

Pursuant to the Local Government Act 2002, Ngai Tahu Property Ltd ("Ngai Tahu") hereby lodges a submission on the draft Long Term Council Community plan – Our Community Plan 2006-16 ("the LTCCP").

The submission is in 3 parts as follows:

- Background on Ngai Tahu Property Ltd as a company and developer affected by the provisions of the LTCCP
- Concerns that Ngai Tahu has with the provisions of the draft LTCCP
- The relief sought by Ngai Tahu in terms of the final adoption of the LTCCP

B. NGAI TAHU PROPERTY LTD

This section provides a brief overview of Ngai Tahu. This background covers:

- Relationship between Te Runanga of Ngai Tahu and Ngai Tahu Property Ltd
- Details of Ngai Tahu Property Ltd as a company
- Outline of Ngai Tahu's investment and development strategy which has the potential to be affected by the provisions of the draft LTCCP

This background is important as it provides a context in which the Council can assess and understand Ngai Tahu's submission on the provisions contained within the LTCCP.

The information in this section of submission is to ensure that this is a transparent process by which the Council is clear as to who Ngai Tahu Property Limited is and what it is that Ngai Tahu Property limited is requesting in its submissions and the reasons for seeking relief.

About Ngai Tahu

Te Runanga of Ngai Tahu

Ngāi Tahu are the Maori people of the southern islands of New Zealand, Te Waipounamu, holding the mana whenua or tribal authority to over 80 % of the South Island.

Ngai Tahu has been established in the south island for over 300 years. Their occupation was established throughout the island but principally around 18 key areas. Of those 18 key areas, 7 are in Canterbury of which 4 have specific association with Christchurch.

In 1996, by act of parliament, Te Runanga of Ngai Tahu (TRoNT) was formed as the governing body to oversee the Iwi's activities as a whole. It is comprised of elected representatives from each of the 18 Runanga, and is currently administrated from Te Waipounamu House, at 158 Hereford Street, Christchurch.

The executive functions of TRoNT are carried out in two divisions:

- Te Runanga of Ngai Tahu, which manages administration and monitoring over the entire TRoNT structure and manages the delivery of social and cultural programmes to the Iwi's 38,000 members

- Ngai Tahu Holdings Group, which owns the Iwis's commercial operations

Ngai Tahu Property Ltd is one of those commercial operations.

Ngai Tahu Property Ltd

Ngai Tahu Property Ltd was formed in 1994 to manage the commercial property activities of Ngai Tahu including the tribe's Right of First Refusal (RFR) to purchase Crown property assets.

Since its inception, Ngai Tahu Property Limited has grown its asset base from $5.6 million in 1994 to $300 million in 2006 and is now one of the largest property companies in the South Island of New Zealand with significant investment in the City of Christchurch

From a staff of one in 1994, the company has grown to a current team of 21 property professionals and support staff.

The main focus of Ngai Tahu Property Limited is property investment, property development and the management of the Tribe's Right of First Refusal (RFR) to purchase Crown property assets.

The company's investment portfolio is broad and covers big box retail, commercial, industrial, a portfolio of rural ground leases and farming operations. The company's property development portfolio includes Big Box retail, commercial office, industrial warehouse and residential section development. The majority of these investments and developments are undertaken in Christchurch ($140m).

Recent residential and commercial development projects undertaken in Christchurch by Ngai Tahu Property Ltd include:

- the Tower Junction Mega Centre,
- Turners Car Auctions at Lester lane
- commercial and industrial development at 521 Blenheim Road,
- residential subdivisions at Tumara Park in Burwood and at Wigram

Ngai Tahu Property is currently involved in the consenting stage of a number of developments including the following:

- A mixed density residential subdivision on former Hillmorton Hospital land to be known as Linden Grove,
- Further Development at Wigram,
- Development of the Former King Edwards Barracks Site in central Christchurch,
- Further development adjacent to Tower Junction.

Some of these developments are referred to later in this submission as examples of how the draft Development Contribution Policy may impact unfavourably on Ngai Tahu.

The company, like the Christchurch City Council, has a commitment to the sustainable long term growth of Christchurch as, unlike a lot of companies, Ngai Tahu Property is owned by an Iwi that will be here forever.

In terms of it two core functions - property investment and property development - Ngai Tahu's vision is *"to be the outstanding performer in property investment and property development in New Zealand."* To achieve this vision the company operates from a 5 year strategic plan for both the investment and development functions.

It is the property development function - that is mostly likely to be impacted on by the draft LTCCP. The Ngai Tahu Property Strategic Plan has set out in detail the levels of capital investment planned by the company to be put into Christchurch over the next 5 years $230m. The sum is substantial and represents clear evidence of our long term commitment to the City.

These significant investments are all captured as "developments" for the purpose of the LTCCP in that they will involve either or a combination of land use and/or subdivision consents, building consents and service connection approvals.

In this respect, and as will be enlarged upon in the next section, Ngai Tahu is concerned about the increasing costs of development as signalled by the content of the Development Contributions Policy component of the LTCCP particularly the lack of ability for our customers to bear these additional costs and the effect that will have on Ngai Tahu and the City of Christchurch.

Our analysis shows the proposed development contributions to be an average cost of 17% of the cost of a project. On this basis Ngai Tahu will be asked to pay $39.1m in development contributions over the next 5years or around $8m per annum

C. NGAI TAHU PROPERTY LTD CONCERNS WITH THE LTCCP

Overview

Ngai Tahu's submission is concerned principally with the following component of the draft LTCCP:

- Volume 2 Draft Development Contribution Policy (DCP) Parts A and B
  - Part A: Christchurch City Development Contributions Policy
  - Part B: Banks Peninsula Development and Financial Contributions Policy

Volume 2 of the LTCCP provides policy and implementation methods for assessing and taking development contributions. This is largely described in Sections 4 and 5 (pages 18 – 23) of the draft policy and in related Appendices 1 (page 32) and 5 (pages 55 – 57), and it is these sections of the document that are the subject of this particular aspect of the Ngai Tahu submission.

Ngai Tahu is generally supportive of the principles embodied in the DCP but has residual concerns regarding the formulation, content and eventual implementation of the policy. In particular, Ngai Tahu's position is that the draft DCP in its current form fails to establish a transparent, consistent and equitable basis for requiring development contributions in order that the council's policy objectives are achieved.

Basis for Support of DCP

Ngai Tahu accepts in principle the need for a local authority to obtain development contributions linked to increasing growth in the requirement for services bought about by growth that is directly attributable to development activity. In this respect, the principals embodied in the draft DCP that are supported by Ngai Tahu Property are as follows:

- The DCP will appropriately shift the cost for new infrastructure needed as a result of growth from ratepayers to those parties who have caused the need for growth. It is agreed that provided that the content, interpretation, implementation and timing issues outlined in this submission are resolved, this is fairer and logical way of charging for growth bought about directly by development and ensuring development of the city can and will continue.

- Ngai Tahu supports the fact that development contributions can only be charged in respect of projects which have been identified and costed in the LTCCP. And in this respect the LTCCP must be absolutely accurate and transparent and must be based on wide community input into the wide range of projects that will be needed to support a long term (10 year) growth plan.

- Ngai Tahu supports the fact that Development Contributions will not be used to pay for renewing exiting infrastructure or catch up a backlog of infrastructure upgrading and renewal that sadly has not been undertaken or has been neglected by the Council.

Basis for Opposition to the DCP

Notwithstanding the support in principle outlined above, Ngai Tahu believes there is a fundamental flaw in both the LTCCP and the DCP Policy. That flaw revolves around an attempt by the CCC to keep the levels of rates at an artificially suppressed low level and make up the shortfall through Development Contributions. Ngai Tahu acknowledges that this is the prerogative of the CCC but is of the view that the flaw in the approach is that the DCP policy is based primarily on growth and the ability to levy revenue from development growth. If the level of growth does not eventuate – either due to economic conditions or because of the negative effect of the DCP itself - then the revenue shortfall for the CCC to provide for infrastructure will be even greater than anticipated.

The above aside, the particular areas of concern by Ngai Tahu relate to:

- Methodology
- Funding model
- Content
- Interpretation
- Consultation
- Implementation and Timing
- Examples
- Asset Management Plans

Methodology

Ngai Tahu disputes that the methodology used in the DCP will provide a fair, transparent, certain and consistent assessment of charges for the following reasons:

- Detailed information about the methodology for deriving and implementing the DCP does not form part of either volumes 1 or 2 of the LTCCP. This makes it difficult to ascertain the basis for formulating and applying the policy.

- The DCP acknowledges that methods of calculation will need to be further developed and refined so as to reflect NZ wide best practice. Ngai Tahu is concerned with this given that the policy is to be implemented as at 1 July 2006 and because there does not appear to be an ability for developers to be involved in this detailed policy formulation process.

- The methodology for determining DC charges is uncertain given the lack of detail in the following key components of the Policy:

    - Level of service statements – Whilst the Councils Activity Management Plans define the level of service for each activity, these have not been available for inspection. In addition these plans supposedly contain capital project lists to meet projected growth and these have not been open to comment.

    - Growth model and household unit equivalents - There is little information on the model and the growth forecasting techniques used.

- Cost allocation methodology. A summary of the methodology is provided in the DCP but this lacks any detail. In addition, cost allocation worksheets are referred to but not provided.

- Funding model. Whilst the DC charges arising from the model are listed in Appendix 1 of the DCP, it is not clear how the model takes account of matters such as funding requirements to support growth, the equitable allocation of funding requirements, and the issue of interest on both funds and DCs raised and received in advance of the provision of growth infrastructure. A further concern on how the funding model applies to non-residential development is outlined below.

Funding Model

A funding model has been developed to determine the amount of contribution to be paid. Residential developments aside, Ngai Tahu has a particular concern with the model relating to non residential activities such as those which will occur for Ngai Tahu commercial and industrial developments. The DCP assessment is based upon determining the number of House Unit Equivalents (HUE) and multiplying this against a set of standard charges. The charges vary, depending upon location and the network or community service under consideration.

The draft DCP attempts to establish a mechanism for determining the level of contributions to be paid at the time of development. Appendix 5 of the draft policy is critical to this, as it provides the mechanism for determining the assumed number of HUE's associated with any development proposal. It is noted, however, that on pages 21 (Section 4.4) and 57 of the document that the Council has reserved the right to undertake a special assessment where *"the type of development proposed is not adequately covered by the standard categories…."* At this point it is difficult to determine the impact of such a provision, other than to say that it creates uncertainty as to:

- the nature and extent of information required to support a proposal; and

- The extent and amount of contributions that may be required.

In addition, there is little guidance provided in the policy as to the circumstances in which this approach will be adopted and could potentially lead to Ngai Tahu having to provide substantial additional information to the Council at the time of a development proposal. With respect to the last matter the document states (again on page 57) *"the applicant will be required to provide detailed calculations of their developments long-term transport, water supply and wastewater demands (present and future).* Within this context Ngai Tahu opposes the current construction of the policy as it relates to its facilities and seeks greater clarity and certainty as to the determination of contributions required for non-residential (industrial and commercial) related projects.

Content of the DCP

Ngai Tahu has two generic concerns with the content of the DCP. They are:

- The inclusion of community infrastructure, (particularly leisure facilities) charges for the first time. Ngai Tahu questions the appropriateness for some of this community infrastructure to be included in the funding process for city growth. Whilst Ngai

Tahu is supportive of DCs to be used to pay for new infrastructure to support growth such as network infrastructure (water supply, wastewater collection and treatment and disposal, surface water management and transport), it is less convinced about the appropriateness of using DCs to fund leisure facilities. It is Ngai Tahu's view that it is more equitable to fund these services from rates. Ngai Tahu notes that DCP will be used to provide reserves and supports this.

- Ngai Tahu strongly opposes the absence of any provision (other than historical credits) in the Draft DCP for remissions or waivers. This represents a substantial departure from previous CCC Development Contribution policies. In Ngai Tahu's experience the ability for Councils to grant remissions and waivers in the past has fostered creative design and generous open public space provision particularly in residential subdivisions that have enhanced the city living areas. The absence of such discretion in the draft DCP will result in a minimalist approach to subdivision design and public reserves provision and will be contrary to many policies objectives and expressed environmental outcomes expressed in the City Plan.

Interpretation

Ngai Tahu submits that the content of the DCP is very difficult to interpret and that it is complex and cumbersome. In the view of Ngai Tahu, this is not just because the policy is new but rather is a function of the way it has been formulated.

Ngai Tahu is not convinced that the DCP will be implemented in a consistent and effective manner. Ngai Tahu's experience is that there is a void between the policy writers and the implementation staff in respect to the understanding and application of the provisions of the DCP. Ngai Tahu base their comments on various discussions with CCC strategic planning staff and staff at the "coal face" as well as their experience with a recent subdivision consent that is in the pipeline and which may be the first significant subdivision to be assessed under the new DC policy.

Implementation and Timing

Based on the above issues, Ngai Tahu has concerns about the ability of the Council to operate the DCP assessment process within consenting/service connection process timeframes. In this respect Ngai Tahu notes that the CCC acknowledges in the material accompanying the DCP that it is still in the process of developing assessment tools to assess changes and is currently updating systems to track the new charging structure. This is of significant concern to Ngai Tahu given the impending adoption of the policy.

Other implementation issues for Ngai Tahu include:

- Existing applications: Whilst the DCP states that only applications lodged and granted after 1 July 2004 will be subject to development contributions charges this is misleading. The reason for this is that even though developments may have completed the resource consent authorisation stage in relation to a particular development (say a residential subdivision) it appears that additional development contributions will be triggered at the time that building consent is sought for dwellings on the consented subdivision. These "top up" contributions have the potential to be substantial and will have to be borne by the individual allotment buyers as opposed to the developer/subdivider. This is likely to create significant issues for the CCC and developers such as Ngai Tahu in terms of placating aggrieved homeowners.

- All examples used in the supporting DCP material produced by the CCC show a substantial increase in DC costs as a result of the Council's eventual adoption of the draft DCP. This increase in costs is across the board and includes residential subdivisions, Industrial commercial subdivision and development, and central city apartment development. The ability for developers to factor in the increased development charges as part of the purchase price of allotments is severely limited in the short term (the first five years of the policy) given the fact that there has been no ability to factor these unknown costs into properties already purchased for development or which are already in the consent pipeline or have been recently consented and which may attract a further top up as part of the building consent or service connection approval process. In this respect Ngai Tahu believe the Policy is unfair and inequitable and some consideration needs to be given to a progressive implementation of it in order to address this issue.

Consultation

The Local Government act sets out clearly the requirement for special consultation on the establishment of DCP. In this case the consultation has lacked transparency, has been too short, has not involved detailed analysis or explanation of the effect on developers and the development process, has been hindered by slow council response, and has lacked simple access to key information thus falling well short of the consultation requirements of the Act.

For this to occur on a matter of such importance is a major concern for Ngai Tahu as it should be for the Council.

Example of the draft DCP in practice

As alluded to earlier, Ngai Tahu currently have a subdivision and land use application going through the consent process. This is for a 175 lot mixed density development on part of the former Hillmorton Hospital site. The development proposal has been carefully designed so as to retain in excess of 250 trees on the site and almost 25% of the land area has been devoted to open space reserve. This is approximately 15% more reserve space than is currently required under the existing 2004 DC policy.

This example is significant from three perspectives as follows;

- Firstly, with an adoption of a nil remissions and waivers policy, it is highly unlikely that such an attractive and generous greenspace component of the development would have been provided. Certainly with no incentive to do so and with increased DCs the subdivider would look to maximise the yield from the subdivision rather than provide a creative design. This will lead to very poor Auckland Style subdivisions and will lead to the loss to Christchurch of its reputation as a city that provides lifestyle.

- Secondly, not withstanding assurances from the strategic planning unit, Ngai Tahu have still not been provided an accurate assessment of the DC costs that would be applicable to this development. This is due to the assessors having difficulty in applying the policy to the development.

- Thirdly, this is an example of the difficulty that developers will face in the first few years of the DCP implementation. It illustrates that for developments where land has already been purchased and a business plan formulated, there is very little ability for a developer to pass the increased costs resulting from Development Contributions onto the purchaser. Developers will be forced to face the costs themselves which will put some developers into financial peril or move towards high yield minimalist design subdivisions or move out of Christchurch where developments can be successfully and profitably completed. For example average development levies per residential lot development in Christchurch are currently around $2000 per lot. This draft LTCCP proposes to increase this to $14000 per lot. Our Neighbours in fast growing Selwyn and Waimakariri have levies of $6000 per lot. These levies include development contributions. Your proposal is a direct incentive to move residential section growth to these locations driving Christchurch further to being just a service centre for residents of outlying communities who enjoy the facilities and services but do not bear the costs.

Asset Management Plans

Ngai Tahu has concerns that the Asset Management Plans are incomplete and do not provide for the true levels of expenditure required to meet the growth demands of the city and the current lack of central government commitment to fund such essential growth infrastructure as roading.

Summary of Implications for Ngai Tahu

The key implications of the draft DCP for Ngai Tahu as are as follows:

- In the short to medium term there will be additional cost burdens that cannot be absorbed into the development because the land has been purchased already and in some cases marketed and sold. This is a direct and unrecoverable cost for the developer. This will lead to projects stopping or at worst developers going broke leaving a trail of unpaid trades people and contractors.

- In the normal event of planning developments, Ngai Tahu will have difficulty planning a development with certainty because of the inherent uncertainty as to the implementation of the DCP and in some cases inconsistency in its implementation. This will mean Ngai Tahu will be forced to move significant parts its business outside Christchurch.

- Both Ngai Tahu and the CCC are likely to have to deal with aggrieved purchasers of allotments who are charged a top up contribution when building consents are applied for on land that was subdivided/consented on or before 1 July 2004.

- Relativity to other Local authorities. The CCC DCP could become a critical factor for developers such as Ngai Tahu in selecting locations for development outside Christchurch. This flight of capital will severely affect the Christchurch economy.

D. RELIEF SOUGHT BY SUBMITTER

Based on the content of Part B and C of this submission Ngai Tahu seeks the following relief in support of their submission:

In terms of the current DCP document:

- That the CCC do **NOT adopt the DCP** in its current format

- That the CCC commissions an **independent review** of the DCP to include an analysis of the effect of the DCP on Developers businesses and on development growth in Christchurch. This review should have significant input from the property industry and also assess the level of contribution to infrastructure development that rates should provide. This exercise should include a review of the assumptions driving the DCP and the various funding and growth model underpinning it.

In terms of an altered/reviewed DCP,

- That should the CCC agree to review the current daft DCP then there should be **further consultation** with affected stakeholders and the opportunity for further submissions

- That the CCC **re-introduce a policy providing for remissions and waivers**

- That the CCC provides greater clarity and certainty as to the determination of **contribution levels** required for both non-residential (industrial and commercial) and residential related projects.

- That the CCC provide for **progressive implementation** of the DCP provisions over a five year period.

E. HEARING

Ngai Tahu wishes to be heard in support of its submission. The size and complexity of the task of reviewing the draft DCP and preparing and making submissions may be beyond the resources of smaller property developers and individual ratepayers. Bearing this in mind Ngai Tahu asks that the council allows others to join with this Ngai Tahu Submission and become part of a Joint presentation at the hearing

SIGNED for and on behalf of
Ngai Tahu Property Ltd

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AW Sewell
General Manager
Ngai Tahu Property Ltd

Dated: 4 May 2006

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