

Our Community Plan
Christchurch City Council
PO Box 237
Christchurch 8003



**SUBMISSION ON THE 2006-2016 CHRISTCHURCH CITY COUNCIL
LONG TERM COUNCIL COMMUNITY PLAN**

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We do wish to be heard in respect of this submission.

This submission refers to the Full Version of the Draft LTCCP and in particular the Draft Development Contribution provisions.

Signature :  Date : 5/5/06

SUBMISSION

1. The Draft 2006 to 2016 Long Term Council Community Plan (LTCCP), particularly the Draft Development Contributions Policy, has not been prepared in accordance with the provisions of the Local Government Act 2002.
2. The Draft Development Contribution Policy detailed within the Draft LTCCP is illegal and council has no justification to implement the same.
3. We submit that the policy;
 - 3.1. Fails to ensure that the contributions proposed are fair and reasonable; and
 - 3.2. Fails to provide the relevant information in a manner and format that is appropriate relating to the methodology adopted in apportioning the contributions; and
 - 3.3. Fails to ensure that there is a direct link between the actual demand for a service arising from the development and the contribution sought to fund new or upgraded infrastructure; and

- 3.4. Has been prepared without regard to the economic impact of the adoption of this policy; and
- 3.5. Seeks to recover Reserve Contributions from Business Activities in excess of what is reasonably required.
4. We submit that the draft Development Contribution policies are not consistent with the following statements in the draft LTCCP:
- 4.1. That Christchurch is “a *global investment destination*” (Vol 1 page 9)
- 4.2. Strategic Directions : Prosperous Economy (Vol 1 Page 56) “*The council acts as a facilitator/catalyst of economic development*”
- 4.3. “*This Development Contribution Policy (DCP) seeks to establish a transparent, consistent and equitable basis for requiring developer contributions ..*” Vol 2, Page 7
- 4.4. “*To ensure that the level of such contribution does not generally act to discourage development ..*” Vol 2. Page 7
- 4.5... *in terms of this policy ‘Growth’ means the increase in capacity of reserves, network and community infrastructure external to the boundaries of the development site required to service the development”* Vol 2, Page 7
5. We submit that the council has failed in its duty to establish a Special Consultative Process that properly reflects the importance of the issues addressed in the LTCCP, in that;
- 5.1. It has not provided reasonable access to relevant information relating to methodology; and
- 5.2. It has not allowed sufficient time for consideration of the policy, preparation and hearing of submissions and deliberation and amendment of the policy prior to the statutory requirement to adopt a LTCCP.
6. We submit that the council has failed to appreciate the economic impact of introducing a policy that imposes significant costs on development.
7. We submit that the draft Development Contributions Policy is unfair and manifestly unreasonable.
8. As an alternative, in the event that the above are not accepted, we submit that the adoption of the draft policy without providing for transitional provisions that will allow the market to adjust to the cost increases proposed will be manifestly unfair.
9. We reserve the right to make further submissions on any information that the council provides after the closing date of submissions, where such information

should have reasonably been expected to have been available during the notified time for submissions.

10. Relief Sought:

10.1. That the Development Contribution Policy be rejected in totality or alternatively that it be amended to reflect the actual allocation of reasonable and fair costs relating to growth that are directly attributable to a specific development.

10.2. In the alternative;

10.2.1. That should the council move to adopt the LTCCP that it will not, as provided for under Section 96 (2) of the Local Government Act 2002, act on implementing the charges as contained in the Development Contributions Policy until such time as this policy has been subject to a Special Consultative process that fairly reflects the importance of these issues by allowing access to all of the background information and a reasonable period for consultation, submission and hearing deliberations; or

10.2.2. That should the council move to adopt the LTCCP that it will retain the current Development Contributions Policy for the next 12 month period during which the draft Development Contribution Policy is subject to a Special Consultative process that fairly reflects the importance of these issues by allowing access to all of the background information and a reasonable period for consultation, submission and hearing deliberations; or

10.2.3. That the council defers the adoption of the LTCCP until it has prepared a Development Contributions policy that is fair, reasonable, equitable and transparent.

11. Our reasons in support of our submission are as follows;

11.1. Development Contributions are being used to recover deferred Capital Expenditure

11.1.1. A significant component of the Development Contributions are in reality a general tax on development to recover deferred capital expenditure which has arisen due to a long standing council determination to keep the general rates as low as possible. While this council and its predecessors have been at pains to appease the majority with minimal rates increases over the years, they have neglected or willfully failed to inform the general public that the time will come when significant capital expenditure to replace or upgrade the city infrastructure will be required. Upon reading the schedules of capital works it is apparent that that time is now.

11.1.2. We note that council is proposing rates increases of 8.75%, 7.03% and 10.75% over then next three years however these are in effect only adjustments for inflation to recover operating costs.

11.1.3. The LTCCP itself proudly states that "*Christchurch rates were lower than those in all other major urban centres*" (Vol 1 Page 19). By way of confirmation we undertook a comparison of rates across six major urban areas based on an industrial warehouse with a Capital Value of \$1.2M and a land Value of \$400,000. The results are presented below:

CITY	2005/2006 RATES
Wellington	\$16,520
Hamilton	\$14,707
Palmerston North	\$13,367
Dunedin	\$12,660
Manukau	\$11,814
CHRISTCHURCH	\$ 9,188

11.1.4. Christchurch is significantly lower than these other centres, being almost 30% under the next highest. We submit that by not providing for the recovery of deferred capital expenditure under the general rates that the attempt to recover these costs from future development is contrary to the Local Government Act 2002 which requires development contributions to be assessed in a fair and reasonable manner.

11.1.5. The Council anticipates recovering \$184.917M of the Capital Costs of Growth from Development Contributions over the next 10 years, or approximately \$18.5M a year. With a base rate take of \$202.865M in 2006/07 the addition of \$18.5M equates to an increase of 9.13% and still provides for Christchurch rates to remain well below the levels paid in other major cities.

11.2. Lack of relevant and essential background information

11.2.1. Volume 1 & 2 of the LTCCP do not provide sufficient detail in order to assess how the various Schedule of Charges and Non residential HUE conversions have been determined. In fact, analysis of the information contained therein appears to indicate that the assessment criteria are not consistent.

11.2.2. Enquiries to the council for more information to understand the policy resulted in being advised that the methodology was available for viewing only at the Civic offices information counter. We were further advised that this information was subject to copyright and was unable to be given out or copied.

11.2.3. We took the opportunity to view the two reports which are quite complex in their nature and would require a significant amount of time for a lay person to read, reflect and assimilate the information contained

therein. We consider it to be completely unreasonable for the council to not make these documents fully and freely available for public scrutiny especially as they are the cornerstone to the determination of the Development Contributions.

11.2.4. The report prepared by SPM Consultants Ltd requires a high degree of economic theory to be understood and we suggest that a lay person trying to comprehend its contents while sitting in the busy foyer of the council offices would likely be unable to do. This document needs to be addressed by a suitably qualified economist or accountant to determine whether the principles that it promotes are in fact correct, reasonable or fair. The council has denied the public at large the opportunity to fully understand the methodology behind the Development Contribution policy.

11.2.5. These two reports only deal with theory and models. We are unaware of any other reports or documents that contain the actual calculations to indicate how the rates of contribution and HUE conversion ratios have been calculated but these must exist and in order to ensure transparency they must be made available for public scrutiny. ***(NOTE: On 5 May we received by email from the council two memos and a spreadsheet setting out some of the calculations behind the determination of the HUE non residential conversions. We have not had the opportunity to review these prior to lodging this submission. Their contents will be addressed in our verbal submission)***

11.3. The Special Consultative process adopted by council has failed to reflect the importance of the issues

11.3.1. This policy introduces a new charging regime for Development Contributions that seeks to recover costs to a degree not previously undertaken by this council. It is therefore concerning to observe that the council has not promoted a proper and adequate consultation process that is in accordance with the law.

11.3.2. While council has held several public meetings to outline the broad principles of the policy it is only now, during the one month submission period, that the detail of the policy has been made publicly available. The complexity of the policy and the lack of availability of relevant information to enable the policy to be properly understood indicate that this short period is simply not reasonable.

11.3.3. The council has a significant duty of care to ensure that the consultation provisions of the LGA are fully met and that the process they adopt is reasonable as there is no right of appeal if submitters are not satisfied with the outcomes.

11.3.4. Consultation with industry representatives where the detailed methodology and principles behind the policy were able to be assessed

and tested against the market should have occurred as this would have identified a significant number of the issues raised in this submission at a much earlier date enabling a more considered policy to be proposed.

11.3.5. As a submitter, looking at the timeframes the council is allowing itself from the release of the draft LTCCP until the time it must adopt it, we feel as if this policy was intended to be adopted as 'fait a complete'. Any reasonable assessment of the extent of the changes to the manner in which Development Contributions are charged and the implications this has on the Christchurch economy would indicate that this is a matter that requires significant input to ensure that a policy is adopted that is fair, reasonable and transparent.

11.4. A lack of assessment of Economic Effects on the Christchurch Economy

11.4.1. We understand that council has not undertaken any form of economic impact assessment in terms of what would happen to the market and those involved in development should this policy be implemented.

11.4.2. Analysis of the draft policy on recent development undertaken by ourselves indicates that the Development Contributions would equate to approximately 50% of the vacant land value of a light industrial development which adds 15-20% to the overall cost of a development.

11.4.3. This significant increase will not be blindly accepted by the market. The impact of a 20% increase in rental for businesses wishing to expand into new premises is likely to cause them to delay that move which has a flow on effect in relation to them employing more staff and increasing productivity.

11.4.4. Should Development Contributions of the quantum proposed be required the net effect will be to drive down the value of property suitable for development and increase rentals and purchase prices.

11.4.5. We have not had the opportunity to investigate the likely effect to any significant degree due to the limited time to prepare submissions however our expectation is that this would effectively cause a significant reduction in the extent of development in the short to medium term with development not returning to current levels for several years until the market has adjusted.

11.4.6. Furthermore, it appears that the development forecasts used in the model underlying the policy have not been adjusted to cater for this reduction in development tempo.

11.5. A Reserve Contribution of 7.5% of Land Value is excessive for Business Zones

11.5.1. Previous council policy has been to require payment of the equivalent of 7.5% of the land value of additional lots created on subdivision as a Reserves Contribution in Business Zones. This money is then used to fund the purchase and upgrading of reserves in other areas of the city. This is in effect a de facto tax and is contrary to law.

11.5.2. There is not a large requirement for reserves in Business Zones and it is no longer considered appropriate that money taken from one zone should be utilised for reserves in another. Reserve contribution in Business zones should be set at a level to provide for new reserves and upgrade the existing reserves in the area in which the contribution is collected.

11.5.3. The demand for a reserve that can be utilized by employees in a warehouse in Hornby during their lunch break necessitates that the reserve be in Hornby, not on the Port Hills or some other area.

11.6. The lack of Transitional Provisions

11.6.1. The nature of property development is such that there is often a significant amount of time between negotiations commencing and a contract for the completed development being entered into unconditionally. There is also often a reasonable time between this and the necessary consents required to commence the work being obtained. Purchase and/or rental costs are agreed early on in this process and once the agreement is unconditional they cannot be changed

11.6.2. We have a number of developments that are in for consent or about to be lodged for consent where the sale price has been agreed. The feasibility of the developments have been based on the current development contributions policy and we are now legally locked into completing the developments for the agreed prices.

11.6.3. The Development Contributions will equate to some 15% of the Sale price of these developments which cannot be recovered from the purchaser. It cannot be fair or reasonable to impose a tax on development already committed to that could not have reasonably been anticipated.

11.6.4. The draft Development Contributions policy is deficient in not allowing for a transitional period to ensure that parties who acted in good faith based on the information available to them at the time are not unreasonably financially disadvantaged.

11.7. Credits

- 11.7.1. Section 2.4 which sets out the assessment of credits lacks the detail and clarity necessary to provide the public and council staff the necessary guidance as to where and when credits are available.
- 11.7.2. It is also considered that a sliding scale for credits on undeveloped land when contributions have been paid in the past is not fair or reasonable.
- 11.7.3. Credits will “add” value to the property that they are attached to and this will be reflected in the amount that the market is prepared to pay for that property. We question whether the council has identified a mechanism whereby credits will be assessed and recorded against each property file so that an inquiry to the council querying the number of credits will be correctly answered.
- 11.7.4. The principle of not assessing “*..any development contribution in respect of applications to enlarge the GFA of any existing residential unit*” is manifestly unfair when the intention is to require a development contribution for increases to the GFA of a non residential development. It cannot be expected that non residential development is being required to subsidise residential development.

11.8. Errors, ambiguities, lack of definitions

- 11.8.1. The policy is too general in a number of places to be adopted as is and then be expected to be implemented in a consistent manner by council staff. The lack of ability for submitters to amend this policy at a later date makes it essential that the policy be clearly drafted to provide predictability and certainty.
- 11.8.2. Further definitions need to be included (ie: ‘Undeveloped’ as it relates to Credits is just one example) and the policy needs to be written in a more prescriptive manner so that the provisions of the policy, as they are understood by the submitters and the councilors who hear and decide on the submissions, are in fact properly given effect to.

11.9. Capital expenditure not appropriately allocated to growth areas

- 11.9.1. Our understanding is that a contribution towards new or upgraded infrastructure can only be charged if it can be shown that there is a direct linkage between the development and the contribution sought.
- 11.9.2. A number of the contributions that are sought are applied across developments on a city wide basis (ie: Water Supply & Conservation, Waste Water Treatment & Disposal and Transport). This would seem to be a very rough broad brush approach that is not what is anticipated by

the legislation as it requires developers in one area to fund unrelated projects in another area.

11.10. 'Growth' Expenditure is not entirely the result of Growth

- 11.10.1. A number of capital projects included in Appendix 3 & 4 can not be considered to be required purely to accommodate growth. There are other factors that determine what projects need to be undertaken.
- 11.10.2. The requirement for a new Bus Exchange is likely to be more a response to environmental issues such as reducing congestion on roads, an anticipated increase in demand for public transport as fuel prices rise and an intention by the council to reduce vehicle emissions. To then apportion 90% of the cost of this onto growth is unjustifiable.
- 11.10.3. The \$14.8M growth component of the ocean outfall will be required whether growth occurs or not. This is not required because growth is forecast; it is because council has to comply with resource consents that prohibit it from discharging into the estuary.
- 11.10.4. There are likely other cost items where this would also apply and it is important that the rationale behind each of these projects is clearly set out so the community can have the confidence that these charges will be fair and reasonable.
- 11.10.5. Analysis also needs to be undertaken to determine how much capacity beyond the 10 year period is being provided for by these projects. If there is any then this cost component should be deducted and funded by development occurring after the 10 year period.

11.11. Refunds

- 11.11.1. The refund provisions stated in the draft policy are contrary to the provisions contained in the Local Government Act 2002. If a contribution is paid and the activity the contribution was for was provided by council, yet the development does not proceed, the council must refund the contribution and then charge it again on any subsequent development on that site or in that area.
- 11.11.2. It is also necessary to define who the "consent holder" is as referred to in the Local Government Act 2002 as this is the person who is entitled to the refund. Is it the person who originally paid the contribution of the current property owner?

11.12. Timing of payment

- 11.12.1. The draft policy provides for payment "on invoice". It is considered inappropriate to require payment within 12 months of issuing the assessment as larger projects can still be in the construction phase

and consequently not requiring the use of the infrastructure that the contributions are being sought for.

11.12.2. A requirement to make the payment of the contribution, as assessed at the consent stage, prior to being able to obtain the 224(c) certificate, the Certificate of Compliance or the service connection is considered more appropriate and remains in line with the current accepted policy.

11.13. Remissions

11.13.1. A fair and reasonable policy must incorporate provisions for remissions from development contributions along the lines of the current policy.

11.13.2. This will encourage developers to explore ways to achieve other community outcomes and benefits within their developments. Technology and land use methods are in a constant state of change and it is considered short sighted to not allow for innovation and specifically designed solutions to be implemented.

11.14. Surface Water Management

11.14.1. Contributions towards the councils reticulated surface water management system should not be required where stormwater detention, treatment and disposal occur on a development site. This would result in the developer paying twice for this activity.

11.14.2. The council should be encouraging the adoption of practices which will reduce the demand on its infrastructure assets and at the same time provide other benefits to the immediate and wider environment

11.14.3. An appropriate remissions policy as referred to above needs to allow for this provision also.