

SUBMISSION ON DRAFT LONG TERM COUNCIL COMMUNITY PLAN

1. Submission on behalf of FRESHFIELDS LTD

2. LSE do wish to be heard and will submit that:

- 2.1. The new policies are unfair and unbalanced.
- 2.2. That the information on which the policies and assessments are based is not transparent, in some instances not available and in other instances only available with excessive difficulty and constraint.
- 2.3. That the policies as manifested by the assessed contributions will discourage if not halt development.
- 2.4. That the policies are not consistent with other Council policies which seek to encourage development and redevelopment.
- 2.5. The new development contributions are not equitable in their impact or justification.
- 2.6. That the Council process on consultation has not meet or achieved its responsibilities in terms of the special consultation process for an LTCCP (s82).
- 2.7. That the Council has not allowed sufficient time or released sufficient information to ensure a fair, reasonable and equitable outcome.

3. My submission refers to the full version (as best as can be obtained) of the LTCCP.

4. Our specific concern is in regard to development contributions and in particular:

4.1. Consultation

That the process and document does not reflect an open and engaged consultation process. This is all the more important because parties have no rights of challenge if dissatisfied with the outcomes.

The Council is both supplier and banker of services and holds a monopoly position. As such greater care would have been assumed as part of the consultation process.

For this plan the process has been closed, inappropriately brief and not forthcoming with information. Such information has either been subject to confidentiality agreements or refused. Given the lack of time, the constraints of the consultation process and inadequate supply of information do not satisfy the requirements of s83(1) of the Act – the consultation principles.

4.2. Methodology

That the documents which purport to contain the information in respect of this matter are inadequate in terms of justification and calculations and in some instances the calculations that lead to the supposed outcomes are unavailable. As such the matters have not been demonstrated in a manner sufficient to satisfy the statutory requirements and obligations of the Council.

The combination of the provisions as set out in s101 to 105, s201 and Schedule 13 have not been met in a plausible or transparent manner. These sections when taken together show that the components that make up the contributions should be specified and the distribution of costs justified.

The validity of the contributions therefore fails to achieve a causal nexus between the development and the contributions required to fund new or upgraded infrastructure and which needs to be demonstrated clearly in supporting material.

Furthermore, the policies adopted by the Council are inefficient and disregard sound economic theory and practice. The model used is concerned with a perception of “equitable” rather than a proper economic analysis of what is equitable.

4.3. Availability of Information

The information necessary to assess the impact of contributions and how these were established (i.e. the justification) is not readily available. It is marked confidential, difficult to obtain and subject to somewhat onerous confidentiality agreements. These are not the hallmarks of an open, constructive consultation process. As such the Council has failed to provide information in a manner appropriate to allow proper public assessment. Furthermore some of the information on which the analysis is based (Belfast Area Plan) will not be released and is claimed to be an error. If the supporting documents are an error then what documentation supports the analysis.

4.4. Lack of Causal Linkage

There is insufficient identification of the linkage between the activities and the need for or quantum of payment. The Council should be able to identify in its methodology how it has attributed the demand to particular activities as a consequence of developments.

4.5. HUE equivalents for non-residential development

The conversion factor for non-residential uses to dwelling equivalents are vague, inaccurate and apportion costs in an unrealistic manner. It

implies a proportional relationship that does not exist and is not explained.

There are no explanations or definition as to the relationship between contributions for non-residential and residential activities in terms of gross floor area.

That the application of HUE equivalents to any given case can lead in some cases to a 10, 20, 30 times or even greater magnitude of increase in contributions for commercial developments. This cannot be right or justified in terms of assessed impacts or Council's anticipated growth in population.

The draft policy notes (p3) that *it is the objective of the policy to ensure contributions to not generally act to discourage development.*

The draft contributions policy will significantly discourage development across the board and in particular in respect of the business sector.

4.6. Deferred Works

Developers are being asked to pay for deferred works needed to improve existing levels of service or satisfy statutory obligations. For example, cost drivers for upgrading the whole of the Christchurch Wastewater Treatment and Disposal System is a cost to all of Christchurch and should not disproportionately be placed on the development community.

4.7. Growth Beyond the 10 Year Period

Financial contributions levied during the process should be at a level which reflects anticipated capacity and uptake over the period. Development beyond that period should be the responsibility of those

undertaking growth when that growth occurs. At present there is no information (let alone zoning) to allow an assessment of the “longer period” and as such developers will be funding beyond the 10 year period. This appears to reflect an element of double charging.

4.8. Timing of Contribution Assessments

That the timing of assessment of contributions is unclear and unreasonable. The current proposal would appear to suggest that:

- A charge will be made at subdivision but if that payment is insufficient a second opportunity will be taken at building consent stage. There should only be one provision for charging.
- That payment be made at resource consent stage. This is inappropriate and charges should be made when the activity takes effect.
- The policy contemplates reassessment only if any subsequent application for consent or service authorisation changes the nature of the activities. However it is unclear whether this is a full reassessment or only in terms of additional or changed elements. Greater clarity is required.

4.9. Absence of Transitional Provisions

There are no transitional provisions to the policy. It is inequitable and punitive to apply the new policy on the 1st July 2006. A transition period for all levies on a graduated basis should be applied, e.g. 5 years.

The absence of such provision is unreasonable and involves elements of retrospective charging in a manner neither explained by or apparently understood by the Council.

It is understood from Council that in the case of a building consent that includes all relevant information for service connections if not processed by the June 30 2006, then the new policy will be applied. This is punitive, unfair and unreasonable when increased levies of 30-fold or more are being sought.

4.10. Remissions

There should be provision for remissions from development contributions. There should be a continuation of the current policy. Developers will frequently make an effective contribution through undertaking development of services, contributions to the community (health, heritage) or other infrastructure and this should be recognised. The proposed provisions do not reflect a fair approach between developers and the Council to achieve other community benefits.

4.11. Refunding Contributions

The draft contribution policy sets out when a refund of cash or land must be refunded. However the provision also states that Council will only refund a contribution if a project does not proceed or the activity for which the contribution was taken is not provided.

The provision is unclear and should be removed. Money can only be used (S.204(1)) for the infrastructure for which the contribution was required. The whole policy on refunds is ambiguous. The current consent holder for the development may not be the party who made the contribution and to whom the refund is due.

4.12. Extraordinary Assessments

This provision provides for a discretion to enter special arrangements with developers as is appropriate. However the provision also notes that if the Council determines that a specific development will have a

greater impact than provided for in the averaging policy (i.e. in the methodology as best can be ascertained), then the contribution will be at the determination of the Council. In particular the policy refers to additional information in terms of high traffic generation. Already the provisions are requiring some business developments to provide for increases of several hundred-fold in contributions (erroneously attributed to transport). That such an approach is at the discretion of the Council is unreasonable, not transparent and destructive to growth.

4.13. Surface Water Management

This policy provides for no acknowledgment that when developments already provide for detention and treatment on site there is no remission. As such development will be paying for the same matter twice, once on site, and once as a contribution to the Council. Such remissions exist in the current policy and should be retained.

4.14. Leisure Facilities

This policy is ambiguous and unfair with wide variations in the contributions to be levied from area to area. However only two projects are listed both of which serve a wide catchment. These facilities tend to be available city-wide and should be funded by rates.

4.15. Network Infrastructure

Sewer and water - that the lot charges or HUE equivalents in terms of business developments are disproportionate, exorbitant and unrelated to development impacts.

5. OUTCOME REQUESTED

There is no dispute that the Council must adopt a long term community plan. However there is no requirement for the revised development contributions as proposed. Given the inadequate information, limited time, poor consultation

and lack of any causal relationship between the level of contributions and the outcome, the existing and current development contributions policy should be retained for at least 12 months. This would allow for:

- information to be made available on how contributions have been calculated,
- for the relationship between activities and impacts to be properly assessed and costed,
- for constructive consultation with the affected communities, and
- for a policy which is fair and reasonable to be instigated.

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