

Christchurch City Council Draft Long Term Council Community Plan

Submission by: Westpark Estates Limited

Address: Mr B Gillman, P.O. Box 521, Christchurch

1. Remissions

There should be provision for remissions from development contributions.

The current Development Contributions Policy (Our Community Plan 2004/14 Volume 3) authorises the Council to consider remission of reserves contributions in appropriate circumstances, such as: Development of reserves, Surface water management and Esplanade reserves and strips.

We consider this authorisation should remain as it enables the Council to recognise that developers at times, make an effective contribution greater than required under the Development Contributions Policy through undertaking development of reserves. This extra cost to developers needs to be acknowledged through reduction in reserve contributions.

The use of remissions enables the Council to achieve other community outcomes sought under the LTCCP, such as a safer community, environmental protection e.g. water quality, and an attractive and well-designed city. Other benefits resulting from a development can be encouraged by Council's actions in relation to the level of contributions required e.g. a reduction in reserves contributions where land is being used for dual purposes, firstly to treat stormwater prior to it being placed into a waterway or Council system and secondly beyond the 1 in 5 year event for recreation (either passive or active). The 2004/14 LTCCP remissions policy recognised 20% of these areas had a dual purpose and where specific design guidelines were met such as minimum areas, dimensions, road frontages, etc. remissions were granted.

A particular area where remissions are very appropriate is the development of elderly persons housing due to the reduced need for reserve type facilities for older people. The proposed contribution for reserves do not provide any remissions for such developments.

The authors of the LTCCP obviously consider there should be opportunity to have contributions reassessed in light of extraordinary circumstances. As a reassessment is not possible without the formal ability to consider a remission it is critical that remission provisions be included in the 2006-16-development contributions policy, including the remissions provided for in the current DCP.

Requested amendment

- 1 Insert the Remission provisions for reserves in the current Development Contributions Policy in the draft Development Contributions Policy, in particular remissions for elderly persons housing needs, and
- 2 Provide a general discretion to consider remission of contributions for network infrastructure and community infrastructure on a case-by-case basis in order to facilitate achieving community outcomes and other Council policies.

2. Surface Water Management

The draft DCP approach to surface water management is simplistic in relation to commercial and multi-unit residential development.

The calculation for surface water management contribution is a per unit contribution based on the each residential unit. However in the case of multilevel apartments only the footprint is relevant to surface water impacts, not the gross floor area or the number of units. If high-density development is not to be discouraged, especially in the inner city area, there needs to be appropriate recognition of the stormwater impacts of such development.

With regard to commercial development impervious surface area is the basis for determining contribution yet there is no clear statement in the DCP as what constitutes impervious surface. A common definition of impervious surface is that it is hardstand only.

Requested amendments:

That the LTCP and /or draft DCP is amended in the following manner:

That the basis for determining surface water management contributions for multilevel residential units be the footprint of these buildings and not the total number of residential units.

That the definition of impervious surface for the purpose of determining non-residential surface water management contributions be hardstand surfaces only.

3 When development contributions paid

The Development Contributions Policy should state clearly when contributions are to be paid.

Subdivision consent contributions have always been required to be paid prior to receiving section 224 certification. The draft DCP states, "The Council will assess and require payment ... upon granting ... a resource consent (subdivision or land use)..." . This is a significant departure to the current policy and requiring payment cannot be justified without demand on the services. Payment on uplifting the s224 certificate is appropriate.

There is no clear statement in 6.1 to staged subdivision development as to when contributions will be required in relation to each stage. Contributions should not be required to be paid on future stages at the initial consent stage as there is no demand for the services being paid for at this point.

Requested amendment

Require payment of contributions for subdivision when section 224 certificate obtained and in the case of staged subdivisions when section 224s obtained for each stage.

4. Extraordinary Assessments

The Council's powers in 4.4 Extraordinary Circumstances are uncertain and unreasonable, and should be removed.

The Council has reserved a discretion in 4.4 of the Development Contributions Policy reserves to enter into special arrangements with developers with regard to the provision of

infrastructure where a special need is identified. We consider it is appropriate to have a discretion to enter into voluntary agreements by developers. This clause however states that if Council considers that a specific development will have a greater impact than envisaged in the "averaging policy implicit in the methodology" that a special assessment will be called for.

Additional information will be requested (potentially through s92 requests under RMA) and presumably a higher contribution will be required. We consider such an approach to be uncertain and unreasonable because it is not clear when and how this power would be exercised. This power may in fact be ultra vires the LGA 2002. It may also be ultra vires RMA to request information on network utility matters when no resource consent is required for these matters.

Such a power should not be contained in the DCP, or if it is to be retained then there should be an equivalent power to apply for a reduction in contribution where a development has less impact than assumed in the averaging methodology.

Requested amendments:

1. That all but the first sentence of 4.4 Extraordinary Circumstances be removed.
2. That a reduction in development contributions can be applied for where a developer undertakes significant upgrade works to existing council infrastructure, which is not contained within the schedule of Capital Works within the LTCCP.

5 Compliance with LGA

The draft DCP fails to comply with the LGA 2002, which require a nexus between development and the associated growth component of Council projects sufficient to justify the levying of contributions.

The LGA shows a clear intent and directive that the basis of development contributions must be clearly specified, that there must be a clear and strong link between development and the capital expenditure proposed, and in particular the distribution of benefits and effects of development contributions are required to be specified and justified. We consider that the LTCCP and Development Contributions Policy fail to meet these requirements under the LGA 2002 in the following ways:

1. For many of the activities e.g. transport, water and wastewater, the City is effectively treated as a single entity.
2. As the theoretical approach used by the DCP is based on "Areas of Demand" it is quite lax to revert to a universal approach of requiring the same contribution across the City.

We therefore request that the following amendments to the draft Development Contribution Policy

That the works associated with growth for transport, water and sewage be reassessed and allocated to more specific Areas of Demand rather than the single large area for transport, waste and the two areas for water.

6. Inclusion of Projects in Areas of Demand

There is a lack of clear statement about which projects are included in calculating the development contributions for each activity within each area of demand.

The LTCCP and/or the Development Contributions Policy (DCP) should contain clear statements as to what constitutes the capital expenditure projects which make up the components of the development contributions for each activity within each area of demand.

Requested amendments:

Include a clear statement and listing of identifiable capital expenditure which are the basis for each activity (reserve, water supply and conservation, wastewater collection, treatment and disposal, surface water management, transport and leisure facilities) for each Area of Demand such that an applicant/developer can determine:

1. Whether the development contribution has been correctly formulated and calculated
2. Whether a development contribution is payable due to the works being achieved through a resource consent condition, through provision by the developer or through funding by a third party
3. Whether they are entitled to a refund due to the work not being provided by the Council.
4. Whether they are entitled to a refund due to the Council not having applied the money or used the land within 10 years of receipt.
5. Whether the works are sufficiently related to growth associated with the development such that requiring a contribution towards the works is fair and reasonable.

7. Level of Reserve Contributions

The Council should not take reserve contributions at a level of 7.5% of land value unless there is clearly a need for this level of contribution.

There are no explanations nor significant assumptions which justify the automatic levying of the maximum 7.5% contribution, permitted under LGA 2002. Not all Councils choose to apply the contribution at this rate and most have remission policies to enable matters such as reserve development to be taken into account in deciding on the final level of contribution required.

Requested amendment

Reconsider the maximum level of reserve contributions and provide for remissions of these contributions as occurs in the current DCP

8 Economic and social effects of contributions

The draft DCP fails to specify an estimation of the effect of development contribution as required by the LGA 2002. (201(1)(b)).

A very significant effect relates to the substantial increase in contributions required under the draft DCP. This increase will have extensive effects on the amount and type of development that will occur under such a regime. For example, affordable housing undertaken by the City within the Central City area will incur the same contributions as any other household throughout the City which (depending on the value of the land) could be up to \$23,450 per

unit (taken from presentation of CCC officers on LTCCP). These additional costs may result in the housing no longer being feasible.

Many projects whether large or small and whether residential, industrial commercial, education, community or otherwise will find the development contributions to be unaffordable and so development will not proceed. This is a significant effect that should, under section 201(1)(b) of the LGA 2002, be taken into account in determining the level of contributions.

Requested amendment:

That the Council assess the anticipated impact of the level and type of development contributions contained in the draft DCP on individual projects, on the various sectors of the Christchurch economy and on social, and economic well-being. Following this assessment, consideration is given to appropriate changes to the DCP to avoid adverse economic and social impacts. Any proposed amendments should then be re-notified for further consultation and submissions

9 Transport Contributions

The proposed new development contributions for growth related transport projects is not sufficiently explained or justified and should be given serious reconsideration and reassessment before being considered for adoption.

The Transport levy is not well explained in the draft DCP, and nor is the table in Appendix 5 (which specifies the levies for non-residential activities) clear as to how these levies are to be applied. The following are some of the questions raised by this contribution and its expression in the draft DCP:

- What are the significant assumptions in determining which transport projects are related to growth, and how is the growth portion determined?
- How were the land uses in the Transport table in Appendix 5 chosen, what is the significance of the **category** of land use, how does the % journey work in any calculation, and is there a contribution required for land uses that are not listed?
- What is the criteria for determining what is a "particularly traffic intensive activity" for the purposes of determining whether an extraordinary assessment (4.4) can be undertaken? Is it intensive for that area e.g. a commercial zone, is it intensive at a particular time of day, is it the type of traffic that is intensive e.g. heavy traffic?

10 Sunset clause for consents being processed

As a matter of fairness resource consents lodged under the existing contributions regime should not have to pay the new higher levels of contributions.

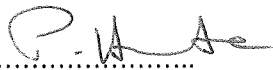
The costing and viability of a subdivision or development will have been determined prior to lodging a resource consent for that subdivision or development. It is considered unfair for developers to then be faced with a level of contributions far greater than planned. This could result in the project becoming unviable, with the developer having incurred the considerable (and now unnecessary) costs associated with planning and designing a development and lodging consents. Rational development of the City cannot occur if fundamental cost components are significantly changed "mid-stream" of the development process.

We therefore request that the following amendment be made

That the new contributions will only apply to resource consents, building consents and service connections, which have been lodged or formally requested after the date, the DCP comes into effect.

We wish to talk to our written submission at the hearings to be held between Thursday 25 May and Wednesday 7 June 2006.

Signature:



On behalf of Westpark Estates Limited

Date: 4 /5 /2006