

Submission on 2006-2016 Christchurch City Council Long Term Council Community Plan

Submission on behalf of: Westfield (New Zealand) Limited

Westfield (New Zealand) Limited wishes to be heard in regards to the above matter and submits that:

1. the proposed new development contribution policy is unfair and unreasonable and is not based on the increased demand on infrastructure caused by development;
2. the proposed development contribution policy is not transparent and the information supporting the policy is not reasonably accessible;
3. the proposed development contribution policy conflicts with its stated intention to "ensure that the level of contribution does not generally act to discourage development". As such the policy is contrary to other Council policies seeking to encourage growth;
4. the consultation process has not fulfilled its requirements in terms of the special consultation process required for an LTCCP (s82);
5. the consultation process has not provided adequate or reasonable time for parties to fully understand the proposed development contribution policy, supporting information and its implications;
6. the proposed development contribution policy will have an adverse impact upon new development, business growth and the community generally which is not recognised by staff and councillors.
7. further consideration and justification needs to be given in support of the projected average rate increases.

This submission relates to the full version of the LTCCP, however the following specific matters are noted:

Policy lacks transparency

In regards to transparency, the document entitled *Methodology for Determining Development Contribution Charges* is fundamental to any assessment of the proposed policy and the prescription of Development Contributions. However, this document is deemed to be confidential, is available for inspection only at Council offices, cannot be provided to third parties without express permission and requires review by an economist. Noting these restrictions, it is considered that the base information and

methodology supporting the policy has not been set out in a transparent manner and therefore does not fulfil the requirements of the Act for 'reasonable access'.

Policy is unfair and unreasonable

For the contribution policy to be both fair and reasonable, a causal connection must be established between a development and the associated contribution to new or upgraded infrastructure.

The policy does not establish a connection between the need for capital expenditure and growth. Further, there is no justification for the identification of each Area of Demand, (despite these areas being key determinants of the development contribution charges) and no link between Areas of Demand and the list of capital expenditure.

There is no explanation or clarification as to the relationship between contributions for non-residential and residential activities. It is submitted that the conversion of non-residential developments into residential house equivalents is not an appropriate means of apportioning the cost of growth. Whilst commercial and industrial development may in some circumstances grow in a manner which is proportionate to resident population growth, a number of other factors have a stronger and more appropriate influence.

Furthermore, housing unit equivalents (HUEs) do not distinguish the varied demand for infrastructure among different non-residential activities. Clearly, some non-residential activities will have quite different demands for network infrastructure than others, despite having equivalent gross floor areas. For example, a labour and water intensive industrial activity would place significantly higher demands on water supply and wastewater treatment infrastructure than an equivalent area of car parking associated with a retail activity— despite the GFA, HUEs and contribution charges being the same.

The policy is also considered to be unfair and unreasonable insofar that it is inefficient and does not accord with relevant economic theory. In particular, the model supporting the policy is based upon a *perception* of equitability rather than a sound economic analysis of equitability. As an example, the policy and supporting model assumes that existing infrastructural capacity is being used in an efficient manner and therefore new capacity is necessary in response to any growth.

In regards to the methodology supporting the policy, this does not clearly specify the components that make up the basis of development contributions, the benefits and effects of these contributions, or justification for these. Accordingly, the policy fails to meet the requirements set out in sections 101 to 105, 201 and Schedule 13 of the LGA 2002.

Given that the development contribution policy is established under the Local Government Act and is not subject to a quasi judicial process, the policy can only be challenged by way of judicial review. For this reason, it is considered to be of even greater importance that the policy is fair, rigorous and transparent.

The policy will discourage development

When the policy is applied it results in potentially massive increases in contributions from those required under existing provisions. In some cases, the contribution exceeds the value of the land.

In terms of commercial and retail development in particular, the contributions required under the proposed policy will increase that which is required under the existing policy by a magnitude of up to 40 times. Other examples have indicated that contributions for retail activity will equate to approximately 20% of the projected development cost.

Noting the above, it is clear that the new policies are excessive; unfair and unreasonable; are not based on the increased demand on infrastructure caused by development; and will act to discourage development.

As a result, it is submitted that the proposed development contribution policy will have a severe adverse impact upon new development, business growth and the community generally.

Inadequate consultation process

The Council has failed to meet its requirements under the LGA to establish a special consultative process that reflects the importance of the issues at hand.

The one month consultation period is considered inadequate for a policy as significant and complex as that proposed. This period has not provided submitters with sufficient opportunity to comprehensively review the policy; confirm and clarify the contribution requirements with Council staff; and, source supporting information which is relevant to the policy and/or necessary to fully understand it.

In addition, the consultation period is considered particularly inadequate for a process which does not provide (de novo) appeal rights for submitters.

Transitional Provisions

It is submitted that the application of the new policy to all applications lodged and granted on or after 1 July 2004, as of 1 July 2006 is unfair and inequitable. The absence of transitional provisions to overcome this situation will unfairly impact upon those developments which may have been planned and budgeted for on the basis of the existing development contributions policy.

Further, the failure to include a transitional provision will in some circumstances unfairly require the reassessment of contributions that have already been paid.

Extraordinary Circumstances

The draft policy provides Council with the discretion to enter into agreements with developers with regard to the provision of infrastructure where a special need is identified. Whilst this will be appropriate in a number of instances, it is noted that the Council is able to call for special assessments and subsequently specify (and potentially increase) the actual contribution. In such instances, the assessment schedule in the

development contribution policy would be disregarded and developers would have no rights of objection or appeal in respect to the resulting assessment by the Council.

Clearly this approach provides no certainty to developers and as such is considered unreasonable. If such an approach is necessary, then a process is required which ensures that Council's discretion is applied consistently and equitably.

Relief Sought

Whilst it is acknowledged that an LTCCP must be adopted for the period commencing 1 July 2006, it is noted that there is no corresponding requirement for the revision of existing development contribution policies. As such, this submission seeks the withdrawal of the proposed development contribution policy from the new LTCCCP and the retention of the existing policy in its place.

The **submitter wishes to be heard** in support of its submission and reserves the right to further submit on any related issue which comes to hand during the hearing of submissions.

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Signed:



(Signature of submitter or person authorised to sign on behalf)

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