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**LONG-TERM COUNCIL COMMUNITY PLAN – SUBMISSION PURSUANT TO
SECTION 84 LOCAL GOVERNMENT ACT 2002**

- 1 We act for Christchurch International Airport Limited.
- 2 We **enclose**, for lodging, our client's submission on the above Plan.

Yours faithfully



Jo Appleyard
Partner

TO: Our Community Plan
Christchurch City Council
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Christchurch 8003

LONG-TERM COUNCIL COMMUNITY PLAN – SUBMISSION PURSUANT TO SECTION 84 LOCAL GOVERNMENT ACT 2002

Christchurch International Airport Limited (*CIAL*) makes the following submission on the draft Long-Term Council Community Plan (*LTCCP*) and in particular the Draft Development Contributions Policy (*the Policy*).

Issue 1: Consultation and submission period

- 1 The Local Government Act 2002 (*LGA 2002*) requires Christchurch City Council (*CCC*) to use a "*special consultative procedure*" in adopting its *LTCCP*. That procedure is outlined in the *LGA 2002*.
- 2 *CIAL*'s position is that:

Submission

- 2.1 Section 83(2) of the *LGA 2002* provides for a minimum period for making submissions of one month. *CIAL* believes that given the significance of many of the matters included in the *Policy* and the lack of information included in the *Policy* that the period for lodging submissions is too short.

Consultation

- 2.2 The situation of *CIAL* is unique and unlike that of other commercial developers as it provides essential infrastructure. *CIAL* believes that the *Policy* needs a specific section recognising that *CIAL* is a special case.

Issue 2: Section 106(1)(2) of the LGA 2002

- 3 Development contributions were introduced into the *LGA 2002* to assist territorial authorities to fund capital expenditure on additional capacity in infrastructure and facilities required to meet the increased demand for community facilities resulting from growth. This is explicit in the *LGA 2002* – see for example section 106(2)(a) which expressly requires the *CCC* to **summarise and explain** the capital expenditure identified to meet the demand **resulting from growth**.
- 4 The Oxford Dictionary's meaning of "*resulting from*" is:

"A consequence, effect or outcome. ..."

- 5 This means it is a requirement of CCC to establish a causal relationship between the growth and the need for capital expenditure.
- 6 This means that CCC has an obligation to separate capital expenditure resulting solely from growth from expenditure required to meet the demands of existing users or past growth, i.e. "catch up" and to justify the assessed growth element of any capital project.
- 7 The LTCCP itself appears to implicitly acknowledge this at a Policy level as Policy Objective 1.1 provides:
- "The Christchurch City Council has historically required those whose developments (including subdivision and buildings) place new demands on the City's reserves and infrastructure to make a fair contribution toward the expansion of those services. An exception to this has been the network effects of incremental growth, which have been paid for by the ratepayer."
- 8 CIAL does not accept that the LTCCP explains the capital expenditure identified to meet the demand resulting from growth, i.e. the figures in Appendices 3 and 4 simply state "*the assessment and documentation supporting the above projects are available for examination [elsewhere]*".
- 9 CIAL seeks that the Policy be redrafted to include information such as:
- 9.1 an assessment of the current state of existing assets;
 - 9.2 current levels of service being delivered and target levels linked to growth;
 - 9.3 a transparent and detailed assessment showing the current programme of works their reason, priority and cost;
 - 9.4 and most importantly a transparent explanation of how CCC has assessed the relationship between anticipated growth and the work CCC states is required to meet that growth.
- Issue 3:**
- 10 Related to Issue 2 CIAL takes the position that many of the projects identified in Appendices 3 and 4 of the Policy are not limited to those "*resulting from growth*".
- 11 CIAL seeks that CCC provide information to support the net growth element of projects in Appendices 3 and 4.

Issue 4: Unique position of CIAL

- 12 The core business of CIAL is to operate as an airport. Its primary role is to provide infrastructure to safely and efficiently enable the arrival and departure of people and goods to and from the city. In this sense it is simply an existing part of the transport infrastructure. At its simplest it operates as a conduit of people who will depart from or eventually arrive at a destination elsewhere in respect of which a development contribution will have been paid, e.g. residential subdivision, hotel and retail.
- 13 The uniqueness of the airport is now recognised in the Resource Management Act 1991 which has recently included the airport in its definition of "*infrastructure*". Christchurch International Airport has also been recognised by the High Court as a local, regional and national resource.
- 14 CIAL performs a unique role in the City. CIAL seeks that development of its core infrastructure should be regarded as a special case in relation to the requirement for payment of development contributions. By core infrastructure CIAL refers to assets such as the terminal, car parks runways, taxiways and hangars as differentiated from other development on airport owned land such as premises leased by third party warehouses.
- 15 The primary reason for this submission is that CIAL is in itself providing essential infrastructure in the public interest.
- 16 CIAL seeks that the core infrastructure of CIAL be recognised in the LTCCP as a special category with its own provisions relating to the payment of development contributions.

Issue 5: Special assessment – Extraordinary circumstances

- 17 Linked to Issue 4 CIAL recognises that section 4.4 of the Policy acknowledges there will be extraordinary circumstances where the Council reserves a discretion to enter into specific arrangements with a developer.
- 18 However, the Policy appears to only apply to developments which have a significantly greater impact than envisaged by the LTCCP.
- 19 CIAL considers the Policy should be amended to recognise CIAL's unique role and include in the extraordinary circumstances category a recognition that the core infrastructure associated with the airport is simply a mechanism to move people to and from other destinations within the City. CIAL understands that a similar approach has been adopted in relation to other airports.

- 20 Therefore the extraordinary circumstances section should include specific recognition of the core infrastructure assets of CIAL and provide for a special case for development contributions for those core assets.

Issue 6: 2.3 Existing applications: Transitional provisions

- 21 Section 2.3 provides that the development contribution can be required in relation to developments which are part way through various consenting processes. In this regard the Policy has an element of retrospectivity in relation to developments which are underway.
- 22 This element of retrospectivity is unfair. To date CIAL has made decisions to proceed with projects based on financial commitments reasonably foreseeable at the time. The justification that the requirement to pay development contributions has existed since 2002 is not accepted as this Policy is different from what existed previously.
- 23 CIAL is a specific case in point. In 2004 it committed to the Terminal Development Project (*TDP*). In committing to that project the requirement to pay an additional very significant development contribution of many millions of dollars was not included in CIAL's assessment.
- 24 CIAL seeks that an additional transitional provision be included which exempts existing projects from additional development contributions.

Issue 7: Transitional provisional - Cashflow

- 25 Linked to issue 6 is the issue of the impact of retrospectivity on cashflow. Section 6 requires payment of development contributions at the time of obtaining consent.
- 26 Using the example of the TDP section 6 of the Policy will require CIAL to make a large unbudgeted payment on obtaining consents. The Policy appears to be aimed at linking payment to subdivision and does not recognise the situation of large infrastructure providers.
- 27 CIAL believes provision needs to be included for deferral of the payment of development contributions and for the Council to have a discretion to permit development contributions to be assessed at the time of consent being issued but paid through the life of any development rather than at the time of consent. Clause 6.6.1 should be reworded to emphasise that large projects which were underway before the LTCCP are developments where a discretion to postpone payment is appropriate.

Issue 8: Lack of information on how Household Equivalent Units are calculated

- 28 Section 4.0 sets out the Household Equivalent Units (*HEU*) applying to development.
- 29 In the case of non-residential applications HEU are assessed using one of two methodologies including a GFA conversion.
- 30 The Policy contains no information to explain how a HEU calculated in accordance with vehicles per day, volume of water usage or GFA conversion is calculated.
- 31 Further information needs to be provided in relation to the methodology used.

Issue 9: No appeal or review procedure

- 32 Clause 6.6.2 states that there will be no formal review process. CIAL is concerned that decisions with significant financial impact can be made by Council officers exercising discretion under the Policy with no formal avenue for "*appeal*".
- 33 Given the significant potential impact of decisions in relation to the Policy, especially in relation to parties like CIAL who raise extraordinary circumstances CIAL believes the Policy should provide for an appeals procedure whereby parties who are dissatisfied with the exercise of discretion can have the decision reviewed.

Issue 10: No justification or methodology to justify differences in areas

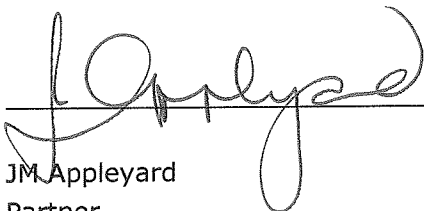
- 34 The Policy contains no justification or methodology to explain the differences in different geographical development contribution areas.
- 35 CIAL seeks that the Policy be redrafted to properly explain its methodology.

Issue 11: Flat water facility

- 36 With reference to major projects and proposals – discretionary projects are considered, but not included in the LTCCP (page 4 Summary Our Community Plan and page 79 Our Community Plan Vol 1).
- 37 The last sentence of this section refers to "*the flat water facility*" as being one of a number of other projects considered but were outside the criteria for inclusion.
- 38 CIAL wishes to support the CCC's decision to exclude from LTCCP any flat water facility in the vicinity of the airport.

39 CIAL wishes to talk to the main points in its written submission at the hearings to be held between Thursday 25 May and Wednesday 7 June 2006.

Signed for and on behalf of Christchurch International Airport Limited by its solicitors and authorised agents Chapman Tripp Sheffield Young:



JM Appleyard
Partner

Date : 5 May 2006

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