

Submission form - Amendments to LTCCP

draft 2007 Amendments to the Long-Term Council Community Plan (LTCCP) 2006-16 Submission Form

Please Read Before Completing Your Submission

The public consultation period is from Wednesday 11 April 2007 to Friday 11 May 2007.

It will help us if you:

- clearly state the issue you want the Council to consider.
 - what specific action you think the Council should take, and
 - why that should be done.
- cite the specific page(s) of the draft 2007 Amendments to the LTCCP 2006-16.
- type or use black ink for your submission.

NOTE: We are legally required to make all written or electronic submissions available to the Councillors and to the public. This includes the name and address of the submitter. All submissions will be published on the Council's website from 18 May 2007.

You may send us your submission:

By mail
(no stamp is required) to

Freeport 178
Annual Plan
Christchurch City Council
PO Box 237
Christchurch

By email
ccc-plan@ccc.govt.nz

Please make sure that your full name and address is included with your submission.

On the internet

You may enter your submission using the form provided on the Council's website at
<http://www.ccc.govt.nz>.

Please follow all the instructions on the website.

No anonymous submissions will be accepted.

Whether you use this form or not, you must identify yourself and provide your full name, address and telephone number.

Submissions must be received (NOT postmarked) at the Tuam Street Civic Offices no later than 5pm on Friday 11 May 2007. To ensure receipt, hand deliver last-minute submissions to Tuam Street.

Your submission

If you wish, you can present your submission at a hearing. If that is the case, please tick the appropriate box below. The hearings will be held from 28 May 2007 to 5 June 2007. Ten minutes will be allocated for speaking to your submission, including time for questions from the Councillors. The Council will confirm the date and time of your hearing in writing, by email or by a telephone call.

Tick one I do NOT wish to present my submission at the hearing and ask that this written submission be considered
OR
 I wish to talk to the main points in my written submission at the hearings to be held between Monday 28 May 2007 and Tuesday 5 June 2007

Are you completing this submission: For yourself On behalf of a group or organisation

If you are representing a group or organisation, how many people do you represent?

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Signature [Signature] Date 11.5.07

1. Introduction

- 1.1. The draft 2007 Development Contribution Policy ("**the Policy**") was prepared prior to Council receiving Justice Potter's North Shore Decision ("**the Decision**"). The Policy, as described in the document, will require to be amended to reflect the Decision.
- 1.2. The Policy recognises and includes a majority of the recommendations put forward by the Working Party. To that extent, the Policy is an important step in the development of the Council's Long Term Community Plan ("**LTCCP**") including Development Contribution Policy.
- 1.3. The Policy's transitional payment programme increasing the levy on a one-third base in the 2007/8 year should be acceptable to the development community. The increase in the levy will be less than would otherwise have been calculated if Council had included within the Policy the steps and judgment calls required by the Decision.

2. The Working Party

- 2.1. The Working Party's focus should now be on the steps to be taken over the next year so the 2008 Policy be more robust in meeting the standards imposed under the Local Government Act 2002 ("**the Act**").
- 2.2. The Working Party should address the following issues in respect of the Policy:
 - (i) Determine appropriate catchments for activities and projects in order to establish causal nexus;
 - (ii) Develop the Model and the process whereby consideration be given to the judgment calls required to be made under the ambit of section 101(3) of the Act.

3. Causation

- 3.1. On pages 53 and 54 of the Policy it states:

"The use of catchments also aids transparency and efficiency by identifying the variations on the cost of providing infrastructure according to the characteristics of a particular locality and the nature of the works required. Although Development Contributions are not a significant administrative cost once systems are established, small local catchments' collection of development contributions may not be cost-effective and, therefore, a Citywide charge will be more efficient for some activities with a larger number of widely-located projects."

On page 40 it provides a brief explanation of Council's catchment definition methodology:

"Although the catchments have been determined for each activity, based on their key characteristics, these characteristics include the

physical geography and typography, the need to protect environmental and human health, the level of service delivery and the nature and complexity of solutions.”

“Individual capital works projects are allocated to either Citywide or local catchments, depending on the nature of the project and the community is required to serve.”

“The Council has considered a number of different catchment options, ranging from a single Citywide catchment to catchments based on individual infrastructural schemes and has adopted a single Citywide catchment for all water supply, waste water and transport works.”

“The draft Policy provides an explanation as to how Council officers have taken into account the aforementioned key characteristics and, in particular, how those characteristics link to the particular development that be the subject of the Development Contribution Levy.”

These two statements within the Policy recognises the complexities involved in designing a catchment but do not address:

- (i) The need to drill down to a project by project basis in determining “catchment” rather than simply dealing with it as a total activity (eg Transport);
- (ii) It does not address the degree of causation required, namely the extent to which the development, individually or collectively, causes a need for the capital works programme. The Policy suggests a simple assumption that merely because those who reside in the development would utilise the services from the capital works programme, there should be an underlying assumption of cause and effect;
- (iii) Future Policies will need to address degrees of benefit whereby the higher degree of benefit be reflected in causal nexus and the lower degree of benefit not be included within the catchment. The Inner City, for instance, provides a good example of what would be a lower end of the scale in determining causal nexus in respect of Transport capital expenditure.

3.2. When addressing the issues of causation, it may assist to reflect upon the Decision’s findings in respect of causation:

- (i) The Council needs to ensure that its Development Contribution Policy assesses the development contributions against a “development” that generates a demand for reserves, network infrastructure and community infrastructure.
- (ii) The Council should not adopt a narrow concept of economic efficiency in the causative approach in the assessment of development contributions and it should not exclude appropriate consideration of the distribution of benefits and equitable proportionate allocation.

- (iii) In order to establish causal nexus:
- (a) There must be a direct causal connection – greater than previously considered;
 - (b) It is not sufficient that there be cumulative effect of **all** developments, an aggregation of capital works to meet increased demand to provide link and basis for acquiring development contributions;
 - (c) It requires a close examination of the type/nature of the development and how it impacts on the need for a capital works programme;
 - (d) Council needs to consider each development in turn to ensure the judgment call has been made in meeting the “causal” connection;
 - (e) Causal connection needs to be capable of being demonstrated;
 - (f) There should be a greater focus on areas of demand which can more readily demonstrate causal connection; and
 - (g) There should be a reduced focus on administrative convenience in providing “across the board” solutions.

4. **Consideration of Section 101(3)**

4.1. On **page 7** of the Policy it states:

“The Council chose a “user pays” approach. It was decided that the development community... rather than a wider community... should pay the full cost of growth...”

While it may be that Council officers have behind the scenes, as it were, given consideration to the “critical filter”, that is section 101(3), Councillors need to be more fully involved in the various judgments calls to be made when applying the Act.

4.2. The 6-step process to calculate development contributions set out on page 61 makes no provision for consideration of the factors set out section 101(3). There are other community outcomes that need to be considered and are reflected in a number of Council policies which need to be seen alongside the Policy. The Council wishes to promote:

- growth and development within the City as a whole
- improved quality of housing
- the provision of affordable housing by the development community
- growth within particular sections of the City
- tourism
- a partnership with the business and development communities that fosters growth.

- 4.3. Those policies are at odds with simply applying Chris Jenkins' Model and expecting the sum that is calculated from that Model to establish the size of the development levy.
- 4.4. Chris Jenkins was the first to say that his Model in itself did not provide the answer but, rather, he expected the Council to recognise its broader objectives and policies and then make a value judgment to allocate the cost of growth between a number of methods of funding rather than impose it solely upon the development community.
- 4.5. The Decision reflects this view and justifies it on a number of grounds:
- (i) The need for inter-generational equity;
 - (ii) Other key drivers why capital expenditure is required (eg commuters from surrounding district);
 - (iii) The impact timing has as to what constitutes "backlog" as opposed to growth;
 - (iv) The principle described as "the straw that broke the camel's back".
- 4.6. It is worth reiterating the Decision's key findings in respect of the application of section 101(3) that should now be the subject of further deliberation. The key finding of that Decision was the need for Council to explain its Development Contribution Policy as required by section 106(2)(c), why in terms of section 101(3) it has determined to use development contributions as funding source. In that regard, it needs to consider the distribution of benefits and equitable and proportional allocation of costs. It does this by applying the critical filter imposed under section 101(3) through and by which funding sources (in relation to each activity) must be determined. Council must consider the matters set out in that section in relation to each activity to be funded.
- 4.7. The primary matters in that regard are:
- (i) The community outcomes to which the activity primarily contributes;
 - (ii) The distribution of benefits between the community as a whole, or in part, and individuals in the community;
 - (iii) The period in or over which the benefits are expected to occur (inter-generational equity principle);
 - (iv) The extent to which the actions or inactions of particular individuals or group contribute to the need to undertake the activity (exacerbator pays principle); and
 - (v) The costs and benefits of funding the activity distinctly from other activities.
- 4.8. The application of the concept of "proportionality in relation to each activity" does not permit Council to give consideration to the relevant factors only at the highest policy level. The Council must "tick the boxes" applying the section 101(3) factors after separate consideration in relation to each activity.

- 4.9. By agreeing to a transitional period in the first year, the Council has in all probability taken into account the considerations required under section 101(3)(b), namely that the Council has stood back and considered the overall impact of the allocation of liability on the current and future well being of the community from a social, economic, environmental and cultural perspective. The Council needs to satisfy itself as to the overall impact of each funding source and determination on the four well beings as part of its broad role and purpose in promoting those well beings.

5. Conclusion

- 5.1. While I am satisfied that the proposed levies for the 2007/8 year fall within an acceptable range, the Policy is a work-in-progress. Council should not be criticised for this. The Decision was not available when the Policy was prepared. These are complex issues where we can expect long term solutions to evolve over a period of time.
- 5.2. Council officers have demonstrated their ability and willingness to work with the development community in getting the Policy right. The Council officers recognise the need to improve the timeframe within which the City infrastructure is to be put in place. An improvement in the capital works programme will be at the forefront of discussions. The development community will welcome the opportunity to work in a partnering relationship with Council.

SGM

Which principles and/or provisions of the draft Amended Development Contributions Policy (DCP) do you support and why? (Please include the specific page and section numbers of the sentence/s and/or paragraphs to which you refer in the draft 2007 Amendments to the LTCCP 2006-16.

Which principles and/or provisions of the draft Amended Development Contributions Policy (DCP) do you oppose and why? (Please include the specific page and section numbers of the sentence/s and/or paragraphs to which you refer in the draft 2007 Amendments to the LTCCP 2006-16.

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