

<p>Submission on draft 2007 Amendments to the Long Term Council Community Plan (LTCCP) 2006-16</p>

Development Contributions Policy

Introduction

1. **Submitter: Retirement Assets Limited (Company)**
2. The Company is involved in the development and operation of a number of retirement villages throughout New Zealand including in Christchurch.
3. This submission concerns the draft amendments to the LTCCP's Development Contributions Policy (DCP).
4. The Company is concerned that the DCP does not recognise that retirement villages generate much less demand for Council infrastructure and services than other residential or mixed developments and that the DCP gives no certainty on how development contributions will be assessed for retirement villages.
5. The Company opposes the same level of development contributions applying to retirement villages as to other residential or mixed developments that create much greater demand for growth.

Reasons for submission in opposition

Distinguishing retirement villages

6. Retirement village developments are fundamentally different from other residential or mixed developments.
7. Per unit, a retirement village places much less demand on Council facilities than an ordinary household. It is the company's experience, that each unit (or apartment) has on average 1.2 – 1.3 residents, with an average age of 74 - 80 years. In a typical village, less than half will drive and those that do have cars typically would use them for less than one trip a day.
8. Further, comprehensive retirement villages (including those the Company is involved in developing) provide private leisure facilities for residents and further reduce the use of (and hence demand for) Council owned leisure facilities.

No specific provisions for retirement villages

9. Despite the clear difference, the DCP appears to equate a residential unit in a retirement village with an average Christchurch household.
10. Given certain terms used in the DCP, such as "*household unit*" at page 32, are not defined it can only be assumed that an apartment or flat in a retirement village falls within the DCP's meaning of a "*residential*" or "*household unit*". If this is the case, each retirement village unit (i.e. each apartment or flat) will incur development charges at 1 HUE per unit for each activity (Section 3.2.1), subject only to the "*small residential unit adjustment*".
11. This appears to be a sensible reading of the DCP however it is submitted there is no certainty on how the DCP will apply to retirement villages. It does not identify

whether a retirement village is to be assessed for development contributions as a residential, non-residential or mixed development.

12. The DCP would appear to require the non-residential components of a retirement village (such as a restaurant, café, internal shop, or hair salon) be assessed separately and incur additional development contributions. Leisure facilities such as libraries, pools, bowling greens and other recreational facilities would also incur development charges.
13. The DCP clearly does not take account of the significantly lower demand created by an average residential unit in a retirement village in comparison to an average household.
14. This is contrary to the stated purpose of the DCP that the person who creates additional demand on Council services and infrastructure only pays for the capital investment needed to meet that demand. The DCP's approximation of the growth in demand created by a new retirement village apartment or flat (via HUEs) is simply too inaccurate to be a fair or reasonable basis for development contribution charges.
15. Other local authorities in New Zealand have recognised that a retirement village is different to other residential development and have included appropriate remissions for retirement villages in their DCPs. A reduction in HUEs for each activity acknowledges that each unit in a retirement village creates only a portion of the demand of an average household.
16. For example, North Shore City Council's 2006-16 LTCCP classifies retirement villages as a separate type of residential development and applies the following reduction in HUEs for each retirement village unit (apartment or flat):

a. Transport	0.25 HUEs
b. Water Supply	0.50 HUEs
c. Wastewater	0.50 HUEs
d. Wastewater treatment	0.50 HUEs
e. Storm water	0.50 HUEs
f. Parks – Community	0.25 HUEs
g. Community Services	0.50 HUEs
17. The North Shore LTCCP also caps reserve contributions for retirement village developments at the greater of 7.5% the value of additional allotments created by subdivision or the value equivalent of 5m² of land for each additional retirement village unit created by the development. For other residential activities the second cap is 20m².
18. Further, the North Shore LTCCP does not charge development contributions for common areas in retirement villages (such as lobbies, foyers and stairwells) or for the listed services provided to residents (such as nursing or medical services, laundry services, a hair salon, library or the provision of meals).
19. A copy of the relevant parts of the North Shore LTCCP is attached to this submission and marked "A".
20. The Company has been involved with a development in the Rodney District, where through negotiation it was agreed to reduce the development contributions to around 40% of the amount due under normal residential financial contributions.
21. Not recognising retirement villages as a different kind of residential development with less impact on infrastructure is inconsistent with the Council's aim of aligning its DCP with that of other councils as expressed at Section 6.4 of the DCP and the 2006 Urban Development Strategy for Christchurch.

No remissions policy

22. The DCP explicitly states that it “*does not provide for any remissions or reductions to be applied for or granted*” (section 3.4.3) and one reason given for this is that it leads to less transparency and more complexity in the administration process.
23. A straightforward remissions policy applied to particular activities, such as retirement villages and rest homes, and appropriately consulted on, would not lack transparency or create administrative difficulties. As is clear from the above discussion of North Shore’s recent LTCCP DCP, a specific remission policy would not be without precedent.
24. A general remission policy would accord with the principles of natural justice and fairness by allowing development contribution levies to be remitted by the Council where the levels set by the DCP produce an unfair or unreasonable result in a particular case.
25. The provision for Special Assessments and Private Developer Agreements do not remedy the flaws in the DCP’s application to retirement village developments.
26. Both Special Assessments and Private Developer Agreements appear to be intended to increase development contribution requirements from those set in the DCP. No mention is made of developments that create less demand than anticipated by the DCP.
27. Further, the DCP makes no provision for Council decisions on the amount of development contributions levied to be reviewed other than through judicial review in the High Court, a process that would be prohibitively costly to most developers.
28. Overall, the DCP is simply not specific enough and appears to result in exaggerated and unfair development contributions being applied to retirement village developments.

Credits

29. The DCP provides credits for existing development to ensure developers are only charged for the additional demand any new developments place on Council services.
30. The DCP allows for credits to transfer from existing residential uses to new residential developments and existing non-residential uses to new non-residential developments. It does not however expressly allow for credits to transfer between existing non-residential activities and new residential developments or vice versa.
31. It is inconsistent with the purpose of the DCP if credits for the comparable services of an existing non-residential development cannot be applied to a residential development replacing an existing non-residential use.

‘Extra-over’ works

32. Also problematic is section 3.3.5 of the DCP that allows the Council to require works over and above what is needed as a result of the development and then if these are provided by the developer at a cost exceeding the set development contribution the Council “*may, at its discretion, reimburse the developer.*”
33. In effect, a developer could be subsidising other future developments that eventually utilise the capacity of the additional works carried out. This is contrary to the purpose of the DCP and could be considered *ultra vires* the Council’s powers.

Timing

34. Finally, the Company is concerned that the Council chose to allow only the statutory minimum of one calendar month for consultation on the draft amendments to the LTCCP given the complexity of the document. The Company is also concerned that the Council has indicated further changes will be made to the LTCCP following the High Court's decision in *Neil Construction Ltd & Ors v North Shore City Council* (CIV 2005-404-4690) which will not be made available for consultation.


Action sought

35. The Company requests that the Council include in the DCP:

- a. Policy recognition that retirement villages place less demand on Council services and infrastructure per residential unit than an average household; and
- b. Appropriate remissions or reductions in development contributions for retirement village developments (such as those in the North Shore LTCCP); and
- c. A policy allowing credits for existing land uses to be granted for the new development on site whether it is of the same type or not; and
- d. Regardless of the outcome on the above, remove the Council's discretion regarding reimbursement of over-payment by developers for works carried out that is outlined in section 3.3.5; and
- e. Make provision in the DCP for a review mechanism for Council's decisions on development contributions for individual developments; and
- f. Allow a further period for interested parties to review submissions and any further changes made to the draft amendments or the LTCCP before they are accepted by the Council.

36. The Company wishes to be heard in support of his submission.

RETIREMENT ASSETS LIMITED
by its solicitors and authorised agents **LANE NEAVE**

Per: 

AC Dewar / MRL Silverwood

11 May 2007
Date

Address for service of submitter:

Lane Neave
PO Box 13149
Level 15 Price Water House Coopers Centre
119 Armagh Street
CHRISTCHURCH
Ph: (03) 379 3720
Fax: (03) 379 8214

Contact person: Amanda Dewar / Monica Silverwood
Email: amanda.dewar@laneneave.co.nz / monica.silverwood@laneneave.co.nz

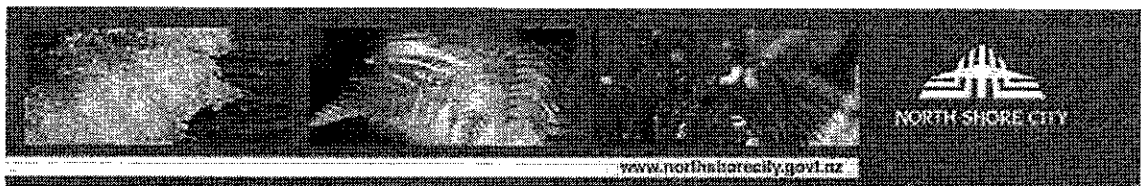
"A"

North Shore City Council

2006 Development Contributions Policy

July 2006

Version – Final



Network & Community Infrastructure

- 8.4.2 Service connection applications that are associated with a building consent will not be separately assessed for Development Contributions. The full development contribution will be assessed on the associated building consent assuming that it was not already assessed at land use resource consent stage. Service connection assessments will, therefore, only apply to new (stand alone) or upgraded connections.
- 8.4.3 Service connections will be assessed using the same calculations as land use & building consents for that particular activity.
- 8.4.4 Service Connection applications for the separation of shared water meters into separate water meters will not be charged development contributions.

8.5 RETIREMENT VILLAGES

Reserves

- 8.5.1 Development Contributions for Parks-Reserves shall not exceed the greater of:
 - (a) 7.5% of the value of the additional allotments created by a subdivision; and
 - (b) the value equivalent of 5m² of land for each additional retirement village unit created by the development.
- 8.5.2 Sub clause (a) will not normally be applicable to residential development unless combined with a consent application creating additional allotments.

Network & Community Infrastructure

- 8.5.3 The following network and community infrastructure activities will be assessed for each retirement village unit at a reduced rate as follows:

1.	Transport	0.25 HUEs
2.	Water Supply	0.50 HUEs
3.	Wastewater	0.50 HUEs
4.	Wastewater Treatment	0.50 HUEs
5.	Storm water	0.50 HUEs
6.	Parks - Community	0.25 HUEs
7.	Community Services	0.50 HUEs

For the purposes of development contributions, an office will be assessed as a commercial land use type.

Pedestrian Circulation Space

For the purposes of development contributions means:

Applies to a covered public area which:

- a) contains a minimum horizontal measurement of 5m;
- b) has a minimum vertical dimension of 2.5m between the finished ceiling and the floor of the pedestrian area, and which is unobstructed and clear of buildings, retail kiosks and retail display cases

Pedestrian Circulation Space includes:

- a) escalators, ramps and stairs within the pedestrian circulation space;
- b) decorative features such as fountains and planting within the pedestrian circulation space;
- c) stages or display area for free public entertainment associated with any retail centre.

Pedestrian Circulation Space does not include:

- a) seating area for food courts / eating area;
- b) any space leased for retail display or sales purposes;
- c) any space for entertainment which is either leased or subject to a charge.

Permeable Area

For the purposes of development contributions, permeable area means any part of a site which is grassed or planted in trees or shrubs and is capable of absorbing water. It does not include any area which:

- a) Falls within the definition of building coverage.
- b) Is covered by decks.
- c) Is occupied by swimming pools.
- d) Is used for parking, manoeuvring or loading of motor vehicles.
- e) Is paved with a continuous surface.

Residential Care Centre

Means any building in which board, lodging, and live-in mental or physical health support is provided, including emergency housing, refuge centres and halfway houses, but excludes private or public hospitals.

For the purpose of development contributions, residential care centres will be assessed as special assessments.

Residential Unit

Means any self-contained residence of one or more persons as a single household which in each case contains one kitchen sink or dishwashing facility, and includes any dwelling house, flat, home unit or townhouse or papakaianga housing on ancestral land.

For the purposes of development contributions, residential units will be assessed as a residential land use type.

Rest Home

Means a licensed premises used for residential accommodation and full time care of the elderly and infirm where meal and nursing/medical care is provided but does not include a hospital, a housing development for the elderly or disabled or a retirement village.

For the purposes of development contributions, rest homes will be assessed as a special assessment.

Retail - General

For the purposes of development contributions, Retail - General means land and/or buildings from which goods, merchandise, equipment or services are sold, exposed, displayed or offered for sale directly to consumers.

Excludes Supermarkets, Grocery Stores and Dairies.

Retail - FMCG

For the purposes of development contributions, retail FMCG means land and/or buildings from which fast moving consumer goods are sold.

Includes Supermarkets, Grocery Stores and Dairies.

Retirement Village

Means a retirement village that is registered in accordance with the provisions of the Retirement Village Act 2003 and for the purposes of development contributions includes any Retirement Village that will be registered under that Act.

Retirement Villages will be assessed as a Residential – Retirement Village land use type. No additional contributions will be sought for common areas (for example: lobbies, foyers, stairwells etc) or the following services which provide for the exclusive use of residents or staff:

- (a) Gardening, repair, or maintenance services:
- (b) Nursing or medical services:
- (c) the provision of meals:
- (d) shops and other services for the provision of goods:
- (e) laundry services (not being the provision of facilities for residents to carry out their own laundry)
- (f) services (for example, hairdressing services) for the personal care of residents:
- (g) transport services:
- (h) services for recreation or entertainment:
- (i) security services:
- (j) other services for the care or benefit of residents.

These facilities may also be used occasionally by guests, when accompanied by a resident, but may not be used by the general public or residents of other retirement villages.

If any of these services were available to the general public and not exclusive to residents of the retirement village then development contributions shall be charged at the applicable non-residential rate.

School

Means any land and buildings used for the purposes of education, learning and training and includes kura kaupapa Maori (primary schools) and kura Maori (secondary schools).

For the purposes of development contributions, schools will be assess as a special assessment.