
REPORT 3
(1215/52/IM)

DEVELOPMENT CONTRIBUTIONS SUBCOMMITTEE REPORT BACK – DEVELOPMENT CONTRIBUTIONS POLICY AMENDMENTS

1. Purpose of Report

To report back to the Committee on proposed amendments to the Development Contributions Policy following submissions.

2. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Note that the Council has, in accordance with sections 84 and 93 of the Local Government Act 2002, followed the Special Consultative Procedure to amend its Development Contributions Policy and has received six submissions to the Statement of Proposal.*
3. *Note the issues raised in submissions and raised by the officers (as summarised in this report).*
4. *Note the Community Infrastructure Investment Funding Options Analysis detailed in Appendix 3 and approve the Funding Options Determination for Community Infrastructure.*
5. *Approve the proposed amendments to the Development Contributions Policy, as indicated in the statement of proposal, with exceptions as noted in appendix 2 **with the change that the Keith Spry Pool is to be funded on a city wide basis.***
6. *Agree to delegate to the Chief Executive Officer and the Chair of the Development Contributions Subcommittee the role of confirming that the changes agreed in the recommendations above are correctly and accurately recorded in the amended policy.*

7. *Recommend to the Council that*

- a. *it confirms the key principle that development contributions fund 100% of growth related expenditure, but that the Council retains the option of departing from this principle for particular infrastructure if, following consideration of factors in section 101 (3) of the Local Government Act 2002, the Council is of the view there is a demonstrable case supporting a variation.*
- b. *development contributions be applied as a funding tool for growth related capital expenditure for the community infrastructure projects in the 2006/16 LTCCP **being the Aquatic Facilities network.***
- c. *the Development Contributions Policy be amended to include the Pipitea Precinct Roading Improvements.*
- d. *having considered each of the projects above, it finds that there is no demonstrable case supporting departure from the key funding principle in the existing Development Contributions Policy that development contributions fund 100% of growth related capital expenditure in respect of these projects.*
- e. *the Development Contributions Policy be amended to reflect the decisions made above.*
- f. *it delegate to the Chief Executive Officer and the Chair of the Development Contributions Subcommittee the authority to make any minor editorial changes to the Development Contributions Policy that may be required prior to publishing.*

3. Discussion

3.1 Statement of Proposal and Responses

The Development Contributions Policy (the policy) took effect on 1 July 2005. Proposed amendments to the policy were approved for consultation with the 2007/08 Draft Annual Plan. When the Council approved the proposed amendments, it noted that the Development Contributions Subcommittee would consider submissions and report to SPC. Six submissions were received. Most submitters raised concerns that were outside the scope of the proposed amendments. These matters are best addressed when the complete policy is reviewed for the next LTCCP. A small number of changes to the original proposal are recommended. Points raised are summarised in Appendix A.

3.2 Confirming the Methodology for New Community Infrastructure

The report to the subcommittee in February explained the need for introducing development contributions for community infrastructure. During the consultation period the following details have been examined:

- An analysis of the planned community infrastructure investment to isolate the new capacity components
- Boundary of Zone U
- The number of EHUs
- Funding options in accordance with S101 (3) LG 02
- Funding allocation methodology options including the options presented in the consultation material and a non residential development contribution.

3.2.1 New Capacity Requirement

In 1998 the Council commissioned a study¹ to examine development options for the WRAC. The report found that community expectations were changing and that there was a need to extend the available water leisure areas to match users' expectations - that is enhance service levels. The report also noted that *'demographic changes reinforce the need for the development of the WRAC to satisfy projected growth in the target market for water play activities'* (capacity concerns). A more recent report² recognised that recreation trends and population projections would place greater demands on service levels (users' expectations) and accessibility (capacity).

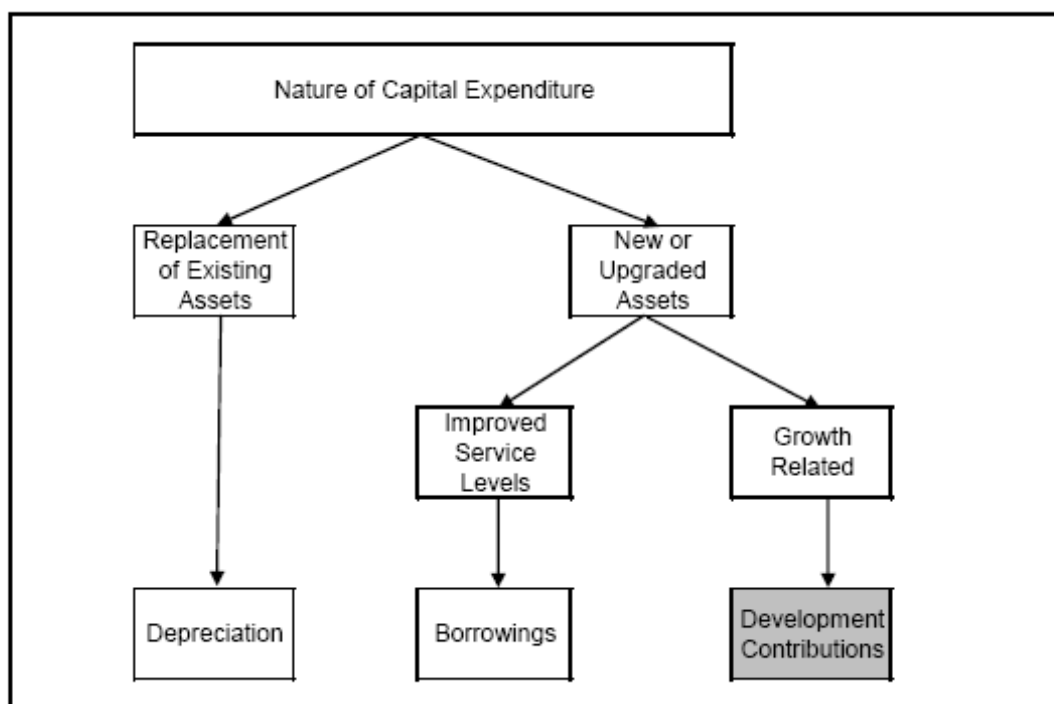
3.2.2 Isolating New Capacity Investment

The proposed changes to the policy enable the Council to fund the growth-related investment for swimming pools from development contributions.

The chart below illustrates how development contributions are applied:

¹ Wellington Regional Aquatic Centre Redevelopment Study, Interpool Pacific Ltd June 1998

² Wellington Regional Aquatics Centre Redevelopment, RDT Pacific February 2003



The table below shows this relationship with the allocation of planned expenditure for Community Infrastructure.

	cost (\$,000)					cost (\$,000)	
		service related	growth related	increase LOS related	new capacity related	service related	growth related
WRAC							
Hydrotherapy	1,200	100%	0%	100%	0%	1,200	0
Café	400	100%	0%	100%	0%	400	0
Recc Space	10,724	0%	100%	50%	50%	5,362	5,362
Total \$	12,324					6,962	5,362
% of total						56.5%	43.5%
	cost (\$,000)	service related	growth related	increase LOS related	new capacity related	service related	growth related
Keith Spry							
Change Rooms	652	78%	22%	78%	22%	509	143
Entrance	326	100%	0%	100%	0%	326	0
Viewing area	130	0%	100%	0%	100%	0	130
Outdoor space	457	33%	67%	33%	67%	151	306
Deep Water	1,630	0	100%	50%	50%	815	815
Teaching space	980	0	100%	0%	100%	0	980
Recc Space	1,630	0	100%	50%	50%	815	815
Storage	195	0	100%	0%	100%	0	195
Total \$	6,000					2,615	3,385
% of total						43.6%	56.4%

In some instances the increased capacity also provides a benefit to existing users, and the cost of these components is split, so that not all of the expenditure would be funded from development contributions. This allocation recognises that population growth is the primary driver for the capacity related investment so that optimal accessibility is not compromised. While it is acknowledged that existing residents also derive tangible benefits from the works because in the short-term the improved accessibility is significant, this is not the underlying cause for the investment and these benefits gradually diminish due to the cumulative effects of population growth.

3.2.3 Catchment Zone Boundaries

The WRAC's catchment zone is city-wide. The Interpool report stated that 57% of patrons were from eastern and southern suburbs³. The most recent customer satisfaction survey⁴ states that 88% of the WRAC's customers reside in the eastern and southern suburbs. These results confirm advice given to the Subcommittee in February, that users generally access the pool that is closest / most convenient. The report also shows that the WRAC attracts a substantial number of patrons from across the city. Users are drawn to the WRAC for its aquatic sport capabilities but are drawn to other facilities in the region for their superior leisure areas. It is likely that after the WRAC redevelopment is completed in November 2007, a greater proportion of users will be drawn to the WRAC from areas beyond the eastern and southern suburbs.

Customer usage data from across the region show migration patterns between the various facilities within and beyond the city. The proposed upgrade of the Keith Spry Pool is expected to address service level and capacity issues in the northern suburbs, which supports a local catchment zone (zone U- Keith Spry Pool Development Contributions Area) instead of a city wide zone. Customer surveys show that residents from the northern suburbs account for over 90%⁵ of the facility's users. The data also shows that a substantial proportion of users of the Keith Spry facility travel from Tawa. Such a high proportion of users being from the northern suburbs indicates that the benefits from providing for new capacity at the Keith Spry pool do not extend as widely as the benefits from the upgrade to the WRAC. **Therefore, of the three options that were presented in the proposal, officers recommended to the subcommittee that the northern catchment zone be maintained with a small adjustment is proposed to zone U to avoid splitting zone G (Ngaio West). The subcommittee has recommended that the Aquatic Facilities be regarded as a citywide network, with the investment to be funded city wide. If this option is approved, there would no longer be a need to have a northern catchment zone to fund investment in the Keith Spry Pool.**

³ Haitaitai, Roseneath, Kilbirnie, Lyall Bay, Miramar, Evans Bay, Crawford, Seatoun, Strathmore, Maupuia, Rongotai, Island Bay, Melrose, Berhampore, Mornington, Newtown, Vogelstown, Brooklyn, Southgate, Kingston, Houghton Bay.

⁴ February 2007

⁵ The latest survey showed 94% of users were from the northern suburbs and strong migration between Tawa and Keith Spry Pools.

3.2.4 Forecasting EHUs

The forecast of EHUs in the policy is based on 2001 census data, statistical trends and growth assumptions that project the impact of growth related demand on infrastructure. The data and assumptions have not been revised for the amendments to the policy as it would result in two different data sets being used for calculating development contributions. This work will be done for the next LTCCP when the policy will be comprehensively reviewed. The expected increase in EHUs that was already quantified in the policy has been applied to the proposed amendments for Community Infrastructure. For example, the capacity related investment for the WRAC has been divided by the expected units of demand over the whole city, which the policy states is 9,175 EHUs.

The same methodology was used for zone U (Keith Spry Zone). However, as the boundaries of the zone do not match any existing catchment zone, so it was not possible to use a previously known quantity of EHUs. An alternative is to use the sum total of EHUs of catchment zones within zone U. The draft policy stated that the expected increase in EHUs was 3,849⁶, however this did not include the expected increase in EHUs in zones P, R, F, G, and H, which are also within zone U⁷. This would add a further 1,360 EHUs, which would reduce the development contribution per EHU from \$879 to \$650. **If the investment is funded city wide, it would be funded by the assumed growth of 9,175 EHUs.**

3.2.5 Funding Options Determination

The Council is required to apply financial management provisions in part 6, subpart 3 of the Local Government Act 2002 (LG 02) to the development contributions policy. The current policy summarises this in clause 12.3 (p54). However, this determination cannot be applied universally to new activities such as is occurring with the introduction of a development contribution for community infrastructure⁸.

Appendix 3 contains a funding options analysis and determination for Community Infrastructure in accordance with s 101 (3) of LG 02.

3.2.6 Funding Methodology Options

The consultation information presented three funding options for community infrastructure. The preferred option had a citywide zone for the WRAC and a local zone for the Keith Spry Pool. For reasons stated above, this remains the recommended option, however there is some justification for having a non residential development contribution set at \$nil for community infrastructure only. Reasons for this include:

⁶ This is the sum of expected increase in EHUs for zone I (Churton Stebbings), J & S (Grenada Lincolnshire).

⁷ Compare the area covered by Zone U, as shown on page 120 of the Draft Annual Plan 2007/08 with p 118.

⁸ Section 101 (3) LG 02. It is clear that the analysis and determination must be followed for each activity to be funded. This is highlighted by Potter J in Neil Construction et al v North Shore City Council.

- consideration of points raised by the Property Council (submitter # 362) and Building Solutions (submitter # 492).
- the policy already has a non residential development contribution at a lesser level than residential development contributions in B6.1 (Reserves) to fairly reflect the reduced benefit and accessibility for workers compared with residents. Applying this principle to community infrastructure is reasonable.
- the funding options determination (above), especially s101 (3) (a) (v) suggest a \$nil non residential development contribution recognises that the demand pressures and benefits are principally people-based and there is no causal nexus for the new capacity that is attributable to non residential developments.

3.3 Confirming Changes to Catchment Zone Boundaries

The proposed amendments included a number of catchment zone changes:

- A new Roding zone 'T' (Pipitea Precinct)
- A new Community Infrastructure zone 'U' (Keith Spry Pool)
- Changing the boundary of zones 'K' and 'N'.

The officers propose minor changes to zones T and U so that the boundaries are contiguous with zones established in the current policy.

One submitter (Tawa Community Board - # 357) commented on catchment zone boundaries. No change is recommended in respect of this submission. This is explained above in 3.2.3 and in Appendix 1.

3.4 Pipitea Precinct

The proposed policy change would enable the Council to apply development contributions to fund a portion of the proposed works in the Pipitea Precinct Zone (Zone T). There were no submissions that specifically commented on this issue; however officers have reviewed the information to verify the methodology has been applied correctly.

The Pipitea Precinct Zone (zone 'T') is assumed to have development potential of 250,000 m² in addition to the current developed area of 172,000 m². The scale of such development would have a significant impact on traffic movements in the area and is equivalent to 3,845 EHUs (as stated in the proposed policy amendments). The Council intends to manage this anticipated impact by undertaking roading improvements worth over \$10 million, however only \$2.1 million (21%) is attributed to development contributions. This results in a contribution of \$540 per EHU.

No changes are recommended to the original proposal, except minor changes to the zone boundary, as mentioned above.

3.5 *Legal Considerations*

Following the release of the proposed policy changes for consultation Potter J released her decision in respect of a judicial review of the North Shore City Council's Development Contributions Policy. The implications of this decision have been applied to the proposed policy amendments and will be applied to the full development contributions policy when it is reviewed. See Appendix 4 for a synopsis of the decision.

3.6 *Corrections*

A number of corrections are required and have been itemised in Appendix 2. The changes are needed to correct errors that were found either in the current policy or in the Statement of Proposal (SOP) which covered the proposed policy amendments. Most of the corrections arise from numerical errors printed in the Statement of Proposal.

A review of the Water Supply infrastructure investment identified variances in the planned capital expenditure and expected growth (EHUs) for Churton Stebbings and Grenada Lincolnshire.

Water Supply	Planned Capex (\$,000)	Growth Proportion (\$,000)	Growth EHUs	Development Contribution per EHU
Churton Stebbings	4,643	2,877	1,580	\$1,820
Grenada Lincolnshire	6,490	6,254	1,590	\$3,933

It is proposed to change the Water Supply Development Contribution for Grenada-Lincolnshire from \$5,720 to \$3,933, however no change is proposed for Churton-Stebbing (currently \$1,543), as the variance (an increase of \$277) was not notified in the Statement of Proposal.

4. **Conclusion**

The Council has two options:

- Adopt the proposed policy changes including amendments and corrections as shown in Appendix 2 (recommended). This option enables the Council to collect development contributions for Pipitea Precinct and Community Infrastructure and make corrections to the policy with effect from 1 July 2007. The changes demonstrate that Council has given consideration to the relevant factors raised by submitters.
- Adopt the original proposal without amendments (not recommended). This option also enables the Council to collect development contributions from 1 July 2007, however the Council would be failing to take into account relevant factors that have come to light during the consultation phase.

Changes to the current Development Contributions Policy will enable the Council to fund planned growth related capital expenditure using development contributions. Some changes are proposed from the original proposal in light of issues raised in submissions and by the officers. Many of the issues raised by submitters will be considered when the full policy is reviewed.

Contact Officer: *Wayne Murphy, Senior Policy Advisor*
Report Author: *Cr Foster, Chair Development Contributions Subcommittee*

Appendix 1 Summary of Submissions

Submitter	Summary of Issue	Officer Comment	Recommendation
362 Property Council of NZ	The submitter gave Wellington's policy 'a cautious tick.' The growth portion of capital expenditure should be clearer to show compliance with the legal requirements arising from Neil Construction et al v North Shore City Council. Development contributions should not subsidise deferred capital expenditure or fund benefits to existing users	The report demonstrates how the Council has quantified growth, considered the causative nexus and benefits from the planned investment. Elements of capital expenditure that are not growth related have been excluded from being subject to development contributions.	N/A
	The Council's contributions are beyond a level that recovers marginal growth driven costs.	This review would be an opportunity to demonstrate to the submitter that the Council's development contributions relate to capacity related investment for all infrastructure.	Revisit at time of full review.
	Timing of payments is unfair and imposes costs on developers.	Outside the scope of the proposed amendments.	Revisit at time of full review.

Submitter	Summary of Issue	Officer Comment	Recommendation
357 Tawa CB	Supports concepts of policy.		
	Community infrastructure should be included in the plans for a new development.	Can be considered at time of next review.	Revisit at time of full review.
	Oppose the inclusion of Tawa in Zone U.	<p>The catchment zone reflects the relationship between development and impact of such development on the demand for new capacity.</p> <p>In the most recent customer survey respondents were asked to indicate what other aquatic facilities they had visited in the past 12 months. Tawa was the most popular facility at 26%.</p> <p>In the Tawa Pool survey the Keith Spry Pool in Johnsonville was the most commonly visited (28%) followed by Porirua (27%). 94% of Keith Spry Pool users came from northern suburbs.</p>	No change to the zone, except as indicated in the report.

Sub #	Summary of Issue	Officer Comment	Recommendation
289 The Stonne Trust	Small apartments have lower occupancy than the basis for EHUs in the policy. Development Contributions should reflect this.	Outside the scope of the proposed amendments.	Revisit assumptions at time of full review, or submitter can apply for a remission.
	Criteria for differentiating between residential and non residential developments.	Outside the scope of the proposed amendments.	Revisit at time of full review.
	The policy provides certainty for developers		
307 Housing NZ Corp	The effect of a new development must mean that new or additional capacity is required for development contributions to be valid.	See 1.1.1 of the policy: <i>'A development contributions policy provides the Council with a method to obtain to obtain contributions to fund infrastructure required as a result of growth.'</i> The report states that growth is a driver for changes to the policy. Similarly, the existing policy shows the capacity related projects that are caused by growth.	Revisit at time of full review.
492 Building Solutions	The development contributions levy discourages development in Wellington. The submitter also questions the relationship of the development and the beneficial services / impact of the development on infrastructure.	The causal nexus between non residential development and the impact on infrastructure capacity is examined in the report for the proposed changes to the policy.	A non residential development contribution for community infrastructure.

Sub #	Summary of Issue	Officer Comment	Recommendation
326-7 Ian Cassels	Council should consider using rates, instead of development contributions, especially for inner city.	<p>The Council can choose to use rates, however the policy states that Council believes it is more equitable to use development contributions to fund infrastructure investment that is attributable to growth.</p> <p>The proposed amendments, if approved, will mean that a proportion of the investment is not attributed to development contributions and non residential developments will not be required to contribute to community infrastructure.</p>	The overall concept proposed by the submitter can be revisited as an option when the complete policy is reviewed.

Appendix 2 - Proposed Changes to Development Contributions Policy

Page	Policy Ref	Change	Type
5	1.2.2	Delete ' , swimming pools'	Correction
9	2.4	Amend / update schedule	
		Zone J City wide contribution per EHU should be \$2,213	Correction
		Zone J Water Supply contribution per EHU should be \$3,933	Correction
		Zone K Residential Waste Water contribution per EHU should be \$1,185	Correction to SOP
		Zone K Non-residential Waste Water contribution per EHU should be \$1,185	Correction to SOP
		Zone S Water Supply contribution per EHU should be \$3,933	Correction
56	Apx A Table 4	Grenada Lincolnshire Water Supply contributions should be \$3,933	Correction
58	B3.1	Grenada Lincolnshire Planned capital expenditure should be \$6,490,000. Proportion relating to growth should be \$6,254,000. Growth EHUs should be 1,590. Development contributions should be \$3,933	Correction
New	B7	Change expected increase in EHUs to 5,209 and change development contribution per EHU to \$650	Change
New	B2 B7	Citywide development contributions – Aquatic Facilities Network growth related investment = \$8,747,000 and based on an assumed EHU change of 9,175, the development contribution amount is \$953	Change recommended by the subcommittee
New	B7	Amend proposal to exempt non residential developments from being subject to development contributions for community infrastructure.	Change
Maps	Zone U	The boundary of zone U – (Keith Spry Development Contributions Area) be changed to be contiguous with zone G (Ngaio West)	Change to SOP
New	B7	Keith Spry Pool capacity investment to be funded city wide	Change recommended by the subcommittee
Maps	Zone K	The boundary of zone K – (Inner City) be changed to be contiguous with zone T (Pipitea Precinct)	Change to SOP

Appendix 3 - Community Infrastructure Capacity Investment Funding Options Analysis and Determination.

LGA 02 Ref	Analysis	
<p>The Community Outcomes to which the activity primarily contributes</p> <p>101 (3) (a) (i)</p>	<p>Swimming pools contribute positively to community outcomes (recreation) Wellington will have ready access to multi-use indoor and outdoor facilities Growth in demand is inevitable due to population growth and the ability of the activity to contribute positively to community outcomes will diminish unless capacity concerns are catered for.</p>	
<p>Distribution of benefits</p> <p>101 (3) (a) (ii)</p>	<p>The benefits principally accrue to people who use the facilities and secondly to people who can elect to use the facilities. Broader social and health benefits occur from accessibility to such facilities.</p>	
<p>Revenue and Financing Policy (6.4.1)</p>	<p>Individuals / Users</p>	<p>Community</p>
	<p>80%</p>	<p>20%</p>
<p>Period in / over which benefits are expected to occur</p> <p>101 (3) (a) (iii)</p>	<p>Benefits are mostly private and excludable to users of the facilities. Increasing capacity will, initially significantly improve accessibility to residents living in the city at the time the work is completed, however the overall benefit in terms of optimal / intended levels of accessibility will be sustained over a much longer period of time as the new capacity is intended to manage the cumulative pressure of sustained growth of the community's residential population in the foreseeable future.</p>	
<p>Demand drivers / exacerbators</p> <p>101 (3) (a) (iv)</p>	<p>The levels of service are driven by community expectations for accessibility. Wellingtonians enjoy using or at least having access to community facilities. The community expects the Council to plan and cater for the effects of growth on access to community facilities.</p>	

LGA 02 Ref	Analysis
<p>Who should pay? 101 (3) (a) (v)</p>	<p>Capital expenditures are generally met by borrowing. Council has the option of funding such borrowing from ratepayers over time or from developers. The Council believes it would be unfair to fund capacity related investment from ratepayers, as they are not driving the demand for new capacity. The Council believes it is fair and reasonable for costs of investment in new capacity to be borne by the intended beneficiaries of the new capacity and development contributions provisions in the Local Government Act 2002 provide a mechanism for this. Within the development contributions policy, the Council can use catchment zones and different charges for residential and non residential developments in recognition of the distribution of benefits and that pressure for the new investment is generally residentially based, while non-residential developments also contribute to demand, albeit to a lesser extent.</p>
<p>Overall impact of allocation of liability for revenue on community well beings 101 (3) (b)</p>	<p>The allocation of liability for funding the investment avoids imposing economic hardship on ratepayers and provides certainty for developers and their customers, while ensuring the social benefits will continue to occur by maintaining optimal accessibility in a community that is expected to grow.</p>
<p>Determination</p>	<p>That after allowing adjustments for investment that provide an increased levels of service, there is no demonstrable case supporting departure from the key funding principle that development contributions for Community Infrastructure shall fund 100% of the growth related capital expenditure by applying development contributions on residential developments. Non residential developments shall not be subject to development contributions for Community Infrastructure.</p>

<p>Section 199 prescribes the basis on which contributions may be required, it does not set the criteria for determining from what sources Council should seek funding. Put another way, section 199 authorises contributions as a potential source of funding for certain types of capital expenditure, along with other authorised funding sources such as general rates.</p> <p>The general obligations in respect of financial management under the LGA 2002 then apply. In particular, Council must comply with section 101. The matters under section 101(3) must be considered and applied 'to each activity' individually, including with reference to the five matters under section 101(3)(a).</p> <p>Council must then stand back and consider the overall impact of each funding source determination, on the basis of the four well-beings.</p> <p>The LGA 2002 does not allow Council to adopt blanket policy level approach to contributions.</p>	207-217
<p>When contributions are identified as a source of funding, Council is required by section 106(2)(c) to explain in terms of section 101(3) why funding should be from this source.</p>	44
<p>Development contributions for reserves</p>	
<p>Both the standard of reserves Council considers appropriate, and whether to fund the cost of reserves by contributions, are matters of policy in which the Court should be slow to intervene. The weight to be attached to the matters under section 101(3) is for Council to decide.</p> <p>What is required to 'provide appropriately for' in terms of section 199 is also a policy decision to be taken by Council - although this does not remove Council's obligation to properly apply the statutory criteria, including to:</p> <ul style="list-style-type: none"> • Assess the benefits and costs of each reasonably practicable option that can be identified in terms of the present and future social, economic, environmental and cultural well-being of the district (section 77); and • Consider the matters under section 101(3). <p>In the context of this case, the Court found that it was reasonable for the North Shore City Council to determine that it would:</p> <ul style="list-style-type: none"> • Maintain a level of service of 7.9 hectares per one thousand population; or • Collect contributions for reserves on a citywide basis. 	269, 270, 278-281

Supporting Information

1) Strategic Fit / Strategic Outcome

The policy supports the Council's future infrastructure needs and advances the development of the policy to accommodate community infrastructure.

2) LTCCP/Annual Plan reference and long term financial impact

The policy links to the LTCCP. Changes to the policy amends the LTCCP.

3) Treaty of Waitangi considerations

Not applicable.

4) Decision-Making

Options that were presented in the Statement of Proposal were revisited. Options for adopting the amendments are presented.

5) Consultation

Consultation was conducted as part of the Annual Plan, using the Special Consultative Procedure and by notifying the development community.

6) Legal Implications

Statutory requirements are noted in the report. Council's legal advisors have been consulted.

7) Consistency with existing policy

The recommendations are consistent with core principles of the Development Contributions Policy and are in response to a decision by Council requesting further work to be done on the policy.