
**DEVELOPMENT CONTRIBUTIONS POLICY:
AMENDMENT TO THE 2003/04 LONG TERM COUNCIL
COMMUNITY PLAN – ADOPTION**

1. Purpose of Report

The Council notified its draft Development Contributions Policy on 20 April 2005. This report provides the Development Contributions Subcommittee (“The Subcommittee”) a summary of the submissions received, advice of officers and consultants on aspects of the draft policy, and proposes amendments to the draft policy.

The report recommends that the Subcommittee recommend that the Strategy and Policy Committee recommend to Council that the Draft Development Contributions Policy is adopted (as amended) and that it takes effect on 1 July 2005.

2. Executive Summary

The submissions received on the Draft Development Contributions Policy have raised several issues that require the sub-committee's consideration. They are addressed in this report, and recommendations made. The issues raised in submissions fall in three main categories :

- The Council's funding decision;
- Methodology and application of funding decisions to certain infrastructure areas;
- Assessment of the amount payable under the policy - in particular the assessment of units of demand for any development undertaken in Wellington.

This report recommends that the Council confirm its decision made in March 2005 that Development Contributions will be used to fund growth related capital expenditure. The report recommends that when Council considers the application of that funding approach to each area of infrastructure (following the application of the methodology), that the Council retains the option of departing from the principle that development should pay 100% of growth related capital expenditure for particular infrastructure if the Council were to be of the view, following the consideration of section 101(3) factors, that there is a demonstrable case supporting a variation.

The detailed methodology adopted by the Council for calculating the contributions required to fund growth related capital expenditure, has been covered in the 7 April paper to the Strategy and Policy Committee. Submissions that raised issues with the methodology are discussed in the report. It is considered that the methodology is sound, but that some minor changes are recommended to address issues raised in submissions.

A number of changes are recommended to the definitions and assessment of units of demand under the policy in response to issues raised in submissions.

3. Recommendations

It is recommended that the Subcommittee:

1. *Receive the information.*
2. *Receive the submissions*
3. *Recommend to the Strategy and Policy Committee that it confirms the key principle that development contributions fund 100% of growth related expenditure, but that Council retains the option of departing from this principle for particular infrastructure if the Council were to be of the view, following the consideration of section 101(3) factors, that there is a demonstrable case supporting a variation.*
4. *Agree that the issues raised in submissions and raised by officers (as summarised in this report) are dealt with as follows:*
 - a. *Bottom up vs top down approach to assessing the impact of growth on infrastructure – no change to the policy*
 - b. *Growth assumptions - no change made to the policy*
 - c. *Definition of growth vs. development – amend policy as recommended in paragraph 6.2.2*
 - d. *Renewal projects – no change to the policy*
 - e. *Equivalent household units;*
 - i) *insert new definitions of 'residential' and 'non-residential';*
 - ii) *exclude resthomes and student accommodation with shared facilities from the definition of 'residential';*
 - iii) *treat 'minor household units' as 'non-residential' only to the extent that it can be conclusively proven that the development places restrictions on the number of resident persons to a maximum of 1 person;*
 - iv) *amend the policy to include the 'assessment' regime proposed for dealing with non-residential development set out in paragraph 6.3.3;*
 - f. *Agreements with developers – no change to the policy;*
 - g. *Northern Growth - specific projects and capital expenditure;*
 - i) *Northern Growth water/ application of citywide fees - reduce as recommended in paragraph 6.5.2;*
 - ii) *Northern Growth existing reservoirs – refine the catchment area boundaries as recommended in paragraph 6.5.2;*
 - iii) *Northern Growth roads - make no changes to the policy and negotiate with the landowner on the specific concerns raised about land purchase;*
 - iv) *City parks – allocate Waitangi Park development between citywide and inner city catchments;*

- The requirements for paying Development Contributions; and
- The schedule of Development Contribution fees.

Development Contributions can only be required for growth related capital expenditure budgeted in the Council's LTCCP. The Council's 2003/04 LTCCP therefore needs to be amended to reflect capital expenditure planning decisions made by Council in the 2004/05 and 2005/06 respective Annual and Draft Annual Plans. Council also proposed that its Revenue and Financing Policy is amended so that it provides for funding capital expenditure required for growth through Development Contributions.

The process for implementation of the policy to date has involved:

- Notification of the draft policy and LTCCP amendments at the same time as the Draft Annual Plan;
- Consultation (using the special consultative procedure);
- Establishment of a Development Contributions Subcommittee of the Strategy and Policy Committee to hear submissions and make recommendations following submissions.

This Development Contributions Subcommittee will make recommendations to the Strategy and Policy committee, which in turn will make recommendations to Council for a final Council decision to be made by the end of June 2005.

5. Submissions

The draft policy, amendments to the 2003/04 LTCCP capital expenditure figures, and amendments to the Revenue and Financing Policy were notified on 20 April 2005. 26 submissions were received on the draft policy. The submissions have been made available to all Councillors. No submissions were received on the Revenue and Financing Policy, however a number of the submissions raised issues that touch on the funding principles in the Council's current Revenue and Financing Policy. Twelve submitters appeared to present oral submissions on 25 May and 26 May 2005.

Submissions on capital expenditure have been made as part of the Draft Annual Plan. For the purposes of these deliberations, it is assumed that no material changes will be made to the Draft Annual Plan. However if changes are made as part of the Draft Annual Plan process, then they will need to be considered immediately following the decisions on the Annual Plan.

The key issues raised in oral and written submissions are summarised in Appendix 1. The issues arising from the submissions, and further feedback from officers and advisors are as follows:

Issue	Section of paper
Funding decision (particular issues raised include equality across the city, rates issues, benefits, etc)	Section 6.1
Methodology issues, including: <ul style="list-style-type: none"> ▪ Bottom up v top down ▪ Growth assumptions ▪ Definition of 'growth' versus development ▪ Renewal issues 	Section 6.2
Equivalent Household Units (EHUs) <ul style="list-style-type: none"> ▪ Definitions ▪ Minor residences ▪ Non-residential 	Section 6.3
Agreements with developers	Section 6.4
Specific projects / capital expenditure <ul style="list-style-type: none"> ▪ Northern Growth roads ▪ Northern Growth water ▪ City Parks (Waitangi and Glover Park) 	Section 6.5
Mechanics/accounting <ul style="list-style-type: none"> ▪ Accounting - implementation ▪ Refunds ▪ Mapping issues and 'workability of the policy' ▪ Exceptional circumstances 	Section 6.6

6. Discussion

6.1 Funding Decision

6.1.1 Issues Raised in Submissions

Issue	Submission Number	Page Number	Submitter
Negative impact on growth / Economic analysis	3	75	Philip McCaffrey
	6	79	Timothy Campbell
	12	28	Joyce Group Ltd
	16	2	Whats New Group
	17	34	Kensington Swan
	18	42	Spencer Holmes Ltd
	21	6	Wgtn Master Builders Assn
	22	103	Chris Parkin
Infrastructure provided by developers	7	16	Rodney Callender
	17	42	Spencer Holmes Ltd

Development contributions versus rates	7 9 16	16 83 2	Rodney Callender Ruth Paul Whats New Group
Reduced ability to provide low cost housing	7 20 21	16 21 6	Rodney Callender Willis Bond & Co Ltd Wgtn Master Builders Assn
Application of Transfund subsidy to cost of new roads	10	84	Glenside Progressive Association
Former capital expenditure	18	34	Kensington Swan

6.1.2 Background

Part 6 subpart 3 of the Local Government Act 2002 ('LGA 2002') deals with the financial management requirements of local authorities. The relevant sections of this subpart of the LGA 2002 Act are outlined as follows:

Financial management

Section 101 requires a local authority to "*manage its revenues, expenses, assets, liabilities, investments, and general financial dealings prudently and in a manner that promotes the current and future interests of the community.*"

A local authority must also make "*adequate and effective provision in its long-term council community plan and in its annual plan (where applicable) to meet the expenditure needs of the local authority*" identified in those plans.

When determining how these expenditure needs will be met, Section 101(3) requires a local authority to determine the appropriate sources of funding, "*following consideration of,-*

- a) *in relation to each activity to be funded,-*
 - (i) *the community outcomes to which the activity primarily contributes; and*
 - (ii) *the distribution of benefits between the community as a whole, any identifiable part of the community, and individuals; and*
 - (iii) *the period in or over which those benefits are expected to occur; and*
 - (iv) *the extent to which the actions or inaction of particular individuals or a group contribute to the need to undertake the activity; and*
 - (v) *the costs and benefits, including consequences for transparency and accountability, of funding the activity distinctly from other activities; and*
- b) *the overall impact of any allocation of liability for revenue needs on the current and future social, economic, environmental and cultural well-being of the community."*

Funding and financial policies

Once the sources of funding have been determined, Section 102 requires a local authority to adopt a number of funding and financial policies including a Revenue and Financing Policy and a Policy on Development Contributions or Financial Contributions – the latter being the subject of this paper.

Revenue and Financing policy

The requirements of the revenue and financing policy are outlined in Section 103. This section requires the policies to be separately stated with respect to the funding of operating and capital expenditures from the sources “*as follows*:

- a) *general rates, including-*
 - (i) *choice of valuation system; and*
 - (ii) *differential rating; and*
 - (iii) *uniform annual general charges:*
- b) *targeted rates:*
- c) *fees and charges:*
- d) *interest and dividends from investments:*
- e) *borrowing:*
- f) *proceeds from asset sales:*
- g) *development contributions:*
- h) *financial contributions under the Resource Management Act 1991:*
- i) *grants and subsidies:*
- j) *any other source.”*

The Revenue and Financing Policy “*must also show how the local authority has, in relation to the sources of funding identified in the policy, complied with section 101(3).*”

Development contributions

Part 8 subpart 5 deals with the use of Development Contributions as a source of funding. Section 198 gives a territorial authority the power to require Development Contributions for developments.

The basis on which Development Contributions may be required is further described in Section 199. It states that “*development contributions may be required in relation to developments if the effect of the developments is to require new or additional assets or assets of increased capacity and, as a consequence, the territorial authority incurs capital expenditure to provide appropriately for-*

- a) *reserves;*
- b) *network infrastructure;*
- c) *community infrastructure.”*

This section “*does not prevent a territorial authority from requiring a development contribution that is to be used to pay, in full or in part, for capital*

expenditure already incurred by the territorial authority in anticipation of the development.”

Section 200(1) provides further limitations on a territorial authority applying Development Contributions “*to the extent that-*

- *it has, under section 109(2)(a) of the Resource Management Act 1991, imposed a condition on a resource consent in relation to the same development for the same purpose; or*
- *The developer will fund or otherwise provide for the same reserve, network infrastructure, or community infrastructure; or*
- *The territorial authority has received or will receive funding from a third party.”*

Section 200 (2) states “*This subpart does not prevent a territorial authority from accepting from a person, with that person’s agreement, additional contributions for reserves, network infrastructures, or community infrastructures.*”

Current approach to funding capital expenditure

The current Revenue and Financing Policy contains the following policy statement on the funding of capital expenditure:

“Capital expenditure represents expenditure on property, plant and equipment. Property, plant and equipment are tangible assets that are held by the Council for use in the provision of its goods and services (for example: bridges, libraries, the Wellington Regional Aquatic Centre), for rental to others or for administrative purposes, and may include items held for the maintenance or repair of such assets. The assets must also have been acquired or constructed with the intention of being used on a continuing basis.

Capital expenditure is funded from depreciation, asset sales, and restricted funds or through new or extended borrowings as outlined below:

- *If the capital expenditure relates to the replacement (renewal) of an existing asset, that expenditure will be funded by depreciation. Funding for depreciation comes from rates. Any surplus depreciation, after paying for the replacement of Council assets, will be used to repay borrowings.*
- *If the capital expenditure relates to the construction or purchase of a new asset or to the upgrade or increase in service potential of an existing asset, that expenditure will usually be funded from new or extended borrowings.*
- *The funding of capital expenditure from the sale of surplus assets is decided on a case-by-case basis. Funds received from the sale of surplus assets that are not applied to the funding of capital expenditure may be used to repay borrowings.*
- *The funding of capital expenditure from restricted or special funds is decided on a case-by-case basis and is subject to the specified purposes and*

conditions governing the use of those restricted funds.

- *If an approved capital expenditure project is not completed by the end of the financial period, the unspent funds may be carried forward to the next financial period to enable the project to be completed.*
- *While currently the Council operates under the auspices of the Resource Management Act (1991) in the use of financial contributions, consideration is currently being given to the adoption of a development contributions policy under the Local Government Act. Any revenue derived from such a policy will likely be used to fund the construction or purchase of a new asset or to the upgrade or increase in service potential of an existing asset. This will result in a corresponding decrease in the amount to be funded from new borrowings.”*

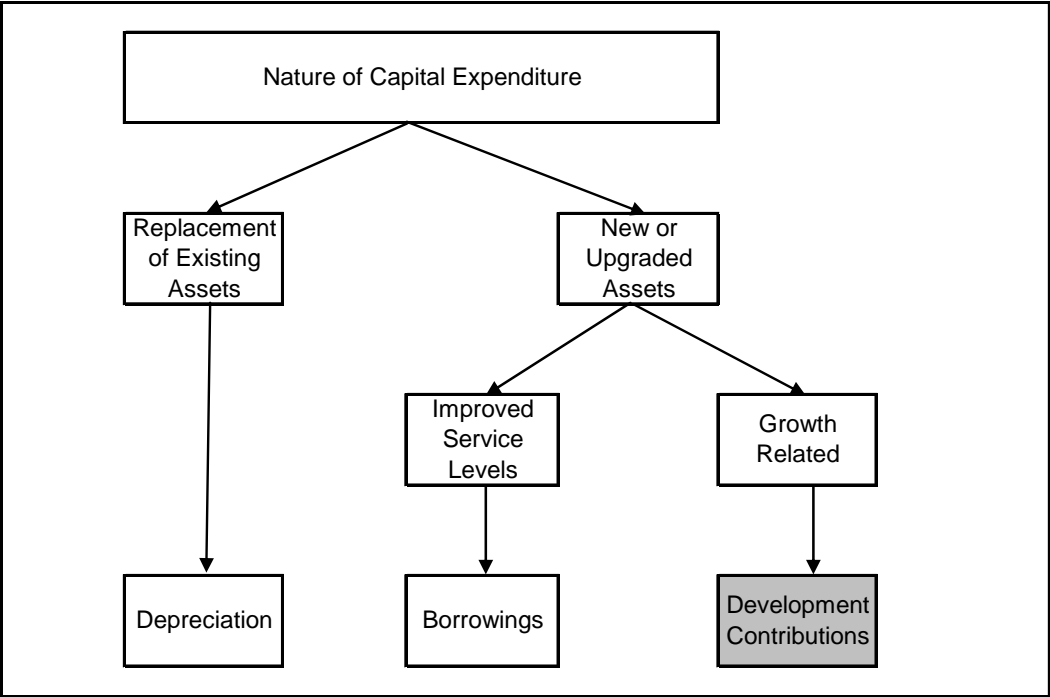
Proposed approach to funding capital expenditure

The draft Development Contributions Policy recognises the legislative requirements and limitations described above and proposes that Development Contributions fund 100 percent of growth related capital expenditure. In choosing Development Contributions as an appropriate source of funding under Section 101(3), the following key principle (agreed by Council in March 2004) has been applied:

“Existing ratepayers should not subsidise developers, nor should development levies subsidise existing ratepayers.”

In effect, this means that there should be equity between existing ratepayers and newcomers and those causing the need for additional infrastructure and reserves should contribute to the capital cost.

The chart below illustrates the proposed approach to capital expenditure funding:



The change between the current and proposed funding approaches can be further summarised in the following table:

Capital Expenditure Type	Current Approach	Proposed Approach
Renewal of existing assets	Funded through depreciation charged as part of rates.	
New assets to address current service level deficiencies	Funded through borrowings. Interest costs charged as part of rates.	
New Assets to address growth	Funded through borrowings. Interest costs charged as part of rates.	Funded through Development Contributions used to repay borrowings.

The proposed change at Appendix 3 updates the Revenue and Financing Policy. This change was notified at the same time as the draft Development Contributions Policy. In addition to the proposed change, it is intended that the percentage of total capital expenditure to be funded from depreciation, borrowings, and development contributions be updated for each activity when the Revenue and Financing Policy is next revisited.

No submissions have been received on the proposed change, however, a number of the issues raised in 6.1.1 relate to the substance of the proposed change to the policy.

6.1.3 Discussion

The issues raised in 6.1.1 question the way in which the legislative requirements have been applied in determining development contributions as an appropriate source of funding for growth related capital expenditure. The following discussion outlines each of the issues:

Negative impact on growth / economic analysis

A number of the submissions referred to the negative impact that the draft Development Contributions Policy would have on the growth of the city, and the consequential impact that this would have on Wellington's competitiveness within the development market. A number also linked the impact to a reduction in potential rates.

To address the level of impact the need for an economic assessment has been suggested. Whilst no specific study was commissioned as part of the development of the draft policy, reference was made to a similar study undertaken by Covec in June 2004 to consider the socio-economic impact of development contributions for Waitakere City Council. In considering the impact on growth, this study concluded that whilst development contributions may slow the rate at which houses in Waitakere are sold, the effect would be minor. The study further stated that *“any temporary fall in the number of houses sold would be quickly overshadowed by higher demand stemming from higher population and higher incomes.”*

In the absence of any further study it is considered that the impact on growth for Wellington would also be minor. Arguably, the varying level of development contributions within the various catchments identified may promote growth in certain parts of the city in the shorter term. However, there are a number of variables that impact that decision such as lifestyle, proximity to the city, school-zoning, etc.

When applying Section 101(3) of the LGA 2002, Council could reduce the overall impact of development contributions because of its perceived impact on the four well-beings of the community (in particular, economic) and adopt a version of the final policy that changes the amounts charged. However, based on the above conclusions officers do not recommend this, but realise that it is a matter for judgement by Councillors.

Infrastructure provided by developers

The legislation in respect of infrastructure provided by developers is very clear. Section 199 states that “*development contributions may be required in relation to developments if the effect of the developments is to require new or additional assets or assets of increased capacity and, as a consequence, the territorial authority incurs capital expenditure to provide appropriately for-*

- a) *reserves,*
- b) *network infrastructure,*
- c) *community infrastructure.”*

Section 200(1) further limits a territorial authority from applying development contributions “*to the extent that the developer will fund or otherwise provide for the same reserve, network infrastructure, or community infrastructure.”*

Applying this legislation, any infrastructure provided by developers will not attract a development contribution. Where funding is currently provided in the LTCCP and the expenditure is subsequently not incurred by Council, then a refund of any development contributions received would be payable (discussed separately within this report).

Contributions versus rates

A number of submitters also raised the question of “double-dipping”. That is to suggest that the cost of capital expenditure is already being met through rates and, therefore, any development contribution would represent a duplication of funding.

It is correct that rates assessed include charges for capital expenditure in the form of depreciation and interest on borrowings. Rates revenue in respect of depreciation is used to pay for the replacement of existing assets¹. Where

¹ Accounting for depreciation is covered by Financial Reporting Standard FRS 3, (Accounting for property, plant and equipment), issued by the New Zealand Institute of Chartered Accountants. Section

depreciation funding exceeds replacement costs in any given year, the balance may be used to repay borrowings. New assets are funded through borrowings. The interest cost of servicing borrowings is also included in rates assessed. No provision is however made for the repayment of principal borrowings.

Development contributions are payable only in respect of growth related capital expenditure and will be applied in substitution of borrowings. Given that little if any provision is currently made for the repayment of borrowings, the contention of “double-dipping” is incorrect.

A related issue raised was also the opportunity to apply additional rates, resulting from growth in the ratepayer base, to the repayment of borrowings. Any increase in the number of ratepayers has the effect of spreading the rating burden over a wider base rather than increasing the total amount collected from rates. Any change to the Council's rating approach to address the issues raised by submitters would require a significant shift in Council rating policy and is not appropriately dealt with as part of the Development Contribution Policy.

Reduced ability to provide low cost housing

As drafted, the policy currently attributes the cost of growth so that they are met by the particular development that incurs the cost. There is no assessment of 'ability to pay' unlike rates funding decisions where the Council's use of a capital value rating system incorporates this principle.

The impact of development contributions on the affordability of housing, in particular low cost housing, has been raised in reference to the Northern Growth Area, in particular. While the fees in the Northern Growth Area are higher than other areas, it is unlikely that there will be a significant change to the 'actual' amount paid post the introduction of the policy. The reason for this is that the majority of sections and housing in this area have been developed pursuant to agreements with Council where the individual developers have met the cost of the infrastructure required for growth.

Even if the fees under the policy were entirely 'new' fees, then the cost of development contribution is passed on to the home owner, it is likely that it will be spread over the term of the underlying home loan. Assuming an additional home loan of \$15,000, repayable fortnightly over 20 years at the prevailing variable interest rate, the cost of the development contribution would be approximately \$30 per week.

However, as with the other suggested negative impacts on growth, Council has the ability under Section 101(3) to reassess the overall impact of development contributions on the four well-beings of the community (in particular, social and economic) and to amend the fees.

8.3 of this standard defines depreciation as “a measure of the cost or value of the economic benefits embodied in an item of property, plant and equipment consumed.” For the purpose of calculating depreciation, the cost of the item (or asset) is divided by the “life” over which the economic benefits are expected to be consumed, and then charged on a “straight-line” basis. This assumes that those who use the asset pay for the consumption of benefits evenly throughout its life.

Application of Land Transport NZ (“LTNZ”) subsidy to cost of new roads

LTNZ subsidy is receivable on approved transport expenditure projects. This has the effect of reducing the net costs by typically between 43 to 53 percent. Projects that Council wishes to undertake, but that fail to meet the LTNZ subsidy requirements, remain funded 100 percent by Council.

In applying the draft development contributions policy, the growth related capital expenditure estimates have been reduced by the percentage of LTNZ subsidy receivable.

Former capital expenditure

Section 199 “does not prevent a territorial authority from requiring a development contribution that is to be used to pay, in full or in part, for capital expenditure already incurred by the territorial authority in anticipation of the development.”

This provision has been applied appropriately within the draft policy in respect of former capital expenditure for the construction of sewage treatment facilities and a number of water reservoirs. One submitter (No.18) raised that development contributions for capital expenditure that have already been incurred would have to be applied to debt for that specific project. Council's debt is raised and managed on a Council-wide basis which does not necessarily mean that contributions received for capex that has already been incurred by the Council will be applied to the specific debt required for that capital expenditure. It will, however, be applied to Council-wide debt.

6.1.4 Recommended Approach

Following the analysis of submissions, and the points raised in oral submissions, it is recommended that the Sub-committee:

- Confirm the key principle that development contributions fund 100 percent of growth related expenditure.
- Retain the option of applying Section 101(3) to alter its funding decision on an exceptions basis once fees are calculated (whether city-wide or catchment specific) for any particular infrastructure, if there is a demonstrable case supporting such a variation, such as wider environmental benefits or adverse cultural and social impacts. (Note this is quite separate from the review of Council's assessment of growth related capital expenditure and resulting development contributions for specific projects discussed in section 6.5).

It is noted that none of the catchments specific for city-wide fees are at a level where officers have flagged as being appropriate for section 101(3) to be applied to reduce any specific fees.

6.2 Methodology issues

6.2.1 Bottom-up vs. top down

Submission No. 18 queried the fact that the policy implements a “top down” instead of a “bottom up” approach which is a misinterpretation of the relevant sections of the LGA 2002. The terminology (“top down” or “bottom up”) is not used in the LGA 2002 or in Council’s draft policy. The draft policy does provide that:

“In developing a methodology for the development contributions, Council has taken a system-wide view in identifying the cumulative effect of development on infrastructure, i.e. by considering the infrastructure impacts on all ratepayers created by both individual and multiple developments across a catchment. For Citywide catchments this means growth is proportionally reflected in total capital expenditure.”

Application of the policy starts with identifying growth related capital expenditure in the asset management plans and LTCCP and attributing that capital expenditure across those developments that are driving the need for the additional network infrastructure and reserves.

As such the policy is consistent with the requirements of the LGA 2002 and it is not recommended that changes to the methodology are necessary.

6.2.2 Growth Assumptions

The estimated population projections for Wellington recently released by Statistics NZ show a significant increase in growth compared with earlier projections used to prepare the Council’s Asset Management Plans. Submissions and Sub-committee discussions have queried whether the higher growth projections should be applied in the Development Contributions Policy. The effect would be to increase the number of Equivalent Household Units (“EHU”) over which capital expenditure would be spread, reducing the development contribution fee per EHU.

These new projections are being incorporated into the Wellington Regional Strategy and will flow through into the next revision of the Asset Management Plans. The draft Development Contributions Policy is based on the capital expenditure in the LTCCP (which is based on the earlier population projections of lower growth that are incorporated in the asset management plans).

Changing the planning assumptions would create a mismatch between demand for infrastructure and reserves required for the higher projected population and the infrastructure and reserves for growth currently identified in the Asset Management Plans and LTCCP.

6.2.3 Definition of growth vs. development

Submission no. 18 queried the accuracy of the paraphrasing of LGA 2002 within the draft policy and that development and growth are not interchangeable concepts, e.g. Section 1.1 of the policy paraphrases LGA section 199 resulting in an incorrect reflection of the section and hence the law. “Development” (a defined term) becomes

“growth” and “development contributions may be required” becomes “are required”. The causal nexus (central to the legislations policy objective) is omitted.

It is recommended the policy should be changed to read –

“[Under Section 199 LGA 2002] development contributions may be required in relation to developments if the effect of the developments is to require new or additional assets of increased capacity and as a consequence the Council incurs capital expenditure to provide appropriately for network infrastructure, community infrastructure and reserves. In addition, Section 199 LGA 2002 does not prevent the Council from requiring a development contribution that is used to pay, in full or in part, for capital expenditure already incurred by the Council in anticipation of development.”

The draft policy will be reviewed and amended where required to ensure all wording matches the LGA 2002 where required.

6.2.4 Renewal Projects

One submission identified renewal projects included in the growth related capital works and queried the appropriateness of this as renewals are not growth related.

A number of renewal projects include the provision for additional capacity to provide for growth. In such situations, the policy limits the costs of growth to the incremental costs of the materials required for the additional size or capacity. This was acknowledged by other submissions which supported this approach.

6.3 Equivalent Household Units (EHU)

A number of submissions have raised issues with the use of equivalent household units (EHUs) to allocate costs across residential and non-residential uses.

The draft Development Contribution Policy utilises EHUs as the unit of demand for measuring growth related capital expenditure. One EHU is equated to either a subdivided allotment, or a household unit (as defined in the District Plan) for residential development, or 65m² of gross floor area ('GFH') for non-residential / commercial development. The same definition applies across each of the asset groups for which development contributions are proposed.

Submissions on the draft policy criticised EHUs as the unit of demand. Specific issues raised included:

- The draft policy does not define 'non-residential / commercial' EHUs and it is unclear what category some types of development fall into.
- As defined in the draft policy, a 'household unit can vary significantly in size, and therefore the demand it creates. Submitters questioned whether it was equitable for every unit with a multi-unit development of one bedroom ('studio') apartments to be assessed as one EHU. It was also suggested that, because development contributions would result in a greater percentage increase of the price of minor household units, this would reduce the amount of 'low cost' housing being built.

- It was submitted that studio apartment accommodation specifically for tertiary students does not create more demand than multi-bedroomed student accommodation because, in both cases, every bedroom will always be occupied. Development contributions will encourage the construction of multi-bedroomed student facilities, whereas the market favours one and two bedroomed apartments.
- Submitters argue that the proxy of 65m² GFA per EHU for non-residential / commercial development is flawed. Examples were used to illustrate:
 - types of commercial development which did not employ 2.6 people per 65m² of GFA; and
 - how the development contributions that would be required for some types of development (for instance, large-scale warehousing) might grossly exceed the demand created.

These issues are now discussed in turn below.

6.3.1 Definitions

A household unit is defined as:

'A home or residence that is a self-contained unit that includes kitchen and bathroom facilities of any nature and is physically separated, or capable of being separated, from any other household unit.'

This is the same definition as included in the District Plan and includes minor residences including “granny flats”, and self contained units often provided for in halls of residence and elderly care facilities.

The draft policy proceeds on the basis of distinguishing between residential development and any other development (ie non-residential / commercial). There was an oversight when the policy was drafted, and it did not include a definition of residential development. It is proposed that the draft policy is amended to include the District Plan definition for residential activity :

'Residential development: *means the use of premises for any domestic or related purpose by persons living in the premises alone or in family and / or non-family groups (whether any person is subject to care, supervision or not), but does not include work from home, hotels, motels, camping grounds, motor camps or other premises where residential accommodation for 5 or more travellers is offered at a daily tariff or other specified time'.*

This definition excludes motel / hotel accommodation, which would therefore default to non residential. Self contained residential apartments would on the other hand, in the first instance, be assessed as a residential development and be assessed on a 1 EHU per household unit basis. However, where it can be demonstrated to Council that they will be managed as serviced apartments (on a continuing basis) they would fall under the definition of non residential and be assessed accordingly.

Work by officers has raised an anomaly with the above definitions in that permanent residential accommodation with shared facilities such as student or elderly care facilities will be classified as 'residential' but as the number of household units is determined by the number of 'kitchens', the result could be quite inequitable. Once such example was the Madison Gardens Retirement Village in Karori, where a very large retirement village was assessed as one household unit. In that example, had the Development Contributions Policy been in effect, it would have only been assessed as one EHU because there was only one kitchen facility.

Councillors may be aware that the definitions in the District Plan were proposed to be changed as part of Plan Change 6 (as there was an issue about the application of the Multi-unit Design Guide and Carparking Standards) but it was not resolved as part of that Plan Change. Instead, it was referred for further work. Unfortunately that further work has not been advanced enough at this stage to leave this issue to be resolved under the District Plan definitions.

It is therefore proposed that the definition of 'residential development' is amended so that these scenarios fall outside the definition of 'residential' which will leave them to be assessed on the basis of one EHU per 65m² GFA.

The proposed amendment is as follows (with the amended text in underlined text):

***'Residential development:** means the use of premises for any domestic or related purpose by persons living in the premises alone or in family and / or non-family groups (whether any person is subject to care, supervision or not), but does not include work from home, hotels, motels, camping grounds, motor camps or other premises where residential accommodation for 5 or more travellers is offered at a daily tariff or other specified time and excludes a rest home, university hostel or similar establishment that provides communal dining facilities.'*

It is also recommended that a new definition is proposed for non residential development. Because that category acts as a 'catch all' definition for all activities that do not fall within the residential definition, it is proposed that:

- any reference to 'commercial' is deleted from the policy reference - so that the categories are either residential or non-residential; and
- the definition does not list non-residential uses / activities / developments, but rather proceeds on an exceptions basis as follows:

***'Non residential development:** means any development that falls outside the definition of residential development in this policy.'*

6.3.2 'Minor' residences'

The combination of the definitions of 'residential' and 'household unit' mean that small residences such as granny flats and studio apartments are assessed as one EHU.

Submissions on the draft Development Contributions Policy criticised this approach and questioned whether regarding smaller residences creating equivalent demand as an 'average' household unit could be justified.

Councillors requested information on how other councils have dealt with this same issue. Information from the Auckland City, Waitakere City and North Shore City Councils development contributions policy are as follows:

Auckland City Council

A unit of demand is defined as 'one average dwelling'. The policy makes exceptions to the proxy of one unit of demand per residential dwelling as follows:

- Parks - one bedroomed household units generate 0.7 HUE;
- Community amenities - one bedroomed household units generate 0.7 HUE.

North Shore City Council

A unit of demand is defined as being equivalent to one 'average' dwelling. The policy specifically records 'for the avoidance of doubt, 'minor residential unit' or 'granny flat' is an additional HUE and will be charged development contributions'.

Waitakere City Council

Similar to North Shore City. Minor household units are considered to contribute to the need for community and network infrastructure and as such are levied development contributions.

Discussions with the Council's Urban Strategy Team have been held. Applications received by Council for 'true' granny flats are very infrequent. Normally, additional household units (as defined in the District Plan) are constructed with the capability and capacity to house more than one person, and often 2-3 people. Many are built and subdivided or with a view to future subdivide. Those that are retained in the same ownership are often built for the purpose of 'home and income'.

It is concluded that it is unusual for 'granny flat' household units to be developed solely for a purpose that would result in significantly less demand than the average household unit (2.6 persons). On this basis, it is not recommended that the Council make an exception for granny flats within its policy.

The other issue raised with minor residences was those used for student accommodation. The core concern was that the Council's policy might adversely impact on the providers of the student accommodation so that they pay at a greater rate than the average (where it can be demonstrated that the units are only built for one person).

The Development Contributions Policy is not intended to modify behaviour and encourage or discourage the construction of smaller residential units. This is the role of

the District Plan, and work has commenced on looking into controls similar to those recently notified by Auckland City Council.

There are three options for dealing with student accommodation:

- 'Reclassify' it as non residential (despite the fact that it is not of a 'transient' nature) so that it is subject to the one EHU per 65m GFA standard.
- Apply the definitions of residential activity and household unit - so that each household unit (irrespective of how many people it can accommodate) is assessed as one EHU.
- Retain it as a residential activity assessed per household unit, but apply a lesser charge if the floor area is below a certain level.

It is recommended that the first option is adopted for cases where it is conclusively proven that the accommodation can only accommodate one person. Submitters appearing to speak to this issue gave examples of the controls and measures put in place to limit the occupancy to one person. This option is favoured over the other two options as being the best balance between addressing the fact that an apartment only capable of accommodating one person will arguably in all cases create less demand than the 'average', and the desire not to set an arbitrary floor area limit (as would be the case with the third option) which would have a likely impact on modifying developer behaviour.

It is therefore recommended that the proposed definition of 'residential development' is further amended as follows:

Definition of residential development

except for tertiary accommodation that is only capable of accommodating one person and it can be conclusively proved to Council that there are restrictions allowing only 1 person to be accommodated.

6.3.3 Non-residential

Under the draft policy the 'non residential' category captures all developments that do not fall into the definition of 'residential'.

Councillors asked that officers provide information on how Wellington's proposed Development Contributions policy compares to those proposed or adopted by other comparable territorial authorities. A comparison of the approach adopted in Auckland, North Shore and Waitakere is attached as Appendix 4.

Council does not have the level of information available to it for the various kinds of non residential developments to impose such a system of assessment at this time. It is acknowledged, however, that the non residential unit of demand (65m² GFA per EHU) will result in over and under assessment of increased demand resulting from some developments. As a result, it is recommended that the Council implement the following process into its policy to ameliorate against any inequity that results from this. The proposed amendment to the policy is as follows:

Recommended solution

An additional part be added to the policy which states:

Assessments

The non-residential unit of demand (65m² GFA per EHU) will result in over and under assessment of increased demand resulting from some developments.

The non-residential EHU will however be used to assess all developments in the first instance to ensure administrative efficiency. A first instance assessment may be departed from in the following circumstances:

1 Self-assessment

If the increased demand for water supply, wastewater, stormwater, transport and roading and/or reserves assessed for a particular development by applying the non-residential/commercial unit of demand is disputed, an applicant may apply for a self-assessment as follows:

- (a) Application must be made in writing before any development contributions payment in respect of the development becomes due.*
- (b) The onus is on applicant to prove (on the balance of probabilities) that the Actual Increased Demand created by the development is different from that assessed by applying the non-residential/commercial unit of demand. Actual Increased Demand means the demand created by the most intensive commercial use(s) likely to become established in the development within 10 years from the date of application.*
- (c) The Council may determine an application made under this part at its discretion. In doing so the Council must take into account everything presented to it by way of the written application, and may take into account any other matter(s) it considers relevant.*

2 Special assessment

If the Council believes on reasonable grounds that the increased demand for water supply, wastewater, stormwater, transport and roading and/or reserves assessed for a particular

development by applying the non-residential/commercial unit of demand are less than the Actual Increased Demand created by the development, it may require a special assessment as follows.

- (a) A special assessment must be initiated before any development contributions payment in respect of the development becomes due.*
- (b) The Council must bear its own costs.*
- (c) Everything the Council intends to take into account when making a special assessment must be provided to the applicant for a written reply at least 14 days before the assessment is determined.*
- (d) The Council may determine a special assessment made under this part at its discretion. In doing so the Council must take into account everything presented to it by way of a written reply, and may take into account any other matter(s) it considers relevant.'*

6.4 Agreements with developers

During the course of discussions with the sub-committee, the process for dealing with 'private agreements' was raised, in particular when they would be used, and how such agreements would be authorised.

Under the LGA 2002, no Development Contribution is payable for a particular purpose if the developer has provided the infrastructure for that purpose. The reason for this is simple – Council has itself not had to incur the capital expenditure. Where there are large developments with one or a very small number of developers, Council often has the ability to negotiate an agreement for the provision of the required infrastructural assets. This works well where the development causes all or most of the need for the additional infrastructure as it provides flexible implementation of the policy and has worked well for Council to date.

The issue raised was that there is concern is that agreements raise issues of transparency. This is dealt with in the draft policy which proposes that Council can enter into a private agreement with a developer(s) for the provision of infrastructure for a particular purpose, in lieu of the payment of Development Contributions for that purpose. Such agreements must be based on the following:

- that the full costs of growth related infrastructure will be funded by those incurring the need for the infrastructure;

- the agreement must be consistent with the key principles, methodology and significant assumptions in the policy.

Any departure from the above factors would be dealt with as if they were a remission and would therefore fall under the Sub-committee's existing terms of reference (attached as Appendix 2).

6.5 Specific Projects / Capital expenditure

6.5.1 Issues raised regarding the Northern Growth Area

A number of issues have been raised in submissions and through questions raised by the Sub-committee. They will be discussed in detail below. By way of summary, the issues that require detailed discussion are listed as follows, and discussed in detail below at 6.5.2.

- Application of the Citywide water fee to Northern Growth area;
- Application of catchment based water fees to areas which are capable of being serviced by reservoirs that have been installed and paid for by Lincolnshire Farm, Best Farm or Stebbings Farm;
- Application of the Churton Stebbings catchment roading fees (for the 3 roads listed in page 36 of the policy) to land developed in this catchment. The submission challenges that the land in the catchment does not benefit from the roads (in other words that the expenditure is not 'growth related capital expenditure' related to the development to occur on the submitters land) and that the Council's capital costs for the roads are many times what they might have been had an alternative route been selected.
- Stebbings farm has purchased land to assist Council with finding an alternative route for the Westchester Drive extension
- Application of the Grenada Lincolnshire catchment roading fees (for the roads listed in page 36 of the policy) to the land. In particular Woodridge Estates Limited (WEL) do not consider that the Woodridge to Lincolnshire road qualify as 'growth related capital expenditure' arising from the development to occur on the submitters land.

Another issue raised, (that can be simply answered are dealt with in this section without further discussion below) is that Council should not be able to charge fees for infrastructure that it has not paid for (ie where reservoirs that have been installed and paid for by Lincolnshire Farm, Best Farm or Stebbings Farm not Council). It is noted that this submitters concern is met as Council is not proposing (and nor could it under the LGA 2002) to recover fees for expenditure that it has not incurred.

Prior to discussing the issues above some background on the approach to the Northern Growth projects is provided.

Northern Growth projects general approach - background

The next major area for greenfield development will be the Northern Growth area. Negotiations between the developers and Council have been ongoing for some time. However, much of the proposed new infrastructure has yet to be finally defined and detailed and has therefore not yet been included in the LTCCP. That said, there is capital expenditure of some \$11m in the 2003/04 LTCCP (as amended) for the Northern Growth Management Framework. This covers projects such as the link roads. Development contributions will be collected for these projects. Similarly, water supply projects, e.g. Stebbings and Horokiwi reservoirs, have been included in the water supply projects in the LTCCP (in addition to the figures included as part of the \$11m for the NGMF).

Because all projects in the Northern Growth Area are not included in the LTCCP other Northern Growth Capital Expenditure projects will either be covered by section 3.4.5.1 of the District Plan, (where Council can require payment towards the cost of some limited off-site works deemed necessary as a result of a proposed development) private agreements or future development contributions to be brought into the policy in the future.

The draft policy requires that the Citywide fees under the Development Contributions Policy will also be payable.

6.5.2 Response to issues raised in the submissions

Application of City Wide Levy for Water in Northern Growth Area

The city wide water contribution is intended to cover the costs associated with upgrading the water supply pipe network to accommodate increased growth related demand. Water reservoirs are not included in the city wide water contributions as these are attributed to the specific catchment that they supply.

In the case of the northern growth area, it is agreed with the submitters that the city wide water levies for the Churton Stebbings and Grenada Lincolnshire catchments should not apply as these areas are predominantly green field developments and, as such, the costs associated with providing water supply to these zones will be included in the specific catchment based water supply contribution. The more localised water supply distribution network will be provided by, and at the developers cost, as they develop through the area.

Recommendation: The area wide levy of \$1518 should be reduced by \$160 per EHU for areas I and J.

Existing reservoirs

It has also been questioned how catchment based water contributions will be applied to areas that are capable of being serviced by reservoirs that have been installed and paid for by Lincolnshire Farm, Best Farm or Stebbings Farmlands.

In defining the Churton Stebbings and Lincolnshire/Grenada catchments, the boundaries have been deliberately expanded to encompass adjacent reservoir zones to ensure that any benefits gained by rationalising water supply within this wider area are taken into account. This avoids water supply being addressed in a piece-meal manner, and ensures an optimum solution for all existing and future residents. This also allows a more equitable apportioning of costs between Council (representing existing users and other future small developments) and major landowners/developers.

For example, the total future development potential of the Churton Stebbings catchment has been assessed and the optimum water network designed for this expected growth. A new reservoir is proposed for Stebbings, with some catchment adjustments between Churton and Churton North reservoirs to serve the whole area. The related development contribution has then been calculated by apportioning the total cost of providing this package between existing and the predicted new households. This recognises the contribution made by earlier development and ensures that new development pays for the new infrastructure it requires. This planned approach avoids the piecemeal development of infrastructure practiced in the past and also benefits the Council by minimising the ongoing operation and maintenance costs associated with this infrastructure.

Where developers have areas within these catchments that can be developed without any of the proposed new water infrastructure being implemented, no water contribution should be payable on the basis that they have provided and paid for their own needs at no cost to Council.

Recommendation: That these areas be identified and quantified for clear administration of fees. All other lots will attract the fee as proposed in the draft policy.

Churton Stebbings Link Roads

The application of the Churton Stebbings catchment roading contributions (for the 3 roads listed in page 36 of the policy) to land developed in this catchment has been questioned. The submission challenges that the land in the catchment does not benefit from the roads (in other words that the expenditure is not 'growth related capital expenditure' related to the development to occur on the submitters land) and that the Council's capital costs for the roads are many times what they might have been had an alternative route been selected.

Council has identified seven strategic linkages across the northern growth area. These have varying degrees of significance from purely local connection value to regional significance. However they all feature in the Council's desire to ensure connectivity of the community and to ensure pedestrian, cycling and public transport can be effectively and efficiently provided.

Specifically, Cortina to Ohariu and Ohariu to Westchester are considered important local linkages as identified by work on the Northern Growth Framework. These provide better access in and around Johnsonville and Churton Park and costs have been apportioned appropriately.

The Ohariu to Westchester link only allows for a stream crossing at the northern end with future local development to meet the cost of completing the connection.

Westchester to Glenside is an important local linkage required to relieve traffic off Halswater Drive, and strategically links the area to the motorway. Further development on any scale without this link is not sustainable. Although the costs may seem high they reflect the cost of road building in difficult terrain and to meet environment standards that respect community expectations and preservation of ecological features.

Despite the developers arguing that they will provide the roading network to serve their development, this package ensures there are no linkages left unformed. If a developer forms part of these routes in advance to the Council implementing them, then the value of the work will be credited against an appropriate number of lots.

The costs for each of the routes are indicative since no detailed design work is complete. However the costs should be seen as a package to provide these linkages and not necessarily as discrete items. The overall costs are considered conservative. The costs will be reviewed in subsequent reviews of the policy as more detailed work is carried out. The costs have been apportioned across the communities expected to use the links with developers only paying their share attributed to expected new development. If the links are not formed then the contributions will be returned to developers as set out in the policy.

Recommendation: No change to draft policy

Land purchased by developer for roading purposes

Stebbing's farm has purchased land to assist Council with finding an alternative route for the Westchester Drive extension. Although development contributions have been calculated for the recovery of the current design and construction cost for the Westchester to Glenside link, any ancillary arrangements to facilitate the project will be negotiated on normal commercial terms and become part of the revised cost of building the road. Any contribution toward the road will be offset by any costs already met by the developer. This is no different to acquiring land from landowners to build roads.

Recommendation: Continue negotiations on normal commercial terms.

Grenada Lincolnshire Link Roads

In the case of the Grenada Lincolnshire link roads, one submitter (Woodridge Estates Limited) did not consider that the Mark Avenue roading extensions qualify as 'growth related capital expenditure' arising from the development to occur on the submitters land.

Mark Avenue is seen as a local connection both in terms of connection to the motorway and as an alternative parallel local connection to the motorway. Similarly Mark Avenue to Grenada North completes this local parallel connection. Grenada to Petone is acknowledged primarily as a strategic Regional linkage but the benefit as a local connector has been assessed as has a direct link between Woodridge and Lincolnshire. The cost of the local benefits only have been proportioned between existing households and projected new households in the catchment.

Recommendation: No change to draft policy.

6.5.3 City Parks

The inner city catchment for reserves contains the three parks in three years initiative plus the development of Waitangi Park along the waterfront.

Waitangi Park is the only new reserve development that enables active recreational activities for inner city residents. The remaining small inner city parks are landscaped to provide passive recreation given their proximity to busy inner city streets.

Because the overall waterfront development (of which Waitangi Park forms a part) attracts residents from all over the city as well as visitors, it can also be considered part of the citywide reserves.

Therefore, the options are that Waitangi Park can either be included in citywide reserves or allocated between citywide and inner city catchments based on potential usage. For example, inner city residents could potentially use it for 8 hours per day, 7 days per week while other residents could use it 2 days per week for 8 hours per day. Weighting usage by the increase in EHU's resulting from growth results in the development costs of Waitangi Park allocated 1/3 to inner city and 2/3 to city-wide.

If Waitangi Park is considered a citywide reserve, the effect on development contributions is to increase the citywide fee from \$1,518 to \$1,681 and the inner city contribution would reduce from \$2,987 to \$879. If it is shared between the inner city and citywide, the effect will be to reduce inner city from \$2,987 to \$1,581 and increase the citywide fee from \$1,518 to \$1,627.

Recommendation: Allocate costs between inner city and city-wide catchments.

6.6 Mechanics/accounting

6.6.1 Accounting implementation

A number of submitters questioned the accounting treatment of development contributions assessed and how the refund provisions would be administered.

The accounting requirements for development contributions are driven by generally accepted accounting practices, (GAAP), and Sections 204 to 210 of the LGA 2002, (governing the use of development contributions and the requirement for refunds where these conditions are not met). The Local Government Act 2002 requires the Council to comply with GAAP in preparing the Annual Report. GAAP is defined by the Accounting Standards Review Board (ASRB) to encompass all applicable Financial Reporting Standards (FRSs) and other sources of appropriate authoritative support (for example; exposure drafts of financial reporting standards, international accounting standards etc).

In considering GAAP, a review was made of other local authorities that have already adopted development contributions policies. However, whilst a number of local authorities have provided some high level information in their Annual Plans, none have yet reported against these in their annual reports. The first annual reports to include

development contributions will therefore be for the year ending 30 June 2005. These will be reviewed once published.

In the absence of available comparison with other local authorities, reliance has been placed on the New Zealand Accounting Standards published by the New Zealand Institute of Chartered Accountants (the Accounting Standards). In particular, the accounting requirements need to address when development contributions revenue will be recognised, and how this revenue and the related growth related capital expenditure will be tracked. This is important to ensure that development contributions do not over-recover capital expenditure incurred.

Revenue recognition

Section 199 of the LGA 2002 allows the Council to require a development contribution from any development for:

- Capital expenditure **already** incurred in anticipation of growth
- Capital expenditure **expected to be** incurred as a result of growth.

When considering at what point revenue should be recognised, the essential question is whether a debtor is present in respect of the development contribution receivable.

The draft development contributions policy will be amended so that Council is not required to recognise development contributions revenue at the time of assessment as at that time there is no certainty that the development will proceed.

Tracking of contributions received and growth related capital expenditure incurred

As stated previously, it is important to ensure that development contributions are not over-recovered against the growth related capital expenditure incurred. It will therefore be necessary to record and track all development contributions assessed and growth related capital expenditure incurred. Systems and processes are currently being developed to achieve this.

At the end of each financial year, the balances of development contributions assessed and growth related capex incurred will be determined and reported for each development contribution zone and type.

Growth related capital expenditure less than development contributions assessed

For some development contribution zones and types, it is however possible that development contributions assessed will exceed growth related capital expenditure incurred. This is particularly the case for in-fill development where expenditure may be planned in the out years of the LTCCP, whereas development occurs in the shorter term.

In these cases a financial reserve should be established to ring-fence the additional levies received. This reserve should constitute a component of equity with subsequent growth related capital expenditure in future years credited against the reserve to offset the development contributions assessed. This is akin to the existing treatment of the Reserve Purchase and Development Fund, whereby the Council currently receives

contributions under the Resource Management Act 1991 to provide for reserve areas within residential subdivision developments.

6.6.2 Refunds

A submission made by Kensington Swan on behalf of several development companies criticised the draft policy's provision for refunds, arguing that it does not comply with the requirements of the LGA.

When and how development contributions must be refunded are set out in sections 209 and 210 of the LGA. As it stands, part 8.3 of the draft policy is simply intended to be a restatement of these provisions.

The submitters were particularly concerned that (as they interpreted part 8.3) the draft policy intends refunds to be made to the current land owner rather than the entity that paid the development contribution in question.

Applying the relevant sections of the LGA, in most cases refunds will be made where a proposed development does not proceed. In these instances the identity of the developer is very unlikely to have changed between paying the development contributions and the decision not to proceed. Section 210 then requires a refund to be made to 'the consent holder or to his or her personal representative'. As noted, the consent holder for an abandoned development will almost certainly be the entity that paid. The term 'personal representative' is used to refer to the executor or administrator of a deceased person's estate. In other words, where a developer in person dies before a development is undertaken, section 210 does not allow territorial authorities to retain the benefit of development contributions paid in advance.

In much rarer cases, a refund will be required where a territorial authority does not provide the asset for which the development contribution was required.² Here section 210 probably intends a refund to be made to the payor. The expression 'to the consent holder or his or her personal representative' is however ambiguous. This is because, under the Resource Management Act 1991, 'consent holder' is used to describe the entity operating in reliance upon the consent at the time. For developments, this would be the current land owner and not necessarily the payor of development contributions.

This ambiguity may require amendment to the LGA at some point. The policy can avoid being forced to choose an interpretation itself by simply referring to (rather than restating) the relevant sections of the LGA. If these become clarified at a later date by amendment or case law, this will carry into the Council's policy automatically.

It is recommended that part 8.3 of the policy is amended to read:

'Refunds will be made in accordance with sections 209 and 210 of the Local Government Act 2002, including any amendments made to those provisions at the time of making a refund.'

² This will be rare because (except in the case of reserves) the LGA does not set any time limit within which planned assets must be provided.

6.6.3 Mapping issues and 'workability of the policy'

Council's GIS systems are currently being redeveloped to clarify boundary issues and will ensure that a boundary of the development contribution maps will not dissect a parcel of land for the purposes of assessing development contributions payable.

Prior to publication, it is proposed that the policy is reordered so that it is more user friendly. This will ensure that the policy and provisions effecting existing uses/credits is more explicit (given that a number of submitters misread the policy in this regard), and that the application of financial contributions under the Resource Management Act is more clearly stated.

6.6.4 Exceptional circumstances

The application of the remission provisions was raised by a number of submitters, in particular, the policy was criticised for not specifying the grounds upon which remissions would be granted.

The policy as drafted provides:

Remission and postponement

Council may remit or postpone payment of a development contribution at its complete discretion. Council will only consider exercising its discretion in exceptional circumstances. Applications made under this part will be considered on their own merits and any previous decisions of Council will not be regarded as creating precedent or expectations.

It is envisaged that Council will exercise its discretion only in truly 'exceptional' circumstances.

The wording adopted in the policy makes it clear that applicants will first need to establish on the facts that the circumstances of their development are 'exceptional'. In cases where this is achieved, then Council will consider whether remission or postponement should be granted on the merits. No attempt has been made to further define or limit the meaning of 'exceptional circumstances'. To fetter the discretion in this way might make it difficult to deal with unique cases and potentially open up the decision-making process to challenge.

The policy also states that Council's decisions will not be regarded as creating precedent. This is because circumstances which may be exceptional at one time, will not necessarily remain so. The policy avoids Council's decisions being interpreted as 'rules' which create an expectation of securing the same outcome in the future. This will prevent Council from being forced to both refuse applications which, in their context, should be granted, as well as grant unexceptional and/or unmeritorious applications.

It is recommended that the sub-committee retain the provision as proposed, noting that the sub-committee will have the overall supervisory and decision-making role on remissions applied for and granted under the policy.

7. Process from here

7.1 Reworded policy

A reworded policy incorporating the proposed amendments in this paper has not been attached. The policy will be updated after the recommendations have been considered by the Sub-committee. It is also proposed that the Subcommittee delegate the role of confirming that the decisions made by the Sub-committee are correctly and accurately recorded, to the Chair of the Sub-committee, prior to the paper being considered by the Strategy and Policy Committee.

7.2 Amendments to the 2003/04 LTCCP

The introduction of the Development Contributions Policy requires an amendment to the 2003/2004 LTCCP. Two further amendments are required to the 2003/04 LTCCP:

- An amendment to ensure that the updated capital expenditure figures for the 10 year period of the 2003/04 LTCCP for which Development Contributions will be required are included in the Council's 2003/04 LTCCP; and
- An amendment to the narrative of the Revenue and Financing Policy to provide for Development Contributions as a funding source for Development Contributions.

These decisions will be considered and made at the Strategy and Policy Committee and Council meetings in the future.

8. Conclusion

The submissions received on the draft development contributions policy during the special consultative process have identified a number of areas that require clarification and refinement, particularly the potential for anomalies between different types of residential households and the application of equivalent household units to non residential development. A number of changes to the draft policy are recommended to address these specific concerns.

The areas where it is recommended that the policy should change are summarised as follows:

Issue	Recommended Change
Funding Decision (particular issues raised include equality across the City, rates issues, benefits, etc)	No change but confirm key funding principles
Methodology issues, including <ul style="list-style-type: none"> ▪ Bottom up v top down ▪ Growth assumptions ▪ Definition of 'growth' v development 	No change No change Amend definitions

Issue	Recommended Change
<ul style="list-style-type: none"> ▪ Renewal issues 	No change
Equivalent Household Units (EHUs) <ul style="list-style-type: none"> ▪ Definitions ▪ Minor residences ▪ Non-residential 	Amend definitions No change Amend to enable special assessments
Agreements with Developers	No change
Specific Projects / Capital Expenditure <ul style="list-style-type: none"> ▪ Northern Growth Roads ▪ Northern Growth Water ▪ City Parks (Waitangi Park) 	No change but work directly with developers Amend catchment boundaries Allocate development costs between citywide and inner city catchments
Mechanics/accounting <ul style="list-style-type: none"> ▪ Accounting - implementation ▪ Refunds ▪ Mapping issues and 'workability of the policy' ▪ Exceptional circumstances 	Amend policy for timing of revenue recognition Clarify wording No policy change as covered by Council processes No change

Contact Officers: Sally Dossor (Phillips Fox), Ross Chesney (Stimpson & Co), Lorraine Gittings (City Development) and Andrew Cudby and Andy Matthews (Finance).

APPENDIX ONE: SUMMARY OF SUBMISSIONS

Sub No	Pg No	Summary of submission, plus additional information from oral submission	Issue(s) raised	Covered in report under section
1	73	Supports policy	Nil	N/A
2	74	Supports policy	Nil	N/A
3	75	Will force house prices up, reduce rates take	Impact on house prices Use of rates	Funding decision
4	76	Disagrees with EHU definition. Believes that new developers rates should be decreased to take account of the DC payment	EHUs Use of rates	EHUs
5	77	Infill development should carry its equitable responsibility for infrastructure	Nil	N/A
6	79	Increased levies will deter development and adversely impact on rating income	Impact on development Use of rates	Funding decision
7	16	Doesn't believe his companies should pay for infrastructure that they install. Believes there should be a rates reduction to account for any DC paid. Oral: challenge to some of the estimated costs of items in Council's AMP. In particular a road which was being built at a cost much higher than he believed it should be. Development contributions would reduce the ability of developers to provide low cost housing for Wellington.	Benefits of development Use of rates Northern Growth projects Low cost housing	Funding decision Specific projects
8	81	Queries assessment of greenfield development areas and their application to other infill, EHU concept, inner-city reserves	Greenfield assessments EHUs Inner-city parks	Methodology EHU's Specific projects
9	83	Partially support. Concerned that another rate-paying household will incur a one-off fee	Use of rates	Funding decision
10	84	Support in principle but have concerns re private agreements, infill housing and DCs for roading. Feel that the developer or Transfund	Private agreements Infill housing	Development Agreements

Sub No	Pg No	Summary of submission, plus additional information from oral submission	Issue(s) raised	Covered in report under section
		should pay full cost and careful consideration should be given before the Council elects to build a road. Exceptional circumstances should be clearly defined	Exceptional circumstances Northern Growth roads	Funding decision Specific projects Methodology
11	88	Support in principle - issues with consultation timeframe	Consultation timeframe	
12	28	Contributions excessive, uneconomic, inequitable and poorly defined. Will restrict further development. Issues with EHUs. No account of additional ratepaying dwellings. Oral: development of student accommodation/halls of residence structured as individually titled studio apartments. At present, these are considered to be one EHU under the draft policy. Studio apartments for students were very small, unable to accommodate more than one person and should be treated differently.	Economic impact Impact on development EHUs Use of rates	Funding decision EHUs
13	39	Issues with consultation timeframe and methodology. Oral: assumptions/calculations were far too simple and drastically under-estimated the true cost of growth.	Consultation timeframe Cost of growth	Specific projects
14	97	Raises issues with detail in policy. Transitional provision, implementation issues. EHUs - particularly growth assumptions Timing of payment - would be better on building consent Inner city reserves, does not believe this element calculated correctly	Transitional provision EHUs - growth assumptions Credits Impact on development Timing of payment Inner city reserves	Funding decision Methodology Mechanics and accounting Specific payments
15	25	Support policy in principle but have specific examples they would like reviewed in light of their developments. Oral: challenged whether units within their development would utilise two roads currently concluded as growth related expenditure for that catchment.	Northern Growth projects	Specific projects

Sub No	Pg No	Summary of submission, plus additional information from oral submission	Issue(s) raised	Covered in report under section
16	2	<p>Sees DCs as 'double-dipping'. No account of greater community benefit from development or increased rates base. Deterrent to development.</p> <p>Oral: instead of increased rating valuations, merely reducing the burden on other ratepayers, the additional rates take generated by developments could not be 'jam jarred' to use for infrastructure capex.</p>	<p>Double-dipping Benefits of development Impact on development Use of rates</p>	<p>Funding decision Methodology - general</p>
17	42	<p>Maps not defined enough. "shock" to development community. Will result in a slow down in development</p> <p>Oral: policy's maps were not accurate enough to allow developers to calculate potential contributions. He also queried what would be the result if a catchment boundary were to pass through one lot.</p> <p>Also the same issue was raised with subsequent developers being forced to pay development contributions in the northern growth area despite the infrastructure having already been put in place by the original Greenfield's subdivider.</p> <p>Some current developments would be put in jeopardy by the 'sudden' introduction of the policy. Those projects which had already fixed margins, could be rendered uneconomic by the introduction of this policy.</p> <p>The draft policy will discourage infill housing.</p>	<p>Maps Impact on development Greenfields</p>	<p>Mechanics and accounting Funding decision Methodology Specific projects</p>
18	34	<p>Insufficient social and economic analysis. Reservations as to legality of Council's approach. Deficiencies with statutory policy requirements. Proposed policy unreasonable.</p>	<p>Economic analysis Legality of approach Top down vs bottom up</p>	<p>Funding decision Methodology Former Capex</p>

Sub No	Pg No	Summary of submission, plus additional information from oral submission	Issue(s) raised	Covered in report under section
		<p>Oral: The draft policy:</p> <ul style="list-style-type: none"> - implements a 'top down' instead of 'bottom up' approach - misinterpretation of the relevant sections. - makes refunds inevitable and the submission queried whether the refund provision was detailed enough, or could ever be practical -definition of 'personal representative' was challenged as being incorrect at law. -does not deal with how development contributions charged for historical capex, will be applied. It was argued that the law does not permit recovering historical capex unless an identifiable debt related to that specific project still exists on the Council's books. - analysis of costs and benefits is inadequate. It was suggested that the costs of a development contributions policy in terms of discouraging growth, could be significant and these should be addressed in the draft policy for it to be valid. <p>It should not be assumed that developers will, or will be able to, simply pass on the costs of development contributions to purchasers.</p>	Refunds	Accounting and mechanics
19	100	Places impediments in the way of population growth (submission withdrawn)	Impact on development	Funding decision
20	21	<p>Not against DC in principle but believes levies need to be carefully designed and impact fully understood before implemented. Timing of payment.</p> <p>Oral: Development Contributions Could stifle Wellington's growth (and therefore it should consider continuing to subsidise growth to retain a competitive advantage over Auckland).</p>	<p>Impact on lower cost housing</p> <p>Economic impact</p> <p>Timing of payment</p> <p>Growth assumptions</p>	<p>Funding decision</p> <p>Methodology</p> <p>Mechanics and accounting</p>

Sub No	Pg No	Summary of submission, plus additional information from oral submission	Issue(s) raised	Covered in report under section
		<p>Development Contributions should be charged at the building rather than resource consent stage. This would reduce the motivation for developers to sell properties off the plans.</p> <p>Queried growth assumptions.</p>		
21	6	<p>Distribution of fees unfair. Will stifle residential growth.</p> <p>Oral: The highest development contributions were being set for lower cost housing (i.e. within the northern growth area).</p> <p>While Greenfield's subdividers could avoid paying development contributions by providing infrastructure themselves, subsequent subdivision of those lots (i.e. infill housing) would incur significant development contributions within the northern growth area. Developer should provide sufficient infrastructure for future infill which may occur.</p> <p>Private agreements would only benefit larger developers.</p>	<p>Distribution of fees Impact on growth Private agreements</p>	<p>Funding decision Methodology Private agreements</p>
22	22	<p>Policy requires further investigation. Potential long-term loss of rates.</p>	<p>Economic analysis Impact on growth</p>	<p>Funding decision Methodology - general</p>
23	8	<p>Key concern - method of conversion of EHUs/credits for existing developments. Supports some elements of the policy. Concerned that fees would be collected under RMA and LGA.</p> <p>Oral: Whether the policy recovers all growth related capex within a 10 year horizon regardless of whether a particular piece of infrastructure provides capacity for units of demand beyond 10</p>	<p>Credits Recovery of growth related capex EHUs Collection of fees under both RMA and LGA</p>	<p>EHUs Methodology</p>

Sub No	Pg No	Summary of submission, plus additional information from oral submission	Issue(s) raised	Covered in report under section
		<p>years.</p> <p>The draft policy's provision for crediting existing development may need to be clarified</p> <p>65m2 as the commercial equivalent for one EHU. The examples of water, wastewater and stormwater were used to demonstrate that some types of commercial development create far less demand within 65m2 than one residential household unit containing 2.6 people. (Unable to provide a different EHU equivalent supported by methodology, but advocated for a more complex approach as had been taken by some other territorial authority e.g. policy should at least differentiate between different types of commercial development.)</p>		
24	43	<p>If fees are inadequate, existing residents carry cost. Fails to pay for existing infrastructure. Credits.</p> <p>Oral: raised issues outside the scope of the policy</p>	<p>Payment for existing infrastructure. Credits</p>	<p>Funding decision Methodology Mechanics and accounting</p>
25	47	<p>Non-residential should not pay for reserves</p> <p>Oral: Commercial developments should not be required to pay for reserves. The submission was made that no evidence whatsoever exists to suggest that commercial developments generate additional demand for reserves. This argument appeared to turn on accepting that workers in commercial developments only generated demand for reserves in their capacity as residents of the City.</p>	<p>Reserves levies for non-residential</p>	<p>Specific projects</p>
26	60	<p>Fees should be higher to account for wider environmental impacts.</p>	<p>Level of fees</p>	<p>Methodology</p>

APPENDIX TWO: SUBCOMMITTEE TERMS OF REFERENCE

Development Contributions Subcommittee

Voting Membership:

The Subcommittee will have up to 5 Councillors as members.

External Membership (non-voting):

Nil.

Quorum:

4

Chairperson:

The Portfolio Spokesperson – Urban Development is the Chair of the Development Contributions Subcommittee

Frequency of Meetings:

The Subcommittee will meet on an as required basis.

Parent Committee:

The Subcommittee will report to the Strategy and Policy Committee on any issues as may be required.

General Purpose and Objective:

The Subcommittee is established to assist with the development of the Council's Development Contributions Policy, and make decisions on applications for remission and/or postponement.

Terms of Reference:

The Subcommittee will have responsibility and authority to:

- 1.1 Hear submissions on the draft Development Contributions Policy, or any amendments to it.
- 1.2 Make a recommendation to the Strategy and Policy Committee on the draft Development Contributions Policy or any amendments to it.
- 1.3 Request specific work to be undertaken by officers if required on any aspect of the Development Contribution Policy to be reported to the sub-committee and/or the Strategy and Policy Committee to assist the deliberations on the draft policy or any amendments to it.
- 1.4 Make decisions on applications under the Policy for remission or postponement
- 1.5 Make recommendations to the Strategy and Policy Committee on matters arising from the operation of the Policy at the time of any review of the Policy undertaken by the Strategy and Policy Committee.

Delegated Authority

The Development Contributions Subcommittee has the delegated authority to carry out activities within its terms of reference.

APPENDIX THREE: PROPOSED AMENDMENT TO THE REVENUE AND FINANCING POLICY

It is proposed that the following statement on funding of capital expenditure (see p6 of the policy) in the Revenue and Financing Policy is amended as follows:

- The new text is shown by the **bold underlined text**
- The text in [*italics*] is deleted

2. **Policy Statement on the funding of capital expenditure**

Capital expenditure represents expenditure on property, plant and equipment. Property, plant and equipment are tangible assets that are held by the Council for use in the provision of its goods and services (for example: bridges, libraries, the Wellington Regional Aquatic Centre), for rental to others or for administrative purposes, and may include items held for the maintenance or repair of such assets. The assets must also have been acquired or constructed with the intention of being used on a continuing basis.

Capital expenditure is funded from depreciation, asset sales, and restricted funds or through new or extended borrowings as outlined below:

- If the capital expenditure relates to the replacement (renewal) of an existing asset, that expenditure will be funded by depreciation. Funding for depreciation comes from rates. Any surplus depreciation, after paying for the replacement of Council assets, will be used to repay borrowings.
- If the capital expenditure relates to the construction or purchase of a new asset or to the upgrade or increase in service potential of an existing asset, that expenditure will usually be funded from new or extended borrowings.
- The funding of capital expenditure from the sale of surplus assets is decided on a case-by-case basis. Funds received from the sale of surplus assets that are not applied to the funding of capital expenditure may be used to repay borrowings.
- The funding of capital expenditure from restricted or special funds is decided on a case-by-case basis and is subject to the specified purposes and conditions governing the use of those restricted funds.
- If an approved capital expenditure project is not completed by the end of the financial period, the unspent funds may be carried forward to the next financial period to enable the project to be completed.
- *[While currently the Council operates under the auspices of the Resource Management Act (1991) in the use of financial contributions, consideration is currently being given to the adoption of a development contributions policy under the Local Government Act. Any revenue derived from such a policy will likely be used to fund the construction or purchase of a new asset or to the*

upgrade or increase the service potential of an existing asset. This] **The Council has agreed that Development Contributions are to be used as the primary funding tool for capital expenditure resulting from growth for water, wastewater, stormwater, roads and reserves. The Council's Development Contributions Policy has been adopted to give effect to this policy decision. The Council has indicated that Development Contributions may also be used to fund growth related expenditure for Community Infrastructure, but that further work is required on the funding options and choices for such activities. The Council will continue to use RMA based Financial Contributions in some circumstances. Funds collected under either the Development Contribution Policy or the Financial Contributions provisions in the District Plan** will result in a corresponding decrease in the amount to be funded from new borrowings.

APPENDIX FOUR: Comparison with other Council policies

Auckland City Council:

The only development contribution payable on non-residential development is for stormwater. Units of demand are measured in Household Unit Equivalents (**HUEs**), representing one average dwelling.

Using the example of stormwater, HUEs are calculated as follows:

Residential – one average dwelling	1 HUE
Residential – multi-story, multi-unit developments	1 HUE per residential unit located on that level with the greatest number of residential units within the development
Non-residential	0.004 HUE per each additional m ² of impervious area generated by the development

North Shore City Council:

Units of demand are measured in HUEs, representing one average dwelling. Certain development types may be subject to individual (case specific) assessment where generated demands are expected to exceed twice the average.

For residential developments of all types, one residential unit (including minor units such as 'granny flats' and studio apartments) equals 1 HUE.

The HUE conversion for non-residential developments is more complex:

Land use	Transport (HUEs/100 m² GFA)	Water supply (HUEs/100 m² GFA)	Waste water (HUEs/100 m² GFA)	Storm water (HUEs/100 m² IPA)
Commercial	0.61	0.32	0.34	0.42
Industrial	0.30	0.32	0.34	0.42
Retail	4.5 to 1.79	0.43	0.45	0.42

Retail generated HUEs for transport network infrastructure begin at 4.5 per 100m², but decline on a decaying curve down to 1.79 HUE for every 100m² over 10,000m² of gross floor area.

The HUE conversions for non-residential subdivision (where the as-built development is unknown) are similar, but based on what type of development is likely to be undertaken on the new subdivision in light of the applicable District Plan provisions.

As a comparison to Wellington City's draft DC policy:

- North Shore City does distinguish between different types of non-residential development;
- The HUE conversion for transport network infrastructure demand generated by retail is much more onerous; but
- The remaining HUE conversions place a significantly lesser burden on the commercial sector.

Waitakere City Council:

A simple 1 HUE per residential unit of all types is used. There is no distinction within 'commercial/industrial' developments, however different HUE conversions are used for each asset group. The policy sets out what development contributions must be paid by non-residential developments m2, but these can be re-calculated as m2 per residential HUE equivalent as follows:

Asset group	Commercial/industrial 1 HUE
Stormwater	270m2 IPA
Wastewater	588m2 GFA
Water supply	579m2 GFA
Roading	450m2 GFA
Public Transport	239m2 GFA
Parks	N/A
Community infrastructure	2,014m2 GFA

As a comparison, the Waitakere DC policy treats non-residential developments as creating less demand per m2 than Wellington City's draft policy. The use of differing HUE conversions across the range of asset groups is also notable.