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2 November 2006

Planning Policy, Planning and Urban Design
Wellington City Council
Ground Floor Reception
Civic Square
101 Wakefield Street
Wellington

WELLINGTON CITY DISTRICT PLAN

- 1 Please find **enclosed** Transit New Zealand's submission on the Proposed District Plan Change 51 - Amendments to Financial Contributions Provisions.
- 2 If you have any queries, please do not hesitate to contact us.

Yours sincerely

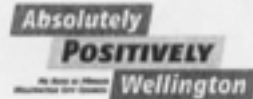


Catherine Hewitt
Solicitor

CTH947705.01

WELLINGTON CITY DISTRICT PLAN
Submission Form on publicly notified
Proposed District Plan Change 51 –
Amendments to Financial Contributions
Provisions

FORM 5, Clause 6 of First Schedule, Resource Management Act



DPC51

Submissions can be:

Posted to: Planning Policy, Planning and Urban Design
Wellington City Council
PO Box 2199
Wellington

Delivered to: Ground Floor Reception
Civic Square/101 Wakefield Street
Wellington

Faxed to: (04) 801-3165 (if you fax your submission, please post or deliver a copy to one of the above addresses)

Please use additional sheets if necessary

We need to receive your submission by 6 November 2006 at 5.00PM

This is a submission on Proposed Plan Change 51 – Amendments to Financial contributions Provisions

1. Your name and contact details:

Full Name: Transit New Zealand (Transit)

Full Address: Wellington Regional Office, Level 8, Logical House,
186 Willis Street, P O Box 27 477, Wellington 6001

Address for service of person making submission: _____

As above

Email: michael.weir@transit.govt.nz Phone: 04 801 2580 Fax: 04 801 2599

2. The specific provisions of Proposed District Plan Change 51 that my submission relates to are as follows:

The whole of Plan Change 51

3. My submission is that:

(You should include whether you support or oppose the specific provisions or wish to have them amended. You should also state the reasons for your views. Please continue on separate sheet(s) if necessary)

Please see the attached sheet

Please turn over

**SUBMISSION ON PUBLICLY NOTIFIED PROPOSED DISTRICT PLAN
CHANGE NO 51 – AMENDMENTS TO FINANCIAL CONTRIBUTIONS
PROVISIONS**

Transit's submission is that:

- 1 Transit seeks amendments to section 3.4.3.2 of the Wellington City District Plan (*Plan*) and the insertion of a new Rule 3.4.5A into the Plan in order to:
 - 1.1 Give effect to the intent of Wellington City Council's (the *Council*) Developer Contributions Policy; and
 - 1.2 Clarify that conditions can be imposed on resource consents requiring developer contributions towards a range of upgrades to those parts of the roading network that are State highways or motorways.
- 2 The reasons for Transit's submission are:
 - 2.1 The amendments to the Plan which Transit is seeking are necessary to better give effect to the intent of the Council's Developer Contributions Policy (in the same way that the amendments the Council are proposing are aimed at giving better effect to that Policy).
 - 2.2 As noted in the Public Notice for Plan Change 51, the Council's Development Contributions Policy (adopted 1 July 2005) is now the principle means by which the Council can obtain development contributions to help fund *Council* infrastructure required as a result of growth.
 - 2.3 Under that Policy, the Council can obtain "roading" contributions for upgrades of local roads and new local roads. The Policy allows Developer Contributions to be used for any "upgrades of roads ... to facilitate growth" (para 10.1.6).
 - 2.4 Accordingly, in adopting the Policy the Council has determined that it is appropriate for there to be a power to obtain developer contributions towards a range of roading upgrades, not just towards upgrades at the point of connection of a development to the existing roading network.
 - 2.5 However, unless the financial contribution provisions in the Plan are amended as Transit is seeking, it would be unclear if the Plan enabled the Council to require developers to contribute to upgrades to State highways and motorways, other than upgrades at the point of connection of a development to the network. (The only financial contribution provisions of the Plan applicable to State highways and

motorways, (see sections 3.4.3.2 and 3.4.5), limit the Council's ability to impose resource consent conditions requiring the payment of financial contributions for upgrades to offsite infrastructure to upgrades "at the point of connection" to the existing networks and "to ensure the new development connects safely and adequately to existing networks".)

- 2.6 While it is unclear, Transit anticipates that the current wording of sections 3.4.3.2 and 3.4.5 may reflect the fact that, previously, there has been some difference of opinion as to whether a Resource Management Act plan could make provision for the payment of financial contributions towards State highway or motorway upgrades. However, the Environment Court has recently confirmed that financial contributions can be required to contribute to the costs of upgrades to State highways and motorways (*Transit New Zealand v Southland District Council* Environment Court, Christchurch C42/2006, 12 April 2006, Judge Smith).
- 2.7 In addition, the amendments Transit is seeking is consistent with Transit's Cost Sharing Policy September 2006, under which Transit will, among other things:
- "3. Seek recognition of the importance of sharing the costs of State highway improvements directly related to developments in regional policy statements, district plans, long term council community plans and other planning documents such as growth strategies, through the inclusion of policies, methods and, where appropriate, rules."

Transit seeks the following decision from the Council:

- 3 The table in section 3.4.3.2 ("Activities Requiring Resource Consent") has two rows, one in respect of land use activities and one in respect of subdivisions. Transit seeks for the following new bullet point to be inserted into the right hand column of both rows of that table, so that the new bullet point applies to both land use activities and subdivisions:
- "• payment for all or part of the costs of works necessary to improve or upgrade any State highway(s) and/or motorway(s) to ensure adverse effects of the new development on the roading network are appropriately avoided, remedied or mitigated (see rule 3.4.5A)."
- 4 Transit seeks for the following new section to be inserted into the Plan after section 3.4.5:

"3.4.5A Payment for Works Required to Upgrade State Highways and Motorways

3.4.5A.1 The Council may require, as a financial contribution, payment towards the cost of works deemed necessary as a result of the development to improve or upgrade any State highway(s) and/or motorway(s), in accordance with this section and subject to the maximum provided for.

Where a proposed development creates the need for improvement or upgrades to any State highway(s) and/or motorway(s), the Council may require a payment towards the cost of necessary works.

The Council will set a payment on the basis of what is considered to be a fair and appropriate proportion of the costs that should be borne by the developer (up to 100%).

On setting the payment, the Council reserves the discretion to waive a portion of the payment required on the basis of argument put forward by an applicant.

| PAYMENT FOR WORKS REQUIRED TO IMPROVE OR UPGRADE STATE HIGHWAY(S) AND/OR MOTORWAY(S) | |
|---|--|
| Circumstances: | Payment is required where the proposed development results in or contributes to a need for works to upgrade or improve any State highway(s) and/or motorway(s). |
| Maximum fee: | The maximum fee payable is the full cost of carrying out any work required. |
| Basis: | The payment is required to meet or contribute to the costs of improving or upgrading State highway(s) and/or motorway(s) to ensure adverse effects of developments on the roading network are appropriately avoided, remedied or mitigated. |
| Purpose: | The payment provides for necessary improvements or upgrades of the State highway and/or motorway components of the roading network in the vicinity of new development activities, without requiring the costs of this to be imposed on the general community." |

- 5 Transit also seeks any additional or other relief that remedies Transit's concerns.