

IN THE MATTER OF

The Local Government Act 2002
("the Act")

AND IN THE MATTER OF

Willis Central

Statement of Mark Terence Ashby

INTRODUCTION

1. My name is Mark Ashby. I am the Planning Manager of Aurecon New Zealand Limited's Wellington office. In consultation with Gill Consultants, I prepared a 'self assessment' of the development contributions potentially payable for the Willis Central development at 44 – 52 Willis Street and 66 – 70 Boulcott Street. Willis Central will occupy the sites of the former Airways and McCarthy commercial buildings, and the Boulcott Street apartments.
2. I now submit a copy of that self assessment dated 11 August 2009 and marked with the letter "A".
3. Council officers responded to the self assessment by way of an undated document purporting to be a decision. I now submit a copy of that document marked with the letter "B".
4. The Council officer's response set out a summary of the basis for the applicant's self assessment. It then proceeded to completely ignore the analysis contained in the self assessment itself and instead proceeded to apply a formulaic methodology based on equivalent household units.
5. This statement, together with the statement of Ian Cassels for Boulcott Land Limited, is made in support of the application by Boulcott Land Limited for self assessment. The grounds for the application are that the actual increased demand created by the development is different from that assessed by applying the non residential unit of demand methodology set out in paragraph 2.2.1 of the Council's Development Contributions Policy dated July 2007.

RIGHT TO SELF ASESMENT

11. The Development Contributions Policy (“the Policy”) is clear in that a self assessment may use any alternative to the standard methodology. The Policy states that:

2.5.5 The non-residential unit of demand ... may be departed from in the following circumstances:

Self assessment

2.5.6.1(c) The onus is on the 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 unit of demand

2.4.6.1(d) The Council may determine an application made under this part as 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

12. The clear intent of this part of the Policy is that the standard EHU approach is not mandatory. Similarly the Policy’s guidelines with respect to usage measures per EHU can also be departed from. The Policy’s intent in this regard is reinforced by the following statement regarding the Policy’s usage measures:

Assessment guidelines

2.5.6.3 Without limiting the Council’s discretion ...

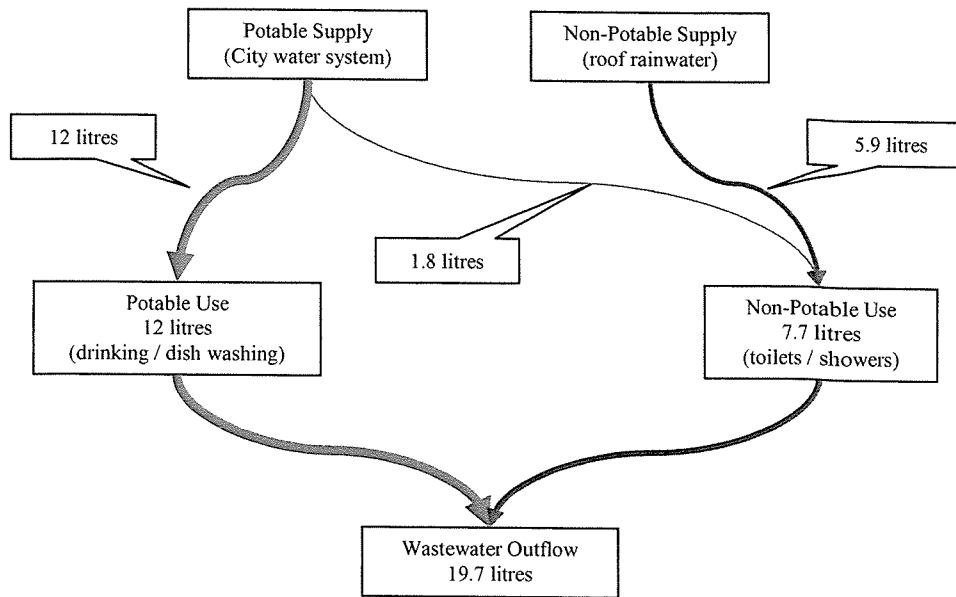
13. In other words, the Policy allows the Council to adopt something other than EHUs and the usage measures specified under 2.5.6.3.

11.2.5 In most cases, it is a difficult and complex exercise to determine incremental costs, and average costs reflect a fair allocation of capital infrastructure costs to newcomers.

BOULCOTT LAND'S METHODOLOGY

17. Whilst the average costing method may be convenient for the Council, it results in non-residential development (especially office development) being particularly penalised by the Policy. The Policy makes no distinctions between an office's typically lower per person demand placed on services such as water and wastewater, as compared with residences, where bathing, toileting, dishwashing, laundry and gardening add up to a far greater level of per person demand.
18. To address this issue, the approach adopted by Boulcott Land has been to identify 'per measure' changes in demand specific to the Willis Central development. For example, if an actual per litre change in water demand can be identified, this is a more accurate and better basis for assessment than using costs that have been averaged across the City, and which make no allowance for the lower water use of office developments in comparison to residential.
19. Boulcott Land's self assessment uses a 'per measure' approach, specific to Willis Central, for the following reasons:
 - The additional population of Willis Central is known with a reasonable degree of certainty
 - The rates of use / output for the principal measures subject to assessment (water supply / wastewater) are clearly established
 - The known rates of use / output are clearly more applicable to Willis Central than the standard rates set out in the Council's Policy
 - The approach can be linked to an inferred 'per measure' contribution rate in the Policy
 - The 'per measure' approach is more likely to reflect 'actual increased demand' (consistent with the Act) than using an EHU based approach

25. Through the use of AAA water efficient fittings on toilets and showers, Willis Central’s daily per person demand for flushing water will be limited to around 7.7 litres. It is expected that 76% of flushing demand (5.9 litres) will be met by the rainwater system – with the remaining 24% of demand (1.8 litres) met from the City’s water supply system.



26. In total, therefore, the amount of wastewater (flushing, washing etc.) generated on site will be 19.7 litres / person / day, made up of 13.8 litres from the City supply, and 5.9 litres from rainwater. City supplied water will therefore be the source of 70% of the wastewater. The relationships between these figures are shown in following diagram.
27. As can be seen, the daily per person figures for water use (12 litres) and wastewater generation (19.7 litres) are significantly less than the figures used as the basis of the Development Contributions Policy, which are 300 litres and 150 litres per person respectively. This demonstrates that the figures used by the Policy are not appropriate in the case of Willis Central and, if used, will lead to an inequitable outcome. This point is an important one, as Schedule 13 of the Act provides as follows:

“... a territorial authority must demonstrate in its methodology that it has attributed units of demand to particular developments or types of development on a consistent and equitable basis.”

32. Despite the obvious benefits of reduced stormwater output, the Development Contributions Policy has no means of accounting for impacts on infrastructure that will actually be less than the existing situation. Accordingly, the Council should have regard to the beneficial effects of reduced stormwater output in its overall assessment.

TRAFFIC AND ROADING

33. The officer's report says that the self assessment argues "that there will only be a relocation of existing traffic and roading demand rather than an increase in demand on the wider traffic network". Boulcott Land's self assessment says nothing of the sort. The self assessment refers to the Transportation Assessment submitted as part of the Willis Central resource consent application, and its conclusion that the expected level of traffic movements would not be measurably different from the pre-existing development. On that basis, the self assessment concluded that no development contribution should be payable. That is still Boulcott Land's position.
34. The officer's report proposes a development contribution for traffic and roading of \$219,840.80. This figure is arrived at by multiplying the officer's assessment of EHU's by \$718, which is the traffic and roading component of the Citywide contribution. Boulcott Land disagrees with the officer's approach to assessment. Should the Committee decide that some contribution is needed, it should properly reflect the pre-existing and actual traffic impacts which can be explained as follows.
35. The pre-existing development on the site provided 61 car parks, whereas the Willis Central development will provide 76 car parks (a difference of 15 car parks), plus 5 motorbike parks. The development contribution calculation should be restricted to the difference between the pre-existing and proposed developments. For the purpose of assessment, 15 car parks plus 5 motorbike parks can be considered equivalent to 17 car parks.
36. A typical use of those 17 car parks would be for only two trips per day – one in / one out (i.e., a total of 34 trips). However, some car parks may have a higher turnover rate. For instance, if 4 car parks were used a further 4 times per day, they would generate an additional 32 trips. For those reasons, it can be assumed that the additional 17 car parks could result in an increase of 66 trips per day, over and above the pre-existing development.

NUMBER OF PEOPLE

42. The officer's report makes several references to the number of people that Boulcott Land anticipates will work in Willis Central. Because of the long term lease agreement in respect of the building, we know with reasonable certainty that there will be approximately 2,300 people occupying the site. This number is an increase of 1,760 in comparison to the number of people that previously occupied the much smaller Airways and McCarthy commercial buildings, and the Boulcott Street apartments.
43. The officer's report implies that the number on site is unusually "intensive" in relation to the square metres of space per person. That is not the case. This intensity is fairly typical for offices in the central city.
44. The officer's report goes on to state that "*the demand on water supply [will be] much greater than the Policy anticipates because of the potentially intensive use of the building*". With respect, it seems that the officer hasn't read Boulcott Land's self assessment. The Policy assumes a city supplied water use of 300 litres per person. Willis Central's actual per person use will be 12 litres. The same argument is raised by the officer in relation to wastewater generation, but is refuted in the same way.

OTHER POLICY CONSIDERATIONS

45. In section 11.1.2, the Policy sets out the seven step process that has been used as the methodology for setting development contributions. Step Three of the process is "*Identify the percentage of growth related 10-year capital expenditure to be funded by development contributions*". Step Three goes on to say that "*Unless the Council wishes to reduce fees for clear policy reasons*" the percentage is likely to 100%.
46. This statement provides the opportunity for the Council to take account of other policy directions that sit outside of the Development Contributions Policy. The opportunity presented here is also consistent with s.201(c) of the Act which requires the Council to set out "*the conditions and criteria (if any) that will apply in relation to the remission, postponement, or refund of development contributions*".

49. The provisions of particular relevance in this case are subsections 3(a)(ii) and subsection (iv), as well as 3(b). These are matters that, in my opinion, the Council should consider when deciding what level of contribution is equitable in Boulcott Land's case. In essence, it is my view that the Council should consider whether Boulcott Land, in developing a demonstrably 'green' building, is being inequitably asked to subsidise other parts of the community that place higher demands on Wellington infrastructure [subsections 3(a)(ii) and (iv)]. The Council should also consider whether demanding inequitably high contributions from a green building sends the wrong signals to the community, and might therefore have a negative impact on future social, economic, and environmental well being [subsection 3(b)].
50. It is also my view that in the context of the current process, the Council must have regard to the Council's other relevant policies, strategies and action plans in order to ensure that those other policy documents retain credibility. Among these I include the Council's Built Heritage Policy, the Climate Change Action Plan, and the Environmental Strategy.
51. Within the Built Heritage Policy, objective 5 deals with "Sustainable economic use". The policy is:
- To encourage and support economic growth that preserves and enhances the distinct character of communities, neighbourhoods, urban quarters and suburban centres through the sustainable use of the city's built heritage assets.*
- Action 1: Encourage the sustainable use of heritage buildings for present and future generations*
52. The Willis Central development incorporates the McCarthy building. That building is listed as a heritage building under the District Plan. The proposed development has been designed to allow retention of the Willis Street façade and the entrance foyer and stairwell. Although the interior is not listed under the District Plan, it is proposed to retain the existing entrance foyer and stairway, including their finishes, as part of this development. In summary, Willis Central helps the Council meet one of its key objectives – to an extent beyond that required by regulation.

56. All of the examples I have used show that in strategic terms both the Council and Boulcott Land are moving in the same direction. Council wants more sustainable built outcomes; Boulcott Land is giving effect to that desire. However, sitting off to one side, is the Council's Development Contributions Policy. The Policy does nothing to provide leadership on, or encourage sustainability. It can even be seen as a roadblock. In my view, the Council needs to both recognise that fact and remove the roadblock, or face an uncertain future in the achievement of its aims for more sustainable development.

SUMMARY

57. My statement has set out relevant facts that should assist the Committee. Those facts are:

- The actual impacts of Willis Central on infrastructure capacity are known with a high degree of certainty.
- Actual impacts can be used to derive development contributions that are more equitable than those derived via the broad averaging of the Policy's standard approach.
- Willis Central is a type of development that should be encouraged through recognition of the reduced impacts it has on the demand for increased infrastructure capacity.

58. My statement highlights an apparent policy 'dis-connect'. On the one hand there are Council policies that promote a vision of lower-impact green development. On the other, the Development Contributions Policy effectively penalises such development through a lack of recognition. Fortunately, there is the self assessment process that provides an opportunity for the Council to re-connect its vision with outcomes on the ground.

59. A decision to reduce the level of development contributions in this particular case would not set an unworkable precedent. Firstly, there are very few developments that can truly be classed as 'green buildings'. Secondly, the Council retains an absolute discretion in each individual case. On the other hand, a decision to *not* reduce the level of contributions would be a poor precedent. The message that decision would send, would certainly not encourage future developers to strive for a more sustainable City.

Mark Ashby

17 March 2010