

# DEVELOPMENT CONTRIBUTIONS SUBCOMMITTEE

30 AUGUST 2012



REPORT 1  
(12/15/52/05IM)

## DEVELOPMENT CONTRIBUTION REMISSION REPORT FOR SUSTAINABILITY TRUST – NEW MEZZANINE FLOOR, 49 TORY STREET.

(all figures gst excl)

### 1. Purpose of report

This report assesses the Development Contribution (“DC”) remission application by the Sustainability Trust (“the Trust”) for the construction of a mezzanine floor for office purposes at 49 Tory Street.

### 2. Executive summary

The Trust is a *not for profit* community organisation providing advice, education, services and products that seek to reduce the environmental footprint and increase the wellbeing of Wellington residents.

The Development Contributions Policy (“the Policy”) allows the Council to remit DCs in exceptional circumstances. The Trust has made an application for remission in respect of the DC assessment of \$6,527.05 for a new mezzanine floor within an existing building at 49 Tory Street. There are no costs for stormwater to the developer because the mezzanine floor does not create any additional non-permeable surfaces.

Council officers recommend that no remission be granted, on the basis that the new mezzanine floor will create a requirement for additional infrastructure capacity based on the most intensive non-residential use likely to become established in the development over a ten year period. Council policy is that the growth related costs of additional infrastructure capacity should be met by DCs.

### 3. Recommendations

Officers recommend that the DC Subcommittee:

1. *Receive the information*
2. *Agree to decline the application for a remission of development contribution fee and invoice Sustainability Trust for \$6527.05.*
3. *Agree to delegate to the Chair and Chief Executive the authority to sign a letter advising the Trust of the reasons for the Subcommittee’s decision.*

## **4. Background**

### **4.1 Proposal**

The remission application from the Trust was received by the Council on 03 April 2012.

The Trust is seeking to have the entire amount of DCs remitted. The remission application relates to the construction of a new mezzanine floor (85m<sup>2</sup> in size) designed to accommodate additional meeting rooms and office space.

Officers have considered the 'Self-assessment' section of the Policy (2.5.5.1,c) which refers to "actual increased demand" which is defined as "the demand created by the most intensive non residential use likely to become established in the development within 10 years from the date of application." While this is not a self-assessment but a remission application, officers are of the view that the new development will be able to be used to its full potential and easily accommodate the four people which the Policy anticipates. This is the basis on which the DC amount has been calculated.

### **4.2 The Policy**

The building consent was lodged with the Council on 24 August 2011. The self-assessment has therefore been assessed under the 2009 Policy.

Under the Policy officers have assessed the Trust's development as creating 1.56 additional EHUs, based on the standard non-residential assessment of 1 EHU per 55m<sup>2</sup> of gross floor area.

The Policy allows the Subcommittee to remit or postpone payment of development contributions at its complete discretion. The Subcommittee can consider exercising its discretion in exceptional circumstances, as outlined under section 2.6 below.

#### *2.6 Remission and postponement*

*2.6.1 The Council may remit or postpone payment of a development contribution at its complete discretion. The 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 the Council will not be regarded as creating precedent of expectations.*

*2.6.2 Remissions will only be granted by resolution of the Council (or a Committee or Subcommittee acting under delegated authority).*

*2.6.3 An application for remission must be applied for before a development contribution payment is made to Council. The Council will not allow for remissions retrospectively.*

*2.6.4 An application must be made in writing, and set out the reasons for the request.*

The Policy requires that remissions of DCs are only granted in exceptional circumstances. There is no definition of what might comprise such circumstances. If the Subcommittee was to reach a view that the circumstances are exceptional, the Subcommittee is able to remit the application in part or in full.

The Policy seeks to recover the growth-related capital expenditure (infrastructure) costs arising from increased demand i.e. demand created by the most intensive non residential use(s) likely to become established in the development within ten years.

DCs may be required if the effect of the development is to require new or additional assets of increased capacity and, as a consequence, the Council incurs capital expenditure, or has already incurred expenditure in anticipation of growth.<sup>1</sup>

The Policy quantifies the growth-related financial impacts in each catchment, utilising standard EHUs measures for both residential and non-residential developments. This only includes capital expenditure that has been specifically identified as growth related.

## **5. Discussion**

### ***5.1 Consultation and engagement***

The applicant has been provided with a copy of the officer's self-assessment decision, and discussions were held to discuss the matter prior to this remission application being lodged.

### ***5.2 Financial and long-term plan consideration***

The long-term plan has budget forecasts for development contributions. If a remission was granted for development contributions this revenue would need to be met by rates.

### ***5.3 Climate change impacts and considerations***

There are no climate change implications resulting from the recommendations contained in this report.

### ***5.4 The remission application***

The Trust's sole argument for a remission is stated below:

*The intent of the Development Contribution is to support infrastructure costs associated with increased activity at a particular new development.*

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<sup>1</sup> Network infrastructure, reserves or community infrastructure

*Council is currently providing cash an in-kind support to Sustainability Trust to provide a facility (the Wellington EcoHub) and services that reduce environmental footprint of Wellington residents.”*

*“Levying a substantial Council fee onto an organisation that alternately receives Council funding for the opposite purpose is in our opinion a poor use of Council funding. The charge effectively reduces the impacts of Trust’s Council funding by over \$7000 directly reducing benefits we can provide to the Wellington residents.”*

In summary, the Trust asserts that the DC charge is illogical because another section of Council provides funding at a current level of \$90,000 per year.<sup>2</sup>

## **6. Assessment**

The following section addresses the remission argument raised by the Trust.

DCs are levied on all new developments in the city, be it a new house, building or in this case a mezzanine floor. Commercial developments are assessed by how much additional ‘gross floor area’ in square metres is created. In fact, the Policy specifically refers to “mezzanine floors” as being *additional* gross floor area because they create the potential for an existing building to be used more intensively and therefore place more demand on qualifying infrastructure (roads, pipe networks, reserves, etc).

A key funding principle of the DC policy is that DCs should fund 100% of growth related capital expenditure. The DC Policy does not, therefore, take non-growth related factors such as the Council being both a source of funding and a collector of DC revenue into account. The two aspects need to be kept quite separate and one should not cross-subsidise the other.

In effect, the Trust is seeking additional funding i.e. \$90,000 plus the \$6,527. If a remission is granted then rate payers are meeting both charges but only the \$90,000 would be visible.

In principle many non-profit organisations provide community benefit and would seek not to pay DCs, e.g. schools, universities and housing trusts. It is also important to recognise that the DC Sub-committee has not previously granted a remission to similar ‘not for profit’ organisations.

Finally, the Trust has provided no compelling reasons for officers to assume that growth related demand on infrastructure will not occur.

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<sup>2</sup> The Trust receives grants from several units in Council. The General Grants team funds the Trust \$45k for general operating costs and \$4k for accommodation. The Trust also receives ‘one-off’ grants from this team. The ‘Climate Change’ office funds the Trust for \$40k which increases the amount of EECA warmer homes subsidy. City Housing also gave a ‘one-off’ grant to the Trust in November, 2011 of \$8.6k to promote the idea of the curtain bank to city housing residents.

## **7. Conclusion**

Officers consider that the matters put forward by the Trust do not warrant a remission of DCs because the mezzanine floor will increase the potential capacity of the building. Consequently there can be greater demand for infrastructure capacity, and the Policy requires that this should be met by the developer.

In addition, the Council's dealings with the Trust must be transparent in that the funding provided to pay for operational costs in the form of a grant must be kept separate from charges levied for DCs.

Officers recommend that the application to remit DC fees be declined and the Trust be invoiced a full and final amount of \$6,527.05.

Contact Officer: Tim Fletcher – Manager, Customer Service and Business Support – Development, Planning and Compliance.

## **SUPPORTING INFORMATION**

### **1) Strategic fit / Strategic outcome**

*The Policy supports the Council's infrastructure-related activities, by ensuring those responsible for increased demand through growth contribute to the cost of providing infrastructure to service that demand.*

### **2) LTP/Annual Plan reference and long term financial impact**

*The Subcommittee decision has implication for the LTP and financial impacts where the cost of the growth-related portion of infrastructure development is paid for by those generating the additional demand on infrastructure. There is an expectation that development contributions will fund infrastructure.*

### **3) Treaty of Waitangi considerations**

*This report has no direct impact on iwi.*

### **4) Decision-making**

*This is not a significant decision.*

### **5) Consultation**

#### **a) General consultation**

*As part of the remission process, the applicant has been provided with a copy of this report for their information.*

#### **b) Consultation with Maori**

*This report has no direct impact on iwi so consultation was no conducted.*

### **6) Legal implications**

*Council's lawyers have not been consulted during the development of this report.*

### **7) Consistency with existing policy**

*This report is consistent with the Development Contributions Policy.*