

DEVELOPMENT CONTRIBUTIONS SUBCOMMITTEE

15 May 2013



REPORT 1
(1215/52/05/IM)

DEVELOPMENT CONTRIBUTIONS – APPLICATION FOR A PRIVATE AGREEMENT FROM MASSEY UNIVERSITY

1. Purpose of report

This paper provides advice on a request from Massey University (MU) for a private 'campus wide' development contributions agreement with the Council. The agreement would determine development contributions payable to the Council for MU developments over a number of years.

This paper also provides advice on other options, which may be pursued by MU if a private 'campus wide' agreement is not acceptable to the Council, including applying for a self assessment for their recently built College of Creative Arts (CoCA) building.

Their letter of request is attached as Appendix one.

2. Executive summary

The Council recently approved a remission of the development contributions due from Victoria University for two buildings. A remission was granted based on a self-assessment provided by the University on the growth related demand for infrastructure created by the additional two buildings. The self-assessment also took into account infrastructure usage of the Campus as a whole. In approving the remission the Subcommittee recorded in the minutes that their decision would not create a precedent.

MU has requested a private development contributions agreement with the Council. Unlike Victoria University, MU is seeking a strategic agreement in relation to multiple developments that will be progressed over several years.

While MU's proposal has merit, officers do not consider that a private development contributions agreement is the appropriate mechanism to deliver a longer term strategic agreement. Further, given that Government is currently reviewing the development contributions provisions of the Local Government Act 2002, entering into a long term agreement at this point, may unintentionally advantage or disadvantage either MU or the Council.

MU has indicated that if the Council declines its request for a private agreement the University will consider other options such as self assessment. A provisional self-assessment has been provided by the University. However, as the self-assessment process does not take into account infrastructure usage as a whole, officers recommend that Massey be invited to apply for a remission of development contributions similar to that provided by Victoria University and that any remission is ring fenced to take account of the impact of the new CoCA building.

3. Recommendations

Officers recommend that the Development Contributions Subcommittee:

1. *Receive the information.*
2. *Note that development contributions can only be charged for growth in infrastructure.*
3. *Note that Massey University has requested a private campus wide development contributions agreement that would cover multiple developments to be built over a number of years.*
4. *Note that officers consider that the type of agreement Massey University is seeking would constitute a strategic relationship agreement. Officers consider using a development contributions agreement for this type of arrangement would be inappropriate as the intention of the policy is to consider individual developments.*
5. *Note that a Government review of the development contributions provisions in the Local Government Act 2002 is due for completion in late 2013 and that officers consider entering into a long term agreement with Massey University, prior to the completion of this review, could unintentionally advantage or disadvantage either Massey University or the Council.*
6. *Note that a review of the Council's Development Contributions policy is underway. The review will be informed by the Local Government Act 2002 review, and will consider recommendations around changing the policy to allow for longer term strategic agreements. In conducting the review officers will engage with Massey University and other stakeholders to canvas their views.*
7. *Note that Massey University can challenge the Council's assessment of development contributions through the standard self assessment or remissions application processes.*
8. *Agree that Massey University's request for a private agreement be declined.*
9. *Note that Massey University has indicated that if its request for a private agreement is declined it will seek other options including applying for a self assessment.*
10. *Note that Massey University has provided a provisional self-assessment however; officers recommend a remission as the appropriate mechanism rather than self-assessment. The self assessment process considers building infrastructure use where as the remission process can consider Campus wide infrastructure use.*

11. *Agree that Massey University be invited to apply for a development contributions remission for its College of Creative Arts building, noting that the Subcommittee would expect a comparable level of analysis to the submission provided by Victoria University.*
12. *Note that an application for a remission would be submitted to the Subcommittee for approval.*

4. Background

In April 2013, the Council approved a development contributions remission request from Victoria University for two buildings, the Alan MacDiarmid building and the HUB Building. The remission was granted based on a self-assessment that concluded that these buildings have not increased demand for the Council's infrastructure. The type of agreement Massey University (MU) is seeking is different in that a more strategic relationship is sought.

MU request

MU recently added a new building to their Wellington Campus, the College of Creative Arts (CoCA) building. The Council provided MU with a development contribution assessment of \$258,661 based on the new floor area.

In response the previous Director Strategy, Planning and Urban Design suggested that MU consider entering into a private campus wide development contributions agreement with the Council. In principle discussions, between officers and MU, on a private campus wide agreement have been ongoing for the last 12 months. However, an agreement has not been progressed. The Council received a letter (Appendix one) from MU requesting that the Subcommittee:

- agree in principle to a private agreement as the basis for determining development contributions payable from MU for the Wellington campus
- agree that officers and MU negotiate the specific terms of the private agreement
- agree that the proposed private agreement be presented to the Subcommittee for approval in July 2013.

If the Council decides that a private agreement is not acceptable, MU will consider other options including applying to present a self assessment payable on the CoCA building.

Development contributions policy

To fund infrastructure required as a result of a development the Council charges development contributions for non-residential developments based on the additional floor area built.

A developer has the right to challenge the Council's development contribution assessment. Where an assessment is challenged the developers can apply to undertake a self assessment for Council officers to consider. Alternatively, the developer may apply for the remission or postponement of payment. The Council (or subcommittee acting under delegated authority) may remit or postpone development contributions at its discretion.

The Council's Development Contributions policy clause 2.5.6 provides also that:

The Council may enter into a private agreement with a developer. The agreement must clearly record why an agreement is being used, record the basis of the cost sharing when the infrastructure will be provided will be provided and, in particular, whether there is any variation from the Council's policy that the new development should pay 100 percent of growth related capital expenditure.

This means the Committee can decide whether or not the Council should to enter into a private agreement with MU. The following officer advice provides guidance to the Committee.

5. Discussion

Private Agreement

Massey University View

MU has a programme of continuous investment which covers the period 2010-2020. The Plan envisions the development of 16,500m² of new gross floor area. Some of that area will replace old pre-fabricated buildings, but most of it will be entirely new.

The University considers that calculating development contributions on increased floor area is not appropriate, as increases in staff and student numbers, rather than floor area, place increased demand on Council infrastructure.

MU has asked for a private campus wide development contributions agreement with the Council to determine contributions for multiple developments for a set period of time. Specifically, it proposes that:

- the development contributions for; increased use of waste water, traffic and roading, and reserves be based on any increase in full time equivalent student and staff numbers (EFTS) on Campus using 2005 as a baseline year
- increased water use, be calculated using 2005 as a baseline year
- storm-water infrastructure be treated independently with any contributions for new developments being calculated in accordance with Council's policy.

MU considers using 2005 as a baseline year is appropriate because:

- the equivalent full time student and staff numbers on Campus are currently less than when the Council's developments contribution policy came into effect in 2005
- development contributions would be paid once the "already paid for infrastructure impacts have been exceeded" i.e. when the EFTS on Campus and/or water usage exceeds 2005 levels.

MU state that a private agreement would:

- be based on the payment of 100 % of growth related capital expenditure
- be grounded in actual, rather than assumed, demand on infrastructure and demand can be readily measured and verified

- mean the Council would not have to wait for new buildings to be completed before contributions are payable
- promote MU's continued contribution to Wellington, and streamline further development
- provide greater financial certainty to MU and the Council, and aid planning
- reduce administration costs as engagement about each building would not be necessary
- consistent with Clause 2.5.6 of the Council's policy
- equitable, as required under the Local Government Act 2002.

Officer Assessment

The previous Director Strategy, Planning and Urban Design initially considered that a private agreement would be beneficial to both MU and the Council, and signalled to Massey that they may wish to pursue this. However, officers have looked at what is being proposed and recommend that MU's request for a private agreement be declined. While the MU proposal has merit, officers consider the type of agreement sought represents a long term strategic agreement and that the development contributions mechanism is not the appropriate mechanism for this purpose as the intention of the policy is to consider each development individually.

Officers agree increased demand on Council infrastructure does not always equate to an increase in gross floor area, however, standard processes are already in place for developers to challenge their development contributions assessment i.e. the self-assessment and remissions processes. Using the standard processes will ensure that the Council complies with its obligation to be consistent and equitable.

In addition, the Department of Internal Affairs, is reviewing the development contributions provisions of the Local Government Act 2002. The results of the review will be incorporated into a Bill to amend the Local Government Act 2002. It is anticipated that the Bill will be introduced in the House in late 2013.

Concurrently, officers are reviewing Council's Development Contributions Policy. This review will be informed by the results of Local Government Act 2002 review, and will consider recommending policy changes to allow for the development of longer term strategic agreements. Officers will engage with MU and other stakeholders to canvas their views.

In the meantime officers consider that entering into an agreement at this time will pre-empt the review and may confer unintended advantages or disadvantages on either MU or the Council.

MU has advised the Council that should its request for a private agreement be declined it will seek other options including presenting a self-assessment.

Other Options (Self assessment or remission, likely outcome)

The College of Creative Arts Building (CoCA)

The CoCA building is described as a state of the art building specially developed for the creative arts. The building adheres to Massey's Environmental Policy.

The footprint of the building is 1,055m². Two Buildings were demolished, an old gymnasium and a pre-fabricated building with a combined footprint of 1,659m², to make way for the new CoCA building. A further ten pre-fabricated buildings have also been demolished to make way for future developments.

MU view

Council's development contribution assessment of \$ 258,661 for the new MU College of Creative Arts Building was calculated on a new floor area of 3,090m². Based on an additional 2.6 people for every 55m² of new floor space¹ it is assumed that the new building would equate to an increase in infrastructure equivalent to 146 additional people on campus.

MU has employed an independent contractor to undertake an assessment of the increased infrastructure demand created by the CoCA building, who has provisionally calculated the increased demand at \$3,110.33.

This provisional assessment is based on the premise that:

- with the exception of stormwater run off, it is people not buildings that increase demand on infrastructure and no increase to student or staff numbers will arise from the addition of the CoCA building; its purpose is to consolidate existing teaching spaces and improve the built environment at Campus
- the new building's footprint is less than the two building demolished to make way for it
- Council's policy of assuming fixed water consumption of 300 litres per person per day does not take into account pro-active approaches to addressing sustainability and environmental issues.

Officer's assessment (Remission rather than self assessment)

MU has provided a provisional self-assessment. Officers recommend that MU be invited to apply for a development contributions remission based on a self-assessment, similar to that recently provided by Victoria University.

This approach would align with Council's policy as the self-assessment process does not take into account the number of people, the way people interact between different buildings or any discount for displaced infrastructure use from other buildings.

If MU wishes to pursue an application for remission, officers will provide further advice to the Subcommittee based on that application.

¹ Wellington City Council, Development Contributions Policy, July 2009, Clause 8.2.4. Author

Financial implications of entering into a 10 year private contributions agreement with MU

The development contributions for Massey University's CoCA building were assessed at \$258,661. The provisional self-assessment provided by the University signals a contribution payment of around \$3,110.33.

6. Conclusion

Officers recommend that Massey University's request for a private development contributions agreement with the Council be declined. Alternatively, officers recommend that the University be invited to apply for a remission in contributions for its CoCA building.

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