Report No:	RCN12-07-03
File No:	
Date:	12 July 2012
Decision Required	

REPORT SUMMARY

Report to: Full Council
Meeting Date: 19 July 2012
Report Author Adrian Humphries, Regulatory Manager
Subject: **Development Contributions Policy**

EXECUTIVE SUMMARY

The recent release of the Tasman District Council Long Term Plan 2012-2022 (LTP) brought attention to changes in the Development Contribution Policy which removed a 66% discount on three of the four development contributions for first dwellings on a title. This change was not specifically mentioned as a significant change in the LTP and this has triggered a strong reaction from some real estate agents, builders and developers. This report proposes options to deal with the criticism and perceived lack of opportunity to avoid higher charges.

A meeting was held on 9 July 2012 with developers, builders and others with an interest in development contributions. It came to light during the meeting that there were some deep rooted concerns regarding other aspects of the Development Contributions Policy. At the meeting the Mayor indicated that the Council would examine the issues raised and report back. In order to allow staff to effectively assess the areas of concern and the potential effects on Council funding it is further proposed that staff be tasked to report back to Council on the issues raised at the meeting that were indicated as being of most concern.

RECOMMENDATIONS

It is recommended that there be a four month extension period (ending on 1 November 2012) where staff are allowed to apply the development contribution charges from the new Policy or equivalent to the Policy in place until 30 June 2012. This would allow interested parties to lodge their Building Consents and take advantage of the lower cost afforded by either Policy. Applicants would have to choose either the old payment system or the new and not a combination of both.

DRAFT RESOLUTION

REPORT SUMMARY

THAT the Tasman District Council

1. **receives report RCN12-07-03; and**

2. **recognises the concerns raised regarding the lack of express disclosure of the removal of the 66% discount and allows a phase-in period until 1 November 2012 for the removal of the 66% discount for first dwellings from the 2012 Development Contributions Policy; and**

3. **agrees that property owners can select to pay either the charges from the 2011/2012 Development Contributions Policy, or pay the equivalent 2012/2013 Development Contributions until 30 October 2012.**

4. **agrees that this approval be made under the section 6 of the Development Contributions Policy that provides that Council has the right to make special assessments and refund monies in circumstances it considers appropriate.**

5. **requests that staff assess the main areas of concern regarding the Development Contributions Policy raised at the meeting of 9 July 2012, most specifically the use of top-ups on prior payments, and report back to Council on its findings at Full Council meeting of 18 October 2012.**

tasman district council

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1. Purpose

1.1 To seek Council approval to provide a four month phase in of the removal of the 66% discount for development contributions on the first dwelling on a section. This change was made as part of setting the Development Contributions Policy (DCP) in the Long Term Plan 2012-2022 (LTP).

1.2 To task staff to report back on key issues raised regarding the development contributions Policy raised at the meeting on 9 July 2012.

2. Background

2.1 A number of changes were made to the DCP as part of the Draft Long Term Plan process. Most of these were minor, but one change has resulted in a number of property owners being caught between the old and the new charges. This change related to:

First Dwelling on Site

2.2 In the previous Policy a first dwelling on site attracted a significant discount on Development Contributions (DCs) i.e. only 33% was payable for water, stormwater and wastewater, with 100% for roading. The new Policy removed this discount as the same growth requirement will be created whether it is a first or subsequent dwelling and therefore the old policy was considered to be unfair and not sustainable, hence it was changed.

2.3 In real terms there is now potentially a difference of over $10,000 if the development is a fully serviced first dwelling and creates 1 Household Unit of Demand (HUD). This is nearly 50% of the normal contribution. It should be noted however that the actual amount payable may well be less than this depending on whether any contribution was paid by the developer at the time of subdivision.

Discount History

2.4 The 66% discount was originally provided as a transition between Development Impact Levies (DiLs) and the newly permitted Development Contributions created in 2004 under the Local Government Act 2002. Most probably Council should have graduated the removal of the discount over the intervening years but this did not happen. In the meantime, however, the discount has resulted in significant under-recovery of DCs. While growth rates will fluctuate, annually under-recovery of DCs has equated to around $230,000 for water, wastewater $135,000 and stormwater $30,000. This deficit requires loan funding to cover the cost. If Council did not remove the discount it would have to look to increasing the base figure but this would then penalise those who already pay the undiscounted amount. The attached notes give some examples of the cost shift.

2.5 The properties most likely to be affected are those where full development contributions have not been made through the subdivision process. These would mainly be subdivisions which were created prior to 2004, but not yet built on. A rough count indicates that about 350 such sections still exist in the District.

2.6 The mix of projects that are used to calculate development contributions changed between 2009 and 2012. The result of these changes was that there was a large decrease in the amount required for transport development contributions, a small decrease for water but increases in the wastewater and stormwater contributions. Overall the combined development contributions reduced slightly.

2.7 As noted above not all developments are negatively impacted by this change. For those properties that are impacted, whether they would be financially better off with lower transport development contributions or the 66% discount will depend on individual circumstances, for example a rural development where only transport development contributions are payable would benefit from paying development contributions under the new policy with a potential saving of over $4,300.

3. Present Situation/Matters to be Considered

3.1 As part of the consultation on the Draft Long Term Plan the removal of the 66% discount was not specifically promoted or brought to developers or property owner’s attention. Therefore there will be a number of property owners who have purchased sections and might have lodged building consents prior to the end of June 2012 if they were aware that this change was being made.

3.2 The DCP provides Council with the power to make special assessments and it can refund contributions in particular situations. It is considered that Council can elect to preserve the discount for a nominated time without having to go through the full Special Consultative Procedure (SCP) under the Local Government Act 2002.

4. Financial/Budgetary Considerations

4.1 An assessment of the number of property owners affected is difficult. A desk top assessment would suggest there are about 350 sections still not built on in pre-2004 subdivisions. However the longer the discount remains in force, the greater will be the level of under-recovery.

5. Options

5.1 To retain status quo i.e. full implementation of the changed policy from 1 July 2012.

5.2 Provide a phase-in of the new policy over four months, or such other period as Council determines.

5.3 Undertake a SCP on this part of the DCP, hear submissions and amend the DCP if deemed necessary.

6. Pros and Cons of Options

6.1 **To retain status quo. Full implementation of the changed DCP (not recommended)**

Advantages

This would provide Council with the expected amount from development contributions provided activity levels remain as budgeted. It would also be fairer in as much that all developments would be treated equally in their contributions to cover the costs of growth.

Disadvantages

Enforcing the change from 1 July is seen by those affected as being unfair as they were unaware that Council was removing this clause from the DCP and therefore believe they missed an opportunity to make a submission or to lodge a building consent application prior to the end of June at the lower rate.

6.2 **Provide a phase-in of the new policy over four months (recommended)**

Advantages
This is a longer period of time than the consultation period for the Draft Long Term Plan and accordingly should provide adequate time for any owners of affected properties to lodge building consents. However it affords some recognition of the fact that the loss of the discount was not fully disclosed when the DCP was put out for submission.

Disadvantages
There will be some loss of development contributions income.

6.3 **Undertake a SCP on this part of the DCP and apply the 66% discount until this process has been completed (not recommended)**

Advantages
This would give property owners, real estate agents and developers the opportunity to make submissions on why the 66% discount should continue. It would also enable property owners to lodge building consents and receive the 66% during the consultation period.

Disadvantages
Undertaking a further Special Consultative Procedure would probably take longer than four months, by the time the proposal was brought to Council, approved, consultation undertaken, hearings and then approval of any new Policy. Council would also be consulting on removal of a discount that no longer exists in the current policy. Therefore Council would need to consult on adding back the 66% discount, but expressing a view that it did not support the proposal.

7. Evaluation of Options

7.1 Option Two is the recommended option. It provides sufficient time for those people who have brought a section to lodge a building consent and to choose whether the development contributions are evaluated under the pre-1 July 2012 provisions or the post-1 July 2012 provisions. Property owners would not be able to select a mix of the contribution amounts e.g. the lower overall development contribution figures in the 2012 policy and the 66% discount.

7.2 The Government is soon to embark on a review of development contributions and this may see some legislative result in 2013. This prospect could count against Option Three.

8. Significance

8.1 The increase in development contributions for affected properties is at it highest around $11,000 (and this would be a very small number of cases). Although this only comprises a small portion of the overall cost of a section and dwelling, it could be important in the budget considerations of a person building a house.

8.2 This is a significant decision according to the Council's Significance Policy because the consequences affect a small number of residents and businesses to a large extent and there is public interest on the decision. Given that this change impacts on the public, a meeting was held on 9 July with developers and real estate agents.

9. Further Recommendation

9.1 At the meeting of 9 July 2012 some concerns were raised regarding other elements of the DCP. It should be noted that the concerns were not raised as submissions during the LTP process and all of the issues were available for comment at that time. The main concerns raised were:

- The ability for Council to charge DCs on three separate occasions i.e. alleged "double dipping". The consensus was that one payment should cover DCs in perpetuity.
- The potential to charge DCs on a catchment basis rather than a District wide basis.
- That ratepayers should bear more of the cost for DCs rather than those building/developing.

10. Timeline/Next Steps

10.1 If Council approves option 2 then staff will contact real estate agents, property developers and those people who have contacted Council regarding the change and advise them of the phase-in period for the removal of the 66% discount. We will also have to contact those who have made post 1 July 2012 payments to see if they wish to review their position.

10.2 Staff will prepare a report for the Full Council meeting of 18 October 2012 regarding the issues raised at the meeting.

11. Draft Resolution

THAT the Tasman District Council

1. **receives report RCN12-07-03; and**

2. **recognises the concerns raised regarding the lack of express disclosure of the removal of the 66% discount and allows a phase-in period until 1 November 2012 for the removal of the 66% discount for first dwellings from the 2012 Development Contributions Policy; and**

3. **agrees that property owners can select to pay either the charges from the 2011/2012 Development Contributions Policy, or pay the equivalent 2012/2013 Development Contributions until 30 October 2012.**

4. **agrees that this approval be made under the section 6 of the Development Contributions Policy that provides that Council has the right to make special assessments and refund monies in circumstances it considers appropriate.**

5. **requests that staff assess the main areas of concern regarding the Development Contributions Policy raised at the meeting of 9 July 2012, most specifically the use of top-ups on prior payments, and report back to Council on its findings at Full Council meeting of 18 October 2012.**

Appendices:

1. Supporting handout notes form the meeting on 9 July 2012.
2. PowerPoint slides from the subject meeting.

DEVELOPMENT CONTRIBUTIONS MEETING 9 JULY 2012 – HANDOUT NOTES

This handout comprises the detail from the original briefing note sent out to Councillors and other interested parties. It also has the tables from the Long Term Plan and copies of the slides from the presentation and examples of the financial impact of the changes on some representative developments.

BRIEFING NOTES CONTENT - CHANGES IN THE DEVELOPMENT CONTRIBUTION POLICY (DCP)

Introduction

1. The recent changes in the Development Contributions Policy have caused some concern. The aim of this document is to address the most frequently asked questions and explain the principles involved.

Objective of the Policy

2. It is Tasman District Council's intention that developers should bear the cost of the increased demand that development places on the District's infrastructure. Population growth in the District will place a strain on network and community infrastructure. That infrastructure will need to expand and be further developed in order to cope with the demands of population growth.

3. **Why?** By allocating costs of growth to those causing that growth Council is employing the "exacerbator pays" principle. If this system was not used the cost of infrastructure growth would fall solely onto existing rate payers and this would be unfair.

4. **How is the growth element calculated?** When an infrastructure asset is either created or upgraded a specified percentage of the work is allocated to growth. For example, if a new sewer line was put in for a specific sub-division it is fair to allocate all of the cost to growth. Alternatively if a sewer main is upgraded to cope with increased demand from a new sub-division and to improve the function of the existing main this would be a shared cost and the growth element would only pay for a percentage of the work. Routine maintenance of infrastructure is not paid for by Development Contributions (DCs).

5. **How often is the Policy reviewed?** The Policy must be reviewed at least every 3 years. Historically Council reviews the Policy as part of the Long Term Plan (LTP) process which ensures that this requirement is met. This also allows the financial analysis to be carried out at the same time as the LTP, thus allowing more accurate forecasting.

Infrastructure Cost

6. The cost of infrastructure growth is calculated as part of the LTP. Projects which will be completed over the next 10 years are costed and the growth attributable to infrastructure assets is divided by the number of developments that are predicted to occur over the next 20 years e.g. Water supply infrastructure growth in the LTP 2012-2022 = $13,562,339 over the 20 year period it is predicted that there will be 2056 new developments will benefit from a new water supply and the cost is divided between these developments = $6596 per development. Over the same period the roading and transportation infrastructure growth cost is $2,951,760 it is estimated that 3300 developments will benefit from the roading improvements and each is required to pay $894.

DCs may be charged on three occasions:

a. Granting of a Resource Consent,
b. Granting of a Building Consent,
c. Granting of a Service Connection.

When Council receives applications for any of the above it will assess the need for DCs. If a DC has been paid previously e.g. when a Building Consent is applied for and a previous payment has been made at Resource Consent stage, the previous payment will be credited against any new DC requirement. A “top up” DC payment may be required if there is a gap in time between the two developments to cover increased costs of infrastructure growth. Where there has been no increase no “top up” will be charged.

For subdivision, HUDs are calculated by determining the number of new sections created less those existing prior to the grant of consent.

District Wide or Club Approach.

7. Council policy has always been that DCs are collected on a District Wide basis and thus applied across all infrastructure growth. This has the advantages that development can be achieved more evenly and being less sporadic more efficient and effective infrastructure planning and development can be carried out. It is also much easier to administer. Some Councils use “catchment” systems to charge DCs, this can have the negative effect of causing prohibitively high DCs in some areas and can lead to “lumpy” development and potentially stagnation. DCs for roading are payable on all developments as everyone benefits from roading improvements, whereas contributions for water, stormwater and wastewater are only charged in the areas identified in the LTP as service contribution areas.

What Has Changed?

8. **Percentage of Contribution Paid.** Under the old Policy first dwellings on a site were charged 100% of the Roading contribution and only 33% of the contribution for Water, Stormwater and Wastewater. Whereas second or subsequent dwellings on a site and commercial development where charged 100% of the applicable contributions. This has applied since 2004 when prior to this first dwellings were exempt. With the passage of time Council has decided retaining the arbitrary discount is no longer justified and that it was unfair as the impact on infrastructure (and hence the cost of providing it) was no different if the dwelling was a first, second or subsequent dwelling. In the new Policy all developments pay 100% of any applicable DC which is consistent and fair.

9. **Early Payment Discount and Interest Charges.** Under the old Policy a 5% discount was made on DCs if they were paid at the time of uplifting the Building Consent. DCs are payable when a Building Consent is granted regardless of the fact that the main sanction for those not paying their debt is the withholding of the Code Compliance Certificate (which may not be required for up to 2 years).

In order to ensure developers pay the DCs the new Policy allows interest to be charged on any outstanding debt after 30 days of being invoiced or the Building Consent being granted (whichever is the latter). The interest rate will be the 90 day bank rate + 2%. Additionally under the new Policy 60 days after the debt is due payment Council may apply a Statutory Land Charge (SLC) on properties with such debts. The use of SLC has always been available to Council, however it has previously been infrequently used.

Council is currently owed over $920,000 by developers who have not paid their DCs within 3 months of being invoiced. This is unacceptable and unfair to all those who do pay as interest charges relating to the associated debt are borne by the general ratepayer. Using the new Policy and available legislation Council will actively seek out recovery of these debts.

10. **Fractional HUDs.** As Council uses the Household Unit of Demand (HUD) method to calculate DCs there are occasions where the HUD equivalent is a fractional number e.g. 4 Car parks on a commercial development would constitute 1.33 HUD and 5 car parks would constitute 1.66 HUD. Under the old Policy payment of DCs where rounded up or down i.e. $\geq$ .5 would be rounded up and $\leq$.5 would be rounded down. The new Policy allows DCs to be calculated using the actual fractional amount rather than rounding.

Conclusion

11. The new Policy is considered to be more transparent and fairer. Those causing the need for an increase in infrastructure will bear a fair amount of the cost associated with growth. Most conflict arises when some Developers and some Real Estate Agents fail to inform potential purchasers of sections that additional DCs may be payable when they apply for Building Consent. The advice should be to apply for a Land Information Memorandum (LIM) from Council and we will let them know.

TABLE 1

Activity	Growth component to be funded by Development Contributions $ (GST excl)
Water supply	13,455,343
Wastewater reticulation	17,041,070
Stormwater	11,309,788
Transportation, Roads and Footpaths	3,170,146
TOTAL	44,976,347

Note: Includes loan costs and Development Contribution loans to recover $13,015,574.

TABLE 2

Activity	Base Unit	Demand per Household Unit	Comments
Water	Internal pipe size into development	Minimum house size 20 mm + 1 HUD	Internal pipe size into development dictates HUD amount (See below)
Water lateral pipe size into development		Equivalent HUD amount payable	
20 mm dia		1 HUD	
21 - 30 mm dia		2 HUD	
31 - 40 mm dia		3 HUD	
41 - 50 mm dia		5 HUD	
51 – 100 mm dia		10 HUD	
101 – 150 mm dia		15 HUD	
Greater than 150 mm dia		Separate assessment	
Wastewater (commercial only) (Industrial separately assessed on Trade waste flows from site i.e. more than 1.0 m³/day)	Number of pans / urinals	2 pans / urinals	Urinal = pan. Number of pans / urinals / 2 = HUD amount, i.e. 10 pans + 2 urinals = 12 pans divided by 2 = 6 HUDS
Stormwater	300 m² of non pervious surface	300 m² and multiples thereof for roof and paved areas. Credits given for stormwater mitigation, i.e. grass swales / rain gardens	Typical residential dwelling covers approx 300 m² site. Multiples of 300 m², i.e. roof and paved areas equate to HUD / 300 m²
Transportation, Roads and Footpaths	Three carpark spaces	Three carpark spaces per household unit = 1 HUD	Figure 16.2D of the TRMP sets out carpark spaces for different uses. The total carparks required per development / 3 = required HUD

TABLE 3	
Activity	**Development Contribution per HUD $ (incl. GST)***
Water	6,596
Wastewater	8,118
Stormwater	5,149
Transportation, Roads and Footpaths	894
TOTAL	20,757

Development Contributions – Examples

Address	Development Contributions						
	Pre July 1				From July 1		
	DC	Base DC	Pre Paid	Discounted Amount	Base DC	Pre Paid	New Amount
Pitfure Close - stage 2	Water	$7,145	$568	$1,789.85	$6,596	$568	$6,028
	Wastewater	$5,696	$596	$1,283.68	$8,118	$596	$7,522
	Roading	$5,197	$1,216	$3,981.00	$894	$1,216	$0
	Stormwater	$3,013		$994.29	$5,149	$568	$5,149
	DC Payable			$8,048.82			$18,699
	Discount of 5%			$402.44			$0
	Discounted Total			**$7,646.38**			**$18,699**
Address	**Development Contributions**						
	Pre July 1				**From July 1**		
	DC	**Base DC**	**Pre Paid**	**Discounted Amount**	**Base DC**	**Pre Paid**	**New Amount**
Genia/ Turner Pl Wakefield	Water	$7,145	$642.00	$1,715.85	$6,596	$642	$5,954
	Wastewater	$5,696	$673.00	$1,206.68	$8,118	$673	$7,445
	Roading	$5,197	$1,373.00	$3,824.00	$894	$1,373	
	Stormwater	$3,013		$994.29	$5,149		$5,149
	DC Payable			$7,740.82			$18,548
	Discount of 5%			$387.04			
	Discounted Total			**$7,353.78**			**$18,548**

Address	Development Contributions						
	Pre July 1				From July 1		
	DC	Base DC	Pre Paid	Discounted Amount	Base DC	Pre Paid	New Amount
Beech Hill St Arnaud	Water	$7,145		$0	$6,596		$0
	Wastewater	$5,696		$0	$8,118		$0
	Roading	$5,197		$5,197	$894		$894
	Stormwater	$3,013		$0	$5,149		$0
	DC Payable			$5,197			$894
	Discount of 5%			259.85			
	Discounted Total			**$4,937.15**			**$894**

Address	Development Contributions						
	Pre July 1				From July 1		
	DC	Base DC	Pre Paid	Discounted Amount	Base DC	Pre Paid	New Amount
Petra Way DP 378531 Mahana	Water	$7,145		$0	$6,596		$0
	Wastewater	$5,696		$0	$8,118		$0
	Roading	$5,197	$1,540	$3,657	$894	$1,540	$0
	Stormwater	$3,013		$0	$5,149		$0
	DC Payable			$3,657			
	Discount of 5%			$182.85			
	Discounted Total			**$3,474.15**			**$0**

Address	Development Contributions						
	Pre July 1				From July 1		
	DC	Base DC	Pre Paid	Discounted Amount	Base DC	Pre Paid	New Amount
Collingwood McDonald Subdivision	Water	$7,145		$2,357.85	$6,596		$6,596
	Wastewater	$5,696		$1,879.68	$8,118		$8,118
	Roading	$5,197	$843.75	$4,353.25	$894	$843.75	$50.25
	Stormwater	$3,013		$994.29	$5,149		$5,149
	DC Payable			$9,585.07			$19,913.25
	Discount of 5%			479.25			
	Discounted Total			**$9,105.82**			**$19,913.25**