

Draft Statement of Proposal – 2015 Development Contributions Policy

TO	Thames-Coromandel District Council
FROM	Vanessa Cooling – Financial Policy Analyst
DATE	30 September 2014
SUBJECT	Draft Statement of Proposal – 2015 Development Contributions Policy

1 Purpose of Report

To provide a draft statement of proposal including a revised development contributions policy for review and feedback, and to seek a decision from the Council as to the form of consultation it wishes to use in relation to the adoption of the revised Policy.

2 Background

Councils are required under Section 106 of the Local Government Act (the Act) to review their development contribution policies at least every three years. The Policy was last reviewed in 2012 and a number of sections have been identified for review in the interim.

In addition to this, in August 2014 the Government amended sections of the Act dealing with development contributions, and required council policies to be amended to align with the new provisions by 1 December 2014.

There were two exceptions to this requirement – councils were required to provide a schedule of assets by 8 September 2014 and include this in their policies (or advice as to how a copy might be obtained), and policies were also to include a reconsideration process by that same date. These two changes were permitted to be made by formal council resolution and did not need to go through a consultation process. The Council adopted the proposed changes to the Policy at its 25 June 2014 meeting subject to the anticipated changes to the Act coming into force.

The Policy has been reviewed and a number of changes are proposed. These need to be consulted on prior to the adoption of an amended Policy by 30 June 2015. Schedule 1AA, Clause 9(2) requires councils to make publicly available no later than 1 December 2014 the information required by section 82A(2) in respect of changes proposed to comply with the new requirements of the Act. This includes:

- The proposal and the reasons for the proposal
- An analysis of the reasonably practicable options, including the proposal, identified under Section 77(1)
- A draft of the proposed Policy
- Details of the proposed changes to the Policy.

Section 77, which deals with requirements in relation to decision-making, requires councils to:

- Seek to identify all reasonably practicable options for the achievement of the objective of a decision
- Assess the options in terms of their advantages and disadvantages.

Councils are no longer required to adopt their development contributions policies using the special consultative procedure; however they may do so if they wish or may carry out other relevant processes in addition to the requirements of Section 82. Section 83(1) details the requirements of the special consultative procedure that a council must:

- a) prepare and adopt
 - (i) a statement of proposal; and
 - (ii) if the local authority considers on reasonable grounds that it is necessary to enable public understanding of the proposal, a summary of the information contained in the statement of proposal (which summary must comply with section 83AA); and
- b) ensure that the following is publicly available:
 - (i) the statement of proposal; and
 - (ii) a description of how the local authority will provide persons interested in the proposal with an opportunity to present their views to the local authority in accordance with section 82(1)(d); and
 - (iii) a statement of the period within which views on the proposal may be provided to the local authority (the period being not less than 1 month from the date the statement is issued); and
- c) make the summary of the information contained in the statement of proposal prepared in accordance with paragraph (a)(ii) (or the statement of proposal, if a summary is not prepared) as widely available as is reasonably practicable as a basis for consultation; and
- d) provide an opportunity for persons to present their views to the local authority in a manner that enables spoken (or New Zealand sign language) interaction between the person and the local authority, or any representatives to whom an appropriate delegation has been made in accordance with Schedule 7; and
- e) ensure that any person who wishes to present his or her views to the local authority or its representatives as described in paragraph (d)—
 - (i) is given a reasonable opportunity to do so; and
 - (ii) is informed about how and when he or she may take up that opportunity.

Section 83AA contains requirements about the summary referred to above, and states that it must:

- a) be a fair representation of the major matters in the statement of proposal; and
- b) be in a form determined by the local authority; and
- c) indicate where the statement of proposal is available; and
- d) state the period within which persons interested in the proposal may present their views to the local authority.

The primary difference between the Special Consultative Procedure and the procedure set out in Section 82 is the requirement to hold hearings. For clarity, the requirements of Section 82 must be applied to the consultation and adoption of the revised development contributions policy and need to be complete by 1 December 2014. The requirements of Section 83 are optional in relation to development contributions policies and are not restricted to the same timeframe.

3 Issue

The attached draft statement of proposal incorporates the requirements of Section 82A – to explain the reasons for the proposal, to identify practicable options and to assess the advantages and disadvantages of these as well as the draft Development Contributions Policy (**Attachment A**). This document is considered to meet the requirements of Section 82A which must be publicly available by 1 December 2014.

A decision is sought from Council as to the consultation method it prefers to use in relation to the Development Contributions Policy and whether it would be appropriate to provide a summary of information for interested parties.

Staff also seek feedback on the draft Statement of Proposal/Development Contributions Policy prior to the draft Policy being presented for formal Council approval at its November meeting for public release on or before 1 December 2014. If required, a draft summary of information will also be presented to the Council for consideration at that meeting.

4 Discussion

Consultation

While the Special Consultative Procedure is no longer required for adopting development contributions policies, there are a large number of amendments proposed to be made to the Policy, and a number of these will impact developers and/or ratepayers. (Note that the actual amount of contributions is a matter for Long Term Plan submissions, in terms of the capital expenditure Council plans to outlay for various projects. However, the methodology for calculating the contribution from the planned expenditure figures and how the unit of demand contribution is determined *are* matters for the Policy.)

In view of the complexity of the Policy and the number of changes proposed, staff consider it would be helpful to provide interested parties with a summary document explaining the proposed changes and reasons for these, and to provide them with clear timeframes and the opportunity to be heard by the Council in relation to their submissions. For these reasons, staff recommend that the Special Consultative Procedure be used in the adoption of its revised Development Contributions Policy.

If the Council chooses not to follow this route, it could still provide a summary document and/or carry out hearings, but it may be clearer for submitters to simply follow the Special Consultative Procedure.

Proposed changes to the Policy

An overview of the proposed changes to the Policy has been presented to the Council in workshop previously and these are explained in the attached document, together with an analysis of options for each. There are four further proposed amendments that have been incorporated into the draft Policy since the workshop, as follows:

- Clause 2.1.2(b) – retirement units and commercial accommodation have been added to the list of activities considered to be developments for clarity and completeness.
- Clause 2.11.8 (Clause 2.13.3 in 2012 Policy) – this clause currently states that in cases where funds or land have previously been collected through financial or development contributions, the Council will offset the value of these against proposed expenditure on the same activity in the same catchment for which it was collected, wherever possible. However, the Council may apply funds collected to a larger activity catchment to achieve administrative efficiency.

It is proposed to remove "wherever possible" and the final sentence as these are considered to be contrary to the intent of Principle (d) in section 197AB of the Act. This states that development contributions must be used for the benefit of the district or part of the district in which they were required.

- Clause 2.12.4 – Two new zones (coastal living and rural lifestyle) have been added to the list on zones where reserve contributions may be payable to cover changes to zones in the proposed District Plan.
- The basis for determining the gross business area equivalent to a unit of demand for water and wastewater has been revised based on actual water meter data. The unit of demand factors included in the 2012 Policy are based on a number of assumptions from various sources including Statistics New Zealand, Standards New Zealand and some information from Rodney District Council. However, actual meter data for commercial and residential rating units in the Thames-Coromandel District has now been analysed to provide a more robust basis for comparing dwellings and businesses. This compares the average volume of water per m² gross business area with average water used by an average dwelling. As a result a unit of demand factor of 0.0042 is recommended; this compares with the existing unit of demand factor of 0.0017.

The attached document does not yet include full details of the consultation, submissions and hearings processes as these have not yet been finalised. However, the Act does not require these details by 1 December so it is intended to update the document as and when they become available.

As previously advised to the Council, the actual development contributions payable per unit of demand is also not expected to be known by 1 December 2014, nor will the schedule of assets for 2015-17 be finalised by that date. However, the Act does not specifically require that these details are provided by this early date, only the changes required by the Act amendments that came into force on 8 August 2014. The Statement of Proposal explains to readers that these details will be incorporated once finalised.

5 Suggested Resolution(s)

That the Thames-Coromandel District Council:

1. Receives the report.
2. Determines that the Special Consultative Procedure will be used for the adoption of the 2015 Development Contributions Policy.

References- Agenda attachments

Attachment A *Draft Statement of Proposal and Development Contributions Policy*

Attachment A

Attachment A - Draft Statement of Proposal 2015 Development Contributi...