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Committee Secretariat
Transport and Infrastructure Committee
Parliament Buildings
Wellington

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Christchurch City Council submission on the Infrastructure Funding and Financing Bill

Introduction

1. Christchurch City Council (the Council) thanks the Transport and Infrastructure Select Committee for the opportunity to provide comment on the Infrastructure Funding and Financing Bill (Bill).
2. In the 10 year period 2018-2028 Christchurch City will need an additional 17,400 dwellings.¹ However, we expect a substantial focus of that development to be in the central city where infrastructure largely already exists.
3. The Council is obliged by its LGFA covenants to keep its net debt below 250% of total revenue. Given the cost of the post-earthquake rebuild, we expect this ratio to peak around 220% to 230% by 2024. There is some potential for this ratio to constrain development of the infrastructure needed to support growth development in Christchurch.
4. We understand that the Treasury and the Department of Internal Affairs have worked closely with high growth councils (Auckland Council, Hamilton City Council, Queenstown Lakes District Council and Tauranga City Council) when developing the policy embodied in the Bill. We expect that the SPV model will be used in one or more of those areas in the near future, providing Christchurch with an opportunity to see how the model works in practice. We will be watching developments closely. While there are no obvious and imminent candidate developments for the SPV model in Christchurch, we will learn from the experience of others and opportunities may well arise for the model in our district.
5. Some councils have expressed support for the Bill and believe it offers a funding mechanism that will better enable them to provide infrastructure to service growth development. It is acknowledged that the Bill could provide the opportunity for large-scale growth development to be contemplated in districts which otherwise could not afford to.
6. For this reason the Council supports the broad intent behind the Bill while suggesting some areas for improvement to address significant concerns, particularly around the potential loss of Council control over infrastructure.

¹ Refer to Our Space 2018–2048 Greater Christchurch Settlement Pattern Update, available at <https://greaterchristchurch.org.nz/background/our-space>.

7. We have had the benefit of reading a draft submission prepared by the Society of Local Government Managers (SOLGM). We support that submission and make the following additional points below.

Protecting Council's planning role and its interests as ongoing owner of the infrastructure

Bill transfers infrastructure planning role to the SPV when the necessary planning skills lie within local government

8. The Bill is concerned with the funding and financing of infrastructure. However, in fixing the funding and finance problem, the Bill almost incidentally gives the SPV responsibility for planning the location and design (e.g. sizing) of infrastructure. Local authority influence over the SPV's infrastructure planning is weak.
9. Infrastructure planning is a skill set residing within local government. The Council will normally take into account a wide range of matters when planning infrastructure, including the expected location and timing of future development, the desirability of reducing carbon emissions, and the need to ensure infrastructure is resilient in the face of potential natural disasters and climate change. When local government leads infrastructure development it takes into account the wider interest of the district. Elected decision-makers are democratically accountable.
10. Ideally the SPV would be working closely with the local authority on infrastructure planning, but the Bill does not provide a mechanism to ensure planning is done well (apart from the asset endorsement which focuses on whether the infrastructure is "compatible with any wider infrastructure"). Resource consent processes may provide some further ability to influence planning, but this is a long way from the direct control that Council normally has.
11. Loss of planning control can be costly for local government. For example, we consider some large community facilities planned in Christchurch without strong Council involvement are over-sized. These facilities will eventually be transferred into Council ownership. This leaves ratepayers funding unnecessarily high operation and maintenance costs.

Risk that the proposed development or proposed infrastructure is not a good strategic fit

12. Council appreciates that the Bill does not interfere with existing district plan, resource consent and building consent processes. However, we have considered the case where a proposal is made, and endorsements requested, relating to infrastructure that is clearly not aligned with Council's Urban Development Strategy. The Bill as it stands would make it difficult for Council to consider, when deciding whether to give asset and levy endorsements, whether the proposed development and proposed infrastructure are aligned with that strategy and are "good for the city". We suggest that a proposal should be able to be recommended to government only where the Council considers it is aligned with relevant Council strategies.

Unnecessary costs can arise from poorly designed or built infrastructure

13. In Christchurch's post-earthquake environment, we have acquired a lot of experience working with other agencies to build infrastructure. Often other agencies have taken the lead in constructing infrastructure which is then transferred to Council to own and manage. Our experience seems very applicable to the design of the SPV model.

14. Sometimes assets transferred to Council have had health and safety issues. Council is obliged to fix those problems at our own expense. Sometimes assets are simply not up to our specification, which can make operation and maintenance more expensive than it ought to be.
15. Some examples are:
- An intersection was built that did not comply with NZTA standards. Council has to manage or redesign it.
 - Green surfacing on a street was laid too early (without following Council's best practice advice) causing a major defect in the carriageway surface.
 - Rain gardens (to manage stormwater runoff from hard surfaces) were not built to design. They were built with a step down, creating health and safety issues for the public.
 - Poorly designed parking signage meant that Council could not enforce parking restrictions. Signage had to be replaced.
 - A road was constructed and handed over, but no kerb core tests were performed as required by Council's Construction Standard Specifications (CSS). Council bears the risk of poor construction quality giving rise to higher maintenance costs over time.
 - Safety audits not signed off correctly.
 - Asset data not provided in a useful format.
16. Where multiple agencies are involved in the design and delivery of infrastructure, ratepayers and levy payers deserve to know that those agencies will be well co-ordinated. At present the Bill provides insufficient say for the Council in the design, quality assurance and handover of the assets. Over the long run, this will cost ratepayers and levy payers more.

The case where Council wants to build the infrastructure

17. The Bill has been developed in a context where it is assumed the Council would like the infrastructure to progress but cannot afford to borrow funds to build it. If the Council *does* want to construct and fund the infrastructure in the usual way, we are concerned that the Bill could be used by a developer to force the SPV model on the Council.

Preferred solution: Council veto

18. The Council's preferred solution to address the issues described above is to introduce an unrestricted Council veto power. The SPV model should be an additional tool used in partnership with the council, rather than something forced on an unwilling council. This is consistent with the purpose of the Bill.
19. One way of incorporating an effective veto power into the Bill is to provide that a levy cannot be made without agreement from the responsible infrastructure authority and the responsible levy authority. Those agreements should not be limited in scope (as the endorsements are at present). We envisage a council would want to agree with the proposer about a range of matters such as (but not limited to) community consultation and engagement processes, asset planning, asset design (including technical specifications), quality assurance processes, handover processes and levy design. A council would typically want to ensure that SPV follows

the same strategies, plans, standards and processes that the council itself would follow if it were building the infrastructure. The agreement process allows for discussions and negotiations rather than being a “yes or no” response to a formal endorsement request.

Endorsements must be requested

20. Sub-clause 25(1)(a) of the Bill provides that a proposal cannot proceed unless the recommender has received “all endorsements *requested*”. However, the Bill never seems to *require* the endorsements to be requested in the first place. This leaves open the theoretical possibility that a recommendation could proceed without Council endorsements. We think that could not have been intended. We submit that the Bill be amended to more clearly require that a proposal cannot proceed without all endorsements.

Interaction with development contributions

Consistency with the Council’s overall cost allocation framework

21. In Christchurch, development contributions are currently calculated mostly on a district-wide catchment basis. This means that all development, no matter where it occurs, pays a share of the whole city’s growth-related projects within the Council’s capital programme. The Development Contributions Policy is currently being reviewed and smaller catchments for some services are being considered. However, practical considerations may often mean that there is some “pooling” of costs. The development contributions paid in respect of a particular property cover a share of the pooled costs. They may include a contribution to some projects from which the specific property does not benefit (although the property will benefit from the wider activity to which those projects relate).
22. In addition, a council’s revenue and financing policy could provide that general rates are used to fund some growth infrastructure, which is also an example of “pooling”.
23. In contrast, the design of the levy focuses on where the expected benefits lie (sub-clauses 27(4)(b) and (c)). This might not be consistent with a territorial authority’s overall cost allocation framework (revenue and financing policy and development contributions policy). This could create some unfairness or inconsistency. For example, residents of a development to which the proposed funding model applies may pay a share of growth-related infrastructure in the rest of the district (or catchment), but the rest of the district (or catchment) might not be contributing similarly to the cost of the infrastructure required by the development (because the levy is being used to fund those costs).
24. The focus on expected benefits (sub-clauses 27(4)(b) and (c)) is broadly consistent with one of the development contributions principles set out in the Local Government Act 2002 (LG Act): that is, to section 197AB(c) of the LG Act which focuses on benefits (and causation). However, there are other principles considered in that section. Subsection 197AB(g)(i) recognises the “practical and administrative efficiencies” as well as “fairness and equity” are important.
25. The Council is concerned to ensure that the existing development contributions policy and other elements of cost allocation across ratepayers (e.g. revenue and financing policy) can be taken into account when the levy is designed. The levy design should not focus exclusively on the expected benefits. It should also take into account practical and administrative efficiencies, and fairness and equity, so the levy can be designed to fit well with the Council’s existing cost allocation framework.

Infrastructure provided as a condition of consent

26. Sometimes a developer is obliged to provide infrastructure as a condition of their resource consent. It is not clear in the Bill how the funding model would apply in those circumstances. It appears a SPV can levy to recover the cost of infrastructure provided both within and outside the development footprint, even if the infrastructure is required as a condition of consent. It also appears as though a SPV can fund its development contributions through provision of infrastructure outside the development footprint in lieu of cash. If these situations are contemplated it would help if the Bill was clear on this.

Previous development contributions

27. Council allocates revenue from development contributions to particular growth-related infrastructure projects contained in its capital programme. It is possible that the capital programme may contain a project that is similar to *but not the same as* the infrastructure proposed by the recommender. We have some concern that clauses 91 to 95 of the Bill might not sufficiently recognise this potential issue. As an illustration, the Council's Long Term Plan may include a 600mm pipe, and some received development contribution amounts may relate to that asset. However, the SPV may be levying to recover the costs of a 200mm pipe. It is not clear how much of the development contributions already collected should be transferred to the SPV under clauses 91 to 95 of the Bill.

Eligible infrastructure

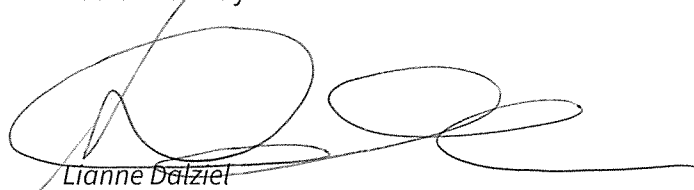
28. Eligible infrastructure includes new or upgraded community facilities (refer section 8(2)(c)). The definition of community facilities in section 8(3) refers to the definition in section 197(2) of the LG Act. We note that the Urban Development Bill has a different (wider?) definition of the same term in section 9 of that Bill. We are not sure whether there is a reason behind having two different definitions of the same term.

Conclusion

29. Thank you for the opportunity to provide this submission.

30. For any clarification on points within this submission please contact Andrew Jefferies, Manager Funds and Financial Policy, at andrew.jefferies@ccc.govt.nz

Yours faithfully

A handwritten signature in black ink, appearing to read 'Lianne Dalziel', written over a horizontal line.

Lianne Dalziel
Mayor of Christchurch

