

Notice of Meeting:

I hereby give notice that an ordinary meeting of the Hearings Committee will be held on:

Date: Friday 30 August 2024
Time: 9.30 am
Venue: Council Chambers, Dunedin Public Art Gallery, The Octagon,
Dunedin

Sandy Graham
Chief Executive Officer

Hearings Committee

Request for Remission of Development Contributions

MEMBERSHIP

Chairperson	Commissioner Ros Day-Cleavin	
	Cr David Benson-Pope	Cr Cherry Lucas
Senior Officer	Carolyn Allan, Chief Financial Officer	
Governance Support Officer	Wendy Collard	

Wendy Collard
Governance Support Officer

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Note: Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.

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DECLARATION OF INTERESTS

EXECUTIVE SUMMARY

1. Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.
2. Elected members are reminded to update their register of interests as soon as practicable, including amending the register at this meeting if necessary.

RECOMMENDATIONS

That the Committee:

- a) **Notes/Amends** if necessary the Elected Members' Interest Register attached as Attachment A; and
- b) **Confirms/Amends** the proposed management plan for Elected Members' Interests.

Attachments

	Title	Page
↓A	Elected Members' Register of Interests	5

Hearings Committee				
Councillor Register of Interest - Current as at 21 August 2024				
Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
Cr David Benson-Pope	Owner	Residential Property Ownership in Dunedin	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Trustee and Beneficiary	Blind Investment Trusts	Duty to Trust may conflict with duties of Council Office	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Yellow-eyed Penguin Trust	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	New Zealand Labour Party	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Heritage Fund (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Public Art Gallery Acquisitions Committee (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Otago Museum Trust Board (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
Cr Cherry Lucas	Trustee	Otago Farmers Market	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Otago A & P Society	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Trustee	Henderson Lucas Family Trust - Residential Dunedin Property	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	NZ Institute of Chartered Accountants	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Otago Museum Trust Board (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Chinese Garden Advisory Board (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Toitū Otago Settlers Museum Board (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Local Government New Zealand (Zone 6 Committee) (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member (alternate)	Grow Dunedin Partnership (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Taieri Airport Trust (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Mosgiel Taieri Community Board (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Te Poāri a Pukekura Partnership (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.

PART A REPORTS

DEVELOPMENT CONTRIBUTIONS REMISSION

Department: Planning

EXECUTIVE SUMMARY

- 1 This report considers a request to the Dunedin City Council (the Council) for a full remission of the development contributions levied for the change in use of the site at 70A and 70B North Taieri Road into a commercial activity.
- 2 The application has been considered under the six assessment matters for remissions in the Development Contributions Policy (the Policy).
- 3 The applicant, Ōtepoti Dunedin Whanau Refuge, was charged a development contribution of \$36,520.00 (excluding GST).
- 4 The Hearings Committee (the Committee) is asked to consider whether a remission should be granted and, if so, to authorise the Chief Financial Officer to remit a specified maximum amount.
- 5 The applicant and the applicant's agent, Terramark Limited, wish to be heard by the Committee.

RECOMMENDATIONS

That the Committee:

- a) **Considers** the request for a remission of development contributions levied to Ōtepoti Dunedin Whanau Refuge for the change in use of the site at 70A and 70B North Taieri Road to a commercial activity.
- b) **Decides** whether to decline the remission request, grant a partial remission or grant a full remission.
- c) **Authorises** the Chief Financial Officer to give the applicant a development contribution remission of a maximum of \$36,520.00 (excluding GST), should the Committee decide to grant the request.

BACKGROUND

Purpose of Development Contributions

- 6 The purpose of development contributions is to enable the Council to recover from those persons undertaking development a fair and equitable portion of the costs of capital expenditure necessary to service growth over the long term (section 197AA Local Government Act 2002). If development contributions are not collected, then the growth has to be funded from other sources including rates and/or debt.

- 7 Under Clause 20 of the Committee delegations, the Committee has the power “to consider and determine applications for remission of a development contribution for an unusual development where the contribution is greater than \$10,000”.

Assessments of Development Contributions for 70A and 70B North Taieri Road

- 8 The subject property at 70A and 70B North Taieri Road (held in Record of Title 1071633 and 1071634) is 2,216 m2 in land area.
- 9 The site at 70A North Taieri Road contains an existing dwelling, garage, and ancillary residential unit. The dwelling contains more than three habitable rooms, and the ancillary residential unit contains one habitable room. The buildings have a gross floor area (GFA) of 528 m2 and an impermeable surface area (ISA) of 313 m2.
- 10 The site at 70B North Taieri Road is currently vacant.
- 11 The applicant applied for building consent for the conversion of the existing buildings to offices. The development will result in a change of use of the site from residential to commercial activity.
- 12 The Policy assesses residential activities on a per unit basis, whilst non-residential activities (such as commercial) are assessed on the GFA and the ISA.
- 13 The development has been originally assessed with the garage included in the assessment. The initial assessment was \$45,971.20 (excluding GST).
- 14 Upon receipt of the remission request, the Council have sought external advice from Rationale Limited (Tom Lucas) in relation to application of the Policy. The advice is attached for the Committee’s reference.
- 15 Following the advice, the development has been reassessed, with the garage now excluded from the assessment. The reassessment has resulted in a lower development contribution being calculated.
- 16 The development is assessed under the Policy as creating an additional demand (over and above the previous residential activity) of 20.75 Equivalent Household Units (EHUs) on the transportation network.
- 17 The development contribution is payable for the additional demand being created over and above the previous land use. The development contribution was calculated as follows:

Water Supply	\$0.00
Wastewater	\$0.00
Stormwater	\$0.00
Transportation	\$36,520.00
Reserves	\$0.00
Community Infrastructure	\$0.00
Total Development Contribution excluding GST	\$36,520.00

- 18 This amount has not yet been invoiced.

Remission Request Summary

- 19 The applicant has requested a full remission of the development contributions charged for the change of use of the site at 70A and 70B North Taieri Road into a commercial activity.
- 20 A full copy of the remission application is attached for the Committee's reference.
- 21 The remission request is summarised as follows:
- The transportation development contributions should not be charged, as the proposal will not generate greater vehicle movements when compared to a typical residential household.
 - Development contributions should not be charged, as Otepoti Dunedin Whanau Refuge is a charitable organisation providing support to the community affected by family violence.
- 22 The applicant and applicant's agent wishes to be heard in support of the remission request. A copy of this report will be forwarded to the applicant before the scheduled hearing.

DISCUSSION

- 23 The Policy states that six assessment matters are to be considered when considering a request for remission:
- The Development Contributions Policy;
 - The DCC's Funding and Financial Policy;
 - The extent to which the value and nature of works proposed by the applicant reduces the need for works proposed by the DCC in its capital works programme;
 - The level of existing development on the site. Where multiple existing and pre-existing uses can be established the DCC may have regard to the most intensive use(s) and the extent of time that has elapsed since those pre-existing uses existed;
 - Development contributions paid and/or works undertaken and/or land set aside as a result of:
 - i) Development Contributions
 - ii) Agreements with the DCC
 - iii) Financial Contributions under the Resource Management Act, and;
 - Any other matters the DCC considers relevant.
- 24 Each of these is considered below.

The Development Contributions Policy

- 25 It is considered that the development contributions have been levied correctly in accordance with the Policy. The existing and proposed activities have been calculated using the details provided with the building consent application.
- 26 The remission request states that the transportation demands generated by this proposal are, in fact, nil or negligible, as the proposed commercial activity will not generate greater vehicle movements when compared to a typical residential household.
- 27 The building consent issued by the Council on 26 June 2024 authorised the conversion of the existing residential buildings to offices. Offices are activities that are included in the commercial land use category.
- 28 The definition of the commercial land use under the Policy is as follows:
 - *‘Use of land or buildings that includes the display, offering, provision, sale or hire of goods, equipment or service. Includes administrative or professional offices, offices and depots for trade services, childcare facilities, restaurants, service stations, rural retail sales activity, rural tourist activity, self-storage units, panel beaters, internet-based sales, repair stores and garden supply stores.’*
- 29 As the proposed activity falls under the commercial land use category, the commercial land use category is therefore deemed appropriate.
- 30 In terms of whether the transportation demand calculated for the proposal is fair, the Policy is based on averages for typical developments throughout the city. Development contributions pay off growth-related debt (previously incurred by the Council for capital works to service this site or the wider area generally) or pay for growth-related capital works now or in the future (for this site or the wider catchment). Even if no specific works are required to service a particular site, this does not mean that the levying of development contributions is inappropriate.
- 31 In this case, the additional demand of 20.75 EHUs on the transportation network is being created with the change in use from residential to commercial. The Policy calculates the transportation demand differently for residential and commercial uses. In the Dunedin Metropolitan area, the typical residential activity (three or more habitable rooms) generates 1 EHU per unit, whereas the typical commercial activity generates 5.42 EHUs per 100m² GFA.
- 32 Furthermore, the Policy does not take into account the specific nature of the business, the number of employees that may operate within that site, or how those people travel to an activity. However, in the majority of cases, employees and visitors will travel using the Council’s transportation network. Therefore, commercial properties do typically result in much higher trip generation. On that basis, with the introduction of the commercial activity on the site, the Policy deems an increase in potential demand in terms of transportation.
- 33 The Policy is based on theoretical demand because it is not practicable to calculate the actual demand of every single development. The Policy does provide for unusual developments to be individually assessed, but only where the development creates a significantly different demand on infrastructure. In principle, the remission process could be used in a similar way to reduce the development contributions based on the known actual demand of a development. However, the Committee would need to be satisfied that the actual demand was going to be less.

- 34 It is considered that the assessment of the proposed land use has been correctly made in accordance with the Policy. There are no known changes to the capital projects being funded by development contributions that could change the amount payable.
- 35 Consideration will need to be given as to whether the granting of a remission in this case would undermine the integrity of the Policy.

The Council's Funding and Financial Policy

- 36 The role of development contributions is to fund the growth portion of capital projects. Should a remission of development contributions be granted for this development then the Council will require funding from rates or other sources for any shortfall in development contributions.

Contribution to Capital Works

- 37 The applicant has not proposed any capital works as part of this development that would replace the Council's own capital works.

Demand Prior to Development

- 38 A remission could be considered if the Policy did not adequately recognise the previous land use on the site in terms of demand. The applicant has not explicitly disputed the level of credits given to the existing site as part of their remission request.

Previous Historical Contributions

- 39 Historical contributions on a site potentially could be used to offset a current development contribution assessment. No historical contributions on this site have been identified. Rates paid in the past are not considered relevant to this matter.

Other Matters

- 40 This criteria is broad and allows the Committee to consider any other matters relevant to the development and/or remission application. It is a catch-all and can be used to consider "other matters" raised by the applicant, evidence, submissions, and staff reports and/or comments. This could include items not previously considered under the other criteria above.
- 41 It should be noted that any decision under this criteria (or any of the other criteria for that matter) must not be arbitrary and needs to be justified.
- 42 The remission request argues that no development contributions should be charged in recognition of support Otepoti Dunedin Whanau Refuge provides to the community affected by family violence.
- 43 It is acknowledged that the applicant provides invaluable benefits to the community. However, the sole purpose of the Policy is to recover from those undertaking development (including charitable organisations) a fair, equitable, and proportionate portion of the costs of capital expenditure necessary to service growth, rather than being a tool for promoting and encouraging economic or community development.
- 44 Consideration will need to be given as to whether the granting of remission in this case would undermine the integrity and consistent administration of the Policy.

OPTIONS

- 45 The Committee has three options. They could decline the remission request, grant a partial remission or grant a full remission. The advantages and disadvantages of each option are outlined in the body of this report.
- 46 The Committee now needs to decide which option it prefers.

NEXT STEPS

- 47 The decision of the Hearing Committee will be communicated to the applicant, and staff will act upon the decision made.

Signatories

Author:	Galina Reinhardt - Development Contributions Officer
Authoriser:	Nic Jepson - Senior Planner - Monitoring and Compliance Carolyn Allan - Chief Financial Officer

Attachments

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↓D	Attachment D - Advice from Rationale Ltd	22

SUMMARY OF CONSIDERATIONS

Fit with purpose of Local Government

This report relates to providing local services and infrastructure that it is considered good-quality and cost-effective.

Fit with strategic framework

	Contributes	Detracts	Not applicable
Social Wellbeing Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Economic Development Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Environment Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Arts and Culture Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
3 Waters Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Future Development Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Integrated Transport Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Parks and Recreation Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Other strategic projects/policies/plans	✓	<input type="checkbox"/>	<input type="checkbox"/>

Within the Council's financial strategy, the role of development contributions is to fund the growth portion of capital projects.

Māori Impact Statement

There are no known impacts for tangata whenua.

Sustainability

Long term consequences of undermining the integrity of the Development Contributions Policy from not recouping fully from developers the cost of those developments.

LTP/Annual Plan / Financial Strategy /Infrastructure Strategy

The collection of development contributions is included as a revenue line item in the Long Term Plan and forms part of the overall financial strategy.

Financial considerations

The collection of development contributions is included as a revenue line item in the Long Term Plan and forms part of the overall financial strategy.

Significance

The decision is assessed as low under the Council's Significance and Engagement Policy.

Engagement – external

There has been external engagement with Rationale Limited (Tom Lucas) in relation to application of the Policy.

Engagement - internal

There has been no internal engagement.

Risks: Legal / Health and Safety etc.

The decision could be challenged by judicial review.

SUMMARY OF CONSIDERATIONS

Conflict of Interest

There are no known conflicts of interest.

Community Boards

There are no known implications for Community Boards.

