Submission to:

Productivity Commissions Draft Report on Local Government Funding and Financing

BACKGROUND:

Porter Properties Ltd and Empire Corporation Ltd are two of several companies that constitute the overall Porter Group. Porter Group of companies is a family owned business, operating in the Waikato for over 70 years.

Along with other facets of the business, "Porters" undertake the development of various parcels of land held within the Porter Group and more recently has included the development of the greenfield industrial site known as "Te Rapa North Porter Farm Subdivision"- approximately 65ha and the redevelopment of 980 Te Rapa Road- approximately 11ha. Several other parcels have been developed or are available for development.

These developments make "Porters" one of the largest industrial / commercial land developers in Hamilton.

TYPES OF SUBDIVISION

"Porters" subdivisions are unique in that

- The initial subdivision is based on a "theoretical" layout enabling infrastructure to be developed and
- Lots are only subdivided at the time of purchase enabling flexibility in Lot sizes to meet demand

This philosophy generally leads to the site being used for large warehouse type developments which create issues around the calculation of Development Contributions (DC's) by Hamilton City Council (HCC) which Porters believe does not illustrate best practice.

PRODUCTIVITY COMMISION REPORT

The Productivity Commission Report (PCR) produced by Insight Economics, promotes what it sees as the existence of good policies based in the comparative analysis of 4 policies; one of which was the Hamilton CC policy.

Porters believe that the use of HCC Development Contribution Policy (DCP) and its methodologies, for the promotion of "Good Policy", which clearly has issues when used to calculate DC's for the types of developments undertaken by "Porters" is potentially misleading the Productivity Commission and the balance of Local Authorities throughout New Zealand.

Porters also do not see that it is right for Insight Economics to promote a policy that they have had a hand in producing. This would appear to be a clear conflict of interest.

In this submission, "Porters" have used one example to illustrate the issues that it believes brings the current HCC Development Policy into question and to identify why many aspects of the policy should not be promoted as "Best Practice"

COMMENTS AND ISSUES

1.0 DEMAND ISSUES

HCC calculate the demand for the subdivider (Porters) through its Policy based on 30% site coverage, with the building developer paying the balance should the development exceed the 30% site coverage.

The charges are calculated utilizing theoretical demand factors.

In many of "Porters" subdivisions, the developer is able to provide site development plans that, while the 30% site coverage is exceeded, show the **"actual"** demand, based on studies, can be significantly lower than the theoretical assessed by HCC. This results in overcharging of Development Contributions.

Is this an example of a good DC policy at work?

2.0 DC SPECIAL ASSMENTS AND RECONSIDERATION APPLICATIONS

From "Porters" experience the above demand inequality could be dealt with through HCC Special Assessment and Reconsideration processes if the processes were used correctly.

A recent example had a theoretical DC assessment from HCC of approximately $1,000,000. for a large warehouse complex that created very little demand.

An assessment undertaken by "Porters" consultants, utilizing actual demand studies, assessed the demand as approximately $170,000. A special assessment / reconsideration processes were applied for through HCC- noting that all fees incurred by HCC are paid by the developer. HCC engaged its own consultants to review the application, with the review recommending a slightly higher demand from that proposed by "Porters" but significantly below the theoretical demand from the original assessment by HCC. The DC's based on the review were approximately $300,000, that is, a difference of approximately $700,000 from the original assessment.

HCC then manipulated their Consultants demand assessment to inflate demand so that the final DC calculation was approximately $750,000

Is this an example of a good DC policy at work?

3.0 DEMAND CREDITS

The above example means that demand credits are technically available for this site, meaning the "Porters "and the developers have significantly overpaid their DC's and are therefore in monetary terms subsidizing other HCC projects.

Demand credits under HCC'S Development Policy remain with the property, in most cases unless redevelopment is undertaken, never to be utilized. No refunds are paid out by HCC for these credits. HCC therefore, has the benefit and use of this money without the necessity for providing infrastructure to benefit the said property.

Is this an example of a good DC policy at work?

4.0 DC PAYMENTS

Using the above example, “Porters” were forced into paying the development contributions for the subdivision to enable the issue of 224c by HCC and therefore the gaining of title, even considering that the process was in dispute, and is currently unresolved with a Commissioners review being sought.

Title was required to assist with the building developer / owner’s hardship through not having equity to substantiate funding sources

The actual payment by Porters, for the subdivision, $520,000 was above that which was assessed by HCC’s own Consultants. “Porters” do not want potential site credits that have no value except to HCC through the use of the money paid

Is this an example of a good DC policy at work?

5.0 DC’s GENERATED BY BUILDING CONSENT PROCESS.

HCC initially refused to connect water to this example site in an endeavor to make the building developer pay the over assessed DC demand for the subdivision and consent DC’s even though it was going through the reassessment / reconsideration processes with HCC.

Is this an example of a good DC policy at work?

6.0 INFRASTRUCTURE PROJECTS CONTRIBUTING TO DC VALUES

The above example falls within the Rotokauri Industrial Zone. The overall subdivision has provided 100% of all infrastructure associated with the subdivision, including all services, sized to meet other subdivisions and a main collector road.

As part of Porters investigations into the DC assessment, an analysis of projects that made up the local DC calculation for the Rotokauri Zone was undertaken. In most cases there is no relationship or benefit gained between these projects and the “Porters” subdivision. In fact some projects are not even in the Rotokauri Zone.

This implies that "Porters" are subsidizing works that should be undertaken by HCC or other developers directly benefiting from the infrastructure. Staging within a development zone would make assessment more equitable.

Is this an example of a good DC policy at work?

7.0 RESPONSE TIMELINES

The HCC development contribution policy does not have any timelines when dealing with remissions / reconsideration / commissioner review processes. Time is extremely important to developers and delays generally mean unbudgeted additional expense.

In the example above the initial reassessment by HCC took over two months and indications are the Commissioners review will not happen until the end of the year.

All DC Policies should have timelines to provide certainty to the developers

Is this an example of a good DC policy at work?

SUMMARY

"Porters" commend the Productivity Commissions efforts in endeavoring to promote "best practice" when dealing with Local Authorities DC Policies. This is a complex issue, and fair / equitable treatment of property developers throughout New Zealand, by providing uniformity would simplify the processes required along with the understanding by developers.

"Porters" do however suggest that the Productivity Commission reconsider the use of many parts of HCC's Development Contribution Policy as "Best Practice".

Of particular concern, "Porters" recommend the Productivity Commission address the following when using HCC's Development Policy as "Best Practice"

- ***The use of inflated demand to increase DC revenue***
- ***That when available, actual demand should be used***

- ***That credits should be refundable***
- ***That a close relationship should be proven between projects making up the DC value and the subdivision by staging within development zones***
- ***That other examples of DC Policies be investigated to ensure identification true "Best Practice"***
- ***That the calculation of DC's follows the intent and spirit of the Local Government Act 2002 and amendments***
- ***That DC Policy processes should be bound by timelines for responses***

John de Luca B.Hort.Sci. BBS (Val & Property Mgt)

Porter Group Property Manager

1 Mark Porter Way, Burbush, Hamilton I PO Box 10164, Te Rapa, Hamilton, 3241 I New Zealand

P: +64 7 849 3956 I F: +64 7 849 6093 I M: +64 211 903 248 I www.portergroup.co.nz

29 August 2019