



## SUBMISSION

New Zealand Productivity Commission

Housing Affordability - Issues Paper - June 2011

### INTRODUCTION

1. The Development Contributions Working Group (DCWG) is an unincorporated body that represents and coordinates the efforts of local government development contributions practitioners throughout New Zealand. The DCWG was established in September 2000 following many years of discussion by Councils throughout New Zealand regarding the vexed questions of funding the considerable costs of accommodating growth and shortcomings with existing contributions regimes. The DCWG was successful in having the power to collect development contributions included in the Local Government Act 2002.
2. Since that time the DCWG has provided a forum for those in the local government sector to share their experiences and the emerging best practices for development contributions. The DCWG consists of Council officers and specialist advisors covering the disciplines of local authority policy, finance, management, engineering, asset management, environmental policy, planning and related law.

### HOUSING AFFORDABILITY - ISSUES PAPER

3. The DCWG welcomes any informed discussions on issues of housing affordability and infrastructure charges. These are highly complex matters that are worthy of serious investigation and vigorous debate.
4. While many participants in the DCWG have broad interests in the wider aspects of housing affordability, that is not the primary mandate of the group and those other aspects will be addressed through general submissions of the constituent local authorities.
5. We do note however that very little of the Issues Paper addresses the obvious counter-point to the assumption that housing prices are too high - that average and lower incomes are fundamentally too low. Where affordability is a function of the ratio between price and income, any meaningful analysis or discussion must address both principal elements of that ratio.

## INFRASTRUCTURE CHARGES

6. Regrettably much of the comment to date surrounding infrastructure charges, such as that mentioned in the issues paper from the Local Government Forum and the Property Council, has been specious and unbalanced. This has been particularly egregious when referencing increases in contributions from what had previously been either nominal or partial values that had not represented the true costs of growth.
7. Growth can be a good thing if well managed, a bad thing if it is poorly managed, and is probably best considered to be an opportunity for communities that are fortunate enough to be faced with the challenges that growth presents. For local authorities growth means increased demand on transport and network infrastructure, parks and community infrastructure. In order to maintain levels of service there is a need to build new, and expand existing infrastructure to accommodate the growth at considerable cost.
8. Local authorities have limited sources from which it can fund these costs. If Development Contributions are further restricted, the costs of growth themselves are not eliminated by legislative amendment and will necessarily need to be met from another source - one with a more tenuous nexus to the developments that cause the need for the infrastructure investments.

## INFRASTRUCTURE CHARGES - SPECIFIC QUESTIONS

**Q42.** What infrastructure costs should be recovered through infrastructure charges?

Should the costs of providing services such as schools, parks and libraries be recovered via infrastructure charges?

9. It is reasonable that a portion of the capital costs of providing local authority activities such as parks and libraries (and transportation, network infrastructure and other community facilities) are funded by development contributions. It would be an unprecedented change in the planning and fiscal landscape to have local authorities collect infrastructure charges to fund schools (or hospitals or state highways) or any other facility that is a central government mandate.
10. The particular inequity that should be addressed in relation to central government mandates such as schools, hospitals, prisons etc is that local authorities are currently prevented from collecting a development contribution under the LGA 2002 in relation to the demands that these facilities place on the infrastructure provided by the local authority. This means that the 'funder of last resort', the ratepayer, is subsidising new developments in the education, health, corrections and other central government portfolios.

**Q43.** Are current infrastructure charges justified by the efficient cost of providing services?

Is there evidence of over-recovery of infrastructure costs?

11. It is our considered view that in general, infrastructure charges or development contributions are justified and are efficient. In some cases where there is the appearance of inefficiency this is typically due to small pockets of relatively small growth numbers and high marginal costs of providing a particular infrastructure such as wastewater reticulation, treatment and disposal in a sensitive environment. These are often historical aberrations where the three workstreams of land-use planning, infrastructure planning, and financial planning were not adequately synchronised prior to the relevant resource management decisions being made.
12. We are also unaware of any cases of over-recovery of infrastructure costs. In fact all our participants who have a significant track-record in development contributions report an under-recovery of the costs of growth. One significant advantage of the development contributions regime is that it is regularly reviewed, often annually and at a minimum every three years. If there are changes to costs, growth rates or any other planning assumption that could lead to an over-recovery, this would be readily identified through the Long Term Plan (LTP) and other processes.

**Q44.** Is the basis for calculating infrastructure charges transparent?

Is it subject to undue discretion by local authorities?

13. Local authorities comply with the requirements of the LGA 2002 in publishing information on their planning cycles both annually and triennially, and on their performance annually. In addition to these statutory requirements, many local authorities have gone to additional effort to make information about the costs of growth and development contributions readily available. Given the nature of this information and the scope of local government activities, there is a lot of data to analyse. Meaningful transparency is as much about accessibility as it is about availability.
14. Regrettably some of the more complex information is difficult for lay-people to comprehend without assistance. Where local authorities and developers have invested in their relationships with each other, this has generally created a better understanding of each other's needs and expectations, and made for a better understanding of the development contributions regime.

15. Another reason for the opacity of some of the documents surrounding development contributions has been an over-emphasis on compliance with the letter of the law rather than communicating based on the spirit of the law. The willingness of some developers to litigate had contributed to a climate of risk aversion that is now beginning to moderate. While compliance is still important, additional documents are now being added to communicate effectively.

**Q45.** Are there different regional or local features that justify different approaches to when and how to apply infrastructure charges?

16. There are clearly issues which cause many of the local authorities around New Zealand to decide on balance to charge less than the maximums provided by the LGA 2002. These reductions may be in overall quantum, in limiting the Activities for which contributions are sought, in limiting the circumstances in which they are sought, or in delaying the time at which those contributions must be paid.
17. While many local authorities may like to assist the development process by delaying the demand for a development contribution until later in the development cycle, there is still a need to have certainty that the contribution will in fact be paid. In order to comfortably allow for more generous terms of payment there may be a need for other legislative amendments such as making Code of Compliance Certificates compulsory and addressing the problems created for development contributions by a Certificate of Occupancy.

**Q46.** Are infrastructure charges an equitable and efficient way of funding infrastructure services?

18. Development Contributions are seen as being economically efficient and equitable in both their purpose and effect. The regime creates a nexus between the decision to proceed with a development and the costs associated with servicing that development. Separating that cost from the decision would fundamentally reduce economic efficiency.
19. There are residual concerns however as to the administrative efficiency of the regime. Some local authorities have been inadequately resourced to prepare sufficiently robust planning documents to support the collection of development contributions. This together with the constant to occasional threats of litigation have increased costs from the legal and consulting professions. Notwithstanding any other consequences that may arise, a simpler regime (such as a buy-in methodology) would have reduced administrative complexity and cost.

**Q47.** Do infrastructure charges become fully capitalised into the value of the land?

20. While Development Contributions should be fully capitalised into the value of land there are circumstances where the entire value of the contribution is not borne by the land. This can be due to the particularities of the location, the relative value of the land to the capital improvements on the land, the indebtedness of the property and a myriad of market vagaries. The claim that Development Contributions cannot be fully capitalised into the value of the land typically arises when a developer has paid too much for a plot of undeveloped land, has underestimated the cost of completing the developments, or has overestimated the ultimate retail prices of the finished subdivision or other developments.
21. Some local authorities have held forums with banks and other development financiers to improve their understanding of development contributions. It had been understood by that sector that “land with a consent” is worth more than the land without a consent, but how development contributions fitted into that equation had not been well understood.

**Q48.** What alternative methods of funding could deliver fairer and/or more efficient outcomes?

22. It has not been established that the development contributions regime provided by the LGA 2002 is unfair, or for whom it is unfair. Nor has it been established that the regime delivers inefficient outcomes.
23. Efficient outcomes need to accommodate the political appetite for growth and to charge growth costs to those creating the need for infrastructure investments, or those benefiting from infrastructure investments, or ratepayers. These decisions are made following consideration of a broad range of matters and circumstances, and should rightly be a local decision. Once the extent of growth is determined the outcomes drive the appropriate solution. More centrally based funding mechanisms (as for state highways) will take away this local decision making. Efficient outcomes need to, and do, consider the affordability of growth costs on the development sector as an intermediary and homeowners (and the owners of other types of property) at the end of the development chain.

## SUBMISSION

24. This submission is made for and on behalf of the Development Contributions Working Group by the members of the DCWG Executive:

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