
**DEVELOPMENT CONTRIBUTIONS REVIEW SUBMISSION TO
THE DEPARTMENT OF INTERNAL AFFAIRS: PROCESS, NEXT
STEPS AND ADVICE ON TRANSFERABLE DEVELOPMENT
CREDITS**

1. Purpose of report

To provide a Wellington City Council (WCC) response to the Department of Internal Affairs (DIA) call for submissions on their Development Contributions Review Discussion Paper. The submission is due 15 March 2013 and is attached.

The paper also responds to the Strategy and Policy Committee (SPC) recommendation that officers investigate the use of transferable development credits and provide advice on this issue in time for the annual plan.

Finally, the report outlines the current process and time frames for the government review of development contributions and outlines the implications for the Council's policy review.

2. Recommendations

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Approve the attached draft submission to be forwarded to the Department of Internal Affairs.*
3. *Agree to delegate to the Chief Executive Officer and the Built Environment Portfolio leader, the authority to amend the proposed submission from Wellington City Council to the Department of Internal Affairs on the Development Contributions review to include any amendments agreed by the Committee and any associated minor consequential edits.*
4. *Note that transferable development credits are a mechanism for encouraging development. These are however, complicated to administer and officers do not recommend progressing consultation on them until the Government clarifies, finalises and implements its recommendations on development contributions.*
5. *Note that a second Local Government Reform Bill is likely to be submitted to Parliament likely in the second half of 2013 and this will likely include changes to the legislation governing Development Contributions.*

6. *Note that officers will continue to engage and collaborate with government to improve the advice informing changes to legislation to ensure it achieves the desired outcomes, is practical, implementable and does not lead to increased cost and decreased efficiency.*

3. Background

The Government has asked the DIA to look at issues with current development contributions (DC) framework and make suggestions for changes based on taking into account Government priorities of:

- Building a more productive and competitive economy,
- Doing more with less,
- Christchurch rebuild,
- Business growth agenda,
- Housing affordability.

DIA want to provoke discussion, get an idea of the scale of change desired, and assistance in separating actual and perceived issues.

Process and Government Reform Programme

There are currently four Government reviews that may impact on DC Policy and will likely inform a second Local Government Reform Bill. Officers predict this Bill may be introduced to Parliament in the second half of 2013. These review authors include the Office of the Auditor-General New Zealand, the Productivity Commission and other Government Departments.

Department of Internal Affairs

The DIA have produced a development contributions Review Discussion paper. The Council submission is in response to that paper.

Productivity Commission

The Productivity Commission report on housing affordability looked at the impact development contributions have on housing affordability. In its final report the Commission had a number of findings and recommendations for changes in the application of development contributions. The key finding from their Local Government Regulation work has focused on the need for central government to work more collaboratively with local government to ensure legislation and policy achieves its objectives.

Better Local Government Reform Programme

Better Local Government reforms will take the form of an investigation into efficient infrastructure provision and a review of Development Contributions. These work streams will also link with the Productivity Commission's investigation on regulatory roles between central and local government and the Auditor General's inquiries into development contributions. This work will feed into a second reform bill proposed for 2013. Officers do not have an indication of the likely content of the infrastructure report.

Auditor General Review

The Auditor-General, as part of the standard review of the 2012-2022 long term local government plans, has advised of a specific review of council use of development contributions. A report on this is likely to be released sometime in 2013. It is unclear at this stage what this review will introduce that is not being covered by the DIA review.

4. The Submission

Collaboration

Council officers have attended a Development Contributions Working Group meeting between interested Local Councils. This group will provide a submission to DIA dealing with the report in detail. The first draft of this submission will be available to us from the 1st March with a further draft available on the 8th March.

There is likely to be significant and varied feedback from local authorities across the country. It will be challenging for this group to develop a coherent submission that reflects a consensus view across authorities. Wellington City Council's submission has focused on the issues facing Wellington and working collaboratively with central government to ensure any changes achieve a broad range of outcomes that support the provision of infrastructure that also delivers for affordable housing, viable investment for developers and a good level of service to the community.

Structure of the report

To help present the information on development contributions the following part of this paper is into two sections:

- The first provides a summary of the Council submission to DIA and draws your attention to the key issues you will need to consider before approving the submission.
- The second section provides officer advice on the role of transferrable development credits. It also provides advice on how best to coordinate the timing and process of the governments review with the Council policy review.

SECTION ONE

Summary of DIA discussion document

The DIA discussion document is looking at ways infrastructure is financed to meet future demand, not have undue impact on growth or housing affordability and deliver 'value for money.'

There is a real focus on housing affordability. Many of the concerns raised translate into issues of policy clarity and understanding the rationale for the cost structure. There is significant criticism levelled at the lack of clarity and transparency which seems to translate into a feeling of unfairness and a lack of accountability. Development contributions costs are not put into context within the total cost of new housing and the discussion document does not draw

on other findings affecting housing affordability that have been identified by agencies like the Productivity Commission. There is also a lot less focus on the role of commercial buildings. The discussion document is not particularly balanced.

A range of solutions are identified in the discussion document. The solutions in the discussion paper are not government policy, nor does any combination of them represent a preferred policy package. They are designed to elicit views and comments about their acceptability, workability and ability to address the issue. They are:

- Updated and improved guidance for territorial authorities;
- Consolidation and clarification of development contributions provisions;
- Explicit discounts enabled for housing of a type and location that creates less demand for services;
- New purpose and principles provisions for development contributions;
- Facilitating increased private provision of infrastructure through enhanced developer agreements;
- Tightening the range of infrastructure that can be funded from development contributions;
- Changing the timing as to when development contributions can be charged;
- Capping of development contributions at a set dollar amount;
- Independent dispute resolution hearings;
- Reinstatement of appeals to the Environment Court;
- Regulations to promote greater consistency in development contribution approaches;
- Percentage based infrastructure levy as a financing tool;
- Abolition of development contributions as a financing tool;
- Infrastructure bonds as an alternative financing mechanism.

The other point to note is that the paper is not recommending the abolition of development contributions, just suggesting it as a possible option. The report does recognise that there is a cost burden associated with growth. The bottom line is who pays, is it fair and should it be targeted.

Submission Content

The Council submission is attached. It highlights the need to work collaboratively with the development community and Government. Transparent, simple, and clear policies will help remove confusion and uncertainty for developers. The main points made in the submission are that the Council:


- Supports the review of development contributions where it improves transparency and accountability;
- Recommends that achieving good outcomes requires collaboration between central and local government, as identified in the better local government regulation report by the Productivity Commission;
- Recommends investigating low-cost options to resolve disputes instead of (reinstating) appeals to the Environment Court;

- Notes that development contributions are a small cost relative to the other input costs of housing, although they may impact on developer profitability;
- Notes that if the report suggests limiting infrastructure types for which development contributions can be charged, then the implications for Council plans needs to be fully understood and considered;
- Asks that the report identify how infrastructure will be funded if development contributions are abolished;
- Asks the DIA to investigate the merits of transferable Development Contribution credits.

Process Advice

The process is complicated and incorporates a range of works streams being undertaken by government. The table below attempts to map out the steps.

Review	To date	Future
Productivity Commission Housing Affordability (March 11 to April 12)	Released a Final Report, WCC has submitted on the draft report.	Government recommendations resulting from the report. Still waiting on government position.
Productivity Commission Better Local Government Regulation (May 12 – May 13)	Released an issues paper and a draft discussion document, WCC has submitted on both.	Final report due May 2013.
DIA Development Contribution Review (Feb 13 – ongoing)	Released a draft discussion document – the submission is being considered by Council.	Final Report, sometime 2013.
Office of the Auditor General Development Contributions review (unclear on timeframes)	Review is delayed and it's unclear when it will be released.	Review findings/ discussion.
An expert advisory group on local government infrastructure efficiency (May 12- ongoing)	Content of advice is unknown. Original release date was scheduled for February 2013.	Review findings/ discussion.
Council Annual Plan consultation on development contributions	Proposal to consult on changes to fees to reflect LTP decisions.	Officers recommend waiting until government policy position clear before wider policy review
		
Development and testing of a Government Position	Councils will want to provide advice and comment on this position.	

	
<p>Each of these streams of work feed in to a second amendment Act & other changes in late 2013.</p>	<p>Councils will likely form a position and try to influence Bill as it goes through Parliamentary process.</p>

SECTION TWO

5. Advice on applying Development Contribution credits between separate sites

The Council Committee instructed officers to investigate and prepare advice on whether to allow development contribution credits to be applied between separate sites. As the policy currently stands, developers are given credit for use of an existing building to offset their development contributions. Developers will currently get credits for what was on a site before they altered it. The focus of officer investigation relates to allowing credits between sites across the city.

Current Situation

The Council’s Development Contributions policy states that ‘credits will not be refunded, and can only be used for developments on the same site and for the same activity in respect to which they were granted.’ For example, a developer can only apply credits from the development site to the development. This is consistent with the policy of all other Councils.

Examples of where developers get credits are:

- When the developer is converting a commercial building to residential;
- When the developer is demolishing one building, they get credits for what they demolish to apply to the new building

Transferable Credits

Officers have investigated the principle of transferrable credits. Reducing development contributions through transferable credits fits with a desire to incentivise developers to provide affordable housing by reducing their costs which may then reduce the house price charges.

The rational of Development Credits is that if a building is being replaced then the now obsolete buildings infrastructure usage can be applied to the new building in order to offset a development contribution. Transferable credits would apply this principle between buildings at locations across the city.

Issues

- **It will be difficult to ensure that transferring credits between sites will result in a neutral impact on infrastructure** – for example if a commercial building of 110m was converted into an apartment a credit would be created, yet infrastructure usage could actually increase. Without the ability to charge for any increase because a credit was used the Council would bear this cost. If Council wished to apply a penalty for increased use this would involve significant ongoing assessment and monitoring on a building by building basis.
- **Establishing ownership of credits** - credits would have significant value and would need to be registered in some way, in order for them to be claimed against another development at another time. This credit ownership will have to deal with the complexities of development company arrangement as companies are often formed to complete a development then disbanded. Put simply it could be complicated and time consuming to administer.
- **Allowing credits to be transferred would essentially establish a market in DC credits** - further to point two credit value could facilitate trading between developers.
- **Such a market could drive numerous perverse outcomes such as buying up cheap commercial space to offset against new developments** – again this would become complex and expensive to manage and plan for. In any market there is a risk of unintended uses. A couple of scenarios that may be of concern include:
 - Credit ‘farming’ activities such as buying up large cheap commercial spaces and in order to gain credits to apply to other developments;
 - Difficulty in changing the value of credits through a new policy, any change downwards would likely upset credit holders;
 - Operational difficulties planning for credits and the impact on infrastructure.

Officer recommendation

Officers support the goal of achieving clarity and simplicity and certainty for developers. As part of the work being undertaken by Government there will be the opportunity to explore a range of mechanisms, including transferrable development credits that could incentivise developers to deliver nationwide, regional and city outcomes. However, until it is clear what the range of options are, that could be considered as part of a change to development contributions policy, officers do not recommend consulting on transferrable development credits as part of the annual plan. This is because the Council could end up out of sequence with the wider Government review and having to back track on discussions with our community. Officers recommend including transferable credits as an option as part of the Department’s review into Development Contributions and making that clear in the submission.

5.1 Consultation and Engagement

Business units across the Council have been consulted including Finance and Infrastructure. Other Local Council have also been engaged in forming a response to the DIA.

5.2 Financial considerations

There are none at this stage. Future policy options will need to incorporate financial implications before any recommendations are proposed or decisions taken.

5.3 Climate change impacts and considerations

None.

5.4 Long-term plan considerations

None.

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SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

N/A

2) LTP/Annual Plan reference and long term financial impact

none

3) Treaty of Waitangi considerations

none

4) Decision-making

5) Consultation

a) General consultation

No public consultation

b) Consultation with Maori

No public consultation

6) Legal implications

none

7) Consistency with existing policy

Yes