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Submission to:	**Department of Internal Affairs (DIA)**
Discussion paper:	**Development Contributions**
From:	**Wellington City Council**
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1. Introduction

Thank you for the opportunity to submit on the discussion document. The Council understands that the review of development contributions has been prompted and influenced by the following concerns:

- They can adversely impact housing affordability;
- They do nothing to incentivise smaller cheaper housing;
- They can discourage development;
- They vary and are not consistently structured across the country;
- They are often complex and unclear on what they fund;
- The process of dispute resolution is expensive and time consuming; and
- They could be seen to be unfair and inequitable is some cases.

2. Headline Comments

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;
- 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 Department of Internal Affairs to investigate the merits of transferable Development Contribution credits.

Summary

The Council is concerned that the Government strikes the right balance between the need to address affordable housing and the need to fund infrastructure in a fair and efficient way. Placing an additional financial burden on rate payers will affect the lifetime affordability of home ownership at a time when many rate-payers and businesses are experiencing significant financial hardship. The government itself invests over $1.5-2 billion in rental subsidy each year to assist households cover their housing costs. The Council wants to ensure that the

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Government is clear about what it wants to achieve, the best tool to achieve it, and considers the full impact of a range of factors affecting housing affordability and wider economic growth. Singling out one or two issues, like development contributions and expecting changes to have a significant influence on housing affordability may be overly simplistic.

There is agreement about the need to provide infrastructure to facilitate growth. The fundamental issue is who should pay, those who will use it or should the cost be shared by the community. There is a concern about the impact of development contributions on both the supply of housing and how much it costs, but they are only part of this picture. The Council is interested in ensuring that infrastructure is funded in a financially sustainable way to support a growing and prosperous city.

If development contributions are considered to be a poor tool for funding growth infrastructure then some analysis of the other tools that could be adapted for this task would be useful. Other tools that could conceivably be used (if adapted in some cases) include:

- Financial Contributions,
- Bonds,
- Targeted rates,
- General Council funding sourced from rates, and/or
- Government infrastructure spending sourced from taxpayers.

The Council recently submitted on the Productivity Commission’s “Towards Better Local Regulation” report. The Commission acknowledged that to get good outcomes, central and local government had to work more closely together. They concluded that policy decisions taken at central government level are going to be more effective if they are developed collaboratively with local government and worse if they do not.

Wellington City Council would like to work together to find a solution to the question of how and who should fund growth infrastructure. Changes in legislation that lead to shifting costs to ratepayers will require careful consideration; local government will need to be involved in this. The Department may find that shifting the cost to ratepayers could ultimately increase housing costs through a combination of little reduction in house prices and higher life cycle costs through higher rates.

The Council also considers it important to work collaboratively with its development community. Transparent, simple, and clear policies and processes will help remove confusion and uncertainty for developers.

3. Discussion

It is the Council’s view that the concerns raised in the discussion document go beyond the implications of development contributions as a cost recovery mechanism for the provision of infrastructure, to dealing with issues of fairness

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and equity around who pays for infrastructure. The discussion document places significant weight on development contributions as a contributor to the increase in the cost of housing. At the same time, the document suggests that development contributions can be used better to get developers to provide smarter infrastructure and more affordable houses. The Council would like to work with government to develop a set of criteria that incentivises developments that reduce demand on infrastructure and ensure that affordable houses are included in housing developments.

The Council believes that while development contributions are a cost to the developer, they are one of many costs that the developer incurs as part of a residential development. All of a developer’s costs will influence house prices such as the cost of developing the land, labour costs and the cost of materials. There needs to be some balance brought to the issue of housing affordability, focusing on development contributions risks missing out on the major causes of housing costs and makes the Government less likely to find an enduring and sustainable solution for creating affordable housing.

The discussion document can be split broadly into two categories. The first deals mainly with issues of transparency, simplicity and clarity. The Council agrees with DIA that development contribution policies should be clear, simple, transparent and easy to understand. It should be clear what is being paid for and why it is needed. However, the other category deals with more fundamental issues that require moderate to significant changes to legislation. The report therefore brings into question how New Zealand should ensure people have places to live and work, what settings need to be in place for houses to be built, what’s needed to provide the services that citizens expect, and most importantly who pays for them?

The discussion document is heavily weighted towards residential development and housing affordability. Wellington City has significant commercial development and is concerned that the review will not provide clarity and direction for commercial building owners. In particular, the Council notes that building owners face significant costs associated with earthquake strengthening. There may be opportunities for building owners to change the buildings use or re-develop as part of strengthening work. The review of development contributions needs to increase its focus on commercial buildings. The document is silent on ways to incentivise buildings that reduce their demand on infrastructure or how different commercial activities should be treated and how to incentivise developments that have lower demand on infrastructure rather than just requiring more.

Wellington City Council wants to take a balanced view and to understand the problems the development community have with the current development contributions regime. Debates overseas on where growth infrastructure costs should lay show that there is no right or wrong, but a balance set to reflect local preferences and objectives. For this reason, Councils in New Zealand are likely to want the flexibility to come to a balance that reflects the needs of their community. Wellington is keen to strike a balance that does not inhibit growth or increase housing stress.

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The following sections in the submission outline Council view’s on:

- Housing affordability and the impact of development contributions;
- The need for an infrastructure charging regime; and
- The solutions proposed in the discussion document.

4. Housing Affordability

Housing affordability and a lack of housing supply and development are problems for New Zealand and a focus of the Government. The Council agrees that current house prices provide a significant barrier to home ownership for many. The affordability of housing will influence how successful the Wellington region is at being a place that people want to live, work and do business in. Housing affordability matters because:

- Home ownership is closely linked to asset accumulation and wealth;
- House prices and rents affect the attractiveness of regions to potential residents;
- Economic performance is affected by house price changes;
- Quality of housing is important for health outcomes; and
- Location and design of cities affects carbon emissions.

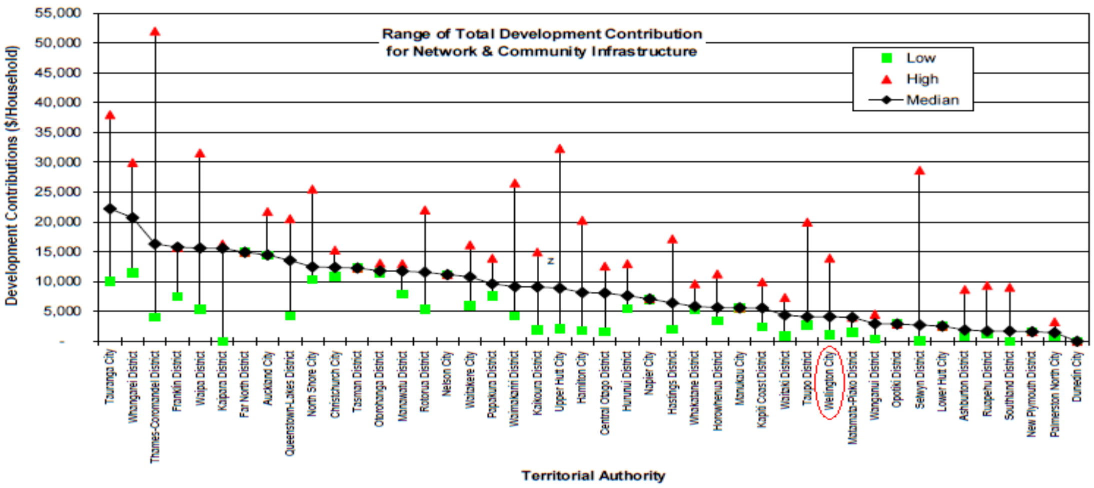
The Council shares the Government’s desire for more development and affordable housing and supports assessing legislation and its implementation, while taking into account the impact on housing affordability.

Reducing pressure on developer cash flows
Albeit relatively small, development contributions have an impact on the cost of building a house, and therefore, the sale price of new housing. Consequently the scale of this impact on house price is likely to be small.

The example in the report shows the costs of building a 145m^2 house in Auckland and found that development contributions made up 4% of the total cost. However, where it does impact is on the profitability of the development where it is closer to 10% of the land development cost. Lower profit margins increase development risk and can make a development, particularly at a larger scale, less attractive. The Council is pleased to see that the discussion document looks at options to spread or delay the cost of development contributions to ease cash flow pressure on developers at a time when they have not yet sold or tenanted properties.

Need to understand regional variations
Development contributions vary significantly depending on the cost of providing infrastructure to the location. The extent of variation can be seen in the Productivity Commissions report on housing affordability. As DIA points out development contributions promote efficient use of infrastructure and land by reflecting the true costs of providing infrastructure to a particular area or type of development. In a 2007/2008 review by DIA, the Wellington median

contributions came in at under $5000 which would have been just over 1% of the median house price at the time. The same report shows a variation in contribution levels, and as such the impact of development contributions on housing affordability varies. The Council believes that any changes at a national level must take into account the underlying reasons for regional variation. The graph below highlights the differences in development contribution costs which reflects different infrastructure demands and priorities across New Zealand.



Growth Balance

Development Contributions have a role in allocating growth to the most efficient place. In Wellington this fits with a District Plan that aims to spread growth between the central city, infill housing in the suburbs and Greenfield development. The role development contributions play alongside the District Plans should be considered. Infrastructure costs and risk will be lower where growth more closely matches infrastructure provision as Councils will have less spare capacity and less time between building infrastructure and development contributions being collected, which will reduce borrowing costs.

5. Funding Infrastructure

The Council's development contributions policy provides the ability to recover the cost of growth infrastructure from those who will use it. Development contributions in their current form can be seen as simply a funding mechanism for this new infrastructure spending.

There are two issues the Council wishes to highlight:

- How should the capital costs and financial risks of accommodating growth be paid for and who should pay; and
- If development contributions in their current form are a barrier, what can be changed to remove the barrier and still fund the cost.

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Strategic relationships are important
The discussion document does not question the need for growth infrastructure; its emphasis is on how development contributions act as a barrier to development and affordable housing. It explores how the cost of growth infrastructure can be more equitably split or spread over a greater population base, rather than the current user pays model.

It is the Council's view that rather than focus on spreading the cost of growth, there needs to be stronger relationships with developers around growth priority areas and what councils want to achieve for their cities.

Aligning objectives and working collaboratively is key
Examples of collaboration might include providing developers with credits or discounts if they use smarter or lower impact infrastructure, build smaller, more affordable homes, or provide secure affordable rental in partnership with 'not for profit' housing providers. This would work well where central and local government objectives were aligned with developers. An important component of any discount or subsidy would be ensuring that it was not lost when the house was sold.

Build housing with smaller lot sizes and a lower market value while integrating smart infrastructure (water etc) to minimise the infrastructure impact for the city could be incentivised through the policy. However, smaller sites and more of them can increase the infrastructure cost to developers. The trade off is that the Council can use development contributions to encourage developers to integrate this housing within a development and assist the developer in managing the risk of doing this.
If development contribution policy is altered to simply subsidise development of standard housing, the risk is that the house will not remain affordable. The benefit will be lost and more subsidies will be needed, which are not sustainable.

Affordability via subsidies needs to be enduring over time
The ability for a developer to seek a remission for any reason, such as a community good, already exists in the Wellington City Council policy. However, there is a very low take up of this facility. If DIA does propose preferential subsidies to developers they need to be tied to affordable housing so that they are enduring to keep the house affordable over time and not just a benefit to the initial purchaser.

6. Commentary on proposed solutions

The discussion document proposes 14 solutions and seeks feedback on them. The Council has provided the following comment on each of the solutions below.

- **Updated and improved guidance for territorial authorities -** Clearer guidelines and expanding training would be useful for Councils. The current know-how guide is out of date, having been published in 2003. Since then case law has called into question some parts of the guide. The know-how guide may not have been intended to act as a best practice

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guide, a use it is partially filling. The development of an up to date best practice guide would be very useful.

- **Consolidation and clarification of development contributions provisions –** The Council supports technical fixes, particularly where they can provide certainty where the current Act is unclear. The clarification of terms is welcomed, as uncertainty can lead to legal costs and misunderstanding. The Council would want to see the benefits of consolidation outlined and provided comment on them before final decisions were taken

- **Explicit discounts enabled for housing of a type and location that creates less demand for services -** As already discussed it will be important to be clear and explicit about the problem that is trying to be solved and ensuring that any subsidy leads to mutual benefits for the developer and the City. The subsidy benefit must be enduring rather than just to the initial purchaser. The Council also notes that the ability to offer subsidies through the remission process is available now to developers.

- **New purpose and principles provisions for development contributions -** The guiding principles envisioned in the report do not differ significantly from Council’s current understanding. DIA needs to demonstrate how these new principles will improve on the current position.

- **Facilitating increased private provision of infrastructure through enhanced developer agreements -** New Provisions to make more explicit the ability of Councils to enter an agreement whereby a developer would build and operate their own infrastructure seem reasonable, especially with the suggested caveat that there would be no obligation for the Council to accept such an offer. There will be long term viability issues to consider; private provision infrastructure that fails in the future is likely to place significant pressure on Councils to fund it. It is worth noting that Councils currently contract out the actual building of infrastructure. Council considers it important that any contracting out of infrastructure services should still be required to meet appropriate health and environmental standards – as the review suggests. However without changes to these standards it is hard to see where cost savings could be made.

- **Tightening the range of infrastructure that can be funded from development contributions -** Examples of services that DIA suggests could be excluded include: public transport, libraries, community centres, recreation facilities, and sports grounds. The Council sees this as an attempt to isolate and exclude the user pays principle of development contributions.

  The Council is concerned about restricting types of infrastructure investment and considers that there needs to be a strong logical framework for doing so. Without a clear framework, arbitrary decisions taken about infrastructure are unlikely to meet the needs of communities. It is likely

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Councils will be affected differently depending on the criteria, which may lead to poor outcomes.

The Council is concerned about the suggestion to exclude some growth infrastructure provision from being recoverable through development contributions. For example, public transport can be seen as necessary growth infrastructure in the same way roads are. Increased public transport can negate the need for new roads in a way that is 'value for money,' as well as having many other benefits.

As a city grows it will need more libraries, community centres and recreation facilities as communities have an expectation of these services. If these are not funded by development contributions, then these services would presumably be funded through rates. There should be a logical approach to which infrastructure groups should not be funded through development contributions; a possible approach would be a hierarchy of needs where essential services such as water are prioritised.

Limiting infrastructure that can be funded through development contributions would work as a way of reducing the burden on developers, it is also an option that could be implemented and enforced relativity easily compared to the other options.

- **Changing the timing as to when development contributions can be charged -** Delaying payment until the sale of a development, while allowing an extra charge to cover Council borrowing costs, is likely to have a minimal impact on Council. The Council supports this approach as it addresses issues developers have previously raised.

- **Capping of development contributions at a set dollar amount -** The Council is concerned that this would encourage poor infrastructure outcomes through incentives. Councils may under invest in infrastructure to stay within the cap, leading to poor provision and a lower level of service to the development. As discussed previously there are provisions in place to offer remissions and subsidies to developers. The Council recommends any subsidy be tied to specific policy objectives rather than apply to all developments.

- **Independent dispute resolution hearings -** Where an independent dispute resolutions entity can resolve disputes fairly and at a lesser cost than through a court, there appears to be merit in the approach.

- **Reinstatement of appeals to the Environment Court –** It is unclear to Council how this would benefit a streamlined low cost and efficient process. The Council is concerned that reinstating appeal rights to the environment court could have the reverse effect and make the process more time-consuming, uncertain and expensive.

- **Regulations to promote greater consistency in development contribution approaches -** The Council agrees that consistency is desirable where inconsistency is contributing to a poor outcome for the region. However, there is a need for decisions to be taken at a local level,

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and regional flexibility will also be required as different regions will have different infrastructure requirements. Consistency in the form of best practice guidelines would be a useful.

- **Percentage based infrastructure levy as a financing tool -** This would mean development contributions would be in proportion to project costs. The cost of a project has no relation to infrastructure usage; this approach would divorce the cost of infrastructure and a charge that is meant to cover infrastructure provision. In principle the Council does not support a mechanism that under-recovers the cost of infrastructure, unless there is an explicit reason or policy objective to do so.
- **Abolition of development contributions as a financing tool -** The removal of development contributions would shift the burden of growth infrastructure onto existing ratepayers. The Council believes that shifting the cost will not address the issue of housing affordability or encourage growth unless consideration is given to all the drivers relating to development. A balanced solution is required. The point is that shifting the cost isn’t the solution – building stronger working relationship with developers will have a much greater and long-lasting impact.
- **Infrastructure bonds as an alternative financing mechanism** – It isn’t clear how the funding arrangements for the bond differ to normal Council borrowing. If there was a mechanism of offering Councils preferential lending rates for infrastructure to offset the reduction in development contributions, then this would have merit. However, it isn’t clear what the terms and conditions of infrastructure bonds would be and where the cost of offering preferential rates would lie.