



SUBMISSION

New Zealand Productivity Commission

Housing Affordability Inquiry - Draft Report - December 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 made a submission to the issues paper prepared by the Productivity Commission in June 2011. The key points of submission that the DCWG made were:
 - a. Welcoming informed discussions on issues of housing affordability and infrastructure charges.
 - b. Raising the 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.
 - c. Concern that some sectors had raised specious and unbalanced arguments and the perception that some of these arguments had been simply accepted rather than critically reviewed.
 - d. Concern that while growth can be a good thing if well managed, for local authorities growth means increased demand on transport and network infrastructure, parks and community infrastructure; which carries a considerable cost.

- e. Contention that 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, typically rates - a funding source with a more tenuous nexus to the developments that cause the need for the infrastructure investments.

HOUSING AFFORDABILITY INQUIRY - DRAFT REPORT

- 4. Once again, while many participants in the DCWG have broad interests in the wider aspects of housing affordability, that is not the primary mandate of this group. This submission focuses on infrastructure charges and those other aspects will be addressed through general submissions of the constituent local authorities.
- 5. Rather than address each point raised in the discussion of the Draft Report, this submission addresses the specific findings and recommendations related to Charging for Infrastructure:

F8.1 Infrastructure charges, especially development contributions, can be difficult and costly to implement. While housing affordability may be diminished, infrastructure has to be paid for. If implemented well, the charges will reflect the incremental costs of necessary infrastructure, and can encourage more efficient investment and location decisions.

- 6. While Development Contributions may be seen as diminishing housing affordability, to whatever extent it does so, it by way of the initial capital acquisition cost. As the Commission states, infrastructure has to be funded and development contributions or rates are the only two real alternatives to funding growth-related infrastructure costs that Councils currently have available to them. Accordingly any move to reduce or eliminate development contributions would have a significant effect on housing affordability in the sense of on-going annual expenses - rates. This is a substantially less desirable situation as the crystallization of the costs-of-location at the point of the development or acquisition decision has been lost.

R8.1 That the Government update the Best Practice Guidelines to Development Contributions, based on a process that takes account of the experience of both councils and the industry. The principles in the guidelines might be given statutory status by being incorporated into Schedule 13 of the LGA.

7. The DCWG supports this recommendation in principle. In fact members of the DCWG have on numerous occasions since 2004, attempted to initiate the revision of the KnowHow Guidelines with limited success.
8. It should be remembered that the KnowHow Guidelines were drafted immediately after the Local Government Act 2002 was enacted and prior to the adoption or implementation of any Development Contributions Policies pursuant to the Act. As such a revision incorporating emerging best practice was always desirable.
9. The DCWG is however concerned that any revisions not involving experienced practitioners could become so prescriptive or overly simplified to the point where they fail to take account of local issues, the balance of a local authorities LTP and other policy documents, and fail to adequately fund the true costs of growth.
10. The DCWG also notes that in the earlier drafting of the Local Government Bill in 2001 and 2002, Schedule 13 contained a much more detailed methodology for calculating development contributions. After the participation of local government practitioners had ended, and for reasons known best to the Department of Internal Affairs, that methodology was dramatically redacted to what is seen today in Schedule 13.

F8.2 Development contributions are most likely to be justified only for major items of infrastructure, especially network infrastructure, where closed or partially-closed access enhances the ability to charge the beneficiaries, and which justify public supply. Observing these criteria mean that offsite water, wastewater, stormwater, and roads are the categories best suited for funding through development contributions.

11. The DCWG totally rejects the finding that “*Development contributions are most likely to be justified **only** for major items of infrastructure . . .*”. While there may be some scenarios where this approach is reasonable, it certainly does not address the wide ranging circumstances that face local authorities throughout New Zealand.

R8.2 That the Government leads training to enable councils to enhance their skills in implementing the proposed Best Practice Guidelines for Development Contributions.

12. The DCWG would certainly support any such initiative. We would also suggest that this training should be multi-disciplinary to reflect the fundamentals of development contributions and the need for participation from the fields of local authority policy, finance, management, engineering, asset management, environmental policy, planning and related law.

R8.3 That as part of the process of updating the Best Practice Guidelines to Development Contributions, the Government:

- identify information that councils would need to provide in regular reports to demonstrate compliance with the Guidelines
- develop a process for regular auditing of councils to assess their adherence to the Guidelines.

13. The DCWG would welcome the local government sector being provided with further specification regarding the provision of information, reports and auditing. However an additional two separate processes and a myriad of detail requirements would become costly and desynchronised from the other processes of local government practice.

14. An alternative may be to elevate selected key elements of the Best Practice Guidelines into the Local Government Act 2002:

- a. Methodology - *into* Schedule 13.
- b. Matters required in the DC Policy - *into* s106(2) or related sections.
- c. Other information to be made available - *into* s106(3).
- d. Reports - *into* a new clause in Schedule 10 - Part 3.
- e. Audit - *into* s94 relating to the LTP or a new section specifically for audits of DC Policies.

Q8.1 What would be the advantages of making decisions about development contributions contestable through changes to the Local Government Act that would enable a merits-based test?

Q8.2 What mechanisms could be used to discourage frivolous litigation?

15. The DCWG is concerned that any such question of introducing contestability in the courts (beyond that already provided by way of Judicial Review) is significantly beyond the proper scope of any inquiry into Housing Affordability. This would be a fundamental change to local government equivalent to allowing individual merits-based contestability of rates demands.
16. The DCWG welcomes the opportunity to provide this submission and is willing to assist the Productivity Commission further in any way it can.

SUBMISSION

17. 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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