

Submission on the Draft Report on Local Government Funding and Financing

A. Introduction

I wish to record my appreciation for the Productivity Commission's attempts to identify and make recommendations on the funding and financing dilemmas facing local government in New Zealand. The simple fact of the matter is that local government is now expected to perform far too many services and their largely debt funded business models are now too complex and compromised for them to function either efficiently or effectively.

This submission is confined to the Commission's draft findings and recommendations on development contributions (DCs) which I generally support.

My name is Bill Mitchelmore and I am an engineer by profession and I am a Hamilton resident. In recent years I have been providing DC support services to developers in the Waikato and elsewhere throughout New Zealand. My clients, without exception, willingly accept they have a responsibility to contribute towards the capital cost of council-owned infrastructure through the payment of DCs in situations where they have not been required to provide or directly fund the infrastructure themselves.

However, I have found that many of my clients increasingly need appropriate assurance that DC charges used to calculate DCs fairly reflect the unit cost of the infrastructure needed to service their developments and, perhaps more importantly, that the site demand used to calculate the DCs fairly and equitably reflects the real demand their developments place on council-owned infrastructure.

This submission briefly comments on:

- Some aspects of the analysis of DC policies used to inform the draft report
- Draft finding 6.5
- Draft recommendation 6.1

B. Comparative Analysis Report Information on Charge Indexation

The Insight Economics Ltd report on 4 growth area DC policies used to inform the draft decision provides an untested justification for the inclusion of indexation of DC charges

in the cost recovery methodologies available for councils. I am aware that some councils and developer interests already have legal opinions advising this practice is inconsistent with the methodology prescribed in the Local Government Act 2002. This suggests that there may be a difference between what may be economically efficient when setting DC charges and what may be lawful.

I understand the 2014 changes to the Local Government Act 2002 did not alter the prescribed methodology for calculating DC charges to enable inflation related indexation prior to the actual rate being periodically disclosed by Statistics New Zealand. Rather, the 2014 changes merely provided for the non-financial component of already set DC charges to be increased by the actual rate of inflation in the years between formal DC policy reviews. The availability of this option largely removed the incentive, necessity and cost of formal DC policy reviews between mandatory triennial reviews for most councils.

Fortunately, the report indicated none of the 4 growth councils are currently exposing themselves to risk of legal challenge in regard DC charge indexation.

C. Comment of Draft Finding 6.5

The Commission identified that DC policy and implementation are inherently complex. This is true but, in my experience, the situation has been exacerbated by the methodologies some councils have adopted for:

- identifying and allocating growth related costs;
- identifying the demand in different funding areas;
- calculating the DC charges; and,
- assessing the site demand for the purpose of calculating the DCs for individual developments.

The Commission indicated that good examples exist of council DC policies, but none were identified in the draft report. The Commission appears to have relied heavily on a comparative analysis of the DC policies of 4 growth areas that did not consider either the methodologies used to assess DCs for individual developments or the mechanisms council employ to require the payment of DCs in line with the purpose and principles of DCs.

In my experience, a good DC policy needs to include a proactive special assessment provision that ensures demonstrable real demand has primacy over imagined demand when DCs are calculated to ensure the statutory purpose and principles of DCs are satisfied. One of the DC policies in the 4 growth areas identified in the 4 growth area comparative study, namely Tauranga, provides clear guidance on when real demand overrides imagined demand but the others are not so transparent.

I suggest that prior to the adoption of final report that the Commission:

- undertakes further work on what constitutes a good DC policy, with a particular emphasis on the methodologies used to assess DCs for individual developments; and,
- identifies the councils satisfying all the criteria necessary for a good DC policy.

D. Comment of Draft Recommendation 6.1

The Commission recommended the development and adoption of standardised DC policy templates as well as templates for assessing DCs.

This recommendation would be sound had participation not been confined to central government. LGNZ and SOLGM. In my view, it is critical for the development community to be represented to ensure appropriate balance in the unavoidably subjective components of DC policies.

I suggest that prior to the adoption of final report that the Commission expands the representation to include appropriate land and building developer interests.

E. Summary

I suggest that, prior to finalising the report, the Commission:

- re-evaluates the features that should be included in any good DC policy with a particular emphasis on the methodologies for calculating DCs for individual developments; and
- re-evaluates the participation in the development of DC policy templates and DC assessment templates to ensure development community interests are appropriately represented.



Bill Mitchelmore

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Mob 027 903 2277

Email Mitchelmores@xtra.co.nz