

September 2019

Feedback Template: Infrastructure Funding and Financing: Development contributions and targeted rates

Respondent details

Please provide the following details so we can identify which organisation this feedback is from and, if necessary, follow up to clarify or discuss your feedback.

Organisation Name	Kāpiti Coast District Council
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Feedback invitation

Please review the information paper ‘Infrastructure Funding and Financing: Development contributions and targeted rates (September 2019)’ and use this template to provide us with your responses to the following questions. It is not necessary to answer every question.

Please save your responses and email them to Isaac.ryan@dia.govt.nz by the due date of **23 October 2019**.

Thank you very much for interest and assistance with this work.

Question One: Operating costs related to development contributions

Please tell us whether you support the idea of amendments to enable inclusion of some operating costs in development contributions, or whether you prefer to retain the current focus on capital expenditure. Please explain the reasons for your answer.

If you support the amendment idea, please include in your answer information about:

- how this would enable more effective cost recovery and why this is preferable to using targeted rates;
- how you consider such costs should be determined; and
- what, if any, implications higher development contributions will have on growth?

Answer:

Drafting and administering a Development Contributions Policy, as required by law, is complex, time-consuming and therefore costly however some of the benefits of doing it well can accrue to the whole community.

Equally, developers should bear the vast majority of the growth-related costs of network infrastructure arising from development as they or the ultimate purchasers are the ones who benefit the most but existing legislation only allows councils to recover the growth-related capital expenditure. Any incorporation of operating cost recovery into legislation would, if agreed, likely only occur as part of a major overhaul of the entire legislation. Unless, perhaps, a flat-rate administration fee (accompanying the development

contribution) to contribute towards council's operating costs was introduced, by way of a minor amendment?

Given that development contributions are already contentious and problematic for many councils and developers, any overall increase in developer fees needs to be balanced with the over-riding need to encourage growth and thereby increase housing capacity. Further to this, we don't currently charge all our capital-related costs such as interest on borrowings for growth-related capital expenditure.

This is not a significant cost for this Council.

Question Two: Types of infrastructure that can be funded

Given the potential already provided by the 'control' reference in the LGA definition of community infrastructure, do you consider that there is any need to consider further amendments? Please explain the reasons for your answer.

If you support further amendments, please include in your answer an explanation of:

- how the amendments would enable more effective cost recovery; and
- how you consider the risks identified in this paper could be effectively managed.

Answer:

This Council would like to have the ability to co-fund infrastructure on land owned by a third party or through central government partnerships. An example is the current development of a Performing Arts Centre on the Kāpiti Coast. Even though the Council is contributing to the Centre, as it has no control or ownership interest in the building, it is unable to charge development contributions to assist with the increased infrastructural requirements directly resulting from the growth-impacts of the new Centre.

The Government's recently announced National Education Growth Plan (NEGP) is "a new way of thinking about and co-ordinating the Ministry of Education's response to population growth across New Zealand. The NEGP will ensure that sufficient capacity in the school network is delivered as the right type, in the right place, at the right time."

Further to this, we understand that the Minister for Education has recently announced his wish for the utilisation of school infrastructure to be maximised so that it more fully benefits the wider communities that it serves.

This represents a perfect opportunity for central government to work collaboratively and supportively with local government to ensure that local government doesn't continue to pick up further unrecoverable costs as a result of Crown exemptions to central government policy.

Councils should have the ability to charge Development Contributions for any community infrastructure that has growth-related impacts on its networks, regardless of who owns the land on which the infrastructure is built.

Question Three: Complexity of the legislation and risk of legal challenge

Please indicate any specific legislative provisions related to development contributions you consider are not clear, what changes you would suggest to improve clarity and how the changes would enable more effective cost recovery.

Answer:

Ongoing changes to legislation are particularly unhelpful, with councils having to bear not insignificant administrative costs of having to amend their policies. For example, the overlap between development contributions and financial contributions, followed by a proposed phasing out of financial contributions and then, before the end of the phasing out period, the re-introduction of financial contributions – with the removal of the ability for councils to charge in relation to community infrastructure.

Simplification of legislation where possible is always welcome but it has to be given an opportunity to bed in and it should be equitable and transparent.

Question Four: Central guidance resources, advice and support

With cost recovery effectiveness in mind, please tell us:

- which existing guidance resources and advisory support arrangements you value most highly and why;
- whether you consider central guidance resources and advisory support could be improved and, if so:
 - what specific improvements are needed and why;
 - who should lead and contribute to the improvement work; and
 - who should pay for the improvements and any ongoing delivery costs and why they should pay.
- your view of the standardised template recommendation in the draft Productivity Commission report and the idea that the use of such templates should be a 'requirement'.

Answer:

We welcome further central government guidance and support and consider that a standardised template could be a useful option for many councils, noting that they should have the right to use it or not use it, and tweak it as they see fit. This work should be local-government led, including the DCWG (Development Contributions Working group) as this is where the expertise and day to day operational knowledge resides. It should be a collaborative process with significant involvement from all council stakeholders, and central government should support the process financially.

To quote the Productivity Commission – “A key cause of funding pressures on local government is the continued accumulation of functions and responsibilities that central government has passed to councils over the years.”

The current exemptions for Crown entities sends a negative message and central government should demonstrate its support for local government by removing them.

Question Five: Regional collaboration, information and resource sharing

With cost recovery effectiveness in mind, please tell us:

- which existing regional collaboration arrangements you value most highly and why;
- whether you consider regional collaboration could be improved and, if so, what specific improvements are needed and why.

Answer:

The Development Contributions Working Group (DCWG) has provided a useful sounding board and a wealth of knowledge and experience to our Council and we were surprised by their omission from direct stakeholder engagement.

This Council works well with its peer councils and neighbours, and will continue to work collaboratively to standardise policy across the region where it is appropriate to do so.

Question Six: Compliance checking

Do you consider compliance checking powers beyond current provisions (eg, the powers of Development Contribution Commissioners) would improve the effectiveness of cost recovery? Please explain your answer.

If you do consider there is a need for new or additional compliance checking powers to improve the effectiveness of cost recovery:

- what would those powers be;
- how would you see them working in practice; and
- how should the exercise of such powers be funded?

Answer:

We agree with your assertions with regards to councils compliance with legislative requirements around development contributions, specifically that they:

- strive to achieve legal compliance;
- receive appropriate legal advice where necessary;
- any non-compliance would generally be due to an oversight or misinterpretation, and
- once aware of non-compliance, councils act quickly to fix them.

There is no obvious rationale in creating further layers of compliance-checking as the time and cost of doing so seems unlikely to be outweighed by the benefits that would accrue.

Accordingly, we agree with your assertion that no additional compliance checking is required.

Question Seven: The 30 percent cap on uniform charges/rates

Please tell us your preferred option regarding the cap on uniform rates (eg, maintaining, altering or removing the cap) and the rationale for your preference, including how it will help to improve the effectiveness of cost recovery.

Answer:

This Council recognises fixed charges as a regressive form of taxation that take no account of ability to pay, and therefore we limit the use of fixed charges as far as possible. Furthermore, we actively encourage our residents to apply for rates rebates, where they are eligible, and have a broad-ranging suite of rates remissions and we encourage those members of our community who most need them to apply for them wherever possible.

The 30% cap is well-intentioned but it is an aggregate position that takes no account of individual ratepayers, and the 30% limit has little rationale. There is also sufficient flexibility within the legislation to enable councils who wish to get round the 30% limit to do so. We are slightly concerned that removal of the cap may remove incentives for some councils to take a progressive approach to rating their community. But overall we believe that maintaining, altering or removing the cap will make little difference.

Question Eight: Targeted rates for wastewater on a volumetric basis

Please tell us whether you consider that:

- enabling targeted rates to be used to charge volumetrically for wastewater would improve the effectiveness of cost recovery;
- if this was enabled, how you would expect ratepayers to be legally protected from excessive, unfair or otherwise inappropriate volumetric cost recovery situations;

Please also describe:

- what you see as the main barriers to volumetric wastewater charges and how they might be overcome; and
- data sources you would recommend to help understand the water in/water out ratio in different contexts (ie, where direct measurement of wastewater flows is not practicable).

Answer:

This Council has already successfully introduced water meters, which has decreased overall costs and significantly improved sustainable practices within our community. Therefore, the introduction of volumetric wastewater charging, based on metered water supply coming in

to the property, would be easier for us to introduce than it would be for other councils that don't currently have water meters.

However, the accurate assessment of and charging for wastewater usage on a volumetric basis is extremely challenging due to the differing natures of some of the main property categories. For example, urban versus rural, especially given the significant differences in irrigation that may be necessary on some rural properties. Another example is commercial properties with significant volumes of trade waste, where the proposed proxy of basing wastewater usage on water inflows would clearly be inappropriate.

Volumetric charging for wastewater may encourage more sustainable behaviours in terms of water usage and water conservation however we don't consider it will increase the effectiveness of cost recovery.

We believe that security of water supply is understandably a greater priority for many councils than volumetric charging for wastewater which is complex and contentious, and whose benefits may not outweigh the time and cost of implementation.

Question Nine: Postponing growth-related targeted rate collection

With effectiveness of cost recovery in mind, do you consider that existing statutory provisions are already adequate to enable:

- postponement of growth-related targeted rates until a property is sold; and
- prospective purchasers to make effective due diligence checks about postponed rates?

If not, please explain what changes you consider are necessary.

Answer:

We agree with your last point on page 26 of the information paper, namely, that postponement may further incentivise developers to hold land and accordingly therefore we do not support the postponement of growth-related targeted rate collection.

This Council already has appropriate mechanisms in place through developer agreements to facilitate late payment from developers where it makes sense to do so. Payment of Development Contributions just before the property is sold is an efficient method of cost recovery which doesn't require additional administrative layers and doesn't result in the confusing and potentially misleading sale price comprising two distinct and significant amounts, from two different sources.

Question Ten: Reviewing Local Government (Rating) Act Schedules

If you consider that any changes are needed to Schedules 1, 2 or 3 of the LGRA to enable more effective cost recovery, please describe the changes and explain why the changes are needed.

Answer:

A combination of the election cycle and political process can often lead to significant changes and reversals in legislation that local government has to implement. For example, the overlap between the financial contributions and development contributions charging regimes which has resulted in a lot of confusion and expense, which will finally be brought to an end with the phasing out of financial contributions in 2022.

Where the Crown is the landowner, it is exempt from paying development contributions by statute. Central government could demonstrate simple, transparent and equitable practice by removing this unfair exemption.

Question Eleven: Value capture considerations

Do you support the idea of legislative changes to establish new value capture tools for local authorities to use to generate funding for infrastructure projects? Please explain your answer.

If you support the idea and have a preferred value capture option, please describe that option and explain the reasons for your preference.

Answer:

Value capture sounds good in theory, but as you note, the design and implementation are problematic, particularly with regard to isolating the different factors that affect property prices, and by how much they do so. For example, what happens when properties lose value as opposed to gaining in value, which is likely to be the case for a number of coastal properties? And increases in property value aren't always accompanied by an increase in ratepayers' ability to pay existing rates, let alone an increased level of rates.

It is easy to envisage multiple contentious situations where agreement cannot be reached on the value capture and ultimately the only people to benefit are lawyers. Therefore, we do not support implementing value capture.

Question Twelve: Debt servicing benchmark

Do you support the option of removing the debt servicing benchmark from the Local Government (Financial Reporting and Prudence) Regulations 2014? Please explain the reasons for your answer.

Answer:

We are comfortable with this benchmark being removed, or if it is retained it should be a measure of net financing costs to take into account pre-funding of borrowings which is a prudent and pragmatic strategy used to great effect by many councils, including this one.

This Council manages its debt prudently and our approach to debt-servicing is significantly influenced by the benchmarks and applicable standards of the Local Government Funding

Agency (LGFA) from whom we receive the vast majority of our debt financing, and Standard and Poor's, who provide an independent assessment of our credit-worthiness.

Question Thirteen: Additional comments

If you would like to provide us with any additional comments on the matters covered in the information paper, please provide those comments here.

Answer:

This Council considers that the DIA review has skirted around the edges while avoiding the bigger picture, namely that councils require better funding tools that recognise ability to pay and are collectible, and more importantly are not rates rates-related. We have offered our suggestions to the Productivity Commission and would welcome the opportunity to engage with the DIA on meaningful value-adding options that would positively impact our community.

As an aside, we understand that the DIA's Service Innovation Lab is being closed down. We would be disappointed if this was indeed the case. The Lab trials that this Council was involved in were encouraging in terms of enabling easier access to rates rebates by those people in the community who need them most.