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# Remission of Development Contributions for Māori Development and Social Housing

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## 1.0 Introduction

1. This document provides additional background information for consideration of the remission of development contributions for Māori and social housing developments.
2. Under the Local Government Act 2002 the council is able to provide for remission of DCs within its Development Contributions Policy. The council's current policy does not provide remissions.
3. The document sets out the background to the issue through the feedback and requests the council has received to date and the council's direction for social housing and Māori development in the Auckland Plan and Unitary Plan. The key issues with social housing and Māori development are then discussed followed by a comparison of the two possible support mechanisms.

## 2.0 Background

### 2.1 Feedback received during May 2018 DC consultation

4. Council received submissions from eight iwi groups and the Mana Whenua Kaitiaki Forum (MWK Forum) during consultation on the draft Contributions Policy 2018 in May. MWK Forum and four iwi groups submitted that the DC policy should reflect the Auckland Plan and Unitary Plan objectives to support Māori development. The MWK Forum also requested that the Māori Cultural Initiatives Fund (MCIF) be sized appropriately for the number of developments coming through.
5. Ngātiwai Trust Board and Ngaati Te Ata Waiohua identified DCs as a barrier to development. Ngati Manuhiri and Ngati Rehua– Ngati Wai ki Aotea proposed that DCs should be waived or reduced for Māori development. Ngati Manuhiri and Ngati Rehua– Ngati Wai ki Aotea did not support using the Cultural Initiatives Fund to offset DCs.

### 2.2 Request for remission/waiver of DCs for social housing

6. Currently the council does not provide any formal mechanism to assist social housing developments with the cost of development contributions.
7. Auckland council has received requests for DC waivers or remissions for three social housing developments, and a further two requests related to private developments that include some social housing.
8. Of these, the council has agreed to provide support to the City Mission for the development of the Homeground facility. Support has been provided for this development as it aligns with the council's objective of addressing homelessness in Auckland through a housing first approach. Support was provided as a one off community grant based on an estimate of the DCs and consent fees for the development.
9. The remaining applications have been declined. The council's community grants policy specifically excludes public services that are the responsibility of central government, such as social housing.

## 2.3 Council Plans

10. The Council's Auckland Plan 2050 (AP), Unitary Plan and Long-term Plan 2018-2028 (LTP) all provide a strong direction for council to support and enable both social housing and Māori development, as identified in the table below:

|                                 | Social housing  | Māori Development   |
|---------------------------------|---|---|
| <b>Auckland Plan 2050</b>       | <p>Direction 2: Accelerate the construction of homes that meet Aucklanders' changing needs and preferences</p> <p>Direction 3: Shift to a housing system that ensures secure and affordable homes for all.</p>  | <p>Māori identify and wellbeing is one of the six outcome areas that form the basis of the plan. The plan sets investment in marae as a focus area. Increased support for Māori development, papakāinga/kaumātua housing, and improved housing for Māori generally are identified as ways for council to achieve the outcome.</p>   |
| <b>Unitary Plan</b>             | <p>An objective of the Unitary Plan is to "Enable a sufficient supply and diverse range of dwelling types and sizes that meet the housing needs of people and communities, including:</p> <p>(a) households on low to moderate incomes; and</p> <p>(b) people with special housing requirements."</p>   | <p>"the development of Māori Land and Treaty Settlement Land needs to be enabled to ensure that these lands and associated resources contribute to lifting Māori social, cultural and economic well-being significantly."</p>   |
| <b>Long-term Plan 2018-2028</b> | <p>Identifies the supply of housing as a major issue for Auckland. The council has a key role in enabling housing development through planning, consenting and the provision of infrastructure. The LTP sets this role within the context of constrained fiscal environment, with council nearing the limits of what it can sustainably borrow.</p> | <p>Identifies seven areas of priority investment for Māori outcomes, including development of sustainable marae, and enabling development of Māori housing and papakāinga. To support these priorities, council has allocated \$60 million over the LTP period for Māori capital projects including marae and papakāinga development, cultural facilities, Māori public art and alternative infrastructure.</p> |

## 3.0 Support for Māori Developments

### 3.1 Māori Cultural Initiatives Fund

11. Council already provides assistance with DC charges through the Papakāinga and Marae Grant made available through the Māori Cultural Initiatives Fund. The fund was introduced in 2015 and provides \$1 million each year for contestable grants to support papakāinga development and the sustainability of marae. The grants are used to fund a range of activities that support qualifying developments including:

- capacity and capability development programmes
- preliminary planning costs eg technical reports, feasibility studies and planning applications
- council processing costs including consents and development contributions
- capital costs for development.

12. Over the last three years \$330,000 of the nearly \$3 million granted has been used to pay DCs for qualifying projects. The amount granted for this purpose is expected to increase as more projects reach the resource consents stage of development.

13. This year sees the introduction of additional funding to support marae capital projects. This funding will enable council to directly address the significant infrastructure issues facing existing marae. This funding will be allocated based on the council's assessment of needs for marae sustainability that will be developed in conjunction with marae groups.
14. The council's contestable grants fund for Māori development will continue, but is expected that some qualifying projects will transfer from the grants programme to the marae sustainability programme.
15. As a result of these changes a review of the policies governing the Māori Cultural Initiatives Fund is underway. The council will be considering a formal grants policy and the marae sustainability programme later in 2018/2019.
16. Officers recommend the Papakāinga and Marae Grant as a mechanism to support Māori development over DC remissions. In addition to the greater transparency, accountability and certainty provided by a grants mechanism, the Fund enables council to:
  - address the broad range of barriers to Māori development
  - work with Māori through the lifecycle of development to ensure successful outcomes.
  - better assess of the overall effect of support in achieving outcomes
  - provide a one stop shop for applicants seeking support for Māori development.
17. Council could choose to extend support to Māori developments other than papakāinga and marae, for example developments on settlement land. This option would be best considered through the review of the Māori Cultural Initiatives Fund.

### **3.2 Reserve DCs for Māori Development**

18. Ngāti Tamaoho and Ngaati Whanaunga have raised the issue of whether Māori land and land returned under settlement should be exempt from DCs as a form of redress for the injustice of land loss.
19. Developments pay DCs for their share of the cost of growth related stormwater, transport and parks infrastructure based on the demand they generate. From the perspective of DCs as a cost recovery mechanism, it is fair to charge Māori developments for the demand they place on the region's infrastructure.
20. The issue of reserve DCs for Māori land have been raised in the following context:
  - all council park land was formerly Māori land, much of which was taken in a manner that has led to iwi seeking redress through the Waitangi Tribunal.
  - while much of Auckland was alienated by the Crown directly, there were instances of land alienated by the predecessors to Auckland Council.
  - a number of settlements have resulted in Crown reserve land being transferred to iwi. Typically, this land remains reserve land, protecting public rights of access and enjoyment. These reserves are managed as public parks by iwi directly, or through co-governance arrangements consisting of council and iwi.
  - the Local Government Act 2002 (LGRA (2002) permits land to be given in lieu of development contributions, but specifically excludes Māori land from this provision. In 2017 Ngāti Manuhiri vested 180 hectares of open space at Te Arai South in Council to extend the Te Arai Regional Park. This land formed part of Ngāti Manuhiri settlement

from the Crown. The land was gifted as a mitigation for a residential development, and not in exchange for Development Contributions.

- Ngāti Whātua were exempt contributions for reserves under the Ngāti Whātua Ōrākei Claims Settlement Act for land identified within the Orakei Settlement.
21. Auckland Council has not accepted land in lieu of development contributions for reserves since 2012. The council has adopted this approach to ensure that the acquisition of reserve land is transparent and aligned with the council's regional strategy for its parks network. Council may purchase land that meets strategic requirements from developers; these developers are still required to pay DCs in full. Developers can gift land to council if they wish, but such land is considered be in addition to required development contributions.
22. There are three significant issues with considering land gifted by iwi through settlement processes as an offset for future development contributions for reserves:
- LGRA 2002 does not allow Māori land to be used as payment for DCs
  - there are tax implications for settlement groups if land is considered to have been exchanged for future financial benefit rather than as a gift without expectation.
  - reserves transferred to co-governance entities that include council are not generally considered part of the council's strategic parks networks. Council investment is targeted to growth areas, particularly for flat land that can be used for active recreation. Gifted land rarely aligns with strategic priorities due to location and the nature of the land (terrain, natural and historic heritage features). Co-governance may also restrict council's use of the land.
23. In future there may be instances of Māori housing developments creating reserve spaces that align with the council's park strategy. Under the council's existing DC policy, it is possible to recognise the extent to which the development meets its demand for reserves, and recalculate DCs accordingly. (It is also possible for council to enter into ongoing partnership agreements where facilities deliver council outcomes.) This helps achieve parity with non-Māori developments where full DCs would be required, but council is able to purchase reserve land from the developer.

### **3.3 Redress**

24. Crown policy is to negotiate with Māori groups to settle long-standing historical grievances relating to Crown breaches of the principles of the Treaty of Waitangi. Treaty settlements are resolved directly between the Crown and iwi, and require Parliament to pass legislation.
25. Council is not party to the deeds of settlement or settlement legislation, but may have formal responsibilities under settlement acts. These include the establishment co-governance entities between council and iwi for the management of natural resources, and for reserve lands transferred to iwi.
26. Council also has obligations, including through the Local Government Act 2002, to take account of the principles of the Treaty of Waitangi and maintain and improve opportunities for Māori to contribute to local government decision-making. In response, council has recognised Māori aspirations through its Auckland Plan, with the development of the Māori Identity and Wellbeing outcome. The Māori Cultural Initiatives Fund is one of the mechanisms used by council to achieve this outcome, by supporting papakāinga development on Māori land.

## 4.0 Comparison of grants and remissions

27. If the council were to provide assistance with DCs for social housing developers or for development of Māori land, there are two possible approaches:

- grants - through a formal grants policy
- remissions – through the Contributions Policy.

28. The following table compares grants and remissions against the key factors that differentiate these two mechanisms:

| Factor                          | Grants  | Remissions of DCs  |
|---------------------------------|---|--|
| <b>Certainty of expenditure</b> | Yes – have a fixed budget.  | No – budget is unconstrained. Final expenditure depends on value of qualifying applicants so will only be known retrospectively.   |
| <b>Certainty for developers</b> | Less certain - applications will be ranked if funding is oversubscribed.  | More certain - remissions granted automatically to all qualifying developments   |
| <b>Flexibility</b>              | Yes – can be used to fund a range of costs associated with development  | No – can only remit the DC charges for a development   |
| <b>Transparency</b>             | Offer greater transparency as grant applications formally reported and oversight provided by committee  | Less transparent as administered directly by DC team. The rules governing remission would be agreed by committee   |
| <b>Accountability</b>           | Offers greater accountability. Grants administered by relevant operating team eg Community Development; who will also hold the budget. Effectiveness of spending can be weighed against the other opportunities for supporting the activity   | Less accountability. No associated budget as a remission is a reduction of price charged rather than a cost to council. Administered by DC team so not directly visible to operating team responsible for the outcome. |
| <b>Administration</b>           | The level of administration will be greater for both developers and the council. Developers would need to submit grant applications which would need to be assessed by the council  | Remissions require less administration than grants for both developers and council.  |
| <b>Funding source</b>           | Grants and remissions would both be funded from rates revenue. DCs are a cost recovery mechanism whereby developers pay for the cost of growth infrastructure from which their development benefits. A reduction in DC revenue from one group of developers should not be recovered by increasing charges to other developers |  |