



# Development Contributions in the Spotlight

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With all the signalled resource management changes at the moment it can be difficult to keep up with the details. In this article we provide an update on development contributions and their likely replacement in any new regime.

At a high level, development contributions are levied under the Local Government Act 2002 (LGA). They enable local councils to recover from developers a fair proportion of the cost of capital expenditure for infrastructure required to service

new growth over the long term. Development contributions must be provided for in a council's development contribution policy.

Financial contributions are a tool created under the Resource Management Act 1991 (RMA) and need to be provided for in the relevant plan. Financial contributions are imposed on developers through conditions of a resource consent.

### *High Court decision*

A recent High Court decision (*Auckland Council v Auckland Council* [2025] NZHC 1214) on development contributions provides a useful refresher on key aspects of the current LGA development contributions regime.

Auckland Council unsuccessfully challenged its own decision made by a Commissioner (appointed by Council) to determine a development contributions objection. The judicial review proceedings related to a development contributions assessment of \$370,350.50 to Fletcher Residential Limited (FRL) for reserves, infrastructure, and transport associated with a residential development in Three Kings.

FRL objected to part of the Council's development contributions notice, on the basis it had already carried out significant reserve development works at the Three Kings site as part of an earlier (2017) land exchange agreement with Council. The Commissioner found that the wider reserve works by FRL had significantly reduced the demand for reserve and community infrastructure for the current development, and that requiring additional contributions would constitute "double dipping". This decision was challenged by Auckland Council.

The High Court agreed with the Commissioner that the broader reserve works qualified as "development" under the LGA. While Auckland Council's development contributions policy stated that there were to be no offsets for developer-provided works, the High Court held the policy itself could not override s200(1)(b) of the LGA which prevents councils from requiring development contributions where the developer has funded or already provided for the same infrastructure.

### *Future of development contributions?*

The timely provision of infrastructure is a key issue for New Zealand. The Government's Going for Housing Growth (GfHG) policy has three key pillars:

- Pillar 1: Freeing up land for urban development, including removing unnecessary planning barriers
- Pillar 2: Improving infrastructure funding and financing to support urban growth
- Pillar 3: Providing incentives for communities and councils to support growth.

The Government is currently consulting on Pillar 1. Feedback on how the proposals to free up land for development could work in the new resource management system is open until 17 August 2025.[1]

The Pillar 1 discussion document states that the Pillar 2 work is being designed in parallel with Pillar 1. It signals that legislation to provide for Pillar 2 is expected to be passed by the time councils begin implementing the new resource management system (in 2027).

The Government has signalled that Pillar 2 will include replacing development contributions with a development levy system, increasing the flexibility of targeted rates, and strengthening the Infrastructure Funding and Financing Act.[2]

At this stage the potential architecture of a new development levy regime remains very high level. The purpose of the new system appears unchanged: to require developers to contribute a fair share of the total cost of infrastructure needed to support long-term urban growth. The future of financial contributions will be addressed through the replacement RMA legislation (signalled to be introduced to Parliament later this year), and although it is not clear we expect they will be phased out and replaced by the development levy system.

Each type of infrastructure (water, wastewater, stormwater, transport, reserves, community infrastructure) will continue to have a separate levy. These levies will apply within designated levy zones, which are expected to align with predefined urban areas. Councils will have discretion to phase in any transition to higher charges and it appears this flexibility may be one of the key differences in any new regime. Development levies will be subject to regulatory oversight to ensure

councils are setting appropriate charges.

The Ministry of Housing and Urban Development (MHUD) states:

*“Shifting to development levies will provide councils and other infrastructure providers, such as, water council-controlled organisations, with increased flexibility to charge developers for the overall cost of growth infrastructure across an urban area.”[3]*

The Select Committee Report[4] back on the Local Government (Water Services) Bill (released last week, 3 July) discusses the proposed changes in the current Bill to enable the new water organisations to require development contributions from developers as an interim measure while the Government works on its new development levy regime. The Report signals that those interim provisions would be repealed by new legislation that provides for the new development levy regime, and that water organisations would be enabled to charge development levies in the future.

The Select Committee has been careful to recommend changes to ensure there is a smooth transition from the status quo (where councils charge development contributions) to water organisations charging development contributions under the Bill. The Bill is now awaiting its second reading in Parliament.

If you have any questions about the matters discussed in this article please do not hesitate to contact a member of our team.

[1] <https://consult.environment.govt.nz/resource-management/going-for-housing-growth/>

[2] <https://www.beehive.govt.nz/release/going-housing-growth-new-and-improved-in-frastructure-funding-and-financing-tools>

[3] Further information can be found at the MHUD website here.

[4] The Bill is the third the Government has produced as part of its “Local Water Done Well” policy programme. See the Select Committee Report here:

<https://selectcommittees.parliament.nz/v/SelectCommitteeReport/697abccc-a248-4fc7-15be-08ddb9d114ad>