Scottish Government
Riaghaltas na h-Alba
gov.scot

Research Project to Identify and Assess the Options for the Introduction of an Infrastructure Charging Mechanism in Scotland

Stage 3 Final Report

pba peterbrett

BRODIES LLP

TRADERISKS™

Report prepared by:
Peter Brett Associates LLP
160 West George Street
Glasgow G2 2HG

Details of additional assistance:

TradeRisks Ltd
21 Great Winchester Street
London EC2N 2JA

Brodies LLP
15 Atholl Crescent
Edinburgh EH3 8HA

The opinions expressed in this report are those of the author.

Report commissioned by:
Planning and Architecture Division
Local Government and Communities
Area 2H South
Victoria Quay
Edinburgh
EH6 6QQ

Tel: 0131 244 7825
e-mail: planningreview.gov.scot
web: http://www.gov.scot/Topics/Built-Environment/planning

© Crown Copyright 2017
Applications for reproduction of any part of this publication should be addressed to:
Planning and Architecture Division, Area 2H South, Victoria Quay, Edinburgh, EH6 6QQ
This report is published electronically to limit the use of paper, but photocopies will be provided on request to Building Standards Division.

Contents

Contents 2

Glossary 4

1 Introduction 7

2 Scope of Research 10

3 Assessment Context 14

4 Methodology for Assessment 19

5 Shortlisted Options 38

6 Mechanics and Delivery 51

7 Final Assessment 64

8 Way Forward 73

9 References 75

Tables

Table 4-1 Key Priorities 21
Table 4-2 Emerging Options 22
Table 4-3 Final Priorities 29
Table 6-1 Relative Proportions of Contributions 52
Table 6-2 Sample Estimates for Market Housing 53
Table 6-3 Mechanisms Assessed by Delivery Option and Charging Options 63
Table 7-1 Assessment of Delivery Options against Revised Principles 65
Table 7-2 Central Assessment Criteria 70
Table B-1 High Level Options: Geography 85
Table B-2 High Level Options: Mechanisms 87
Table B-3 High Level Options: Use and Purpose of Fund 89

Figures

Figure 2.1 Hierarchy of infrastructure investment 12
Figure 4.1 Options Assessment Process 20
Figure 5.1 Infrastructure Growth Contribution Variants 39
Figure 6.1 Residual Land Value of Market Housing to GDV 54
Figure 6.2 Contribution Rate and GDV 55
Figure 6.3 GDV Distribution 56

Annexes

Annex A Lessons from the CIL Review and Report of Study

Annex B High Level Options

Annex C Aggregate funding available through IGC

Annex D Existing Use Values

Annex E Application of Legal Processes

Annex F Process and resources

Annex G Worked examples

Glossary

Term	Definition
Affordable Housing	**Defined in Planning Policy as "housing of a reasonable quality that is affordable to people on modest incomes…in the form of social rented accommodation, mid-market rented accommodation, shared ownership, shared equity, discounted low cost housing for sale including plots for self-build, and low-cost housing without subsidy"**
Business Rate Supplement (BRS)	Business Rate Supplements Act 2009 makes provision for county councils, unitary district councils and the Greater London Authority to levy a supplement on the national non-domestic rate (or business rate).
Charging Authorities (CA)	With respect to CIL, defined in the 2010 Regulations as a "the collecting authority for CIL charged in its area". Is normally the Local Planning Authority.
City Deals	City Deal is an agreement between government and a city. It gives the city and its surrounding area certain powers and freedom to take charge and responsibility of decisions that affect their area, to do what they think is best to help businesses grow, to create economic growth, and to decide how public money should be spent.
Department for Communities and Local Government (DCLG)	Governmental Department in England and Wales tasked with driving up housing supply, increasing home ownership, devolving powers and budgets to boost local growth in England and supporting strong communities with excellent public services
Government Economic Strategy (GES)	Scotland's Economic Strategy, updated in 2015, sets out an overarching framework for a more competitive and a fairer Scotland and identifies four broad priority areas where our actions will be targeted to make a difference, included inclusive growth, innovation, investment and international investment, influence and networks.
Gross Development Value (GDV)	The value of a development on the open market once all development works have been completed.
Gross Development Cost (GDC)	The cost of a development.
Growth Accelerator Model (GAM)	Economic investment tool developed by Scottish Futures Trust. Reportedly has the potential to unlock £6bn of additional investment in cities and regions across Scotland. The model effectively creates the right conditions for different types of public and private sector investment to be made against a backdrop of economic growth and opportunity. Features include: ▪ Funding linked to demonstrable and sustained economic growth and job creation; ▪ Establishment of a training academy; and ▪ Long-term developer profit share.

Land Value Capture (LVC)	A type of public financing that recovers some or all of the value that public infrastructure generates for private landowners.
Planning Authority (LPA)	Have primary responsibility for the delivery of the planning service in Scotland. Planning authorities undertake key pieces of work to inform stakeholders about the service they deliver.
National Planning Framework 3 (NPF3)	Published by Scottish Government's Planning and Architecture division, the National Planning Framework (NPF) sets the context for development planning in Scotland and provides a framework for the spatial development of Scotland as a whole and sets out the Government's development priorities over the next 20-30 years and identifies national developments which support the development strategy
Non-Domestic Rates (NDR)	Business rates (also called non-domestic rates) are a tax on business property to help pay for local council services. They are based on the property and generally don't reflect the turnover or profits of the business.
Planning Gain Supplement (PGS)	Supplement to S106 obligations considered in England and Wales in 2006. Viewed as potential mechanisms for increasing resources for investment, though ultimately rejected as alternative systems viewed as more appropriate to fund local infrastructure projects, and the potential impact of a 'tax' on areas of lower demand.
Public Works Loan Board (PWLB)	A statutory body operating within the United Kingdom Debt Management Office, an Executive Agency of HM Treasury. PWLB's function is to lend money from the National Loans Fund to local authorities, and to collect the repayments.
Regulation 123 Lists	Abbreviation of requirement in Regulation 123 of the CIL Regulations (2010). It refers to the list of infrastructure projects a requirement of CIL Regulation 123 and is known as a 'Regulation 123 list', or 'R123 list' for short.
Residual Land Value	Assessed value of land based on the value of a completed development (Gross Development Value) less development costs and developers profit.
Review of Scottish Planning	September 2015, review panel appointed by Scottish Ministers to undertake an independent review of the Scottish planning system, tasked with providing a 'root and branch' review, and encouraged to explore game-changing ideas for radical reform of the system. Published in May 2016.
Scotland Act 1998	An Act of the Parliament of the United Kingdom which established the devolved Scottish Parliament. It is amended by the Scottish Parliament (Constituencies) Act 2004, the Constitutional Reform Act 2005, Scotland Act 2012 and Scotland Act 2016
Scottish Planning Policy (SPP)	Document published by Scottish Government's Planning and Architecture division setting out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land.

Section 106 Agreements	Section 106 of the Town and Country Planning Act 1990. Agreement between a developer and a local planning authority about measures that the developer must take to reduce their impact on the community. Required to make development acceptable in planning terms.
Section 75 Agreements	Section 75 of the Town and Country Planning (Scotland) Act 1997. Agreement between a developer and a local planning authority about measures that the developer must take to reduce their impact on the community. Required to make development acceptable in planning terms.
State Aid	State aid is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union (EU).
Tax Incremented Financing (TIF)	Public financing method used as a subsidy for redevelopment, infrastructure, and other community improvement projects, based around a value capture strategy. First employed in the USA in 1950s.
Town and Country Planning (Scotland) Act 1997	The principal piece of legislation governing the use and development of land within Scotland.

1 Introduction

1.1 Background

Following the publication of the independent review of the Scottish planning system in 2016, the Scottish Government appointed Peter Brett Associates (PBA) to lead a research project to identify and assess the options for the introduction of an infrastructure charging mechanism across Scotland. The PBA-led multi-disciplinary team comprises TradeRisks, Brodies LLP and Cushman & Wakefield (Stages 1 and 2 only), leading organisations who are experienced in the field of infrastructure funding delivery and the legal applications of such actions.

Sustainable economic growth and housing delivery are key priorities for the Scottish Government. To contribute towards this, the principles of an improved and fairer system, with greater transparency, certainty and efficiency needs to be considered to secure funds towards infrastructure delivery.

This research project focuses on the **options** for an infrastructure charging mechanism to be applied through the planning system in Scotland. It sets out the **pros and cons** of the identified options and includes a potential **route map** towards potential implementation.

The Scottish planning system is currently under review. The report of the Panel appointed by Scottish Ministers to review the system – 'Empowering Planning to Deliver Great Places' (31 May 2016) – clearly states that, "Our review has concluded that linking infrastructure with planning development is the most significant challenge for the Scottish planning system at this time." This research project focuses on the options for an infrastructure charging mechanism to be applied through the planning system in Scotland. Stage 1 and Stage 2 of this research has since informed the Scottish Government's consultation Document 'Places, People, and Planning' (2017), Proposal 14 of which stipulates the formulation of a levy through enabling powers.

Pending the outcome of consultation, this Research and the Project Team will aid in progressing the technical and legal development of the charge.

1.2 Research Study Stages

The research study is based on the following three stages:

- **Stage 1 – Baseline, Initial Consultation and Identification of Priorities** including a focused literature review, desk based assessment to establish the broad scope of legislative requirements, establish a key stakeholder group to be agreed with the client team, undertake initial consultation exercise with the key stakeholder group members, to explore the issues and options of a charging mechanism, including with the Department of Communities and Local Government (DCLG) Community Infrastructure Levy (CIL) Team representatives and CIL review research team in relation to the performance of

CIL and the output of the review work, and to develop a set of key priorities for the establishment of a charging mechanism within the Scottish context.

- **Stage 2 – High Level Options, Stakeholder Workshop and Consideration in the Consultation Paper**, including the identification of high level options for the introduction of an infrastructure charging mechanism within the Scottish planning system, and re-consult the Key Stakeholder Group to gather views on the identified options through a Workshop session.

  Stages 1 and 2 outputs have been used to inform the consultation paper which was consulted on in 2017.

As the research has evolved, it has highlighted the importance of deliverability of the identified mechanism. It is therefore important that Stage 3 presents a balance of options for Ministers to consider, taking into account the practicalities which are at play. Stage 3 therefore considers two options which are variations of the ***Infrastructure Growth Contribution (IGC) Model***: firstly, an option requiring legislative changes, that is, the ***Central Co-ordinated Option***; and secondly, a ***Local Co-ordinated Option***.

Stage 3 – Process & Delivery, to identify and prepare a case for two mechanisms with different degrees of delivery requirements, and to develop a framework for those mechanisms that best meet the key priorities for a potential charging mechanism. The framework considers process elements, including calculating and applying the charge and delivery of the mechanisms, including a timeline for the preparation of the charge.

Process for Charge Calculation / Evidence Base

- Consider the process of infrastructure assessment, prioritisation and costing to inform the charge mechanism;
- Consider the process for establishing the infrastructure funding gap within the identified geographic areas;
- What role would viability considerations have in establishing the charge; and
- Process of consultation and independent scrutiny for establishing the charge.

Process for Applying the Charge

- What types of infrastructure would the charge fund?
- How/when would the charge be applied?
- Which developments would be liable to pay the charge? Requirement for exemptions?
- Consider the options for securing / enforcing the charge; and
- Consider the scope for utilisation of charge funds within or out with the geographic area within which they were collected.

Factors for Delivery

- Relationship between the charge and a wider Infrastructure Fund / infrastructure funding mechanisms;
- How to address issues around certainty over the payment of charge and the delivery of identified infrastructure items;
- What role would front funding have to complement an infrastructure charging mechanism?
- Identify the potential risks to infrastructure delivery resulting from a lack of charge receipts or cost over-runs and consider measures to manage the risks; and
- Consider issues around on-going maintenance costs of delivered infrastructure.

This report addresses Stage 3 of this research, which together with Stage 1 & 2, will be taken into account in the drafting of a future Planning Bill.

2 Scope of Research

2.1 Introduction

This section outlines the aims and objectives of this research, the scope and the approach and methodology. It also identifies the key elements for consideration, such as geographic scale, Scottish Government policy priorities, land value uplift and legislative requirements.

2.2 Aims and Objectives

The **aim** of this research project is to identify and assess options for an infrastructure charging mechanism in Scotland to support sustainable economic growth. The research will be used to help inform future decisions on this subject area.

The research **objectives** are:

STAGE		
1	To identify **key priorities** for the establishment of an infrastructure charging mechanism within the Scottish context	**COMPLETED**
2	To identify and assess the **pros and cons** of a charge being applied at different geographical scales	**COMPLETED**
	To set out **high level options** for a charging mechanism, which capture land value uplift, highlight how they meet the identified key priorities and Scottish Government's policy objectives	**COMPLETED**
3	To critically assess the high level options to identify up to two **options** and set out a framework for their implementation and operation	**This Stage**

This report addresses the final objective, namely critically assessing high level options to identify options for an infrastructure charging mechanism, and setting out a framework for their implementation and operation. This Report should be read in conjunction with the Stage 1 & 2 report.

2.3 Key Elements for Consideration

The key elements for consideration in Stages 1 and 2 of this research project included:

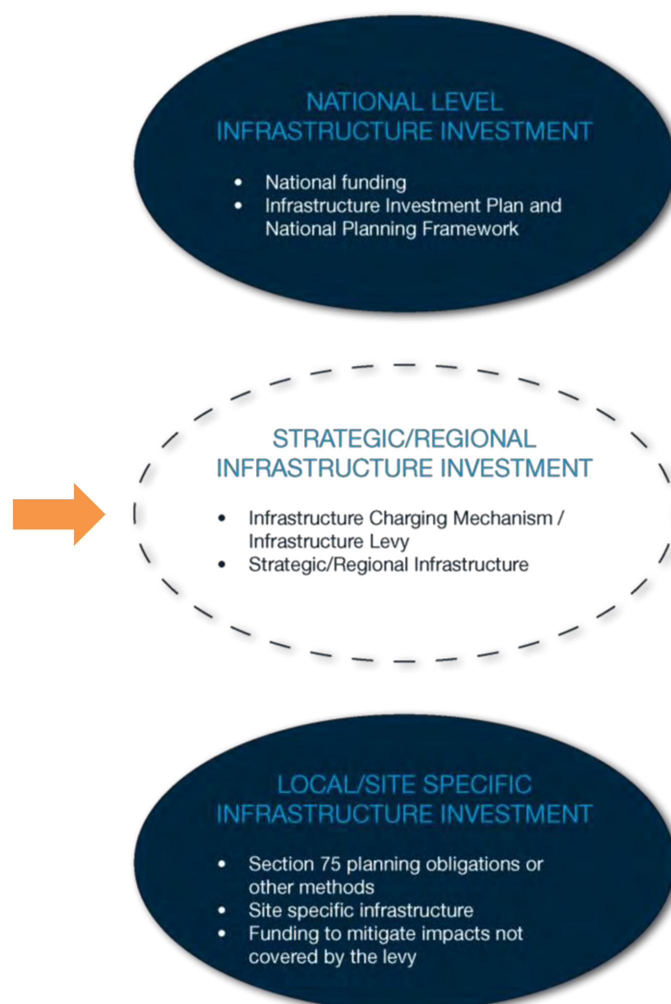
KEY ELEMENT	DETAIL
Geographic Scale	To consider the options of a charge being applied at different geographic scales, for example, sub Local Authority, Local Authority, Regional or National level. An important factor for any charge will be the ability to address cross-boundary infrastructure requirements. To consider what flexibility should be applied to the implementation of the mechanism within and across these levels.
Scottish Government Policy Priorities	To consider the implications of the different geographic options for Scottish Government national policy objectives.
Land Value Uplift	To consider how the charging mechanism will be applied to capture land value uplift.
Development Plans	To consider the relationship between the charging mechanism and Development Plans / the Development Plan process, taking account of the need for flexibility to integrate with a changing Development Plan landscape. To consider the relationship between a potential infrastructure charging mechanism, with other developer contribution requirements e.g. affordable housing.
Legislative Requirements	To set out the broad scope for legislative requirements at the identified geographic levels.
Optional/Compulsory	What approach should be taken to the adoption of a charge, for example, optional/compulsory and what would the implications of this be?
Relationship to Development Management and S.75 / Legal Agreements	How would any infrastructure charging mechanism relate to the use of existing mechanisms for securing contributions, including use of planning conditions and legal agreements including S.75? What changes to S.75 of the Planning Act would be required to accompany each of the options to ensure developers are not ‘double charged’ for infrastructure?
Implementation/Resources	To consider options for where responsibility would lie for setting, applying/implementing and managing the charge at the different scales? What level of political support would be required? What form of Project Management / structure would be needed within the relevant organisations to ensure the process is transparent and efficient?

KEY ELEMENT	DETAIL
	To appraise the resource and skills implications for the relevant sectors.
State Aid	To consider the implications of State Aid for the identified options and how to address this.

2.4 Research Stage 3

The research for Stage 3 synthesises outputs from Stage 1 and Stage 2, and consults further on the identified 'high level options'. It develops a methodology to assess the options and develops a framework for these. Following from the priorities and high level options set out in Stages 1 and 2, it aims to identify potential mechanisms to apply to a 'middle tier' between national infrastructure investment and local, site specific infrastructure (**Figure 2.1**).

Figure 2.1 Hierarchy of infrastructure investment



The following outlines the key tasks undertaken to meet the aims and objectives of Stage 3 of the research project:

STAGE	TASKS
Stage 3	To identify and prepare a case for the shortlisted options and develop a framework for those options that best meet the key priorities for a potential charging mechanism. To develop a framework to elaborate detailed process elements, including calculating and applying the charge and delivery of the preferred mechanism options. To set out a timeline for the preparation of the charge. To incorporate relevant responses from the Planning Review taken forward following completion of the consultation process. To specify client meeting dates at the beginning of the Stage 3 work programme, including key stakeholders such as the Scottish Government and Scottish Futures Trust.

This report represents the output of Stage 3 and is to be taken forward by the Planning and Architecture Division of Scottish Government for consideration as part of the drafting of the Planning Bill process. The first report contains the output of Stages 1 and 2 (December 2016), and the Executive Summary will link the output of this Stage 3 Report with the previous two stages.

3 Assessment Context

3.1 Introduction

This section introduces Stage 3 of the Research, setting out the outcomes from Stage 1 and Stage 2. The publication of the Stage 1 and Stage 2 report (December 2016) has also informed the development of proposals within the Scottish Government's proposals for a charge set out in "Places, People, Planning". As this research has been undertaken concurrently with the Review of the Community Infrastructure Levy in England, lessons from this Review are also considered briefly.

3.2 Priorities

As noted in Section 2, the key outcomes of the Stage 1 and Stage 2 report was to establish:

1. The **pros and cons** of a charge being applied at different scales; and
2. To set out **high level options** for a charging mechanism, which capture land value uplift, highlight how they meet the identified key priorities and Scottish Government's policy objectives.

Stage 1 and Stage 2 addressed these outcomes, which in turn led to the development of key priorities for an infrastructure charging mechanism.

3.3 Outcomes from Stages 1 & 2

Stage 1 and Stage 2 set out the high level options and principles for an infrastructure charge. These emerged from the Stakeholder Workshop, executive focus group and literature review, and were principally differentiated along the lines of geography and in terms of broad mechanisms employed.

The analysis of high level options, aided by the contributions at the Stakeholder Workshop, favoured four principle variables for further consideration and consultation based on geography and mechanism.

In terms of geography, the options should consider:

A. City Region Deals, or other forms of **growth areas of combined authorities**; or
B. The above combined with a **national charge.**

Varied in each case by the two charging mechanism options recommended for consideration:

1. A charge based on **quantum** of development output; or
2. A charge based on the **value** of development output.

The Stage 1 & Stage 2 report noted that the combination of these elements would require further elucidation and assessment. The Report set out various combinations for high level consideration responding to considerations around whether charges are fixed/graduated, how exemptions are considered, and how it is tied to existing planning

processes. Nonetheless, it is clear that the 'shortlisted options' set out in this report would need to be applied somewhat flexibly to account for existing structures of governance and other local circumstances. This included the consideration of existing partnership bodies (i.e. City Deals, Strategic Development Planning Authorities) and existing agencies or mechanisms (e.g. Scottish Futures Trust, Land and Building Transaction Tax) as fundamental to the development of a charging system. However, there was also preference by local authorities for close involvement in the development, collection and distribution of the charge.

Overall, the mechanics of the fund (i.e. how a fund is collected, distributed, and how a charge is set) and how the fund may sit within a wider package of infrastructure delivery was not considered in detail in Stage 1 and Stage 2.

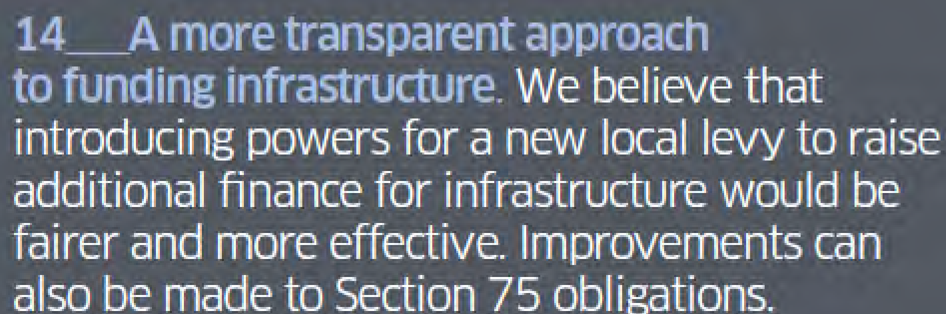
3.4 Stage 3 Requirements

Stage 1 and Stage 2 identified the **key principles** and assessed **high level options** for an infrastructure charging mechanism. This Stage 3 report sets out the shortlisted **options** which have emerged and their **assessment criteria**. More importantly, Stage 3 aims to substantiate the preferred high level options and sets out a clear framework, including details on:

- Calculating and applying the charge;
- Delivery of the preferred mechanisms;
- A timeline for the preparation of the charge; and
- Potentially testing/piloting some of the emerging principles and details of an infrastructure charging mechanism.

3.5 Consultation on the Future of the Planning System

Stage 1 and Stage 2 contributed to the formulation of key principles for the introduction of infrastructure charging mechanism, as set out in Proposals 13 to 15 of the consultation document, "Places, People, Planning" (2017).



Specifically, Proposal 14 sought views on introducing powers to levy a charge on development to help pay for infrastructure, fairly and effectively.

Proposal 14 notes that S75s will not close an infrastructure funding gap, and that a uniform charge could help bridge this gap while building a more confident, 'infrastructure first approach' to planning and development. It suggests that the design should be simple and respond to varying market circumstances. Views were sought on

whether the Planning Bill should, therefore, include an enabling power to introduce the levy, to be consulted upon at a later stage.

Specific **principles** of the Proposal that were consulted on included that:

- It should be applied to most development types, with some potential exemptions;
- Permission to adopt and put in place a charging mechanism is granted by Ministers based on the submission of a business case prepared by the planning authority/authorities;
- The income from the charge should be collected locally[1];
- The fund will not replace national level infrastructure investment, as defined in the Infrastructure Investment Plan and National Planning Framework (NPF); and
- The fund will not replace site specific contributions which are needed to mitigate the impacts of individual developments not covered by the levy and secured through Section 75 planning obligations or other methods.

It should be noted that the development of the high level options set out in Stage 1 & Stage 2 and assessed in Stage 3 is contingent on the progress against the various positions contained within the consultation document.

These principles, whilst being consulted upon at the time of writing, are iteratively applied to the 'Key Principles' emerging from Stage 1 & Stage 2 research, as discussed in Section 4.

3.6 Lessons from the CIL Review and Report of Study

An intermittent stage between Stages 1 & 2 and Stage 3 included an overview of the Community Infrastructure Levy Review Report, "A New Approach to Developer Contributions" (Oct 2016) and the implications for a charging mechanism in Scotland. The findings of the research followed an intensive consultation with stakeholders and represents a potential validation of the findings of Stage 1 and Stage 2, and therefore the starting point for the formulation of a Stage 3 'Short-listed Options'.

Whilst the requirements of a charge in Scotland will be different, lessons learnt with respect to the realistic application of a charge, best practice in charge setting, administration and collection provides a useful indication preferred policy changes on a wider geographical scale.

This subsection outlines some of the key recommendations, and the implications for the Scottish Government's Stage 3 research. This is set out in full in Annex A.

Report Conclusions and Recommendations

The findings of the Report of Study informed the information presented in the CIL Review and, ultimately, the recommendations set out by the group. The conclusions of the report are wide-ranging and offer insight into the operation of a system which has had mixed results across charging authorities. In particular, the review suggests:

---

[1] Note that this is scoped out of some options considered in Section 6.

- CIL is not delivering as much as anticipated by the Government and Local Authorities;
- Charges are set at low levels in many local authority areas to accommodate development, though this has resulted in lower payments compared to S106 and other negotiated contributions;
- CIL is not raising enough revenue to effectively support the funding of infrastructure needed to support development;
- There is less confusion between S106 and CIL than was previously thought;
- Mixed evidence with respect to the impact of affordable housing;
- Regulations were viewed as too complex;
- Charge setting process is lengthy and expensive, at broadly £15,000 to £50,000 per local authority. Outcomes of charge-setting process also different in places where expected to be similar due to local economic conditions; and
- Exemptions produce a significant amount of bureaucracy for no compensation.

Following on from these conclusions, the Review set a number of conditions for the creation of a new system:

- Consistent and flexible on a nation-wide basis;
- Provide an upfront quantum for developers and accommodate the needs of those promoting larger schemes;
- Streamlined regulations to improve the understanding and speed of implementation;
- Offer a clear route through which necessary developer funded infrastructure can be delivered;
- Reassurance to communities that impacts of development will be mitigated and risks of delivery of that mitigation attached to those able to bear it;
- Accommodate the creation of combined authorities and cross-boundary working across a housing market area;
- Implementation with minimal disruption to developers with existing permissions and for future planning applications during a transitional period and for LPAs having adopted CIL; and
- Quick and simple planning applications for small builders and developers.

In summary, the Review did not propose to remove CIL altogether though suggests a new solution in the form of the Local Infrastructure Tariff/ Strategic Infrastructure Tariff and hybrid LIT/CIL, S106 system. It recommends a simplification of procedures together with a clearer S123 list and removal of barriers to delivery of localised infrastructure delivery (i.e. through pooling restrictions). This 'twin track' delivery aims to optimise contributions from smaller sites which may not otherwise contribute to S106 whilst also ensuring substantial infrastructure needs of larger developments are met timeously.

The recommendations therefore focus on a **simplified system** which would require relatively straightforward adoption processes. It also recognises the need for local authorities to work together and reflect changing systems of governance (e.g. with the creation of Combined Authorities) in the delivery of large infrastructure projects.

The Review points out that it may be a matter of local authority discretion to determine whether it would be worth collecting a tariff. The Review emphasises the importance of local determination of need, and this may be captured in part through the emphasis of a

‘nationally determined charge’ based on gross floorspace, derived from median sales values.

The CIL review clearly advocates a simplified approach to contributions, and one which takes into account local economic conditions. For example, in simplifying procedures for charges to commercial developments, it advocates centralised frameworks for the ‘number of different commercial developments and the proportional relationship’ to a residential charge to account for local market variations. It can therefore be tied to local planning priorities and included in the Annual Monitoring Report to show how spending of the tariff is meeting local infrastructure needs, and its correspondence to local plan preparation.

In summary, the Review recommendations indicate that the direction of travel for Stage 1 & 2 Research does not show significant departures from the Review. Indicative analyses of the potential for a minor contribution of a levy to infrastructure needs is also reflected in the Review which is clear about the need for front funding and identifying other sources of infrastructure funding. In particular, there is clear resonance in:

- The need to retain other systems of contributions and making their interrelationships clear;
- Developing a simple system for collection that is tied demonstrably to the local planning process;
- Potential for combined authorities or partnership bodies in the identification of strategic infrastructure requirements;
- Capturing ‘more than local’ infrastructure requirements;
- Centrally defined methodology for determining contributions; and
- Limiting exemptions to ensure the widest reach of the charge.

Summary

This section sets out the context for Stage 3 research, in particular identifying the outcomes set out in Stage 1 & 2 of the research. It also sets out principles emerging from the Planning Review Consultation and identifying relevant findings from the CIL Review in England and Wales that may be beneficial in the development of an infrastructure charging mechanism in Scotland.

4 Methodology for Assessment

4.1 Introduction

This section sets out the methodology developed to further assess and shortlist the high level options that emerged from the Stage 1 and Stage 2 research.

This section first sets out the key criteria by theme identified through the Stage 1 and 2 research. This has been informed by the project brief, workshops, consultations and secondary research. The basis of these criteria have been set out in the introduction. Secondly, this section sets out the options emerging from the Stage 1 & 2 research, which resulted from an initial assessment of high level options.

The assessment comes in the form of two interrelated sets of criteria:

1. Final Priorities (Section 4.5); and
2. Central Assessment Criteria (Section 4.6).

The options presented in Chapter 6 are reassessed against these criteria in Section 7.1.

Final Priorities

The high level options considered in Stage 1 and Stage 2 are brought forward and elaborated upon. Further principles which have emerged from the Planning Review consultation are considered against the key criteria which formed the initial assessment of high level options in Stage 1 and Stage 2. The principles drawn from the Planning Review Consultation have been further assessed by members of the project team with representatives from the Scottish Futures Trust and Scottish Government to progress the shortlisting of the high level options. This informed the 'Final Priorities' set out in Section 4.4.

Central Assessment Criteria

The second aspect of the assessment is setting out the 'Central Assessment Criteria' which inform the robust understanding of costs, benefits, risks and uncertainties arising from the development and implementation of changes in policy.[2] The Central Assessment Criteria follow best practice and are arranged by the following areas:

- Setting Objectives, Outputs and outcomes;
- Measuring Costs and Benefits;
- Adjusting for market changes (cost adjustment); and
- Accounting for Risk and Uncertainty.

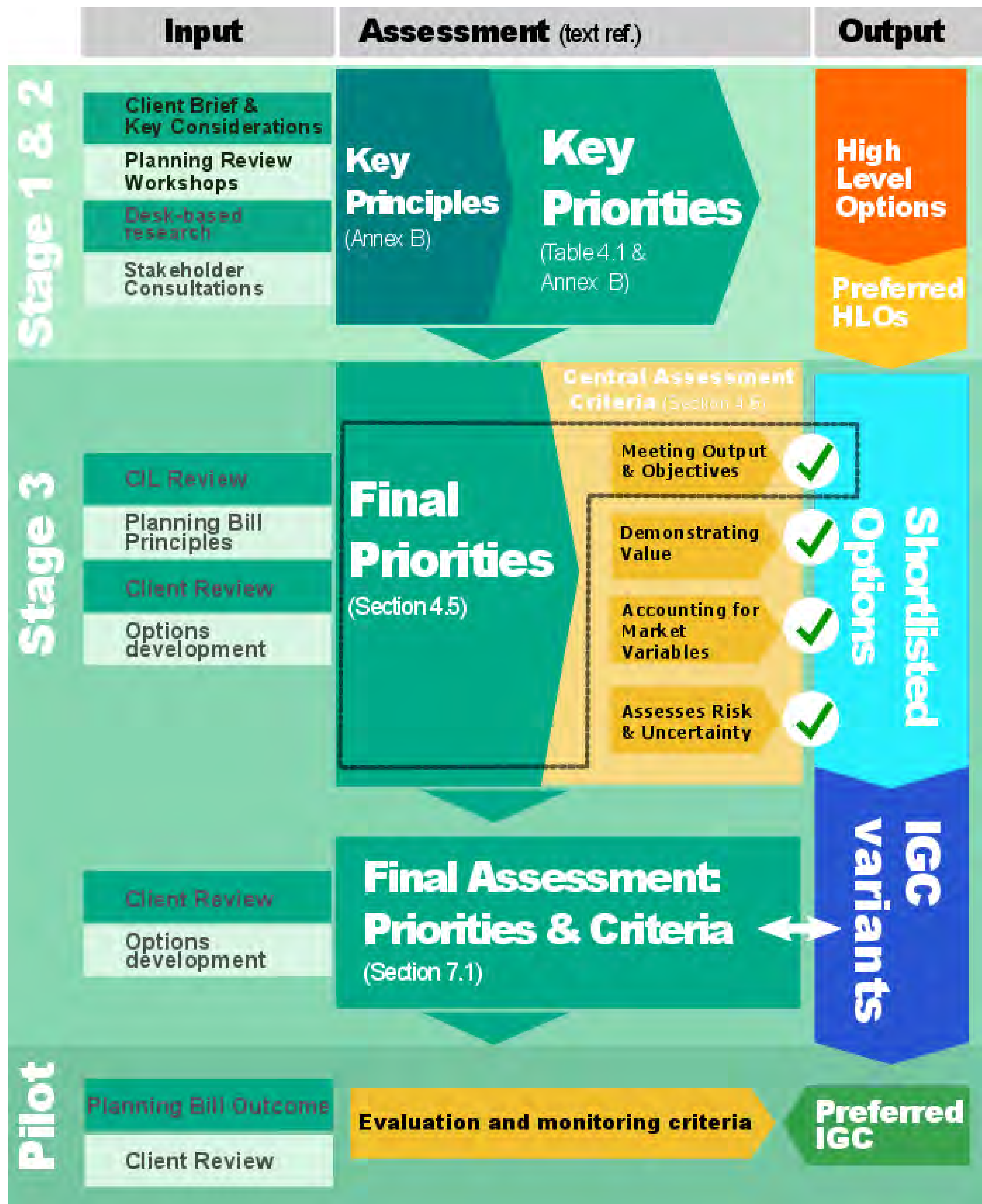
---

[2] Drawn from HM Treasury's Green Book Appraisal Guide

The ‘key priorities’ have been iteratively and robustly developed and serve as ‘Objectives and Outcomes’ as part of the ‘Central Assessment Criteria’ against which to test the Preferred Options.

The option assessment process is set out diagrammatically in Figure 4.1.

Figure 4.1 Options Assessment Process



4.2 Stage 1 & 2 'Key Priorities'

Stage 1 and 2 of this research set out key principles governing the development of the proposed infrastructure levy. These were drawn from initial Scottish Government Workshops, research consultations and stakeholder engagements, and consideration of best practice through the United Kingdom. At Stage 1 and Stage 2, they provided broad guiding positions on the purpose, scope and operation of the charge.

Furthermore, the Priorities were grouped according to key principles which are similarly drawn from consultations but equally informed by existing policy guidance with respect to developer contributions.[3]

These principles serve as a starting point for the determination of High Level Options (HLOs), and have informed the testing and development of the Shortlisted Options.

Table 4-1 Key Principles & Priorities

Policy Theme	Priorities
Fairness	- Address cumulative impacts of development - Assess market variations on a wider geographical scale - Ensure examination and scrutiny - Monitor implementation and collection - Apportioned according to need, responding to supply and demand
Transparency	- Clear legislation to avoid conflict with S75 - Demonstrable link between development and required charge - Guidelines delineated in policy - Clear guidance to prevent overlap between charging mechanisms - Full stakeholder involvement in charge-setting process - Clear procedures for redress
Certainty	- Based on clear evidence (need, supply, demand, anticipated growth) - Clarity about what infrastructure is required and where a charge will be spent - Charges should be used to encourage sustainable economic growth - Clarity over intersection with broader funding packages - Administrative boundaries should not be arbitrary - Exemptions should be driven by encouraging viability - Clear process of collection
Efficiency	- Robust details of infrastructure delivery - Broader funding package established at outset

[3] i.e. Circular 3/2012

Policy Theme	Priorities
	- Should not consume local authority resources - Avoid lengthy negotiations in payments - Avoid a ‘land tax’ on a site-by-site basis

4.3 Emerging Options from Stages 1 & 2

Stages 1 & 2 of this research identified a series of options based on existing and potential administrative geographies and on the mechanisms required for collecting the levy. ‘High Level Options’ (HLOs) were considered in terms of geography, mechanisms, funds and purpose of the infrastructure funds. This stage of the research assessed the following options:

Table 4-2 Emerging Options

Geography:	**Mechanism**
- Local Authority - Regional Authority - Combined Authority	- Charges based on extent of the Land Value Uplift (LVU) - Charges based on Quantum of development Charges based on the Final Value of Development - National Charging
Funding model	**Purpose**
- Itemised Option - Pooled Option	- Maintenance - Capital Costs

Geography was identified as a complex component of the charge, particularly in reflecting administrative geographies, forms of governance and market variations within areas covered by a charge. Consultations and a review of combinations of options against key priorities suggested that geographies ought to be flexibly defined to account for changing market conditions and scale of infrastructure requirements.

The brief assessments in Stages 1 and 2 suggest that existing administrative geographies (e.g. planning authorities, strategic development planning authorities or partnership bodies like City Deals) may have processes in place to implement a charge-type mechanism, but these boundaries may not be reflective of a functional market area, nor do the resources within the authorities exist to adequately assess the viability of a charge or the deliverability of infrastructure projects. This has a concomitant effect on how, as suggested in the stakeholder workshops, the mechanisms may be integrated with development plans. The means by which local authorities work together to effectively identify infrastructure required to deliver development, therefore depends on an effective understanding of the management structures behind the scheme.

As noted, an organisation such as the Scottish Futures Trust (SFT) may have resources and expertise that could be used to help administer the scheme. But it also

needs to be decided how the application of the scheme is coordinated with existing administrative structures.

Considering the assessment set out in previous stages of the research, a preferred set of options was identified which most closely fit the criteria set out above:

Geography

- Local authority;
- City Region Deals, or other forms of growth areas of combined authorities or regional partnerships; or
- The above combined with a national charge.

Mechanism

- A charge based on quantum of development output; or
- A charge based on the value of development output.

In line with these conclusions and in line with the criteria set out above, Stage 1 and 2 set out ten scenarios based on an objective scoring methodology (set out in the Stage 1 & Stage 2 Report). There was a clear preference for market/growth areas and combined authorities or agencies in administering the charge. This stage of the assessment did not elaborate on the mechanics of the charge, though the assessment noted the preference in most instances for combined authority areas, such as City Deal areas and delivered by 'greater than local' authorities.

4.4 Scottish Government Consultation: Proposal 14 Principles

The Key Principles identified in Stage 1 and Stage 2 of the research, while informing the consultation process, needs to be re-assessed against the principles proposed in the consultation paper, "Place, People, Planning". This will ensure consistency in proposals underway and the development of the levy in this Stage.

The Scottish Government released a consultation into the review of the planning system in 2017. **Proposal 14** set out key principles including the following:

- It should be **applied to most development types**, with some potential exemptions;
- Permission to adopt and put in place a charging mechanism is granted by Ministers based on the **submission of a business case** prepared by the planning authority/authorities;
- The income from the charge should be **collected locally**;
- The fund will **not replace national level infrastructure investment**, as defined in the Infrastructure Investment Plan and National Planning Framework (NPF); and
- The fund will **not replace site specific contributions** which are needed to mitigate the impacts of individual developments not covered by the levy and secured through Section 75 planning obligations or other methods.

These have been consulted upon with relevant stakeholders[4] and considered in light of the development of the preferred high-level options. The principles are considered qualitatively below and are incorporated into the assessment criteria set out in Table 4.3. Whilst this option development is considered against these principles, it is subject to change pending outcomes of the current consultation. Generally speaking, the principles identified in the consultation can be grouped under the Key Principles emerging from Stage 1 & Stage 2.

The Consultation Principles are considered below:

"It should be applied to most development types, with some potential exemptions"

A clear principle emerging from Stage 1 & Stage 2 and subsequent consultations is that there should be clarity around what is being funded by an infrastructure levy and which developments are required to pay. Evidence provided by the CIL suggests benefits to a charge that applies to all (or most) developments (according to unambiguous criteria), and that is flexible in meeting strategic infrastructure requirements.

The 'strategic' purpose of the fund emphasised in Stage 1 & Stage 2 research means that most development types could be eligible to pay. However, the relatively small receipts that are likely to be made available through the fund suggests that the ability of the mechanism to contribute to significant and costly infrastructure items is likely to be limited. It is nonetheless important that the use of the funds is justified on the basis that it addresses wider strategic needs (e.g. provision of education, green infrastructure, loan capital for other strategic projects). By addressing wider strategic needs of a geographical or market area, the application of the fund to most development types would be justified. A framework may be required to guide the administering body in how projects are identified for funding.

The issue of exemptions to a charge was identified in consultations in Stage 1 and Stage 2 and in subsequent consultations. Indeed, there are instances where a charge may not be applicable—there is precedent in the operation of CIL where there are exemptions for certain development types, which may be due to resourcing issues or viability. However, the more successful instances of the Levy in England are applied generally, but at a low level (e.g. London Mayoral CIL). On this basis, it is considered that the baseline position ought to be to assume that most developments should contribute to the levy to avoid the administrative burden and potential avoidance. This may also mean that local authority/combined authority discretion is limited.

Details on what form of infrastructure it should support remains relatively open—some disagreement during Stage 1 and Stage 2 suggests that the 'definition' of infrastructure may prove problematic. There is general agreement that "additionality" and "future growth" should be the main determinant of the project's impact. Given the importance of addressing more strategic items of infrastructure, rather than individually negotiated

---

[4] Consultation held with Scottish Futures Trust on 5 May, 2017.

sums with respect to specific sites, the system needs to be simple and flexible, potentially determined by a formula at a national level. The remit for charge setting would therefore not be incumbent on the local authorities or strategic authority.

"Permission to adopt and put in place a charging mechanism is granted by Ministers based on the submission of a business case prepared by the planning authority/authorities"

The principle of oversight is crucial for the smooth and effective operation of an infrastructure charging mechanism. The submission of a 'business case' was not explicitly considered in Phase 1 and Phase 2 research. However, there was clear preference for all infrastructure to be aligned to a plan, and being costed, deliverable with realistic funding mechanisms in place. The submission of a business case would add weight to these plans, undergoing necessary scrutiny to ensure delivery.

In practice it may be that local authorities or a regional body (e.g. City Deal bodies, on behalf of local authorities) prepare a business case for a mechanism. This may take the form of or supplement a regional 'infrastructure plan' or local development plan. Stage 1 and Stage 2 research concluded that a body such as the Scottish Futures Trust would be well-placed to assist in the costing and assessment of regional/strategic plans. That is, the body ultimately responsible for the assessment and awarding of funds requires a sound overview of economic gains of proposed projects and must have the political judgment to know where monies should be spent. An organisation dedicated to assisting in these activities, particularly with significant experience in developing City Deals, would be crucial to the robust and consistent development of infrastructure delivery plans.

Stage 1 and Stage 2 research pointed out the importance of projects funded by the charge forming part of a wider strategic infrastructure plan. The presumption is that an effective infrastructure plan already has funding in place and does not constitute a 'wish list' of items to be funded. As such, the case for allocating funds should be based wholly on additionality and future growth rather than on items of infrastructure that should be funded through developer contributions or through national capital investment. There should therefore be a clear distinction between those elements covered by S75 and those subject to an infrastructure charge. Close working with infrastructure providers, developers, and local authorities will ensure that the infrastructure plan meets national objectives and reflects requirements for achieving sustainable local growth.

"The income from the charge should be collected locally."

Consultations in Stage 1 and 2 suggested funds be collected and spent locally[5], reflecting concerns over the way funds are redistributed. If 'locally' refers to local authorities, it should be noted that experience in England and Wales has shown this to be problematic for CIL, due to a lack of capacity and skills.[6] While Council Tax is a

---

[5] It is unclear if this refers to 'local authorities', 'localities' or market areas.

[6] It should be noted that there were mixed experiences regarding how onerous the process was.

mechanism where funds are collected and administered locally, an infrastructure charge would have additional resource implications for local authorities.

One option may be for local authorities to have a limited role in the administration and collection of the levy. Neither they nor regional partnerships may be ideally suited to the task of administration or collection, however, capacity could develop in the future. Like many local authorities in England, there may be instances where the continuation of S75 and other contributions are more practical for the scale (and value) of development in an area.

Local authority input is most likely to be appropriate in the local identification of projects and input into a wider regional, strategic infrastructure planning. This recognises a potential shift towards partnership working on the regional level. Yet there is equally a concern that the more strategic plans become, the more removed they are from delivery. There is a related concern that lack of determination at the local scale could 'disempower' local stakeholders in terms of delivery. However, the receipts of a charge would not likely constitute a major source of funding so regional planning would require clear costing and delivery mechanisms ensuring that key projects in local authority areas are realistic and deliverable whether through the levy or by other means. Potentially disproportionate costs of administration and varying skills at the local level—and limited oversight—suggests that it may be preferable to have a national fund relying on local determination of need (i.e. through input into a local or regional infrastructure plan). Decisions on how to use funds from an independent body such as SFT could draw multiple stakeholders together and, if necessary, make use of political influence to ensure cooperation. There may be varying willingness to engage in this process, however greater developer input into regional infrastructure planning, for example, may provide certainty for the industry.

On the part of local authorities, whilst a charge may not be collected or spend locally, it may provide a stopgap for critical projects and leverage for additional investment. It may provide seed funding and loan capital for individual local authorities or strategic authorities. However, if a fund is collected and spent entirely locally, there may be a missed opportunity to support regional infrastructure planning.

It may be that local authorities remain the most appropriate bodies within devolved powers to administer and collect receipts to fund infrastructure.

"The fund will not replace national level infrastructure investment, as defined in the Infrastructure Investment Plan and NPF."

Stage 1 & Stage 2 research established that the clear need for infrastructure funding is at the regional scale. The infrastructure covered by a uniform charge would by implication be of regional scale and strategic in nature. In establishing this need, local authorities and a regional body will be critical in setting out what is required and how it will be delivered (particularly in terms of strategic need, delivery mechanisms, etc.).

Local and regional planning will be essential in setting the infrastructure priorities for the areas covered by a levy. Regional infrastructure planning, which is properly assessed and costed can help redress the "more than local" issues that impact growth.

“The fund will not replace site specific contributions which are needed to mitigate the impacts of individual developments not covered by the levy and secured through Section 75 planning obligations or other methods.”

The scale of impacts to be mitigated by infrastructure covered by the charge could be a contentious issue. It is presumed that, as a first principle, existing methods of financing and administrative arrangements should be used as much as possible. For ‘local’ development impacts (e.g. a junction development), funding should continue to come from S75 or other contributions. Similarly, nationally important infrastructure (e.g. Edinburgh-Glasgow Electrification project) may continue to be funded through central budgets.

A central issue emerging in the consultations and in Stage 1 & Stage 2 work is the ability of the charge to address issues in front funding. Funds raised by the charge could serve as loan capital and may help address this and reduce risk for the delivery of some infrastructure. However, as the fund should be used for “additionality” only, there could be a requirement that there is clarity about what the key issues are, such as where the benefits of the project are offset by similar projects elsewhere, avoidance of double-dipping (i.e. based on well-evidenced strategic infrastructure plans) and demonstrating the strategic need for the project. In this sense the requirement to grant funding to the project would rely on the assessed additionality of the project.

4.5 Application of Final Priorities

The Revised Priorities iteratively drawn from the consultation principles and stakeholder consultations assist in adding further definition to the principles set out in Stage 1 and Stage 2. Discussions with key stakeholders regarding the development, implementation, resourcing, collection, and monitoring of a charge provides an opportunity for reflection on the initial principles.

The principles have been re-assessed in light of the Scottish Government consultations and in light of further development of the preferred High Level Options. The principles from the Consultation are aligned with the key criteria according to the following criteria detailed below, demonstrating compliance between these criteria

G	**Meets general criteria outlined in Proposal 14, as discussed in 4.4.**
1,2,3,4,5	**Meets respective Proposal 14 Principles, as discussed in 4.4.**

More specific **descriptions** have been ascribed to each principle. A review of S1 & S2 workshop and consultation outputs and subsequent project and stakeholder meetings provides suggested priority of the principles. Prioritising the ‘principles’ will aid in the assessment of the preferred option in Section 6.

Priority	**Description**
Essential	Principle is necessary for the proper functioning of the charge and in meeting the Policy Theme.
Desirable	Principle is not essential but may aid in the proper functioning of the charge and in meeting the Policy Theme.
Not Essential	Principle is not required for proper functioning of the charge and in meeting the Policy Theme

Table 4-3 Final Priorities

Policy Theme	Stage 1 & 2 Key Principle	Applicable Consultation Principles	Description	Essential/ Desirable /Not Essential
Fairness	Address cumulative impacts of development	*G* *While not explicit, sets out distinction between infrastructure covered by S75 and those requiring a uniform charge.*	The levy should be applied to infrastructure which addresses issues emerging from multiple developments in an area.	• Not essential—it may be that infrastructure is enabling rather than mitigating.
	Assess market variations on a wider geographical scale	*G, 4* *'Wider' functional geography not identified in Consultation.*	The levy should be able to ensure viability across variable market areas.	• Essential.
	Ensure examination and scrutiny	*2* *In principle supported by the submission of a business plan to ministers. However, there is no clear commitment to a link to an infrastructure or development plan.*	The levy and charging mechanisms should be subject to Examination (e.g. in the context of DPEA) and approval by ministers	• Essential
			The infrastructure to which the levy is applied should be scrutinised through the plan-making process and approved by ministers.	Desirable- there may flexibility with respect to identifying infrastructure. Funds could also be used as
	Monitor implementation and collection	*N/A*	The collection of the charge should be monitored through an annual audit	• Desirable
			The implementation of infrastructure programmes should be monitored through an annual audit	• Desirable
	Apportioned according to need, responding to supply and demand	*G*	Funds collected should be distributed according to need based on an objectively assessed infrastructure programme.	• Essential
			An agency should be responsible for prioritising infrastructure projects across an area.	• Essential
• Transparency	Clear legislation to	***G, 5***	Ministers could pass legislation to ensure	• Not essential as

Policy Theme	Stage 1 & 2 Key Principle	Applicable Consultation Principles	Description	Essential/ Desirable /Not Essential
	avoid conflict with S75	*No legislative requirement promoted in P14 regarding S75. However, assuming clear distinction in legislation regarding operation.*	proper functioning of levy and clarifying distinction to S75	policy guidance may be more suitable.
	Clear guidance to prevent overlap between charging mechanisms	*G,5* *As above.*	Ministers should approve guidance to ensure that developers know when they are liable to pay the levy as opposed to S75. Avoiding "double-dipping" should be a top priority.	• Essential
	Guidelines delineated in policy	*G* *Legislative change suggested in Consultation*	Guidance should be provided on all aspects of the levy's function, including charge setting, payment, use/distribution of funds, etc.	• Essential
	Demonstrable link between development type and required charge	*N/A*	There should be a clear link between the charge required and the development in terms of the type of development, the floorspace, and location of development. There should be a clear link between the development's anticipated impacts and required charge.	• Essential
	Full stakeholder involvement in charge-setting process	*N/A*	Stakeholders from various industries, community groups, etc. should contribute to the charge setting process to ensure no negative impact on viability.	• Desirable—a more restricted stakeholder group (e.g. including infrastructure providers) may be more appropriate.
• Certainty	Based on clear evidence (need, supply, demand, anticipated growth)	***2*** *Potentially established through*	Infrastructure funded by the levy should be supported by a strategic, economic and financial case. Infrastructure funded by the levy should be	• Desirable

Policy Theme	Stage 1 & 2 Key Principle	Applicable Consultation Principles	Description	Essential/ Desirable /Not Essential
		business case	included in an infrastructure plan.	
	Clarity about what infrastructure is required and where a charge will be spent	*1,2,4,5* *Emphasis in consultation on maintaining national infrastructure investment and site specific mitigation. Identification of need through a 'business case'.*	Infrastructure should be costed (as far as possible) and approved through the plan-making process. Possibly in the form of an infrastructure plan.	• Desirable
	Charges should be used to encourage sustainable economic growth	*2* *Assumed approval of business case meeting policy requirements.*	Infrastructure should not be site-specific but about delivering development in line with growth plans over a wider area.	• Essential
	Clarity over intersection with broader funding packages	***4,5*** *Consultation clarifies no intersection with NPF/ IIP and S75.*	There ought to be clarity over deliverability of required infrastructure prior to granting funds.	• Essential
	Administrative boundaries should not be arbitrary	*G,3* *Emphasis on local collection. 'Strategic' level of infrastructure not identified in terms of geography.*	The boundaries within which a fund applies should be based on existing partnership or regional bodies.	• Essential
	No redistribution out with a market area or region	*3* *Emphasis on local collection and presumably to be spent on local,*	Funds from a levy should not be used to subsidise infrastructure projects out with a market area. Conversely, funds can be redistributed within	• Not essential

Policy Theme	Stage 1 & 2 Key Principle	Applicable Consultation Principles	Description	Essential/ Desirable /Not Essential
		strategic infrastructure projects.	a market area.	
	Exemptions should be driven by encouraging viability	***G, 1*** ***No specific provision for exemptions.***	There should be flexibility in issuing exemptions (e.g. in 'opting out' or setting a 'nil' rate in specific areas or for specific uses to encourage development).	• Not Essential—Experience from CIL suggests that a universal charge (with some exceptions) is most effective.
	Clear process of collection	*G,3* *Advocates simplicity and collection at the local level*	Collection should be straightforward and set out in policy or legislation.	• Essential
• Efficiency	Robust details of infrastructure delivery	*2* *Potentially established through business case*	The delivery of infrastructure should be realistically costed to a specified timeline.	• Desirable
	Broader funding package established at outset	*2* *Potentially established through business case*	Infrastructure requiring funds from a uniform charge should be fully costed and with other sources of funding in place to ensure delivery.	• Essential
	Should not consume local authority resources	*N/A*	Local authorities should not be required to contribute significant resources to setting or administering a charge.	• Desirable
	Avoid lengthy negotiations in payments	*N/A*	Processes should ensure that what and when developments are required to contribute is clear in policy or guidance.	• Essential
	Avoid a 'land tax' on a site-by-site basis	*N/A*	Individual, contentious site valuations to establish uplift in land values should be avoided.	• Not Essential

4.6 Central Appraisal Criteria

Setting the Objectives, Outputs and Outcomes

In line with Green Book appraisal methods, a potential charge should be assessed against the proposed objectives, outputs and outcomes.

Objectives and outcomes have been established through Stage 1 and Stage 2 research and subsequent consultations. These are set out as the Key Principles and are central to assessing whether a shortlisted option meets the strategic priorities identified in Stage 1 and Stage 2.

The method for appraisal will be assessed in terms of HM Treasury's Green Book Appraisal Methods. This guide advocates several components in the appraisal process to ensure comprehensive and proportionate assessment. The assessment is not a full 'Green Book' Appraisal but uses the guidance as a starting point for effectively considering, albeit qualitatively, that options have been effectively assessed and that the options themselves are robust. This assessment will include the following assessment areas:

- Options Assessment;
- Shortlisting;
- Cost and Value Estimation;
- Adjustments; and
- Accounting for Risk and Uncertainty.

These assessment areas are covered in detail below, with associated impacts considered in Section 6.

Options Assessment & Shortlisting

This assessment will consider two scenarios derived from an Infrastructure Growth Contribution (IGC) Model, that is, a 'Central Co-ordinated Option and a Local Co-Ordinated Option.

These options are to be considered in terms of their practicality with respect to resource efficiency, potential for legal change, impact on viability, value for money, and ability to deliver strategic infrastructure.

In effect, Stage 1 and Stage 2 research provided an initial shortlisting exercise. The scope of the charge is further delineated in section 5.2 of this report.

The Shortlisted Options are therefore assessed according to the criteria developed and refined, as defined in Table 4.3.

Cost and Value Estimation

Costs

Appraisals should consider the relevant opportunity cost associated with action and inaction with respect to policy and legislative change. This appraisal in light of the Central Assessment Criteria does not consider the monetised costs in terms of the implementation and design of the charge as this depends on the governance and administrative arrangements and division of labour in charge setting, collection and more. It may also incorporate existing structures and processes (e.g. planning authorities in plan making or existing agencies) which may reduce the cost of establishing and maintaining a collection system.

Stage 1 and Stage 2 of this research and subsequent consultations have indicated that resource intensive options for charge setting and collection are to be avoided. Scoping out of these options has therefore been completed and it is assumed that these are the Shortlisted Options. Additional issues arising with respect to resources required for roll out, management and administration of the Shortlisted Options are discussed qualitatively.

Stage 3 does not carry out extensive costing analysis.

Broadly speaking, Stage 1 and Stage 2 research set out the following principles with respect to the cost of a charge:

- The 'cost' of designing and implementing a charge should be absorbed as much as possible by existing structures and processes;
- There should be little to no additional pressure on local authorities; and
- Efficiencies ought to be achieved through joint working, establishing best practice, clear guidance, and centralised processes where possible etc.

Value

Green Book appraisal methods suggest that the purpose of valuing benefits is to consider whether an option's benefits are worth its costs, and to allow alternative options to be systematically compared in terms of their net benefits or net costs. Estimating the 'value' of the charge should be based on measurable and quantifiable impacts and drawn from market data or other relevant and authoritative sources.

Assessing the impact of the charge is expressed in terms of the receipts generated from a charge according to the specific formula applied to the mechanism and modelled with reference to observed market data, with respect to anticipated developer rates of return and land values. The proposed formula underlying the mechanism is tested based on observed trends and making key assumptions, so as to broadly understand the relationship between the Gross Development Value (GDV), Residual Land Value (RLV), and the proposed Infrastructure Growth Contribution (IGC) mechanism. As such, this assumes that the impacts are measurable and quantifiable (e.g. based on projected house building, delivery of employment floorspace) and at a price or proportion of total costs which are not anticipated to affect viability.

The determination of a formula for assessing potential monetary values associated with the charge is consistent with the above principles, and specifically makes the following assumptions[7]:

- That all development types contribute according to scale (square metres) or outturn values (GDV), or both, on a consistent basis to avoid market distortions;
- That the amount varies, or has a lower threshold by type or size, or outturn value, to minimise the effect on viability of development;
- That for value based methods the difference between outturn values and development costs is highly variable (the small difference between two larger amounts that themselves are variable) but in general this residual amount increases, non-linearly, with outturn value;
- And that for value based methods, the residual amount should be sufficient to cover existing land use values plus compensation, market expectations, and a premium so that it is worthwhile to the land owner to sell for development;
- That the obligation to provide affordable housing plots at no cost for a minimum of 25% of the dwellings within all developments over the threshold size, as determined in Supplementary Guidance, is universally applied; and
- That other planning obligations will be adjusted scheme by scheme (within the range of acceptable planning outcomes) to ensure scheme viability whilst Infrastructure Growth Contribution remains pre-determined on outturn values.

The extent to which the total value of this contribution meets infrastructure costs is out with the scope of this Study. However, it would be feasible to suggest that:

- The total value expected of the charge should significantly outweigh the cost of implementation;
- The value of the charge should be maximized without impacting development viability; and
- Receipts from the charge should impact wider geographical areas (that is, not site-specific).

Adjustments to Costs and Benefits

There is potential for changes to policy to impact different peoples, groups and geographies. Distributional analysis could be undertaken based on varying market areas, and based on an analysis of impact on stakeholders (e.g. developers). The impact of geography and concomitant market variations should be taken into account in identifying the costs and value/benefits of the scheme.

This analysis is built into the scenario modelling to account for the impact of low-market areas and potential impacts on viability on the ability to pay a charge. As

[7] The two formula options are independent of the “national agency” or local authority options

noted, high level options already assume a charge that applies to most developments, though there are concerns about viability.

As noted in the previous sub-section, the analysis ‘builds in’ thresholds associated in terms of ‘flat rate’ and ‘non-linear’ rates to account for non-payment by low value developments. It also considers where charges may disproportionately affect some developments over others (e.g. where a charge is regressive, in the case of flat rates).

It is therefore essential that:

- There should be clear consideration of viability in the formulation of the mechanism;
- There should be oversight in the final development and application of the formula to ensure it is robust; and
- Impacts of inflation should be considered in charge setting (i.e. through a centralised formula).

Risk and Uncertainty

An appraisal of relevant options should consider the inherent risks involved in making decisions in public policy. It is commonplace for benefits to be overstated. There will therefore be adjustments in the assumptions and methodologies to account for bias.

It should be noted that there are certain areas of risk and bias (e.g. delay in receipt of benefits) which cannot be assessed with accuracy due to the highly contingent nature of development and infrastructure delivery.

However, the shortlisted options have been assessed against their potential to identify and mitigate risk and to “minimise the likelihood of their materialising with adverse effects”. The successful management of risk is therefore covered qualitatively.

It is recognised similarly that estimating future receipts of a charging mechanisms may be open to spurious accuracy. This may present overconfidence in the costs/benefits of the scheme, but this assessment of options should moreover consider how the value of the scheme may change due to changing macro-economic conditions, partnership arrangements, and more.

- Contingencies (such as delayed receipts, changing partnership arrangements, etc.) should be accounted for;
- The preferred mechanism should demonstrate impact in ‘low’ scenarios, i.e. where there is limited development and limited receipts; and
- The mechanism should demonstrate incentive for uptake by local authorities or a combination of local authorities.

Future Considerations

There are further steps required before the implementation of a charge which are beyond the scope of this Report. The progression of an infrastructure charging mechanism will require significant collaboration between stakeholders, clear goal setting in line with strategic needs, and prioritisation of infrastructure requirements. Progress against expected infrastructure delivery and the 'value' added by the charge will require additional criteria to ensure maximisation of benefits and timely realisation of infrastructure projects. It is recommended that actions following this Report should therefore include:

- Full development of a charge in consultation with key stakeholders;
- Assessing clear project management, performance and measurement;
- Develop criteria for 'benefits realisation' in line with anticipated receipts, anticipated allocation to infrastructure projects and indirect impacts (qualitative and quantitative); and
- Create evaluation framework: define more specific objectives based on regional/local needs, set target, and ensure collection and implementation of monitoring data.

5 Shortlisted Options

5.1 Introduction

This section summarises and focusses the key priorities emerging from the preceding chapters. In particular, it synthesises the outcomes of the stakeholder workshops, focus groups and the literature review, into propositions categorised according to key principles established at the outset of the research.

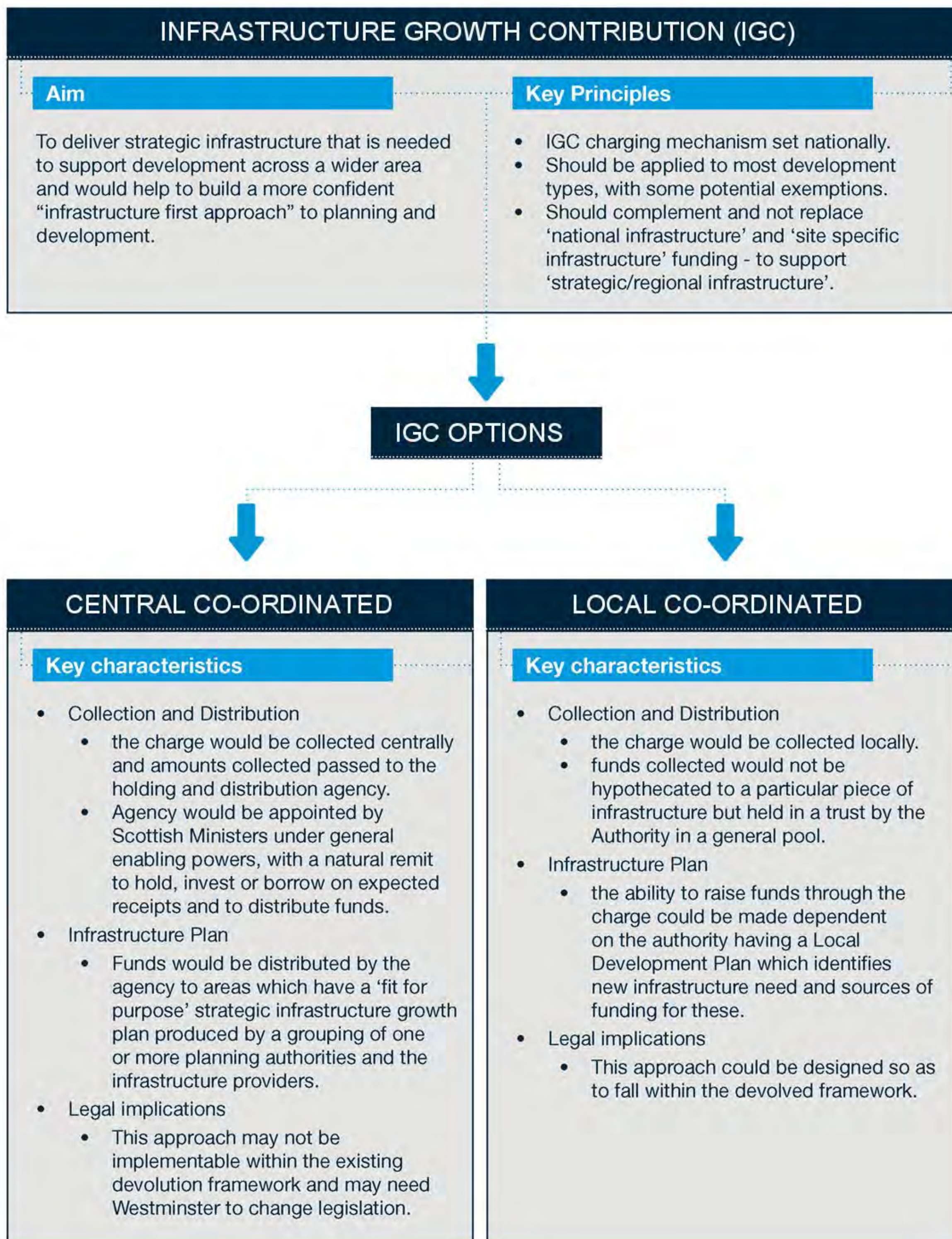
Following from Stage 1 and Stage 2 outputs, two shortlisted options have emerged which meet the practical requirements set out in the 'revised key priorities'. The options represent the considered position of the Project Team and key stakeholders emerging from the initial research. In particular, it recognises the importance of avoiding imposing onerous obligations upon local authorities and developers, presenting a simple process which minimises risks of lengthy negotiations and contention.

The **"Infrastructure Growth Contribution" (IGC)** can be distinguished between a 'Central' co-ordinated option and a 'Local' co-ordinated option. These are considered below:

- A Central Coordinated Option (i.e. developed centrally and governed by an arms-length agency); and
- A Local Coordinated Option that would likely rely on local planning authorities to collect and administer a levy. Potential provision for Local Authorities to contribute to infrastructure bodies (e.g. Transport Scotland – other public body, or Scottish Power – private body) for required strategic infrastructure, and to strengthen the duty to co-operate with nearby planning authorities so that "shared" needs can be met across neighbouring authorities and levied across these.

The two shortlisted options emerged from an initial 'scoping' exercise which elaborated on the key themes, considered in Section 5.2. These options are compared side-by-side in Figure 5.1.

Figure 5.1 Infrastructure Growth Contribution Variants



5.2 Initial Scoping of the Options

There are significant variations inherent within the preferred high level options. The high level options therefore need to be narrowed down based on considerations of geography, responsibilities, requirements for infrastructure plans, and collection & distribution. The scoping of the shortlisted options represents a 'sense-check' of those options based on consultations with key stakeholders and subsequent options development.

The scoping of high level options therefore informs the characteristics of the shortlisted options.

Geography[8]

Stage 1 and Stage 2 outcomes, and the outputs from the various Scottish Government infrastructure workshops undertaken in relation to the review of the planning system in Scotland, suggest that in addition to the identified geographies suggested above a mechanism set out requires consistency to be effective. While not considered explicitly in Stage 1 and Stage 2, a 'two-pronged system' is recommended for an infrastructure charging mechanism based principally on the requirement for resource efficiency, oversight and consistency.

The functional geography of the charge could be for the local authority, or for regional or city deal based bodies or partnerships, with a statutory responsibility (perhaps through a lead local authority on behalf of the others) to work with utilities, planning authorities, and other relevant infrastructure providers to undertake co-ordinated infrastructure planning for growth within their area. Outputs from Stage 1 and Stage 2 similarly identified the need for the functional geography to be 'greater than local', so long as infrastructure needs of local authorities are met. As such, the nature of strategic infrastructure items suggests that the required items would likely be cross-boundary. The majority of 'emerging options' in Table 4.1 and Table 4.2 therefore recognise functional market areas or regional partnership areas as suitable geographies. A minority of "emerging options" do recognise that the functional geography could be at the individual local authority level perhaps in co-operation with a neighbouring authority as long as benefits accrue to people in the individual authority.

The second aspect is defining the administrative geography through which charges are set and collected. Stage 1 and Stage 2 of the research did not consider the mechanics of the charge setting in detail. However, evidence from the CIL review and subsequent consultations suggest that there may be difficulties in ensuring consistency and resource efficiency of the charge setting process. The second key

---

[8] The responsibilities of the different parties / organisations are indicative. No commitment has been made at this stage.

aspect could therefore involve the Scottish Government in setting out the charging mechanism and rates to apply nationally and for this to be collected and distributed either by an individual authority or by a body such as Scottish Futures Trust (SFT). It is envisaged that such a body could have a role in developing a funding strategy for "regional" infrastructure planning of which the land value uplift charge capture would just be a part, but would help to give the body leverage over 'realistic' plan production.

In this "national body" scenario, planning authorities would retain their local role, have to participate in and co-operate with "regional" strategic infrastructure planning, operate "site related" S75 (perhaps under a more codified national guidance) but not be the levying bodies for the charge. Removing the role of the local authority from the role of a collecting and charge setting body would reduce conflict between site specific s75 contributions, which could thereby be retained for local infrastructure impacts.

At this stage it is difficult to scope out local authorities for collection or distribution, as this depends on the extent of legislative change. If significant legislative change was achieved, sub-regional geographies for administration, collection or distribution could be scoped out of the options assessment with respect to options allowing for significant legislative change. Local authorities would be closely involved in identifying required infrastructure. Local authorities could collect and distribute funds within current devolved powers.

Responsibility for Setting the Charging Mechanism

Stage 1 & 2 research identified local authorities as key actors in setting and implementing an infrastructure charge. It is necessary to ensure that local authorities are involved in determining where funds may be spent, but the process for setting the charge needs to reflect availability of resources and also be informed by a wider view of strategic infrastructure needs.

In order to avoid inefficiency, duplicative work, politicisation of decision making and to resolve varying expertise, it may be more straightforward for some processes to be centralised.[9] Indeed, consultations suggested that a preferred option ought to make use of existing processes (e.g. through those established by the Land and Buildings Transaction Tax (LBTT) or through Council Tax and Non-Domestic Rates) rather than establishing a new charging system.

To achieve this, and in line with the geographies identified above, responsibility for charge setting may best be assigned to an independent[10] organisation offering

---

[9] Consultations raised concerns that disproportionate costs to funds raised risked undermining the process. As such, it was proposed at the time that an adapted Land and Buildings Transaction Tax (LBTT) may be most straightforward insofar as the legislative and administrative functions were already in place.

[10] That is, independent of the local authorities / partnerships

expertise, resources and consistent methodologies. This then may be applied nationally. However, there has equally been concern that local authorities should not be excluded from this process—there is therefore scope to consider local authorities as charge-setting bodies.

It is not possible at this stage to scope out local determination of charges, though consultations to date seem to favour nationally prescribed charges.

Infrastructure Planning

Stage 1 and Stage 2 of this research indicated the importance of aligning a prospective infrastructure charge to evidenced-based spatial planning, whether at the local level or at the strategic level. However, there is equally a concern that local authorities may be overly burdened by identifying and costing required infrastructure, and indeed most strategic infrastructure items may require coordination between local authorities.

While the alignment of a charging mechanism to infrastructure planning at whatever scale would help align infrastructure investment to local and regional development objectives, consideration of this topic needs to be assessed in the context of emerging thinking from the Planning Review.

Should the scale of legislative change, allowing for new authorities with statutory powers, be extensive, individual local development plans could be ***scoped out*** *in one option as the most appropriate process/document for identifying and costing infrastructure delivery plans. However, the local development plan process could identify requirements which contribute to regional or strategic infrastructure planning.*

Collection & Distribution

Stage 1 and Stage 2 considered the potential collection and distribution of funds by an agency or existing government or arms-length body. This is due to concerns expressed throughout Stage 1 and Stage 2 regarding limitations on resources in administering the levy and potential conflict with other developer contributions and potential politicisation of decision making.

In addition to the potential limitations in resources amongst local authorities, there is evidence[11] that charges levied on development may become absorbed in general revenues, despite the obligation on the charging authority to provide the infrastructure. Agency arrangements with bodies (e.g. SFT) could be established in order to distribute required funds, though there must be arrangements to address any situation in which the agency becomes defunct, or a new agency emerges.

---

[11] Cheshire, Paul. “How to capture land value rises”. Planning Magazine, 10 Feb 2017

For the purposes of this Stage, local authorities and partnerships of local authorities are scoped out of this assessment as appropriate bodies for the collection and distribution of receipts.

5.3 IGC Characteristics

Based on the scoping exercise in 5.2 and following from the refined principles set out in the preceding section and initial considerations of the Central Assessment Criteria, key elements of the IGC have been developed. A description of the uniform charge proposed is detailed below.

Purpose

The purpose of the IGC mechanism is to raise funds for infrastructure that is not directly associated with a particular development so that the necessary services and amenities are available to enable additional land to be developed or that is needed to serve the additional growth within an area.

Application

The contribution would be progressively based on the open market capital value per square metre of net additional floorspace given consent by a planning authority for all buildings that are used by people (other than for the maintenance of the building or structure or for the operating and maintenance of equipment within the building or structure).

It would apply to all residential buildings of any tenure, retail buildings, offices, and buildings for light industrial, other employment, educational, transport and leisure uses. This could be scheduled to align to planning use classes. The status of the owner, controller, tenant or occupier of the building is not relevant to this option, for example it applies equally to private for profit, as to not-for profit, or public uses.

Infrastructure Plans

Under the IGC variants, items suitable for funding would be detailed in an infrastructure plan (either regional or tied to a local development plan). The types and location of infrastructure to be funded are not pre-determined in advance of or at the point of collection. Ministerial guidance to an agency, or local authority discretion, could set out priorities to be met within which the agency or local authority may distribute funds. Funds may be applied in any area, not necessarily in the area in which they are raised.

Contribution Rate and Date

The contribution rate would be set by a predetermined formula of the capital value of the floorspace created at the point that the floorspace is able to be used (less any equivalent IGC for existing floorspace – see below). The valuation would include any common facilities, amenities, or land uses (e.g. parking spaces) that are available to the users of, and associated with, that floorspace.

It is important that developers are able to estimate the potential charge well in advance so that this can be taken into account when the price to be paid for land is calculated. The final actual charge will be based on the outturn value of the development.

Existing Floor Space and Change of Use

The formula is applied to the estimated value (Scottish Assessors to determine on appeal) at the contribution date of any floorspace that existed at the date of planning consent and that equivalent charge is deducted from that due on the final floorspace.[12]

A change of use (requiring planning consent or changes to planning obligations) after the implementation date will incur a charge based on the new consented use value (on completion) less the charge that would have applied to any previous use.

A National or Uniform Charge

The formula for the rate will be applied consistently across the nation for all relevant development and will be such that it can be calculated in advance by any party based on an estimate of future value. The formula would be based on nominal values, i.e. it will not require frequent adjustment or indexing for inflation.[13] Therefore, an estimate/ prediction of charge liability can be made in advance, though it is only on the actual valuation date that the true charge will be known.

The formula would have a threshold effect so that low value dwellings or uses will have a zero charge, for example a small terraced house or building with a market sales value of at less than £1,250 per square metre (equivalent to an 80sm dwelling with an open market vacant possession value of £100,000).

There will be benefit in using self-assessment methods, which can substantially reduce disputes and appeals.

The charge due on the contribution date is due from of the Developer of the land at that date. There is no intention that a purchaser or occupier of the completed dwelling or building should pay the charge.

---

[12] This is a point of contention in the English CIL system leading to disproportionate challenges. The important point is that the valuation basis for pre-existing floor space should be established at the point of planning consent.

[13] More exactly the formula will be based on a share in the uplift in land value associated with a planning consent for change in use or additional floorspace. This uplift is a function of, but not linearly proportional to, the market value created.

The charge would be calculated on current values applicable at the contribution date, evidenced either by open market (true) transaction prices recorded by The Registers of Scotland, by a self-assessment that has not been rejected by Scottish Assessors within three months of presentation, or in the case of dispute by a valuation by Scottish Assessors. If the payment is outstanding more than three months from the contribution date, then a revaluation is made so that the payment date referred to in the payment certificate is within three months of the date to which the valuation applies.

Transitional arrangements

The charge would apply to planning consents from one year after the ministerial announcement of the introduction of the charge. This implementation date recognises the lag that sometimes exists between land acquisition and seeking planning permission. If consent is already given before the implementation date then no charge will apply.

The charge will be included in Decision Notices after the implementation date for applications revising existing permissions.

The Contribution Date

The contribution date would be the date, as determined in case of dispute by the assessor for Council Tax or Non-Domestic Rate purposes, that the floorspace is able to be used. The charge is based on the valuation at that date and is due at that date (see Annex F for late payments and revaluations). There would of course be a risk of stalling completion to delay payment, but this is a risk to any charge based on value, or on the definition of completion. Methods adopted for assessing values for Council Tax, and appeals on assessments, mitigate this problem with minimal abuse.

Exemptions

The IGC would apply to most developments which are used by people. There may be exemptions for buildings or structures that are not used by people (other than stated above), such as a power station, bridge, tunnel, road or railway track. This definition will require further refinement—for example, it should exclude people who maintain the building's function such as a wind farm, where people do not normally enter the structures for its purpose to be served. Many public infrastructure buildings will have low open market values for their consented use and thus be below the proposed value threshold. Some infrastructure provision, for example a city centre health centre, will pay the charge if it has a higher market value (in £psm) than the threshold

5.4 IGC Variants

As noted in Section 4, two IGC variants have been developed. Points of differentiation are considered in turn according to collection/distribution, the role of infrastructure plans, and legal implications

Central Co-ordinated Option

Collection and Distribution

The rate will be set by national government through Ministerial order under an enabling power of parliament. The charge would be collected centrally (potentially by Revenue Scotland) and amounts collected will be passed to the holding and distribution agency.

Scottish Ministers, could, under general enabling powers, appoint the agency with a national remit to hold, invest, or borrow on a proportion of expected receipts, and to distribute funds and may set partial or full terms under which funds are held and distributed by the agency**.** The agency could support, serve, and consider recommendations, of an industrywide advisory board.

The agency would publically submit an annual report to Scottish Ministers on funds received, held, and distributed with details of the infrastructure investment projects supported and the terms and amounts of funding provided. The annual report would also include a statement by the advisory board of its assessment of the application of funds to date and any recommendations for future funding or changes to the formula.

The funds would be held in trust (by the agency or the providers) for the wider community. The funds arise from the growth in value of land arising from pre-existing infrastructure provision (whether public or private) or arising from a planning consent. The funds would not be public spending but are held by a public body or its agency on behalf of the wider community.

The agency could grant aid, lend to, or hold equity investment in any public or private infrastructure provider so that specific infrastructure may be delivered that enables growth or responds to infrastructure needs arising from growth in any area provided that such funding is additional to funding that would be available from public spending programmes, from investment by private bodies, or from other planning obligations and conditions.

Infrastructure Plan

Funds would be distributed by the agency to areas which have a fit for purpose strategic infrastructure growth plan produced by a grouping of one or more planning authorities and the infrastructure providers (whether public or private bodies). The adoption of such area plans would be subject to any conditions and/or approval by the relevant government department for national planning policy.

Fitness for purpose would be certified by the agency using guidance agreed by the minister (from time to time) which may include a realistic assessment of future funding from all other sources for infrastructure. The agency would issue public guidance and provide support on how to achieve a fit for purpose area strategic infrastructure plan, and could support area authorities in making

proposals, bids, and lobbying to maximise effective infrastructure investment by government departments, other public or private bodies.

Legal Implications

This approach may not be implementable within the existing devolution framework, thus requiring an amendment to the "devolved taxes" definition in the Scotland Act 1998. The starting point for determining what is reserved/devolved is the reservation in paragraph A1 to Schedule 5 of the 1998 Act. Fiscal, economic and monetary policy (including taxes) is reserved, subject to only two exceptions:

(i) "devolved taxes" (including their collection and management); and

(ii) Local taxes to fund local authority expenditure (like council tax and non-domestic rates).

The approach may not be justified within the existing legislative framework provided under these exceptions.

With respect to ***local taxes***, a scheme could be established whereby charges levied could be centrally collected (by Revenue Scottish) and administered (by an agency). There would be a central pot of money and the agency would determine the type and location of infrastructure to be funded. Crucially, it is clear that the funds may be applied in any area, not necessarily the area in which they were raised. That would mitigate against the possibility of categorising this as a local tax.

In terms of "***devolved taxes"***, the only possible category the approach could fall under is section 80I – tax on transactions involving interests in land. This is the category that covers LBTT. However, it is considered to be too specific to include what is intended by the IGC. The only exempt taxes are those charged on the following transactions:

- The acquisition of an estate, interest, right or power in or over land in Scotland; or
- The acquisition of the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.

Indeed, it may be unreasonable to assume that the grant of planning consent for additional floorspace (or for change of use of existing floorspace) amounts to an "acquisition" for these purposes. As this exemption as drafted was intended to cover the sorts of transactions that would previously have been subject to stamp duty, it needs to be read in that context.

For these reasons, it is considered that this option would require an expansion of the current definition of "devolved taxes" under the 1998 Act. That could be achieved using the powers under section 80B, using an Order in Council. The new tax could be narrowly defined to reflect what is intended by the option.

An Order in Council is a form of secondary legislation that would need to be passed by the UK Government. There are associated risks and delays inherent in this process (considered more fully below in the Annex E).

Local Co-ordinated Option

Collection and Distribution

The Local Co-ordinated option is a variant on the Infrastructure Growth Contribution that should be feasible within devolved powers. It would rely on administration and collection by local authorities. It may enable local authorities to pay other infrastructure bodies (e.g. Transport Scotland) for required infrastructure, and could strengthen the duty to co-operate with nearby planning authorities so that “shared” needs can be met across neighbouring authorities and levied across these. It would eliminate national redistribution and determination by a national government agency.

Whilst the contribution formula would be set nationally, the amounts will be collected by the local authority and used for capital investment in infrastructure that is:

- Not part of a S75 or similar obligation;
- Additional to National government department spending on infrastructure; and
- Is relevant primarily to growth in that authority area (enabling specific sites to be developed) or of benefit to (a growth in) people and businesses in that area.

There would be no restrictions on how that infrastructure was procured by the local authority. The location of the infrastructure could be outside of the Local Authority area but, if so, the expectation would be that it is no further away than an adjacent authority area. It is not unusual for local authorities to invest outside their area or to fund others to provide the council’s services.

The scheme would be national. It would apply to all authorities, and could be linked for administration to Council Tax and Business Rates as a form of initial charge on creation of the asset when it is available for use. There may be other existing administrative procedures which could be adapted for IGC charging at the local level.

Funds collected would not be hypothecated to a particular piece of infrastructure but would be held in trust by the authority in a general pool. There will be a requirement for an annual report on amounts collected and on the application of the spending. There is no return of “unspent” amounts as these will be rolled over for future spending.

Compared to the central co-ordinated option, a disadvantage of this option is the potential mismatch between infrastructure needs for growth in each authority and the amounts raised within the local authority area. The national formula and the ability to pay will mean that some authorities with low market values will have a low collection amount, and vice versa. The local co-ordinated option would not facilitate redistribution from areas that have the ability to pay to areas with greatest need for infrastructure funding.

Infrastructure Plan

The ability to raise funds through the charge could be made dependent on the authority having a Local Development Plan which identified new infrastructure needs and the sources of funding for these. Equally, contributing to strategic scale planning could also be a requirement.

Legal Implications

The option could be designed so as to fall under the exception to the tax reservation in paragraph A1 to Schedule 5 of the 1998 Act applying to "local taxes to fund local authority expenditure". It could perhaps be linked to council tax and business rates, for example as a charge on the creation of new assets in a local authority's area. Given that the concept of tax is so broad, there is nothing to prevent a one-off charge applied to (for example) the creation of new assets coming under the exception, as long as its purpose is to raise funds for local authority expenditure.

In order to fall under this exception, the charge would need to have a clear local dimension and would need to be a matter for the discretion of individual local authorities. However, the levy would not necessarily fall foul of the tax reservation simply because there were national rules which fixed the method of collection and amounts charged. Presently there is no discretion given to local authorities as to the underlying basis for levying council tax and non-domestic rates (in the sense that it must be linked to property values) and local authorities have only limited discretion over the rates to apply to different property bandings (in that they fix the rate for Band D properties, with central legislation determining the rates applying to properties in other bands in direct proportion to the Band D charge). A flat, national rate over which local authorities had no control is unlikely to meet the criteria for the exemption, however. But if local authorities had control over whether or not to charge a levy in their area then a nationally set rate (or better still a nationally set mechanism for calculating local rates) would likely meet the criteria for exemption.

If the levy did fall within the devolved Scottish Parliament, legislation could be made at a Scottish level without the requirement of consent or action by the UK Government. This option therefore has the advantages of posing fewer risks and being less susceptible to delay than the IGC.

It is worth observing that the council tax freeze that was effectively in force between 2007 and 2017 was the result of an agreement between the Scottish Government and the local government body COSLA as part of the financial settlement negotiations. In return for not increasing council tax rates, local authorities were guaranteed an additional funding allocation. Given that the purpose of a levy will be to allow local authorities to maximise revenue generation for local infrastructure, there would be no purpose to a similar agreement in this context, for example as a means to set and maintain a national rate.

Money generated in this manner will need to be accounted for by local authorities in their revenue accounts and will be available for allocation either to particular projects or may be applied to a more general pot of funding for capital investment.

Local authorities may be able to make contributions to other infrastructure bodies (e.g. Transport Scotland, Scottish Water) towards required infrastructure for their areas. In doing so, they may rely on the power to advance well-being under section 20 of the Local Government in Scotland Act 2003.

They may also seek to cooperate with neighbouring planning authorities to meet shared needs, again relying on the same power to advance well-being. Local authorities do already pool resources for capital projects that are of benefit to local regions and not just local authority areas, for example district heating projects. However, there would need to be a clear benefit to the local authority’s own area or persons in it.

6 Mechanics and Delivery

6.1 Uniform Charge Formula

This section establishes the detailed options for uniform charges. It sets out the general differences between various charging options that would be applied under the delivery options discussed in Section 5. The charging options are summarised along with the Central versus Local Co-ordinated Options in Table 6-6 at the end of this section. This section starts with a discussion on the ability to pay.

Land Value Uplift

There is much discussion, and public interest, in the capture of land value that accrues to landowners (private benefit) from decisions made about permitted land use changes (collective benefit). Nearly all land value derives from investment in infrastructure and from its practical, permitted use. Most land value uplift results from public investment in infrastructure and the collective development rights. The balance between public and private infrastructure varies between countries with around 50% of infrastructure in England provided through private enterprise and with a lower private proportion in Scotland and in most of the rest of Europe.

Furthermore, the minimum amount that should be fairly paid to a landowner to release land for development is not the existing use value of “bare land”. It may now have a higher productivity. There may be buildings and other capital assets fixed to the land. Infrastructure may have improved access to markets. An amount should be included to reflect the market expectations of the land value and assets resulting from the development of land nearby. Compensation for loss of business or moving of the business should also be paid. And finally, there should be a premium or a sufficient return on the above to make the sale worthwhile. In consequence, the land value uplift from a permitted change of use is usually much smaller than the simple difference between “bare” pasture land value and a housing site value.

The interdependency of land value uplift with infrastructure to serve that land (however distant) justifies a contribution of some of that uplift to the costs of the additional infrastructure.

A charge on land value arising from consents that add value, provide a mechanism for adding to necessary infrastructure investment so that additional land can be brought to development. It can provide a small but material amount of funding to add to other sources of funding for infrastructure.

Approximate relative proportions of all contributions to the whole nation’s need for growth in, renewal of, and improvement of infrastructure are set out below in Table 6-1:

Table 6-1 Relative Proportions of Contributions

Proportion of infrastructure provision through	**%**
On site infrastructure e.g. site roads, and utility connections	3%
Planning obligations (whether on or off site) at full potential	6%
Infrastructure Charge (e.g. Infrastructure Growth Contribution)	2%
Government investment (including via councils and others)[14]	56%
Private enterprise investment	33%
Total	100%

It can be seen that an Infrastructure Contribution Charge can make a small, but important, contribution to all infrastructure needs. There is, however, an upper limit to the amount any one site can contribute without affecting development viability. To understand this a calculation of residual land value needs to be made and compared to existing use values of land.

6.2 Residual Land Value Calculations

There is a practical limit to the level of a charge. It should not be so high as to reduce the amount of land that will come to the market. The charging formula has been designed to reflect difference between residual land values (the difference between Gross Development Value and Gross Development Cost) and existing use values of the land. This difference is highly variable and sensitive to all elements in the development equation, but our analysis shows that the main contributor is the Gross Development Value (in per square metre terms), which in turn is driven by the value uplift generated by the consented use. The result is a non-linear formula.

In terms of existing developer contributions these have been assessed at a potential level assuming all authorities were robustly and consistently applying relevant obligations. The current actual value of obligations is lower, as not all authorities have made or apply the relevant policies through Development Plans and associated Supplementary Guidance.

---

[14] Of which cash payments in lieu of obligations fund about 0.5% of the Total.

Buffer

The charge is based on the difference between RLV and EUV (plus premium etc.) with the actual calculation based on GDV per square metre and the floor area of the development and allows for a “buffer” to deal with the wide variation in this difference from site to site. Annex D describes the relationship with EUV in more detail. The analysis used for this assessment takes average values and costs at various value bands. In practice, there will be a range of residual values in each value band and some may be significantly lower than the band average. In order to minimise the risk that the charge may cause some developments to become unviable, the buffer is introduced to ensure that the charge “captures” no more than 25% of the residual balance.

Table 6-2 shows a sample of these calculations expressed as an amount per square metre of floor area, and shows the proposed IGC amounts in £000’s per square metre:

Table 6-2 Sample Estimates for Market Housing

Sample estimates for market housing							
Location value		**Very low**	**Low**	**Median**	**Mean**	**High**	**Very high**
Floor area (GIFA)	sm	78	84	88	90	95	120
New build dwelling price	£k	90	145	180	200	300	500
Gross Development Value	£k psm	1.154	1.726	2.045	2.222	3.158	4.167
Less							
All in development cost	£k psm	1.164	1.475	1.685	1.810	2.509	3.366
Land preparation and on costs	£k psm	0.007	0.021	0.030	0.034	0.054	0.061
Potential obligations and conditions	£k psm		0.107	0.136	0.156	0.211	0.233
Infrastructure Growth Contribution	**£k psm**		**0.031**	**0.048**	**0.056**	**0.096**	**0.126**
Residual Land Value	£k psm	-0.017	0.092	0.145	0.167	0.289	0.379
Market dwellings per hectare gross	dpha	18	18	25	26	29	31
Adjusted land price	£k pha	- 23	136	314	395	792	1,394
IGC per dwelling	£k	0	2.583	4.267	5.020	9.147	15.169

Source: TradeRisks Calculations

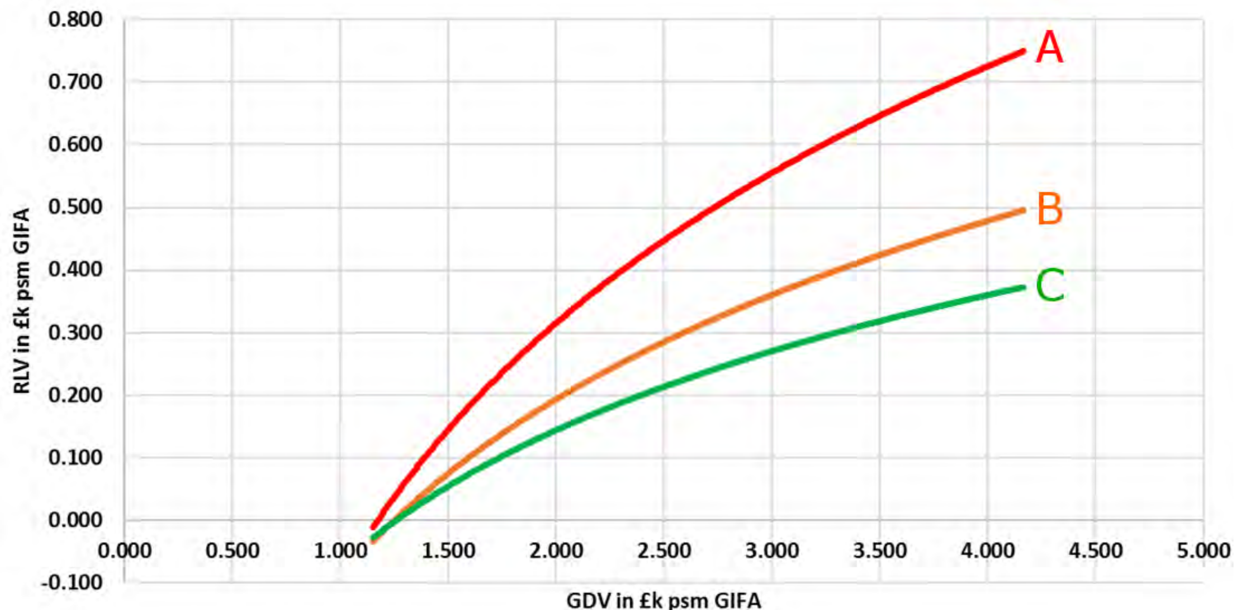
The charge amounts are a proportion of GDV with the rate of growth of the proportion gradually tailing off (i.e. non-linear). This is consistent with the fact that build costs increase with, but are not linear with respect to, sales values. High value dwellings by £ per square metre (often in dense and/or tall inner-city structures) have higher build costs by £ per square metre than the equivalent proportion of cost to value in lower value developments.

At very low values the average scheme becomes unviable; it cannot support a charge or planning obligations and the negative RLV shows that there is no balance available to buy land. There may, of course, be some schemes, with below average costs, at these GDV values that prove viable, though the incidence will be statistically small.

6.3 A non-linear formula based on value of output

Figure 6.1 below illustrates the non-linear pattern described above:

Figure 6.1 Residual Land Value of Market Housing to GDV



The red **Line A** shows the residual balance (vertical scale) before planning obligations and IGC for different outturn values (horizontal axis).

The orange **Line B** shows the residual land value after potential planning obligations, and the green **Line C** after the proposed non-linear charge.

The charge is the difference between Line B and Line C and in best fit terms is a log natural relationship to GDV, specifically:

> *IGC = (0.1 x* Log_e*(GDV)) – 0.023*
>
> *or*
>
> *IGC in £'000s per square metre of Gross Internal Floor Area = one tenth of the Log to base e of GDV expressed in £'000s per square metre, all less £23 per square metre*[15]*.*

---

[15] There is an alternative formula which produces similar results but where IGC is a function of the square root of GDV.

This non-linear formula produces the estimate maximum, safe, potential for the charge.

An alternative option is to introduce a **flat rate** charge.

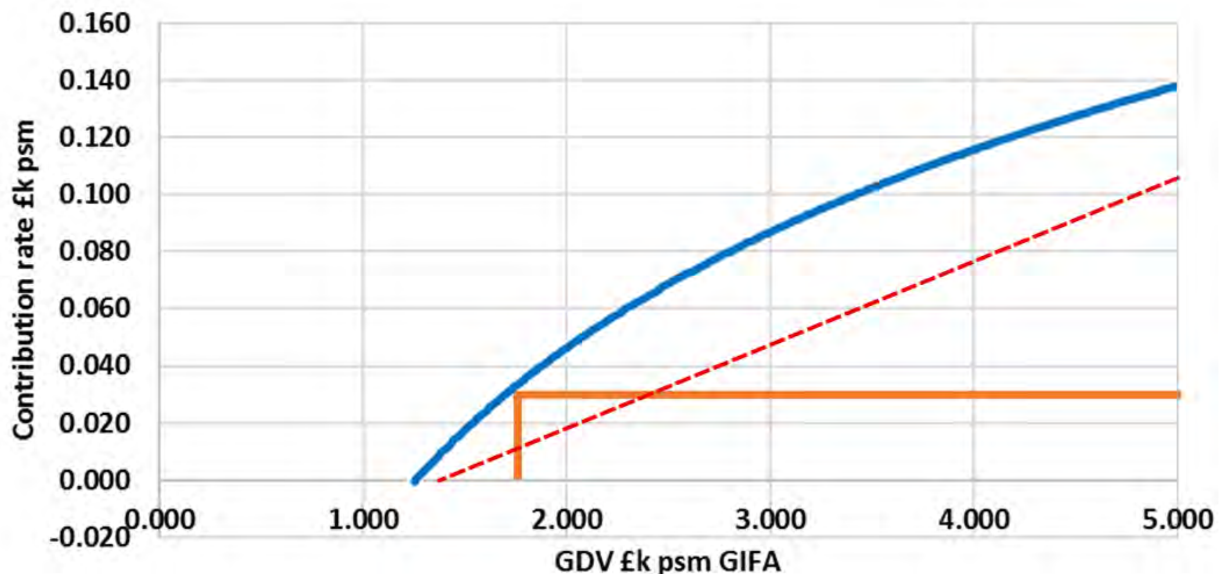
6.4 A flat rate charge per quantum of output

This will be easier to understand but would not be as fair. Moderate value schemes will pay proportionately more than higher value schemes. A flat rate would require a “cliff-edge” threshold of GDV below which charges would not apply. The rate and the threshold would require regular review to keep pace with inflation (see Table 6-2 below). Finally, a flat rate would deliver significantly less funding overall.

The threshold would need to be set where the flat rate is least likely to cause schemes to become unviable. The higher the rate, and hence the higher the threshold, the fewer dwellings would be chargeable. This “Laffer curve” effect indicates that the flat rate level today that delivers the maximum funding, if applied consistently across Scotland, is approximately £30 psm.

The non-linear (blue line) and flat rate (orange line) are shown in Figure 6-2 below:

Figure 6.2 Contribution Rate and GDV



It can also be deduced that a standard % of GDV rate for the charge, (the rising red dashed straight line on Figure 6-2) would also require a threshold at the lower GDV end as well as a slope that did not make the highest value developments unviable, i.e. does not cross the blue line for GDV values as shown in Figure 6-2.

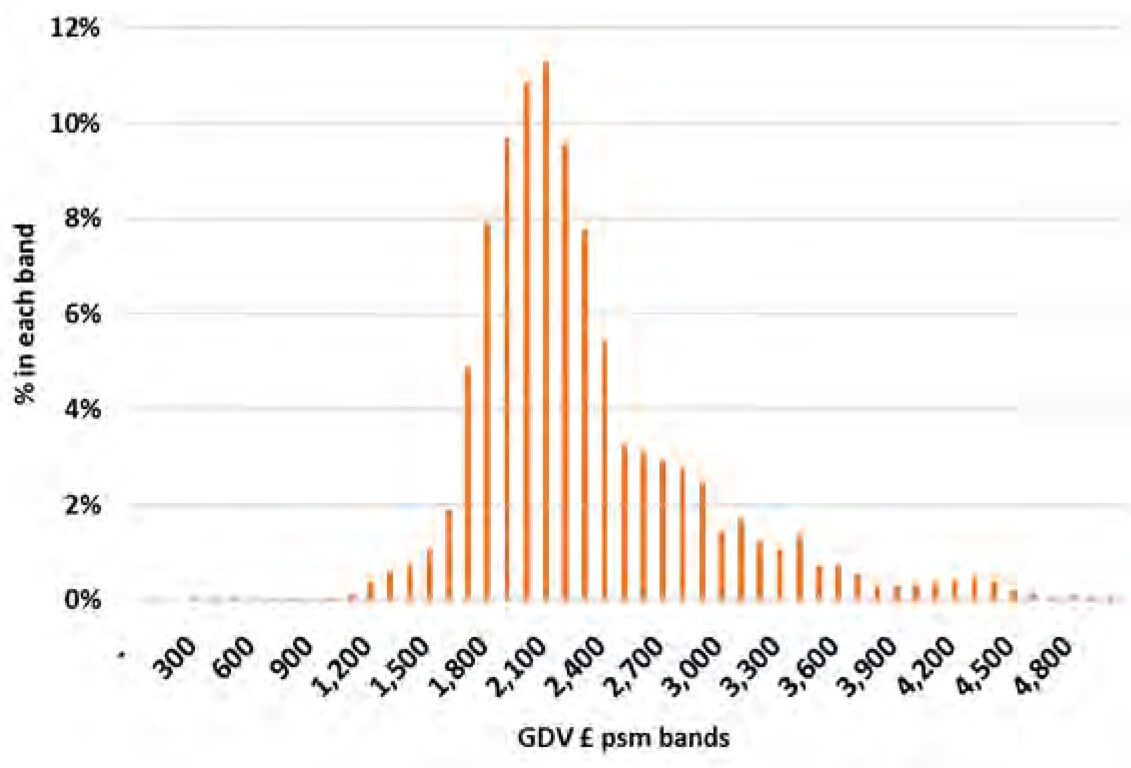
Though as simple to explain as the flat rate, a % rate delivers even less funding in aggregate. The % rate would be lower than £30 psm for the majority of dwellings, i.e. those with values below a GDV of £2,500, and higher above that but for an insufficient volume of schemes to make up the difference.

6.5 Distribution of market housing outturn values in Scotland

With data provided by Scottish Government and the Energy Saving Trust an analysis at individual dwelling level was possible by matching addresses and price paid with internal floor space assessed for the Energy Performance Certificate. From this a distribution of market sales values in price per square metre can be shown.

The shape of the distribution of GDV (in £000 psm GIFA) across Scotland's new build market housing supply is material to the calculation of the charge and the estimate of the total that could be collected. An estimate of distribution is shown in the Figure 6-3 below.

Figure 6.3 GDV Distribution



From this it can be seen that a minority of market dwellings will not be charged which ever method is chosen. These are those with outturn values below, say, £1,250 psm, or a small detached house at £105,000 for the non-linear charge, or about £1,750 psm for the flat rate charge.

6.6 National or Local Rate

We have considered whether flat rates at different levels and thresholds could be set for each district or even sub-areas within districts. At first sight this might allow adjustment for different values across Scotland. But there are two significant disadvantages.

The first is that in any level of geography in Scotland there will be schemes which cannot support a charge, and with thresholds and rates set low enough for schemes just above that viability level there will be higher value schemes that could contribute more.

The second is that either side of each "boundary" between districts there will be different rates, even for opposite sides of a street. In general rates differentiated by area will cause market distortions and should be avoided.

6.7 Other Impacts

Impact of a Charge on Land Prices

In many sectors, a charge on the producer will lead to a reduced profit to the producer and a higher price for the consumer. The charge imposed is shared between the producer and customer.

But in terms of land and housing, consumers pay as much as they can afford. The tax on the producer does not change what the buyer can afford; but it does change what the producer can pay for their inputs. There is little scope for reducing amounts paid for materials and labour and so the amount that can be paid for land has to reduce, as long as everyone else is similarly affected in their ability to pay for land at the same time.

The charge would reduce residual land values, though it would not change development revenues or any other cost of development. It may even improve developer profitability as the reduced capital cost of land in the early months of the overall cash-flow will reduce financing costs and improve rates of return.

If the charge were set too high, it could also reduce the voluntary supply of land. Measures such as Compulsory Purchase Orders and even Requisition would have to be used to maintain let alone increase output. The non-linear formula has been set to ensure that in 90% to 95% of schemes the charge comes primarily from the uplift amount arising from change of use consent. It has less of an effect on Existing Use Value (plus compensation and premium) above mean GDV. This gap becomes much smaller at the lower outturn value and hence the IGC, with the non-linear formula, tails away to zero.

Affordable Housing

The analysis above takes account of the growing number of authorities specifying that for schemes above a local threshold (ranging from 4 to 12 dwellings in published supplementary guidance) 25% of dwellings should be affordable housing with plots provided at no land cost by way of planning obligation. Our estimate is that this could potentially apply to 50% of all market housing development sites, the rest being below the scheme size threshold.

It is proposed that affordable housing, with open market values above the IGC threshold, should contribute to the charge. About 40% would fall below the non-linear charge threshold and about 70% below the £30psm flat rate threshold.

It seems, at first sight, counterintuitive to add a development cost to Affordable Housing as that might just add to the public subsidy (grant) required for a given rental discount to market. There are two reasons for relaxing on this point.

The first is that the developer's contribution (in the form of the charge) for all housing will be passed on as a reduction in the land price paid for the whole site and not be a cost that is included in the price paid by the affordable housing provider to the developer. The same will apply to a provider developing their own affordable housing. Their land cost will reduce by the amount of the charge.

Secondly, in a competitive land market, one kind of provider should not have an advantage over another. An Affordable Housing provider acquiring land without a charge or planning obligations[16] could pay more for the land than a market developer. In many cases the two markets only overlap at the higher value range of housing association development, and then only where the provider is acquiring land on the open market; furthermore, there are controls within procedures associated with grant eligibility to ensure that providers do not pay more than the market would pay. But even if the instances are small the principle of avoiding market distortion should be applied. An IGC exemption for affordable housing could be a breach of State Aid rules.

Section 75 and other Obligations and Conditions

There is potential for a charge to reduce the amount of planning obligation that a scheme close to the edge of financial viability could bear. It is more likely, however, that a charge will reduce the land price paid and not the amount available to the developer to meet S75 obligations. Estimates of IGC and S75 can be made at land acquisition stage to inform the offer price for land. The actual amount of IGC will depend on values at completion which also have to be estimated in advance by developers, and could increase or decrease.

To avoid IGC impacting on the ability to support S75 obligations, it has been assumed that S75 agreements become more widely used than they are currently, and are more consistently applied. In approximate terms current S75 obligations have a value in the order of £130m pa; it is assumed that this will increase to £205m pa.

It may be possible to set a limit to the types of infrastructure that can be funded by S75, in addition to the requirement for direct relevance to the development. Most

---

[16] The arguments as to whether or not Affordable Housing should contribute to other types of S75 planning obligations such as school places and highways improvements is beyond the scope of this report.

frequent occurrences are of: education, highways and transport, affordable housing, public realm and open space. If for example these were limited to primary school, pre-school and the aged band related SEN; to plot value only for affordable housing; and so on, the "variable" amount of planning obligations could be capped. In these circumstances, the IGC charge rate could be increased beyond the levels modelled as part of this assessment.

Other Strategic Infrastructure Funds

The Aberdeen City and Shire Strategic Transport Fund Supplementary Guidance has been quashed by the Court of Session, as it was found to be beyond the planning obligations policy test; in particular, that the charge for the infrastructure didn't sufficiently relate to the proposed development. The decision has been appealed and a hearing was held by the Supreme Court on 13th June 2017.

There is a concern in the development industry, and land ownership sectors, that funds like this, for other types of strategic infrastructure and across all planning authorities, could be established, each with their own terms and conditions (and even lifespan).

These funds would of course, be for the same purpose as a charge, and so if IGC were adopted it would become the source of funding for contributing to these strategic purposes. In effect, the Aberdeen City and Shire STF would have a clear legal basis as a sub-set of the overall charging regime.

Non-residential Development

It is proposed that buildings which people use should be eligible developments for the charge, subject to the same formula rates based on GDV.

A significant majority of non-residential buildings will have (open market) values below the £1,250 psm threshold. For example, it is estimated that 90% of new manufacturing premises, by floor space, would fall below. Very few buildings that might be classed as infrastructure will have high enough open market values to pay a charge. Notably, some non-residential uses do have high values, for example a city centre office in Edinburgh might exceed a GDV of £6,000 psm, but these will represent a low proportion of the distribution of all office values across Scotland.

Non-residential development will provide a smaller, but material, aggregate level of IGC funding compared market housing.

6.8 Funding Potential

The estimate is that, nationally using the **non-linear formula**, residential land price reductions could safely fund **£65m** per annum (£33m with the £30 psm flat rate) and that non-residential land price reductions could fund **£10m** (£6m respectively). A total of **£75m** (£39m) per annum at today's prices.

The estimate using a national optimum **flat rate** of £30 psm is that residential land value reductions could fund **£33m** per annum and that non-residential land price reductions could fund **£6m**. A total of **£39m** per annum at today's prices.

See Annex C for a table showing the summary by sector and GDV value distribution of this analysis.

Inflation

The non-linear formula, being based on GDV, would keep pace with inflation for between 10-12 years without requiring any uprating reviews.

A flat rate charge would require frequent (perhaps annual) reviews of the rate and the threshold to keep up with the leveraged inflation of land values and uplift.[17]

Start-up Profile

Funds would not start to accrue until four years after the announcement of the intended introduction. This lead in time—i.e., before the charge applies to all development above the threshold values—is based on the time needed for existing consents, which will not be charged, to work through to completion, and for new consents, which will be charged, to reach completion. They will flow from completions from planning consents given after the implementation date.

On the one hand, this meets the industry's request that any infrastructure charge be levied when the sales proceeds are available rather than at an early (cash-flow sensitive) stage of development. On the other hand, the goal of front funding infrastructure cannot be met by a "back loaded" payment.

Over time, the flow of funds in would match the annual outflow required to contribute to the infrastructure that makes additional land developable.

One option is that Scottish Government could consider pump-priming the system. In exchange, for example, for costed, infrastructure plans being made by planning authorities (whether or not combined with others) Scottish Government could allocate an annual sum (e.g. £30m nationally), and rising, until there is a steady state flow of income. This could have a smoothing effect on the introduction of the proposal, and could be refunded slowly over later years

---

[17] Many planning obligations use an index to BCIS to maintain real value. This is appropriate in that the school build costs, and so on, are most closely (but not exactly) linked to this. But in the context of keeping up with the leveraged inflation of land values and uplift, a BCIS index will rapidly fall behind. The implication is that it is the scope of planning obligations, rather than the cost of each individual element, that will widen over time.

Reducing Market Uncertainty

Any changes to the financial and economic framework of development can have an unsettling effect. Sometimes a “shock” can damage output. This is especially true for the land market in the current context of political and legislative uncertainty. The danger is that owners will hold on to land until they are clear about the possible effects of a charge and a general settling of activity has taken place.

The long lead time provided by consultation stages by an announcement perhaps one year ahead of implementation date, and the pump-priming option, may help to reduce uncertainty and minimise the “shock”. There is a risk that there may be a surge of planning applications attempting to get consent before the IGC implementation date.

Economic Effects

The charge will not affect sales values or developer’s returns but it will impose downward pressure on land prices as it will reduce the amount that developers can pay for land. It is important that all developments are treated in the same way, whether by the private or public sector and across all uses. Any exceptions will distort fair competition in the land market.

At the macro-economic level, there would be no adverse effect on Gross Domestic Product (GDP). This is due to resources being redistributed: a part of land value and uplift is exchanged for infrastructure.

The reduced spending power of landowners may affect consumption and investment by those landowners but it is likely that a material proportion of that spending would not be within Scotland, whilst all infrastructure spend would be within Scotland. There would be a small reduction of tax receipts from landowners through capital gains, inheritance tax and consequent indirect taxes of consumption. This reduction will be small as taxation of receipts from land sales is greatly reduced by capital gains roll-over relief, through the operation of Trusts, and overseas ownership structures.

A £75m per annum reduction in land prices paid by developers (i.e., through the ‘non-linear’ approach) represents about 10% of the Scottish land market for development, and to put this into scale is about 2% all development activity in the Scotland, or less than 0.05% of Scottish GDP.

6.9 Options for a Charging Mechanism

The charging mechanism for IGC can be narrowed down to two proposed options—a non-linear rate and a flat rate. Table 6-6 outlines the combination of the two charging mechanisms with the Central and Local Co-ordinated options.

While more complex, the non-linear rate formula is more sensitive to residual land values and would provide against regular adjustment for inflation. It would also reduce the burden on lower value developments. It could also raise £75m pa and be progressive relative to value.

A flat rate, while providing a simpler option set at a local or national level, is regressive and would potentially negatively impact lower value developments. It would also require regular indexing and inflation review. It would raise less than the non-linear formula, estimated at £39m pa, and would be retrogressive relative to value.

Table 6-3 Mechanisms Assessed by Delivery Option and Charging Options

	CENTRAL CO-ORDINATED OPTION	**LOCAL CO-ORDINATED OPTION**
DELIVERY OPTIONS	• Collected and distributed via national agencies • Would require Westminster legislation, Scottish Parliament legislation and regulations	• Collected and distributed by local authorities • Would require Scottish Parliament legislation and regulations (Planning Bill)
CHARGING OPTIONS		
Non-linear formula **Set nationally** **Based on floor area and GDV**	• Maximises contribution (c.£75m pa) • Progressive (i.e. rate increases as the GDV increases) • Automatically does not charge low value developments • Complex formula • Does not require annual inflation review or indexing • Potentially redistributive across the country • Maximises grouped authority, and cross regional, infrastructure growth co-ordination	• Maximises contribution (c.£75m pa) though subject to number of authorities adopting IGC • Progressive (i.e. rate increases as the GDV increases) • Automatically does not charge low value developments • Complex formula • Does not require annual inflation review or indexing
Flat rate formula **Set nationally** **Based on floor area**	• Reduced contribution (c. £39m pa) • Regressive (i.e., rate stays fixed as the GDV increases) • Requires a threshold to avoid charging low value developments • Simple formula • Requires annual inflation review or indexing, of rate and threshold • Redistributive • Enables grouped authority, and cross regional, infrastructure growth co-ordination	• Reduced contribution (c. £39m pa) and subject to the number of authorities adopting IGC • Regressive (i.e., rate stays fixed as the GDV increases) • Requires a threshold to avoid charging low value developments • Simple formula • Requires annual inflation review or indexing, of rate and threshold • Spending has to be of benefit to the collecting authority • Resourcing of infrastructure growth limited to between neighbouring authorities only

7 Final Assessment

7.1 Introduction

Section 4 established revised key principles which emerged from initial stages of research and have remained a priority for the development of the infrastructure charging mechanism. The application of these principles has been discussed in some detail in the scoping subsection in Section 5.

Consequent stakeholder meetings and evaluation of options led to the development of the IGC model, which has the central and local co-ordination options. This has led directly from an analysis of the emerging options from Stage 1 and Stage 2 and as a result of establishing the practicalities of development and implementation. It is recognised that there may be areas in which certain principles play less of a role owing to the proposals.

The options must be sufficiently assessed against the criteria set out in Section 4.

In addition to meeting the key principles set out in Section 4, it must also meet the Central Assessment Criteria also set out in Section 4, drawn from HM Treasury's Green Book on Option Appraisals. As noted, these criteria are helpful in ensuring the options considered are robust and are the 'best fit' based on available evidence.

Meeting Key Priorities

The proposals have been developed in line with these criteria, so the application of these principles through the mechanism are discursively treated in Table 7.1 to elucidate how these principles are fulfilled in the proposed mechanism. It should be noted that the options were formulated according to the key principles established in Stage 1 and Stage 2 of the research, but the options developed cannot be assessed against many desired outcomes associated with these principles given limited information on their application.

Table 7-1 Assessment of Delivery Options against Revised Principles

Theme	Principles & Criteria			IGC	
				Central Co-Ordinated Option	Local Co-Ordinated Option
Fairness	Address cumulative impacts of development	The funds should be applied to infrastructure which addresses issues emerging from multiple developments in an area.	Not essential	The charge would support infrastructure that is not directly associated with land, but rather serves as a 'catalytic' contribution.	As with the Central Option, though there may be more limited opportunities to work with neighbouring authorities.
	Assess market variations on a wider geographical scale	The levy should be able to ensure viability across variable market areas.	Essential	Specifically addressed in 'charge' options. Potentially met through robust area-wide infrastructure plans.	Specifically addressed in 'charge' options. Potentially met through robust LDPs.
	Ensure examination and scrutiny	The levy and charging mechanisms should be subject to examination and approval by ministers	Desirable	Charge would be established through ministerial order under an enabling power of parliament.	The charge would be within devolved powers and set nationally.
		The infrastructure to which the funding is applied should be scrutinised through the plan-making process and approved by ministers.	Essential	'Area infrastructure plans' prepared by combined local authorities or other groupings would set out a 'fit for purpose' schedule of required infrastructure interventions.	A costed infrastructure plan, possibly accompanying a local development plan.
	Monitor implementation and collection	The collection of the charge should be monitored through an annual audit	Desirable	The agency will submit a report to the minister on funds received, held and distributed	There will be a requirement for an annual report on amounts collected and on the application of the spending.
		The implementation of infrastructure programmes should be monitored through an annual audit	Desirable	This may be achieved through the monitoring of the infrastructure plan	May be achieved through LDP monitoring reports

Theme	Principles & Criteria			IGC	
				Central Co-Ordinated Option	Local Co-Ordinated Option
	Apportioned according to need, responding to supply and demand	Funds collected should be distributed according to need based on an objectively assessed plan	Not essential	Central Co-Ordinated Option will be collected by Revenue Scotland and amounts collected will be passed to the holding and distribution agency. This agency would support delivery of specific infrastructure that enables growth in any area.	Local Co-Ordinated Option would be collected by local authorities and spent at their discretion and is relevant primarily to growth in the local authority area or of benefit to growth in people and businesses.
Transparency	Clear legislation to avoid conflict with S75	Ministers could pass legislation to ensure proper functioning of levy and clarifying distinction to S75	Not essential	This could be provided in legislation or in policy. The IGC would maintain the importance of S75s in addressing local infrastructure requirements.	
	Demonstrable link between development and required charge	Ministers should set out guidance on the adoption of the mechanism.	Essential	There will be clear guidance set out by the collecting agency, and the agency will support, serve and consider recommendations of an industry-wide advisory board to ensure that all stakeholders are represented in the process.	Unclear at this stage, though could form part of the Local Development Plan process. See Legal Implications section for specific requirements relating to the application of the mechanism.
	Clear guidance to prevent overlap between charging mechanisms	There should be a clear link between the charge required and the development in terms of the type of development, the floorspace, and/or the development value	Essential	The IGC would differentiate between development type and size, being based principally on the capital value of floorspace. This is captured through a progressive rate in some options. A regressive rate is characteristic of the 'flat rate' options.	
	Full stakeholder involvement in charge-setting process	Stakeholders from various industries, community groups, etc. should contribute to the charge setting process to ensure minimum impact on viability.	Essential	The agency will support, serve and consider recommendations of an industrywide advisory board with representatives from various stakeholder groups.	The Local Development Plan process would provide key input into identified schemes.
	Clear procedures for redress	There should be oversight in the collection, distribution of funds.	Desirable	The agency will support, serve, and consider recommendations of an industrywide advisory board. Funds received and	Unclear—plan would require approval by ministers and funds spent could form part of the LDPs annual monitoring

Theme	Principles & Criteria			IGC	
				Central Co-Ordinated Option	**Local Co-Ordinated Option**
				spent will be reported annually.	report.
Certainty	Based on clear evidence (need, supply, demand, anticipated growth)	Infrastructure should be costed and approved through the plan-making process. Possibly in the form of an infrastructure plan.	Desirable	The Central Co-Ordinated Option proposes that funds are distributed by an agency to areas with a fit for purpose strategic infrastructure growth plan produced by a strategic authority or combined authorities.	Fund may be dependent on a local authority identifying a required piece of infrastructure required for growth over and above other public funding.
	Clarity about what infrastructure is required and where a charge will be spent	Infrastructure should not be site-specific but about delivering development in line with infrastructure plans.	Not Essential	It is not a requirement that the types and location of infrastructure to be funded are pre-determined but should meet priorities set on behalf of ministers for the distributing agency. In the case of the Local Co-Ordinated Option, they will be held in trust by a general pool to meet local development plan.	
	Charges should be used to encourage sustainable economic growth		Essential		
	Administrative boundaries should not be arbitrary	The boundaries within which a fund applies should be based on existing, local authority, partnership or regional boundaries.	Desirable	IGC proposes function areas according to existing City Deal areas or similar combined authority geographies.	The Local Co-Ordinated Option would be based on Local Authority Boundaries.
	Clear process of collection	Collection should be straightforward and set out in policy or legislation.	Essential	The collection of Central Co-Ordinated Option receipts would likely occur under the auspices of a body such as Revenue Scotland.	Funds will be collected by the local authority and possibly linked to Council Tax or Business Rates. It would be 'national' in that it would apply to all local authorities that adopt IGC so would likely have guidance from the Scottish Government.
		The means by which receipts are collected by the relevant body should be set out in guidance and should not burden local authorities.	Essential		
	Exemptions should be driven by encouraging viability	There should be flexibility in issuing exemptions (e.g. in 'opting out' or setting a 'nil' rate in specific areas or for specific uses to encourage development).	Not Essential	Neither IGC option considers exemptions, though the charge options consider a threshold for viability.	
	No redistribution out with a	There should be a geographical link between	Desirable	Redistribution would be	The potential for redistribution

Theme	Principles & Criteria			IGC	
				Central Co-Ordinated Option	Local Co-Ordinated Option
	market area or region	a scheme and the infrastructure funded.		possible under most charge options given cooperation between multiple local authorities under the auspices of City Deal bodies or similar.	would also be minimal given the application of the fund over a smaller geographical area.
Efficiency	Robust details of infrastructure delivery	Require costed and fully developed infrastructure proposals within strategic infrastructure plans.	Essential	Funds should be used in accordance with a costed, strategic or local infrastructure plan, identifying all sources of finance for all infrastructure.	
	Broader funding package established at outset	Infrastructure plans should be costed, with other options for funding decided in	Desirable		
	Should not consume local authority resources	Local authorities should not be required to expend disproportionate levels of resources on the administration and collection of a fund.	Essential	Expenditure of local authority resources has not been explicitly considered in this assessment. The Central Co-Ordinated Option allows for efficiencies between local authorities, which is less likely under the Local Co-Ordinated Option.	
	Avoid lengthy negotiations in payments	What is required of developers or those submitting applications should be clearly stated in guidance. Payments required should be known in advance.	Essential	Sums are not negotiable, the process of which of which will be set out in guidance.	

Based on the assessment of the preferred option--the IGC—against the refined principles drawn from Stage 1 & Stage 2 research and subsequent consultations, the IGC appears to adequately fulfill all essential criteria.

Central Assessment Criteria

The Central Assessment Criteria have been developed in line with Green Book guidance to ensure that the consideration of the IGC variants are robustly considered in view of their potential costs/benefits, meeting key objectives, accounting for market adjustments or variations and assessing potential risk or market uncertainty. Note that Green Book guidance has been used to provide a basis for appraisal rather than producing a full costed analysis.

The Central Assessment Criteria aims to test the robustness of the options development. Importantly, it does not test the application of the mechanism (e.g. assessing anticipated results of one option versus another) itself but assesses the means by which it has been developed and its potential to take into account various factors impacting viability, cost effectiveness, etc. Table 7.2 assesses the development of the IGC with respect to the Central Assessment Criteria.

Table 7-2 Central Assessment Criteria

Assessment Area	Description	Key Considerations
Objectives	As discussed in Section 4.	The IGC variants meet the majority of the Objectives set out in Section 4.4. There is potential conflict however with respect to the Local Co-Ordinated Option IGC compared to the Central Co-Ordinated Option.
Cost and Value	Appraisals should consider the relevant opportunity cost associated with action and inaction with respect to policy and legislative change. Assessment of benefits should consider whether an option's benefits are worth its costs, and to allow alternative options to be systematically compared in terms of their net benefits or net costs. Estimating the 'value' of the charge should be based on measurable and quantifiable impacts and drawn from market data or other relevant and authoritative sources.	Both IGC variants reveals that there is potential for joint-working across local authority/geographical areas, encouraging efficiencies. This is limited amongst most options (e.g. flat rate formula set locally, and percentage formula set nationally for the Central Co-Ordinated Option and for all Local Co-Ordinated Option options). The analysis has shown that formulas that maximize value for local authorities is a complex, non-linear formula. It is recognised in each option that there are schemes across market geographies that cannot support a uniform charge. Options have been developed that take 'low market areas' into consideration. The analysis shows clear potential for centralisation of processes, though the net benefit of this for each delivery option has not been considered. The review of options has demonstrated variable receipts across options. The ability for anticipated receipts to meet infrastructure needs will be geographically specific.
Accounting for adjustments and market variations	There is potential for changes to policy to impact different peoples, groups and geographies. Distributional analysis could be undertaken based on varying market areas, and based on an analysis of impact on stakeholders (e.g. housebuilders). The impact of geography and concomitant market variations should be taken into account in identifying the costs and value/benefits of the scheme. Assessed benefits and costs should be assessed in view of anticipated inflationary changes.	There is potential for the formula to be inflation-proof, though certain formula options do not allow this. Market variations can be captured in this, and the mechanism would allow for redistribution across market areas. Variants of the IGC have also been considered (e.g. the Locally Co-Ordinated Option) which do not allow for significant redistribution across market areas.

Assessment Area	Description	Key Considerations
Assesses potential risk and uncertainty	An appraisal of relevant options should consider the inherent risks involved in making decisions in public policy. Risks should be identified and options assessed against its potential to identify and mitigate risk and to “minimise the likelihood of their materialising with adverse effects”. The successful management of risk is therefore covered qualitatively.	Various options have been considered to understand the relationship between development value, residual land prices, and the amount paid through IGC whilst remaining viable. It is possible, however, that the Scottish Government should ‘pump-prime’ the system to ensure delivery of relevant infrastructure to avoid negative effects of delayed receipts in the first few years of operation. A reduction in £75m (maximum through the Central Co-Ordinated Option) would represent a limited proportion of the Scottish land market for development. It is considered that there would be no macro-economic impacts through any option.

Conclusions

The assessment of the **IGC** model and its Central and Local Co-ordination Options, have shown to be robustly developed, responding to the Key Principles identified in Stage 1 and Stage 2 of this report.

There are clear differences between the Central and Local Coordinated Options, particularly with respect to the ability of the latter to respond to wider distributive issues and the potential for minimising costs and streamlining processes. This has more to do with differences in the geographical coverage of the charge, the governance and responsibility for implementation. The costs of implementation within either arrangement has not been considered in this analysis.

In most cases, there are clear similarities in that:

1. The mechanism aims to address infrastructure needs that are ‘more than local’, and maintain the importance of S75 agreements and avoid ‘double-charging’ in addressing site-specific infrastructure;
2. Viability is (albeit variably) accounted for through thresholds within mechanisms to protect lower value areas; and
3. There are limited to no exemptions to the uniform charge.

8 Way Forward

8.1 Introduction

This section provides further context with respect to work undertaken to date in this Research Programme and areas for future consideration. Stage 3 research has delineated and assessed the 'Shortlisted Options' for the charge (i.e. the IGC model and its Central and Local Coordinated Options), while also discussing their legal implications and options for delivery.

Stage 3 recommends a way forward for the development and implementation of an infrastructure charging mechanism. The consultation and legislative process will provide a starting point for a more comprehensive development of the charging mechanisms. The outputs, delivery and timescales provided in this Stage 3 Report are indicative and will require reassessment and refinement upon consultation.

8.2 Programme to Date

This Report compiles evidence and provides analysis with respect to Stage 1 and Stage 2 of the research programme. The completion of this Report therefore concludes and provides evidence of the following stages:

Stage	Task	
Stage 1	• Inception Meeting	Complete
	• Literature Review	Complete
	• Desk-Based Assessment of Legislative Requirements	Complete
	• Establish Key Stakeholder Group	Complete
	• Initial Consultation with Key Stakeholder Group	Complete
	• Key Priorities of a Charging Mechanism for Scotland	Complete
Stage 2	• Identify High Level Options for a Charging Mechanism	Complete
	• Review Stage 2 Progress	Complete
	• Re-consult Key Stakeholder Group	Complete
	• Prepare First Report (Stage 1 and 2 Outputs) for Consideration in Consultation Paper	Complete

Stage	Task	
Stage 3	• Meeting with client team to discuss Stage 3 and to agree methodology	Complete
	• Submission of Draft Final report include framework of preferred options	Complete
	• Meeting with client	Complete
	• Submission of Final Report	Pending submission of this Report & Client Comments
	• Acceptance of Final report	August 2017
	Piloting Options	TBC

The key output of this programme contained in this report is the development of a set of criteria for assessing shortlisted options (emerging from the High Level Options in Stage 1 and Stage 2) and a framework for the options. This has been evidenced through a Stakeholder Workshop, focus group meetings and discussions, and a targeted literature review examining existing practice.

8.3 Future Work

As suggested in this Report, testing of the options in identified pilot areas has the potential to benefit the development of the infrastructure charging mechanism. These pilot areas should be identified based on particular infrastructure requirements, the size of the geographical market area, and variations in market value.

The ‘pilot’ stage of this work falls out with the remit of this stage of research.

9 References

Author, Date, *Title,* Place published, Publisher, Web Address

Aberdeen City and Shire Strategic Development Planning Authority, 2015, *Supplementary Guidance: Strategic Transport Fund [Consultation Draft],* Aberdeen, Aberdeen City and Shire Strategic Development Planning Authority, http://www.aberdeencityandshire-sdpa.gov.uk/nmsruntime/saveasdialog.asp?lID=1155&sID=1047

Aberdeen STF Inflation Update 2016

CBRE, *Guide to Use Classes Order*, Scotland

Circular 3/2012, 2012, *Planning Obligations and Good Neighbour Agreements,* Edinburgh, Scottish Government, http://www.gov.scot/Resource/0041/00410382.pdf

Crook et al, 2007, *The use and Value of Planning Obligations in Wales* for the Welsh Government Assembly

Dundas & Wilson & Bidwells, 2008, *An assessment of the value of planning agreements in Scotland,* Edinburgh, Scottish Government Social Research, http://www.gov.scot/Resource/Doc/214538/0057257.pdf

East Ayrshire Council, January 2013, *East Ayrshire local plan 2010 supplementary planning guidance developer contributions,* East Ayrshire, East Ayrshire council, https://www.east-ayrshire.gov.uk/Resources/PDF/S/SPGDeveloperContributions.pdf

Gladman, 2016, *CIL Overview Lessons from England,* Congleton, Gladman,

GVA DLA Piper Turner & Townsend, 2011, *The Potential of Development Charges in The Scottish Planning System,* Edinburgh, The Scottish Government Social Research series, http://www.gov.scot/Resource/Doc/352736/0118674.pdf

GVA Grimley, 2004, *Developing a Methodology to Capture Land Value Uplift Around Transport Facilities,* Edinburgh, Scottish Executive, http://www.gov.scot/Resource/Doc/26800/0026146.pdf

Housing Statistics for Scotland 2017

Jones and Trevillion, Heriot Watt, June 2015, *Commercial Real Estate and the Scottish Economy*, Scottish Property Federation

Knight Frank, Scottish Farmland H1 2015

Office for Budget Responsibility, 2017, *Devolved Taxes Forecast,* London, Office for Budget Responsibility, http://cdn.budgetresponsibility.org.uk/DevolvedtaxesforecastMarch2017.pdf

ONS, March 2017, House Price Indices Annual Table 28

Peace, Liz. et. al, 2016, *A new approach to developer contributions,* London, CIL Review Group, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589637/CIL_REPORT_2016.pdf

Peter Brett Associates et. al, 2016, *Research Project to Identify and Assess the Options for the Introduction of an Infrastructure Charging Mechanism in Scotland (Stage 1 & Stage 2),* Glasgow, Peter Brett Associates, https://beta.gov.scot/publications/infrastructure-charging-mechanism-research-report/Review%20of%20the%20Planning%20System%20-%20Research%20-%20Infrastructure%20-%20Report.pdf?inline=true

Registers of Scotland, 2017, *Precisely. Annual Market Review 2016 How our statistical review details the Scottish property market for the year 2016,* Edinburgh, Registers of Scotland, https://www.ros.gov.uk/__data/assets/pdf_file/0003/59691/Calendar-Year-Report-2016.pdf

Ryden, April 2017, Scottish Property Review

Savills, 2016 UK Agricultural Land

Scottish Government, 2016, *Invitation to tender for a research project to identify and assess the options for the introduction of an infrastructure charging mechanism in Scotland,* Edinburgh, Scottish Government,

Scottish Government, 2017, *Places, people and planning: A consultation on the future of the Scottish planning system,* Edinburgh, Scottish Government, http://www.gov.scot/Resource/0051/00512753.pdf

http://statistics.gov.scot/

Stirling Council, 2012, *Proposed Supplementary Guidance SG16 Developer Contributions,* Stirling, Stirling Council, http://www.stirling.gov.uk/__documents/temporary-uploads/economy,-planning-_and_-regulation/supp-guidance-sept-2012/sg16-developer-contributions.pdf

The City of Edinburgh Council, 2015, *Developer Contributions and Affordable Housing Consultation Draft,* Edinburgh, The City of Edinburgh Council, https://consultationhub.edinburgh.gov.uk/sfc/developer-contributions-and-affordable-housing-gui/supporting_documents/Developer%20Contributions%20August%202015.pdf

The Highland Council, 2013, *Supplementary Guidance Developer Contributions,* Inverness, The Highland Council, file:///C:/Users/User/Downloads/Developer_Contributions_ADOPTED_dtp_version%20(2).pdf

Tom Aubrey, April 2017, *Financing local Infrastructure using land value capture Potential levels of investment for the Edinburgh City Region,* London, Centre for Progressive Capitalism, http://www.befs.org.uk/wp-content/uploads/2017/05/Edinburgh-City-Region-Land-Value-Capture-analysis-v2.1.pdf

Valuing the external benefits of undeveloped land: main document, 2006, http://webarchive.nationalarchives.gov.uk/20120919132719/http:/www.communities.gov.uk/documents/planningandbuilding/pdf/158136.pdf

VOA *Property Market Report* 2011

Acknowledgement gratefully given to the following bodies for data and assistance:

- Scottish Government Housing and Planning Statistics Team on new build sales prices,
- Energy Savings Trust for extracts from Energy Performance Certificates giving floor areas,

Annex A: Review of the CIL Report

Introduction

This note outlines the key findings from the CIL Review & Report of Study, its recommendations, and the implications for the Scottish Government's Stage 3 research into the development of an infrastructure charging mechanism in Scotland.

The note is an additional output to inform Stage 3 of the Scottish Government's research into the infrastructure levy.

Background

The Community Infrastructure Levy was introduced in April 2010 with the aim of providing a faster, fairer, more certain and transparent means of collecting developer contributions for infrastructure compared to individually-negotiated Section 106 planning obligations.

The independent group chosen to lead the review was chaired by Liz Peace with a remit to assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure and to put forward changes that would improve its operation in support of the Government's wider housing and growth objectives.

The Report was released on February 2017.

Notes on Report of Study

A Report of Study (The University of Reading and Three Dragons in association with Smiths Gore and David Lock Associates) accompanied the final CIL Review submitted to Government in February 2017.

Preparation

The Report of Study examined the implementation of CIL across England. It confirmed that CIL has been concentrated in more affluent parts of the country where market and land values are higher than average, with over 50% in London and south east of England. Viability in implementation in collection was an issue, costing between £15,000 and £50,000. There was significant non-participation at August 2015 (146 LPAs in England and Wales), and reasons for this varied, though most cited a delay in preparing local plans. Others mentioned the difficulties of developing CIL in rural areas, and those who could not generate sufficient revenue to fund necessary infrastructure.

Another concern with respect to operation was that there was little commonality in approaches to identifying infrastructure, namely in variable approaches taken to Reg. 123 lists. Among authorities that have included more detailed Reg. 123 projects, the number and scale of projects included varied. Whilst Reg. 123 lists were viewed as generally easy to change, there is criticism that they are not formally tested as part of the examination process.

The preparation of charging schedules was relatively well-understood by most respondents, but it is nevertheless viewed as complex, time-consuming and resource intensive. Central to the process was the viability study, though it was

acknowledging that there was a lack of consistency in how these were undertaken. Scaling back S106 payments was also a common practice amongst authorities.

In terms of operating different rates across zones, it was considered that there were no clear difficulties or disputes.

Operation

However, the operation of CIL was viewed as relatively clear and not too burdensome, though regulations were viewed as complex.

The operation of CIL was estimated to involve less than one FTE across all assessed authorities, though there were workload concerns amongst some authorities with respect to managing exemptions. The process of charge-setting was not viewed as particularly onerous. Issues arose with respect to time taken to check floorspace, disputes over amount of floorspace to be 'netted off', issues about the type of use for new space, and use of BCIS index for uprating CIL rates.

The introduction of CIL in view of S106 showed that there was significant variation in how the two systems operated together. In some cases, it was simpler to continue seeking S106 rather than CIL, whilst others saw CIL as simpler. There were issues in continued complexity of S106, with some claiming that the introduction of CIL had made this more complex. The operation of reliefs and exemptions have not been viewed by local authorities as too complex but applicants often required guidance from the local authority to understand the regulations surrounding this.

There was a suggestion that local authorities had taken ingenious steps to avoid or circumvent the regulations. It was considered in the CIL review report that this side-stepping was a waste of both local authority and developers' time yet forms part of an emerging 'best practice' that balances viability and the need for infrastructure funding.

There has also been criticism of the 'Neighbourhood contributions' element of CIL. There are perceived and real limitations in the level of contribution given to neighbourhood bodies which in many cases is unable to substantively fund locally identified projects. Where local requirements are set, it was generally viewed as a constraint to some local authorities where it was considered that S106 was more realistic to ensure delivery of viable sites in lower value areas.

In terms of CIL adoption, there were varied perceptions of the resource intensiveness and length of time taken to adopt CIL. Adoption of CIL took between one and two years. Some found the process resource intensive and time consuming, but this may be tied to the resources available within the local authorities.

There has been support from observers in England[18] particularly in the "Mayoral-style" CIL approach, though it is argued that a regional formula rather than a national formula may be more effective. In terms of the commitments of Government to reform, it has also been suggested that this will leave many local authorities in limbo,

---

[18] http://www.boyerplanning.co.uk/news/the-future-of-cil-and-s106/

between a resource intensive implementation of CIL and further direction from the Government from non-adopters or authorities where the system has demonstrably failed.[19] There is equally a concern that a new twin-tracked system may not help viability.

CIL Review Recommendations

The findings of the Report of Study informed the information presented in the CIL Review and, ultimately, the recommendations set out by the group.

Key Points from the Review

- CIL is not delivering as much as anticipated by the Government and Local Authorities;
- Charge set at low levels in many local authority areas to accommodate development, though this has resulted in lower payments compared to previous system;
- CIL is not raising enough revenue to effectively support the funding of infrastructure needed to support development;
- Confusion between S106 and CIL was not as pronounced as previously thought;
- Mixed evidence with respect to the impact of affordable housing;
- Regulations were viewed as too complex;
- Charge setting process is lengthy and expensive, at broadly £15,000 to £50,000 per local authority. Outcomes of charge-setting process also different in places where expected to be similar due to local economic conditions; and
- Exemptions produce a significant amount of bureaucracy for no compensation.

Following on from these conclusions, the review set a number of conditions for the creation of a new system:

- Consistent and flexible on a nation-wide basis;
- Provide an upfront quantum for developers and accommodate the needs of those promoting larger schemes;

[19] https://www.out-law.com/en/articles/2017/february/housing-white-paper-developer-contribution-system-to-be-reviewed/

- Streamlined regulations to improve the understanding and speed of implementation;

- Offer a clear route through which necessary developer funded infrastructure can be delivered;

- Reassurance to communities that impacts of development will be mitigated and risks of delivery of that mitigation attached to those able to bear it;

- Accommodation creation of combined authorities and cross-boundary working across the HMA;

- Implementation with minimal disruption to developers with existing permissions and for future planning applications during a transitional period and for LPAs having adopted CIL; and

- Quick and simple planning applications for small builders and developers.

The Review does not propose to remove CIL altogether. However, rather than seeking to amend CIL to work universally, it suggests a new solution in the form of the LIT/SIT and hybrid LIT/CIL, S106 system. It suggests that the simplification of these procedures together with a clearer S123 list and removal of barriers to delivery of localised infrastructure delivery particularly through pooling restrictions. This 'twin track' delivery aims to optimise contributions from smaller sites which may not otherwise contribute to S106 whilst also ensuring substantial infrastructure needs of larger developments are met timeously.

The recommendations therefore focus on a simplified system which would require relatively straightforward adoption processes. However, the Review does not detail how the proposed system would operate—how existing legislation would be accommodated, details on transitions, how to differentiate geographies, how to ensure viability from the perspective of delivering development, who would be responsible for the 'strategic' infrastructure, and what a 'strengthened' S122 system would look like to regulate S106 contributions in absence of restrictions. It also recognises the need for local authorities to work together and reflect changing systems of governance (e.g. with the creation of Combined Authorities) in the delivery of large infrastructure projects.

LIT System

The **Local Infrastructure Tariff** is a replacement to CIL which will not require a precise "relationship between the quantum of infrastructure need and the amount of LIT that is charged". The proposed system applies a blanket charge based on gross floorspace. It will be calculated by the government and will be applicable across local authorities, with few (if any) exemptions, to reduce bureaucracy and make it easier for LPAs and developers to enact the charge.

The Report does note that there should be options for additional charges in a 'Mayoral' type-CIL across authorities for larger infrastructure projects. It has been shown in the evidence that the best option for the implementation of CIL was a flat-rate 'mayoral' CIL in the delivery of infrastructure projects.

It is unclear how, without a rate being set to infrastructure need, an adequate amount can be raised to meet regional infrastructure requirements. The success of the mayoral CIL, while simplified by being a flat rate across zones, was partly due to its funding particular infrastructure needs that was clearly costed. The extent to which the LIT would be tied to specific infrastructure projects is unclear.

The Review recommends that the charge is based on **1.5 to 2.5%** of sales price of residential developments across local authority areas, worked out to a per sq. m. charge. This accepts potential for market variation. It does not immediately address how this might be squared on smaller geographies where there may be a significant amount of variation. This would presumably require some sort of valuation and zone-setting and how these respond to wider market geographies and indeed demonstrate a relationship to cumulative impact.

In terms of commercial development, it is suggested that rates are tied to but do not exceed residential rates. The formula for determining this should be developed by the Government to ensure consistency.

The report notes that whilst the government may want exemptions, these should not be considered and that all (or the vast majority of) developments be liable to pay. The idea is that all developments contribute in some way to cumulative impacts.

There is a suggestion that the 'pooling' restriction requirement be removed, though notes that this should be treated through enhanced S122 Regulations. It also suggests there ought to be contributions 'in kind' provided in lieu of LIT for items such as schools. There is a definitional issue and risk of conflating 'local', 'more than local' and 'non local' impacts.

The recommendations include provision that LIT is a mandatory charge unless it is considered that the amount of money raised does not justify the expense of raising it.

Combined authority Strategic Infrastructure Tariff

The Review recommends the creation of a 'regional' tariff, applicable to a 'small number' of large-scale developments. It would presumably apply to cross-boundary infrastructure. There is little discussion about how this would be differentiated to the LIT in terms of scale of infrastructure and how this would be managed.

They also promote greater cooperation between authorities and HMAs/FEAs. There are no proposals as to how this is sits with rate setting and what involvement these authorities may have in the process. However, it is recommended that Combined Authorities should use this mechanism as a means of raising additional infrastructure finance.

Other Provisions

Borrowing against the Levy

The Review also recommends allowing powers for charging authorities to borrow against LIT/SIT receipts.

Pooling Restrictions

Pooling restrictions were found to prevent the apportionment of large sites into smaller development packages suitable for smaller scale household builders. Side-stepping these restrictions involved some creative methods which suggests that it was unnecessary and resource intensive.

Regulation 123 List

The review calls for the removal of Regulation 123 lists, replaced with an annual monitoring report.

Affordable Housing

It is recommended that all developments are liable to pay LIT, including small development (10 units or less), including affordable housing.

Other Options

The Report recommends that “other options should be explored that would enable local authorities to forward fund infrastructure provision”. The Report recognises that this has much to do with the Government finding ways to best make funds available to local authorities to forward-fund infrastructure.

Implications and Applications for Scotland

The review of the CIL Process provides insight into the design and operation of the system, giving a sense of emerging best practice and points for improvement.

The core recommendations are the introduction of the LIT/SIT and dual track S106 system. The design/implementation is tied demonstrably to local authorities and combined local authorities. Conclusions from Stage 1 and Stage 2 generally reflected the need to consider alternative geographies (i.e. beyond local authority areas) and to consider how low value market areas may benefit from a charging mechanism. The Review points out that it may be a matter of local authority discretion to determine whether it would be worth collecting a tariff.

The key constraints to the viability of a charging system in Scotland is ensuring a mandatory charging system reflects need and market geography. If the system were to operate at a regional level (e.g. through enhanced SDPAs with a remit for infrastructure), then there would be significant variation within those market geographies. The Review emphasises the importance of local determination of need, and this may be captured in part through the emphasis of a ‘nationally determined charge’ based on gross floorspace, derived from median sales values.

The Report recommends a straightforward approach to setting charges based on median property values. The principle of straightforward evaluation of prospective or observed property values arguably makes sense in the Scottish context and would be necessary in assessing differential market areas. These geographies may, for example, follow statistical boundaries on which price-paid values are already recorded. These could be assessed against anticipated growth and demand through allocations. Consultations suggested that charge setting may be assessed through the SFT in coordination with planning authorities and SDPAs

The CIL review clearly advocates a simplified approach to contributions, and one which takes into account local economic conditions. A simple, mandatory, tiered system to covering ‘more than local’ cumulative impacts is sensible and straightforward, lessons from Stage 1 and 2 suggest it should (1) be tied to existing systems of governance; (2) be clearly based on need and demonstrate relationship (among other tests); and (3) be tied to clear, costed action programmes. The review evidences these considerations through advocating centralised frameworks for the ‘number of different commercial developments and the proportional relationship’ to a residential charge to account for local market variations. It can therefore be tied to local planning priorities and included in the Annual Monitoring Report to show how spending of the tariff is meeting local infrastructure needs, and its correspondence to local plan preparation.

In summary, the Review recommendations indicate that the direction of travel for Stage 1 & 2 Research does not show significant departures from the Review. Indicative analyses of the potential for a minor contribution of a levy to infrastructure needs is also reflected in the Review which is clear about the need for front funding and identifying other sources of infrastructure funding. In particular, there is clear resonance in:

- The need to retain other systems of contributions and making their interrelationships clear;
- Developing a simple system for collection that is tied demonstrably to the planning process;
- Capturing ‘more than local’ infrastructure requirements;
- Centrally defined methodology for determining contributions; and
- Ensuring a limited number of exemptions.

However, whilst the Review recommendations support the cost of mitigation being born by those who are ablest to pay it, there is less clarity in the relationship of impacts and development. This is particularly the case given the emphasis on necessity tests tied to obligations—the CIL review suggests that Regulation 122 is only applicable to the use of Section 106 agreements.

There is also a departure in the two-tiered approach to developer contributions. The ‘high level’ options identified in the Stage 1 & 2 research advocates a regional or cross-boundary levy, which contrasts the two-tier tariff suggested in the CIL report.

Annex B. High Level Options

Table B-1 High Level Options: Geography

PRINCIPLE	PRIORITY	HIGH LEVEL OPTIONS			
		GEOGRAPHY			
		Local Authority Option	Regional Authority Option	Combined Authorities Option	With National Charging Option
Fairness	Address cumulative impacts of development	Could address localised issues but may lack the resources and vision to address wider geographical challenges.	Ability to identify required infrastructure but potential conflict with constituent authorities. May be managed through SDPA.	Ability to meet local and regional needs as a partnership: ability to identify common infrastructure challenges	Low level charge may address more strategic development issues, but redistributive nature might mean that charge has a more limited impact on local and regional infrastructure needs.
	Assess market variations on a wider geographical scale	Potentially limited ability to coordinate actions to address market variations.	Ability to address wider market variations, though may not reflect market areas. Less political accountability.	Potential to address complex market areas based on combination of local authority areas. Potential that it does not address market areas.	May address market variations on a much wider geographical scale but may also impact viability.
	Ensure examination and scrutiny	Could be tied to a local authority's LDP process.	Potential for conflict with local authorities. However, SDPs could serve as a vehicle for developing the scheme.	Greater opportunity, depending on structure of partnership, to allow infrastructure providers and other stakeholders to participate in process.	Development and setting of tax would take place at the national level, potentially limiting the impact of local stakeholder involvement.
	Monitor implementation and collection	Potential limitation and conflicts in local authority monitoring.	Regional authority may lack political accountability	Political accountability recognised through membership to board; potential third party members offers some independence	Potentially complex task in monitoring and analysing contributions and use of funds.
	Apportioned according to need, responding to supply and demand	Local authorities may provide an adequate scale in terms of need but may not be coterminous with market areas and therefore may not reflect market need/demand.	Boundaries may not reflect market areas	Market areas within combined authorities need to be established. Better understanding of areas of need within local authorities and potential for agreement amongst partners	Not necessarily based on local or regional need.
Transparency	Clear legislation to avoid conflict with S75	Existing processes in place which would potentially ease transition	Combination with LPAs would require a regional policy document detailing items		
	Demonstrable link between development and required charge	More localised, but limited ability to exact charges from developments for strategic infrastructure impacted by and encouraging development.	Less understanding of local needs—potential to misrepresent areas of growth due to arbitrary boundaries.	Combination of local authorities may agree infrastructure needs and appropriate distribution of funds.	'Tax' breaks link between development and what is being funded.
	Guidelines delineated in policy	Could be issued as Supplementary Guidance.	Requires political authority to delineate policy—may be based on SDP or other regional policies.		Policies regarding Scotland-wide tariffs for strategic infrastructure may be issued at the national level.
	Full stakeholder involvement in charge-setting process	Potential for inclusion at plan-making stage.	Wider geographies will mean greater participation of stakeholders in detailing required infrastructure. Potential for more complex charge-setting process.		Development and setting of tax would take place at the national level, potentially limiting the impact of local stakeholder involvement.
	Clear procedures for redress	Legislation may provide for appropriate mechanism.			
Ce rta int y	Based on clear evidence (need, supply, demand,	Local authorities may provide an adequate scale in terms of need but	Boundaries may not reflect market areas or may incorporate	Market areas within combined authorities need to be established. Better	Not necessarily based on local or regional need.

PRINCIPLE	PRIORITY	HIGH LEVEL OPTIONS			
		GEOGRAPHY			
		Local Authority Option	Regional Authority Option	Combined Authorities Option	With National Charging Option
	anticipated growth)	may not be coterminous with market areas and therefore may not reflect market need/demand.	incompatible market areas.	understanding of areas of need within local authorities and potential for agreement amongst partners.	
	Clarity about what infrastructure is required and where a charge will be spent.	Potential to provide infrastructure in action programmes. Variability in detail.	Regional authority may lack 'buy in' from local authorities.	Group of local authorities can debate and evidence infrastructure required on a larger market area and agree apportionment.	Potential to be tied to capital investment plans (Infrastructure Investment Plan), NPF.
	Charges should be used to encourage sustainable economic growth	Charges can be tied to action programmes and a spatial strategy within a local authority but may not meet wider geographical objectives.	Infrastructure charging funds may be applied to support sustainable growth within regional boundaries, but this may not reflect market areas.	As above, and this can be employed to deliver development in growth areas within the combined local authority area.	May deliver nationally important infrastructure with the aim of supporting policy objectives.
	Clarity over intersection with broader funding packages	May be tied to existing programmes within local authorities (e.g. TIF).	Unclear how a regional authority would access alternative funding.	Best practice shared amongst local authorities; may be based on established City Deal regions and delivery structure. Potential for risk share between Local Authorities?	Additional to capital budget and associated funding/financing.
	Administrative boundaries should not be arbitrary	Local Authority boundaries may not be best suited to capture greater market areas	Regional boundaries may reflect functional market areas but are likely to be based on political or historic boundaries which may not be reflective.	Boundaries may reflect 'growth areas' (not necessarily based on constituent LPA boundaries) and thus reflect functional housing market areas.	Would be redistributive tax and would not depend on an administrative boundary.
	No redistribution out with a market area or region	N/A			
	Exemptions should be driven by encouraging viability	Dependent on Administration and required infrastructure.			
Efficiency	Clear process of collection	Dependent on Administration.			
	Robust details of infrastructure delivery	Could follow development plan process.	Limitation in ability to plan and deliver infrastructure—potential to repurpose SDPs to support this.	Limitation in ability of partnership to 'plan' for infrastructure.	Would be tied to national infrastructure programme.
	Broader funding package established at outset	Would supplement existing funding sources (e.g. TIFs, prudential borrowing through PWLB).	Potential limitation in borrowing power of a regional body. Lack of legitimacy in planning and delivery?	Partnership or area based on City Deals can establish best practice and serve as a basis for identifying additional funding streams.	Additional to capital budget and associated funding/financing.
	Should not consume local authority resources	Potential for constrained resources amongst planning authorities.	Potential to administer large geographical areas, though unclear how this would be resourced.	Broader partnership and ability to share resources and best practice.	Would be tied to national infrastructure programme.
	Avoid lengthy negotiations in payments	N/A			
	Avoid a 'land tax' on a site-by-site basis	N/A			

Table B-2 High Level Options: Mechanisms

PRINCIPLE	PRIORITY	HIGH LEVEL OPTIONS			
		MECHANISMS			
		Per Unit of Development Option	Charges based on Extent of LVU Option	Charges based on Quantum of Development Option	Charge based on final value of development Option
Fairness	Address cumulative impacts of development	May not address needs and may result in imbalances of unit/development types, resulting in unsustainable development.	Limit to apply to wider range of developments due to complexity and limit of uplift value.	Would adequately identify 'volume' of development in terms of floor space. Could be categorised according to use.	Complexity might impact the delivery of funds and development.
	Assess market variations on a wider geographical scale	As above, per unit of development charges may result in imbalances in limiting the ability to reflect 'floor space' and volume of development.	Potential to reflect market variation but may produce sub-standard development.	Charges on floor space may be set to reflect market variations.	Potential to reflect market variation but onerous.
	Ensure examination and scrutiny	Dependent on governance and administration.			
	Monitor implementation and collection	Simple to administer and understand. Potential for straightforward monitoring.	Potential to be overly complex and difficult to monitor.	Straightforward dissemination but more difficult in administration due to potential for change in floor space, identifying exemptions, etc.	Potential to be overly complex and difficult to monitor as it is difficult to know when a final sale takes place and whether the transaction was at open market value.
	Apportioned according to need, responding to supply and demand	May unfairly prioritise one development type over another and therefore misrepresent the appropriate contribution required to meet a broader infrastructure needs.	Will reflect uplifted values, but this may not accurately represent what infrastructure is needed, what is already provided.	May unfairly prioritise one development type over another and therefore misrepresent the appropriate contribution required to meet a broader infrastructure needs.	Will reflect uplifted values, but this may not accurately represent what infrastructure is needed, what is already provided.
Transparency	Clear legislation to avoid conflict with S75	N/A			
	Demonstrable link between development and required charge	Dependent on administration and geography.			
	Guidelines delineated in policy	May be set out in policy.	More difficult to justify and set out in policy given shift in interest rates, land values, etc. More guidance required regarding negotiation process.	May be set out in policy.	More difficult to justify and set out in policy given shift in interest rates, land values, etc. More guidance required regarding negotiation process.
	Clear guidance to prevent overlap between charging mechanisms	Dependent on administration and geography.			
	Full stakeholder involvement in charge-setting process	Dependent on governance and geography.			

PRINCIPLE	PRIORITY	HIGH LEVEL OPTIONS			
		MECHANISMS			
		Per Unit of Development Option	Charges based on Extent of LVU Option	Charges based on Quantum of Development Option	Charge based on final value of development Option
	Clear procedures for redress	N/A			
Certainty	Based on clear evidence (need, supply, demand, anticipated growth)	Mechanisms equally dependent on evidence, though land value uplift mechanism will require frequent reassessment.			
	Clarity about what infrastructure is required and where a charge will be spent	Dependent on governance and administration.			
	Charges should be used to encourage sustainable economic growth	Variable charges may help direct development in most appropriate areas. As noted, potential imbalances depending on the sensitivity of the charging set.	Potential to reflect market variation but may produce sub-standard development.	Variable charges may help direct development in most appropriate areas.	Charges may not accurately reflect sales values and may be difficult to justify.
	Clarity over intersection with broader funding packages	N/A			
	Administrative boundaries should not be arbitrary	N/A			
	No redistribution out with a market area or region	N/A			
	Exemptions should be driven by encouraging viability	Identified in policy.			
Efficiency	Clear process of collection	In all cases would be payable at some point in development process, though may vary depending on system of administration (e.g. whether funds are payable to consenting authority).			
	Robust details of infrastructure delivery	N/A			
	Broader funding package established at outset	N/A			
	Should not consume local authority resources	Relatively straightforward process of implementation and collection.	Potential to be administratively complex and resource intensive.		
	Avoid lengthy negotiations in payments	Less complex as based on standardised rates.	Subject to negotiation and complex.	Could be subject to negotiation where there are changes to applications.	Subject to negotiation and complex.
	Avoid a ‘land tax’ on a site-by-site basis	Specific to development but based on standardised rates.	Complex and site-specific.	Specific to development but based on standardised rates.	Complex and site-specific.

Table B-3 High Level Options: Use and Purpose of Fund

PRINCIPLE	PRIORITY	HIGH LEVEL OPTIONS			
		FUND		PURPOSE	
		Itemised Option	Pooled Option	Maintenance Option	Capital Costs Option
Fairness	Address cumulative impacts of development	Can provide evidenced and transparent infrastructure items to meet demands of anticipated growth.	Can provide flexibility in meeting potential infrastructure requirements.	Could meet longer term impacts and administration.	Focusses on meeting infrastructure need rather than maintenance.
	Assess market variations on a wider geographical scale	Less flexibility in meeting market changes in the short term?	Pooled funds may be distributed according to projects as needed over a wider geographical area.	Less concerned with addressing market variations.	May better address infrastructure delivery on a wider scale.
	Ensure examination and scrutiny	Potential to be interrogated at plan stage, for example, as part of an action programme.	Less clarity regarding allocation of funds and required infrastructure.	May be equally subject to scrutiny at examination or similar review.	
	Monitor implementation and collection	Easier to monitor progress against implementation and	Less clarity and not as easy to monitor.	Collection may be straightforward, but use of funds by local authorities less straightforward.	Simplicity Dependent on manner of collection.
	Apportioned according to need, responding to supply and demand	Can be established in an infrastructure investment plan and delivered accordingly.	Pooled resources may anticipate need on a wider geographical scale and delivery infrastructure not otherwise deliverable based on contributions from local developments.	Less based on need in regard to growth but on use of asset.	Contribution to capital costs reflective of need to support infrastructure delivery where required.
Transparency	Clear legislation to avoid conflict with S75	Matter for national legislation.			
	Demonstrable link between development and required charge	Dependent on mechanism employed. Itemised option easier to demonstrate direct link? Pooled option could be more difficult to do this, however, a wider benefit may be determinable?			
	Guidelines delineated in policy Clear guidance to prevent overlap between charging mechanisms	More straightforwardly identifies what infrastructure is to be delivered and by what means. May be tied to an action programme.	More flexibility, though requires additional policy to guide its operation.	Less straightforward to implement in policy as it is unclear when funds will be required for maintenance.	Relatively straightforward to delineate in plans and policies, depending on mechanism, governance and administration.
	Full stakeholder involvement in charge-setting process and identifying infrastructure	Dependent on geography and governance.			
	Clear procedures for redress	Each method would require a system for redress set out within the administrative process.			

PRINCIPLE	PRIORITY	HIGH LEVEL OPTIONS			
		FUND		PURPOSE	
		Itemised Option	Pooled Option	Maintenance Option	Capital Costs Option
Certainty	Based on clear evidence (need, supply, demand, anticipated growth)	Both methods would require evidence to support allocation of funds in addition to charge applied.		Dependent on type of asset, though maintenance could be based on expected use and an agreed 10 or 20-year plan. Potential to be well-evidenced based on anticipated use.	Capital costs included in action programmes would be costed and based on anticipated need for infrastructure
	Clarity about what infrastructure is required and where a charge will be spent	More straightforwardly identifies what infrastructure is to be delivered and by what means.	Dependent on geography and governance (i.e. if there is a spatial plan or infrastructure plan).		
	Charges should be used to encourage sustainable economic growth	Can aid in delivering a spatial plan and addressing development constraints in a measurable fashion.	Potential to apply funds on a wider geographic scale and respond to changing circumstances.	Does not necessarily respond to priorities for economic growth.	Responds more appropriately to growth.
	Clarity over intersection with broader funding packages	Dependent on geography and governance.		Dependent on geography and governance.	
	Administrative boundaries should not be arbitrary	Dependent on geography selected.			
	No redistribution out with a market area or region				
	Exemptions should be driven by encouraging viability	Matter to be delineated in policy.		N/A	N/A
Efficiency	Clear process of collection	Dependent on mechanism employed.		Dependent on mechanism employed. Potential issue in terms of access to funds by infrastructure providers.	Dependent on mechanisms employed.
	Robust and evidenced details of infrastructure delivery	More clarity with regard to what is required in terms of funding and when it is expected to be delivered.	Potential for evidenced and robust delivery plan—dependent on the mechanism and geography.	Dependent on mechanism and governance.	
	Broader funding package established at outset	Both would require additional funding and financing sources to deliver infrastructure.		Dependent on mechanism and governance.	
	Should not consume local authority resources	More complex in identifying infrastructure up front, but potentially less resource intensive in project delivery.	Potentially complex in administering and therefore resource intensive.	Dependent on system of administration.	
	Avoid lengthy negotiations in payments	Dependent on mechanism.			
	Avoid a 'land tax' on a site-by-site basis	Dependent on mechanism.			

Annex C. Aggregate Funding Available from IGC

The table below shows extracts from the calculations of aggregate funding available from IGC based on a summary of the value distribution estimates. The first group is for market and affordable housing.

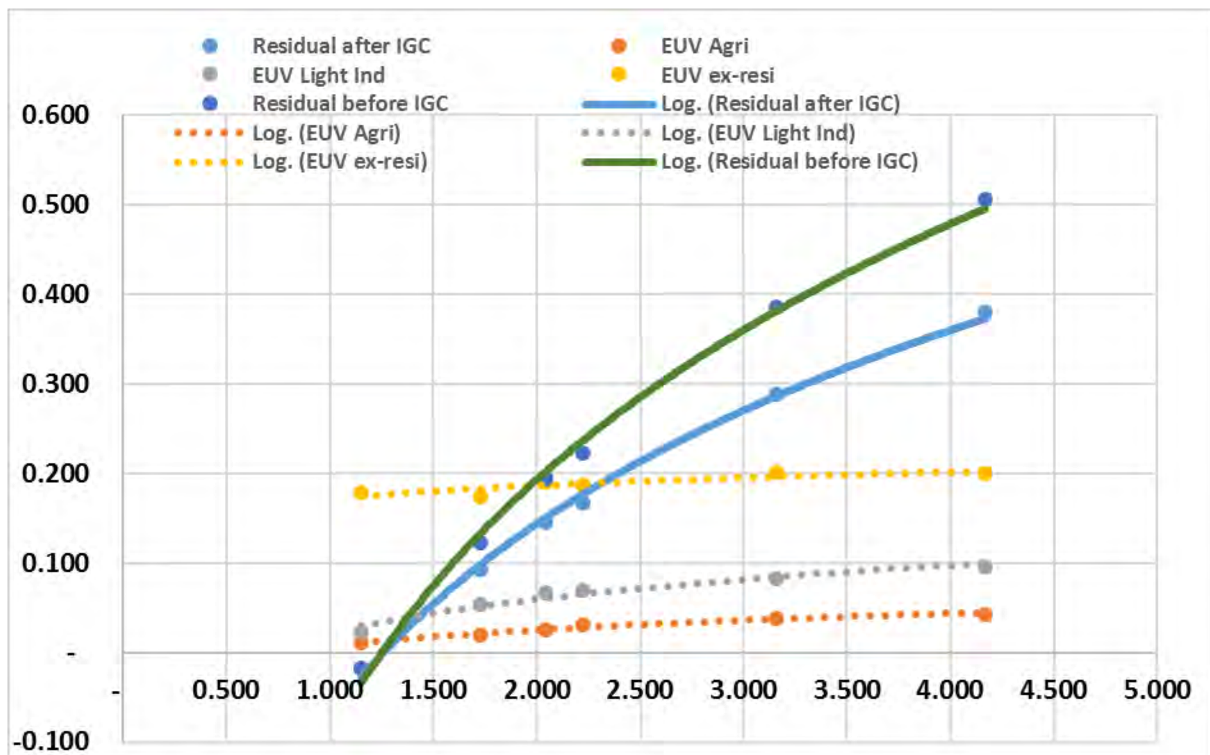
Then an estimate is made for non-residential uses with IGC applied with the same thresholds of minimum value and rate formula as for residential.

The estimate of aggregate funding through the flat rate mechanism (at £30 psm) is shown below the estimate based on the non-linear formula.

Value band	**Ultra low**	**Very low**	**Low**	**Median**	**Mean**	**High**	**Very high**	Totals
GDV £k psm GIFA	0.600	1.154	1.726	2.045	2.222	3.158	4.167	
Distribution								
MH vol %	0%	10%	15%	25%	30%	15%	5%	100%
AH vol %	0%	40%	30%	20%	10%	0%	0%	100%
MH vol	0	1100	1650	2750	3300	1650	550	11,000
AH vol	0	1600	1200	800	400	0	0	4,000
Total	-	2,700	2,850	3,550	3,700	1,650	550	15,000
	0%	18%	19%	24%	25%	11%	4%	100%
MH sm	-	85,800	138,600	242,000	297,000	156,750	66,000	
AH sm	-	124,800	100,800	70,400	36,000	-	-	
Total sm	-	210,600	239,400	312,400	333,000	156,750	66,000	1,318,150
IGC take £m	**-**	**-**	**7**	**15**	**19**	**15**	**8**	**65**
IGC take to GDV			1.78%	2.37%	2.51%	3.05%	3.03%	
Flat rate			0.030	0.030	0.030	0.030	0.030	
Flat rate take £m			**7**	**9**	**10**	**5**	**2**	**33**
S75 take before AH £m		-	26	43	52	33	15	168
AH plot value discount	80%	80%	80%	80%	80%	80%	80%	
AH plot value £m	-	10	11	9	7	-	-	38
								206
Non-residential								
Retail	8%	10%	20%	25%	20%	13%	5%	101%
Offices	15%	25%	25%	13%	9%	7%	5%	99%
Factories	80%	10%	6%	3%	1%			100%
Warehouses	70%	15%	9%	4%	2%			100%
Other	40%	25%	14%	11%	5%	4%	1%	100%
Retail	5,200	6,500	13,000	16,250	13,000	8,450	3,250	65,000
Offices	9,000	15,000	15,000	7,800	5,400	4,200	3,000	60,000
Factories	104,000	13,000	7,800	3,900	1,300	-	-	130,000
Warehouses	70,000	15,000	9,000	4,000	2,000	-	-	100,000
Other	100,000	62,500	35,000	27,500	12,500	10,000	2,500	250,000
Total sm	288,200	112,000	79,800	59,450	34,200	22,650	8,750	605,000
Distribution	48%	19%	13%	10%	6%	4%	1%	100%
IGC take £m	**-**	**- 0**	**2**	**3**	**2**	**2**	**1**	**10**
Flat rate take£m	-	-	**2**	**2**	**1**	**1**	**0**	**6**

Annex D. Existing Use Value Chart

The chart below shows the modelled relationship for the average residential market scheme by outturn price band – (GDV in £k psm GIFA horizontal scale), with the Residual Land Value before and after IGC with typical Existing Use Values (£k psm GIFA vertical scale).



The Existing Use Values are shown before any reduction in land prices caused by IGC.

The chart highlights the limitations for increasing an IGC rate if we are to account for a wide variety of Existing Use types and Values without impairing viability.

The chart also shows that where land already has residential use then outturn values will probably have to exceed the national average outturn value (£2,200 psm), as well as at a higher density of site use, for the new residential development to be viable. [Where yellow dashed line exceeds Green or Blue solid line.]

Annex E. Application of Legal Processes

This sub-section outlines the legislative change requirements for each delivery option, and sets out an indicative delivery timetable.

Central Coordinated Option

As explained above, the main requirements for instituting the would require:

- Further devolution of powers from Westminster to the Scottish Parliament.

This could be achieved through an Order in Council, which is a form of secondary legislation of the UK Government. It would not therefore need approval by the UK Parliament. There is no guarantee that the UK Government would be willing to promote the secondary legislation that would be required. Even if it was, it is likely to take some time to achieve, particularly in the wider context of Brexit and the amount of parliamentary time that will be devoted to Brexit legislation (including substantial amounts of secondary legislation) in the coming years.

Once granted, the IGC could be introduced in Scotland via primary legislation of the Scottish Parliament. It is likely that primary legislation would set out the broad powers needed for IGC to be introduced, with the detail to be fleshed out in secondary legislation.

Further guidance from the Scottish Ministers on the application of the regulations in practice would likely be required.

Local Coordinated Option

Implementing the within devolved powers would require:

- Primary legislation of the Scottish Parliament;
- Secondary legislation by the Scottish Ministers; and
- Statutory guidance.

In particular, there would likely need to be detailed guidance for planning authorities on ensuring a sufficiently local connection for any spending on infrastructure, particularly if payments were being made to third party bodies or if funds were being applied to cross-authority projects. This may be achieved by ensuring close alignment with Local Development Plans.

Draft Delivery Programme

This subsection sets out a high-level timescale for the delivery of the IGC variants. It is difficult to anticipate detailed timescales for delivery without a clearer understanding of the design stages. Theses delivery timescales are therefore

indicative but reflects professional judgment with respect to likely design, development and implementation. **Central Coordinated Option**

- **Stage 1:** Lobbying UK Government for change to devolved taxation powers and securing necessary legislative change: 1-2 years;
- **Stage 2:** Drafting Bill for progression through the Scottish Parliament up to obtaining Royal Assent: 1-2 years;
- **Stage 3:** Preparing and giving effect to regulations and statutory guidance: 1-2 years; and
- **Stage 4:** Allowing a period of time for implementation in practice: 1-2 years.

Note that many of these steps may run contemporaneously, so the overall timescale for delivery (from design to implementation) is likely to be between 3 and 5 years.

Local Coordinated Option

- **Stage 1:** Drafting Bill for progression through the Scottish Parliament up to obtaining Royal Assent: 1-2 years;
- **Stage 2:** Preparing and giving effect to regulations and statutory guidance: 1-2 years; and
- **Stage 3:** Allowing a period of time for implementation in practice: 1-2 years.

Note that many of these steps may run contemporaneously, so the overall timescale for delivery (from design to implementation) is likely to be between 2 and 4 years.

It is difficult to anticipate the requirements for preparing existing organisations and government bodies for the delivery of both variants of the IGC. Specific legislative, administrative and other practical challenges have not been scoped at this stage and would likely arise in the detailed design stage. Approximate estimates of set up and administration costs are provided in Annex F.

Annex F. Infrastructure Growth Contribution (IGC) Process and Resources

The following process lanes describe the flow of activities, after IGC has been announced by government following from the necessary legislative changes (see Annex E) and from the setting by Scottish Government of the charging formula or flat rate.

Central Co-ordinated Option

Power to Charge IGC

The Government will appoint an arm's length agency which will have the power to levy the Infrastructure Growth Contribution (IGC) on all future development in all areas of Scotland receiving development consent from the specified implementation date.

The agency will call for City Region Deals, combined authorities, or regional partnerships to submit a Plan for Strategic Infrastructure, showing how infrastructure investment will release additional land for growth.

The PSI will show indicative future times scales for the delivery of additional infrastructure and the anticipated funding sources including Government Departments and Agencies, Private Enterprise, and Local Government, showing the additionality of resources provided by the IGC. This plan does not need to specify exact locations or detailed cost estimates, as many infrastructure items may be linked to potential growth beyond that allocated in the LDP.

The agency will assess the plan for reasonableness and deliverability and the lead authority, or authorities, will consider the responses of the agency prior to making the PSI.

The made PSI will entitle the authority(ies) to be allocated resources by the agency from the IGC fund, in accordance with guidance published from time to time by Scottish Government.

Local Co-ordinated Option

Power to charge IGC

The Local Planning Authority (LPA), possibly in co-ordination with adjoining authorities, makes a Plan for Strategic Infrastructure (PSI), as part of, or in alignment with made, Local Development Plans (LDP), showing how infrastructure investment will release additional land for growth.

The PSI will show indicative future times scales for the delivery of additional infrastructure and the anticipated funding sources including Government Departments and Agencies, Private Enterprise, and Local Government, showing the additionality of resources provided by the IGC. This plan does not need to specify exact locations or detailed cost estimates, as many infrastructure items may be linked to potential growth beyond that allocated in the LDP.

The made PSI will entitle the LPA to levy the Infrastructure Growth Contribution (IGC) on all future development receiving consent from that date.

IGC and the development process

Prior to land acquisition the Developer assesses site potential in accordance with local development plan and supplementary guidance, and estimates gross development value.

Developer estimates the amount of IGC that will be payable on completion values and, amongst other estimates, determines the price that can be paid for the land.

The Developer applies for planning permission.

Local Planning Authority issues the Decision Notice which includes the condition to pay IGC on completion of each dwelling or building, and the formula or flat rate to apply at that time.

Before one month ahead of the expected completion the Developer self-assesses the floor area and market value of the dwelling or building.

Central Co-ordinated Option

The Developer pays to the Revenue Scotland, the IGC amount for the dwelling or building. See payment form.

Revenue Scotland issues a receipt certificate (on-line) with the payment details.

The receipt certificate is passed by the Developer to the prospective purchaser, along with other information such as the Energy Performance Certificate for example in the Home Report. The receipt certificate confirms to purchaser that the obligation to pay IGC has been met at the appropriate value.

Local Co-ordinated Option

The Developer pays to the LPA or their Revenues Department as specified by the LPA, the IGC amount for the dwelling or building. See payment form.

The LPA, or its revenues department, issues a receipt certificate (on-line) with the payment details.

The receipt certificate is posted as a planning notice and reported within the Property Enquiry Certificate, and in the case of residential accommodation forms part of the Home Report. The receipt certificate confirms to the purchaser that the obligation to pay IGC has been met at the appropriate value.

In the case of dispute (by the Developer, Purchaser, their lender, the agency, Revenue Scotland, or the LPA) then the Scottish Assessor determines when the building is completed, i.e. ready for use, the floor area, and/or the market value at completion date, according to the dispute raised.

In the case of delay of more than three months between date of payment and the date the dwelling or building is ready for use, then a further self-assessment of value is made and if and only if values have increased so that more than a further £50 is to be paid, then the full additional amount over the amount already paid is paid and receipted as above. There is no

Central Co-ordinated Option

Annual monitoring and reporting

The arm's length agency will produce an annual report showing:

- The amounts received in the year
- Balances brought forward
- Funds committed
- Balances carried forward
- Details of the authorities that have been allocated funds and the infrastructure schemes that have been funded, and the additional land that this has enabled for development.

This report will be presented to the cross-sector advisory panel, and if adopted by the panel, will be presented to the appropriate Minister and published.

Local Co-ordinated Option

Annual monitoring and reporting

The authority levying a charge, or with unspent funds following a termination of IGC in its area, will produce an annual report showing:

- The amounts received in the year
- Balances brought forward
- Funds committed
- Balances carried forward
- Details of infrastructure schemes that have been funded and the additional land that this has enabled for development.

This report will be published by the authority.

The Payment Form (and receipt certificate)

Will include the following information for each dwelling or building:

- The address of the dwelling or building
- Name and address of the Developer responsible for payment
- The self-assessed market value
- The self-assessed gross internal floor area
- The formula or flat rate per square metre
- Less the above information for any retained floorspace existing at the time of consent
- The amount paid, or zero if below the threshold.

Resource impact (estimate)	*Quantum*	Set-up costs	*Quantum per annum*	Arm's length agency	Developer	Revenue Scotland	Scottish Assessors	Local Authority	**Total pa**
		£m		£m	£m	£m	£m	£m	**£m**
Central Co-ordinated Option	*1*	0.50							
Plans for strategic infrastructure	*10*	2.50							
Governance and leadership			*1*	0.15					**0.15**
Planning administration			*17,500*					0.44	**0.44**
Payment processing			*17,500*		0.61	0.79			**1.40**
Appeals and revaluation			*500*	0.05	0.23	0.09	0.38		**0.74**
Fund management			*1*	0.56					**0.56**
Annual reporting			*1*	0.35					**0.35**
Total		**3.00**		**1.11**	**0.84**	**0.88**	**0.38**	**0.44**	**3.64**
Local Co-ordinated Option	*32*	1.60							
Plans for strategic infrastructure	*32*	3.20							
Governance and leadership			*32*					0.80	**0.80**
Planning administration			*17,500*					0.44	**0.44**
Payment processing			*17,500*		0.61			1.31	**1.93**
Appeals and revaluation			*650*		0.29		0.49	0.23	**1.01**
Fund management			*32*					0.59	**0.59**
Annual reporting			*32*					1.12	**1.12**
Total		**4.80**		**-**	**0.91**	**-**	**0.49**	**4.48**	**5.88**

As % of potential amounts raised	Formula	Flat rate
Potential amount raised £m pa	75	39
Central Co-ordinated Option	5%	9%
Local Co-ordinated Option	8%	15%

Annex G. Worked examples

Worked examples of proposed Infrastructure Contribution Charge

						Formula Threshold 1,250				Flat Rate Threshold 1,750				
	Type	Number	Square metres GIA	Value on completion each	Value psm	Above threshold?	Formula £psm	Formula amount each	Total	Above threshold?	Flat rate £psm	Flat rate amount each	Total	
Scheme A														
Market Sale	3 bed houses	30	95	225,000	2,368	✓	65.81	6,252	187,554	✓	30.00	2,850	85,500	A
Affordable Housing	3 bed houses	10	90	59,280	659	×	0	-	-	×	0	-	-	B
									187,554				85,500	A+B
Scheme B														
Existing large poor condition house converted into flats		1	550	750,000	1,364	✓	8.95	4,920	4,920	×	0.00	-	-	A
Market sale	2 bed flats	8	62	195,000	3,145	✓	95.02	5,891	47,132	✓	30.00	1,860	14,880	B
									42,211				14,880	B-A
Scheme B lower values														
Existing large poor condition house converted into flats		1	550	350,000	636	×	0	-	-	×	0	-	-	A
Market sale	2 bed flats	8	62	90,000	1,452	✓	15.39	954	7,631	×	0	-	-	B
									7,631				-	B-A
Scheme C														
Market sale	Office	1	5000	16,050,000	3,210	✓	97.13	485,626	485,626	✓	30.00	150,000	150,000	A
Market sale	Gym	1	500	802,500	1,605	✓	25.73	12,866	12,866	×	0	-	-	B
Public service	Health centre	1	750	601,875	803	×	0	-	-	×	0	-	-	C
									498,491				150,000	A+B+C

Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2017

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit **nationalarchives.gov.uk/doc/open-government-licence/version/3** or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: **psi@nationalarchives.gsi.gov.uk**.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at **www.gov.scot**

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

Published by The Scottish Government, November 2017

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS317306 (11/17)