Minister of Public Works and Infrastructure
Minister Patricia de Lille

PROPOSAL FOR CONSIDERATION: MORATORIUM OR DISCOUNT WITH DEFERAL OF BALANCE OF DEVELOPMENT CHARGES/DEVELOPMENT COSTS

In light of the Covid-19 Pandemic and Government's unwavering efforts to find ways and means to ignite and stimulate our South African Economy within these changed circumstances, we propose this single mitigating action which would, if it is leveraged well, potentially result in the return of increased speed and implementation of economic development in the short-to-medium term, especially for property developments that are shovel-ready.

1. <u>BACKGROUND:</u>

1.1 Development charges (DC) are a once-off capital charge, levied by Municipalities to recover the actual cost of external infrastructure required to accommodate the additional impact of a new development on engineering services.

1.2 In theory, the fee is calculated on a *pro-rata* basis, according to the total costs of the infrastructure and the amount of service that will be provided to the development relative to the actual cost of the capital asset concerned.

1.3 The concept of development charges, also known as "*external service contributions"*, *"bulk service contributions"*, *"capital contributions"* or "*bulk infrastructure contribution levies"*, is defined in the draft Municipal Fiscal Powers and Functions Amendment Bill (the "*draft Bill"*) as follows:

> ***"Means a charge levied by a Municipal Planning Tribunal in terms of Section 40(7)(b) of, and contemplated in Section 49 of, the Spatial Planning and Land Use Management Act, which must –***
>
> ***(a)*** ***contribute towards the cost of capital infrastructure assets required to meet increased demand or existing and planned external engineering services; or***
>
> ***with the approval of the Minister, contribute towards capital infrastructure assets required to meet increased demand for other municipal engineering services, not prescribed in terms of the Spatial Planning and Land Use Management Act;"***

1.4 These charges, however have a detrimental effect on the rolling-out of developments across the Republic. Currently, especially in the City of Tshwane, which has notoriously high development charge-rates across their services departments, developers are not only having to try to deliver developments encumbered with prohibitively high development charges but also having to install all services and pay for all physical services often with minimal offsets.

1.5 Added to these challenges are difficult funding environments (not made easier by the recent downgrading to junk status by Moody's), and the challenging demand of achieving yields and returns acceptable to investors when margins are sometimes fatally constrained. The load of massive development charges makes this an almost impossible task.

HISTORY:

During the 1990's a moratorium on development charges (bulk service contributions) was declared to stimulate an economy which was suffering under the burden of high interest rates, among other factors. A National moratorium on the levying by municipalities of development charges was declared, with each local authority applying such in varying scales. In the City of Tshwane (former Pretoria City Council) this measure was so successful in achieving the objective of releasing constrained property development and stimulating economic activity that the moratorium was extended more than once. Professionals active in the field at that time have been consulted on this historic process and their input was considered in providing this example of a precedent for the historic background.

1.6 As a current case study, this is by no means an isolated case, as similar case studies can be found across all Metros. The City of Tshwane's Zone of Choice is an example where the added cost of DCs to development costs are preventing developments from being rolled-out, which has a knock-on effect of not achieving government's socio-economic goals and urgently needed economic growth.

RELEVANT CASE STUDY:

1.6.1 The Zone of Choice Vision – The North of Tshwane is recognized as a place of extraordinary opportunity and provides the focus for an entire strategy, appreciating that the future of Tshwane can be transformed through a clear and succinct development agenda in this region. The strategy for the North is based upon finding a practical balance between providing resources towards improving access to municipal services and unlocking development opportunities that can provide the focus for the next stage of Gauteng growth.

1.6.2 The biggest beneficiary of economic diversification of the City deriving from the potential success of economic growth in the Zone of Choice would be the City itself.

1.6.3 The vision of the Zone of Choice is to reverse the current reality of 57% of the population of Tshwane living in the "North" but there only being 21% of the job opportunities in that region. The opportunity exists to invest in infrastructure to unlock and stimulate economic development leading to economic growth on the one hand and diversification of the Capital City on the other. Infrastructure investment is therefore an investment in generating economic activity, job creation and poverty alleviation in the area.

1.6.4 The vision of the Zone of Choice is furthermore to leverage the major industrial developments in the area from earlier investment by the provincial agency, Blue IQ, and the Department of Trade and Industries, in the Rosslyn area Motor Industrial Development Programme, including current expansion plans.

1.6.5 The philosophy of the further development of the Zone of Choice is to prioritise key catalytic projects and concomitant infrastructure that stimulate investment, tenancy mix and employment and which infrastructure can be leveraged to provide additional housing and enablement of large corporate as well as SMME business and residential opportunities.

This infrastructure, employment and investment would enable a better transition for people on the margins of the formal economy to regularise and upscale their businesses and make contributions to local and national government, which in turn accelerates payment for this and future infrastructure.

1.6.6 Critically important development projects within this Zone of Choice, such as –

- The Automotive Industry Development Centre (AIDC)/Tshwane Automotive City (TAC) expansion into Rosslyn;
- The Pyramid South Freight Hub – a Strategic Infrastructure Project 2 (SIP2) Freight Terminal with links to Rosslyn, Wonderboom National Airport and synergies with the Rainbow Junction Project;
- The Wonderboom National Airport – with its increased industrial land potential for a mini-aerotropolis in the surrounding area;
- The *A Re Yeng* (bus rapid transit system) and Multi-Modal Transport Interchange at Wonderboom Station – currently under construction, and the largest *A Re Yeng* Terminal; and
- The Rainbow Junction Mixed-Use Economic Node – a large private sector, mixed-use development of more than 140ha;

all carry the burden of development charges, where the private sector is involved in the implementation of such developments.

These projects have the potential of increasing job-creation opportunities in excess of 123,000 (one hundred twenty-three thousand) new permanent, direct and indirect jobs. The capital value of the expansion to the AIDC together with the capital investment values of the Rainbow Junction Developer alone are approximately R32 billion, into this northern economy.

The Rainbow Junction Project's complete roll-out in itself will add an estimated

17,500 jobs to the City's Economy during the Construction Phases; and

27,500 sustainable jobs to the City's Economy in the Operational Phase of the Complete Project.

DISPROPORTIONATE DEVELOPMENT CHARGES:

1.7 A further example of how disproportionate these development charges are in relation the actual servicing cost of a township is summarised below:

1.7.1 ELECTRICITY: The cost of physically servicing a site, 60 hectares in extent, with electricity, at Rainbow Junction, is between R33m and R42m, while development charges would range from R141.5m to R150m respectively (depending on the development charge calculation employed by the Municipality).

This means that development charges account for some 75% to 82% of the electricity servicing costs of a large development.

The cost to provide electricity only is costing over R3 million per hectare, with the development charges being around 80% of this cost and the actual physical cost of electricity installation being only 20% of this total. This additional burden alone of just electricity (notwithstanding the other services) makes, for example, a school site completely unaffordable for development for an affordable private school, without any other cost considerations.

1.7.2 SANITATION: Sanitation would be another example where the development charges are also relatively high compared with the value of typical physical works. Sanitation development charges are 60% to 75% of the cost of sanitation costs of a project.

1.7.3 WATER: Water is less of a cost item in a project but still has a role to play in this proposal.

All the above excludes the indirect costs of servicing and funding costs of carrying and holding the land which rachets up the BSC (DC) impact still further.

1.8 HISTORY OF LEVYING OF MUNICIPAL DEVELOPMENT CHARGES:

During 2011, the national government published a Draft Policy Framework for Municipal Development Charges, in which the main problems, which existed at the time pertaining to the levying of development charges by municipalities were summarised, but more importantly, government's vision to address the uncertainties that existed, was articulated by reference to the following principles:

"Equity and Fairness

- ***Development charges should be reasonable, balanced and practical so as to be equitable to all stakeholders;***

Predictability

- ***Development charges should be a predictable, legally certain and reliable source of revenue to the Municipality for providing the necessary infrastructure.***

Spatial and Economic Neutrality

- ***Primary role of a system of development charges is to ensure the timely, sustainable financing of required infrastructure that should be determined on identifiable and measurable cost to avoid distortions in the economy and patterns of spatial development.***

Administrative ease and uniformity

- ***The determination, calculation and operation of development charges should be administratively simple and transparent."****

*(*see appendix 1*)

1.8.1 The Bill, in specific terms, compels a Municipality to adopt a policy, consistent with the Act, on the levying of development charges and empowers the Municipality to, in the policy, specify municipal engineering zones and, moreover, may dictate payment of development charges in tranches and granting to a specific category of landowners or the owners of a specific category of land developments **"*… a reduction in the development charge payable in respect of the land development.*"**

From the above, it is abundantly clear that currently, and after the coming into operation of the amendment Act, mechanisms do exist in terms of which certain categories of developments and areas can be exempt from payment of development charges or where a reduction on or deferment of payment of development charges, can be engineered.

2. THE PROPOSAL:

The National Development Plan: A Vision for 2030 (NDP), is an inclusive development strategy committed to contributing to the building of a spatially equal South Africa – it states the following:

> ***"South Africa's transition from apartheid to a democratic state has been a success. In the past 18 years, we have built democratic institutions, transformed the public service, extended basic services, stabilised the economy and taken our rightful place in the family of nations. Despite these successes, too many people are trapped in poverty and we remain a highly unequal society. Too few South Africans work, the quality of school education for the majority is of poor quality and our state lacks capacity in critical areas. Despite significant progress, our country remains divided, with opportunity still shaped by the legacy of apartheid. In particular, young people and women are denied the opportunities to lead the lives that they desire. Our Constitution obliges all of us to tackle these challenges."***

This Proposal is a method of lending support to achieving Government Goals as set out in the NDP.

The NDP is a vision for every South African, requiring action, change and sacrifice from all sectors of society – and now with the Covid-19 Pandemic which has adversely affected the world economy and our own South African Economy, it is imperative that our economy increases its growth rate, with more interventive action to be taken resulting in better and faster implementation.

South Africa's Medium-Term Strategic Framework 2014 to 2019 (MTSF) was drawn up following the adoption of the NDP in September 2012 and it sets out actions government and its partners would take to implement the NDP over the 5 years of the plan. It provided a framework for other plans of national, provincial and local government.

The Proposal is focused on stimulating activities in the short-term as a means to ignite the South African Economy, post Covid-19, from which a diverse range of economic benefit may be leveraged. The proposed period of implementation is 24 months, starting on the date of actual construction commencement and applying to projects which are shovel ready, and in a position to start by no later than November 2020. Such projects should ideally be included the scope of the proposal.

Of the 14 NDP-priorities identified by the MTSF, 10 priorities are directly and/or <u>indirectly</u> supported by this proposal:

i) Quality basic education – high-quality education facilities now become more affordable and the development of facilities being more feasible allows for a broader sector of the community to access these facilities – affordable schools are an imperative;

ii) <u>A long and healthy life for all South Africans:</u>

The quality of the environment to be created and managed on a continuous basis will provide a healthy environment for residents to thrive in;

iii) Decent employment through inclusive economic growth – the NDP's vision is an economy which is inclusive and dynamic and creates new jobs in the Economy – just referring to the 5 critical projects noted in paragraph 1.6.6 above – this proposal has the potential to unlock 123,000 new job opportunities, in the City of Tshwane alone;

iv) <u>A skilled and capable workforce to support an inclusive growth path:</u>
Skills development and community development always goes hand-in-hand with job creation;

v) An efficient, competitive and responsive economic infrastructure network – infrastructure which supports and advances growth and job creation.

The envisaged infrastructure efficiently delivers electricity, water, sanitation, telecoms and transport services, contributes to the economy, and gives citizens the means to improve their lives and boost their incomes;

vi) <u>Sustainable human settlements and improved quality of household life (transit-oriented development should be stressed)</u>;

vii) <u>Protecting and enhancing our environmental assets and natural resources</u>;

viii) <u>Create a better South Africa, contribute to a better and safer Africa in a better world</u> – contributes to sustainable development, democracy, the rule of law, human rights and security;

ix) <u>An inclusive and responsive social protection system</u> – everyone is able to live the life they wish to lead; and

x) <u>A diverse, socially cohesive society with a common national identity</u> – citizens accept that they both have rights <u>and responsibilities</u>.

PROPOSAL DETAILS:

2.1 **DEVELOPMENT CHARGES:**

2.1.1 **a discount of 50% of the development charges** calculated by the Municipalities is proposed; and

2.1.2 **deferred payments and/or phased payments** of the balance of the development charges payable - illustratively*;*

2.1.2.1.1 50% discount of the total DC with 25% payable as per usual service agreement conditions;

2.1.2.1.2 25% deferment of the total DC to a date agreed upon as reasonable between the parties;

2.1.2.1.3 On large phased developments, a score card between phases offsetting deferments etc. would be constructive, in order to roll-out phases in a rational sequence;

2.2 PUBLIC INFRASTRUCTURE

An incentive where public infrastructure could be developed where development is ignited – the ideal here would be that public infrastructure required to enable the identified Projects, would be built with the remainder of the development charges payable – it is important to note that in some Municipalities this way of service delivery is already underway.

What is of critical importance is that the current onerous burden of the development charges payable, without the benefit of a discount and the proposed phased payments of the balance thereof, results in no development taking place due to unaffordability, and therefore no public infrastructure can be developed either.

Section 49(4) of SPLUMA, furthermore provides for a situation whereby a developer may, in agreement with the Municipality, install external engineering services *in lieu* of payment of the applicable development charge.

2.2.1 AN INCENTIVE TO OFF-SET THE CONSTRUCTION COST OF EXTERNAL SERVICES, OTHER THAN MUNICIPAL SERVICES, BY A LAND DEVELOPER, AGAINST DEVELOPMENT CHARGES:

2.2.2.1 Land developers are often faced with a situation where external bodies (i.e. bodies and institutions outside of Municipalities) submit negative comments on a development, based on the absence of infrastructure or the impact that development may have on infrastructure owned and managed by such body. For example, it is not uncommon for a provincial roads authority to submit negative comments on a proposed land development, based on the impact that same will have on provincial roads infrastructure, or where SANRAL will submit negative comments, due to the impact that a particular development will have on a National Road.

2.2.2.2 The result of the afore going is that, in order to enable the development to proceed and to accommodate the concerns of the applicable external body, a developer is forced to, at own cost, upgrade the applicable provincial or national service, in order to accommodate the impacts of the development. The aforesaid takes place in the absence of any statutory mechanism, whereby a developer finds itself under an obligation to pay any form of DCs to provincial or national government for as far as a development may increase the impact on such services.

2.2.2.3 The installation or upgrading of a service for and on behalf of provincial and/or national government, more often than not, has a positive impact on municipal services, as it often leads to a situation where the impact, not only of the development concerned, but the general impact on a municipal service, is substantially reduced. Notwithstanding the aforesaid, no statutory mechanism exists, whereby a developer can be compensated for the construction or installation of non-municipal services and/or whereby the cost of such services can be set-off against DCs payable to a Municipality. Comments submitted on the Bill include proposals that the cost of construction of external provincial or national services should, indeed, be allowed to be set-off against municipal DCs, subject thereto that a funding mechanism then be put in place, whereby Municipalities be refunded by the sphere of government for the amount so set-off, less any (quantifiable) benefit that a Municipality may derive directly from the installation of the service concerned.

2.2.2.4 Even in the absence of statutory mechanisms to arrange the above, land developers have indeed entered into tripartite agreements with both the municipality and, for example, the Provincial Roads Authority in order to mitigate the huge financial obligations in a situation where charges are duplicated and a developer pays both a DC and pays for upgrading provincial roads. A practical example is where the developer of Steyn City (and other developers who will ultimately benefit from the applicable upgrades) undertook to attend to extensive road upgrades on provincial roads and where the municipality agreed to accommodate such developers as far as payment of DC's for roads are concerned.;

PROPOSED METHODOLOGY FOR IMPLEMENTATION:

2.3 It is proposed that the implementation methods, entrenched in the Infrastructure Development Act 23 of 2014 be utilised to ensure that implementation of the identified Projects do not suffer delays;

2.4 This proposal will not create a precedent for future development, post Covid-19. Such emergency economic stimuli are, in these unusual circumstances, a method to, , assist in igniting the economy for a specific time frame;

2.5 A penalty for those individuals who would try to use this proposed incentive to enrich themselves only, with no intention to assist in recovering the economy should be imposed in the form of re-payment of the incentive, in other words the total of the calculated DC.

2.6 The second Phase of this proposal, should Government be in agreement, would be to identify the specific Projects that are 'shovel ready' and able to have an impact as noted in paragraph 2.

3. CONCLUSION:

The simple fact remains that, in order to stimulate economic development initiatives in the property sector and its many affiliated sectors and, having regard to the current challenges facing the economy in general, a reduction in the upfront cost of development charges should remain the focus in this post Covid-19 reality we face. Such a incentive should be seriously considered because it will lead to many secondary economic benefits, not least of which will be employment generation, a positive impact on the financing sector, addressing backlogs in provision of housing and related amenities, added long term income for municipalities in rates in taxes.