

Policy Number:	LPP 14
Policy Type:	Local Planning Policy
Policy Name:	<b>Developer and Subdivider Contributions</b>
Policy Owner:	Chief Executive Officer

**AUTHORITY:** *Shire of Nannup Local Planning Scheme No.4 (LPS No. 4)*

## **POLICY BASIS**

This is a local planning policy prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the *Shire of Nannup Local Planning Scheme No. 4 (LPS4)*.

## **OBJECTIVES**

The objectives of this Policy are to:

1. Enable Council to obtain contributions in the form of land, infrastructure works, monetary payment, or agreed in-kind contributions from developers/subdividers for the provision, extension or improvement of infrastructure, services or facilities. The contributions are required based on the expected impacts/demands of the development/subdivision, or are required in anticipation of the likely demands of the development/subdivision, or which will assist to facilitate such development/subdivision;
2. Assist, in part, to protect Council's assets and assist in achieving financial sustainability for the Council;
3. Assist, in part, the safety of drivers, pedestrians and cyclists to ensure they are not compromised as a result of proposals being implemented;
4. Assist, in part, the Council to maintain or where possible improve services, infrastructure and facilities as a consequence of the proposed development/subdivision and ensure that the local community and/or the Council are not burdened as a consequence of the development/subdivision;
5. Highlight the need for developers/subdividers to meet the costs of off- site impacts/demands that will be created as a result of their development/subdivision;
6. Consider the impacts and associated demands of the proposed development/subdivision on infrastructure, services and facilities (especially those managed by the Council) for all proposals;
7. Set out the criteria to be used in determining the amount a developer/subdivider must contribute to satisfy conditions of the development approval, subdivision approval or as a consequence of the scheme amendment or structure plan;
8. Seek an equitable outcome between proponents, other nearby/adjoining landowners, the community and the Council;
9. Provide increased certainty for developers/subdividers as to where contributions will be required, while recognising the need to provide an effective balance between certainty and flexibility, given the need for the policy to address a wide number of variables (including site location and features, scale and intensity of the proposal, intended use, existing standard of infrastructure, services and facilities etc);
10. Promote a transparent process; and
11. Outline how monies that are collected will be held and the approach to expenditure by Council.

## **DEFINITIONS**

Throughout this Policy, references to "**developer/subdivider**", "**development/subdivision**" also relates to "scheme amendment, structure plan and development guide plan" requests where considered appropriate by Council, the term "**developer**" or "**subdivider**" can also imply "applicant", "**proposal**" implies "development application", "subdivision application" or "scheme amendment

request”.

“**Road**” shall have the definition applied to it under the *Road Traffic Act 1974* which includes any highway, road or street open to, or used by, the public and includes every carriageway, footway, reservation, median strip and traffic island thereon.

## **APPLICATION OF THE POLICY**

This Policy applies to the whole of the municipality where Council considers the development application, subdivision application or scheme amendment or structure plan request will create impacts on or demands for infrastructure, services or facilities.

## **LINKS TO LOCAL PLANNING SCHEME AND OTHER DOCUMENTS**

This Policy relates to various requirements set out in the *Planning and Development Act 2005*, the *Shire of Nannup Local Planning Scheme No. 4*, *State Planning Policy 3.6 Infrastructure Contributions*, various WAPC policies and other Council policies.

## **POLICY PROVISIONS**

### 1. General

Other than for minor proposals or as otherwise determined by the Council, the Council will require developers/subdividers to meet, mitigate or contribute to off-site infrastructure, services and facilities as a result of impacts and/or demands arising from their proposal. The Council may include a condition/s of a development approval, request a condition/s for a subdivision approval or negotiate an agreement (or similar) through a scheme amendment or structure plan request, a requirement for the provision of:

- land to be dedicated to the Council;
- infrastructure works;
- monetary payment (either a cash payment or other means acceptable to Council e.g. bank guarantee).

Unless otherwise stated, this Policy focuses on off-site contributions.

Unless otherwise agreed to by Council, all on-site works and costs associated with implementing the development/subdivision are to be met by the proponent including the provision and/or upgrading of infrastructure/services and where relevant facilities. This includes meeting the requirements of the Council, the WAPC and the relevant servicing authority to provide necessary infrastructure, services and facilities. Standard on-site works and requirements include, relevant to the proposal (such as intensity of development, proposed number of lots, intended use, site location, site features etc.), the following:

- internal roads, pathways, stormwater management etc;
- connection to reticulated water;
- connection to reticulated sewerage;
- connection to a suitable power supply;
- provision of public open space (for urban and rural living subdivisions) or associated cash-in-lieu payments;
- car parking (including cash-in-lieu arrangements) – this is addressed in the Council’s Local Planning Scheme, other Council policies, and the *Residential Design Codes of Western Australia*; and
- landscaping – this is addressed in the Council’s Local Planning Scheme, other Council Local Planning Policies, and the *Residential Design Codes of Western Australia*.

The responsibilities of a developer/subdivider to meet on-site requirements does not negate their obligations towards meeting off-site contributions as outlined in this policy, other Council policies, and/or in accordance with WAPC policies.

In assessing proposals and possible contributions (such as road upgrading), the Council will consider natural environmental assets and associated impacts.

## 2. Assessment Considerations

The Council will determine whether a contribution is required and if it is, the contribution type and amount by considering matters including:

- the provisions of the *Planning and Development Act 2005*, Council's Local Planning Scheme, other Local Planning Policies, and WAPC policies;
- the objectives of this Policy;
- the proposed use, size and intensity of the development/subdivision;
- the nature of the development/subdivision and the effect of the development/subdivision on the surroundings;
- the site's location;
- the availability and standard of existing infrastructure, services and facilities in the area;
- the expected impact and/or demands created by the proposed development/subdivision including implications of the proposal on the local community and the Council;
- whether the existing infrastructure, services or facilities have appropriate capacity to handle the additional impacts created by the proposal and whether the proposal will create safety and/or maintenance concerns;
- the extent to which the contributions provide for infrastructure, services and facilities, which are reasonably required to meet the needs of the development/subdivision. This includes whether the contribution will address, in full or in part, the impacts/demands of the development/subdivision;
- the "nexus" between the proposed development/subdivision and the associated off-site impacts and demands;
- whether there is realistic scope for cost-sharing, in the opinion of Council, with adjoining/nearby landowners within a time period that relates to the need to address the impacts/demands of the proposal. To assess the potential for possible cost-sharing, the Council will consider development/subdivision potential outlined in its endorsed Local Planning Strategy and/or gazetted Local Planning Scheme. Should Council support a cost-sharing approach, the costs may be apportioned based on the anticipated impact (such as traffic generated from each site), lot yield, proportion of the catchment area, or other agreed approach;
- the likelihood that the Council will upgrade the existing infrastructure, services and facilities within the foreseeable future irrespective of the development/subdivision occurring;
- whether the contribution will benefit the broader local community and to what degree;
- estimating the proportional cost of the required works/meeting the necessary standard, compared to existing standards and levels of impacts/demands and, where relevant, determining the realistic potential for new development/subdivision in the area/catchment as determined by Council and its associated impacts/demands;
- the classification of the infrastructure, service or facility in the Council's Strategic Plan, other adopted plans/strategies or asset hierarchy;
- the extent to which there are additional abnormal costs associated with the development/subdivision as determined by Council;
- the scale of the contributions, including where appropriate, economic viability of the development/subdivision in the opinion of Council;
- other relevant Council and WAPC policies; and
- written justification put forward by the proponent and/or the proponent's consultant/s.

### 3. Proposals Typically Requiring Contributions

Contributions will be typically sought by Council for development applications, including those that propose:

- retail, commercial, office and industrial development;
- leisure and/or recreational development;
- educational/training establishments;
- tourist developments and/or holiday accommodation;
- home occupation, home business cottage industry;
- industry - extractive and/or mining;
- industry - rural;
- timber plantations;
- group dwellings, second dwellings and aged care developments; and
- other applications determined by Council to create off-site impacts and/or demands for infrastructure, services and facilities.

The Council will seek the support of the WAPC to impose appropriate contribution conditions on subdivision approvals that:

- create additional traffic generation onto unsealed roads managed by Council;
- create significant additional traffic generation onto sealed roads where safety and/or capacity issues are anticipated;
- propose access from an unconstructed road;
- propose or have the ability to access a constructed or unconstructed laneway/right-of-way which is managed by Council;
- create the need for footpaths/dual use paths based on considerations including safety and convenience;
- cannot dispose/retain stormwater on the subdivision site;
- create the need for public open space; and
- create the need for community purpose sites and other public facilities.

The Council will typically require contributions for scheme amendment or structure plan requests that propose tourist development outside town sites, residential developments that involve "leapfrogging" development (in the opinion of Council), special rural/rural residential, rural small holding, and rural living proposals.

### 4. Proposals typically not requiring Contributions

Unless otherwise outlined in this Policy, the Council will not seek a contribution for development applications that propose:

- internal changes that do not add to floor space and/or increase the intensity of the use;
- a single house;
- additions to a single house;
- ancillary accommodation where the applicant can demonstrate that traffic volumes for the proposed development will not increase above the existing level of development for the development site;
- non-commercial and non-industrial sheds/outbuildings;
- aquaculture (for non-tourist developments); and
- telecommunications and infrastructure benefiting the public in the opinion of the Council.

The Council will generally not seek a contribution for applications to amalgamate land or where a boundary adjustment is proposed (where no additional lots are proposed). The exceptional

circumstances to this are outlined in this Policy e.g. addressing land-locked blocks.

Unless provided for in Council's Local Planning Scheme or an endorsed structure plan, or appropriately justified under exceptional circumstances, the Council will not impose planning conditions requiring off-site contributions for the benefit of "third parties" (including State Government agencies and servicing authorities).

## 5. Types of Contributions

Standard off-site contributions, where relevant to the proposal, include:

- road upgrading (includes widening and reinstatement);
- laneway/right of way upgrading;
- sealing crossovers (subject to other Council policies on car parking/access);
- footpaths/dual use paths; and
- drainage.

For development/subdivision that has more substantive off-site effects, in the opinion of the Council, contributions may include:

- road construction;
- vehicle slip/turning lanes;
- intersection upgrading;
- bush fire protection;
- community purpose sites and other public facilities; and
- other infrastructure, services or facilities required in the opinion of the Council.

## 6. Roads

### *Overview on Roads*

Developments/subdivisions are required to be served by appropriate legal and practical vehicular access which meets the Council's standards. The Council seeks to ensure that the standard and safety of Council managed roads are appropriate to meet the impacts and demands of the proposed development/subdivision.

For the purposes of this Policy, the approach to developer/subdivider contributions relating to roads also includes laneways and rights-of-way managed by the Council.

The Council will require a developer/subdivider to make an appropriate contribution, in the opinion of Council, where a development, subdivision, or scheme amendment or structure plan request is considered to cause or contribute to the requirement for the road/s to be upgraded/constructed whether immediately or in the foreseeable future.

The roads considered for contributions are those onto which a development/subdivision fronts (has practical and legal vehicular access) and other public roads impacted by the development/subdivision as determined by the Council. The contribution may be for design, gaining necessary third-party approvals, clearing and removing vegetation, upgrading, widening, reinstatement, kerbing, draining, sealing, constructing and lighting a road.

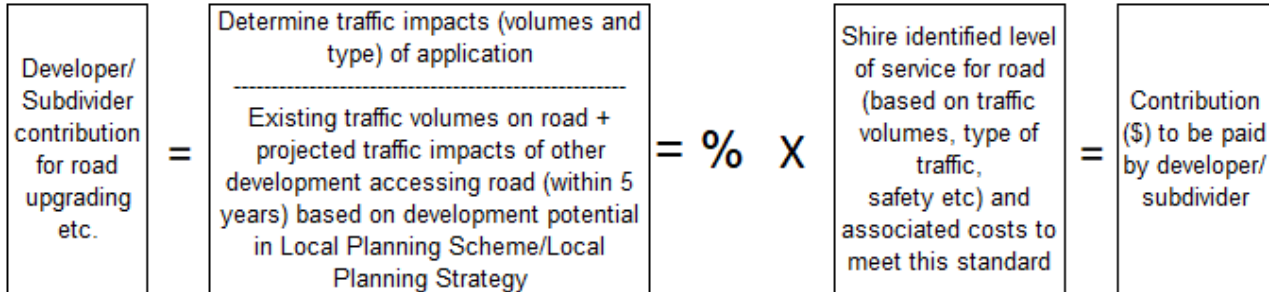
On-site works are the landowner/proponent's responsibility. This includes that internal subdivision roads are to be constructed, at the cost of the subdivider, to the satisfaction of the Council and the WAPC.

*Specific Assessment Considerations for Roads*

Council will determine the need for developers/subdividers to contribute to upgrading and/or constructing existing Council managed roads (both sealed and unsealed) through considering the following:

- the objectives of this policy;
- the assessment considerations set out in this policy;
- sections of this policy relating to which proposals typically require or do not require contributions;
- whether the existing road is either substandard or inadequate to accommodate the additional traffic generated and impact from the proposed development/subdivision;
- an evaluation of the existing standard of the road (along with determining average vehicle numbers per day), compared to the expected impacts of the proposed development/subdivision and implications for the road;
- an assessment of the total development/subdivision potential for the area/catchment as outlined in the Council’s endorsed Local Planning Strategy and/or gazetted Local Planning Scheme and implications for the relevant road/s;
- the classification of the road in the road hierarchy;
- the cost of the required work and the amount of contribution monies collected from developer/subdivider contributions;
- budget provision from Council or other sources;
- consistency with the Council’s road maintenance/construction programme; and
- the need and timing to gain environmental and other approvals.

In particular, the Council will apply the following formulae:



The Council will not seek a contribution for applications to amalgamate land or where a boundary adjustment is proposed (and no additional lots are proposed) unless access to the lot/s are reliant on an unconstructed road or the lot does not have access to a public gazetted road.

*Upgrading Existing Roads*

Existing roads shall be required to be reconstructed and/or upgraded as a condition of development/subdivision, where the Council considers that the development/subdivision should not proceed unless the reconstruction or upgrading occurs.

The Council may impose a condition requiring the developer to enter into satisfactory arrangements with the Shire for the reconstruction/upgrading of the relevant road/s. The responsibility for the design and construction of the works is generally the responsibility of the developer.

The developer must undertake either of the following to allow the development/subdivision to proceed:

- carry out the works to the satisfaction of the Council; or
- contribute to the cost of the works by either cash payment or other means acceptable to the Council (e.g. bank guarantee).

### *Truncations*

In order to ensure that sight distances at street junctions are adequate, the Council may request the WAPC impose a condition requiring that a suitable truncation be ceded free of cost from corner blocks. Such truncations refer to a line joining the points equidistant from the intersection of the street reserve boundaries.

### *Road Widening*

The Council, in determining road widening requirements (including truncations) for development applications, may impose a condition requiring land for road widening to be ceded free of cost to the Council where:

- the development will result in additional traffic movements, including those by vehicles that may require special access considerations that give rise to the need to widen the road; and/or
- where the development increases the potential for increased turning movements to and from the development site.

The Council will determine road widening requirements for subdivision applications in accordance with WAPC policy and the anticipated impacts arising from the proposal.

### *Reinstating Roads*

The Council will require contributions from developers proposing extractive industries, tree plantations and other developments that are either typically shorter term and/or have periods of intensive traffic generation and impacts, as considered appropriate by the Council. This is to ensure that Council managed roads are in a condition post-development that is at least the same condition as pre-development as determined by the Council. To achieve this, development conditions will include a system of notification, inspection and post-development repair of the roads to the satisfaction of the Council.

### *Unconstructed Public Roads and Lots without Access to a Public Gazetted Road*

The Council considers it has no legal obligation to provide existing lots with practical vehicular access via unconstructed and typically vegetated public road reserves that are the responsibility of the Council. Additionally, the Council considers it has no legal obligation to provide legal access to lots that do not have access to a gazetted public road, or to obtain access via a public or private road not vested in the Shire of Nannup such as a road managed by the Department of Biodiversity, Conservation and Attractions.

The Council will assess development applications that propose vehicular access from an unconstructed public roads and lots without access to a public gazetted road on their merits and may or may not approve the application. The Council may:

- request that environmental and/or heritage assessments be undertaken and approvals obtained;
- require the applicant to appropriately address issues raised by the proposal prior to determining the application including outlining how practical and legal vehicular access will be obtained; or
- grant approval with a condition/s requiring the developer to secure necessary legal agreements and/or undertake necessary works; or
- refuse the application due to environmental impacts, cost of infrastructure upgrade or other

impacts in the opinion of Council.

In considering subdivision applications that propose access only via an unconstructed public road, under the responsibility of the Council, and lots without access to a public gazetted road, the Council will determine these applications on their merits. The Council may or may not support the application and in giving advice to the WAPC, the Council may:

- request that a requirement for other appropriate legal arrangements be made for permanent vehicular access to the satisfaction of the Council and the WAPC; or
- recommend support subject to a condition requiring the applicant to make a monetary payment to meet all or part of the cost of constructing the road and/or securing appropriate practical vehicular access; or
- recommend that the application be refused until necessary approvals, including environmental clearances, have been obtained.

If the unconstructed road is not on the Council's road construction programme, any determination of a development application, or advice to the WAPC on a subdivision application, will not bind the Council into "fast tracking" the inclusion of the unconstructed road on future road construction programmes.

The Council recommends that prospective purchasers of land should take account of this policy when contemplating the purchase of land that does not front a constructed public road and/or has no gazetted public road access.

#### *Partnerships and Possible Council Contribution*

The Council may contribute up to a maximum of 50% towards the cost of upgrading an existing constructed road where such upgrading is considered by the Council to be in the interests of the community and its road construction programme.

A partnership approach may be applied between the proponent/s and the Council for financing the necessary road upgrading/construction and associated requirements. Any contribution will have regard to matters including:

- this Policy, including determining the proportion of costs that the proponent will need to contribute based on considerations including the level of existing traffic/impact compared to anticipated future traffic/impact generated by the proposal;
- the existing and other potential users of the road and whether the Council contribution is in the interests of the community;
- the standard to which the road is to be constructed;
- the total cost of the upgrading; and
- the Council's road construction programme.

The Council may contribute, subject to budgetary constraints and Council commitments, up to 50% of the cost of constructing, priming, subsequent sealing and draining of appropriate lengths of previous unsealed roads adjacent to a development/subdivision site, if that developer/subdivider, or adjoining landowner, is also prepared to contribute up to 50% of the cost of the work. The Council shall not be bound to contribute to the upgrading of a road.

#### *Significant Proposals*

For significant proposals or proposals likely to create off-site impacts/demands, the proponent should submit details, with their application/request, from a suitably qualified practitioner relating to road access. For instance, this may include an assessment of existing road conditions, expected traffic generation, expected impacts and proposed remediation/contribution measures through a Traffic Impact Study.



Where there is concern about potential traffic generation, the Council may require the submission of a Traffic Impact Study to provide a technical assessment of the impact of the development/subdivision. The study should also set out the basis for recommending controls to ensure that the new development/subdivision will not have an adverse impact on the safety or functioning of the surrounding road system.

### *Road Hierarchy*

A road hierarchy can be adopted which designates the classification of roads within the municipality. The proposed road hierarchy is based on *Liveable Neighbourhoods*, other WAPC policies and *Local Government Guidelines for Subdivisional Development*. The road hierarchy will incorporate traffic volume and design characteristics which have implications on priority roads for funding/maintenance and the construction standards. Some roads have multiple classifications due to varying road functions on different parts of the road.

### *Design and Construction Standards*

The Council's design and construction standards for roads and associated stormwater management are as set out the *Local Government Guidelines for Subdivisional Development* and Australian standards. Unless otherwise agreed to by the Council, road upgrading and/or construction are to be consistent with these guidelines.

The design and construction standards will be periodically reviewed to account for changing technical requirements and community expectations.

Other than for minor proposals or as otherwise determined by Council, the Council will require developers to meet or contribute to road upgrading as a result of impacts and/or demands arising from their proposal. The Council may include a condition/s of a development approval, request a condition/s for a subdivision approval or negotiate an agreement (or similar) through a scheme amendment, structure plan or development guide plan request, a requirement for the provision of:

- land to be dedicated to the Council;
- infrastructure works;
- monetary payment (cash payment or other means acceptable to Council e.g. bank guarantee).

The developer shall contribute towards upgrading of roads (especially accessing non sealed roads), constructing unmade roads and constructing new roads. Such contribution includes:

- newly created lots shall be provided with a constructed road at the subdivider's cost to the specification and satisfaction of the Council;
- the Council may require roads in the immediate locality linking the subdivided land to the existing road network to be upgraded at the developer's cost to the specification and satisfaction of the Council; and
- where a developer is responsible for upgrading and/or constructing new roads under point 1 above, this does not negate their obligation under point 2 above to contribute towards upgrading existing roads in the immediate locality.

Where a secondary street exists, the Council reserves the right to seek a contribution for the secondary street in addition to the primary street frontage, however the Council will take into account traffic movements and existing vehicular access/site entry.

In assessing proposals and possible contributions, the Council will consider natural environmental assets and associated impacts.

## *Legal and Practical Vehicular Access*

Developments/subdivisions are required to be served by appropriate legal and practical vehicular access which meets the Council's standards. The Council seeks to ensure that the standard and safety of Council managed roads are appropriate to meet the impacts and demands of the proposed development/subdivision.

Where it is considered that the road is required to be upgraded as a direct result of the development/subdivision, the Council may refuse the application on the grounds that the development has inadequate practical access (unless the proponent agrees to pay the total cost of this upgrading to an appropriate standard) and/or legal access.

### 7. Laneways/Rights-of-Way

The Council may require contributions for development/subdivision applications that propose or have the ability to access an existing Shire managed laneway and/or right-of-way. The assessment will be based on matters set out in section 7 of this Policy.

The contribution will be used, as considered appropriate by the Council, for design, drainage, widening, sealing, lighting etc.

### 8. Crossovers

Crossovers are to be constructed by the developer/subdivider in accordance with Council's *Local Planning Policy LPP 10 Car Parking and Vehicular Access*.

Where crossovers are proposed as part of a planning proposal, the developer will be required to bear the full cost of the constructing and draining the crossover to the satisfaction of the Council.

The Council will contribute up to 50% of the cost of a standard crossover up to a maximum of \$800, as set out in Council's *Works Policy No. 7 Driveway Crossovers*, where not associated with a planning proposal.

Maintenance of crossovers is the on-going responsibility of the land owner.

### 9. Footpaths and Dual Use Paths

The Council may require developers/subdividers to make an appropriate contribution for off-site footpaths and dual use paths (reconstruct and/or construct). If deemed necessary by the Council, the developer/subdivider is required to provide a footpath/dual use path adjoining and/or not adjoining the proposal site in order to provide safe and convenient pedestrian and cyclist connections to existing footpaths/dual use paths.

The requirement to upgrade and/or provide new footpaths/dual use paths are as follows:

- by developers on the frontage of the development site where the Council considers the development will warrant this, as determined by predicted pedestrian and/or cycle movement, which will be in conflict with existing or estimated traffic volumes/types;
- by developers for relevant off-site works in the opinion of the Council where in addition to the above point, the path is required as a link for convenience and/or safety;
- by subdividers within urban and rural residential/rural living subdivisions; and
- by subdividers for off-site works, for urban, rural residential/rural living and tourist subdivision, where the site is not connected to the existing public footpath/dual use path system and where the Council considers the path is required as a link for convenience and/or safety.

There may be opportunities for cost-sharing with the proponent financially contributing in partnership with other landowners and/or with the Council.

## 10. Drainage

The Council requires appropriate stormwater management and treatment for the proposed subdivision/development that satisfactorily addresses stormwater control and meets the requirements of *State Planning Policy 2.9 Planning for Water* (SPP 2.9) and *Planning for Water Guidelines*. Where possible and practical, stormwater will need to be appropriately detained and treated on the proposal site.

New developments/subdivisions draining to an existing Council drainage system, or requiring an off-site drainage requirement, may attract a drainage contribution unless the proponent's suitably qualified professional submits a design, which is approved by the Council, for the installation of appropriate disposal/retention systems is carried out for full on site disposal/retention in the opinion of the Council.

New developments/subdivisions are to be provided with a comprehensive drainage system and where that system contributes to an impact on upstream and/or downstream drainage (includes issues of water quantity and/or water quality), the developer/subdivider is responsible for the necessary provision and/or upgrade.

Where possible, the Council will encourage cost sharing between adjoining developers/subdividers and landowners.

## 11. Public Open Space

The Council will seek public open space (POS) provision and/or a cash-in-lieu payment for POS for relevant subdivisions in accordance with WAPC policy.

In determining the need for POS and its associated function and location, the Council will take into consideration factors including:

- proposed land use;
- lot sizes and number of lots proposed;
- location of subdivision in relation to existing POS areas;
- environmental and landscape considerations;
- safety including from traffic and promoting surveillance;
- convenience and accessibility;
- appropriately sized to accommodate the intended use;
- consist of highly usable land for the intended recreational purpose;
- on-going management/maintenance; and
- other matters determined relevant by Council.

The Council does not support the creation of POS which has no practical use or value and/or where the proposed POS duplicates existing nearby POS. In these situations, the Council will seek a cash-in-lieu payment.

## 12. Community Purpose and Other Public Purpose Sites

The Council may seek community purpose and other relevant public purpose sites and/or a cash-in-lieu payment for relevant subdivisions in accordance with WAPC policy.

The Council may require, in some instances, require monetary payment and/or land contributions for community halls/meeting rooms, fire sheds, and health care centres etc. This will be determined on a case by case situation by the Council including considering issues such as the size of the development area, the expected number of lots and associated future population. This form of contribution is most likely to be required for a large subdivision and/or where multiple landowners within an area have a realistic potential for subdivision in the opinion of the Council.

Community purpose sites and other public purpose sites are typically required to be given up free-of-cost to the Council. If land is given up free of cost, it is generally a component of the 10% POS requirement. The Council will seek to ensure the community purpose or other public purpose site is ceded early in the subdivision process to increase certainty for all stakeholders. Unless otherwise determined by the Council or agreed to by the proponent, the Council will be responsible for constructing the community or other public purpose facility at a future date which is consistent with its budgetary commitments and an assessment of the demands of residents.

### 13. Other Infrastructure, Services and Facilities

The Council will assess, on its merits, the need for developer/subdivider contributions for other infrastructure, services and facilities not outlined in this Policy through having regard to considerations including:

- the objectives set out in this Policy;
- the assessment considerations set out in this Policy; and
- sections of this Policy relating to which proposals typically require or do not require contributions.

## **ADMINISTRATION**

### 1. Matters to be Addressed prior to Formally Lodging the Proposal

Proponents are encouraged to discuss possible contribution implications for their proposal with the Shire administration early on in the planning process and prior to the formal lodgement of the application/request. This especially applies for relevant proposals anticipated to require a contribution outlined in this policy, or where the proposal, if implemented, is likely to create off-site impacts and demands.

### 2. Details Provided with the Proposal

The Council recommends that proponents submit appropriate details with their application/request relating to:

- how the site will be effectively serviced;
- their proposal's impact and demands on services, infrastructure and facilities;
- what commitments are intended to be met by the proponent to address off-site impacts/demands arising from the proposal; and
- address the requirements of this Policy.

Details submitted by the proponent may also include:

- appropriate written justification as to why this Policy should not apply to their proposal or outline other recommended ways in which equitable contributions can be obtained; and
- why compliance with the provisions relating to the contribution would be unreasonable or unnecessary in the circumstances of the case including demonstrating why a precedent will not be created.

For significant proposals or proposals likely to create off-site impacts/demands, the proponent should submit details, with their application/request, from a suitably qualified practitioner relating to relevant infrastructure, services and facilities and address the requirements of this Policy. For instance, this may include an assessment of existing road conditions, expected traffic generation, expected impacts and proposed remediation/contribution measures through a Traffic Impact Study.

### 3. Assessing the Proposal

The Council may refuse a development application or recommend refusal to the WAPC for a subdivision application if:

- Council is of the view that the proposal will create considerable off-site impacts/demands and the applicant is not proposing to suitably address these off-site impacts/demands; and
- necessary contributions are likely to render the proposal unviable in the opinion of Council.

The Council will seek the support of the WAPC to impose appropriate contribution conditions on subdivision approvals. Typically, should the WAPC impose a condition/s relating to contributions, negotiation is undertaken once a conditional subdivision approval has been issued by the WAPC. Negotiations regarding the scope of the contribution and what is required to clear the necessary condition/s will be undertaken by the Shire administration, with matters and amounts in dispute to be referred to Council for determination (provided the subdivider puts this in writing).

In the case of scheme amendment requests, the Council may not agree to initiate (adopt) a scheme amendment until it is satisfied that the proponent provides written support to address appropriate off-site contributions and/or prepares a Development Contribution Plan to the satisfaction of Council.

### 4. Timing of Payment, Works and Ceding Land

Contributions, which are required as a condition of the development approval, are required to be met in accordance with the approval. Generally, the Council will require the monetary payment to be paid in full or bonded to the full amount prior to the commencement of site works and may require payment prior to issuing a building permit. Where associated infrastructure works are required as a condition of development approval, the requirement is typically to finalise the works to the satisfaction of Council prior to occupation especially for developments that will be available to the public. Where development is for “domestic” use only (in the opinion of Council), the development approval may require associated infrastructure works to be completed within two years or within the time period of the development approval.

Where the proponent is proposing to undertake infrastructure works, the proponent is to appoint a suitably qualified practitioner to prepare appropriate construction design plans which are to be submitted to the Shire administration for approval. If the construction design plans are approved by the Shire administration, the developer/subdivider is to carry out the works to the satisfaction of the Council in accordance with the development approval or prior to clearance of the Deposited Plan.

The clearance of a development condition will be by completion of the necessary work and/or appropriate payment and/or ceding of land to the satisfaction of the Council. Bonding will not be accepted where works are considered necessary to the function or safety of the development/subdivision and/or existing public/private infrastructure.

The Council may accept, in exceptional circumstances for development approvals, a deferred or periodic payment of a contribution by the developer, or any other person entitled to act upon the relevant consent. This will be subject to a developer satisfying the Council that the non-compliance will not prejudice the timing or the manner of the provision of the infrastructure, service or facility for which the contribution is required. The decision to accept a deferred or periodic payment is at the sole discretion of the Council.

The provision of land, infrastructure/works and/or monetary contributions associated with a condition of a subdivision approval are required to be met prior to the clearance of the approved Deposited Plan to the satisfaction of the Council and the WAPC.

Unless otherwise set out in a scheme provision, a legal agreement or agreed to by Council, the contribution amount is determined at the date of the requested clearance of the development/subdivision condition and not when the conditional development/subdivision approval

was issued.

## 5. In Kind Contributions

The Council may accept an offer by the developer/subdivider to make a contribution by way of an “in kind” contribution or a material public benefit.

The Council may accept the offer of an in kind contribution if the developer/subdivider, or any other person entitled to act upon the relevant consent, satisfies Council that:

- the in kind contribution will not prejudice the timing in the manner of provision of the infrastructure, service or facility for which the contribution was required; and
- the value of the works to be undertaken is at least equal to the value of the contribution assessed in accordance with this Policy.

## 6. Holding the Funds

All monetary payments made under this policy by developers/subdividers shall be paid into a relevant Council account with monies to be used to upgrade, extend or provide infrastructure, services and facilities in the vicinity of the land subject to the contribution in the opinion of the Council.

The requirement for the contribution shall still be applied whether or not the Council proposes to, or carries out the upgrading/provision of the infrastructure, service or facility in the same financial year as the development/subdivision is proposed or the monies are paid. The monetary payments which are acquired by the Council are to be set aside for the purpose for which the contribution is paid.

The Council shall expend the funds when sufficient funds are available for an appropriate amount of work to be undertaken in the opinion of the Council. Generally, the monies collected should be spent by Council within 3 years of collection in the vicinity of the site where the contribution was collected in the opinion of the Council. Monetary payment received for a development/subdivision will not necessarily be spent, for instance, on the section of road immediately fronting the proposal site, but will be typically spent nearby where there is the greatest need for upgrading. At all times, the acquired funds will be used, for instance, for the upgrading of a road that relates/services the relevant development/subdivision where the funds were acquired.

The Council must keep a record of monies paid and place these in a restricted account and the Council is to allocate any expenditure from this account. Where works are not carried out within 5 years of collection, the Council is to write to the developer/subdivider and provide reasons and an expected timeframe for undertaking the works.

## 7. Review Contribution Amounts

The Council will review contribution amounts periodically by re-estimating current rates in relation to matters such as the Consumer Price Index, the *BTCE Road Construction and Maintenance Price Index* (prepared by the Commonwealth Department of Transport and Regional Services - this measures the movement in prices of inputs used in road works including materials, equipment, fuel and labour), a review of actual costs and estimates of anticipated costs.

The financial contribution is based upon an amount equal to the Shire’s estimated cost to undertake the works at the date of clearance of the road upgrading/construction condition by the local government. Alternatively, the developer may wait until the Shire is able to construct or upgrade the road before proceeding with the development/subdivision.

Provision exists in the *Planning and Development Act 2005* to enable a subdivider to claim a portion of the cost of providing an existing road from subsequent subdividers that abut the road. This is providing the subsequent subdividers have not already contributed to the cost of providing the road.

Related Policies:	
Related Procedures/Documents:	<i>State Planning Policy 2.9 Planning for Water Planning for Water Guidelines (WAPC 2021)</i>
Delegation Level:	Chief Executive Officer or their Delegated Officer
Adopted:	OM 23 May 2013
Reviewed:	OM 27 June 2024