

Draft

May 2008

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## **State Planning Policy 3.6 Development Contributions for Infrastructure**

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Prepared under part 3 of the  
*Planning and Development Act 2005*  
by the Western Australian Planning Commission



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## 1 Citation

This state planning policy is made under section 26 of the *Planning and Development Act 2005*. This policy can be cited as State Planning Policy 3.6 Development Contributions for Infrastructure

## 2 Introduction and background

This policy sets out the principles and considerations that apply to development contributions for the provision of infrastructure in new and established urban areas.

The careful planning and coordination of infrastructure is fundamental to the economic and social well-being of any community. New urban developments and redevelopments must ensure the cost-efficient provision of infrastructure and facilities such as roads, public transport, water supply, sewerage, electricity, gas, telecommunications, drainage, open space, schools, health, community and recreation facilities. All of these utilities and services greatly influence the standard of living, mobility and lifestyle choices of a community.

Public infrastructure is funded through various sources including state government taxes, local government property rates, federal assistance grants, user and access charges, fees and charges, and development contributions. In Western Australia, development contributions for infrastructure have long been accepted as an essential part of the planning system. Land developers are responsible for the provision of physical infrastructure including water supply, sewerage and drainage, roads and power and for some community infrastructure including public open space and primary school sites which are necessary for the development. The scope of such contributions is defined in a Western Australian Planning Commission (WAPC) policy adopted in 1997 which is set out in Planning Bulletin 18 Developer Contributions for Infrastructure.

Development contributions are usually by way of land, works or payments towards the provision of infrastructure. Requirements for development contributions are imposed by way of conditions on subdivision; or, in areas of fragmented ownership where cost-sharing arrangements are necessary, by development schemes or development contribution arrangements made under local government schemes. The WAPC adopted draft model provisions for local government schemes in 2000 which are set out in Planning Bulletin 41 Draft Model Text Provisions for Development Contributions.

In Western Australia, as in other Australian states, local governments face increasing pressures on the services they provide. These pressures arise from population and economic growth and increasing expectations of the community for new and upgraded infrastructure.

Examples of these pressures are:

- Greenfield development of rural land for urban purposes, where there are standard requirements for infrastructure and facilities which are imposed, by the WAPC as conditions on the subdivision of the land, but where local governments may require infrastructure or facilities over and above the common standards.
- Infill development and redevelopment where common standard conditions of subdivision still apply, but where significant changes in the type or intensity of land use may require new infrastructure and facilities or the augmentation of existing infrastructure and facilities beyond the normal scope of standard subdivision conditions.

The capacity of local governments to provide the additional infrastructure and facilities necessary to accommodate future growth and change is limited by the available financial resources. As a result,

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local governments are increasingly seeking to apply development contributions for the provision of infrastructure and facilities such as local roads, car parking, community centres, recreation centres, sporting facilities, libraries, child care centres, public open space and other such facilities.

Local governments have indicated that they need more guidance on the scope and framework for development contributions of this nature. The development industry has also pointed to the need for greater consistency and transparency in charging developers because of the potential impacts on housing affordability and to avoid inequities arising from new residents subsidising existing residents.

This policy follows a joint study into development contributions undertaken by the Urban Development Institute of Australia (UDIA), Western Australia Local Government Association (WALGA), and the Department for Planning and Infrastructure (DPI). It replaces Planning Bulletin 18 and sets out the standard development contributions for infrastructure applied by the WAPC on the subdivision of land. It also provides a consistent, accountable and transparent system for local governments to plan and charge for development contributions over and above the standard provisions through development contribution plans.

The policy has taken into account the recommendations of the Public Accounts Committee - *Inquiry into Developer Contributions for Costs Associated with Land Development* (2004). The inquiry, among other things, recommended that local governments should have the capacity to recoup infrastructure costs and that this should be by way of provisions in local planning schemes. Under this policy, local government planning schemes will set out the system of charging through development contribution plans. The policy provides an equitable system for planning and charging development contributions, and provides certainty to developers, infrastructure providers and the community about the charges which apply and how the funds will be spent.

The key principle is that the 'beneficiary' pays. Sometimes benefits will be largely confined to the residents of a new development. Sometimes the benefits will accrue to existing as well as new residents. Consistent with this principle, new residents will fund only the infrastructure and facilities which are reasonable and necessary for the development and to the extent that they derive the benefit from the infrastructure and facilities. Therefore, development contribution plans will need to identify growth trends based on service catchment areas, translate these trends into the infrastructure and facilities necessary to meet these increasing needs within the catchment, and allocate the costs of meeting these needs to existing residents and new residents proportional to their contribution to the need for the infrastructure and facilities. This policy will ensure fairness and equity. It will mean that existing and new residents will share the cost burden of additional infrastructure and facilities proportional to their need.

A fundamental prerequisite of development contribution plans is that local governments will need to plan ahead. The development contribution plan must have a strategic basis and be linked to the local planning strategy and strategic infrastructure plan and program which identify the infrastructure and facilities required over the next 5-10 years and the cost and revenue sources for the provision of the infrastructure. In this way, those contributing towards the development contribution plan will be assured that the funds will contribute to the local government's longer-term planning and programming of infrastructure in an integrated and coordinated way.

This policy set out the principles underlying development contributions and the form, content and process for the preparation of a development contribution plan under a local planning scheme. It also includes the WAPC standard requirements for development contributions (appendix 1), model development contribution plan provisions (appendix 2) and a template for a local government strategic infrastructure plan and program.

### 3 Application of policy

The policy applies throughout Western Australia.

### 4 Objectives of the policy

The objectives of this policy are:

- To promote the efficient and effective provision of public infrastructure and facilities to meet the demands arising from new growth and development.
- To ensure that development contributions are necessary and relevant to the development to be permitted and are charged equitably among those benefiting from the infrastructure and facilities to be provided.
- To ensure consistency and transparency in the system for apportioning, collecting and spending development contributions.

### 5 Policy measures

#### 5.1 Scope

Development contributions can be sought for items of infrastructure that are required to support the orderly development of an area. These items include the standard requirements for infrastructure contributions as outlined in appendix 1. In addition, local governments can seek contributions for community infrastructure which is defined as:

*'the structures, systems and capacities which help communities and neighbourhoods to function effectively.'*

Development contributions can be sought for:

- a new item of infrastructure;
- land for infrastructure;
- an upgrade in the standard of provision of an existing item of infrastructure;
- an extension to existing infrastructure;
- the total replacement of infrastructure once it has reached the end of its economic life; and
- other costs reasonably associated with the preparation, implementation and administration of a development contribution plan.

#### 5.2 Principles underlying development contributions

Development contributions must be levied in accordance with the following principles:

##### 1 Need and the nexus

The need for the infrastructure included in the development contribution plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).

##### 2 Transparency

Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.

##### 3 Equity

Development contributions should be levied from all developments in a development contribution area, based on their relative contribution to need.

**4 Certainty**

All development contributions should be clearly identified and methods of accounting for escalation agreed on at the commencement of a development.

**5 Efficiency**

Development contributions should be justified on a whole-of-life capital cost basis consistent with maintaining financial discipline on service providers by precluding over-recovery of costs.

**6 Consistency**

Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.

**7 Right of consultation and review**

Developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the contributions are not reasonable.

**8 Accountable**

There must be accountability in the manner in which development contributions are determined and expended.

**5.3 Imposition of development contributions**

Development contributions may relate to the requirements of utility providers (water, telecommunications, gas or electricity), state government requirements and the requirements of local government.

Where local governments are seeking development contributions beyond the standard provisions outlined in appendix 1, they must be supported by a development contribution plan for the relevant development contribution area or by a voluntary agreement between a developer and the relevant local government. This need may not arise where there is one development and the need for the development condition is created by that development. The condition(s) must be consistent with the principles outlined in section 5.2.

There are three stages to the imposition of development contributions.

**5.3.1 Development contributions are formulated and agreed.**

The development contribution plan is used to prescribe the cost contributions for owners in a development contribution area.. This would normally be undertaken through the development of planning schemes and planning scheme amendments as detailed in section 5.5.

**5.3.2 Development contributions are calculated and applied.**

Development contributions are generally calculated and applied by way of a condition of subdivision particularly in greenfield areas. Development contributions may also be sought in major infill and redevelopment areas at the time of development.

They may be calculated and applied as:

- standard conditions of subdivision;
- conditions of development; and
- legal/voluntary agreements.

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This applies to subdivisional works such as roads, drainage and the provision of power, water and telecommunications as outlined in appendix 1. They may also be applied as conditions of development. The calculation will be to apply the detail of the developer contribution scheme to the development including any offsets for the ceding of land or construction of infrastructure.

5.3.3 Development contributions become **due and payable**.

Development contributions become due and payable as part of the clearance process. Clearance for the issuance of titles should not occur until full payment, as calculated and applied, has been finalised.

#### 5.4 Characteristics of a development contribution plan

Development contribution plans require that:

- there is a clear and sound basis with linkages to the local government's strategic and financial planning processes;
- there is justification for the infrastructure identified in the development contribution plan;
- the costs of infrastructure are appropriate;
- there is a commitment to providing the infrastructure in a reasonable period;
- the development contribution area to which the development contribution plan applies is appropriate;
- cost-sharing arrangements between owners in the development contribution area are fair and reasonable; and
- there is consultation with the owners affected by the development contribution plan.

Development contribution plans prescribe the cost contributions for owners in a development contribution area. The focus of development contributions is on the provision of capital items. The costs associated with design and construction of infrastructure (including land costs), and the cost of administration should be included in the development contribution plan.

A development contribution plan does not have effect until it is incorporated into a local planning scheme. As it forms part of the scheme, the Town Planning Regulation 1967, including advertising procedures and the requirement for ministerial approval, will apply to the making or amendment of a development contribution plan.

A development contribution plan is to be prepared for a development contribution area. The development contribution area must be identified on the scheme map. Model Scheme Text provisions for development contributions can be found at appendix 2. Development contribution plans are incorporated into schemes via special control areas.

Local governments may also enter into voluntary arrangements with developers for contributions for the provision of community infrastructure. Such agreements should reflect the principles outlined in section 5.2.

#### 5.5 Process for determining development contributions for community infrastructure

Local government requirements for development contributions for community infrastructure should be calculated on the basis of:

- the need for that infrastructure based on an analysis of the demand;



- the nexus where the relationship between the need for infrastructure and the new development is clearly established;
- catchment areas that the infrastructure would service identifying both existing demand and new demand that is associated with the development; and
- the cost of providing the infrastructure which should be based on the latest or best estimates available to the local government and should include provision for regular adjustments to account for cost escalation over time.

Where a local government is seeking contributions for community infrastructure, these need to be supported by:

- A community infrastructure plan for the area, identifying the services and facilities required over the next 5-10 years (supported by demand analysis and identification of service catchments).
- A capital expenditure plan (with at least five out years) which identifies the capital costs of facilities and the revenue sources (including capital grants) and programs for provision.
- Projected growth figures including the number of new dwellings to be created at catchment level (suburb or district).
- A methodology for determining the proportion of costs of community infrastructure to be attributed to growth and the proportion to be attributed to existing areas.

The process for determining development contributions for community infrastructure is outlined at appendix 3.

#### **5.6 Form of contributions**

Conditions relating to development contribution requirements can be satisfied by:

- the ceding of land for roads, public open space, primary school sites, drainage and other reserves;
- construction of infrastructure works which are transferred to public authorities on completion;
- monetary contributions to acquire land or undertake works by public authorities or others; or
- a combination of the above.

#### **5.7 Development contributions as conditions of rezoning**

Local governments are not to impose development contributions beyond the scope of WAPC policy as conditions or prerequisites for rezoning. The rezoning process is not to be used to impose unreasonable demands on land development outside the scope of WAPC policy.

Development contributions must be open and appealable, and should be implemented through the process specified in section 5.3, or through development contribution plans or voluntary agreements that are transparent and follow the due planning process.

#### **5.8 The application of a credit in a development contribution plan**

A development contribution plan may identify infrastructure that:

- needs to be actioned with the first development in a development contribution area such as a major road extension/connection; and
- is predominantly located on the developer's land such as major playing fields to service the larger development contribution area.

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The local government may mandate that this work is undertaken creating an in-kind contribution beyond that identified in the development contribution plan for that area. In this instance the developer and the local government must negotiate a fair and reasonable outcome in relation to this credit. Appropriate negotiated outcomes may include:

- Where a developer has other land holdings in the area that, the credit is held until it is required to be used by the developer to offset future contributions.
- Where a developer has no further holdings in the area, the amount is held as a credit to the developer until payments into the development contribution plan are received from subsequent developers. The credit is then reimbursed to the developer.
- Where the development contribution plan is in credit from developer contributions already received, the credit should be reimbursed on completion of the works/ceding of land.

Any indexing of the developer contribution scheme should be equally applied to credits.

## 6 Implementation

Implementation of this policy will primarily be through local planning strategies, structure plans and local planning schemes and the day-to-day consideration of zoning, subdivision, strata subdivision and development proposals and applications, together with the actions and advice of agencies in carrying out their responsibilities.

## Appendix 1 Standard development contribution requirements

Land contributions	Infrastructure works	Monetary contributions
<p><b>Public open space</b> Public open space equivalent to 10 per cent of the gross subdivisional area, or alternatively, a cash-in-lieu contribution subject to agreement between the developer, WAPC and local government.</p> <p><b>Foreshore reserves</b> Certain land for foreshore reserves on the coast, rivers and lakes in accordance with WAPC policies.</p> <p><b>Primary schools</b> Land for government primary schools.</p> <p><b>Roads</b> Land for widening existing roads where the subdivision induces additional traffic movements.</p> <p>Land for district distributor roads in new development areas that expand the urban front.</p> <p>Land for primary distributor roads and railway reserves where justified by the subdivision.</p> <p>Other contributions as provided for in WAPC policies.</p>	<p><b>Utilities</b> Reticulation of:</p> <ul style="list-style-type: none"> <li>• water</li> <li>• sewerage</li> <li>• drainage works</li> <li>• electricity supply infrastructure</li> <li>• telecommunications</li> </ul> <p>This covers on-site works as well as off-site capital works such as major pump stations, trunk sewers or transmission lines that are necessary to, or contribute to, the subdivision. Note that these works are in addition to monetary charges by the Water Corporation and Western Power for off-site major infrastructure.</p> <p><b>Roads</b> All roads and traffic works required within the subdivision and linked to a constructed public road. These roads provide access to individual lots and allow utility services to be reticulated in the road reserves.</p> <p>Footpaths, pedestrian access ways and dual-use paths where required (generally along one side of a road).</p> <p>Upgrading, construction and widening of existing roads and rights-of-way to accommodate additional traffic generated by a subdivision.</p> <p>New district distributor roads including earthworks for the whole road reserve, the construction of one carriageway comprised of two lanes and associated drainage works. In addition, where set out in a structure plan for the area, grade-separated pedestrian crossings and dual-use paths may be required as a contribution.</p>	<p>Standard water, sewerage and drainage headworks charges for off-site major infrastructure works.</p> <p>If an area is in fragmented ownership, monetary contributions can be required in lieu of land or infrastructure works, and to reimburse other owners where costs are shared.</p>

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## Appendix 2 Model text provisions for development contributions

### 6.1 Operation of special control areas

6.1.1 The following special control areas are shown on the scheme map:

- (a) development areas shown on the scheme map as DA with a number and included in schedule XX; and
- (b) development contribution areas shown on the scheme map as DCA with a number and included in schedule YY.

6.1.2 In respect of a special control area shown on a scheme map, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the scheme.

### 6.2 Development areas

For clause 6.2 regarding development areas see planning bulletin 37 (February 2000) attachment 1.

### 6.3 Development contribution areas

#### 6.3.1 Interpretation

In clause 6.3, unless the context otherwise requires:

'Administrative costs' means such costs as are reasonably incurred for the preparation and implementation of the development contribution plan.

'Cost apportionment schedule' means a schedule prepared and distributed in accordance with clause 6.3.10.

'Cost contribution' means the contribution to the cost of infrastructure and administrative costs.

'Infrastructure' means services and facilities which, in accordance with the WAPC's policy, it is reasonable for owners to contribute towards.

'Owner' means an owner of land that is located within a development contribution area.

#### 6.3.2 Purpose

The purpose of having development contribution areas is to:

- (a) provide for the equitable sharing of the costs of infrastructure and administrative costs between owners;
- (b) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and
- (c) coordinate the timely provision of infrastructure.

### 6.3.3 Development contribution plan required

A development contribution plan is required to be prepared for each development contribution area.

### 6.3.4 Development contribution plan part of scheme

The development contribution plan does not have effect until it has been incorporated in schedule ZZ as part of the scheme.

### 6.3.5 Subdivision and development

6.3.5.1 Where a development contribution plan is in effect, the local government shall not:

- (a) consider or recommend subdivision; or
- (b) development of land within a development contribution area until;
- (c) a development contribution plan is in effect; or
- (d) the owner who has applied for subdivision or development approval has made arrangements in accordance with clause 6.3.14 for the payment of the owner's cost contribution.

6.3.5.2 Where a development contribution plan is not in effect, the local government may support subdivision or approve development where the owner has made other arrangements satisfactory to the local government with respect to the owner's contribution towards the provision of infrastructure and administrative costs in the development contribution area.

### Comments

A development contribution plan is only enforceable once it is incorporated into the scheme. This has two major implications:

- All advertising and other provisions under the Town Planning Regulations 1967 applicable to the making of schemes and amendments will apply.
- Any amendment to a development contribution plan will require a scheme amendment in order to become enforceable.

### 6.3.6 Guiding principles for development contribution plans

The development contribution plan for any development contribution area is to be prepared in accordance with the following principles:

#### (a) Need and the nexus

The need for the infrastructure included in the development contribution plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).

## (b) Transparency

Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.

## (c) Equity

Development contributions should be levied from all developments in a development contribution area, based on their relative contribution to need.

## (d) Certainty

All development contributions should be clearly identified and methods of accounting for escalation agreed on at the commencement of a development.

## (e) Efficiency

Development contributions should be justified on a whole-of-life capital cost basis consistent with maintaining financial discipline on service providers by precluding over-recovery of costs.

## (f) Consistency

Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.

## (g) Right of consultation and review

Developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the contributions are not reasonable.

## (h) Accountable

There must be accountability in the manner in which development contributions are determined and expended.

## Comments

Apportionment of infrastructure costs based on area assumes that the land concerned has fairly common characteristics. Therefore, development contribution areas should be identified, as far as possible, with common characteristics so that cost contributions reflect future development potential. Where it is not possible to identify land with fairly common characteristics, consideration may be given to apportioning infrastructure costs based on land valuation.

## 6.3.7 Recommended content of development contribution plans

## 6.3.7.1 The development contribution plan is to specify:

- (a) the development contribution area to which the development contribution plan applies;
- (b) the infrastructure and administrative costs to be funded through the development contribution plan;
- (c) the method of determining the cost contribution of each owner; and
- (d) the priority and timing for the provision of infrastructure.

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Comments

A suggested outline of a development contribution plan is contained in schedule ZZ.

#### 6.3.8 Period of development contribution plan

A development contribution plan may specify the period during which it is to operate.

## Comments

A development contribution plan may specify the period during which it is to operate. However, any extension of the period of operation of a development contribution plan requires a scheme amendment which will, in turn, require the approval of the Minister. The recommended maximum period is five years (to coincide with the scheme review) but, a longer or shorter period may be appropriate depending on the particular circumstances of the development contribution area (eg size of the development contribution area, number of owners and nature of the infrastructure to be funded).

#### 6.3.9 Land excluded

In calculating both the area of an owner's land and the total area of land in a development contribution area, the area of land provided in that development contribution area for:

- (a) roads designated under the \_\_\_\_\_ Region Scheme as primary regional roads and other regional roads;
  - (b) existing public open space;
  - (c) government primary and secondary schools; and
  - (d) such other land as is set out in the development contribution plan,
- is to be excluded.

#### 6.3.10 Development contribution plan report and cost apportionment schedule

6.3.10.1 Within 90 days of the gazettal date of the development contribution plan, the local government is to make available a development contribution plan report and cost apportionment schedule to all owners in the development contribution area.

6.3.10.2 The development contribution plan report and the cost apportionment schedule shall set out in detail the calculation of the cost contribution for each owner in the development contribution area based on the methodology provided in the development contribution plan.

6.3.10.3 The development contribution plan report and the cost apportionment schedule do not form part of the scheme.

## Comment

A suggested outline of a cost apportionment schedule is attached at the appendix. The cost apportionment schedule is adopted by the local government but does not form part of the scheme.

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#### 6.3.11 Cost contributions based on estimates

6.3.11.1 The value of infrastructure and administrative costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government.

6.3.11.2 Where a cost apportionment schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government:

- (a) in the case of land to be acquired, in accordance with clause 6.3.12; or
- (b) in all other cases, in accordance with the best and latest information available to the local government,

until the expenditure on the relevant item of infrastructure or administrative costs has occurred.

6.3.11.3 The local government is to have such estimated costs independently certified by an appropriate qualified person and must provide such independent certification to an owner where requested to do so.

6.3.11.4 Where any cost contribution has been calculated on the basis of an estimated cost, the local government:

- (a) is to adjust the cost contribution of any owner in accordance with the revised estimated costs; and
- (b) may accept a cost contribution, based on estimated costs, as a final cost contribution and enter into an agreement with the owner accordingly.

6.3.11.5 Where an owner's cost contribution is adjusted under clause 6.3.11.4, the local government, on receiving a request in writing from an owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.

#### 6.3.12 Valuation

6.3.12.1 Clause 6.3.12 applies in order to determine the value of land to be acquired for the purpose of providing infrastructure.

6.3.12.2 In clause 6.3.12:

'Value' means fair net expectation value which is to be calculated by:

- (a) determining the highest and best use of the land in its englobed state, either on its own or with other land ripe for subdivision; and
- (b) adding the margin for profit foregone had the land been able to be subdivided in its optimum form including allowances for all usual costs and expenses attributed to that land required to carry out such an exercise,,  
  
but not including an allowance for risk as might otherwise have been made.



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'Profit' is to be 10 per cent calculated by the difference between:

- (a) the gross realisation of the lots or part lots yielded from the subject land less the advertising and legal expenses so required to sell the lots; and
- (b) the amount of (a) divided by 1.1.

'Valuer' means a licensed valuer agreed by the local government and the owner, or where the local government and the owner are unable to reach agreement, a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.

6.3.12.3 If an owner objects to a valuation made by the valuer, the owner may give notice to the local government requesting a review of the amount of the value, at the owner's expense, within 28 days after being informed of the value.

6.3.12.4 If the valuer does not change the value of the land to a figure acceptable to the owner, the value is to be determined:

- (a) by any method agreed between the local government and the owner; or
- (b) if the local government and the owner cannot agree, by arbitration in accordance with the Commercial Arbitration Act 1985.

#### 6.3.13 Liability for cost contributions

6.3.13.1 An owner is required to make a cost contribution in accordance with the applicable development contribution plan and the provisions of clause 6.3.

6.3.13.2 An owner's liability to pay the owner's cost contribution to the local government arises on the earlier of:

- (a) the WAPC endorsing its approval on the diagram or plan of survey of the subdivision of the owner's land within the development contribution area;
- (b) the commencement of any development on the owner's land within the development contribution area;
- (c) the time of applying to the local government or WAPC for approval of any development on the owner's land within the development contribution area or;
- (d) at the expiry of the development contribution plan in accordance with clause 6.3.8.

6.3.13.3 Notwithstanding clause 6.3.13.2, an owner's liability to pay the owner's cost contribution does not arise if the owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided since the gazettal of the development contribution plan.

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Comments

The local government may wish to give consideration to other forms of development, of a minor or incidental nature, that should be excluded for the purpose of triggering liability under clause 6.3.13 eg the erection of a boundary fence.

6.3.14 Payment of cost contribution

6.3.14.1 The owner, with the agreement of the local government, is to pay the owner's cost contribution by:

- (a) cheque or cash;
- (b) transferring to the local government or a public authority land in satisfaction of the cost contribution;
- (c) some other method acceptable to the local government; or
- (d) any combination of these methods.

6.3.14.2 The owner, with the agreement of the local government, may pay the owner's cost contribution in a lump sum, by installments or in such other manner acceptable to the local government.

6.3.14.3 Payment by an owner of the cost contribution, including a cost contribution based on estimated costs, constitutes full and final discharge of the owner's liability under the development contribution plan.

6.3.15 Charge on land

6.3.15.1 The amount of any cost contribution for which an owner is liable under clause 6.3.13, but has not paid, is a charge on the owner's land to which the cost contribution relates, and the local government may lodge a caveat, at the owner's expense, against the owner's title to that land.

6.3.15.2 The local government, at the owner's expense and subject to such other conditions as the local government thinks fit, is to withdraw a caveat lodged under clause

6.3.15.1 To permit a dealing and may then re-lodge the caveat to prevent further dealings.

6.3.15.3 If the cost contribution is paid in full, and if requested to do so by the owner, the local government, at the expense of the owner, is to withdraw any caveat lodged under clause 6.3.15.

6.3.16 Administration of funds

6.3.16.1 The local government is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each development contribution area into which cost contributions for that development contribution area will be credited and from which all payments for the cost of infrastructure and administrative costs within that development contribution area will be paid. The purpose of such a

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reserve account or the use of money in such a reserve account is limited to the application of funds for that development contribution area.

6.3.16.2 Interest earned on cost contributions credited to a reserve account in accordance with clause 6.3.16.1 is to be applied in the development contribution area to which the reserve account relates.

6.3.16.3 The local government is to publish an audited annual statement of accounts for that development contribution area as soon as practicable after the audited annual statement of accounts becomes available.

#### 6.3.17 Shortfall or excess in cost contributions

6.3.17.1 If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a particular development contribution area, the local government may:

- (a) make good the shortfall;
- (b) enter into agreements with owners to fund the shortfall; or
- (c) raise loans or borrow from a financial institution.

but nothing in paragraph 6.3.17.1(a) restricts the right or power of the local government to impose a differential rate to a specified development contribution area in that regard.

6.3.17.2 If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for in a particular development contribution area, the local government is to apply the excess funds for the provision of additional facilities or improvements in that development contribution area.

#### 6.3.18 Powers of the local government

The local government in implementing the development contribution plan has the power to:

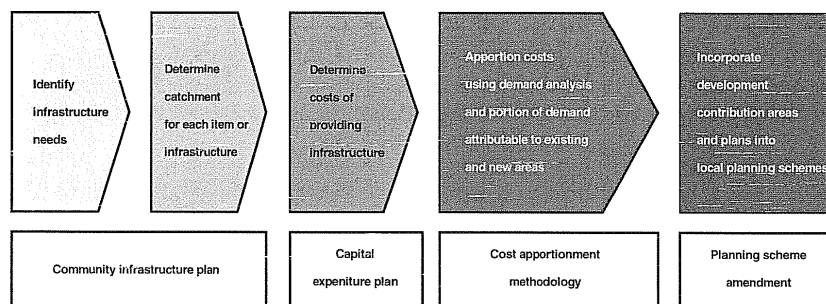
- (a) acquire any land or buildings within the scheme area under the provisions of the Planning and Development Act 2005; and
- (b) deal with or dispose of any land which it has acquired under the provisions of the Planning and Development Act 2005 in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

#### 6.3.19 Arbitration

Subject to clause 6.3.12.4, any dispute between an owner and the local government in connection with the cost contribution required to be made by an owner is to be resolved by arbitration in accordance with the Commercial Arbitration Act 1985.

### Appendix 3 Methodology for developing community infrastructure development contribution plans

Local governments need to establish a clear strategic framework for applying for development contributions for community infrastructure.



The framework should be supported by:

- 1 **A community infrastructure plan** for the area, identifying the services and facilities required over the next 5-10 years (supported by demand analysis and identification of service catchments). This should be supported by projected growth figures including the number of new dwellings to be created at catchment level (suburb or district).
- 2 **A capital expenditure plan (with at least five out years)** which identifies the capital costs of facilities and the revenue sources (including capital grants) and programs for provision.
- 3 **A methodology** for determining the proportion of costs of community infrastructure to be attributed to growth and the proportion to be attributed to existing areas. This will need to include a mechanism for escalating costs.
- 4 **Local planning scheme amendments** which identify development contribution areas as special control areas, and include schedules which provide community infrastructure development contribution plans for these areas and identifying the levies associated with each of these plans.

#### Community infrastructure development contribution plans

Development contribution plans must specify:

- (a) The development contribution area to which a plan applies. This should be indicated on the scheme map as a development contribution area.
- (b) The infrastructure and administrative costs to be funded through the plan. Only community infrastructure that is identified in the local government's community infrastructure plan can be included in the development contribution plan.
- (c) The methodology for determining the cost contribution of each owner towards the infrastructure to be funded through the plan.
- (d) The priority and timing for the provision of infrastructure.
- (e) The period during which it is to operate.

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A development contribution plan does not have effect until it has been incorporated into a local planning scheme as a schedule. An example of a development contribution plan can be found at attachment A3.1

Development contribution plans must comply with the principles specified in State Planning Policy 3.6 Development Contributions for Infrastructure.

Development contribution plans are to be supported by a cost apportionment schedule (see attachment A3.2) and a development contribution plan report (see attachment A3.3). These do not form part of the local planning scheme but need to be made available to landowners within 90 days of the gazettal of a development contribution plan.

Where a cost apportionment schedule contains estimated costs, these costs are to be reviewed at least annually. An owner may request that the local government have these estimated costs independently certified by an appropriately qualified person.

Where cost contributions have been calculated on the basis of estimated costs, a local government can either adjust the cost contribution of any owner in accordance with revised estimated costs (or final expenditure), or accept a cost contribution based on an estimated cost as a final cost contribution from an owner.

Owners become liable to pay their costs on the earlier of:

- subdivision;
- development;
- changing or extending use; or
- the expiry of a development contribution plan.

Owners may pay their cost contributions by money, land or some other method acceptable to the local government. The amount of any unpaid cost contribution is a charge on the owner's land and the local government may register a caveat.

Local governments are required to credit development contributions to a reserve account for the purpose of cost contributions only.

### Attachment A3.1 Schedule ZZ

**Note:** This should be incorporated in the scheme.

#### Community infrastructure development contribution plan for development contribution area xx

Reference No	Development Control Plan 1
Area name	Development contribution area XX
Relationship to other planning instruments	The development contribution plan generally conforms to the Plan for the Future, the 10-year Financial Management Plan and the Community Infrastructure Plan.
Infrastructure and administrative costs to be funded:	<ol style="list-style-type: none"> <li>District community centre <ul style="list-style-type: none"> <li>X% of total cost of : <ol style="list-style-type: none"> <li>planning and design</li> <li>site acquisition</li> <li>earthworks and site costs (including servicing);</li> <li>construction of facility (including associated tender costs)</li> <li>associated parking</li> <li>associated landscaping</li> </ol> </li> </ul> </li> </ol>
Method for calculating contributions	<ol style="list-style-type: none"> <li>Senior playing fields <ul style="list-style-type: none"> <li>X% of total cost of <ol style="list-style-type: none"> <li>earthworks and site costs (including servicing);</li> <li>playing surface</li> <li>associated parking</li> <li>associated landscaping</li> </ol> </li> </ul> </li> <li>etc</li> <li>Administrative costs including: <ul style="list-style-type: none"> <li>costs to prepare the development contribution plan</li> <li>costs to prepare and review estimates</li> <li>costs to prepare the cost apportionment schedule</li> <li>valuation costs,</li> </ul> </li> </ol>
	<p>The council's community infrastructure plan identified the needs that impact on the development contribution area. The contributions outlined in this plan have been derived based on the need for facilities generated by additional development in the development contribution area. This calculation excludes the:</p> <ul style="list-style-type: none"> <li>demand for a facility that is generated by the current population;</li> <li>demand created by external usage - the proportion of use drawn from outside of the main catchment area; and</li> <li>future usage - the proportion of usage that will be generated by future development outside of the development contribution plan timeframe.</li> </ul>
Period of operation:	X years
Priority and timing:	District community centre year X Senior playing fields year XX
Review process	<p>The development contribution plan will be reviewed when considered appropriate having regard to the rate of subsequent development in the area since the last review and the degree of development potential still existing.</p> <p>The estimated infrastructure costs shown as schedule ZZ will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on Department of Housing and Works Building Cost Index.</p>

## Attachment A3.2

### Cost apportionment schedule

**Note:** This schedule does not form part of the scheme.

Landowner contributions for DC1 – aaaaaa	\$ Est
<b>Land acquisition costs</b>	
<i>District community centre</i>	\$
<b>Planning and design costs</b>	
<i>District community centre</i>	\$
<i>Senior playing fields</i>	\$
<b>Construction costs</b>	
<i>District community centre</i>	\$
<i>Senior playing fields</i>	\$
<b>Landscaping costs</b>	
<i>District community centre</i>	\$
<i>Senior playing fields</i>	\$
<b>Parking provisions</b>	
<i>District community centre</i>	\$
<i>Senior playing fields</i>	\$
etc	\$
<b>Administration costs</b>	
<i>Costs to prepare the development contribution plan</i>	\$
<i>Costs to prepare and review estimates</i>	\$
<i>Costs to prepare the cost apportionment schedule</i>	\$
<i>Total projected demand for the district community centre</i>	XX,XXX
<i>Less demand from existing residents</i>	X,XXX
<i>Less demand from external users</i>	XXX
<i>Less future demand outside of the development contribution plan timeframe</i>	X,XXX
<b>Total demand associated with development contribution area</b>	<b>X,XXX</b>

Lot description	Demand generated	Infrastructure requirement	Per cent of total demand %
1	.....	.....	.....
2	.....	.....	.....
3	.....	.....	.....
4	.....	.....	.....
5	.....	.....	.....
6	.....	.....	.....

**Attachment A3.3****Development contribution plan report**

**Note:** This report does not form part of the scheme.

<b>Development contribution area</b>	The development contribution area is shown on the scheme map as: DCA 1
<b>Purpose</b>	<p>The purpose of this development contribution plan is to</p> <ul style="list-style-type: none"> <li>(a) enable the applying of development contributions for the development of new and upgrade of existing community infrastructure which is required as a result of increased demand generated in the development contribution area;</li> <li>(b) provide for the equitable sharing of the costs of infrastructure and administrative costs between owners;</li> <li>(c) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and</li> <li>(d) coordinate the timely provision of infrastructure.</li> </ul>
<b>Period of the plan</b>	X years from June 30 200X to June 30 20XX
<b>Operation of the development contribution plan</b>	The development contribution plan has been prepared in accordance with State Planning Policy 3.6 Development Contributions for Infrastructure. It will come into effect on the date of gazettal of the local planning scheme or amendment to the local planning scheme to incorporate the development contribution plan.
<b>Application requirements</b>	Where a subdivision or development application or an extension of land use is lodged which relates to land to which this development contribution plan applies, council shall take the provisions of the development contribution plan into account in making a recommendation on or determining that application.
<b>Principles</b>	<p>Development contributions will be applied in accordance with the following principles:</p> <ul style="list-style-type: none"> <li>1 Need and the nexus The need for the infrastructure included in the development contribution plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).</li> <li>2 Transparency Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.</li> <li>3 Equity Development contributions should be levied from all developments in a development contribution area, based on their relative contribution to need.</li> <li>4 Certainty All development contributions should be clearly identified and methods of accounting for escalation agreed on at the commencement of a development.</li> <li>5 Efficiency Development contributions should be justified on a whole-of-life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.</li> <li>6 Consistency Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.</li> </ul>



<p><b>Items included in the development contribution plan</b></p>	<p>7 Right of consultation and review Developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the contributions are not reasonable.</p> <p>8 Accountable There must be accountability in the manner in which development contributions are determined and expended.</p> <p>Administration Costs</p> <ul style="list-style-type: none"> <li>costs to prepare the development contribution plan</li> <li>costs to prepare and review estimates</li> <li>costs to prepare the cost apportionment schedule</li> <li>valuation costs</li> </ul> <p>Infrastructure elements</p> <ul style="list-style-type: none"> <li>list of infrastructure required and basis for its inclusion</li> </ul> <p>Details of the cost apportionment can be seen at schedule ZZ to the development contribution plan.</p>
<p><b>Review</b></p>	<p>The development contribution plan will be reviewed when considered appropriate having regard to the rate of subsequent development in the area since the last review and the degree of development potential still existing.</p> <p>The estimated infrastructure costs shown as schedule ZZ will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on Department of Housing and Works Building Cost Index.</p>