

PART 5 – INFRASTRUCTURE PROVISIONS

Division 1 – Preliminary

5.1 Infrastructure Provisions

- (1) The following provisions in this Part comprise the infrastructure provisions, namely:
- (a) overall outcomes for the provision of infrastructure;
 - (b) infrastructure agreements; and
 - (c) determination of infrastructure contributions.

Division 2—Infrastructure Provisions

5.2 Overall Outcomes for the Provision of Infrastructure

- (1) The overall outcomes sought for infrastructure provisions are the following:
- (a) infrastructure is supplied in a coordinated, efficient and orderly fashion,
 - (b) infrastructure aligns with the responsible financial management of the Council's resources,
 - (c) infrastructure is both effective and efficient in providing a service to the community and minimises operating and maintenance costs, and,
 - (d) if practicable, the same desired standard of service to new and existing ratepayers is provided having regard to user benefits, environmental effects, the inherent differences between new and existing urban areas and differences between the various areas of the Shire.

NOTE 5.1

- (1) The entrepreneurial risk elements associated with the development industry should not be transferred to Council.
- (2) Consequently, for new development, infrastructure contributions are considered to be an equitable approach for the provision of a wide range of infrastructure without the need for a significant and disproportionate amount of loan borrowings by Council.
- (3) The scope of infrastructure for which funding is obtained via Infrastructure Provisions Planning Scheme Policy No.7 is limited to 'trunk infrastructure'.
- (4) The 'internal' or 'connecting' infrastructure (for example, the construction of streets, internal reticulation mains, internal drainage works, footpaths and pathways, electricity, telecommunications and the like) are the responsibility of the developer and will be applied as a condition in any development approval.
- (5) Infrastructure contributions payable by a developer pursuant to an infrastructure provisions planning scheme policy are additional to the 'internal' or 'connecting' infrastructure that the developer is required to provide as part of a development.

- (2) Infrastructure contribution principles:
- (a) The three (3) main principles for infrastructure contributions are:
 - (i) infrastructure contributions are to be levied for the consumption of trunk infrastructure capacity;
 - (ii) the levying of an infrastructure contribution forms an intention by Council to construct the nominated or similar type infrastructure to the service standards outlined in the Infrastructure Provisions Planning Scheme Policy;
 - (iii) infrastructure contributions are calculated on the principle that all users receiving the standard service are to pay a contribution for their consumption of the service.

- (b) When determining the consumption of trunk infrastructure within an ‘open system’, a hierarchical system is used to differentiate that infrastructure of *district importance* (lower and subordinate cost apportionment over a large area) compared to infrastructure of *local significance* (a higher and predominant cost apportionment over a smaller area).
- (c) In determining fair apportionment for infrastructure contributions, such infrastructure contributions are not to be used—
 - (iv) to recover the cost of existing infrastructure without taking into account the proportion of existing development that benefits from the infrastructure;
 - (v) to fund the upgrading of existing infrastructure or the acquisition of additional land (so as to provide a level of service to the desired standards) without taking into account the proportion of existing development that would benefit from the upgraded infrastructure or additional land;
 - (vi) in ‘open systems’, to recover costs from ‘external’ users of the infrastructure (e.g. traffic passing through the Council area); and
 - (vii) on dual-use trunk infrastructure items (e.g. parks and drainage reserves) unless cognisance of the dual-use and the potential for ‘double dipping’ has been taken into account in the Infrastructure Provisions Planning Scheme Policy.
- (d) Infrastructure contributions are to be paid by developers towards the fair and equitable costs of providing the trunk infrastructure items to serve the proposed development.

NOTE 5.2

- (1) Infrastructure Provisions Planning Scheme Policy No.7 outlines the various land or works that constitute ‘trunk infrastructure’.
- (2) Developers pay reasonable and relevant infrastructure contributions towards the total cost of providing existing and future trunk infrastructure to serve the proposed development.

- (e) Infrastructure contributions are determined on a basis that:
 - (i) ensures that developers (and by inference new ratepayers) contribute to the cost of existing and future trunk infrastructure according to their use of such infrastructure;
 - (ii) ensures that developers (and by inference new ratepayers) are not contributing towards the cost of addressing infrastructure backlogs (i.e. deficiencies) within existing areas;
 - (iii) is equitable to developers and existing ratepayers;
 - (iv) minimises the total lifecycle costs of trunk infrastructure; and
 - (v) takes into account the multi-functional nature of certain trunk infrastructure.

(3) Unanticipated Development:

NOTE 5.3

- (1) Unanticipated development may generate the need to change aspects of the capital works program, for example, the timing of the provision of trunk infrastructure.
- (2) To ensure that any changes to the capital works program do not generate significant changes in the level of infrastructure contributions, it is reasonable to recover from the developer any additional infrastructure costs over and above those that would have been incurred had development remained in accordance with the capital works program (i.e. the cost impacts).
- (3) These additional costs may include the cost of amending the planning scheme or capital works program.

- (a) Council may require the recovery of any cost impacts for unanticipated development as a condition of a development approval.
- (b) Council may also refuse an application for unanticipated development if it would result in an inefficient or deficient infrastructure network, un-orderly or premature development or would likely create a significant cost impact for Council.

NOTE 5.4

- (1) If the cost impacts or the scale of the trunk infrastructure are, in the opinion of the Council, financially significant, Council may require the developer to enter into an infrastructure agreement in accordance with the Act.
- (2) For the purpose of clarity it is recorded that the Council is not obliged to approve a development application for unanticipated development notwithstanding that a condition for lessening the cost impacts of supplying infrastructure can be imposed as a development condition.

5.3 Infrastructure Agreements

- (1) Whether or not the Infrastructure Provisions Planning Scheme Policy applies, nothing in this planning scheme is to prevent the Council and a person from entering into an infrastructure agreement in accordance with the Act about funding or supplying trunk infrastructure or other items of infrastructure.
- (2) Where any relevant Infrastructure Provisions Planning Scheme Policy does not accord with the terms or intent of any such infrastructure agreement, the provisions of the infrastructure agreement are to take precedence.
- (3) The details to be assessed and covered by an infrastructure agreement for any proposed development are contained in the Infrastructure Provisions Planning Scheme Policy.

5.4 Determination of Infrastructure Contributions

- (1) Infrastructure contributions are to only apply as a result of the approval of a development application for assessable development in respect of development that, in the opinion of Council, would utilise the trunk infrastructure, either immediately or within the time specified within the Infrastructure Provisions Planning Scheme Policy.
- (2) Calculation of infrastructure contributions is to be based on the infrastructure unit charges applicable at the date when Council approves the development application.
- (3) The infrastructure contribution is to be applicable for a period of twelve (12) months from the date of the development approval, and thereafter is to be based on the infrastructure unit charges applicable at the date when the contribution is made.
- (4) Council may require an applicant to lodge a specified security for the payment of infrastructure contributions, as outlined in the Infrastructure Provisions Planning Scheme Policy.
- (5) The infrastructure contributions for any proposed development are to be determined as outlined in the Infrastructure Provisions Planning Scheme Policy.
- (6) Council may waive its right to an infrastructure contribution if the developer demonstrates that there are relevant exceptional circumstances being:

- (a) it is demonstrated that the proposed use is likely to generate no more additional demand than the existing use of the subject land; or
- (b) for any other reason, the imposition of an infrastructure payment towards trunk infrastructure would not be relevant, or would not be reasonably required in respect of the proposal to which the development application relates.