

	<b>Development and Infrastructure Contributions Policy</b>
<b>Version No.</b>	1.0
<b>Endorsement</b>	Executive, 07 April 2022 Policy Review Panel, 14 April 2022
<b>Authorisation</b>	Council, 02 May 2022
<b>Review date</b>	May 2026
<b>Responsible officer</b>	Coordinator Major Developments
<b>Policy owner</b>	Manager Planning Services

## 1. Purpose

To provide direction to Council officers in negotiating with developers in implementing an approved Development Contributions Plan (DCP) or Infrastructure Contributions Plan (ICP) to ensure infrastructure is delivered to the community in a timely and cost efficient manner.

## 2. Scope

This policy has been developed in accordance with the following sections of the *Planning & Environment Act 1987*:

- Part 3B for Developer Contribution Plans
- Part 3AB for Infrastructure Contribution Plans.

The policy applies to all planning and development activities which are governed by a Development or Infrastructure Contribution Plans. It is binding on Council officers, temporary employees, contractors and consultants undertaking activities related to the implementation of DCPs or ICPs.

## 3. Definitions

Word/Term	Definition
Developer	A developer is someone that seeks a planning permit and/or develops land in accordance with the relevant Precinct Structure Plan.
Development Contributions/Infrastructure Contributions Implementation Framework	An internal document approved by Council's Executive that sets out Council's administrative processes and responsibilities in the implementation of Development and Infrastructure Contributions Plans.
Development Contributions Plan (DCP)	A document that sets out the contributions expected from each developer to fund infrastructure. Refer to Part 3B of the <i>Planning &amp; Environment Act 1987</i> . Each DCP is an incorporated document in the Melton Planning Scheme.
Infrastructure Contributions Plan (ICP)	A document that sets out the contributions expected from each developer to fund infrastructure. Refer to Part 3AB of the <i>Planning &amp; Environment Act 1987</i> . Each ICP is an incorporated document in the Melton Planning Scheme.
Development Infrastructure Levy (DIL)	The DCP requires that new development pay a per hectare levy (DIL) to fund infrastructure identified in the relevant DCP.
Standard ICP Levy	A standard levy is a pre-determined monetary rate set by the Minister through the Ministerial Direction. The standard levy is designed to

	provide a fair and reasonable budget for funding the infrastructure that is basic and essential for new urban development.
Supplementary ICP Levy	A supplementary levy is an additional levy that may be used to fund 'non-standard' infrastructure or costs.
Land Equalisation Amount	Is payable to the collecting agency on the development of that parcel of land if the parcel contribution percentage of the land is less than the ICP land contribution percentage for that class of development. Land equalisation amounts are used to fund 'land credit amounts' and may also be used to fund the acquisition of public purpose land outside the ICP plan area (outer public purpose land).
Land Credit Amount	In relation to a parcel of land in an ICP plan area, means the amount specified as the land credit amount that relates to that parcel of land.
Land Budget Table	A table in the DCP or ICP setting out the total precinct area, the net developable area and constituent land uses proposed within the precinct.
Net Developable Area (NDA)	The total amount of land within the precinct that is available for development, including lots, local streets and connector streets. It does not include land for community facilities, government schools and education facilities, public open space, encumbered land, and arterial roads.
Precinct Structure Plan (PSP)	Precinct Structure Plans (PSPs) are master plans for local areas that usually cater for between 5,000 to 30,000 people, 2,000 to 10,000 jobs or a combination of both.
Infrastructure Priority List (IPL)	A list developed by Council's PSP Steering Committee that identifies timing for each DCP and ICP project. The IPL is approved and reviewed by Council's Executive team on an annual basis.
Section 173 Agreement (s173)	A legal Agreement registered on the Title in accordance with Section 173 of the <i>Planning and Environment Act 1987</i> and binds the current and future owners of the land.
Statement of Compliance (SOC)	Under section 21(1) of the Subdivision Act, a developer receives a Statement of Compliance from Council once all public works and open space requirements placed on a Planning Permit have been satisfied or adequate arrangements have been made to secure compliance with those requirements.
Works In Kind (WIK)	Where the developer delivers infrastructure projects instead of paying cash and a credit is given against their Development Infrastructure Levy (DIL) obligation.

#### 4. Policy

This policy provides direction to Council officers negotiating the delivery of DCP and ICP infrastructure with developers:

##### 4.1 Infrastructure Priority List

- The Infrastructure Priority List sets out the timing for delivery of DCP and ICP infrastructure across all PSPs based on population growth, rate of development, and cash flow. The Infrastructure Priority List is approved by Executive and informs Council's Infrastructure Planning and Budget processes.
- Council will not support proposals for works or land in kind that are inconsistent with the approved Infrastructure Priority List unless it can be demonstrated that it will result in a net community benefit and not adversely impact Council's cash flow and operational budget.

- Throughout the year, situations occur where changes to the IPL is proposed. This can be because of internal decisions (i.e. changes to the Council Infrastructure Plan), or external factors (such as negotiations with developers, or funding from grants etc.).
- As the IPL is linked to cash flow projections, a mechanism for updating them between review periods is required.
- If a proposed change impacts on Council's cash flow by bringing a project forward, it must be presented to the PSP Steering Committee for consideration and approval.
- Changes presented to the Steering Committee must include the following information:
  - A report providing the DCP/ICP Infrastructure Project Detail, revised timing and the justification for the change prior to the annual review period.
  - Any significant financial implications must be tabled, i.e. forecast report and cash flow changes.
  - The report is to be minuted and then presented to the Executive Team for approval.
- When approval has been received the IPL will be updated and saved in the relevant folder.

#### **4.2 Payment of Development Infrastructure Levy (DIL)**

- The Net Developable Area (NDA) for all properties as set out in the land use budget of each DCP or ICP will be the basis for payment of DIL.

#### **4.3 Works In Kind**

- Council will generally support the delivery of DCP/ICP road and intersection projects as works in kind by developers that are consistent with the IPL (refer section 4.1).
- Council will generally deliver community infrastructure however consideration will be given to proposals by developers to deliver community infrastructure as works in kind. Any proposal must be submitted in writing to the Manager Planning Services for formal consideration. When assessing a development proposal, Council shall run cash-flow scenarios relating to any proposed works in kind to determine the financial impact of decisions prior to entering into any agreements.
- The timing of the credit/offset for the external funding portion is to be in accordance with the IPL for the DCP/ICP applicable. This should not be deviated from even when the DCP/ICP funded portion of the works in kind and/or land credit is brought forward to an earlier stage for the purposes of a rolling credit scenario.
- Project costs/credits will be given based on the DCP/ICP project amount.
- Credit for works in kind will only be accepted once the works have been completed.
- All works in kind projects must be secured through a Section 173 Agreement prior to Statement of Compliance being issued for the first stage of development.

#### **4.4 Partial Delivery of an item as Works in Kind**

- Council will only consider proposals for partial delivery for road or intersection projects.
- If a developer can only deliver part of a road or intersection project due to land constraints, and the works will be made redundant when Council or another party delivers the full intersection, these works will be considered interim works, and will not be eligible for any works in kind DCP/ICP credits.
- If a developer can only deliver part of a road or intersection project due to land constraints, and the works will be used as part of the ultimate design, a DCP/ICP credit may be issued subject to the following:

- Three independent estimates must be provided by the developer for the cost to complete their works and of the costs for Council/another party to complete the works later.
- If the cost for Council/another party to return in the future to finalise the intersection construction plus the cost to the developer to deliver the interim arrangement is more than the allocated DCP/ICP credit, then the developer will only receive a credit for the total DCP/ICP cost minus the cost for Council/another party to return in the future to finalise the intersection construction (regardless of whether it fully covers the cost of their proposed interim works).
- If the cost for Council/another party to return in the future to finalise the intersection construction plus the cost to the developer to deliver the interim arrangement is less than the allocated DCP/ICP credit, then the developer will receive a credit for the cost of their proposed works.

#### **4.5 Timing of Land or Works in Kind Credits**

- Project reimbursements will be consistent with the project costs and/or benchmark costs set out in the relevant DCP or ICP. The timing of the credit/offset for the external funding portion is to be in accordance with the IPL for the relevant DCP/ICP regardless of whether a funded portion of the works in kind is brought forward to an earlier stage for the purposes of a rolling credit scenario.
- Works in kind credits can be applied either as a rolling credit or a payout at the last stage of development as follows:
  - If a road or intersection works in kind credit is being applied at any stage (other than the last stage of development), the trigger for applying the credit is Practical Completion being issued for the civil component and landscape components of a project.
  - If a community works in kind credit is being applied at any stage (other than the last stage of development), the trigger for applying the credit is completion of the project to the satisfaction of Council.
  - If the works in kind credit is being applied at the last stage of development, the trigger for applying the credit is Statement of Compliance of the last stage.
- Land in kind credits shall be applied, either as a rolling credit or a payout at the last stage of development, after Statement of Compliance is issued for the relevant stage and the land is vested to Council.

#### **4.7 Section 173 Agreements**

- A Section 173 agreement must be used where:
  - Contributions are provided via any form of works in-kind by the developer; or
  - There are any circumstances that Council considers warrant the use of a Section 173 agreement.
- All costs associated with the preparation and lodging of the agreement (including Council's legal costs) must be paid by the landowner or developer and this must be agreed to in writing prior to the drafting of the agreement. Details of any caveats or mortgages registered on the title of the subject land must be provided.
- The agreement must be finalised and executed prior to the issue of Statement of Compliance for the first stage of development, unless otherwise agreed to by the Manager Planning Services.

#### **4.8 Growth Area Infrastructure Charge (GAIC)**

- Council will not accept land vested without the GAIC liability having been discharged, unless the land is considered to be of strategic importance for future development. This includes the

use of s35 of the *Subdivision Act 1988*. This is to be assessed on a case by case basis and is at the discretion of the Manager Planning Services and General Manager Planning and Development.

- Any exemptions are subject to approval by the State Revenue Office.

#### 4.9 Indexation and Land Valuations

- Indexation of development contributions is used primarily for the purposes of ensuring that the charges reflect, at best estimate, ongoing price changes and conditions over the lifetime of the DCPs/ICPs. These price changes over time could include increases in construction costs, materials, and land values, and as such, these changes need to be reflected in the development contributions charges on an annual basis.
- The DCPs/ICPs have inbuilt indexation mechanisms, which are applied on an annual basis.
- Council will contact their engaged valuer a minimum of six weeks prior to the land valuations being due to ensure they are complete on time to meet legislative obligations.
- The construction costs are indexed by applying the Building Price Index as published in The Rawlinsons Construction Handbook.

#### 5. Responsibility /Accountability

<b>5.1</b>	<p><b>Executive Team</b></p> <ul style="list-style-type: none"> <li>• Responsible for the approval of development negotiations when the General Manager, Planning &amp; Development refers the matter to the Executive for consideration.</li> </ul>
<b>5.2</b>	<p><b>General Manager Planning &amp; Development</b></p> <ul style="list-style-type: none"> <li>• Responsible for the approval of development negotiations where there is potential for any cash flow/financial implications for Council. Where appropriate the General Manager may refer to Executive or Council for approval.</li> </ul>
<b>5.3</b>	<p><b>Manager Planning Services</b></p> <ul style="list-style-type: none"> <li>• Responsible for the approval of all s173 Agreements, development agreements and development negotiations where there is potential for any cash flow/financial implications for Council. Where appropriate the Manager Planning Services may refer to the General Manager Planning &amp; Development for review.</li> </ul>
<b>5.4</b>	<p><b>Major Developments Coordinator</b></p> <ul style="list-style-type: none"> <li>• Responsible for the implementation of Development and Infrastructure Contributions Plans including any negotiations relating to land and works in kind agreements including the drafting of s173 agreements which are to be referred to the Manager Planning Services for approval. They do not have authority to accept proposals which are inconsistent with an approved IPL.</li> </ul>

#### 6. References and links to legislation and other documents

Name	Location
Development and Infrastructure Contributions Implementation Framework	Council Intranet
Developer Contribution and Infrastructure Contribution Plans:	
Toolern Development Contributions Plan	<a href="https://www.melton.vic.gov.au/Services/Building-Planning-Transport/Strategic-planning/Melton-Planning-Scheme">https://www.melton.vic.gov.au/Services/Building-Planning-Transport/Strategic-planning/Melton-Planning-Scheme</a>

Melton North Development Contributions Plan	
Rockbank North Development Contributions Plan	
Taylors Hill West Development Contributions Plan	
Diggers Rest Development Contributions Plan	
Rockbank Development Contributions Plan	
Mt Atkinson Infrastructure Contributions Plan	
Kororoit and Plumpton Infrastructure Contributions Plan	
Planning & Environment Act 1987	<a href="https://www.legislation.vic.gov.au">https://www.legislation.vic.gov.au</a>
Subdivisions Act 1988	<a href="https://www.legislation.vic.gov.au">https://www.legislation.vic.gov.au</a>